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SCHEDULES

SCHEDULE 4

Article 346.

THE CATEGORIES OF PREFERENTIAL DEBTS

Category 1: Debts due to Inland Revenue

1. ^{F1}

F1 Sch. 4 paras. 1 - 2 repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(a), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

2. ^{F2}

F2 Sch. 4 paras. 1 - 2 repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(a), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

Category 2: Debts due to Customs and Excise

3. ^{F3}

F3 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

3A. ^{F4}

F4 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

3B. ^{F5}

F5 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

3C. ^{F6}

F6 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

4. ^{F7}

F7 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

5. ^{F8}

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F8 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

5A. ^{F9}

F9 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

5B. ^{F10}

F10 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

5C. ^{F11}

F11 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

Category 3: Social security contributions

6. ^{F12}

F12 Sch. 4 paras. 6 - 7 repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(c), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

7. ^{F13}

F13 Sch. 4 paras. 6 - 7 repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(c), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

Category 4: Contributions to occupational pension schemes, etc.

8. Any sum which is owed by the debtor and is a sum to which^{F14} Schedule 3 to the Pension Schemes (Northern Ireland) Act 1993] applies (contributions to occupational pension schemes and state scheme premiums).

F14 1993 c. 49

Category 5: Remuneration, etc., of employees

9. So much of any amount which—

- (a) is owed by the debtor to a person who is or has been an employee of the debtor, and
- (b) is payable by way of remuneration in respect of the whole or any part of the period of 4 months next before the relevant date,

as does not exceed so much as may be specified in an order made by the Department.

10. An amount owed by way of accrued holiday remuneration, in respect of any period of employment before the relevant date, to a person whose employment by the debtor has been terminated, whether before, on or after that date.

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11. So much of any sum owed in respect of money advanced for the purpose as has been applied for the payment of a debt which, if it had not been paid, would have been a debt falling within paragraph 9 or 10.

12. So much of any amount which—

- (a) is ordered (whether before or after the relevant date) to be paid by the debtor under the Reserve Forces (Safeguard of Employment) Act 1985^{F15}, and
- (b) is so ordered in respect of a default made by the debtor before that date in the discharge of his obligations under that Act,

as does not exceed such amount as may be specified in an order made by the Department.

F15 1985 c. 17

Interpretation for Category 5

13.—(1) For the purposes of paragraphs 9 to 12, a sum is payable by the debtor to a person by way of remuneration in respect of any period if—

- (a) it is paid as wages or salary (whether payable for time or for piece work or earned wholly or partly by way of commission) in respect of services rendered to the debtor in that period, or
- (b) it is an amount falling within sub#paragraph (2) and is payable by the debtor in respect of that period.

[^{F16}(2) An amount falls within this sub#paragraph if it is—

- (a) a guarantee payment under Part V of the Employment Rights (Northern Ireland) Order 1996 (employee without work to do);
- (b) any payment for time off under Article 81 (time off to look for work or arrange training), Article 84 (time off for ante#natal care) or Article 93 (time off for carrying out trade union duties etc.) of that Order;
- (c) remuneration on suspension on medical grounds, or on maternity grounds, under Part VIII of that Order; or
- (d) remuneration under a protective award made under Article 217 of that Order (redundancy dismissal with compensation).]

F16 1996 NI 16

14.—(1) This paragraph relates to a case in which a person's employment has been terminated by or in consequence of his employer going into liquidation or being adjudged bankrupt (his employer being a company not in liquidation) by or in consequence of—

- (a) a receiver being appointed as mentioned in Article 50 (debenture#holders secured by floating charge), or
- (b) the taking of possession by debenture#holder (so secured), as mentioned in [^{F17}section 754 of the Companies Act 2006].

(2) For the purposes of paragraphs 9 to 12, holiday remuneration is deemed to have accrued to that person in respect of any period of employment if, by virtue of his contract of employment or of any statutory provision, that remuneration would have accrued in respect of that period if his employment had continued until he became entitled to be allowed the holiday.

(3) The reference in sub#paragraph (2) to any statutory provision includes an order or direction made under a statutory provision.

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F17 Words in Sch. 4 para. 14(1)(b) substituted (6.4.2008) by Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1)(b), Sch. 1 para. 170 (with arts. 6, 11, 12)

15. Without prejudice to paragraphs 13 and 14—

- (a) any remuneration payable by the debtor to a person in respect of a period of holiday or of absence from work through sickness or other good cause is deemed to be wages or (as the case may be) salary in respect of services rendered to the debtor in that period, ^{F18}...

^{F18}(b)

F18 Sch. 4 para. 15(b) and word repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), ss. 10(5), 28(2), Sch. 4; S.R. 2016/203, art. 2

Orders under Category 5

16. An order under paragraph 9 or 12—

- (a) may contain such transitional provisions as may appear to the Department necessary or expedient;
- (b) shall be subject to negative resolution.

Category 6: Levies on coal and steel production

17. Any sums due at the relevant date from the debtor in respect of—

- (a) the levies on the production of coal and steel referred to in Articles 49 and 50 of the E.C.S.C. Treaty, or
- (b) any surcharge for delay provided for in Article 50(3) of that Treaty and Article 6 of Decision 3/52 of the High Authority of the Coal and Steel Community.

[^{F19}Category 6A: Debts owed to the Financial Services Compensation Scheme

F19 Sch. 4 para. 17A and cross-heading inserted (26.3.2015) by The Deposit Guarantee Scheme Regulations 2015 (S.I. 2015/486), regs. 1(2), 15(3)(a)

17A. Any debt owed by the debtor to the scheme manager of the Financial Services Compensation Scheme under section 215(2A) of the Financial Services and Markets Act 2000.]

[^{F20}Category 7: Deposits covered by Financial Services Compensation Scheme

F20 Sch. 4 paras. 18-21 inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), 23 (with art. 3)

18. So much of any amount owed at the relevant date by the debtor in respect of an eligible deposit as does not exceed the compensation that would be payable in respect of the deposit under the Financial Services Compensation Scheme to the person or persons to whom the amount is owed.]

[^{F20}Category 8: Other deposits

19. So much of any amount owed at the relevant date by the debtor to one or more eligible persons in respect of an eligible deposit as exceeds any compensation that would be payable in respect of the deposit under the Financial Services Compensation Scheme to that person or those persons.

20. An amount owed at the relevant date by the debtor to one or more eligible persons in respect of a deposit that—

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- (a) was made through a non-EEA branch of a credit institution authorised by the competent authority of an EEA state, and
- (b) would have been an eligible deposit if it had been made through an EEA branch of that credit institution.]

[^{F20}Interpretation for Categories [^{F21}6A, 7 and 8]

F21 Words in Sch. 4 para. 21 heading substituted (26.3.2015) by [The Deposit Guarantee Scheme Regulations 2015 \(S.I. 2015/486\)](#), regs. 1(2), **15(3)(b)**

21.—[

^{F22}(A1) In paragraph 17A “the scheme manager” has the meaning given in section 212(1) of the Financial Services and Markets Act 2000.]

(1) In paragraphs 18 to 20 “eligible deposit” means a deposit in respect of which the person, or any of the persons, to whom it is owed would be eligible for compensation under the Financial Services Compensation Scheme.

(2) For the purposes of those paragraphs and this paragraph a “deposit” means rights of the kind described in—

- (a) paragraph 22 of Schedule 2 to the Financial Services and Markets Act 2000 (deposits), or
- (b) section 1(2)(b) of the Dormant Banks and Building Society Accounts Act 2008 (balances transferred under that Act to authorised reclaim fund).

(3) In paragraphs 19 and 20, “eligible person” means—

- (a) an individual, or
- (b) a micro-enterprise, a small enterprise or medium-sized enterprise, each of those terms having the meaning given in Article 2.1(107) of the Directive 2014/59/EU of 15th May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.

(4) In paragraph 20—

- (a) “credit institution” has the meaning given in Article 4.1(1) of the capital requirements regulation;
- (b) “EEA branch” means a branch, as defined in Article 4.1(17) of the capital requirements regulation, which is established in an EEA state;
- (c) “non-EEA branch” means a branch, as so defined, which is established in a country which is not an EEA state;

and for this purpose “the capital requirements regulation” means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26th June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.]

F22 Sch. 4 para. 21(A1) inserted (26.3.2015) by [The Deposit Guarantee Scheme Regulations 2015 \(S.I. 2015/486\)](#), regs. 1(2), **15(3)(c)**

[^{F23}Category 9: Certain HMRC debts

F23 Sch. 4 para. 22 and cross-heading inserted (with application in accordance with s. 98(7) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), s. **98(6)**

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22.—(1) Any amount owed at the relevant date by the debtor to the Commissioners in respect of—

- (a) value added tax, or
- (b) a relevant deduction.

(2) In sub-paragraph (1), the reference to “any amount” is subject to any regulations under section 99(1) of the Finance Act 2020.

(3) For the purposes of sub-paragraph (1)(b) a deduction is “relevant” if—

- (a) the debtor is required, by virtue of an enactment, to make the deduction from a payment made to another person and to pay an amount to the Commissioners on account of the deduction,
- (b) the payment to the Commissioners is credited against any liabilities of the other person, and
- (c) the deduction is of a kind specified in regulations under section 99(3) of the Finance Act 2020.

(4) In this paragraph “the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs.]

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