

COMPANIES ACT

(CHAPTER 50, SECTION 411)

COMPANIES (APPLICATION OF BANKRUPTCY ACT PROVISIONS) REGULATIONS

[15th July 1995]

Citation.

1. These Regulations may be cited as the Companies (Application of Bankruptcy Act Provisions) Regulations.

Definitions.

2. In these Regulations, unless the context otherwise requires —
"associate" means an associate of a person or company as determined in accordance with section 101 of the Bankruptcy Act as modified by regulation 5;

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"person connected with a company" means a person who is —

(a) a director or shadow director of the company or an associate of such a director or shadow director; or

(b) an associate of the company;

"shadow director" has the same meaning as in section 149 (8) of the Act.

Modifications to section 98, 99, 100, 101, 102 and 103 of Bankruptcy Act.

3. For the purposes of sections 227T and 329 of the Act, sections 98, 99, 100, 101, 102 and 103 of the Bankruptcy Act shall be read subject to —

(a) the modifications set out in regulations 4 to 9; and

(b) such textual and other modifications as may be necessary for their application to a company being placed under judicial management or being wound up, as the case may be.

Meaning of “associate”.

4. Any reference to an associate of a person or an individual who has been adjudged bankrupt (except any such reference in section 101 of the Bankruptcy Act) shall be read as a reference to a person connected with a company which has been placed under judicial management or against which a winding-up order has been made, as the case may be.

Associate of a company.

5. In addition to the provisions of section 101 of the Bankruptcy Act by which the question whether a person is an associate of another person is to be determined, a company shall be regarded as an associate of another company if —

(a) the same person has control of both companies, or a person has control of one company and persons who are his associates, or he and persons who are his associates, have control of the other company; or

(b) a group of 2 or more persons has control of each company, and such groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person of whom he is an associate.

Orders under section 98 of Bankruptcy Act.

6. The court shall not make an order referred to in section 98 of the Bankruptcy Act in respect of a transaction at an undervalue if it is satisfied —

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(a) that the company which entered into the transaction did so in good faith and for the purpose of carrying on its business; and

(b) that at the time it did so there were reasonable grounds for believing that the transaction would benefit the company.

Scope of section 99 of Bankruptcy Act.

7. Section 99 of the Bankruptcy Act shall not prejudice the operation of section 331 of the Act.

References to Official Assignee.

8. The references in section 102 (1) (a) and (g) of the Bankruptcy Act to the Official Assignee shall each be read as a reference to the company placed under judicial management or being wound up, as the case may be.

Other available remedies.

9. For the avoidance of doubt, the application of sections 98, 99, 100, 101, 102 and 103 of the Bankruptcy Act (as modified by these Regulations) upon a company being placed under judicial management or being wound up, as the case may be, shall be without prejudice to the availability of any other remedy, including a remedy in respect of a transaction or preference which the company had no power to give.