

Status: Point in time view as at 15/09/2003.

Changes to legislation: Insolvency Act 1986, Cross Heading: Challenge of decisions is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE A1

MORATORIUM WHERE DIRECTORS PROPOSE VOLUNTARY ARRANGEMENT

Textual Amendments

- F1** Sch. A1 inserted (11.5.2001 so far as is necessary to give effect to Sch. A1 paras. 5, 45(1)-(3)(5) and 1.1.2003 in so far as not already in force) by 2000 c. 39, s. 1, **Sch. 1 para. 4**; S.I. 2001/1751, **art. 2**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in arts. 3-5)

Modifications etc. (not altering text)

- C1** Sch. A1 applied (with modifications) (E.W.) (1.1.2003) by S.I. 1994/2421, **art. 4(1)**, **Sch. 1** (as amended (1.1.2003) by S.I. 2002/2708, **arts. 4-6** (with transitional provisions in **art. 11**) and (1.7.2005) by S.I. 2005/1516, **art. 6**)
- C1** Sch. A1 extended (24.6.2003) by *The Uncertificated Securities (Amendment) (Eligible Debt Securities) Regulations 2003* (S.I. 2003/1633), regs. 1, 15, **Sch. 2 para. 7**

PART V

CONSIDERATION AND IMPLEMENTATION OF VOLUNTARY ARRANGEMENT

Challenge of decisions

- ^{F238} (1) Subject to the following provisions of this paragraph, any of the persons mentioned in sub-paragraph (2) may apply to the court on one or both of the following grounds—
- (a) that a voluntary arrangement approved at one or both of the meetings summoned under paragraph 29 and which has taken effect unfairly prejudices the interests of a creditor, member or contributory of the company,
 - (b) that there has been some material irregularity at or in relation to either of those meetings.
- (2) The persons who may apply under this paragraph are—
- (a) a person entitled, in accordance with the rules, to vote at either of the meetings,
 - (b) a person who would have been entitled, in accordance with the rules, to vote at the creditors' meeting if he had had notice of it, and
 - (c) the nominee.
- (3) An application under this paragraph shall not be made—
- (a) after the end of the period of 28 days beginning with the first day on which each of the reports required by paragraph 30(3) has been made to the court, or

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- (b) in the case of a person who was not given notice of the creditors' meeting, after the end of the period of 28 days beginning with the day on which he became aware that the meeting had taken place,
- but (subject to that) an application made by a person within sub-paragraph (2)(b) on the ground that the arrangement prejudices his interests may be made after the arrangement has ceased to have effect, unless it came to an end prematurely.
- (4) Where on an application under this paragraph the court is satisfied as to either of the grounds mentioned in sub-paragraph (1), it may do any of the following—
- (a) revoke or suspend—
- (i) any decision approving the voluntary arrangement which has effect under paragraph 36, or
- (ii) in a case falling within sub-paragraph (1)(b), any decision taken by the meeting in question which has effect under that paragraph,
- (b) give a direction to any person—
- (i) for the summoning of further meetings to consider any revised proposal for a voluntary arrangement which the directors may make, or
- (ii) in a case falling within sub-paragraph (1)(b), for the summoning of a further company or (as the case may be) creditors' meeting to reconsider the original proposal.
- (5) Where at any time after giving a direction under sub-paragraph (4)(b)(i) the court is satisfied that the directors do not intend to submit a revised proposal, the court shall revoke the direction and revoke or suspend any decision approving the voluntary arrangement which has effect under paragraph 36.
- (6) Where the court gives a direction under sub-paragraph (4)(b), it may also give a direction continuing or, as the case may require, renewing, for such period as may be specified in the direction, the effect of the moratorium.
- (7) Sub-paragraph (8) applies in a case where the court, on an application under this paragraph—
- (a) gives a direction under sub-paragraph (4)(b), or
- (b) revokes or suspends a decision under sub-paragraph (4)(a) or (5).
- (8) In such a case, the court may give such supplemental directions as it thinks fit and, in particular, directions with respect to—
- (a) things done under the voluntary arrangement since it took effect, and
- (b) such things done since that time as could not have been done if a moratorium had been in force in relation to the company when they were done.
- (9) Except in pursuance of the preceding provisions of this paragraph, a decision taken at a meeting summoned under paragraph 29 is not invalidated by any irregularity at or in relation to the meeting.]

Textual Amendments

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