



# 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** Pts. 12-19 applied (with modifications) (6.4.2014) by The Industrial and Provident Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014 (S.I. 2014/229), arts. 1, 4(c), Sch. 3 (as amended (13.3.2018) by The Small Business, Enterprise and Employment Act 2015 (Consequential Amendments, Savings and Transitional Provisions) Regulations 2018 (S.I. 2018/208), regs. 1(3), 15(4)(b))

#### *General insolvency rules*

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

(1) Rules may be made—

- (a) in relation to England and Wales, by the Lord Chancellor with the concurrence of the Secretary of State [<sup>F1</sup>and, in the case of rules that affect court procedure, with the concurrence of the Lord Chief Justice], or
- (b) in relation to Scotland, by the Secretary of State,

for the purpose of giving effect to Parts I to VII of this Act [<sup>F2</sup>or the [<sup>F3</sup>EU Regulation]].

[<sup>F4</sup>(1A) Rules may also be made for the purpose of giving effect to Part 2 of the Banking Act 2009 (bank insolvency orders); and rules for that purpose shall be made—

- (a) in relation to England and Wales, by the Lord Chancellor with the concurrence of—
  - (i) the Treasury, and

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- (ii) in the case of rules that affect court procedure, the Lord Chief Justice,  
or  
(b) in relation to Scotland, by the Treasury.]
- [<sup>F5</sup>(1B) Rules may also be made for the purpose of giving effect to Part 3 of the Banking Act 2009 (bank administration); and rules for that purpose shall be made—
- (a) in relation to England and Wales, by the Lord Chancellor with the concurrence of—
- (i) the Treasury, and  
(ii) in the case of rules that affect court procedure, the Lord Chief Justice,  
or  
(b) in relation to Scotland, by the Treasury.]
- (2) Without prejudice to the generality of subsection (1), [<sup>F6</sup>(1A)][<sup>F7</sup> or (1B)] 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 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 [<sup>F8</sup>the Companies Act 1985] (old winding-up rules), and  
(b) such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor or, as the case may be, the Secretary of State [<sup>F9</sup> or the Treasury] necessary or expedient.
- [<sup>F10</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 [<sup>F11</sup>EU Regulation] (in so far as the provision of this Act relates to a matter to which the [<sup>F11</sup>EU Regulation] applies).
- (2B) Rules under this section for the purpose of giving effect to the [<sup>F12</sup>EU 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.]
- [<sup>F13</sup>(2C) 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 Part 2 of the Banking Act 2009.]
- [<sup>F14</sup>(2D) 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 Part 3 of the Banking Act 2009.]
- (3) In Schedule 8 to this Act “liquidator” includes a provisional liquidator [<sup>F15</sup> or bank liquidator][<sup>F16</sup> or administrator]; and references above in this section to Parts I to VII of this Act [<sup>F17</sup> or Part 2 [<sup>F18</sup> or 3] of the Banking Act 2009] are to be read as including [<sup>F19</sup>the Companies Acts]so far as relating to, and to matters connected with or arising out of, the insolvency or winding up of companies.
- [<sup>F20</sup>(3A) In this section references to Part 2 or 3 of the Banking Act 2009 include references to those Parts as applied to building societies (see section 90C of the Building Societies Act 1986).]
- (4) Rules under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

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- (5) Regulations made by the Secretary of State [<sup>F21</sup>or the Treasury] 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.
- [<sup>F22</sup>(7) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

#### Textual Amendments

- F1** Words in s. 411(1)(a) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(1\), 148, Sch. 4 para. 188\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1
- F2** Words in s. 411(1) inserted (3.5.2002) by S.I. 2002/1037, [reg. 3\(1\)](#)
- F3** Words in s. 411(1) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), [reg. 1, Sch. para. 24](#) (with regs. 3, 4)
- F4** S. 411(1A) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 125\(2\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F5** S. 411(1B) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 160\(2\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F6** Words in s. 411(2) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 125\(3\)\(a\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F7** Words in s. 411(2) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 160\(3\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F8** Words in s. 411(2)(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009, \(S.I. 2009/1941\) arts. 2\(1\), 8, {Sch. 1 para. 79}](#) (with art. 10, Sch. 1 para. 84)
- F9** Words in s. 411(2) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 125\(3\)\(b\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F10** S. 411(2A)(2B) inserted (3.5.2002) by S.I. 2002/1037, [reg. 3\(2\)](#)
- F11** Words in s. 411(2A) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), [reg. 1, Sch. para. 24](#) (with regs. 3, 4)
- F12** Words in s. 411(2B) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), [reg. 1, Sch. para. 24](#) (with regs. 3, 4)
- F13** S. 411(2C) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 125\(4\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F14** S. 411(2D) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 160\(4\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F15** Words in s. 411(3) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 125\(5\)\(a\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F16** Words in s. 411(3) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 160\(5\)\(a\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F17** S. 411(3) text amended (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 125\(5\)\(b\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F18** Words in s. 411(3) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 160\(5\)\(b\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F19** Words in s. 411(3) substituted (1.10.2007) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 10(1), [Sch. 4 para. 44](#) (with art. 12)
- F20** S. 411(3A) inserted (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), [art. 13](#)

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- F21** Words in s. 411(5) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by **Banking Act 2009 (c. 1), ss. 125(6), 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3, Sch.**
- F22** S. 411(7) inserted (3.4.2006) by **Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, Sch. 4 para. 188(3); S.I. 2006/1014, art. 2(a), Sch. 1**

#### 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. 1(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. 1** (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**  
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)**
- C5** S. 411 applied (with modifications) (1.10.2011) by **Postal Services Act 2011 (c. 5), ss. 73(3), 93(2)(3); S.I. 2011/2329, art. 3** (with arts. 4, 5)
- C6** S. 411 extended (with modifications) (27.3.2012 for specified purposes) by **Health and Social Care Act 2012 (c. 7), ss. 130(9), 306(1)(d), (4)**
- C7** S. 411 modified (3.2.2017) by **Housing and Planning Act 2016 (c. 22), ss. 102(5), 216(3)** (with ss. 116, 117); S.I. 2017/75, **reg. 3(c)**
- C8** 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; (1.10.2005) by S.I. 2005/1989, reg. 3, Sch. 2** (with reg. 4); and (8.12.2017) by **S.I. 2017/1119, reg. 1(1), Sch. 1 Pts. 2, 3**)
- C9** S. 411(1)(b)(2) functions made exercisable concurrently (9.2.2018) by **The Scotland Act 1998 (Insolvency Functions) Order 2018 (S.I. 2018/174), arts. 1(1), 2** (with art. 6(1))
- C10** S. 411(1)(b)(2) functions made exercisable concurrently (9.2.2018) by **The Scotland Act 1998 (Insolvency Functions) Order 2018 (S.I. 2018/174), arts. 1(1), 5** (with art. 6(2))
- C11** S. 411(1B) extended (1.3.2014 for specified purposes, 13.7.2018 for E.W. in so far as not already in force) by **Financial Services (Banking Reform) Act 2013 (c. 33), ss. 121(3), 148(5); S.I. 2014/377, art. 2(1)(b), Sch. Pt. 2; S.I. 2018/848, art. 2(b)**
- C12** S. 411(4) excluded (9.2.2018) by **The Scotland Act 1998 (Insolvency Functions) Order 2018 (S.I. 2018/174), arts. 1(1), 4(1)**
- C13** S. 411(5) excluded (9.2.2018) by **The Scotland Act 1998 (Insolvency Functions) Order 2018 (S.I. 2018/174), arts. 1(1), 4(3)**

#### Marginal Citations

- M1** 1985 c. 65.

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

- (1) The Lord Chancellor may, with the concurrence of the Secretary of State [<sup>F23</sup>and, in the case of rules that affect court procedure, with the concurrence of the Lord Chief Justice], make rules for the purpose of giving effect to [<sup>F24</sup>Parts 7A to 11] of this Act [<sup>F25</sup>or the [<sup>F26</sup>EU 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>F27</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 [<sup>F28</sup>EU Regulation] (in so far as the provision of this Act relates to a matter to which the [<sup>F28</sup>EU Regulation] applies).
- (2B) Rules under this section for the purpose of giving effect to the [<sup>F29</sup>EU 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.
- [<sup>F30</sup>(6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

### Textual Amendments

- F23** Words in s. 412(1) inserted (3.4.2006) by virtue of [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(1\), 148, Sch. 4 para. 189\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1
- F24** Words in s. 412(1) substituted (24.2.2009 for certain purposes otherwise 6.4.2009) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 108\(3\), 148\(5\), Sch. 20 para. 8](#); S.I. 2009/382, [art. 2](#)
- F25** Words in s. 412(1) inserted (3.5.2002) by S.I. 2002/1037, [reg. 3\(3\)](#)
- F26** Words in s. 412(1) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\), reg. 1, Sch. para. 25](#) (with regs. 3, 4)
- F27** S. 412(2A)(2B) inserted (3.5.2002) by S.I. 2002/1037, [reg. 3\(4\)](#)
- F28** Words in s. 412(2A) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\), reg. 1, Sch. para. 25](#) (with regs. 3, 4)
- F29** Words in s. 412(2B) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\), reg. 1, Sch. para. 25](#) (with regs. 3, 4)
- F30** S. 412(6) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(1\), 148, Sch. 4 para. 189\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1

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

- C14** S. 412 applied with modifications by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**
- C15** 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.

**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>F31</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>F32</sup>any of sections 23 to 26 of the Water Industry Act 1991 or Schedule 3 to that Act]] [<sup>F33</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) [<sup>F34</sup>an insolvency and companies court judge];
  - [<sup>F35</sup>(d) a district judge;]
  - (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 [<sup>F36</sup>in accordance with subsection (3A) or (3B)].
- [<sup>F37</sup>(3A) The Lord Chief Justice must appoint the persons referred to in paragraphs (a) to (d) of subsection (3), after consulting the Lord Chancellor.
- (3B) The Lord Chancellor must appoint the persons referred to in paragraphs (e) to (g) of subsection (3), after consulting the Lord Chief Justice.]
- (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.
- [<sup>F38</sup>(5) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

**Textual Amendments**

- F31** 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)



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- F32** 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.](#)
- F33** 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](#)
- F34** Words in s. 413(3)(c) substituted (26.2.2018) by [The Alteration of Judicial Titles \(Registrar in Bankruptcy of the High Court\) Order 2018 \(S.I. 2018/130\), art. 1, Sch. para. 7\(b\)](#)
- F35** S. 413(3)(d) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 93\(k\); S.I. 2014/954, art. 2\(c\) \(with art. 3\) \(with transitional provisions and savings in S.I. 2014/956, arts. 3-11\)](#)
- F36** Words in s. 413(3) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(1\), 148, Sch. 4 para. 190\(2\); S.I. 2006/1014, art. 2\(a\), Sch. 1](#)
- F37** S. 413(3A)(3B) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(1\), 148, Sch. 4 para. 190\(3\); S.I. 2006/1014, art. 2\(a\), Sch. 1](#)
- F38** S. 413(5) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(1\), 148, Sch. 4 para. 190\(4\); S.I. 2006/1014, art. 2\(a\), Sch. 1](#)

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

- C16** S. 413 applied (with modifications) by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)
- C17** S. 413 applied (1.12.1994) by [S.I. 1994/2421, arts. 4\(3\)\(e\), 6\(3\)\(e\)](#)
- C18** S. 413(2) excluded (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 125\(8\), 263\(1\)\(2\) \(with s. 247\); S.I. 2009/296, arts. 2, 3, Sch.](#)
- C19** S. 413(2) excluded (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 160\(6\), 263\(1\)\(2\) \(with s. 247\); S.I. 2009/296, arts. 2, 3, Sch.](#)
- C20** S. 413(2) excluded (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\), art. 16](#)
- C21** S. 413(2) excluded (1.10.2011) by [Postal Services Act 2011 \(c. 5\), ss. 73\(4\), 93\(2\)\(3\); S.I. 2011/2329, art. 3 \(with arts. 4, 5\)](#)
- C22** S. 413(2) excluded (3.2.2017) by [Housing and Planning Act 2016 \(c. 22\), ss. 102\(6\), 216\(3\) \(with ss. 116, 117\); S.I. 2017/75, reg. 3\(c\)](#)

#### **Marginal Citations**

- M3** [1976 c. 60.](#)

### *Fees orders*

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

- (1) There shall be paid in respect of—
- proceedings under any of Parts I to VII of this Act, and
  - 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—
- in relation to England and Wales, the Lord Chancellor, and
  - 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.

*Status: Point in time view as at 19/12/2018.*

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- (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 [<sup>F39</sup>the Companies Acts] so far as relating to, and to matters connected with or arising out of, the insolvency or winding up of companies.
- [<sup>F40</sup>(8A) This section applies in relation to Part 2 of the Banking Act 2009 (bank insolvency) as in relation to Parts I to VII of this Act.]
- [<sup>F41</sup>(8B) This section applies in relation to Part 3 of the Banking Act 2009 (bank administration) as in relation to Parts I to VII of this Act.]
- [<sup>F42</sup>(8C) In subsections (8A) and (8B) the reference to Parts 2 and 3 of the Banking Act 2009 include references to those Parts as applied to building societies (see section 90C of the Building Societies Act 1986).]
- (9) [<sup>F43</sup>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.]

#### Textual Amendments

- F39** Words in s. 414(8) substituted (1.10.2007) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 10(1), **Sch. 4 para. 44** (with art. 12)
- F40** S. 414(8A) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 126, 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch.
- F41** S. 414(8B) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 161, 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch.
- F42** S. 414(8C) inserted (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), **art. 14**
- F43** S. 414(9) repealed (S.) (1.4.2015) by [The Courts Reform \(Scotland\) Act 2014 \(Consequential Provisions\) Order 2015 \(S.S.I. 2015/150\)](#), art. 1, **sch. para. 4**

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

- C23** 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)
- C24** S. 414 extended by [Company Directors Disqualification Act 1986 \(c. 46, SIF 27\)](#), **ss. 21(2)**, 25
- C25** 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**
- C26** 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)**)



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**C27** S. 414(4) modified (1.12.1994) by S.I. 1994/2421, **art. 13(1)**

**C28** 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—

[<sup>F44</sup>(za) the costs of persons acting as approved intermediaries under Part 7A,]

(a) proceedings under [<sup>F45</sup>Parts 7A to 11] of this Act, <sup>F46</sup>...

(b) the performance by the official receiver or the Secretary of State of functions under those Parts, [<sup>F47</sup>and

(c) the performance by an adjudicator of functions under Part 9 of this Act,]

such fees as the Lord Chancellor may with the sanction of the Treasury by order direct.

[<sup>F48</sup>(1A) An order under subsection (1) may make different provision for different purposes, including by reference to the manner or form in which proceedings are commenced.]

(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.

#### Textual Amendments

**F44** S. 415(1)(za) inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by **Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 108(3), 148(5), Sch. 20 para. 9(2); S.I. 2009/382, art. 2**

**F45** Words in s. 415(1)(a) substituted (24.2.2009 for certain purposes otherwise 6.4.2009) by **Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 108(3), 148(5), Sch. 20 para. 9(3); S.I. 2009/382, art. 2**

**F46** Word in s. 415(1)(a) omitted (25.4.2013 for specified purposes, 6.4.2016 in so far as not already in force) by virtue of **Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(1)(i)(3), Sch. 19 para. 59(2)(a); S.I. 2016/191, art. 2 (with art. 3)**

**F47** S. 415(1)(c) and word inserted (25.4.2013 for specified purposes, 6.4.2016 in so far as not already in force) by **Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(1)(i)(3), Sch. 19 para. 59(2)(b); S.I. 2016/191, art. 2 (with art. 3)**

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**F48** S. 415(1A) inserted (25.4.2013 for specified purposes, 6.4.2016 in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(1)(i)(3), [Sch. 19 para. 59\(3\)](#); [S.I. 2016/191](#), art. 2 (with art. 3)

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

**C29** S. 415 applied with modifications by [S.I. 1986/1999](#), art. 3, [Sch. 1 Pt. II](#)

**C30** 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\(1\)](#)

**[<sup>F49</sup>415A Fees orders (general)]**

[ The Secretary of State—

- <sup>F50</sup>(A1) (a) may by order require a person or body to pay a fee in connection with the grant or maintenance of a designation of that person or body as a competent authority under section 251U, and
- (b) may refuse to grant, or may withdraw, any such designation where a fee is not paid.]

(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) [<sup>F51</sup>or (2)] by a further order, where a fee is not paid.

[ Fees under subsection (1) may vary according to whether the body is recognised under <sup>F52</sup>(1A) section 391(1) (body providing full and partial authorisation) or under section 391(2) (body providing partial authorisation).]

[ In setting under subsection (1) the amount of a fee in connection with maintenance of <sup>F53</sup>(1B) recognition, the matters to which the Secretary of State may have regard include, in particular, the costs of the Secretary of State in connection with any functions under sections 391D, 391E, 391J, 391K and 391N.]

<sup>F54</sup>(2) .....

(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.

(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).]

[<sup>F55</sup>(5) Section 391M applies for the purposes of an order under subsection (1)(b) as it applies for the purposes of a revocation order made under section 391L.]

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#### Textual Amendments

- F49** S. 415A inserted (18.12.2003) by 2002 c. 40, ss. 270(1), 279 (with s. 249(6)); S.I. 2003/3340, **art. 3**
- F50** S. 415A(A1) inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 108(3), 148(5), **Sch. 20 para. 10**; S.I. 2009/382, **art. 2**
- F51** Words in s. 415A(1)(b) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), **ss. 17(5)(a)**, 115(7); S.I. 2015/1732, **art. 2(c)**
- F52** S. 415A(1A) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), **ss. 17(5)(b)**, 115(7); S.I. 2015/1732, **art. 2(c)**
- F53** S. 415A(1B) inserted (1.10.2015 immediately after 2015 c. 20, s. 17 comes into force) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 139(2)**, 164(1); S.I. 2015/1689, reg. 3(a)
- F54** S. 415A(2) omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 6 para. 22(5)(a)**; S.I. 2015/1732, **art. 2(e)(vi)** (with art. 7)
- F55** S. 415A(5) inserted (1.10.2015 immediately after 2015 c. 20, s. 17 comes into force) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 140(2)**, 164(1); S.I. 2015/1689, reg. 3(a)

*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)

- C31** S. 416(1)(4) applied (with modifications) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**
- C32** 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>F56</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

**F56** 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—
  - [<sup>F57</sup>section 251S(4) (maximum amount of credit which a person in respect of whom a debt relief order is made may obtain without disclosure of his status);]
  - section 273 (minimum value of debtor's estate determining whether immediate bankruptcy order should be made; small bankruptcies level);
  - [<sup>F58</sup>section 313A (value of property below which application for sale, possession or charge to be dismissed);]
  - 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);

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[<sup>F59</sup> paragraphs 6 to 8 of Schedule 4ZA (maximum amount of a person's debts, monthly surplus income and property for purposes of obtaining a debt relief order);]

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.

- (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

- F57** Words in s. 418(1) inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 108(3), 148(5), [Sch. 20 para. 11\(a\)](#); S.I. 2009/382, [art. 2](#)
- F58** Words in s. 418(1) inserted (1.4.2004) by 2002 c. 40, ss. 261(6), 279 (with s. 249(6)); S.I. 2003/2093, [art. 2\(2\)](#), [Sch. 2](#) (subject to [arts. 3-8](#) (as amended by S.I. 2003/2332, [art. 2](#)))
- F59** Words in s. 418(1) inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 108(3), 148(5), [Sch. 20 para. 11\(b\)](#); S.I. 2009/382, [art. 2](#)

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

- C33** 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

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- (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.
- [<sup>F60</sup>(5) In making regulations under this section, the Secretary of State must have regard to the regulatory objectives (as defined by section 391C(3)).]

#### **Textual Amendments**

**F60** S. 419(5) inserted (1.10.2015 immediately after 2015 c. 20, s. 17 comes into force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 138(2)**, 164(1); S.I. 2015/1689, reg. 3(a)

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

**C34** S. 419 applied with modifications by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**

**C35** 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 [<sup>F61</sup>and the Lord Chief Justice], 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>F62</sup>(1A) An order under this section may make provision in relation to the [<sup>F63</sup>EU Regulation] .
- (1B) But provision made by virtue of this section in relation to the [<sup>F64</sup>EU 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 [<sup>F65</sup>and the Lord Chief Justice] 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.
- [<sup>F66</sup>(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]



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### Textual Amendments

- F61** Words in s. 420(1) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(1\), 148, Sch. 4 para. 191\(2\)](#); [S.I. 2006/1014, art. 2\(a\)](#), Sch. 1
- F62** S. 420(1A)(1B) inserted (3.5.2002) by [S.I. 2002/1037, reg. 3\(5\)](#)
- F63** Words in s. 420(1A) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\), reg. 1, Sch. para. 26](#) (with regs. 3, 4)
- F64** Words in s. 420(1B) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\), reg. 1, Sch. para. 26](#) (with regs. 3, 4)
- F65** Words in s. 420(2) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(1\), 148, Sch. 4 para. 191\(3\)](#); [S.I. 2006/1014, art. 2\(a\)](#), Sch. 1
- F66** S. 420(4) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(1\), 148, Sch. 4 para. 191\(4\)](#); [S.I. 2006/1014, art. 2\(a\)](#), Sch. 1

### Modifications etc. (not altering text)

- C36** S. 420 applied (with modifications) by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)
- C37** S. 420 extended by [Company Directors Disqualification Act 1986 \(c. 46, SIF 27\), ss. 21\(2\), 25](#)
- C38** 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)
- C39** S. 420 applied (with modifications) (6.4.2008) by [Serious Crime Act 2007 \(c. 27\), ss. 27\(5\), 94](#); [S.I. 2008/755, art. 15\(1\)\(f\)](#)

## 421 Insolvent estates of deceased persons.

(1) The Lord Chancellor may, by order made with the concurrence of the Secretary of State <sup>[F67]</sup> and the Lord Chief Justice, provide that such provisions of this Act as may be specified in the order shall apply <sup>[F68]</sup> in relation] to the administration of the insolvent estates of deceased persons with such modifications as may be so specified.

<sup>[F69]</sup>(1A) An order under this section may make provision in relation to the <sup>[F70]</sup>EU Regulation].

(1B) But provision made by virtue of this section in relation to the <sup>[F71]</sup>EU 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 <sup>[F72]</sup> and the Lord Chief Justice] 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.

<sup>[F73]</sup>(5) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

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### Textual Amendments

- F67** Words in s. 421(1) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(1), 148, [Sch. 4 para. 192\(2\)](#); [S.I. 2006/1014, art. 2\(a\)](#), Sch. 1
- F68** 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](#))
- F69** S. 421(1A)(1B) inserted (3.5.2002) by [S.I. 2002/1037, reg. 3\(6\)](#)
- F70** Words in s. 421(1A) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), [reg. 1, Sch. para. 27](#) (with regs. 3, 4)
- F71** Words in s. 421(1B) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), [reg. 1, Sch. para. 27](#) (with regs. 3, 4)
- F72** Words in s. 421(2) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(1), 148, [Sch. 4 para. 192\(3\)](#); [S.I. 2006/1014, art. 2\(a\)](#), Sch. 1
- F73** S. 421(5) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(1), 148, [Sch. 4 para. 192\(4\)](#); [S.I. 2006/1014, art. 2\(a\)](#), Sch. 1

### Modifications etc. (not altering text)

- C40** 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>F74</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.
- (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

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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 [<sup>F75</sup>made] bankrupt immediately before his death.]

**Textual Amendments**

- F74** 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)
- F75** Word in s. 421A(9) substituted (6.4.2016) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 19 para. 60; S.I. 2016/191, art. 2 (with art. 3)

**422** [<sup>F76</sup>Formerly authorised banks].

- [<sup>F77</sup>(1) The Secretary of State may by order made with the concurrence of the Treasury and after consultation with the [<sup>F78</sup>Financial Conduct Authority and the Prudential Regulation Authority] provide that specified provisions in the first Group of Parts shall apply with specified modifications in relation to any person who—
- (a) has a liability in respect of a deposit which he accepted in accordance with the Banking Act 1979 (c. 37) or 1987 (c. 22), but
  - (b) does not have permission under [<sup>F79</sup>Part 4A] of the Financial Services and Markets Act 2000 (c. 8) (regulated activities) to accept deposits.

- (1A) Subsection (1)(b) shall be construed in accordance with—
- (a) section 22 of the Financial Services and Markets Act 2000 (classes of regulated activity and categories of investment),
  - (b) any relevant order under that section, and
  - (c) Schedule 2 to that Act (regulated activities).]

(1A) <sup>F80</sup> .....

- (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**

- F76** S. 422 cross-heading substituted (3.7.2002) by S.I. 2002/1555, art. 16(2)

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- F77** S. 422(1)(1A) substituted (15.9.2003) for s. 422(1) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 35 (with s. 249(1)-(3)(6)); S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2002/2332, art. 2))
- F78** Words in s. 422(1) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 53(a)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F79** Words in s. 422(1)(b) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 53(b)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F80** S. 422(1A) omitted (15.9.2003) by virtue of The Enterprise Act 2002 (Insolvency) Order 2003 (S.I. 2003/2096), art. 4, **Sch. Pt. 1 para. 11** (with art. 6)

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

- C41** S. 422 extended by Company Directors Disqualification Act 1986 (c. 46, SIF 27), **ss. 21(2), 25**

**Status:**

Point in time view as at 19/12/2018.

**Changes to legislation:**

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