



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IX

#### BANKRUPTCY

#### CHAPTER I

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

#### *Preliminary*

#### **264 Who may present a bankruptcy petition.**

- (1) A petition for a bankruptcy order to be made against an individual may be presented to the court in accordance with the following provisions of this Part—
  - (a) by one of the individual's creditors or jointly by more than one of them,
    - <sup>F1</sup>(b) .....
    - <sup>F2</sup>(ba) .....
    - <sup>F2</sup>(bb) .....
  - (c) by the supervisor of, or any person (other than the individual) who is for the time being bound by, a voluntary arrangement proposed by the individual and approved under Part VIII, or
  - (d) where a criminal bankruptcy order has been made against the individual, by the Official Petitioner or by any person specified in the order in pursuance of section 39(3)(b) of the <sup>M1</sup>Powers of Criminal Courts Act 1973.
- (2) Subject to those provisions, the court may make a bankruptcy order on any such petition.

**Changes to legislation:** *Insolvency Act 1986, Cross Heading: Preliminary is up to date with all changes known to be in force on or before 20 April 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) View outstanding changes*

### Textual Amendments

- F1** S. 264(1)(b) omitted (6.4.2016) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 6](#); S.I. 2016/191, art. 2 (with art. 3)
- F2** S. 264(1)(ba)(bb) omitted (31.12.2020) by virtue of [The Insolvency \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/146\)](#), reg. 1(3), [Sch. para. 32](#) (with regs. 4, 5); 2020 c. 1, Sch. 5 para. 1(1)

### Modifications etc. (not altering text)

- C1** S. 264 modified (1.12.1994) by S.I. 1994/2421, art. 11(2)(3), [Sch. 7 para. 2](#) (as amended (1.12.2001) by S.I. 2001/3649, [art. 469](#))
- C2** S. 264 amended (20.7.2001 for certain purposes and otherwise 1.12.2001) by 2000 c. 8, s. [372\(1\)](#); S.I. 2001/2632, art. 2, [Sch. Pt. I](#); S.I. 2001/3538, [art. 2\(1\)](#)
- C3** S. 264 applied (with modifications) by S.I. 1986/1999, art. 3, Sch. 1 Pt. II (as amended (31.5.2002) by S.I. 2002/1309, art. 3(1)(4); (6.4.2016) by [The Enterprise and Regulatory Reform Act 2013 \(Consequential Amendments\) \(Bankruptcy\) and the Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/481\)](#), reg. 1, Sch. 2 para. 2(7)(a); and (8.12.2017) by [The Insolvency \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/1119\)](#), reg. 1(1), [Sch. 3 para. 1\(2\)](#))
- C4** S. 264 applied (with modifications) (1.12.1994) by S.I. 1994/2421, art. 10(1)(a)(6), Sch. 4 Pts. I, II paras. 1, 8, Sch. 6 para. 2 (as amended (1.7.2005) by S.I. 2005/1516, art. 5(b); and (8.12.2017) by [The Insolvency \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/1119\)](#), reg. 1(1), [Sch. 2 para. 6](#))

### Marginal Citations

- M1** 1973 c. 62.

## [<sup>F3</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>F4</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>F5</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
  - (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 [<sup>F6</sup>EU Regulation].

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[<sup>F7</sup>(5) In this section “establishment” has the same meaning as in Article 2(10) of the EU Regulation.]]

#### Textual Amendments

- F3** 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 \(with art. 3\)](#)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)

- C5** S. 265 modified (1.12.1994) by [S.I. 1994/2421, art. 11\(2\)\(3\), Sch. 7 para. 3](#)
- C6** 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](#))
- C7** 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\(1\)](#))

## 266 Other preliminary conditions.

- (1) Where a bankruptcy petition relating to an individual is presented by a person who is entitled to present a petition under two or more paragraphs of section 264(1), the petition is to be treated for the purposes of this Part as a petition under such one of those paragraphs as may be specified in the petition.
- (2) A bankruptcy petition shall not be withdrawn without the leave of the court.
- (3) The court has a general power, if it appears to it appropriate to do so on the grounds that there has been a contravention of the rules or for any other reason, to dismiss a bankruptcy petition or to stay proceedings on such a petition; and, where it stays proceedings on a petition, it may do so on such terms and conditions as it thinks fit.
- (4) Without prejudice to subsection (3), where a petition under section 264(1)(a) <sup>F8</sup>... or (c) in respect of an individual is pending at a time when a criminal bankruptcy order is made against him, or is presented after such an order has been so made, the court may on the application of the Official Petitioner dismiss the petition if it appears to it appropriate to do so.

#### Textual Amendments

- F8** Word in s. 266(4) omitted (6.4.2016) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 19 para. 8](#); [S.I. 2016/191, art. 2 \(with art. 3\)](#)

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

- C8** S. 266 modified (1.12.1994) by [S.I. 1994/2421](#), art. 11(2)(3), **Sch. 7 para. 4**
- C9** S. 266 applied with modifications by [S.I. 1986/1999](#), art. 3, **Sch. 1 Pt. 2** (as amended (31.5.2002) by [S.I. 2002/1309](#), **art. 3(2)(4)**) 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)(c)** (with regs. 4, 5); 2020 c. 1, Sch. 5 para. 1(1))

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act amendment to earlier affecting provision S.I. 1986/1999, art. 3, Sch. 1 Pt. 2 by [S.I. 2017/1119 Sch. 3 para. 1](#)
- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 41HB(2) words substituted by [2018 c. 14 s. 1\(3\)\(b\)](#)