Insolvency Act 2000

2000 CHAPTER 39

Miscellaneous

9 Administration orders.

(1) Part II of the [M1]Insolvency Act 1986 (administration orders) is amended as follows.

(2) In section 10 (effect of application), after paragraph (a) of subsection (1) there is inserted—

"(aa) no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to premises let to the company in respect of a failure by the company to comply with any term or condition of its tenancy of such premises, except with the leave of the court and subject to such terms as the court may impose".

(3) In section 11 (effect of order), after paragraph (b) of subsection (3) there is inserted—

"(ba) no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to premises let to the company in respect of a failure by the company to comply with any term or condition of its tenancy of such premises, 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".

Commencement Information

I1 S. 9 wholly in force at 2.4.2001, see s. 16(1) and S.I. 2001/766, **art. 2(1)(b)** (subject to art. 3)

Marginal Citations

M1 1986 c. 45.

10 Investigation and prosecution of malpractice.

(1) Section 218 of the [M2]Insolvency Act 1986 (prosecution of delinquent officers and members of company) is amended as follows.

(2) In subsection (1), for "to the prosecuting authority" there is substituted—

"(a) in the case of a winding up in England and Wales, to the Secretary of State, and

(b) in the case of a winding up in Scotland, to the Lord Advocate".

(3) Subsection (2) is omitted.

(4) In subsection (4)—

(a) for the words from the beginning of paragraph (a) to "that authority" in paragraph (b) there is substituted "forthwith report the matter—

(a) in the case of a winding up in England and Wales, to the Secretary of State, and

(b) in the case of a winding up in Scotland, to the Lord Advocate,

and shall furnish to the Secretary of State or (as the case may be) the Lord Advocate ",

(b) for "the authority" there is substituted " the Secretary of State or (as the case may be) the Lord Advocate ".

(5) For subsection (5) there is substituted—

"(5) Where a report is made to the Secretary of State under subsection (4) he may, for the purpose of investigating the matter reported to him and such other matters relating to the affairs of the company as appear to him to require investigation, exercise any of the powers which are exercisable by inspectors appointed under section 431 or 432 of the Companies Act to investigate a company's affairs."

(6) In subsection (6)(b), "to the prosecuting authority" is omitted.

(7) In section 219 of that Act (obligations arising under section 218)—

(a) in subsection (1), for "under section 218(5)" there is substituted " in consequence of a report made to him under section 218(4) " and for "that subsection" there is substituted " section 218(5) ",

(b) in subsection (3), for "the prosecuting authority" and "that authority" there is substituted " the Director of Public Prosecutions, the Lord Advocate ",

(c) in subsection (4), for "prosecuting authority" there is substituted " Director of Public Prosecutions, the Lord Advocate ".

Commencement Information

I2 S. 10 wholly in force at 2.4.2001, see s. 16(1) and S.I. 2001/766, **art. 2(1)(b)** (subject to art. 3)

Marginal Citations

M2 1986 c. 45.

11 Restriction on use of answers obtained under compulsion.

In section 219 of the [M3]Insolvency Act 1986, after subsection (2) (answers given by a person pursuant to powers conferred by section 218 may be used in evidence against him) there is inserted—

"(2A) However, in criminal proceedings in which that person is charged with an offence to which this subsection applies—

(a) no evidence relating to the answer may be adduced, and

(b) no question relating to it may be asked,

by or on behalf of the prosecution, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person.

(2B) Subsection (2A) applies to any offence other than—

(a) an offence under section 2 or 5 of the [M4]Perjury Act 1911 (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath), or

(b) an offence under section 44(1) or (2) of the [M5]Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made on oath or otherwise than on oath)."

Commencement Information

I3 S. 11 wholly in force at 2.4.2001, see s. 16(1) and S.I. 2001/766, **art. 2(1)(b)** (subject to art. 3)

Marginal Citations

M3 1986 c. 45.

M4 1911 c. 6.

M5 1995 c. 39.

12 Insolvent estates of deceased persons.

(1) After section 421 of the [M6]Insolvency Act 1986 (power to apply provisions of Act to insolvent estates of deceased persons) there is inserted—

"421A Insolvent estates: joint tenancies.

(1) This section applies where—

(a) an insolvency administration order has been made in respect of the insolvent estate of a deceased person,

(b) the petition for the order was presented after the commencement of this section and within the period of five years beginning with the day on which he died, and

(c) immediately before his death he was beneficially entitled to an interest in any property as joint tenant.

(2) For the purpose of securing that debts and other liabilities to which the estate is subject are met, the court may, on an application by the trustee appointed pursuant to the insolvency administration order, make an order under this section requiring the survivor to pay to the trustee an amount not exceeding the value lost to the estate.

(3) In determining whether to make an order under this section, and the terms of such an order, the court must have regard to all the circumstances of the case, including the interests of the deceased's creditors and of the survivor;

but, unless the circumstances are exceptional, the court must assume that the interests of the deceased's creditors outweigh all other considerations.

(4) The order may be made on such terms and conditions as the court thinks fit.

(5) Any sums required to be paid to the trustee in accordance with an order under this section shall be comprised in the estate.

(6) The modifications of this Act which may be made by an order under section 421 include any modifications which are necessary or expedient in consequence of this section.

(7) In this section, "survivor" means the person who, immediately before the death, was beneficially entitled as joint tenant with the deceased or, if the person who was so entitled dies after the making of the insolvency administration order, his personal representatives.

(8) If there is more than one survivor—

(a) an order under this section may be made against all or any of them, but

(b) no survivor shall be required to pay more than so much of the value lost to the estate as is properly attributable to him.

(9) In this section—

"insolvency administration order" has the same meaning as in any order under section 421 having effect for the time being,

"value lost to the estate" means the amount which, if paid to the trustee, would in the court's opinion restore the position to what it would have been if the deceased had been adjudged bankrupt immediately before his death."

(2) In subsection (1) of section 421, after "apply" there is inserted " in relation ".

Commencement Information

I4 S. 12 wholly in force at 2.4.2001, see s. 16(1) and S.I. 2001/766, **art. 2(1)(b)** (subject to art. 3)

Marginal Citations

M6 1986 c. 45.

13 Bankruptcy: interest on sums held in Insolvency Services Account.

(1) In Schedule 9 to the [M7]Insolvency Act 1986 (individual insolvency rules), in paragraph 21, for "handled" there is substituted " invested or otherwise handled and with respect to the payment of interest on sums which, in pursuance of rules made by virtue of this paragraph, have been paid into the Insolvency Services Account ".

(2) In section 406 of that Act (interest on money received by liquidators and invested)—

(a) for "a company" there is substituted " or paragraph 21 of Schedule 9 to this Act (investment of money received by trustee in bankruptcy) a company or a bankrupt's estate ",

(b) for the sidenote there is substituted " Interest on money received by liquidators or trustees in bankruptcy and invested ".

Commencement Information

I5 S. 13 wholly in force at 2.4.2001, see s. 16(1) and S.I. 2001/766, **art. 2(1)(b)** (subject to art. 3)

Marginal Citations

M7 1986 c. 45.

14 Model law on cross-border insolvency.

(1) The Secretary of State may by regulations make any provision which he considers necessary or expedient for the purpose of giving effect, with or without modifications, to the model law on cross-border insolvency.

(2) In particular, the regulations may—

(a) apply any provision of insolvency law in relation to foreign proceedings (whether begun before or after the regulations come into force),

(b) modify the application of insolvency law (whether in relation to foreign proceedings or otherwise),

(c) amend any provision of section 426 of the [M8]Insolvency Act 1986 (co-operation between courts),

and may apply or, as the case may be, modify the application of insolvency law in relation to the Crown.

(3) The regulations may make different provision for different purposes and may make—

(a) any supplementary, incidental or consequential provision, or

(b) any transitory, transitional or saving provision,

which the Secretary of State considers necessary or expedient.

(4) In this section—

"foreign proceedings" has the same meaning as in the model law on cross-border insolvency,

"insolvency law" has the same meaning as in section 426(10)(a) and (b) of the [M9]Insolvency Act 1986,

"the model law on cross-border insolvency" means the model law contained in Annex I of the report of the 30th session of UNCITRAL.

(5) Regulations under this section are to be made by statutory instrument and may only be made if a draft has been laid before and approved by resolution of each House of Parliament.

(6) Making regulations under this section requires the agreement—

(a) if they extend to England and Wales, of the Lord Chancellor,

(b) if they extend to Scotland, of the Scottish Ministers.

Marginal Citations

M8 1986 c. 45.

M9 1986 c. 45.

Changes to legislation:
There are currently no known outstanding effects for the Insolvency Act 2000, Cross Heading: Miscellaneous.