



Companies Act 1989

1989 CHAPTER 40

PART VII

FINANCIAL MARKETS AND INSOLVENCY

Recognised investment exchanges and clearing houses

167 Application to determine whether default proceedings to be taken.

- (1) Where there has been made or passed in relation to a member or designated non-member of a recognised investment exchange or a member of a recognised clearing house—
- (a) a bankruptcy order or an award of sequestration of his estate, or an order appointing an interim receiver of his property, or
 - (b) an administration or winding up order, a resolution for voluntary winding up or an order appointing a provisional liquidator,

and the exchange or clearing house has not taken action under its default rules in consequence of the order, award or resolution or the matters giving rise to it, a relevant office-holder appointed by, or in consequence of or in connection with, the order, award or resolution may apply to the [^{F1}Authority].

[^{F2}(1A) In subsection (1) a reference to an administration order shall be taken to include a reference to the appointment of an administrator under—

- (a) paragraph 14 of Schedule B1 to the Insolvency Act 1986 (c.45) (appointment by holder of qualifying floating charge), or
 - (b) paragraph 22 of that Schedule (appointment by company or directors).]
- (2) The application shall specify the exchange or clearing house concerned and the grounds on which it is made.
- (3) On receipt of the application the [^{F3}Authority] shall notify the exchange or clearing house, and unless within three business days after the day on which the notice is received the exchange or clearing house—

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Changes to legislation: There are currently no known outstanding effects for the Companies Act 1989, Section 167. (See end of Document for details)

- (a) takes action under its default rules, or
(b) notifies the [^{F3}Authority] that it proposes to do so forthwith,

then, subject as follows, the provisions of sections 158 to 165 above do not apply in relation to market contracts to which the member or designated non-member in question is a party or to anything done by the exchange or clearing house for the purposes of, or in connection with, the settlement of any such contract.

For this purpose a “business day” means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday in any part of the United Kingdom under the ^{M1}Banking and Financial Dealings Act 1971.

- (4) The provisions of sections 158 to 165 are not disapplied if before the end of the period mentioned in subsection (3) the [^{F4}Authority] gives the exchange or clearing house a direction under section 166(2)(a) (direction to take action under default rules).

No such direction may be given after the end of that period.

- (5) If the exchange or clearing house notifies the [^{F5}Authority] that it proposes to take action under its default rules forthwith, it shall do so; and that duty is enforceable, on the application of the [^{F5}Authority], by injunction or, in Scotland, by an order under section 45 of the ^{M2}Court of Session Act 1988.

Textual Amendments

- F1** Words in s. 167(1) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 82(2)
F2 S. 167(1A) inserted (15.9.2003) by 2002 c. 40, ss. 248, 279, Sch. 17 para. 46 (with s. 249(1)-(3)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to transitional provisions in arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
F3 Words in s. 167(3) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 82(3)
F4 Words in s. 167(4) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 82(4)
F5 Words in s. 167(5) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 82(5)

Commencement Information

- I1** S. 167 wholly in force at 1.10.1991; s. 167 in force for certain purposes at 25.4.1991 see s. 215 and S.I. 1991/878, art. 2, Sch. and wholly in force at 1.10.1991 see S.I. 1991/2173, art. 2

Marginal Citations

- M1** 1971 c. 80.
M2 1988 c. 36.

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Changes to legislation:

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