

Information about Bankruptcy



ISI

Seirbhís Dóchmainneachta
na hÉireann
Insolvency Service
of Ireland



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What is the ISI?

The Insolvency Service of Ireland (ISI) is an independent government body set up to help tackle personal debt problems.

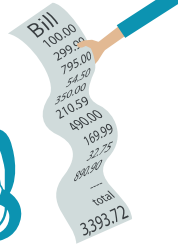
The ISI has a range of solutions available to help you tackle your problem debt, one of which is bankruptcy.

I am in debt but how do I know if I am insolvent?

The word insolvency is often associated with companies but insolvency is really just another term that describes serious financial problems.

You might not realise it but you could be insolvent if:

- You are not able to pay your bills in full when they are due.
- You are paying a little off each bill trying to keep creditors (the people you owe money to) at bay.
- You are reluctant to set up direct debits to pay bills in case your money cannot stretch to meet them.
- You are receiving calls and letters from creditors about missed payments and threats of repossession.
- You have made personal sacrifices to pay your debts.



How do I know if bankruptcy is the right debt solution for me?

Bankruptcy is a formal, High Court process for people in debt over €20,000. Before you consider applying for bankruptcy you must first have explored the alternative solutions to bankruptcy, which are contained in the Personal Insolvency Act 2012. The alternatives to bankruptcy are:

- 1 **Debt Relief Notice (DRN)**
- 2 **Debt Settlement Arrangement (DSA)**
- 3 **Personal Insolvency Arrangement (PIA)**



More details on those solutions are available on the ISI's website www.backontrack.ie

If these alternative solutions are not suitable then bankruptcy could be the right solution for you.

A **Personal Insolvency Practitioner (PIP)** can help you identify the most appropriate option for you. PIPs are part of a network of qualified professional advisors regulated by the ISI. A list of PIPs is available on www.backontrack.ie or by calling the ISI's information line on **01 764 4200**.

All of the debt solutions overseen by the ISI, including bankruptcy, are designed to get you back on track financially and if you enter into any of them, you will be solvent at the end of the process.

What does it mean to be declared bankrupt?

When you are declared bankrupt, your property and possessions are transferred to a person called the Official Assignee, who is based in the Bankruptcy Division of the ISI. The Official Assignee then arranges for those items to be sold and the money generated from the sale is distributed to the people you owe money to – your creditors.

The Official Assignee will also deal with your creditors for you, so this will put an end to any demands from your unsecured creditors for unpaid debt – no more calls, letters or visits.

When you are made bankrupt you are entitled to have a reasonable standard of living. This includes food, clothing, education, healthcare and a modest allowance for savings. Under the ISI model, this means a higher standard than merely living at a subsistence level, which people often exist on when in debt.

If you have money left over after what is defined as a reasonable standard of living, you will have to contribute that remaining money to the Official Assignee for a period of up to 3 years and they will transfer it to your creditors. This is known as an 'Bankruptcy Payment Order'.

Usually, after one year you will be discharged from bankruptcy and all of your debts will be written off. You will then be solvent and able to regain some financial independence.

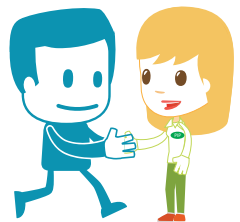


What type of debt could be included in a bankruptcy?

Unsecured and secured debt such as mortgages for family homes or buy-to-let properties, business loans and credit card loans can be included in your bankruptcy. Examples of debt that cannot be included would be court fines in respect of criminal offences, or any new debts you accumulate after the date you are made bankrupt.

Can I apply for bankruptcy on my own or do I need the help of a solicitor?

You are not required to use the services of a solicitor in applying for your bankruptcy; however, it is advisable to seek some professional advice in advance of declaring yourself bankrupt.



If you decide to hire a professional advisor to assist you through the bankruptcy process, you should carry out the same checks as you would when engaging the services of any other professional e.g. are they suitably qualified; regulated by anyone; what are their fees and charges; and are they likely to act in your best interests as opposed to for their own financial gain.

What are the consequences of bankruptcy?



What happens to...

My family home?



In bankruptcy, your interest or share in the family home will transfer to the Official Assignee. While it is a possibility, you should not assume you will lose your family home in bankruptcy. You may be able to agree a schedule of mortgage payments with your bank and the Official Assignee. These payments would have to be factored into calculation of your Reasonable Living Expenses as approved by the Official Assignee.

If your home is in negative equity – which means its market value is less than any outstanding mortgage on it – there is no immediate reason for the Official Assignee to sell.

If your home is in positive equity – which means its market value is more than any outstanding mortgage on it – the Official Assignee will first seek to sell what has become their share in the family home to you or your spouse or civil partner (where there is one). The Official Assignee cannot sell the family home without firstly obtaining permission from the High Court. If the Official Assignee has decided not to sell your home within 3 years of your bankruptcy adjudication, ownership may automatically transfer back to you, unless otherwise agreed.

My vehicle?



You are entitled to keep a vehicle of a reasonable value, if it is a necessity. In bankruptcy, all of your assets are transferred to the Official Assignee, with the exception of essential assets up to a value of €6,000 – this includes a vehicle.

My employment?



Usually, you can continue in current employment or seek a new job while you are bankrupt. However, there are some professions that do not allow employees to continue in their employment once bankrupt, so it is advisable to make enquiries to your professional/regulatory body in this regard.

My income?



During bankruptcy you are still entitled to earn an income. However, as mentioned earlier, the Official Assignee may seek a contribution from your income for the benefit of your creditors. These bankruptcy payment orders can last up to 3 years and are usually put in place as soon as your bankruptcy begins.

My pension?



If your pension is a relevant pension arrangement as defined by the Bankruptcy Act 1988 then it will remain yours. Most pension arrangements will not be transferred to the Official Assignee, but if you have an Approved Retirement Fund (ARF) it can be claimed by the Official Assignee.

Continued overleaf.

My bank account?



On the day you are made bankrupt, any money held in your bank accounts over €1,000 will transfer to the Official Assignee. Your bank accounts may be frozen, with the exception of one current account which you are entitled to keep. During your one year bankruptcy period, there isn't any restriction on the amount of money held in your bank account. However, you may be asked to provide bank statements as vouching for your reasonable living expenses as part of your income assessment.

Any joint debts that I have?



If two or more parties have joint and several liabilities for a loan, they are each liable for the full amount of the loan. For example, if a couple takes a loan from a bank, the loan agreement will normally state that they are to be "jointly liable" for the full amount. If one party is declared bankrupt, the other remains fully liable for the full amount of the loan.

What impact could going bankrupt have on other people in my life such as...



My spouse/civil partner?



Your bankruptcy could have consequences for your spouse/civil partner but it will depend on your particular circumstances. For example, if there is equity in the family home (i.e. surplus in the value of your property above the amount of mortgage owed), the Official Assignee will firstly seek to sell what has become their half share to your spouse or civil partner.

My business partner?



When a partner is declared bankrupt, the partnership is automatically dissolved unless the partnership agreement provides otherwise. Partnership assets are first used to pay partnership debts and any remaining surplus would be used to pay your personal debts.

My tenants?



The Official Assignee effectively takes over as landlord of any rented property you may own and there is no break in the lease agreement for the tenant. The ISI will write to the tenant and provide them with new bank account details into which they will pay their rent.

My employees?



If you are in business and stop trading due to bankruptcy, your employee(s) are entitled to claim statutory redundancy from the Department of Social Protection. The Department of Social Protection is also responsible for the Insolvency Payments Scheme which provides for the payment of certain outstanding entitlements in relation to their pay (including holiday pay). More details are available on the Department of Social Protection's website www.welfare.ie

How long will the process last?



Bankruptcy will normally last for 1 year. This term could be shorter if you can come to a settlement with your creditors; you can find out more about this on the bankruptcy section of the ISI website. The term of your bankruptcy could be longer if you do not fully cooperate or if you fail to disclose all necessary details. After discharge from bankruptcy all your assets that existed at the time of your bankruptcy continue to be owned by the Official Assignee until sold.

What if my circumstances change during my bankruptcy?



If your financial circumstances change you must tell the Official Assignee and the terms of your bankruptcy payment order may be altered accordingly. Your financial circumstances will be reviewed periodically throughout your bankruptcy.

Remember, the ISI is here to help you to get back on track financially. If you need more information or are unclear about the steps involved in the bankruptcy process, don't hesitate to contact the ISI on **01 764 4200** or visit **www.backontrack.ie**

This booklet is intended to provide you with general information about bankruptcy. There are additional guides available in this series, which also gives a brief overview of the bankruptcy process itself. There are also more in-depth guides to bankruptcy available on the ISI website.

GET BACK ON TRACK FINANCIALLY WITH ISI



Call ISI on
01 764 4200



Visit
www.backontrack.ie



Freetext ISI to **50015**
for an information
pack

A detailed guide to bankruptcy is available on the publications section of the ISI's website **www.isi.gov.ie**



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The Back on Track publications available are:

Dealing with Problem Debt

Debt Relief Notice (DRN)

Debt Settlement Arrangement (DSA)

Personal Insolvency Arrangement (PIA)

Information about Bankruptcy

After you are made bankrupt

A Debtor's Guide to the role of a PIP

This guide has been produced by the Insolvency Service of Ireland (ISI) and is intended as a general, introductory, non-technical guide for interested debtors in relation to the availability of, and the process involved in seeking bankruptcy. If you require further information of a general nature, please consult the ISI website, www.isi.gov.ie, or contact the ISI's office by the various means detailed in this guide.

The ISI has no role in providing legal advice or interpreting the law and this guide is not an interpretation of, or advice on the law. In addition, the ISI has no role in providing financial advice. If you are in doubt in relation to your legal or financial position, please take appropriate professional advice or contact an Approved Intermediary/Personal Insolvency Practitioner, as appropriate.