



Insolvency Act 1986

1986 CHAPTER 45

PART I

COMPANY VOLUNTARY ARRANGEMENTS

Consideration and implementation of proposal

5 Effect of approval.

[^{F1}(1) This section applies where a decision approving a voluntary arrangement has effect under section 4A.]

(2) The ^{F2} . . . voluntary arrangement—

(a) takes effect as if made by the company at the [^{F3}time the creditors decided to approve the voluntary arrangement], and

[^{F4}(b) binds every person who in accordance with the rules—

(i) was entitled to vote [^{F5}in the qualifying decision procedure by which the creditors' decision to approve the voluntary arrangement was made], or

(ii) would have been so entitled if he had had notice of it,
as if he were a party to the voluntary arrangement.

(2A) If—

(a) when the arrangement ceases to have effect any amount payable under the arrangement to a person bound by virtue of subsection (2)(b)(ii) has not been paid, and

(b) the arrangement did not come to an end prematurely,

the company shall at that time become liable to pay to that person the amount payable under the arrangement.]

(3) Subject as follows, if the company is being wound up or [^{F6}is in administration], the court may do one or both of the following, namely—

Status: Point in time view as at 19/12/2018. This version of this provision has been superseded.

Changes to legislation: Insolvency Act 1986, Section 5 is up to date with all changes known to be in force on or before 26 July 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) by order stay or sist all proceedings in the winding up or [^{F6}provide for the appointment of the administrator to cease to have effect];
 - (b) give such directions with respect to the conduct of the winding up or the administration as it thinks appropriate for facilitating the implementation of the ^{F2} . . . voluntary arrangement.
- (4) The court shall not make an order under subsection (3)(a)—
- (a) at any time before the end of the period of 28 days beginning with the first day on which each of the reports required by section 4(6) [^{F7}and (6A)] has been made to the court, or
 - (b) at any time when an application under the next section or an appeal in respect of such an application is pending, or at any time in the period within which such an appeal may be brought.
- [^{F8}(5) Where the company is in energy administration, the court shall not make an order or give a direction under subsection (3) unless—
- (a) the court has given the Secretary of State or the Gas and Electricity Markets Authority a reasonable opportunity of making representations to it about the proposed order or direction; and
 - (b) the order or direction is consistent with the objective of the energy administration.
- (6) In subsection (5) “in energy administration” and “objective of the energy administration” are to be construed in accordance with Schedule B1 to this Act, as applied by Part 1 of Schedule 20 to the Energy Act 2004.]

Textual Amendments

- F1** S. 5(1) substituted (1.1.2003) by 2000 c. 39, s. 2, **Sch. 2 Pt. I para. 6(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F2** Words in s. 5(2)(3) repealed (1.1.2003) by 2000 c. 39, ss. 2, 15, **Sch. 2 Pt. I para. 6(b)**, **Sch. 5**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F3** Words in s. 5(2)(a) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by **Small Business, Enterprise and Employment Act 2015 (c. 26)**, s. 164(1), **Sch. 9 para. 6(2)(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)
- F4** S. 5(2)(b)(2A) substituted (1.1.2003) for s. 5(2)(b) by 2000 c. 39, s. 2, **Sch. 2 Pt. I para. 6(c)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F5** Words in s. 5(2)(b)(i) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by **Small Business, Enterprise and Employment Act 2015 (c. 26)**, s. 164(1), **Sch. 9 para. 6(2)(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)
- F6** Words in s. 5(3) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, **Sch. 17 para. 11(a)(b)** (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))
- F7** Words in s. 5(4)(a) inserted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by **Small Business, Enterprise and Employment Act 2015 (c. 26)**, s. 164(1), **Sch. 9 para. 6(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)
- F8** S. 5(5)(6) inserted (5.10.2004) by **Energy Act 2004 (c. 20)**, ss. 159(1), 198, **Sch. 20 para. 43**; S.I. 2004/2575, **art. 2(1)**, **Sch. 1**

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Modifications etc. (not altering text)

- C1** S. 5 restricted (S.) (1.11.2001) by 2001 asp 10, s. 63, **Sch. 7 para. 10(5)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** (subject to transitional provisions and savings in art. 3)
- C2** S. 5 modified (1.10.2011) by Postal Services Act 2011 (c. 5), ss. 73, 93(2)(3), **Sch. 10 para. 43**; S.I. 2011/2329, **art. 3** (with arts. 4, 5)
- C3** 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)**)
- C4** S. 5 modified by S.I. 2012/3013, Sch. 2 para. 36 (as inserted (4.7.2018) by The Insolvency of Registered Providers of Social Housing Regulations 2018 (S.I. 2018/728), regs. 1, 3(6), **Sch. 2**)
- C5** S. 5 modified (5.7.2018) by Housing and Planning Act 2016 (c. 22), s. 216(3), **Sch. 5 para. 42**; S.I. 2018/805, reg. 3(b)

Status:

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