

Status: Point in time view as at 08/10/2004.

Changes to legislation: Insolvency Act 1986, EFFECT OF ADMINISTRATION is up to date with all changes known to be in force on or before 15 August 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)

EFFECT OF ADMINISTRATION

Dismissal of pending winding-up petition

- 40 (1) A petition for the winding up of a company—
- (a) shall be dismissed on the making of an administration order in respect of the company, and
 - (b) shall be suspended while the company is in administration following an appointment under paragraph 14.
- (2) Sub-paragraph (1)(b) does not apply to a petition presented under—
- (a) section 124A (public interest), or
 - [section 124B (SEs),]
- ^{F2}(aa)
- (b) section 367 of the Financial Services and Markets Act 2000 (c. 8) (petition by Financial Services Authority).
- (3) Where an administrator becomes aware that a petition was presented under a provision referred to in sub-paragraph (2) before his appointment, he shall apply to the court for directions under paragraph 63.

Textual Amendments

- F2** Sch. B1 para. 40(2)(aa) inserted (8.10.2004) by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 73(4)(c)

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Modifications etc. (not altering text)

- C1** Sch. B1 para. 40 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 119, 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), [Sch. para. 2](#)
- C2** Sch. B1 para. 40(1)(a) 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](#)

Dismissal of administrative or other receiver

- 41 (1) When an administration order takes effect in respect of a company any administrative receiver of the company shall vacate office.
- (2) Where a company is in administration, any receiver of part of the company's property shall vacate office if the administrator requires him to.
- (3) Where an administrative receiver or receiver vacates office under sub-paragraph (1) or (2)—
- (a) his remuneration shall be charged on and paid out of any property of the company which was in his custody or under his control immediately before he vacated office, and
- (b) he need not take any further steps under section 40 or 59.
- (4) In the application of sub-paragraph (3)(a)—
- (a) "remuneration" includes expenses properly incurred and any indemnity to which the administrative receiver or receiver is entitled out of the assets of the company,
- (b) the charge imposed takes priority over security held by the person by whom or on whose behalf the administrative receiver or receiver was appointed, and
- (c) the provision for payment is subject to paragraph 43.

Modifications etc. (not altering text)

- C3** Sch. B1 para. 41 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](#)
- C4** Sch. B1 para. 41(2) excluded (26.12.2003) by [The Financial Collateral Arrangements \(No.2\) Regulations 2003 \(S.I. 2003/3226\), reg. 8\(2\)](#)

Moratorium on insolvency proceedings

- 42 (1) This paragraph applies to a company in administration.
- (2) No resolution may be passed for the winding up of the company.
- (3) No order may be made for the winding up of the company.
- (4) Sub-paragraph (3) does not apply to an order made on a petition presented under—
- (a) section 124A (public interest), or
- [section 124B (SEs),]
- ^{F3}(aa)
- (b) section 367 of the Financial Services and Markets Act 2000 (c. 8) (petition by Financial Services Authority).

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- (5) If a petition presented under a provision referred to in sub-paragraph (4) comes to the attention of the administrator, he shall apply to the court for directions under paragraph 63.

Textual Amendments

- F3** Sch. B1 para. 42(4)(aa) inserted (8.10.2004) by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), **reg. 73(4)(c)**

Modifications etc. (not altering text)

- C5** Sch. B1 para. 42 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by **Banking Act 2009 (c. 1), ss. 119, 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3, Sch. para. 2**
- C6** Sch. B1 para. 42 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**

Moratorium on other legal process

- 43 (1) This paragraph applies to a company in administration.
- (2) No step may be taken to enforce security over the company's property except—
- with the consent of the administrator, or
 - with the permission of the court.
- (3) No step may be taken to repossess goods in the company's possession under a hire-purchase agreement except—
- with the consent of the administrator, or
 - with the permission of the court.
- (4) A landlord may not exercise a right of forfeiture by peaceable re-entry in relation to premises let to the company except—
- with the consent of the administrator, or
 - with the permission of the court.
- (5) In Scotland, a landlord may not exercise a right of irritancy in relation to premises let to the company except—
- with the consent of the administrator, or
 - with the permission of the court.
- (6) No legal process (including legal proceedings, execution, distress and diligence) may be instituted or continued against the company or property of the company except—
- with the consent of the administrator, or
 - with the permission of the court.
- [An administrative receiver of the company may not be appointed.]
- ^{F4}(6A)
- (7) Where the court gives permission for a transaction under this paragraph it may impose a condition on or a requirement in connection with the transaction.
- (8) In this paragraph “landlord” includes a person to whom rent is payable.

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Textual Amendments

- F4** Sch. B1 para. 43(6A) inserted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), [art. 2\(3\)](#)

Modifications etc. (not altering text)

- C7** Sch. B1 para. 43 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](#)
- C8** Sch. B1 para. 43(2) excluded (26.12.2003) by [The Financial Collateral Arrangements \(No.2\) Regulations 2003 \(S.I. 2003/3226\)](#), [reg. 8\(1\)\(a\)](#)

Interim moratorium

- 44 (1) This paragraph applies where an administration application in respect of a company has been made and—
- (a) the application has not yet been granted or dismissed, or
 - (b) the application has been granted but the administration order has not yet taken effect.
- (2) This paragraph also applies from the time when a copy of notice of intention to appoint an administrator under paragraph 14 is filed with the court until—
- (a) the appointment of the administrator takes effect, or
 - (b) the period of five business days beginning with the date of filing expires without an administrator having been appointed.
- (3) Sub-paragraph (2) has effect in relation to a notice of intention to appoint only if it is in the prescribed form.
- (4) This paragraph also applies from the time when a copy of notice of intention to appoint an administrator is filed with the court under paragraph 27(1) until—
- (a) the appointment of the administrator takes effect, or
 - (b) the period specified in paragraph 28(2) expires without an administrator having been appointed.
- (5) The provisions of paragraphs 42 and 43 shall apply (ignoring any reference to the consent of the administrator).
- (6) If there is an administrative receiver of the company when the administration application is made, the provisions of paragraphs 42 and 43 shall not begin to apply by virtue of this paragraph until the person by or on behalf of whom the receiver was appointed consents to the making of the administration order.
- (7) This paragraph does not prevent or require the permission of the court for—
- (a) the presentation of a petition for the winding up of the company under a provision mentioned in paragraph 42(4),
 - (b) the appointment of an administrator under paragraph 14,
 - (c) the appointment of an administrative receiver of the company, or
 - (d) the carrying out by an administrative receiver (whenever appointed) of his functions.]

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Modifications etc. (not altering text)

- C9** Sch. B1 para. 44 restricted (5.10.2004) by [Energy Act 2004 \(c. 20\)](#), [ss. 162\(4\), 163\(4\)](#), 198; [S.I. 2004/2575](#), [art. 2\(1\)](#), [Sch. 1](#)
- C10** Sch. B1 para. 44 restricted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), [ss. 76\(4\)](#), 85(8), 93(2)(3); [S.I. 2011/2329](#), [art. 3](#) (with [arts. 4, 5](#))
- C11** Sch. B1 para. 44 restricted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), [ss. 77\(5\)](#), 85(8), 93(2)(3); [S.I. 2011/2329](#), [art. 3](#) (with [arts. 4, 5](#))
- C12** Sch. B1 para. 44(1)(a) 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](#)
- C13** Sch. B1 para. 44(5) 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](#)

Publicity

- 45 (1) While a company is in administration every business document issued by or on behalf of the company or the administrator must state—
- (a) the name of the administrator, and
 - (b) that the affairs, business and property of the company are being managed by him.
- (2) Any of the following commits an offence if without reasonable excuse he authorises or permits a contravention of sub-paragraph (1)—
- (a) the administrator,
 - (b) an officer of the company, and
 - (c) the company.
- (3) In sub-paragraph (1) “business document” means—
- (a) an invoice,
 - (b) an order for goods or services, and
 - (c) a business letter.

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