



Insolvency Act 1986

1986 CHAPTER 45

PART IX

BANKRUPTCY

CHAPTER IV

ADMINISTRATION BY TRUSTEE

Disclaimer of onerous property

321 Order under s. 320 in respect of leaseholds.

- (1) The court shall not make an order under section 320 vesting property of a leasehold nature in any person, except on terms making that person—
 - (a) subject to the same liabilities and obligations as the bankrupt was subject to under the lease on the day the [^{F1}bankruptcy application was made or (as the case may be) the] bankruptcy petition was presented, or
 - (b) if the court thinks fit, subject to the same liabilities and obligations as that person would be subject to if the lease had been assigned to him on that day.
- (2) For the purposes of an order under section 320 relating to only part of any property comprised in a lease, the requirements of subsection (1) apply as if the lease comprised only the property to which the order relates.
- (3) Where subsection (1) applies and no person is willing to accept an order under section 320 on the terms required by that subsection, the court may (by order under section 320) vest the estate or interest in the bankrupt in the property in any person who is liable (whether personally or in a representative capacity and whether alone or jointly with the bankrupt) to perform the lessee's covenants in the lease.

Changes to legislation: *Insolvency Act 1986, Section 321 is up to date with all changes known to be in force on or before 16 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*

The court may by virtue of this subsection vest that estate and interest in such a person freed and discharged from all estates, incumbrances and interests created by the bankrupt.

- (4) Where subsection (1) applies and a person declines to accept any order under section 320, that person shall be excluded from all interest in the property.

Textual Amendments

- F1** Words in s. 321(1)(a) inserted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 26](#); S.I. 2016/191, art. 2 (with art. 3)
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Modifications etc. (not altering text)

- C1** S. 321 applied with modifications by [S.I. 1986/1999](#), art. 3, [Sch. 1 Pt. II](#)

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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\(3\)\(b\)](#)