



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IX

#### BANKRUPTCY

#### CHAPTER III

#### TRUSTEES IN BANKRUPTCY

##### *Control of trustee*

#### **301 Creditors' committee.**

- (1) Subject as follows, a general meeting of a bankrupt's creditors (whether summoned under the preceding provisions of this Chapter or otherwise) may, in accordance with the rules, establish a committee (known as "the creditors' committee") to exercise the functions conferred on it by or under this Act.
- (2) A general meeting of the bankrupt's creditors shall not establish such a committee, or confer any functions on such a committee, at any time when the official receiver is the trustee of the bankrupt's estate, except in connection with an appointment made by that meeting of a person to be trustee instead of the official receiver.

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

- C1** Ss. 298–307 applied with modifications by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)
- C2** S. 301 applied (with modifications) (1.12.1994) by [S.I. 1994/2421, art. 8\(3\)\(9\), Sch. 4 Pt. II para. 16](#)
- C3** S. 301 modified (1.12.1994) by [S.I. 1994/2421, art. 11\(2\)\(3\), Sch. 7 para. 18](#)  
S. 301 amended (1.12.2001) by [2000 c. 8, s. 374\(4\)\(b\); S.I. 2001/3538, art. 2\(1\)](#)

*Status: Point in time view as at 15/09/2003.*

*Changes to legislation: Insolvency Act 1986, Cross Heading: Control of trustee is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### 302 Exercise by Secretary of State of functions of creditors' committee.

- (1) The creditors' committee is not to be able or required to carry out its functions at any time when the official receiver is trustee of the bankrupt's estate; but at any such time the functions of the committee under this Act shall be vested in the Secretary of State, except to the extent that the rules otherwise provide.
- (2) Where in the case of any bankruptcy there is for the time being no creditors' committee and the trustee of the bankrupt's estate is a person other than the official receiver, the functions of such a committee shall be vested in the Secretary of State, except to the extent that the rules otherwise provide.

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

- C4 Ss. 298–307 applied with modifications by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)
- C5 S. 302 applied (with modifications) (1.12.1994) by [S.I. 1994/2421, art. 8\(3\)\(9\), Sch. 4 Pt. II para. 16](#)

### 303 General control of trustee by the court.

- (1) If a bankrupt or any of his creditors or any other person is dissatisfied by any act, omission or decision of a trustee of the bankrupt's estate, he may apply to the court; and on such an application the court may confirm, reverse or modify any act or decision of the trustee, may give him directions or may make such other order as it thinks fit.
  - (2) The trustee of a bankrupt's estate may apply to the court for directions in relation to any particular matter arising under the bankruptcy.
- [<sup>F1</sup>(2A) Where at any time after a bankruptcy petition has been presented to the court against any person, whether under the provisions of the Insolvent Partnerships Order 1994 or not, the attention of the court is drawn to the fact that the person in question is a member of an insolvent partnership, the court may make an order as to the future conduct of the insolvency proceedings and any such order may apply any provisions of that Order with any necessary modifications.
- (2B) Where a bankruptcy petition has been presented against more than one individual in the circumstances mentioned in subsection (2A) above, the court may give such directions for consolidating the proceedings, or any of them, as it thinks just.
  - (2C) Any order or directions under subsection (2A) or (2B) may be made or given on the application of the official receiver, any responsible insolvency practitioner, the trustee of the partnership or any other interested person and may include provisions as to the administration of the joint estate of the partnership, and in particular how it and the separate estate of any member are to be administered.]

#### Textual Amendments

- F1 S. 303(2A)-(2C) inserted (1.12.1994) by [S.I. 1994/2421, art. 14\(2\)](#)

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

- C6 Ss. 298–307 applied with modifications by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)
- C7 S. 303 applied (with modifications) (1.12.1994) by [S.I. 1994/2421, art. 8\(3\)\(9\), Sch. 4 Pt. II para. 20](#)

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### 304 Liability of trustee.

- (1) Where on an application under this section the court is satisfied—
- (a) that the trustee of a bankrupt's estate has misapplied or retained, or become accountable for, any money or other property comprised in the bankrupt's estate, or
  - (b) that a bankrupt's estate has suffered any loss in consequence of any misfeasance or breach of fiduciary or other duty by a trustee of the estate in the carrying out of his functions,

the court may order the trustee, for the benefit of the estate, to repay, restore or account for money or other property (together with interest at such rate as the court thinks just) or, as the case may require, to pay such sum by way of compensation in respect of the misfeasance or breach of fiduciary or other duty as the court thinks just.

This is without prejudice to any liability arising apart from this section.

- (2) An application under this section may be made by the official receiver, the Secretary of State, a creditor of the bankrupt or (whether or not there is, or is likely to be, a surplus for the purposes of section 330(5) (final distribution)) the bankrupt himself.

But the leave of the court is required for the making of an application if it is to be made by the bankrupt or if it is to be made after the trustee has had his release under section 299.

- (3) Where—
- (a) the trustee seizes or disposes of any property which is not comprised in the bankrupt's estate, and
  - (b) at the time of the seizure or disposal the trustee 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 trustee is not liable to any person (whether under this section or otherwise) 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 the negligence of the trustee; 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.

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

- C8** Ss. 298-307 applied (with modifications) by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)  
S. 304 applied (10.8.2005) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2004 \(S.I. 2004/353\)](#), [reg. 31](#) (as amended (10.8.2005) by [S.I. 2005/1998, regs. 2\(3\)](#), {40(1)-(4)(10)(a)})

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