

*These notes refer to the Insolvency Act 2000 (c.39)  
which received Royal Assent on 30 November 2000*

# INSOLVENCY ACT 2000

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 2: Company voluntary arrangements*

##### **Part I – Amendments of the Insolvency Act 1986**

83. This Schedule makes amendments to the provisions of the Insolvency Act 1986 relating to company voluntary arrangements where there is no moratorium. Paragraphs 84 to 90 summarise its principal provisions.
84. The nominee must state in his report to the court whether in his opinion the proposed company voluntary arrangement has a reasonable prospect of being approved and implemented. (*Paragraph 3 of Schedule 2*).
85. Amendments are made to the circumstances in which the court may replace a nominee. (*Paragraph 3 of Schedule 2*).
86. A decision by the creditors' meeting to approve a proposed voluntary arrangement is to prevail where this conflicts with the decision by the meeting of the company, subject to the right of a member to challenge this on an application to the court. Where such an application is made and the company is or has been regulated by the Financial Services Authority, the Authority is entitled to be heard on that application. (*Paragraph 5 of Schedule 2*).
87. The company voluntary arrangement will bind all of the company's creditors including unknown creditors who are entitled to claim from the company the amounts they would have received if they come to light after the voluntary arrangement has been completed. Such creditors may also make an application to the court on the ground that their interests are unfairly prejudiced by the voluntary arrangement that is approved. (*Paragraphs 6 and 7 of Schedule 2*).
88. It is an offence for an officer of a company to seek to obtain the approval of the members or creditors to a proposed voluntary arrangement by making a false representation or fraudulently doing, or failing to do, anything. (*Paragraphs 8 and 12 of Schedule 2*).
89. The nominee or supervisor is required to report suspected offences to the Secretary of State in England and Wales (and to the Lord Advocate in Scotland). The Secretary of State is granted certain powers to investigate such suspected offences. (*Paragraph 10 of Schedule 2*).
90. There are also consequential amendments resulting from Section 4 (Qualification or authorisation of insolvency practitioners) and other minor amendments of a clarificatory nature.

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**Part II: Amendments of the Building Societies Act 1986**

91. This deals with the interaction of the company voluntary arrangement procedure with the Building Societies Act 1986. Principally it prevents a building society from using the company voluntary arrangement moratorium procedure.