

*Status: Point in time view as at 26/06/2017.*

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## SCHEDULES

### [<sup>F1</sup>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 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**
- C1** Sch. A1 applied (with modifications) (E.W.) (1.1.2003) by **The Insolvent Partnerships Order 1994** (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); (1.7.2005) by S.I. 2005/1516, **art. 6**); (6.4.2017) by S.I. 2017/540, reg. 1, **Sch. 2 para. 5** (with reg. 4))

### PART V

#### CONSIDERATION AND IMPLEMENTATION OF VOLUNTARY ARRANGEMENT

##### *Extension of moratorium*

- 32 (1) Subject to sub-paragraph (2), a [<sup>F2</sup>company] meeting summoned under paragraph 29 which resolves that it be adjourned (or further adjourned) may resolve that the moratorium be extended (or further extended), with or without conditions.

[ Subject to sub-paragraph (2) the company's creditors may, by a qualifying decision <sup>F3</sup>(1A) procedure, decide to extend (or further extend) the moratorium, with or without conditions.]

[ The moratorium may not be extended (or further extended) to a day later than the end <sup>F4</sup>(2) of the period of two months beginning with the day after the last day of the period mentioned in paragraph 8(3).]

- (3) [<sup>F5</sup>Where] it is proposed to extend (or further extend) the moratorium, before a decision is taken with respect to that proposal, the nominee shall inform the meeting [<sup>F6</sup>of the company or (as the case may be) inform the company's creditors] —
- of what he has done in order to comply with his duty under paragraph 24 and the cost of his actions for the company, and
  - of what he intends to do to continue to comply with that duty if the moratorium is extended (or further extended) and the expected cost of his actions for the company.

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- (4) Where, in accordance with sub-paragraph (3)(b), the nominee informs a meeting [<sup>F7</sup>of the company or informs the company's creditors,] of the expected cost of his intended actions, the meeting shall resolve [<sup>F8</sup>, or (as the case may be) the creditors by a qualifying decision procedure shall decide,] whether or not to approve that expected cost.
- (5) If a decision not to approve the expected cost of the nominee's intended actions has effect under paragraph 36, the moratorium comes to an end.
- (6) A meeting [<sup>F9</sup>of the company may resolve, and the creditors by a qualifying decision procedure may decide,] that a moratorium which has been extended (or further extended) be brought to an end before the end of the period of the extension (or further extension).
- (7) The Secretary of State may by order increase or reduce the period for the time being specified in sub-paragraph (2).

#### Textual Amendments

- F2** Word in Sch. A1 para. 32(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. 9\(20\)](#); 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)
- F3** Sch. A1 para. 32(1A) 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. 9\(21\)](#); 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)
- F4** Sch. A1 para. 32(2) 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. 9\(22\)](#); 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)
- F5** Word in Sch. A1 para. 32(3) 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. 9\(23\)\(a\)](#); 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)
- F6** Words in Sch. A1 para. 32(3) 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. 9\(23\)\(b\)](#); 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)
- F7** Words in Sch. A1 para. 32(4) 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. 9\(24\)\(a\)](#); 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)
- F8** Words in Sch. A1 para. 32(4) 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. 9\(24\)\(b\)](#); 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)
- F9** Words in Sch. A1 para. 32(6) 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. 9\(25\)](#); 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)

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- 33 (1) The conditions which may be imposed when a moratorium is extended (or further extended) include a requirement that the nominee be replaced as such by another person qualified to act as an insolvency practitioner<sup>F10</sup> ... in relation to the voluntary arrangement.
- (2) A person may only be appointed as a replacement nominee by virtue of subparagraph (1) if he submits to the court a statement indicating his consent to act.
- (3) [<sup>F11</sup>Where] it is proposed to appoint a replacement nominee as a condition of extending (or further extending) the moratorium—
- (a) the duty imposed by paragraph 32(3)(b) on the nominee shall instead be imposed on the person proposed as the replacement nominee, and
- (b) paragraphs 32(4) and (5) and 36(1)(e) apply as if the references to the nominee were to that person.

#### Textual Amendments

- F10** Words in Sch. A1 para. 33(1) omitted (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 6 para. 20\(2\)\(e\)\(iii\)](#); S.I. 2015/1732, art. 2(e)(vi)
- F11** Word in Sch. A1 para. 33(3) 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. 9\(26\)](#); 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)

- <sup>F12</sup>34 (1) If a decision to extend, or further extend, the moratorium takes effect under paragraph 36, the nominee shall, in accordance with the rules, notify the registrar of companies and the court.
- (2) If the moratorium is extended, or further extended, by virtue of an order under paragraph 36(5), the nominee shall, in accordance with the rules, send [<sup>F13</sup>a copy] of the order to the registrar of companies.
- (3) If the nominee without reasonable excuse fails to comply with this paragraph, he is liable to a fine.]

#### Textual Amendments

- F12** 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)
- F13** Words in Sch. A1 para. 34(2) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, (S.I. 2009/1941) arts. 2(1), 8, {Sch. 1 para. 71(4)(b)} (with art. 10, Sch. 1 para. 84)

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