



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART XV **E+W+S**

#### SUBORDINATE LEGISLATION

#### *Other order-making powers*

#### 420 Insolvent partnerships. **E+W**

(1) The Lord Chancellor may, by order made with the concurrence of the Secretary of State [<sup>F1</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>F2</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 [<sup>F3</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>F4</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.]

#### Textual Amendments

- F1** 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](#)

*Status: Point in time view as at 06/04/2016.*

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- F2** S. 420(1A)(1B) inserted (3.5.2002) by S.I. 2002/1037, **reg. 3(5)**
- F3** 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
- F4** 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)**

- C1** S. 420 applied (with modifications) by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**
- C2** S. 420 extended by Company Directors Disqualification Act 1986 (c. 46, SIF 27), **ss. 21(2)**, 25
- C3** 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)
- C4** 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. E+W**

- (1) The Lord Chancellor may, by order made with the concurrence of the Secretary of State [<sup>F5</sup>and the Lord Chief Justice], provide that such provisions of this Act as may be specified in the order shall apply [<sup>F6</sup>in relation] to the administration of the insolvent estates of deceased persons with such modifications as may be so specified.

[<sup>F7</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 [<sup>F8</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>F9</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**

- F5** 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
- F6** 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)
- F7** S. 421(1A)(1B) inserted (3.5.2002) by S.I. 2002/1037, **reg. 3(6)**
- F8** 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
- F9** 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

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

**C5** 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>F10</sup> **421A Insolvent estates: joint tenancies.** **E+W**]

- (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 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>F11</sup>made] bankrupt immediately before his death.]

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#### Textual Amendments

- F10** 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)
- F11** 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 [F12 Formerly authorised banks]. **E+W+S**

[F13(1) The Secretary of State may by order made with the concurrence of the Treasury and after consultation with the [F14 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 [F15 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>F16</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

- F12** S. 422 cross-heading substituted (3.7.2002) by S.I. 2002/1555, art. 16(2)
- F13** 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))
- F14** 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.
- F15** 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.
- F16** 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)

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

- C6** S. 422 extended by Company Directors Disqualification Act 1986 (c. 46, SIF 27), ss. 21(2), 25

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