

*Status: Point in time view as at 26/03/2002.*

*Changes to legislation: Insolvency Act 1986 is up to date with all changes known to be in force on or before 14 June 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

### [<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)

### [<sup>F2</sup>PART I

#### INTRODUCTORY

##### Textual Amendments

- F2** 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)

#### *Interpretation*

<sup>F3</sup><sub>1</sub> In this Schedule—

“the beginning of the moratorium” has the meaning given by paragraph 8(1),

“the date of filing” means the date on which the documents for the time being referred to in paragraph 7(1) are filed or lodged with the court,

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

“market contract” and “market charge” have the meanings given by Part VII of the <sup>M1</sup>Companies Act 1989,

“money market contract” and “money market charge” have the meanings given by the <sup>M2</sup>Financial Markets and Insolvency (Money Market) Regulations 1995 (“the 1995 regulations”),

“moratorium” means a moratorium under section 1A,

“the nominee” includes any person for the time being carrying out the functions of a nominee under this Schedule,

“related contract” has the meaning given by the 1995 regulations,

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“the settlement finality regulations” means the <sup>M3</sup>Financial Markets and Insolvency (Settlement Finality) Regulations 1999,

“system-charge” has the meaning given by the <sup>M4</sup>Financial Markets and Insolvency Regulations 1996.

#### Textual Amendments

**F3** Sch. A1 (Pts. I-VI) inserted (11.5.2001 but only so far as is necessary to give effect to Sch. A1 paras. 5, 45(1)-(3)(5)) by 2000 c. 39, ss. 1, 16, Sch. 1 para. 4; S.I. 2001/1751, art. 2

#### Marginal Citations

**M1** 1989 c. 40.  
**M2** S.I. 1995/2049  
**M3** S.I. 1999/2979.  
**M4** S.I. 1996/1469

### *Eligible companies*

- <sup>F42</sup> (1) A company is eligible for a moratorium if it meets the requirements of paragraph 3, unless—
- (a) it is excluded from being eligible by virtue of paragraph 4, or
  - (b) it falls within sub-paragraph (2).
- (2) A company falls within this sub-paragraph if—
- (a) it is an insurance company within the meaning of the <sup>M5</sup>Insurance Companies Act 1982,
  - (b) it is an authorised institution or former authorised institution within the meaning of the <sup>M6</sup>Banking Act 1987,
  - (c) it is a party to a market contract, a money market contract or a related contract or any of its property is subject to a market charge, a money market charge or a system-charge, or
  - (d) it is a participant (within the meaning of the settlement finality regulations) or any of its property is subject to a collateral security charge (within the meaning of those regulations).

#### Textual Amendments

**F4** Sch. A1 (Pts. I-VI) inserted (11.5.2001 but only so far as is necessary to give effect to Sch. A1 paras. 5, 45(1)-(3)(5)) by 2000 c. 39, ss. 1, 16, Sch. 1 para. 4; S.I. 2001/1751, art. 2

#### Marginal Citations

**M5** 1982 c. 50.  
**M6** 1987 c. 22.

- <sup>F53</sup> (1) A company meets the requirements of this paragraph if the qualifying conditions are met—
- (a) in the year ending with the date of filing, or

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- (b) in the financial year of the company which ended last before that date.
- (2) For the purposes of sub-paragraph (1)—
- (a) the qualifying conditions are met by a company in a period if, in that period, it satisfies two or more of the requirements for being a small company specified for the time being in section 247(3) of the <sup>M7</sup>Companies Act 1985, and
  - (b) a company's financial year is to be determined in accordance with that Act.
- (3) Subsections (4), (5) and (6) of section 247 of that Act apply for the purposes of this paragraph as they apply for the purposes of that section.

#### Textual Amendments

**F5** Sch. A1 (Pts. I-VI) inserted (11.5.2001 but only so far as is necessary to give effect to Sch. A1 para. 5, 45(1)-(3)(5)) by 2000 c. 39, s. 1, **Sch. 1 para. 4**; S.I. 2001/1751, **art. 2**

#### Marginal Citations

**M7** 1985 c. 6.

VALID FROM 01/01/2003

- <sup>F64</sup> (1) A company is excluded from being eligible for a moratorium if, on the date of filing—
- (a) an administration order is in force in relation to the company,
  - (b) the company is being wound up,
  - (c) there is an administrative receiver of the company,
  - (d) a voluntary arrangement has effect in relation to the company,
  - (e) there is a provisional liquidator of the company,
  - (f) a moratorium has been in force for the company at any time during the period of 12 months ending with the date of filing and—
    - (i) no voluntary arrangement had effect at the time at which the moratorium came to an end, or
    - (ii) a voluntary arrangement which had effect at any time in that period has come to an end prematurely, or
  - (g) a voluntary arrangement in relation to the company which had effect in pursuance of a proposal under section 1(3) has come to an end prematurely and, during the period of 12 months ending with the date of filing, an order under section 5(3)(a) has been made.
- (2) Sub-paragraph (1)(b) does not apply to a company which, by reason of a winding-up order made after the date of filing, is treated as being wound up on that date.

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### Textual Amendments

- F6** 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 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**)

VALID FROM 01/01/2003

### *Capital market arrangement*

- [  
<sup>F7</sup>4A A company is also excluded from being eligible for a moratorium if, on the date of filing, it is a party to an agreement which is or forms part of a capital market arrangement under which—
- (i) a party has incurred, or when the agreement was entered into was expected to incur, a debt of at least £10 million under the arrangement, and
  - (ii) the arrangement involves the issue of a capital market investment.]

### Textual Amendments

- F7** Sch. A1 paras. 4A-4K inserted (1.1.2003) by S.I. 2002/1990, **art. 3(3)**; S.I. 2002/2711, **art. 2** (subject to transitional provision in arts. 3-5 of the commencing S.I.)

VALID FROM 01/01/2003

### *Public private partnership*

- [  
<sup>F8</sup>4B A company is also excluded from being eligible for a moratorium if, on the date of filing, it is a project company of a project which—
- (i) is a public-private partnership project, and
  - (ii) includes step-in rights.]

### Textual Amendments

- F8** Sch. A1 paras. 4A-4K inserted (1.1.2003) by S.I. 2002/1990, **art. 3(3)**; S.I. 2002/2711, **art. 2** (subject to transitional provision in arts. 3-5 of the commencing S.I.)

VALID FROM 01/01/2003

### *Liability under an arrangement*

- [  
<sup>F9</sup>4C (1) A company is also excluded from being eligible for a moratorium if, on the date of filing, it has incurred a liability under an agreement of £10 million or more.
- (2) Where the liability in sub-paragraph (1) is a contingent liability under or by virtue of a guarantee or an indemnity or security provided on behalf of another person,

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the amount of that liability is the full amount of the liability in relation to which the guarantee, indemnity or security is provided.

(3) In this paragraph—

- (a) the reference to “liability” includes a present or future liability whether, in either case, it is certain or contingent,
- (b) the reference to “liability” includes a reference to a liability to be paid wholly or partly in foreign currency (in which case the sterling equivalent shall be calculated as at the time when the liability is incurred).]

#### Textual Amendments

**F9** Sch. A1 paras. 4A-4K inserted (1.1.2003) by [S.I. 2002/1990](#), **art. 3(3)**; [S.I. 2002/2711](#), **art. 2** (subject to transitional provision in arts. 3-5 of the commencing S.I.)

VALID FROM 01/01/2003

#### *Interpretation of capital market arrangement*

**F10** **4D** (1) For the purposes of paragraph 4A an arrangement is a capital market arrangement if—

- (a) it involves a grant of security to a person holding it as trustee for a person who holds a capital market investment issued by a party to the arrangement, or
- (b) at least one party guarantees the performance of obligations of another party, or
- (c) at least one party provides security in respect of the performance of obligations of another party, or
- (d) the arrangement involves an investment of a kind described in articles 83 to 85 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (options, futures and contracts for differences).

(2) For the purposes of sub-paragraph (1)—

- (a) a reference to holding as trustee includes a reference to holding as nominee or agent,
- (b) a reference to holding for a person who holds a capital market investment includes a reference to holding for a number of persons at least one of whom holds a capital market investment, and
- (c) a person holds a capital market investment if he has a legal or beneficial interest in it.

(3) In paragraph 4A, 4C, 4J and this paragraph—

“agreement” includes an agreement or undertaking effected by—

- (a) contract,
- (b) deed, or
- (c) any other instrument intended to have effect in accordance with the law of England and Wales, Scotland or another jurisdiction, and

“party” to an arrangement includes a party to an agreement which—

- (a) forms part of the arrangement,

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- (b) provides for the raising of finance as part of the arrangement, or  
 (c) is necessary for the purposes of implementing the arrangement.]

#### Textual Amendments

**F10** Sch. A1 paras. 4A-4K inserted (1.1.2003) by [S.I. 2002/1990, art. 3\(3\)](#); [S.I. 2002/2711, art. 2](#) (subject to transitional provision in arts. 3-5 of the commencing S.I.)

VALID FROM 01/01/2003

#### *Capital market investment*

[<sup>F11</sup>4E (1) For the purposes of paragraphs 4A and 4D, an investment is a capital market investment if—

- (a) it is within article 77 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (debt instruments) and  
 (b) it is rated, listed or traded or designed to be rated, listed or traded.

(2) In sub-paragraph (1)—

“listed” means admitted to the official list within the meaning given by section 103(1) of the Financial Services and Markets Act 2000 (c. 8) (interpretation),

“rated” means rated for the purposes of investment by an internationally recognised rating agency,

“traded” means admitted to trading on a market established under the rules of a recognised investment exchange or on a foreign market.

(3) In sub-paragraph (2)—

“foreign market” has the same meaning as “relevant market” in article 67(2) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001 (S.I. 2001/1335) (foreign markets),

“recognised investment exchange” has the meaning given by section 285 of the Financial Services and Markets Act 2000 (recognised investment exchange).]

#### Textual Amendments

**F11** Sch. A1 paras. 4A-4K inserted (1.1.2003) by [S.I. 2002/1990, art. 3\(3\)](#); [S.I. 2002/2711, art. 2](#) (subject to transitional provision in arts. 3-5 of the commencing S.I.)

VALID FROM 01/01/2003

[<sup>F12</sup>4F (1) For the purposes of paragraphs 4A and 4D an investment is also a capital market investment if it consists of a bond or commercial paper issued to one or more of the following—

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- (a) an investment professional within the meaning of article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001,
  - (b) a person who is, when the agreement mentioned in paragraph 4A is entered into, a certified high net worth individual in relation to a communication within the meaning of article 48(2) of that order,
  - (c) a person to whom article 49(2) of that order applies (high net worth company, &c.),
  - (d) a person who is, when the agreement mentioned in paragraph 4A is entered into, a certified sophisticated investor in relation to a communication within the meaning of article 50(1) of that order, and
  - (e) a person in a State other than the United Kingdom who under the law of that State is not prohibited from investing in bonds or commercial paper.
- (2) For the purposes of sub-paragraph (1)—
- (a) in applying article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001 for the purposes of sub-paragraph (1)
    - (a)—
      - (i) in article 19(5)(b), ignore the words after “exempt person”,
      - (ii) in article 19(5)(c)(i), for the words from “the controlled activity” to the end substitute “a controlled activity”, and
      - (iii) in article 19(5)(e) ignore the words from “where the communication” to the end, and
    - (b) in applying article 49(2) of that order for the purposes of sub-paragraph (1)
      - (c), ignore article 49(2)(e).
- (3) In sub-paragraph (1)—
- “bond” shall be construed in accordance with article 77 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544), and
- “commercial paper” has the meaning given by article 9(3) of that order.]

### Textual Amendments

**F12** Sch. A1 paras. 4A-4K inserted (1.1.2003) by [S.I. 2002/1990, art. 3\(3\)](#); [S.I. 2002/2711, art. 2](#) (subject to transitional provision in arts. 3-5 of the commencing S.I.)

VALID FROM 01/01/2003

### Debt

- [<sup>F13</sup>4G The debt of at least £10 million referred to in paragraph 4A—
- (a) may be incurred at any time during the life of the capital market arrangement, and
  - (b) may be expressed wholly or partly in a foreign currency (in which case the sterling equivalent shall be calculated as at the time when the arrangement is entered into).]

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### Textual Amendments

**F13** Sch. A1 paras. 4A-4K inserted (1.1.2003) by [S.I. 2002/1990, art. 3\(3\)](#); [S.I. 2002/2711, art. 2](#) (subject to transitional provision in arts. 3-5 of the commencing S.I.)

VALID FROM 01/01/2003

### *Interpretation of project company*

- [<sup>F14</sup>4H (1) For the purposes of paragraph 4B a company is a “project company” of a project if—
- (a) it holds property for the purpose of the project,
  - (b) it has sole or principal responsibility under an agreement for carrying out all or part of the project,
  - (c) it is one of a number of companies which together carry out the project,
  - (d) it has the purpose of supplying finance to enable the project to be carried out, or
  - (e) it is the holding company of a company within any of paragraphs (a) to (d).
- (2) But a company is not a “project company” of a project if—
- (a) it performs a function within sub-paragraph (1)(a) to (d) or is within sub-paragraph (1)(e), but
  - (b) it also performs a function which is not—
    - (i) within sub-paragraph (1)(a) to (d),
    - (ii) related to a function within sub-paragraph (1)(a) to (d), or
    - (iii) related to the project.
- (3) For the purposes of this paragraph a company carries out all or part of a project whether or not it acts wholly or partly through agents.]

### Textual Amendments

**F14** Sch. A1 paras. 4A-4K inserted (1.1.2003) by [S.I. 2002/1990, art. 3\(3\)](#); [S.I. 2002/2711, art. 2](#) (subject to transitional provision in arts. 3-5 of the commencing S.I.)

VALID FROM 01/01/2003

### *Public-private partnership project*

- [<sup>F15</sup>4I (1) In paragraph 4B “public-private partnership project” means a project—
- (a) the resources for which are provided partly by one or more public bodies and partly by one or more private persons, or
  - (b) which is designed wholly or mainly for the purpose of assisting a public body to discharge a function.
- (2) In sub-paragraph (1) “resources” includes—
- (a) funds (including payment for the provision of services or facilities),



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- (b) assets,
  - (c) professional skill,
  - (d) the grant of a concession or franchise, and
  - (e) any other commercial resource.
- (3) In sub-paragraph (1) “public body” means—
- (a) a body which exercises public functions,
  - (b) a body specified for the purposes of this paragraph by the Secretary of State, and
  - (c) a body within a class specified for the purposes of this paragraph by the Secretary of State.
- (4) A specification under sub-paragraph (3) may be—
- (a) general, or
  - (b) for the purpose of the application of paragraph 4B to a specified case.]

#### Textual Amendments

**F15** Sch. A1 paras. 4A-4K inserted (1.1.2003) by S.I. 2002/1990, art. 3(3); S.I. 2002/2711, art. 2 (subject to transitional provision in arts. 3-5 of the commencing S.I.)

VALID FROM 01/01/2003

#### *Step-in rights*

- [<sup>F16</sup>4J
- (1) For the purposes of paragraph 4B a project has “step-in rights” if a person who provides finance in connection with the project has a conditional entitlement under an agreement to—
- (i) assume sole or principal responsibility under an agreement for carrying out all or part of the project, or
  - (ii) make arrangements for carrying out all or part of the project.
- (2) In sub-paragraph (1) a reference to the provision of finance includes a reference to the provision of an indemnity.]

#### Textual Amendments

**F16** Sch. A1 paras. 4A-4K inserted (1.1.2003) by S.I. 2002/1990, art. 3(3); S.I. 2002/2711, art. 2 (subject to transitional provision in arts. 3-5 of the commencing S.I.)

VALID FROM 01/01/2003

#### *“Person”*

- [<sup>F17</sup>4K
- For the purposes of paragraphs 4A to 4J, a reference to a person includes a reference to a partnership or another unincorporated group of persons.]

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### Textual Amendments

**F17** Sch. A1 paras. 4A-4K inserted (1.1.2003) by [S.I. 2002/1990, art. 3\(3\)](#); [S.I. 2002/2711, art. 2](#) (subject to transitional provision in arts. 3-5 of the commencing S.I.)

**F185** The Secretary of State may by regulations modify the qualifications for eligibility of a company for a moratorium.

### Textual Amendments

**F18** 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)

VALID FROM 01/01/2003

## PART II

### OBTAINING A MORATORIUM

#### *Nominee's statement*

- F196** (1) Where the directors of a company wish to obtain a moratorium, they shall submit to the nominee—
- (a) a document setting out the terms of the proposed voluntary arrangement,
  - (b) a statement of the company's affairs containing—
    - (i) such particulars of its creditors and of its debts and other liabilities and of its assets as may be prescribed, and
    - (ii) such other information as may be prescribed, and
  - (c) any other information necessary to enable the nominee to comply with sub-paragraph (2) which he requests from them.
- (2) The nominee shall submit to the directors a statement in the prescribed form indicating whether or not, in his opinion—
- (a) the proposed voluntary arrangement has a reasonable prospect of being approved and implemented,
  - (b) the company is likely to have sufficient funds available to it during the proposed moratorium to enable it to carry on its business, and
  - (c) meetings of the company and its creditors should be summoned to consider the proposed voluntary arrangement.
- (3) In forming his opinion on the matters mentioned in sub-paragraph (2), the nominee is entitled to rely on the information submitted to him under sub-paragraph (1) unless he has reason to doubt its accuracy.
- (4) The reference in sub-paragraph (2)(b) to the company's business is to that business as the company proposes to carry it on during the moratorium.

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### Textual Amendments

**F19** 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)

### *Documents to be submitted to court*

- F20**7 (1) To obtain a moratorium the directors of a company must file (in Scotland, lodge) with the court—
- (a) a document setting out the terms of the proposed voluntary arrangement,
  - (b) a statement of the company’s affairs containing—
    - (i) such particulars of its creditors and of its debts and other liabilities and of its assets as may be prescribed, and
    - (ii) such other information as may be prescribed,
  - (c) a statement that the company is eligible for a moratorium,
  - (d) a statement from the nominee that he has given his consent to act, and
  - (e) a statement from the nominee that, in his opinion—
    - (i) the proposed voluntary arrangement has a reasonable prospect of being approved and implemented,
    - (ii) the company is likely to have sufficient funds available to it during the proposed moratorium to enable it to carry on its business, and
    - (iii) meetings of the company and its creditors should be summoned to consider the proposed voluntary arrangement.
- (2) Each of the statements mentioned in sub-paragraph (1)(b) to (e), except so far as it contains the particulars referred to in paragraph (b)(i), must be in the prescribed form.
- (3) The reference in sub-paragraph (1)(e)(ii) to the company’s business is to that business as the company proposes to carry it on during the moratorium.
- (4) The Secretary of State may by regulations modify the requirements of this paragraph as to the documents required to be filed (in Scotland, lodged) with the court in order to obtain a moratorium.

### Textual Amendments

**F20** 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)

### *Duration of moratorium*

- F21**8 (1) A moratorium comes into force when the documents for the time being referred to in paragraph 7(1) are filed or lodged with the court and references in this Schedule to “the beginning of the moratorium” shall be construed accordingly.

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- (2) A moratorium ends at the end of the day on which the meetings summoned under paragraph 29(1) are first held (or, if the meetings are held on different days, the later of those days), unless it is extended under paragraph 32.
- (3) If either of those meetings has not first met before the end of the period of 28 days beginning with the day on which the moratorium comes into force, the moratorium ends at the end of the day on which those meetings were to be held (or, if those meetings were summoned to be held on different days, the later of those days), unless it is extended under paragraph 32.
- (4) If the nominee fails to summon either meeting within the period required by paragraph 29(1), the moratorium ends at the end of the last day of that period.
- (5) If the moratorium is extended (or further extended) under paragraph 32, it ends at the end of the day to which it is extended (or further extended).
- (6) Sub-paragraphs (2) to (5) do not apply if the moratorium comes to an end before the time concerned by virtue of—
  - (a) paragraph 25(4) (effect of withdrawal by nominee of consent to act),
  - (b) an order under paragraph 26(3), 27(3) or 40 (challenge of actions of nominee or directors), or
  - (c) a decision of one or both of the meetings summoned under paragraph 29.
- (7) If the moratorium has not previously come to an end in accordance with sub-paragraphs (2) to (6), it ends at the end of the day on which a decision under paragraph 31 to approve a voluntary arrangement takes effect under paragraph 36.
- (8) The Secretary of State may by order increase or reduce the period for the time being specified in sub-paragraph (3).

#### **Textual Amendments**

**F21** 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)

#### *Notification of beginning of moratorium*

- <sup>F22</sup>9 (1) When a moratorium comes into force, the directors shall notify the nominee of that fact forthwith.
- (2) If the directors without reasonable excuse fail to comply with sub-paragraph (1), each of them is liable to imprisonment or a fine, or both.

#### **Textual Amendments**

**F22** 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)

- <sup>F23</sup>10 (1) When a moratorium comes into force, the nominee shall, in accordance with the rules—
- (a) advertise that fact forthwith, and

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(b) notify the registrar of companies, the company and any petitioning creditor of the company of whose claim he is aware of that fact.

(2) In sub-paragraph (1)(b), “petitioning creditor” means a creditor by whom a winding-up petition has been presented before the beginning of the moratorium, as long as the petition has not been dismissed or withdrawn.

(3) If the nominee without reasonable excuse fails to comply with sub-paragraph (1) (a) or (b), he is liable to a fine.

#### Textual Amendments

**F23** 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 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)

#### *Notification of end of moratorium*

<sup>F24</sup>11 (1) When a moratorium comes to an end, the nominee shall, in accordance with the rules—

- (a) advertise that fact forthwith, and
- (b) notify the court, the registrar of companies, the company and any creditor of the company of whose claim he is aware of that fact.

(2) If the nominee without reasonable excuse fails to comply with sub-paragraph (1) (a) or (b), he is liable to a fine.

#### Textual Amendments

**F24** 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)

### <sup>F25</sup>PART III

#### EFFECTS OF MORATORIUM

#### Textual Amendments

**F25** Sch. A1 (Pts. I-VI) inserted (11.5.2001 so far as is necessary to give effect to Sch. A1 para. 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)

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*Effect on creditors, etc.*

VALID FROM 01/01/2003

- <sup>F26</sup>12 (1) During the period for which a moratorium is in force for a company—
- (a) no petition may be presented for the winding up of the company,
  - (b) no meeting of the company may be called or requisitioned except with the consent of the nominee or the leave of the court and subject (where the court gives leave) to such terms as the court may impose,
  - (c) no resolution may be passed or order made for the winding up of the company,
  - (d) no petition for an administration order in relation to the company may be presented,
  - (e) no administrative receiver of the company may be appointed,
  - (f) no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to premises let to the company in respect of a failure by the company to comply with any term or condition of its tenancy of such premises, except with the leave of the court and subject to such terms as the court may impose,
  - (g) no other steps may be taken to enforce any security over the company's property, or to repossess goods in the company's possession under any hire-purchase agreement, except with the leave of the court and subject to such terms as the court may impose, and
  - (h) no other proceedings and no execution or other legal process may be commenced or continued, and no distress may be levied, against the company or its property except with the leave of the court and subject to such terms as the court may impose.
- (2) Where a petition, other than an excepted petition, for the winding up of the company has been presented before the beginning of the moratorium, section 127 shall not apply in relation to any disposition of property, transfer of shares or alteration in status made during the moratorium or at a time mentioned in paragraph 37(5)(a).
- (3) In the application of sub-paragraph (1)(h) to Scotland, the reference to execution being commenced or continued includes a reference to diligence being carried out or continued, and the reference to distress being levied is omitted.
- (4) Paragraph (a) of sub-paragraph (1) does not apply to an excepted petition and, where such a petition has been presented before the beginning of the moratorium or is presented during the moratorium, paragraphs (b) and (c) of that sub-paragraph do not apply in relation to proceedings on the petition.
- (5) For the purposes of this paragraph, “excepted petition” means a petition under—
- (a) section 124A of this Act,
  - (b) section 72 of the <sup>M8</sup>Financial Services Act 1986 on the ground mentioned in subsection (1)(b) of that section, or
  - (c) section 92 of the <sup>M9</sup>Banking Act 1987 on the ground mentioned in subsection (1)(b) of that section.

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[<sup>F27</sup>(d) section 367 of the Financial Services and Markets Act 2000 on the ground mentioned in subsection (3)(b) of that section.]

#### Textual Amendments

- F26** Sch. A1 (Pts. I-VI) 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)
- F27** Sch. A1 para. 12(5)(d) inserted (3.7.2002) by S.I. 2002/1555, **art. 30**

#### Marginal Citations

- M8** 1986 c. 60.  
**M9** 1987 c. 22.

VALID FROM 01/01/2003

- 13 (1) This paragraph applies where there is an uncrystallised floating charge on the property of a company for which a moratorium is in force.
- (2) If the conditions for the holder of the charge to give a notice having the effect mentioned in sub-paragraph (4) are met at any time, the notice may not be given at that time but may instead be given as soon as practicable after the moratorium has come to an end.
- (3) If any other event occurs at any time which (apart from this sub-paragraph) would have the effect mentioned in sub-paragraph (4), then—
- (a) the event shall not have the effect in question at that time, but
  - (b) if notice of the event is given to the company by the holder of the charge as soon as is practicable after the moratorium has come to an end, the event is to be treated as if it had occurred when the notice was given.
- (4) The effect referred to in sub-paragraphs (2) and (3) is—
- (a) causing the crystallisation of the floating charge, or
  - (b) causing the imposition, by virtue of provision in the instrument creating the charge, of any restriction on the disposal of any property of the company.
- (5) Application may not be made for leave under paragraph 12(1)(g) or (h) with a view to obtaining—
- (a) the crystallisation of the floating charge, or
  - (b) the imposition, by virtue of provision in the instrument creating the charge, of any restriction on the disposal of any property of the company.

#### Textual Amendments

- F2** 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)



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#### Modifications etc. (not altering text)

- C1** 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**)

VALID FROM 01/01/2003

- F28**<sup>14</sup> Security granted by a company at a time when a moratorium is in force in relation to the company may only be enforced if, at that time, there were reasonable grounds for believing that it would benefit the company.

#### Textual Amendments

- F2** 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**)
- F28** 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**)

VALID FROM 01/01/2003

#### *Effect on company*

- F29**<sup>15</sup> (1) Paragraphs 16 to 23 apply in relation to a company for which a moratorium is in force.
- (2) The fact that a company enters into a transaction in contravention of any of paragraphs 16 to 22 does not—
- (a) make the transaction void, or
  - (b) make it to any extent unenforceable against the company.

#### Textual Amendments

- F29** 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**)

VALID FROM 01/01/2003

#### *Company invoices, etc.*

- F30**<sup>16</sup> (1) Every invoice, order for goods or business letter which—
- (a) is issued by or on behalf of the company, and



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(b) on or in which the company's name appears,  
shall also contain the nominee's name and a statement that the moratorium is in force for the company.

- (2) If default is made in complying with sub-paragraph (1), the company and (subject to sub-paragraph (3)) any officer of the company is liable to a fine.
- (3) An officer of the company is only liable under sub-paragraph (2) if, without reasonable excuse, he authorises or permits the default.

#### Textual Amendments

**F30** 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)

VALID FROM 01/01/2003

#### *Obtaining credit during moratorium*

- <sup>F31</sup>17 (1) The company may not obtain credit to the extent of £250 or more from a person who has not been informed that a moratorium is in force in relation to the company.
- (2) The reference to the company obtaining credit includes the following cases—
- (a) where goods are bailed (in Scotland, hired) to the company under a hire-purchase agreement, or agreed to be sold to the company under a conditional sale agreement, and
- (b) where the company is paid in advance (whether in money or otherwise) for the supply of goods or services.
- (3) Where the company obtains credit in contravention of sub-paragraph (1)—
- (a) the company is liable to a fine, and
- (b) if any officer of the company knowingly and wilfully authorised or permitted the contravention, he is liable to imprisonment or a fine, or both.
- (4) The money sum specified in sub-paragraph (1) is subject to increase or reduction by order under section 417A in Part XV.

#### Textual Amendments

**F31** 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)

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VALID FROM 01/01/2003

*Disposals and payments*

- <sup>F32</sup>18 (1) Subject to sub-paragraph (2), the company may only dispose of any of its property if—
- (a) there are reasonable grounds for believing that the disposal will benefit the company, and
  - (b) the disposal is approved by the committee established under paragraph 35(1) or, where there is no such committee, by the nominee.
- (2) Sub-paragraph (1) does not apply to a disposal made in the ordinary way of the company's business.
- (3) If the company makes a disposal in contravention of sub-paragraph (1) otherwise than in pursuance of an order of the court—
- (a) the company is liable to a fine, and
  - (b) if any officer of the company authorised or permitted the contravention, without reasonable excuse, he is liable to imprisonment or a fine, or both.

**Textual Amendments**

**F32** 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)

- <sup>F33</sup>19 (1) Subject to sub-paragraph (2), the company may only make any payment in respect of any debt or other liability of the company in existence before the beginning of the moratorium if—
- (a) there are reasonable grounds for believing that the payment will benefit the company, and
  - (b) the payment is approved by the committee established under paragraph 35(1) or, where there is no such committee, by the nominee.
- (2) Sub-paragraph (1) does not apply to a payment required by paragraph 20(6).
- (3) If the company makes a payment in contravention of sub-paragraph (1) otherwise than in pursuance of an order of the court—
- (a) the company is liable to a fine, and
  - (b) if any officer of the company authorised or permitted the contravention, without reasonable excuse, he is liable to imprisonment or a fine, or both.

**Textual Amendments**

**F33** 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)

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VALID FROM 01/01/2003

*Disposal of charged property, etc.*

- <sup>F34</sup>20 (1) This paragraph applies where—
- (a) any property of the company is subject to a security, or
  - (b) any goods are in the possession of the company under a hire-purchase agreement.
- (2) If the holder of the security consents, or the court gives leave, the company may dispose of the property as if it were not subject to the security.
- (3) If the owner of the goods consents, or the court gives leave, the company may dispose of the goods as if all rights of the owner under the hire-purchase agreement were vested in the company.
- (4) Where property subject to a security which, as created, was a floating charge is disposed of under sub-paragraph (2), the holder of the security has the same priority in respect of any property of the company directly or indirectly representing the property disposed of as he would have had in respect of the property subject to the security.
- (5) Sub-paragraph (6) applies to the disposal under sub-paragraph (2) or (as the case may be) sub-paragraph (3) of—
- (a) any property subject to a security other than a security which, as created, was a floating charge, or
  - (b) any goods in the possession of the company under a hire-purchase agreement.
- (6) It shall be a condition of any consent or leave under sub-paragraph (2) or (as the case may be) sub-paragraph (3) that—
- (a) the net proceeds of the disposal, and
  - (b) where those proceeds are less than such amount as may be agreed, or determined by the court, to be the net amount which would be realised on a sale of the property or goods in the open market by a willing vendor, such sums as may be required to make good the deficiency,
- shall be applied towards discharging the sums secured by the security or payable under the hire-purchase agreement.
- (7) Where a condition imposed in pursuance of sub-paragraph (6) relates to two or more securities, that condition requires—
- (a) the net proceeds of the disposal, and
  - (b) where paragraph (b) of sub-paragraph (6) applies, the sums mentioned in that paragraph,
- to be applied towards discharging the sums secured by those securities in the order of their priorities.
- (8) Where the court gives leave for a disposal under sub-paragraph (2) or (3), the directors shall, within 14 days after leave is given, send an office copy of the order giving leave to the registrar of companies.

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- (9) If the directors without reasonable excuse fail to comply with sub-paragraph (8), they are liable to a fine.

#### Textual Amendments

**F34** 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)

**C2** Sch. A1 para. 20 excluded (26.12.2003) by The Financial Collateral Arrangements (No.2) Regulations 2003 (S.I. 2003/3226, **reg. 8(5)**)

- <sup>F35</sup>21 (1) Where property is disposed of under paragraph 20 in its application to Scotland, the company shall grant to the donee an appropriate document of transfer or conveyance of the property, and
- (a) that document, or
  - (b) where any recording, intimation or registration of the document is a legal requirement for completion of title to the property, that recording, intimation or registration,
- has the effect of disencumbering the property of, or (as the case may be) freeing the property from, the security.
- (2) Where goods in the possession of the company under a hire-purchase agreement are disposed of under paragraph 20 in its application to Scotland, the disposal has the effect of extinguishing, as against the donee, all rights of the owner of the goods under the agreement.

#### Textual Amendments

**F35** 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)

- <sup>F36</sup>22 (1) If the company—
- (a) without any consent or leave under paragraph 20, disposes of any of its property which is subject to a security otherwise than in accordance with the terms of the security,
  - (b) without any consent or leave under paragraph 20, disposes of any goods in the possession of the company under a hire-purchase agreement otherwise than in accordance with the terms of the agreement, or
  - (c) fails to comply with any requirement imposed by paragraph 20 or 21,
- it is liable to a fine.
- (2) If any officer of the company, without reasonable excuse, authorises or permits any such disposal or failure to comply, he is liable to imprisonment or a fine, or both.

*Status: Point in time view as at 26/03/2002.*

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#### Textual Amendments

**F36** 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)

#### *Market contracts, etc.*

- <sup>F37</sup>23 (1) If the company enters into any transaction to which this paragraph applies—
- (a) the company is liable to a fine, and
  - (b) if any officer of the company, without reasonable excuse, authorised or permitted the company to enter into the transaction, he is liable to imprisonment or a fine, or both.
- (2) A company enters into a transaction to which this paragraph applies if it—
- (a) enters into a market contract, a money market contract or a related contract,
  - (b) gives a transfer order,
  - (c) grants a market charge, a money market charge or a system-charge, or
  - (d) provides any collateral security.
- (3) The fact that a company enters into a transaction in contravention of this paragraph does not—
- (a) make the transaction void, or
  - (b) make it to any extent unenforceable by or against the company.
- (4) Where during the moratorium a company enters into a transaction to which this paragraph applies, nothing done by or in pursuance of the transaction is to be treated as done in contravention of paragraphs 12(1)(g), 14 or 16 to 22.
- (5) Paragraph 20 does not apply in relation to any property which is subject to a market charge, a money market charge, a system-charge or a collateral security charge.
- (6) In this paragraph, “transfer order”, “collateral security” and “collateral security charge” have the same meanings as in the settlement finality regulations.

#### Textual Amendments

**F37** **Sch. A1** (Pts. I-VI) inserted (11.5.2001 but only so far as is necessary to give effect to Sch. A1 paras. 5, 45(1)-(3)(5)) by 2000 c. 39, ss. 1, 16, **Sch. 1 para. 4**; S.I. 2001/1751, **art. 2**

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VALID FROM 01/01/2003

## PART IV

### NOMINEES

#### *Monitoring of company's activities*

- <sup>F38</sup>24 (1) During a moratorium, the nominee shall monitor the company's affairs for the purpose of forming an opinion as to whether—
- (a) the proposed voluntary arrangement or, if he has received notice of proposed modifications under paragraph 31(7), the proposed arrangement with those modifications has a reasonable prospect of being approved and implemented, and
  - (b) the company is likely to have sufficient funds available to it during the remainder of the moratorium to enable it to continue to carry on its business.
- (2) The directors shall submit to the nominee any information necessary to enable him to comply with sub-paragraph (1) which he requests from them.
- (3) In forming his opinion on the matters mentioned in sub-paragraph (1), the nominee is entitled to rely on the information submitted to him under sub-paragraph (2) unless he has reason to doubt its accuracy.
- (4) The reference in sub-paragraph (1)(b) to the company's business is to that business as the company proposes to carry it on during the remainder of the moratorium.

#### **Textual Amendments**

**F38** 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)

#### *Withdrawal of consent to act*

- <sup>F39</sup>25 (1) The nominee may only withdraw his consent to act in the circumstances mentioned in this paragraph.
- (2) The nominee must withdraw his consent to act if, at any time during a moratorium—
- (a) he forms the opinion that—
    - (i) the proposed voluntary arrangement or, if he has received notice of proposed modifications under paragraph 31(7), the proposed arrangement with those modifications no longer has a reasonable prospect of being approved or implemented, or
    - (ii) the company will not have sufficient funds available to it during the remainder of the moratorium to enable it to continue to carry on its business,
  - (b) he becomes aware that, on the date of filing, the company was not eligible for a moratorium, or
  - (c) the directors fail to comply with their duty under paragraph 24(2).

*Status: Point in time view as at 26/03/2002.*

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- (3) The reference in sub-paragraph (2)(a)(ii) to the company's business is to that business as the company proposes to carry it on during the remainder of the moratorium.
- (4) If the nominee withdraws his consent to act, the moratorium comes to an end.
- (5) If the nominee withdraws his consent to act he must, in accordance with the rules, notify the court, the registrar of companies, the company and any creditor of the company of whose claim he is aware of his withdrawal and the reason for it.
- (6) If the nominee without reasonable excuse fails to comply with sub-paragraph (5), he is liable to a fine.

#### Textual Amendments

**F39** 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)

#### *Challenge of nominee's actions, etc.*

- <sup>F40</sup>26 (1) If any creditor, director or member of the company, or any other person affected by a moratorium, is dissatisfied by any act, omission or decision of the nominee during the moratorium, he may apply to the court.
- (2) An application under sub-paragraph (1) may be made during the moratorium or after it has ended.
  - (3) On an application under sub-paragraph (1) the court may—
    - (a) confirm, reverse or modify any act or decision of the nominee,
    - (b) give him directions, or
    - (c) make such other order as it thinks fit.
  - (4) An order under sub-paragraph (3) may (among other things) bring the moratorium to an end and make such consequential provision as the court thinks fit.

#### Textual Amendments

**F40** 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)

- <sup>F41</sup>27 (1) Where there are reasonable grounds for believing that—
  - (a) as a result of any act, omission or decision of the nominee during the moratorium, the company has suffered loss, but
  - (b) the company does not intend to pursue any claim it may have against the nominee,any creditor of the company may apply to the court.
- (2) An application under sub-paragraph (1) may be made during the moratorium or after it has ended.
  - (3) On an application under sub-paragraph (1) the court may—



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- (a) order the company to pursue any claim against the nominee,
  - (b) authorise any creditor to pursue such a claim in the name of the company, or
  - (c) make such other order with respect to such a claim as it thinks fit,
- unless the court is satisfied that the act, omission or decision of the nominee was in all the circumstances reasonable.

- (4) An order under sub-paragraph (3) may (among other things)—
- (a) impose conditions on any authority given to pursue a claim,
  - (b) direct the company to assist in the pursuit of a claim,
  - (c) make directions with respect to the distribution of anything received as a result of the pursuit of a claim,
  - (d) bring the moratorium to an end and make such consequential provision as the court thinks fit.
- (5) On an application under sub-paragraph (1) the court shall have regard to the interests of the members and creditors of the company generally.

#### Textual Amendments

**F41** 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)

#### *Replacement of nominee by court*

- <sup>F42</sup>28 (1) The court may—
- (a) on an application made by the directors in a case where the nominee has failed to comply with any duty imposed on him under this Schedule or has died, or
  - (b) on an application made by the directors or the nominee in a case where it is impracticable or inappropriate for the nominee to continue to act as such,
- direct that the nominee be replaced as such by another person qualified to act as an insolvency practitioner, or authorised to act as nominee, in relation to the voluntary arrangement.
- (2) A person may only be appointed as a replacement nominee under this paragraph if he submits to the court a statement indicating his consent to act.

#### Textual Amendments

**F42** 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)



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VALID FROM 01/01/2003

## PART V

### CONSIDERATION AND IMPLEMENTATION OF VOLUNTARY ARRANGEMENT

#### *Summoning of meetings*

- <sup>F43</sup>29 (1) Where a moratorium is in force, the nominee shall summon meetings of the company and its creditors for such a time, date (within the period for the time being specified in paragraph 8(3)) and place as he thinks fit.
- (2) The persons to be summoned to a creditors' meeting under this paragraph are every creditor of the company of whose claim the nominee is aware.

#### **Textual Amendments**

**F43** 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)

#### *Conduct of meetings*

- <sup>F44</sup>30 (1) Subject to the provisions of paragraphs 31 to 35, the meetings summoned under paragraph 29 shall be conducted in accordance with the rules.
- (2) A meeting so summoned may resolve that it be adjourned (or further adjourned).
- (3) After the conclusion of either meeting in accordance with the rules, the chairman of the meeting shall report the result of the meeting to the court, and, immediately after reporting to the court, shall give notice of the result of the meeting to such persons as may be prescribed.

#### **Textual Amendments**

**F44** 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)

#### *Approval of voluntary arrangement*

- <sup>F45</sup>31 (1) The meetings summoned under paragraph 29 shall decide whether to approve the proposed voluntary arrangement (with or without modifications).
- (2) The modifications may include one conferring the functions proposed to be conferred on the nominee on another person qualified to act as an insolvency practitioner, or authorised to act as nominee, in relation to the voluntary arrangement.
- (3) The modifications shall not include one by virtue of which the proposal ceases to be a proposal such as is mentioned in section 1.

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- (4) A meeting summoned under paragraph 29 shall not approve any proposal or modification which affects the right of a secured creditor of the company to enforce his security, except with the concurrence of the creditor concerned.
- (5) Subject to sub-paragraph (6), a meeting so summoned shall not approve any proposal or modification under which—
  - (a) any preferential debt of the company is to be paid otherwise than in priority to such of its debts as are not preferential debts, or
  - (b) a preferential creditor of the company is to be paid an amount in respect of a preferential debt that bears to that debt a smaller proportion than is borne to another preferential debt by the amount that is to be paid in respect of that other debt.
- (6) The meeting may approve such a proposal or modification with the concurrence of the preferential creditor concerned.
- (7) The directors of the company may, before the beginning of the period of seven days which ends with the meetings (or either of them) summoned under paragraph 29 being held, give notice to the nominee of any modifications of the proposal for which the directors intend to seek the approval of those meetings.
- (8) References in this paragraph to preferential debts and preferential creditors are to be read in accordance with section 386 in Part XII of this Act.

#### **Textual Amendments**

**F45** 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)

#### *Extension of moratorium*

- <sup>F46</sup>32 (1) Subject to sub-paragraph (2), a 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.
- (2) The moratorium may not be extended (or further extended) to a day later than the end of the period of two months which begins—
    - (a) where both meetings summoned under paragraph 29 are first held on the same day, with that day,
    - (b) in any other case, with the day on which the later of those meetings is first held.
  - (3) At any meeting 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—
    - (a) 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
    - (b) 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 of the expected cost of his intended actions, the meeting shall resolve 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 may resolve 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

**F46** 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)

- <sup>F47</sup>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, or authorised to act as nominee, in relation to the voluntary arrangement.
- (2) A person may only be appointed as a replacement nominee by virtue of sub-paragraph (1) if he submits to the court a statement indicating his consent to act.
  - (3) At any meeting 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

**F47** 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)

- <sup>F48</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 an office 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.

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#### Textual Amendments

**F48** 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)

#### *Moratorium committee*

- F49** 35 (1) A meeting summoned under paragraph 29 which resolves that the moratorium be extended (or further extended) may, with the consent of the nominee, resolve that a committee be established to exercise the functions conferred on it by the meeting.
- (2) The meeting may not so resolve unless it has approved an estimate of the expenses to be incurred by the committee in the exercise of the proposed functions.
- (3) Any expenses, not exceeding the amount of the estimate, incurred by the committee in the exercise of its functions shall be reimbursed by the nominee.
- (4) The committee shall cease to exist when the moratorium comes to an end.

#### Textual Amendments

**F49** 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 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)

#### *Effectiveness of decisions*

- F50** 36 (1) Sub-paragraph (2) applies to references to one of the following decisions having effect, that is, a decision, under paragraph 31, 32 or 35, with respect to—
- (a) the approval of a proposed voluntary arrangement,
- (b) the extension (or further extension) of a moratorium,
- (c) the bringing of a moratorium to an end,
- (d) the establishment of a committee, or
- (e) the approval of the expected cost of a nominee's intended actions.
- (2) The decision has effect if, in accordance with the rules—
- (a) it has been taken by both meetings summoned under paragraph 29, or
- (b) (subject to any order made under sub-paragraph (5)) it has been taken by the creditors' meeting summoned under that paragraph.
- (3) If a decision taken by the creditors' meeting under any of paragraphs 31, 32 or 35 with respect to any of the matters mentioned in sub-paragraph (1) differs from one so taken by the company meeting with respect to that matter, a member of the company may apply to the court.
- (4) An application under sub-paragraph (3) shall not be made after the end of the period of 28 days beginning with—
- (a) the day on which the decision was taken by the creditors' meeting, or
- (b) where the decision of the company meeting was taken on a later day, that day.

*Status: Point in time view as at 26/03/2002.*

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- (5) On an application under sub-paragraph (3), the court may—
- (a) order the decision of the company meeting to have effect instead of the decision of the creditors' meeting, or
  - (b) make such other order as it thinks fit.

#### Textual Amendments

**F50** 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 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** (with arts. 3-5)

#### *Effect of approval of voluntary arrangement*

<sup>F51</sup>37 (1) This paragraph applies where a decision approving a voluntary arrangement has effect under paragraph 36.

- (2) The approved voluntary arrangement—
- (a) takes effect as if made by the company at the creditors' meeting, and
  - (b) binds every person who in accordance with the rules—
    - (i) was entitled to vote at that meeting (whether or not he was present or represented at it), or
    - (ii) would have been so entitled if he had had notice of it, as if he were a party to the voluntary arrangement.
- (3) If—
- (a) when the arrangement ceases to have effect any amount payable under the arrangement to a person bound by virtue of sub-paragraph (2)(b)(ii) has not been paid, and
  - (b) the arrangement did not come to an end prematurely,
- the company shall at that time become liable to pay to that person the amount payable under the arrangement.
- (4) Where a petition for the winding up of the company, other than an excepted petition within the meaning of paragraph 12, was presented before the beginning of the moratorium, the court shall dismiss the petition.
- (5) The court shall not dismiss a petition under sub-paragraph (4)—
- (a) at any time before the end of the period of 28 days beginning with the first day on which each of the reports of the meetings required by paragraph 30(3) has been made to the court, or
  - (b) at any time when an application under paragraph 38 or an appeal in respect of such an application is pending, or at any time in the period within which such an appeal may be brought.

#### Textual Amendments

**F51** 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)

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### *Challenge of decisions*

- <sup>F52</sup>38 (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
  - (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.



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- (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

**F52** Sch. A1 inserted (11.5.2001 so far as is necessary to give effect to Sch. A1 para. 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)

#### *Implementation of voluntary arrangement*

- <sup>F53</sup>39 (1) This paragraph applies where a voluntary arrangement approved by one or both of the meetings summoned under paragraph 29 has taken effect.
- (2) The person who is for the time being carrying out in relation to the voluntary arrangement the functions conferred—
- (a) by virtue of the approval of the arrangement, on the nominee, or
  - (b) by virtue of paragraph 31(2), on a person other than the nominee,
- shall be known as the supervisor of the voluntary arrangement.
- (3) If any of the company's creditors or any other person is dissatisfied by any act, omission or decision of the supervisor, he may apply to the court.
- (4) On an application under sub-paragraph (3) the court may—
- (a) confirm, reverse or modify any act or decision of the supervisor,
  - (b) give him directions, or
  - (c) make such other order as it thinks fit.
- (5) The supervisor—
- (a) may apply to the court for directions in relation to any particular matter arising under the voluntary arrangement, and
  - (b) is included among the persons who may apply to the court for the winding up of the company or for an administration order to be made in relation to it.
- (6) The court may, whenever—
- (a) it is expedient to appoint a person to carry out the functions of the supervisor, and

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(b) it is inexpedient, difficult or impracticable for an appointment to be made without the assistance of the court,

make an order appointing a person who is qualified to act as an insolvency practitioner, or authorised to act as supervisor, in relation to the voluntary arrangement, either in substitution for the existing supervisor or to fill a vacancy.

(7) The power conferred by sub-paragraph (6) is exercisable so as to increase the number of persons exercising the functions of supervisor or, where there is more than one person exercising those functions, so as to replace one or more of those persons.

#### Textual Amendments

**F53** 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 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**)

## PART VI

### MISCELLANEOUS

VALID FROM 01/01/2003

#### *Challenge of directors' actions*

- <sup>F54</sup>40 (1) This paragraph applies in relation to acts or omissions of the directors of a company during a moratorium.
- (2) A creditor or member of the company may apply to the court for an order under this paragraph on the ground—
- (a) that the company's affairs, business and property are being or have been managed by the directors in a manner which is unfairly prejudicial to the interests of its creditors or members generally, or of some part of its creditors or members (including at least the petitioner), or
  - (b) that any actual or proposed act or omission of the directors is or would be so prejudicial.
- (3) An application for an order under this paragraph may be made during or after the moratorium.
- (4) On an application for an order under this paragraph the court may—
- (a) make such order as it thinks fit for giving relief in respect of the matters complained of,
  - (b) adjourn the hearing conditionally or unconditionally, or
  - (c) make an interim order or any other order that it thinks fit.
- (5) An order under this paragraph may in particular—



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- (a) regulate the management by the directors of the company's affairs, business and property during the remainder of the moratorium,
  - (b) require the directors to refrain from doing or continuing an act complained of by the petitioner, or to do an act which the petitioner has complained they have omitted to do,
  - (c) require the summoning of a meeting of creditors or members for the purpose of considering such matters as the court may direct,
  - (d) bring the moratorium to an end and make such consequential provision as the court thinks fit.
- (6) In making an order under this paragraph the court shall have regard to the need to safeguard the interests of persons who have dealt with the company in good faith and for value.
- (7) In relation to any time when an administration order is in force in relation to the company, or the company is being wound up, in pursuance of a petition presented before the moratorium came into force, no application for an order under this paragraph may be made by a creditor or member of the company; but such an application may be made instead by the administrator or (as the case may be) liquidator.

#### Textual Amendments

**F54** 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)

VALID FROM 01/01/2003

#### Offences

- <sup>F55</sup>41 (1) This paragraph applies where a moratorium has been obtained for a company.
- (2) If, within the period of 12 months ending with the day on which the moratorium came into force, a person who was at the time an officer of the company—
- (a) did any of the things mentioned in paragraphs (a) to (f) of sub-paragraph (4), or
  - (b) was privy to the doing by others of any of the things mentioned in paragraphs (c), (d) and (e) of that sub-paragraph,
- he is to be treated as having committed an offence at that time.
- (3) If, at any time during the moratorium, a person who is an officer of the company—
- (a) does any of the things mentioned in paragraphs (a) to (f) of sub-paragraph (4), or
  - (b) is privy to the doing by others of any of the things mentioned in paragraphs (c), (d) and (e) of that sub-paragraph,
- he commits an offence.
- (4) Those things are—

*Status: Point in time view as at 26/03/2002.*

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- (a) concealing any part of the company’s property to the value of £500 or more, or concealing any debt due to or from the company, or
  - (b) fraudulently removing any part of the company’s property to the value of £500 or more, or
  - (c) concealing, destroying, mutilating or falsifying any book or paper affecting or relating to the company’s property or affairs, or
  - (d) making any false entry in any book or paper affecting or relating to the company’s property or affairs, or
  - (e) fraudulently parting with, altering or making any omission in any document affecting or relating to the company’s property or affairs, or
  - (f) pawning, pledging or disposing of any property of the company which has been obtained on credit and has not been paid for (unless the pawning, pledging or disposal was in the ordinary way of the company’s business).
- (5) For the purposes of this paragraph, “officer” includes a shadow director.
- (6) It is a defence—
- (a) for a person charged under sub-paragraph (2) or (3) in respect of the things mentioned in paragraph (a) or (f) of sub-paragraph (4) to prove that he had no intent to defraud, and
  - (b) for a person charged under sub-paragraph (2) or (3) in respect of the things mentioned in paragraph (c) or (d) of sub-paragraph (4) to prove that he had no intent to conceal the state of affairs of the company or to defeat the law.
- (7) Where a person pawns, pledges or disposes of any property of a company in circumstances which amount to an offence under sub-paragraph (2) or (3), every person who takes in pawn or pledge, or otherwise receives, the property knowing it to be pawned, pledged or disposed of in circumstances which—
- (a) would, if a moratorium were obtained for the company within the period of 12 months beginning with the day on which the pawning, pledging or disposal took place, amount to an offence under sub-paragraph (2), or
  - (b) amount to an offence under sub-paragraph (3),
- commits an offence.
- (8) A person guilty of an offence under this paragraph is liable to imprisonment or a fine, or both.
- (9) The money sums specified in paragraphs (a) and (b) of sub-paragraph (4) are subject to increase or reduction by order under section 417A in Part XV.

#### Textual Amendments

**F55** 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)

- <sup>F56</sup>42 (1) If, for the purpose of obtaining a moratorium, or an extension of a moratorium, for a company, a person who is an officer of the company—
- (a) makes any false representation, or
  - (b) fraudulently does, or omits to do, anything,
- he commits an offence.

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- (2) Sub-paragraph (1) applies even if no moratorium or extension is obtained.
- (3) For the purposes of this paragraph, “officer” includes a shadow director.
- (4) A person guilty of an offence under this paragraph is liable to imprisonment or a fine, or both.

#### Textual Amendments

**F56** 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)

VALID FROM 01/01/2003

#### *Void provisions in floating charge documents*

- <sup>F57</sup>43 (1) A provision in an instrument creating a floating charge is void if it provides for—
- (a) obtaining a moratorium, or
  - (b) anything done with a view to obtaining a moratorium (including any preliminary decision or investigation),
- to be an event causing the floating charge to crystallise or causing restrictions which would not otherwise apply to be imposed on the disposal of property by the company or a ground for the appointment of a receiver.
- (2) In sub-paragraph (1), “receiver” includes a manager and a person who is appointed both receiver and manager.

#### Textual Amendments

**F57** 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)

VALID FROM 01/01/2003

#### *Functions of the Financial Services Authority*

- <sup>F58</sup>44 (1) This Schedule has effect in relation to a moratorium for a regulated company with the modifications in sub-paragraphs (2) to (16) below.
- (2) Any notice or other document required by virtue of this Schedule to be sent to a creditor of a regulated company must also be sent to the Authority.
  - (3) The Authority is entitled to be heard on any application to the court for leave under paragraph 20(2) or 20(3) (disposal of charged property, etc.).
  - (4) Where paragraph 26(1) (challenge of nominee’s actions, etc.) applies, the persons who may apply to the court include the Authority.

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- (5) If a person other than the Authority applies to the court under that paragraph, the Authority is entitled to be heard on the application.
- (6) Where paragraph 27(1) (challenge of nominee’s actions, etc.) applies, the persons who may apply to the court include the Authority.
- (7) If a person other than the Authority applies to the court under that paragraph, the Authority is entitled to be heard on the application.
- (8) The persons to be summoned to a creditors’ meeting under paragraph 29 include the Authority.
- (9) A person appointed for the purpose by the Authority is entitled to attend and participate in (but not to vote at)—
  - (a) any creditors’ meeting summoned under that paragraph,
  - (b) any meeting of a committee established under paragraph 35 (moratorium committee).
- (10) The Authority is entitled to be heard on any application under paragraph 36(3) (effectiveness of decisions).
- (11) Where paragraph 38(1) (challenge of decisions) applies, the persons who may apply to the court include the Authority.
- (12) If a person other than the Authority applies to the court under that paragraph, the Authority is entitled to be heard on the application.
- (13) Where paragraph 39(3) (implementation of voluntary arrangement) applies, the persons who may apply to the court include the Authority.
- (14) If a person other than the Authority applies to the court under that paragraph, the Authority is entitled to be heard on the application.
- (15) Where paragraph 40(2) (challenge of directors’ actions) applies, the persons who may apply to the court include the Authority.
- (16) If a person other than the Authority applies to the court under that paragraph, the Authority is entitled to be heard on the application.
- (17) This paragraph does not prejudice any right the Authority has (apart from this paragraph) as a creditor of a regulated company.
- (18) In this paragraph—
 

“the Authority” means the Financial Services Authority, and

“regulated company” means a company which—

  - (a) is, or has been, an authorised person within the meaning given by section 31 of the <sup>M10</sup>Financial Services and Markets Act 2000,
  - (b) is, or has been, an appointed representative within the meaning given by section 39 of that Act, or
  - (c) is carrying on, or has carried on, a regulated activity, within the meaning given by section 22 of that Act, in contravention of the general prohibition within the meaning given by section 19 of that Act.

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#### Textual Amendments

**F58** 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)

#### Marginal Citations

**M10** 2000 c. 8.

#### *Subordinate legislation*

- <sup>F59</sup>45 (1) Regulations or an order made by the Secretary of State under this Schedule may make different provision for different cases.
- (2) Regulations so made may make such consequential, incidental, supplemental and transitional provision as may appear to the Secretary of State necessary or expedient.
- (3) Any power of the Secretary of State to make regulations under this Schedule may be exercised by amending or repealing any enactment contained in this Act (including one contained in this Schedule) or contained in the <sup>M11</sup>Company Directors Disqualification Act 1986.
- (4) Regulations (except regulations under paragraph 5) or an order made by the Secretary of State under this Schedule shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations under paragraph 5 of this Schedule are to be made by statutory instrument and shall only be made if a draft containing the regulations has been laid before and approved by resolution of each House of Parliament.]

#### Textual Amendments

**F59** 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)

#### Marginal Citations

**M11** 1986 c. 46.

## SCHEDULE B1

## ADMINISTRATION

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*Status: Point in time view as at 26/03/2002.*

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## SCHEDULE 1

Sections 14, 42.

### POWERS OF ADMINISTRATOR OR ADMINISTRATIVE RECEIVER

**Modifications etc. (not altering text)**

**C74** Sch. 1 modified (15.7.2003) by [Greater London Authority Act 1999 \(c. 29\)](#), ss. 220(3), 425, Sch. 14 paras. 11, 19 (with Sch. 12 para. 9(1)); S.I. 2003/1920, **art. 2(b)**

**C75** Sch. 1 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

- 1           Power to take possession of, collect and get in the property of the company and, for that purpose, to take such proceedings as may seem to him expedient.
  
- 2           Power to sell or otherwise dispose of the property of the company by public auction or private contract or, in Scotland, to sell, feu, hire out or otherwise dispose of the property of the company by public roup or private bargain.
  
- 3           Power to raise or borrow money and grant security therefor over the property of the company.
  
- 4           Power to appoint a solicitor or accountant or other professionally qualified person to assist him in the performance of his functions.
  
- 5           Power to bring or defend any action or other legal proceedings in the name and on behalf of the company.
  
- 6           Power to refer to arbitration any question affecting the company.
  
- 7           Power to effect and maintain insurances in respect of the business and property of the company.
  
- 8           Power to use the company's seal.
  
- 9           Power to do all acts and to execute in the name and on behalf of the company any deed, receipt or other document.
  
- 10          Power to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company.
  
- 11          Power to appoint any agent to do any business which he is unable to do himself or which can more conveniently be done by an agent and power to employ and dismiss employees.
  
- 12          Power to do all such things (including the carrying out of works) as may be necessary for the realisation of the property of the company.
  
- 13          Power to make any payment which is necessary or incidental to the performance of his functions.
  
- 14          Power to carry on the business of the company.
  
- 15          Power to establish subsidiaries of the company.
  
- 16          Power to transfer to subsidiaries of the company the whole or any part of the business and property of the company.

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- 17 Power to grant or accept a surrender of a lease or tenancy of any of the property of the company, and to take a lease or tenancy of any property required or convenient for the business of the company.
- 18 Power to make any arrangement or compromise on behalf of the company.
- 19 Power to call up any uncalled capital of the company.
- 20 Power to rank and claim in the bankruptcy, insolvency, sequestration or liquidation of any person indebted to the company and to receive dividends, and to accede to trust deeds for the creditors of any such person.
- 21 Power to present or defend a petition for the winding up of the company.
- 22 Power to change the situation of the company's registered office.
- 23 Power to do all other things incidental to the exercise of the foregoing powers.

## SCHEDULE 2

Section 55.

### POWERS OF A SCOTTISH RECEIVER (ADDITIONAL TO THOSE CONFERRED ON HIM BY THE INSTRUMENT OF CHARGE)

**Modifications etc. (not altering text)**

**C76** Sch. 2 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), Sch. 2

**C77** Sch. 10 modified (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(2), Sch. 3

- 1 Power to take possession of, collect and get in the property from the company or a liquidator thereof or any other person, and for that purpose, to take such proceedings as may seem to him expedient.
- 2 Power to sell, feu, hire out or otherwise dispose of the property by public roup or private bargain and with or without advertisement.
- 3 Power to raise or borrow money and grant security therefor over the property.
- 4 Power to appoint a solicitor or accountant or other professionally qualified person to assist him in the performance of his functions.
- 5 Power to bring or defend any action or other legal proceedings in the name and on behalf of the company.
- 6 Power to refer to arbitration all questions affecting the company.
- 7 Power to effect and maintain insurances in respect of the business and property of the company.
- 8 Power to use the company's seal.
- 9 Power to do all acts and to execute in the name and on behalf of the company any deed, receipt or other document.
- 10 Power to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company.



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- 11 Power to appoint any agent to do any business which he is unable to do himself or which can more conveniently be done by an agent, and power to employ and dismiss employees.
- 12 Power to do all such things (including the carrying out of works), as may be necessary for the realisation of the property.
- 13 Power to make any payment which is necessary or incidental to the performance of his functions.
- 14 Power to carry on the business of the company or any part of it.
- 15 Power to grant or accept a surrender of a lease or tenancy of any of the property, and to take a lease or tenancy of any property required or convenient for the business of the company.
- 16 Power to make any arrangement or compromise on behalf of the company.
- 17 Power to call up any uncalled capital of the company.

**Modifications etc. (not altering text)**

**C78** Sch. 2 para. 17 modified (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(2), Sch. 3

- 18 Power to establish subsidiaries of the company.
- 19 Power to transfer to subsidiaries of the company the business of the company or any part of it and any of the property.
- 20 Power to rank and claim in the bankruptcy, insolvency, sequestration or liquidation of any person or company indebted to the company and to receive dividends, and to accede to trust deeds for creditors of any such person.
- 21 Power to present or defend a petition for the winding up of the company.
- 22 Power to change the situation of the company's registered office.
- 23 Power to do all other things incidental to the exercise of the powers mentioned in section 55(1) of this Act or above in this Schedule.

VALID FROM 15/09/2003

[<sup>F62</sup>SCHEDULE 2A

EXCEPTIONS TO PROHIBITION ON APPOINTMENT OF  
 ADMINISTRATIVE RECEIVER: SUPPLEMENTARY PROVISIONS

**Textual Amendments**

**F62** Sch. 2A inserted (15.9.2003) by 2002 c. 40, s. 250(2), 279, Sch. 18 (with s. 249(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))



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**Modifications etc. (not altering text)**

**C79** Sch. 2A 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**

SCHEDULE 3

Section 162.

ORDERS IN COURSE OF WINDING UP PRONOUNCED IN VACATION (SCOTLAND)

**Modifications etc. (not altering text)**

**C80** Sch. 3 applied (with modifications) (S.) (6.4.2002) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**

**PART I**

ORDERS WHICH ARE TO BE FINAL

Orders under section 153, as to the time for proving debts and claims.

Orders under section 195 as to meetings for ascertaining wishes of creditors or contributories.

Orders under section 198, as to the examination of witnesses in regard to the property or affairs of a company.

**PART II**

ORDERS WHICH ARE TO TAKE EFFECT UNTIL MATTER DISPOSED OF BY INNER HOUSE

Orders under section 126(1), 130(2) or (3), 147, 227 or 228, restraining or permitting the commencement or the continuance of legal proceedings.

Orders under section 135(5), limiting the powers of provisional liquidators.

Orders under section 108, appointing a liquidator to fill a vacancy.

Orders under section 167 or 169, sanctioning the exercise of any powers by a liquidator, other than the powers specified in paragraphs 1, 2 and 3 of Schedule 4 to this Act.

Orders under section 158, as to the arrest and detention of an absconding contributory and his property.

*Status: Point in time view as at 26/03/2002.*

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## SCHEDULE 4

Sections 165, 167.

### POWERS OF LIQUIDATOR IN A WINDING UP

#### Modifications etc. (not altering text)

- C81** Sch. 4 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128, reg. 4\(1\)](#), [Sch. 2](#)
- C82** Sch. 4 excluded (1.12.2001) by [2000 c. 8, s. 376\(12\)](#); [S.I. 2001/3538, art. 2](#)
- C83** Sch. 4 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 103, 263\(1\)\(2\)](#) (with s. 247); [S.I. 2009/296, arts. 2, 3, Sch. para. 2](#)
- C84** Sch. 4 applied (with modifications) (S.) (29.3.2009 at 4.00 p.m.) by [The Building Society Special Administration \(Scotland\) Rules 2009 \(S.I. 2009/806\), rules 2, 38-41](#)

## PART I

### POWERS EXERCISABLE WITH SANCTION

#### Modifications etc. (not altering text)

- C85** Sch. 4, Pt. I (paras. 1–3), Pt. II (paras. 4, 5), Pt. III (paras. 6–13) extended by [S.I. 1990/1338, art. 2, Sch. 1 para. 2\(7\)](#)

- 1 Power to pay any class of creditors in full.
- 2 Power to make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim (present or future, certain or contingent, ascertained or sounding only in damages) against the company, or whereby the company may be rendered liable.
- 3 Power to compromise, on such terms as may be agreed—
  - (a) all calls and liabilities to calls, all debts and liabilities capable of resulting in debts, and all claims (present or future, certain or contingent, ascertained or sounding only in damages) subsisting or supposed to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and
  - (b) all questions in any way relating to or affecting the assets or the winding up of the company,
 and take any security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect of it.

VALID FROM 15/09/2003

**[<sup>F65</sup>3A** Power to bring legal proceedings under section 213, 214, 238, 239, 242, 243 or 423.]

*Status: Point in time view as at 26/03/2002.*

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### Textual Amendments

- F65** Sch. 4 Pt. I para. 3A inserted (15.9.2003) by 2002 c. 40, ss. 253, 279 (with s. 249(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

## PART II

### POWERS EXERCISABLE WITHOUT SANCTION IN VOLUNTARY WINDING UP, WITH SANCTION IN WINDING UP BY THE COURT

### Modifications etc. (not altering text)

- C86** Sch. 4, Pt. I (paras. 1–3), Pt. II (paras. 4, 5), Pt. III (paras. 6–13) extended by S.I. 1990/1338, art. 2, Sch. 1 para. 2(7)

- 4 Power to bring or defend any action or other legal proceeding in the name and on behalf of the company.
- 5 Power to carry on the business of the company so far as may be necessary for its beneficial winding up.

## PART III

### POWERS EXERCISABLE WITHOUT SANCTION IN ANY WINDING UP

### Modifications etc. (not altering text)

- C87** Sch. 4, Pt. I (paras. 1–3), Pt. II (paras. 4, 5), Pt. III (paras. 6–13) extended by S.I. 1990/1338, art. 2, Sch. 1 para. 2(7)

- 6 Power to sell any of the company's property by public auction or private contract with power to transfer the whole of it to any person or to sell the same in parcels.

VALID FROM 06/04/2010

- [<sup>F66</sup>6A** In the case of a winding up in England and Wales, power to compromise, on such terms as may be agreed—
- (a) all calls and liabilities to calls, all debts and liabilities capable of resulting in debts, and all claims (present or future, certain or contingent, ascertained or sounding only in damages) subsisting or supposed to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and
  - (b) subject to paragraph 2 in Part 1 of this Schedule, all questions in any way relating to or affecting the assets or the winding up of the company, and take any security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect of it.]

*Status: Point in time view as at 26/03/2002.*

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### Textual Amendments

**F66** Sch. 4 para. 6A inserted (E.W.) (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\)](#), **art. 10(2)** (with **art. 12(5)**)

- 7 Power to do all acts and execute, in the name and on behalf of the company, all deeds, receipts and other documents and for that purpose to use, when necessary, the company's seal.
- 8 Power to prove, rank and claim in the bankruptcy, insolvency or sequestration of any contributory for any balance against his estate, and to receive dividends in the bankruptcy, insolvency or sequestration in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors.
- 9 Power to draw, accept, make and indorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the company's liability as if the bill or note had been drawn, accepted, made or indorsed by or on behalf of the company in the course of its business.
- 10 Power to raise on the security of the assets of the company any money requisite.
- 11 Power to take out in his official name letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot conveniently be done in the name of the company.
- In all such cases the money due is deemed, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, to be due to the liquidator himself.
- 12 Power to appoint an agent to do any business which the liquidator is unable to do himself.
- 13 Power to do all such other things as may be necessary for winding up the company's affairs and distributing its assets.

### Modifications etc. (not altering text)

**C88** Sch. 4 para. 13 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](#)

VALID FROM 24/02/2009

## [<sup>F67</sup>SCHEDULE 4ZA

### CONDITIONS FOR MAKING A DEBT RELIEF ORDER

### Textual Amendments

**F67** Sch. 4ZA inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), **ss. 108(2)**, 148(5), **Sch. 18**; S.I. 2009/382, **art. 2**

*Status: Point in time view as at 26/03/2002.*

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VALID FROM 24/02/2009

[<sup>F68</sup>SCHEDULE 4ZB

DEBT RELIEF RESTRICTIONS ORDERS AND UNDERTAKINGS

**Textual Amendments**

**F68** Sch. 4ZB inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 108(2), 148(5), [Sch. 19](#); S.I. 2009/382, [art. 2](#)

*Debt relief restrictions order*

- 1 (1) A debt relief restrictions order may be made by the court in relation to a person in respect of whom a debt relief order has been made.
- (2) An order may be made only on the application of—
- (a) the Secretary of State, or
  - (b) the official receiver acting on a direction of the Secretary of State.

*Grounds for making order*

- 2 (1) The court shall grant an application for a debt relief restrictions order if it thinks it appropriate to do so having regard to the conduct of the debtor (whether before or after the making of the debt relief order).
- (2) The court shall, in particular, take into account any of the following kinds of behaviour on the part of the debtor—
- (a) failing to keep records which account for a loss of property by the debtor, or by a business carried on by him, where the loss occurred in the period beginning two years before the application date for the debt relief order and ending with the date of the application for the debt relief restrictions order;
  - (b) failing to produce records of that kind on demand by the official receiver;
  - (c) entering into a transaction at an undervalue in the period beginning two years before the application date for the debt relief order and ending with the date of the determination of that application;
  - (d) giving a preference in the period beginning two years before the application date for the debt relief order and ending with the date of the determination of that application;
  - (e) making an excessive pension contribution;
  - (f) a failure to supply goods or services that were wholly or partly paid for;
  - (g) trading at a time, before the date of the determination of the application for the debt relief order, when the debtor knew or ought to have known that he was himself to be unable to pay his debts;

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- (h) incurring, before the date of the determination of the application for the debt relief order, a debt which the debtor had no reasonable expectation of being able to pay;
- (i) failing to account satisfactorily to the court or the official receiver for a loss of property or for an insufficiency of property to meet his debts;
- (j) carrying on any gambling, rash and hazardous speculation or unreasonable extravagance which may have materially contributed to or increased the extent of his inability to pay his debts before the application date for the debt relief order or which took place between that date and the date of the determination of the application for the debt relief order;
- (k) neglect of business affairs of a kind which may have materially contributed to or increased the extent of his inability to pay his debts;
- (l) fraud or fraudulent breach of trust;
- (m) failing to co-operate with the official receiver.

(3) The court shall also, in particular, consider whether the debtor was an undischarged bankrupt at some time during the period of six years ending with the date of the application for the debt relief order.

(4) For the purposes of sub-paragraph (2)—

“excessive pension contribution” shall be construed in accordance with section 342A;

“preference” shall be construed in accordance with paragraph 10(2) of Schedule 4ZA;

“undervalue” shall be construed in accordance with paragraph 9(2) of that Schedule.

#### *Timing of application for order*

3 An application for a debt relief restrictions order in respect of a debtor may be made—

- (a) at any time during the moratorium period relating to the debt relief order in question, or
- (b) after the end of that period, but only with the permission of the court.

#### *Duration of order*

4 (1) A debt relief restrictions order—

- (a) comes into force when it is made, and
- (b) ceases to have effect at the end of a date specified in the order.

(2) The date specified in a debt relief restrictions order under sub-paragraph (1)(b) must not be—

- (a) before the end of the period of two years beginning with the date on which the order is made, or
- (b) after the end of the period of 15 years beginning with that date.

#### *Interim debt relief restrictions order*

5 (1) This paragraph applies at any time between—

- (a) the institution of an application for a debt relief restrictions order, and

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- (b) the determination of the application.
- (2) The court may make an interim debt relief restrictions order if the court thinks that—
- (a) there are prima facie grounds to suggest that the application for the debt relief restrictions order will be successful, and
  - (b) it is in the public interest to make an interim debt relief restrictions order.
- (3) An interim debt relief restrictions order may only be made on the application of—
- (a) the Secretary of State, or
  - (b) the official receiver acting on a direction of the Secretary of State.
- (4) An interim debt relief restrictions order—
- (a) has the same effect as a debt relief restrictions order, and
  - (b) comes into force when it is made.
- (5) An interim debt relief restrictions order ceases to have effect—
- (a) on the determination of the application for the debt relief restrictions order,
  - (b) on the acceptance of a debt relief restrictions undertaking made by the debtor, or
  - (c) if the court discharges the interim debt relief restrictions order on the application of the person who applied for it or of the debtor.
- 6 (1) This paragraph applies to a case in which both an interim debt relief restrictions order and a debt relief restrictions order are made.
- (2) Paragraph 4(2) has effect in relation to the debt relief restrictions order as if a reference to the date of that order were a reference to the date of the interim debt relief restrictions order.

*Debt relief restrictions undertaking*

- 7 (1) A debtor may offer a debt relief restrictions undertaking to the Secretary of State.
- (2) In determining whether to accept a debt relief restrictions undertaking the Secretary of State shall have regard to the matters specified in paragraph 2(2) and (3).
- 8 A reference in an enactment to a person in respect of whom a debt relief restrictions order has effect (or who is “the subject of” a debt relief restrictions order) includes a reference to a person in respect of whom a debt relief restrictions undertaking has effect.
- 9 (1) A debt relief restrictions undertaking—
- (a) comes into force on being accepted by the Secretary of State, and
  - (b) ceases to have effect at the end of a date specified in the undertaking.
- (2) The date specified under sub-paragraph (1)(b) must not be—
- (a) before the end of the period of two years beginning with the date on which the undertaking is accepted, or
  - (b) after the end of the period of 15 years beginning with that date.
- (3) On an application by the debtor the court may—
- (a) annul a debt relief restrictions undertaking;



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- (b) provide for a debt relief restrictions undertaking to cease to have effect before the date specified under sub-paragraph (1)(b).

*Effect of revocation of debt relief order*

- 10 Unless the court directs otherwise, the revocation at any time of a debt relief order does not —
- (a) affect the validity of any debt relief restrictions order, interim debt relief restrictions order or debt relief restrictions undertaking which is in force in respect of the debtor;
  - (b) prevent the determination of any application for a debt relief restrictions order, or an interim debt relief restrictions order, in relation to the debtor that was instituted before that time;
  - (c) prevent the acceptance of a debt relief restrictions undertaking that was offered before that time; or
  - (d) prevent the institution of an application for a debt relief restrictions order or interim debt relief restrictions order in respect of the debtor, or the offer or acceptance of a debt relief restrictions undertaking by the debtor, after that time.]

VALID FROM 01/04/2004

[<sup>F69</sup>SCHEDULE 4A

**Textual Amendments**

**F69** Sch. 4A inserted (1.4.2004) by 2002 c. 40, ss. 257(2), 279, Sch. 20 (with s. 249(6)); S.I. 2003/2093, art. 2(2), Sch. 2 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

SCHEDULE 5

Section 314.

POWERS OF TRUSTEE IN BANKRUPTCY

**PART I**

POWERS EXERCISABLE WITH SANCTION

- 1 Power to carry on any business of the bankrupt so far as may be necessary for winding it up beneficially and so far as the trustee is able to do so without contravening any requirement imposed by or under any enactment.
- 2 Power to bring, institute or defend any action or legal proceedings relating to the property comprised in the bankrupt's estate.

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VALID FROM 15/09/2003

[<sup>F70</sup>2A Power to bring legal proceedings under section 339, 340 or 423.]

#### Textual Amendments

**F70** Sch. 5 Pt. 1 para. 2A inserted (15.9.2003) by 2002 c. 40, ss. 262, 279 (with s. 249(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

- 3 Power to accept as the consideration for the sale of any property comprised in the bankrupt's estate a sum of money payable at a future time subject to such stipulations as to security or otherwise as the creditors' committee or the court thinks fit.
- 4 Power to mortgage or pledge any part of the property comprised in the bankrupt's estate for the purpose of raising money for the payment of his debts.
- 5 Power, where any right, option or other power forms part of the bankrupt's estate, to make payments or incur liabilities with a view to obtaining, for the benefit of the creditors, any property which is the subject of the right, option or power.
- 6 Power to refer to arbitration, or compromise on such terms as may be agreed on, any debts, claims or liabilities subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt.
- 7 Power to make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of bankruptcy debts.
- 8 Power to make such compromise or other arrangement as ay be thought expedient with respect to any claim arising out of or incidental to the bankrupt's estate made or capable of being made on the trustee by any person or by the trustee on any person.

## PART II

### GENERAL POWERS

- 9 Power to sell any part of the property for the time being comprised in the bankrupt's estate, including the goodwill and book debts of any business.

VALID FROM 06/04/2010

[<sup>F71</sup>9A Power to refer to arbitration, or compromise on such terms as may be agreed, any debts, claims or liabilities subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt.

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**Textual Amendments**

**F71** Sch. 5 paras. 9A 9B inserted (E.W.) (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\)](#), **art. 11(2)** (with art. 12(5))

VALID FROM 06/04/2010

**9B** Power to make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the bankrupt's estate made or capable of being made by the trustee on any person.]

**Textual Amendments**

**F71** Sch. 5 paras. 9A 9B inserted (E.W.) (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\)](#), **art. 11(2)** (with art. 12(5))

- 10** Power to give receipts for any money received by him, being receipts which effectually discharge the person paying the money from all responsibility in respect of its application.
- 11** Power to prove, rank, claim and draw a dividend in respect of such debts due to the bankrupt as are comprised in his estate.
- 12** Power to exercise in relation to any property comprised in the bankrupt's estate any powers the capacity to exercise which is vested in him under Parts VIII to XI of this Act.
- 13** Power to deal with any property comprised in the estate to which the bankrupt is beneficially entitled as tenant in tail in the same manner as the bankrupt might have dealt with it.

### PART III

#### ANCILLARY POWERS

- 14** For the purposes of, or in connection with, the exercise of any of his powers under Parts VIII to XI of this Act, the trustee may, by his official name—
- (a) hold property of every description,
  - (b) make contracts,
  - (c) sue and be sued,
  - (d) enter into engagements binding on himself and, in respect of the bankrupt's estate, on his successors in office,
  - (e) employ an agent,
  - (f) execute any power of attorney, deed or other instrument;
- and he may do any other act which is necessary or expedient for the purposes of or in connection with the exercise of those powers.

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## SCHEDULE 6

Section 386.

### THE CATEGORIES OF PREFERENTIAL DEBTS

#### Modifications etc. (not altering text)

- C89** Sch. 6 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), [ss. 103](#), 263(1)(2) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), [Sch. para. 2](#)
- C90** Sch. 6 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](#)

#### *Category 1: Debts due to Inland Revenue*

- 1 Sums due at the relevant date from the debtor on account of deductions of income tax from emoluments paid during the period of 12 months next before that date.
- The deductions here referred to are those which the debtor was liable to make under section [F72]203 of the Income and Corporation Taxes Act 1988] (pay as you earn), less the amount of the repayments of income tax which the debtor was liable to make during that period.

#### Textual Amendments

- F72** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, [Sch. 29 para. 32](#), [Sch. 30 para. 6\(1\)](#)

- 2 Sums due to the relevant date from the debtor in respect of such deductions as are required to be made by the debtor for that period under section [F73]559 of the Income and Corporation Taxes Act 1988] (sub-contractors in the construction industry).

#### Textual Amendments

- F73** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, [Sch. 29 para. 32](#), [Sch. 30 para. 6\(1\)](#)

#### *Category 2: Debts due to Customs and Excise*

- 3 Any value added tax which is referable to the period of 6 months next before the relevant date (which period is referred to below as “the 6-month period”).
- For the purposes of this paragraph—
- where the whole of the prescribed accounting period to which any value added tax is attributable falls within the 6-month period, the whole amount of that tax is referable to that period; and
  - in any other case the amount of any value added tax which is referable to the 6-month period is the proportion of the tax which is equal to such

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proportion (if any) of the accounting reference period in question as falls within the 6-month period;

and in sub-paragraph (a) “prescribed” means prescribed by regulations under the <sup>M12</sup>Value Added Tax Act [<sup>F74</sup>1994].

**Textual Amendments**

**F74** Words in Sch. 6 para. 3 substituted (1.9.1994) by 1994 c. 23, ss. 100(1), 101(1), **Sch. 14 para. 8** (with **Sch. 13 para. 9**)

**Marginal Citations**

**M12** 1983 c. 55.

[<sup>F75</sup>3A Any insurance premium tax which is referable to the period of 6 months next before the relevant date (which period is referred to below as “the 6-month period”).

For the purposes of this paragraph—

- (a) where the whole of the accounting period to which any insurance premium tax is attributable falls within the 6-month period, the whole amount of that tax is referable to that period; and
- (b) in any other case the amount of any insurance premium tax which is referable to the 6-month period is the proportion of the tax which is equal to such proportion (if any) of the accounting period in question as falls within the 6-month period;

and references here to accounting periods shall be construed in accordance with Part III of the Finance Act 1994.]

**Textual Amendments**

**F75** **Sch. 6 para. 3A** inserted (3.5.1994) by 1994 c. 9, s. 64, **Sch. 7 Pt. III para. 7(2)**

[<sup>F76</sup>3B Any landfill tax which is referable to the period of 6 months next before the relevant date (which period is referred to below as “the 6-month period”).

For the purposes of this paragraph—

- (a) where the whole of the accounting period to which any landfill tax is attributable falls within the 6-month period, the whole amount of that tax is referable to that period; and
- (b) in any other case the amount of any landfill tax which is referable to the 6-month period is the proportion of the tax which is equal to such proportion (if any) of the accounting period in question as falls within the 6-month period;

and references here to accounting periods shall be construed in accordance with Part III of the Finance Act 1996.]

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#### Textual Amendments

**F76** Sch. 6 para. 3B inserted (29.4.1996) by 1996 c. 8, s. 60, Sch. 5 Pt. III para. 12(1)

[<sup>F77</sup>3C Any climate change levy which is referable to the period of 6 months next before the relevant date (which period is referred to below as “the 6-month period”).

For the purposes of this paragraph—

- (a) where the whole of the accounting period to which any climate change levy is attributable falls within the 6-month period, the whole amount of that levy is referable to that period; and
- (b) in any other case the amount of any climate change levy which is referable to the 6-month period is the proportion of the levy which is equal to such proportion (if any) of the accounting period in question as falls within the 6-month period;

and references here to accounting periods shall be construed in accordance with Schedule 6 to the Finance Act 2000.]

#### Textual Amendments

**F77** Sch. 6 para. 3C inserted (28.7.2000) by 2000 c. 17, s. 30, Sch. 7 para. 3(1)(b)(2)

[<sup>F78</sup>3D Any aggregates levy which is referable to the period of 6 months next before the relevant date (which period is referred to below as “the 6-month period”).

For the purposes of this paragraph—

- (a) where the whole of the accounting period to which any aggregates levy is attributable falls within the 6-month period, the whole amount of that levy is referable to that period; and
- (b) in any other case the amount of any aggregates levy which is referable to the 6-month period is the proportion of the levy which is equal to such proportion (if any) of the accounting period in question as falls within the 6-month period;

and references here to accounting periods shall be construed in accordance with Part 2 of the Finance Act 2001.]

#### Textual Amendments

**F78** Sch. 6 para. 3D inserted (11.5.2001) by 2001 c. 9, s. 27, Sch. 5 para. 17(b)(2)

4 The amount of any car tax which is due at the relevant date from the debtor and which became due within a period of 12 months next before that date.

5 Any amount which is due—

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- (a) by way of general betting duty [<sup>F79</sup>, bingo duty or gaming duty], or
  - (b) under section 12(1) of the <sup>M13</sup>Betting and Gaming Duties Act 1981 (general betting duty and pool betting duty recoverable from agent collecting stakes), <sup>F80</sup> . . .
  - <sup>F80</sup>(c) . . . . .
- from the debtor at the relevant date and which became due within the period of 12 months next before that date.

**Textual Amendments**

**F79** Words in Sch. 6 para. 5(a) substituted (19.3.1997) by 1997 c. 16, ss. 13(2), 15, **Sch. 2 Pt. II para. 6**

**F80** Sch. 6 para. 5(c) and word preceding it repealed (19.3.1997 but without application in relation to any amount due in respect of duty chargeable for a period beginning before 1.10.1997) by 1997 c. 16, s. 113, **Sch. 18 Pt. II** Notes 1, 2

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**Marginal Citations**

**M13** 1981 c. 63.

VALID FROM 15/09/2003

[<sup>F81</sup>  
<sup>F82</sup>5A The amount of any excise duty on beer which is due at the relevant date from the debtor and which became due within a period of 6 months next before that date.]

**Textual Amendments**

**F81** Sch. 6 para. 5A ceased to have effect (15.9.2003) and repealed (prosp.) by 2002 c. 40, ss. 251(1)(b), 278, 279, **Sch. 26** (with s. 249(6)); S.I. 2003/2093, **art. 2(1)**, **Sch. 1** (subject to arts. 3-8 (as amended by S.I. 2003/2332, **art. 2**))

**F82** Sch. 6 para. 5A inserted (1.6.1993) by Finance Act 1991 (c. 31), s. 7, **Sch. 2 para. 22**; S.I. 1993/1152, **art. 3**, **Sch. 1 Pt. II**

[<sup>F83</sup>5B Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date.]

**Textual Amendments**

**F83** Sch. 6 para. 5B inserted (1.12.1993) by 1993 c. 34, **ss. 36(2)**, 40(2)(3); S.I. 1993/2842, **art. 3(1)**

[<sup>F84</sup>5C Any amount which is due by way of air passenger duty from the debtor at the relevant date and which became due within the period of six months next before that date.]



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#### Textual Amendments

**F84** Sch. 6 para. 5C inserted (3.5.1994 with application to any carriage of a passenger on an aircraft which begins after 31.10.1994) by 1994 c. 9, ss. 40(2), 44, **Sch. 6 para. 13(1)**

#### Category 3: Social security contributions

- 6 All sums which on the relevant date are due from the debtor on account of Class 1 or Class 2 contributions under the [<sup>F85</sup>Social Security Contributions and Benefits Act 1992] or the <sup>M14</sup> Social Security (Northern Ireland) Act 1975 and which became due from the debtor in the 12 months next before the relevant date.

#### Textual Amendments

**F85** Words in Sch. 6 para. 6 substituted (1.7.1992) by **Social Security (Consequential Provisions) Act 1992** (c. 6), ss. 4, 7(2), **Sch. 2 para.73**

#### Marginal Citations

**M14** 1975 c. 15

- 7 All sums which on the relevant date have been assessed on and are due from the debtor on account of Class 4 contributions under either of those Acts of 1975, being sums which—
- (a) are due to the Commissioners of Inland Revenue (rather than to the Secretary of State or a Northern Ireland department), and
  - (b) are assessed on the debtor up to 5th April next before the relevant date, but not exceeding, in the whole, any one year's assessment.

#### Category 4: Contributions to occupational pension schemes, etc.

- 8 Any sum which is owed by the debtor and is a sum to which [<sup>F86</sup>Schedule 4 to the Pension Schemes Act 1993]applies (contributions to occupational pension schemes and state scheme premiums).

#### Textual Amendments

**F86** Words in Sch. 6 para. 8 substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para.18** (with s. 6(8)); S.I. 1994/86, **art. 2**

#### 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,

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- as does not exceed so much as may be prescribed by order made by the Secretary of State.
- 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.
- 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 <sup>M15</sup>Reserve Forces (Safeguard of Employment) Act 1985, 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 prescribed by order made by the Secretary of State.

#### **Marginal Citations**

**M15** 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 the following sub-paragraph and is payable by the debtor in respect of that period.
- [<sup>F87</sup>(2) An amount falls within this sub-paragraph if it is—
- (a) a guarantee payment under Part III of the Employment Rights Act 1996 (employee without work to do);
  - (b) any payment for time off under section 53 (time off to look for work or arrange training) or section 56 (time off for ante-natal care) of that Act or under section 169 of the Trade Union and Labour Relations (Consolidation) Act 1992 (time off for carrying out trade union duties etc.);
  - (c) remuneration on suspension on medical grounds, or on maternity grounds, under Part VII of the Employment Rights Act 1996; or
  - (d) remuneration under a protective award under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 (redundancy dismissal with compensation).]

#### **Textual Amendments**

**F87** Sch. 6 para. 13(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 29** (with ss. 191-195, 202)

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- 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 or (his employer being a company not in liquidation) by or in consequence of—
- (a) a receiver being appointed as mentioned in section 40 of this Act (debenture-holders secured by floating charge), or
  - (b) the appointment of a receiver under section 53(6) or 54(5) of this Act (Scottish company with property subject to floating charge), or
  - (c) the taking of possession by debenture-holders (so secured), as mentioned in section 196 of the Companies Act.
- (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 enactment 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 enactment includes an order or direction made under an enactment.
- 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, and
  - (b) references here and in those paragraphs to remuneration in respect of a period of holiday include any sums which, if they had been paid, would have been treated for the purposes of the enactments relating to social security as earnings in respect of that period.

### *<sup>F88</sup>Category 6: Levies on coal and steel production*

#### **Textual Amendments**

**F88** Sch. 6 para. 15A inserted by [S.I. 1987/2093, reg. 2\(1\)\(3\)](#)

- 15A 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.]

#### *Orders*

- 16 An order under paragraph 9 or 12—
- (a) may contain such transitional provisions as may appear to the Secretary of State necessary or expedient;
  - (b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

*Status: Point in time view as at 26/03/2002.*

*Changes to legislation: Insolvency Act 1986 is up to date with all changes known to be in force on or before 14 June 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)*

## SCHEDULE 7

Section 396.

### INSOLVENCY PRACTITIONERS TRIBUNAL

#### *Panels of members*

- 1 (1) The Secretary of State shall draw up and from time to time revise—
- (a) a panel of persons who
    - [<sup>F89</sup>(i) have a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;
    - (ii) are advocates or solicitors in Scotland of at least 7 years' standing,] and are nominated for the purpose by the Lord Chancellor or the Lord President of the Court of Session, and
  - (b) a panel of persons who are experienced in insolvency matters;
- and the members of the Tribunal shall be selected from those panels in accordance with this Schedule.
- (2) The power to revise the panels includes power to terminate a person's membership of either of them, and is accordingly to that extent subject to [<sup>F90</sup>section 7 of the Tribunals and Inquiries Act 1992](which makes it necessary to obtain the concurrence of the Lord Chancellor and the Lord President of the Court of Session to dismissals in certain cases).

#### **Textual Amendments**

- F89** Sch. 7 para. 1(1)(a)(i)(ii) substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 71\(2\), Sch. 10 para. 67](#)
- F90** Words in Sch. 7 para. 1(2) substituted (1.10.1992) by [Tribunals and Enquiries Act 1992 \(c. 53\), ss. 18\(1\), 19\(2\), Sch. 3 para. 19](#)

#### *Remuneration of members*

- 2 The Secretary of State may out of money provided by Parliament pay to members of the Tribunal such remuneration as he may with the approval of the Treasury determine; and such expenses of the Tribunal as the Secretary of State and the Treasury may approve shall be defrayed by the Secretary of State out of money so provided.

#### *Sittings of Tribunal*

- 3 (1) For the purposes of carrying out their functions in relation to any cases referred to them, the Tribunal may sit either as a single tribunal or in two or more divisions.
- (2) The functions of the Tribunal in relation to any case referred to them shall be exercised by three members consisting of—
- (a) a chairman selected by the Secretary of State from the panel drawn up under paragraph 1(1)(a) above, and
  - (b) two other members selected by the Secretary of State from the panel drawn up under paragraph 1(1)(b).

*Status: Point in time view as at 26/03/2002.*

*Changes to legislation: Insolvency Act 1986 is up to date with all changes known to be in force on or before 14 June 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)*

### *Procedure of Tribunal*

- 4 (1) Any investigation by the Tribunal shall be so conducted as to afford a reasonable opportunity for representations to be made to the Tribunal by or on behalf of the person whose case is the subject of the investigation.
- (2) For the purposes of any such investigation, the Tribunal—
- (a) may be summons require any person to attend, at such time and place as is specified in the summons, to give evidence or to produce any books, papers and other records in his possession or under his control which the Tribunal consider it necessary for the purposes of the investigation to examine, and
  - (b) may take evidence on oath, and for the purpose administer oaths, or may, instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined;
- but no person shall be required, in obedience to such a summons, to go more than ten miles from his place of residence, unless the necessary expenses of his attendance are paid or tendered to him.
- (3) Every person who—
- (a) without reasonable excuse fails to attend in obedience to a summons issued under this paragraph, or refuses to give evidence, or
  - (b) intentionally alters, suppresses, conceals or destroys or refuses to produce any document which he may be required to produce for the purpose of an investigation by the Tribunal,
- is liable to a fine.
- (4) Subject to the provisions of this paragraph, the Secretary of State may make rules for regulating the procedure on any investigation by the Tribunal.
- (5) In their application to Scotland, sub-paragraphs (2) and (3) above have effect as if for any reference to a summons there were substituted a reference to a notice in writing.

## SCHEDULE 8

Section 411.

### PROVISIONS CAPABLE OF INCLUSION IN COMPANY INSOLVENCY RULES

#### **Modifications etc. (not altering text)**

- C91** [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).

*Status: Point in time view as at 26/03/2002.*

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- 2 Provision for regulating the practice and procedure of any court exercising jurisdiction for the purposes of Parts I to VII of this Act or the Companies Act 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.

*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.
- 5 Provision specifying the persons to whom any notice is to be given.

*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.
- 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.

*Status: Point in time view as at 26/03/2002.*

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- 10 (1) Provision as to the functions, membership and proceedings of a committee established under section 26, 49, 68, 101, 141 or 142 of 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 a meeting of the company's creditors and a meeting of its contributories or members;
  - (b) provision authorising the establishment of the committee without a meeting of 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.
- 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.
- 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 <sup>M16</sup>Bankruptcy (Scotland) Act 1985.

#### Marginal Citations

M16 1985 c. 66.

VALID FROM 15/09/2003

- [<sup>F91</sup>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

F91 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))



*Status: Point in time view as at 26/03/2002.*

*Changes to legislation: Insolvency Act 1986 is up to date with all changes known to be in force on or before 14 June 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)*

VALID FROM 15/09/2003

### *Administration*

- [<sup>F92</sup>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**

**F92** 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.

VALID FROM 18/12/2003

- [<sup>F93</sup>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**

**F93** 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.
- 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.

*Status: Point in time view as at 26/03/2002.*

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### *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 <sup>M17</sup>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**

**M17** 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.
- 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 7(3) of the <sup>M18</sup>Company Directors Disqualification Act 1986

*Status: Point in time view as at 26/03/2002.*

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(including, in particular, requirements with respect to the making of periodic returns).

**Marginal Citations**

**M18** 1986 c. 46.

*General*

- 27 Provision conferring power on the Secretary of State 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.
- 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 section 22, 47, 66, 131, 143(2) or 235 of this Act or section 7(4) of the Company Directors Disqualification Act 1986.
- 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.

SCHEDULE 9

Section 412.

PROVISIONS CAPABLE OF INCLUSION IN INDIVIDUAL INSOLVENCY RULES

*Courts*

- 1 Provision with respect to the arrangement and disposition of the business under Parts VIII to XI of this Act of courts having jurisdiction for the purpose of those Parts, including provision for the allocation of proceedings under those Parts to particular courts and for the transfer of such proceedings from one court to another.
- 2 Provision for enabling a registrar in bankruptcy of the High Court or a registrar of a county court having jurisdiction for the purposes of those Parts to exercise such of the jurisdiction conferred for those purposes on the High Court or, as the case may be, that county court as may be prescribed.
- 3 Provision for regulating the practice and procedure of any court exercising jurisdiction for the purposes of those Parts, being any provision that could be made by rules of court.
- 4 Provision conferring rights of audience, in courts exercising jurisdiction for the purposes of those Parts, on the official receiver and on solicitors.

*Status: Point in time view as at 26/03/2002.*

*Changes to legislation: Insolvency Act 1986 is up to date with all changes known to be in force on or before 14 June 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)*

*Notices, etc.*

- 5 Provision requiring notice of any proceedings under Parts VIII to XI of this Act or of any matter relating to or arising out of a proposal under Part VIII or a bankruptcy to be given or published in the prescribed manner.
- 6 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 contained in Parts VIII to XI or subordinate legislation under those Parts or Part XV (including provision requiring prescribed matters to be verified by affidavit).
- 7 Provision specifying the persons to whom any notice under Parts VIII to XI is to be given.

VALID FROM 24/02/2009

*[<sup>F94</sup>Debt relief orders*

**Textual Amendments**

**F94** Sch. 9 paras. 7A-7E and cross-headings inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 108(3), 148(5), [Sch. 20 para. 14\(5\)](#); S.I. 2009/382, [art. 2](#)

- 7A Provision as to the manner in which the official receiver is to carry out his functions under Part 7A.
- 7B Provision as to the manner in which any requirement that may be imposed by the official receiver on a person under Part 7A is to take effect.
- 7C Provision modifying the application of Part 7A in relation to an individual who has died at a time when a moratorium period under a debt relief order applies in relation to him.

VALID FROM 24/02/2009

*Debt relief restrictions orders and undertakings*

- 7D Provision about debt relief restrictions orders, interim orders and undertakings, including provision about evidence.

*Status: Point in time view as at 26/03/2002.*

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VALID FROM 24/02/2009

*Register of debt relief orders and debt relief restrictions orders etc*

- 7E Provision about the register required to be maintained by section 251W and the information to be contained in it, including provision—
- (a) enabling the amalgamation of the register with another register;
  - (b) enabling inspection of the register by the public.]

*Registration of voluntary arrangements*

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

VALID FROM 01/04/2004

*Official receiver acting on voluntary arrangement*

- [<sup>F95</sup>8A Provision about the official receiver acting as nominee or supervisor in relation to a voluntary arrangement under Part VIII of this Act, including—
- (a) provision requiring the official receiver to act in specified circumstances;
  - (b) provision about remuneration;
  - (c) provision prescribing terms or conditions to be treated as forming part of a voluntary arrangement in relation to which the official receiver acts as nominee or supervisor;
  - (d) provision enabling those terms or conditions to be varied or excluded, in specified circumstances or subject to specified conditions, by express provision in an arrangement.]

**Textual Amendments**

**F95** Sch. 9 para. 8A inserted (1.4.2004) by 2002 c. 40, ss. 269, 279, Sch. 23 para. 16(2) (with s. 249(6)); S.I. 2003/2093, art. 2(2), Sch. 2 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

*Interim receiver*

- 9 Provision as to the manner in which an interim receiver appointed under section 286 is to carry out his functions, including any such provision as is specified in relation to the trustee of a bankrupt's estate in paragraph 21 or 27 below.

*Receiver or manager*

- 10 Provision as to the manner in which the official receiver is to carry out his functions as receiver or manager of a bankrupt's estate under section 287, including any such provision as is specified in relation to the trustee of a bankrupt's estate in paragraph 21 or 27 below.

*Status: Point in time view as at 26/03/2002.*

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### *Administration of individual insolvency*

- 11 Provision with respect to the certification of the appointment of any person as trustee of a bankrupt's estate and as to the proof of that appointment.
- 12 The following provision with respect to meetings of creditors—
- (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 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 such 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 bankrupt or debtor to attend a meeting;
  - (e) provision creating, in the prescribed circumstances, a presumption that a meeting has been duly summoned and held; and
  - (f) provision as to the manner of proving the decisions of a meeting.
- 13 Provision as to the functions, membership and proceedings of a creditors' committee established under section 301.
- 14 Provision as to the manner in which any requirement that may be imposed on a person under Parts VIII to XI of this Act by the official receiver, the trustee of a bankrupt's estate or a special manager appointed under section 370 is to be so imposed and, in the case of any requirement imposed under section 305(3) (information etc. to be given by the trustee to the official receiver), provision conferring power on the court to make orders for the purpose of securing compliance with that requirement.
- 15 Provision as to the manner in which any requirement imposed by virtue of section 310(3) (compliance with income payments order) is to take effect.
- 16 Provision as to the terms and conditions that may be included in a charge under section 313 (dwelling house forming part of bankrupt's estate).
- 17 Provision as to the debts that may be proved in any bankruptcy, 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.
- 18 Provision with respect to the manner of the distribution of a bankrupt's estate, including provision with respect to unclaimed funds and dividends.
- 19 Provision modifying the application of Parts VIII to XI of this Act in relation to a debtor or bankrupt who has died.

### *Financial provisions*

- 20 Provision as to the amount, or manner of determining the amount, payable to an interim receiver, the trustee of a bankrupt's estate or a special manager appointed under section 370 by way of remuneration for the performance of functions in connection with or arising out of the bankruptcy of any person.

*Status: Point in time view as at 26/03/2002.*

*Changes to legislation: Insolvency Act 1986 is up to date with all changes known to be in force on or before 14 June 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)*

- 21 Provision with respect to the manner in which moneys received by the trustee of a bankrupt's estate in the course of carrying out his functions as such are to be [<sup>F96</sup>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].

**Textual Amendments**

**F96** Words in Sch. 9 para. 21 substituted (2.4.2001) by 2000 c. 39, s. 13(1); S.I. 2001/766, art. 2(b) (subject to transitional provisions in art. 3)

VALID FROM 18/12/2003

- [<sup>F97</sup>21A 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**

**F97** Sch. 9 para. 21A inserted (18.12.2003) by 2002 c. 40, ss. 271(2), 279 (with s. 249(6)); S.I. 2003/3340, art. 3

- 22 Provision as to the fees, costs, charges and other expenses that may be treated as the expenses of a bankruptcy.
- 23 Provision as to the fees, costs, charges and other expenses that may be incurred for any of the purposes of Part VIII of this Act or in the administration of any voluntary arrangement approved under that Part.

*Information and records*

- 24 Provision requiring registrars and other officers of courts having jurisdiction for the purposes of Parts VIII to XI—
- (a) to keep books and other records with respect to the exercise of that jurisdiction and of jurisdiction under the <sup>M19</sup>Deeds of Arrangement Act 1914, and
  - (b) to make returns to the Secretary of State of the business of those courts.

**Marginal Citations**

**M19** 1914 c. 47.

- 25 Provision requiring a creditor or a committee established under section 301 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.
- 26 Provision as to the manner in which public examinations under section 290 and proceedings under sections 366 to 368 are to be conducted, as to the circumstances in which records of such examinations and proceedings are to be made available to prescribed persons and as to the costs of such examinations and proceedings.
- 27 Provision imposing requirements with respect to—



*Status: Point in time view as at 26/03/2002.*

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- (a) the preparation and keeping by the trustee of a bankrupt's estate, or the supervisor of a voluntary arrangement approved under Part VIII, of prescribed books, accounts and other records;
  - (b) the production of those books, accounts and records for inspection by prescribed persons; and
  - (c) the auditing of accounts kept by the trustee of a bankrupt's estate or the supervisor of such a voluntary arrangement.
- 28 Provision requiring the person who is the supervisor of a voluntary arrangement approved under Part VIII, when it appears to him that the voluntary arrangement has been fully implemented and that nothing remains to be done by him under it—
- (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 it.
- 29 Provision as to the manner in which the trustee of a bankrupt's estate is to act in relation to the books, papers and other records of the bankrupt, including provision authorising their disposal.

VALID FROM 15/09/2003

*Bankruptcy restrictions orders and undertakings*

- [<sup>F98</sup>29A Provision about bankruptcy restrictions orders, interim orders and undertakings, including—
- (a) provision about evidence;
  - (b) provision enabling the amalgamation of the register mentioned in paragraph 12 of Schedule 4A with another register;
  - (c) provision enabling inspection of that register by the public.]

**Textual Amendments**

**F98** Sch. 9 para. 29A inserted (1.4.2004) by 2002 c. 40, ss. 269, 279, Sch. 23 para. 16(3) (with s. 249(6)); S.I. 2003/2093, art. 2(2), Sch. 2 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

*General*

- 30 Provision conferring power on the Secretary of State 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 an interim receiver appointed under section 286, of the official receiver while acting as a receiver or manager under section 287 or of a trustee of a bankrupt's estate.
- 31 Provision conferring a discretion on the court.
- 32 Provision making non-compliance with any of the rule a criminal offence.
- 33 Provision making different provision for different cases including different provision for different areas.

*Status: Point in time view as at 26/03/2002.*

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## SCHEDULE 10

Section 430.

### PUNISHMENT OF OFFENCES UNDER THIS ACT

#### Modifications etc. (not altering text)

- C92** Sch. 10 modified by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), **ss. 54(3)(a)(5)(a)**, 90, 126(3), Sch. 15 (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), **2(2)**) Sch. 10 modified (1.2.1993) by [Friendly Societies Act 1992 \(c. 40\)](#), s. 23, **Sch. 10**, Pt. I para.1 (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.3**  
 Sch. 10 applied (1.2.1993) by [Friendly Societies Act 1992 \(c. 40\)](#), ss. 21(1), 22, 23, **Sch. 10**, Pt. I para.1 (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.3**
- C93** Sch. 10 applied (with modifications) (1.12.1997) by [1986 c. 53, Sch. 15A](#), para. 1(2) (as inserted by [1997 c. 32, s. 39\(2\)](#), **Sch. 6**); S.I. 1997/2668, art. 2, **Sch. Pt. I**  
 Sch. 10 applied (with modifications) (S.) (6.4.2001 to the extent as mentioned) by [S.S.I. 2001/128](#), reg. 4, Sch. 2, **Sch. 3**
- C94** Sch. 10 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 103**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 2
- C95** Sch. 10 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)**)
- C96** Sch. 10 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), {ss. 145 table 2}, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 3

<sup>F99</sup>Note:.....

Section of Act creating offence	General nature of offence	Mode of prosecution	Punishment	Daily default fine (where applicable)
12(2)	Company and others failing to state in correspondence etc. that administrator appointed.	Summary.	One-fifth of the statutory maximum.	
15(8)	Failure of administrator to register office copy of court order permitting disposal of charged property.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
18(5)	Failure of administrator to register office copy of court order varying	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.

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	or discharging administration order.			
21(3)	Administrator failing to register administration order and give notice of appointment.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
22(6)	Failure to comply with provisions relating to statement of affairs, where administrator appointed.	1.On indictment 2.Summary.	A fine. The statutory maximum.	One-tenth of the statutory maximum.
23(3)	Administrator failing to send out, register and lay before creditors statement of his proposals.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
24(7)	Administrator failing to file court order discharging administration order under s. 24.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
27(6)	Administrator failing to file court order discharging administration order under s. 27.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
30	Body corporate acting as receiver.	1.On indictment 2.Summary.	A fine. The statutory maximum.	
31	Undischarged bankrupt acting as receiver or manager.	1.On indictment 2.Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.	
38(5)	Receiver failing to deliver accounts to registrar.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.

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39(2)	Company and others failing to state in correspondence that receiver appointed.	Summary.	One-fifth of the statutory maximum.	
43(6)	Administrative receiver failing to file office copy of order permitting disposal of charged property.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
45(5)	Administrative receiver failing to file notice of vacation of office.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
46(4)	Administrative receiver failing to give notice of his appointment.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
47(6)	Failure to comply with provisions relating to statement of affairs, where administrative receiver appointed.	1. On indictment 2. Summary.	A fine. The statutory maximum.	One-tenth of the statutory maximum.
48(8)	Administrative receiver failing to comply with requirements as to his report.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
51(4)	Body corporate or Scottish firm acting as receiver.	1. On indictment 2. Summary.	A fine. The statutory maximum.	
51(5)	Undischarged bankrupt acting as receiver (Scotland).	1. On indictment 2. Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.	
53(2)	Failing to deliver to registrar copy of instrument of	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.

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	appointment of receiver.			
54(3)	Failing to deliver to registrar the court's interlocutor appointing receiver.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
61(7)	Receiver failing to send to registrar certified copy of court order authorising disposal of charged property.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
62(5)	Failing to give notice to registrar of cessation or removal of receiver.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
64(2)	Company and others failing to state on correspondence etc. that receiver appointed.	Summary.	One-fifth of the statutory maximum.	
65(4)	Receiver failing to send or publish notice of his appointment.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
66(6)	Failing to comply with provisions concerning statement of affairs, where receiver appointed.	1.On indictment 2.Summary.	A fine. The statutory maximum.	One-tenth of the statutory maximum.
67(8)	Receiver failing to comply with requirements as to his report.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
85(2)	Company failing to give notice in Gazette of resolution for voluntary winding up.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.

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89(4)	Director making statutory declaration of company's solvency without reasonable grounds for his opinion.	1.On indictment 2.Summary.	2 years or a fine, or both. 6 months or the statutory maximum.
89(6)	Declaration under section 89 not delivered to registrar within prescribed time.	Summary.	One-fifth of the statutory maximum. One-fiftieth of the statutory maximum.
93(3)	Liquidator failing to summon general meeting of company at each year's end.	Summary.	One-fifth of the statutory maximum.
94(4)	Liquidator failing to send a registrar a copy of account of winding up and return of final meeting.	Summary.	One-fifth of the statutory maximum. One-fiftieth of the statutory maximum.
94(6)	Liquidator failing to call final meeting.	Summary.	One-fifth of the statutory maximum.
95(8)	Liquidator failing to comply with s. 95, where company insolvent.	Summary.	The statutory maximum.
98(6)	Company failing to comply with s. 98 in respect of summoning and giving notice of creditors' meeting.	1.On indictment 2.Summary.	A fine. The statutory maximum.
99(3)	Directors failing to attend and lay statement in prescribed form before creditors' meeting.	1.On indictment 2.Summary.	A fine. The statutory maximum.
105(3)	Liquidator failing to	Summary.	One-fifth of the statutory maximum.

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	summon company general meeting and creditors' meeting at each year's end.			
106(4)	Liquidator failing to send to registrar account of winding up and return of final meetings.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
106(6)	Liquidator failing to call final meeting of company or creditors.	Summary.	One-fifth of the statutory maximum.	
109(2)	Liquidator failing to publish notice of his appointment.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
114(4)	Directors exercising powers in breach of s. 114, where no liquidator.	Summary.	The statutory maximum.	
131(7)	Failing to comply with requirements as to statement of affairs, where liquidator appointed.	1.On indictment 2.Summary.	A fine. The statutory maximum.	One-tenth of the statutory maximum.
164	Giving, offering etc. corrupt inducement affecting appointment of liquidator.	1.On indictment 2.Summary.	A fine. The statutory maximum.	
166(7)	Liquidator failing to comply with requirements of s. 166 in creditors' voluntary winding up.	Summary.	The statutory maximum.	
188(2)	Default in compliance	Summary.	One-fifth of the statutory maximum.	



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	with s. 188 as to notification that company being wound up.			
192(2)	Liquidator failing to notify registrar as to progress of winding up.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
201(4)	Failing to deliver to registrar office copy of court order deferring dissolution.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
203(6)	Failing to deliver to registrar copy of directions or result of appeal under s. 203.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
204(7)	Liquidator failing to deliver to registrar copy of court order for early dissolution.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
204(8)	Failing to deliver to registrar copy of court order deferring early dissolution.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
205(7)	Failing to deliver to registrar copy of Secretary of State's directions or court order deferring dissolution.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.
206(1)	Fraud etc. in anticipation of winding up.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.	
206(2)	Privity to fraud in anticipation of winding up; fraud, or privity to fraud, after commencement of winding up.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.	
206(5)	Knowingly taking in pawn	1.On indictment 2.Summary.	7 years or a fine, or both.	

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	or pledge, or otherwise receiving, company property.		6 months or the statutory maximum, or both.	
207	Officer of company entering into transaction in fraud of company's creditors.	1.On indictment 2.Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.	
208	Officer of company misconducting himself in course of winding up.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.	
209	Officer or contributory destroying, falsifying, etc. company's books.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.	
210	Officer of company making material omission from statement relating to company's affairs.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.	
211	False representation or fraud for purpose of obtaining creditors' consent to an agreement in connection with winding up.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.	
216(4)	Contravening restrictions on re-use of name of company in insolvent liquidation.	1.On indictment 2.Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.	
235(5)	Failing to co-operate with office-holder.	1.On indictment 2.Summary.	A fine. The statutory maximum	One-tenth of the statutory maximum.

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353(1)	Bankrupt failing to disclose property or disposals to official receiver or trustee.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
354(1)	Bankrupt failing to deliver property to, or concealing property from, official receiver or trustee.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
354(2)	Bankrupt removing property which he is required to deliver to official receiver or trustee.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
354(3)	Bankrupt failing to account for loss of substantial part of property.	1.On indictment 2.Summary.	2years or a fine, or both. 6 months or the statutory maximum, or both.
355(1)	Bankrupt failing to deliver books, papers and records to official receiver or trustee.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
355(2)	Bankrupt concealing, destroying etc. books, papers or records, or making false entries in them.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
355(3)	Bankrupt disposing of, or altering, books, papers or records relating to his estate or affairs.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
356(1)	Bankrupt making material omission in statement	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.

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	relating to his affairs.		
356(2)	Bankrupt making false statement, or failing to inform trustee, where false debt proved.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
357	Bankrupt fraudulently disposing of property.	1.On indictment 2.Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.
358	Bankrupt absconding with property he is required to deliver to official receiver or trustee.	1.On indictment 2.Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.
359(1)	Bankrupt disposing of property obtained on credit and not paid for.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
359(2)	Obtaining property in respect of which money is owed by a bankrupt.	1.On indictment 2.Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
360(1)	Bankrupt obtaining credit or engaging in business without disclosing his status or name in which he was made bankrupt.	1.On indictment 2.Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.
360(3)	Person made bankrupt in Scotland or Northern Ireland obtaining credit, etc. in England and Wales.	1.On indictment 2.Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.
361(1)	Bankrupt failing to keep proper accounting records.	1.On indictment 2.Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.

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362	Bankrupt increasing extent of insolvency by gambling.	1.On indictment 2.Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.
389	Acting as insolvency practitioner when not qualified.	1.On indictment 2.Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.
429(5)	Contravening s. 429 in respect of disabilities imposed by county court on revocation of administration order.	1.On indictment 2.Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.
Sch. 7, para. 4(3)..	Failure to attend and give evidence to Insolvency Practitioners Tribunal; suppressing, concealing, etc. relevant documents..	Summary.	Level 3 on the standard scale within the meaning given by section 75 of the Criminal Justice Act 1982.

#### Textual Amendments

**F99** Note in Sch. 10 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group2

#### Modifications etc. (not altering text)

**C97** Sch. 10: entry relating to s. 93(3) modified (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(2), **Sch. 3**

**C98** Sch. 10: entry relating to s. 105(3) modified (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(2), **Sch. 3**

**C99** Sch. 10: entry relating to s. 106(6) modified (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(2), **Sch. 3**

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## SCHEDULE 11

Section 437.

### TRANSITIONAL PROVISIONS AND SAVINGS

#### PART I

#### COMPANY INSOLVENCY AND WINDING UP

##### *Administration orders*

- 1 (1) Where any right to appoint an administrative receiver of a company is conferred by any debentures or floating charge created before the appointed day, the conditions precedent to the exercise of that right are deemed to include the presentation of a petition applying for an administration order to be made in relation to the company.
- (2) “Administrative receiver” here has the meaning assigned by section 251.

##### *Receivers and managers (England and Wales)*

- 2 (1) In relation to any receiver or manager of a company’s property who was appointed before the appointed day, the new law does not apply; and the relevant provisions of the former law continue to have effect.
- (2) “The new law” here means Chapter I of Part III, and Part VI, of this Act; and “the former law” means the Companies Act and so much of this Act as replaces provisions of that Act (without the amendments in paragraphs 15 to 17 of Schedule 6 to the <sup>M20</sup>Insolvency Act 1985, or the associated repeals by that Act), and any provision of the Insolvency Act 1985 which was in force before the appointed day.
- (3) This paragraph is without prejudice to the power conferred by this Act under which rules under section 411 may make transitional provision in connection with the coming into force of those rules; and such provision may apply those rules in relation to the receiver or manager of a company’s property notwithstanding that he was appointed before the coming into force of the rules or section 411.

#### **Marginal Citations**

**M20** 1985 c. 65.

##### *Receivers (Scotland)*

- 3 (1) In relation to any receiver appointed under section 467 of the Companies Act before the appointed day, the new law does not apply and the relevant provisions of the former law continue to have effect.
- (2) “The new law” here means Chapter II of Part III, and Part VI, of this Act; and “the former law” means the Companies Act and so much of this Act as replaces provisions of that Act (without the amendments in paragraphs 18 to 22 of Schedule 6 to the

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Insolvency Act 1985 or the associated repeals made by the Act), and any provision of the Insolvency Act 1985 which was in force before the appointed day.

- (3) This paragraph is without prejudice to the power conferred by this Act under which rules under section 411 may make transitional provision in connection with the coming into force of those rules; and such provision may apply those rules in relation to a receiver appointed under section 467 notwithstanding that he was appointed before the coming into force of the rules or section 411.

*Winding up already in progress*

- 4 (1) In relation to any winding up which has commenced, or is treated as having commenced, before the appointed day, the new law does not apply, and the former law continues to have effect, subject to the following paragraphs.
- (2) “The new law” here means any provisions in the first Group of Parts of this Act which replace sections 66 to 87 and 89 to 105 of the <sup>M21</sup>Insolvency Act 1985; and “the former law” means Parts XX and XXI of the Companies Act (without the amendments in paragraphs 23 to 52 of Schedule 6 to the Insolvency Act 1985, or the associated repeals made by the Act).

**Marginal Citations**

M21 1985 c. 65.

*Statement of affairs*

- 5 (1) Where a winding up by the court in England and Wales has commenced, or is treated as having commenced, before the appointed day, the official receiver or (on appeal from a refusal by him) the court may, at any time on or after that day—
- (a) release a person from an obligation imposed on him by or under section 528 of the Companies Act (statement of affairs), or
- (b) extend the period specified in subsection (6) of that section.
- (2) Accordingly, on and after the appointed day, section 528(6) has effect in relation to a winding up to which this paragraph applies with the omission of the words from “or within” onwards.

*Provisions relating to liquidator*

- 6 (1) This paragraph applies as regards the liquidator in the case of winding up by the court in England and Wales commenced, or treated as having commenced, before the appointed day.
- (2) The official receiver may, at any time when he is liquidator of the company, apply to the Secretary of State for the appointment of a liquidator in his (the official receiver’s) place; and on any such application the Secretary of State shall either make an appointment or decline to make one.



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- (3) Where immediately before the appointed day the liquidator of the company has not made an application under section 545 of the Companies Act (release of liquidators), then—
- (a) except where the Secretary of State otherwise directs, sections 146(1) and (2) and 172(8) of this Act apply, and section 545 does not apply, in relation to any liquidator of that company who holds office on or at any time after the appointed day and is not the official receiver;
  - (b) section 146(3) applies in relation to the carrying out at any time after that day by any liquidator of the company of any of his functions; and
  - (c) a liquidator in relation to whom section 172(8) has effect by virtue of this paragraph has his release with effect from the time specified in section 174(4)(d) of this Act.
- (4) Subsection (6) of section 174 of this Act has effect for the purposes of subparagraph (3)(c) above as it has for the purposes of that section, but as if the reference to section 212 were to section 631 of the Companies Act.
- (5) The liquidator may employ a solicitor to assist him in the carrying out of his functions without the permission of the committee of inspection; but if he does so employ a solicitor he shall inform the committee of inspection that he has done so.

#### *Winding up under supervision of the court*

- 7 The repeals in Part II of Schedule 10 the <sup>M22</sup>Insolvency Act 1985 of references (in the Companies Act and elsewhere) to a winding up under the supervision of the court do not affect the operation of the enactments in which the references are contained in relation to any case in which an order under section 606 of the Companies Act (power to order winding up under supervision) was made before the appointed day.

#### **Marginal Citations**

**M22** 1985 c. 65.

#### *Saving for power to make rules*

- 8 (1) Paragraphs 4 to 7 are without prejudice to the power conferred by this Act under which rules made under section 411 may make transitional provision in connection with the coming into force of those rules.
- (2) Such provision may apply those rules in relation to a winding up notwithstanding that the winding up commenced, or is treated as having commenced, before the coming into force of the rules or section 411.

#### *Setting aside of preferences and other transactions*

- 9 (1) Where a provision in Part VI of this Act applies in relation to a winding up or in relation to a case in which an administration order has been made, a preference given, floating charge created or other transaction entered into before the appointed day shall not be set aside under the provision except to the extent that it could have

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been set aside under the law in force immediately before that day, assuming for this purpose that any relevant administration order had been winding-up order.

- (2) The references above to setting aside a preference, floating charge or other transaction include the making of an order which varies or reverses any effect of a preference, floating charge or other transaction.

## PART II

### INDIVIDUAL INSOLVENCY

#### *Bankruptcy (general)*

- 10 (1) Subject to the following provisions of this Part of this Schedule, so much of this Act as replaces Part III of the <sup>M23</sup>Insolvency Act 1985 does not apply in relation to any case in which a petition in bankruptcy was presented, or a receiving order or adjudication in bankruptcy was made, before the appointed day.
- (2) In relation to any such case as is mentioned above, the enactments specified in Schedule 8 to that Act, so far as they relate to bankruptcy, and those specified in Parts III and IV of Schedule 10 to that Act, so far as they so relate, have effect without the amendments and repeals specified in those Schedules.
- (3) Where any subordinate legislation made under an enactment referred to in sub-paragraph (2) is in force immediately before the appointed day, that subordinate legislation continues to have effect on and after that day in relation to any such case as is mentioned in sub-paragraph (1).

#### **Marginal Citations**

**M23** 1985 c. 65.

- 11 (1) In relation to any such case as is mentioned in paragraph 10(1) the references in any enactment or subordinate legislation to a petition, order or other matter which is provided for under the <sup>M24</sup>Bankruptcy Act 1914 and corresponds to a petition, order or other matter provided for under provisions of this Act replacing Part III of the Insolvency Act 1985 continue on and after the appointed day to have effect as references to the petition, order or matter provided for by the Act of 1914; but otherwise those references have effect on and after that day as references to the petition, order or matter provided for by those provisions of this Act.
- (2) Without prejudice to sub-paragraph (1), in determining for the purposes of section 279 of this Act (period of bankruptcy) or paragraph 13 below whether any person was an undischarged bankrupt at a time before the appointed day, an adjudication in bankruptcy and an annulment of a bankruptcy under the Act of 1914 are to be taken into account in the same way, respectively, as a bankruptcy order under the provisions of this Act replacing Part III of the Insolvency Act 1985 and the annulment under section 282 of this Act of such an order.

#### **Marginal Citations**

**M24** 1914 c. 59.

*Status: Point in time view as at 26/03/2002.*

*Changes to legislation: Insolvency Act 1986 is up to date with all changes known to be in force on or before 14 June 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)*

- 12 Transactions entered into before the appointed day have effect on and after that day as if references to acts of bankruptcy in the provisions for giving effect to those transactions continued to be references to acts of bankruptcy within the meaning of the Bankruptcy Act 1914, but as if such acts included failure to comply with a statutory demand served under section 268 of this Act.

*Discharge from old bankruptcy*

- 13 (1) Where a person—
- (a) was adjudged bankrupt before the appointed day or is adjudged bankrupt on or after that day on a petition presented before that day, and
  - (b) that person was not an undischarged bankrupt at any time in the period of 15 years ending with the adjudication,
- that person is deemed (if not previously discharged) to be discharged from his bankruptcy for the purposes of the <sup>M25</sup>Bankruptcy Act 1914 at the end of the discharge period.
- (2) Subject to sub-paragraph (3) below, the discharge period for the purposes of this paragraph is—
- (a) in the case of a person adjudged bankrupt before the appointed day, the period of 3 years beginning with that day, and
  - (b) in the case of a person who is adjudged bankrupt on or after that day on a petition presented before that day, the period of 3 years beginning with the date of the adjudication.
- (3) Where the court exercising jurisdiction in relation to a bankruptcy to which this paragraph applies is satisfied, on the application of the official receiver, that the bankrupt has failed, or is failing, to comply with any of his obligations under the Bankruptcy Act 1914, any rules made under that Act or any such rules as are mentioned in paragraph 19(1) below, the court may order that the discharge period shall cease to run for such period, or until the fulfilment of such conditions (including a condition requiring the court to be satisfied as to any matter) as may be specified in the order.

**Marginal Citations**

**M25** 1914 c. 59.

*Provisions relating to trustee*

- 14 (1) This paragraph applies as regards the trustee in the case of a person adjudged bankrupt before the appointed day, or adjudged bankrupt on or after that day on a petition presented before that day.
- (2) The official receiver may at any time when he is the trustee of the bankrupt's estate apply to the Secretary of State for the appointment of a person as trustee instead of the official receiver; and on any such application the Secretary of State shall either make an appointment or decline to make one.
- (3) Where on the appointed day the trustee of a bankrupt's estate has not made an application under section 93 of the Bankruptcy Act 1914 (release of trustee), then—

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- (a) except where the Secretary of State otherwise directs, sections 298(8), 304 and 331(1) to (3) of this Act apply, and section 93 of the Act of 1914 does not apply, in relation to any trustee of the bankrupt's estate who holds office on or at any time after the appointed day and is not the official receiver;
  - (b) section 331(4) of this Act applies in relation to the carrying out at any time on or after the appointed day by the trustee of the bankrupt's estate of any of his functions; and
  - (c) a trustee in relation to whom section 298(8) of this Act has effect by virtue of this paragraph has his release with effect from the time specified in section 299(3)(d).
- (4) Subsection (5) of this section 299 has effect for the purposes of sub-paragraph (3)(c) as it has for the purposes of that section 8.
- (5) In the application of subsection (3) of section 331 in relation to a case by virtue of this paragraph, the reference in that subsection to section 330(1) has effect as a reference to section 67 of the <sup>M26</sup>Bankruptcy Act 1914.
- (6) The trustee of the bankrupt's estate may employ a solicitor to assist him in the carrying out of his functions without the permission of the committee of inspection; but if he does so employ a solicitor, he shall inform the committee of inspection that he has done so.

**Marginal Citations**

**M26** 1914 c. 59.

*Copyright*

- 15 (1) Where a person who is adjudged bankrupt on a petition presented on or after the appointed day is liable, by virtue of a transaction entered into before that day, to pay royalties or a share of the profits to any person in respect of any copyright or interest in copyright comprised in the bankrupt's estate, section 60 of the Bankruptcy Act 1914 (limitation on trustee's powers in relation to copyright) applies in relation to the trustee of that estate as it applies in relation to a trustee in bankruptcy under the Act of 1914.

*Second bankruptcy*

- 16 (1) Sections 334 and 335 of this Act apply with the following modifications where the earlier bankruptcy (within the meaning of section 334) is a bankruptcy in relation to which the Act of 1914 applies instead of the second Group of Parts in this Act, that is to say—
- (a) references to property vested in the existing trustee under section 307(3) of this Act have effect as references to such property vested in that trustee as was acquired by or devolved on the bankrupt after the commencement (within the meaning of the Act of 1914) of the earlier bankruptcy; and
  - (b) references to an order under section 310 of this Act have effect as references to an order under section 51 of the Act of 1914.
- (2) Section 39 of the Act of 1914 (second bankruptcy) does not apply where a person is an undischarged bankrupt under that Act is adjudged bankrupt under this Act.

*Status: Point in time view as at 26/03/2002.*

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*Setting aside of preferences and other transactions*

- 17 (1) A performance given, assignment made or other transaction entered into before the appointed day shall not be set aside under any of sections 339 to 344 of this Act except to the extent that it could have been set aside under the law in force immediately before that day.
- (2) References in sub-paragraph (1) to setting aside a preference, assignment or other transaction include the making of any order which varies or reverses any effect of a preference, assignment or other transaction.

*Bankruptcy offences*

- 18 (1) Where a bankruptcy order is made under this Act on or after the appointed day, a person is not guilty of an offence under Chapter VI of Part IX in respect of anything done before that day; but, notwithstanding the repeal by the <sup>M27</sup>Insolvency Act 1985 of the <sup>M28</sup>Bankruptcy Act 1914, is guilty of an offence under the Act of 1914 in respect of anything done before the appointed day which would have been an offence under that Act if the making of the bankruptcy order had been the making of a receiving order under that Act.
- (2) Subsection (5) of section 350 of this Act applies (instead of sections 157(2), 158(2), 161 and 165 of the Act of 1914) in relation to proceedings for an offence under that Act which are instituted (whether by virtue of sub-paragraph (1) or otherwise) after the appointed day.

**Marginal Citations**

**M27** 1985 c. 65.

**M28** 1914 c. 59.

*Power to make rules*

- 19 (1) The preceding provisions of this Part of this Schedule are without prejudice to the power conferred by this Act under which rules under section 412 may make transitional provision in connection with the coming into force of those rules; and such provision may apply those rules in relation to a bankruptcy notwithstanding that it arose from a petition presented before either the coming into force of the rules or the appointed day.
- (2) Rules under section 412 may provide for such notices served before the appointed day as may be prescribed to be treated for the purposes of this Act as statutory demands served under section 268.

**PART III**

TRANSITIONAL EFFECT OF PART XVI

- 20 (1) A transaction entered into before the appointed day shall not be set aside under Part XVI of this Act except to the extent that it could have been set aside under the law in force immediately before that day.

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- (2) References above to setting aside a transaction include the making of any order which varies or reverses any effect of a transaction.

## PART IV

### INSOLVENCY PRACTITIONERS

- 21 Where an individual began to act as an insolvency practitioner in relation to any person before the appointed day, nothing in section 390(2) or (3) prevents that individual from being qualified to act as an insolvency practitioner in relation to that person.

## PART V

### GENERAL TRANSITIONAL PROVISIONS AND SAVINGS

#### *Interpretation for this Part*

- 22 In this Part of this Schedule, “the former enactments” means so much of the Companies Act as is repealed and replaced by this Act, the <sup>M29</sup>Insolvency Act 1985 and the other enactments repealed by this Act.

**Marginal Citations**

**M29** 1985 c. 65.

#### *General saving for past acts and events*

- 23 So far as anything done or treated as done under or for the purposes of any provision of the former enactments could have been done under or for the purposes of the corresponding provision of this Act, it is not invalidated by the repeal of that provision by has effect as if done under or for the purposes of the corresponding provision; and any order, regulation, rule or other instrument made or having effect under any provision of the former enactments shall, insofar as its effect is preserved by this paragraph, be treated for all purposes as made and having effect under the corresponding provision.

#### *Periods of time*

- 24 Where any period of time specified in a provision of the former enactments is current immediately before the appointed day, this Act has effect as if the corresponding provision had been in force when the period began to run; and (without prejudice to the foregoing) any period of time so specified and current is deemed for the purposes of this Act—
- (a) to run from the date or event from which it was running immediately before the appointed day, and
  - (b) to expire (subject to any provision of this Act for its extension) whenever it would have expired if this Act had not been passed;

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and any rights, priorities, liabilities, reliefs, obligations, requirements, powers, duties or exemptions dependent on the beginning, duration or end of such period as above mentioned shall be under this Act as they were or would have been under the former enactments.

*Internal cross-references in this Act*

- 25 Where in any provision of this Act there is a reference to another such provision, and the first-mentioned provision operates, or is capable of operating, in relation to things done or omitted, or events occurring or not occurring, in the past (including in particular past act of compliance with any enactment, failures of compliance, contraventions, offences and convictions of offences), the reference to the other provision is to be read as including a reference to the corresponding provision of the former enactments.

*Punishment of offences*

- 26 (1) Offences committed before the appointed day under any provision of the former enactments may, notwithstanding any repeal by this Act, be prosecuted and punished after that day as if this Act had not passed.
- (2) A contravention of any provision of the former enactments committed before the appointed day shall not be visited with any severer punishment under or by virtue of this Act than would have been applicable under that provision at the time of the contravention; but where an offence for the continuance of which a penalty was provided has been committed under any provision of the former enactments, proceedings may be taken under this Act in respect of the continuance of the offence on and after the appointed day in the like manner as if the offence had been committed under the corresponding provision of this Act.

*References elsewhere to the former enactments*

- 27 (1) A reference in any enactment, instrument or document (whether express or implied, and in whatever phraseology) to a provision of the former enactments (including the corresponding provision of any yet earlier enactment) is to be read, where necessary to retain for the enactment, instrument or document the same force and effect as it would have had but for the passing of this Act, as, or as including, a reference to the corresponding provision by which it is replaced in this Act.
- (2) The generality of the preceding sub-paragraph is not affected by any specific conversion of references made by this Act, nor by the inclusion in any provision of this Act of a reference (whether express or implied, and in whatever phraseology) to the provision of the former enactments corresponding to that provision, or to a provision of the former enactments which is replaced by a corresponding provision of this Act.

*Saving for power to repeal provisions in section 51*

- 28 The Secretary of State may by order in a statutory instrument repeal subsections (3) to (5) of section 51 of this Act and the entries in Schedule 10 relating to subsections (4) and (5) of that section.



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*Saving for Interpretation Act 1978 ss. 16, 17*

- 29 Nothing in this Schedule is to be taken as prejudicing sections 16 and 17 of the <sup>M30</sup>Interpretation Act 1978 (savings from, and effect of, repeals); and for the purposes of section 17(2) of that Act (construction of references to enactments repealed and replaced, etc.), so much of section 18 of the <sup>M31</sup>Insolvency Act 1985 as is replaced by a provision of this Act is deemed to have been repealed by this Act and not by the <sup>M32</sup>Company Directors Disqualification Act 1986.

**Marginal Citations**

**M30** 1978 c. 30.

**M31** 1985 c. 65.

**M32** 1986 c. 46.

SCHEDULE 12

Section 438

ENACTMENTS REPEALED

Chapter	Short title	Extent of repeal
1970 c. 8.	The Insolvency Services (Accounting and Investment) Act 1970.	The whole Act.
1976 c. 60	The Insolvency Act 1976.	Section 3.
1985 c. 6.	The Companies Act 1985.	In section 463(4), the words “Subject to section 617”.  Sections 467 to 485.  In section 486, in the definition of “company” the words “other than in Chapter II of this Part”; and the definitions of “instrument of appointment”, “prescribed”, “receiver” and “register of charges”.  Sections 488 to 650.  Sections 659 to 664.  Sections 665 to 674.  Section 709(4).  Section 710(4).  Section 724.  Schedule 16.

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		In Schedule 24, the entries relating to section 467; all entries thereafter up to and including section 641(2); and the entry relating to section 710(4).
1985 c. 65.	The Insolvency Act 1985.	Sections 1 to 11. Section 15. Section 17. Section 19. Sections 20 to 107. Section 108(1) and (3) to (7). Sections 109 to 211. Sections 212 to 214. Section 216. Section 217(1) to (3). Sections 221 to 234. In section 235, subsections (2) to (5). In section 236, subsections (3) to (5). In Schedule 1, paragraphs 1 to 4, and sub-paragraph (4) of paragraph 5. Schedules 3 to 5. In Schedule 6, paragraphs 5, 6, 9, 15 to 17, 20 to 22, 25 to 44 and 48 to 52. Schedule 7. In Schedule 9, paragraphs 1 and 4 to 24. Schedule 10.
1985 c. 66.	The Bankruptcy (Scotland) Act 1985.	In Schedule 7, paragraphs 19 to 22.
1986 c. 44.	The Gas Act 1986.	In Schedule 7, paragraph 31.

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## SCHEDULE 13

Section 439(1)

### CONSEQUENTIAL AMENDMENTS OF COMPANIES ACT 1985

#### PART I

##### INTERNAL AND OTHER SECTION REFERENCES AMENDED OR RE-AMENDED

<b>Section of Act</b>	<b>Consequential amendment or re-amendment</b>
Section 13(4)	After “this Act”, add “and the Insolvency Act”.
Section 44(7)	In paragraph (a), for “section 582” substitute “section 110 of the Insolvency Act”.
Section 103(7)	In paragraph (a), the same amendment.
Section 131(7)	The same amendment.
Section 140(2)	In paragraph (b), for “section 518” substitute “section 123 of the Insolvency Act”.
Section 153(3)	In paragraph (f), for “section 582” substitute “section 110 of the Insolvency Act”.
	In paragraph (g), for “Chapter II of Part II of the Insolvency Act 1985” substitute “Part I of the Insolvency Act”.
Section 156(3)	For “section 517” substitute “section 122 of the Insolvency Act”.
Section 173(4)	The same amendment.
Section 196	For this section substitute—“196.—(1) The following applies in the case of a company registered in England and Wales, where debentures of the company are secured by a charge which, as created, was a floating charge.(2) If possession is taken, by or on behalf of the holders of any of the debentures, of any property comprised in or subject to charge, and the company is not at that time in course of being wound up, the company’s preferential debts shall be paid out of assets coming to the hands of the person taking possession in priority to any claims for principal or interest in respect of the debentures.(3) “Preferential debts” means the categories of debts listed in Schedule 6 to the Insolvency Act; and for the purposes of that Schedule “the relevant date” is the date of possession being taken as above mentioned.(4) Payments made under this section shall be recouped, as far as may

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	be, out of the assets of the company available for payment of general creditors.”
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Section 380(4)	In paragraph (j), for “section 572(1)(a)” substitute “section 84(1)(a) of the Insolvency Act”.
Section 441(1)	For “section 13 of the Insolvency Act 1985” substitute “section 8 of the Company Directors Disqualification Act 1986”.
Section 449(1)	In paragraph (ba), for “section 12 or 13 of the Insolvency Act 1985” substitute “section 6, 7 or 8 of the Company Directors Disqualification Act 1986”.
Section 461(6)	For “section 106 of the Insolvency Act 1985” substitute “section 411 of the Insolvency Act”.
Section 462(5)	After “this Part” insert “and Part III of the Insolvency Act 1986”.
Section 463(2)	For “Part XX (except section 623(4))” substitute “Part IV of the Insolvency Act (except section 185)”.
Section 463(3)	For this subsection substitute—“(3) Nothing in this section derogates from the provisions of sections 53(7) and 54(6) of the Insolvency Act (attachment of floating charge on appointment of receiver), or prejudices the operation of sections 175 and 176 of that Act (payment of preferential debts in winding up)”.
Section 464(6)	For “section 89 of the Insolvency Act 1985” substitute “sections 175 and 176 of the Insolvency Act”.
Section 657(2)	For “subsections (3) and (5) to (7) of section 91 of the Insolvency Act 1985 and section 92 of that Act” substitute “section 178(4) and sections 179 to 182 of the Insolvency Act”.
Section 658(1)	For “Subsection (7) of section 91 of the Insolvency Act 1985” substitute “Section 180 of the Insolvency Act”.
Section 711(2)	In paragraph (b), for “section 600” substitute “section 109 of the Insolvency Act”.

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Section 733

In subsection (1), omit “295(7)”.

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### Textual Amendments

**F100** Entries in Pt. I of Sch. 13, relating to sections 222(4), 225 and 733(3) repealed by [Companies Act 1989](#) (c. 40, SIF 27), ss. 212, 213(2), [Sch. 24](#)

## PART II

### AMENDMENT OF PART XXVI (INTERPRETATION)

In Part XXVI of the Companies Act, after section 735, insert the following section—

**“735A Relationship of this Act to Insolvency Act.**

- (1) In this Act “the Insolvency Act” means the Insolvency Act 1986; and in the following provisions of this Act, namely, sections 375(1)(b), 425(6)(a), 440, 449(1)(a) and (d), 460(2), 675, 676, 677, 699(1), 728 and Schedule 21, paragraph 6(1), the words “this Act” are to be read as including Part I to VII of that Act, sections 411, 413, 414, 416 and 417 in Part XV of that Act, and also the Company Directors Disqualification Act 1986.
- (2) In sections 704(5), 706(1), 707(1), 708(1)(a) and (4), 710(5), 713(1), 729 and 732(3) references to the Companies Acts include Parts I to VII of the Insolvency Act, sections 411, 413, 414, 416 and 417 in Part XV of that Act, and also the Company Directors Disqualification Act 1986.
- (3) Subsections (1) and (2) apply unless the contrary intention appears.”

## SCHEDULE 14

Section 439(2)

### CONSEQUENTIAL AMENDMENTS OF OTHER ENACTMENTS

Enactment	Amendment
Deeds of Arrangement Act 1914 (c. 47): Section 3(1)	For “Part III of the Insolvency Act 1985” substitute “Parts VIII to XI of the Insolvency Act 1986”.
Section 3(4)	The same amendment.
Section 11(1) and (2)	In each subsection, the same amendment.
Section 15(1)	For “section 207 of the Insolvency Act 1985” substitute “section 412 of the Insolvency Act 1986”.
Section 16	The same amendment as of section 3(1).

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Section 23	The same amendment.
Section 30(1)	For the definition of “property” substitute —“‘property’ has the meaning given by section 436 of the Insolvency Act 1986”.
Law of Property Act 1925 (c. 20):	
Section 52(2)(b)	For “section 91 or 161 of the Insolvency Act 1985” substitute “sections 178 to 180 or sections 315 to 319 of the Insolvency Act 1986”.
Land Registration Act 1925 (c. 12)	
Section 42(2)	For “section 161 of the Insolvency Act 1985” substitute “sections 315 to 319 of the Insolvency Act 1986”.
[ <sup>F101</sup> Section 112AA(3)(a)]	[ <sup>F101</sup> For “the Insolvency Act 1985 or the Companies Act 1985” substitute “the Insolvency Act 1986”.]
Third Parties (Rights against Insurers) Act 1930 (c. 25):	
Section 1	In subsection (1)(b), for the words from “a composition” to “that Chapter” substitute “a voluntary arrangement proposed for the purposes of Part I of the Insolvency Act 1986 being approved under that Part”. In subsection (2), for “228 of the Insolvency Act 1985” substitute “421 of the Insolvency Act 1986”. In subsection (3), the same amendment.
Section 2	In subsection (1), the same amendment as of section 1(2). In subsection (1A), for the words from “composition or scheme” to the end of the subsection substitute “voluntary arrangement proposed for the purposes of, and approved under Part I or Part VIII of the Insolvency Act 1986”.
Section 4	In paragraph (b), the same amendment as of section 1(2).
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<sup>F103</sup>	
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<sup>F103</sup>	<sup>F103</sup>
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Agricultural Marketing Act 1958 (c. 47):	

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Schedule 2

For paragraph 4 substitute—“4.—(1) A scheme shall provide for the winding up of the board, and for that purpose may apply Part V of the Insolvency Act 1986 (winding up of unregistered companies), subject to the following modifications. (2) For the purpose of sections 221, 222 and 224 of the Act of 1986, the principal place of business of the board is deemed to be the office of the board the address of which is registered by the Minister under paragraph 3 above. (3) Section 223 does not apply. (4) Section 224 applies as if the words “or any member of it as such” were omitted. (5) A petition for winding up the board may be presented by the Minister as well as by any person authorised under Part IV of the Insolvency Act 1986 to present a petition for winding up a company”.

Charities Act 1960 (c. 58):

Section 30(1)

For “Companies Act 1985” substitute “Insolvency Act 1986”.

Licensing Act 1964 (c. 26):

Section 8(1)

In paragraph (c), for the words from “composition or scheme” to “Act 1985” substitute “voluntary arrangement proposed by the holder of the licence has been approved under Part VIII of the Insolvency Act 1986”; and for “composition or scheme” substitute “voluntary arrangement”.

Section 10(5)

For the words from “composition or scheme” to “Act 1985” substitute “voluntary arrangement proposed by the holder of a justices’ licence has been approved under Part VIII of the Insolvency Act 1986”; and for “composition or scheme” substitute “voluntary arrangement”.

Industrial and Provident Societies Act 1965 (c. 12):

Section 55

For “Companies Act 1985” substitute “Insolvency Act 1986”.

Medicines Act 1968 (c. 67):

Section 72(4)

For the words from “composition or scheme” to the end of the subsection substitute “voluntary arrangement proposed for the purposes of, and approved under, Part VIII of the Insolvency Act 1986”.

...

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Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35):

Schedule 3

In Standard Condition 9(2)(b), for “228 of the Insolvency Act 1985” substitute “421 of the Insolvency Act 1986”.

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Superannuation Act 1972 (c. 11):

Section 5(2)

For “156 of the Insolvency Act 1985” substitute “310 of the Insolvency Act 1986”; and for “the said section 156” substitute “the said section 310”.

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Land Charges Act 1972 (c. 61):

Section 16(2)

For “207 of the Insolvency Act 1985” substitute “412 of the Insolvency Act 1986”; and for “Part III” substitute “Parts VIII to XI”.

Matrimonial Causes Act 1973 (c. 18):

Section 39

For “section 174 of the Insolvency Act 1985” substitute “section 339 or 340 of the Insolvency Act 1986”.

Powers of Criminal Courts Act 1973 (c. 62):

Section 39(3)

In paragraph (d), for “174(10) of the Insolvency Act 1985” substitute “341(4) of the Insolvency Act 1986”.

Friendly Societies Act 1974 (c. 46):



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Section 87(2)	For “Companies Act 1985” substitute “Insolvency Act 1986”.
F108	
. . .	
Recess Elections Act 1975 (c. 66):	
Section 1(2)	In the definition of “certificate of vacancy”, for “214(6)(a) of the Insolvency Act 1985” substitute “427(6)(a) of the Insolvency Act 1986”.
Policyholders Protection Act 1975 (c. 75):	
Section 5(1)(a)	For “Companies Act 1985” substitute “Insolvency Act 1986”.
Section 15(1)	For “532 of the Companies Act 1985” substitute “Insolvency Act 1986”.
Section 16(1)(b)	The same amendment as of section 5(1)(a).
Development Land Tax Act 1976 (c. 24):	
Section 33(1)	For “538 of the Companies Act 1985” substitute “145 of the Insolvency Act 1986”.
Restrictive Trade Practices Act 1976 (c. 34):	
Schedule 1	For paragraph 9A (inserted by Insolvency Act 1985, section 217(4)) substitute—“9A. Insolvency services within the meaning of section 428 of the Insolvency Act 1986”.
F109	
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	F109
	...
F109	F109
...	...
Credit Unions Act 1979 (c. 34):	
Section 6(1)	For “517(1)(e) of the Companies Act 1985” substitute “122(1)(e) of the Insolvency Act 1986”; and for “517(1)(e) of the Act of 1985” substitute “122(1)(e) of the Act of 1986”.
Banking Act 1979 (c. 37):	
Section 6(3)	In paragraph (b), for “Part XXI of the Companies Act 1985” substitute “Part V of the Insolvency Act 1986”.
Section 18	In subsection (1), for “Companies Act 1985” substitute “Insolvency Act 1986”; and in paragraph (a) of the subsection for “518” substitute “123”. In subsection (2), for “Companies Act 1985” substitute “Insolvency Act 1986”; and for “Part XXI” substitute “Part V”. In subsection (4)—in paragraph (a), for “Companies Act 1985” substitute “Insolvency Act 1986”; in paragraph (b), for “518 of the said Act of 1985” substitute “123 of the said Act 1986”; and in paragraph (c), for “Part XXI of the said Act of 1985” substitute “Part V of the said Act 1986”.
Enactment	Amendment
Section 19	In subsection (2), for paragraph (ba) substitute— “(ba) in connection with any proceedings under any provision of— (i) Part XVIII or XX of the Companies Act 1985, or (ii) Parts I to VII of the Insolvency Act 1986 (other than sections 236 and 237)”. In subsection (8), for paragraphs (a) and (aa) substitute— “(a) for the references in subsection (2) to Part XVIII or XX of the Companies Act 1985 and Parts I to VII of the Insolvency Act 1986, there shall be substituted references to Parts V, VI and IX of the Companies Act (Northern Ireland) 1960 (the reference to sections 236 and 237 of the Act of 1986 being disregarded)”.

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## Section 28

In subsection (3), in paragraph (c), for “83 of the Insolvency Act 1985” substitute “95 of the Insolvency Act 1986”.

In subsection (4), in paragraph (a), for “Part XXI of the Companies Act 1985” substitute “Part V of the Insolvency Act 1986”.

In subsection (6)(b), for sub-paragraphs (ii) to (iv) substitute—  
 “(ii) to be a member of a liquidation committee established under Part IV or V of the Insolvency Act 1986;  
 (iii) to be a member of a creditors committee appointed under section 301 of that Act; and  
 (iv) to be a commissioner under section 30 or the Bankruptcy (Scotland) Act 1985”;  
 (v) to be a member of a committee of inspection appointed for the purposes of Part V or Part IX of the Companies Act (Northern Ireland) 1960;

and (in the passage following sub-paragraph (iv)) for “such a committee as is mentioned in paragraph (b)(ii) or (iv) above” substitute “a liquidation committee, creditors’ committee or committee of inspection”.

In subsection (7), in paragraph (b), for the words from “section 116(4)” to the end of the paragraph substitute “section 261(1) of the Insolvency Act 1986 to any person in whom the property of the firm is vested under section 282(4) of that Act”.

## Section 31(7)

For paragraph (a) substitute -  
 “(a) for England and Wales, under sections 411 and 412 of the Insolvency Act 1986”;  
 and in paragraph (b) for “the said section 106” substitute “section 411 of that Act”.

## British Aerospace Act 1980 (c. 26):

### Section 9(1)

In paragraph (a), for “Companies Act 1985” substitute “Insolvency Act 1986”.

## Public Passenger Vehicles Act 1981 (c. 14):

### Section 19(3)

In paragraph (a), for “Chapter III of Part II of the Insolvency Act 1985” substitute “Part II of the Insolvency Act 1986”.

...

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F111

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Supreme Court Act 1981 (c. 54):

Section 40A(2)

...

F111  
For “section 179 of the Insolvency Act 1985” substitute “section 346 of the Insolvency Act 1986”; and for “621 of the Companies Act 1985” substitute “183 of the Insolvency Act 1986”.

Trustee Savings Banks Act 1981 (c. 65):

Section 31

In paragraph (b), for “666 to 669 of the Companies Act 1985” substitute “221 to 224 of the Insolvency Act 1986”.

Section 54(2)

For “666(6) of the Companies Act 1985” substitute “221(6) of the Insolvency Act 1986”.

Iron and Steel Act 1982 (c. 25):

Schedule 4

In paragraph 3(3) after “Companies Act 1985” insert “or the Insolvency Act 1986”.

Civil Jurisdiction and Judgments Act 1982 (c. 27):

Section 18(3)

In paragraph (ba), for “213 of the Insolvency Act 1985” substitute “426 of the Insolvency Act 1986”.

Schedule 5

In paragraph (1), for “Companies Act 1985” substitute “Insolvency Act 1986”.

Insurance Companies Act 1982 (c. 50):

Section 53

For “Companies Act” (the first time) substitute “Insolvency Act 1986”; and for “Companies Act” (the second time) substitute “that Act of 1986”.

Section 54

In subsection (1), for “the Companies Act” (the first time) substitute “Part IV or V of the Insolvency Act 1986”; and in paragraph (a), for “518 or sections 667 to 669” substitute “123 or sections 222 to 224”. In subsection (4) for “Companies Act” (the first time) substitute “Insolvency Act 1986”.

Section 55

In subsection (5) for “subsection (3) of section 540 of the Companies Act” substitute “section 168(2) of the Insolvency Act 1986”.

In subsection (6), for “631 of the Companies Act” substitute “212 of the Insolvency Act 1986”.

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Section 56	<p>In subsection (4), for “Section 90(5) of the Insolvency Act 1985” substitute “Section 177(5) of the Insolvency Act 1986”; and for “section 90 of the said Act of 1985” substitute “section 177 of the said Act of 1986”.</p> <p>In subsection (7), for “section 539(1) of the Companies Act” substitute “section 167 of, and Schedule 4 to, the Insolvency Act 1986”.</p>
Section 59	<p>In subsection (1), for “106 of the Insolvency Act 1985” substitute “411 of the Insolvency Act 1986”.</p> <p>In subsection (2), for “106 of the Insolvency Act 1985” substitute “411 of the Insolvency Act 1986”; and for “section 89 of, and Schedule 4 to, the Insolvency Act 1985” substitute “sections 175 and 176 of, and Schedule 6 to, the Insolvency Act 1986”.</p>
Section 96(1)	<p>In the definition of “insolvent”, for “517 and 518 or section 666 of the Companies Act” substitute “122 and 123 or section 221 of the Insolvency Act 1986”.</p>
...	
FIII	
...	
FIII	...
FIII	FIII
Telecommunications Act 1984 (c. 12):	
Section 68(1)	<p>In paragraph (a), for “Companies Act 1985” substitute “Insolvency Act 1986”.</p>
County Courts Act 1984 (c. 28):	
Section 98	<p>For subsection (3) substitute—  “(3) The provisions of this section have effect subject to those of sections 183, 184 and 346 of the Insolvency Act 1986”.</p>
Section 102	<p>For subsection (8) substitute—  “(8) Nothing in this section affects section 346 of the Insolvency Act 1986”.</p>
Section 109(2)	<p>For “179 of the Insolvency Act 1985” substitute “346 of the Insolvency Act 1986”</p>
Finance Act 1985 (c. 54):	
Section 79	<p>Omit the word “altogether”; and after “Companies Act 1985” insert “sections 110 and 111 of the Insolvency Act 1986”.</p>
Housing Act 1985 (c. 68):	

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Schedule 18

In paragraphs 3(4) and 5(3), for “228 of the Insolvency Act 1985” substitute “421 of the Insolvency Act 1986”.

#### Textual Amendments

- F101** Sch. 14 the entry relating to section 112AA(3)(a) of the Land Registration Act 1925 repealed (E.W.) by [Land Registration Act 1988 \(c. 3, SIF 98:2\)](#), s. 2, [Sch. 2](#).
- F102** Sch. 14 the entry relating to the Exchange Control Act 1947 repealed by [Finance Act 1987 \(c. 16, SIF 99:6\)](#), s. 72, [Sch. 16 Pt. XI](#)
- F103** Sch. 14: the entries relating to the Arbitration Act 1950 repealed (31.1.1997) by [1996 c. 23, s. 107\(2\)](#), [Sch. 4](#) (with s. 81(2)); S.I. 1996/3146, arts. 3, 4, [Sch. 2](#)
- F104** Sch. 14 the entries relating to the Income and Corporation Taxes Act 1970 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, [Sch. 31](#)
- F105** Sch. 14: the entry relating to the Tribunals and Inquiries Act 1971 repealed (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\)](#), ss. 18(2), 19(2), [Sch. 4 Pt. I](#)
- F106** Sch. 14 the entry relating to the Road Traffic Act 1972 repealed by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), ss. 3, 5, [Sch. 1 Pt. I](#), [Sch. 4 paras. 1, 2](#)
- F107** Sch. 14 the entry relating to the Finance Act 1972 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63: 1\)](#), s. 844, [Sch. 31](#)
- F108** Sch. 14: the entries relating to the Social Security Pensions Act 1975 repealed (7.2.1994) by [1993 c. 48, ss. 188, 193\(2\)](#), [Sch. 5 Pt. I](#); S.I. 1994/86, [art. 2](#)
- F109** Sch. 14: the entries relating to the Employment Protection (Consolidation) Act 1998 repealed (22.8.1996) by [1996 c. 18, ss. 242, 243](#), [Sch. 3 Pt. I](#) (with ss. 191-195, 202)
- F110** Sch. 14 the entry relating to s.125(2) of the Employment Protection (Consolidation) Act 1978 repealed by [Employment Act 1989 \(c.38, SIF 43: 1\)](#), [s. 29\(4\)](#) [Sch.7 Pt.II](#)
- F111** Sch. 14 the entries relating to the Finance Act 1981 and the Finance Act 1983 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63: 1\)](#), s. 844, [Sch. 31](#)

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