

2002 No. 2711 (C. 83)

INSOLVENCY

**The Insolvency Act 2000 (Commencement No. 3 and
Transitional Provisions) Order 2002**

Made - - - - - 29th October 2002

The Secretary of State, in exercise of the powers conferred upon her by section 16(1) and (3) of the Insolvency Act 2000(a) hereby makes the following Order:—

Citation and interpretation

1.—(1) This Order may be cited as the Insolvency Act 2000 (Commencement No. 3 and Transitional Provisions) Order 2002.

(2) In this Order, except where contrary provision is made, references to sections and Schedules are references to sections of, and Schedules to, the Insolvency Act 2000.

(3) In this Order—

“appointed day” means the day appointed for the coming into force of the provisions of the Insolvency Act 2000 referred to in article 2;

“the Act” means the Insolvency Act 1986(b);

“the Insolvency Rules” means the Insolvency Rules 1986(c); and

“the Insolvency (Scotland) Rules” means the Insolvency (Scotland) Rules 1986(d).

Appointed day

2. Subject to articles 3, 4 and 5, 1st January 2003 is the day appointed for the coming into force of the whole of the Insolvency Act 2000 in so far as it is not already in force.

Transitional provisions

3.—(1) In a case where—

(a) a proposal is made by the directors of a company and before the appointed day the intended nominee has endorsed a copy of the written notice of the proposal under Rule 1.4(3) of the Insolvency Rules, or, in Scotland, under Rule 1.4(3) of the Insolvency (Scotland) Rules;

(b) a proposal is made by the liquidator or the administrator (acting as nominee) and before the appointed day the liquidator or administrator (as the case may be) has sent out a notice summoning the meetings under section 3 of the Act as required by Rule 1.11 of the Insolvency Rules, or, in Scotland, by Rule 1.11 of the Insolvency (Scotland) Rules; or

(a) 2000 c. 39. The Insolvency Act 2000 was amended by the Financial Services and Markets Act 2000 (Consequential Amendments) Order 2002, S.I. 2002/1555 articles 28, 29 and 30. The Insolvency Act 2000 inserts Schedule A1 into the Insolvency Act 1986. This is amended immediately on its coming into force by S.I. 2002/1990.

(b) 1986 c. 45.

(c) S.I. 1986/1925: S.I. 1986/1925. has been amended on several occasions but none of those amendments are relevant for the purposes of this Order.

(d) S.I. 1986/1915.

- (c) a proposal is made by the liquidator or the administrator of a company (not acting as the nominee) and before the appointed day the intended nominee has endorsed a copy of the written notice of the proposal under Rule 1.12(2) of the Insolvency Rules, or, in Scotland, Rule 1.12(2) of the Insolvency (Scotland) Rules,

the amendments made to the Act by Part I of Schedule 2 and the repeal made by section 15(1) and Schedule 5 in respect of section 5(2) and (3) of the Act shall not apply and the provisions of the Act as they have effect immediately before the appointed day shall continue to have effect.

(2) The provisions of paragraph (1) shall—

- (a) apply in relation to building societies^(a) as they apply in relation to companies; and
- (b) in their application to building societies, have effect with the substitution for “company” of “building society”.

(3) In this article “proposal” has the same meaning as it has in section 1(2) of the Act.

4.—(1) In a case where a proposal is made by a debtor and before the appointed day the intended nominee has endorsed a copy of the written notice of the proposal under Rule 5.4(3) of the Insolvency Rules the amendments made to the Act by section 3 and Schedule 3 and the repeal made by section 15(1) and Schedule 5 in respect of section 255(1)(d) of the Act shall not apply and the provisions of the Act as they have effect immediately before the appointed day shall continue to have effect.

(2) In this article, “proposal” has the same meaning as it has in section 253 of the Act.

5.—(1) The amendments made by section 4(1) and 4(2) to section 388 of the Act shall not apply in any case where—

- (a) a person acts as a nominee (within the meaning of section 1(2) of the Act) and that case falls within paragraph (1) of article 3; or
- (b) a person acts as a nominee (within the meaning of section 253(2) of the Act) and that case falls within paragraph (1) of article 4,

and in such cases section 388 of the Act as it has effect immediately before the appointed day shall continue to have effect.

Melanie Johnson,
Parliamentary Under-Secretary of State for
Competition, Consumers and Markets,
Department of Trade and Industry.

29th October 2002

(a) The provision of Part I (other than section 1A) of the Insolvency Act 1986 are applied to building societies by section 90A of, and Schedule 15 to the Building Societies Act 1986 (1986 c. 53) as inserted by section 39(2) of, and Schedule 6 to, the Building Societies Act 1997 (1997 c. 32).

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order brings into force on 1st January 2003 all the remaining provisions of the Insolvency Act 2000 (c. 39), which are section 1 (as far as it is not yet in force) sections 2, 3, 4, section 15(1) (as far as it is not yet in force), (2) and (3) and Schedule 1 (as far as it is not yet in force), Schedule 2, Schedule 3 and the remaining entries contained in Schedule 5 (S.I. 2001/1751 and the explanatory note thereto set out details of provisions of the 2000 Act that have previously been commenced).

Articles 3, 4 and 5 of this Order make transitional provisions for specific cases relating to amendments made by sections 2, 3, 4 and 15 of, and Schedules 2, 3 and 5 to, the Insolvency Act 2000.

The costs to business of the commencement of the provisions of the Insolvency Act 2000 are detailed in the Regulatory Impact Assessment prepared in relation to that Act. Copies of the Assessment are available from the Policy Unit, The Insolvency Service, 21 Bloomsbury Street, London WC1B 3QW.

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