

When will my bankruptcy end?

Information on discharge
from bankruptcy



Awarded for excellence



INVESTOR IN PEOPLE

What is “discharge from bankruptcy”?

It is a process that frees you from the restrictions of bankruptcy and releases you from most of the debts you owed at the date the bankruptcy order was made.

The Official Receiver can apply to court for a Bankruptcy Restrictions Order, which will mean that you continue to be subject to restrictions after discharge for the period stated in that Order. This will not affect the discharge of your debts. (A separate leaflet is available on Bankruptcy Restrictions Orders – see page 6).

When will I be discharged?

Usually after **12 months**, but if the Official Receiver files a notice in court before that time to say that he has concluded his enquiries into your affairs, then you will be discharged when the notice is filed. If such a notice is issued in your case, a copy will be sent to you so that you will know when you are discharged.

If you **do not co-operate** with the Official Receiver (or the trustee, if an insolvency practitioner has been appointed as trustee in place of the Official Receiver), then the court may be asked to stop your discharge from taking place. An example would be if you refused to provide information to the Official Receiver or the trustee.

If your discharge has been suspended (stopped) before 1 April 2004, you should contact the Official Receiver for information about how and when you may be discharged from bankruptcy.

How do I get my discharge?

You will normally get your discharge **automatically** even if no payments have been made to your creditors. If you are discharged automatically, you do not have to do anything to get your discharge.

If you wish, you can obtain a certificate of discharge. A certificate is not necessary in most cases, but if you need one you should write to the court that dealt with your bankruptcy. Do **not** write sooner than 2 weeks before your discharge date. Give your name, address and court number (to be taken from the latest correspondence about your bankruptcy). The court will check with the Official Receiver that you are entitled to an automatic discharge. You should receive a certificate confirming your discharge within about 4 weeks.

A fee of £60 is payable to the court for issuing a certificate of discharge (further copies will cost £1 each). You can also ask for the Official Receiver to advertise your discharge, but you will have to pay the costs of this before it is done.

You will not get your discharge automatically:

- **if your discharge period has been suspended**, for example because you have failed to co-operate with the Official Receiver or trustee;
- **if you are subject to a criminal bankruptcy order.** Please contact the Official Receiver for more information.

What is the effect of the discharge?

Your debts - you will be freed from most debts that you incurred before the bankruptcy order. You will be able to obtain credit without having to mention your bankruptcy (unless you are specifically asked to do so) but you will want to ensure that you can repay it. The debts you are **not freed** from include:

- any money owed under family court proceedings (for example, maintenance) or arising from any personal injury claims against you unless the court directs otherwise
- any court fines or debts arising from fraud or certain other crimes

- debts you incur after the bankruptcy order.
- since 1 September 2004, all outstanding student loans. If you were made bankrupt before 1 September 2004 you may still have to repay your student loan. Clarification should be requested from the Official Receiver.

Your mortgage payments - please note that secured creditors (lenders who hold security such as a mortgage for the money owed) still have the right to enforce or recover their security if payments are not met. You should consider contacting your mortgage lender about your mortgage payments and your discharge from bankruptcy.

Your assets - any assets that the Official Receiver or the trustee held or claimed during your bankruptcy remain under the control of the Official Receiver or the trustee. **They are not returned to you on discharge.** It may be some time after your discharge before all your assets, such as your home, are dealt with. Please note that, when your trustee makes a payment to your creditors, he may place an advertisement about your bankruptcy in a newspaper asking creditors to submit their claims. If it takes your trustee a long time to deal with an asset, this advertisement may appear several years after the bankruptcy order. If your home has not been dealt with in a certain period, usually 3 years from the date of the bankruptcy order, your interest in it may be returned to you. (There is a separate leaflet on what will happen to your home, which explains this more fully – see below.)

Your business - after discharge you can carry on a business without the restrictions that applied during your bankruptcy. You can act as a director of a limited company or be involved in its management (unless you are subject to a separate disqualification order).

Your obligation to co-operate with the Official Receiver and trustee - you must continue to

assist the Official Receiver and the trustee, for example by providing any information requested, even after your discharge. If you do not, you could be liable to contempt of court.

The following paragraphs explain what will happen to public records of your bankruptcy

The Insolvency Service’s Individual Insolvency Register - The Individual Insolvency Register contains records of bankruptcy orders and individual voluntary arrangements in England and Wales. The record of your bankruptcy will remain on the register for 3 months after the date of your discharge.

The Individual Insolvency Register can be searched online at www.insolvency.gov.uk. For further information, a leaflet called “The Individual Insolvency Register” is available from your local Official Receiver’s office or from The Insolvency Service website at www.insolvency.gov.uk or from the Insolvency Service Publication Order Line.

HM Land Registry - bankruptcy petitions and orders are registered at the Land Charges Department of HM Land Registry. These entries remain on the register for 5 years from the date of registration. Discharge has no effect on this. The Official Receiver or trustee can apply for entries to be renewed beyond the 5 years, for example if the discharge has been suspended. If you own property that is registered in your sole name, a bankruptcy notice (to protect the rights of creditors) and a bankruptcy restriction notice (to prevent dealings with the property) may also have been registered against the title to the property. If your interest in your home is returned to you, the trustee will notify the Chief Land Registrar that the property is no longer part of your bankruptcy estate. If the property is registered in joint names, a Form J restriction (against dealings) may have been registered against the title. Discharge has no effect on this.

Credit reference agencies - the Official Receiver does not send any form of notice to credit reference agencies. The agencies pick up information from other sources such as advertisements of bankruptcies in newspapers, "The London Gazette" and the Register of County Court Judgments. If no advertisement of your discharge from bankruptcy or the annulment of the bankruptcy order is made, you will have to provide separate information to credit reference agencies to amend their records.

For further information, a leaflet called "No Credit?" is produced by the Information Commissioner's Office - telephone 01625 545745.

This is a procedure by which a court cancels the bankruptcy order it has made. This can happen if it turns out that your bankruptcy order should not

What is "annulment of bankruptcy"?

have been made or if all your debts and fees and expenses of the bankruptcy have been paid in full; or if your creditors accept proposals for settlement under a voluntary arrangement. (There is a separate leaflet on annulment of a bankruptcy order - see below.)

This leaflet is for general guidance only. If you have further questions about how to obtain your

How do I get more information?

discharge, you should ask your professional adviser or the trustee handling your bankruptcy. If you are not sure who is acting as trustee, contact your local Official Receiver's office. To help in tracing your case, please try to give the name and reference number of the court that dealt with your bankruptcy. These details will be on the latest correspondence about your bankruptcy.

Please note that The Insolvency Service and Official Receivers cannot provide legal or financial advice. You should seek this from a

solicitor, a qualified accountant, an authorised insolvency practitioner or a reputable financial adviser or advice centre.

Further information about bankruptcy is available in the following Insolvency Service publications:

Guide To Bankruptcy

Can my bankruptcy be cancelled?

Information on annulment of a bankruptcy order

What will happen to my home

Information on your home when bankruptcy occurs

Bankruptcy Restrictions Orders

You can obtain further copies of this booklet from the following website:
<http://www.dti.gov.uk/publications>

You may also order copies of our publications by telephone by calling the Publications Orderline on 0845 015 0010 (calls to this number are charged at national rate). You may also fax orders to the Orderline on 0845 015 0020. Minicom users should telephone 0845 015 0030.

Publications are also available on our website
www.insolvency.gov.uk

This booklet provides general information only. Every effort has been made to ensure that the information is accurate, but it is not a full and authoritative statement of the law and you should not rely on it as such. The

Insolvency Service cannot accept any responsibility for any errors or omissions as a result of negligence or otherwise.

© Crown copyright 2005.

The information in this booklet is subject to Crown copyright protection.

The Crown copyright material may be reproduced free of charge in any format or media without requiring specific permission. This is subject to the material being reproduced accurately and not being used in a derogatory manner or in a misleading context. Where the material is being published or issued to others, the sources and copyright status should be acknowledged. If there were a restriction on reproduction, any other proposed use of the material would be subject to the approval of Her Majesty's Stationery Office Unit. Application should be made to the Copyright Unit, HMSO, St Clements House, 2-16 Colegate, Norwich NR3 1BQ. Tel: 01603 621000 Fax: 01603 723000.

The permission to reproduce Crown copyright material does not extend to any material in this booklet which is identified as being the copyright of a third party. Authorisation to reproduce such material would need to be obtained from the copyright holders concerned. For further details on the licensing of Crown copyright, see current guidance at www.hmso.gov.uk/guides.htm issued by Her Majesty's Stationery Office.