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SCHEDULES

SCHEDULE 6

Section 19

INSOLVENCY AND COMPANY LAW

VALID FROM 01/10/2015

PART 1

DEEDS OF ARRANGEMENT

Repeal of Deeds of Arrangement Act 1914

- 1 (1) The Deeds of Arrangement Act 1914 is repealed.
- (2) In the Administration of Justice Act 1925, omit section 22 (which concerns registration of deeds of arrangement and is to be construed as one with the Act of 1914).
- 2 (1) The following amendments are made in consequence of paragraph 1.
- (2) In the Public Trustee Act 1906, in section 2(4), omit “, nor any trust under a deed of arrangement for the benefit of creditors”.
- (3) In the Trustee Act 1925, omit section 41(2).
- (4) In the Law of Property Act 1925, in section 43(1), omit “, deed of arrangement”.
- (5) In the Law of Property (Amendment) Act 1926, in section 3(1)—
 - (a) omit “and property subject to a deed of arrangement”;
 - (b) omit “and the trustee under the deed respectively”.
- (6) In the Administration of Justice Act 1965, in Schedule 1, omit the entry for the Deeds of Arrangement Act 1914.
- (7) In the Land Charges Act 1972—
 - (a) omit section 1(1)(d) and (6A)(e);
 - (b) omit section 7;
 - (c) in section 17(1), omit the definition of “deed of arrangement”.
- (8) In the Magistrates' Courts Act 1980, in Schedule 1, omit paragraph 16.
- (9) In the Administration of Justice Act 1985—
 - (a) in section 16(1)(g), omit “or a deed of arrangement for the benefit of his creditors”;
 - (b) in section 17(2)(c), omit “or a deed of arrangement for the benefit of his creditors”.

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- (10) In the Insolvency Act 1985, in Schedule 8, omit paragraph 2.
- (11) In the Insolvency Act 1986—
- (a) omit section 260(3);
 - (b) in section 263(5), omit the words from “This is without prejudice” to the end of the subsection;
 - (c) omit section 263D(6);
 - (d) in section 372(1)—
 - (i) omit paragraph (c) and the “or” before it;
 - (ii) for “, the supervisor of the voluntary arrangement or the trustee under the deed of arrangement” substitute “ or the supervisor of the voluntary arrangement ”;
 - (e) in section 379, omit “, and about proceedings in the course of that year under the Deeds of Arrangement Act 1914”;
 - (f) in section 388(2)(b), omit “a deed of arrangement made for the benefit of his creditors or”;
 - (g) in Schedule 9, in paragraph 24(a), omit “and of jurisdiction under the Deeds of Arrangement Act 1914”;
 - (h) in Schedule 14, omit the entries for the Deeds of Arrangement Act 1914.
- (12) In the Taxation of Chargeable Gains Act 1992, in section 66(5), in the definition of “deed of arrangement”, for the words from “the Deeds of Arrangement Act 1914” to the end of the definition insert “ an enactment forming part of the law of Scotland or Northern Ireland which corresponds to the Deeds of Arrangement Act 1914 applies ”.
- (13) In the Value Added Tax Act 1994, in section 81(4B)(e), omit “the Deeds of Arrangement Act 1914 or”.
- (14) In the Finance Act 2000—
- (a) in Part 6 of Schedule 6, omit paragraph 75(2)(e)(i) and the “or” following it;
 - (b) in Part 10 of Schedule 6, omit paragraph 120(7)(f)(i) and the “or” following it.
- (15) In the Finance Act 2001—
- (a) omit section 37(7)(f)(i) and the “or” following it;
 - (b) in Schedule 8, omit paragraph 11(2)(e)(i) and the “or” following it.
- (16) In the Land Registration Act 2002, in section 87—
- (a) in subsection (1)(b), at the end insert “ and ”;
 - (b) omit subsection (1)(d) and the “and” before it;
 - (c) omit subsection (2)(b) and the “or” before it;
 - (d) omit subsection (5).
- (17) In the Licensing Act 2003, in section 27(3)(c), omit “a deed of arrangement made for the benefit of his creditors or”.
- (18) In the Pensions Act 2004, omit section 121(2)(c).
- (19) In the Constitutional Reform Act 2005—
- (a) in Schedule 4, omit paragraph 19;

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- (b) in Part 2 of Schedule 11, in paragraph 4(3), omit the entry for the Deeds of Arrangement Act 1914.
- (20) In the Tribunals, Courts and Enforcement Act 2007, in Schedule 13, omit paragraph 21.
- (21) In the Finance Act 2008, in section 131(8), in the definition of “deed of arrangement”, omit “the Deeds of Arrangement Act 1914 (c. 47) or”.
- (22) In the Third Parties (Rights against Insurers) Act 2010, omit section 4(1)(a).
- 3 The repeals and other amendments made by paragraphs 1 and 2 are to have no effect in relation to a deed of arrangement registered under section 5 of the Deeds of Arrangement Act 1914 before the date on which paragraph 1 of this Schedule comes into force if, immediately before that date, the estate of the debtor who executed the deed of arrangement has not been finally wound up.

PART 2

ADMINISTRATION OF COMPANIES

VALID FROM 01/10/2015

- 4 Schedule B1 to the Insolvency Act 1986 (administration of companies) is amended in accordance with paragraphs 5 to 7.

Appointment of administrators

- 5 After paragraph 25 (circumstances in which an administrator of a company may not be appointed under paragraph 22) and before the italic cross-heading following paragraph 25 insert—
- “25A(1) Paragraph 25(a) does not prevent the appointment of an administrator of a company if the petition for the winding up of the company was presented after the person proposing to make the appointment filed the notice of intention to appoint with the court under paragraph 27.
- (2) But sub-paragraph (1) does not apply if the petition was presented under a provision mentioned in paragraph 42(4).”

VALID FROM 01/10/2015

- 6 In paragraph 26 (notice by company, or directors of company, of intention to appoint administrator), in sub-paragraph (2) (requirement to give additional notice), for “proposes to make an appointment under paragraph 22” substitute “gives notice of intention to appoint under sub-paragraph (1) ”.

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Release of administrator where no distribution to unsecured creditors other than by virtue of section 176A(2)(a)

- 7 (1) Paragraph 98 (vacation of office of administrator: discharge from liability) is amended as follows.
- (2) In sub-paragraph (2)(b) (when discharge takes effect in case of administrator appointed under paragraph 14 or 22), after “22” insert “ who has not made a statement under paragraph 52(1)(b) ”.
- (3) In sub-paragraph (2), after paragraph (b) (but before the “or” following it) insert—
“(ba) in the case of an administrator appointed under paragraph 14 or 22 who has made a statement under paragraph 52(1)(b), at a time decided by the relevant creditors,”.
- (4) In sub-paragraph (3)—
(a) for the words before paragraph (a) substitute “ For the purposes of sub-paragraph (2)(ba), the “relevant creditors” of a company are— ”;
(b) in paragraph (b), for “give or withhold approval” substitute “ decide on the time of discharge ”.

VALID FROM 01/10/2015

PART 3

WINDING UP OF COMPANIES

- 8 Part 4 of the Insolvency Act 1986 (winding up of companies registered under the Companies Acts) is amended in accordance with paragraphs 9 and 10.

Removal of power of court to order payment into Bank of England of money due to company

- 9 Omit section 151 (payment into bank of money due to company).

Release of liquidator where winding-up order rescinded

- 10 In section 174 (release of liquidator of company being wound up by the court), after subsection (4) insert—
“(4A) Where a winding-up order made by the court in England and Wales is rescinded, the person (whether the official receiver or another person) who is the liquidator of the company at the time the order is rescinded has his release with effect from such time as the court may determine.”

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VALID FROM 01/10/2015

PART 4

DISQUALIFICATION OF UNFIT DIRECTORS OF INSOLVENT COMPANIES

Application for making of disqualification order: power to require information

- 11
- (1) In section 7 of the Company Directors Disqualification Act 1986 (disqualification order or undertaking; and reporting provisions), subsection (4) (power of Secretary of State or official receiver to require information) is amended as follows.
 - (2) In the words before paragraph (a), for the words from “the liquidator” to “or administrative receiver of a company” (in the second place they occur) substitute “any person”.
 - (3) In paragraph (a), for the words from “any person's conduct” to the end of the paragraph substitute “that person's or another person's conduct as a director of a company which has at any time become insolvent (whether while the person was a director or subsequently), and”.
 - (4) In paragraph (b), for the words from “relevant to” to the end of the paragraph substitute “as are considered by the Secretary of State or (as the case may be) the official receiver to be relevant to that person's or another person's conduct as such a director”.

PART 5

BANKRUPTCY

VALID FROM 01/10/2015

- 12
- Part 9 of the Insolvency Act 1986 (bankruptcy) is amended in accordance with paragraphs 13 to 16.

VALID FROM 06/04/2017

Appointment of insolvency practitioner as interim receiver

- 13
- (1) In section 286(1) (power of court to appoint interim receiver if necessary for protection of debtor's property), after “official receiver” insert “or an insolvency practitioner”.
 - (2) If sub-paragraph (1) comes into force before the coming into force of the repeal of subsection (2) of section 286 by paragraph 17(2) of Schedule 19 to the Enterprise and Regulatory Reform Act 2013, that subsection is to have effect (until the repeal comes into force) as if for “, instead of the official receiver,” there were substituted “, another insolvency practitioner or the official receiver”.

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- 14 (1) Section 370 (power to appoint special manager) is amended as follows.
- (2) In subsection (1)(c) (power of court to appoint person to be special manager of property or business of debtor in whose case an interim receiver has been appointed under section 286), for “the official receiver has been appointed interim receiver” substitute “ an interim receiver has been appointed ”.
- (3) In subsection (2) (who may apply for the appointment of a special manager), for “official receiver” (in both places where it occurs) substitute “ interim receiver ”.

VALID FROM 06/04/2017

Statement of affairs

- 15 (1) Section 288 (statement of affairs) is amended as follows.
- (2) In subsection (1) (duty of bankrupt to submit statement of affairs), for the words from “the bankrupt shall submit” to the end of the subsection substitute “ the official receiver may at any time before the discharge of the bankrupt require the bankrupt to submit to the official receiver a statement of affairs. ”
- (3) After subsection (2) insert—
- “(2A) Where a bankrupt is required under subsection (1) to submit a statement of affairs to the official receiver, the bankrupt shall do so (subject to subsection (3)) before the end of the period of 21 days beginning with the day after that on which the prescribed notice of the requirement is given to the bankrupt by the official receiver.”
- (4) In subsection (3)(a) (power of official receiver to release bankrupt from duty under subsection (1)), for “the bankrupt from his duty” substitute “ a bankrupt from an obligation imposed on the bankrupt ”.
- (5) For subsection (3)(b) (power of official receiver to extend period for submitting statement of affairs) substitute—
- “(b) either when giving the notice mentioned in subsection (2A) or subsequently, extend the period mentioned in that subsection.”.
- (6) In subsection (4)(a) (offence of failing to comply with obligation to submit statement of affairs), for “the obligation imposed by” substitute “ an obligation imposed under ”.

VALID FROM 01/10/2015

After-acquired property of bankrupt

- 16 (1) Section 307 (power of trustee in bankruptcy to claim, for the bankrupt's estate, property which has been acquired by, or has devolved upon, the bankrupt after commencement of the bankruptcy) is amended as follows.
- (2) In subsection (3) (property to vest in trustee on service of notice on bankrupt), for “Subject to the next subsection” substitute “ Subject to subsections (4) and (4A) ”.

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- (3) In subsection (4) (trustee not entitled to remedy against certain persons and certain bankers)—
- (a) in the words before paragraph (a), after “service” insert “ on the bankrupt ”;
 - (b) omit paragraph (b) (which makes provision about bankers) and the “or” at the end of paragraph (a);
 - (c) in the words after paragraph (b)—
 - (i) omit “or transaction”;
 - (ii) omit “or banker” (in both places where they occur).
- (4) After subsection (4) insert—
- “(4A) Where a banker enters into a transaction before service on the banker of a notice under this section (and whether before or after service on the bankrupt of a notice under this section) the trustee is not in respect of that transaction entitled by virtue of this section to any remedy against the banker.
- This subsection applies whether or not the banker has notice of the bankruptcy.”

VALID FROM 01/10/2015

PART 6

AUTHORISATION OF INSOLVENCY PRACTITIONERS

- 17 Part 13 of the Insolvency Act 1986 (insolvency practitioners and their qualification) is amended in accordance with paragraphs 18, 19 and 21.

Repeal of provision for authorisation of nominees and supervisors in relation to voluntary arrangements

- 18 Omit section 389(1A) (acting without qualification not an offence if authorised under section 389A).
- 19 Omit section 389A (authorisation of nominees and supervisors).
- 20 (1) The following repeals are made in consequence of paragraphs 18 and 19.
- (2) In the Insolvency Act 1986—
- (a) in section 1(2), omit “or authorised to act as nominee,”;
 - (b) in section 2(4), omit “, or authorised to act as nominee,”;
 - (c) in section 4(2), omit “or authorised to act as nominee,”;
 - (d) in section 7(5), omit “or authorised to act as supervisor,”;
 - (e) in Schedule A1—
 - (i) in paragraph 28(1), omit “, or authorised to act as nominee,”;
 - (ii) in paragraph 31(2), omit “, or authorised to act as nominee,”;
 - (iii) in paragraph 33(1), omit “, or authorised to act as nominee,”;
 - (iv) in paragraph 39(6), omit “, or authorised to act as supervisor,”.

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- (3) In the Insolvency Act 2000, omit section 4(3) and (4).
- (4) In Schedule 6 to the Mental Capacity Act 2005, omit paragraph 31(2).
- Repeal of provision for authorisation of insolvency practitioners to be granted by competent authority*
- 21 Omit sections 392 to 398 and Schedule 7 (procedure for authorisation by competent authority, including provision for reference to Insolvency Practitioners Tribunal).
- 22 (1) The following repeals are made in consequence of paragraph 21.
- (2) In the Parliamentary Commissioner Act 1967, in Schedule 4, omit the entry for the Insolvency Practitioners Tribunal.
- (3) In the Northern Ireland Assembly Disqualification Act 1975, in Part 3 of Schedule 1, omit the entry for any member of the Insolvency Practitioners Tribunal in receipt of remuneration.
- (4) In the Companies Act 1985, in Schedule 15D, omit paragraph 37.
- (5) In the Insolvency Act 1986—
- (a) omit section 415A(2);
- (b) in Schedule 10, omit the entry for paragraph 4(3) of Schedule 7.
- (6) In the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), omit Article 349(2)(c) and the “or” before it.
- (7) In the Courts and Legal Services Act 1990, in Schedule 10, omit paragraph 67.
- (8) In the Tribunals and Inquiries Act 1992—
- (a) in Part 1 of Schedule 1, omit the entry for insolvency practitioners;
- (b) in Schedule 3, omit paragraph 19.
- (9) In the Railways Act 1993, omit section 145(2)(b)(ix) (but not the “or” following it).
- (10) In the Greater London Authority Act 1999, omit section 235(2)(c)(ix) (but not the “or” following it).
- (11) In the Utilities Act 2000, omit section 105(5)(j).
- (12) In the Transport Act 2000, in Schedule 9, omit paragraph 3(2)(l).
- (13) In the Enterprise Act 2002, omit section 270(3).
- (14) In the Constitutional Reform Act 2005, in Part 3 of Schedule 14, omit the entry for a member of the Insolvency Practitioners Tribunal panel.
- (15) In the Companies Act 2006—
- (a) in Schedule 2, in Part 2, in Section (A) (United Kingdom), omit paragraph 18;
- (b) in Schedule 11A, omit paragraph 64.
- (16) In the Tribunals, Courts and Enforcement Act 2007—
- (a) in Part 4 of Schedule 6, omit the entry for the Insolvency Practitioners Tribunal;

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- (b) in Schedule 10, omit paragraph 19.
- (17) In the Civil Aviation Act 2012, in Schedule 6, in paragraph 4(2), omit the entry for the Insolvency Practitioners Tribunal.
- 23 (1) For the purposes of this paragraph—
the “commencement date” is the date on which paragraph 21 of this Schedule comes into force;
the “transitional period” is the period of 1 year beginning with the commencement date.
- (2) Where, immediately before the commencement date, a person holds an authorisation granted under section 393 of the Insolvency Act 1986, section 393(3A) to (6) of that Act together with, for the purposes of this sub-paragraph, paragraphs (a) and (b) of section 393(2) of that Act (which are repealed by paragraph 21) continue to have effect in relation to the person and the authorisation during the transitional period.
- (3) During the transitional period, a person to whom sub-paragraph (2) applies is to be treated for the purposes of Part 13 of the Insolvency Act 1986 as fully authorised under section 390A of that Act (as inserted by section 17(3) of this Act) to act as an insolvency practitioner unless and until the person's authorisation is (by virtue of sub-paragraph (2)) withdrawn.
- (4) Where, immediately before the commencement date, a person has applied under section 392 of the Insolvency Act 1986 for authorisation to act as an insolvency practitioner and the application has not been granted, refused or withdrawn, sections 392(4) to (7) and 393(1) and (2) of that Act (which are repealed by paragraph 21) continue to have effect in relation to the person and the application during the transitional period.
- (5) Where, during the transitional period, an authorisation is (by virtue of sub-paragraph (4)) granted under section 393 of the Insolvency Act 1986, sub-paragraphs (2) and (3) above apply as if—
(a) the authorisation had been granted immediately before the commencement date;
(b) in sub-paragraph (2), the reference to section 393(3A) to (6) were a reference to section 393(4) to (6).
- (6) For the purposes of sub-paragraphs (2) and (4), sections 394 to 398 of, and Schedule 7 to, the Insolvency Act 1986 (which are repealed by paragraph 21) continue to have effect during the transitional period.

PART 7

LIABILITIES OF ADMINISTRATORS AND ADMINISTRATIVE RECEIVERS OF COMPANIES AND PREFERENTIAL DEBTS OF COMPANIES AND INDIVIDUALS

Treatment of liabilities relating to contracts of employment

- 24 The Insolvency Act 1986 is amended in accordance with paragraphs 25 to 28.

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- 25 In section 19 (vacation of office by administrator), as continued in force by virtue of section 249(1) of the Enterprise Act 2002 (special administration regimes), omit subsection (10) (what “wages or salary” includes for the purposes of subsection (9) (a)).
- 26 In section 44 (receivership: agency and liability for contracts), omit subsection (2D) (what “wages or salary” includes for the purposes of subsection (2C)(a)).
- 27 In Schedule B1 (administration of companies), in paragraph 99 (vacation of office by administrator: charges and liabilities), omit sub-paragraph (6)(d) (what “wages or salary” includes for the purposes of sub-paragraph (5)(c)) but not the “and” following it.
- 28 In Schedule 6 (categories of preferential debt), in paragraph 15 (what “wages or salary” includes for the purposes of determining what is a category 5 preferential debt), omit paragraph (b) and the “and” before it.

PART 8

REQUIREMENTS OF COMPANY LAW: PROXIES

Proxies at a poll taken 48 hours or less after it was demanded

- 29 In section 327(2) of the Companies Act 2006 (which regulates the period of notice required for the appointment of a proxy), omit paragraph (c).
- 30 In section 330(6) of that Act (which regulates the period of notice required for the termination of a proxy's authority), omit paragraph (c).

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