
STATUTORY INSTRUMENTS

2006 No. 622

INSOLVENCY, ENGLAND AND WALES

The Insolvent Partnerships (Amendment) Order 2006

<i>Made - - - - -</i>	<i>7th March 2006</i>
<i>Laid before Parliament</i>	<i>8th March 2006</i>
<i>Coming into force - -</i>	<i>6th April 2006</i>

The Lord Chancellor, in exercise of the powers conferred upon him by section 420 of the Insolvency Act 1986(a), with the concurrence of the Secretary of State, makes the following Order:

Citation, commencement and interpretation

- 1.—(1) This Order may be cited as the Insolvent Partnerships (Amendment) Order 2006 and shall come into force on 6th April 2006 (“the commencement date”).
- (2) In this Order—
- “the Act” means the Insolvency Act 1986; and
 - “the 1994 Order” means the Insolvent Partnerships Order 1994(b).

Transitional provisions

2. The amendments to the 1994 Order set out in this Order do not apply to any insolvency proceedings in relation to an insolvent partnership commenced before the commencement date.

Amendment to Article 8 of the Insolvent Partnerships Order 1994

3. In Article 8(5)(a) omit “(other than section 176A)”.

Amendment to Article 10 of the Insolvent Partnerships Order 1994

4. In Article 10(3)(a) omit “(other than section 176A)”.

Amendment to Schedule 2 to the Insolvent Partnerships Order 1994

- 5.—(1) Schedule 2 to the 1994 Order (modified provisions of Part 2 of, and Schedule B1 to, the Act (Administration) as applied by Article 6) is amended as follows.
- (2)(a) In paragraph 7 of Schedule 2, in modified paragraph 14(2)(b), insert after the words “the partnership,” the word “or”.

(a) 1986 c. 45: section 420 was amended by the Insolvency Act 1986 (Amendment) Regulations 2002, S.I. 2002/1037.
(b) S.I. 1994/2421 as amended by S.I. 1996/1308, 2001/767, 2001/3649, 2002/1308, 2002/1555, 2002/2708 and 2005/1516.

(b) In paragraph 8 of Schedule 2, in modified paragraph 15, for modified paragraph 15(2) substitute—

“(2) For the purposes of this paragraph, one agricultural floating charge is prior to another in accordance with the provisions of section 8(2) of the Agricultural Credits Act 1928(a).”

Amendment to Schedule 3 to the Insolvent Partnerships Order 1994

6. In paragraph 3 of Schedule 3 to the 1994 Order (provisions of the Act which apply with modifications for the purposes of article 7), in modified section 221(6) after “123,” insert “176A,”.

Amendment to Schedule 4 to the Insolvent Partnerships Order 1994

7. In paragraph 3 of Schedule 4 to the 1994 Order (provisions of the Act which apply with modifications for the purposes of article 8), in modified section 221(6) after “154,” insert “176A,”.

Amendment to Schedule 5 to the Insolvent Partnerships Order 1994

8. In paragraph 2 of Schedule 5 to the 1994 Order (provisions of the Act which apply with modifications for the purposes of article 9), in modified section 221(6) after “124(2) and (3),” insert “176A,”.

Amendment to Schedule 6 to the Insolvent Partnerships Order 1994

9. In paragraph 4 of Schedule 6 to the 1994 Order (provisions of the Act which apply with modifications for the purposes of article 10), in modified section 221(6) after “154,” insert “176A,”.

Amendment to Schedule 9 to the Insolvent Partnerships Order 1994

10. In Schedule 9 to the 1994 Order (forms) for Forms 1A and 1B substitute the forms so numbered in the Schedule to this Order.

Falconer of Thoroton
C

3rd March 2006

Gerry Sutcliffe
Parliamentary Under Secretary of State for
Employment Relations and Consumer Affairs
Department of Trade and Industry

7th March 2006

(a) 1928 c. 43.

SCHEDULE

Schedule 2 paragraph 11
Paragraph 22 of Schedule
B1

**NOTICE OF INTENTION TO APPOINT
AN ADMINISTRATOR BY THE
MEMBERS OF THE PARTNERSHIP**

FORM 1A

(a) Insert name of partnership **In the matter of (a)** _____

**(hereinafter referred to as "the partnership") and in the matter of the
Insolvent Partnerships Order 1994**

(b) Insert title of court and number of proceedings (to be allocated by court) **To (b)** _____
No: _____ of _____

(c) Insert name and address of principal place of business of partnership **1. Notice is given that, in respect of (c)** _____
_____ the members of the partnership ("the appointor") intend to appoint

(d) Give name(s) and address(es) of proposed administrator(s) **(d)** _____
_____ as administrator(s) of the partnership.

2. This notice is being given to the following person(s), being person(s) who is/are or may be entitled to appoint an agricultural receiver of the partnership or an administrator of the partnership under paragraph 14 of Schedule B1 to the Insolvency Act 1986.

(e) Insert name and address of each person to whom notice is given **(e)** _____

3. The partnership has not, within the last twelve months:
(i) been in administration
(ii) been the subject of a moratorium under Schedule A1 to the Insolvency Act 1986 which has ended on a date when no voluntary arrangement was in force
(iii) been the subject of a voluntary arrangement which was made during a moratorium for the partnership under Schedule A1 to the Insolvency Act 1986 and which ended prematurely within the meaning of section 7B of the Insolvency Act 1986.

4. In relation to the partnership there is no:
(i) petition for winding up which has been presented but not yet disposed of
(ii) administration application which has not yet been disposed of, or
(iii) agricultural receiver in office.

*Delete as applicable

5. The partnership *is/is not *an insurance undertaking/a credit institution/an investment undertaking providing services involving the holding of funds or securities for third parties/or a collective investment undertaking under Article 1.2 of the EC Regulation.

(f) Insert whether main or territorial proceedings

6. For the following reasons it is considered that the EC Regulation *will/will not apply. If it does apply, these proceedings will be (f) _____ proceedings as defined in Article 3 of the EC Regulations _____

7. Attached to this notice is a copy of the record of the members' decision to appoint an administrator.

(g) Insert name and address of person making declaration

I (g) _____
(if making the declaration on behalf of appointor indicate capacity e.g. partner/solicitor)

hereby do solemnly and sincerely declare that:

- (i) the partnership is unable to pay its debts
 - (ii) the partnership is not in liquidation, and
 - (iii) the statements in paragraph 3 and 4 are, so far as I am able to ascertain, true,
- and that the information provided in this notice is to the best of my knowledge and belief true,

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835

Declared at _____

Signed _____

This _____ day of _____ 20

Note: This form now to be sent to all those required to be sent the form by Rule 2.20(2)

before me _____

A Commissioner for Oaths or Notary Public or Justice of the Peace or Solicitor or Duty Authorised Officer.

Consent of Agricultural Floating Charge Holder to Appointment of Administrator(s)
(Do not detach this part of the notice)

If, having read this notice, you have no objection to the making of this appointment you should complete the details in the box below and return a copy of this notice as soon as possible, and within five business days from receipt of this notice, to the appointor at the following address:

(h) Appointer to insert address

(h) _____

If your consent has not been given within five business days the appointor

may make the appointment notwithstanding that you have not replied.

(j) Insert name and address

(j) _____

being the holder of the following agricultural floating charge over the partnership property:

(k) Give details of charge, date registered and (if any) financial limit

(k) _____

consents to the appointment of the administrator(s) in accordance with the details of this notice.

Signed _____ Dated _____
(If signing on behalf of a firm or company state position or office held)

Endorsement to be completed by court

(l) Insert date and time

This notice was filed (l) _____

**NOTICE OF APPOINTMENT OF AN
ADMINISTRATOR BY THE MEMBERS OF THE
PARTNERSHIP
(where a notice of intention to appoint has not been issued)**

(a) Insert name of
partnership

In the matter of (a)

**(hereinafter referred to as “the partnership”) and in the matter of the
Insolvent Partnerships Order 1994**

(b) Insert title of court and
number of proceedings (to be
allocated by court)

To (b) _____
_____ No: _____ of _____

(c) Insert name and address
of principal place of business
of partnership

1. Notice is given that, in respect of (c) _____

_____ (“the Partnership”)

the members of the partnership (“the appointor”) hereby appoint

(d) Give name(s) and
address(es) of
administrator(s)

(d) _____

as administrator(s) of the partnership.

*Delete as applicable

- 2. The written statement(s) in Form 2.2B * is/are attached.**
- 3. The appointor is entitled to make an appointment under paragraph 22 of Schedule B1 to the Insolvency Act 1986.**
- 4. This appointment is in accordance with Schedule B1 to the Insolvency Act 1986.**
- 5. The partnership has not, within the last twelve months:-**
 - (i) been in administration
 - (ii) been the subject of a moratorium under Schedule A1 to the Insolvency Act 1986 which has ended on a date when no voluntary arrangement was in force
 - (iii) been the subject of a voluntary arrangement which was made during a moratorium for the partnership under Schedule A1 to the Insolvency Act 1986 and which ended prematurely within the meaning of section 7B of the Insolvency Act 1986.

6. In relation to the partnership there is no:

- (i) petition for winding up which has been presented but not yet disposed of
- (ii) administration application which has not yet been disposed of, or
- (iii) agricultural receiver in office.

*Delete as applicable

7. The partnership * is/ is not * an insurance undertaking/a credit institution /an investment undertaking providing services involving the holding of funds or securities for third parties / or a collective investment undertaking under Article 1.2 of the EC Regulation.

(e) Insert whether main or territorial proceedings

8. For the following reasons it is considered that the EC Regulation *will/will not apply. If it does apply, these proceedings will be (e) _____ proceedings as defined in Article 3 of the EC Regulation:

9. Attached to this notice is a copy of the record of the decision of the members of the partnership to appoint an administrator.

10. Where there are joint administrators, a statement for the purposes of paragraph 100(2) of Schedule B1 to the Insolvency Act 1986 is attached.

(f) Insert name and address of person making declaration

I (f) _____
(If making the declaration on behalf of appointor indicate capacity e.g. partner/solicitor)

hereby do solemnly and sincerely declare that:

- (i) the partnership is unable to pay its debts
 - (ii) the partnership is not in liquidation, and
 - (iii) the statements in paragraphs 5 and 6 are, so far as I am able to ascertain, true,
- and the information provided in this notice is to the best of my knowledge and belief true,

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835.

Declared at _____

Signed _____

This _____ day of _____ 20

Before me _____

A Commissioner for Oaths or Notary Public or Justice of the Peace or Solicitor or Duly Authorised Officer

Endorsement to be completed by the court

(g) Insert date and time

This notice was filed (g) _____

EXPLANATORY NOTE

(This note is not part of the Order)

This Order corrects errors in the Insolvent Partnerships (Amendment) Order 2005 (S.I. 2005/1516) which amended the Insolvent Partnerships Order 1994 (S.I. 1994/2421) (“the 1994 Order”).

Articles 3 and 4 remove references to section s176A of the Insolvency Act 1986 which were wrongly inserted into the 1994 Order by the Insolvent Partnerships (Amendment) Order 2005 (S.I. 2005/1516). The correct amendments are at Articles 6, 7, 8 and 9 of this Order.

Article 5(2)(a) clarifies the modification of paragraph 14 of Schedule B1 to the Insolvency Act 1986 made by paragraph 7 of Schedule 2 to the 1994 Order by making it clear that the criteria in the sub-paragraphs of paragraph 1 are cumulative.

Article 5(2)(b) amends paragraph 8 of Schedule 2 to the 1994 Order so as to provide that the priority between agricultural floating charges for the purposes of the appointment of an administrator by the holder of a floating charge as provided for by modified paragraph 15(2) of Schedule B1 to the Insolvency Act 1986 shall be determined in accordance with the provisions of the Agricultural Credits Act 1928 (c. 43).

Articles 6, 7, 8 and 9 amend the application of section 221 of the Insolvency Act 1986 to ensure that the requirement to set aside a “prescribed part” (section 176A of the Insolvency Act 1986) does not apply in the winding up of an insolvent partnership.

Article 10 substitutes revised Forms 1A and 1B as a result of mistakes in those forms as set out in S.I. 2005/1516.

No regulatory impact assessment has been prepared for this Order as it will not impose any significant costs on business.

2006 No. 622

INSOLVENCY, ENGLAND AND WALES

The Insolvent Partnerships (Amendment) Order 2006

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