



# Insolvency Act 1985

## 1985 CHAPTER 65

### PART III

#### INDIVIDUAL INSOLVENCY

### CHAPTER V

#### ADMINISTRATION BY TRUSTEE

#### *Vesting of property in trustee etc.*

#### **153 Vesting of bankrupt's estate in trustee**

- (1) The bankrupt's estate shall vest in the trustee immediately on his appointment taking effect or, in the case of the official receiver, on his becoming trustee.
- (2) Where any property which is, or is to be, comprised in the bankrupt's estate vests in the trustee (whether under this section or under any other provision of this Part), it shall so vest without any conveyance, assignment or transfer.

#### **154 After-acquired property**

- (1) Subject to the following provisions of this section, the trustee may by notice in writing claim for the bankrupt's estate any property which has been acquired by, or has devolved upon, the bankrupt since the commencement of the bankruptcy.
- (2) A notice under subsection (1) above shall not be served in respect of—
  - (a) any property falling within subsections (2) to (4) of section 130 above;
  - (b) any property which by virtue of any other enactment is excluded from the bankrupt's estate; or
  - (c) without prejudice to section 127(2)(c) above, any property which is acquired by, or devolves upon, the bankrupt after his discharge.

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- (3) Subject to subsection (4) below, upon the service on the bankrupt of a notice under subsection (1) above the property to which the notice relates shall vest in the trustee as part of the bankrupt's estate; and the trustee's title to that property shall have relation back to the time at which the property was acquired by, or devolved upon, the bankrupt.
- (4) Where, whether before or after the service of a notice under this section—
- (a) a person acquires property in good faith, for value and without notice of the bankruptcy ; or
  - (b) a banker enters into a transaction in good faith and without such notice,
- the trustee shall not in respect of that property or transaction be entitled by virtue of this section to any remedy against that person or banker, or any person whose title to any property derives from that person or banker.
- (5) Except with the leave of the court, a notice under subsection (1) above shall not be served after the end of the period of forty-two days beginning with the day on which it first came to the knowledge of the trustee that the property in question had been acquired by, or had devolved upon, the bankrupt.
- (6) For the purposes of subsection (5) above—
- (a) anything which comes to the knowledge of the trustee shall be deemed in relation to any successor of his as trustee to have come to the knowledge of the successor at the same time; and
  - (b) anything which comes, otherwise than under paragraph (a) above, to the knowledge of a person before he is the trustee shall be deemed to come to his knowledge on his appointment taking effect or, in the case of the official receiver, on his becoming trustee.
- (7) References in this section to property shall not include any property which, as part of the bankrupt's income, may be the subject of an order under section 156 below.

**155 Vesting in trustee of tools, clothes etc. that exceed value of reasonable replacement**

- (1) Where—
- (a) property is excluded by virtue of section 130(2) above from the bankrupt's estate; and
  - (b) it appears to the trustee that the realisable value of the whole or any part of that property exceeds the cost of a reasonable replacement for that property or that part of it,
- the trustee may by notice in writing claim that property or, as the case may be, that part of it for the bankrupt's estate.
- (2) Upon the service on the bankrupt of a notice under subsection (1) above, the property to which the notice relates shall vest in the trustee as part of the bankrupt's estate; and, except against a purchaser in good faith, for value and without notice of the bankruptcy, the trustee's title to that property shall have relation back to the commencement of the bankruptcy.
- (3) Except with the leave of the court, a notice under subsection (1) above shall not be served after the end of the period of forty-two days beginning with the day on which the property in question first came to the knowledge of the trustee; and subsection (6)

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of section 154 above shall apply for the purposes of this subsection as it applies for the purposes of subsection (5) of that section.

- (4) The trustee shall apply funds comprised in the bankrupt's estate to the purchase by or on behalf of the bankrupt of a reasonable replacement for any property vested in the trustee under this section ; and the duty imposed by this subsection shall have priority over the obligation of the trustee to distribute the bankrupt's estate.
- (5) For the purposes of this section property shall be a reasonable replacement for other property if it is reasonably adequate for meeting the needs met by the other property.

## **156 Income payments orders**

- (1) The court may, on the application of the trustee, make an order (" an income payments order ") claiming for the bankrupt's estate so much of the income of the bankrupt during the period for which the order is in force as may be specified in the order.
- (2) The court shall not make an income payments order the effect of which would be to reduce the income of the bankrupt below what appears to the court to be necessary for meeting the reasonable domestic needs of the bankrupt and his family.
- (3) An income payments order shall, in respect of any payment of income to which it is to apply, either—
  - (a) require the bankrupt to pay the trustee an amount equal to so much of that payment as is claimed by the order; or
  - (b) require the person making the payment to pay so much of it as is so claimed to the trustee, instead of to the bankrupt.
- (4) Where the court makes an income payments order it may, if it thinks fit, discharge or vary any attachment of earnings order that is for the time being in force to secure payments by the bankrupt.
- (5) Sums received by the trustee under an income payments order shall form part of the bankrupt's estate.
- (6) An income payments order shall not be made after the discharge of the bankrupt, and if made before, shall not have effect after his discharge except—
  - (a) in the case of a discharge under section 126(2)(a) above, by virtue of a condition imposed under section 127(2)(c) above; or
  - (b) in the case of a discharge under section 126(2)(b) above, by virtue of a provision of the order requiring it to continue in force for a period ending after the discharge but no later than three years after the making of the order.
- (7) For the purposes of this section the income of the bankrupt comprises every payment in the nature of income which is from time to time made to the bankrupt or to which he from time to time becomes entitled, including any payment in respect of the carrying on of any business or in respect of any office or employment.