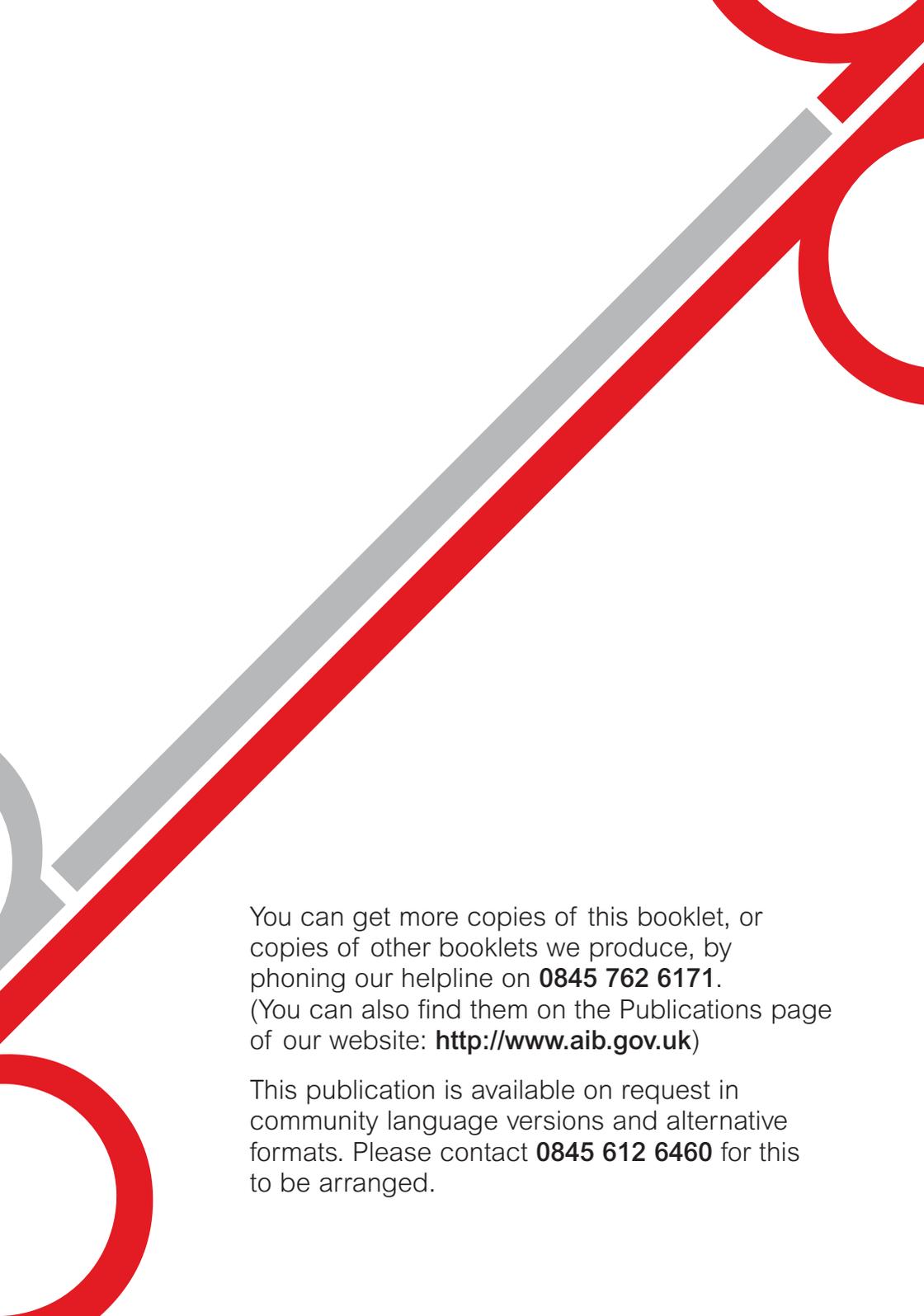




ACCOUNTANT
IN BANKRUPTCY
SCOTLAND'S INSOLVENCY SERVICE

DEBTOR'S GUIDE





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Debtor's Guide

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1. Introduction

This booklet provides general advice for people who owe money (debtors) and is not intended as a full statement of the law on bankruptcy. It is intended for people who have not made themselves bankrupt or whose creditors have not taken steps to make them bankrupt before 1 April 2008.

If you have been made bankrupt or your creditors have taken action to make you bankrupt before 1 April 2008 you should refer to the Accountant in Bankruptcy (AiB) publication, 'AiB 1 – Debtor's Guide'.

This booklet is intended for:

- > People whose creditors are taking action to recover the money owed. Creditors are people you owe money to. This action may include taking steps to make you bankrupt.
- > People who have been made bankrupt by their creditors.
- > People who cannot pay their debts and are considering making themselves bankrupt.

It is a serious matter if you do not pay what you owe. If you have debts that you are unable to pay you can get advice on bankruptcy and alternatives from money advisers or solicitors. Money Advice Scotland and Citizens Advice Scotland offer free impartial advice. You can find out how to contact them at the back of this booklet. Further information on some alternatives to bankruptcy is also included later in this booklet.

The relevant legislation is the Bankruptcy (Scotland) Act 1985, as amended. All bankruptcy related legislation and publications are available on the Accountant in Bankruptcy website at **www.aib.gov.uk**.

2. What is bankruptcy?

Bankruptcy starts when someone in debt (a debtor) is declared bankrupt by the sheriff or the Accountant in Bankruptcy. If you are declared bankrupt, it means that you have to hand over your estate (the things you own), including your home, to your trustee. Your trustee is the person who administers your bankruptcy. You will be able to keep some things that are essential for everyday living. You may be required to make some payment from your income.

It is the duty of your trustee to sell your assets or property and to use the money to:

- > pay the costs of managing your bankruptcy; and
- > pay your creditors as much as possible of what you owe them.

Your creditors are the people or organisations that are owed money by you. Subject to certain conditions, a creditor can apply to a sheriff to make you bankrupt or you can apply to the Accountant in Bankruptcy to make yourself bankrupt.

In Scotland bankruptcy is sometimes called sequestration.

2.1 What are assets?

Your assets are the things you own, such as money, savings, property, vehicles, life policies, jewellery and shares. They transfer to your trustee when you are made bankrupt. Any money or assets due to you, such as business debts, also transfer to your trustee.

You will normally be allowed to keep items you need for day to day living, such as clothes, furniture, household linens, floor coverings, anything used for cooking or cleaning, educational items and children's toys. You can also keep any tools you need for your trade, up to a value of £1,000.

During your bankruptcy you must tell your trustee about any new assets you acquire which may include money or an inheritance.

If you have sold, given away or disposed of any assets within the 5 years before your bankruptcy for less than their full value, your trustee may ask the sheriff to have this action changed and the assets (or their equivalent value) to be given to your trustee for the benefit of your creditors.

Your trustee can sell all or some of your assets in order to pay the cost of your bankruptcy and your debts.

2.1.1 What happens to my house?

What happens to your house will depend on a number of things, such as whether you own it yourself or jointly with someone else and if you live alone or if there are others living in the house. Your trustee will also look into what your house is worth and what loans are secured on it.

What if I own a house?

If you own the house you live in, or any other property, it will transfer to your trustee along with your other assets. Your trustee will always carry out a search of the Land Registers to make sure that you do actually own the property. Your trustee can sell your house or allow your spouse, partner or family member to buy out their interest in it. If your trustee decides to sell it, the house may be sold on the open market. Your trustee must obtain the best price possible. **You are not allowed to sell the house.**

Your trustee will take many things into consideration when deciding what to do with the house, such as the amount of equity, whether there are children or other dependents living in the house and how the trustee's actions will impact on paying your debts.

It is in your own best interests if you do own a house, either by yourself or with somebody else, to obtain independent legal advice as soon as possible and preferably before you are bankrupt. Your discharge from bankruptcy does not automatically transfer your property back to you.

What if I used to own a house?

If you used to own all or part of a house and sold it, or gave it to your spouse, partner, or to anyone else, for less than the full market value, your trustee can ask the sheriff to change that transfer and to allow your trustee to reclaim your interest in the property. Your trustee will also ask you to explain what happened to any money you received for the property.

What if my house is rented?

If you rent your home, your trustee normally has no interest in the house provided you can show proof that it is rented. However, you may have to move if your trustee thinks you are paying too much rent. They can apply to the sheriff to set a limit on how much rent you should pay, to allow you to pay a contribution towards the costs of your bankruptcy and the payment of your debts.

If you have rent arrears, your landlord should not take any action to collect them once you have been made bankrupt. They can, however, take action and seek your eviction if you fail to pay your rent after the date of your bankruptcy.

What if the house is jointly owned by me and someone else?

If you own the house jointly with your spouse, partner or someone else, your trustee will discuss options with all parties. Co-operation of the joint owner or owners will minimise the stress and costs of realising your share of the house.

Your trustee can agree to the joint owner buying out their interest in the house. This can be in a lump sum payment, regular payments or through a re-mortgage package. The trustee will normally agree to such an arrangement if they get the current equity value for their share of the house. Your trustee and the joint owner would each pay their own legal expenses.

Other options include the joint owner selling the house and paying your trustee the relevant share of the net proceeds. Alternatively, the joint owner might agree to your trustee selling the house and receiving their share of the net proceeds. **The joint owner cannot sell without the permission of your trustee.**

If the joint owner does not co-operate in a sale and is unwilling, perhaps unable, to buy out your trustee's interest in the house, your trustee can ask the sheriff for authority to sell it. The sheriff will consider all circumstances, such as the amount of equity, whether there are children or other dependents living in the house and how the sale will impact on paying your debts.

What happens if I cannot pay my mortgage?

If you have a loan secured on your house and you do not continue to make your mortgage payments, your secured lender can repossess the house.

If there is a secured loan on your house your trustee is powerless to stop your secured lender from repossessing it. If your house is repossessed and sold by the secured lender and there are any proceeds left after their debt is paid, these will be transferred to your trustee.

2.1.2 What happens to my life policies?

Your trustee will need to know about any life assurance policies you have as they may be assets in your bankruptcy. Some policies pay out only on death. Other policies, for example, endowment policies, pay out either on death or on a predetermined date. Endowment policies or policies with an endowment element acquire a surrender value and may be cashed in. Your trustee may do this to bring funds into your bankruptcy.

Often an endowment policy will be formally assigned to your bank or building society. This will happen where you agreed with the lender to pay off all or some of your mortgage with the proceeds of the policy.

What happens to your assigned endowment policy when you are bankrupt will depend on what happens with your house.

2.1.3 What happens to items on hire purchase?

These items often stay the property of the company which supplied the finance for their purchase. They may be taken away and sold by that company.

2.2 What happens to my income?

Your trustee may want you to make a contribution from your income or pension to help towards paying for the cost of your bankruptcy and your debts. They will not take a contribution from social security benefits or tax credits.

Your trustee will look at your income and how much you and your family need to live on. They will assess whether or not you have any surplus income and, if you do, they will expect you to make a contribution from that. They will agree a voluntary contribution amount with you. This is known as an Income

Payment Agreement (IPA). You can agree to have deductions taken directly from your wages.

If you cannot reach an agreement, your trustee can ask a sheriff to decide the amount you should pay. The sheriff will take into account any information you provide before making a decision. The sheriff will make an Income Payment Order (IPO) stating the amount you must pay. Your trustee can ask the sheriff to order payments directly from your wages.

2.2.1 Can my contribution change?

Every 6 months your trustee will send you a questionnaire to review your financial position. You must complete and return this. If your financial circumstances change you can ask your trustee to review your contributions. If you have an IPA, your trustee can reassess the situation and may vary your contribution. If you have an IPO, you or your trustee will have to go back to court to let the sheriff decide whether your contribution should be varied. Even if your circumstances do not change, you must return the questionnaire.

2.2.2 How long do I have to pay contributions?

An IPA and an IPO last for 3 years from the date they are set up.

It is a criminal offence to fail to comply with the terms of an IPO. If you stop making your contribution under your IPO, your trustee may report you to the sheriff.

If you stop making your contribution under your IPA, your trustee may apply to the sheriff for an IPO to be made. You must, therefore, contact your trustee as soon as possible if you are unable to continue paying your contribution.

2.3 What are the consequences of being bankrupt?

Being made bankrupt is a very serious matter and the following are some of the consequences you should be aware of:

Credit rating

Your credit rating will be affected for many years. Neither the Accountant in Bankruptcy nor your trustee has any influence over your credit rating.

Bank accounts

Some banks will allow you to have an account but you must tell your bank that you have been made bankrupt. Your bank may freeze or close your account and you might have to open a different bank account. If you have any savings they will be transferred to your trustee. Your bank may still allow you to have your salary or benefits paid into an account.

If you experience any difficulties with your bank account, you should speak to your bank or a money adviser.

Service providers

As a result of your bankruptcy some companies, for example gas or electricity suppliers, may have concerns about the way they provide their services to you. They may wish to change the way they receive payments from you. This could include installing a meter or setting up a pre-payment plan. You can speak to a money adviser about this.

Public records

Your bankruptcy is recorded on a public register called the Register of Insolvencies. Anyone can search the Register of Insolvencies, but there is a charge for doing this. Details of your bankruptcy will remain on the Register of Insolvencies until one year after your trustee has completed their duties.

Your trustee will advertise your bankruptcy in a publication called the 'Edinburgh Gazette'. This is an official publication that is used to inform creditors and credit agencies that you have been made bankrupt.

Bankruptcy restrictions

If your trustee considers that your conduct has been dishonest or blameworthy in some way, **either before or during your bankruptcy**, they will report you to the Accountant in Bankruptcy. The Accountant in Bankruptcy may seek restrictions on your behaviour which can last between 2 and 15 years. Details of the restrictions are recorded on the Register of Insolvencies.

The following are examples of behaviour that could be considered dishonest or blameworthy:

- > incurring debts that you knew you had no reasonable chance of repaying;
- > giving away assets or selling them at less than their value;
- > gambling or making rash speculations or being unreasonably extravagant; and
- > not co-operating with your trustee during the period of your bankruptcy.

The Accountant in Bankruptcy will consider the evidence provided by your trustee and will make an application to the sheriff, asking for a Bankruptcy Restrictions Order (BRO) to be made against you if you have been dishonest or blameworthy in your bankruptcy. The sheriff will consider the application and any other evidence put before them and will decide whether they should impose a BRO. If they do, you will remain subject to certain restrictions for the period stated in the BRO even after you are discharged from your bankruptcy. You are committing an offence if you fail to comply with the terms of your bankruptcy restrictions.

It is possible for you to agree with the Accountant in Bankruptcy and accept the restrictions rather than go to court. This is called a Bankruptcy Restrictions Undertaking (BRU).

Further information on bankruptcy restrictions is available in the AiB publication, 'Bankruptcy Restrictions – Orders and Undertakings'.

3. Who can be made bankrupt?

Subject to certain conditions, you can apply to the Accountant in Bankruptcy to make yourself bankrupt. A creditor or a trustee in a trust deed can apply to a sheriff to make you bankrupt. Partnerships or unincorporated organisations such as trusts can also make themselves bankrupt, or can be made bankrupt by one of their creditors, under Scottish bankruptcy law.

Limited companies and other organisations registered at Companies House cannot be made bankrupt.

3.1 What are the conditions for applying for my bankruptcy?

If you have decided that you want to make yourself bankrupt you **must** meet the following conditions –

- > You must owe a total debt of £1,500 or more **and**
- > You must be living in Scotland or have lived in Scotland sometime during the last year **and**
- > You must not have been made bankrupt in the last 5 years **and**
- > You must pay the application fee **and**
- > You must meet **one** of following conditions –

Either

One of your creditors is willing to agree to you making yourself bankrupt – this is called creditor concurrence. Your creditor has to sign a special form to confirm their agreement;

Or

You are apparently insolvent – apparent insolvency is a legal term that shows you cannot pay your debts as they become due. A creditor must have gone to court and obtained a ruling

that you owe the debt to the creditor. The most common types of evidence used to prove apparent insolvency are –

- > A Charge for Payment – this is a legal document with the words ‘Charge for Payment’ at the top. It means that you owe money to your creditor and that you should pay them within 14 days. If you do not pay within this period, the Charge for Payment expires and can then be used to prove apparent insolvency.
- > A Statutory Demand – this is a legal document with the words ‘Statutory Demand’ at the top. It gives you notice that your creditor may make you bankrupt if you do not pay what you owe them. A Statutory Demand expires after 21 days. If you do not pay within this period, the Statutory Demand can be used to prove apparent insolvency.

Both of these documents are normally delivered by a Messenger-at-Arms or a Sheriff Officer.

Or

You have low income and low assets (LILA) – this is a route into bankruptcy for people who cannot prove apparent insolvency or get creditor concurrence.

3.1.1 What does Low Income Low Assets mean?

Low income means gross weekly income of no more than the standard national minimum wage for a 40 hour working week. At the time of printing (March 2008) this is equivalent to £220.80 a week. Any pensions or maintenance payments that you receive are also counted in with your income.

If you receive income support, income-based jobseekers’ allowance or working tax credits you will be treated as meeting the low income test, even if your actual income is more than £220.80 a week.

When calculating your income no account will be taken of other social security benefits or tax credits you receive or any income paid to another member of your family. However, your income, pensions, maintenance payments, benefits, tax credits and the income of other family members may be taken into account when considering whether you should pay a contribution while you are bankrupt.

Low assets means that you have no single asset worth more than £1,000 and your total assets are not worth more than £10,000. In addition, it means that you must not own or jointly own a house or any other property or land.

3.1.2 How do I apply for my bankruptcy and how much does it cost to apply?

To apply for your bankruptcy you must use the correct form. Debtor application forms are available from money advisers, the Accountant in Bankruptcy and can be downloaded from the AiB website at www.aib.gov.uk. The Accountant in Bankruptcy will be your trustee unless you choose to nominate an insolvency practitioner to act. The insolvency practitioner must consent in writing to your nomination. You should send your completed application form, the evidence that you are eligible to apply and your payment to the Accountant in Bankruptcy. You should also enclose the written consent from your nominated trustee, if any.

It will cost you £100 to apply for your bankruptcy. There are no waivers or exemptions for this fee.

3.1.3 Who pays the costs of administering my bankruptcy?

The costs of administering a bankruptcy will be met first from funds accumulated from the sale of your assets and from contributions that you have made from your income. These include the fees and outlays of the trustee.

When the Accountant in Bankruptcy is the trustee, costs that cannot be met by selling your assets or from contributions will be met from the public purse. **However, the public purse will not make any payment towards the debts owed to your creditors.**

When an insolvency practitioner is the trustee, costs that cannot be met by selling assets or from contributions will be met by the trustee themselves. The insolvency practitioner will consider this before agreeing to act as trustee in your bankruptcy.

Creditors will not normally be asked to cover any of the administration costs other than those incurred in presenting a petition for your bankruptcy to court. Where the sale of assets and income from your contributions produce enough funds to pay all the administration costs, a creditor who petitioned for the bankruptcy may then have their outlay in making the petition reimbursed. Their debt and the debts of other creditors are then considered equally after this.

You should also be aware that you will still be responsible for any solicitors costs that you incur.

3.2 What are the conditions for someone else to make me bankrupt?

Creditors

If you owe someone money they may be able to make you bankrupt. Your creditors can ask a sheriff to award bankruptcy against you if:

- > you owe them at least £3,000 – this will include any fees, interest or charges added to what you owe; and
- > they have sent you a copy of the Scottish Government's Debt Advice and Information Package; and
- > you are apparently insolvent. The section 'What are the conditions for applying for my bankruptcy' (pages 11-12) explains apparent insolvency. However, a creditor can also prove apparent insolvency if you have signed a trust deed which has not become protected or if you have formally advised your creditors in writing that you are unable to pay your debts.

The trustee in a trust deed

If you grant a trust deed and you do not co-operate with your trustee, they have the right to ask the sheriff to make you bankrupt. They have to show that an award of bankruptcy would be in the best interest of your creditors. Further information on trust deeds is available in the AiB publication, 'Trust Deed Guide'.

If someone is taking action to make you bankrupt you will be notified by the creditor or trustee.

3.3 How long will it take for me to be made bankrupt?

This will depend on who takes steps to make you bankrupt.

When you apply for your own bankruptcy and your application form is correctly completed with the fee and all the information needed, your bankruptcy will normally be awarded within five working days of the Accountant in Bankruptcy receiving it. It may take longer if the Accountant in Bankruptcy has to write to you to ask for more information or evidence.

When a creditor or a trustee in a trust deed petitions the sheriff for your bankruptcy, you could be made bankrupt in less than a fortnight from the date their petition is presented. You will receive a warrant citing you to appear at a court hearing to decide whether you should be made bankrupt. If you do nothing you probably will be made bankrupt.

If you appear or are represented at the hearing and provide evidence, the sheriff may decide to postpone their decision if they are satisfied that you will pay what you owe within 6 weeks or if you plan to repay your debts through the Debt Arrangement Scheme.

3.4 What do I have to do when I have been made bankrupt?

It is important that you understand your responsibilities. These are some of the things you must and must not do.

You must:

- > co-operate fully with your trustee at all times; and
- > keep your trustee informed of any changes in your circumstances, such as, if you move house or if your financial circumstances change.

You must not:

- > get credit for goods or services for more than £500 from any lender or supplier without telling them that you are bankrupt. You may be guilty of a criminal offence if you do not tell them;
- > get any credit for goods or services without telling the lender or supplier that you are bankrupt if you already have credit of £1,000 in total. You may be guilty of a criminal offence if you do not tell them;
- > start up a limited company or be involved in the day-to-day management of a limited company; and
- > act as a Member of Parliament, as a member of any local council, a Justice of the Peace or a member of a school board.

This is not a complete list of your responsibilities. Your trustee will tell you exactly what is expected of you. If you do not comply with your responsibilities, you may be committing a criminal offence under the Bankruptcy (Scotland) Act 1985 (as amended) and your trustee may report you to the Procurator Fiscal.

If you fail to co-operate with your trustee, they can also ask the sheriff to extend the period of your bankruptcy.

4. How long will my bankruptcy normally last?

If you applied for your own bankruptcy, you will normally be discharged one year after the date the bankruptcy was awarded. If a creditor petitioned for your bankruptcy, you will be discharged one year after the date that the court issued the warrant citing you to appear at a hearing. However, if you do not co-operate with your trustee, they can ask the sheriff to delay your discharge by up to two years at a time.

You will **not** be formally notified that you have been discharged. You can, if you wish, ask the Accountant in Bankruptcy for a certificate of discharge. There will normally be a charge for this.

Even though you have been discharged, your bankruptcy will not be finished until your trustee has done everything they need to and they are discharged from their duties. You must co-operate with your trustee until they are discharged.

You will be notified of your trustee's application for discharge.

4.1 Can my bankruptcy end sooner?

There are two ways in which your bankruptcy can end sooner.

Offer of composition

At any time during your bankruptcy you, or another party acting on your behalf, can propose an offer of composition to your creditors. This is a voluntary agreement under which your creditors may accept payment, or part payment, for your debts. An offer of composition must be worth a dividend of at least 25p in the pound for all your creditors after all your trustee's costs and fees have been paid. Composition must be agreed by at least two-thirds in value or a majority of your

creditors. If your creditors agree, an application for composition will be sent to the sheriff. You must either pay or offer to pay, or offer acceptable security for, all monies due under the terms of the offer of composition, before your trustee will agree to the offer going to court. If the court approves the offer, then you will be discharged from bankruptcy.

Recall of bankruptcy

You can petition the sheriff to recall your bankruptcy if you can show that you should not have been made bankrupt. For example, if you were able to pay your debts but did not. The law says that until recall is granted your trustee must continue with your bankruptcy. Recall will not be granted unless you pay or offer acceptable security for everything that you owe. This includes the cost of recalling the bankruptcy, your trustee's fees and outlays and all your debts plus interest. Your creditors can object to your recall.

The creditor who made you bankrupt can also petition the sheriff for recall of your bankruptcy if they have made you bankrupt in error. If a creditor petitions they will be liable for your trustee's fees and the costs of the recall.

Recall effectively restores you to the position you would have been in had the bankruptcy not happened.

5. Who is the trustee?

Your trustee is the person who administers your bankruptcy. Your trustee can be either the Accountant in Bankruptcy or a private insolvency practitioner (normally a chartered accountant who specialises in personal bankruptcy).

5.1 What does the Accountant in Bankruptcy do?

The Accountant in Bankruptcy is a Scottish Government official who is in charge of personal bankruptcy in Scotland. You must apply to the Accountant in Bankruptcy to make yourself bankrupt. She will be your trustee unless you, or a creditor who petitions for your bankruptcy, nominates a private-sector insolvency practitioner. When the Accountant in Bankruptcy is your trustee, her staff will administer your bankruptcy or she may pass your case to an insolvency practitioner who works on her behalf. It will make no difference to you, but you will be told who is working on your bankruptcy.

The Accountant in Bankruptcy also supervises the work of other trustees.

5.2 What does the trustee do?

Your trustee will ingather your assets, including any property, and sell them to pay the costs of managing your bankruptcy and your debts.

Your trustee will get in touch with you and ask you to provide information about your finances and the things you own. This will include information about your assets, who you owe money to, your income, what you spend each week and how much you spend on each item. Your trustee is entitled to ask you to provide evidence, such as, wage slips, bills and bank statements.

Your trustee may also want to interview you at your home, visit your business premises or ask you to come to their office.

You must always co-operate with your trustee. Failure to co-operate can result in your bankruptcy lasting longer and restrictions being placed on you. You could also be committing a criminal offence and you could be fined, sent to prison or both.

Your trustee may meet with your creditors. Unless the Accountant in Bankruptcy is your trustee your creditors can elect commissioners to oversee the administration of your bankruptcy at any meeting.

Your trustee will charge a fee for the work they do. They are required to produce accounts at the end of the first year and periodically thereafter until they are discharged. Their accounts have to be approved by the Accountant in Bankruptcy or elected commissioners. You will be sent details of the trustee's outlays and remuneration (fees) but this is not a bill and you are not responsible for paying them. You can ask to see the accounts and can appeal to the sheriff about these costs. However, you can only appeal to the sheriff if you can show that it is to your financial benefit.

Your trustee will compile a permanent record of your bankruptcy. This is called the sederunt book and contains copies of court orders, accounts and records of meetings but not general correspondence. At the end of your bankruptcy the sederunt book is sent to the National Archives of Scotland as a permanent public record of your bankruptcy.

5.3 What happens to the money my trustee gathers in?

Your trustee will distribute the money gathered in. They will invite claims from all your creditors. Your trustee will deduct their fees and outlays and distribute any remaining funds to your creditors. Any payments, known as dividends, made to your creditors may not cover the full amount of the debt.

6. What happens after I am discharged?

Although you are discharged, your bankruptcy will not be finished until your trustee has done everything they need to and they are discharged from their duties. You must continue to co-operate with your trustee until they are discharged.

If you are making a contribution you must continue to pay it to your trustee even after you have been discharged from your bankruptcy.

6.1 What happens to my debts after I am discharged?

Once you are discharged you no longer have a personal liability to repay the debts which you had when you were made bankrupt although there are exceptions to this.

You are still personally responsible for:

- > student loans;
- > fines, penalties, compensation and forfeiture orders imposed by any sheriff;
- > any liability incurred as a result of fraud or breach of trust on your part;
- > any liability to forfeiture of bail;
- > any obligation to pay aliment; and
- > any periodical payment ordered by the sheriff to your ex-spouse if you are divorced.

Your pre-bankruptcy creditors, except those above, will not be able to take any legal action against you to recover their debts. **However**, the debts still exist and you are still responsible for paying any contributions agreed with your trustee.

The creditor can still take action against anyone else, for example your spouse, who had a joint liability for the debt.

You are still responsible for making payments to your secured creditor, for example, for the mortgage on your house.

You are also responsible for repaying any debts which you have run up after you were made bankrupt, for example, ongoing liabilities for rent, council tax, gas, electricity, telephone.

6.2 What happens to my assets after I am discharged?

Your bankruptcy does not end with your discharge. Your trustee still has a duty to sell the assets that transferred to them.

Once you are discharged, you can acquire new assets and your trustee will have no claim on these.

If your trustee recovers all the costs of your bankruptcy and pays your creditors in full, plus interest, and there is money or assets remaining, they will be returned to you.

If your trustee decides that they do not intend to sell your house, either on the open market or privately, they will formally abandon it. Only then are you entitled to sell it. Your trustee must make a decision about your house within 3 years of your bankruptcy.

7. What are the alternatives to bankruptcy?

Bankruptcy is a last resort for debt relief and you may still have other options. You should seek financial advice. Citizens Advice Scotland and local authority money advisers will provide free and impartial advice on your options and may be able to help you fill in forms or liaise with your creditors.

Some of the other options available may include:

Debt Management Plan

This is an informal arrangement with your creditors to pay your debts over an extended period of time. You can arrange a plan directly with your creditors or with the help of a money adviser at a local authority money advice unit or Citizens Advice Scotland. Creditors do not have to agree to freeze interest or charges. Your creditors can decide at any time that they no longer wish to accept payments and can pursue you for the debt using other methods.

Debt Arrangement Scheme (DAS)

DAS is a statutory scheme run by the Scottish Government to help you pay multiple debts by giving you more time to pay without hassle or threat of court action from your creditors. DAS freezes interest, fees and charges on your debt from the date your DAS payment programme is approved and these will be written off if you complete the programme.

The scheme is delivered free by approved money advisers at local authority money advice units or Citizens Advice Scotland. The scheme protects your assets, including your home (as long as you keep up your mortgage payments). For further information on DAS contact your local money advice centre or visit www.moneyscotland.gov.uk.

Trust Deeds

A trust deed is a formal arrangement between you and an insolvency practitioner who becomes your trustee. To enter into a trust deed you must either have assets (this includes your home if you own it wholly or jointly) that can be sold or you must be able to make regular payments to your trustee from your income. A trust deed can become protected which means that your creditors cannot take court action against you for the debts that you owed when the trust deed was agreed. If your creditors do not agree to your trust deed becoming protected, they can still take court action against you. If you do not co-operate with your trustee, your trustee may even make you bankrupt.

Further information on trust deeds can also be found in the AiB publication, 'Trust Deed Guide'.

8. What if I am unhappy with the way my bankruptcy is being handled?

If you are unhappy with the way your bankruptcy is being handled you should speak to the person dealing with your case.

If the Accountant in Bankruptcy is your trustee and you cannot resolve the issues you have by speaking to her staff or the insolvency practitioner acting on her behalf you should write to her.

Insolvency practitioners are regulated by statutory rules and must be members of an approved body. Therefore, if your trustee is a private-sector insolvency practitioner and you cannot resolve the issues you have by speaking to them, you should contact their governing body. Details of who their governing body is can be found on their letter headed paper. You can also write to the Accountant in Bankruptcy or, where there are commissioners, to them.

Full information on the Accountant in Bankruptcy's complaints procedure can be found on the website at **www.aib.gov.uk**.

If you are dissatisfied with the actions of your trustee you can also ask a sheriff to look into the matter.

9. Further information

9.1 Contact details for the Accountant in Bankruptcy

The Accountant in Bankruptcy

1 Pennyburn Road
Kilwinning
Ayrshire
KA13 6SA

Telephone: 0845 612 6460

Fax: 0845 612 6470

Helpline: 0845 762 6171 (all calls charged at local rates)

E-mail: helpline@aib.gsi.gov.uk (for general help about the bankruptcy process)

Website: www.aib.gov.uk

9.2 Sources of advice and information

Some useful contacts for free advice on debt:

Money Advice Scotland

Telephone: 0141 572 0237

Website: www.moneyadvicescotland.org.uk

E-mail: Info@moneyadvicescotland.org.uk

Citizens Advice Scotland

Telephone: 0845 450 0351

Website: www.cas.org.uk

Scottish Debtline

Telephone: 0800 138 3328

Website: www.scottishdebtline.co.uk

Trading Standards Scotland

Website: www.scotss.org.uk

Local addresses and telephone numbers for these agencies will be found in your phone book.

For help finding an insolvency practitioner, contact:

Institute of Chartered Accountants of Scotland

CA House

21 Haymarket Yards

Edinburgh

EH12 5BH

Phone: 0131 347 0100

Website: www.icas.org.uk

For help finding a solicitor with special knowledge of bankruptcy, contact:

Law Society of Scotland

26 Drumsheugh Gardens

Edinburgh

EH3 7YR

Phone: 0845 113 0018

Website: www.lawscot.org.uk

E-mail: cro@lawscot.org.uk

This publication is available on request in community language versions and alternative formats. Please contact **0845 612 6460** for this to be arranged.

अनुरोध करने पर यह प्रकाशन सामुदायिक भाषा संस्करणों एवं वैकल्पिक स्वरूपों में उपलब्ध है। ऐसी व्यवस्था करने के लिए कृपया **0845 612 6460** पर संपर्क करें।

یہ اشاعت درخواست کرنے پر معاشرتی زبان کے نسخوں اور متبادل شکلوں میں دستیاب ہے۔ برائے مہربانی اس کے انتظام کے لئے **0845 612 6460** پر رابطہ کریں۔

এই প্রকাশনাটি অনুরোধসাপেক্ষে জনগোষ্ঠীর ভাষায় লিখিত সংস্করণে এবং বিকল্প ফরম্যাটে পাওয়া যায়। অনুগ্রহ এই ব্যবস্থা করার জন্য **0845 612 6460** নম্বরে যোগাযোগ করুন।

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الرجاء الاتصال بالرقم الهاتفي **0845 612 6460** لترتيب هذا.

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Tha am foillseachadh seo ri fhaotainn air iarrtas ann an cànanan coimhearsnachd agus ann an cruthan eile.
Cuiribh fios gu **0845 612 6460** airson seo a chur air dòigh.

Aby otrzymać niniejszy dokument w innej wersji językowej, na kasecie lub w wersji z powiększonym drukiem, prosimy o kontakt: **0845 612 6460**

**We have written this booklet for general guidance only.
It is not a detailed or full statement of the law.**



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