

AFTER-ACQUIRED PROPERTY – GENERAL

PART 1

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31.8.3 After-acquired property – general

In general terms, **after-acquired property** may be described as property acquired by, or devolving upon, a bankrupt after the making of the bankruptcy order and before he/she is discharged from the proceedings. The Insolvency Act 1986 (the Act) puts a duty on the bankrupt to provide the trustee with details of such acquisitions (see [paragraph 31.8.4](#)) and, in turn, gives the trustee power to claim the property where it is appropriate to do so (see [paragraph 31.8.14](#)).

31.8.4 Bankrupt's duty to the trustee regarding after-acquired property

In addition to his/her general duty to co-operate with the trustee [[note 1](#)], the Act makes special provision requiring that the bankrupt give notice to the trustee of the acquisition of any property, or increase in income, during the period of bankruptcy (i.e., between the date of the bankruptcy order and the date of discharge) [[note 2](#)].

The duty of the bankrupt to inform the trustee of after-acquired property is outlined in the NTB2, which is sent to all bankrupts as part of the initial information pack. Where there is a face-to-face meeting or telephone interview with the bankrupt, it is good practice for the Examiner to go through the NTB2 with the bankrupt or, at least, check that they have read and understood the document.

31.8.5 Bankrupt's duty to inform trustee of after-acquired property - suspension of discharge

The provisions relating to the duty of the bankrupt to notify the trustee of after-acquired property, and the power of the trustee to claim such property, are relevant during the period of bankruptcy. That is, the relevant period begins with the making of the bankruptcy order and ends when the bankrupt receives his/her discharge. Obviously, where a suspension of discharge [[note 3](#)] is in place the duty of the bankrupt, and the power of the trustee may continue beyond the normal period of discharge.

31.8.6 After-acquired property and early discharge

(updated October 2013)

If the official receiver becomes aware that the bankrupt is likely to come into possession of an asset which could be claimed as after-acquired property (possibly, through information supplied by a creditor), then the official receiver should not file the notice of early discharge [[note 4](#)] as the interests of creditors should prevail. An example here might be where the bankrupt is expected to receive a redundancy payment. Early discharge does not apply to cases where the bankruptcy order was made on or after 1 October 2013 (see Chapter 22 [Part 2](#)).

31.8.7 Property that may be claimed as after-acquired

[Part 3](#) of this chapter gives some examples of what may or may not be considered after-acquired property but, in simple terms, it can be said that assets that would have been treated as exempt had they been in the bankrupt's possession as at the date of the making of the order and income would not normally be considered as after-acquired property over which a trustee could make a claim [[note 5](#)] (see, though, [paragraph 31.8.34](#) for information on claiming exempt property of excess value as after-acquired property).

See [Chapter 31.7](#) for information of the ability of a trustee to claim income under an Income Payments Order (IPO) or Income Payments Agreement (IPA).

31.8.8 Definition of “property” for the purpose of after-acquired property

The definition of “property” applied by the provisions of the Act relating to after-acquired property is the same as the definition applied elsewhere in the act, namely that “property” includes “money, goods, things in action, land and every description of property wherever situated and also obligations and every description of interest, whether present or future or vested or contingent, arising out of, or incidental to, property” [[note 6](#)].

In other words, any property which would have been an asset had it been in the bankrupt’s possession as at the date of the making of the order would be considered after-acquired property.

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Further Information

- [NOTES TO PART 1](#)
- **CHAPTER 31.8 – NOTES TO PART 1**
- 1. Insolvency Act 1986 section 333
- 2. Insolvency Act 1986 section 333(2)
- 3. Insolvency Act 1986 section 279(3)
- 4. Insolvency Act 1986 section 279(2)
- 5. Supperstone v Lloyd’s Names Association Working Party [1999] BPIR 832
- 6. Insolvency Act 1986 section 307(2)