



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART III

#### RECEIVERSHIP

#### [<sup>F1</sup>CHAPTER IV

#### PROHIBITION OF APPOINTMENT OF ADMINISTRATIVE RECEIVER

##### Textual Amendments

- F1** Pt. III Ch. IV (ss. 72A-72H) inserted (18.3.2003 for the purpose of giving effect to the insertion of s. 72H(2)-(5) and otherwise 15.9.2003) by 2002 c. 40, ss. 250(1), 279 (with s. 249(6)); S.I. 2003/765, art. 2, Sch.; S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

#### **72A Floating charge holder not to appoint administrative receiver**

- (1) The holder of a qualifying floating charge in respect of a company's property may not appoint an administrative receiver of the company.
- (2) In Scotland, the holder of a qualifying floating charge in respect of a company's property may not appoint or apply to the court for the appointment of a receiver who on appointment would be an administrative receiver of property of the company.
- (3) In subsections (1) and (2)—
  - “holder of a qualifying floating charge in respect of a company's property” has the same meaning as in paragraph 14 of Schedule B1 to this Act, and
  - “administrative receiver” has the meaning given by section 251.
- (4) This section applies—
  - (a) to a floating charge created on or after a date appointed by the Secretary of State by order made by statutory instrument, and

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- (b) in spite of any provision of an agreement or instrument which purports to empower a person to appoint an administrative receiver (by whatever name).
- (5) An order under subsection (4)(a) may—
  - (a) make provision which applies generally or only for a specified purpose;
  - (b) make different provision for different purposes;
  - (c) make transitional provision.
- (6) This section is subject to the exceptions specified in [<sup>F2</sup>sections 72B to 72GA] .

#### Subordinate Legislation Made

**P1** S. 72A(4)(a) power exercised: 15.9.2003 appointed for specified purposes by The Insolvency Act 1986, Section 72A ([Appointed Date](#)) Order 2003 (S.I. 2003/2095), [art. 2](#)

#### Textual Amendments

**F2** Words in s. 72A(6) substituted (15.9.2003) by [The Insolvency Act 1986 \(Amendment\) \(Administrative Receivership and Urban Regeneration etc.\) Order 2003](#) (S.I. 2003/1832), arts. 1, [2\(a\)](#); S.I. 2003/2093, [art. 2\(1\)](#), Sch. 1

### 72B First exception: capital market

- (1) Section 72A does not prevent the appointment of an administrative receiver in pursuance of an agreement which is or forms part of a capital market arrangement if—
  - (a) a party incurs or, when the agreement was entered into was expected to incur, a debt of at least £50 million under the arrangement, and
  - (b) the arrangement involves the issue of a capital market investment.
- (2) In subsection (1)—
  - “capital market arrangement” means an arrangement of a kind described in paragraph 1 of Schedule 2A, and
  - “capital market investment” means an investment of a kind described in paragraph 2 or 3 of that Schedule.

### 72C Second exception: public-private partnership

- (1) Section 72A does not prevent the appointment of an administrative receiver of a project company of a project which—
  - (a) is a public-private partnership project, and
  - (b) includes step-in rights.
- (2) In this section “public-private partnership project” means a project—
  - (a) the resources for which are provided partly by one or more public bodies and partly by one or more private persons, or
  - (b) which is designed wholly or mainly for the purpose of assisting a public body to discharge a function.
- (3) In this section—
  - “step-in rights” has the meaning given by paragraph 6 of Schedule 2A, and
  - “project company” has the meaning given by paragraph 7 of that Schedule.

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## **72D Third exception: utilities**

- (1) Section 72A does not prevent the appointment of an administrative receiver of a project company of a project which—
- (a) is a utility project, and
  - (b) includes step-in rights.
- (2) In this section—
- (a) “utility project” means a project designed wholly or mainly for the purpose of a regulated business,
  - (b) “regulated business” means a business of a kind listed in paragraph 10 of Schedule 2A,
  - (c) “step-in rights” has the meaning given by paragraph 6 of that Schedule, and
  - (d) “project company” has the meaning given by paragraph 7 of that Schedule.

## **I<sub>F3</sub>72DA Exception in respect of urban regeneration projects**

- (1) Section 72A does not prevent the appointment of an administrative receiver of a project company of a project which—
- (a) is designed wholly or mainly to develop land which at the commencement of the project is wholly or partly in a designated disadvantaged area outside Northern Ireland, and
  - (b) includes step-in rights.
- (2) In subsection (1) “develop” means to carry out—
- (a) building operations,
  - (b) any operation for the removal of substances or waste from land and the levelling of the surface of the land, or
  - (c) engineering operations in connection with the activities mentioned in paragraph (a) or (b).
- (3) In this section—
- “building” includes any structure or erection, and any part of a building as so defined, but does not include plant and machinery comprised in a building,
- “building operations” includes—
- (a) demolition of buildings,
  - (b) filling in of trenches,
  - (c) rebuilding,
  - (d) structural alterations of, or additions to, buildings and
  - (e) other operations normally undertaken by a person carrying on business as a builder,
- “designated disadvantaged area” means an area designated as a disadvantaged area under section 92 of the Finance Act 2001,
- “engineering operations” includes the formation and laying out of means of access to highways,
- “project company” has the meaning given by paragraph 7 of Schedule 2A,
- “step-in rights” has the meaning given by paragraph 6 of that Schedule,
- “substance” means any natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour, and

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“waste” includes any waste materials, spoil, refuse or other matter deposited on land.]

#### Textual Amendments

- F3** S. 72DA inserted (15.9.2003) by [The Insolvency Act 1986 \(Amendment\) \(Administrative Receivership and Urban Regeneration etc.\) Order 2003 \(S.I. 2003/1832\)](#), arts. 1, **2(b)**; [S.I. 2003/2093](#), art. 2(1), Sch. 1

#### 72E Fourth exception: project finance

- (1) Section 72A does not prevent the appointment of an administrative receiver of a project company of a project which—
- (a) is a financed project, and
  - (b) includes step-in rights.
- (2) In this section—
- (a) a project is “financed” if under an agreement relating to the project a project company incurs, or when the agreement is entered into is expected to incur, a debt of at least £50 million for the purposes of carrying out the project,
  - (b) “project company” has the meaning given by paragraph 7 of Schedule 2A, and
  - (c) “step-in rights” has the meaning given by paragraph 6 of that Schedule.

#### 72F Fifth exception: financial market

Section 72A does not prevent the appointment of an administrative receiver of a company by virtue of—

- (a) a market charge within the meaning of section 173 of the Companies Act 1989 (c. 40),
- (b) a system-charge within the meaning of the Financial Markets and Insolvency Regulations 1996 (S.I. 1996/1469),
- (c) a collateral security charge within the meaning of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979).

#### 72G Sixth exception: registered social landlord

Section 72A does not prevent the appointment of an administrative receiver of a company which is registered as a social landlord under Part I of the Housing Act 1996 (c. 52) or under Part 3 of the Housing (Scotland) Act 2001 (asp 10).

#### <sup>F4</sup>72GA Exception in relation to protected railway companies etc.

Section 72A does not prevent the appointment of an administrative receiver of—

- (a) a company holding an appointment under Chapter I of Part II of the Water Industry Act 1991,
- (b) a protected railway company within the meaning of section 59 of the Railways Act 1993 (including that section as it has effect by virtue of section 19 of the Channel Tunnel Rail Link Act 1996, or
- (c) a licence company within the meaning of section 26 of the Transport Act 2000.]

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### Textual Amendments

- F4** S. 72GA inserted (15.9.2003) by [The Insolvency Act 1986 \(Amendment\) \(Administrative Receivership and Urban Regeneration etc.\) Order 2003 \(S.I. 2003/1832\)](#), arts. 1, **2(c)**; [S.I. 2003/2093](#), art. 2(1), Sch. 1

### <sup>F5</sup>72H Sections 72A to 72G: supplementary

- (1) Schedule 2A (which supplements sections 72B to 72G) shall have effect.
- (2) The Secretary of State may by order—
  - (a) insert into this Act provision creating an additional exception to section 72A(1) or (2);
  - (b) provide for a provision of this Act which creates an exception to section 72A(1) or (2) to cease to have effect;
  - (c) amend section 72A in consequence of provision made under paragraph (a) or (b);
  - (d) amend any of sections 72B to 72G;
  - (e) amend Schedule 2A.
- (3) An order under subsection (2) must be made by statutory instrument.
- (4) An order under subsection (2) may make—
  - (a) provision which applies generally or only for a specified purpose;
  - (b) different provision for different purposes;
  - (c) consequential or supplementary provision;
  - (d) transitional provision.
- (5) An order under subsection (2)—
  - (a) in the case of an order under subsection (2)(e), shall be subject to annulment in pursuance of a resolution of either House of Parliament,
  - (b) in the case of an order under subsection (2)(d) varying the sum specified in section 72B(1)(a) or 72E(2)(a) (whether or not the order also makes consequential or transitional provision), shall be subject to annulment in pursuance of a resolution of either House of Parliament, and
  - (c) in the case of any other order under subsection (2)(a) to (d), may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.]

### Textual Amendments

- F5** Pt. III Ch. IV (ss. 72A-72H) inserted (18.3.2003 for the purpose of giving effect to the insertion of s. 72H(2)-(5) and otherwise 15.9.2003) by [2002 c. 40, ss. 250\(1\), 279 \(with s. 249\(6\)\)](#); [S.I. 2003/765](#), [art. 2](#), Sch.; [S.I. 2003/2093](#), [art. 2\(1\)](#), Sch. 1 (subject to [arts. 3-8](#) (as amended by [S.I. 2003/2332](#), [art. 2](#)))

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