

**Changes to legislation:** The Insolvency (Northern Ireland) Order 1989, *FUNCTIONS OF ADMINISTRATOR* is up to date with all changes known to be in force on or before 22 April 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) View outstanding changes

## SCHEDULES

### [<sup>F1</sup>SCHEDULE B1

#### ADMINISTRATION

- F1** Sch. B1 inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(2), [Sch. 1 \(with art. 4\)](#); [S.R. 2006/21](#), **art. 2** (with [S.R. 2006/22](#), **arts. 2-7**)

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

- C1** Sch. B1 applied (with modifications) (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), ss. 73, 87(1)(2), 93(3), **Sch. 10 Pt. 1**, **Sch. 10 Pt. 2**
- C1** Sch. B1 applied (with modifications) by [S.R. 1995/225](#), Sch. 2 (as amended (19.12.2018) by [The Banks and Building Societies \(Priorities on Insolvency\) Order 2018 \(S.I. 2018/1244\)](#), arts. 1(2), **36** (with art. 3))
- C1** Sch. B1 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), **120** (with reg. 108)
- C1** Sch. B1 modified by [S.R. 1995/225](#), art. 6, **Sch. 2** (as 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), **122(3)** (with reg. 108))
- C2** Sch. B1 applied (with modifications) (4.1.2024) by [S.I. 2021/716](#), **Sch. 2A para. 6** (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), reg. 1(2), **Sch. 2**)

#### FUNCTIONS OF ADMINISTRATOR

##### *General powers*

**60.—**(1) The administrator of a company may do anything necessary or expedient for the management of the affairs, business and property of the company.

(2) A provision of this Schedule which expressly permits the administrator to do a specified thing is without prejudice to the generality of sub-paragraph (1).

(3) A person who deals with the administrator of a company in good faith and for value need not inquire whether the administrator is acting within his powers.

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

- C1** Sch. B1 para. 60 applied (with modifications) (4.1.2024) by [S.I. 2021/716](#), **reg. 37A** (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), **12**)

**61.—**[  
<sup>F2</sup>(1)] The administrator of a company has the powers specified in Schedule 1.

[

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<sup>F3</sup>(2) But the power to sell, hire out or otherwise dispose of property is subject to any regulations that may be made under paragraph 61A.]

- F2** Sch. B1 para. 61 renumbered as Sch. B1 para. 61(1) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), [ss. 9\(3\)](#), [49\(1\)](#) (with [ss. 2\(2\)](#), [5\(2\)](#))
- F3** Sch. B1 para. 61(2) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), [ss. 9\(4\)](#), [49\(1\)](#) (with [ss. 2\(2\)](#), [5\(2\)](#))

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

- C3** Sch. B1 para. 61 applied (with modifications) (4.1.2024) by [S.I. 2021/716](#), [reg. 37A](#) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), [regs. 1\(2\)](#), [12](#))

<sup>F4</sup>**61A.**—(1) Regulations may make provision for—

- (a) prohibiting, or
- (b) imposing requirements or conditions in relation to,

the disposal, hiring out or sale of property of a company by the administrator to a connected person in circumstances specified in the regulations.

(2) Regulations under this paragraph may in particular require the approval of, or provide for the imposition of requirements or conditions by—

- (a) creditors of the company,
- (b) the High Court, or
- (c) a person of a description specified in the regulations.

(3) In sub-paragraph (1), “connected person”, in relation to a company, means—

- (a) a relevant person in relation to the company, or
- (b) a company connected with the company.

(4) For the purposes of sub-paragraph (3)—

- (a) “relevant person”, in relation to a company, means—
  - (i) a director or other officer, or shadow director, of the company;
  - (ii) a non-employee associate of such a person;
  - (iii) a non-employee associate of the company;

- (b) a company is connected with another if any relevant person of one is or has been a relevant person of the other.

(5) In sub-paragraph (4), “non-employee associate” of a person means a person who is an associate of that person otherwise than by virtue of employing or being employed by that person.

(6) Paragraph (11) of Article 4 (extended definition of company) applies for the purposes of sub-paragraphs (3) to (5) as it applies for the purposes of that Article.

(7) Regulations under this paragraph may make incidental, consequential, supplemental and transitional provision.

(8) Regulations may not be made under this paragraph unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(9) This paragraph expires at the end of June 2021 unless the power conferred by it is exercised before then.]

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- F4** Sch. B1 para. 61A inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), ss. 9(5), 49(1) (with ss. 2(2), 5(2))

**62.** The administrator of a company—

- (a) may remove a director of the company, and
- (b) may appoint a director of the company (whether or not to fill a vacancy).

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

- C4** Sch. B1 para. 62 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), 12)
- C5** Sch. B1 para. 62 applied (with modifications) (4.1.2024) by S.I. 2021/716, Sch. 2A para. 6 (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), reg. 1(2), Sch. 2)
- C6** Sch. B1 para. 62 applied (with modifications) (4.1.2024) by S.I. 2021/716, Sch. 1A para. 3 (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), reg. 1(2), Sch. 1)

**63.** The administrator of a company may call a meeting of members or creditors of the company.

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

- C7** Sch. B1 para. 63 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), 12)
- C8** Sch. B1 para. 63 applied (with modifications) (4.1.2024) by S.I. 2021/716, Sch. 1A para. 3 (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), reg. 1(2), Sch. 1)

**64.** The administrator of a company may apply to the High Court for directions in connection with his functions.

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

- C9** Sch. B1 para. 64 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), 12)

**65.—(1)** A company in administration or an officer of a company in administration may not exercise a management power without the consent of the administrator.

(2) For the purpose of sub-paragraph (1)—

- (a) “management power” means a power which could be exercised so as to interfere with the exercise of the administrator's powers,
- (b) it is immaterial whether the power is conferred by an enactment or an instrument, and
- (c) consent may be general or specific.

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

- C10** Sch. B1 para. 65 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), 12)

### Distribution

<sup>F5</sup>**65A.**—(1) This paragraph applies where a company enters administration before the end of the period of 12 weeks beginning with the day after the end of any moratorium under Part 1A.

(2) The administrator must make a distribution to the creditors of the company in respect of—

- (a) moratorium debts (within the meaning given by Article 148A), and
- (b) priority pre-moratorium debts (within the meaning given by Article 148A).

(3) A sum payable under sub-paragraph (2) is to be paid in priority to—

- (a) any security to which paragraph 71 applies;
- (b) any sums payable under paragraph 100.

(4) The administrator must realise any property necessary to comply with sub-paragraph (2).

(5) The rules may make provision as to the order in which the moratorium and priority pre-moratorium debts rank among themselves for the purposes of this paragraph in a case where the assets of the company are insufficient to meet them in full.]

- F5** Sch. B1 para. 65A inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), Sch. 7 para. 27(3) (with ss. 2(2), 5(2))

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

- C11** Sch. B1 para. 65A applied (18.7.2020) by S.I. 1999/2979, reg. 14(5) (as amended by The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) (Amendment) and Consequential Amendments Order 2020 (S.I. 2020/744), arts. 1, 14(2)(d))

**66.**—<sup>F6</sup>(1) If the assets of a company are sufficient to meet any debts or other liabilities payable under paragraph 65A in full, the administrator of the company may make a distribution to any other creditor of the company.]

(2) <sup>F7</sup>[Articles 149 and 150ZZA] shall apply in relation to a distribution under this paragraph as <sup>F8</sup>they apply] in relation to a winding up.

(3) A payment may not be made by way of distribution under this paragraph to a creditor of the company who is neither secured nor preferential unless the High Court gives permission.

- F6** Sch. B1 para. 66(1) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), Sch. 7 para. 27(4) (with ss. 2(2), 5(2))

- F7** Words in Sch. B1 para. 66(2) substituted (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), 31(2)(a) (with art. 3)

- F8** Words in Sch. B1 para. 66(2) substituted (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), 31(2)(b) (with art. 3)

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

- C12** Sch. B1 para. 66(1) modified (06.03.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), reg. 1(1), [Sch. para. 9\(2\)\(a\)](#)
- C13** Sch. B1 para. 66 applied (with modifications) (4.1.2024) by [S.I. 2021/716](#), [reg. 37A](#) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), [12](#))
- C14** Sch. B1 para. 66 applied (with modifications) (4.1.2024) by [S.I. 2021/716](#), [Sch. 2A para. 6](#) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), reg. 1(2), [Sch. 2](#))
- C15** Sch. B1 para. 66(2) applied by [Financial Markets and Insolvency \(Settlement Finality\) Regulations 1999 \(S.I. 1999/2979\)](#), [reg. 14\(5\)\(a\)\(i\)](#) (as substituted (1.10.2009) by [Financial Markets and Insolvency \(Settlement Finality\) \(Amendment\) Regulations 2009 \(S.I. 2009/1972\)](#), [reg. 4\(d\)\(ii\)](#))

**67.** [<sup>F9</sup>If the debts or other liabilities payable under paragraph 65A have been met, the administrator of a company] may make a payment otherwise than in accordance with paragraph 66 or paragraph 14 of Schedule 1 if he thinks it likely to assist achievement of the purpose of administration.

- F9** Words in [Sch. B1 para. 67](#) substituted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 7 para. 27\(5\)](#) (with ss. 2(2), 5(2))

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

- C16** Sch. B1 para. 67 modified (06.03.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), reg. 1(1), [Sch. para. 9\(2\)\(a\)](#)
- C17** Sch. B1 para. 67 applied (with modifications) (4.1.2024) by [S.I. 2021/716](#), [reg. 37A](#) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), [12](#))

*General duties*

**68.** The administrator of a company shall on his appointment take custody or control of all the property to which he thinks the company is entitled.

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

- C18** Sch. B1 para. 68 applied (with modifications) (4.1.2024) by [S.I. 2021/716](#), [reg. 37A](#) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), [12](#))

**69.**—(1) Subject to sub-paragraph (2), the administrator of a company shall manage its affairs, business and property in accordance with—

- (a) any proposals approved under paragraph 54,
- (b) any revision of those proposals which is made by him and which he does not consider substantial, and
- (c) any revision of those proposals approved under paragraph 55.

(2) If the High Court gives directions to the administrator of a company in connection with any aspect of his management of the company's affairs, business or property, the administrator shall comply with the directions.

(3) The Court may give directions under sub-paragraph (2) only if—

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- (a) no proposals have been approved under paragraph 54,
- (b) the directions are consistent with any proposals or revision approved under paragraph 54 or 55,
- (c) the Court thinks the directions are required in order to reflect a change in circumstances since the approval of proposals or a revision under paragraph 54 or 55, or
- (d) the Court thinks the directions are desirable because of a misunderstanding about proposals or a revision approved under paragraph 54 or 55.

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

- C19** Sch. B1 para. 69 applied (with modifications) (4.1.2024) by S.I. 2021/716, **reg. 37A** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), **12**)

*Administrator as agent of company*

**70.** In exercising his functions under this Schedule the administrator of a company acts as its agent.

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

- C20** Sch. B1 para. 70 applied (with modifications) (4.1.2024) by S.I. 2021/716, **reg. 37A** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), **12**)
- C21** Sch. B1 para. 70 applied (with modifications) (4.1.2024) by S.I. 2021/716, **Sch. 2A para. 6** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), reg. 1(2), **Sch. 2**)

*Charged property: floating charge*

**71.—(1)** The administrator of a company may dispose of or take action relating to property which is subject to a floating charge as if it were not subject to the charge.

(2) Where property is disposed of in reliance on sub-paragraph (1) the holder of the floating charge shall have the same priority in respect of acquired property as he had in respect of the property disposed of.

(3) In sub-paragraph (2) “acquired property” means property of the company which directly or indirectly represents the property disposed of.

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

- C22** Sch. B1 para. 71 excluded by Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)), art.97(1) (as subst. (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 52(2) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**))
- C23** Sch. B1 para. 71 applied (with modifications) (4.1.2024) by S.I. 2021/716, **reg. 37A** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), **12**)

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### *Charged property: non-floating charge*

**72.—**(1) The High Court may by order enable the administrator of a company to dispose of property which is subject to a security (other than a floating charge) as if it were not subject to the security.

(2) An order under sub-paragraph (1) may be made only—

- (a) on the application of the administrator, and
- (b) where the Court thinks that disposal of the property would be likely to promote the purpose of administration in respect of the company.

(3) An order under this paragraph is subject to the condition that there be applied towards discharging the sums secured by the security—

- (a) the net proceeds of disposal of the property, and
- (b) any additional money required to be added to the net proceeds so as to produce the amount determined by the Court as the net amount which would be realised on a sale of the property at market value.

(4) If an order under this paragraph relates to more than one security, application of money under sub-paragraph (3) shall be in the order of the priorities of the securities.

(5) An administrator who makes a successful application for an order under this paragraph shall send a copy of the order to the registrar before the end of the period of 14 days starting with the date of the order.

(6) An administrator commits an offence if he fails to comply with sub-paragraph (5) without reasonable excuse.

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

- C24** Sch. B1 para. 72 excluded by [Companies \(No. 2\) \(Northern Ireland\) Order 1990](#) (S.I. 1990/1504 (N.I. 10)), art.97(1) (as subst. (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005](#) (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 52(2) (with art. 4); S.R. 2006/21, [art. 2](#) (with S.R. 2006/22, [arts. 2 - 7](#)))
- C25** Sch. B1 para. 72 applied (with modifications) (4.1.2024) by [S.I. 2021/716](#), [reg. 37A](#) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023](#) (S.I. 2023/1399), regs. 1(2), [12](#))

### *Hire-purchase property*

**73.—**(1) The High Court may by order enable the administrator of a company to dispose of goods which are in the possession of the company under a hire-purchase agreement as if all the rights of the owner under the agreement were vested in the company.

(2) An order under sub-paragraph (1) may be made only—

- (a) on the application of the administrator, and
- (b) where the Court thinks that disposal of the goods would be likely to promote the purpose of administration in respect of the company.

(3) An order under this paragraph is subject to the condition that there be applied towards discharging the sums payable under the hire-purchase agreement—

- (a) the net proceeds of disposal of the goods, and



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- (b) any additional money required to be added to the net proceeds so as to produce the amount determined by the Court as the net amount which would be realised on a sale of the goods at market value.

(4) An administrator who makes a successful application for an order under this paragraph shall send a copy of the order to the registrar before the end of the period of 14 days starting with the date of the order.

(5) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (4).

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

- C26** Sch. B1 para. 73 excluded by Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)), art.97(1) (as subst. (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 52(2) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7))
- C27** Sch. B1 para. 73 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), 12)

*Protection for <sup>F10</sup>priority] creditor*

- F10** Word in Sch. B1 para. 74 heading substituted (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), 31(3)(a) (with art. 3)

**74.—**(1) An administrator's statement of proposals under paragraph 50 may not include any action which—

- (a) affects the right of a secured creditor of the company to enforce his security,
- (b) would result in a preferential debt of the company being paid otherwise than in priority to its non-preferential debts, <sup>F11</sup>...

[ would result in an ordinary preferential debt of the company being paid otherwise than in <sup>F12</sup>(bb) priority to its secondary preferential debts,]

- (c) would result in one preferential creditor of the company being paid a smaller proportion of [<sup>F13</sup>an ordinary preferential debt] than another, <sup>F14</sup>[<sup>F15</sup>...
- (d) would result in one preferential creditor of the company being paid a smaller proportion of a secondary preferential debt than another,]<sup>F16</sup>or
- (e) if the company is a relevant financial institution (see Article 347A), would result in any non-preferential debt being paid otherwise than in accordance with the rules in Article 150ZZA(2) or (3).]

(2) Sub-paragraph (1) does not apply to—

- (a) action to which the relevant creditor consents,
- (b) a proposal for a voluntary arrangement under Part II of this Order (although this sub-paragraph is without prejudice to Article 17(3)), <sup>F17</sup>...
- (c) a proposal for a compromise or arrangement to be sanctioned under [<sup>F18</sup>Part 26 [<sup>F19</sup>or 26A] of the Companies Act 2006 (arrangements and reconstructions)].

[<sup>F20</sup>or



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- (d) a proposal for a cross-border merger within the meaning of regulation 2 of the Companies (Cross-Border Mergers) Regulations 2007.]
- (3) The reference to a statement of proposals in sub-paragraph (1) includes a reference to a statement as revised or modified.

- F11** Word in Sch. B1 para. 74(1)(b) 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), **22(2)** (with art. 3)
- F12** Sch. B1 para. 74(1)(bb) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **22(3)** (with art. 3)
- F13** Words in Sch. B1 para. 74(1)(c) substituted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **22(4)** (with art. 3)
- F14** Word in Sch. B1 para. 74(1)(c) omitted (19.12.2018) by virtue of The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), **31(3)(b)** (with art. 3)
- F15** Sch. B1 para. 74(1)(d) 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), **22(5)** (with art. 3)
- F16** Sch. B1 para. 74(1)(e) and word inserted (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), **31(3)(c)** (with art. 3)
- F17** Word in Sch. B1 para. 74(2)(b) omitted (15.12.2007) by virtue of Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), **reg. 66(2)**
- F18** Words in Sch. B1 para. 74(2)(c) substituted (6.4.2008) by Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1)(b), **Sch. 1 para. 166(a)** (with arts. 6, 11, 12)
- F19** Words in Sch. B1 para. 74(2)(c) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 10(3)** (with ss. 2(2), 5(2))
- F20** Sch. B1 para. 74(2)(d) and preceding word inserted (15.12.2007) by Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), **reg. 66(3)**

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

- C28** Sch. B1 para. 74 modified by S.R. 1995/225, Sch. 2 para. 35 (as amended (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **25** (with art. 3))
- C29** Sch. B1 para. 74 applied (with modifications) (4.1.2024) by S.I. 2021/716, **reg. 37A** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), **12**)
- C30** Sch. B1 para. 74 applied (with modifications) (4.1.2024) by S.I. 2021/716, **Sch. 2A para. 6** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), reg. 1(2), **Sch. 2**)

*Challenge to administrator's conduct of company*

**75.—**(1) A creditor or member of a company in administration may apply to the High Court claiming that—

- (a) the administrator is acting or has acted so as unfairly to harm the interests of the applicant (whether alone or in common with some or all other members or creditors), or
- (b) the administrator proposes to act in a way which would unfairly harm the interests of the applicant (whether alone or in common with some or all other members or creditors).

(2) A creditor or member of a company in administration may apply to the Court claiming that the administrator is not performing his functions as quickly or as efficiently as is reasonably practicable.

(3) The Court may—

- (a) grant relief;

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- (b) dismiss the application;
  - (c) adjourn the hearing conditionally or unconditionally;
  - (d) make an interim order;
  - (e) make any other order it thinks appropriate.
- (4) In particular, an order under this paragraph may—
- (a) regulate the administrator's exercise of his functions;
  - (b) require the administrator to do or not do a specified thing;
  - (c) require a creditors' meeting to be held for a specified purpose;
  - (d) provide for the appointment of an administrator to cease to have effect;
  - (e) make consequential provision.
- (5) An order may be made on a claim under sub-paragraph (1) whether or not the action complained of—
- (a) is within the administrator's powers under this Schedule;
  - (b) was taken in reliance on an order under paragraph 72 or 73.
- (6) An order may not be made under this paragraph if it would impede or prevent the implementation of—
- (a) a voluntary arrangement approved under Part II,
  - (b) a compromise or arrangement sanctioned under [<sup>F21</sup>Part 26 [<sup>F22</sup>or 26A] of the Companies Act 2006 (arrangements and reconstructions)], <sup>F23</sup> . . .  
 [ a cross-border merger within the meaning of regulation 2 of the Companies (Cross-Border <sup>F24</sup>(ba) Mergers) Regulations 2007, or]
  - (c) proposals or a revision approved under paragraph 54 or 55 more than 28 days before the day on which the application for the order under this paragraph is made.

- F21** Words in Sch. B1 para. 75(6)(b) substituted (6.4.2008) by Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1)(b), **Sch. 1 para. 166(b)** (with arts. 6, 11, 12)
- F22** Words in Sch. B1 para. 75(6)(b) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 10(4)** (with ss. 2(2), 5(2))
- F23** Word in Sch. B1 para. 75(6)(b) omitted (15.12.2007) by virtue of Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), **reg. 66(4)**
- F24** Sch. B1 para. 75(6)(ba) inserted (15.12.2007) by Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), **reg. 66(5)**

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

- C31** Sch. B1 para. 75 applied (with modifications) (4.1.2024) by S.I. 2021/716, **reg. 37A** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), **12**)
- C32** Sch. B1 para. 75 applied (with modifications) (4.1.2024) by S.I. 2021/716, **Sch. 2A para. 6** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), reg. 1(2), **Sch. 2**)
- C33** Sch. B1 para. 75(1)(a)(b) modified by Financial Services and Markets Act 2000 (c. 8), s. 362(4A)(b) (as subst. (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 60(6) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2-7**))
- C34** Sch. B1 para. 75(1)(a)(b) modified by Financial Services and Markets Act 2000 (c. 8), s. 362(4A)(b) (as subst. (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 60(6) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2-7**))

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### *Misfeasance*

- 76.—**(1) The High Court may examine the conduct of a person who—
- (a) is or purports to be the administrator of a company, or
  - (b) has been or has purported to be the administrator of a company.
- (2) An examination under this paragraph may be held only on the application of—
- (a) the official receiver,
  - (b) the administrator of the company,
  - (c) the liquidator of the company,
  - (d) a creditor of the company, or
  - (e) a contributory of the company.
- (3) An application under sub-paragraph (2) must allege that the administrator—
- (a) has misapplied or retained money or other property of the company,
  - (b) has become accountable for money or other property of the company,
  - (c) has breached a fiduciary or other duty in relation to the company, or
  - (d) has been guilty of misfeasance.
- (4) On an examination under this paragraph into a person's conduct the Court may order him—
- (a) to repay, restore or account for money or property;
  - (b) to pay interest;
  - (c) to contribute a sum to the company's property by way of compensation for breach of duty or misfeasance.
- (5) In sub-paragraph (3) “administrator” includes a person who purports or has purported to be a company's administrator.
- (6) An application under sub-paragraph (2) may be made in respect of an administrator who has been discharged under paragraph 99 only with the permission of the Court.]

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

**C35** Sch. B1 para. 76 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), 12)

**Changes to legislation:**

The Insolvency (Northern Ireland) Order 1989, FUNCTIONS OF ADMINISTRATOR is up to date with all changes known to be in force on or before 22 April 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.

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**Changes and effects yet to be applied to :**

- Instrument amended by [1998 c. 11 s. 23 Sch. 5 Pt.1 Ch. 3 para. 40](#)
- Instrument amended (prosp) by [S.I. 1994/279 \(N.I.\) art. 26\(1\)Sch. 2 para. 15](#)

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

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

- Sch. 9 Pt. 2 para. 66 revoked by [1996 c. 23 s. 107\(2\)Sch. 4](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov.uk](#))
- art. 2B inserted by [2016 c. 2 \(N.I.\) s. 2\(1\)](#)
- art. 208ZA applied (with modifications) by S.I. 2021/716, reg. 37A (as inserted) by [S.I. 2023/1399 reg. 12](#) (This amendment not applied to [Legislation.gov.uk](#). S. 208ZA is inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 1(1) which is currently prospective.)
- art. 208ZA-208ZB inserted by [2016 c. 2 \(N.I.\) s. 1\(1\)](#)
- art. 208ZB applied (with modifications) by S.I. 2021/716, reg. 37A (as inserted) by [S.I. 2023/1399 reg. 12](#) (This amendment not applied to [Legislation.gov.uk](#). S. 208ZB is inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 1(1) which is currently prospective.)
- art. 345A-345B inserted by [2016 c. 2 \(N.I.\) s. 1\(2\)](#)