



# Pensions Act 2004

## 2004 CHAPTER 35

### PART 2

#### THE BOARD OF THE PENSION PROTECTION FUND

### CHAPTER 2

#### INFORMATION RELATING TO EMPLOYER'S INSOLVENCY ETC

#### *Insolvency events*

### 121 Insolvency event, insolvency date and insolvency practitioner

(1) In this Part each of the following expressions has the meaning given to it by this section—

- “insolvency event”
- “insolvency date”
- “insolvency practitioner”.

(2) An insolvency event occurs in relation to an individual where—

- (a) he is [<sup>F1</sup>made] bankrupt or sequestration of his estate has been awarded;
- (b) the nominee in relation to a proposal for a voluntary arrangement under Part 8 of the Insolvency Act 1986 (c. 45) submits a report to the court under section 256(1) or 256A(3) of that Act which states that in his opinion [<sup>F2</sup>the individual's creditors should] consider the debtor's proposal;
- <sup>F3</sup>(c) .....
- (d) he executes a trust deed for his creditors or enters into a composition contract;
- (e) he has died and—
  - (i) an insolvency administration order is made in respect of his estate in accordance with an order under section 421 of the Insolvency Act 1986, or

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- (ii) a judicial factor appointed under section 11A of the Judicial Factors (Scotland) Act 1889 (c. 39) is required by that section to divide the individual’s estate among his creditors.
- (3) An insolvency event occurs in relation to a company where—
- (a) the nominee in relation to a proposal for a voluntary arrangement under Part 1 of the Insolvency Act 1986 submits a report to the court under section 2 of that Act (procedure where nominee is not the liquidator or administrator) which states that in his opinion [<sup>F4</sup>the proposal should be considered by a meeting of the company and by the company’s creditors;]
  - (b) the directors of the company file (or in Scotland lodge) with the court documents and statements in accordance with paragraph 7(1) of Schedule A1 to that Act (moratorium where directors propose voluntary arrangement);
  - (c) an administrative receiver within the meaning of section 251 of that Act is appointed in relation to the company;
  - (d) the company enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;
  - (e) a resolution is passed for a voluntary winding up of the company without a declaration of solvency under section 89 of that Act;
  - [<sup>F5</sup>(f) a winding up becomes a creditors’ voluntary winding up under section 96 of that Act (conversion to creditors’ voluntary winding up);]
  - (g) an order for the winding up of the company is made by the court under Part 4 or 5 of that Act.
- (4) An insolvency event occurs in relation to a partnership where—
- (a) an order for the winding up of the partnership is made by the court under any provision of the Insolvency Act 1986 (c. 45) (as applied by an order under section 420 of that Act (insolvent partnerships));
  - (b) sequestration is awarded on the estate of the partnership under section [<sup>F6</sup>22 of the Bankruptcy (Scotland) Act 2016] or the partnership grants a trust deed for its creditors;
  - (c) the nominee in relation to a proposal for a voluntary arrangement under Part 1 of the Insolvency Act 1986 (as applied by an order under section 420 of that Act) submits a report to the court under section 2 of that Act (procedure where nominee is not the liquidator or administrator) which states that in his opinion [<sup>F7</sup>the proposal should be considered by a meeting of the members of the partnership and by the partnership’s creditors;]
  - (d) the members of the partnership file with the court documents and statements in accordance with paragraph 7(1) of Schedule A1 to that Act (moratorium where directors propose voluntary arrangement) (as applied by an order under section 420 of that Act);
  - [<sup>F8</sup>(e) the partnership enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act (as applied by an order under section 420 of that Act).]
- (5) An insolvency event also occurs in relation to a person where an event occurs which is a prescribed event in relation to such a person.
- (6) Except as provided by subsections (2) to (5), for the purposes of this Part an event is not to be regarded as an insolvency event in relation to a person.

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- (7) The Secretary of State may by order amend subsection (4)(e) to make provision consequential upon any order under section 420 of the Insolvency Act 1986 (insolvent partnerships) applying the provisions of Part 2 of that Act (administration) as amended by the Enterprise Act 2002 (c. 40).
- (8) “Insolvency date”, in relation to an insolvency event, means the date on which the event occurs.
- (9) “Insolvency practitioner”, in relation to a person, means—
- (a) a person acting as an insolvency practitioner, in relation to that person, in accordance with section 388 of the Insolvency Act 1986;
  - (b) in such circumstances as may be prescribed, a person of a prescribed description.
- (10) In this section—
- “company” means a company [<sup>F9</sup>as defined in section 1(1) of the Companies Act 2006] or a company which may be wound up under Part 5 of the Insolvency Act 1986 (c. 45) (unregistered companies);
  - “person acting as an insolvency practitioner”, in relation to a person, includes the official receiver acting as receiver or manager of any property of that person.
- (11) In applying section 388 of the Insolvency Act 1986 under subsection (9) above—
- <sup>F10</sup>(a) .....
  - (b) section 388(5) (which includes provision that nothing in the section applies to anything done by the official receiver or the Accountant in Bankruptcy) must be ignored.

#### Textual Amendments

- F1** Word in s. 121(2)(a) substituted (6.4.2016) by The Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/481), reg. 1, **Sch. 1 para. 18**
- F2** Words in s. 121(2)(b) substituted (6.4.2017) by The Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017 (S.I. 2017/540), reg. 1, **Sch. 1 para. 4(2)** (with reg. 4)
- F3** S. 121(2)(c) omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 6 para. 2(18)** (with Sch. 6 para. 3); S.I. 2015/1732, art. 2(e)(i)
- F4** Words in s. 121(3)(a) substituted (6.4.2017) by The Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017 (S.I. 2017/540), reg. 1, **Sch. 1 para. 4(3)** (with reg. 4)
- F5** S. 121(3)(f) substituted (6.4.2017) by The Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017 (S.I. 2017/540), reg. 1, **Sch. 1 para. 4(4)** (with reg. 4)
- F6** Words in s. 121(4)(b) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 26(6)(a)**
- F7** Words in s. 121(4)(c) substituted (6.4.2017) by The Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017 (S.I. 2017/540), reg. 1, **Sch. 1 para. 4(5)** (with reg. 4)
- F8** S. 121(4)(e) substituted (10.11.2005) by The Pension Protection Fund (Insolvent Partnerships) (Amendment of Insolvency Events) Order 2005 (S.I. 2005/2893), arts. 1, 2

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- F9** Words in s. 121(10) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 243(7)** (with art. 10)
- F10** S. 121(11)(a) omitted (30.11.2016) by virtue of [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 26(6)(b)**

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

- C1** Pt. 2 modified in part (9.3.2005 for specified purposes, 1.4.2005 for specified purposes, 6.4.2005 in so far as not already in force (except ch. 4)) by [The Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#), regs. 1, **2-60**, 71, 72
- C2** Pt. 2 modified (8.3.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pension Protection Fund \(Partially Guaranteed Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/277\)](#), regs. 1(1), **2-11**
- C3** S. 121 applied (1.4.2005) by [The Occupational and Personal Pension Schemes \(General Levy\) Regulations 2005 \(S.I. 2005/626\)](#), regs. 1(2), **8(3)**
- C4** S. 121(3)(d) applied (with modifications) (8.2.2011) by [The Investment Bank Special Administration Regulations 2011 \(S.I. 2011/245\)](#), reg. 1, **Sch. 6 para. 4** (with reg. 27(a))
- C5** S. 121(3)(d) modified (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021 \(S.I. 2021/716\)](#), reg. 2, **Sch. 3 para. 4** (with reg. 5) (as amended (4.1.2024) by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), 4)

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**Commencement Information**

- I1** S. 121(1)-(4)(6)(8)(9)(a)(10)(11) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**
- I2** S. 121(5) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), **Sch. Pt. 3**
- I3** S. 121(7) in force at 30.6.2005 by [S.I. 2005/1720](#), art. 2(2)
- I4** S. 121(9)(b) in force at 25.6.2014 by [S.I. 2014/1636](#), art. 2

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

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

- s. 18(5A) inserted by [2014 c. 19 s. 52\(2\)](#)
- s. 18(6) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 18(8) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 23(1A) inserted by [2015 c. 8 Sch. 2 para. 26\(3\)](#)
- s. 23(10A) inserted by [2015 c. 8 Sch. 2 para. 26\(5\)](#)
- s. 38(1)-(1B) substituted for s. 38(1) by [2015 c. 8 Sch. 2 para. 27](#)
- s. 38(7)(da) inserted by [2021 c. 1 s. 104\(2\)](#)
- s. 43(1)-(1B) substituted for s. 43(1) by [2015 c. 8 Sch. 2 para. 28\(2\)](#)
- s. 52(1)-(1B) substituted for s. 52(1) by [2015 c. 8 Sch. 2 para. 29](#)
- s. 80(1)(a)(iib) inserted by [2021 c. 1 s. 109\(3\)](#)
- s. 102(2)(a) words in s. 102(2) renumbered as s. 102(2)(a) by [2008 c. 30 s. 44\(5\)\(a\)](#)
- s. 102(2)(b) inserted by [2008 c. 30 s. 44\(5\)\(b\)](#)
- s. 103(1A) inserted by [2008 c. 30 s. 44\(6\)](#)
- s. 117A inserted by [2008 c. 30 Sch. 10 para. 3](#)
- s. 126(1)-(1B) substituted for s. 126(1) by [2015 c. 8 Sch. 2 para. 31](#)
- s. 188(1)(ba) inserted by [2008 c. 30 Sch. 10 para. 6](#)
- s. 189A inserted by [2008 c. 30 Sch. 10 para. 7](#)
- s. 209(9) added by [2008 c. 30 Sch. 10 para. 8](#)
- s. 291(4)(f) and word inserted by [2021 c. 1 Sch. 3 para. 19\(b\)](#)
- s. 318(3)(a)(viii)-(x) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(a\)](#)
- s. 318(3)(b)(vi)-(viii) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(b\)](#)
- Sch. 4 para. 7(5)(b) inserted by [2008 c. 30 s. 44\(8\)\(b\)](#)
- Sch. 4 para. 13(3) inserted by [2008 c. 30 s. 44\(9\)\(b\)](#)
- Sch. 4 para. 7(5)(a) words in Sch. 4 para. 7(5) renumbered as Sch. 4 para. 7(5)(a) by [2008 c. 30 s. 44\(8\)\(a\)](#)
- Sch. 7 para. 21(2)(c)-(cc) substituted for Sch. 7 para. 21(2)(b)(c) by [2008 c. 30 Sch. 8 para. 11](#) (This amendment not applied to legislation.gov.uk. Sch. 8 para. 10 (3.1.2012) omitted without ever being in force by virtue of 2011 c. 19, Sch. 4 para. 20; S.I. 2011/3034 art. 3(i)(iv))