



Insolvency Act 1985

1985 CHAPTER 65

PART III

INDIVIDUAL INSOLVENCY

CHAPTER X

SUPPLEMENTAL

204 Time limits

Where by this Part or by the rules the time for doing anything is limited, the court may extend the time, either before or after it has expired, on such terms, if any, as it thinks fit.

205 Formal defects

The acts of a person as the trustee of a bankrupt's estate or as a special manager and the acts of a committee established under section 148 above, shall be valid notwithstanding any defect in the appointment, election or qualifications of the trustee or manager or, as the case may be, of any member of the committee.

206 Exemption from stamp duty

Stamp duty shall not be charged on—

- (a) any document, being a deed, conveyance, assignment, surrender, admission or other assurance relating solely to property which is comprised in a bankrupt's estate and which, after the execution of that document, is or remains at law or in equity the property of the bankrupt or of the trustee of that estate;
- (b) any writ, order, certificate or other instrument relating solely to the property of a bankrupt or to any bankruptcy proceedings.

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207 Individual insolvency rules

- (1) The Lord Chancellor may, with the concurrence of the Secretary of State, make rules for the purpose of giving effect to this Part.
- (2) Without prejudice to the generality of subsection (1) above or to any provision of this Part by virtue of which rules under this section may be made with respect to any matter, rules under this section may contain—
 - (a) any such provision as is specified in Schedule 7 to this Act or corresponds to provision contained immediately before the coming into force of this section in rules made under section 132 of the Bankruptcy Act 1914; and
 - (b) such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor necessary or expedient.
- (3) Rules under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations made by the Secretary of State under a power conferred by rules under this section shall be made by statutory instrument and, after being made, shall be laid before each House of Parliament.
- (5) Nothing in this section or section 208 below shall be taken as prejudicing any power to make rules of court.

208 Fees orders

- (1) There shall be paid in respect of—
 - (a) proceedings under this Part; and
 - (b) the performance by the official receiver or the Secretary of State of functions under this Part,such fees as the Lord Chancellor may with the sanction of the Treasury by order direct; and the Treasury may by order direct by whom and in what manner the fees are to be collected and accounted for.
- (2) The Lord Chancellor may, with the sanction of the Treasury, by order provide for sums to be deposited, by such persons, in such manner and in such circumstances as may be specified in the order, by way of security for—
 - (a) fees payable by virtue of this section ; and
 - (b) fees payable to any person who has prepared a report under section 123(3) above.
- (3) An order under this section may contain such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor or, as the case may be, the Treasury necessary or expedient.
- (4) An order under this section shall be made by statutory instrument and, after being made, shall be laid before each House of Parliament.
- (5) Fees payable by virtue of this section shall be paid into the Consolidated Fund.

209 Orders prescribing monetary limits

- (1) The Secretary of State may by order prescribe amounts for the purposes of the following provisions of this Part—

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- (a) section 123 ;
- (b) section 179(3);
- (c) section 184(2) and (3);
- (d) section 187(2);
- (e) section 189(1);
- (f) section 190(2); and
- (g) section 194(2)(d);

and references in this Part to the amount prescribed for the purposes of any of those provisions, and references in those provisions to the prescribed amount, shall be construed accordingly.

- (2) An order under this section may contain such transitional provisions as may appear to the Secretary of State necessary or expedient.
- (3) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

210 Annual report

As soon as practicable after the end of 1986 and each subsequent calendar year, the Secretary of State shall prepare and lay before each House of Parliament a report about the operation during that year of this Part and about proceedings in the course of that year under the Deeds of Arrangement Act 1914.

211 Interpretation of Part III

- (1) In this Part, except in so far as the context otherwise requires—

" bankrupt" means an individual who has been adjudged bankrupt and, in relation to a bankruptcy order, means the individual adjudged bankrupt by that order;

" bankruptcy debt", in relation to a bankrupt, means (subject to subsection (2) below) any of the following—

- (a) any debt or liability to which he is subject at the commencement of the bankruptcy;
- (b) any debt or liability to which he may become subject after the commencement of the bankruptcy (including after his discharge from bankruptcy) by reason of any obligation incurred before the commencement of the bankruptcy;
- (c) any amount specified in pursuance of section 39(3) of the Powers of Criminal Courts Act 1973 in any criminal bankruptcy order made against him before the commencement of the bankruptcy; and
- (d) any interest provable as mentioned in section 163(2) above;

"bankruptcy order" means an order adjudging an individual bankrupt;

" bankruptcy petition " means a petition to the court for a bankruptcy order;

" the court ", in relation to any matter, means the court to which, in accordance with section 201 above and the rules, proceedings with respect to that matter are allocated or transferred;

" creditor "—

- (a) in relation to a bankrupt, means a person to whom any of the bankruptcy debts is owed (being, in the case of an amount falling within paragraph of

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the definition of "bankruptcy debt", the person in respect of whom that amount is specified in the criminal bankruptcy order in question); and

- (b) in relation to an individual to whom a bankruptcy petition relates, means a person who would be a creditor in the bankruptcy if a bankruptcy order were made on that petition ;

"creditor's petition " means a bankruptcy petition under section 119(1)(a) above;

"criminal bankruptcy order " means an order under section 39(1) of the Powers of Criminal Courts Act 1973 ;

"debt" shall be construed in accordance with subsection (3) below;

"the debtor"—

- (a) in relation to a proposal for the purposes of Chapter I of this Part, means the individual making or intending to make that proposal; and
 (b) in relation to a bankruptcy petition, means the individual to whom the petition relates :

"debtor's petition" means a bankruptcy petition under section 119(1)(b) above;

"dwelling house" includes any building or part of a building which is occupied as a dwelling and any yard, garden, garage or outhouse belonging to the dwelling house and occupied with it;

"estate", in relation to a bankrupt, shall be construed in accordance with section 130 above ;

"family ", in relation to a bankrupt, means the persons (if any) who are living with him and are dependent on him;

"liability " means, subject to subsection (3) below, a liability to pay money or money's worth, including any liability under any enactment, any liability for breach of trust, any liability in contract, tort or bailment and any liability arising out of an obligation to make restitution ;

"prescribed" means (subject to section 209 above) prescribed by the rules;

"the rules " means rules made under section 207 above ;

"secured" and related expressions shall be construed in accordance with subsections (5) to (7) below.

- (2) In determining for the purposes of this Part whether any liability in tort is a bankruptcy debt the bankrupt shall be deemed to become subject to that liability by reason of an obligation incurred at the time when the cause of action accrued.
- (3) For the purposes of references in this Part to a debt or liability it shall be immaterial whether the debt or liability is present or future, whether it is certain or contingent or whether its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion; and references in this Part to owing a debt shall be construed accordingly.
- (4) References in this Part to a person's affairs include references to his business, if any.
- (5) Subject to subsections (6) and (7) below and any provision of the rules requiring a creditor to give up his security for the purposes of proving a debt, a debt is secured for the purposes of this Part to the extent that the person to whom the debt is owed holds any security for the debt (whether a mortgage, charge, lien or other security) over any property of the person by whom the debt is owed.

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- (6) Where a statement such as is mentioned in section 120(5)(a) above has been made by a secured creditor for the purposes of any bankruptcy petition and a bankruptcy order is subsequently made on that petition, the creditor shall be deemed for the purposes of this Part to have given up the security specified in the statement.
- (7) In subsection (5) above the reference to a security does not include a reference to a lien on books, papers or other records, except to the extent that they consist of documents which give a title to property and are held as such.