



Bankruptcy

If you have no money left over in your budget, or you have so little that it will take many years for you to re-pay your debts, you may want to look at bankruptcy as an option.

In Scotland bankruptcy is often called sequestration. Both terms mean the same thing.

Being made bankrupt is a very serious matter. It can lead to loss of your family home and can have other consequences. It may impact on your job and your bank account could be frozen. Your credit rating will be affected and you could also find that access to future credit is not available or is only available at a very high rate of interest.

When you are declared bankrupt you have to hand over a lot of your possessions that can be sold, including your home, if owned wholly or jointly, to a trustee. It is likely that it will be sold but the court does have to take a number of issues into consideration.

How someone is sequestrated (made bankrupt)

Subject to certain conditions, a creditor or a group of creditors that you owe £3,000 to can apply to the court to make you bankrupt or you can apply to a Scottish Government agency called the Accountant in Bankruptcy to make yourself bankrupt if you owe £1,500 or more. Bankruptcy starts when you are declared bankrupt by the sheriff or by the Accountant in Bankruptcy. A trustee will be appointed to administer your bankruptcy.

Sequestration may be an option for you if any one or more of the following factors apply:-

- the size of your total debts is large (more than £1,500) and it will take you a long time to repay the debt
- you cannot keep to negotiated repayments
- your creditors refuse to negotiate
- you are under excessive stress because of your debts
- you are unlikely to have an increased income in the near future
- you do not have enough to pay interest charges on your debts
- one or more of your creditors has taken legal action to arrest your wages or bank account

You will normally be discharged from bankruptcy after one year but your trustee still has a duty to sell the assets that transferred to them.

What does the trustee do

It is the duty of your trustee to sell your assets or property, to use the money to pay your creditors as much as possible of what you owe them and to pay the costs of managing your sequestration. You will be able to keep some things that are essential for everyday living such as beds, your cooker, your television, etc.



You may also be required to make regular payments from your income to your trustee.

While you are sequestrated most of your creditors cannot take further action to pursue you for the money you owed them at the start of the sequestration. However, if you have a mortgage or other loan secured on your home, the lender can take action against you if you stop your mortgage payments to them. Interest will still build up on your debts during the period in which you are sequestrated but most outstanding debts will be written off at the end of the period. You will still be responsible for any new debts built up after the date you became sequestrated.

Sale of the family home

When deciding whether a family home should be sold the court may delay the sale for a period but in making its decision it:-

- must consider whether there are exceptional circumstances, for example, a child in your family has a disability; and
- must allow, if possible, time before the property is sold; and
- must allow, if possible; time for you to fully investigate the value of your property; and
- may take into account the circumstances of any joint owners or partners and what they knew about the debt

If you are thinking about sequestration, you should get advice from an experienced adviser. Your local Citizens Advice Bureau can give advice about sequestration.

The Accountant in Bankruptcy publishes a useful Debtor's Guide, which provides more information about bankruptcy. It is available on the AIB website at:

www.aib.gov.uk.

Further help

Citizens Advice Bureau

Citizens Advice Bureaux give free, confidential, impartial and independent advice to help you solve problems. To find your nearest CAB, including those that give advice by e-mail, click on [nearest CAB](#), or look under C in your phone book.

Last updated: 27 January 2011

This fact sheet is reviewed on a monthly basis. The law changes frequently. To confirm you are looking at the most up-to-date version, download the fact sheet from www.adviceguide.org.uk or contact your local Citizens Advice Bureau.

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