



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XXIV

#### INSOLVENCY

##### *Administration orders*

#### **[<sup>F1</sup>359 Administration order**

- (1) The [<sup>F2</sup>FCA] may make an administration application under Schedule B1 to the 1986 Act [<sup>F3</sup>or Schedule B1 to the 1989 Order] in relation to a company or insolvent partnership which—
- is or has been an authorised person [<sup>F4</sup>or recognised investment exchange],
  - is or has been an appointed representative, or
  - is carrying on or has carried on a regulated activity in contravention of the general prohibition.

[<sup>F5</sup>(1A) The PRA may make an administration application under Schedule B1 to the 1986 Act or Schedule B1 to the 1989 Order in relation to a company or insolvent partnership which is a PRA-regulated person.]

- (2) Subsection (3) applies in relation to an administration application made (or a petition presented) by [<sup>F6</sup>a regulator] by virtue of this section.
- (3) Any of the following shall be treated for the purpose of paragraph 11(a) of Schedule B1 to the 1986 Act [<sup>F7</sup>or paragraph 12(a) of Schedule B1 to the 1989 Order] as unable to pay its debts—
- a company or partnership in default on an obligation to pay a sum due and payable under an agreement, <sup>F8</sup> . . .
  - an authorised deposit taker in default on an obligation to pay a sum due and payable in respect of a relevant deposit, [<sup>F9</sup> and—
  - an authorised reclaim fund in default on an obligation to pay a sum payable as a result of a claim made by virtue of section 1(2)(b) or 2(2)(b) of the Dormant Bank and Building Society Accounts Act 2008.]

*Status: Point in time view as at 25/07/2014.*

*Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Administration orders is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) In this section—

“agreement” means an agreement the making or performance of which constitutes or is part of a regulated activity carried on by the company or partnership,

“authorised deposit taker” means a person with a [<sup>F10</sup>Part 4A] permission to accept deposits (but not a person who has a [<sup>F10</sup>Part 4A] permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission),

[<sup>F11</sup>“authorised reclaim fund” means a reclaim fund within the meaning given by section 5(1) of the Dormant Bank and Building Society Accounts Act 2008 that is authorised for the purposes of this Act;]

“company” means a company—

- (a) in respect of which an administrator may be appointed under Schedule B1 to the 1986 Act, or
- (b) [<sup>F12</sup>in respect of which an administrator may be appointed under Schedule B1 to the 1989 Order,]

“relevant deposit” shall, ignoring any restriction on the meaning of deposit arising from the identity of the person making the deposit, be construed in accordance with—

- (a) section 22,
- (b) any relevant order under that section, and
- (c) Schedule 2.

(5) The definition of “authorised deposit taker” in subsection (4) shall be construed in accordance with—

- (a) section 22,
- (b) any relevant order under that section, and
- (c) Schedule 2.]

#### Textual Amendments

- F1** S. 359 substituted (15.9.2003) by Enterprise Act 2002 (c. 40), ss. 248(3), 279, **Sch. 17 para. 55** (with s. 249(1)-(3)); S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, **art. 2**))
- F2** Word in s. 359(1) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 14 para. 6(2)(a)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F3** Words in s. 359(1) substituted (N.I.) (27.3.2006) by The Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), **Sch. 2 para. 58(2)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F4** Words in s. 359(1)(a) inserted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 14 para. 6(2)(b)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F5** S. 359(1A) inserted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 14 para. 6(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F6** Words in s. 359(2) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 14 para. 6(4)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F7** Words in s. 359(3) substituted (N.I.) (27.3.2006) by The Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), **Sch. 2 para. 58(3)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F8** Word in s. 359(3)(a) omitted (12.3.2009) by virtue of Dormant Bank and Building Society Accounts Act 2008 (c. 31), ss. 15, 31(1), **Sch. 2 para. 6(2)**; S.I. 2009/490, **art. 2** (with art. 3)

*Status: Point in time view as at 25/07/2014.*

*Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Administration orders is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F9** S. 359(3)(c) and preceding word inserted (12.3.2009) by [Dormant Bank and Building Society Accounts Act 2008 \(c. 31\), ss. 15, 31\(1\), Sch. 2 para. 6\(2\)](#); S.I. 2009/490, [art. 2](#) (with art. 3)
- F10** Words in s. 359(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 14 para. 6\(5\)](#) (with [Sch. 20](#)); S.I. 2013/423, [art. 3, Sch.](#)
- F11** S. 359(4): definition of "authorised reclaim fund" inserted (12.3.2009) by [Dormant Bank and Building Society Accounts Act 2008 \(c. 31\), ss. 15, 31\(1\), Sch. 2 para. 6\(3\)](#); S.I. 2009/490, [art. 2](#) (with art. 3)
- F12** S. 359(4): in the definition of "company", paragraph (b) substituted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\), arts. 1\(3\), 3\(3\), Sch. 2 para. 58\(4\)](#); S.R. 2006/21, [art. 2](#) (subject to S.R. 2006/22, arts. 2-7)

**Modifications etc. (not altering text)**

- C1** S. 359 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\), regs. 1\(2\)\(c\), 95, Sch. 5 para. 6](#) (with [reg. 3](#)) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\), Sch. 2 para. 155\(6\)\(f\)](#) (with [Sch. 2 para. 156](#)))
- C2** S. 359 applied (with modifications) (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\), regs. 1\(2\)\(b\), 62, Sch. 3 para. 7](#) (with [reg. 3](#)) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\), Sch. 2 para. 196\(5\)\(g\)](#))
- C3** S. 359 applied (with modifications) (E.W.S.) (6.4.2014) by [The Industrial and Provident Societies and Credit Unions \(Arrangements, Reconstructions and Administration\) Order 2014 \(S.I. 2014/229\), arts. 1, 7](#) (with art. 10)
- C4** S. 359(1)-(4) applied (with modifications) (N.I.) (13.9.2004) by [Limited Liability Partnerships Regulations \(Northern Ireland\) 2004 \(S.R. 2004/307\), reg. 6](#)

**360 Insurers.**

- (1) The Treasury may by order provide that such provisions of Part II of the 1986 Act (or Part III of the 1989 Order) as may be specified are to apply in relation to insurers with such modifications as may be specified.
- (2) An order under this section—
- (a) may provide that such provisions of this Part as may be specified are to apply in relation to the administration of insurers in accordance with the order with such modifications as may be specified; and
- (b) requires the consent of the Secretary of State.
- (3) "Specified" means specified in the order.

**Modifications etc. (not altering text)**

- C5** S. 360 excluded (10.8.2005) by [The Insurers \(Reorganisation and Winding Up\) \(Lloyd's\) Regulations 2005 \(S.I. 2005/1998\), reg. 2\(4\)](#)

**[<sup>F14</sup>361 Administrator's duty to report to [<sup>F13</sup>FCA and PRA]**

- (1) This section applies where a company or partnership is—
- (a) in administration within the meaning of Schedule B1 to the 1986 Act, or
- [<sup>F15</sup>(b) in administration within the meaning of Schedule B1 to the 1989 Order.]

*Status: Point in time view as at 25/07/2014.*

*Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Administration orders is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[<sup>F16</sup>(2) If the administrator thinks that the company or partnership is carrying on, or has carried on—

- (a) a regulated activity in contravention of the general prohibition, or
- (b) a credit-related regulated activity in contravention of section 20,

the administrator must report the matter to the appropriate regulator without delay.]

[<sup>F17</sup>(2A) "The appropriate regulator" means—

- (a) where the regulated activity is a PRA-regulated activity, the FCA and the PRA;
- (b) in any other case, the FCA.]

[<sup>F18</sup>(3) Subsection (2) does not apply where—

- (a) the administration arises out of an administration order made on an application made or petition presented by a regulator, and
- (b) the regulator's application or petition depended on a contravention by the company or partnership of the general prohibition.]]

#### Textual Amendments

- F13** Words in s. 361 heading substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 7\(5\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F14** S. 361 substituted (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 248(3), 279, [Sch. 17 para. 56](#) (with s. 249(1)-(3)); S.I. 2003/2093, [art. 2\(1\)](#), [Sch. 1](#) (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, [art. 2](#)))
- F15** S. 361(1)(b) substituted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), [Sch. 2 para. 59](#); S.R. 2006/21, [art. 2](#) (subject to S.R. 2006/22, arts. 2-7)
- F16** S. 361(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 7\(2\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F17** S. 361(2A) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 7\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F18** S. 361(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 7\(4\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)

#### Modifications etc. (not altering text)

- C6** Ss. 361-365 applied (with modifications) (N.I.) (13.9.2004) by [Limited Liability Partnerships Regulations \(Northern Ireland\) 2004 \(S.R. 2004/307\)](#), [reg. 6](#)
- C7** S. 361 modified (21.2.2009) by [The Banking Act 2009 \(Parts 2 and 3 Consequential Amendments\) Order 2009 \(S.I. 2009/317\)](#), [art. 5\(1\)\(4\)](#)
- C8** S. 361 applied (with modifications) (E.W.S.) (6.4.2014) by [The Industrial and Provident Societies and Credit Unions \(Arrangements, Reconstructions and Administration\) Order 2014 \(S.I. 2014/229\)](#), arts. 1, [8](#) (with [art. 10](#))

### 362 [<sup>F19</sup>Powers of FCA and PRA] to participate in proceedings.

- (1) This section applies if a person <sup>F20</sup>... [<sup>F21</sup>makes an administration application under Schedule B1 to the 1986 Act [<sup>F22</sup>or Schedule B1 to the 1989 Order]] in relation to a company or partnership which—
- (a) is, or has been, an authorised person [<sup>F23</sup>or recognised investment exchange];
  - (b) is, or has been, an appointed representative; or

*Status: Point in time view as at 25/07/2014.*

*Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Administration orders is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) is carrying on, or has carried on, a regulated activity in contravention of the general prohibition.

[<sup>F24</sup>(1A) This section also applies in relation to—

- (a) the appointment under paragraph 14 or 22 of Schedule B1 to the 1986 Act [<sup>F25</sup>or paragraph 15 or 23 of Schedule B1 to the 1989 Order] of an administrator of a company of a kind described in subsection (1)(a) to (c), or
- (b) the filing with the court of a copy of notice of intention to appoint an administrator under [<sup>F26</sup>any] of those paragraphs.]

[<sup>F27</sup>(1B) This section also applies in relation to—

- (a) the appointment under paragraph 22 of Schedule B1 to the 1986 Act (as applied by order under section 420 of the 1986 Act), or under paragraph 23 of Schedule B1 to the 1989 Order (as applied by order under Article 364 of the 1989 Order), of an administrator of a partnership of a kind described in subsection (1)(a) to (c), or
- (b) the filing with the court of a copy of notice of intention to appoint an administrator under either of those paragraphs (as so applied).]

(2) The [<sup>F28</sup>appropriate regulator] is entitled to be heard—

- (a) at the hearing of the [<sup>F29</sup>administration application [<sup>F30</sup>or the petition]]; and
- (b) at any other hearing of the court in relation to the company or partnership under Part II of the 1986 Act (or Part III of the 1989 Order).

(3) Any notice or other document required to be sent to a creditor of the company or partnership must also be sent to the [<sup>F28</sup>appropriate regulator].

[<sup>F31</sup>(4) The [<sup>F28</sup>appropriate regulator] may apply to the court under paragraph 74 of Schedule B1 to the 1986 Act [<sup>F32</sup>or paragraph 75 of Schedule B1 to the 1989 Order].

(4A) In respect of an application under subsection (4)—

- (a) paragraph 74(1)(a) and (b) shall have effect as if for the words “harm the interests of the applicant (whether alone or in common with some or all other members or creditors)” there were substituted the words “harm the interests of some or all members or creditors”, and

[<sup>F33</sup>(b) paragraph 75(1)(a) and (b) of Schedule B1 to the 1989 Order shall have effect as if for the words “harm the interests of the applicant (whether alone or in common with some or all other members or creditors)” there were substituted the words harm the interests of some or all members or creditors.]]

(5) A person appointed for the purpose by the [<sup>F28</sup>appropriate regulator] is entitled—

- (a) to attend any meeting of creditors of the company or partnership summoned under any enactment;
- (b) to attend any meeting of a committee established under [<sup>F34</sup>paragraph 57 of Schedule B1 to the 1986 Act] (or [<sup>F35</sup>paragraph 58 of Schedule B1 to the 1989 Order]); and
- (c) to make representations as to any matter for decision at such a meeting.

(6) If, during the course of the administration of a company, a compromise or arrangement is proposed between the company and its creditors, or any class of them, the [<sup>F28</sup>appropriate regulator] may apply to the court under [<sup>F36</sup>section 896 or 899 of the Companies Act 2006].

[<sup>F37</sup>(7) “The appropriate regulator” means—

*Status: Point in time view as at 25/07/2014.*

*Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Administration orders is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) for the purposes of subsections (2) to (4) and (6)—
    - (i) where the company or partnership is a PRA-regulated person, each of the FCA and the PRA, and
    - (ii) in any other case, the FCA;
  - (b) for the purposes of subsection (5)—
    - (i) where the company or partnership is a PRA-regulated person, the FCA or the PRA, and
    - (ii) in any other case, the FCA.
- (8) But where the administration application was made by a regulator “the appropriate regulator” does not include that regulator.]

#### Textual Amendments

- F19** Words in s. 362 heading substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 8\(6\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F20** Words in s. 362(1) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 8\(2\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F21** Words in s. 362(1) substituted (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 248(3), 279, [Sch. 17 para. 57\(a\)](#) (with s. 249(1)-(3)); S.I. 2003/2093, [art. 2\(1\)](#), [Sch. 1](#) (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, [art. 2](#)))
- F22** Words in s. 362(1) substituted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), [Sch. 2 para. 60\(2\)](#); S.R. 2006/21, [art. 2](#) (subject to S.R. 2006/22, arts. 2-7)
- F23** Words in s. 362(1)(a) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 8\(2\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F24** S. 362(1A) inserted (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 248(3), 279, [Sch. 17 para. 57\(b\)](#) (with s. 249(1)-(3)); S.I. 2003/2093, [art. 2\(1\)](#), [Sch. 1](#) (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, [art. 2](#)))
- F25** Words in s. 362(1A)(a) inserted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), [Sch. 2 para. 60\(3\)\(a\)](#); S.R. 2006/21, [art. 2](#) (subject to S.R. 2006/22, [arts. 2-7](#))
- F26** Word in s. 362(1A)(b) substituted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), [Sch. 2 para. 60\(3\)\(b\)](#); S.R. 2006/21, [art. 2](#) (subject to S.R. 2006/22, arts. 2-7)
- F27** S. 362(1B) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 8\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F28** Words in s. 362(2)-(6) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 14 para. 8\(4\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F29** Words in s. 362(2)(a) substituted (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 248(3), 279, [Sch. 17 para. 57\(c\)](#) (with s. 249(1)-(3)); S.I. 2003/2093, [art. 2\(1\)](#), [Sch. 1](#) (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, [art. 2](#)))
- F30** Words in s. 362(2)(a) repealed (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), 31, [Sch. 2 para. 60\(4\)](#), [Sch. 9](#); S.R. 2006/21, [art. 2](#) (subject to S.R. 2006/22, arts. 2-7)
- F31** S. 362(4)(4A) substituted (15.9.2003) for s. 362(4) by [Enterprise Act 2002 \(c. 40\)](#), ss. 248(3), 279, [Sch. 17 para. 57\(d\)](#) (with s. 249(1)-(3)); S.I. 2003/2093, [art. 2\(1\)](#), [Sch. 1](#) (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, [art. 2](#)))
- F32** Words in s. 362(4) substituted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), [Sch. 2 para. 60\(5\)](#); S.R. 2006/21, [art. 2](#) (subject to S.R. 2006/22, arts. 2-7)

*Status: Point in time view as at 25/07/2014.*

*Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Administration orders is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F33** S. 362(4A)(b) substituted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), **Sch. 2 para. 60(6)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F34** Words in s. 362(5)(b) substituted (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 248(3), 279, **Sch. 17 para. 57(e)** (with s. 249(1)-(3)); S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, **art. 2**))
- F35** Words in s. 362(5)(b) substituted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), **Sch. 2 para. 60(7)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F36** Words in s. 362(6) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3(1), **Sch. 1 para. 211(4)** (with arts. 6, 11, 12)
- F37** S. 362(7)(8) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 14 para. 8(5)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

#### **Modifications etc. (not altering text)**

- C9** S. 362 applied (with modifications) (6.4.2001) by S.I. 2001/1090, **regs. 1, 6**
- C10** Ss. 361-365 applied (with modifications) (N.I.) (13.9.2004) by [Limited Liability Partnerships Regulations \(Northern Ireland\) 2004 \(S.R. 2004/307\)](#), **reg. 6**
- C11** S. 362 modified (21.2.2009) by [The Banking Act 2009 \(Parts 2 and 3 Consequential Amendments\) Order 2009 \(S.I. 2009/317\)](#), **art. 5(1)(5)**
- C12** S. 362 applied (with modifications) (E.W.S.) (6.4.2014) by [The Industrial and Provident Societies and Credit Unions \(Arrangements, Reconstructions and Administration\) Order 2014 \(S.I. 2014/229\)](#), arts. 1, 9 (with art. 10)
- C13** S. 362(6) applied (with modifications) (8.2.2011 with application in accordance with reg. 27(a) of the applying S.I.) by [The Investment Bank Special Administration Regulations 2011 \(S.I. 2011/245\)](#), regs. 1, 27(a), **Sch. 6 para. 3(4)**

### **[<sup>F38</sup>362A Administrator appointed by company or directors**

(1) This section applies in relation to a company [<sup>F39</sup>or partnership] of a kind described in section 362(1)(a) to (c).

[<sup>F40</sup>(2) An administrator of the company or partnership may not be appointed under a provision specified in subsection (2A) without the consent of the appropriate regulator.

(2A) Those provisions are—

- (a) paragraph 22 of Schedule B1 to the 1986 Act (including that paragraph as applied in relation to partnerships by order under section 420 of that Act);
- (b) paragraph 23 of Schedule B1 to the 1989 Order (including that paragraph as applied in relation to partnerships by order under article 364 of that Order).

(2B) “The appropriate regulator” means—

- (a) where the company or partnership is a PRA-regulated person, the PRA, and
- (b) in any other case, the FCA.]

(3) Consent under subsection (2)—

- (a) must be in writing, and
- (b) must be filed with the court along with the notice of intention to appoint under paragraph 27 of [<sup>F41</sup>Schedule B1 to the 1986 Act or paragraph 28 of Schedule B1 to the 1989 Order].

(4) In a case where no notice of intention to appoint is required—

- (a) subsection (3)(b) shall not apply, but



*Status: Point in time view as at 25/07/2014.*

*Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Administration orders is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) consent under subsection (2) must accompany the notice of appointment filed under paragraph 29 of [<sup>F42</sup>Schedule B1 to the 1986 Act or paragraph 30 of Schedule B1 to the 1989 Order].]

#### Textual Amendments

- F38** S. 362A inserted (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 248(3), 279, **Sch. 17 para. 58** (with s. 249(1)-(3)); S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, **art. 2**))
- F39** Words in s. 362A(1) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 14 para. 9(2)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F40** S. 362A(2)-(2B) substituted for s. 362A(2) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 14 para. 9(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F41** Words in s. 362A(3)(b) substituted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), **Sch. 2 para. 61(3)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F42** Words in s. 362A(4) substituted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), **Sch. 2 para. 61(4)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)

#### Modifications etc. (not altering text)

- C14** Ss. 361-365 applied (with modifications) (N.I.) (13.9.2004) by [Limited Liability Partnerships Regulations \(Northern Ireland\) 2004 \(S.R. 2004/307\)](#), **reg. 6**
- C15** S. 362A applied (with modifications) (E.W.S.) (6.4.2014) by [The Industrial and Provident Societies and Credit Unions \(Arrangements, Reconstructions and Administration\) Order 2014 \(S.I. 2014/229\)](#), arts. 1, **9** (with art. 10)



**Status:**

Point in time view as at 25/07/2014.

**Changes to legislation:**

Financial Services and Markets Act 2000, Cross Heading: Administration orders is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.