



# 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 [<sup>F1</sup>made] bankrupt and, in relation to a bankruptcy order, it means the individual [<sup>F1</sup>made] bankrupt by that order.
- [<sup>F2</sup>(1A) Bankruptcy application” means an application to an adjudicator for a bankruptcy order.]
- (2) “Bankruptcy order” means an order [<sup>F3</sup>making] an individual bankrupt.
- (3) “Bankruptcy petition” means a petition to the court for a bankruptcy order.

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#### Textual Amendments

- F1** Word in s. 381(1) substituted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 52\(2\)](#); S.I. 2016/191, art. 2 (with art. 3)
- F2** S. 381(1A) inserted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 52\(3\)](#); S.I. 2016/191, art. 2 (with art. 3)
- F3** Word in s. 381(2) substituted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 52\(4\)](#); S.I. 2016/191, art. 2 (with art. 3)

#### 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” <sup>[F4]</sup>, “liability” ]

- (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>[F5]</sup>(c) any amount specified in pursuance of section 39(3)(c) of the <sup>MI</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.
- <sup>[F6]</sup>(5) Liability under the Child Support Act 1991 to pay child support maintenance to any person is not a debt or liability for the purposes of Part 8.]

#### Textual Amendments

- F4** Words in s. 382 heading substituted (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 142\(2\), 150\(2\)](#) (i)
- F5** 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](#)

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**F6** S. 382(5) inserted (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\)](#), **ss. 142(1)**, 150(2)(i)

**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”—

- (a) in relation to a bankrupt, means a person to whom any of the bankruptcy debts is owed (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 [<sup>F7</sup>bankruptcy application or] bankruptcy petition relates, means a person who would be a creditor in the bankruptcy if a bankruptcy order were made on that [<sup>F8</sup>application or] 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**

**F7** Words in s. 383(1)(b) inserted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 19 para. 53(a)**; [S.I. 2016/191](#), art. 2 (with art. 3)

**F8** Words in s. 383(1)(b) inserted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 19 para. 53(b)**; [S.I. 2016/191](#), art. 2 (with art. 3)

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

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

**[<sup>F9</sup>383A “Opted-out creditor”**

(1) For the purposes of this Group of Parts “opted-out creditor” in relation to an office-holder for an individual means a person who—

- (a) is a creditor of the individual, and

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- (b) in accordance with the rules has elected (or is deemed to have elected) to be (and not to cease to be) an opted-out creditor in relation to the office-holder.
- (2) In this section, “office-holder”, in relation to an individual, means—
- (a) where a bankruptcy order is made against the individual, the official receiver or the trustee in bankruptcy;
  - (b) where an interim receiver of the individual's property is appointed, the interim receiver;
  - (c) the supervisor of a voluntary arrangement approved under Part 8 in relation to the individual.]

#### Textual Amendments

**F9** S. 383A inserted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), ss. **125(4)**, 164(1); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(d)

### 384 “Prescribed” and “the rules”.

- (1) Subject to the next subsection [<sup>F10</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—
- [<sup>F11</sup>section 251S(4);]
  - <sup>F12</sup>...
  - [<sup>F13</sup>section 313A;]
  - section 346(3);
  - section 354(1) and (2);
  - section 358;
  - section 360(1);
  - section 361(2); <sup>F14</sup> . . .
  - section 364(2)(d),
  - [<sup>F15</sup>paragraphs 6 to 8 of Schedule 4ZA,]

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

- F10** 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**
- F11** Words in s. 384(2) inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 108(3), 148(5), **Sch. 20 para. 4(a)**; S.I. 2009/382, **art. 2**
- F12** Words in s. 384(1) omitted (6.4.2016) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 19 para. 54**; S.I. 2016/191, **art. 2** (with **art. 3**)
- F13** 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**))

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**F14** Word in s. 384(2) omitted (24.2.2009 for certain purposes otherwise 6.4.2009) by virtue of **Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 108(3), 148(5), Sch. 20 para. 4(b); S.I. 2009/382 {art. 2}**

**F15** Words in s. 384(2) inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by **Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 108(3), 148(5), Sch. 20 para. 4(c); S.I. 2009/382, 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—

[<sup>F16</sup>“ adjudicator ” means a person appointed by the Secretary of State under section 398A;]

“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;

[<sup>F17</sup>“ creditors' decision procedure ” has the meaning given by section 379ZA(11);]

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

[<sup>F18</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”—

(za) [<sup>F19</sup>in relation to a debt relief order or an application for such an order, has the same meaning as in Part 7A,]

(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 [<sup>F20</sup>bankruptcy application or a] bankruptcy petition, means the individual to whom the [<sup>F21</sup>application or] petition relates;

<sup>F22</sup> .....

[<sup>F23</sup>“debt relief order” means an order made by the official receiver under Part 7A;]

[<sup>F24</sup>“deemed consent procedure” means the deemed consent procedure provided for by section 379ZB;]

[<sup>F25</sup>“determination period” has the meaning given in section 263K(4);]

“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>F26</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;]

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

[<sup>F26</sup>“the Rules” means the [<sup>F27</sup>Insolvency (England and Wales) Rules 2016]]  
 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.

### Textual Amendments

- F16** Words in s. 385(1) inserted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 55\(a\)](#); S.I. 2016/191, art. 2 (with art. 3)
- F17** Words in s. 385(1) inserted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), [ss. 123\(4\)\(a\), 164\(1\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(b) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)
- F18** 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.](#)
- F19** S. 385(1): para. (za) in definition of "the debtor" inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), [ss. 108\(3\), 148\(5\), Sch. 20 para. 5\(2\)](#); S.I. 2009/382, {art, 2}
- F20** Words in s. 385(1) inserted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 55\(b\)\(i\)](#); S.I. 2016/191, art. 2 (with art. 3)
- F21** Words in s. 385(1) inserted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 55\(b\)\(ii\)](#); S.I. 2016/191, art. 2 (with art. 3)
- F22** Words in s. 385(1) omitted (6.4.2016) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 55\(c\)](#); S.I. 2016/191, art. 2 (with art. 3)
- F23** S. 385(1): definition of "debt relief order" inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), [ss. 108\(3\), 148\(5\), Sch. 20 para. 5\(3\)](#); S.I. 2009/382, [art. 2](#)
- F24** Words in s. 385(1) inserted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), [ss. 123\(4\)\(b\), 164\(1\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(b) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)
- F25** Words in s. 385(1) inserted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 55\(d\)](#); S.I. 2016/191, art. 2 (with art. 3)
- F26** Definitions added by S.I. 1986/1999, [arts. 2, 6](#)
- F27** Words in s. 385(1) substituted (6.4.2017) by [The Insolvency \(England and Wales\) Rules 2016 \(Consequential Amendments and Savings\) Rules 2017 \(S.I. 2017/369\)](#), rule 1, [Sch. 1 para. 3](#)

### Modifications etc. (not altering text)

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

### Marginal Citations

- M2** 1973 c. 62.

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