

---

### WHAT IS INVOLVED IN AN APPLICATION FOR BANKRUPTCY?

An application for bankruptcy involves preparing all the paperwork involved that the court will require to make a ruling that somebody's entitle to be adjudicated bankrupt, a court appearance to have the bankruptcy approved, a further court appearance to allow for any objections on the bankruptcy adjudication and the monitoring of the financial position of the person who is being declared bankrupt.

The vast majority of the work that is involved is done well in advance of getting to court, as is the case with most court hearings.

Often clients will remark on the day of a hearing when I meet them in court at the amount of paperwork!!!!

In the case of bankruptcy it is quite different to normal because all of your documents and paperwork will have been submitted to the court beforehand. In this way the bankruptcy court can be said to be more efficient than other courts.

---

### WHAT ARE THE DOCUMENTS INVOLVED?

There are a raft of documents that comprise the bankruptcy application and each document has to be in a particular format that the courts deem to be appropriate. If there are any errors or discrepancies this can create issues and so it is very important that everything that is submitted is correct and complete – that nothing is left out or missing.

The documents include a petition for the bankruptcy itself, a statement of the affairs outlining the financial start of the applicant in great detail, a notice of the next court sitting which will take place, and order making the person bankrupt, various declarations on the truth and completeness of what has been submitted to the court and also on previous arrangements that have been attempted to deal with their financial

difficulties and a warrant allowing the Sheriff to seize any goods that the person may own over the threshold of what they are allowed to keep which is currently €6000 of personal items.

---

## WHAT HAPPENS IF THERE ARE MISTAKES IN THE PAPERWORK?

Sometimes people can through no-fault of their own genuinely think that information may not be relevant or that because it happens a certain amount of time ago nobody would want to know about at this stage but what people need to be aware of is that full disclosure is key.

If something turns out not to be correct or to be omitted even for genuine reasons this could jeopardise a person's entitlement to bankruptcy or if already declared could ultimately result in objections to the bankruptcy application or a reversal of it which has serious consequences.

The documents that are lodged in court are sworn documents and so it is the same as getting into the witness box and giving evidence. It is so important then that people are aware and are advised on all of the details needed and how to correctly have their paperwork in order.

I was always then advise people who are looking to explore bankruptcy to contact a solicitor to make sure that you get full advice on what you are submitting.

---

## WHAT IS THE BANKRUPTCY COURT LIKE IN REALITY?

Bankruptcy court is all hustle and bustle. There will be solicitors and barristers all around reviewing papers, lodging documents, attending to last-minute preparations and taking instructions from their clients.

The Court Registrar will be answering questions from those in the courtroom and issuing directions on the practical formalities such as submitting paperwork and where cases are appearing in the day's list

The bankruptcy Inspector will be there liaising with all present to make sure that any documents he is required to take have been prepared and are in order

When you attend Court you wait for your case to be called in the list and when this happens you make your application before the judge.

---

## DOES THE BANKRUPTCY HEARING TAKE LONG?

The reality of bankruptcy court is that things move fast and applications

are dealt with in a matter of minutes - last week for example they were 30 cases dealt with in less than an hour

At the Court appearance, if the Court is satisfied papers are in order, the Judge will adjudicate bankruptcy.

As part of the application you would request :

- That (in order to save costs) the Notice of the Adjudication and Statutory Sitting be published on the ISI website as an alternative to publication in one daily newspaper;
- That the court fix a date for the Statutory Sitting;
- That since a Statement of Affairs is filed in prescribed form No.23 at Adjudication stage, the requirement to file a Statement of Affairs under Section 19 (c) of the Bankruptcy act 1988 be dispensed with.

In 90% of cases no questions are asked. The main topic for questioning is clarification on the entering into of arrangements before seeking Bankruptcy.

---

## AFTER THE JUDGE AGREES TO MAKE YOU BANKRUPT IS THAT IT?

The Court may advise you to make contact with the Bankruptcy Inspector on the day of adjudication to progress the case. The Inspector will be in court.

1. Cases are dealt with by Inspector/ISI by two dedicated case management teams - one focused on Standard cases and one on Complex cases\*

*\*A complex case is generally defined as one which meets any of the following criteria:*

*Total Debts Exceed Assets by >€2,000,0000*

*Petitioning Creditor Case*

*Petitioner had Active Business in previous year*

2. At the hearing a form has to be handed to the Inspector indicating which category the case falls into (we have template and this can be filled in advance).
3. A Statement of Personal Information (SPI) also needs to be completed for each Applicant (we have template – this is separate to documents already lodged in court) and completed SPI is to be emailed with supporting documentation (requested in the SPI) to the insolvency service on the day of adjudication (afternoon).

The Inspector will not conduct interviews with Applicants for all standard cases – they will request info is needed following submission of SPI. Initially a team of 5/6 in the ISI will correspond with the bankrupt but if issues continue after a few months a specific case worker will be appointed to the file.

---

## WHAT HAPPENS WHEN ALL THE COURT HEARING IS OVER?

1. After bankruptcy secured creditors can:
  - rely on security (i.e. sell property or allow mortgage be paid off) and not claim in Bankruptcy
  - abandon security and claim for full debt in bankruptcy
  - sell or value their security and claim for the debt shortfall in the bankruptcy. The ISI Bankruptcy Division
2. The Official Assignee will negotiate an Income Payment Agreement or seek an Income

Payment Order for the surplus of your income over your Reasonable Living Expenses. This agreement/ order will last for a period of up to 5 years.

3. The bankrupt is discharged from bankruptcy in 3 years.
4. Ownership of any property or assets which are unsold remain with the Official Assignee after discharge, until they are sold.

## FOR MORE INFORMATION

Tel: 052- 612 43 44

Address: Jervis House,  
Parnell Street,  
Clonmel,  
Co Tipperary

Email: [info@lynchsolicitors.ie](mailto:info@lynchsolicitors.ie)

Website: [www.lynchsolicitors.ie](http://www.lynchsolicitors.ie)



[www.twitter.com/LynchSolicitors](http://www.twitter.com/LynchSolicitors)



[www.facebook.com/LynchSolicitors](http://www.facebook.com/LynchSolicitors)



[www.linkedin.com/company](http://www.linkedin.com/company)

## ATTENTION

**The material contained in this article is provided for general information purposes only. We advise you to seek specific advice from us about any legal decision or course of action.**