

**6D. Proceedings on creditor's petition**

- (1) The court shall not make a bankruptcy order on a creditor's petition unless it is satisfied that the debt, or one of the debts, in respect of which the petition was presented is either—
  - (a) a debt which, having been payable at the date of the petition or having since become payable, has been neither paid nor secured nor compounded for; or
  - (b) a debt which the debtor has no reasonable prospect of being able to pay when it falls due.
- (2) In a case in which the petition contains such a statement as is required by section 6C, the court shall not make a bankruptcy order until at least 3 weeks have elapsed since the service of any statutory demand under section 6A.
- (3) The court may dismiss the petition if it is satisfied that the debtor is able to pay all his debts or is satisfied—
  - (a) that the debtor has made an offer to secure or compound for a debt in respect of which the petition is presented;
  - (b) that the acceptance of that offer would have required the dismissal of the petition; and
  - (c) that the offer has been unreasonably refused,and, in determining for the purposes of this subsection whether the debtor is able to pay all his debts, the court shall take into account his contingent and prospective liabilities.
- (4) In determining for the purposes of this section what constitutes a reasonable prospect that a debtor will be able to pay a debt when it falls due, it is to be assumed that the prospect given by the facts and other matters known to the creditor at the time he entered into the transaction resulting in the debt was a reasonable prospect.
- (5) Nothing in sections 6 to 6C or this section prejudices the power of the court, in accordance with the rules, to authorize a creditor's petition to be amended by the omission of any creditor or debt and to be proceeded with as if things done for the purposes of those sections had been done only by or in relation to the remaining creditors or debts.

*(Added 76 of 1996 s. 4)*