SCHEDULES

1ST SCHEDULE B1
ADMINISTRATION

Textual Amendments
F1 Sch. B1 inserted (15.9.2003) by 2002 c. 40, ss. 248(2), 279, Sch. 16 (with s. 249(1)-(3)(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

Modifications etc. (not altering text)
C1 Pt. 2 (including Sch. B1) applied (with modifications) (1.2.2011) by The Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2010 (S.I. 2010/3023), art. 2 Sch. (with art. 6) (as amended (1.4.2013) by S.I. 2013/472, Sch. 2 para. 195(c); and (7.4.2017) by The Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the Insolvency (Amendment) Act (Northern Ireland) 2016 (Consequential Amendments and Transitional Provisions) Regulations 2017 (S.I. 2017/400), regs. 1(2), 9)

C1 Sch. B1 applied in part (with modifications) (1.10.2011) by Postal Services Act 2011 (c. 5), ss. 73, 93(2)(3), Sch. 10 Pts. 1, 2; S.I. 2011/2329, art. 3 (with arts. 4, 5) (as amended (6.4.2017) by S.I. 2017/540, reg. 1, Sch. 1 para. 6(2) (with reg. 4))

C1 Pt. 2 (including Sch. B1) applied (with modifications) (1.12.1994) by The Insolvent Partnerships Order 1994 (S.I. 1994/2421), art. 6(1), Sch. 2 (as amended (1.7.2005) by S.I. 2005/1516, art. 7, Sch. 1; and (1.4.2013) by S.I. 2013/472, Sch. 2 para. 11(b)); (1.1.2015) by S.I. 2014/3846, arts. 1(2), 13 (with art. 3); (6.4.2017) by S.I. 2017/540, reg. 1, Sch. 2 para. 6 (with reg. 4); and (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), 19(2) (3) (with art. 3); and (28.12.2020) (temp.) by The Bank Recovery and Resolution (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1350), regs. 1(4), 12I(3))


C1 Sch. B1 specified provisions applied (with modifications) (4.7.2018) by The Insolvency of Registered Providers of Social Housing Regulations 2018 (S.I. 2018/728), regs. 1, 2(2), Sch. 1 Pt. 1

C1 Sch. B1 specified provisions applied (with modifications) by S.I. 2012/3013, Sch. 2 Pt. 1 (as inserted (4.7.2018) by The Insolvency of Registered Providers of Social Housing Regulations 2018 (S.I. 2018/728), regs. 1, 3(6), Sch. 2)

C1 Sch. B1 specified provisions applied (with modifications) (13.7.2018 for E.W.) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), Sch. 6 para. 5 (as amended by S.I. 2017/400, regs. 1(2), 6(a)(c) and S.I. 2018/208, regs. 1(3), 6(a)); S.I. 2018/848, art. 2(b)

C1 Sch. B1 specified provisions applied (with modifications) (31.1.2019) by Technical and Further Education Act 2017 (c. 19), s. 47(2), Sch. 3; S.I. 2018/1161, reg. 3(c)
APPOMTMENT OF ADMINISTRATOR BY HOLDER OF FLOATING CHARGE

Power to appoint

14 (1) The holder of a qualifying floating charge in respect of a company’s property may appoint an administrator of the company.

(2) For the purposes of sub-paragraph (1) a floating charge qualifies if created by an instrument which—

(a) states that this paragraph applies to the floating charge,

(b) purports to empower the holder of the floating charge to appoint an administrator of the company,

(c) purports to empower the holder of the floating charge to make an appointment which would be the appointment of an administrative receiver within the meaning given by section 29(2), or

(d) purports to empower the holder of a floating charge in Scotland to appoint a receiver who on appointment would be an administrative receiver.

(3) For the purposes of sub-paragraph (1) a person is the holder of a qualifying floating charge in respect of a company’s property if he holds one or more debentures of the company secured—

(a) by a qualifying floating charge which relates to the whole or substantially the whole of the company’s property,

(b) by a number of qualifying floating charges which together relate to the whole or substantially the whole of the company’s property, or

(c) by charges and other forms of security which together relate to the whole or substantially the whole of the company’s property and at least one of which is a qualifying floating charge.

Restrictions on power to appoint

15 (1) A person may not appoint an administrator under paragraph 14 unless—

(a) he has given at least two business days’ written notice to the holder of any prior floating charge which satisfies paragraph 14(2), or
(b) the holder of any prior floating charge which satisfies paragraph 14(2) has consented in writing to the making of the appointment.

(2) One floating charge is prior to another for the purposes of this paragraph if—
   (a) it was created first, or
   (b) it is to be treated as having priority in accordance with an agreement to which the holder of each floating charge was party.

(3) Sub-paragraph (2) shall have effect in relation to Scotland as if the following were substituted for paragraph (a)—
   ("it has priority of ranking in accordance with section 464(4)(b) of the Companies Act 1985 (c. 6), ").

16 An administrator may not be appointed under paragraph 14 while a floating charge on which the appointment relies is not enforceable.

17 An administrator of a company may not be appointed under paragraph 14 if—
   (a) a provisional liquidator of the company has been appointed under section 135, or
   (b) an administrative receiver of the company is in office.

**Notice of appointment**

18 (1) A person who appoints an administrator of a company under paragraph 14 shall file with the court—
   (a) a notice of appointment, and
   (b) such other documents as may be prescribed.

(2) The notice of appointment must include a statutory declaration by or on behalf of the person who makes the appointment—
   (a) that the person is the holder of a qualifying floating charge in respect of the company’s property,
   (b) that each floating charge relied on in making the appointment is (or was) enforceable on the date of the appointment, and
   (c) that the appointment is in accordance with this Schedule.

(3) The notice of appointment must identify the administrator and must be accompanied by a statement by the administrator—
   (a) that he consents to the appointment,
   (b) that in his opinion the purpose of administration is reasonably likely to be achieved, and
   (c) giving such other information and opinions as may be prescribed.

(4) For the purpose of a statement under sub-paragraph (3) an administrator may rely on information supplied by directors of the company (unless he has reason to doubt its accuracy).

(5) The notice of appointment and any document accompanying it must be in the prescribed form.

(6) A statutory declaration under sub-paragraph (2) must be made during the prescribed period.
(7) A person commits an offence if in a statutory declaration under sub-paragraph (2) he makes a statement—
(a) which is false, and
(b) which he does not reasonably believe to be true.

Commencement of appointment
19 The appointment of an administrator under paragraph 14 takes effect when the requirements of paragraph 18 are satisfied.
20 A person who appoints an administrator under paragraph 14—
(a) shall notify the administrator and such other persons as may be prescribed as soon as is reasonably practicable after the requirements of paragraph 18 are satisfied, and
(b) commits an offence if he fails without reasonable excuse to comply with paragraph (a).

Invalid appointment: indemnity
21 (1) This paragraph applies where—
(a) a person purports to appoint an administrator under paragraph 14, and
(b) the appointment is discovered to be invalid.
(2) The court may order the person who purported to make the appointment to indemnify the person appointed against liability which arises solely by reason of the appointment’s invalidity.]
Changes to legislation:
There are currently no known outstanding effects for the Insolvency Act 1986, APPOINTMENT OF ADMINISTRATOR BY HOLDER OF FLOATING CHARGE.