



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IX

#### BANKRUPTCY

#### CHAPTER I

##### BANKRUPTCY PETITIONS; BANKRUPTCY ORDERS

##### *Commencement and duration of bankruptcy; discharge*

#### **281 Effect of discharge.**

- (1) Subject as follows, where a bankrupt is discharged, the discharge releases him from all the bankruptcy debts, but has no effect—
  - (a) on the functions (so far as they remain to be carried out) of the trustee of his estate, or
  - (b) on the operation, for the purposes of the carrying out of those functions, of the provisions of this Part;and, in particular, discharge does not affect the right of any creditor of the bankrupt to prove in the bankruptcy for any debt from which the bankrupt is released.
- (2) Discharge does not affect the right of any secured creditor of the bankrupt to enforce his security for the payment of a debt from which the bankrupt is released.
- (3) Discharge does not release the bankrupt from any bankruptcy debt which he incurred in respect of, or forbearance in respect of which was secured by means of, any fraud or fraudulent breach of trust to which he was a party.
- (4) Discharge does not release the bankrupt from any liability in respect of a fine imposed for an offence or from any liability under a recognisance except, in the case of a penalty imposed for an offence under an enactment relating to the public revenue or of a recognisance, with the consent of the Treasury.

*Status: Point in time view as at 24/03/2003. This version of this provision has been superseded.*

*Changes to legislation: Insolvency Act 1986, Section 281 is up to date with all changes known to be in force on or before 17 April 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)*

- [<sup>F1</sup>(4A) In subsection (4) the reference to a fine includes a reference to a confiscation order under Part 2, 3 or 4 of the Proceeds of Crime Act 2002.]
- (5) Discharge does not, except to such extent and on such conditions as the court may direct, release the bankrupt from any bankruptcy debt which—
- (a) consists in a liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other duty, [<sup>F2</sup>or to pay damages by virtue of Part I of the Consumer Protection Act 1987, being in either case] damages in respect of personal injuries to any person, or
  - (b) arises under any order made in family proceedings [<sup>F3</sup>or under a [<sup>F4</sup>maintenance calculation] made under the Child Support Act 1991]. . .
- (6) Discharge does not release the bankrupt from such other bankruptcy debts, not being debts provable in his bankruptcy, as are prescribed.
- (7) Discharge does not release any person other than the bankrupt from any liability (whether as partner or co-trustee of the bankrupt or otherwise) from which the bankrupt is released by the discharge, or from any liability as surety for the bankrupt or as a person in the nature of such a surety.
- (8) In this section—
- <sup>F5</sup>“family proceedings” means—
- (a) family proceedings within the meaning of the <sup>M1</sup> Magistrates’ Courts Act 1980 and any proceedings which would be such proceedings but for section 65(1)(ii) of that Act (proceedings for variation of order for periodical payments); and
  - (b) family proceedings within the meaning of Part V of the <sup>M2</sup> Matrimonial and Family Proceedings Act 1984.]
- “fine” means the same as in the Magistrates’ Courts Act 1980; and
- “personal injuries” includes death and any disease or other impairment of a person’s physical or mental condition.

#### Textual Amendments

- F1** S. 281(4A) inserted (24.3.2003) by 2002 c. 29, ss. 456, 458(1)(3), Sch. 11 para. 16(2); S.I. 2003/333, art. 2, Sch. (subject to arts. 3-13 (as amended by S.I. 2003/531, arts. 3, 4)); S.S.I. 2003/210, art. 2, Sch. (subject to arts. 3-7)
- F2** Words substituted by Consumer Protection Act 1987 (c. 43, SIF 109:1), ss. 41(2), 47(1)(2), 48, Sch. 4 para. 12
- F3** Words in s. 281(5)(b) inserted (5.4.1993) by Child Support Act 1991 (c. 48), s. 58(13), Sch. 5 para. 7; S.I. 1992/2644, art. 2
- F4** Words in s. 281(5)(b) substituted (3.3.2003 for specified purposes, otherwise prosp.) by 2000 c. 19, ss. 26, 86(1)(2), Sch. 3 para. 6 (with s. 83(6)); S.I. 2003/192, art. 3, Sch.
- F5** Definition of "family proceedings" substituted (14.10.1991) for the definitions of "domestic proceedings" and "family proceedings" by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), Sch. 11 Pt. II para. 11(2), Sch. 14 para. 1(1); S.I. 1991/828, art. 3(2)

#### Modifications etc. (not altering text)

- C1** S. 281(4) extended by Drug Trafficking Offences Act 1986 (c. 32, SIF 39:1), s. 39(5)  
 S. 281(4) extended (3.2.1995) by 1994 c. 37, ss. 65(3), 69(2) (with s. 66(2))  
 S. 281(4) extended (31.3.1996) by 1995 c. 20, s. 113(6); S.I. 1996/517, art. 3(2) (subject to transitional provisions and savings in arts. 4-6, Sch. 2)

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**Changes to legislation:** *Insolvency Act 1986, Section 281 is up to date with all changes known to be in force on or before 17 April 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)*

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S. 281(4) extended (S.) (1.4.1996) by 1995 c. 43, **ss. 47(4), 50(2)**

**C2** S. 281(4) amended by **Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1)**, SS. 123, 170, Sch. 8 para. 6, Sch. 15 para. 110

**C3** S. 281(4) amended by **Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1)**, SS. 45(4), 47(4)(a).

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**Marginal Citations**

**M1** 1980 c.43(82).

**M2** 1984 c.42(49:3).

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