

## **DEREGULATION ACT 2015**

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### **EXPLANATORY NOTES**

#### **COMMENTARY ON SECTIONS**

#### *Schedule 6: Insolvency and company law*

#### **Part 5: Bankruptcy**

#### **Statement of affairs**

583. *Paragraph 15* amends section 288 of the Insolvency Act 1986 and like that section of that Act forms part of the law of England and Wales only. The amendments replace the requirement on every person subject to a bankruptcy order on a creditor's petition to deliver a statement of affairs to the official receiver, with a discretionary power for the official receiver to require a statement of affairs from that person.
584. At present there is a requirement for a statement of affairs to be submitted in every bankruptcy. A debtor who petitions for their own bankruptcy is required to submit a statement of affairs with their petition. Where a creditor petitions the bankrupt person is required to submit a statement of affairs within 21 days of the bankruptcy order, unless either the official receiver or the court releases him from doing so or extend the 21 day period. Failure to comply with this requirement without reasonable excuse constitutes contempt of court under section 288(4) of the Insolvency Act 1986.
585. In the latter case, the bankrupt person will not usually provide a statement of affairs due to lack of awareness of the requirement. Currently a person made bankrupt on a creditor's petition is only likely to submit a statement of affairs when the official receiver requests it, for example if further investigations are being undertaken. The official receiver often obtains the required information by other means but may not formally release the bankrupt from the requirement.
586. The amendments to section 288 seek to reduce the burden on bankrupt individuals by providing that a statement of affairs is not required in a case where a creditor presented the petition unless requested by the official receiver. This mirrors the position where a company has been wound up by the court (see section 131 of the Insolvency Act 1986).
587. The statement of affairs may be requested by the official receiver at any time until the bankrupt person's discharge from bankruptcy. It must be submitted in a prescribed form and, unless the official receiver or the court extends the period, within 21 days of the official receiver requiring it.
588. *Paragraph 15* will come into force on a day to be appointed by the Secretary of State in a commencement order.