



Insolvency Act 1986

1986 CHAPTER 45

The Third Group of Parts Miscellaneous Matters Bearing on both Company and Individual Insolvency ; General Interpretation ; Final Provisions

PART XV

SUBORDINATE LEGISLATION

General insolvency rules

411 Company insolvency rules

- (1) Rules may be made—
 - (a) in relation to England and Wales, by the Lord Chancellor with the concurrence of the Secretary of State, or
 - (b) in relation to Scotland, by the Secretary of State,for the purpose of giving effect to Parts I to VII of this Act.
- (2) Without prejudice to the generality of subsection (1), or to any provision of those Parts by virtue of which rules under this section may be made with respect to any matter, rules under this section may contain—
 - (a) any such provision as is specified in Schedule 8 to this Act or corresponds to provision contained immediately before the coming into force of section 106 of the Insolvency Act 1985 in rules made, or having effect as if made, under section 663(1) or (2) of the Companies Act (old winding-up rules), and
 - (b) such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor or, as the case may be, the Secretary of State necessary or expedient.
- (3) In Schedule 8 to this Act "liquidator" includes a provisional liquidator; and references above in this section to Parts I to VII of this Act are to be read as including the Companies Act so far as relating to, and to matters connected with or arising out of, the insolvency or winding up of companies.

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- (4) Rules under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations made by the Secretary of State under a power conferred by rules under this section shall be made by statutory instrument and, after being made, shall be laid before each House of Parliament.
- (6) Nothing in this section prejudices any power to make rules of court.

412 Individual insolvency rules (England and Wales)

- (1) The Lord Chancellor may, with the concurrence of the Secretary of State, make rules for the purpose of giving effect to Parts VIII to XI of this Act.
- (2) Without prejudice to the generality of subsection (1), or to any provision of those Parts by virtue of which rules under this section may be made with respect to any matter, rules under this section may contain—
 - (a) any such provision as is specified in Schedule 9 to this Act or corresponds to provision contained immediately before the appointed day in rules made under section 132 of the Bankruptcy Act 1914 ; and
 - (b) such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor necessary or expedient.
- (3) Rules under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations made by the Secretary of State under a power conferred by rules under this section shall be made by statutory instrument and, after being made, shall be laid before each House of Parliament.
- (5) Nothing in this section prejudices any power to make rules of court.

413 Insolvency Rules Committee

- (1) The committee established under section 10 of the Insolvency Act 1976 (advisory committee on bankruptcy and winding-up rules) continues to exist for the purpose of being consulted under this section.
- (2) The Lord Chancellor shall consult the committee before making any rules under section 411 or 412.
- (3) Subject to the next subsection, the committee shall 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.

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- (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.

Fees orders

414 Fees orders (company insolvency proceedings)

- (1) There shall be paid in respect of—
- (a) proceedings under any of Parts I to VII of this Act, and
 - (b) the performance by the official receiver or the Secretary of State of functions under those Parts,
- such fees as the competent authority may with the sanction of the Treasury by order direct.
- (2) That authority is—
- (a) in relation to England and Wales, the Lord Chancellor, and
 - (b) in relation to Scotland, the Secretary of State.
- (3) The Treasury may by order direct by whom and in what manner the fees are to be collected and accounted for.
- (4) The Lord Chancellor may, with the sanction of the Treasury, by order provide for sums to be deposited, by such persons, in such manner and in such circumstances as may be specified in the order, by way of security for fees payable by virtue of this section.
- (5) An order under this section may contain such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor, the Secretary of State or (as the case may be) the Treasury necessary or expedient.
- (6) An order under this section shall be made by statutory instrument and, after being made, shall be laid before each House of Parliament.
- (7) Fees payable by virtue of this section shall be paid into the Consolidated Fund.
- (8) References in subsection (1) to Parts I to VII of this Act are to be read as including the Companies Act so far as relating to, and to matters connected with or arising out of, the insolvency or winding up of companies.
- (9) Nothing in this section prejudices any power to make rules of court; and the application of this section to Scotland is without prejudice to section 2 of the Courts of Law Fees (Scotland) Act 1895.

415 Fees orders (individual insolvency proceedings in England and Wales)

- (1) There shall be paid in respect of—
- (a) proceedings under Parts VIII to XI of this Act, and
 - (b) the performance by the official receiver or the Secretary of State of functions under those Parts,
- such fees as the Lord Chancellor may with the sanction of the Treasury by order direct.
- (2) The Treasury may by order direct by whom and in what manner the fees are to be collected and accounted for.

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- (3) The Lord Chancellor may, with the sanction of the Treasury, by order provide for sums to be deposited, by such persons, in such manner and in such circumstances as may be specified in the order, by way of security for—
 - (a) fees payable by virtue of this section, and
 - (b) fees payable to any person who has prepared an insolvency practitioner's report under section 274 in Chapter I of Part IX.
- (4) An order under this section may contain such incidental, supplemental and transitional provisions as may appear to the Lord Chancellor or, as the case may be, the Treasury, necessary or expedient.
- (5) An order under this section shall be made by statutory instrument and, after being made, shall be laid before each House of Parliament.
- (6) Fees payable by virtue of this section shall be paid into the Consolidated Fund.
- (7) Nothing in this section prejudices any power to make rules of court.

Specification, increase and reduction of money sums relevant in the operation of this Act

416 Monetary limits (companies winding up)

- (1) The Secretary of State may by order in a statutory instrument increase or reduce any of the money sums for the time being specified in the following provisions in the first Group of Parts—
 - section 117(2) (amount of company's share capital determining whether county court has jurisdiction to wind it up);
 - section 120(3) (the equivalent as respects sheriff court jurisdiction in Scotland);
 - section 123(1)(a) (minimum debt for service of demand on company by unpaid creditor);
 - section 184(3) (minimum value of judgment, affecting sheriff's duties on levying execution);
 - section 206(1)(a) and (b) (minimum value of company property concealed or fraudulently removed, affecting criminal liability of company's officer).
- (2) An order under this section may contain such transitional provisions as may appear to the Secretary of State necessary or expedient.
- (3) No order under this section increasing or reducing any of the money sums for the time being specified in section 117(2), 120(3) or 123(1)(a) shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (4) A statutory instrument containing an order under this section, other than an order to which subsection (3) applies, is subject to annulment in pursuance of a resolution of either House of Parliament.

417 Money sum in section 222

The Secretary of State may by regulations in a statutory instrument increase or reduce the money sum for the time being specified in section 222(1) (minimum debt for service of demand on unregistered company by unpaid creditor); but such regulations

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shall not be made unless a draft of the statutory instrument containing them has been approved by resolution of each House of Parliament.

418 Monetary limits (bankruptcy)

- (1) The Secretary of State may by order prescribe amounts for the purposes of the following provisions in the second Group of Parts—
 - section 273 (minimum value of debtor's estate determining whether immediate bankruptcy order should be made ; small bankruptcies level);
 - section 346(3) (minimum amount of judgment, determining whether amount recovered on sale of debtor's goods is to be treated as part of his estate in bankruptcy);
 - section 354(1) and (2) (minimum amount of concealed debt, or value of property concealed or removed, determining criminal liability under the section);
 - section 358 (minimum value of property taken by a bankrupt out of England and Wales, determining his criminal liability);
 - section 360(1) (maximum amount of credit which bankrupt may obtain without disclosure of his status);
 - section 361(2) (exemption of bankrupt from criminal liability for failure to keep proper accounts, if unsecured debts not more than the prescribed minimum);
 - section 364(2)(d) (minimum value of goods removed by the bankrupt, determining his liability to arrest);and references in the second Group of Parts to the amount prescribed for the purposes of any of those provisions, and references in those provisions to the prescribed amount, are to be construed accordingly.
- (2) An order under this section may contain such 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.

Insolvency practice

419 Regulations for purposes of Part XIII

- (1) The Secretary of State may make regulations for the purpose of giving effect to Part XIII of this Act; and "prescribed " in that Part means prescribed by regulations made by the Secretary of State.
- (2) Without prejudice to the generality of subsection (1) or to any provision of that Part by virtue of which regulations may be made with respect to any matter, regulations under this section may contain—
 - (a) provision as to the matters to be taken into account in determining whether a person is a fit and proper person to act as an insolvency practitioner;
 - (b) provision prohibiting a person from so acting in prescribed cases, being cases in which a conflict of interest will or may arise;
 - (c) provision imposing requirements with respect to—
 - (i) the preparation and keeping by a person who acts as an insolvency practitioner of prescribed books, accounts and other records, and

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- (ii) the production of those books, accounts and records to prescribed persons ;
 - (d) provision conferring power on prescribed persons—
 - (i) to require any person who acts or has acted as an insolvency practitioner to answer any inquiry in relation to a case in which he is so acting or has so acted, and
 - (ii) to apply to a court to examine such a person or any other person on oath concerning such a case ;
 - (e) provision making non-compliance with any of the regulations a criminal offence ; and
 - (f) such incidental, supplemental and transitional provisions as may appear to the Secretary of State necessary or expedient.
- (3) Any power conferred by Part XIII or this Part to make regulations, rules or orders is exercisable by statutory instrument subject to annulment by resolution of either House of Parliament.
- (4) Any rule or regulation under Part XIII or this Part may make different provision with respect to different cases or descriptions of cases, including different provision for different areas.

Other order-making powers

420 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 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.

421 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.

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- (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.

422 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 in the first Group of Parts 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.