

# Bankruptcy

Bankruptcy is a legal arrangement for those who cannot afford to pay their debts. In bankruptcy, the debtor's assets, including property and vehicles, become the property of the court-appointed Trustee who may sell them to raise money to repay creditors. The debtor's income is also scrutinised and a repayment plan is drawn up dependent upon what the debtor can afford to repay after normal household expenditure. At the end of the bankruptcy period (usually 12 months), the debtor is 'discharged' and the remaining debt written off.

Bankruptcy is a serious and legally binding arrangement with restrictions and future consequences, and should not be seen as an easy option to writing off debt. Other debt solutions, such as Individual Voluntary Arrangements (IVAs) and Debt Management Plans (DMPs) should be explored before opting for the bankruptcy process.

Any creditor to whom you owe more than £750 can also ask the Court to make you bankrupt, through a Creditors' Petition For Bankruptcy.

## Is Bankruptcy right for me?

Bankruptcy could be a suitable solution for debtors who owe more than £15,000 in debt (secured and unsecured) and are unable to meet their repayments. Bankruptcy may be the most appropriate option for debtors who don't own their own home, or have accepted that their property will be sold in order to satisfy the debt.

### Advantages

- In most cases, bankruptcy will last for 12 months, which is typically a shorter period than an IVA
- Large amounts of debt can be legally written off. After the debtor is discharged from bankruptcy, no more money is owed to the creditors
- Bankruptcy does not have the same stigma attached to it as was the case historically

### Disadvantages

- If you own your own home or assets, these will be sold to repay creditors
- The debtors' financial affairs will be scrutinised and full disclosure is necessary
- A notice of the bankruptcy will be placed in the London Gazette and maybe a local paper, and the information will remain on your credit report for at least six years
- Restrictions will apply for the period of bankruptcy and you may have to declare your bankruptcy to your employer or professional body

## How much will I have to repay?

This varies greatly and depends on your personal income and expenditure.

# The Process

## Step 1: Application

To make yourself bankrupt, you will need to complete a bankruptcy order application and present it to the Court. On the same day that you present the petition to court, you will be required to pay the fees of approximately £700.

## Step 2: Assessment

If the Court grants your petition, you will then meet with the Official Receiver, whose office assesses your assets, income and expenditure.

## Step 3: Payments

If the debtor has surplus income, after normal household expenditure, this money is collected in the form of an Income Payments Agreement (IPA). If the debtor does not consent to the IPA, an Income Payments Order (IPO) may be enforced. An IPO may also be issued directly to the debtor's employer, so that the sum is deducted directly from the debtor's paycheque. The Official Receiver will also attempt to raise money through the sale any property and assets that the debtor owned. All of this money is paid into 'the estate', which the Official Receiver is Trustee of, and shared amongst the creditors.

## Step 4: Discharge

In most cases, bankruptcy restrictions will end on the first anniversary of the bankruptcy order. Once 'discharged' from bankruptcy, the debtor is released from the debts.

If it is a creditor petitioning for the bankruptcy, rather than the debtor themselves, the process is the same, but the creditor must meet the required fees. If a creditor has made a petition for bankruptcy against you, and you disagree with it, seek advice from an Insolvency Practitioner as a matter of urgency.

**McAlister & Co provide free, no-obligation advice about bankruptcy. Our team are friendly, understanding and happy to take the time to listen to your individual circumstances. Just by getting in touch, you are taking positive action to combat your unmanageable debt and put yourself back in control.**