



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XXIV

INSOLVENCY

Bankruptcy

372 Petitions.

- (1) The [^{F1}FCA] may present a petition to the court—
- (a) under section 264 of the 1986 Act (or Article 238 of the 1989 Order) for a bankruptcy order to be made against an individual; or
 - (b) under section [^{F2}2 or 5 of the 2016] Act for the sequestration of the estate of an individual.

- [^{F3}(1A) The PRA may present a petition to the court—
- (a) under section 264 of the 1986 Act (or Article 238 of the 1989 Order) for a bankruptcy order to be made against an individual who is a PRA-regulated person;
 - (b) under section [^{F4}2 or 5 of the 2016] Act for the sequestration of the estate of an individual who is a PRA-regulated person.]

- (2) But [^{F5}a petition may be presented by virtue of subsection (1) or (1A)] only on the ground that—
- (a) the individual appears to be unable to pay a regulated activity debt; or
 - (b) the individual appears to have no reasonable prospect of being able to pay a regulated activity debt.
- (3) An individual appears to be unable to pay a regulated activity debt if he is in default on an obligation to pay a sum due and payable under an agreement.
- (4) An individual appears to have no reasonable prospect of being able to pay a regulated activity debt if—

Status: Point in time view as at 13/03/2018.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Bankruptcy is up to date with all changes known to be in force on or before 16 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)

- (a) [^{F6}a regulator] has served on him a demand requiring him to establish to the satisfaction of [^{F7}that regulator] that there is a reasonable prospect that he will be able to pay a sum payable under an agreement when it falls due;
 - (b) at least three weeks have elapsed since the demand was served; and
 - (c) the demand has been neither complied with nor set aside in accordance with rules.
- (5) A demand made under subsection (4)(a) is to be treated for the purposes of the 1986 Act (or the 1989 Order) as if it were a statutory demand under section 268 of that Act (or Article 242 of that Order).
- (6) For the purposes of a petition presented in accordance with subsection (1)(b) [^{F8}or (1A)(b)]—
- (a) [^{F9}the regulator by which the petition is presented] is to be treated as a qualified creditor; and
 - (b) a ground mentioned in subsection (2) constitutes apparent insolvency.
- (7) “Individual” means an individual—
- (a) who is, or has been, an authorised person; or
 - (b) who is carrying on, or has carried on, a regulated activity in contravention of the general prohibition.
- (8) “Agreement” means an agreement the making or performance of which constitutes or is part of a regulated activity carried on by the individual concerned.
- (9) “Rules” means—
- (a) in England and Wales, rules made under section 412 of the 1986 Act;
 - (b) in Scotland, rules made by order by the Treasury, after consultation with the Scottish Ministers, for the purposes of this section; and
 - (c) in Northern Ireland, rules made under Article 359 of the 1989 Order.

Textual Amendments

- F1** Word in s. 372(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 14 para. 20\(2\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F2** Words in s. 372(1)(b) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\), art. 1, Sch. 1 para. 20\(6\)](#)
- F3** S. 372(1A) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 14 para. 20\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F4** Words in s. 372(1A)(b) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\), art. 1, Sch. 1 para. 20\(6\)](#)
- F5** Words in s. 372(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 14 para. 20\(4\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F6** Words in s. 372(4)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 14 para. 20\(5\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F7** Words in s. 372(4)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 14 para. 20\(5\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F8** Words in s. 372(6) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 14 para. 20\(6\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F9** Words in s. 372(6)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 14 para. 20\(6\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.

Status: Point in time view as at 13/03/2018.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Bankruptcy is up to date with all changes known to be in force on or before 16 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)

Commencement Information

- II** S. 372 wholly in force at 1.12.2001; s. 372 not in force at Royal Assent see s. 431(2); s. 372 in force for certain purposes at 20.7.2001 by S.I. 2001/2632, art. 2(1), Sch. Pt. 1; s. 372 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, art. 2(1)

373 Insolvency practitioner’s duty to report ^{F10}to FCA and PRA].

- (1) If—
- (a) a bankruptcy order or sequestration award is in force in relation to an individual ^{F11}..., and
 - (b) it appears to the insolvency practitioner that the individual is carrying on, or has ^{F12}carried on—
 - (i) a regulated activity in contravention of the general prohibition, or
 - (ii) a credit-related regulated activity in contravention of section 20,]
- the insolvency practitioner must report the matter ^{F13}without delay to the FCA and, if the regulated activity concerned is a PRA-regulated activity, to the PRA].

^{F14}(1A) Subsection (1) does not apply where—

- (a) the bankruptcy order or sequestration award is in force by virtue of a petition presented by a regulator, and
 - (b) the regulator's petition depended on a contravention by the individual of the general prohibition.]
- (2) “Bankruptcy order” means a bankruptcy order under Part IX of the 1986 Act (or Part IX of the 1989 Order).
- (3) “Sequestration award” means an award of sequestration under section ^{F15}22 of the 2016] Act.
- (4) “Individual” includes an entity mentioned in section 374(1)(c).

Textual Amendments

- F10** Words in s. 373 heading substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 14 para. 21(4) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F11** Words in s. 373(1)(a) omitted (1.4.2013) by virtue of Financial Services Act 2012 (c. 21), s. 122(3), Sch. 14 para. 21(2)(a) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F12** Words in s. 373(1)(b) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 14 para. 21(2)(b) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F13** Words in s. 373(1) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 14 para. 21(2)(c) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F14** S. 373(1A) inserted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 14 para. 21(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F15** Words in s. 373(3) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, Sch. 1 para. 20(7)

374 ^{F16}Powers of FCA or PRA] to participate in proceedings.

- (1) This section applies if a person ^{F17}... presents a petition to the court—

Status: Point in time view as at 13/03/2018.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Bankruptcy is up to date with all changes known to be in force on or before 16 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)

- (a) under section 264 of the 1986 Act (or Article 238 of the 1989 Order) for a bankruptcy order to be made against an individual;
 - (b) under section [F¹⁸2 or 5 of the 2016] Act for the sequestration of the estate of an individual; or
 - (c) under section 6 of the [F¹⁹2016] Act for the sequestration of the estate belonging to or held for or jointly by the members of an entity mentioned in subsection (1) of that section.
- (2) The [F²⁰appropriate regulator] is entitled to be heard—
- (a) at the hearing of the petition; and
 - (b) at any other hearing in relation to the individual or entity under—
 - (i) Part IX of the 1986 Act;
 - (ii) Part IX of the 1989 Order; or
 - (iii) the [F²¹2016] Act.
- (3) [F²²In the case of a petition presented under Article 238 of the 1989 Order, a copy of the report prepared under Article 248 of that Order] must also be sent to the [F²⁰appropriate regulator].
- (4) A person appointed for the purpose by the [F²⁰appropriate regulator] is entitled—
- (a) to attend any meeting of creditors of the individual or entity;
 - (b) to attend any meeting of a committee established under section 301 of the 1986 Act (or Article 274 of the 1989 Order);
 - (c) to attend any meeting of commissioners held under paragraph [F²³26 or 27 of schedule 6 to the 2016] Act; and
 - (d) to make representations as to any matter for decision at such a meeting.
- [F²⁴(4A) The appropriate regulator or a person appointed by the appropriate regulator is entitled to participate in (but not vote in) a creditors’ decision procedure by which a decision about any matter is sought from the creditors of the individual or entity.]
- (5) “Individual” means an individual who—
- (a) is, or has been, an authorised person; or
 - (b) is carrying on, or has carried on, a regulated activity in contravention of the general prohibition.
- (6) “Entity” means an entity which—
- (a) is, or has been, an authorised person; or
 - (b) is carrying on, or has carried on, a regulated activity in contravention of the general prohibition.
- [F²⁵[F²⁶(7) “The appropriate regulator” means—
- (a) where the individual or entity is a PRA-regulated person, each of the FCA and the PRA, except that the references in subsections (4) and (4A) to a person appointed by the appropriate regulator are to be read as references to a person appointed by either the FCA or the PRA;
 - (b) in any other case, the FCA.]
- (8) But where the petition was presented by a regulator “the appropriate regulator” does not include the regulator which presented the petition.]

Status: Point in time view as at 13/03/2018.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Bankruptcy is up to date with all changes known to be in force on or before 16 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)

Textual Amendments

- F16** Words in s. 374 heading substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 22\(5\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F17** Words in s. 374(1) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 22\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F18** Words in s. 374(1)(b) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 20\(8\)\(a\)\(i\)](#)
- F19** Word in s. 374(1)(c) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 20\(8\)\(a\)\(ii\)](#)
- F20** Words in s. 374(2)-(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 22\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F21** Word in s. 374(2)(b)(iii) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 20\(8\)\(b\)](#)
- F22** Words in s. 374(3) substituted (6.4.2016) by [The Enterprise and Regulatory Reform Act 2013 \(Consequential Amendments\) \(Bankruptcy\)](#) and the [Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/481\)](#), reg. 1, [Sch. 1 para. 13](#)
- F23** Words in s. 374(4)(c) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 20\(8\)\(c\)](#)
- F24** S. 374(4A) inserted (13.3.2018) by [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2018 \(S.I. 2018/208\)](#), regs. 1(3), [4\(7\)\(a\)](#) (with reg. 17)
- F25** S. 374(7)(8) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 22\(4\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F26** S. 374(7) substituted (13.3.2018) by [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2018 \(S.I. 2018/208\)](#), regs. 1(3), [4\(7\)\(b\)](#) (with reg. 17)

Status:

Point in time view as at 13/03/2018.

Changes to legislation:

Financial Services and Markets Act 2000, Cross Heading: Bankruptcy is up to date with all changes known to be in force on or before 16 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.