

2003 No. 2332

**INSOLVENCY
COMPANIES**

**The Enterprise Act 2002 (Transitional Provisions)
(Insolvency) Order 2003**

Made - - - - - *8th September 2003*

Coming into force - - *9th September 2003*

The Secretary of State in exercise of the powers conferred on her by section 276(2) of the Enterprise Act 2002(a) hereby makes the following Order—

Citation and commencement

1. This Order may be cited as the Enterprise Act 2002 (Transitional Provisions) (Insolvency) Order 2003 and shall come into force on the day after the date on which it is made.

Amendments to Article 4 of the Enterprise Act 2002 (Commencement No. 4 and Transitional Provisions and Savings) Order 2003

2.—(1) Article 4 of the Enterprise Act 2002 (Commencement No. 4 and Transitional Provisions and Savings) Order 2003(b) is amended as follows.

(2) After paragraph (1) there is inserted—

“(1A) This article also applies to a case where—

- (a) an administration order under Part II of the Insolvency Act 1986 is made on a petition presented prior to the first commencement date;
- (b) that order is discharged; and
- (c) immediately on the discharge of that order—
 - (i) a winding-up order is made in respect of the company in question; or
 - (ii) a resolution for the winding up of the company is passed,on or after the first commencement date.

(1B) This article also applies to a case where—

- (a) a winding-up order is made on a petition presented prior to the first commencement date; and
- (b) the company in question enters administration by virtue of an order made under paragraphs 37 or 38 of Schedule B1 to the Insolvency Act 1986(c).

(1C) This article also applies to a case where—

- (a) a resolution for the winding up of a company is passed before the first commencement date; and

(a) 2002 c. 40.

(b) S.I. 2003/2093 (C. 85).

(c) Schedule B1 is inserted into the Insolvency Act 1986 (c. 45) by section 248 of, and Schedule 16 to the Enterprise Act 2002.

- (b) the company enters administration by virtue of an order made under paragraph 38 of Schedule B1 to the Insolvency Act 1986.
- (1D) This article also applies to a case where—
- (a) a receiver is appointed before the first commencement date in respect of a company;
 - (b) the receiver vacates office; and
 - (c) the company in respect of which the receiver is appointed enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to the Insolvency Act 1986 during the period that the receiver is in office or immediately after the end of that period.”

Nigel Griffiths,
Parliamentary Under-Secretary of State
for Small Business and Enterprise,
Department of Trade and Industry

8th September 2003

EXPLANATORY NOTE

(This note does not form part of the Order)

This Order introduces further transitional provisions in relation to the abolition of the preferential status of Crown debts by the provisions of section 251 of the Enterprise Act 2002. It amends Article 4 of the Enterprise Act 2002 (Commencement No. 4 and Transitional Provisions and Savings) Order 2003 so that the abolition of the preferential status of Crown debts does not take effect in those cases where there is—

- an administration order made on a petition presented prior to the 15th September 2003 (the first commencement date) which is discharged and immediately followed by a winding-up on or after 15th September 2003;
- a winding-up based on a resolution passed or order made on a petition presented in either case before the first commencement date followed immediately by an administration under the provisions of Schedule B1 to the Insolvency Act 1986; or
- a receiver appointed before the commencement date who vacates office and the company enters administration under the provisions of Schedule B1 to the Insolvency Act 1986 during the period the receiver was in office or immediately afterwards.

The costs to business of the commencement of the provisions of the Enterprise Act 2002 are set out in the Regulatory Impact Assessment prepared for 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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