



Insolvency Act 1986

1986 CHAPTER 45

PART IV

WINDING UP OF COMPANIES REGISTERED UNDER THE COMPANIES ACTS

CHAPTER X

MALPRACTICE BEFORE AND DURING LIQUIDATION; PENALISATION OF COMPANIES AND COMPANY OFFICERS; INVESTIGATIONS AND PROSECUTIONS

Penalisation of directors and officers

216 Restriction on re-use of company names.

- (1) This section applies to a person where a company (“the liquidating company”) has gone into insolvent liquidation on or after the appointed day and he was a director or shadow director of the company at any time in the period of 12 months ending with the day before it went into liquidation.
- (2) For the purposes of this section, a name is a prohibited name in relation to such a person if—
 - (a) it is a name by which the liquidating company was known at any time in that period of 12 months, or
 - (b) it is a name which is so similar to a name falling within paragraph (a) as to suggest an association with that company.
- (3) Except with leave of the court or in such circumstances as may be prescribed, a person to whom this section applies shall not at any time in the period of 5 years beginning with the day on which the liquidating company went into liquidation—
 - (a) be a director of any other company that is known by a prohibited name, or
 - (b) in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of any such company, or

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- (c) in any way, whether directly or indirectly, be concerned or take part in the carrying on of a business carried on (otherwise than by a company) under a prohibited name.
- (4) If a person acts in contravention of this section, he is liable to imprisonment or a fine, or both.
- (5) In subsection (3) “the court” means any court having jurisdiction to wind up companies; and on an application for leave under that subsection, the Secretary of State or the official receiver may appear and call the attention of the court to any matters which seem to him to be relevant.
- (6) References in this section, in relation to any time, to a name by which a company is known are to the name of the company at that time or to any name under which the company carries on business at that time.
- (7) For the purposes of this section a company goes into insolvent liquidation if it goes into liquidation at a time when its assets are insufficient for the payment of its debts and other liabilities and the expenses of the winding up.
- (8) In this section “company” includes a company which may be wound up under Part V of this Act.

Annotations:

Modifications etc. (not altering text)

- C1** S. 216 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 103**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, [Sch. para. 2](#)

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Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2011/2866 Sch. 2](#)
- Act applied in part (with modifications) by [S.I. 2011/245 reg. 8\(7\) 9 15 16-21 24 25 Sch. 1-4](#)
- Act excluded by [2010 asp 17 s. 106\(7\)\(b\)](#)
- Act modified by [2011 c. 5 Sch. 10 para. 40 41](#)
- Act modified by [S.I. 2011/1301 rule 334](#)
- Act power to modify conferred by [2011 c. 5 Sch. 10 para. 46](#)
- Act power to modify conferred by 1991 c. 56 s. 23(2E)-(2G) (as inserted) by [2010 c. 29 Sch. 5 para. 3](#)
- Blanket amendment text amended by [S.I. 2011/1043 art. 3 4](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 92A added by [S.I. 2010/18 art. 6\(1\)](#)
- s. 104A added by [S.I. 2010/18 art. 6\(3\)](#)
- s. 246A 246B inserted by [S.I. 2010/18 art. 3\(1\)](#)
- s. 379A 379B inserted by [S.I. 2010/18 art. 3\(2\)](#)
- s. 436B inserted by [S.I. 2010/18 art. 4\(1\)](#)

Commencement Orders yet to be applied to the Insolvency Act 1986:

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2003/3340 art. 3](#) commences (2002 c. 40)
- [S.I. 2009/1632 reg. 22](#) amendment to earlier commencing SI 2007/2194 Sch. 3 para. 23A (as inserted by SI 2007/3495 Sch. 5 para. 2(5))
- [S.I. 2010/862 art. 2 3](#) commences (2008 c. 17)
- [S.I. 2010/2169 art. 3-5](#) commences (2010 c. 29)
- [S.I. 2011/2329 art. 2 3](#) commences (2011 c. 5)
- [S.S.I. 2010/249 art. 2 3](#) commences (2007 asp 3)
- [S.S.I. 2011/31 art. 5](#) amendment to earlier commencing SSI 2008/115 and SSI 2009/67 and SSI 2009/369