



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART I

#### COMPANY VOLUNTARY ARRANGEMENTS

##### *Consideration and implementation of proposal*

#### **4 Decisions of [<sup>F1</sup>the company and its creditors].**

[<sup>F2</sup>(1) This section applies where, under section 3—

- (a) a meeting of the company is summoned to consider the proposed voluntary arrangement, and
- (b) the company's creditors are asked to decide whether to approve the proposed voluntary arrangement.

(1A) The company and its creditors may approve the proposed voluntary arrangement with or without modifications.]

(2) The modifications may include one conferring the functions proposed to be conferred on the nominee on another person qualified to act as an insolvency practitioner <sup>F3</sup>... [<sup>F4</sup>in relation to the voluntary arrangement].

But they shall not include any modification by virtue of which the proposal ceases to be a proposal such as is mentioned in section 1.

(3) [<sup>F5</sup>Neither the company nor its creditors may] approve any proposal or modification which affects the right of a secured creditor of the company to enforce his security, except with the concurrence of the creditor concerned.

(4) Subject as follows, [<sup>F6</sup>neither the company nor its creditors may] approve any proposal or modification under which—

- (a) any preferential debt of the company is to be paid otherwise than in priority to such of its debts as are not preferential debts, <sup>F7</sup>...

[<sup>F8</sup>(aa) any ordinary preferential debt of the company is to be paid otherwise than in priority to any secondary preferential debts that it may have,]

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- (b) a preferential creditor of the company is to be paid an amount in respect of [<sup>F9</sup>an ordinary preferential debt] that bears to that debt a smaller proportion than is borne to [<sup>F10</sup>another ordinary] preferential debt by the amount that is to be paid in respect of that other debt [<sup>F11</sup>, <sup>F12</sup>...
- (c) a preferential creditor of the company is to be paid an amount in respect of a secondary preferential debt that bears to that debt a smaller proportion than is borne to another secondary preferential debt by the amount that is to be paid in respect of that other debt.][<sup>F13</sup>or
- (d) in the case of a company which is a relevant financial institution (see section 387A), any non-preferential debt is to be paid otherwise than in accordance with the rules in section 176AZA(2) or (3).]

However, <sup>F14</sup>... such a proposal or modification [<sup>F15</sup>may be approved] with the concurrence of the <sup>F16</sup>... creditor concerned.

[<sup>F17</sup>(4A) Subject to subsection (4B), where the nominee's report under section 2(2) is submitted to the court before the end of the period of 12 weeks beginning with the day after the end of any moratorium for the company under Part A1, neither the company nor its creditors may approve any proposal or modification under which the following are to be paid otherwise than in full—

- (a) moratorium debts (within the meaning given by section 174A);
- (b) priority pre-moratorium debts (within the meaning given by section 174A).

(4B) Subsection (4A) does not prevent the approval of such a proposal or modification with the concurrence of the creditor concerned.]

(5) Subject as above, [<sup>F18</sup>the meeting of the company and the qualifying decision procedure] shall be conducted in accordance with the rules.

(6) After the conclusion of [<sup>F19</sup>the company] meeting in accordance with the rules, the chairman of the meeting shall report the result of the meeting to the court, and, immediately after reporting to the court, shall give notice of the result of the meeting to such persons as may be prescribed.

[<sup>F20</sup>(6A) After the company's creditors have decided whether to approve the proposed voluntary arrangement the person who sought the decision must—

- (a) report the creditors' decision to the court, and
- (b) immediately after reporting to the court, give notice of the creditors' decision to such persons as may be prescribed.]

(7) References in this section to preferential debts [<sup>F21</sup>, ordinary preferential debts, secondary preferential debts] and preferential creditors are to be read in accordance with section 386 in Part XII of this Act.

#### Textual Amendments

- F1** Words in s. 4 heading substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 9 para. 4\(8\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)
- F2** S. 4(1)(1A) substituted for s. 4(1) (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 9 para. 4\(2\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)

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- F3** Words in s. 4(2) omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 6 para. 20(2)(c)**; S.I. 2015/1732, art. 2(e)(vi)
- F4** Words in s. 4(2) substituted (1.1.2003) by 2000 c. 39, s. 2, **Sch. 2 Pt. I para. 4**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in arts. 3-5)
- F5** Words in s. 4(3) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 9 para. 4(3)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)
- F6** Words in s. 4(4) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 9 para. 4(4)(a)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)
- F7** Word in s. 4(4)(a) omitted (1.1.2015) by virtue of The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **4(2)(a)** (with art. 3)
- F8** S. 4(4)(aa) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **4(2)(b)** (with art. 3)
- F9** Words in s. 4(4)(b) substituted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **4(2)(c)(i)** (with art. 3)
- F10** Words in s. 4(4)(b) substituted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **4(2)(c)(ii)** (with art. 3)
- F11** S. 4(4)(c) and word inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **4(2)(d)** (with art. 3)
- F12** Word in s. 4(4)(b) omitted (19.12.2018) by virtue of The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), **5(a)** (with art. 3)
- F13** S. 4(4)(d) and word inserted (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), **5(b)** (with art. 3)
- F14** Words in s. 4(4) omitted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 9 para. 4(4)(b)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)
- F15** Words in s. 4(4) inserted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 9 para. 4(4)(c)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)
- F16** Word in s. 4(4) omitted (19.12.2018) by virtue of The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), **5(c)** (with art. 3)
- F17** S. 4(4A)(4B) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 3 para. 4(2)** (with ss. 2(2), 5(2))
- F18** Words in s. 4(5) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 9 para. 4(5)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)
- F19** Words in s. 4(6) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 9 para. 4(6)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)
- F20** S. 4(6A) inserted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 9 para. 4(7)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)

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**F21** Words in s. 4(7) inserted (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), **4(3)** (with art. 3)

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

- C1** S. 4 modified (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003 \(S.I. 2003/1102\)](#), **reg. 33(1)(2)** (with reg. 3)  
 S. 4 modified (18.2.2004) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2004 \(S.I. 2004/353\)](#), **reg. 33(1)(2)** (with reg. 3) (as amended (3.3.2004) by S.I. 2004/546, reg. 2(5) and modified (10.8.2005) by S.I. 2005/1998, regs. 2(3), 40(1)-(4); and as amended (23.7.2019) by [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2019 \(S.I. 2019/1058\)](#), regs. 1, **6(4)**)
- C2** Ss. 2-6 applied (with modifications) by 2009 c. 1, s. 154(3A) (as inserted (13.3.2018) by [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2018 \(S.I. 2018/208\)](#), regs. 1(3), **5(6)(c)**)
- C3** S. 4 modified (28.12.2020 until IP completion day when the amending provision ceases to have effect in accordance with reg. 1(4) of the amending S.I.) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(4), **110** (with reg. 108)
- C4** Ss. 1-7B applied (with modifications) (E.W.) (15.3.2024) by [The Water Industry \(Special Administration\) Regulations 2024 \(S.I. 2024/205\)](#), regs. 2(2), **5(1)**, 43-45 (with reg. 64)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act amendment to earlier affecting provision S.I. 1986/1999, art. 3, Sch. 1 Pt. 2 by [S.I. 2017/1119 Sch. 3 para. 1](#)
- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 41HB(2) words substituted by [2018 c. 14 s. 1\(3\)\(b\)](#)