



Insolvency Act 1985

1985 CHAPTER 65

PART III

INDIVIDUAL INSOLVENCY

CHAPTER IV

TRUSTEES IN BANKRUPTCY

Control of trustee

148 Committee of creditors

- (1) Subject to subsection (2) below, a general meeting of a bankrupt's creditors (whether summoned under the preceding provisions of this Chapter or otherwise) may, in accordance with the rules, establish a committee to exercise the functions conferred on it by or under this Part.
- (2) A general meeting of a bankrupt's creditors shall not establish a committee under this section, or confer any functions on such a committee, at any time when the official receiver is the trustee of the bankrupt's estate, except in connection with an appointment made by that meeting of a person to be trustee instead of the official receiver.

149 Exercise by Secretary of State of functions of committee of creditors

- (1) A committee established under section 148 above by a general meeting of a bankrupt's creditors shall not be able or required to carry out its functions at any time when the official receiver is the trustee of the bankrupt's estate, but at any such time the functions of that committee under this Part shall be vested in the Secretary of State, except to the extent that the rules otherwise provide.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) Where in the case of any bankruptcy there is for the time being no committee established under section 148 above and the trustee of the bankrupt's estate is a person other than the official receiver, the functions of such a committee shall be vested in the Secretary of State, except to the extent that the rules otherwise provide.

150 General control of trustee by court

- (1) If a bankrupt or any of his creditors or any other person is dissatisfied by any act, omission or decision of a trustee of the bankrupt's estate, he may apply to the court; and on such an application the court may confirm, reverse or modify any act or decision of the trustee, may give him directions or may make such other order as it thinks fit.
- (2) The trustee of a bankrupt's estate may apply to the court for directions in relation to any particular matter arising under the bankruptcy.

151 Liability of trustee

- (1) Without prejudice to any liability arising apart from this section, where on an application under this section the court is satisfied—
- (a) that the trustee of a bankrupt's estate has misapplied or retained, or become accountable for, any money or other property comprised in the bankrupt's estate ; or
 - (b) that a bankrupt's estate has suffered any loss in consequence of any misfeasance or breach of fiduciary or other duty by a trustee of that estate in the carrying out of his functions,
- the court may order the trustee, for the benefit of the bankrupt's estate, to repay, restore or account for money or other property (together with interest at such rate as the court thinks just) or, as the case may require, to pay such sum by way of compensation in respect of the misfeasance or breach of fiduciary or other duty as the court thinks just.
- (2) An application under this section may be made by the official receiver, the Secretary of State, a creditor of the bankrupt or (whether or not there is, or is likely to be, a surplus for the purposes of section 167(5) below) the bankrupt himself, but the leave of the court shall be required for the making of an application if it is to be made by the bankrupt or if it is to be made after the trustee has had his release under section 146 above.
- (3) Where—
- (a) the trustee of a bankrupt's estate seizes or disposes of any property which is not comprised in the bankrupt's estate; and
 - (b) at the time of the seizure or disposal the trustee believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property,
- the trustee shall not be liable to any person (whether under this section or otherwise) in respect of any loss or damage resulting from the seizure or disposal except in so far as that loss or damage is caused by the negligence of the trustee and shall have a lien on the property, or the proceeds of its sale, for such of the expenses of the bankruptcy as were incurred in connection with the seizure or disposal.