



Insolvency Act 1985

1985 CHAPTER 65

PART II

COMPANY INSOLVENCY ETC

CHAPTER III

ADMINISTRATION ORDERS

Making etc. of administration orders

27 Power to make order

- (1) Subject to subsection (2) below, if the court—
- (a) is satisfied that a company is or is likely to become unable to pay its debts; and
 - (b) considers that the making of an order under this section would be likely to achieve one or more of the purposes mentioned in subsection (3) below,
- the court may make an administration order in relation to the company, that is to say, an order directing that, during the period for which the order is in force, the affairs, business and property of the company shall be managed by a person (to be known as "the administrator") appointed for the purpose by the court; and such an order shall specify the purpose or purposes for whose achievement it is made.
- (2) An administration order shall not be made in relation to a company—
- (a) after the company has gone into liquidation;
 - (b) where the company is an insurance company within the meaning of the Insurance Companies Act 1982 ; or
 - (c) where the company is a recognised bank or licensed institution within the meaning of the Banking Act 1979 or an institution to which sections 16 and 18 of that Act apply as if it were a licensed institution.
- (3) The purposes referred to in subsection (1)(b) above are—

Status: This is the original version (as it was originally enacted).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

- (a) the survival of the company, and the whole or any part of its undertaking, as a going concern ;
 - (b) the approval under section 23 above of a composition in satisfaction of the company's debts or a scheme of arrangement of its affairs ;
 - (c) the sanctioning under section 425 of the 1985 Act of a compromise or arrangement between the company and any such persons as are mentioned in that section ; and
 - (d) a more advantageous realisation of the company's assets than would be effected on a winding up.
- (4) Section 518 of the 1985 Act (definition of inability to pay debts) shall apply for the purposes of this section as it applies for the purposes of Chapter II of Part XX of that Act.

28 Application for order

- (1) An application to the court for an administration order shall be by petition presented either by the company or the directors, or by a creditor or creditors (including any contingent or prospective creditor or creditors), or by all or any of those parties, together or separately.
- (2) Where a petition is presented to the court—
- (a) notice of the petition shall be given forthwith to any person who has appointed, or is or may be entitled to appoint, an administrative receiver of the company and to such other persons as may be prescribed; and
 - (b) the petition shall not be withdrawn except with the leave of the court.
- (3) Where the court is satisfied that there is an administrative receiver of the company, the court shall dismiss the petition unless it is also satisfied either—
- (a) that the person by whom or on whose behalf the receiver was appointed has consented to the making of the order; or
 - (b) that, if an administration order were made, any security by virtue of which the receiver was appointed would be liable to be released or discharged under section 101 below, would be avoided under section 104 below or would be challengeable under section 615A or 615B of the 1985 Act or under any rule of law in Scotland.
- (4) Subject to subsection (3) above, on hearing a petition the court may dismiss the petition, or adjourn the hearing conditionally or unconditionally, or make an interim order or any other order that it thinks fit.
- (5) Without prejudice to the generality of subsection (4) above, an interim order under that subsection may restrict the exercise of any powers of the directors or of the company (whether by reference to the consent of the court or of a person qualified to act as an insolvency practitioner in relation to the company or otherwise).

29 Effect of application

- (1) During the period beginning with the presentation of a petition for an administration order and ending with the making of such an order or the dismissal of the petition—
- (a) no resolution may be passed or order made for the winding up of the company ;

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

- (b) no steps may be taken to enforce any security over the company's property, or to repossess goods in the company's possession under any hire-purchase agreement, except with the leave of the court and subject to such terms as the court may impose; and
 - (c) no other proceedings and no execution or other legal process may be commenced or continued, and no distress may be levied, against the company or its property except with the leave of the court and subject to such terms as aforesaid.
- (2) Nothing in subsection (1) above shall require the leave of the court—
- (a) for the presentation of a petition for the winding up of the company;
 - (b) for the appointment of an administrative receiver of the company; or
 - (c) for the carrying out by such a receiver (whenever appointed) of any of his functions.
- (3) Where
- (a) a petition for an administration order is presented at a time when there is an administrative receiver of the company; and
 - (b) the person by or on whose behalf the receiver was appointed has not consented to the making of the order,
- the period mentioned in subsection (1) above shall be deemed not to begin unless and until that person so consents.
- (4) References in this section and section 30 below to hire-purchase agreements include references to conditional sale agreements, chattel leasing agreements and retention of title agreements.
- (5) In the application of this section and section 30 below to Scotland, references to execution being commenced or continued shall include references to diligence being carried out or continued and references to distress being levied shall be omitted.

30 Effect of order

- (1) On the making of an administration order—
- (a) any petition for the winding up of the company shall be dismissed; and
 - (b) any administrative receiver of the company shall vacate office.
- (2) Where an administration order has been made, any receiver of part of the company's property shall vacate office on being required to do so by the administrator.
- (3) During the period for which an administration order is in force—
- (a) no resolution may be passed or order made for the winding up of the company ;
 - (b) no administrative receiver of the company may be appointed;
 - (c) no other steps may be taken to enforce any security over the company's property, or to repossess goods in the company's possession under any hire-purchase agreement, except with the consent of the administrator or the leave of the court and subject (where the court gives leave) to such terms as the court may impose; and
 - (d) no other proceedings and no execution or other legal process may be commenced or continued, and no distress may be levied, against the company or its property except with the consent of the administrator or the leave of the court and subject (where the court gives leave) to such terms as aforesaid.

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

- (4) Where at any time an administrative receiver of the company has vacated office under subsection (1)(b) above or a receiver of part of the company's property has vacated office under subsection (2) above—
- (a) his remuneration and any expenses properly incurred by him; and
 - (b) any indemnity to which he is entitled out of the assets of the company,
- shall be charged on and, subject to subsection (3) above, paid out of any property of the company which was in his custody or under his control at that time in priority to any security held by the person by or on whose behalf he was appointed.
- (5) Neither an administrative receiver of a company who vacates office under subsection (1)(b) above nor a receiver of part of a company's property who vacates office under subsection (2) above shall be required on or after so vacating office to take any steps for the purpose of complying with any duty imposed on him by section 196 or 475 of the 1985 Act (duty to pay preferential creditors).

31 Notification of order

- (1) Every invoice, order for goods or business letter which, at a time when an administration order is in force in relation to a company, is issued by or on behalf of the company or the administrator, being a document on or in which the company's name appears, shall also contain the administrator's name and a statement that the affairs, business and property of the company are being managed by the administrator.
- (2) If default is made in complying with this section, the company and any of the following persons who without reasonable excuse authorises or permits the default, namely, the administrator and any officer of the company, shall be liable on summary conviction to a fine not exceeding one-fifth of the statutory maximum.