

Guidelines on Irish Bankruptcy Procedures

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1. Introduction

Bankruptcy in Irish Law is a legal process for people with debts over €20,000 whereby the property or assets of a person (debtor) are transferred to a person given charge of the property by the High Court (the Official Assignee (OA) or trustee in bankruptcy) to be realised for the benefit of those to which the person owes debts.

When the property or assets of the bankrupt are realised, the costs, expenses, court fees and certain priority debts are paid. After this, the net proceeds are distributed amongst the debtor's creditors.

This manual aims to provide guidelines on the working and managing of bankruptcy cases to best protect and maximise Revenue's position.

2. Relevant Legislation

[Bankruptcy Act 1988](#)

[Bankruptcy \(Amendment\) Act 2015 No 60 of 2015](#)

[Personal Insolvency Act \(2012\)](#)

3. Who can make someone bankrupt?

The High Court makes someone bankrupt either at the request of a creditor or at the debtors' own request.

Any debtor may petition for adjudication against himself if the petition is accompanied by:

- ❖ A statement of affairs showing debts exceeding assets by an amount greater than €20,000;
- ❖ An affidavit sworn by the debtor that outlines reasonable efforts made to reach an appropriate arrangement with his creditors in relation to his debts by means of a Debt Settlement Arrangement (DSA) or a Personal Insolvency Arrangement (PIA) considering his circumstances to enter such an arrangement. If Personal Insolvency is not an option, bankruptcy may be the only course of action available.

Any creditor (including Revenue) may petition for adjudication against a debtor on the basis that:

- ❖ The debt owed must be at least €20,000;
- ❖ The amount of debt owed must be set out in an affidavit before an authorised witness such as a practicing solicitor, Commissioner for Oaths or an Officer of the Court);
- ❖ The debtor must be either resident in the State or, within three years prior to presentation of the petition, have ordinarily resided, had a dwelling house or place of business, or carried on business within the State;
- ❖ A petition must be presented within three months of the act of bankruptcy (as detailed above) to the court.

For a creditor to be entitled to petition the court to make a debtor bankrupt, certain conditions must be met. These include:

- ❖ A creditor files a Bankruptcy Petition, accompanied by relevant documentation, to the Office of the Examiner of the High Court;
- ❖ The Judge, providing the qualifying requirements have been met, will adjudicate the individual bankrupt and make an Order of Adjudication i.e. Bankruptcy Order.

Once a Bankruptcy Order has been made, the Official Assignee will deal with the administration of the case. The Official Assignee is the officer of the court to whom the ownership of the property of the bankrupt person is transferred on the day the person is made bankrupt. He is an independent statutory officer who administers the estate of the bankrupt person and is answerable to the High Court. The Official Assignee manages the Bankruptcy Division within the Insolvency Service of Ireland.

Once an individual is adjudicated bankrupt, a Bankruptcy Inspector from the Irish Insolvency Service of Ireland will serve the bankrupt individual with copies of the Order of Adjudication and Warrant of Seizure immediately after the granting of the Bankruptcy Order.

4. The main consequences of bankruptcy

- ❖ All debts to date of bankruptcy are written-out and cannot be collected in the future;
- ❖ The bankrupt individual's property is vested in the Official Assignee;
- ❖ The bankrupt's salary is likely to be attached in favour of the Official Assignee and becomes part of an income payment order where they are required to contribute any surplus income (excess of reasonable living expenses) towards the expenses of the Official Assignee and other debtors for up to 3 years;
- ❖ It is an offence for the bankrupt to act as an officer of or directly or indirectly take part in the formation or management of any Irish company or of any foreign company which has an established place of business in Ireland;
- ❖ The bankrupt is restricted from holding certain offices i.e. director, auditor, manager, liquidator, or receiver and is also precluded from membership of certain bodies;
- ❖ The bankrupt cannot obtain credit over €650 without disclosing his status as a bankrupt;
- ❖ The bankrupt is discharged after 1 year, once they have co-operated with the Office of the Official Assignee. This period could be shorter if the bankrupt can come to a settlement with creditors or longer;
- ❖ Non-co-operation can result in the discharge period being extended up to 15 years; depending on the seriousness found by the Court of non-disclosure of assets to the Official Assignee.

A bankrupt can continue their current employment or seek employment. If the bankrupt is self-employed, they can continue to trade if they trade using their own name. The bankrupt must notify the OA of any business or trade in which they engage.

Any taxes incurred after the date of adjudication are not part of the bankruptcy estate and the bankrupt must file tax returns, make payments and fulfil their obligations to Revenue as normal.

Please note that any monies/refunds due back to the bankrupt's estate from Revenue prior to adjudication, become the property of the Official Assignee.

5. How does Revenue become aware of bankruptcy?

The Insolvency Service of Ireland (ISI) advises Revenue of bankruptcies each week following a High Court sitting. Notices of bankruptcies are also published in the [Iris Oifigiúil](#) and on the [ISI website](#) within 21 days of the date of adjudication. Additional information is also available on the [Courts Service website](#).

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