



Insolvency Act 1986

1986 CHAPTER 45

PART XVIII **E+W+S**

INTERPRETATION

436 Expressions used generally. **E+W+S**

^{F1}(1) In this Act, except in so far as the context otherwise requires (and subject to Parts VII and XI)—

[^{F2}“agricultural charge” has the same meaning as in the ^{M1}Agricultural Credits Act 1928;

“agricultural receiver” means a receiver appointed under an agricultural charge;]

“the appointed day” means the day of which this Act comes into force under section 443;

“associate” has the meaning given by section 435;

[^{F3}“body corporate” includes a body incorporated outside Great Britain, but does not include—

(a) a corporation sole, or

(b) a partnership that, whether or not a legal person, is not regarded as a body corporate under the law by which it is governed;]

“business” includes a trade or profession;

[^{F4} “the Companies Act” means the Companies Act 1985;]

[^{F5}“the Companies Acts” means the Companies Acts (as defined in section 2 of the Companies Act 2006) as they have effect in Great Britain;]

“conditional sale agreement” and “hire-purchase agreement” have the same meanings as in the ^{M2}Consumer Credit Act 1974;

[^{F2}“corporate member” means an insolvent member which is a company;

“the court”, in relation to an insolvent partnership, means the court which has jurisdiction to wind up the partnership;

[^{F6}“distress” includes use of the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, and references to levying distress, seizing goods and related expressions shall be construed accordingly;]

Status: Point in time view as at 06/04/2014. This version of this provision has been superseded.

Changes to legislation: Insolvency Act 1986, Section 436 is up to date with all changes known to be in force on or before 30 June 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)

[^{F7}“the EC Regulation” means Council Regulation (EC) No. 1346/2000;]

[^{F8}“EEA State” means a state that is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;]

[^{F9}“employees' share scheme” means a scheme for encouraging or facilitating the holding of shares in or debentures of a company by or for the benefit of—

- (a) the bona fide employees or former employees of—
 - (i) the company,
 - (ii) any subsidiary of the company, or
 - (iii) the company's holding company or any subsidiary of the company's holding company, or
- (b) the spouses, civil partners, surviving spouses, surviving civil partners, or minor children or step-children of such employees or former employees.]

[^{F2}“individual member” means an insolvent member who is an individual;

“insolvency order” means—

- (a) in the case of an insolvent partnership or a corporate member, a winding-up order; and
- (b) in the case of an individual member, a bankruptcy order;

“insolvency petition” means, in the case of a petition presented to the court—

- (a) against a corporate member, a petition for its winding up by the court;
- (b) against an individual member, a petition for a bankruptcy order to be made against that individual,

where the petition is presented in conjunction with a petition for the winding up of the partnership by the court as an unregistered company under the Act;

“insolvency proceedings” means any proceedings under the Act, this Order or the ^{M3}Insolvency Rules 1986

“insolvent member” means a member of an insolvent partnership, against whom an insolvency petition is being or has been presented;

“joint bankruptcy petition” means a petition by virtue of article 11 of this Order;

“joint debt” means a debt of an insolvent partnership in respect of which an order is made by virtue of Part IV or V of this Order;

“joint estate” means the partnership property of an insolvent partnership in respect of which an order is made by virtue of Part IV or V of this Order;

“joint expenses” means expenses incurred in the winding up of an insolvent partnership or in the winding up of the business of an insolvent partnership and the administration of its property;

“limited partner” has the same meaning as in the ^{M4}Limited Partnerships Act 1907;

“member” means a member of a partnership and any person who is liable as a partner within the meaning of section 14 of the ^{M5}Partnership Act 1890;]

“modifications” includes additions, alterations and omissions and cognate expressions shall be construed accordingly;

[^{F2}“officer”, in relation to an insolvent partnership, means—

- (a) a member; or
- (b) a person who has management or control of the partnership business;

“partnership property” has the same meaning as in the Partnership Act 1890;

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“postponed debt” means a debt the payment of which is postponed by or under any provision of the Act or of any other enactment;]

“property” includes money, goods, things in action, land and every description of property wherever situated and also obligations and every description of interest, whether present or future or vested or contingent, arising out of, or incidental to, property;

“records” includes computer records and other non-documentary records;

[^{F2}“responsible insolvency practitioner” means—

(a) in winding up, the liquidator of an insolvent partnership or corporate member; and

(b) in bankruptcy, the trustee of the estate of an individual member,

and in either case includes the official receiver when so acting;

“separate debt” means a debt for which a member of a partnership is liable, other than a joint debt;

“separate estate” means the property of an insolvent member against whom an insolvency order has been made;

“separate expenses” means expenses incurred in the winding up of a corporate member, or in the bankruptcy of an individual member; and]

“subordinate legislation” has the same meaning as in the ^{M6}Interpretation Act 1978; and

“transaction” includes a gift, agreement or arrangement, and references to entering into a transaction shall be construed accordingly.

[^{F2}“trustee of the partnership” means a person authorised by order made by virtue of article 11 of this Order to wind up the business of an insolvent partnership and to administer its property.]

[The following expressions have the same meaning in this Act as in the Companies ^{F10}(2) Acts—

“articles”, in relation to a company (see section 18 of the Companies Act 2006);

“debenture” (see section 738 of that Act);

“holding company” (see sections 1159 and 1160 of, and Schedule 6 to, that Act);

“the Joint Stock Companies Acts” (see section 1171 of that Act);

“overseas company” (see section 1044 of that Act);

“paid up” (see section 583 of that Act);

“private company” and “public company” (see section 4 of that Act);

“registrar of companies” (see section 1060 of that Act);

“share” (see section 540 of that Act);

“subsidiary” (see sections 1159 and 1160 of, and Schedule 6 to, that Act).]]

Textual Amendments

F1 S. 436(1): s. 436 renumbered as s. 436(1) (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, (S.I. 2009/1941) arts. 2(1), 8, {Sch. 1 para. 82(3)(a)} (with art. 10, Sch. 1 para. 84)

F2 S. 436(1): definitions added (1.12.1994) by S.I. 1994/2421, art. 2(1)(2)

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- F3** S. 436(1): definition inserted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, (S.I. 2009/1941) arts. 2(1), 8, {Sch. 1 para. 82(3)(b)} (with art. 10, Sch. 1 para. 84)
- F4** By virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, (S.I. 2009/1941) arts. 2(1), 8, {Sch. 1 para. 82(3)(c)} (with art. 10, Sch. 1 para. 84) it is provided that the definition of "the Companies Act" is omitted
- F5** S. 436: definition inserted (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 10(1), **Sch. 4 para. 45** (with art. 12)
- F6** Words in s. 436(1) inserted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 85** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F7** Words in s. 436 inserted (3.5.2002) by S.I. 2002/1037, **reg. 4**
- F8** In s. 436 definition of "EEA State" inserted (13.4.2005) by The Insolvency Act 1986 (Amendment) Regulations 2005 (S.I. 2005/879), **reg. 2(3)** (with reg. 3)
- F9** Words in s. 436(1) inserted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, (S.I. 2009/1941) arts. 2(1), 8, {Sch. 1 para. 82(3)(d)} (with art. 10, Sch. 1 para. 84)
- F10** S. 436(2) inserted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, (S.I. 2009/1941) arts. 2(1), 8, {Sch. 1 para. 82(3)(e)} (with art. 10, Sch. 1 para. 84)

Modifications etc. (not altering text)

- C1** S. 436 applied with modifications by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**
- C2** S. 436 applied (with modifications) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**
- C3** S. 436 modified (6.4.2001) by S.S.I. 2001/128, reg. 4(2), **Sch. 3**
- C4** S. 436 amendment to earlier affecting provision 2007 c. 15, Sch. 13 para. 85 (6.4.2014) by Crime and Courts Act 2013 (c. 22), **ss. 25(9)(c), 61(3)**; S.I. 2014/830, art. 2

Marginal Citations

- M1** 1928 c.43.
- M2** 1974 c. 39.
- M3** S.I. 1986/1925, amended by S.I. 1987/1919, S.I. 1989/397, S.I. 1991/495 and S.I. 1993/602.
- M4** 1907 c.24.
- M5** 1890 c.39.
- M6** 1978 c. 30.

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