

When will my bankruptcy end?

Information on discharge
from bankruptcy



CUSTOMER SERVICE EXCELLENCE



INVESTOR IN PEOPLE

What is “discharge from bankruptcy”?

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

You will normally get your discharge **automatically**, even if no payments have been made to your creditors, you are still making contributions under an income payments order/agreement or some of your assets have not yet been sold.

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 called Bankruptcy Restrictions Orders is available from your local official receiver’s office or from The Insolvency Service website: www.insolvency.gov.uk or from the BERR Publications Orderline: publications@berr.gsi.gov.uk

When will I be discharged?

Usually after **12 months**, on the first anniversary of the bankruptcy order, but there are different dates which might apply to you.

If the official receiver has concluded their enquiries into your affairs they may file a notice of early discharge in court. You will be discharged on the date this notice is filed in court. A copy of the notice will be sent to you so that you will know when you are discharged. For more information on early discharge see page 3 below.

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?

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 may 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 £5 each).

If you write to the the office that dealt with your bankruptcy they will provide a letter, at no charge, confirming your date of discharge. 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 were subject to a criminal bankruptcy order**. Please contact the official receiver for more information.

Early Discharge

There is **no** automatic right to receive early discharge from bankruptcy.

The official receiver will review your file 3 months after the report to your creditors has been issued. This report is issued within 8 weeks of the bankruptcy order. If the official receiver considers that there are no further matters in your bankruptcy which require investigation they will begin the early discharge process.

If you do not co-operate with the official receiver and answer letters as quickly and fully as possible you are unlikely to obtain an early discharge.

If early discharge is appropriate, the official receiver will notify all of your creditors (and your trustee if an insolvency practitioner has been appointed) of their intention to send notice of early discharge to the court. Your creditors have 28 days in which to lodge any objection to your early discharge. If any objections are received the process will be suspended while the official receiver considers if any objections received are valid. An objection which causes the official receiver to carry out further investigation of your affairs will stop the early discharge process.

Only if no objections are received, or once any objections have been resolved, will the official receiver send notice of early discharge to the court. You will be sent a copy of the notice stamped by the court notifying you of your date of discharge.

The process of early discharge is unlikely to be completed less than 6 months from the date of the bankruptcy order.

What is the effect of the discharge?

Your debts - it is on discharge that you will be released (freed) from most debts that you incurred before the bankruptcy order.

The debts you are **not freed** from include:

- any money owed under family court proceedings for example, for maintenance or CSA payments 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;
- all outstanding student loans.

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.

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 are dealt with. 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. A separate leaflet called 'What will happen to my home?', which explains this more fully, is available from your local official receiver's office or from The Insolvency Service website: www.insolvency.gov.uk or from the BERR Publications Orderline: publications@berr.gsi.gov.uk

If you are making payments under an income

payments order or agreement you must continue to make these payments even after the date of your discharge.

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.

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 or bankruptcy restrictions order).

You will be able to obtain credit without having to mention your bankruptcy (unless you are specifically asked to do so or you are subject to a bankruptcy restrictions order) but you will want to ensure that you can repay it.

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 BERR Publications Order Line:
publications@berr.gsi.gov.uk

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 but you can make an application to court to have the entries removed. 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 the property is registered in joint names, a Form J restriction (to prevent dealings with the property) may have been registered against the title. 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. 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 the Individual Insolvency Register, advertisements of bankruptcies in newspapers, 'The London Gazette', and the Register of County Court Judgments. You may have to provide separate information to credit reference agencies to amend their records. For further information, a leaflet called 'Credit Explained' is produced by the Information Commissioner's Office. A copy of this leaflet is available from the Information

Commissioner's Office website at www.ico.gov.uk or from their Publication Order Line (telephone 08453 091 091).

What is "annulment of bankruptcy"?

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 have been made; or
- if all the debts, fees and expenses of your bankruptcy have been paid in full; or
- if your creditors accept proposals for settlement under a voluntary arrangement.

A separate leaflet called 'Can my bankruptcy be cancelled?', which explains this more fully, is available from your local official receiver's office or from The Insolvency Service website:

www.insolvency.gov.uk or from the BERR

Publications Orderline:

publications@berr.gsi.gov.uk

How do I get more information?

This leaflet is for general guidance only. If you have further questions about how to obtain your discharge, you should ask your professional adviser or the official receiver or 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 Insolvency Service website:

www.insolvency.gov.uk

You may also, free of charge, order copies of our publications from the BERR Publications Orderline. To do this you will need the reference number (URN) of the forms required. This can be found on the back cover of the leaflets or on the website.

By telephone: 0845 015 0010.

By email: publications@berr.gsi.gov.uk

By fax: 0845 015 0020

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