



Insolvency Act 1985

1985 CHAPTER 65

PART III

INDIVIDUAL INSOLVENCY

CHAPTER II

BANKRUPTCY ORDERS

Debtor's petition

123 Proceedings on debtor's petition

- (1) Subject to subsection (5) below, on the hearing of a debtor's petition the court shall not make a bankruptcy order if it appears to the court—
- (a) that if a bankruptcy order were made the aggregate amount of the bankruptcy debts so far as unsecured would be less than the small bankruptcies level;
 - (b) that if a bankruptcy order were made the value of the bankrupt's estate would be equal to or more than the minimum amount;
 - (c) that within the period of five years ending with the presentation of the petition the debtor has neither been adjudged bankrupt nor made a composition with his creditors in satisfaction of his debts or a scheme of arrangement of his affairs; and
 - (d) that it would be appropriate to appoint a person to prepare a report under subsection (3) below.
- (2) Where, on the hearing of a debtor's petition, it appears to the court as mentioned in subsection (1)(a) to (d) above, the court shall appoint a person who is qualified to act as an insolvency practitioner in relation to the debtor to prepare a report under subsection (3) below and, subject to section 115(3) above, to act in relation to any composition or scheme to which the report relates either as trustee or otherwise for the purpose of supervising its implementation.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (3) A person appointed under subsection (2) above shall inquire into the debtor's affairs and, within such period as the court may direct, shall submit a report to the court stating whether the debtor is willing, for the purposes of Chapter I of this Part, to make a proposal for a composition in satisfaction of his debts or for a scheme of arrangement of his affairs.
- (4) A report under subsection (3) above which states that the debtor is willing to make a proposal for the purposes of Chapter I of this Part shall also state—
- (a) whether, in the opinion of the person making the report, a meeting of the debtor's creditors should be summoned to consider the debtor's proposal; and
 - (b) if in that person's opinion such a meeting should be summoned, the date on which, and time and place at which, he proposes the meeting should be held.
- (5) On considering a report under subsection (3) above the court may—
- (a) make an order under section 112 above ; or
 - (b) if it thinks it would be inappropriate to make an order under that section, make a bankruptcy order.
- (6) Where—
- (a) the court makes a bankruptcy order in a case in which it appears to the court as mentioned in paragraphs (a) and (c) of subsection (1) above (whether it makes the order because it does not appear to the court as mentioned in paragraph (b) or
 - (a) of that subsection or it makes it under subsection (5) (b) above); and
 - (b) it appears to the court appropriate to do so,
- the court shall issue a certificate for the summary administration of the bankrupt's estate.
- (7) The court may at any time revoke a certificate issued under subsection (6) above if it appears to the court that, on any grounds existing at the time the certificate was issued, the certificate ought not to have been issued.
- (8) In this section " the minimum amount" and " the small bankruptcies level" mean such amounts as may for the time being be prescribed for the purposes of this section.