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# Insolvency Act 1986

## 1986 CHAPTER 45

### PART I

#### COMPANY VOLUNTARY ARRANGEMENTS

##### *The Proposal*

#### **1 Those who may propose an arrangement.**

- (1) The directors of a company (other than one for which an administration order is in force, or which is being wound up) may make a proposal under this Part to the company and to its creditors for a composition in satisfaction of its debts or a scheme of arrangement of its affairs (from here on referred to, in either case, as a “voluntary arrangement”).
- (2) A proposal under this Part is one which provides for some person (“the nominee”) to act in relation to the voluntary arrangement either as trustee or otherwise for the purpose of supervising its implementation; and the nominee must be a person who is qualified to act as an insolvency practitioner in relation to the company.
- (3) Such a proposal may also be made—
  - (a) where an administration order is in force in relation to the company, by the administrator, and
  - (b) where the company is being wound up, by the liquidator.
- [<sup>F1</sup>(4) In this Part a reference to a company includes a reference to a company in relation to which a proposal for a voluntary arrangement may be made by virtue of Article 3 of the EC Regulation.]

#### **Textual Amendments**

**F1** S. 1(4) inserted (31.5.2002) by S.I. 2002/1240, reg. 4

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VALID FROM 01/01/2003

### **[<sup>F2</sup>1A Moratorium.**

- (1) Where the directors of an eligible company intend to make a proposal for a voluntary arrangement, they may take steps to obtain a moratorium for the company.
- (2) The provisions of Schedule A1 to this Act have effect with respect to—
  - (a) companies eligible for a moratorium under this section,
  - (b) the procedure for obtaining such a moratorium,
  - (c) the effects of such a moratorium, and
  - (d) the procedure applicable (in place of sections 2 to 6 and 7) in relation to the approval and implementation of a voluntary arrangement where such a moratorium is or has been in force.]

#### **Textual Amendments**

**F2** S. 1A inserted (1.1.2003) by 2000 c. 39, s. 1, **Sch. 1 para. 2**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in [arts. 3-5](#))

## **2 Procedure where nominee is not the liquidator or administrator.**

- (1) This section applies where the nominee under section 1 is not the liquidator or administrator of the company.
- (2) The nominee shall, within 28 days (or such longer period as the court may allow) after he is given notice of the proposal for a voluntary arrangement, submit a report to the court stating—
  - (a) whether, in his opinion, meetings of the company and of its creditors should be summoned to consider the proposal, and
  - (b) if in his opinion such meetings should be summoned, the date on which, and time and place at which, he proposes the meetings should be held.
- (3) For the purposes of enabling the nominee to prepare his report, the person intending to make the proposal shall submit to the nominee—
  - (a) a document setting out the terms of the proposed voluntary arrangement, and
  - (b) a statement of the company's affairs containing—
    - (i) such particulars of its creditors and of its debts and other liabilities and of its assets as may be prescribed, and
    - (ii) such other information as may be prescribed.
- (4) The court may, on an application made by the person intending to make the proposal, in a case where the nominee has failed to submit the report required by this section, direct that the nominee be replaced as such by another person qualified to act as an insolvency practitioner in relation to the company.

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### **3 Summoning of meetings.**

- (1) Where the nominee under section 1 is not the liquidator or administrator, and it has been reported to the court that such meetings as are mentioned in section 2(2) should be summoned, the person making the report shall (unless the court otherwise directs) summon those meetings for the time, date and place proposed in the report.
- (2) Where the nominee is the liquidator or administrator, he shall summon meetings of the company and of its creditors to consider the proposal for such a time, date and place as he thinks fit.
- (3) The persons to be summoned to a creditors' meeting under this section are every creditor of the company of whose claim and address the person summoning the meeting is aware.

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