




ACCOUNTANT
IN BANKRUPTCY
SCOTLAND'S INSOLVENCY SERVICE

Debt advice and
information package





The contents of this publication are accurate as at 30 November 2016. Any subsequent amendments will be incorporated in the latest version which is available at:

www.aib.gov.uk/guidance/publications

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You can also find them on the publications page of our website: **www.aib.gov.uk**

This publication is available on request in community language versions and alternative formats. Please contact **0300 200 2600** for this to be arranged.

Debt Advice and Information Package

You have been given this booklet because one of the following is happening or is about to happen:

- Someone that you owe money to is using a legal process to get back what you owe to them; or
- Someone that you owe money to intends to ask the court to make you bankrupt; or
- You have discussed entering a trust deed with an insolvency practitioner; or
- You have discussed the issue of a Certificate for Sequestration with an authorised person.

The law says information about where to get debt and money advice must be provided to you before further action can be taken. This booklet contains important information about getting advice to help you deal with your creditors and your debt.

Do not ignore this information

Ignoring your debts can lead to serious problems for you. You could lose your possessions, including your home and savings, or be made bankrupt. Getting money advice as soon as possible can help you to deal with your debts and your creditors and may help you to improve your situation.

You are strongly advised to seek money advice.

If someone has provided you with this booklet, action is being taken, or is about to be taken, against you.

Who can give me help and advice?

You can get free money advice in your area.

There are a number of people who can give free, confidential, and impartial money advice face-to-face in your local area. Some organisations may also give information and advice over the telephone or online.

People that can give free, face-to-face advice include advisers at Citizens Advice Bureaux and local authority money advisers.

You can find a local, free money adviser by contacting:

Money Advice Scotland

0141 572 0237

www.moneyadvicescotland.org.uk

Info@moneyadvicescotland.org.uk

You can find your local Citizens Advice Bureau by contacting:

Citizens Advice Scotland

0808 800 9060

www.adviceguide.org.uk/Scotland

Other organisations that can give free advice include:

StepChange Debt Charity

0800 138 1111

www.stepchange.org

National Debtline

0808 808 4000

www.nationaldebtline.org/S/Pages/default.aspx

Business Debtline

0800 197 6026

www.businessdebtline.org/S/Pages/default.aspx

If you do not have access to the internet your local library may be able to provide free access.

You can also get advice from insolvency practitioners. You should ask if they will charge you for their initial advice or for any other work they may do in connection with your debts. The Institute of Chartered Accountants of Scotland (ICAS) on 0131 347 0100 or at www.icas.org.uk and The Insolvency Practitioners Association on 020 7623 5108 or at www.insolvency-Practitioners.org.uk/ipsearch.aspx can help you find an insolvency practitioner in your area.

You can also contact a solicitor, a financial adviser or a Debt Management Company. They will probably charge you a fee. You may be entitled to legal aid to help with the cost of a solicitor.

Whoever you ask for money or debt advice, make sure that the person you speak to knows you live in Scotland.

What can they do for me?

People who provide debt and money advice can look at your personal situation, discuss the options available to you and help you decide which is the best course of action for you.

You may also be given information on how to maximise your income or deal with emergencies. For example, they may discuss whether you are entitled to benefits and what you can do if your bank account is frozen, if your gas or electricity is cut off or if you are facing eviction.

A money adviser can help you deal with your creditors. They may also help you with applications to court and represent you at court hearings.

What can I do about my creditors and debts?

Most importantly, **do not ignore your creditors or your debts.**

If you take action as soon as possible there may be ways to improve your situation. Your options may include:

- Making informal arrangements with your creditors;
- Arranging for extra time to pay what you owe;
- Setting up a statutory Debt Payment Programme,
- Entering a trust deed; or
- As a last resort, applying for your own bankruptcy.

You will have to pay an application fee for this.

A money adviser can help you decide what to do, give you advice about all of the above options and tell you if there are more options for you. They can also tell you about the consequences of any of these options.

The consequences of not dealing with your debt

If you have been provided you with this booklet, one of the following is happening or is about to happen:

1. Someone that you owe money to is using one of several legal processes called diligence to get back what you owe

In Scotland, there are a number of legal processes that people you owe money to (your creditors) can use to get back what they are owed. These processes are known as diligences and are usually carried out by sheriff officers on behalf of your creditors.

These are some of the diligences that can be used:

- Your employer can be instructed to make deductions from your wages. This is known as **arrestment of earnings**.
- Your bank can be instructed to freeze funds in your bank accounts and to release those funds to your creditor after 14 weeks. This is known as **arrestment**.
- Someone who has goods belonging to you can be instructed to freeze them. The goods can later be removed and sold at auction. This is also known as **arrestment**.

- Your creditor can ask a sheriff officer to secure some items in your possession. This is known as **attachment**. The items can later be taken away and sold at auction. Goods inside a dwellinghouse can only be attached in exceptional circumstances.
- Sheriff Officers can be instructed to take away money in your possession through **money attachment**.
- Your creditors can register an **inhibition** to prevent you disposing of your home or other property that you own.

When using most diligences, creditors are required by law to provide you with this booklet.

2. Someone that you owe money to intends to ask the court to make you bankrupt

Your creditors can ask the court to make you bankrupt if you owe them £3,000. They must provide you with this booklet.

In Scotland, **sequestration** is the legal word for bankruptcy.

Bankruptcy has serious consequences. It will affect your credit rating, make it difficult for you to get credit in the future and can affect your employment or future employment.

Your bank may freeze or close your bank accounts. Bankruptcy can lead to the loss of your home, vehicles and other possessions.

If you are made bankrupt, control of your assets (things you own), such as your home, car, savings and other items, automatically passes to your trustee who may sell them to pay your creditors. Your trustee is the person responsible for overseeing your bankruptcy.

3. You have discussed entering a trust deed with an insolvency practitioner

If you sign a trust deed, you enter an agreement with a trustee who will administer the trust deed. You must co-operate with your trustee. You agree that control of the things you own, including your home, car, savings and other items passes to your trustee who may sell them to pay your creditors. You usually also agree to pay a regular amount from your wages or other income.

If enough of your creditors agree to the terms of your trust deed, it can become protected. As long as you keep to what you have agreed, your creditors are not allowed to take further action against you.

Insolvency practitioners are required by law to provide you with this booklet if you are about to set up a trust deed with them. They must give you this booklet before you sign the trust deed.

4. You have discussed the issue of a Certificate for Sequestration with an authorised person

A Certificate for Sequestration certifies that you are unable to pay your debts as they become due. You can use the certificate to support an application for your own bankruptcy.

Authorised persons who can grant a certificate include most money advisers, insolvency practitioners and some people who work for insolvency practitioners.

The authorised person must tell you about all the options available to you and must provide you with this booklet prior to granting you the Certificate for Sequestration.

Further information

Further information booklets are available for debtors and creditors, on trust deeds and on bankruptcy restrictions.

A booklet called “**Debt and the Consequences**” gives you more information about what can happen if you do not deal with your debts or your creditors. It also tells you more about the options that might be available to you.

You can get all of these booklets from the Accountant in Bankruptcy online at **www.aib.gov.uk**. You can also request a copy by e-mail at **aib@aib.gsi.gov.uk** or by telephoning 0300 200 2600.

AiB also provides further information about bankruptcy, trust deeds, the Debt Arrangement Scheme and the legal processes known as diligences on their website at **www.aib.gov.uk**.

Using your personal information

Personal information that you supply to the Accountant in Bankruptcy (AiB) may be used in a number of different ways to enable AiB to act in accordance with the Bankruptcy (Scotland) Act 2016 and other relevant legislation. For example:

- to determine bankruptcy applications and Debt Arrangement Scheme (DAS), Debt Payment Programmes (DPPs);
- for the collection of fees and contributions;
- to identify and sell assets;
- to supervise the administration of bankruptcies, Protected Trust Deeds and DPPs, and
- for statistical analysis purposes.

In order to complete these statutory duties and tasks, we do need to collect and, process personal information about you and sometimes about third parties. In certain circumstances, we may share personal information with others, for example: our agents; banks; credit reference agencies; creditors and local authorities.

If you are made bankrupt, sign a Trust Deed, apply for a DAS, DPP or register a moratorium, your details must be recorded in a public register, which is available for anyone to access, free of charge. If you are made subject to Bankruptcy Restriction Order (BRO), details of your BRO will also be recorded on the AiB website.

We, or an agent acting on our behalf, may contact you to discuss your experience of using our services, as part of our on-going commitment to improve customer service. If you do not wish us to contact you for this purpose, please let us know.

Our full Privacy statement, that details how we process personal information and your right to request to see, amend or delete, information that we hold about you, is published on our website: www.aib.gsi.gov.uk. If you wish a copy of our Privacy Statement, you can write to us, email us at: aib@aib.gsi.gov.uk, or phone us on 0300 200 2600 and ask to speak with our Data Protection Officer.

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Aby otrzymać niniejszy dokument w innej wersji językowej, na kasecie lub w wersji z powiększonym drukiem, prosimy o kontakt: **0300 200 2600**

This booklet is for general guidance only.
It is not a detailed or full statement of the law.



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