



Insolvency Act 1985

1985 CHAPTER 65

PART III

INDIVIDUAL INSOLVENCY

CHAPTER VI

EFFECT OF BANKRUPTCY ON CERTAIN RIGHTS, TRANSACTIONS ETC

Rights of occupation

171 Rights of occupation etc. of bankrupt's spouse

- (1) Nothing occurring in the period to which section 131 above applies shall be taken as having given rise to any rights of occupation under the Matrimonial Homes Act 1983 in relation to a dwelling house comprised in a bankrupt's estate.
- (2) Where a spouse's rights of occupation under the said Act of 1983 are a charge on the estate or interest of the other spouse or of trustees for the other spouse and the other spouse is adjudged bankrupt—
 - (a) the charge shall continue to subsist notwithstanding the bankruptcy and, subject to the provisions of that Act, shall bind the trustee of the bankrupt's estate and persons deriving title under that trustee; and
 - (b) any application for an order under section 1 of that Act shall be made to the court having jurisdiction in relation to the bankruptcy.
- (3) Where a person and his spouse or former spouse are trustees for sale of a dwelling house and that person is adjudged bankrupt, any application by the trustee of the bankrupt's estate for an order under section 30 of the Law of Property Act 1925 (powers of court where trustees for sale refuse to exercise powers) shall be made to the court having jurisdiction in relation to the bankruptcy.

Status: This is the original version (as it was originally enacted).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

- (4) On such an application as is mentioned in subsection (2) or (3) above the court shall make such order under the said section 1 or the said section 30 as it thinks just and reasonable having regard to the interests of the bankrupt's creditors, to the conduct of the spouse or former spouse so far as contributing to the bankruptcy, to the needs and financial resources of the spouse or former spouse, to the needs of any children and to all the circumstances of the case other than the needs of the bankrupt.
- (5) Where such an application is made after the end of the period of one year beginning with the first vesting, under Chapter V of this Part, of the bankrupt's estate in a trustee, the court shall assume, unless the circumstances of the case are exceptional, that the interests of the bankrupt's creditors outweigh all other considerations.