



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART XV

#### SUBORDINATE LEGISLATION

##### Modifications etc. (not altering text)

- C1** Pt. XV (ss. 411-422) applied (with modifications) (1.12.1994) by [S.I. 1994/2421](#), arts. 8(4)(5)(8)(9), 10(2)(3)(6), Sch. 4 Pt. II, [Sch. 7](#)
- C2** Third Group of Parts (Pts. 12-19) applied to limited liability partnerships (with modifications) (E.W.S.) (6.4.2001) by [S.I. 2001/1090](#), reg. 5, Schs. 3, 4 (as amended (4.3.2004) by [S.I. 2004/355](#), art. 10 and (1.10.2005) by [S.I. 2005/1989](#), reg. 3, [Sch. 2](#) (with reg. 4))

#### *General insolvency rules*

#### **411 Company insolvency rules.**

- (1) Rules may be made—
- in relation to England and Wales, by the Lord Chancellor with the concurrence of the Secretary of State, or
  - in relation to Scotland, by the Secretary of State,
- for the purpose of giving effect to Parts I to VII of this Act [<sup>F1</sup>or the EC Regulation].
- (2) Without prejudice to the generality of subsection (1), or to any provision of those Parts by virtue of which rules under this section may be made with respect to any matter, rules under this section may contain—
- any such provision as is specified in Schedule 8 to this Act or corresponds to provision contained immediately before the coming into force of section 106 of the <sup>M1</sup>Insolvency Act 1985 in rules made, or having effect as if made, under section 663(1) or (2) of the Companies Act (old winding-up rules), and

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- (b) such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor or, as the case may be, the Secretary of State necessary or expedient.

[<sup>F2</sup>(2A) For the purposes of subsection (2), a reference in Schedule 8 to this Act to doing anything under or for the purposes of a provision of this Act includes a reference to doing anything under or for the purposes of the EC Regulation (in so far as the provision of this Act relates to a matter to which the EC Regulation applies).

(2B) Rules under this section for the purpose of giving effect to the EC Regulation may not create an offence of a kind referred to in paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972.]

(3) In Schedule 8 to this Act “liquidator” includes a provisional liquidator; and references above in this section to Parts I to VII of this Act are to be read as including the Companies Act so far as relating to, and to matters connected with or arising out of, the insolvency or winding up of companies.

(4) Rules under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Regulations made by the Secretary of State under a power conferred by rules under this section shall be made by statutory instrument and, after being made, shall be laid before each House of Parliament.

(6) Nothing in this section prejudices any power to make rules of court.

#### Textual Amendments

**F1** Words in s. 411(1) inserted (3.5.2002) by S.I. 2002/1037, reg. 3(1)

**F2** S. 411(2A)(2B) inserted (3.5.2002) by S.I. 2002/1037, reg. 3(2)

#### Modifications etc. (not altering text)

- C3** S. 411 extended by Company Directors Disqualification Act 1986 (c. 46, SIF 27), ss. 21(2), 25  
S. 411 extended by Building Societies Act 1986 (c. 53, SIF 16), ss. 54(3)(a)(5)(a), 90, 126(3), Sch. 15 para. 58(1)  
S. 411 extended by Financial Services Act 1986 (c. 60, SIF 69), s. 54(6)  
S. 411 extended (E.W.) by Banking Act 1987 (c. 22, SIF 10), s. 62(8)(a)  
S. 411 extended (S.) by Banking Act 1987 (c. 22, SIF 10), s. 62(8)(b)(i)  
S. 411 extended (with modifications) (7.2.1994) by 1993 c. 43, s. 59(5), 150(1)(c); S.I. 1994/86, art. 2  
S. 411 extended (1.12.1997) by 1986 c. 53, Sch. 15A para. 4(1) (as inserted (1.12.1997) by 1997 c. 32, s. 39(2), Sch. 6; S.I. 1997/2668, art. 2, Sch. Pt. I(i))  
Ss. 411, 412 extended (E.W.) (25.2.2001) by 2000 c. 8, s. 215(8)(a); S.I. 2001/516, art. 2, Sch. Pt. 1
- C4** S. 411 applied (1.12.1994) by S.I. 1994/2421, arts. 4(3)(e), 6(3)(e)  
S. 411 applied (1.2.2001) by 2000 c. 38, s. 30(5) (with s. 105(2)(b)(5), 106); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to transitional provision and saving in Sch. 2 Pt. II)  
S. 411 applied (with modifications) (15.7.2003) by 1999 c. 29, ss. 220(5), 425(2) (with ss. 165, 217, Sch. 12 para. 9(1)); S.I. 2003/1920, art. 2(b)  
S. 411 applied (15.7.2003) by 1999 c. 29, ss. 221(3), 425(2) (with ss. 165, 217, Sch. 12 para. 9(1)); S.I. 2003/1920, art. 2(b)  
S. 411 applied (with modifications) (5.10.2004) by Energy Act 2004 (c. 20), ss. 159(3), 198; S.I. 2004/2575, art. 2(1), Sch. 1

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S. 411 applied in part (20.1.2007 for specified purposes, otherwise 1.10.2007) by Companies Act 2006 (c. 46), ss. 997, 1300(2); S.I. 2006/3428, art. 3(3) (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); S.I. 2007/2194, art. 2(1)(j)

#### Marginal Citations

M1 1985 c. 65.

## 412 Individual insolvency rules (England and Wales).

- (1) The Lord Chancellor may, with the concurrence of the Secretary of State, make rules for the purpose of giving effect to Parts VIII to XI of this Act [<sup>F3</sup>or the EC Regulation].
- (2) Without prejudice to the generality of subsection (1), or to any provision of those Parts by virtue of which rules under this section may be made with respect to any matter, rules under this section may contain—
  - (a) any such provision as is specified in Schedule 9 to this Act or corresponds to provision contained immediately before the appointed day in rules made under section 132 of the <sup>M2</sup>Bankruptcy Act 1914; and
  - (b) such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor necessary or expedient.

[<sup>F4</sup>(2A) For the purposes of subsection (2), a reference in Schedule 9 to this Act to doing anything under or for the purposes of a provision of this Act includes a reference to doing anything under or for the purposes of the EC Regulation (in so far as the provision of this Act relates to a matter to which the EC Regulation applies).

(2B) Rules under this section for the purpose of giving effect to the EC Regulation may not create an offence of a kind referred to in paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972.]

- (3) Rules under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations made by the Secretary of State under a power conferred by rules under this section shall be made by statutory instrument and, after being made, shall be laid before each House of Parliament.
- (5) Nothing in this section prejudices any power to make rules of court.

#### Textual Amendments

F3 Words in s. 412(1) inserted (3.5.2002) by S.I. 2002/1037, reg. 3(3)

F4 S. 412(2A)(2B) inserted (3.5.2002) by S.I. 2002/1037, reg. 3(4)

#### Modifications etc. (not altering text)

C5 S. 412 applied with modifications by S.I. 1986/1999, art. 3, Sch. 1 Pt. II

C6 S. 412 extended by Financial Services Act 1986 (c. 60, SIF 69), s. 54(6)

S. 412 extended by Banking Act 1987 (c. 22, SIF 10), s. 62(8)(a)

Ss. 411, 412 extended (E.W.) (25.2.2001) by 2000 c. 8, s. 215(8)(a); S.I. 2001/516, art. 2, Sch. Pt. 1

#### Marginal Citations

M2 1914 c. 59.

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### 413 Insolvency Rules Committee.

- (1) The committee established under section 10 of the <sup>M3</sup>Insolvency Act 1976 (advisory committee on bankruptcy and winding-up rules) continues to exist for the purpose of being consulted under this section.
- (2) The Lord Chancellor shall consult the committee before making any rules under section 411 or 412 [<sup>F5</sup>other than rules which contain a statement that the only provision made by the rules is provision applying rules made under section 411, with or without modifications, for the purposes of provision made by section [<sup>F6</sup>any of sections 23 to 26 of the Water Industry Act 1991 or Schedule 3 to that Act]] [<sup>F7</sup>or by any of sections 59 to 65 of, or Schedule 6 or 7 to, the Railways Act 1993.].
- (3) Subject to the next subsection, the committee shall consist of—
  - (a) a judge of the High Court attached to the Chancery Division;
  - (b) a circuit judge;
  - (c) a registrar in bankruptcy of the High Court;
  - (d) the registrar of a county court;
  - (e) a practising barrister;
  - (f) a practising solicitor; and
  - (g) a practising accountant;
 and the appointment of any person as a member of the committee shall be made by the Lord Chancellor.
- (4) The Lord Chancellor may appoint as additional members of the committee any persons appearing to him to have qualifications or experience that would be of value to the committee in considering any matter with which it is concerned.

#### Textual Amendments

- F5** Words inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 25 para. 78(2)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F6** Words in S. 413(2) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60\)](#), ss. 2(1), 4(2), **Sch. 1 para. 46**.
- F7** Words in s. 413(2) added (1.4.1994) by [1993 c. 43](#), ss. 150(1)(o), 152(1), Sch. 12 para.25; S.I. 1994/571, **art. 5**

#### Modifications etc. (not altering text)

- C7** S. 413 applied (with modifications) by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**
- C8** S. 413 applied (1.12.1994) by S.I. 1994/2421, **arts. 4(3)(e), 6(3)(e)**

#### Marginal Citations

- M3** 1976 c. 60.

### *Fees orders*

### 414 Fees orders (company insolvency proceedings).

- (1) There shall be paid in respect of—
  - (a) proceedings under any of Parts I to VII of this Act, and

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- (b) the performance by the official receiver or the Secretary of State of functions under those Parts,  
such fees as the competent authority may with the sanction of the Treasury by order direct.
- (2) That authority is—
- (a) in relation to England and Wales, the Lord Chancellor, and
- (b) in relation to Scotland, the Secretary of State.
- (3) The Treasury may by order direct by whom and in what manner the fees are to be collected and accounted for.
- (4) The Lord Chancellor may, with the sanction of the Treasury, by order provide for sums to be deposited, by such persons, in such manner and in such circumstances as may be specified in the order, by way of security for fees payable by virtue of this section.
- (5) An order under this section may contain such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor, the Secretary of State or (as the case may be) the Treasury necessary or expedient.
- (6) An order under this section shall be made by statutory instrument and, after being made, shall be laid before each House of Parliament.
- (7) Fees payable by virtue of this section shall be paid into the Consolidated Fund.
- (8) References in subsection (1) to Parts I to VII of this Act are to be read as including the Companies Act so far as relating to, and to matters connected with or arising out of, the insolvency or winding up of companies.
- (9) Nothing in this section prejudices any power to make rules of court; and the application of this section to Scotland is without prejudice to section 2 of the <sup>M4</sup>Courts of Law Fees (Scotland) Act 1895.

#### Modifications etc. (not altering text)

- C9** S. 414 extended by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), **ss. 54(3)(a)(5)(a)**, 90, 126(3), Sch. 15 para. 58(2)
- C10** S. 414 extended by [Company Directors Disqualification Act 1986 \(c. 46, SIF 27\)](#), **ss. 21(2)**, 25
- C11** S. 414 applied (1.12.1994) by S.I. 1994/2421, **arts. 4(3)(e)**, 6(3)(e)  
S. 414 extended (1.12.1997) by 1986 c. 53, **Sch. 15A para. 4(2)** (as inserted (1.12.1997) by 1997 c. 32, s. 39(2), **Sch. 6**; S.I. 1997/2668, art. 2, **Sch. Pt. I(i)**)
- C12** S. 414 extended (1.2.1993) by [Friendly Societies Act 1992 \(1992 c. 40\)](#), s. 23, **Sch. 10 para. 69(2)** (with **ss. 7(5)**, 93(4)); S.I. 1993/16, art. 2, **Sch.3**
- C13** S. 414(4) modified (1.12.1994) by S.I. 1994/2421, **art. 13(1)**
- C14** S. 414(4) modified by S.I. 1986/2142, **arts. 1(2)**, 5(3), 15

#### Marginal Citations

- M4** 1895 c. 14

### 415 Fees orders (individual insolvency proceedings in England and Wales).

- (1) There shall be paid in respect of—
- (a) proceedings under Parts VIII to XI of this Act, and

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- (b) the performance by the official receiver or the Secretary of State of functions under those Parts,  
such fees as the Lord Chancellor may with the sanction of the Treasury by order direct.
- (2) The Treasury may by order direct by whom and in what manner the fees are to be collected and accounted for.
- (3) The Lord Chancellor may, with the sanction of the Treasury, by order provide for sums to be deposited, by such persons, in such manner and in such circumstances as may be specified in the order, by way of security for—
- (a) fees payable by virtue of this section, and
  - (b) fees payable to any person who has prepared an insolvency practitioner's report under section 274 in Chapter I of Part IX.
- (4) An order under this section may contain such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor or, as the case may be, the Treasury, necessary or expedient.
- (5) An order under this section shall be made by statutory instrument and, after being made, shall be laid before each House of Parliament.
- (6) Fees payable by virtue of this section shall be paid into the Consolidated Fund.
- (7) Nothing in this section prejudices any power to make rules of court.

**Modifications etc. (not altering text)**

**C15** S. 415 applied with modifications by S.I. 1986/1999, art. 3, Sch. 1 Pt. II

**C16** S. 415(3) modified by S.I. 1986/2142, arts. 1(2), 5(3), 15

S. 415(3) applied (with modifications) (1.12.1994) by S.I. 1994/2421, art. 13(1)

VALID FROM 18/12/2003

**[<sup>F8</sup>415A Fees orders (general)**

- (1) The Secretary of State—
- (a) may by order require a body to pay a fee in connection with the grant or maintenance of recognition of the body under section 391, and
  - (b) may refuse recognition, or revoke an order of recognition under section 391(1) by a further order, where a fee is not paid.
- (2) The Secretary of State—
- (a) may by order require a person to pay a fee in connection with the grant or maintenance of authorisation of the person under section 393, and
  - (b) may disregard an application or withdraw an authorisation where a fee is not paid.
- (3) The Secretary of State may by order require the payment of fees in respect of—
- (a) the operation of the Insolvency Services Account;
  - (b) payments into and out of that Account.

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- (4) The following provisions of section 414 apply to fees under this section as they apply to fees under that section—
- (a) subsection (3) (manner of payment),
  - (b) subsection (5) (additional provision),
  - (c) subsection (6) (statutory instrument),
  - (d) subsection (7) (payment into Consolidated Fund), and
  - (e) subsection (9) (saving for rules of court).]

#### Textual Amendments

**F8** S. 415A inserted (18.12.2003) by 2002 c. 40, ss. 270(1), 279 (with s. 249(6)); S.I. 2003/3340, art. 3

*Specification, increase and reduction of money sums relevant in the operation of this Act*

#### **416 Monetary limits (companies winding up).**

- (1) The Secretary of State may by order in a statutory instrument increase or reduce any of the money sums for the time being specified in the following provisions in the first Group of Parts—
- section 117(2) (amount of company's share capital determining whether county court has jurisdiction to wind it up);
  - section 120(3) (the equivalent as respects sheriff court jurisdiction in Scotland);
  - section 123(1)(a) (minimum debt for service of demand on company by unpaid creditor);
  - section 184(3) (minimum value of judgment, affecting sheriff's duties on levying execution);
  - section 206(1)(a) and (b) (minimum value of company property concealed or fraudulently removed, affecting criminal liability of company's officer).
- (2) An order under this section may contain such transitional provisions as may appear to the Secretary of State necessary or expedient.
- (3) No order under this section increasing or reducing any of the money sums for the time being specified in section 117(2), 120(3) or 123(1)(a) shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (4) A statutory instrument containing an order under this section, other than an order to which subsection (3) applies, is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Modifications etc. (not altering text)

**C17** S. 416(1)(4) applied (with modifications) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), Sch. 2

**C18** S. 416(1) modified (6.4.2001) by S.S.I. 2001/128, reg. 4(2), Sch. 3



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#### **417 Money sum in s. 222.**

The Secretary of State may by regulations in a statutory instrument increase or reduce the money sum for the time being specified in section 222(1) (minimum debt for service of demand on unregistered company by unpaid creditor); but such regulations shall not be made unless a draft of the statutory instrument containing them has been approved by resolution of each House of Parliament.

#### **[<sup>F9</sup>417A Money sums (company moratorium).**

- (1) The Secretary of State may by order increase or reduce any of the money sums for the time being specified in the following provisions of Schedule A1 to this Act—
  - paragraph 17(1) (maximum amount of credit which company may obtain without disclosure of moratorium);
  - paragraph 41(4) (minimum value of company property concealed or fraudulently removed, affecting criminal liability of company's officer).
- (2) An order under this section may contain such transitional provisions as may appear to the Secretary of State necessary or expedient.
- (3) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

#### **Textual Amendments**

**F9** S. 417A inserted (1.1.2003) by 2000 c. 39, s. 1, **Sch. 1 para. 10**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

#### **418 Monetary limits (bankruptcy).**

- (1) The Secretary of State may by order prescribe amounts for the purposes of the following provisions in the second Group of Parts—
  - section 273 (minimum value of debtor's estate determining whether immediate bankruptcy order should be made; small bankruptcies level);
  - section 346(3) (minimum amount of judgment, determining whether amount recovered on sale of debtor's goods is to be treated as part of his estate in bankruptcy);
  - section 354(1) and (2) (minimum amount of concealed debt, or value or property concealed or removed, determining criminal liability under the section);
  - section 358 (minimum value of property taken by a bankrupt out of England and Wales, determining his criminal liability);
  - section 360(1) (maximum amount of credit which bankrupt may obtain without disclosure of his status);
  - section 361(2) (exemption of bankrupt from criminal liability for failure to keep proper accounts, if unsecured debts not more than the prescribed minimum);
  - section 364(2)(d) (minimum value of goods removed by the bankrupt, determining his liability to arrest);
 and references in the second Group of Parts to the amount prescribed for the purposes of any of those provisions, and references in those provisions to the prescribed amount, are to be construed accordingly.



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- (2) An order under this section may contain such transitional provisions as may appear to the Secretary of State necessary or expedient.
- (3) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

**Modifications etc. (not altering text)**

**C19** S. 418 applied (with modifications) by S.I. 1986/1999, art. 3, Sch. 1 Pt. II

*Insolvency practice*

**419 Regulations for purposes of Part XIII.**

- (1) The Secretary of State may make regulations for the purpose of giving effect to Part XIII of this Act; and “prescribed” in that Part means prescribed by regulations made by the Secretary of State.
- (2) Without prejudice to the generality of subsection (1) or to any provision of that Part by virtue of which regulations may be made with respect to any matter, regulations under this section may contain—
  - (a) provision as to the matters to be taken into account in determining whether a person is a fit and proper person to act as an insolvency practitioner;
  - (b) provision prohibiting a person from so acting in prescribed cases, being cases in which a conflict of interest will or may arise;
  - (c) provision imposing requirements with respect to—
    - (i) the preparation and keeping by a person who acts as an insolvency practitioner of prescribed books, accounts and other records, and
    - (ii) the production of those books, accounts and records to prescribed persons;
  - (d) provision conferring power on prescribed persons—
    - (i) to require any person who acts or has acted as an insolvency practitioner to answer any inquiry in relation to a case in which he is so acting or has so acted, and
    - (ii) to apply to a court to examine such a person or any other person on oath concerning such a case;
  - (e) provision making non-compliance with any of the regulations a criminal offence; and
  - (f) such incidental, supplemental and transitional provisions as may appear to the Secretary of State necessary or expedient.
- (3) Any power conferred by Part XIII of this Part to make regulations, rules or orders is exercisable by statutory instrument subject to annulment by resolution of either House of Parliament.
- (4) Any rule or regulation under Part XIII or this Part may make different provision with respect to different cases or descriptions of cases, including different provision for different areas.

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**Modifications etc. (not altering text)**

**C20** S. 419 applied with modifications by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**

**C21** S. 419 applied (1.12.1994) by S.I. 1994/2421, **arts. 4(3)(e), 6(3)(e)**

*Other order-making powers*

**420 Insolvent partnerships.**

- (1) The Lord Chancellor may, by order made with the concurrence of the Secretary of State, provide that such provisions of this Act as may be specified in the order shall apply in relation to insolvent partnerships with such modifications as may be so specified.

[<sup>F10</sup>(1A) An order under this section may make provision in relation to the EC Regulation.

- (1B) But provision made by virtue of this section in relation to the EC Regulation may not create an offence of a kind referred to in paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972.]

- (2) An order under this section may make different provision for different cases and may contain such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor necessary or expedient.

- (3) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F10** S. 420(1A)(1B) inserted (3.5.2002) by S.I. 2002/1037, **reg. 3(5)**

**Modifications etc. (not altering text)**

**C22** S. 420 applied (with modifications) by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**

**C23** S. 420 extended by **Company Directors Disqualification Act 1986 (c. 46, SIF 27)**, **ss. 21(2), 25**

**C24** S. 420 amended (30.12.2002) by **2002 c. 29, s. 311(6)**; S.I. 2002/3015, art. 2, **Sch.** (subject to savings in art. 3)

**421 Insolvent estates of deceased persons.**

- (1) The Lord Chancellor may, by order made with the concurrence of the Secretary of State, provide that such provisions of this Act as may be specified in the order shall apply [<sup>F11</sup>in relation] to the administration of the insolvent estates of deceased persons with such modifications as may be so specified.

[<sup>F12</sup>(1A) An order under this section may make provision in relation to the EC Regulation.

- (1B) But provision made by virtue of this section in relation to the EC Regulation may not create an offence of a kind referred to in paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972.]

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- (2) An order under this section may make different provision for different cases and may contain such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor necessary or expedient.
- (3) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) For the purposes of this section the estate of a deceased person is insolvent if, when realised, it will be insufficient to meet in full all the debts and other liabilities to which it is subject.

#### Textual Amendments

**F11** Words in s. 421(1) inserted (2.4.2001) by 2000 c. 39, s. 12(2); S.I. 2001/766, art. 2 (subject to transitional provisions in art. 3)

**F12** S. 421(1A)(1B) inserted (3.5.2002) by S.I. 2002/1037, reg. 3(6)

#### Modifications etc. (not altering text)

**C25** S. 421 amended (30.12.2002) by 2002 c. 29, s. 311(6); S.I. 2002/3015, art. 2, Sch. (subject to savings in art. 3)

### [<sup>F13</sup> 421A Insolvent estates: joint tenancies.

- (1) This section applies where—
  - (a) an insolvency administration order has been made in respect of the insolvent estate of a deceased person,
  - (b) the petition for the order was presented after the commencement of this section and within the period of five years beginning with the day on which he died, and
  - (c) immediately before his death he was beneficially entitled to an interest in any property as joint tenant.
- (2) For the purpose of securing that debts and other liabilities to which the estate is subject are met, the court may, on an application by the trustee appointed pursuant to the insolvency administration order, make an order under this section requiring the survivor to pay to the trustee an amount not exceeding the value lost to the estate.
- (3) In determining whether to make an order under this section, and the terms of such an order, the court must have regard to all the circumstances of the case, including the interests of the deceased's creditors and of the survivor; but, unless the circumstances are exceptional, the court must assume that the interests of the deceased's creditors outweigh all other considerations.
- (4) The order may be made on such terms and conditions as the court thinks fit.
- (5) Any sums required to be paid to the trustee in accordance with an order under this section shall be comprised in the estate.
- (6) The modifications of this Act which may be made by an order under section 421 include any modifications which are necessary or expedient in consequence of this section.

*Status: Point in time view as at 25/07/2003. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Insolvency Act 1986, Part XV is up to date with all changes known to be in force on or before 26 May 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)*

- (7) In this section, “survivor” means the person who, immediately before the death, was beneficially entitled as joint tenant with the deceased or, if the person who was so entitled dies after the making of the insolvency administration order, his personal representatives.
- (8) If there is more than one survivor—
- (a) an order under this section may be made against all or any of them, but
  - (b) no survivor shall be required to pay more than so much of the value lost to the estate as is properly attributable to him.
- (9) In this section—
- “insolvency administration order” has the same meaning as in any order under section 421 having effect for the time being,
- “value lost to the estate” means the amount which, if paid to the trustee, would in the court’s opinion restore the position to what it would have been if the deceased had been adjudged bankrupt immediately before his death.]

#### Textual Amendments

**F13** S. 421A inserted (2.4.2001) by 2000 c. 39, s. 12(1); S.I. 2001/766, art. 2 (subject to transitional provisions in art. 3)

#### 422 [F14 Formerly authorised banks].

- (1) The Secretary of State may, by order made with the concurrence of the Treasury and after consultation with the [F15 Financial Services Authority], provide that such provisions in the first Group of Parts as may be specified in the order shall apply in relation to [F16 any person [F17 (other than an authorised deposit taker)] who continues to have a liability in respect of a deposit which was held by him in accordance with the Banking Act 1979 or the Banking Act 1987] with such modifications as may be so specified.
- [F18(1A) For the purposes of subsection (1), “authorised deposit taker” has the meaning given in section 8(1B).]
- (2) An order under this section may make different provision for different cases and may contain such incidental, supplemental and transitional provisions as may appear to the Secretary of State necessary or expedient.
- (3) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F14** S. 422: cross-heading substituted (3.7.2002) by S.I. 2002/1555, art. 16(2)

**F15** Words in s. 422(1) substituted (1.6.1998) by 1998 c. 11, s. 23, Sch. 5 Pt. I Chapter III para. 37; S.I. 1998/1120, art. 2

**F16** Words in s. 422(1) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 307

**F17** Words in s. 422(1) inserted (3.7.2002) by S.I. 2002/1555, art. 16(3)

**F18** S. 422(1A) inserted (3.7.2002) by S.I. 2002/1555, art. 16(4)

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**Status:** Point in time view as at 25/07/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Insolvency Act 1986, Part XV is up to date with all changes known to be in force on or before 26 May 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)

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**Modifications etc. (not altering text)**

**C26** S. 422 extended by [Company Directors Disqualification Act 1986 \(c. 46, SIF 27\)](#), **ss. 21(2), 25**

**Status:**

Point in time view as at 25/07/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Insolvency Act 1986, Part XV is up to date with all changes known to be in force on or before 26 May 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.