



Insolvency Act 1986

1986 CHAPTER 45

PART XVII

MISCELLANEOUS AND GENERAL

Modifications etc. (not altering text)

- C1** Pt. 17 (ss. 426-434) applied (1.12.1994) by S.I. 1994/2421, arts. 4(3)(f), 6(3)(f)
Pt. 17 (ss. 426-434) 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))

426 Co-operation between courts exercising jurisdiction in relation to insolvency.

- (1) An order made by a court in any part of the United Kingdom in the exercise of jurisdiction in relation to insolvency law shall be enforced in any other part of the United Kingdom as if it were made by a court exercising the corresponding jurisdiction in that other part.
- (2) However, without prejudice to the following provisions of this section, nothing in subsection (1) requires a court in any part of the United Kingdom to enforce, in relation to property situated in that part, any order made by a court in any other part of the United Kingdom.
- (3) The Secretary of State, with the concurrence in relation to property situated in England and Wales of the Lord Chancellor, may by order make provision for securing that a trustee or assignee under the insolvency law of any part of the United Kingdom has, with such modifications as may be specified in the order, the same rights in relation to any property situated in another part of the United Kingdom as he would have in the corresponding circumstances if he were a trustee or assignee under the insolvency law of that other part.

Status: Point in time view as at 17/02/2009.

Changes to legislation: Insolvency Act 1986, Part XVII is up to date with all changes known to be in force on or before 29 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)

- (4) The courts having jurisdiction in relation to insolvency law in any part of the United Kingdom shall assist the courts having the corresponding jurisdiction in any other part of the United Kingdom or any relevant country or territory.
- (5) For the purposes of subsection (4) a request made to a court in any part of the United Kingdom by a court in any other part of the United Kingdom or in a relevant country or territory is authority for the court to which the request is made to apply, in relation to any matters specified in the request, the insolvency law which is applicable by either court in relation to comparable matters falling within its jurisdiction.
- In exercising its discretion under this subsection, a court shall have regard in particular to the rules of private international law.
- (6) Where a person who is a trustee or assignee under the insolvency law of any part of the United Kingdom claims property situated in any other part of the United Kingdom (whether by virtue of an order under subsection (3) or otherwise), the submission of that claim to the court exercising jurisdiction in relation to insolvency law in that other part shall be treated in the same manner as a request made by a court for the purpose of subsection (4).
- (7) Section 38 of the ^{M1}Criminal Law Act 1977 (execution of warrant of arrest throughout the United Kingdom) applies to a warrant which, in exercise of any jurisdiction in relation to insolvency law, is issued in any part of the United Kingdom for the arrest of a person as it applies to a warrant issued in that part of the United Kingdom for the arrest of a person charged with an offence.
- (8) Without prejudice to any power to make rules of court, any power to make provision by subordinate legislation for the purpose of giving effect in relation to companies or individuals to the insolvency law of any part of the United Kingdom includes power to make provision for the purpose of giving effect in that part to any provision made by or under the preceding provisions of this section.
- (9) An order under subsection (3) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this section “insolvency law” means—
- (a) in relation to England and Wales, provision [^{F1}extending to England and Wales and] made by or under this Act or sections [^{F1A} 6 to 10, [^{F2}12 to 15], 19(c) and 20 (with Schedule 1) of the ^{M2}Company Directors Disqualification Act 1986 [^{F2}and sections 1 to 17 of that Act as they apply for the purposes of those provisions of that Act];
 - (b) in relation to Scotland, provision extending to Scotland and made by or under this Act, sections [^{F3A} 6 to 10, [^{F4}12 to 15], 19(c) and 20 (with Schedule 1) of the Company Directors Disqualification Act 1986 [^{F3}and sections 1 to 17 of that Act as they apply for the purposes of those provisions of that Act], Part XVIII of the Companies Act or the ^{M3}Bankruptcy (Scotland) Act 1985;
 - (c) in relation to Northern Ireland, provision made by or under [^{F5}the Insolvency (Northern Ireland) Order 1989][^{F6}or the Company Directors Disqualification (Northern Ireland) Order 2002];
 - (d) in relation to any relevant country or territory, so much of the law of that country or territory as corresponds to provisions falling within any of the foregoing paragraphs;

Status: Point in time view as at 17/02/2009.

Changes to legislation: Insolvency Act 1986, Part XVII is up to date with all changes known to be in force on or before 29 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)

and references in this subsection to any enactment include, in relation to any time before the coming into force of that enactment the corresponding enactment in force at that time.

- (11) In this section “relevant country or territory” means—
- (a) any of the Channel Islands or the Isle of Man, or
 - (b) any country or territory designated for the purposes of this section by the Secretary of State by order made by statutory instrument.

- [^{F7}(12) In the application of this section to Northern Ireland—
- (a) for any reference to the Secretary of State there is substituted a reference to the Department of Economic Development in Northern Ireland;
 - (b) in subsection (3) for the words “another part of the United Kingdom” and the words “that other part” there is substituted the words “Northern Ireland”;
 - (c) for subsection (9) there is substituted the following subsection—
- “(9) An order made under subsection (3) by the Department of Economic Development in Northern Ireland shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”.]

- [^{F8}(13) Section 129 of the Banking Act 2009 provides for provisions of that Act about bank insolvency to be “insolvency law” for the purposes of this section.]

- [^{F9}(14) Section 165 of the Banking Act 2009 provides for provisions of that Act about bank administration to be “insolvency law” for the purposes of this section.]

Textual Amendments

- F1** Words in s. 426(10)(a) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para. 16(3)(i)(ii)**; S.I. 2001/766, **art. 2** (subject to transitional provisions in art. 3)
- F2** Words in s. 426(10)(a) substituted (2.4.2001) by 2000 c. 39, s.8, **Sch. 4 Pt. II para. 16(3)(a)(iii)(iv)**; S.I. 2001/766, **art. 2** (subject to transitional provisions in art. 3)
- F3** Words in s. 426(10)(b) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para 16(3)(b)(i)(iii)**; S.I. 2001/766, **art. 2** (subject to transitional provisions in art. 3)
- F4** Words in s. 426(10)(b) substituted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para. 16(3)(b)(ii)**; S.I. 2001/766, **art. 2** (subject to transitional provisions in art. 3)
- F5** Words substituted (1.10.1991) by S.I. 1989/2405 (N.I. 19), art. 381, **Sch. 9 Pt. II para. 41(a)**; S.R. 1991/411, **art. 2**
- F6** Words in s. 426(10)(c) substituted (N.I.) (5.9.2003) by S.I. 2002/3150 (N.I. 4), art. 26(1)(2), **Sch. 3 para. 2** (with transitional provisions and savings in **Sch. 2**); S.R. 2003/345, **art. 3(2)** (subject to transitional provisions in S.R. 2003/346, arts. 3-6)
- F7** S. 426(12) inserted (1.10.1991) by S.I. 1989/2405 (N.I. 19), art. 381, **Sch. 9 Pt. II para. 41(b)**; S.R. 1991/411, **art. 2**
- F8** S. 426(13) added (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), **ss. 129(2), 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3**, **Sch. para. 2**
- F9** S. 426(14) added (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), **ss. 165, 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3**, **Sch. para. 3**

Modifications etc. (not altering text)

- C3** S. 426 applied (with modifications) by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**
- C4** S. 426 amended (N.I.) (1.10.1991) by S.I. 1990/1504 (N.I. 10), **art. 104(1)**; S.R. 1991/438, **art. 2**

Status: Point in time view as at 17/02/2009.

Changes to legislation: Insolvency Act 1986, Part XVII is up to date with all changes known to be in force on or before 29 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)

- C5** S. 426 extended (25.4.1991) by Companies Act 1989 (c. 40), **ss. 154, 155, 183(1)**; S.I. 1991/878, art. 2, **Sch.**
- C6** S. 426 restricted (25.4.1991) by Companies Act 1989 (c. 40), **ss. 154, 155, 183(2)(3)**; S.I. 1991/878, art. 2, **Sch.**
- C7** S. 426 restricted (E.W.S.) (11.12.1999) by S.I. 1999/2979, **reg. 25(1)**
- C8** S. 426 modified (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), **ss. 129(1), 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3, Sch. para. 2**

Marginal Citations

- M1** 1977 c. 45.
M2 1986 c. 46.
M3 1985 c. 66.

[^{F10}426A Disqualification from Parliament (England and Wales)]

- (1) A person in respect of whom a bankruptcy restrictions order has effect shall be disqualified—
- (a) from membership of the House of Commons,
 - (b) from sitting or voting in the House of Lords, and
 - (c) from sitting or voting in a committee of the House of Lords or a joint committee of both Houses.
- (2) If a member of the House of Commons becomes disqualified under this section, his seat shall be vacated.
- (3) If a person who is disqualified under this section is returned as a member of the House of Commons, his return shall be void.
- (4) No writ of summons shall be issued to a member of the House of Lords who is disqualified under this section.
- (5) If a court makes a bankruptcy restrictions order or interim order in respect of a member of the House of Commons or the House of Lords the court shall notify the Speaker of that House.
- (6) If the Secretary of State accepts a bankruptcy restrictions undertaking made by a member of the House of Commons or the House of Lords, the Secretary of State shall notify the Speaker of that House.]

Textual Amendments

- F10** Ss. 426A-426C inserted (1.4.2004) by 2002 c. 40, **ss. 266(1), 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))

Modifications etc. (not altering text)

- C9** S. 426A power to apply or amend conferred (1.4.2004) by 2002 c. 40, **ss. 266(3)(a)(b), 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))

Status: Point in time view as at 17/02/2009.

Changes to legislation: Insolvency Act 1986, Part XVII is up to date with all changes known to be in force on or before 29 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)

^{F11} 426B Devolution

- (1) If a court makes a bankruptcy restrictions order or interim order in respect of a member of the Scottish Parliament, the Northern Ireland Assembly or the National Assembly for Wales, the court shall notify the presiding officer of that body.
- (2) If the Secretary of State accepts a bankruptcy restrictions undertaking made by a member of the Scottish Parliament, the Northern Ireland Assembly or the National Assembly for Wales, the Secretary of State shall notify the presiding officer of that body.

Textual Amendments

F11 Ss. 426A-426C inserted (1.4.2004) by 2002 c. 40, ss. 266(1), 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))

Modifications etc. (not altering text)

C10 S. 426B power to apply or amend conferred (1.4.2004) by 2002 c. 40, ss. 266(3)(a)(b), 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))

^{F12} 426C Irrelevance of privilege

- (1) An enactment about insolvency applies in relation to a member of the House of Commons or the House of Lords irrespective of any Parliamentary privilege.
- (2) In this section “enactment” includes a provision made by or under—
 - (a) an Act of the Scottish Parliament, or
 - (b) Northern Ireland legislation.

Textual Amendments

F12 Ss. 426A-426C inserted (1.4.2004) by 2002 c. 40, ss. 266(1), 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))

427 [^{F13} Disqualification from Parliament (Scotland and Northern Ireland)]

- (1) Where a court in ^{F14} . . . Northern Ireland adjudges an individual bankrupt or a court in Scotland awards sequestration of an individual’s estate, the individual is disqualified—
 - (a) for sitting or voting in the House of Lords,
 - (b) for being elected to, or sitting or voting in, the House of Commons, and
 - (c) for sitting or voting in a committee of either House.
- (2) Where an individual is disqualified under this section, the disqualification ceases—
 - (a) except where the adjudication is annulled or the award recalled or reduced without the individual having been first discharged, on the discharge of the individual, and
 - (b) in the excepted case, on the annulment, recall or reduction, as the case may be.
- (3) No writ of summons shall be issued to any lord of Parliament who is for the time being disqualified under this section for sitting and voting in the House of Lords.

Status: Point in time view as at 17/02/2009.

Changes to legislation: Insolvency Act 1986, Part XVII is up to date with all changes known to be in force on or before 29 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)

- (4) Where a member of the House of Commons who is disqualified under this section continues to be so disqualified until the end of the period of 6 months beginning with the day of the adjudication or award, his seat shall be vacated at the end of that period.
- (5) A court which makes an adjudication or award such as is mentioned in subsection (1) in relation to any lord of Parliament or member of the House of Commons shall forthwith certify the adjudication or award to the Speaker of the House of Lords or, as the case may be, to the Speaker of the House of Commons.
- (6) Where a court has certified an adjudication or award to the Speaker of the House of Commons under subsection (5), then immediately after it becomes apparent which of the following certificates is applicable, the court shall certify to the Speaker of the House of Commons—
- (a) that the period of 6 months beginning with the day of the adjudication or award has expired without the adjudication or award having been annulled, recalled or reduced, or
 - (b) that the adjudication or award has been annulled, recalled or reduced before the end of that period.
- [^{F15}(6A) Subsections (4) to (6) have effect in relation to a member of the Scottish Parliament but as if—
- (a) references to the House of Commons were to the Parliament and references to the Speaker were to the Presiding Officer, and
 - (b) in subsection (4), for “under this section” there were substituted “ under section 15(1)(b) of the Scotland Act 1998 by virtue of this section ”.]
- [^{F16}(6B) Subsections (4) to (6) have effect in relation to a member of the National Assembly for Wales but as if—
- (a) references to the House of Commons were to the Assembly and references to the Speaker were to the presiding officer, and
 - (b) in subsection (4), for “under this section” there were substituted “ under [^{F17}section 16(2) of the Government of Wales Act 2006] by virtue of this section ”.]
- [^{F18}(6C) Subsection (1), as applied to a member of the Northern Ireland Assembly by virtue of section 36(4) of the Northern Ireland Act 1998, has effect as if “or Northern Ireland” were omitted; and subsections (4) to (6) have effect in relation to such a member as if—
- (a) references to the House of Commons were to the Assembly and references to the Speaker were to the Presiding Officer; and
 - (b) in subsection (4), for “under this section” there were substituted “ under section 36(4) of the Northern Ireland Act 1998 by virtue of this section ”.
- (7) ^{F19}.....]

Textual Amendments

- F13** S. 427 title substituted (1.4.2004) by virtue of 2002 c. 40, ss. 266(1), 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))
- F14** Words in s. 427(1) repealed (1.4.2004) by 2002 c. 40, ss. 266(2)(a), 278, 279, Sch. 26 (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))
- F15** S. 427(6A) inserted (19.11.1998) by 1998 c. 46, ss. 125, 130(1), Sch. 8 para. 23(6) (with s. 126(3)-(11))

Status: Point in time view as at 17/02/2009.

Changes to legislation: Insolvency Act 1986, Part XVII is up to date with all changes known to be in force on or before 29 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)

- F16** S. 427(6B) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 24** (with ss. 139(2), 141(1), 143(2)); S.I. 1999/782, **art. 2**
- F17** Words in s. 427(6B)(b) substituted by Government of Wales Act 2006 (c. 32), **ss. 160(1)**, 161, 162(1) {Sch. 10 para. 18} (with Sch. 11 para. 22), the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(4)(c)(5) of the amending Act.
- F18** S. 427(6C) inserted (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13 para. 6** (with s. 95); S.I. 1999/3209, **art. 2, Sch.**
- F19** S. 427(7) repealed (1.4.2004) by 2002 c. 40, ss. 266(2)(b), 278, 279, **Sch. 26** (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))

428 Exemptions from Restrictive Trade Practices Act.

^{F20}(1)

^{F20}(2)

(3) In this section “insolvency services” means the services of persons acting as insolvency practitioners or carrying out under the law of Northern Ireland functions corresponding to those mentioned in section 388(1) or (2) in Part XIII, in their capacity as such ^{F20}

Textual Amendments

F20 S. 428(1)(2) and words in s. 428(3) repealed (1.3.2000) by S.I. 2000/311, **art. 16**

Modifications etc. (not altering text)

C11 S. 428 applied with modifications by S.I. 1986/1999, **art. 3, Sch. 1 Pt. II**

429 Disabilities on revocation of administration order against an individual.

(1) The following applies where a person fails to make any payment which he is required to make by virtue of an administration order under Part VI of the ^{M4}County Courts Act 1984.

(2) The court which is administering that person’s estate under the order may, if it thinks fit—

- (a) revoke the administration order, and
- (b) make an order directing that this section and section 12 of the ^{M5}Company Directors Disqualification Act 1986 shall apply to the person for such period, [^{F21}not exceeding one year], as may be specified in the order.

(3) A person to whom this section so applies shall not—

- (a) either alone or jointly with another person, obtain credit to the extent of the amount prescribed for the purposes of section 360(1)(a) or more, or
- (b) enter into any transaction in the course of or for the purposes of any business in which he is directly or indirectly engaged,

without disclosing to the person from whom he obtains the credit, or (as the case may be) with whom the transaction is entered into, the fact that this section applies to him.

(4) The reference in subsection (3) to a person obtaining credit includes—

Status: Point in time view as at 17/02/2009.

Changes to legislation: Insolvency Act 1986, Part XVII is up to date with all changes known to be in force on or before 29 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)

- (a) a case where goods are bailed or hired to him under a hire-purchase agreement or agreed to be sold to him under a conditional sale agreement, and
 - (b) a case where he is paid in advance (whether in money or otherwise) for the supply of goods or services.
- (5) A person who contravenes this section is guilty of an offence and liable to imprisonment or a fine, or both.

Textual Amendments

F21 Words in s. 429(2)(b) substituted (1.4.2004) by 2002 c. 40, ss. 269, 279, Sch. 23 para. 15 (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))

Marginal Citations

M4 1984 c. 28.
M5 1986 c. 46.

430 Provision introducing Schedule of punishments.

- (1) Schedule 10 to this Act has effect with respect to the way in which offences under this Act are punishable on conviction.
- (2) In relation to an offence under a provision of this Act specified in the first column of the Schedule (the general nature of the offence being described in the second column), the third column shows whether the offence is punishable on conviction on indictment, or on summary conviction, or either in the one way or the other.
- (3) The fourth column of the Schedule shows, in relation to an offence, the maximum punishment by way of fine or imprisonment under this Act which may be imposed on a person convicted of the offence in the way specified in relation to it in the third column (that is to say, on indictment or summarily) a reference to a period of years or months being to a term of imprisonment of that duration.
- (4) The fifth column shows (in relation to an offence for which there is an entry in that column) that a person convicted of the offence after continued contravention is liable to a daily default fine; that is to say, he is liable on a second or subsequent conviction of the offence to the fine specified in that column for each day on which the contravention is continued (instead of the penalty specified for the offence in the fourth column of the Schedule).
- (5) For the purpose of any enactment in this Act whereby an officer of a company who is in default is liable to a fine or penalty, the expression “officer who is in default” means any officer of the company who knowingly and wilfully authorises or permits the default, refusal or contravention mentioned in the enactment.

Modifications etc. (not altering text)

- C12** S. 430 applied with modifications by S.I. 1986/1999, art. 3, Sch. 1 Pt. II
S. 430 applied (1.2.1993) by Friendly Societies Act 1992 (c. 40), ss. 21(1), 22, 23, Sch. 10 Pt. I para.1 (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, Sch.3
- C13** S. 430 modified by Building Societies Act 1986 (c. 53, SIF 16), ss. 54(3)(a)(5)(a), 90, 126(3), Sch. 15
S. 430 modified (1.2.1993) by Friendly Societies Act 1992 (c. 40), s. 23, Sch. 10 Pt. I para.1 (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, Sch.3

Status: Point in time view as at 17/02/2009.

Changes to legislation: Insolvency Act 1986, Part XVII is up to date with all changes known to be in force on or before 29 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)

- C14** S. 430 applied (with modifications) (1.12.1997) by 1986 c. 53, **Sch. 15A para. 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)**
S. 430 applied (with modifications) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**
- C15** Ss. 430-432 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by **Banking Act 2009** (c. 1), **ss. 103, 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3, Sch. para. 2**
- C16** Ss. 430-432 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by **Banking Act 2009** (c. 1), **ss. 145, 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3, Sch. para. 3**
- C17** S. 430 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by **Banking Act 2009** (c. 1), **ss. 145, 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3, Sch. para. 3**

431 Summary proceedings.

- (1) Summary proceedings for any offence under any of Parts I to VII of this Act may (without prejudice to any jurisdiction exercisable apart from this subsection) be taken against a body corporate at any place at which the body has a place of business, and against any other person at any place at which he is for the time being.
- (2) Notwithstanding anything in section 127(1) of the ^{M6}Magistrates' Courts Act 1980, an information relating to such an offence which is triable by a magistrates' court in England and Wales may be so tried if it is laid at any time within 3 years after the commission of the offence and within 12 months after the date on which evidence sufficient in the opinion of the Director of Public Prosecutions or the Secretary of State (as the case may be) to justify the proceedings comes to his knowledge.
- (3) Summary proceedings in Scotland for such an offence shall not be commenced after the expiration of 3 years from the commission of the offence.

Subject to this (and notwithstanding anything in [^{F22}section 136 of the Criminal Procedure (Scotland) Act 1995]), such proceedings may (in Scotland) be commenced at any time within 12 months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to his knowledge or, where such evidence was reported to him by the Secretary of State, within 12 months after the date on which it came to the knowledge of the latter; and subsection (3) of that section applies for the purpose of this subsection as it applies for the purpose of that section.

- (4) For purposes of this section, a certificate of the Director of Public Prosecutions, the Lord Advocate or the Secretary of State (as the case may be) as to the date on which such evidence as is referred to above came to his knowledge is conclusive evidence.

Textual Amendments

- F22** Words in s. 431(3) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 61**

Modifications etc. (not altering text)

- C18** S. 431 applied (with modifications) by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**
S. 431 applied (E.W.) (7.10.2001) by S.I. 2001/3352, **rule 9.20** (with rule 1.2(3))
- C19** S. 431 extended by S.I. 1986/1915, **rule 7.29(3)**
S. 431 extended (E.W.) (1.10.2005) by **The Energy Administration Rules 2005** (S.I. 2005/2483), **rules 3, 174(5)**
S. 431 extended (S.) (6.4.2006) by **The Energy Administration (Scotland) Rules 2006** (S.I. 2006/772), **rules 3, 76**
- C20** S. 431 applied (30.11.2007) by **The PPP Administration Order Rules 2007** (S.I. 2007/3141), **rules 3, 114**

Status: Point in time view as at 17/02/2009.

Changes to legislation: Insolvency Act 1986, Part XVII is up to date with all changes known to be in force on or before 29 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)

- C21** Ss. 430-432 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 103, 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3, Sch. para. 2](#)
- C22** Ss. 430-432 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 145, 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3, Sch. para. 3](#)
- C23** S. 431 applied (E.W.) (1.11.2009) by [The Water Industry \(Special Administration\) Rules 2009 \(S.I. 2009/2477\), rule 128](#) (with rules 3(2), 4)
- C24** S. 431 applied (E.W.) (30.6.2011) by [The Investment Bank Special Administration \(England and Wales\) Rules 2011 \(S.I. 2011/1301\), rule 286\(5\)](#) (with rule 5(2))
- C25** S. 431 applied (S.) (14.11.2011) by [The Investment Bank Special Administration \(Scotland\) Rules 2011 \(S.I. 2011/2262\), rule 163\(2\)](#)

Marginal Citations

M6 1980 c. 43.

432 Offences by bodies corporate.

- (1) This section applies to offences under this Act other than those excepted by subsection (4).
- (2) Where a body corporate is guilty of an offence to which this section applies and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) Where the affairs of a body corporate are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (4) The offences excepted from this section are those under sections 30, 39, 51, 53, 54, 62, 64, 66, 85, 89, 164, 188, 201, 206, 207, 208, 209, 210 and 211 ^{F23} and those under paragraphs 16(2), 17(3)(a), 18(3)(a), 19(3)(a), 22(1) and 23(1)(a) of Schedule A1].

Textual Amendments

F23 Words in s. 432(4) inserted (1.1.2003) by 2000 c. 39, s. 1, [Sch. 1 para. 11](#); S.I. 2002/2711, [art. 2](#) (subject to transitional provisions in [arts. 3-5](#))

Modifications etc. (not altering text)

- C26** Ss. 328, 329, 330, 331–335, 339, 359(1)(2), 363, 365–372, 373–382, 383, 384, 385, 386, 387(1)(5)(6), 388, 389–390, 403–410, 412, 413, 415, 418, 419, 420, 423, 424–426, 428, 430, 432–437 applied with modifications by S.I. 1986/1999, [art. 3, Sch. 1 Pt. II](#)
S. 432 applied (1.2.1993) by [Friendly Societies Act 1992 \(c. 40\), ss. 21\(1\), 22, 23, Sch. 10 Pt. I para. 1](#) (with [ss. 7\(5\), 93\(4\)](#)); S.I. 1993/16, [art. 2, Sch. 3](#)
- C27** S. 432 modified by [Building Societies Act 1986 \(c. 53, SIF 16\), ss. 54\(3\)\(a\)\(5\)\(a\), 90, 126\(3\), Sch. 15](#)
S. 432 modified (1.2.1993) by [Friendly Societies Act 1992 \(c. 40\), s. 23, Sch. 10 Pt. I para. 1](#) (with [ss. 7\(5\), 93\(4\)](#)); S.I. 1993/16, [art. 2, Sch. 3](#)
- C28** S. 432 applied (with modifications) (1.12.1997) by 1986 c. 53, [Sch. 15A para. 2](#) (as inserted (1.12.1997)) by 1997 c. 32, s. 39(2), [Sch. 6](#); S.I. 1997/2668, [art. 2, Sch. Pt. I\(i\)](#)
- C29** Ss. 430-432 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 103, 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3, Sch. para. 2](#)

Status: Point in time view as at 17/02/2009.

Changes to legislation: Insolvency Act 1986, Part XVII is up to date with all changes known to be in force on or before 29 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)

C30 Ss. 430-432 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), ss. 145, 263(1)(2) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch. para. 3

433 Admissibility in evidence of statements of affairs, etc.

- [^{F24}(1)] In any proceedings (whether or not under this Act)—
- (a) a statement of affairs prepared for the purposes of any provision of this Act which is derived from the ^{M7}Insolvency Act 1985,
 - [^{F25}(aa) a statement made in pursuance of a requirement imposed by or under Part 2 of the Banking Act 2009 (bank insolvency),]
 - [^{F26}(ab) a statement made in pursuance of a requirement imposed by or under Part 3 of that Act (bank administration),] and
 - (b) any other statement made in pursuance of a requirement imposed by or under any such provision or by or under rules made under this Act,
- may be used in evidence against any person making or concurring in making the statement.
- [^{F27}(2) However, in criminal proceedings in which any such person is charged with an offence to which this subsection applies—
- (a) no evidence relating to the statement may be adduced, and
 - (b) no question relating to it may be asked,
- by or on behalf of the prosecution, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person.
- (3) Subsection (2) applies to any offence other than—
- (a) an offence under section 22(6), 47(6), 48(8), 66(6), 67(8), 95(8), 98(6), 99(3)(a), 131(7), 192(2), 208(1)(a) or (d) or (2), 210, 235(5), 353(1), 354(1)(b) or (3) or 356(1) or (2)(a) or (b) or paragraph 4(3)(a) of Schedule 7;
 - (b) an offence which is—
 - (i) created by rules made under this Act, and
 - (ii) designated for the purposes of this subsection by such rules or by regulations made by the Secretary of State;
 - (c) an offence which is—
 - (i) created by regulations made under any such rules, and
 - (ii) designated for the purposes of this subsection by such regulations;
 - (d) an offence under section 1, 2 or 5 of the ^{M8}Perjury Act 1911 (false statements made on oath or made otherwise than on oath); or
 - (e) an offence under section 44(1) or (2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made on oath or otherwise than on oath).
- (4) Regulations under subsection (3)(b)(ii) shall be made by statutory instrument and, after being made, shall be laid before each House of Parliament.]

Textual Amendments

- F24** S. 433 renumbered as s. 433(1) (14.4.2000 (E.W.) and 1.1.2001 (S.)) by 1999 c. 23, s. 59, Sch. 3 para. 7(2) (with s. 63(2), Sch. 7 para. 3(3)); S.I. 2000/1034, art. 2; S.S.I. 2000/445, art. 2
- F25** S. 433(1)(aa) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), ss. 128, 263(1)(2) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch. para. 2

Status: Point in time view as at 17/02/2009.

Changes to legislation: Insolvency Act 1986, Part XVII is up to date with all changes known to be in force on or before 29 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)

- F26** S. 433(1)(ab) inserted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 162**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 3
- F27** S. 433(2)-(4) inserted (14.4.2000 (E.W.) and 1.1.2001 (S.)) by 1999 c. 23, s. 59, **Sch. 3 para. 7(3)** (with s. 63(2), Sch. 7 para 3(3)); S.I. 2000/1034, **art. 2**; S.S.I. 2000/445, **art. 2**

Modifications etc. (not altering text)

- C31** S. 433 applied with modifications by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**
- C32** S. 433 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 103**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 2
- C33** S. 433 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 3

Marginal Citations

- M7** 1985 c. 65.
M8 1911 c. 6.

434 Crown application.

For the avoidance of doubt it is hereby declared that provisions of this Act which derive from the ^{M9}Insolvency Act 1985 bind the Crown so far as affecting or relating to the following matters, namely—

- (a) remedies against, or against the property of, companies or individuals;
- (b) priorities of debts;
- (c) transactions at an undervalue or preferences;
- (d) voluntary arrangements approved under Part I or Part VIII, and
- (e) discharge from bankruptcy.

Modifications etc. (not altering text)

- C34** S. 434 applied with modifications by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**
- C35** S. 434 applied by [Company Directors Disqualification Act 1986 \(c. 46, SIF 27\)](#), **ss. 21(2)**, 25
- C36** S. 434 applied (with modifications) (1.12.1997) by 1986 c. 53, **Sch. 15A para. 1(2)** (as inserted by 1997 c. 32, s. 39(2), **Sch. 6**); S.I. 1997/2668, art. 2, **Sch. Pt. I(i)**

Marginal Citations

- M9** 1985 c. 65.

Status:

Point in time view as at 17/02/2009.

Changes to legislation:

Insolvency Act 1986, Part XVII is up to date with all changes known to be in force on or before 29 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.