



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IX

#### BANKRUPTCY

#### CHAPTER I

[<sup>F1</sup>THE COURT: BANKRUPTCY PETITIONS AND BANKRUPTCY ORDERS]

#### *Preliminary*

#### [<sup>F1</sup>265 **Creditor's petition: debtors against whom the court may make a bankruptcy order.**

- (1) A bankruptcy petition may be presented to the court under section 264(1)(a) only if—
  - (a) the centre of the debtor's main interests is in England and Wales, or
  - [<sup>F2</sup>(ab) the centre of the debtor's main interests is in a member State (other than Denmark) and the debtor has an establishment in England and Wales, or]
  - (b) <sup>F3</sup>... the test in subsection (2) is met.
- (2) The test is that—
  - (a) the debtor is domiciled in England and Wales, or
  - (b) at any time in the period of three years ending with the day on which the petition is presented, the debtor—
    - (i) has been ordinarily resident, or has had a place of residence, in England and Wales, or
    - (ii) has carried on business in England and Wales.
- (3) The reference in subsection (2) to the debtor carrying on business includes—
  - (a) the carrying on of business by a firm or partnership of which the debtor is a member, and

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Insolvency Act 1986, Section 265 is up to date with all changes known to be in force on or before 05 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)*

(b) the carrying on of business by an agent or manager for the debtor or for such a firm or partnership.

(4) In this section, references to the centre of the debtor's main interests have the same meaning as in Article 3 of the [F4EU Regulation].

[F5(5) In this section “establishment” has the same meaning as in Article 2(10) of the EU Regulation.]]

#### Textual Amendments

- F1** S. 265 substituted (6.4.2016) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 19 para. 7**; S.I. 2016/191, art. 2 (with art. 3)
- F2** S. 265(1)(ab) inserted (31.12.2020) by The Insolvency (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/146), reg. 1(3), **Sch. para. 33(2)(a)** (with regs. 4, 5); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 265(1)(b) omitted (31.12.2020) by virtue of The Insolvency (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/146), reg. 1(3), **Sch. para. 33(2)(b)** (with regs. 4, 5); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in s. 265(4) substituted (26.6.2017) by The Insolvency Amendment (EU 2015/848) Regulations 2017 (S.I. 2017/702), reg. 1, **Sch. para. 20** (with regs. 3, 4)
- F5** S. 265(5) inserted (31.12.2020) by The Insolvency (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/146), reg. 1(3), **Sch. para. 33(3)** (with regs. 4, 5); 2020 c. 1, Sch. 5 para. 1(1)

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

- C1** S. 265 modified (1.12.1994) by S.I. 1994/2421, art. 11(2)(3), **Sch. 7 para. 3**
- C2** S. 265 applied (with modifications) (1.12.1994) by S.I. 1994/2421, arts. 8(3)(9), 10(1)(a), Sch. 4 Pt. II para. 5, **Sch. 6** (as amended (8.12.2017) by The Insolvency (Miscellaneous Amendments) Regulations 2017 (S.I. 2017/1119), reg. 1(1), **Sch. 2 para. 3**)
- C3** S. 265 applied (with modifications) by S.I. 1986/1999, art. 3, **Sch. 1 Pt. 2** (as amended (8.12.2017) by The Insolvency (Miscellaneous Amendments) Regulations 2017 (S.I. 2017/1119), reg. 1(1), **Sch. 3 para. 1(2)**) and as amended (31.12.2020) by The Insolvency (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/146), reg. 1(3), **Sch. para. 108(2)(a)(b)** (with regs. 4, 5); 2020 c. 1, **Sch. 5 para. 1(1)**)

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**Changes to legislation:**

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