

Status: Point in time view as at 12/05/2011.

Changes to legislation: The Insolvency (Northern Ireland) Order 1989, ADMINISTRATION APPLICATION — SPECIAL CASES is up to date with all changes known to be in force on or before 14 July 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)

SCHEDULES

[^{F1}SCHEDULE B1

ADMINISTRATION

F1 Sch. B1 inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(2), Sch. 1 (with art. 4); [S.R. 2006/21](#), **art. 2** (with [S.R. 2006/22](#), **arts. 2-7**)

Modifications etc. (not altering text)

C1 Sch. B1 applied (with modifications) (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), ss. 73, 87(1)(2), 93(3), **Sch. 10 Pt. 1**, **Sch. 10 Pt. 2**

ADMINISTRATION APPLICATION — SPECIAL CASES

Application by holder of floating charge

- 36.**—(1) This paragraph applies where an administration application in respect of a company—
- (a) is made by the holder of a qualifying floating charge in respect of the company's property, and
 - (b) includes a statement that the application is made in reliance on this paragraph.
- (2) The High Court may make an administration order—
- (a) whether or not satisfied that the company is or is likely to become unable to pay its debts, but
 - (b) only if satisfied that the applicant could appoint an administrator under paragraph 15.

Intervention by holder of floating charge

- 37.**—(1) This paragraph applies where—
- (a) an administration application in respect of a company is made by a person who is not the holder of a qualifying floating charge in respect of the company's property, and
 - (b) the holder of a qualifying floating charge in respect of the company's property applies to the High Court to have a specified person appointed as administrator (and not the person specified by the administration applicant).
- (2) The Court shall grant an application under sub-paragraph (1)(b) unless the Court thinks it right to refuse the application because of the particular circumstances of the case.

Application where company in liquidation

- 38.**—(1) This paragraph applies where the holder of a qualifying floating charge in respect of a company's property could appoint an administrator under paragraph 15 but for paragraph 9(1)(b).
- (2) The holder of the qualifying floating charge may make an administration application.

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(3) If the High Court makes an administration order on hearing an application made by virtue of sub-paragraph (2)—

- (a) the Court shall discharge the winding-up order,
- (b) the Court shall make provision for such matters as may be prescribed,
- (c) the Court may make other consequential provision,
- (d) the Court shall specify which of the powers under this Schedule are to be exercisable by the administrator, and
- (e) this Schedule shall have effect with such modifications as the Court may specify.

39.—(1) The liquidator of a company may make an administration application.

(2) If the High Court makes an administration order on hearing an application made by virtue of sub-paragraph (1)—

- (a) the Court shall discharge any winding-up order in respect of the company,
- (b) the Court shall make provision for such matters as may be prescribed,
- (c) the Court may make other consequential provision,
- (d) the Court shall specify which of the powers under this Schedule are to be exercisable by the administrator, and
- (e) this Schedule shall have effect with such modifications as the Court may specify.

Effect of administrative receivership

40.—(1) Where there is an administrative receiver of a company the High Court must dismiss an administration application in respect of the company unless—

- (a) the person by or on behalf of whom the receiver was appointed consents to the making of the administration order,
- (b) the Court thinks that the security by virtue of which the receiver was appointed would be liable to be released or discharged under Articles 202 to 204 (transaction at undervalue and preference) if an administration order were made, or
- (c) the Court thinks that the security by virtue of which the receiver was appointed would be avoided under Article 207 (avoidance of floating charge) if an administration order were made.

(2) Sub-paragraph (1) applies whether the administrative receiver is appointed before or after the making of the administration application.]

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