
STATUTORY INSTRUMENTS

2003 No. 2093

**The Enterprise Act 2002 (Commencement No. 4 and
Transitional Provisions and Savings) Order 2003**

Citation and interpretation

1.—(1) This Order may be cited as the Enterprise Act 2002 (Commencement No. 4 and Transitional Provisions and Savings) Order 2003.

(2) In this Order, except where otherwise stated, references to sections and Schedules are references to sections of, and Schedules to, the Enterprise Act 2002.

(3) In this Order references to sequestration are references to sequestration within the meaning of the Bankruptcy (Scotland) Act 1985⁽¹⁾.

(4) Except in relation to sequestration, expressions used in this Order which are used in the Insolvency Act 1986⁽²⁾ shall have the same meaning as in that Act.

(5) In articles 4, 5 and 6 references to provisions of, and procedures under, the Insolvency Act 1986 include references to those provisions and procedures as they are applied by or under the provisions of any enactment.

Appointed days

2.—(1) Subject as set out in this Order, the day appointed for the coming into force of the provisions in Schedule 1 to this Order is 15th September 2003 (hereafter referred to as “the first commencement date”).

(2) Subject as set out in this Order, the day appointed for the coming into force of the provisions in Schedule 2 to this Order is 1st April 2004 (hereafter referred to as “the second commencement date”).

Administration—transitional provisions

3.—(1) In this article “the former administration provisions” means the law relating to administration under Part II of the Insolvency Act 1986 and section 62(2)(a) of the Criminal Justice Act 1988⁽³⁾ without the amendments and repeals made by the provisions of the Enterprise Act 2002 mentioned in paragraph (2).

(2) In a case where a petition for an administration order has been presented before the first commencement date—

(a) section 248 and Schedules 16 and 17; and

(b) section 278(2) and Schedule 26 as respects the repeals relating to sections 212, 230(1), 231, 232, 240(1) and 245(3) of the Insolvency Act 1986, the entries in Schedule 10 to the Insolvency Act 1986 in respect of sections 12(2), 15(8), 18(5), 21(3), 22(6), 23(3), 24(7) and 27(6) of that Act and section 62(2)(a) of the Criminal Justice Act 1988,

(1) 1985 c. 36.

(2) 1986 c. 45.

(3) 1988 c. 33.

shall have no effect.

(3) The former administration provisions shall continue to apply insofar as is necessary to give effect to—

- (a) the Insolvent Partnerships Order 1994⁽⁴⁾;
- (b) regulation 5 of the Limited Liability Partnerships Regulations 2001⁽⁵⁾; and
- (c) the Financial Services and Markets Act 2000 (Administration Orders relating to Insurers) Order 2002⁽⁶⁾.

Abolition of Crown preference—transitional provisions

4.—(1) This article applies to a case where before the first commencement date—

- (a) a petition for an administration order pursuant to Part II of the Insolvency Act 1986 is presented;
- (b) a voluntary arrangement under Part I of the Insolvency Act 1986 has effect;
- (c) a receiver is appointed under the terms of a charge (which when created was a floating charge) in relation to the property of a company subject to the charge;
- (d) a petition for a winding-up order is presented;
- (e) a resolution for the winding up of the company is passed;
- (f) a petition for a bankruptcy order (or, in Scotland, for sequestration) is presented; or
- (g) a voluntary arrangement pursuant to Part VIII of the Insolvency Act 1986 has effect.

(2) This article also applies to a case where proposals for a voluntary arrangement under Part I of the Insolvency Act 1986 are made (whether before or after the first commencement date) by—

- (a) a liquidator in a winding up where the winding-up petition is presented or, as the case may be, the resolution for winding up is passed, before the first commencement date; or
- (b) an administrator appointed in relation to an administration under Part II of the Insolvency Act 1986 where the administration order is made on a petition which is presented before the first commencement date.

(3) This article also applies to a case in which a proposal for a voluntary arrangement under Part VIII of the Insolvency Act 1986 is made (whether before or after the first commencement date) by a person who was adjudged bankrupt on a petition which was presented before the first commencement date.

(4) In a case to which this article applies—

- (a) the provisions of section 251; and
- (b) the provisions of section 278(2) and Schedule 26 as respects the repeals relating to paragraphs 1 to 3 and 8 to 8C in Schedule 3 to the Bankruptcy (Scotland) Act 1985⁽⁷⁾, paragraphs 1 to 7 of Schedule 6 to the Insolvency Act 1986⁽⁸⁾, the table in paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988⁽⁹⁾, paragraphs 21A and 22 of Schedule 2 to the Finance Act 1991⁽¹⁰⁾, paragraph 73 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992⁽¹¹⁾, sections 36(1) to (3) of the

⁽⁴⁾ S.I.1994/2421 as amended by S.I. 1996/1308, S.I. 2001/767, S.I. 2002/1308 and S.I. 2002/2708.

⁽⁵⁾ S.I. 2001/1090.

⁽⁶⁾ S.I. 2002/1242.

⁽⁷⁾ 1985 c. 36.

⁽⁸⁾ 1986 c. 45.

⁽⁹⁾ 1988 c. 1.

⁽¹⁰⁾ 1991 c. 31. Paragraph 21A was inserted into Schedule 2 by s. 9 of the Finance (No.2) Act 1992 (c. 48).

⁽¹¹⁾ 1992 c. 6.

Finance Act 1993(12), paragraphs 13(1) and 13(2) of Schedule 6 and paragraph 7(2) of Schedule 7 to the Finance Act 1994(13), paragraph 8 of Schedule 14 to the Value Added Tax Act 1994(14), section 17 of the Finance Act 1995(15), paragraphs 12(1) and 12(2) of Schedule 5 to the Finance Act 1996(16), sections 166(7)(a), 183(3)(a) and 189(4) of the Employment Rights Act 1996(17), paragraph 6 of Schedule 2 to the Finance Act 1997(18), paragraphs 2 and 3 of Schedule 7 to the Finance Act 2000(19) and paragraphs 17(1) and (2) and 18 of Schedule 5 to the Finance Act 2001(20),

shall not have effect.

Liquidator's powers

5. The insertion of paragraph 3A into Schedule 4 of the Insolvency Act 1986 by section 253 (Liquidator's powers) shall have no effect in relation to any proceedings of a kind mentioned in paragraph 3A which were commenced prior to the first commencement date.

Powers of trustee in bankruptcy

6. The insertion of paragraph 2A into Schedule 5 of the Insolvency Act 1986 by section 262 (Powers of Trustee) shall have no effect in relation to any proceedings of a kind mentioned in paragraph 2A which were commenced prior to the first commencement date.

Bankruptcy restrictions orders

7. Where a court is considering whether or not a bankruptcy restrictions order should be made pursuant to the provisions of section 281A and Schedule 4A to the Insolvency Act 1986, it shall not take into account any conduct of the bankrupt before the second commencement date.

Transitional provisions—old summary cases

8.—(1) This article applies to a bankruptcy (other than one where the bankrupt has received his discharge) where a certificate of summary administration under section 275 of the Insolvency Act 1986 is in force on the second commencement date.

(2) In a case to which this article applies sections 275, 292(1), 293(1), 294(1), 297, 298(3), 300(5), 300(6) and 300(7) of the Insolvency Act 1986 shall continue to have effect.

(3) Where on or after the second commencement date the court revokes a certificate of summary administration under section 275(3) of the Insolvency Act 1986 as it has effect by virtue of paragraph (2), the relevant period for the purposes of paragraph 4(1)(b) of Schedule 19 shall be the period specified in section 279(1)(b) of the Insolvency Act 1986 as it had effect immediately prior to the second commencement date.

(12) 1993 c. 34.
(13) 1994 c. 9.
(14) 1994 c. 23.
(15) 1995 c. 4.
(16) 1996 c. 8.
(17) 1996 c. 18.
(18) 1997 c. 16.
(19) 2000 c. 17.
(20) 2001 c. 9.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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