

## ABOUT BANKRUPTCY IN ENGLAND & WALES

### HOW DOES BANKRUPTCY WORK?

Bankruptcy usually lasts for a year, after which the debts included in your bankruptcy are written-off, leaving you free of those debts.

In bankruptcy, control of all your significant possessions (including your home and any other property you own) is passed to the Official Receiver/ Trustee. They may sell these to cover the bankruptcy administration costs and to try to repay as much of your outstanding debt as possible.

You may also have to make payments from your income into your bankruptcy for up to 3 years.

### WHICH DEBTS WILL BE INCLUDED IN THE BANKRUPTCY?

The most common debts that cannot be included in bankruptcy are student loans, court/magistrate's fines and ongoing child support payments.

All the other unsecured debts can be included in your bankruptcy. Only debts you include in your bankruptcy will be written-off.

It is very important to make all future payments in full and on time for your mortgage or rent, insurances, fines, child support, hire purchase agreements, and all household bills.

If you do not keep up with these payments, you could lose access to essential goods or services, or your home could be repossessed.

### WILL MY SPENDING BE RESTRICTED IN BANKRUPTCY?

In bankruptcy, you will have to stick to a budget for essential living costs and if you have any spare funds from your income, it will have to be paid into your bankruptcy for up to 3 years. unless your income is entirely made up of state benefits.

### HOW WILL BANKRUPTCY AFFECT MY CREDIT RATING?

If you have previously defaulted on any loans or credit commitments, these are likely to be recorded on your credit file.

Your bankruptcy will appear on the public Insolvency Register until 3 months after your bankruptcy order has been discharged, and it will remain on your credit reference file for 6 years from the date of your bankruptcy order.

This means that your credit rating will be seriously affected, making it much harder for you to obtain new credit in the future and you may face restrictions on working in certain professions after your bankruptcy.

You will also have to declare your bankruptcy if asked about it in the future, even after it has been discharged, when applying for any new credit or applying for a new mortgage or tenancy agreement.

## **WHAT SHOULD I DO IF MY CREDITORS CONTACT ME DURING MY BANKRUPTCY?**

You should find that contact from your creditors may well reduce when you are in bankruptcy. However, they are permitted to carry on sending you statements and other general communications, but they cannot pursue you for repayment of what you owe.

Please do not ignore any contact from your creditors, or anyone acting on their behalf. Simply explain to the creditor that you are bankrupt and advise them to contact the Official Receiver or Trustee.

## **HOW WILL MY BANKRUPTCY BE SET UP AND MANAGED?**

You can only apply for bankruptcy online - search for 'bankruptcy' at [www.gov.uk](http://www.gov.uk) for more details.

Your application will be reviewed by an adjudicator who will decide if you should be made bankrupt. If the adjudicator makes you bankrupt, you may have to complete a questionnaire or attend an interview with the Official Receiver to discuss your situation in more detail.

The Official Receiver (or a nominated Insolvency Practitioner) will be appointed as the Trustee.' The Trustee will manage all aspects of your bankruptcy, including the sale of any significant possessions and repayments to your creditors.

## **HOW WILL MY CREDITORS RECEIVE PAYMENT?**

You do not make any payments directly to the creditors included in your bankruptcy. Instead, when the bankruptcy order has been made and the Trustee has sold your significant possessions, they will deduct administration costs/fees and distribute the remainder to your creditors on a 'pro-rata' basis.

If you also have to make payments from your income into your bankruptcy, you make these payments to the Trustee and they will distribute the money to your creditors, again on a 'pro-rata' basis after deducting their costs/fees.

## **WHAT HAPPENS WITH MY POSSESSIONS IN BANKRUPTCY?**

In bankruptcy, your possessions may be sold by the Official Receiver/ Trustee to repay your debts. You can usually keep items you need for your work (for example tools or a vehicle), and household items like clothes, bedding and furniture.

However, if any of these items are of significant value, they may be sold if a reasonable cheaper replacement is available.

You will also have to give up your bank cards, cheque books and credit cards for any accounts you are no longer allowed to use - including any accounts which are overdrawn on the date of the bankruptcy order.

The Official Receiver/ Trustee may allow you access to money you need urgently (for example, to buy food) and they may also release your partner's share of any money held in joint accounts.

You can usually keep any money you have paid into a pension scheme. If you are receiving a pension when you go bankrupt, these payments will count as income.

## WHAT HAPPENS TO MY HOME IN BANKRUPTCY?

If you are a homeowner your home may be sold to repay your debts depending on how much equity there is after deducting the outstanding mortgage and any secured loans from the current market value.

If you are a tenant your landlord may be told about your bankruptcy, and this could affect your rental situation.

## CAN I CANCEL MY BANKRUPTCY?

You can withdraw your bankruptcy application at any time before you submit the online application and pay the fee.

Bankruptcy can also be annulled in certain circumstances after the bankruptcy order has been made - for example:

- If the bankruptcy order should not have been made.
- If all your debts and bankruptcy fees have been paid or secured (guaranteed) by a 3rd party.
- If you have made an Individual Voluntary Arrangement (IVA) with your creditors to pay all or part of your debts.

If your circumstances change and you can pay off all your debts, then you must do this through the Official Receiver / Trustee or a Solicitor.

## WHAT ELSE DO I NEED TO KNOW ABOUT BANKRUPTCY?

There are certain restrictions you must follow when you are bankrupt:

- You cannot borrow more than money without telling the lender that you are bankrupt.
- You cannot act as director of a company or create, manage or promote a company unless you get permission from the court.
- You cannot manage a business with a different name unless you tell people you do business with that you are bankrupt.
- You cannot work as an Insolvency Practitioner.

These restrictions last until the end of your bankruptcy, but they can be extended if you do not co-operate with the Trustee, or if you act carelessly or dishonestly if you break these restrictions, it's a criminal offence for which you could be prosecuted.

- If you cannot afford to make payments to your debts after your basic living expenses, or if other solutions are too lengthy, bankruptcy might be a suitable option.
- Bankruptcy usually lasts for one year. which means you can become debt free and make a fresh start.
- No further action can be taken against you for unsecured debts; debts that are secured on your home or other assets may still be enforceable.
- Bankruptcy will still enable you to live your life; essential items required for domestic or work purposes will be safe if they are not excessive in value.

## WHAT ARE THE COSTS FOR SETTING UP THE BANKRUPTCY?

It costs £680 to apply for bankruptcy in England & Wales.

This is made up of an Adjudicator's fee of £130 and an Official Receiver's fee of £550. The fee can be prepaid by instalments if necessary, but the full fee must be paid before you can apply for bankruptcy.

### Paying your bankruptcy fees

You can pay online when you apply for bankruptcy. If you pay online, you can choose to pay in instalments. The minimum payment amount is £5, and you can pay in as many instalments as you need.

You can pay by cash at any Royal Bank of Scotland branch. If you pay by cash, you cannot pay in instalments - so you will need to pay the full £680.

## WE NOT OFFER ADVICE ON APPLYING FOR BANKRUPTCY

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