



Insolvency Act 1985

1985 CHAPTER 65

PART III

INDIVIDUAL INSOLVENCY

CHAPTER V

ADMINISTRATION BY TRUSTEE

Supplemental

170 Second bankruptcy

- (1) This section applies where a bankruptcy order is made against an undischarged bankrupt; and in this section—
 - (a) references to the later bankruptcy are references to the bankruptcy arising from that order ;
 - (b) references to the earlier bankruptcy are references to the bankruptcy (or, as the case may be, most recent bankruptcy) from which the bankrupt has not been discharged at the commencement of the later bankruptcy; and
 - (c) references to the existing trustee are references to the trustee (if any) of the bankrupt's estate for the purposes of the earlier bankruptcy.
- (2) Without prejudice to section 131 above, where the existing trustee has been given the prescribed notice of the presentation of the petition for the later bankruptcy, any distribution or other disposition by him of anything to which subsection (3) below applies shall, if made after the giving of the notice, be void except to the extent that it was made with the consent of the court or is or was subsequently ratified by the court.
- (3) This subsection applies to—
 - (a) any property which is vested in the existing trustee under section 154(3) above ;

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- (b) any money paid to the existing trustee in pursuance of an order under section 156 above ; and
 - (c) any property or money which is, or in the hands of the existing trustee represents, the proceeds of sale or application of property or money falling within paragraph (a) or (b) above.
- (4) With effect from the commencement of the later bankruptcy anything to which subsection (3) above applies which, immediately before the commencement of that bankruptcy, is comprised in the bankrupt's estate for the purposes of the earlier bankruptcy shall be treated as comprised in the bankrupt's estate for the purposes of the later bankruptcy and, until there is a trustee of that estate, shall be dealt with by the existing trustee in accordance with the rules.
- (5) Any sums which in pursuance of an order under section 156 above are payable after the commencement of the later bankruptcy to the existing trustee shall form part of the bankrupt's estate for the purposes of the later bankruptcy and the court may give such consequential directions for the modification of the order as it thinks fit.
- (6) Anything comprised in a bankrupt's estate by virtue of subsection (4) or (5) above shall be so comprised subject to a first charge in favour of the existing trustee for any bankruptcy expenses incurred by him in relation thereto.
- (7) Except as provided by the preceding provisions of this section, property which is, or by virtue of section 155 above is capable of being, comprised in the bankrupt's estate for the purposes of the earlier bankruptcy, or of any bankruptcy prior to the earlier bankruptcy, shall not be comprised in his estate for the purposes of the later bankruptcy.
- (8) The creditors of the bankrupt in the earlier bankruptcy and the creditors of the bankrupt in any bankruptcy prior to the earlier bankruptcy shall not be creditors of the bankrupt in the later bankruptcy in respect of the same debts, but the existing trustee may prove in the later bankruptcy for—
- (a) the unsatisfied balance of the debts (including any debt under this subsection) provable against the bankrupt's estate in the earlier bankruptcy ;
 - (b) any interest payable on that balance ; and
 - (c) any unpaid expenses of the earlier bankruptcy.
- (9) Any amount provable under subsection (8) above shall rank in priority after all the other debts provable in the later bankruptcy and after interest on those debts and, accordingly, shall not be paid unless those debts and that interest have first been paid in full.