



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART XV

#### SUBORDINATE LEGISLATION

##### *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 EC Regulation].

[<sup>F3</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
  - (ii) in the case of rules that affect court procedure, the Lord Chief Justice,or
- (b) in relation to Scotland, by the Treasury.]

[<sup>F4</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

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- (b) in relation to Scotland, by the Treasury.]
- (2) Without prejudice to the generality of subsection (1), [<sup>F5</sup>(1A)][<sup>F6</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>F7</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>F8</sup>or the Treasury] necessary or expedient.
- [<sup>F9</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.]
- [<sup>F10</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>F11</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>F12</sup>or bank liquidator][<sup>F13</sup>or administrator]; and references above in this section to Parts I to VII of this Act [<sup>F14</sup>or Part 2 [<sup>F15</sup>or 3] of the Banking Act 2009] are to be read as including [<sup>F16</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>F17</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.
  - (5) Regulations made by the Secretary of State [<sup>F18</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>F19</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.]

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### 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** 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.
- F4** 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.
- F5** 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.
- F6** 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.
- F7** 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)
- F8** 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.
- F9** S. 411(2A)(2B) inserted (3.5.2002) by S.I. 2002/1037, **reg. 3(2)**
- F10** 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.
- F11** 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.
- F12** 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.
- F13** 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.
- F14** 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.
- F15** 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.
- F16** 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)
- F17** S. 411(3A) inserted (29.3.2009) by The Building Societies (Insolvency and Special Administration) Order 2009 (S.I. 2009/805), **art. 13**
- F18** 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.
- F19** 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)

- C1** 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**

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- C2** 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**  
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)**
- C3** 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)

#### 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 [<sup>F20</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>F21</sup>Parts 7A to 11] of this Act [<sup>F22</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>F23</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.

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[<sup>F24</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

- F20** 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
- F21** 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](#)
- F22** Words in s. 412(1) inserted (3.5.2002) by S.I. 2002/1037, [reg. 3\(3\)](#)
- F23** S. 412(2A)(2B) inserted (3.5.2002) by S.I. 2002/1037, [reg. 3\(4\)](#)
- F24** 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

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

- C4** S. 412 applied with modifications by S.I. 1986/1999, [art. 3, Sch. 1 Pt. II](#)
- C5** 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>F25</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>F26</sup>any of sections 23 to 26 of the Water Industry Act 1991 or Schedule 3 to that Act]] [<sup>F27</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 judge of the High Court attached to the Chancery Division;
  - a circuit judge;
  - a registrar in bankruptcy of the High Court;
  - the registrar of a county court;
  - a practising barrister;
  - a practising solicitor; and
  - a practising accountant;

and the appointment of any person as a member of the committee shall be made [<sup>F28</sup>in accordance with subsection (3A) or (3B)].

[<sup>F29</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.

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- (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>F30</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

- F25** 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)
- F26** 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**.
- F27** 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**
- F28** 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
- F29** 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
- F30** 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)

- C6** S. 413 applied (with modifications) by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**
- C7** S. 413 applied (1.12.1994) by S.I. 1994/2421, **arts. 4(3)(e), 6(3)(e)**
- C8** 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.
- C9** 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.
- C10** S. 413(2) excluded (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), **art. 16**
- C11** 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)

#### Marginal Citations

- M3** 1976 c. 60.

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