



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IX

#### BANKRUPTCY

#### CHAPTER II

##### PROTECTION OF BANKRUPT'S ESTATE AND INVESTIGATION OF HIS AFFAIRS

#### **283 Definition of bankrupt's estate.**

- (1) Subject as follows, a bankrupt's estate for the purposes of any of this Group of Parts comprises—
- (a) all property belonging to or vested in the bankrupt at the commencement of the bankruptcy, and
  - (b) any property which by virtue of any of the following provisions of this Part is comprised in that estate or is treated as falling with the preceding paragraph.
- (2) Subsection (1) does not apply to—
- (a) such tools, books, vehicles and other items of equipment as are necessary to the bankrupt for use personally by him in his employment, business or vocation;
  - (b) such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the bankrupt and his family.

This subsection is subject to section 308 in Chapter IV (certain excluded property reclaimable by trustee).

- (3) Subsection (1) does not apply to—
- (a) property held by the bankrupt on trust for any other person, or
  - (b) the right of nomination to a vacant ecclesiastical benefice.

*Status: Point in time view as at 25/04/2013.*

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- [<sup>F1</sup>(3A) Subject to section 308A in Chapter IV, subsection (1) does not apply to—
- (a) a tenancy which is an assured tenancy or an assured agricultural occupancy, within the meaning of Part I of the Housing Act 1988, and the terms of which inhibit an assignment as mentioned in section 127(5) of the <sup>M1</sup> Rent Act 1977, or
  - (b) a protected tenancy, within the meaning of the Rent Act 1977, in respect of which, by virtue of any provision of Part IX of that Act, no premium can lawfully be required as a condition of assignment, or
  - (c) a tenancy of a dwelling-house by virtue of which the bankrupt is, within the meaning of the <sup>M2</sup> Rent (Agriculture) Act 1976, a protected occupier of the dwelling-house, and the terms of which inhibit an assignment as mentioned in section 127(5) of the Rent Act 1977, or
  - (d) a secure tenancy, within the meaning of Part IV of the <sup>M3</sup> Housing Act 1985, which is not capable of being assigned, except in the cases mentioned in section 91(3) of that Act.]
- (4) References in any of this Group of Parts to property, in relation to a bankrupt, include references to any power exercisable by him over or in respect of property except in so far as the power is exercisable over or in respect of property not for the time being comprised in the bankrupt's estate and—
- (a) is so exercisable at a time after either the official receiver has had his release in respect of that estate under section 299(2) in chapter III or a meeting summoned by the trustee of that estate under section 331 in Chapter IV has been held, or
  - (b) cannot be so exercised for the benefit of the bankrupt;
- and a power exercisable over or in respect of property is deemed for the purposes of any of this Group of Parts to vest in the person entitled to exercise it at the time of the transaction or event by virtue of which it is exercisable by that person (whether or not it becomes so exercisable at that time).
- (5) For the purposes of any such provision in this Group of Parts, property comprised in a bankrupt's estate is so comprised subject to the rights of any person other than the bankrupt (whether as a secured creditor of the bankrupt or otherwise) in relation thereto, but disregarding—
- (a) any rights in relation to which a statement such as is required by section 269(1) (a) was made in the petition on which the bankrupt was adjudged bankrupt, and
  - (b) any rights which have been otherwise given up in accordance with the rules.
- (6) This section has effect subject to the provisions of any enactment not contained in this Act under which any property is to be excluded from a bankrupt's estate.

#### Textual Amendments

**F1** S. 283(3A) inserted (E.W.) by [Housing Act 1988 \(c. 50, SIF 75:1\)](#), **s. 117(1)**

#### Modifications etc. (not altering text)

**C1** S. 283 applied with modifications by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)

**C2** S. 283 applied (with modifications) (1.12.1994) by [S.I. 1994/2421, arts. 8\(3\)\(9\), 10\(6\), Sch. 4 Pt. II para. 28](#)

**C3** S. 283 modified (1.12.1994) by [S.I. 1994/2421, art. 11\(2\)\(3\), Sch. 7 para. 7](#)

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#### Marginal Citations

- M1 1977 c.42(75:3).
- M2 1976 c.80(75:3)
- M3 1985 c.68(61).

### [<sup>F2</sup>283A Bankrupt's home ceasing to form part of estate

- (1) This section applies where property comprised in the bankrupt's estate consists of an interest in a dwelling-house which at the date of the bankruptcy was the sole or principal residence of—
  - (a) the bankrupt,
  - (b) the bankrupt's spouse [<sup>F3</sup>or civil partner], or
  - (c) a former spouse [<sup>F4</sup>or former civil partner] of the bankrupt.
- (2) At the end of the period of three years beginning with the date of the bankruptcy the interest mentioned in subsection (1) shall—
  - (a) cease to be comprised in the bankrupt's estate, and
  - (b) vest in the bankrupt (without conveyance, assignment or transfer).
- (3) Subsection (2) shall not apply if during the period mentioned in that subsection—
  - (a) the trustee realises the interest mentioned in subsection (1),
  - (b) the trustee applies for an order for sale in respect of the dwelling-house,
  - (c) the trustee applies for an order for possession of the dwelling-house,
  - (d) the trustee applies for an order under section 313 in Chapter IV in respect of that interest, or
  - (e) the trustee and the bankrupt agree that the bankrupt shall incur a specified liability to his estate (with or without the addition of interest from the date of the agreement) in consideration of which the interest mentioned in subsection (1) shall cease to form part of the estate.
- (4) Where an application of a kind described in subsection (3)(b) to (d) is made during the period mentioned in subsection (2) and is dismissed, unless the court orders otherwise the interest to which the application relates shall on the dismissal of the application—
  - (a) cease to be comprised in the bankrupt's estate, and
  - (b) vest in the bankrupt (without conveyance, assignment or transfer).
- (5) If the bankrupt does not inform the trustee or the official receiver of his interest in a property before the end of the period of three months beginning with the date of the bankruptcy, the period of three years mentioned in subsection (2)—
  - (a) shall not begin with the date of the bankruptcy, but
  - (b) shall begin with the date on which the trustee or official receiver becomes aware of the bankrupt's interest.
- (6) The court may substitute for the period of three years mentioned in subsection (2) a longer period—
  - (a) in prescribed circumstances, and
  - (b) in such other circumstances as the court thinks appropriate.
- (7) The rules may make provision for this section to have effect with the substitution of a shorter period for the period of three years mentioned in subsection (2) in specified

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circumstances (which may be described by reference to action to be taken by a trustee in bankruptcy).

- (8) The rules may also, in particular, make provision—
- (a) requiring or enabling the trustee of a bankrupt's estate to give notice that this section applies or does not apply;
  - (b) about the effect of a notice under paragraph (a);
  - (c) requiring the trustee of a bankrupt's estate to make an application to the Chief Land Registrar.
- (9) Rules under subsection (8)(b) may, in particular—
- (a) disapply this section;
  - (b) enable a court to disapply this section;
  - (c) make provision in consequence of a disapplication of this section;
  - (d) enable a court to make provision in consequence of a disapplication of this section;
  - (e) make provision (which may include provision conferring jurisdiction on a court or tribunal) about compensation.]

#### Textual Amendments

- F2** S. 283A inserted (1.4.2004) by 2002 c. 40, ss. 261(1), 279 (with s. 249(6)); S.I. 2003/2093, **art. 2(2)**, Sch. 2 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F3** Words in s. 283A(1)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 113(a)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))
- F4** Words in s. 283A(1)(c) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 113(b)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))

#### Modifications etc. (not altering text)

- C4** S. 283A modified (1.7.2005) by S.I. 1994/2421, Sch. 4 Pt. II para. 28A (as inserted (1.7.2005) by S.I. 2005/1516, **art. 9(4)**)  
S. 283A modified (1.7.2005) by S.I. 1994/2421, Sch. 7 para. 7A (as inserted (1.7.2005) by S.I. 2005/1516, **art. 10(4)**)
- C5** S. 283A(4)-(9) applied (with modifications) by 2002 c. 40, ss. 261(10), 279 (with s. 249(6)); S.I. 2003/2093, **art. 2(2)**, Sch. 2 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

## 284 Restrictions on dispositions of property.

- (1) Where a person is adjudged bankrupt, any disposition of property made by that person in the period to which this section applies is void except to the extent that it is or was made with the consent of the court, or is or was subsequently ratified by the court.
- (2) Subsection (1) applies to a payment (whether in cash or otherwise) as it applies to a disposition of property and, accordingly, where any payment is void by virtue of that subsection, the person paid shall hold the sum paid for the bankrupt as part of his estate.
- (3) This section applies to the period beginning with the day of the presentation of the petition for the bankruptcy order and ending with the vesting, under Chapter IV of this Part, of the bankrupt's estate in a trustee.
- (4) The preceding provisions of this section do not give a remedy against any person—

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- (a) in respect of any property or payment which he received before the commencement of the bankruptcy in good faith, for value and without notice that the petition had been presented, or
  - (b) in respect of any interest in property which derives from an interest in respect of which there is, by virtue of this subsection, no remedy.
- (5) Where after the commencement of his bankruptcy the bankrupt has incurred a debt to a banker or other person by reason of the making of a payment which is void under this section, that debt is deemed for the purposes of any of this Group of Parts to have been incurred before the commencement of the bankruptcy unless—
  - (a) that banker or person had notice of the bankruptcy before the debt was incurred, or
  - (b) it is not reasonably practicable for the amount of the payment to be recovered from the person to whom it was made.
- (6) A disposition of property is void under this section notwithstanding that the property is not or, as the case may be, would not be comprised in the bankrupt's estate; but nothing in this section affects any disposition made by a person of property held by him on trust for any other person.

#### **Modifications etc. (not altering text)**

- C6** S. 284 applied with modifications by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)
- C7** S. 284 excluded (25.4.1991) by [Companies Act 1989 \(c. 40\), ss. 154, 155, 164\(3\), 175\(4\), 182\(4\), Sch. 22 para. 11\(4\)](#); [S.I. 1991/878, art. 2, Sch. \(with art. 3\(4\)\)](#).  
S. 284 excluded (15.8.1995) by [S.I. 1995/2049, reg. 21\(5\)–\(8\)](#)
- C8** S. 284 restricted (25.4.1991) by [Companies Act 1989 \(c. 40\), s. 182\(4\), Sch. 22 para. 7\(2\)](#); [S.I. 1991/878, art. 2, Sch. .](#)
- C9** S. 284 applied (with modifications) (1.12.1994) by [S.I. 1994/2421, arts. 8\(3\)\(9\), 10\(6\), Sch. 4 Pt. II para. 29](#)
- C10** S. 284 modified (1.12.1994) by [S.I. 1994/2421, art. 11\(2\)\(3\), Sch. 7 para. 8](#)
- C11** S. 284 excluded (11.12.1999) by [S.I. 1999/2979, regs. 16\(3\), 19\(3\)](#) (as amended (2.2.2006) by [The Financial Markets and Insolvency \(Settlement Finality\) \(Amendment\) Regulations 2006 \(S.I. 2006/50\), reg. 2\(8\)\(10\)](#)) and as amended (1.10.2009) by [The Financial Markets and Insolvency \(Settlement Finality\) \(Amendment\) Regulations 2009 \(S.I. 2009/1972\), reg. 6\(a\)](#)

## **285 Restriction on proceedings and remedies.**

- (1) At any time when proceedings on a bankruptcy petition are pending or an individual has been adjudged bankrupt the court may stay any action, execution or other legal process against the property or person of the debtor or, as the case may be, of the bankrupt.
- (2) Any court in which proceedings are pending against any individual may, on proof that a bankruptcy petition has been presented in respect of that individual or that he is an undischarged bankrupt, either stay the proceedings or allow them to continue on such terms as it thinks fit.
- (3) After the making of a bankruptcy order no person who is a creditor of the bankrupt in respect of a debt provable in the bankruptcy shall—
  - (a) have any remedy against the property or person of the bankrupt in respect of that debt, or

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- (b) before the discharge of the bankrupt, commence any action or other legal proceedings against the bankrupt except with the leave of the court and on such terms as the court may impose.

This is subject to sections 346 (enforcement procedures) and 347 (limited right to distress).

- (4) Subject as follows, subsection (3) does not affect the right of a secured creditor of the bankrupt to enforce his security.
- (5) Where any goods of an undischarged bankrupt are held by any person by way of pledge, pawn or other security, the official receiver may, after giving notice in writing of his intention to do so, inspect the goods.

Where such a notice has been given to any person, that person is not entitled, without leave of the court, to realise his security unless he has given the trustee of the bankrupt's estate a reasonable opportunity of inspecting the goods and of exercising the bankrupt's right of redemption.

- (6) References in this section to the property or goods of the bankrupt are to any of his property or goods, whether or not comprised in his estate.

**Modifications etc. (not altering text)**

- C12** S. 285 applied with modifications by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**
- C13** S. 285 excluded (25.4.1991) by **Companies Act 1989 (c. 40)**, ss. 154, 155, 161(4), 182(4), **Sch. 22 para. 5(2)**; S.I. 1991/878, art. 2, **Sch. .**
- C14** S. 285(3) modified (25.4.1991) by **Companies Act 1989 (c. 40)**, s. 182(4), **Sch. 22 para. 12(4)**; S.I. 1991/878, art. 2, **Sch. .**

**286 Power to appoint interim receiver.**

- (1) The court may, if it is shown to be necessary for the protection of the debtor's property, at any time after the presentation of a bankruptcy petition and before making a bankruptcy order, appoint the official receiver to be interim receiver of the debtor's property.
- (2) Where the court has, on a debtor's petition, appointed an insolvency practitioner under section 273 and it is shown to the court as mentioned in subsection (1) of this section, the court may, without making a bankruptcy order, appoint that practitioner, instead of the official receiver, to be interim receiver of the debtor's property.
- (3) The court may by an order appointing any person to be an interim receiver direct that his powers shall be limited or restricted in any respect; but, save as so directed, an interim receiver has, in relation to the debtor's property, all the rights, powers, duties and immunities of a receiver and manager under the next section.
- (4) An order of the court appointing any person to be an interim receiver shall require that person to take immediate possession of the debtor's property or, as the case may be, the part of it to which his powers as interim receiver are limited.
- (5) Where an interim receiver has been appointed, the debtor shall give him such inventory of his property and such other information, and shall attend on the interim receiver at such times, as the latter may for the purpose of carrying out his functions under this section reasonably require.

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- (6) Where an interim receiver is appointed, section 285(3) applies for the period between the appointment and the making of a bankruptcy order on the petition, or the dismissal of the petition, as if the appointment were the making of such an order.
- (7) A person ceases to be interim receiver of a debtor's property if the bankruptcy petition relating to the debtor is dismissed, if a bankruptcy order is made on the petition or if the court by order otherwise terminates the appointment.
- (8) References in this section to the debtor's property are to all his property, whether or not it would be comprised in his estate if he were adjudged bankrupt.

**Modifications etc. (not altering text)**

**C15** S. 286(1)(3)-(8) applied with modifications by **S.I. 1986/1999, art. 3, Sch. 1 Pt. II**

**287 Receivership pending appointment of trustee.**

- (1) Between the making of a bankruptcy order and the time at which the bankrupt's estate vests in a trustee under Chapter IV of this Part, the official receiver is the receiver and (subject to section 370 (special manager)) the manager of the bankrupt's estate and is under a duty to act as such.
- (2) The function of the official receiver while acting as receiver or manager of the bankrupt's estate under this section is to protect the estate; and for this purpose—
  - (a) he has the same powers as if he were a receiver or manager appointed by the High Court, and
  - (b) he is entitled to sell or otherwise dispose of any perishable goods comprised in the estate and any other goods so comprised the value of which is likely to diminish if they are not disposed of.
- (3) The official receiver while acting as receiver or manager of the estate under this section—
  - (a) shall take all such steps as he thinks fit for protecting any property which may be claimed for the estate by the trustee of that estate,
  - (b) is not, except in pursuance of directions given by the Secretary of State, required to do anything that involves his incurring expenditure,
  - (c) may, if he thinks fit (and shall, if so directed by the court) at any time summon a general meeting of the bankrupt's creditors.
- (4) Where—
  - (a) the official receiver acting as receiver or manager of the estate under this section seizes or disposes of any property which is not comprised in the estate, and
  - (b) at the time of the seizure or disposal the official receiver believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property,

the official receiver is not to be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as that loss or damage is caused by his negligence; and he has a lien on the property, or the proceeds of its sale, for such of the expenses of the bankruptcy as were incurred in connection with the seizure or disposal.

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- (5) This section does not apply where by virtue of section 297 (appointment of trustee; special cases) the bankrupt's estate vests in a trustee immediately on the making of the bankruptcy order.

**Modifications etc. (not altering text)**

**C16** S.287 applied with modifications by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)

**288 Statement of affairs.**

- (1) Where a bankruptcy order has been made otherwise than on a debtor's petition, the bankrupt shall submit a statement of his affairs to the official receiver before the end of the period of 21 days beginning with the commencement of the bankruptcy.
- (2) The statement of affairs shall contain—
- (a) such particulars of the bankrupt's creditors and of his debts and other liabilities and of his assets as may be prescribed, and
  - (b) such other information as may be prescribed.
- (3) The official receiver may, if he thinks fit—
- (a) release the bankrupt from his duty under subsection (1), or
  - (b) extend the period specified in that subsection;
- and where the official receiver has refused to exercise a power conferred by this section, the court, if it thinks fit, may exercise it.
- (4) A bankrupt who—
- (a) without reasonable excuse fails to comply with the obligation imposed by his section, or
  - (b) without reasonable excuse submits a statement of affairs that does not comply with the prescribed requirements,
- is guilty of a contempt of court and liable to be punished accordingly (in addition to any other punishment to which he may be subject).

**Modifications etc. (not altering text)**

**C17** S. 288 modified (29.9.2008 at 8.00 a.m.) by The Bradford & Bingley plc [Transfer of Securities and Property etc. Order 2008 \(S.I. 2008/2546\)](#), art. 13, [Sch. 1 para. 1\(a\)](#)

**C18** S. 288, applied with modifications by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)

**C19** S. 288 applied (with modifications) (1.12.1994) by [S.I. 1994/2421, art. 8\(3\)\(9\), Sch. 4 Pt. II para. 10](#)

**C20** S. 288(1)(2) modified by [S.I. 1986/1999, art. 5, Sch. 2](#)

**[<sup>F5</sup>289 Investigatory duties of official receiver**

- (1) The official receiver shall—
- (a) investigate the conduct and affairs of each bankrupt (including his conduct and affairs before the making of the bankruptcy order), and
  - (b) make such report (if any) to the court as the official receiver thinks fit.



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- (2) Subsection (1) shall not apply to a case in which the official receiver thinks an investigation under that subsection unnecessary.
- (3) Where a bankrupt makes an application for discharge under section 280—
  - (a) the official receiver shall make a report to the court about such matters as may be prescribed, and
  - (b) the court shall consider the report before determining the application.
- (4) A report by the official receiver under this section shall in any proceedings be prima facie evidence of the facts stated in it.]

#### Textual Amendments

**F5** S. 289 substituted (1.4.2004) by 2002 c. 40, ss. 258, 279 (with s. 249(6)); S.I. 2003/2093, art. 2(2), Sch. 2 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

#### Modifications etc. (not altering text)

**C21** S.289 applied (with modifications) by S.I. 1986/1999, art. 3, Sch. 1 Pt. II

## 290 Public examination of bankrupt.

- (1) Where a bankruptcy order has been made, the official receiver may at any time before the discharge of the bankrupt apply to the court for the public examination of the bankrupt.
- (2) Unless the court otherwise orders, the official receiver shall make an application under subsection (1) if notice requiring him to do so is given to him, in accordance with the rules, by one of the bankrupt's creditors with the concurrence of not less than one-half, in value, of those creditors (including the creditor giving notice).
- (3) On an application under subsection (1), the court shall direct that a public examination of the bankrupt shall be held on a day appointed by the court; and the bankrupt shall attend on that day and be publicly examined as to his affairs, dealings and property.
- (4) The following may take part in the public examination of the bankrupt and may question him concerning his affairs, dealings and property and the causes of his failure, namely—
  - (a) the official receiver and, in the case of an individual adjudged bankrupt on a petition under section 264(1)(d), the Official Petitioner,
  - (b) the trustee of the bankrupt's estate, if his appointment has taken effect,
  - (c) any person who has been appointed as special manager of the bankrupt's estate or business,
  - (d) any creditor of the bankrupt who has tendered a proof in the bankruptcy.
- (5) If a bankrupt without reasonable excuse fails at any time to attend his public examination under this section he is guilty of a contempt of court and liable to be punished accordingly (in addition to any other punishment to which he may be subject).

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**Modifications etc. (not altering text)**

**C22** S. 290 modified (1.12.1994) by S.I. 1994/2421, art. 11(2)(3), Sch. 7 para. 9

**291 Duties of bankrupt in relation to official receiver.**

- (1) Where a bankruptcy order has been made, the bankrupt is under a duty—
  - (a) to deliver possession of his estate to the official receiver, and
  - (b) to deliver up to the official receiver all books, papers and other records of which he has possession or control and which relate to his estate and affairs (including any which would be privileged from disclosure in any proceedings).
- (2) In the case of any part of the bankrupt's estate which consists of things possession of which cannot be delivered to the official receiver, and in the case of any property that may be claimed for the bankrupt's estate by the trustee, it is the bankrupt's duty to do all such things as may reasonably be required by the official receiver for the protection of those things or that property.
- (3) Subsections (1) and (2) do not apply where by virtue of section 297 below the bankrupt's estate vests in a trustee immediately on the making of the bankruptcy order.
- [<sup>F6</sup>(4) The bankrupt shall give the official receiver such inventory of his estate and such other information, and shall attend on the official receiver at such times, as the official receiver may reasonably require—
  - (a) for a purpose of this Chapter, or
  - (b) in connection with the making of a bankruptcy restrictions order.]
- (5) Subsection (4) applies to a bankrupt after his discharge.
- (6) If the bankrupt without reasonable excuse fails to comply with any obligation imposed by this section, he is guilty of a contempt of court and liable to be punished accordingly (in addition to any other punishment to which he may be subject).

**Textual Amendments**

**F6** S. 291(4) substituted (1.4.2004) by 2002 c. 40, ss. 269, 279, Sch. 23 para. 5 (with s. 249(6)); S.I. 2003/2093, art. 2(2), Sch. 2 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

**Modifications etc. (not altering text)**

**C23** S. 291 applied (with modifications) by S.I. 1986/1999, art. 3, Sch. 1 Pt. II

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