



Insolvency Act 1985

1985 CHAPTER 65

PART III

INDIVIDUAL INSOLVENCY

CHAPTER VIII

POWERS OF COURT IN BANKRUPTCY

193 General control of court

- (1) Every bankruptcy shall be under the general control of the court and, subject to the provisions of this Part, the court shall have full power to decide all questions of priorities and all other questions, whether of law or fact, arising in any bankruptcy.
- (2) Without prejudice to any other provision of this Part, an undischarged bankrupt or a discharged bankrupt whose estate is still being administered under Chapter V of this Part shall do all such things as he may be directed to do by the court for the purposes of his bankruptcy or, as the case may be, the administration of that estate.
- (3) The official receiver or the trustee of a bankrupt's estate may at any time apply to the court for a direction under subsection (2) above.
- (4) If any person without reasonable excuse fails to comply with any obligation imposed on him by subsection (2) above, he shall, in addition to any other punishment to which he may be subject, be guilty of contempt of court and liable to be punished accordingly.

194 Power of arrest

- (1) In the cases specified in subsection (2) below the court may cause a warrant to be issued to a constable or prescribed officer of the court—
 - (a) for the arrest of a debtor to whom a bankruptcy petition relates or of an undischarged bankrupt or of a discharged bankrupt whose estate is still being administered under Chapter V of this Part; and

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- (b) for the seizure of any books, papers, records, money or goods in the possession of a person arrested under the warrant;
and may authorise a person arrested under such a warrant to be kept in custody, and anything seized under such a warrant to be held, in accordance with the rules, until such time as the court may order.
- (2) The powers conferred by subsection (1) above shall be exercisable in relation to a debtor or undischarged or discharged bankrupt if, at any time after the presentation of the bankruptcy petition relating to him or the making of the bankruptcy order against him, it appears to the court—
- (a) that there are reasonable grounds for believing that he has absconded, or is about to abscond, with a view to avoiding or delaying the payment of any of his debts or his appearance to a bankruptcy petition or to avoiding, delaying or disrupting any proceedings in bankruptcy against him or any examination of his affairs;
- or
- (b) that he is about to remove his goods with a view to preventing or delaying possession being taken of them by the official receiver or the trustee of his estate; or
- (c) that there are reasonable grounds for believing that he has concealed or destroyed, or is about to conceal or destroy, any of his goods or any books, papers or records which might be of use to his creditors in the course of his bankruptcy or in connection with the administration of his estate ; or
- (d) that he has, without the leave of the official receiver or the trustee of his estate, removed any goods in his possession which exceed in value such sum as may be prescribed for the purposes of this paragraph ; or
- (e) that he has failed, without reasonable excuse, to attend any examination ordered by the court.

195 Seizure of bankrupt's property

- (1) At any time after a bankruptcy order has been made, the court may, on the application of the official receiver or the trustee of the bankrupt's estate, issue a warrant authorising the person to whom it is directed to seize any property comprised in the bankrupt's estate which is, or any books, papers or records relating to the bankrupt's estate or affairs which are, in the possession or under the control of the bankrupt or any other person who is required to deliver the property, books, papers or records to the official receiver or trustee.
- (2) Any person executing a warrant under this section may, for the purpose of seizing any property comprised in the bankrupt's estate or any books, papers or records relating to the bankrupt's estate or affairs, break open any premises where the bankrupt or anything that may be seized under the warrant is or is believed to be and any receptacle of the bankrupt which contains or is believed to contain anything that may be so seized.
- (3) If, after a bankruptcy order has been made, the court is satisfied that any property comprised in the bankrupt's estate is, or any books, papers or records relating to the bankrupt's estate or affairs are, concealed in any premises not belonging to him, it may issue a warrant authorising any constable or prescribed officer of the court to search those premises for the property, books, papers or records.

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- (4) A warrant under subsection (3) above shall not be executed except in the prescribed manner and in accordance with its terms.

196 Inquiry into bankrupt's dealings and property

- (1) At any time after a bankruptcy order has been made the court may, on the application of the official receiver or the trustee of the bankrupt's estate, summon to appear before it—

- (a) the bankrupt or the bankrupt's spouse or former spouse ;
- (b) any person known or believed to have any property comprised in the bankrupt's estate in his possession or to be indebted to the bankrupt;
- (c) any person appearing to the court to be able to give information concerning the bankrupt or the bankrupt's dealings, affairs or property ;

and the court may require any such person as is mentioned in paragraph (b) or (c) above to submit an affidavit to the court containing an account of his dealings with the bankrupt or to produce any documents in his possession or under his control relating to the bankrupt or the bankrupt's dealings, affairs or property.

- (2) Without prejudice to section 194 above, in a case where a person without reasonable excuse fails to appear before the court when he is summoned to do so under this section or there are reasonable grounds for believing that a person has absconded, or is about to abscond, with a view to avoiding his appearance before the court under this section, the court may, for the purpose of bringing that person and anything in his possession before the court, cause a warrant to be issued to a constable or prescribed officer of the court—

- (a) for the arrest of that person ; and
- (b) for the seizure of any books, papers, records, money or goods in that person's possession;

and may authorise a person arrested under such a warrant to be kept in custody, and anything seized under such a warrant to be held, in accordance with the rules, until that person is brought before the court under the warrant or until such other time as the court may order.

- (3) Any person who appears or is brought before the court under this section may be examined on oath, either orally or by interrogatories, concerning the bankrupt or the bankrupt's dealings, affairs and property.
- (4) If it appears to the court, on consideration of any evidence obtained under this section, that any person has in his possession any property comprised in the bankrupt's estate, the court may, on the application of the official receiver or the trustee of the bankrupt's estate, order that person to deliver the whole or any part of the property to the official receiver or trustee at such time, in such manner and on such terms as the court thinks fit.
- (5) If it appears to the court, on consideration of any evidence obtained under this section, that any person is indebted to the bankrupt, the court may, on the application of the official receiver or the trustee of the bankrupt's estate, order that person to pay to the official receiver or trustee, at such time and in such manner as the court may direct, the whole or part of the amount due, whether in full discharge of the debt or otherwise as the court thinks fit.

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- (6) The court may, if it thinks fit, order that any person who if within the jurisdiction of the court would be liable to be summoned to appear before it under this section shall be examined in any part of the United Kingdom where he may for the time being be, or in any place outside the United Kingdom.
- (7) This section shall apply where an interim receiver has been appointed under section 133 above as it applies where a bankruptcy order has been made as if—
 - (a) references to the official receiver or trustee of the bankrupt's estate were references to the interim receiver, and
 - (b) references to the bankrupt and to his estate were references, respectively, to the debtor and his property.

197 Power to order production of documents in custody of inland revenue official

- (1) For the purposes of an examination under section 137 above or proceedings under section 196 above, the court may, on the application of the official receiver or the trustee of the bankrupt's estate, order an inland revenue official to produce to the court—
 - (a) any return, account or accounts submitted (whether before or after the commencement of the bankruptcy) by the bankrupt to any inland revenue official;
 - (b) any assessment or determination made (whether before or after the commencement of the bankruptcy) in relation to the bankrupt by any inland revenue official; or
 - (c) any correspondence (whether before or after the commencement of the bankruptcy) between the bankrupt and any inland revenue official.
- (2) Where the court has made an order under subsection (1) above for the purposes of any examination or proceedings, the court may, at any time after the document to which the order relates is produced to it, by order authorise the disclosure of the document, or of any part of its contents, to the official receiver, the trustee of the bankrupt's estate or the bankrupt's creditors.
- (3) The court shall not address an order under subsection (1) above to an inland revenue official unless it is satisfied that that official is dealing, or has dealt, with the affairs of the bankrupt.
- (4) Where any document to which an order under subsection (1) above relates is not in the possession of the official to whom the order is addressed, it shall be the duty of that official to take all reasonable steps to secure possession of it and, if he fails to do so, to report the reasons for his failure to the court.
- (5) Where any document to which an order under subsection (1) above relates is in the possession of an inland revenue official other than the one to whom the order is addressed, it shall be the duty of the official in possession of the document, at the request of the official to whom the order is addressed, to deliver it to the official making the request.
- (6) In this section " inland revenue official " means any inspector or collector of taxes appointed by the Commissioners of Inland Revenue or any person appointed by the Commissioners to serve in any other capacity.

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- (7) This section shall not apply for the purposes of an examination under section 196 above which takes place by virtue of subsection (7) of that section.

198 Power to appoint special manager

- (1) The court may, on an application under this section, appoint any person to be the special manager of a bankrupt's estate or of the business of an undischarged bankrupt or of the property or business of a debtor in whose case the official receiver has been appointed interim receiver under section 133 above.
- (2) An application under this section may be made by the official receiver or the trustee of a bankrupt's estate in any case where it appears to the official receiver or trustee that the nature of the estate, property or business, or the interests of the creditors generally, require the appointment of another person to manage the estate, property or business.
- (3) A special manager appointed under this section shall have such powers as may be entrusted to him by the court.
- (4) The power of the court under subsection (3) above to entrust powers to a special manager shall include power to direct that any provision of this Part that has effect in relation to the official receiver, interim receiver or trustee shall have the like effect in relation to the special manager for the purposes of the carrying out by the special manager of any of the functions of the official receiver, interim receiver or trustee.
- (5) A special manager appointed under this section shall—
 - (a) give such security as may be prescribed ;
 - (b) prepare and keep such accounts as may be prescribed; and
 - (c) produce those accounts in accordance with the rules to the Secretary of State or to such other persons as may be prescribed.

199 Re-direction of bankrupt's letters etc.

- (1) Where a bankruptcy order has been made, the court may from time to time, on the application of the official receiver or the trustee of the bankrupt's estate, order the Post Office to re-direct and send or deliver to the official receiver or trustee or otherwise any postal packet (within the meaning of the Post Office Act 1953) which would otherwise be sent or delivered by them to the bankrupt at such place or places as may be specified in the order.
- (2) An order under this section shall have effect for such period, not exceeding three months, as may be specified in the order.