

Status: Point in time view as at 06/04/2016.

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SCHEDULES

SCHEDULE 8 **E+W+S**

Section 411.

PROVISIONS CAPABLE OF INCLUSION IN COMPANY INSOLVENCY RULES

Modifications etc. (not altering text)

- C1** Sch. 8 applied (with modifications) (S.) (6.4.2001 to the extent that that Sch. does not apply to voluntary arrangements or administrations within the meaning of Pts. I, II of the Act) by S.S.I. 2001/128, reg. 4(1), Sch. 2

Courts

- 1 Provision for supplementing, in relation to the insolvency or winding up of companies, any provision made by or under section 117 of this Act (jurisdiction in relation to winding up).
- 2 (1) Provision for regulating the practice and procedure of any court exercising jurisdiction for the purposes of Parts I to VII of this Act or [^{F1}the Companies Acts] so far as relating to, and to matters connected with or arising out of, the insolvency or winding up of companies, being any provision that could be made by rules of court.

[^{F2}(2) Rules made by virtue of this paragraph about the consequence of failure to comply with practice or procedure may, in particular, include provision about the termination of administration.]

Textual Amendments

- F1** Words in Sch. 8 para. 2(1) substituted (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 10(1), Sch. 4 para. 44 (with art. 12)
- F2** Sch. 8 para. 2 renumbered as Sch. 8 para. 2(1) and Sch. 8 para. 2(2) inserted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 38(2) (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))

Notices, etc.

- 3 Provision requiring notice of any proceedings in connection with or arising out of the insolvency or winding up of a company to be given or published in the manner prescribed by the rules.
- 4 Provision with respect to the form, manner of serving, contents and proof of any petition, application, order, notice, statement or other document required to be presented, made, given, published or prepared under any enactment or subordinate legislation relating to, or to matters connected with or arising out of, the insolvency or winding up of companies.

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- 5 Provision specifying the persons to whom any notice is to be given.
- [^{F3}5A Provision for enabling a creditor of a company to elect to be, or to cease to be, an opted-out creditor in relation to an office-holder of the company (within the meaning of section 248A), including, in particular, provision—
- (a) for requiring an office-holder to provide information to creditors about how they may elect to be, or cease to be, opted-out creditors;
 - (b) for deeming an election to be, or cease to be, an opted-out creditor in relation to a particular office-holder of a company to be such an election also in relation to any other office-holder of the company.]

Textual Amendments

- F3** Sch. 8 para. 5A inserted (26.5.2015 for specified purposes) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), ss. **124(5)**, 164(1); S.I. 2015/1329, reg. 3(d)

Registration of voluntary arrangements

- 6 Provision for the registration of voluntary arrangements approved under Part I of this Act, including provision for the keeping and inspection of a register.

Provisional liquidator

- 7 Provision as to the manner in which a provisional liquidator appointed under section 135 is to carry out his functions.

Conduct of insolvency

- 8 Provision with respect to the certification of any person as, and as to the proof that a person is, the liquidator, administrator or administrative receiver of a company.
- [^{F4}8A (1) Provision about the making of decisions by creditors and contributories, including provision—
- (a) prescribing particular procedures by which creditors and contributories may make decisions;
 - (b) authorising the use of other procedures for creditors and contributories to make decisions, if those procedures comply with prescribed requirements.
- (2) Provision under sub-paragraph (1) may in particular include provision about—
- (a) how creditors and contributories may request that a creditors' meeting or a contributories' meeting be held,
 - (b) the rights of creditors, contributories and others to be given notice of, and participate in, procedures,
 - (c) creditors' and contributories' rights to vote in procedures,
 - (d) the period within which any right to participate or vote is to be exercised,
 - (e) the proportion of creditors or contributories that must vote for a proposal for it to be approved,
 - (f) how the value of any debt or contribution should be determined,
 - (g) the time at which decisions taken by a procedure are to be treated as having been made.]

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Textual Amendments

F4 Sch. 8 para. 8A inserted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), ss. 122\(3\), 164\(1\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(a) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(a) (with reg. 5)

- 9 The following provision with respect to meetings of a company's creditors, contributories or members—
- (a) provision as to the manner of summoning a meeting (including provision as to how any power to require a meeting is to be exercised, provision as to the manner of determining the value of any debt or contribution for the purposes of any such power and provision making the exercise of any such power subject to the deposit of a sum sufficient to cover the expenses likely to be incurred in summoning and holding a meeting);
 - (b) provision specifying the time and place at which a meeting may be held and the period of notice required for a meeting;
 - (c) provision as to the procedure to be followed at a meeting (including the manner in which decisions may be reached by a meeting and the manner in which the value of any vote at a meeting is to be determined);
 - (d) provision for requiring a person who is or has been an officer of the company to attend a meeting;
 - (e) provision creating, in the prescribed circumstances, a presumption that a meeting has been duly summoned and held;
 - (f) provision as to the manner of proving the decisions of a meeting.
- [^{F5}9A Provision about how a company's creditors may nominate a person to be liquidator, including in the case of a voluntary winding up provision conferring functions on the directors of the company.]

Textual Amendments

F5 Sch. 8 para. 9A inserted (26.5.2015 for specified purposes) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 9 para. 58](#); S.I. 2015/1329, reg. 3(d)

- 10 (1) Provision as to the [^{F6}establishment,] functions, membership and proceedings of a committee [^{F7}established under][^{F7}provided for by][^{F8}section 49, 68, 101, 141 or 142 of, or paragraph 57 of Schedule B1 to, this Act].
- (2) The following provision with respect to the establishment of a committee under section 101, 141 or 142 of this Act, that is to say—
- (a) provision for resolving differences between [^{F9}a meeting of] the company's creditors and [^{F9}a meeting of] its contributories or members;
 - (b) provision authorising the establishment of the committee without [^{F10}a meeting of][^{F10}seeking a decision from] contributories in a case where a company is being wound up on grounds including its inability to pay its debts; and
 - (c) provision modifying the requirements of this Act with respect to the establishment of the committee in a case where a winding-up order has been made immediately upon the discharge of an administration order.

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Textual Amendments

- F6** Word in Sch. 8 para. 10(1) inserted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 9 para. 59\(2\)\(a\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)
- F7** Words in Sch. 8 para. 10(1) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 9 para. 59\(2\)\(b\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)
- F8** Words in Sch. 8 para. 10 substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 38(3) (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))
- F9** Words in Sch. 8 para. 10(2)(a) omitted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 9 para. 59\(3\)\(a\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)
- F10** Words in Sch. 8 para. 10(2)(b) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 9 para. 59\(3\)\(b\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

- 11 Provision as to the manner in which any requirement that may be imposed on a person under any of Parts I to VII of this Act by the official receiver, the liquidator, administrator or administrative receiver of a company or a special manager appointed under section 177 is to be so imposed.
- 12 Provision as to the debts that may be proved in a winding up, as to the manner and conditions of proving a debt and as to the manner and expenses of establishing the value of any debt or security.
- 13 Provision with respect to the manner of the distribution of the property of a company that is being wound up, including provision with respect to unclaimed funds and dividends.
- [^{F11}13A Provision for a creditor who has not proved a small debt to be treated as having done so for purposes relating to the distribution of a company's property (and for provisions of, or contained in legislation made under, this Act to apply accordingly).]

Textual Amendments

- F11** [Sch. 8 para. 13A](#) inserted (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), ss. 131, 164(3)(i)(iii)

- 14 Provision which, with or without modifications, applies in relation to the winding up of companies any enactment contained in Parts VIII to XI of this Act or in the ^{M1}Bankruptcy (Scotland) Act 1985.

Marginal Citations

- M1** 1985 c. 66.

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- [^{F12}14A Provision about the application of section 176A of this Act which may include, in particular—
- (a) provision enabling a receiver to institute winding up proceedings;
 - (b) provision requiring a receiver to institute winding up proceedings.]

Textual Amendments

F12 Sch. 8 para. 14A inserted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 38(4) (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))

Administration

- [^{F13}14B Provision which—
- (a) applies in relation to administration, with or without modifications, a provision of Parts IV to VII of this Act, or
 - (b) serves a purpose in relation to administration similar to a purpose that may be served by the rules in relation to winding up by virtue of a provision of this Schedule.]

Textual Amendments

F13 Sch. 8 para. 14B inserted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 38(5) (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))

Financial provisions

- 15 Provision as to the amount, or manner of determining the amount, payable to the liquidator, administrator or administrative receiver of a company or a special manager appointed under section 177, by way of remuneration for the carrying out of functions in connection with or arising out of the insolvency or winding up of a company.
- 16 Provision with respect to the manner in which moneys received by the liquidator of a company in the course of carrying out his functions as such are to be invested or otherwise handled and with respect to the payment of interest on sums which, in pursuance of rules made by virtue of this paragraph, have been paid into the Insolvency Services Account.
- [^{F14}16A Provision enabling the Secretary of State to set the rate of interest paid on sums which have been paid into the Insolvency Services Account.]

Textual Amendments

F14 S. 16A inserted (18.12.2003) by 2002 c. 40, ss. 271(1), 279 (with s. 249(6)); S.I. 2003/3340, art. 3

- 17 Provision as to the fees, costs, charges and other expenses that may be treated as the expenses of a winding up.
- 18 Provision as to the fees, costs, charges and other expenses that may be treated as properly incurred by the administrator or administrative receiver of a company.

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- 19 Provision as to the fees, costs, charges and other expenses that may be incurred for any of the purposes of Part I of this Act or in the administration of any voluntary arrangement approved under that Part.

Information and records

- 20 Provision requiring registrars and other officers of courts having jurisdiction in England and Wales in relation to, or to matters connected with or arising out of, the insolvency or winding up of companies—

- (a) to keep books and other records with respect to the exercise of that jurisdiction, and
- (b) to make returns to the Secretary of State of the business of those courts.

- 21 Provision requiring a creditor, member or contributory, or such a committee as is mentioned in paragraph 10 above, to be supplied (on payment in prescribed cases of the prescribed fee) with such information and with copies of such documents as may be prescribed.

- 22 Provision as to the manner in which public examinations under section 133 and 134 of this Act and proceedings under sections 236 and 237 are to be conducted, as to the circumstances in which records of such examinations or proceedings are to be made available to prescribed persons and as to the costs of such examinations and proceedings.

- 23 Provision imposing requirements with respect to—

- (a) the preparation and keeping by the liquidator, administrator or administrative receiver of a company, or by the supervisor of a voluntary arrangement approved under Part I of this Act, of prescribed books, accounts and other records;
- (b) the production of those books, accounts and records for inspection by prescribed persons;
- (c) the auditing of accounts kept by the liquidator, administrator or administrative receiver of a company, or the supervisor of such a voluntary arrangement; and
- (d) the issue by the administrator or administrative receiver of a company of such a certificate as is mentioned in section 22(3)(b) of the ^{M2}Value Added Tax Act 1983 (refund of tax in cases of bad debts) and the supply of copies of the certificate to creditors of the company.

Marginal Citations

M2 1983 c. 55.

- 24 Provision requiring the person who is the supervisor of a voluntary arrangement approved under Part I, when it appears to him that the voluntary arrangement has been fully implemented and that nothing remains to be done by him under the arrangement—

- (a) to give notice of that fact to persons bound by the voluntary arrangement, and
- (b) to report to those persons on the carrying out of the functions conferred on the supervisor of the arrangement.

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- 25 Provision as to the manner in which the liquidator of a company is to act in relation to the books, papers and other records of the company, including provision authorising their disposal.
- 26 Provision imposing requirements in connection with the carrying out of functions under section [F157A] of the M3 Company Directors Disqualification Act 1986 (including, in particular, requirements with respect to the making of periodic returns).

Textual Amendments

- F15** Word in Sch. 8 para. 26 substituted (6.4.2016) by [The Enterprise and Regulatory Reform Act 2013 \(Consequential Amendments\) \(Bankruptcy\)](#) and the [Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/481\)](#), regs. 1, 3

Marginal Citations

- M3** 1986 c. 46.

General

- 27 Provision conferring power on the Secretary of State [F16 or the Treasury] to make regulations with respect to so much of any matter that may be provided for in the rules as relates to the carrying out of the functions of the liquidator, administrator or administrative receiver of a company.

Textual Amendments

- F16** Words in Sch. 8 para. 27 substituted (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), ss. 125(7), 263(1)(2) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch. para. 2

- 28 Provision conferring a discretion on the court.
- 29 Provision conferring power on the court to make orders for the purpose of securing compliance with obligations imposed by or under [F17 section 47, 66, 131, 143(2) or 235 of, or paragraph 47 of Schedule B1 to, this Act] or section 7(4) of the Company Directors Disqualification Act 1986.

Textual Amendments

- F17** Words in Sch. 8 para. 29 substituted (15.9.2003) by [2002 c. 40](#), ss. 248(3), 279, Sch. 17 para. 38(6) (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))

- 30 Provision making non-compliance with any of the rules a criminal offence.
- 31 Provision making different provision for different cases or descriptions of cases, including different provisions for different areas.

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