



Insolvency Act 1985

1985 CHAPTER 65

PART III

INDIVIDUAL INSOLVENCY

CHAPTER VI

EFFECT OF BANKRUPTCY ON CERTAIN RIGHTS, TRANSACTIONS ETC

Transactions etc.

180 Distress etc.

- (1) The right of any landlord or other person to whom rent is payable to distrain upon the goods and effects of an undischarged bankrupt for rent due to him from the bankrupt shall be available (subject to subsection (5) below) against goods and effects comprised in the bankrupt's estate but only for six months' rent accrued due before the commencement of the bankruptcy.
- (2) Where a landlord or other person to whom rent is payable has distrained for rent upon the goods and effects of an individual to whom a bankruptcy petition relates and a bankruptcy order is subsequently made on that petition, any amount recovered by way of that distress which—
 - (a) is in excess of the amount which by virtue of subsection (1) above would have been recoverable after the commencement of the bankruptcy ; or
 - (b) is in respect of rent for a period or part of a period after the distress was levied, shall be held for the bankrupt as part of his estate.
- (3) Where any person (whether or not a landlord or person entitled to rent) has distrained upon the goods or effects of an individual who is adjudged bankrupt before the end of the period of three months beginning with the distraint, so much of those goods or effects, or of the proceeds of sale of those goods or effects, as is not held for the bankrupt under subsection (2) above shall be charged for the benefit of the bankrupt's

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estate with-the preferential debts of the bankrupt to the extent that the bankrupt's estate is for the time being insufficient for meeting them.

- (4) Where by virtue of any charge under subsection (3) above any person surrenders any goods or effects to the trustee of a bankrupt's estate or makes a payment to such a trustee, that person shall, in respect of the amount of the proceeds of the sale of those goods or effects by the trustee or, as the case may be, the amount of the payment, rank as a preferential creditor of the bankrupt, except as against so much of the bankrupt's estate as is available for the payment of preferential creditors by virtue of the surrender or payment.
- (5) A landlord or other person to whom rent is payable shall not at any time after the discharge of a bankrupt be entitled to distrain upon any goods or effects comprised in the bankrupt's estate.
- (6) Where in the case of any execution—
 - (a) a landlord is (apart from this section) entitled under section 1 of the Landlord and Tenant Act 1709 or section 102 of the County Courts Act 1984 (claims for rent where goods seized in execution) to claim for an amount not exceeding one year's rent; and
 - (b) the person against whom the execution is levied is adjudged bankrupt before the notice of claim is served on the sheriff or other officer charged with the execution,the right of the landlord to claim under that section shall be restricted to a right to claim for an amount not exceeding six months' rent and shall not extend to any rent payable in respect of a period after the notice of claim is so served.
- (7) Nothing in subsection (6) above shall impose any liability on a sheriff or other officer charged with an execution to account to the official receiver or the trustee of a bankrupt's estate for any sums paid by him to a landlord at any time before the sheriff or other officer was served with notice of the bankruptcy order in question; but this subsection is without prejudice to the liability of the landlord.
- (8) Nothing in this Part shall affect any right to distrain otherwise than for rent, and any such right shall at any time be exercisable without restriction against property comprised in a bankrupt's estate, even if that right is expressed by any enactment to be exercisable in like manner as a right to distrain for rent.
- (9) Any right to distrain against property comprised in a bankrupt's estate shall be exercisable notwithstanding that the property has vested in the trustee of that estate.
- (10) The provisions of this section are without prejudice to a landlord's right in a bankruptcy to prove for any bankruptcy debt in respect of rent.