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SCHEDULES

[^{F1}SCHEDULE B1

ADMINISTRATION

Textual Amendments

- F1** Sch. B1 inserted (15.9.2003) by 2002 c. 40, ss. 248(2), 279, Sch. 16 (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))

Modifications etc. (not altering text)

- C1** Sch. B1 applied in part (with modifications) (5.10.2004) by Energy Act 2004 (c. 20), ss. 159(1), 198, Sch. 20 Pts. 1-3; S.I. 2004/2575, art. 2(1), Sch. 1
- C1** Sch. B1 applied (with modifications) (1.7. 2005) by S.I. 1994/2421, art. 6(1), Sch. 2 (as amended (1.7.2005) by S.I. 2005/1516, arts. 3, 7, Sch. 1 (with art. 2))
- C1** Sch. B1: specified provisions applied (with modifications) (1.10.2011) by Postal Services Act 2011 (c. 5), ss. 73, 93(2)(3), {Sch. 10 Pts. 1, 2}; S.I. 2011/2329, art. 3 (with arts. 4, 5)
- C1** Sch. B1 amendment to earlier affecting provision S.I. 1994/2421, Sch. 2 (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 11(b)

GENERAL

Joint and concurrent administrators

- 100 (1) In this Schedule—
- (a) a reference to the appointment of an administrator of a company includes a reference to the appointment of a number of persons to act jointly or concurrently as the administrator of a company, and
 - (b) a reference to the appointment of a person as administrator of a company includes a reference to the appointment of a person as one of a number of persons to act jointly or concurrently as the administrator of a company.
- (2) The appointment of a number of persons to act as administrator of a company must specify—
- (a) which functions (if any) are to be exercised by the persons appointed acting jointly, and
 - (b) which functions (if any) are to be exercised by any or all of the persons appointed.

Modifications etc. (not altering text)

- C1** Sch. B1 paras. 100-103 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), ss. 145, 263(1)(2) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch. para. 3

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- 101 (1) This paragraph applies where two or more persons are appointed to act jointly as the administrator of a company.
- (2) A reference to the administrator of the company is a reference to those persons acting jointly.
- (3) But a reference to the administrator of a company in paragraphs 87 to 99 of this Schedule is a reference to any or all of the persons appointed to act jointly.
- (4) Where an offence of omission is committed by the administrator, each of the persons appointed to act jointly—
- (a) commits the offence, and
 - (b) may be proceeded against and punished individually.
- (5) The reference in paragraph 45(1)(a) to the name of the administrator is a reference to the name of each of the persons appointed to act jointly.
- (6) Where persons are appointed to act jointly in respect of only some of the functions of the administrator of a company, this paragraph applies only in relation to those functions.

Modifications etc. (not altering text)

C2 Sch. B1 paras. 100-103 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145, 263(1)(2)** (with [s. 247](#)); [S.I. 2009/296](#), **arts. 2, 3**, [Sch. para. 3](#)

- 102 (1) This paragraph applies where two or more persons are appointed to act concurrently as the administrator of a company.
- (2) A reference to the administrator of a company in this Schedule is a reference to any of the persons appointed (or any combination of them).

Modifications etc. (not altering text)

C3 Sch. B1 paras. 100-103 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145, 263(1)(2)** (with [s. 247](#)); [S.I. 2009/296](#), **arts. 2, 3**, [Sch. para. 3](#)

- 103 (1) Where a company is in administration, a person may be appointed to act as administrator jointly or concurrently with the person or persons acting as the administrator of the company.
- (2) Where a company entered administration by administration order, an appointment under sub-paragraph (1) must be made by the court on the application of—
- (a) a person or group listed in paragraph 12(1)(a) to (e), or
 - (b) the person or persons acting as the administrator of the company.
- (3) Where a company entered administration by virtue of an appointment under paragraph 14, an appointment under sub-paragraph (1) must be made by—
- (a) the holder of the floating charge by virtue of which the appointment was made, or
 - (b) the court on the application of the person or persons acting as the administrator of the company.

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- (4) Where a company entered administration by virtue of an appointment under paragraph 22(1), an appointment under sub-paragraph (1) above must be made either by the court on the application of the person or persons acting as the administrator of the company or—
- (a) by the company, and
 - (b) with the consent of each person who is the holder of a qualifying floating charge in respect of the company's property or, where consent is withheld, with the permission of the court.
- (5) Where a company entered administration by virtue of an appointment under paragraph 22(2), an appointment under sub-paragraph (1) must be made either by the court on the application of the person or persons acting as the administrator of the company or—
- (a) by the directors of the company, and
 - (b) with the consent of each person who is the holder of a qualifying floating charge in respect of the company's property or, where consent is withheld, with the permission of the court.
- (6) An appointment under sub-paragraph (1) may be made only with the consent of the person or persons acting as the administrator of the company.

Modifications etc. (not altering text)

- C4 Sch. B1 paras. 100-103 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), [ss. 145, 263\(1\)\(2\)](#) (with [s. 247](#)); [S.I. 2009/296](#), [arts. 2, 3](#), [Sch. para. 3](#)

Presumption of validity

- 104 An act of the administrator of a company is valid in spite of a defect in his appointment or qualification.

Modifications etc. (not altering text)

- C5 Sch. B1 para. 104 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), [ss. 145, 263\(1\)\(2\)](#) (with [s. 247](#)); [S.I. 2009/296](#), [arts. 2, 3](#), [Sch. para. 3](#)

Majority decision of directors

- 105 A reference in this Schedule to something done by the directors of a company includes a reference to the same thing done by a majority of the directors of a company.

Penalties

- 106 (1) A person who is guilty of an offence under this Schedule is liable to a fine (in accordance with section 430 and Schedule 10).
- (2) A person who is guilty of an offence under any of the following paragraphs of this Schedule is liable to a daily default fine (in accordance with section 430 and Schedule 10)—

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- (a) paragraph 20,
- (b) paragraph 32,
- (c) paragraph 46,
- (d) paragraph 48,
- (e) paragraph 49,
- (f) paragraph 51,
- (g) paragraph 53,
- (h) paragraph 54,
- (i) paragraph 56,
- (j) paragraph 71,
- (k) paragraph 72,
- (l) paragraph 77,
- (m) paragraph 78,
- (n) paragraph 80,
- (o) paragraph 84,
- (p) paragraph 86, and
- (q) paragraph 89.

Modifications etc. (not altering text)

C6 Sch. B1 para. 106 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 3 (as amended (13.3.2018) by [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2018 \(S.I. 2018/208\)](#), regs. 1(3), **5(5)**)

Extension of time limit

- 107 (1) Where a provision of this Schedule provides that a period may be varied in accordance with this paragraph, the period may be varied in respect of a company—
- (a) by the court, and
 - (b) on the application of the administrator.
- (2) A time period may be extended in respect of a company under this paragraph—
- (a) more than once, and
 - (b) after expiry.

Modifications etc. (not altering text)

C7 Sch. B1 paras. 107-109 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 3 (as amended (13.3.2018) by [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2018 \(S.I. 2018/208\)](#), regs. 1(3), **5(5)**)

- 108 (1) A period specified in paragraph 49(5)^{F2}, 50(1)(b)] or 51(2) may be varied in respect of a company by the administrator with consent.
- (2) In sub-paragraph (1) “consent” means consent of—

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- (a) each secured creditor of the company, and
 - [if the company has unsecured debts, the unsecured creditors of the company.]
- ^{F3}(b)
- (3) But where the administrator has made a statement under paragraph 52(1)(b) “consent” means—
 - (a) consent of each secured creditor of the company, or
 - (b) if the administrator thinks that a distribution may be made to preferential creditors, consent of—
 - (i) each secured creditor of the company, and
 - [the preferential creditors of the company.]
 - ^{F4}(ii)
 - (b) if the company has unsecured debts, the unsecured creditors of the company.
- [Whether the company's unsecured creditors or preferential creditors consent is to be
- ^{F5}(3A) determined by the administrator seeking a decision from those creditors as to whether they consent.]
- (4) [^{F6}Consent for the purposes of sub-paragraph (1) may be—
 - (a) written, or
 - (b) signified at a creditors' meeting.]
- (5) The power to extend under sub-paragraph (1)—
 - (a) may be exercised in respect of a period only once,
 - (b) may not be used to extend a period by more than 28 days,
 - (c) may not be used to extend a period which has been extended by the court, and
 - (d) may not be used to extend a period after expiry.

Textual Amendments

- F2** Word in Sch. B1 para. 108(1) 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. 10\(39\)](#); 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. B1 para. 108(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. 10\(40\)](#); 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. B1 para. 108(3)(b)(ii) 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. 10\(41\)](#); 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** Sch. B1 para. 108(3A) 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. 10\(42\)](#); 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** Sch. B1 para. 108(4) 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. 10\(43\)](#); 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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Modifications etc. (not altering text)

- C8** Sch. B1 paras. 107-109 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 3 (as amended (13.3.2018) by [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2018 \(S.I. 2018/208\)](#), regs. 1(3), **5(5)**)

- 109 Where a period is extended under paragraph 107 or 108, a reference to the period shall be taken as a reference to the period as extended.

Modifications etc. (not altering text)

- C9** Sch. B1 paras. 107-109 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 3 (as amended (13.3.2018) by [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2018 \(S.I. 2018/208\)](#), regs. 1(3), **5(5)**)

Amendment of provision about time

- 110 (1) The Secretary of State may by order amend a provision of this Schedule which—
- (a) requires anything to be done within a specified period of time,
 - (b) prevents anything from being done after a specified time, or
 - (c) requires a specified minimum period of notice to be given.
- (2) An order under this paragraph—
- (a) must be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

- C10** Sch. B1 para. 110 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 3

Interpretation

- 111 (1) In this Schedule—
- “administrative receiver” has the meaning given by section 251,
- “administrator” has the meaning given by paragraph 1 and, where the context requires, includes a reference to a former administrator,
- ^{F7}
- [^{F8}“correspondence” includes correspondence by telephonic or other electronic means,]
- [^{F8}“creditors’ meeting” has the meaning given by paragraph 50,]
- “enters administration” has the meaning given by paragraph 1,
- “floating charge” means a charge which is a floating charge on its creation,
- “in administration” has the meaning given by paragraph 1,

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“hire-purchase agreement” includes a conditional sale agreement, a chattel leasing agreement and a retention of title agreement,

“holder of a qualifying floating charge” in respect of a company’s property has the meaning given by paragraph 14,

“market value” means the amount which would be realised on a sale of property in the open market by a willing vendor,

“the purpose of administration” means an objective specified in paragraph 3, and

“unable to pay its debts” has the meaning given by section 123.

[In this Schedule, “company” means—

^{F9}(1A)[^{F10}(a) a company registered under the Companies Act 2006 in England and Wales or Scotland,]

(b) a company incorporated in an EEA State other than the United Kingdom, or

(c) a company not incorporated in an EEA State but having its centre of main interests in a member State other than Denmark.

(1B) In sub-paragraph (1A), in relation to a company, “centre of main interests” has the same meaning as in the EC Regulation and, in the absence of proof to the contrary, is presumed to be the place of its registered office (within the meaning of that Regulation).]

(2) ^{F11}

(3) In this Schedule a reference to action includes a reference to inaction.

Textual Amendments

F7 In Sch. B1 para. 111(1) definition of “company” omitted (13.4.2005) by virtue of [The Insolvency Act 1986 \(Amendment\) Regulations 2005 \(S.I. 2005/879\)](#), [reg. 2\(4\)\(a\)](#) (with [reg. 3](#))

F8 Words in Sch. B1 para. 111 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. 10\(44\)](#); 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 Sch. B1 para. 111(1A)(1B) inserted (13.4.2005) by [The Insolvency Act 1986 \(Amendment\) Regulations 2005 \(S.I. 2005/879\)](#), [reg. 2\(4\)\(b\)](#) (with [reg. 3](#))

F10 Sch. B1 para. 111(1A)(a) 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. 72} (with art. 10, Sch. 1 para. 84)

F11 Sch. B1 para. 111(2) repealed (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\)](#), [art. 4\(2\)](#)

Modifications etc. (not altering text)

C11 Sch. B1 para. 111 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), [ss. 145](#), 263(1)(2) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), [Sch. para. 3](#)

Non-UK companies

[^{F12}111A A company incorporated outside the United Kingdom that has a principal place of business in Northern Ireland may not enter administration under this Schedule unless it also has a principal place of business in England and Wales or Scotland (or both in England and Wales and in Scotland).]

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Textual Amendments

- F12** Sch. B1 para. 111A inserted (13.4.2005) by [The Insolvency Act 1986 \(Amendment\) Regulations 2005 \(S.I. 2005/879\)](#), **reg. 2(4)(c)** (with **reg. 3**)

Scotland

- 112 In the application of this Schedule to Scotland—
- (a) a reference to filing with the court is a reference to lodging in court, and
 - (b) a reference to a charge is a reference to a right in security.

Modifications etc. (not altering text)

- C12** Sch. B1 paras. 112-116 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145, 263(1)(2)** (with **s. 247**); [S.I. 2009/296](#), **arts. 2, 3**, [Sch. para. 3](#)

- 113 Where property in Scotland is disposed of under paragraph 70 or 71, the administrator shall grant to the donee an appropriate document of transfer or conveyance of the property, and—
- (a) that document, or
 - (b) recording, intimation or registration of that document (where recording, intimation or registration of the document is a legal requirement for completion of title to the property),
- has the effect of disencumbering the property of or, as the case may be, freeing the property from, the security.

Modifications etc. (not altering text)

- C13** Sch. B1 paras. 112-116 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145, 263(1)(2)** (with **s. 247**); [S.I. 2009/296](#), **arts. 2, 3**, [Sch. para. 3](#)

- 114 In Scotland, where goods in the possession of a company under a hire-purchase agreement are disposed of under paragraph 72, the disposal has the effect of extinguishing as against the donee all rights of the owner of the goods under the agreement.

Modifications etc. (not altering text)

- C14** Sch. B1 paras. 112-116 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145, 263(1)(2)** (with **s. 247**); [S.I. 2009/296](#), **arts. 2, 3**, [Sch. para. 3](#)

- 115 (1) In Scotland, the administrator of a company may make, in or towards the satisfaction of the debt secured by the floating charge, a payment to the holder of a floating charge which has attached to the property subject to the charge.

[In Scotland, sub-paragraph (1B) applies in connection with the giving by the court ^{F13}(1A) of permission as provided for in paragraph 65(3)(b).

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- (1B) On the giving by the court of such permission, any floating charge granted by the company shall, unless it has already so attached, attach to the property which is subject to the charge.]
- (2) In Scotland, where the administrator thinks that the company has insufficient property to enable a distribution to be made to unsecured creditors other than by virtue of section 176A(2)(a), he may file a notice to that effect with the registrar of companies.
- (3) On delivery of the notice to the registrar of companies, any floating charge granted by the company shall, unless it has already so attached, attach to the property which is subject to the charge ^{F14}....
- [Attachment of a floating charge under sub-paragraph (1B) or (3) has effect as if the ^{F15}(4) charge is a fixed security over the property to which it has attached.]

Textual Amendments

- F13** Sch. B1 para. 115(1A)(1B) inserted (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), ss. 130\(2\), 164\(3\)\(i\)\(ii\)](#)
- F14** Words in Sch. B1 para. 115(3) omitted (26.5.2015) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\), ss. 130\(3\), 164\(3\)\(i\)\(ii\)](#)
- F15** Sch. B1 para. 115(4) inserted (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), ss. 130\(4\), 164\(3\)\(i\)\(ii\)](#)

Modifications etc. (not altering text)

- C15** Sch. B1 paras. 112-116 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 145, 263\(1\)\(2\) \(with s. 247\); S.I. 2009/296, arts. 2, 3, Sch. para. 3](#)

- 116 In Scotland, the administrator in making any payment in accordance with paragraph 115 shall make such payment subject to the rights of any of the following categories of persons (which rights shall, except to the extent provided in any instrument, have the following order of priority)—
- (a) the holder of any fixed security which is over property subject to the floating charge and which ranks prior to, or *pari passu* with, the floating charge,
 - (b) creditors in respect of all liabilities and expenses incurred by or on behalf of the administrator,
 - (c) the administrator in respect of his liabilities, expenses and remuneration and any indemnity to which he is entitled out of the property of the company,
 - (d) the preferential creditors entitled to payment in accordance with paragraph 65,
 - (e) the holder of the floating charge in accordance with the priority of that charge in relation to any other floating charge which has attached, and
 - (f) the holder of a fixed security, other than one referred to in paragraph (a), which is over property subject to the floating charge.]

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Modifications etc. (not altering text)

C16 Sch. B1 paras. 112-116 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), [ss. 145, 263\(1\)\(2\)](#) (with [s. 247](#)); [S.I. 2009/296](#), [arts. 2, 3](#), [Sch. para. 3](#)

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