



Insolvency Act 1986

1986 CHAPTER 45

PART III

RECEIVERSHIP

CHAPTER I

RECEIVERS AND MANAGERS (ENGLAND AND WALES)

Administrative receivers: ascertainment and investigation of company's affairs

46 Information to be given by administrative receiver.

- (1) Where an administrative receiver is appointed, he shall—
 - (a) forthwith send to the company and publish in the prescribed manner a notice of his appointment, and
 - (b) within 28 days after his appointment, unless the court otherwise directs, send such a notice to all the creditors of the company (so far as he is aware of their addresses).
- (2) This section and the next do not apply in relation to the appointment of an administrative receiver to act—
 - (a) with an existing administrative receiver, or
 - (b) in place of an administrative receiver dying or ceasing to act,

except that, where they apply to an administrative receiver who dies or ceases to act before they have been fully complied with, the references in this section and the next to the administrative receiver include (subject to the next subsection) his successor and any continuing administrative receiver.

- (3) If the company is being wound up, this section and the next apply notwithstanding that the administrative receiver and the liquidator are the same person, but with any necessary modifications arising from that fact.

Status: Point in time view as at 01/10/2009.

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- (4) If the administrative receiver without reasonable excuse fails to comply with this section, he is liable to a fine and, for continued contravention, to a daily default fine.

47 Statement of affairs to be submitted.

- (1) Where an administrative receiver is appointed, he shall forthwith require some or all of the persons mentioned below to make out and submit to him a statement in the prescribed form as to the affairs of the company.
- (2) A statement submitted under this section shall be verified by affidavit by the persons required to submit it and shall show—
- (a) particulars of the company's assets, debts and liabilities;
 - (b) the names and addresses of its creditors;
 - (c) the securities held by them respectively;
 - (d) the dates when the securities were respectively given; and
 - (e) such further or other information as may be prescribed.
- (3) The persons referred to in subsection (1) are—
- (a) those who are or have been officers of the company;
 - (b) those who have taken part in the company's formation at any time within one year before the date of the appointment of the administrative receiver;
 - (c) those who are in the company's employment, or have been in its employment within that year, and are in the administrative receiver's opinion capable of giving the information required;
 - (d) those who are or have been within that year officers of or in the employment of a company which is, or within that year was, an officer of the company.
- In this subsection "employment" includes employment under a contract for services.
- (4) Where any persons are required under this section to submit a statement of affairs to the administrative receiver, they shall do so (subject to the next subsection) before the end of the period of 21 days beginning with the day after that on which the prescribed notice of the requirement is given to them by the administrative receiver.
- (5) The administrative receiver, if he thinks fit, may—
- (a) at any time release a person from an obligation imposed on him under subsection (1) or (2), or
 - (b) either when giving notice under subsection (4) or subsequently, extend the period so mentioned;
- and where the administrative receiver has refused to exercise a power conferred by this subsection, the court, if it thinks fit, may exercise it.
- (6) If a person without reasonable excuse fails to comply with any obligation imposed under this section, he is liable to a fine and, for continued contravention, to a daily default fine.

48 Report by administrative receiver.

- (1) Where an administrative receiver is appointed, he shall, within 3 months (or such longer period as the court may allow) after his appointment, send to the registrar of companies, to any trustees for secured creditors of the company and (so far as he is

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aware of their addresses) to all such creditors a report as to the following matters, namely—

- (a) the events leading up to his appointment, so far as he is aware of them;
 - (b) the disposal or proposed disposal by him of any property of the company and the carrying on or proposed carrying on by him of any business of the company;
 - (c) the amounts of principal and interest payable to the debenture holders by whom or on whose behalf he was appointed and the amounts payable to preferential creditors; and
 - (d) the amount (if any) likely to be available for the payment of other creditors.
- (2) The administrative receiver shall also, within 3 months (or such longer period as the court may allow) after his appointment, either—
- (a) send a copy of the report (so far as he is aware of their addresses) to all unsecured creditors of the company; or
 - (b) publish in the prescribed manner a notice stating an address to which unsecured creditors of the company should write for copies of the report to be sent to them free of charge,

and (in either case), unless the court otherwise directs, lay a copy of the report before a meeting of the company's unsecured creditors summoned for the purpose on not less than 14 days' notice.

- (3) The court shall not give a direction under subsection (2) unless—
- (a) the report states the intention of the administrative receiver to apply for the direction, and
 - (b) a copy of the report is sent to the persons mentioned in paragraph (a) of that subsection, or a notice is published as mentioned in paragraph (b) of that subsection, not less than 14 days before the hearing of the application.
- (4) Where the company has gone or goes into liquidation, the administrative receiver—
- (a) shall, within 7 days after his compliance with subsection (1) or, if later, the nomination or appointment of the liquidator, send a copy of the report to the liquidator, and
 - (b) where he does so within the time limited for compliance with subsection (2), is not required to comply with that subsection.
- (5) A report under this section shall include a summary of the statement of affairs made out and submitted to the administrative receiver under section 47 and of his comments (if any) upon it.
- (6) Nothing in this section is to be taken as requiring any such report to include any information the disclosure of which would seriously prejudice the carrying out by the administrative receiver of his functions.
- (7) Section 46(2) applies for the purposes of this section also.
- (8) If the administrative receiver without reasonable excuse fails to comply with this section, he is liable to a fine and, for continued contravention, to a daily default fine.

Modifications etc. (not altering text)

C1 S. 48(1) amended (1.12.2001) by 2000 c. 8, s. 363(4); S.I. 2001/3538, art. 2(1)

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49 Committee of creditors.

- (1) Where a meeting of creditors is summoned under section 48, the meeting may, if it thinks fit, establish a committee (“the creditors’ committee”) to exercise the functions conferred on it by or under this Act.
- (2) If such a committee is established, the committee may, on giving not less than 7 days’ notice, require the administrative receiver to attend before it at any reasonable time and furnish it with such information relating to the carrying out by him of his functions as it may reasonably require.

Modifications etc. (not altering text)

C2 S. 49 amended (1.12.2001) by 2000 c. 8, s. 363(5)(b); S.I. 2001/3538, art. 2(1)

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