



# Financial Services Act 1986 (Repealed)

## 1986 CHAPTER 60

### PART I

#### REGULATION OF INVESTMENT BUSINESS

### CHAPTER VII

#### WINDING UP AND ADMINISTRATION ORDERS

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

**C1** Chapters III–XI (ss. 7–111): certain functions transferred by [S.I. 1990/354](#), [art. 5](#)

## 72 Winding up orders.

- (1) On a petition presented by the Secretary of State by virtue of this section, the court having jurisdiction under the <sup>M1</sup>Insolvency Act 1986 may wind up an authorised person or appointed representative to whom this subsection applies if—
  - (a) the person is unable to pay his debts within the meaning of section 123 or, as the case may be, section 221 of that Act; or
  - (b) the court is of the opinion that it is just and equitable that the person should be wound up.
- (2) Subsection (1) above applies to any authorised person, any person whose authorisation is suspended under section 28 above or who is the subject of a direction under section 33(1)(b) above or any appointed representative who is—
  - (a) a company within the meaning of section 735 of the <sup>M2</sup>Companies Act 1985;
  - (b) an unregistered company within the meaning of section 220 of the Insolvency Act 1986;
  - (c) an oversea company within the meaning of section 744 of the Companies Act 1985; or

*Status: Point in time view as at 01/10/1991.*

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- (d) a partnership.
- (3) For the purposes of a petition under subsection (1) above a person who defaults in an obligation to pay any sum due and payable under any investment agreement shall be deemed to be unable to pay his debts.
- (4) Where a petition is presented under subsection (1) above for the winding up of a partnership on the ground mentioned in paragraph (b) of subsection (1) above or, in Scotland, on a ground mentioned in paragraph (a) or (b) of that subsection, the court shall have jurisdiction and the Insolvency Act 1986 shall have effect as if the partnership were an unregistered company within the meaning of section 220 of that Act.
- (5) The Secretary of State shall not present a petition under subsection (1) above for the winding up of any person who is an authorised person by virtue of membership of a recognised self-regulating organisation or certification by a recognised professional body and is subject to the rules of the organisation or body in the carrying on of all investment business carried on by him, unless that organisation or body has consented to his doing so.

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

**C2** S. 72 applied (with modifications) (15.8.1995) by S.I. 1995/2049, regs. 6, 7-18

**Marginal Citations**

**M1** 1986 c. 45.

**M2** 1985 c. 6.

**73 Winding up orders: Northern Ireland.**

- (1) On a petition presented by the Secretary of State by virtue of this section, the High Court in Northern Ireland may wind up an authorised person or appointed representative to whom this subsection applies if—
- (a) the person is unable to pay his debts within the meaning of [<sup>F1</sup>Article 103 or, as the case may be, Article 185 of the Insolvency (Northern Ireland) Order 1989]; or
  - (b) the court is of the opinion that it is just and equitable that the person should be wound up.
- (2) Subsection (1) above applies to any authorised person, any person whose authorisation is suspended under section 28 above or who is the subject of a direction under section 33(1)(b) above or any appointed representative who is—
- (a) a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986;
  - (b) an unregistered company within the meaning of [<sup>F1</sup>Article 184 of the Insolvency (Northern Ireland) Order 1989]; or
  - (c) a Part XXIII company within the meaning of Article 2 of [<sup>F1</sup>the Companies (Northern Ireland) Order 1986]; or
  - (d) a partnership.

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- (3) For the purposes of a petition under subsection (1) above a person who defaults in an obligation to pay any sum due and payable under any investment agreement shall be deemed to be unable to pay his debts.
- (4) Where a petition is presented under subsection (1) above for the winding up of a partnership on the ground mentioned in paragraph (b) of subsection (1) above, the High Court in Northern Ireland shall have jurisdiction and the [F1Insolvency (Northern Ireland) Order 1989] shall have effect as if the partnership were an unregistered company within the meaning of [F1Article 184] of that Order.
- (5) The Secretary of State shall not present a petition under subsection (1) above for the winding up of any person who is an authorised person by virtue of membership of a recognised self-regulating organisation or certification by a recognised professional body and is subject to the rules of the organisation or body in the carrying on of all investment business carried on by him, unless that organisation or body has consented to his doing so.

#### Textual Amendments

- F1** Words in s. 73(1)(a),(2)(b),(c) and (4) substituted (N.I.)(1. 10. 1991) by S.I. 1989/2405 (N.I. 19), art. 381(2), **Sch. 9 Pt. II para. 47**; S.R. 1991/411, **art.2**.

## 74 Administration orders.

A petition may be presented under section 9 of the <sup>M3</sup>Insolvency Act 1986 (applications for administration orders) in relation to a company to which section 8 of that Act applies [F2, or under Article 22 of the Insolvency (Northern Ireland) Order 1989 (applications for administration orders) in relation to a company to which Article 21 of that Order applies,] which is an authorised person, a person whose authorisation is suspended under section 28 above or who is the subject of a direction under section 33(1)(b) above or an appointed representative—

- (a) in the case of an authorised person who is an authorised person by virtue of membership of a recognised self-regulating organisation or certification by a recognised professional body, by that organisation or body; and
- (b) in the case of an appointed representative or an authorised person who is not authorised as mentioned in paragraph (a) above or is so authorised but is not subject to the rules of the organisation or body in question in the carrying on of all investment business carried on by him, by the Secretary of State.

#### Textual Amendments

- F2** Words in s. 74 inserted (N.I.)(1. 10. 1991) by S.I. 1989/2405 (N.I. 19), art. 381(2), **Sch. 9 Pt. II para. 48**; S.R. 1991/411, **art.2**.

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

- C3** S. 74 applied (with modifications) (15.8.1995) by S.I. 1995/2049, **regs. 6, 7-18**

#### Marginal Citations

- M3** 1986 c. 45.

**Status:**

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**Changes to legislation:**

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