



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IX

#### BANKRUPTCY

#### CHAPTER V

##### EFFECT OF BANKRUPTCY ON CERTAIN RIGHTS TRANSACTIONS, ETC.

##### *Rights of occupation*

### **336 Rights of occupation etc. of bankrupt's spouse [<sup>F1</sup>or civil partner].**

- (1) Nothing occurring in the initial period of the bankruptcy (that is to say, the period beginning with the day of the [<sup>F2</sup>making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy petition] and ending with the vesting of the bankrupt's estate in a trustee) is to be taken as having given rise to any [<sup>F3</sup>[<sup>F4</sup>home rights] under Part IV of the Family Law Act 1996] in relation to a dwelling house comprised in the bankrupt's estate.
- (2) Where [<sup>F5</sup>a spouse's or civil partner's home rights][<sup>F6</sup>under the Act of 1996] are a charge on the estate or interest of the other spouse [<sup>F7</sup>or civil partner], or of trustees for the other spouse [<sup>F7</sup>or civil partner], and the other spouse [<sup>F7</sup>or civil partner] is [<sup>F8</sup>made] bankrupt—
  - (a) the charge continues to subsist notwithstanding the bankruptcy and, subject to the provisions of that Act, binds the trustee of the bankrupt's estate and persons deriving title under the trustee, and
  - (b) any application for an order [<sup>F9</sup>under section 33 of that Act] shall be made to the court having jurisdiction in relation to the bankruptcy.

<sup>F10</sup>(3) .....

*Changes to legislation: Insolvency Act 1986, Section 336 is up to date with all changes known to be in force on or before 20 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (4) On such an application as is mentioned in subsection (2) <sup>F11</sup> . . . the court shall make such order under [<sup>F12</sup>section 33 of the Act of 1996]. . . as it thinks just and reasonable having regard to—
- (a) the interests of the bankrupt’s creditors,
  - (b) the conduct of the spouse or former spouse [<sup>F13</sup>or civil partner or former civil partner], so far as contributing to the bankruptcy,
  - (c) the needs and financial resources of the spouse or former spouse [<sup>F13</sup>or civil partner or former civil partner],
  - (d) the needs of any children, and
  - (e) 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 IV 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.

#### Textual Amendments

- F1** Words in heading to s. 336 inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 21\(5\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F2** Words in s. 336(1) substituted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 29\(2\)](#); S.I. 2016/191, [art. 2](#) (with [art. 3](#))
- F3** Words in s. 336(1) substituted (1.10.1997) by [1996 c. 27](#), s. 66(1), [Sch. 8 Pt. III para. 57\(2\)](#) (with [Sch. 9 paras. 8-10](#)); S.I. 1997/1892, [art. 3\(1\)\(b\)](#)
- F4** Words in s. 336(1) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 21\(2\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F5** Words in s. 336(2) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 21\(3\)\(a\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F6** Words in s. 336(2) substituted (1.10.1997) by [1996 c. 27](#), s. 66(1), [Sch. 8 Pt. III para. 57\(3\)\(a\)](#) (with [Sch. 9 paras. 8-10](#)); S.I. 1997/1892, [art. 3\(1\)\(b\)](#)
- F7** Words in s. 336(2) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 21\(3\)\(b\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F8** Word in s. 336(2) substituted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 29\(3\)](#); S.I. 2016/191, [art. 2](#) (with [art. 3](#))
- F9** Words in s. 336(2)(b) substituted (1.10.1997) by [1996 c. 27](#), s. 66(1), [Sch. 8 Pt. III para. 57\(3\)\(b\)](#) (with [Sch. 9 paras. 8-10](#)); S.I. 1997/1892, [art. 3\(1\)\(b\)](#)
- F10** S. 336(3) repealed (1.1.1997) by [1996 c. 47](#), s. 25(2), [Sch. 4](#) (with ss. 24(2), 25(4)); S.I. 1996/2974, [art. 2](#)
- F11** Words in s. 336(4) repealed (1.1.1997) by [1996 c. 47](#), s. 25(2), [Sch. 4](#) (with ss. 24(2), 25(4)); S.I. 1996/2974, [art. 2](#)
- F12** Words in s. 336(4) substituted (1.10.1997) by [1996 c. 27](#), s. 66(1), [Sch. 8 Pt. III para. 57\(4\)](#) (with [Sch. 9 paras. 8-10](#)); S.I. 1997/1892, [art. 3\(1\)\(b\)](#)
- F13** Words in s. 336(4)(b)(c) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 21\(4\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1

**Changes to legislation:**

Insolvency Act 1986, Section 336 is up to date with all changes known to be in force on or before 20 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act amendment to earlier affecting provision S.I. 1986/1999, art. 3, Sch. 1 Pt. 2 by [S.I. 2017/1119 Sch. 3 para. 1](#)
- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 41HB(2) words substituted by [2018 c. 14 s. 1\(3\)\(b\)](#)