



# Insolvency Act 1985

## 1985 CHAPTER 65

### PART III

#### INDIVIDUAL INSOLVENCY

#### CHAPTER VI

##### EFFECT OF BANKRUPTCY ON CERTAIN RIGHTS, TRANSACTIONS ETC

##### *Transactions etc.*

#### 179 Enforcement procedures

- (1) Subject to section 132 above and to the following provisions of this section, where the creditor of any person who is adjudged bankrupt has, before the commencement of the bankruptcy—
  - (a) issued execution against the goods or land of that person; or
  - (b) attached a debt due to that person from another person,that creditor shall not be entitled, as against the official receiver or trustee of the bankrupt's estate, to retain the benefit of the execution or attachment, or any sums paid to avoid it, unless the execution or attachment was completed, or the sums were paid, before the commencement of the bankruptcy.
- (2) Subject to subsections (6) to (8) below, where any goods of a person have been taken in execution, then, if before the completion of the execution notice is given to the sheriff or other officer charged with the execution that that person has been adjudged bankrupt—
  - (a) the sheriff or other officer shall on request deliver to the official receiver or trustee of the bankrupt's estate the goods and any money seized or recovered in part satisfaction of the execution ; but

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*Status: This is the original version (as it was originally enacted).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

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- (b) the costs of the execution shall be a first charge on the goods or money so delivered and the official receiver or trustee of the bankrupt's estate may sell the goods or a sufficient part of them for the purpose of satisfying the ' charge.
- (3) Subject to subsection (6) below, where—
- (a) under an execution in respect of a judgment for a sum exceeding such sum as may be prescribed for the purposes of this subsection, the goods of any person are sold or money is paid in order to avoid a sale ; and
- (b) before the end of the period of fourteen days beginning with the day of the sale or payment the sheriff or other officer charged with the execution is given notice that a bankruptcy petition has been presented in relation to that person ; and
- (c) a bankruptcy order is or has been made on that petition,
- the balance of the proceeds of sale or money paid, after deducting the costs of execution, shall (in priority to the claim of the execution creditor) be comprised in the bankrupt's estate.
- (4) Accordingly, in the case of an execution in respect of a judgment for a sum exceeding the sum prescribed for the purposes of subsection (3) above, the sheriff or other officer charged with the execution—
- (a) shall not dispose of the balance mentioned in subsection (3) above at any time within the period of fourteen days so mentioned or while a bankruptcy petition of which he has been given notice under that subsection is pending ; and
- (b) shall pay that balance, where by virtue of that subsection it is comprised in the bankrupt's estate, to the official receiver or (if there is one) to the trustee of that estate.
- (5) For the purposes of this section—
- (a) an execution against goods is completed by seizure and sale or by the making of a charging order under section 1 of the Charging Orders Act 1979 ;
- (b) an execution against land is completed by seizure, by the appointment of a receiver or by the making of a charging order under that section ;
- (c) an attachment of a debt is completed by the receipt of the debt.
- (6) The rights conferred by virtue of subsections (1) to (3) above on the official receiver or the trustee of a bankrupt's estate may, to such extent and on such terms as it thinks fit, be set aside by the court in favour of the creditor who has issued the execution or attached the debt.
- (7) Nothing in this section shall entitle the trustee of a bankrupt's estate to claim goods from a person who has acquired them in good faith under a sale by a sheriff or other officer charged with an execution.
- (8) Neither subsection (2) nor subsection (3) above shall apply in relation to any execution against property which has been acquired by or has devolved upon the bankrupt since the commencement of the bankruptcy unless, at the time the execution is issued or before it is completed—
- (a) the property has been or is claimed for the bankrupt's estate under section 154 above ; and
- (b) a copy of the notice given under that section has been or is served on the sheriff or other officer charged with the execution.