

**This guidance is tailored specifically for official receivers. It is discretionary and not designed for use by third parties. This version was the most up to date guidance available to official receivers as at 10 March 2020.**

## 3. Bankruptcy orders - initial action

Actions to take in the initial stages of a bankruptcy including letters to be sent and enquiries to be undertaken

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## Frequently asked questions – Dealing with banks, building Societies and credit/charge cards

### What happens to a bank account when an insolvency order is made?

The account will be frozen by the bank. Where there is a credit balance in a bankruptcy funds can be released for essential living expenses or any joint owners share of the money.

### Why does the official receiver contact banks or building societies?

One of the main duties of the official receiver is to identify, collect, secure and protect any assets upon the making of an insolvency order. In some cases it may be necessary for the official receiver to give immediate notice of the insolvency order by telephone to ensure the account is frozen. The giving of this early notice helps to ensure that funds in accounts do not disappear.

### When should I make contact?

Notice (BANK1, BANK 2 or NORD1 for credit card companies) should be given as soon as possible, but in any event within 5 working days of the order being made. Full information should be sent including the branch sorting code and account number.

### How do I know what accounts a bankrupt has?

The information can be obtained from the company director/bankrupt. In debtors petition cases it will be listed in the statement of affairs or PIQB. In the event that a bankrupt cannot be traced the details may be found in the Experian search.

## How do I know which letter to send to the bank?

There are a number of bank letters, all of which have provide a different instruction. These are:

Bank1: used when there is a credit balance to be claimed by the official receiver

Bank2: used when it is agreed that funds will be released to the bankrupt

Bank3: used where there is FI in a company case

Bank1: used in company cases

## How should I deal with bank/credit cards?

Bankrupts should also be instructed to refer to their bank for instructions on what to do with any debit cards held in respect of a current account. Company directors and bankrupt should be instructed to destroy any other bank/credit cards in their possession and dispose of the cards appropriately. Any cards passed to the official receiver should be destroyed in the presence of the company officer/bankrupt and a file note made.

## Can a bankrupt still operate an existing bank account after they are made bankrupt?

Yes, subject to any bank or building society policy. This is most likely to occur where a bankrupt's regular income is paid into an account comprising their wages or benefit payments.

A bank or building society frequently asks the official receiver for authority to operate an account on behalf of a bankrupt. The official receiver is not in a position to provide such an authority and it is entirely a matter for the bank or building society to make that decision

## Can the bankrupt open a new bank/building society account after the bankruptcy order?

Yes - but they must tell the bank or building society that they are bankrupt. Some banks will allow continued use of the bank account after the bankruptcy order.

It is the bankrupt's responsibility to make arrangements for an account to receive any income. It is then at the discretion of the bank or building society whether to permit an undischarged bankrupt to operate an account. The publication [Guide to Bankruptcy](#) will provide the bankrupt with information.

Any request from the bankrupt or their agents regarding the operation of a new bank account can be answered using form BAOPB (Docs tab).

## What happens where there is a credit balance on a bankrupt's account at the date of the order?

If a bankrupt evidences to the official receiver that they need any money in their account or a proportion thereof for normal living expenses before the next "pay day", then they may be allowed to retain some or all of the funds for that purpose.

Authorisation should be given to the bank, using form BANK2 tailoring the letter according to the circumstances of each case.

## What happens to the bank card where only some of a credit balance should be released?

Where only part of the funds in the account is to be released to the bankrupt a decision needs to be made whether to leave the bank card with the bankrupt. In order to protect the part of the balance the official receiver should immediately telephone the bank to specify how much of the balance should be remitted to the official receiver, followed by a letter to confirm this. The sum the official receiver intends to recover should be shown as the asset on ISCIS. The asset note should be used to record the detail of the arrangement i.e. how much was in the account and how much was agreed that the bankrupt could withdraw.

## What will happen to a joint account?

If there is a credit balance, consideration should be given as to whether all or part of the credit balance vests as an asset in the bankruptcy or whether it belongs to the joint account holder. Where it is established that funds belong to the third party account holder an instruction should be given to the bank release the money.

The notes tab should be updated to record any decision made.

## How do I deal with a telephone or internet bank account?

You should not ask for details of the password, pin number or security information, or otherwise attempt to access the account through the internet or telephone. The director/bankrupt should be told not to access the accounts and a note should be recorded on ISCIS. The banks should be notified and the cards dealt with as detailed above.

## What do I do with an old style credit card machine?

The metal plate from the imprinting machine should be returned to the issuer.

## Post office card account

A post office card account is operated through the post office and can only be used to receive benefit, state pensions and tax credit payments. There is no overdraft facility on this account, and no other payments, such as wages, can be paid into it. No credit checks are undertaken when the account is opened. The official receiver will therefore have no interest in the balance of such an account and should not take the cash card for one of these accounts from a bankrupt.

## How do I deal with a building society account where there a passbook?

Where there is a passbook this is likely to be a savings account. The building society will normally require the production of a passbook or card before releasing the balance to the official receiver. In the event that the passbook is not available a 'lost passbook declaration' form will have to be signed by the official receiver as trustee. Usually the building society will also require a withdrawal form to be signed by the official receiver before releasing any funds and a copy of the bankruptcy order.

## How do I obtain bank statements?

The Service has an agreement with certain banks/building societies that requests for copy statements will be sent centrally. Copy bank statements can be requested via the [fortnightly bank statement spreadsheet](#) which is centrally collated and issued on behalf of ORS, IES and CI offices.

# How do I deal with a foreign bank account?

A written authority from the director or bankrupt should be obtained to get information and /or monies from the bank. Either a general authority or a specific authority directed to a particular bank to authorise the provision of information and the remittance any credit balance to the official receiver should be provided. Some banks may release information on production of a copy of the winding-up or bankruptcy order. Other banks may require a court order from within the relevant jurisdiction.

## The role of the Official Receiver

### 3.1 The official receiver as trustee

On the making of a bankruptcy order the official receiver is appointed trustee of the bankrupt's estate unless the court appoints an insolvency practitioner as trustee on the making of the bankruptcy order.

### 3.2 The official receiver's duties following the making of a bankruptcy order

The official receiver's principal duty, immediately following the making of a bankruptcy order, is to protect the bankrupt's estate. The official receiver may take such steps as they think necessary, including continuing a business to protect any property that may be claimed for the estate.

### 3.3 Insolvency practitioner appointed by the court

The court may directly appoint an insolvency practitioner as trustee on the making of a bankruptcy order in the following instances:

- where on the initial hearing of a petition the court asked them to prepare a report as to whether a debtor is willing to make a proposal for a voluntary arrangement<sup>1</sup>
- where the bankruptcy order follows a voluntary arrangement the court may appoint the supervisor of the arrangement as trustee<sup>2</sup>

1. Section 297 (4)

2. Section 297 (5)

## 3.4 The trustee's duty to co-operate with the official receiver

An insolvency practitioner appointed trustee by the court on the making of the bankruptcy order will usually be a useful source for information about the bankrupt's affairs, especially in the initial stages of the case. The trustee has a duty to co-operate with the official receiver and must produce or allow the inspection of the bankrupt's books, papers and other records. This may involve visiting the trustee's offices<sup>1</sup>. If the trustee fails to co-operate the official receiver may apply to the court for an order to enforce compliance<sup>2</sup>.

1. Section 305 (3)

2. Rule 10.93

## 3.5 The official receiver's duties where a trustee is appointed by the court

Where a trustee other than the official receiver is appointed immediately upon the making of a bankruptcy order the official receiver remains under a statutory duty to investigate the conduct and affairs of the bankrupt where they deem it appropriate. Where the official receiver in the course of their investigations discovers undisclosed assets, which may include rights of action, they should inform the trustee and provide copies of any relevant documents (see chapter 22 and chapter 45 for further details)<sup>1</sup>. The official receiver has to give notice of the order, gazette the order and provide information to the creditors<sup>2</sup>.

1. Rule 10.75(7)

2. Rules 10.32 and 10.66

## 3.6 Trustee appointed by court – initial notices

The official receiver may consider restricting their initial notices to those recipients whose reply may relate directly to the duty to investigate and not to send letters or notices relating to asset recovery. In practice it may be difficult to separate these functions, for example when writing to the bank there may be no need to know the current balance on the account but details of any overdraft facilities may be relevant to the investigation of the bankrupt's conduct and affairs.

## 3.7 The official receiver's power to request information

The official receiver may make an application to the court for the examination of any person believed to be able to provide information concerning the bankrupt or the bankrupt's dealings, affairs or property<sup>1</sup>. Further information on private examinations can be found in chapter 21.

1. Section 366 (1) (c)

## 3.8 Confidentiality

The official receiver must not disclose information about a case to any person who does not have a legitimate reason to have the details of the case. For further details see chapter 22. In particular the official receiver should note the disclosure rules regarding a person who has undergone gender reassignment (transsexual). The official receiver's attention is also drawn to the specific provisions relating to bankrupts who may be at risk of violence.

# Receiving and checking the bankruptcy order

## 3.9 Adjudicator's office

From 6 April 2016 the process of making bankruptcy orders on debtor petitions was removed from the Court and transferred to the Adjudicator's office. As opposed to completing a petition and statement of affairs, a debtor completes an online application form which is submitted to the adjudicator for review and if appropriate an order will be made. The Adjudicator will create an Electronic Bankruptcy Folder ('EBF') which replaces the Court file. This sits separately to ISCIS and documents that relate to the Order are stored on the EBF. The Court will still make orders in respect of debtor applications under the Insolvency Partnerships Order 1994 (see chapter 52) and the Administration of the Insolvent Estates of Deceased Persons Order 1986 (see chapter 56).

## 3.10 Copies of the bankruptcy order to be delivered to the official receiver

The court should send at least two sealed copies of the bankruptcy order to the official receiver in creditor petition cases as soon as reasonably practical after the making of the order. The adjudicator must deliver copies of the bankruptcy order to



both the Official receiver and the bankrupt as soon as reasonably practical after the making of the order<sup>1</sup>.

1. Rules 10.32(1) and 10.45(1)

## 3.11 Initial notice of creditor's petition cases

A local court should notify the official receiver when a bankruptcy order is made. The notification may be by secure email, fax or by post. The official receiver is able to monitor the progress of bankruptcy petitions by using the Case Pending Hearing Search tab in ISCIS which can be found under the Case tab. The Petitions and Transfers Team will notify the local official receiver where a bankruptcy order is made in the High Court and where a bankruptcy order is made in the Central London County Court on a creditor's petition.

## 3.12 Service of the bankruptcy order – creditor's petition

The official receiver must send one copy of the sealed bankruptcy order to the bankrupt as soon as reasonably practicable<sup>1</sup>. The official receiver must keep a note of how they served the bankruptcy order, normally by recording as a note on ISCIS.

1. Rule 10.32(2)

## 3.13 Initial notice of adjudicator cases

The adjudicator will notify the official receiver of a new bankruptcy order via email. The email will include the name of the bankrupt, the BKT reference, their postcode, the date of the bankruptcy order and the Equifax search reference. The official receiver should download the bankruptcy order and application from the Electronic Bankruptcy Folder and save them to Wisdom. The Equifax report should also be retrieved using the provided reference and a copy uploaded to the fileplan.

## 3.14 Service of the bankruptcy order – adjudicator cases

The court on the making of a bankruptcy order on a debtor's application the adjudicator will send a sealed copy of the order to the bankrupt by email. The bankrupt can make application to the Official Receiver for a hard copy of the order<sup>1</sup>.

1. Rule 10.45(2)

## 3.15 Adjudicator applications – conditions to be satisfied

To present a bankruptcy application a debtor must be unable to pay their debts<sup>1</sup>; and

- have their centre of main interests in England and Wales
- be domiciled in England and Wales
- in the three years ending with that day has been ordinarily resident, had a place of residence or had carried on business in England and Wales<sup>2</sup>

1. Section 263H(2)

2. Section 263I

## 3.16 Title of proceedings – bankruptcy description (creditor petitions)

The petition must contain sufficient information about the debtor to enable them to be correctly identified<sup>1</sup>. The petition shall include the following:

- their name, place of residence and occupation (if any)
- any other name used at any time (the official receiver should refer to chapter 22 where an order is made against a person who has undergone gender reassignment (transsexual))
- the name or names in which they carried on business, if other than in their true name, and whether, in the case of any business of a specified nature, they carry it on alone or with others
- the nature of the business, and the address or addresses at which they carry it on
- any name or names, other than their true name, in which they have carried on business at or after the time when the debt was incurred, and whether they have done so alone or with others
- any address or addresses at which they have resided or carried on business at or after that time, and the nature of that business. The above details are referred to as the full title of the proceedings<sup>2</sup>

1. Rule 10.8

2. Rule 10.8(2)

## 3.17 Bankruptcy description – adjudicator cases

There is no reference to “Title of Proceedings” in respect of adjudicator orders, where identifying information is required the Insolvency Rules (England and Wales)

2016 prescribe what information should appear on various documents (Bankruptcy Order, Gazette notice, Land Registry Notice and Individual Insolvency Register). The prescribed information for description on the bankruptcy order made by the adjudicator is the debtor's title, debtor's identification details (name and address) and any previous name or other names by which the debtor is known or has been known in the 5 years immediately before the date of the application<sup>1</sup>.

1. The Insolvency Rules (England & Wales) 2016 Schedule 7, Part 1

## 3.18 Persons at risk of violence – disclosure of the bankrupt's address

There may be circumstances where the disclosure or continuing disclosure to other persons (whether to the public generally or to specific persons) of the bankrupt's current address or whereabouts might lead to violence against the bankrupt or a family member who resides with them. The court may, on the application of the bankrupt, the official receiver, the trustee or the Secretary of State, order that their current address be withheld from specified documents and public sources of information<sup>1</sup>. The bankrupt's "current address" means their current place of residence and any address at which they carried on business<sup>2</sup>.

1. Rule 20.1(2)

2. Rules 20.5(3) and 20.6(3)

## 3.19 Persons at risk of violence - application to court

An application to court by any of the parties mentioned in to restrict the publication of a bankrupt's "current address" must be accompanied by a witness statement referring to rule 20.5 or 20.6. The witness statement should contain sufficient evidence to satisfy the court that the bankrupt, or their family member, would be at risk of violence or harm should their "current address" be disclosed<sup>1</sup>. In debtor application cases the application should be made after the online application has been commenced but before the finalised application has been submitted to the adjudicator.

1. Rules 20.5(4) and 20.6(4)

## 3.20 Person at risk of violence - court order

Where the court accepts that a bankrupt, or a family member, may be at risk from violence it may order one or more of the following, that:

- a) details of the bankrupt's address be removed from any part of the court file which is open for public inspection and be kept on a separate file not open to inspection
- b) the bankrupt's current address be removed from the bankruptcy order
- c) the full title of the proceedings be amended by the removal of the bankrupt's current address from the description
- d) details of the bankrupt's current address be omitted from any notice to be gazetted or otherwise advertised
- e) the bankrupt's current address is not included on the individual insolvency register or bankruptcy restrictions register (see chapter 5) and/or
- f) details of the bankrupt's current address kept on the individual insolvency register or bankruptcy restrictions register be removed<sup>1</sup>

1. Rules 20.5(5) and 20.6(5)

## 3.21 Person at risk of violence – further court orders

Where the court makes an order on grounds 2 to 6 listed in paragraph 3.20 it may make additional orders. The court may order that a previous residential and/or trading address be included in the description in the bankruptcy order; be included in the full title of the proceedings; be included in the contents of any gazette notice or advertisement; or be kept on or be entered onto the individual insolvency register (see chapter 5)<sup>1</sup>.

1. Rule 20.7(3)

## 3.22 Official receiver - action to be taken to comply with the court order(s)

The official receiver must ensure that immediate action is taken to comply with the terms of any court order made e.g. updating the ISCIS 'Case Header' tab to show 'address withheld' as this links to the Individual Insolvency Register. The official receiver should ensure when issuing any bankruptcy restriction proceedings that the application complies with the court order and that, if applicable, the current address does not appear on the bankruptcy restrictions register if an undertaking is given or an order made. In appropriate cases the attention of the Authorisations Team Bankruptcy should be drawn to the court order restricting disclosure of the "current address" when reporting the result of a bankruptcy restrictions hearing or a bankrupt's consent to a bankruptcy restrictions undertaking.

## 3.23 Persons at risk of violence – additional actions to be taken

Where the court has made an order to amend the title of the proceedings the official receiver must immediately send notice of the order to the Chief Land Registrar who will amend the register, where appropriate. The official receiver has the discretion either to gazette, or to gazette and advertise, the court order<sup>1</sup>. Any notice, gazette or advertisement should contain the standard contents with the exception of the bankrupt's current address. The amended title of the proceedings and the date of the bankruptcy order should be included. The notice should not include the description under which the proceedings were previously published<sup>2</sup>.

1. Rule 20.7(4)

2. Civil Procedure Rules 1998 rule 40.12

## 3.24 Checking the bankruptcy order – the slip rule

When checking the bankruptcy order the official receiver may discover that the court has made an error when compared to the details on the petition, for example, an incorrect spelling of bankrupt's name. The official receiver should contact the court and ask for the order to be corrected under the slip rule, and an amended version issued. The Civil Procedure Rules allow the court, at any time, to correct an accidental slip or omission in a judgment or order. A party, for example, the bankrupt, the official receiver or a petitioning creditor's solicitors, may apply for a correction without notice<sup>1</sup>. The court has the general power to rectify matters where there has been an error of civil procedure<sup>2</sup>.

1. Civil Procedure Rules 1998 rule 3.10

2. *Yee Fun Chu v Price* [2003] EWCA Civ 1744 and [2004] BPIR 603

## 3.25 Checking the bankruptcy order – amended description (creditor petitions)

Where the information is incorrect or is insufficient to enable creditors to identify the bankrupt. For example, the description may be missing trading addresses or trading styles, or may be incomplete because the bankrupt has used multiple aliases<sup>1</sup>, the official receiver should apply to the court to amend the title of the proceedings, commonly referred to as amending the description<sup>2</sup>. There is no fee payable to the

court where the official receiver makes the application to amend the description as official receiver rather than as trustee in bankruptcy.

1. Rule 10.165

2. Rule 10.8

## 3.26 Matters to be considered when amending the description

The official receiver should take into account the following specific matters when deciding whether to make an application to amend the title of proceedings:

- the description should state the bankrupt's occupation<sup>1</sup>
- where a bankruptcy order is made against a member of the Armed Forces any reference to their rank, military establishment or ship in the description should be deleted
- any request by the bankrupt to amend the description because of concerns that the publication of their address will affect their safety, for example a police officer, prison officer, etc
- a prison address or any indication that the bankrupt has been in prison should not be in the description

1. Rule 10.165(3)

## 3.27 Amended description advert

The official receiver has the discretion to gazette and/or advertise the amended description<sup>1</sup>. In deciding whether to advertise the amended description the official receiver should balance the benefit to the administration of the case against the cost of the gazette and advert. Chapter 4 explains the circumstances where advertising the amended description may be appropriate and provides further general information on the discretionary publication of insolvency information.

1. Rules 10.165 and 10.44

## 3.28 Amended description - transfer of proceedings

It is usual that where a transfer of the bankruptcy proceedings to another court is imminent that any application for an amended description will be made by the recipient official receiver. However the official receiver may consider combining the transfer application with an application to amend the description. Where the official receiver makes such an application they will be responsible for sending notice to the

Land registry and if required, gazetting and/or advertising the amended description. See chapter 10 for further information on the transfer of proceedings.

## 3.29 Consolidation of two or more bankruptcy petitions

It is possible that two or more bankruptcy petitions are presented against the same debtor. The petitions may be presented in different courts. If the orders are made the official receiver should make an application for directions to the court<sup>1</sup> for an order consolidating the proceedings. Where the orders have been made in different courts the official receiver may consider waiting until the proceedings have been transferred into the local court before making the application. The application should, generally, include a request that the proceedings are consolidated under the distinctive court number of the earliest bankruptcy order and that the petition deposits are retained by the official receiver to set against the costs and fees incurred. The subsequent bankruptcy orders and proceedings will be merged into the first order and care should be taken that the application requests that the court provide for this in the order. In considering the official receiver's application the court may make an order on such terms as it thinks fit. If the court does not consolidate the orders on the above terms an application to annul the second bankruptcy order should be made.

1. Rule 13.4

## 3.30 ISCIS and the consolidation of bankruptcy orders

Where two or more bankruptcy orders are made against the same person they should be consolidated under the court number of the earliest bankruptcy order. The official receiver should not record any further information on ISCIS for the subsequent order(s).

## 3.31 Application for annulment or stay of proceedings or advertisement

The official receiver should refer to chapters 8 and 9 where an application for annulment, stay of proceedings and/or stay of advertisement has been, or is likely to be, made.

# Notices to be issued and actions to be taken immediately

## 3.32 Introduction

The following paragraphs cover the actions the official should take and the notices that should be issued either immediately, or within 24 hours, following the making of a bankruptcy order.

## 3.33 Notice to the official receiver of a bankruptcy order

The court is required to give notice as soon as reasonably practicable to the official receiver on the making of a bankruptcy order on a creditor's petition<sup>1</sup>.

1. Rule 10.32(1)

## 3.34 Initial enquiries and initial contact

On the making of a bankruptcy order the official receiver's approach, in the initial stages of a case, will depend on who presented the petition. The enquiries necessary on a creditor's petition are called "initial enquiries" and are covered in 'Creditor's petition – initial action'. The enquiries conducted on an adjudicator case are called the "initial contact" and are covered in 'Adjudicator cases – initial action'.

## 3.35 Bankruptcy search

On being informed of the making of a bankruptcy order by the court the official receiver should conduct a party search on ISCIS to see whether the bankrupt has previously been made bankrupt. When conducting the party search the official receiver should ensure that any previous bankruptcy orders have not been annulled. They should search the Individual Insolvency Register (see chapter 5) to see whether the bankrupt has previously been made bankrupt, and subject to a bankruptcy restriction order or bankruptcy restriction undertaking. The official receiver should further check to see whether the bankrupt has been discharged from the earlier proceedings. Bankruptcy restriction orders and bankruptcy restriction undertakings are recorded on the Electronic Individual Insolvency Register available via The Insolvency Service web-site.

## 3.36 Trustee of a previous bankruptcy



A bankrupt may have been subject to a previous bankruptcy order made against them in a court dealt with by another official receiver's office. In these circumstances the official receiver should contact that office to obtain any further relevant information not contained on ISCIS. Where an insolvency practitioner has been released as trustee of the estate the official receiver should send them notice of the bankruptcy order. Where the insolvency practitioner remains trustee the official receiver should send ISCIS document production letter NPBB to them. Further information can be found in chapter 55 and chapter 40.

### 3.37 Other insolvency proceedings – individual voluntary arrangement

The bankrupt may have entered into an individual voluntary arrangement (IVA) or approached an insolvency practitioner to prepare an IVA. The supervisor or insolvency practitioner may be able to provide details of the bankrupt's assets and liabilities to the official receiver. This information may not be current but it can be used to support the information provided to the official receiver by the bankrupt and to possibly identify undisclosed assets. The official receiver should send ISCIS document production letter NPBB to the supervisor. The notice asks for details of the proposal, including a copy of the statement of affairs and details of the assets, both realised and unrealised. The official receiver should also ask the supervisor whether, in their opinion, any trusts were established by the IVA<sup>1</sup>.

1. Re: N T Gallagher & Son Ltd [2002] B.C.C. 867

### 3.38 Other insolvency proceedings – administration order

The bankrupt may have previously applied to court for an administration order. The county court may be able to provide details of the bankrupt's liabilities. This information may not be current but it can be used to support the information provided to the official receiver by the bankrupt and to possibly identify undisclosed assets. The official receiver should send ISCIS word template form NCCAO to the court.

### 3.39 Other insolvency proceedings – deed of arrangement

Although the Deeds of Arrangement Act 1914 was repealed with effect from 1 October 2015. A bankrupt may have entered into a deed of arrangement prior to that date. Where this is the case the trustee may be able to provide details of the bankrupt's assets and liabilities. This information may not be current but it can be

used to support the information provided to the official receiver by the bankrupt and to identify any undisclosed assets. The official receiver should send ISCIS document production letter NPBB to the trustee.

## 3.40 Disqualification searches

The official receiver should also make a search of the register of disqualified directors to see whether the bankrupt is subject to a disqualification order or disqualification undertaking. The registrar of companies is responsible for maintaining the register of disqualified directors, which details all disqualification orders and undertakings made in England and Wales currently in force, including any obtained by the Financial Conduct Authority or other specified regulator. Disqualification orders made in Scotland and Northern Ireland are also registered with the registrar of companies. The register of disqualified directors also records details of those directors who have obtained permission from the court to continue to act as directors following an application made under section 17 of the Company Directors Disqualification Act 1986. The register of disqualified directors can be searched and filtered to check if the bankrupt is subject to any disqualifications. Clicking on the name in the search results brings up further details, including the bankrupt's address, date of birth, period of disqualification and the section under which the order/undertaking was made<sup>1</sup>.

1. The Company Directors Disqualification Act 1986 – sections 2 to 8, 8a, 9b and 10

## 3.41 Equifax searches

The Insolvency Service currently has a contract with Equifax for one detailed report to be run in each bankruptcy case. This search will be run by the Adjudicator's office for debtor application cases and by the official receiver for creditor petition cases. An additional report should not be run unless there is a clear business need for doing so. The report should be used as part of an intelligence led approach to early decision making on new cases and should be used to shape future actions on the case. The contents of the report should be treated as reliable intelligence but should not be considered to necessarily provide a complete picture of the bankrupt's affairs. This is primarily because not all credit providers subscribe to Equifax and other creditors may exist.

## 3.42 Equifax searches – Contents of report

The full investigation report contains information regarding the bankrupt including their current and previous addresses, known aliases, known and potential

associates, details of financial accounts in the name of the bankrupt including current balance, credit limited account number and a monthly account history.

## 3.43 Equifax searches – further information

Further information and best practice guidance for using Equifax is available on the [intranet](#)

## 3.44 Land Registry searches

The official receiver may determine whether or not the bankrupt has an interest in any property and/or establish the bankrupt's interest, if any, in the address shown on the bankruptcy order by conducting a Land Registry search. Further information on conducting Land Registry searches can be found in chapter 7.

## 3.45 Publishing the order in the London Gazette

On the making of a bankruptcy order the official receiver is required to publish notice of the order in the “London Gazette” (more commonly referred to as the Gazette) as soon as possible after the receipt of a sealed copy of the order<sup>1</sup>. Publication in the Gazette is carried out centrally, following an automatic instruction instigated by the creation of a case on ISCIS. As a consequence care should be taken to ensure all the required information is entered into ISCIS. If the order of the court is varied or a mistake has been made it is the responsibility of the official receiver to ensure notice of the varied order is published in the Gazette.

1. Rules 10.32(3) and 10.45(3)

## 3.46 Advertising the order more generally

The official receiver may (in addition to publication in the London Gazette) advertise the order in such manner as they think fit. The official receiver does not have to further advertise the order if they do not believe it is necessary. See chapter 4 for guidance on exercising this discretion<sup>1</sup> and further general information on the procedures required to advertise the order in the Gazette and in other publications.

1. Rules 10.32(3)(c) and 10.45(3)(b)

## 3.47 Stay of advertisement or stay of proceedings

Where an application for a stay of advertisement or stay of proceedings is granted, reference should be made to chapter 4 and chapter 8.

## 3.48 Bankruptcy order: notice to Land Registry

The official receiver must send notice (LRRABO) of a bankruptcy order to the Chief Land Registrar within 24 hours of receiving the order unless the court orders otherwise<sup>1</sup>. Further information on dealing with the Land Registry, including an outline of the procedures when a bankruptcy order is made, is contained in chapter 7.

1. Rules 10.32(3) and 10.45(3)

## 3.49 Court order suspending notice to the Land Registry

A bankrupt or creditor may apply to the court for an order preventing the official receiver sending notice to the Chief Land Registrar, for instance if there is a prospect of a rescission or annulment<sup>1</sup>. The bankrupt or creditor making the application should serve a copy of the any order made upon the official receiver. The official receiver should carry on as normal until they have been served with the order<sup>2</sup>.

1. Rules 10.32(5) and 10.45(5)

2. Rules 10.32(7) and 10.45(7)

## 3.50 Land Registry - annulment of the bankruptcy order

The debtor is responsible for giving notice to the Land Registry where the court makes any order vacating the registration of a petition or bankruptcy order. The court order will include a provision to this effect.

## 3.51 Amendment of title: notice to Land Registry

Where the title of the proceedings is subsequently amended by order of the court the official receiver must send notice of the change to the Chief Land Registrar.

## 3.52 Effect of notification to the Land Registry

This notification of the bankruptcy order or an amended title of proceedings will be sufficient to ensure a restriction is registered against a property solely owned by the bankrupt. This notification, however, is not sufficient to ensure a restriction is registered against a jointly-owned property. Where the bankrupt has an interest in a jointly owned property the official receiver must register a Form J restriction at the appropriate district Land Registry.

## 3.53 Notice of the bankruptcy order – immediate notice

The official receiver should give notice of the bankruptcy order by telephone, first class post, email, fax, DX or any other faster or cost effective method immediately, if possible but within 24 hours of the notification of the order to banks, building societies, potential suppliers and the secretary of any company of which the bankrupt may be a shareholder. The notice should include references where available. This list is not exhaustive and the official receiver should issue immediate notice to other parties where appropriate.

## 3.54 Courts – general notice

Where the bankruptcy order is made in the Central London County Court, or High Court, the official receiver should consider sending notice to the local county court as the bankrupt may be a party to other legal proceedings of which the official receiver is unaware. The legal proceedings may have an effect on the bankrupt's property (e.g. divorce proceedings) or the bankruptcy in general. Where the official receiver is aware of other on-going legal proceedings to which the bankrupt is involved notice should be given to the court(s) and other parties, quoting the case numbers and other court references, if known. It is important that the court is aware of the legal effects of the bankruptcy order and the official receiver's duty, as trustee, to protect and realise the bankrupt's assets<sup>1</sup>.

1. Sections 285(3) and 287 (1)

## 3.55 Notice to court(s)

The official receiver should send notice to the court(s) by recorded delivery within 24 hours of the making of the bankruptcy order, or within 24 hours of becoming aware of the legal proceedings. If more urgent delivery is warranted the official receiver could use the fastest available means, for example, fax or email.

## 3.56 Restriction on legal proceedings and remedies on the making of a bankruptcy order

After the making of a bankruptcy order no person having a provable claim against the bankrupt shall have any remedy against them, or their property or commence proceedings against them without the permission of the court<sup>1</sup>. In certain circumstances this permission may be granted retrospectively by the court where legal proceedings have commenced without leave after the date of the bankruptcy order<sup>2</sup>. There may be some exceptions to this provision in relation to the attachment of a debt due to the bankrupt, execution and the right of a landlord to distrain<sup>3</sup>. Further information on the right to take action against a bankrupt's property can be found in chapter 12.

1. Section 285 (3)

2. Bank of Scotland plc (trading as Birmingham Midshires) v Johannes Paulus Breytenbach and Lenza Claressa Breytenbach High Court of Justice In Bankruptcy Nos 106 & 112 of 2011

3. Sections 346 and 347

## 3.57 Notice of the order to be issued within 24 hours or shortly after

After making their initial telephone enquiries the official receiver may be able to send notice of the bankruptcy order, by first class post, to a limited number of people, such as the bankrupt's bank, accountant, solicitors, local courts, etc. Once additional information has been obtained, for example after receiving the statement of affairs in debtor petition cases, after interviewing the bankrupt or from third parties, the official receiver should be in a position to send out further notices of the order. The type of companies, people and organisations that notices should be sent to are shown 'Common notices of the bankruptcy order issued' and 'Less common notices of the bankruptcy order issued' later in this chapter.

## 3.58 Individual insolvency register

On receiving a copy of the bankruptcy order the official receiver must enter on ISCIS the following information:

- the information contained in the petition with regard to identifying the bankrupt<sup>1</sup>
- the date of the bankruptcy order
- the identification details for the proceedings

This information once entered would be automatically transferred to the individual insolvency register at 5:00am the following day to enable the official receiver to comply with the Insolvency Rules<sup>2</sup>.

1. Rule 10.8

2. Rule 11.16(1)

## 3.59 Updating the individual insolvency register

The official receiver is required to enter the following information, as soon as reasonably practicable after receipt, into ISCIS to enable the individual insolvency register (see chapter 5) to be updated:

- the name, gender, occupation (if any) and date of birth of the bankrupt
- the bankrupt's last known address
- the date of any bankruptcy order or debt relief order (or if more than one the latest of them) made in the period of six years immediately prior to the date of the latest bankruptcy order made against the bankrupt (excluding for these purposes any order that was annulled or any debt relief order that was revoked)
- any name by which the bankrupt is known, other than that which they were adjudged bankrupt
- the address of any business carried on by the bankrupt and the name in which that business was carried on if under a name other than the name in which they were adjudged bankrupt
- the name and address of any insolvency practitioner appointed to act as trustee in bankruptcy
- the address at which the official receiver may be contacted
- the date of any automatic discharge (section 279 of the Insolvency Act 1986)
- where a bankruptcy order (based on a petition presented on or after 6 April 2010) is rescinded by the court, the fact that such an order has been made, the date the order was made and (if different), the date on which it has effect<sup>1</sup>

1. Rule 11.16(2)

## Adjudicator cases - initial actions

### 3.60 Bankruptcy order – action on receipt of order

Following receipt of the notification of a bankruptcy order from the adjudicator the official receiver should review the bankruptcy application form in advance of contacting the bankrupt to identify who is dealing with the case.

## 3.61 Review of the application form

The review of the application form should consider whether the other available information confirms or contradicts the content of the application and the causes of insolvency. The review should also

- determine whether the case requires an interview either by telephone or face to face
- identify what additional information may be required to confirm the cause of insolvency, assets, liabilities, etc
- determine whether an IPA/IPO should be sought
- enable instructions to case officers to be prepared
- Identify any matters that may require urgent attention should be dealt with immediately

## 3.62 Other actions following the review of the application form

The official receiver, within two working days of the review, must

- send the appropriate letter and enclosures to the bankrupt (see paragraph 3.87)
- record the trade classification on ISCIS (see paragraph 3.109)
- send notice to any other appropriate parties

## 3.63 Completing the ICON

The ICON should be used to record essential information and should be limited to establishing:

- the bankrupt's contact details to enable an interview to be arranged if required and details of any special needs which would need to be considered
- whether the bankrupt is trading
- whether there are any assets in jeopardy which need to be dealt with
- whether there are any matters requiring immediate attention e.g. impending legal action
- details of funds in a bank/building society that may be required for living expenses

## 3.64 Inspection



Where the official receiver confirms that the bankrupt is trading they need to consider transferring the case to the local office to the bankrupt for reallocation with a view to carrying out an inspection of the bankrupt's premises. In making the decision the official receiver should consider the nature of the bankrupt's business, for example there may be no need for an inspection where the bankrupt traded from their own home and the only business assets are hand tools. An inspection of a non-trading bankrupt's premises is rare. Following an inspection the official receiver should, where necessary, arrange appropriate insurance cover. Further details on inspections are contained in chapter 11.

## 3.65 Insurance

If the official receiver identifies any assets whilst reviewing the application, completing the ICON or at any other stage in the bankruptcy, insurance cover should be arranged in accordance with the instructions contained in chapter 14. If the asset is subsequently discovered to have no value the cover should be cancelled promptly.

## 3.66 Bankrupt's appointment letter

Within two days of reviewing the application the official receiver should send the appropriate appointment letter to the bankrupt. The type of appointment letter (NTB1) sent will depend upon the outcome of the review and the case type. The options available are 'No Interview', 'Telephone Interview' and 'Face to face interview' and are produced in the ISCIS document package – BKTINITIAL.

## 3.67 Documents to be included in the bankrupt's appointment letter

The following should be included with the bankrupt's appointment letter (NTB1) to the bankrupt:

- NTB2 – notice setting out the duties and responsibilities of an undischarged bankrupt
- TNIDIS – tax and national insurance disclosure form
- Ethnic monitoring form
- DPADA-Data protection act disclosure authority

The NTB2, TNIDIS, Ethnic monitoring form (EMF) and DPADA are contained within the combined package BKTINITIAL.

## 3.68 Initial assessment of case

An interview will not be required where:

- no additional essential information is required following review of the application and equifax report
- no further investigation is required
- the examiner believes that all necessary recommendations can be made and instructions given without contacting the bankrupt
- the reason for the insolvency is fully explained in the application. Where no interview is held the official receiver must ensure that all potential assets are appropriately dealt with. Where the official receiver accepts property as exempt, a letter confirming this should be sent to the bankrupt promptly

## 3.69 Cases requiring an interview

An interview should be fixed where after reviewing the application and equifax report, and any other information provided, the examiner needs any additional information even if only a small amount. For example there may be insufficient information to decide if a motor vehicle is exempt property; or additional information may be required to decide whether an Income Payments Agreement or Order should be sought; or incomplete addresses have been supplied and the official receiver is unable to send a report to all creditors.

## 3.70 The interview

It is expected that the majority of adjudicator case interviews will be conducted by telephone, although the bankrupt may request a face to face interview. The majority of these interviews should take no longer than an hour. The interview may only involve obtaining one or two additional pieces of information, for example, when the debts were incurred, the balance at bank, confirmation of household income, etc. The bankrupt may request a face to face interview in which circumstances consideration should be given as to whether the case should be transferred to the office local to the bankrupt for reallocation.

## 3.71 Conducting the interview

The official receiver should use the form TCIR to focus on the key issues. The TCIR is intended for guidance only and may be used to identify any gaps in the initial review. It is indicative of the types of questions to be asked, but it is not exhaustive. Additional questions covering credit obtained in the last 12 months, payments to relatives, assets sold, etc. may be relevant in a particular bankruptcy.

## 3.72 Information to be recorded on TCIR

The following information should be recorded on the TCIR:

- confirmation that the contents of the NTB2 has been drawn to the bankrupt's attention
- confirmation that the bankrupt has been informed which assets will be realised
- confirmation that the attention of the bankrupt has been drawn to the information provided in the Insolvency Service's leaflets, that these should be read at their leisure and that they have been informed to contact the office regarding any questions
- assets - any additional information
- income payments agreement assessment and agreement
- reason(s) for the insolvency
- documents to be provided by the bankrupt within the next seven days
- any other relevant information regarding asset realisation and investigation matters

The TCIR should be read in conjunction with the application, the ICON and any other information provided by third parties. The TCIR may be appointed to an insolvency practitioner if appointed trustee and it will assist in their duties.

### 3.73 Further enquiry/investigation

If it becomes apparent during the interview that there are matters for further investigation, for example possible misconduct, where the bankrupt may have committed a criminal offence, where there are complex asset matters, etc, the examiner should ensure that all case administration matters are dealt with and obtain all relevant information regarding the further matter to enable their AOR to consider a referral to the local office. Where it appears that there is misconduct sufficient for a recommendation for a BRO investigation to be made if possible the examiner should explain the BRO procedure, put the potential misconduct to the bankrupt and ascertain whether it is likely that the bankrupt will offer an undertaking making the case suitable for the EIPS process (see Enforcement and Investigation Guide). Where it becomes clear a face to face interview will be required the examiner should advise the bankrupt that the case will be transferred to the local office for a face to face ('Type 2') interview. If possible the RTC should be sent out to all creditors prior to the reallocation.

### 3.74 Requirement for face-to-face interview

A face-to-face interview should be held where the official receiver determines that a face to face interview is necessary, this may include cases with recent trading, second (or subsequent) bankruptcies and other cases where the official receiver considers further investigation is necessary. This type of case will normally be allocated to a L2/L3 examiner, who would conduct a face to face interview

## 3.75 Initial appointment letter

The initial appointment letter will include the PIQ booklet if the bankrupt has traded within the two years ending with the date of the bankruptcy order, as well as the documents mentioned. The PIQ should be completed by the bankrupt and returned to the office or be brought to a face to face interview.

## 3.76 Other parties the official receiver should contact

The official receiver, after receiving information from the bankrupt and/or others, should send immediate notice to:

- any bank or building societies where the bankrupt maintained (either solely or jointly) an account
- any potential supplier of goods, so as to stop delivery
- the secretary of any company in which the bankrupt is believed to be a shareholder and where it is necessary to prevent the registration of a transfer of shares

## 3.77 Trading bankrupt

Where the bankrupt is trading it is imperative that immediate action is taken. In most cases the official receiver will close down the business and dismiss any employees. See chapter 58 for further information on employment law. For details on inspecting a trading premises see chapter 11.

# Creditor's petition - initial actions

## 3.78 Initial enquiries

On receiving notification of a bankruptcy order made on a petition presented by a creditor, the official receiver should make their initial enquiries (defined as the initial contact). The official receiver should consider making those enquiries mentioned in the following paragraphs before contacting the bankrupt. Where possible, initial enquiries and contact with the bankrupt should be made within 24 hours of the office being notified of the order, and if this is not possible, within 48 hours. The initial enquiries should be completed on form IEBC.

## 3.79 Purpose of the initial enquiries

The purpose of the initial enquiries made by the official receiver shortly after the making of the bankruptcy order is to:

- establish whether there is any continued trading activity and the nature of the assets
- to preserve the estate, which includes ensuring that assets are adequately insured, selling, or otherwise disposing, of perishable or other goods likely to fall in value and protecting the estate from possible third party claims where the public could be at risk
- to decide, if possible at this stage, whether investigation work is needed
- to locate, safeguard and collect books and records relating to the bankrupt's affairs

## 3.80 Initial information from third parties

The official receiver, in appropriate bankruptcies, should seek information from third parties, such as

- Equifax (see 3.41 and 3.43)
- the petitioning creditor's solicitor (see paragraphs 3.81 to 3.83)
- the petitioning creditor
- the bankrupt's accountant (see paragraph 3.138)
- the bankrupt's solicitor (see paragraph 3.133)

These enquiries may provide further contact details for the bankrupt and provide valuable information about the affairs of the bankrupt.

## 3.81 Contacting the petitioning creditor's solicitors

On receiving notice of the bankruptcy order the petitioning creditor's solicitors should be asked, initially by telephone, whether there are any matters, other than those referred to in the petition, to which the official receiver's attention should be drawn. The standard letter (PSOL) should be sent out to the petitioner's solicitors as part of the initial notices. Where HMRC are the petitioning creditor the Petitions and Transfers section will receive a petition pack. The pack will be sent to the appropriate official receiver who should not make any initial contact with HMRC. For further information on the ability of Crown departments to provide information please see paragraph 3.96 and chapter 22.

## 3.82 Petitioning creditor's solicitors – information about the bankrupt

The petitioning creditor's solicitors may be able to provide information on: -

- the bankrupt's telephone number(s)
- any alternative contact address
- how the petition was served, personal or substituted service
- whether the bankrupt was a trader
- details of any trading addresses (the petitioner may have delivered goods and/or services to these addresses)
- whether the bankrupt is still trading
- the bankrupt's solicitors or accountants
- any possible assets
- any bank accounts
- any supporting or other creditors
- any previous insolvency proceedings, for example a failed voluntary arrangement or earlier bankruptcy

## 3.83 Petitioning creditor's solicitors: further information

If the petitioning creditor's solicitors only have limited details about the bankrupt, they may be able to provide the contact details of an employee of their client able to provide further information.

## 3.84 Contacting the bankrupt

The official receiver must try and make contact with the bankrupt within 24 hours of receiving written notification of the bankruptcy order. If this is not possible the official receiver shall try and make contact with the bankrupt within two working days at the latest. The bankrupt may attend the petition hearing or attend the official receiver's office after the making of the bankruptcy order thereby allowing contact to take place reasonably quickly. In all other cases the official receiver should try and contact the bankrupt by telephone or, if appropriate, by inspection. The telephone number or numbers could be obtained from the directory enquiries, the internet (access the relevant [search engines](#) on the intranet) or third party sources, for example the petitioning creditor's solicitors.

## 3.85 Information to be obtained from the bankrupt

Where the official receiver contacts the bankrupt they should obtain the following information (IEBC):

- that they are the correct person

- whether the bankrupt is trading and an inspection is required
- initial information, including details of any bank or building society accounts
- whether immediate action is required to collect, protect or realise assets
- whether the appointment of an insolvency practitioner is required to deal with any onerous property
- the location of accounting records, if any, and arrange delivery or collection
- the details of any of the relevant parties mentioned in paragraphs 3.32 to 3.59 to whom notice must be provided immediately or within 24 hours
- whether the bankrupt is involved in any former and/or current insolvency proceedings, or any other civil litigation
- arrange an appointment for the bankrupt, either at the office or by telephone. In the case of a telephone interview the bankrupt should be asked details of their telephone number

The official receiver should provide contact details of the person dealing with their case, provide any further appropriate information and to answer any questions the bankrupt may have.

## 3.86 Inspection

Where the official receiver has confirmed, or believes, the bankrupt is trading they need to consider carrying out an inspection of the bankrupt's premises. In making the decision the official receiver should consider the nature of the bankrupt's business, for example there may be no need for an inspection where the bankrupt trades from their own home and the only business assets are hand tools. An inspection of a non-trading bankrupt's home and/or other premises is not usually required. Following an inspection the official receiver should arrange appropriate insurance cover. Further details on inspections are contained in chapter 11.

## 3.87 Trading bankrupt

Where the bankrupt is trading it is imperative that immediate action is taken. In most cases the official receiver will close down the business and dismiss any employees (see paragraph 3.145). See chapter 58 for further information on employment law. For details on inspecting a trading premises see chapter 11.

## 3.88 Insurance

If the official receiver identifies any assets whilst completing the IECB, after conducting an inspection or at any other stage in the bankruptcy, insurance cover should be arranged in accordance with the instructions contained in chapter 14. If the asset is subsequently discovered to have no value the cover should be cancelled promptly.

## 3.89 The bankrupt's initial appointment

The official receiver should send the combined package BKTINITIAL (containing appointment letter NTB1, and forms NTB2, TNIDIS, DPADA and Ethnic Monitoring Form (EMF)) to the bankrupt requiring their attendance upon the official receiver for interview. The interview should take place as expeditiously as possible to ensure that other deadlines, such as the completion of the ISCIS conduct assessment tab and issuing the report to creditors, are met. The appointment should be made whether or not the bankrupt has been contacted. The appointment letter should be sent to the bankrupt at the address on the bankruptcy order unless the official receiver has confirmation that they reside at a different address. This letter may be the bankrupt's first contact with the official receiver.

## 3.90 Documents to be included with the bankrupt's appointment letter

The following should be included with the appointment letter (NTB1) sent to the bankrupt.

- The preliminary information questionnaire (PIQB)
- a sealed copy of the bankruptcy order, although the order may be served personally if this is more convenient
- NTB2 – notice setting out the duties and responsibilities of an undischarged bankrupt
- TNIDIS – tax and national insurance disclosure form
- Ethnic monitoring form
- DPADA – data protection act disclosure authority
- a customer comment card
- a map showing the location of the official receiver's office, details of parking facilities and public transport

The NTB2, TNIDIS, ethnic monitoring form (EMF) and DPADA are contained in the combined package BKTINITIAL.

The appointment letter informs the bankrupt they can find further information regarding bankruptcy in our "Guide to Bankruptcy" available on our website.

## 3.91 The interview

The official receiver should arrange a face to face interview with the bankrupt except in those instances listed in chapter 17 which also provides guidance on how the interview should be conducted.



# Debtor applications and creditor petitions - dealing with bankrupts

## 3.92 Bankrupt's duty to the official receiver

The bankrupt has a duty to provide the official receiver with information about their estate and has a further duty to attend upon the official receiver when reasonably required<sup>1</sup>. The bankrupt should be made aware of these provisions in any initial contact with the official receiver. Section 291 of the Insolvency Act 1986 is reproduced in the NTB2 which should be either be personally served or sent to the bankrupt.

1. Section 291 (4)

## 3.93 Bankrupt in prison

The official receiver may discover that a bankrupt is in prison, but their location is unknown. In these circumstances the official receiver should contact HM Prison Service, Prisoner Location Service , by e-mail. The e-mail should contain the full name of the person subject to the enquiry, any other names by which they may have been known, date of birth and the reason for the enquiry. The e-mail address is prisoner.location.service@hmps.gov.uk. If the official receiver needs to follow up the e-mail by letter, the address can be found in [Annex A](#). Further information and guidance on interviewing a person in prison can be found in chapter 17.

## 3.94 Telephone contact with a bankrupt in prison

It should be noted that the possession and use of mobile phones by prisoners is a criminal offence<sup>1</sup>. [The Law Society](#) have issued guidance here to solicitors, pointing out that it may be a criminal offence for a person to contact a prisoner on a mobile phone. Under no circumstances should a prisoner be contacted within a prison by telephoning, emailing or texting a mobile phone. Where a prisoner telephones from within a prison, and it is established that they are using a mobile phone, the caller should be informed that they are committing an offence and that any such calls will not be accepted. The call should then be terminated.

1. The Prison Act 1952 section 40D (as amended by Crime and Security Act 2010 section 45)

## 3.95 Inability to contact the bankrupt

Where the official receiver has been unable to contact the bankrupt by telephone within 24 hours where required, further attempts at different times of the day should be made. If the official receiver is unable to contact the bankrupt, no reply is received to correspondence or they do not attend for interview, a tracing inspection could be carried out (see chapter 17 for further information) and further enquiries made to establish the bankrupt's current whereabouts.

## 3.96 HM Revenue and Customs – Petitioning creditor

Where the petition debt is in respect of unpaid tax and/or national insurance contributions contact should be made with the Enforcement Office, Worthing. Where the petition debt is in respect of unpaid tax and/or national insurance contributions or for unpaid VAT the (VAT), reference should be made to the current partnership agreement with HMRC.

## 3.97 VAT number

When the VAT number is known it should be entered into ISCIS. When a VAT number is entered onto a case on ISCIS it will be automatically uploaded onto various documents, including the report to creditors and the IP report on handover (IPROH). It is important to ensure that any VAT number entered onto ISCIS is the correct one for the insolvent. The VAT number should only be entered onto ISCIS where it has come from a reliable/trustworthy source, which would include the petition, the insolvent, the insolvent's accountant, HMRC or where it has been extracted directly from the insolvent's books and papers.

When there is any doubt as to the validity of the VAT number, for example where the number has been supplied by a third party such as a creditor, it can be [checked](#).

## 3.98 Checking the bankrupt's identity – non-surrender cases

Where initial enquiries suggest that a person with the same name as the bankrupt resides at a different address from the order the official receiver must make some checks to ensure that this individual is the bankrupt. No contact should be made unless there are strong grounds for suspecting that the individual is the bankrupt, for example their name is distinct. The official receiver should firstly check with the petitioning creditor's solicitors, if any, to attempt to confirm that this individual is the bankrupt. Only in exceptional circumstances should the official receiver then make

contact with the individual and this must be by way of a general enquiry without stating that the individual is bankrupt.

## 3.99 The bankrupt fails to cooperate

Where the bankrupt does not cooperate with the official receiver consideration should be given to holding a public examination<sup>1</sup> and making an application for the bankrupt's discharge to be suspended. An application for the suspension of discharge may be made by the official receiver or by an insolvency practitioner<sup>2</sup>.

Further information on non co-operation can be found in chapter 19 and on suspension of discharge in chapter 47.

1. Section 290

2. Rule 10.142

## 3.100 Redirection of the bankrupt's post

The official receiver may, if the circumstances warrant it, apply to the court for an order for the redirection of the bankrupt's post to their office. Further guidance on when to make such an application is contained in chapter 19<sup>1</sup>.

1. Section 371

## 3.101 Post interview queries

When the bankrupt contacts the official receiver with a case related query after being interviewed they should initially be directed to the relevant leaflet(s). The bankrupt should be informed that if, after reading the leaflet(s), there are still matters which they do not understand or cause concern to telephone the official receiver for further information.

## 3.102 Pre-bankruptcy queries from debtors

The official receiver should refer pre-bankruptcy queries to the Insolvency Enquiry Line, telephone number: 0300 678 0015. The Insolvency Enquiry Line cannot give advice or deal with case related queries unless the question is of a general nature. The official receiver should inform their local agencies, for example the Citizens Advice Bureau, that pre-bankruptcy queries are dealt with centrally.

## 3.103 Non case related enquiries

The official receiver should refer non-case related callers to The Service's wide range of leaflets and the FAQs on the internet site. If the caller requires a copy of the leaflet this should be sent to them. The official receiver should ask the caller to read through our material and if they still have any queries questions to contact the Insolvency Enquiry Line (telephone number 0300 678 0015).

## Case administration

### 3.104 Electronic Case files

The official receiver is required to keep a case file in respect of each bankruptcy. The electronic file is maintained on Wisdom and is divided into 8 parts. The papers are filed in each section as follows:

- Part 1 - Preliminary investigation papers
- Part 2 - Court documents
- Part 3 - Statutory notices
- Part 4 – Case Correspondence
- Part 5 - Meetings, RTCs, Notices
- Part 6 – Case Assets
- Part 7 – Closing papers, IP Handover
- Part 8 - Early discharge

### 3.105 Completion of ISCIS Conduct Assessment tab

It is expected that in 80% of cases the ISCIS conduct assessment tabs will be completed within 4 weeks (28 days) of the bankruptcy order for cases that are self-signed by the examiner and 80% within 56 days where the case is not self-signed. For further information on completing the ISCIS conduct assessment tab see chapter 15.

### 3.106 Appointment of Trustees

The official receiver should consider whether a trustee other than the Official Receiver should be appointed at an early stage in the proceedings. The process to follow in respect of the appointment of a Trustee can be found in chapter 45. This does not apply where the court appoints a trustee other than the official receiver on the making of the bankruptcy order<sup>1</sup>.

## 3.107 Statement of affairs

The official receiver should, in a creditor's petition bankruptcy, decide at an early stage in the proceedings to either:

- require the bankrupt to submit a statement of affairs within 21 days of the order
- to extend the period for the submission of a statement of affairs
- to release the bankrupt from the requirement to submit a statement of affairs<sup>1</sup>

Further information may be found in chapter 18.

1. Sections 288(1) and 288(3)

## 3.108 Report to creditors

The official receiver shall, at least once after the making of the bankruptcy order issue a report to creditors (RTC)<sup>1</sup>. The RTC will be prepared from information from the bankrupt and third parties, such as banks, solicitors, creditors, etc. It is expected that 85% of reports to creditors will issued within 15 days of the attended interview , the date of decision that no interview is required or of the second missed appointment (whichever is earliest). Further information relating to the report to creditors can be found in chapter 46.

1. Rule 10.66

## 3.109 Trade Classifications

The official receiver should complete the trade classification tab in ISCIS to enable the information to be collated. The information is automatically collected from ISCIS on the 1st of the month following the making of the bankruptcy order.

## 3.110 Removing information from the Individual Insolvency Register

All information concerning a bankrupt must be deleted from the Individual Insolvency Register after three months have elapsed from the date of discharge or from the date of rescission or annulment on the grounds of payment in full, and within 28 days if annulled on the grounds that the order ought not to have been made<sup>1</sup>.

1. The EC Regulation on Insolvency Proceedings 2000 Article 40

## 3.111 Provision of information to creditors in other EU states

As soon as insolvency proceedings are opened in a member state, the court of that state having jurisdiction, or an office holder appointed by it is under a duty to inform known creditors who have their habitual residences, domiciles or registered offices in other member states by individual notice of the circumstances and rules under which they may lodge claims<sup>1</sup>. The notice must satisfy the language requirements of the EU<sup>2</sup>. The official receiver should send a notice to all creditors in other member states at the initial notices stage.

1. The EC Regulation on Insolvency Proceedings 2000 Article 40

2. The EC Regulation on Insolvency Proceedings 2000 Article 42

## Common notices to be issued and actions to be taken

### 3.112 Banks and building societies – initial notice

The official receiver should notify the bankrupt's bank or building society as soon as practically possible (and certainly within five working days of the bankruptcy order). Further references in this section to banks also includes building societies. The official receiver should send the notice as soon as they obtain the bank's full address and account numbers. If the bank is informed promptly this may prevent any unauthorised withdrawal of funds by the bankrupt. A list of bank contact details is available on the centrally managed parties spread sheet. The official receiver should inform the ORS Advice if they have any problems with the contacts provided on the list.

### 3.113 Internet and telephone bank accounts

The official receiver should not ask for the bankrupt's password, pin number or security information. The official receiver should not access, or attempt to access the account through the internet or by telephone.

### 3.114 Bank letters

There are two standard letters, BANK 1 and BANK 2, available to the official receiver. Which letter the official receiver sends will depend on the specific circumstances of the bankruptcy.

### 3.115 Banks - Bank 1 letter

The official receiver should send a BANK1 letter when they wish to close the account. The BANK 1 template provides three options which cover the following circumstances:

- where the credit balance should be paid to the official receiver
- where there is a nil or debit balance and the official receiver requires no further information
- where the official receiver requires further information, i.e. the current balance of account, the balance as at the date of the bankruptcy order and a copy of the most recent statement

### 3.116 Banks - Bank 2 letter

The official receiver should send a BANK 2 letter where the official receiver agrees that the bankrupt, subject to the bank's permission, can continue to operate the account. This is most likely to occur where the bankrupt's regular income is paid into that account. The official receiver must choose one of BANK 1 template options:

- to allow the bankrupt to keep the credit balance in the account
- to remit all, or part, of the credit balance to the official receiver

A copy of this letter should be sent to the bankrupt with a covering letter.

### 3.117 Banks – dealing with credit balances

Where the bank holds a credit balance (after taking in account any right of set-off and monies required to fund essential living expenses, see chapter 33) the official receiver should take a practical approach. The cost of the effort made should not be more than the amount realised. If the credit balance (or the sum of balances with one bank) is £50 or less, the ISCIS notice BANK 1 or BANK 2 should be sent asking for the balance to be paid to the official receiver. The notice should be followed up by a telephone call and no more than one further follow-up letter. Where the credit balance exceeds £50, the official receiver should use their discretion as to the effort required from their staff to collect the monies. Chapter 33 provides further information on the realisation of cash at bank.

### 3.118 National Savings Accounts

The official receiver should send notice to the Director of Savings where the bankrupt is known to hold premium bonds, savings certificates, savings bonds and/or a National Savings account. A full list of investment products can be found on the [NS&I website](#). The notice NORD 1 should be sent to the address shown in [Annex A](#).

### 3.119 E-Bay account

The official receiver should send notice to E-bay where the bankrupt is known to have an E-bay account. The address can be obtained by entering “EBay” as a Party Name in ISCIS. An E-bay account may be used to buy or sell household goods, however the level of transactions may show significant activity and indicate that a bankrupt may be trading. The official receiver should follow the advice given in paragraph 3.117 when realising any credit balance.

### 3.120 Paypal account

The official receiver should send notice to Paypal Europe Limited where the bankrupt is known to have a Paypal account. The address can be obtained by entering “Paypal” as a Party Name in ISCIS. A bankrupt may use their Paypal account like a current bank account for receiving and making payments and it may be in credit. A trading bankrupt may operate a Paypal account to accept payment for goods and/or services provided. The official receiver should follow the advice given in paragraph 3.117 when realising any credit balance.

### 3.121 Mortgage creditors

The official receiver should send the initial notice of the bankruptcy order (MP2) to the mortgagee and any other charge-holders of property in which the bankrupt may have an interest. The notice will protect the official receiver’s interest in the property and they should make early enquiries into its value. The notice should still be sent where the property has been repossessed and not yet sold.

### 3.122 Loan creditors

The official receiver should send ISCIS Word template form NLC to all loan creditors. The early receipt of the information requested by the form may assist the official receiver’s enquiries into the affairs of the bankrupt which may be helpful during the initial interview, if held.

### 3.123 Landlord – assured shorthold tenancies



Where the bankrupt resides in premises under an assured shorthold tenancy agreement, or in premises otherwise exempt, e.g. a tenancy with a local authority or registered social landlord, the agreement does not form part of their estate<sup>1</sup>. For more information on assured shorthold tenancies see chapter 24. Where the official receiver is satisfied that the rent is paid up to date, and the landlord is not a creditor in the proceedings, it is not necessary to send notice (NTL) to the landlord. Where the landlord is a creditor the official receiver should send the form NTL to them.

1. The Insolvency Act 1986 section 283 (3A)

## 3.124 Landlord – other types of tenancies

Chapter 24 describes other types of tenancies not mentioned in paragraph 3.123. The official receiver should send notice (NTL) to the landlord of any premises rented or occupied by the bankrupt under these other types of tenancy. Where the landlord has obtained possession of the property or indicates that they will be levying distress the official receiver should refer to chapter 12.

## 3.125 Landlord - leasehold property

Where the bankrupt's premises are held on a lease the official receiver should obtain sufficient information from the landlord and the bankrupt to enable them to decide whether the lease is of any value to the estate. The official receiver may then decide to disclaim their interest in the lease or may require a further valuation prior to its sale. Further guidance on dealing with leasehold property can be found in chapter 28.

## 3.126 Landlord – collection of accounting records

The official receiver should make arrangements with the landlord for the collection of the bankrupt's accounting records or other papers within 10 days of the making of the bankruptcy order. Chapter 16 provides further guidance on obtaining custody of the accounting records.

## 3.127 Assurance companies

The bankrupt may have an interest in a life policy, or other policy issued by an assurance company. Where a bankrupt has such an interest the official receiver the official receiver should send the form NTASS to the relevant assurance companies. Further information can be found in chapter 33.

## 3.128 Local authority

The official receiver should send a notice to all relevant local authorities where the bankrupt is responsible for the payment of council tax or business rates on any premises. Further information on council tax may be found in chapter 43. The notice should quote the address(es) of the premises together with the reference number(s) if known. Where the bankrupt no longer occupies business premises the local authority should be informed as it may be the case that no further business rates may be incurred. If the bankrupt owns or leases the premises there may still be a liability for business rates even if the property is unoccupied.

## 3.129 Premises licensed to sell alcohol – local authority

The official receiver should inform the relevant local authority as soon as possible of the insolvency of a premises licence holder.

Details of the dedicated email address and telephone number for licensing notifications can be located on the web site of the relevant local authority.

## 3.130 Utilities - general

Utilities such as water, electricity, gas and telephone are provided by private companies and in many areas of the country there will be multiple service providers. In the initial stages of the bankruptcy the official receiver may have difficulty identifying the bankrupt's supplier.

## 3.131 Utilities– notice not normally required

There is no reason why the official receiver should treat the utility companies differently to other trade creditors. In general these companies should receive notification of the order when the report to creditors and meeting/no meeting notice are issued. However, there may be special circumstances, such as the continuation of a business or where information is required for the official receiver's enquiries, when early contact with the supplier is necessary.

## 3.132 Bankrupt holding shares

The official receiver should send notice to the secretary of any company in which the bankrupt is believed to be a shareholder. The notification is necessary to prevent the registration of any transfer of shares.

### 3.133 Solicitors

The bankrupt's solicitors should be sent the form NORD2 which asks, amongst other things, for details of all matters in which they have acted in the last three years together with any books, documents, papers, etc. in their possession relating to the bankrupt's affairs. Arrangements should be made for the delivery or collection of any accounting records or other papers within 10 working days of the order. The official receiver should issue a receipt to the solicitors. See chapter 16 for further information on dealing with the bankrupt's records and papers.

### 3.134 Solicitors - lien unenforceable re records

If the bankrupt's solicitors attempt to claim a lien on the company's records, it is unenforceable and reference should be made to chapter 12 and chapter 16. For information and advice on steps to take if a solicitor fails to co-operate with the official receiver's enquiries, please see chapter 19 and chapter 22.

### 3.135 Insurers

Where the bankrupt has any current insurance cover, for example fire, motor or other insurance, the official receiver should write to each insurance company and/or insurance brokers asking them to provide details of the existing insurance cover, quoting, when known, policy numbers. Further information can be found in chapter 14.

### 3.136 Third party owners – items on lease, hire, hire-purchase, etc.

The official receiver should send notice to the owners of any goods or property held by the bankrupt on hire, hire-purchase (ISCIS document NHP), lease, on loan, for safety custody, for repair or otherwise, including suppliers of stock/goods where retention of title is claimed. The official receiver should follow the policy outlined in chapter 34 when dealing with third party goods.

### 3.137 Third parties holding the bankrupt's property

The official receiver should send notice to any person holding or thought to be holding any property belonging to the bankrupt (including assignees of book debts or any other assets) to prevent assets being disposed of. If the assets are believed to

be in jeopardy, they should be promptly collected. Where the bankrupt's property is held by a pawnbroker reference should be made to chapter 25.

## 3.138 Accountants – notice and collection of records

The bankrupt's accountants should be sent the form NORD2 which asks, amongst other things, for a copy of the last set of accounts and details of all books, documents, papers, etc. in their possession. Arrangements should be made for the delivery or collection of any accounting records, statutory books or other papers within 10 working days of the order. The official receiver should issue a receipt to the accountants. See chapter 16 for further information on dealing with the bankrupt's accounting records.

## 3.139 Accountants - lien unenforceable re records

If the accountants attempt to claim a lien on the company's records, it is unenforceable and reference should be made to chapter 12 and chapter 16. For information and advice on steps to take if an accountant fails to co-operate with the official receiver's enquiries accountant, please see chapter 19 and chapter 22.

## 3.140 Credit card companies – trading bankrupt

The official receiver should send a notice to all credit/charge card companies where a trading bankrupt holds an account. It is important to give immediate notice where the company operated a facility for acceptance of payment by credit/charge card for their goods or services. The official receiver should try to obtain the account numbers from the bankrupt or the bankrupt's records before sending the notice. Generally credit or charge card companies will be unable to trace an account without the account number(s). Any such notice is likely to be returned requesting the account number.

## 3.141 Trade Suppliers

The official receiver should send notice to any trade suppliers to stop any delivery of goods to the bankrupt.

## 3.142 Book debts - unsecured

Where a bankrupt has book debts at the date of the bankruptcy order, which are not subject to a charge, the official receiver should instruct their agent “the contractor” to realise the book debts on their behalf. As the chance of recovering a book debt diminishes with time the contractor should be instructed as soon as possible even where an insolvency practitioner is likely to be appointed trustee. Chapter 26 provides detailed guidance on book debts.

### 3.143 Book debts – bankrupt continues to trade

The official receiver should be aware that in some cases the bankrupt may continue trading, for example, a jobbing joiner. In these instances the official receiver should instruct the contractor to collect the book debts to prevent the trade debtors making payment to the bankrupt. Where the book debts are secured the official receiver should draw the attention of the charge-holder to the continued trading of the bankrupt.

### 3.144 Book debts - secured

Where any book debts of the bankrupt are subject to a charge the official receiver should make early contact with the charge-holder and should establish who will protect and collect the book debts. In the event that the charge-holder refuses to collect the book debts the official receiver will instruct the contractor to collect them as per the instructions in chapter 26 which also provides guidance where there is an assignment of book debts or a factoring agreement.

### 3.145 Employees

Where the bankrupt has employees the official receiver will generally terminate employment with effect from the date of the order. The official receiver should notify Redundancy Payments Services (RPS) of the insolvency using the [RP20 template](#). On receipt, RPS will set up the OR case on their system which will generate a unique reference number and email the official receiver a spreadsheet for completion. The official receiver should complete with details of all employees who may have a claim for wages, holiday pay or payment in lieu of notice. RPS will then send out the EMPLT (employer letter) to all employees and provide copies to the official receiver which should then be uploaded to the file plan.

### 3.146 Pension schemes

A trading bankrupt against whom a bankruptcy order is made may operate an occupational pension scheme for the benefit of employees. The official receiver has a statutory duty to send notice of an “insolvency event” to The Pension Protection Fund. The Pensions Regulator (see paragraph 3.149) and the pension scheme trustees and/or managers (see paragraph 3.150)<sup>1</sup>. Chapter 57 provides further advice on pension schemes. The notice is referred to as a “section 120 notice”. The form, entitled [Section 120 Insolvency Event Notice](#) is a suggested pro forma which the official receiver should use where possible.

1. The Pensions Act 2004 section 120

See also paragraph 3.197 regarding pensions administered in Germany.

## 3.147 What is an ‘insolvency event’?

An ‘insolvency event’ with regard to bankrupts is defined in sections 121(2) of the Pensions Act 2004. The ‘insolvency events’, in addition to the making of a bankruptcy order, of which the official receiver is required to provide notification to the relevant bodies are as follows;

- the submission by a nominee of a report stating that meetings should be called to consider proposals for a voluntary arrangement (in relation to a company, partnership or individual)
- the making of equivalent orders in relation to certain types of entity (relevant bodies) which have their own insolvency regime. The relevant bodies as scheduled in Regulation 5(2) of the Pension Protection Fund (Entry Rules) Regulations 2005, are:
  - a credit union
  - a limited liability partnership
  - a building society
  - a person who has permission to act under Part IV of the Financial Services and Markets Act 2000
  - the society of Lloyds and Lloyds members
  - a friendly society
  - a society which is registered as an industrial and provident society

The appointment of an interim trustee is not an insolvency event and notification will only be required if a bankruptcy order is eventually made. The change of an office-holder in the same procedure, such as the handing over of a case to an insolvency practitioner, does not need to be notified.

## 3.148 The Pension Protection Fund

The official receiver is required to give notice to The Pension Protection Fund within 14 days of the ‘insolvency event’, or, after this time limit, within 14 days of becoming aware of the pension scheme. The address of The Pension Protection Fund is

Renaissance, 12 Dingwall Road, Croydon, Surrey, CR0 2NA. Their telephone number is 0345 600 2541. Their e-mail address is [information@ppf.gov.uk](mailto:information@ppf.gov.uk). See [The Pension Protection Fund](#) for further details.

## 3.149 The Pensions Regulator

The official receiver should send notice to The Pensions Regulator at the same time to The Pensions Regulator, whose address is Napier House, Trafalgar Place, Brighton, BN1 4DW. Their telephone number is 0345 600 0707. Their e-mail address is [customersupport@thepensionsregulator.gov.uk](mailto:customersupport@thepensionsregulator.gov.uk). Further information can be obtained from [The Pensions Regulator](#).

## 3.150 The pension scheme trustees or managers

The official receiver should also send notice to the pension scheme trustees or managers. This information may be supplied by the bankrupt, their accountants, solicitors or found in their records.

## 3.151 Contact with Crown Departments

The Insolvency Service has a dedicated intranet page dealing with contact with Crown Departments. This [page](#) includes the partnership agreement with HMRC amongst other matters.

## 3.152 HM Revenue & Customs – Tax and National Insurance

The Insolvency Claims Handling Unit of the HM Revenue & Customs (HMRC) deal with claims in insolvency proceedings in respect of tax and National Insurance. The official receiver should ensure that the bankrupt's case name is entered onto ISCIS as quickly and accurately as possible. This information is automatically extracted from ISCIS and sent to the Insolvency Claims Handling Unit at Longbenton. A paper copy of this information is not necessary. Further information on direct taxation is provided in chapter 59.

## 3.153 HM Revenue & Customs – VAT

In the every case where the bankrupt is registered for VAT the official receiver should complete HMRC form "VAT 769" as soon as possible after the making of the bankruptcy order. In completing the form the official receiver should indicate whether

deregistration is appropriate. Where it is not known at the initial stage of a case whether VAT de-registration will be appropriate, the VAT769 should be completed but the relevant box on the form should not be ticked. A second VAT769 should not be submitted as HMRC automatically issue a de-registration enquiry form VAT167 when notified of the insolvency. If the VAT167 is not completed and returned HMRC will issue a final reminder VAT168. Both the VAT167 and VAT168 forms contain a box to be ticked requesting that the company not be de-registered. The form “VAT 769” should not be sent until the official receiver can answer questions 1 to 6. If the VAT number is not provided HMRC will return the form. The complete form VAT769 should be sent to [insolvencyhelpdesk@hmrc.gov.uk](mailto:insolvencyhelpdesk@hmrc.gov.uk). Further information on VAT is provided in chapter 59.

## **Less common notices to be issued and actions to be taken**

### **3.154 Trustees of will and settlements**

The official receiver must give immediate notice of the bankruptcy order to the trustee of any wills and settlements under which the bankrupt has or appears to have, a reversionary or other interest. Such notice must be given even if it appears that the interest is mortgaged or charged to its full value. If the official receiver becomes trustee of the estate, notice of the bankruptcy order must be followed by a further notice sent, in duplicate, asking the trustees of the will to return one copy receipted at the foot. This action should protect the trustee in bankruptcy's rights against mortgagees, who may not have received notification of the bankruptcy order, and to protect a potential asset.

### **3.155 Assignee of book debts**

Where the bankrupt has assigned their book debts to a creditor the official receiver should send notice to the assignee. An assignment of book debts is void against the trustee if they are not paid before the presentation of the bankruptcy petition unless the assignment was registered under the Bill of Sales Act 1878<sup>1</sup>. See paragraphs 3.142 to 3.144 for further information on dealing with book debts.

1. The Insolvency Act 1986 section 344 (2)



## 3.156 Magistrates – Lord Chancellor’s Department

Magistrates are appointed by the Secretary of State for Constitutional Affairs and Lord Chancellor, on the advice of local Advisory Committees. The official receiver should notify the secretary of the local advisory committee if they become aware that a bankruptcy order or disqualification order has been made against a lay magistrate. The making of a bankruptcy order automatically disqualifies an individual from holding that office. A list of all local advisory committees is available within the [magistrate application information](#)

No other information about the case should be given to an advisory committee. If further information is requested, the official receiver should consult Technical Section.

## 3.157 Solicitors – Law Society

Where a bankruptcy order is made against a practising solicitor the official receiver should notify the Solicitors Regulation Authority, address as per [Annex A](#). As a result of the bankruptcy order the bankrupt may lose their licence to practice.

## 3.158 Barristers – General Council of the Bar

Where a bankruptcy order is made against a barrister the official receiver should notify the General Council of the Bar. The contact details are provided in [Annex A](#). The [Bar Council website](#) and the [Bar Standards Board website](#) provide more information.

## 3.159 Accountants – recognised professional body

The Association of Chartered Certified Accountants (ACCA) and the Institute of Chartered Accountants in England and Wales (ICAEW) expect one of their members to notify them of any bankruptcy order made against them. In those instances where the official receiver has doubts that the bankrupt will do so, or the bankrupt has not surrendered to the proceedings, they should notify the relevant body. Details of the [ACCA](#) and [ICAEW](#) are available on their websites.

## 3.160 Insolvency practitioners – relevant professional body

Where a bankruptcy order is made against an insolvency practitioner the official receiver should send details of the order to the Insolvency Practitioner Unit in Birmingham initially by telephone with confirmation in writing. This action is required even where the bankrupt ceased to practice prior to the bankruptcy order. Insolvency Practitioner Unit will notify the appropriate authorising body of the order and obtain details of any action being taken to deal with the insolvency practitioner's affairs.

### 3.161 Chartered Institute of Taxation or the Association of Tax Technicians

The official receiver should send notification of a bankruptcy order made against a member, either of the Chartered Institute of Taxation, or the Association of Tax Technicians. The addresses of both bodies can be found in [Annex A](#)

### 3.162 Dentists, doctors and pharmacists – Clinical commissioning groups (CCGs)

CCGs replaced primary care trusts (PCTs) on April 1 2013. Where a bankruptcy order is made in relation to the practice of a dentist, doctor or pharmacist in England notice should be sent to the CCG for the area. Where the official receiver is not prepared to carry on the business, notice of their intention to discontinue the trading must also be given to the relevant [CCG](#) in England.

In Wales seven Health Boards are responsible for planning and delivering [NHS health services](#) in their geographical areas and should be given notice of Winding-up proceedings and any discontinuance of trading.

### 3.163 Dentists and doctors – private practice

Where a bankruptcy order is made in relation to a dentist or doctor in private practice it is not necessary to inform the Clinical commissioning group. Where a dental practice ceases to trade the official receiver should notify any health plan company from which the bankrupt receives payments.

### 3.164 NHS dentists

For every piece of work done by a dentist through NHS practice, they will charge a fee. That fee will be met partly by the patient and partly by the Dental Services Division of the NHS. An NHS client will pay up to a maximum of 80% of the fee charges, depending on their circumstances. In addition, the dentist will be entitled to claim other reimbursements, depending on the level of their NHS work - for example,

a certain proportion of the business rates paid by the practice or a proportion of the costs of practice improvements. Each month the dentist will raise the equivalent of an invoice for the Dental Services Division, who will pay, via a BACS transfer, monthly in arrears.

## 3.165 NHS dentists – collection of monies due

When a bankruptcy order is made against an individual trading as a dentist there may be money due to the bankrupt from the Dental Services Division. The official receiver should, in addition to notifying the Clinical Commissioning Group (see paragraph 3.162), notify the Dental Services Division of the NHS. The notice should state the name of the bankrupt, the date of the bankruptcy order and ask for details of the amount outstanding as at that date. The official receiver should ask that any monies due be held to the order of the trustee. The address for the Dental Services Division is shown in [Annex A](#).

## 3.166 Care or nursing homes

Where the official receiver is dealing with the bankruptcy of the proprietor of a care or nursing home, they should contact the local health authority and also the [Care Quality Commission](#) where the home is in England or the [Care and Social Services Inspectorate Wales \(CSSIW\)](#) where the home is in Wales.

## 3.167 Post Offices – Subpostmasters and Subpostmistresses

Post Office branches are managed under a number of different types of contract. The differing contracts dictate the title that the individuals managing the post offices are given. Most post office branches are Scale Payment Sub-Offices (SPSO's) and are managed by "Subpostmasters" or "Subpostmistresses". Other contracts are managed by "Operators" or "Franchisees". The title "Postmaster" was previously used to refer to the managers of Post Office branches run by Post Office Limited staff, however these staff are now referred to as branch managers.

## 3.168 Post offices – bankruptcy order

If a bankruptcy order is made against an individual running a post office then the Post Office Limited Audit Team should be contacted. The individual should be able to supply the details of their contact in the Post Office but, failing that, the Audit Team can be contacted by fax on 01226 273697.

## 3.169 Where bankrupt is a serving police officer – relevant Chief Constable

Where a bankruptcy order is made against a serving police officer, there is no statutory requirement for the official receiver to notify the Chief Constable of the relevant constabulary of the making of the order. The police officer is expected to declare their bankrupt status to the constabulary themselves. It is possible for a police officer to be dismissed for failing to pay a lawful debt<sup>1</sup>. The official receiver should not take any steps to notify the chief constable but may ask the bankrupt to notify their employer.

1. The Police Regulations 2003 regulation 6 and schedule 1

## 3.170 Trustee of a charity

An undischarged bankrupt cannot act as a trustee of a charity without the permission of the court. Where a bankrupt holds such an office, they should be informed that they must either cease to act or to apply to the court for permission. The official receiver should notify the relevant charity of the bankruptcy order<sup>1</sup>.

1. Charities Act 2011 c. 25 Section 178

## 3.171 Asylum seekers

Where a bankruptcy order is made against an individual who is seeking asylum, there is no statutory requirement for the official receiver to notify the Home Office. However, the Asylum and Policy Directorate of the Home Office have indicated that they would like to receive notification of the bankruptcy order. Their address is shown in [Annex A](#).

## 3.172 Farmers – Department of Environment, Food and Rural Affairs

Where the bankrupt is or has been concerned in farming or similar operations they may have been in receipt of a grant or subsidy from the Department of Environment, Food and Rural Affairs (Defra). The official receiver should contact Defra to confirm the current position and whether any monies are due. Any grants and subsidies paid or payable to the bankrupt are dealt with by the Rural Payments Agency at one of their regional offices. The relevant regional office can be traced using the [Rural Payments Agency website](#). The official receiver could also use the Defra helpline number 03000 200 301. Any initial contact should be followed by the official receiver

providing written notification of the bankruptcy order. Where the official receiver is aware of the relevant reference number this should be included in the notice.

### 3.173 Milk producers – milk co-operatives

Where a bankruptcy order is made against a dairy farmer the official receiver should identify their customers. With the demise of the Milk Marque scheme the bankrupt may have a sole supply agreement with one a dairy farmers' co-operative or a commercial milk wholesaler. The most commonly used organisations are [First Milk Limited](#), [Arla Foods UK plc](#) and [Müller UK & Ireland Group LLP](#). The addresses of each of the above can be found in [Annex A](#). The official receiver should notify the bankrupt's customer(s) of the bankruptcy order as there may be monies due and on-going contractual obligations with regard to current milk stocks. Some additional information is contained in chapter 34.

### 3.174 Plant Breeders' Rights – general

A breeder of any species of plant may apply for Plant Breeders' Rights which enable them to charge royalties for protected varieties. The rights cover agricultural, horticultural and ornamental plants. A Plant Breeders' Right is a form of intellectual property and may have a value. Further information is available from the [Plant Breeders' Rights](#) and in [Annex A](#) of chapter 40.

### 3.175 Plant Breeders' Rights - asset in the proceedings

Where a bankruptcy order is made against an individual which has Plant Breeders' Rights the official receiver should send notice to the British Society of Plant Breeders Limited, see [Annex A](#) for their address. The bankrupt may be entitled to unpaid royalties in respect of the use of the protected species. The registered right, and the species it covers, may have a resale value and be an asset in the proceedings.

### 3.176 Plant Breeders Rights – a liability in the proceedings

The official receiver should be aware that in cases involving agricultural merchants, corn merchants, farmers licenced to deal in plant varieties (for example, seed potatoes), horticulturalists, etc. there may be a liability for royalties under the Plant Varieties and Seeds Act 1964. Where a bankruptcy order is made against an individual involved in these trades the official receiver should send notice to the British Society of Plant Breeders Limited, see [Annex A](#) or their address. Unpaid

royalties at the date of the bankruptcy order will be a debt provable in the bankruptcy. See chapter 34 for the conditions necessary to sell any seed in stock. If the stock is sold as seed the royalties due will be an expense in the bankruptcy.

## 3.177 Building & Civil Engineering (B & CE) benefit schemes

If the bankrupt traded in the building industry, they may have been a member of a B&CE benefit scheme. These schemes provide holiday pay and retirement benefits for a bankrupt's employees. B&CE have requested that they be informed of a bankruptcy order when the official receiver is dealing with a bankrupt operating a B & CE benefit scheme. The address of B & CE is shown in [Annex A](#).

## 3.178 Controlled Waste

A bankruptcy order may be made against an individual who is holding, or has held, controlled waste. Whilst the bankruptcy should hold a waste management permit this may not always be the case. In these circumstances the official receiver should give notice to the relevant waste regulation authority (which is usually the local authority) and the Environment Agency.

## 3.179 Holders of vehicle operators or public service operators licences

Where the bankrupt holds a vehicle operator's licence and/or public service operating licence the official receiver should send notice to the appropriate local traffic area office. The official receiver must also return any licences (see chapter 27). For details of the nearest local traffic area office, contact the Driver and Vehicle Standards Agency (DVSA) on 0300 123 9000. DVSA's address is shown in [Annex A](#).

It is possible to carry out an [operator search](#) for heavy good vehicles and public service vehicles using a town name, operator/trading name, individual name of operator's licence number.

## 3.180 MOT testing centre

Where the bankrupt is authorised to conduct MOT tests, all accountable documents, including MOT test certificates and documents recording the results of tests conducted within the preceding 18 months, should be returned to the local traffic enforcement office. To obtain details of the nearest local traffic enforcement office,

contact the Driver & Vehicle Standards Agency (DVSA) on 0300 123 9000. DVSA's address is shown in [Annex A](#).

### 3.181 Bookmakers – Gambling Commission

To act as a bookmaker an individual must hold an operating licence. In addition the bankrupt may obtain personal licences for specific individual representatives within the business. The Gambling Commission issue and regulate these licences and should be notified of the making of a bankruptcy order as they lapse in the event of insolvency. The official receiver should send notice to the Gambling Commission. The address is shown in [Annex A](#).

### 3.182 Bookmakers – betting premises licence

Where an individual trades as a bookmaker from premises they need to hold a betting premises licence. A betting premises licence is issued by the local council. A betting premises licence lapses in the event of insolvency. The official receiver should obtain the appropriate licences held by the bankrupt. The official receiver should notify the relevant [local council](#) of the bankruptcy order as it may be possible to recover a proportion of the licence fee from the local council upon surrender of the licence.

### 3.183 On-course bookmakers

In order to operate at a racetrack bookmakers are likely to hold a specific type of premises licence, known as a betting premises (track) licence. Such bookmakers are known as on-course bookmakers. When dealing with this type of bookmaker, the official receiver should send notice to the office of the racetrack(s), covered by the licence(s), of the bankruptcy order.

### 3.184 Bookmakers – HM Revenue and Customs

The official receiver should inform HM Revenue and Customs when a bankruptcy order is made against a bookmaker. The notice should be addressed to: HM Revenue & Customs, Greenock Accounting Centre (GAC), Custom House, Custom House Quay, Greenock PA15 1EQ.

### 3.185 Person authorised under the Banking Act 1987 - Financial Services Authority (FSA)



Where the bankrupt is an authorised institution under the provisions of the Banking Act 1987 the official receiver should send notice to the Financial Services Authority and the Financial Services Compensation Scheme. The addresses for both organisations are provided in [Annex A](#). Whilst there is no obligation contained in the Insolvency Act 1986 to inform either body on the making of the bankruptcy order, the FSA must receive notice of the presentation of a petition against an authorised institution and both the FSA and the Financial Services Compensation Scheme must receive notice of the first meeting of creditors. Therefore, for the purposes of continuity, notification of the order should also be sent.

## 3.186 Lloyd's of London – Lloyds' names

If a bankruptcy order is made against a Lloyd's name the official receiver should notify Lloyd's of London's Financial Recovery Department. The address is shown in [Annex A](#)

## 3.187 Investment businesses – regulatory bodies

The official receiver should send notice to the relevant regulatory body where the bankrupt is required, by statute, to be licensed to carry on an investment business. For a list of such business see [Annex B](#)

## 3.188 Unpaid deposits – Deposit Indemnity Schemes

In a number of industries schemes are in place to guarantee the deposits paid by a bankrupt's customers. For example, The Glass and Glazing Federation operates a Deposit Indemnity Scheme to which double glazing contractors may belong. The official receiver should confirm from the bankrupt whether such a scheme is in operation. They should obtain details of the scheme together with a schedule of the names and addresses of any of their customers who may have a claim under the scheme. This schedule should be provided to the operators of the scheme as quickly as possible.

## 3.189 Consumer credit licence and the Financial Conduct Authority

Where a bankruptcy order is made against an individual who holds authorisation under the Consumer Credit Act 1974 to carry out regulated activity the



official receiver should give notice to the [Financial Conduct Authority](#), see [Annex A](#) for the address.

## 3.190 Intellectual property - Patents

Where a bankrupt appears to have an interest in a patent the official receiver should send notice to the [Intellectual Property Office](#), address shown in [Annex A](#). For more information on intellectual property in general see chapter 40.

## 3.191 Intellectual property - Designs

Where a bankrupt appears to have an interest in a patent the official receiver should send notice to the Designs Registry at the [Intellectual Property Office](#), address shown in [Annex A](#).

## 3.192 Intellectual property – Trade Marks

Where a bankrupt appears to have an interest in a patent the official receiver should send notice to the Trade mark Registry at the [Intellectual Property Office](#), address shown in [Annex A](#).

## 3.193 Explosives and firearms

The storage of all explosives in quantities of over two tonnes requires a licence from the Health and Safety Executive. The Health and Safety Executive, local authorities or the police may issue a licence for explosives in quantities below two tonnes. However some explosives in quantities below two tonnes also require an explosives certificate, for example, blasting explosives or black powder. An explosives certificate is provided by the local police force. The storage of explosives not requiring an explosives certificate in quantities of less than two tonnes is licenced by the local authority (usually the trading standards department), except for metropolitan counties where the licensing is carried out by the fire and rescue service. See [licensing requirements](#) for further information. A firearm or shotgun certificate is provided by the local police force. See chapter 34 for further information on explosives and firearms.

## 3.194 Explosives – factory and storage

Where a bankruptcy order is made against an individual who operates a factory for the manufacture of explosives or occupies a licenced magazine, i.e. storage facility, the official receiver must send notice of the order to the Explosives Inspectorate at the Health and Safety Executive, address shown in [Annex A](#). Alternatively, for

queries about licensing the official receiver can e-mail the Explosives Inspectorate at: [explosives.licensing@hse.gov.uk](mailto:explosives.licensing@hse.gov.uk). For queries about the classification or transportation of explosives they can e-mail the Explosives Inspectorate at: [cad.explosives@hse.gov.uk](mailto:cad.explosives@hse.gov.uk).

## 3.195 Explosives and firearms – police inspection

Where the official receiver discovers either explosives or firearms in their enquiries the local police force should be notified. The explosives or firearms should not be touched or moved until after an inspection by the police. The police will confirm that the explosives and/or firearms have been correctly licenced and will provide advice on their safe removal. See [police explosives liaison](#) for details.

## 3.196 Premises licensed to sell alcohol – local authority

The official receiver should inform the relevant local authority as soon as possible of the insolvency of a premises licence holder.

Details of the dedicated email address and telephone number for licensing notifications can be located on the web site of the relevant local authority.

## 3.197 German state pension administrator - Deutsche Rentenversicherung Bund (DRV)

The official receiver should notify, as soon as possible, the DRV of the making of a bankruptcy order against:

- a German national
- a person who has worked in Germany

In relation to the second bullet point, official receivers are not expected to investigate a bankrupt's employment history for this purpose any more than would normally be required to administer the case and establish the cause of insolvency.

The standard notice of the bankruptcy should be e-mailed to the DRV at [insolv-service@drv-bund.de](mailto:insolv-service@drv-bund.de).