

SCHEDULE 4

PROVISIONS OF THE ACT WHICH APPLY WITH MODIFICATIONS FOR THE PURPOSES OF ARTICLE 8 TO WINDING UP OF INSOLVENT PARTNERSHIP ON CREDITOR'S PETITION WHERE CONCURRENT PETITIONS ARE PRESENTED AGAINST ONE OR MORE MEMBERS

PART II

OTHER MODIFIED PROVISIONS OF THE ACT ABOUT WINDING UP BY THE COURT AND BANKRUPTCY OF INDIVIDUALS

Sections 230, 231 and 292: Appointment to office of responsible insolvency practitioner or provisional liquidator

26. Sections 230, 231 and 292 are modified so as to read as follows—

“**230.**—(1) This section applies with respect to the appointment of—

- (a) the responsible insolvency practitioner of an insolvent partnership which is being wound up by virtue of article 8 of the Insolvent Partnerships Order 1994 and of one or more of its insolvent members, or
- (b) a provisional liquidator of an insolvent partnership, or of any of its corporate members, against which a winding-up petition is presented by virtue of that article,

but is without prejudice to any enactment under which the official receiver is to be, or may be, responsible insolvency practitioner or provisional liquidator.

(2) No person may be appointed as responsible insolvency practitioner unless he is, at the time of the appointment, qualified to act as an insolvency practitioner both in relation to the insolvent partnership and to the insolvent member or members.

(3) No person may be appointed as provisional liquidator unless he is, at the time of the appointment, qualified to act as an insolvency practitioner both in relation to the insolvent partnership and to any corporate member in respect of which he is appointed.

(4) If the appointment or nomination of any person to the office of responsible insolvency practitioner or provisional liquidator relates to more than one person, or has the effect that the office is to be held by more than one person, then subsection (5) below applies.

(5) The appointment or nomination shall declare whether any act required or authorised under any enactment to be done by the responsible insolvency practitioner or by the provisional liquidator is to be done by all or any one or more of the persons for the time being holding the office in question.

(6) The appointment of any person as responsible insolvency practitioner takes effect only if that person accepts the appointment in accordance with the rules. Subject to this, the appointment of any person as responsible insolvency practitioner takes effect at the time specified in his certificate of appointment.

Conflicts of interest

230A.—(1) If the responsible insolvency practitioner of an insolvent partnership being wound up by virtue of article 8 of the Insolvent Partnerships Order 1994 and of one or more of its insolvent members is of the opinion at any time that there is a conflict of interest

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between his functions as liquidator of the partnership and his functions as responsible insolvency practitioner of any insolvent member, or between his functions as responsible insolvency practitioner of two or more insolvent members, he may apply to the court for directions.

(2) On an application under subsection (1), the court may, without prejudice to the generality of its power to give directions, appoint one or more insolvency practitioners either in place of the applicant to act as responsible insolvency practitioner of both the partnership and its insolvent member or members or to act as joint responsible insolvency practitioner with the applicant.”