



Insolvency Act 1985

1985 CHAPTER 65

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

212 Transactions defrauding creditors

(1) Where—

- (a) a person (" the relevant person ") has entered into a transaction with any other person at an undervalue; and
- (b) the court is satisfied that the transaction was entered into for the purpose of putting assets beyond the reach of a person who is making, or may at some time make, a claim against the relevant person or of otherwise prejudicing the interests of such a person in relation to the claim which he is making or may make,

the court may make such order as it thinks fit for restoring the position to what it would have been if the transaction had not been entered into and of protecting the interests of the persons on whose behalf the application is treated as made.

(2) An application for an order under this section shall not be made in relation to a transaction except—

- (a) in a case where the relevant person has been adjudged bankrupt or is a body corporate which is being wound up or in relation to which an administration order is in force, by the official receiver, by the trustee of the bankrupt's estate or the liquidator or administrator of the body corporate or, with the leave of the court, by a person who is, or is capable of being, prejudiced by the transaction;
- (b) in a case where a person who is, or is capable of being, prejudiced by the transaction is bound by a composition or scheme approved under Chapter II of Part II or Chapter I of Part III of this Act, by the supervisor of the composition or scheme or by any person who (whether or not so bound) is, or is capable of being, so prejudiced; or

Status: This is the original version (as it was originally enacted).

- (c) in any other case, by a person who is, or is capable of being, so prejudiced ; and an application made under any of the preceding paragraphs in relation to a transaction shall be treated as made on behalf of every person who is, or is capable of being, prejudiced by the transaction.
- (3) For the purposes of this section a person enters into a transaction with another person at an undervalue if—
- (a) he makes a gift to that other person or he otherwise enters into a transaction with that other person on terms that provide for him to receive no consideration ;
 - (b) he enters into a transaction with that other person in consideration of marriage ; or
 - (c) he enters into a transaction with that other person for a consideration the value of which, in money or money's worth, is significantly less than the value, in money or money's worth, of the consideration provided by the relevant person.
- (4) Without prejudice to the generality of the preceding provisions of this section, an order made under this section with respect to any transaction may, subject to subsection (5) below—
- (a) require any property transferred as part of the transaction to be vested in any person, either absolutely or for the benefit of all the persons on whose behalf the application for the order is treated as made;
 - (b) require any property to be so vested if it represents in any person's hands the application either of the proceeds of sale of property so transferred or of money so transferred;
 - (c) release or discharge (in whole or in part) any security given by the relevant person ;
 - (d) require any person to pay to any other person in respect of benefits received from the relevant person such sums as the court may direct;
 - (e) provide for any surety or guarantor whose obligations to any person were released or discharged (in whole or in part) under the transaction to be under such new or revived obligations as the court thinks appropriate;
 - (f) provide for security to be provided for the discharge of any obligation imposed by or arising under the order, for such an obligation to be charged on any property and for such security or charge to have the same priority as a security or charge released or discharged (in whole or in part) under the transaction.
- (5) An order under this section may affect the property of, or impose any obligation on, any person whether or not he is the person with whom the relevant person entered into the transaction ; but such an order—
- (a) shall not prejudice any interest in property which was acquired from a person other than the relevant person and was acquired in good faith, for value and without notice of the relevant circumstances, or prejudice any interest deriving from such an interest; and
 - (b) shall not require a person who received a benefit from that transaction in good faith, for value and without notice of the relevant circumstances to pay any sum unless he was a party to the transaction.
- (6) For the purposes of this section the relevant circumstances in relation to a transaction are the circumstances by virtue of which an order under this section may be made in respect of the transaction.

(7) In this section—

" the court" means the High Court or—

- (a) if the relevant person is an individual, any other court which would have jurisdiction in relation to a bankruptcy petition relating to the relevant person ;
- (b) if the relevant person is not an individual, any other court having jurisdiction to wind up the relevant person under Part XX or XXI of the 1985 Act;

" security" means any mortgage, charge, lien or other security.

213 Co-operation between courts exercising jurisdiction in relation to insolvency law

- (1) An order made by a court in any part of the United Kingdom in the exercise of jurisdiction in relation to insolvency law shall be enforced in any other part of the United Kingdom as if it were made by a court exercising the corresponding jurisdiction in that other part; but, without prejudice to the following provisions of this section, nothing in this subsection shall require a court in any part of the United Kingdom to enforce, in relation to property situated in that part, any order made by a court in any other part of the United Kingdom.
- (2) The Secretary of State, with the concurrence in relation to property situated in England and Wales of the Lord Chancellor, may by order make provision for securing that a trustee or assignee under the insolvency law of any part of the United Kingdom has, with such modifications as may be specified in the order, the same rights in relation to any property situated in another part of the United Kingdom as he would have in the corresponding circumstances if he were a trustee or assignee under the insolvency law of that other part.
- (3) The courts having jurisdiction in relation to insolvency law in any part of the United Kingdom shall assist the courts having the corresponding jurisdiction in any other part of the United Kingdom or any relevant country or territory.
- (4) For the purposes of subsection (3) above a request made to a court in any part of the United Kingdom by a court in any other part of the United Kingdom or in a relevant country or territory shall be authority for the court to which the request is made to apply, in relation to any matters specified in the request, the insolvency law which is applicable by either court in relation to comparable matters falling within its jurisdiction ; and in exercising its discretion under this subsection, a court shall have regard in particular to the rules of private international law.
- (5) Where a person who is a trustee or assignee under the insolvency law of any part of the United Kingdom claims property situated in any other part of the United Kingdom (whether by virtue of an order under subsection (2) above or otherwise), the submission of that claim to the court exercising jurisdiction in relation to insolvency law in that other part shall be treated in the same manner as a request made by a court for the purposes of subsection (3) above.
- (6) Section 38 of the Criminal Law Act 1977 (execution of warrant of arrest throughout the United Kingdom) shall apply to a warrant which, in exercise of any jurisdiction in relation to insolvency law, is issued in any part of the United Kingdom for the arrest of a person as it applies to a warrant issued in that part of the United Kingdom for the arrest of a person charged with an offence.

Status: This is the original version (as it was originally enacted).

- (7) Without prejudice to any power to make rules of court, any power to make provision by subordinate legislation for the purpose of giving effect in relation to companies or individuals to the insolvency law of any part of the United Kingdom shall include power to make provision for the purpose of giving effect in that part to any provision made by or under the preceding provisions of this section.
- (8) An order under subsection (2) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In this section " insolvency law " means—
- (a) in relation to England and Wales, provision extending to England and Wales and made by or under this Act or Parts XIX to XXI of the 1985 Act;
 - (b) in relation to Scotland, provision extending to Scotland and made by or under this Act, Parts XVIII to XXI of the 1985 Act or the Bankruptcy (Scotland) Act 1985 ;
 - (c) in relation to Northern Ireland, provision made by or under the Bankruptcy Acts (Northern Ireland) 1857 to 1980, Part V, VI or IX of the Companies Act (Northern Ireland) 1960 or Part IV of the Companies (Northern Ireland) Order 1978;
 - (d) in relation to any relevant country or territory, so much of the law of that country or territory as corresponds to provisions falling within any of the foregoing paragraphs ;
- and references in this subsection to any enactment include, in relation to any time before the coming into force of that enactment, references to the corresponding enactment in force at that time.
- (10) In this section " relevant country or territory " means—
- (a) any of the Channel Islands or the Isle of Man; or
 - (b) any country or territory designated for the purposes of this section by the Secretary of State by order made by statutory instrument.

214 Parliamentary disqualification etc.

- (1) Where a court in England and Wales or Northern Ireland adjudges an individual bankrupt or a court in Scotland awards sequestration of an individual's estate, the individual shall be disqualified—
- (a) for sitting or voting in the House of Lords ;
 - (b) for being elected to, or sitting or voting in, the House of Commons; and
 - (c) for sitting or voting in a committee of either House.
- (2) Where an individual is disqualified under this section, the disqualification shall cease—
- (a) except where the adjudication is annulled or the award recalled or reduced without the individual having been first discharged, on the discharge of the individual; and
 - (b) in the said excepted case, on the annulment, recall or reduction, as the case may be.
- (3) No writ of summons shall be issued to any lord of Parliament who is for the time being disqualified under this section for sitting and voting in the House of Lords.

Status: This is the original version (as it was originally enacted).

- (4) Where a member of the House of Commons who is disqualified under this section continues to be so disqualified until the end of the period of six months beginning with the day of the adjudication or award, his seat shall be vacated at the end of that period.
- (5) A court which makes an adjudication or award such as is mentioned in subsection (1) above in relation to any lord of Parliament or member of the House of Commons shall forthwith certify the adjudication or award to the Speaker of the House of Lords or, as the case may be, to the Speaker of the House of Commons.
- (6) Where a court has certified an adjudication or award to the Speaker of the House of Commons under subsection (5) above, then, immediately after it becomes apparent which of the following certificates is applicable, the court shall certify to the Speaker of the House of Commons—
 - (a) that the period of six months beginning with the day of the adjudication or award has expired without the adjudication or award having been annulled, recalled or reduced; or
 - (b) that the adjudication or award has been annulled, recalled or reduced before the end of that period.
- (7) Subject to the preceding provisions of this section, so much of this Act and of any other enactment (whenever passed) and of any subordinate legislation (whenever made) as—
 - (a) makes provision for or in connection with bankruptcy in one or more parts of the United Kingdom ; or
 - (b) makes provision conferring a power of arrest in connection with the winding up or insolvency of companies in one or more parts of the United Kingdom,shall apply in relation to persons having privilege of Parliament or peerage as it applies in relation to persons not having such privilege.

215 Power to inspect Land Register etc.

After section 112A of the Land Registration Act 1925 (inspection in connection with criminal proceedings) there shall be inserted the following section—

“112AA Inspection in connection with insolvency.

- (1) If an official receiver or the official assignee, the liquidator or administrator of a company or the trustee of a bankrupt's estate—
 - (a) applies to the registrar for permission to make an inspection under this section in relation to a person specified in the application or to property so specified ; and
 - (b) gives the registrar an appropriate certificate,the registrar shall permit him to inspect and make copies of and extracts from any register or document kept in the custody of the registrar so far as it relates to the person or property so specified.
- (2) In subsection (1) above " appropriate certificate " means a certificate that there is reason to believe that the register may contain information which would be of assistance to the person giving the certificate in the carrying out of his functions as official receiver or official assignee, as liquidator or administrator of a company or as trustee of a bankrupt's estate.

Status: This is the original version (as it was originally enacted).

(3) In this section—

- (a) references to an official receiver are references to an official receiver for the purpose of the Insolvency Act 1985 or the Companies Act 1985 or a person acting as a deputy to such an official receiver;
- (b) references to the trustee of a bankrupt's estate include references to a permanent or interim trustee in the sequestration of a debtor's estate in Scotland;
- (c) references to the official assignee are references to the Official Assignee for bankruptcy for Northern Ireland or the Official Assignee for company liquidations for Northern Ireland ; and
- (d) references to a company include references to a company registered or incorporated in Northern Ireland and references to a bankrupt include references to a person adjudged bankrupt in Northern Ireland.”

216 Repeal of section 152(4) of Social Security Act 1975

Section 152(4) of the Social Security Act 1975 (liability of directors in respect of unpaid National Insurance contributions) shall cease to have effect.

217 Amendments of Restrictive Trade Practices Act 1976

- (1) No restriction in respect of any of the matters specified in subsection (2) below shall, after the coming into force of this section, be regarded as a restriction by virtue of which the Restrictive Trade Practices Act 1976 applies to any agreement (whenever made).
- (2) The said matters are—
 - (a) the charges to be made, quoted or paid for insolvency services supplied, offered or obtained ;
 - (b) the terms or conditions on or subject to which insolvency services are to be supplied or obtained ;
 - (c) the extent (if any) to which, or the scale (if any) on which, insolvency services are to be made available, supplied or obtained ;
 - (d) the form or manner in which insolvency services are to be made available, supplied or obtained ;
 - (e) the persons or classes of persons for whom or from whom, or the areas or places in or from which, insolvency services are to be made available or supplied or are to be obtained.
- (3) In this section " insolvency services " means the services of persons acting as insolvency practitioners or carrying out under the law of Northern Ireland functions corresponding to those mentioned in section 1(2) or (3) above, in their capacity as such; and expressions which are also used in the said Act of 1976 have the same meanings as in that Act.
- (4) In Schedule 1 to the said Act of 1976 (services excluded from designated services), after paragraph 9 there shall be inserted the following paragraph—
 - “9A Insolvency services within the meaning of section 217 of the Insolvency Act 1985.”

218 Amendments of Employment Protection (Consolidation) Act 1978

- (1) Section 122 of the Employment Protection (Consolidation) Act 1978 (employee's right on the insolvency of his employer to be paid certain debts out of the Redundancy Fund) shall be amended as follows.
- (2) In subsection (1) (conditions of payment), after paragraph (a) there shall be inserted the following paragraph—
 - “(aa) that the employment of the employee has been terminated ; and”.
- (3) For subsection (2) (date for determining debts payable out of Fund) there shall be substituted the following subsection—
 - “(2) In this section ' the relevant date '—
 - (a) in relation to arrears of pay (not being remuneration under a protective award made under section 101 of the Employment Protection Act 1975) and to holiday pay, means the date on which the employer became insolvent;
 - (b) in relation to such an award and to a basic award of compensation for unfair dismissal, means whichever is the latest of—
 - (i) the date on which the employer became insolvent;
 - (ii) the date of the termination of the employee's employment;and
 - (iii) the date on which the award was made ;
 - (c) in relation to any other debt to which this section applies, means whichever is the later of the dates mentioned in sub-paragraphs (i) and (ii) of paragraph (b)”
- (4) For subsection (4) (debts to be treated as arrears of pay) there shall be substituted the following subsection—
 - “(4) For the purposes of this section, the following amounts shall be treated as arrears of pay, namely—
 - (a) a guarantee payment;
 - (b) remuneration on suspension on medical grounds under section 19;
 - (c) any payment for time off under section 27(3) or 31(3) or 31A(4);
 - (d) remuneration under a protective award made under section 101 of the Employment Protection Act 1975;
 - (e) statutory sick pay, payable under Part I of the Social Security and Housing Benefits Act 1982.”
- (5) In subsection (7) (reasonable payments to apprentices and articled clerks), for the words from " section 34 " onwards there shall be substituted the words " section 181 of the Insolvency Act 1985 (effect of bankruptcy on apprenticeships etc.), whether as originally enacted or as applied to the winding up of a company by rules under section 106 of that Act ".
- (6) In subsection (9) (provisions applying on appointment of certain officers)—
 - (a) after the words " a liquidator," there shall be inserted the words " an administrator, " ; and
 - (b) for the words from " ' liquidator ' and " onwards there shall be substituted the words " ' trustee ', in relation to a composition or arrangement, includes the supervisor of a composition or scheme proposed for the purposes of, and

Status: This is the original version (as it was originally enacted).

approved under, Chapter II of Part II or Chapter I of Part III of the Insolvency Act 1985 ”.

219 Amendments of Banking Act 1979

(1) For subsections (1) and (2) of section 18 of the Banking Act 1979 (grounds on which a recognised bank or licensed institution may be wound up on the petition of the Bank of England), there shall be substituted the following subsections—

“(1) On a petition presented by the Bank by virtue of this section, the court having jurisdiction under the Companies Act 1985 may wind up a recognised bank or licensed institution under that Act if—

- (a) the institution is unable to pay its debts within the meaning of section 518 of that Act; or
- (b) the court is of the opinion that it is just and equitable that the institution should be wound up ;

and for the purposes of such a petition an institution which defaults in an obligation to pay any sum due and payable to a depositor shall be deemed to be unable to pay its debts as mentioned in paragraph (a) above.

(2) If a petition is presented by the Bank by virtue of this section for the winding up of a recognised bank or licensed institution which is a partnership (whether limited or not), the court has jurisdiction, and the Companies Act 1985 has effect, as if the institution concerned were an unregistered company within the meaning of Part XXI of that Act.”

(2) For subsection (4) of that section there shall be substituted the following subsection—

“(4) In its application to Northern Ireland, this section shall have effect—

- (a) with the substitution of a reference to the Companies Act (Northern Ireland) 1960 for any reference to the Companies Act 1985 ;
- (b) with the substitution of a reference to section 211 of the said Act of 1960 for the reference to section 518 of the said Act of 1985 ;
- (c) with the substitution of a reference to Part IX of the said Act of 1960 for the reference to Part XXI of the said Act of 1985 ; and
- (d) with the insertion in subsection (2) after the words ' (whether limited or not)' of the words ' then, notwithstanding section 348(d) of the Companies Act (Northern Ireland) 1960 (exclusion of partnerships etc. having less than eight members)'.”

(3) In subsection (2) of section 19 of that Act (cases in which the Bank of England may disclose information obtained under or for the purposes of that Act), after paragraph (b) there shall be inserted the following paragraph—

“(ba) in connection with any proceedings under any provision of Parts XVIII to XXI of the Companies Act 1985 or any provision (other than section 100) of Part II of the Insolvency Act 1985 ; or”.

(4) In subsection (8) of that section, for paragraph (a) there shall be substituted the following paragraphs—

“(a) for the reference in subsection (2) to Parts XVIII to XXI of the Companies Act 1985 there shall be substituted a reference to Parts V, VI and IX of the Companies Act (Northern Ireland) 1960 ;

- (aa) for any reference in subsection (5) to section 432 or 442 of the said Act of 1985 there shall be substituted respectively a reference to section 159 or 165A of the said Act of 1960;”.

220 Amendments of County Courts Act 1984

- (1) The County Courts Act 1984 shall be amended as follows.
- (2) In section 112(4) (b) (minimum amount which must be owed to creditor presenting, or joining in, a bankruptcy petition while administration order is in force), for " £400 " there shall be substituted " £1500 ".
- (3) In subsection (1) of section 115 (execution while administration order is in force if debtor's property exceeds £10 in value), for "£10" there shall be substituted the words " the minimum amount ".
- (4) After subsection (1) of the said section 115 there shall be inserted the following subsection—
 - “(1A) In subsection (1) above 'the minimum amount' means £50 or such other amount as the Lord Chancellor may by order specify instead of that amount or the amount for the time being specified in such an order; and an order under this subsection shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

221 Disabilities on revocation of administration order against individual

- (1) Where a person fails to make any payment which he is required to make by virtue of an administration order under Part VI of the County Courts Act 1984, the court which is administering the estate of that person under that order may, if it thinks fit, revoke the administration order and make an order directing that this section shall apply to that person for such period, not exceeding two years, as may be specified in the order.
- (2) A person to whom this section applies by virtue of an order under subsection (1) above shall not, except with the leave of the court which made that order, act as director or liquidator of, or directly or indirectly take part or be concerned in the promotion, formation or management of, a company (within the meaning of section 1 above).
- (3) A person to whom this section so applies shall not—
 - (a) either alone or jointly with another person, obtain credit to the extent of the amount prescribed for the purposes of section 189(1)(a) above or more ; or
 - (b) enter into any transaction in the course of or for the purposes of any business in which he is directly or indirectly engaged,without disclosing the fact that this section applies to him to the person from whom he obtains the credit or, as the case may be, with whom the transaction is entered into.
- (4) The reference in subsection (3) above to a person obtaining credit includes a reference to—
 - (a) a case where goods are bailed or hired to him under a hire-purchase agreement or agreed to be sold to him under a conditional sale agreement; and
 - (b) a case where he is paid in advance (whether in money or otherwise) for the supply of goods or services.
- (5) A person who contravenes this section shall be guilty of an offence and liable—

Status: This is the original version (as it was originally enacted).

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both ;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Official receivers

222 Official receivers: appointment etc.

- (1) For the purposes of this Act and the 1985 Act the official receiver, in relation to any bankruptcy or winding up, is any person who by virtue of the following provisions of this section or section 224 below is authorised to act as the official receiver in relation to that bankruptcy or winding up.
- (2) The Secretary of State may (subject to the approval of the Treasury as to numbers) appoint persons to the office of official receiver, and a person appointed to that office (whether under this section or section 70 of the Bankruptcy Act 1914)—
 - (a) shall be paid out of money provided by Parliament such salary as the Secretary of State may with the concurrence of the Treasury direct;
 - (b) shall hold office on such other terms and conditions as the Secretary of State may with the concurrence of the Treasury direct; and
 - (c) may be removed from office by a direction of the Secretary of State.
- (3) Where a person holds the office of official receiver, the Secretary of State shall from time to time attach him either to the High Court or to a county court having jurisdiction for the purposes of Part III of this Act; and, subject to any directions under subsection (5) below, an official receiver attached to a particular court shall be the person authorised to act as the official receiver in relation to every bankruptcy or winding up falling within the jurisdiction of that court.
- (4) The Secretary of State shall ensure that there is, at all times, at least one official receiver attached to the High Court and at least one attached to each county court having jurisdiction for the purposes of Part III of this Act, but he may attach the same official receiver to two or more different courts.
- (5) The Secretary of State may give directions with respect to the disposal of the business of official receivers, and such directions may, in particular—
 - (a) authorise an official receiver attached to one court to act as the official receiver in relation to any case or description of cases falling within the jurisdiction of another court;
 - (b) provide, where there is more than one official receiver authorised to act as the official receiver in relation to cases falling within the jurisdiction of any court, for the distribution of their business between or among themselves.
- (6) A person who at the coming into force of this section is an official receiver attached to a court shall continue in office after the coming into force of this section as an official receiver attached to that court under this section.

223 Functions and status of official receivers

- (1) In addition to any functions conferred on him by this Act or the 1985 Act, a person holding the office of official receiver shall carry out such other functions as may from time to time be conferred on him by the Secretary of State.
- (2) In the exercise of the functions of his office a person holding the office of official receiver shall act under the general directions of the Secretary of State and shall also be an officer of the court in relation to which he exercises those functions.
- (3) Any property vested in his official capacity in a person holding the office of official receiver shall, on his dying, ceasing to hold office or being otherwise succeeded in relation to the bankruptcy or winding up in question by another official receiver, vest in his successor without any conveyance, assignment or transfer.

224 Deputy official receivers and staff

- (1) If he thinks it expedient to do so in order to facilitate the disposal of the business of the official receiver attached to any court, the Secretary of State may appoint an officer of his department to act as deputy to that official receiver.
- (2) Subject to any directions given by the Secretary of State under section 222 or 223 above, a person appointed to act as deputy to an official receiver shall, on such conditions and for such period as may be specified in the terms of his appointment, have the same status and functions as the official receiver to whom he is appointed deputy; and, accordingly, references in this Act (except section 222(1) to (4) above) and in the 1985 Act to an official receiver include references to a person appointed to act as his deputy.
- (3) An appointment made under subsection (1) above may be terminated at any time by the Secretary of State.
- (4) The Secretary of State may, subject to the approval of the Treasury as to numbers and remuneration and as to the other terms and conditions of the appointments, appoint officers of his department to assist official receivers in the carrying out of their functions.

Official Petitioner

225 Official Petitioner. ?

- (1) There shall continue to be an officer known as the Official Petitioner for the purpose of discharging, in relation to cases in which a criminal bankruptcy order is made, the functions assigned to him by or under this Act; and the Director of Public Prosecutions shall, by virtue of his office, continue to be the Official Petitioner.
- (2) The functions of the Official Petitioner shall include the following functions, namely—
 - (a) to consider whether, in a case in which a criminal bankruptcy order is made, it is in the public interest that he should himself present a petition under section 119 (1)(d) above;
 - (b) to present such a petition in any case where he determines it is in the public interest for him to do so ;

Status: This is the original version (as it was originally enacted).

- (c) to make payments, in such cases as he may determine, towards expenses incurred by other persons in connection with proceedings in pursuance of such a petition ; and
 - (d) to exercise, so far as he considers it in the public interest to do so, any of the powers conferred on him by or under this Act.
- (3) Any functions of the Official Petitioner may be discharged on his behalf by any person acting with his authority.
- (4) Neither the Official Petitioner nor any person acting with his authority shall be liable to any action or proceeding in respect of anything done or omitted to be done in the discharge, or purported discharge, of the functions of the Official Petitioner.
- (5) In this section " criminal bankruptcy order " means an order under section 39(1) of the Powers of Criminal Courts Act 1973.

Powers to make subordinate legislation

226 Insolvency rules committee

- (1) The committee established under section 10 of the Insolvency Act 1976 (advisory committee on bankruptcy and winding-up rules) shall continue to exist for the purpose of being consulted under subsection (2) below, instead of for the purpose of carrying out the functions conferred by that section.
- (2) The Lord Chancellor shall consult the committee before making any rules under section 106 or 207 above.
- (3) Subject to subsection (4) below, the committee shall continue to consist of—
- (a) a judge of the High Court attached to the Chancery Division;
 - (b) a circuit judge ;
 - (c) a registrar in bankruptcy of the High Court;
 - (d) the registrar of a county court;
 - (e) a practising barrister;
 - (f) a practising solicitor ; and
 - (g) a practising accountant;
- and the appointment of any person as a member of the committee shall be made by the Lord Chancellor.
- (4) The Lord Chancellor may appoint as additional members of the committee any persons appearing to him to have qualifications or experience that would be of value to the committee in considering any matter with which it is concerned.

227 Insolvent partnerships

- (1) The Lord Chancellor may, by order made with the concurrence of the Secretary of State, provide that such provisions of this Act and Parts XX and XXI of the 1985 Act as may be specified in the order shall apply in relation to insolvent partnerships with such modifications as may be so specified.
- (2) An order under this section may make different provision for different cases and may contain such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor necessary or expedient.

- (3) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

228 Insolvent estates of deceased persons

- (1) The Lord Chancellor may, by order made with the concurrence of the Secretary of State, provide that such provisions of this Act as may be specified in the order shall apply to the administration of the insolvent estates of deceased persons with such modifications as may be so specified.
- (2) An order under this section may make different provision for different cases and may contain such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor necessary or expedient.
- (3) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) For the purposes of this section the estate of a deceased person is insolvent if, when realised, it will be insufficient to meet in full all the debts and other liabilities to which it is subject

229 Recognised banks etc.

- (1) The Secretary of State may, by order made with the concurrence of the Treasury and after consultation with the Bank of England, provide that such provisions of Part II of this Act and Parts XVIII to XXI of the 1985 Act as may be specified in the order shall apply in relation to—
- (a) recognised banks and licensed institutions within the meaning of the Banking Act 1979 ; and
 - (b) institutions to which sections 16 and 18 of that Act apply as if they were licensed institutions,
- with such modifications as may be so specified.
- (2) An order under this section may make different provision for different cases and may contain such incidental, supplemental and transitional provisions as may appear to the Secretary of State necessary or expedient.
- (3) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Other supplemental provisions

230 Offences by bodies corporate

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Status: This is the original version (as it was originally enacted).

- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

231 Admissibility of statements of affairs etc.

In any proceedings (whether or not under this Act), any statement of affairs prepared for the purposes of any provision of this Act and any other statement made in pursuance of a requirement imposed by or under this Act or rules made under this Act may be used in evidence against any person making or concurring in making it.

232 Interpretation

In this Act, except in so far as the context otherwise requires—

- " the 1985 Act" means the Companies Act 1985 ;
- " associate " shall be construed in accordance with section 233 below;
- " business " includes a trade or profession;
- " conditional sale agreement" and " hire-purchase agreement " have the same meanings as in the Consumer Credit Act 1974;
- " modifications " includes additions, alterations and omissions and cognate expressions shall be construed accordingly ;
- " property " includes money, goods, things in action, land and every description of property wherever situated and also obligations and every description of interest, whether present or future or vested or contingent, arising out of, or incidental to, property;
- " records " includes computer records and other non-documentary records;
- " standard scale " has the meaning given by section 75 of the Criminal Justice Act 1982 ;
- " statutory maximum " has the meaning given by section 74 of the Criminal Justice Act 1982;
- " subordinate legislation " has the same meaning as in the Interpretation Act 1978;
- " transaction" includes a gift, agreement or arrangement, and references to entering into a transaction shall be construed accordingly.

233 Meaning of " associate "

- (1) For the purposes of this Act any question whether a person is an associate of another person shall be determined, in accordance with the following provisions of this section (any provision that a person is an associate of another person being taken to mean that they are associates of each other).
- (2) A person is an associate of an individual if that person is the individual's husband or wife, or is a relative, or the husband or wife of a relative, of the individual or of the individual's husband or wife.
- (3) A person is an associate of any person with whom he is in partnership, and of the husband or wife or a relative of any individual with whom he is in partnership; and a Scottish firm is an associate of any person who is a member of the firm.
- (4) A person is an associate of any person whom he employs or by whom he is employed.

- (5) A person in his capacity as trustee of a trust other than—
- (a) a trust arising under Part III of this Act or the Bankruptcy (Scotland) Act 1985 ; or
 - (b) a pension scheme or an employees' share scheme (within the meaning of the 1985 Act),
- is an associate of another person if the beneficiaries of the trust include, or the terms of the trust confer a power that may be exercised for the benefit of, that other person or an associate of that other person.
- (6) A company is an associate of another company—
- (a) if the same person has control of both, or a person has control of one and persons who are his associates, or he and persons who are his associates, have control of the other; or
 - (b) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person of whom he is an associate.
- (7) A company is an associate of another person if that person has control of it or if that person and persons who are his associates together have control of it.
- (8) For the purposes of this section a person is a relative of an individual if he is that individual's brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant, treating—
- (a) any relationship of the half blood as a relationship of the whole blood and the stepchild or adopted child of any person as his child; and
 - (b) an illegitimate child as the legitimate child of his mother and reputed father ;
- and references in this section to a husband or wife include a former husband or wife and a reputed husband or wife.
- (9) For the purposes of this section any director or other officer of a company shall be treated as employed by that company.
- (10) For the purposes of this section a person shall be taken to have control of a company if—
- (a) the directors of the company or of another company which has control of it (or any of them) are accustomed to act in accordance with his directions or instructions ; or
 - (b) he is entitled to exercise, or control the exercise of, one third or more of the voting power at any general meeting of the company or of another company which has control of it;
- and where two or more persons together satisfy either of the above conditions, they shall be taken to have control of the company.
- (11) In this section " company " includes any body corporate (whether incorporated in Great Britain or elsewhere); and references to directors and other officers of a company and to voting power at any general meeting of a company shall have effect with any necessary modifications.

Status: This is the original version (as it was originally enacted).

234 Crown application

For the avoidance of doubt it is hereby declared that this Act binds the Crown so far as it affects or relates to the following matters, namely—

- (a) remedies against, or against the property of, companies or individuals;
- (b) priorities of debts ;
- (c) transactions at an undervalue or preferences ;
- (d) compositions or schemes approved under Chapter II of Part II or Chapter I of Part III; and
- (e) discharge from bankruptcy.

235 Consequential amendments, transitional provisions, savings and repeals

- (1) The enactments mentioned in Schedule 8 to this Act shall have effect with the amendments there specified (being amendments consequential on the provisions of this Act).
- (2) The transitional provisions and savings contained in Schedule 9 to this Act shall have effect, but those provisions and savings are without prejudice to sections 16 and 17 of the Interpretation Act 1978 (effect of repeals).
- (3) The enactments mentioned in Schedule 10 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) The Lord Chancellor may by order make such consequential modifications of any provision contained in any subordinate legislation made before the coming into force of Part III of this Act and such transitional provisions in connection with those modifications as appear to him necessary or expedient in respect of—
 - (a) any reference in that subordinate legislation to the Bankruptcy Act 1914;
 - (b) any reference in that subordinate legislation to any enactment repealed by Part III or IV of Schedule 10 to this Act; or
 - (c) any reference in that subordinate legislation to any matter provided for under the said Act of 1914 or under any enactment so repealed.
- (5) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

236 Short title, commencement and extent

- (1) This Act may be cited as the Insolvency Act 1985.
- (2) This Act shall come into force on such day as the Secretary of State may, by order made by statutory instrument, appoint; and different days may be so appointed for different purposes and for different provisions.
- (3) The following provisions of this Act do not extend to Scotland—
 - (a) section 49;
 - (b) sections 101 and 102;
 - (c) section 105;
 - (d) Part III;
 - (e) section 212;
 - (f) section 215;

Status: This is the original version (as it was originally enacted).

- (g) section 220;
 - (h) section 221(1);
 - (i) sections 222 to 228 ;
 - (j) Schedule 8 so far as it amends enactments that extend to England and Wales only ;
 - (k) Parts III and IV of Schedule 9 ; and
 - (l) Part III of Schedule 10.
- (4) This Act, with the exception of this section and of—
- (a) section 213 ;
 - (b) section 214;
 - (c) section 217;
 - (d) section 219;
 - (e) paragraph 6 of Schedule 1;
 - (f) so much of section 235 and Schedule 8 as relates to enactments which extend to Northern Ireland ; and
 - (g) so much of section 235 and Part IV of Schedule 10 as relates to the Irish Bankrupt and Insolvent Act 1857, the Bankruptcy Disqualification Act 1871, the Bankruptcy (Ireland) Amendment Act 1872, the Bankruptcy Act 1883, the Bankruptcy Act 1914, the Criminal Law Act 1977, the Civil Jurisdiction and Judgments Act 1982, section 570 of the Companies Act 1985 and the Companies Act (Northern Ireland) 1960,
- does not extend to Northern Ireland.
- (5) Her Majesty may, by Order in Council, direct that such of the provisions of this Act as are specified in the Order shall extend to any of the Channel Islands or any colony with such modifications as may be so specified.