

6A. Definition of *inability to pay*, etc.; the statutory demand

- (1) For the purposes of section 6(2)(c), the debtor appears to be unable to pay a debt if, but only if, the debt is payable immediately and either—
 - (a) the petitioning creditor to whom the debt is owed has served on the debtor a demand (known as ***the statutory demand***) in the prescribed form requiring him to pay the debt or to secure or compound for it to the satisfaction of the creditor, at least 3 weeks have elapsed since the demand was served and the demand has been neither complied with nor set aside in accordance with the rules; or
 - (b) execution or other process issued in respect of the debt on a judgment or order of any court in favour of the petitioning creditor, or one or more of the petitioning creditors to whom the debt is owed, has been returned unsatisfied in whole or in part.
- (2) For the purposes of section 6(2)(c) the debtor appears to have no reasonable prospect of being able to pay a debt if, but only if, the debt is not immediately payable and—
 - (a) the petitioning creditor to whom it is owed has served on the debtor a demand (also known as ***the statutory demand***) in the prescribed form requiring him to establish to the satisfaction of the creditor that there is a reasonable prospect that the debtor will be able to pay the debt when it falls due;
 - (b) at least 3 weeks have elapsed since the demand was served; and
 - (c) the demand has been neither complied with nor set aside in accordance with the rules.

(Added 76 of 1996 s. 4)