



Personal Glossary of Terms

Annual Report

Insolvency practitioners are obliged to produce regular reports detailing their actions, including an account of what money they have received from insolvent companies and individuals and what has been paid out to creditors or as expenses to pay for the insolvency procedure (you might see this referred to as a receipts and payments account). In most forms of insolvency procedure, an annual report has to be provided within two months of the anniversary of the appointment of the insolvency practitioner or Official Receiver. In some insolvency procedures (including administrations in England and Wales), a report is required every six months.

Annulment

Is a cancellation of a bankruptcy order, on an application to the Court, on the basis that the bankrupt is able to settle his debts in full and pay interest at the statutory rate on those debts. It can also be annulled if the order should never have been made in the first place.

Assets

Anything that belongs to an insolvent company or individual that may be used to repay their debts.

Bankrupt

Is an individual subject to a bankruptcy order. A bankrupt is subject to certain restrictions during the period of his bankruptcy, such as not being able to act as a company director without the leave of the court, not being to obtain credit above certain limits without disclosing his bankrupt status and any surplus income over and above basic needs will have to be paid to 'the bankruptcy estate'

Bankruptcy

During a bankruptcy – which typically lasts for one year – creditors are not allowed to pursue a debtor ('the bankrupt') to reclaim money owed to them. The Official Receiver, insolvency practitioner or AiB in Scotland is appointed to take charge of a bankrupt's property. The trustee is allowed to sell the bankrupt's property to raise money to repay creditors. This part of the process may take longer than the year-long protection offered by bankruptcy. At the end of the year, the bankrupt's remaining pre-bankruptcy debts are written off (except for student loans, child support payments, and fines and debts incurred through fraud) and the debtor starts afresh.

Bankruptcy Offences

A bankrupt commits a criminal offence if prior to his bankruptcy he fraudulently sold on property that he had not paid for or gives away assets to avoid his creditors. Similarly, after the bankruptcy, he commits an offence by concealing assets, books and records or making false statements to his trustee.

Bankruptcy Order

An order made by a court whereby a person is made bankrupt. The property and assets of the bankrupt, subject to certain restrictions, will be sold and the money distributed to creditors. A bankruptcy order may be made following a petition to the Court by the bankrupt or a creditor.

Bankruptcy restrictions order or undertaking

A bankrupt who has been dishonest or in some other way to blame for their bankruptcy may have a court order made against them or may have to give an undertaking which will mean that bankruptcy restrictions continue to apply for between two to fifteen years after discharge.



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Charge

Is a form of security over assets, usually property, similar to a mortgage. A charge may be fixed or floating and it may be in the form of a mortgage or a debenture or other charging document. It protects a creditor in the event of non-payment of a debt. (See 'Fixed Charge' and 'Floating Charge', below.)

Charge-holder

Can be an individual or company who holds a charge over assets.

Collateral

This is something that someone taking a loan agrees to give up should they fail to repay that loan e.g. their home or a business' equipment.

Creditor

Someone owed money by an individual or business.

Creditors' Committee

A committee of at least three creditors appointed to represent all creditors and to assist the insolvency practitioner in the discharge of his duties in a formal insolvency procedure.

Creditors' meetings

These are formal or informal meetings of all creditors that are called by an insolvency practitioner handling an insolvency. A meeting is usually called at the outset of an insolvency proceeding and periodically thereafter. The purpose of the meeting depends on the type of insolvency, but it may be to impart information on the progress of the insolvency, to approve certain proposed actions by the insolvency practitioner or to approve fees and expenses. At the first such meeting there is usually an opportunity for creditors to ask the debtor (either an individual or an insolvent company's directors) questions.

Debt Management Plan (DMP)

DMPs are an informal arrangement between creditors and a debtor. DMPs are not subject to the same legal or regulatory controls as formal insolvency procedures. They can last a number of years (sometimes decades) and are designed to ensure all debts are repaid.

Debt Arrangement Scheme

The Debt Arrangement Scheme (DAS) is the Scottish government's scheme which allows someone with financial difficulties to repay their debts through a debt payment programme. All interest and charges are frozen from the date of commencement of the DAS, but the debtor repays all of the sums due to their creditors over an extended period. The DAS allows repayment of debts by individuals and businesses which are not companies to be repaid over a longer period of time, normally up to 10 years, but it could take longer than this. They are processed by the AiB as the DAS Administrator, but can be set up by insolvency practitioners, regulated Money Advice Advisors or regulated debt charities)

Debtor

Someone who owes money to an individual or a company. Also used as an alternative to 'bankrupt' to describe someone in bankruptcy.



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Debt Relief Order

DROs are those with relatively low debts (under £20,000) and few or no assets (maximum of £1,000) i.e. those who are unlikely to be able to repay even a portion of their debt. The debtor is debt free (excluding student loans, child support payments and fines and debts incurred through fraud) after one year. DROs do not apply in Scotland.

Debts

Amounts owed by the individual or company.

Discharge

A bankrupt is automatically discharged from the restrictions and obligations of his bankruptcy, and from all his debts and liabilities that existed prior to his bankruptcy, at the end of a fixed period of one year. The period of bankruptcy can be shorter if the Official Receiver makes an application for an early discharge. It may also be longer, where the Official Receiver makes an application for extension in the case where a bankrupt has 'misbehaved' or been uncooperative during the bankruptcy. The administration of the bankrupt's estate is likely to continue for longer than the bankruptcy period.

Dividend

An amount distributed to creditors in a formal insolvency.

Execution

A process whereby assets are seized because of the non-payment of a particular debt. These assets are then sold and the proceeds used to repay that debt.

Fixed Charge Lender/'Secured creditor'/mortgagee

These are creditors who have been granted rights (known as a 'charge', or 'security') to a specific property or asset belonging to the company or individual to whom money has been lent. If the loan is not paid back, the lender can take control of the asset the loan has been 'secured' against and sell it. Banks are a typical fixed charge creditor – mortgages are an example of a loan secured by a fixed charge or standard security.

Floating Charge Lender

A charge held over general assets of a company. The assets may change (such as stock) and the company can use the assets without the consent of the secured creditor until the charge "crystallises" (becomes fixed). Crystallisation occurs on the appointment of an administrative receiver, after the presentation of a winding-up petition or as otherwise stated in the document creating the charge. The chargeholder may appoint an administrative receiver or an administrator.

Guarantee

A written agreement to pay a debt owed by another party; it must be in writing for it to be enforceable.

Individual Voluntary Arrangement (IVA)

An IVA is a legally binding agreement between an insolvent individual and his creditors, for the repayment of debts in full or in part. The procedure is an alternative to bankruptcy. This may involve the continued trading of a business, the contribution of cash or assets from a third party, income contributions, the partial sale of an individual's assets. An IVA is monitored by a licensed insolvency practitioner acting as a supervisor.



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Insolvency

This is where an individual or company cannot pay the debts they owe when they are due and/or the individual or company owes more than they own. People or companies in this situation can end up in a formal insolvency procedure ('an insolvency'). Formal insolvency procedures are legal procedures designed to get debts repaid and to return individuals and, where possible, businesses to financial health.

Insolvency practitioners (IPs) and Official Receivers (ORs) and the Accountant in Bankruptcy (AiB)

IPs are the licensed independent specialists who are appointed to supervise formal insolvency procedures. IPs have to act in the interest of creditors – they can either help the debtor turn their finances around, or, when this isn't possible, they will gather in all the debtor's assets, turn them into cash and distribute the proceeds back to creditors (in accordance with an 'order of priority' determined by the government).

IPs are specially qualified and regulated accountants and lawyers; the ORs (excluding Scotland) and AiB (Scotland only) are civil servants and employees of the government. Unlike IPs, ORs and the AiB are not licensed. Depending on the type of insolvency you're involved in, you might come across all three.

It is important to remember that where an individual or company has become insolvent, it is very likely that they will not have enough money to pay back all that is owed. IPs, ORs and the AiB will do their best to ensure that as much as possible is repaid.

Once formally appointed to look after an insolvent company or individual, the IPs, ORs and AiB may be referred to as 'Office Holders'.

The term 'AiB' or 'Accountant in Bankruptcy' is used by the offices of the AiB in different ways to refer to different functions that it performs, including for example as an Agency of the Scottish Government. For the purpose of this website, we simply refer to the "AiB" in respect of all its various roles and functions.

Insolvency Service

The Insolvency Service is the government agency for insolvency in England and Wales. There is a separate Insolvency Service for Northern Ireland, and the AiB covers personal insolvencies in Scotland.

The Insolvency Service is an executive agency of the Department of Business Enterprise and Regulatory Reform responsible for administering insolvency laws. Its principal functions are:

- to investigate the affairs of bankrupts and companies in compulsory liquidation
- to handle the disqualification of unfit directors
- to act as trustee or liquidator in cases where an insolvency practitioner is not acting
- to regulate insolvency practitioners, either directly or through the recognised professional bodies
- to provide policy advice to government ministers.



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Insolvency Services Account (ISA)

The account at the Bank of England into which money raised from the sale of assets in bankruptcies and compulsory liquidations has to be paid. Money is then paid to creditors out of these accounts. The Insolvency Service charges fees on money paid into these accounts.

Insolvency Practitioner (IP)

A person, licensed by a recognised professional body or the Secretary of State, who may act as an office holder in insolvency proceedings.

Insolvency procedures

This term refers to any of the procedures under the Insolvency Act 1986 such as liquidation, bankruptcy, administration and voluntary arrangements. It is also often used to refer to other procedures not directly covered by the Insolvency Act 1986, such as fixed charge receiverships and informal arrangements.

Interim receiver

An interim receiver might be appointed by a court to protect and secure an insolvent individual's property after a bankruptcy petition has been made to the court, but before the bankruptcy 'order' has been made.

Liabilities

See 'debts'.

Licensed Insolvency Practitioner

An individual who is qualified to act as an office holder in a formal insolvency. He or she must be licensed by a recognised professional body or the Secretary of State to carry out insolvency work.

Lien

Lien is the right to retain possession of assets or documents until the settlement of a debt.

Nominee

An insolvency practitioner who reviews a proposal for a Voluntary Arrangement and makes a report to the Court including whether, in his view, a meeting of creditors should be called to consider the proposals.

Office Holder

A person appointed under the Insolvency Act 1986 to act as a trustee in bankruptcy, liquidator, administrator, administrative receiver or supervisor of a voluntary arrangement.

Official Receiver (OR)

A civil servant employed by The Insolvency Service, who deals with bankruptcies and compulsory liquidations. The Official Receiver's functions include the investigation of the affairs of bankrupts and companies in compulsory liquidation. He also acts as liquidator and trustee of last resort in bankruptcies and compulsory windings up.

Official Receiver's Rota

Insolvency Practitioners can be appointed to cases initially dealt with by the Official Receiver (bankruptcies and compulsory liquidations) through a 'rota' of local insolvency practitioner firms. The aim of the rota is to ensure transparency and fairness of appointments.



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Order of Priority

The order in which creditors are repaid their debts as a result of an insolvency procedure is determined by something called the 'Order of Priority'. This order, or hierarchy, has been set out by the government. At the top of the order are 'secured' lenders like banks; towards the bottom are 'unsecured' lenders like trade suppliers. Banks have priority so that they remain confident about lending large amounts of money to businesses.

Partnership voluntary arrangement (PVA)

In a PVA creditors of a partnership accept proposals, put forward by the partnership, to deal with its debts. This may involve continued trading, contribution of cash or assets from a third party, income contributions, sale of some of the partnership's assets or accepting an amount less than repayment of debts in full. The procedure is controlled by a licensed insolvency practitioner acting as a supervisor.

Petition

A formal application made to a court. In insolvency proceedings, petitions are made to obtain bankruptcy or compulsory winding up orders

Preferential creditors

Certain types of creditor debts are given a legal priority in terms of repayment from an insolvency. These include the employees of an insolvent business, although only for certain debts: unpaid wages; holiday pay; and pension contributions. Only up to a set amount (determined by the government) will be paid out.

You might hear these creditors referred to as 'prefs'.

Proof of debt

A form completed by a creditor in a formal insolvency procedure to state how much is claimed. The form is supplied by the office holder.

Protected Trust Deed

A Protected Trust Deed is a personal insolvency procedure available to Scottish residents only. It is voluntary but formal arrangement between a debtor and their creditors. The debtor makes 'affordable' monthly payments towards their debt for typically four years. A debtor grants a 'Trust Deed' in favour of the Trustee which transfers their assets to the Trustee for the benefit of creditors. It is overseen by the Accountant in Bankruptcy.

Proxy

A person or company can appoint someone to go to a creditors' meeting and vote in their place – a proxy. This can be the chairman of the meeting. A 'proxy form' will need to be completed if a creditor wishes this to happen – if you need a proxy form and haven't already been given one, you should speak to the Office Holder handling the insolvency in which you're a creditor.

Public examination

When a company is being wound up or in bankruptcy proceedings, the Official Receiver may at any time apply to the court to question the company's director(s) or any other person who has taken part in the promotion, formation or management of the company or the bankrupt

Realise

Realising an asset means selling it or disposing of it to raise money, for example to sell an insolvent's assets and obtain the proceed



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Recognised professional body

A body authorised by the Secretary of State to licence its members to act as insolvency practitioners. These bodies include the Institute of Chartered Accountants of England and Wales, the Insolvency Practitioners' Association and the Law Society.

Redundancy

A reason for dismissal, redundancy involves the closure (either temporary or permanent) of the business as a whole or closure of a particular department this could suggest that the business has no further use for the department you are working in, are downsizing or could be facing difficulties.

Release

The process by which the Official Receiver or an Insolvency Practitioner is discharged from the liabilities of office as trustee, liquidator or administrator.

Retention of Title (RoT)

RoT is where you, as a creditor, have an agreement with a customer that says the goods you have supplied remain your property until the customer has paid for them. If you have an RoT claim to make, you need to let the insolvency practitioner or Official Receiver know as soon as possible and provide them with a copy of your terms and conditions as well as the details of your claim.

Secretary of State

The Secretary of State for the Department of Business Enterprise and Regulatory Reform. The Secretary of State is responsible for administration of the insolvency laws and has the power to licence insolvency practitioners.

Secured creditor

A creditor who holds security, such as a mortgage, over a person's assets for money owed.

Security

A charge, mortgage or other right in respect of assets which secures payment of a debt.

Sequestration

The Scottish name for 'bankruptcy' (bankruptcy is often used but sequestration is the traditional name).

Solvent

Able to pay one's debts as they become due or having a surplus of assets over liabilities.

Statement of Affairs

A legal document, including a statement of truth completed by a bankrupt or a company's representative, listing assets and debts.

Statement of Insolvency Practice (SIP)

Statements of Insolvency Practice are usually referred to as SIPs. SIPs set principles and key compliance standards with which Insolvency Practitioners are required to comply



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Statutory Demand

Usually this action is taken after a creditor has obtained a Judgment. It is a formal demand for payment of an undisputed debt (over £5000 from 1st October 2015) - the debt must be paid within 21 days of the demand being issued. Failure to pay a statutory demand can lead to a winding up petition or bankruptcy being issued. In any event, the creditor has to pay to issue this document/action and therefore he/she/it is now becoming much more serious.

Supervisor

A licensed insolvency practitioner appointed by creditors to supervise the implementation of a voluntary arrangement..

Time records

The insolvency practitioner records time spent on a case so creditors can see what work has been done. The type of activity logged can include day-to-administration, responding to correspondence from debtors or creditors, attending creditors' meetings, realising the assets of an insolvent business or individual, or investigating the conduct of an insolvent business' directors. Details of the insolvency practitioner's time records might be included in their Annual Report or progress reports to creditors.

Trustee in bankruptcy

A licensed insolvency practitioner appointed to administer a bankrupt's estate.

'Unsecured' creditor

A creditor who does not hold security (such as a mortgage) for money owed. Unsecured creditors rank behind secured and preferential creditors in the order of distribution of assets. This means that if the secured and preferential creditors are not paid in full, there will be no money for the unsecured creditors. However, in certain circumstances some of a company's assets may be made available to unsecured creditors at the expense of a floating charge holder (see prescribed part).