



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART XI

#### INTERPRETATION FOR SECOND GROUP OF PARTS

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

- C1** Second Group of Parts (Pts. 8-11) modified (31.12.1996) by 1991 c. 57, **Sch. 10** (as substituted by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **art. 3**)  
Second Group of Parts (Pts. 8-11) modified (11.11.1999 for specified purposes and 6.4.2002 otherwise) by 1999 c. 30, **s. 12(1)**; S.I. 2002/153, **art. 2(b)**

#### **380** **Introductory.**

The next five sections have effect for the interpretation of the provisions of this Act which are comprised in this Group of Parts; and where a definition is provided for a particular expression, it applies except so far as the context otherwise requires.

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

- C2** **S. 380** applied with modifications by S.I. 1986/1999, **art. 3**, **Sch. 1 Pt. II**

#### **381** **“Bankrupt” and associated terminology.**

- (1) “Bankrupt” means an individual who has been adjudged bankrupt and, in relation to a bankruptcy order, it means the individual adjudged bankrupt by that order.
- (2) “Bankruptcy order” means an order adjudging an individual bankrupt.
- (3) “Bankruptcy petition” means a petition to the court for a bankruptcy order.

*Status: Point in time view as at 06/04/2005.*

*Changes to legislation: Insolvency Act 1986, Part XI is up to date with all changes known to be in force on or before 02 July 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)*

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

**C3** S. 381 applied with modifications by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)

**382 “Bankruptcy debt”, etc.**

- (1) “Bankruptcy debt”, in relation to a bankrupt, means (subject to the next subsection) any of the following—
- (a) any debt or liability to which he is subject at the commencement of the bankruptcy,
  - (b) any debt or liability to which he may become subject after the commencement of the bankruptcy (including after his discharge from bankruptcy) by reason of any obligation incurred before the commencement of the bankruptcy,
  - [<sup>F1</sup>(c) any amount specified in pursuance of section 39(3)(c) of the <sup>M1</sup>Powers of Criminal Courts Act 1973 in any criminal bankruptcy order made against him before the commencement of the bankruptcy, and]
  - (d) any interest provable as mentioned in section 322(2) in Chapter IV of Part IX.
- (2) In determining for the purposes of any provision in this Group of Parts whether any liability in tort is a bankruptcy debt, the bankrupt is deemed to become subject to that liability by reason of an obligation incurred at the time when the cause of action accrued.
- (3) For the purposes of references in this Group of Parts to a debt or liability, it is immaterial whether the debt or liability is present or future, whether it is certain or contingent or whether its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion; and references in this Group of Parts to owing a debt are to be read accordingly.
- (4) In this Group of Parts, except in so far as the context otherwise requires, “liability” means (subject to subsection (3) above) a liability to pay money or money’s worth, including any liability under an enactment, any liability for breach of trust, any liability in contract, tort or bailment and any liability arising out of an obligation to make restitution.

**Textual Amendments**

**F1** S. 382(1)(c) repealed (*prosp.*) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123, 170, 171, [Sch. 8 para. 16, Sch. 16](#)

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

**C4** S. 382 applied with modifications by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)

**Marginal Citations**

**M1** 1973 c. 62.

**383 “Creditor”, “security”, etc.**

- (1) “Creditor”—

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- (a) in relation to a bankrupt, means a person to whom any of the bankruptcy debts is owed [<sup>F2</sup>(being, in the case of an amount falling within paragraph (c) of the definition in section 382(1) or “bankruptcy debt”, the person in respect of whom that amount is specified in the criminal bankruptcy order in question)], and
- (b) in relation to an individual to whom a bankruptcy petition relates, means a person who would be a creditor in the bankruptcy if a bankruptcy order were made on that petition.
- (2) Subject to the next two subsections and any provision of the rules requiring a creditor to give up his security for the purposes of proving a debt, a debt is secured for the purposes of this Group of Parts to the extent that the person to whom the debt is owed holds any security for the debt (whether a mortgage, charge, lien or other security) over any property of the person by whom the debt is owed.
- (3) Where a statement such as is mentioned in section 269(1)(a) in Chapter I of Part IX has been made by a secured creditor for the purposes of any bankruptcy petition and a bankruptcy order is subsequently made on that petition, the creditor is deemed for the purposes of the Parts in this Group to have given up the security specified in the statement.
- (4) In subsection (2) the reference to a security does not include a lien on books, papers or other records, except to the extent that they consist of documents which give a title to property and are held as such.

#### Textual Amendments

**F2** Words repealed (*prosp.*) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123, 170, 171, [Sch. 8 para. 16](#), [Sch. 16](#)

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

**C5** S. 383 applied with modifications by [S.I. 1986/1999](#), art. 3, [Sch. 1 Pt. II](#)

### 384 “Prescribed” and “the rules”.

- (1) Subject to the next subsection [<sup>F3</sup>and sections 342C(7) and 342F(9) in Chapter V of Part IX], “prescribed” means prescribed by the rules; and “the rules” means rules made under section 412 in Part XV.
- (2) References in this Group of Parts to the amount prescribed for the purposes of any of the following provisions—
- section 273;  
[<sup>F4</sup>section 313A;]  
section 346(3);  
section 354(1) and (2);  
section 358;  
section 360(1);  
section 361(2); and  
section 364(2)(d),

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and references in those provisions to the prescribed amount are to be read in accordance with section 418 in Part XV and orders made under that section.

#### Textual Amendments

- F3** Words in s. 384(1) inserted (26.3.2002 for specified purposes, otherwise 6.4.2002) by 1999 c. 30, s. 84(1), **Sch. 12 Pt. II para. 72**; S.I. 2002/818, **art. 3**
- F4** Words in s. 384(2) inserted (1.4.2004) by 2002 c. 40, ss. 261(5), 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)

- C6** S. 384 applied with modifications by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**

### 385 Miscellaneous definitions.

(1) The following definitions have effect—

“the court”, in relation to any matter, means the court to which, in accordance with section 373 in Part X and the rules, proceedings with respect to that matter are allocated or transferred;

“creditor’s petition” means a bankruptcy petition under section 264(1)(a);

[<sup>F5</sup>“criminal bankruptcy order” means an order under section 39(1) of the <sup>M2</sup>Powers of Criminal Courts Act 1973;]

“debt” is to be construed in accordance with section 382(3);

“the debtor”—

(a) in relation to a proposal for the purposes of Part VIII, means the individual making or intending to make that proposal, and

(b) in relation to a bankruptcy petition, means the individual to whom the petition relates;

“debtor’s petition” means a bankruptcy petition presented by the debtor himself under section 264(1)(b);

“dwelling house” includes any building or part of a building which is occupied as a dwelling and any yard, garden, garage or outhouse belonging to the dwelling house and occupied with it;

“estate”, in relation to a bankrupt is to be construed in accordance with section 283 in Chapter II of Part IX;

“family”, in relation to a bankrupt, means the persons (if any) who are living with him and are dependent on him;

[<sup>F6</sup>“insolvency administration order” means an order for the administration in bankruptcy of the insolvent estate of a deceased debtor (being an individual at the date of his death);

“insolvency administration petition” means a petition for an insolvency administration order;]

“secured” and related expressions are to be construed in accordance with section 383;

[<sup>F6</sup>“the Rules” means the Insolvency Rules 1986.] and

“the trustee”, in relation to a bankruptcy and the bankrupt, means the trustee of the bankrupt’s estate.

(2) References in this Group of Parts to a person’s affairs include his business, if any.

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**Textual Amendments**

- F5** Definition repealed (omitted 1.10.2008 repealed prosp.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123, 170, 171, Sch. 8 para. 16, [Sch. 16](#); S.I. 1988/1408, art. 2, [Sch.](#)
- F6** Definitions added by [S.I. 1986/1999](#), [arts. 2, 6](#)
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**Modifications etc. (not altering text)**

- C7** S. 385 applied with modifications by [S.I. 1986/1999](#), art. 3, [Sch. 1 Pt. II](#)
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**Marginal Citations**

- M2** [1973 c. 62](#).

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