

Status: Point in time view as at 01/10/2009.

Changes to legislation: Insolvency Act 1986, NATURE OF ADMINISTRATION is up to date with all changes known to be in force on or before 04 September 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)

SCHEDULES

[^{F1}SCHEDULE B1

ADMINISTRATION

Textual Amendments

- F1** Sch. B1 inserted (15.9.2003) by 2002 c. 40, ss. 248(2), 279, Sch. 16 (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. 2003/2332, art. 2))

Modifications etc. (not altering text)

- C1** Sch. B1 applied in part (with modifications) (5.10.2004) by Energy Act 2004 (c. 20), ss. 159(1), 198, Sch. 20 Pts. 1-3; S.I. 2004/2575, art. 2(1), Sch. 1
- C1** Sch. B1 applied (with modifications) (1.7. 2005) by S.I. 1994/2421, art. 6(1), Sch. 2 (as amended (1.7.2005) by S.I. 2005/1516, arts. 3, 7, Sch. 1 (with art. 2))
- C1** Sch. B1: specified provisions applied (with modifications) (1.10.2011) by Postal Services Act 2011 (c. 5), ss. 73, 93(2)(3), {Sch. 10 Pts. 1, 2}; S.I. 2011/2329, art. 3 (with arts. 4, 5)

NATURE OF ADMINISTRATION

Administration

- 1 (1) For the purposes of this Act “administrator” of a company means a person appointed under this Schedule to manage the company’s affairs, business and property.
- (2) For the purposes of this Act—
- (a) a company is “in administration” while the appointment of an administrator of the company has effect,
 - (b) a company “enters administration” when the appointment of an administrator takes effect,
 - (c) a company ceases to be in administration when the appointment of an administrator of the company ceases to have effect in accordance with this Schedule, and
 - (d) a company does not cease to be in administration merely because an administrator vacates office (by reason of resignation, death or otherwise) or is removed from office.
- 2 A person may be appointed as administrator of a company—
- (a) by administration order of the court under paragraph 10,
 - (b) by the holder of a floating charge under paragraph 14, or
 - (c) by the company or its directors under paragraph 22.

Purpose of administration

- 3 (1) The administrator of a company must perform his functions with the objective of—

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- (a) rescuing the company as a going concern, or
 - (b) achieving a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in administration), or
 - (c) realising property in order to make a distribution to one or more secured or preferential creditors.
- (2) Subject to sub-paragraph (4), the administrator of a company must perform his functions in the interests of the company's creditors as a whole.
- (3) The administrator must perform his functions with the objective specified in sub-paragraph (1)(a) unless he thinks either—
- (a) that it is not reasonably practicable to achieve that objective, or
 - (b) that the objective specified in sub-paragraph (1)(b) would achieve a better result for the company's creditors as a whole.
- (4) The administrator may perform his functions with the objective specified in sub-paragraph (1)(c) only if—
- (a) he thinks that it is not reasonably practicable to achieve either of the objectives specified in sub-paragraph (1)(a) and (b), and
 - (b) he does not unnecessarily harm the interests of the creditors of the company as a whole.
- 4 The administrator of a company must perform his functions as quickly and efficiently as is reasonably practicable.

Status of administrator

- 5 An administrator is an officer of the court (whether or not he is appointed by the court).

General restrictions

- 6 A person may be appointed as administrator of a company only if he is qualified to act as an insolvency practitioner in relation to the company.
- 7 A person may not be appointed as administrator of a company which is in administration (subject to the provisions of paragraphs 90 to 97 and 100 to 103 about replacement and additional administrators).
- 8 (1) A person may not be appointed as administrator of a company which is in liquidation by virtue of—
- (a) a resolution for voluntary winding up, or
 - (b) a winding-up order.
- (2) Sub-paragraph (1)(a) is subject to paragraph 38.
- (3) Sub-paragraph (1)(b) is subject to paragraphs 37 and 38.
- 9 (1) A person may not be appointed as administrator of a company which—
- (a) has a liability in respect of a deposit which it accepted in accordance with the Banking Act 1979 (c. 37) or 1987 (c. 22), but
 - (b) is not an authorised deposit taker.

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- (2) A person may not be appointed as administrator of a company which effects or carries out contracts of insurance.
- (3) But sub-paragraph (2) does not apply to a company which—
 - (a) is exempt from the general prohibition in relation to effecting or carrying out contracts of insurance, or
 - (b) is an authorised deposit taker effecting or carrying out contracts of insurance in the course of a banking business.
- (4) In this paragraph—

“authorised deposit taker” means a person with permission under Part IV of the Financial Services and Markets Act 2000 (c. 8) to accept deposits, and

“the general prohibition” has the meaning given by section 19 of that Act.
- (5) This paragraph 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).]

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