

[^{F1}SCHEDULE 1]

Regulation 3

APPLICATION OF THE INSOLVENCY ACT 1986 TO CIOs

Textual Amendments

- F1** Sch. renumbered as Sch. 1 (4.7.2018) by virtue of [The Insolvency of Registered Providers of Social Housing Regulations 2018 \(S.I. 2018/728\)](#), regs. 1, **3(5)**

Application to CIOs of the 1986 Act

1.—(1) [^{F2}Subject to sub-paragraph (2A)] the provisions of the 1986 Act specified in sub-paragraph (2) apply in relation to CIOs as they apply in relation to companies registered in England and Wales with—

- (a) the general modifications set out in sub-paragraph (3);
 - (b) the substitution of the provision specified in sub-paragraph (4) for section 84 of that Act ^{M1};
 - (c) the substitution of the provision specified in sub-paragraph (5) for section 122 of that Act ^{M2};
 - (d) the substitution of the provision specified in sub-paragraph (6) for section 154 of that Act;
 - (e) the further modifications specified in the Table in sub-paragraph (7); and
 - (f) any other necessary modification.
- (2) The specified provisions of the 1986 Act are—
- (a) [^{F3}Parts A1] to 4 ^{M3} other than—
 - [^{F4}(ai) sections A5, A15, A27, A48 and A49;]
 - (i) section 28;
 - (ii) Chapters 2 and 3 of Part 3;
 - (iii) sections 72B to 72F, 72GA, 76 to 78, 83, 93, 105, 111, 113, 120, 121, 124A to 124C, 138, 142, 157, 161, 162, 169, 185, 193, 198, 199 and 204;
 - [^{F5}(iia) paragraphs 3 to 18 and 20 to 22 of Schedule ZA1;]
 - ^{F6}(iv)
 - (v) paragraphs 9, 111A to 116 of Schedule B1 ^{M4};
 - (vi) paragraph 19 of Schedule 1 ^{M5};
 - (vii) paragraph 3 of Schedule 4 ^{M6};
 - (b) Parts 6 and 7 ^{M7} other than section 242, 243 and 250;
 - (c) the Third Group of Parts (miscellaneous matters bearing on both company and individual insolvency; general interpretation; final provisions) ^{M8} other than sections 389B, 402, 412, 415, 417, 418, 420, 421, 421A, 422, 426, 426A, 426B, 426C, 427, 428, 429, 434E, 437, 438, 439, 440, 441 and 442.
- [^{F7}(2A) Part A1 of the 1986 Act does not apply in relation to a CIO that is—
- ^{F8}(a)
 - (b) registered as a social landlord under Part 1 of the Housing Act 1996.]
- (3) The general modifications are—

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- (a) any reference to a company or a company registered under the Companies Act 2006^{M9} in England and Wales, is to be read as a reference to a CIO;
- (b) any reference to a company being wound up by the court in England and Wales is to be read as a reference to a CIO being wound up by the court;
- (c) any reference to a company being wound up in England and Wales is to be read as a reference to a CIO being wound up;
- (d) any reference to a winding up in England and Wales is to be read as a reference to the winding up of a CIO;
- (e) any reference to the registrar of companies is to be read as a reference to the Charity Commission;
- (f) in any provision which requires an original document to be sent to the Charity Commission, any reference to an original document is to be read as a reference to a copy of that document;
- (g) any reference to the registered office of a company is to be read as a reference to the principal office of a CIO;
- (h) any reference to a general meeting of a company is to be read as a general meeting of a CIO;
- (i) any reference to a director of a company is to be read as a reference to a charity trustee of a CIO;
- (j) any reference to an officer of a company is to be read as a reference to a charity trustee of a CIO;
- (k) any reference to a shadow director is to be treated as omitted;
- (l) in any enactment of the 1986 Act which makes provision (for any purpose) for “officer” to include a shadow director, any such provision is to be treated as omitted;
- (m) any reference to a company's articles of association is to be read as a reference to a CIO's constitution;
- (n) any reference to the interests of a member is to be read as a reference to the interests of the relevant CIO;
- (o) any reference to the business of a company is to be read as a reference to the activities the CIO undertakes in furtherance of its charitable purposes;

in each case, unless the context otherwise requires.

- (4) The provision to be substituted for section 84 of the 1986 Act is—

“84 Circumstances in which CIO may be wound up voluntarily

(1) A CIO may be wound up voluntarily if its members pass a resolution that it be wound up voluntarily.

(2) A resolution under subsection (1) must be passed—

(a) at a general meeting of the CIO—

(i) by a 75% majority of those voting (including those voting by proxy or by post, if voting that way is permitted); or

(ii) where the CIO's constitution permits the members to make decisions otherwise than by voting, by a decision taken without a vote and without any expression of dissent in response to the question put to the meeting; or

(b) unanimously, otherwise than at a general meeting.

(3) In this Act “a resolution for voluntary winding up” means a resolution passed under subsection (1).

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(4) Before the members of a CIO pass a resolution for voluntary winding up, they must give written notice of the resolution to the holder of any qualifying floating charge to which section 72A applies.

(5) Where notice is given under subsection (4), a resolution for voluntary winding-up may be passed only—

- (a) after the end of the period of five business days beginning with the day on which the notice was given; or
- (b) if the person to whom the notice was given has consented in writing to the passing of the resolution.

(6) If a resolution for voluntary winding up is to be proposed at a general meeting of a CIO, the person calling the meeting must give notice of not less than 14 days to—

- (a) all members of the CIO entitled to vote at the meeting or, where the CIO's constitution permits the members to make decisions otherwise than by voting, all members entitled to take part in the decision to be made as to whether to pass the resolution at the meeting; and
- (b) any charity trustee of the CIO who is not also a member of the CIO entitled to vote at the meeting or, where the CIO's constitution permits the members to make decisions otherwise than by voting, who is not also a member entitled to take part in the decision to be made as to whether to pass the resolution at the meeting;

and the notice must contain particulars of the resolution that is to be proposed.

(7) For the purpose of calculating the period of notice to be given under subsection (6) the following are to be excluded—

- (a) the day of the meeting; and
- (b) the day on which notice is given.

(8) If a qualifying majority agrees, a resolution for voluntary winding up which is to be proposed at a general meeting may be passed without the notice provisions in subsection (6) being satisfied.

(9) Where a resolution for voluntary winding up is passed otherwise than at a general meeting it is treated as having been passed on the date on which the last member agreed to it, unless the CIO's constitution provides that it is to be treated as having been passed on a later date.

(10) A copy of every resolution for voluntary winding up or (in the case of a resolution that is not in writing) a written memorandum setting out its terms must be sent to the Charity Commission within 15 days of the date on which it is passed.

(11) If a CIO fails to comply with subsection (10) an offence is committed by the liquidator and by every charity trustee of the CIO who is in default.

(12) In this section—

“qualifying majority” means—

- (a) in relation to a CIO whose members take decisions by voting, a majority in number of the members having a right to attend and vote at the meeting, who together represent not less than the requisite percentage of the total voting rights at that meeting of all the members;
- (b) in relation to a CIO whose members take decisions otherwise than by voting, all of the members having the right to attend the meeting and to take part in the decisions to be made at that meeting;

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“requisite percentage” means 90% or such higher percentage (not exceeding 95%) as may be specified in the CIO's constitution for the purposes of this section.”.

(5) The provision to be substituted for section 122 of the 1986 Act is—

“122 Circumstances in which CIO may be wound up by the court

(1) A CIO may be wound up by the court if—

- (a) the members of the CIO have passed a resolution that the CIO be wound up by the court (“resolution for court winding up”);
- (b) the CIO does not commence its business within a year of its registration in the register of charities or suspends its business for a whole year;
- (c) the CIO is unable to pay its debts;

^{F9}(d)

(e) it is just and equitable in the opinion of the court that the CIO should be wound up.

(2) The resolution for court winding up must be passed by the members of the CIO in accordance with section 84(2).

(3) Subsections (6) to (12) of section 84 apply in relation to a resolution for court winding up as they apply to a resolution for voluntary winding up.”.

(6) The provision to be substituted for section 154 of the 1986 Act is—

“154 Application of surplus

154. The court shall make such directions as it considers necessary to secure the application of the surplus in accordance with the directions contained in the CIO's constitution pursuant to section 206(2)(c) of the Charities Act 2011.”.

(7) The Table of further modifications is as follows—

TABLE OF FURTHER MODIFICATIONS TO PROVISIONS OF THE 1986 ACT APPLIED TO CIOs

<i>Provision of the 1986 Act</i>	<i>Modification(s)</i>
FIRST GROUP OF PARTS (Company insolvency; companies winding up)	
[^{F10} Section A3 (Obtaining moratorium by filing documents)	Omit subsection (1)(b).
Section A7 (Beginning of moratorium)	Omit subsection (1)(c).
Section A9 (End of moratorium)	In subsection (3) omit “section A15 (extension by court in course of other proceedings).”.
Section A16 (Entry into insolvency procedure etc)	Omit subsections (1)(a) and (2).
Section A17 (Obligation to notify change in end of moratorium)	In subsection (1) omit entry 8 of the table.
Section A20 (Restrictions on insolvency proceedings etc)	
Subsection (1)	Omit paragraph (b) and for paragraph (c) substitute:

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“(c) a resolution for voluntary winding up under section 84(1) may be passed only if the resolution is recommended by the charity trustees.”.

Subsection (3)

For subsection (3) substitute:

“(3) For these purposes, “excepted petition” means a petition presented by the Attorney General or the Charity Commission under section 113 of the Charities Act 2011.”.

Section A21 (Restrictions on enforcement and legal proceedings) Omit subsection (1)(b).

Section A24 (Duty of directors to notify monitor of insolvency proceedings etc) For subsection (2) substitute:

“(2) The charity trustees must notify the monitor if, during a moratorium for the CIO, they recommend a resolution for voluntary winding up be passed under section 84(1).”.

Section A25 (Restrictions on obtaining credit) In subsection (2)(b) omit “(in Scotland, hired)”.

Section A26 (Restrictions on grant of security) Omit subsection (6).

Section A31 (Disposal of charged property free from charge)

Subsection (11)

For subsection (11) substitute:

“(11) Subsection (1) does not apply in relation to any property which is subject to a financial collateral arrangement or a collateral security.”.

New subsection (12)

After subsection (11) insert:

“(12) In this section—
“collateral security” has the same meaning as in the Financial Markets and Insolvency (Settlement Finality) Regulations 1999;
“financial collateral arrangement” has the same meaning as in the Financial Collateral Arrangements (No.2) Regulations 2003;
“market charge” has the same meaning as in Part 7 of the Companies Act 1989;
“system-charge” has the meaning given by the Financial Markets and Insolvency Regulations 1996.”.

Section A32 (Disposal of hire-purchase property) Omit subsection (7).

Section A42 (Challenge to monitor’s actions) In subsection (2)(a) for “creditor, director or member” substitute “creditor or director”.

Section A43 (Challenges to monitor remuneration in insolvency proceedings) In subsection (2)(c) omit “(or, in Scotland, the expenses)”.

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Section A44 (Challenges to charity trustees' actions)	In subsection (1) omit "or member", and "or members" in both places.
Section A47 (Prosecution of delinquent officers of CIO)	
Subsection (3)	Omit paragraphs (b) and (c).
Subsection (4)	At end insert "as if the CIO were a company".
Subsection (8)	Omit paragraph (b).
Subsection (10)	Omit ", the Lord Advocate".
Section A52 (Interpretation)	
Subsection (1)	In the definition of "unable to pay its debts" omit paragraph (b).
Subsection (3)	Omit subsection (3).
Section A53	In subsection (2) omit ", unless they are made by the Scottish Ministers.]"
Section 1 (Those who may propose an arrangement)	Omit subsections (4) to (6).
M10	
Section 4A (Approval of arrangement)	Omit subsection (5).
M11	
Section 5 (Effect of approval)	
M12	
Subsection (3)	In paragraph (a) omit "or sist".
Subsections (5) and (6)	Omit subsections (5) and (6).
Section 6 (Challenge of decisions)	
M13	
Subsection (1)	In paragraph (a) omit ", member".
Subsection (2A)	Omit subsection (2A).
Subsection (4)	Omit "or in the case of an application under subsection (2A), as to the ground mentioned in that subsection".
Subsection (8)	Omit subsection (8).
Section 7A (Prosecution of delinquent officers of CIO)	
Subsection (2)	In the full out words omit paragraph (ii).
Subsection (3)	After "1985" substitute "to investigate the CIO's affairs as if the CIO were a company".
Subsection (7)	Omit paragraph (b).
Subsection (8)	Omit the reference to "the Lord Advocate".
Section 30 (Disqualification of body corporate from acting as receiver)	Any reference to a body corporate is to be read as a reference to a body corporate other than a body

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corporate appointed as an interim manager under section 76(3)(g) of the Charities Act 2011.

Section 38 (Receivership accounts to be delivered to Charity Commission)	In subsection (1) omit “for registration”.
Section 47 (Statement of affairs to be submitted) M14	For subsection (3)(d) substitute: “ those who are or have been within that year officers of, or in the employment of, a company or a CIO which is, or within that year was, a charity trustee of the CIO.”.
Section 72A (Floating charge holder not to appoint an administrative receiver) M15	
Subsection (2)	Omit subsection (2).
Subsection (3)	For “subsections (1) and (2)” substitute “ subsection (1) ”.
Subsection (6)	For “sections 72B to 72GA” substitute “ section 72G ”.
Section 72G (Sixth exception: registered social landlords) M16	Omit “or under Part 3 of the Housing (Scotland) Act 2001 (asp. 10)”.
Section 72H (Sections 72A to 72G: supplementary)	
Subsection (1)	For “sections 72B to 72G” substitute “ section 72G ”.
Subsection (2)	In paragraph (d) for “sections 72B to 72G” substitute “ section 72G ”.
Subsection (5)	Omit paragraph (b).
Section 73 (Scheme of this Part) M17	Omit “or Scotland”.
Section 74 (Liability as contributories of present and past members) M18	
Subsection (1)	For subsection (1) substitute: “(1) When— (a) a CIO is wound up; and (b) its constitution states that its members are liable to contribute to its assets if it is wound up, every present and past member of the CIO is liable to contribute to its assets to any amount sufficient for the payment of its debts and liabilities, and the expenses of winding up, and for the adjustment of the rights of the contributories amongst themselves.”.

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Subsection (2)	Omit paragraphs (d) and (f); in paragraph (e) for “the Companies Acts” substitute “ the Charities Act 2011 ”.
Subsection (3)	For subsection (3) substitute: “(3) No contribution is required from any member of a CIO exceeding the amount specified in the CIO's constitution under section 206(1)(d) of the Charities Act 2011 as the amount to be contributed by that member in the event of the CIO being wound up.”.
Section 79 (Meaning of contributory) M19	Omit subsection (3).
Section 81 (Contributories in case of death of a member)	
Subsection (1)	Omit the words from “, and the heirs and legatees” to “in Scotland,”.
Subsection (2)	Omit subsection (2).
Subsection (3)	Omit the words “in England and Wales”.
Section 88 (Avoidance of share transfers, etc after winding-up resolution)	Omit the words from “Any transfer” to “liquidator, and”.
Section 95 (Effect of a CIO's insolvency) M20	Omit subsections (2), (4A)(b) and (5) to (7).
Section 98 (Meeting of creditors) M21	
Subsection (1)	Omit subsection (1).
Subsections (3) to (5)	Omit subsections (3) to (5).
Subsection (6)	For “(1), (1A) or (2)” substitute “ (1A) or (2) ”.
Section 99 (Charity trustees to lay statement of affairs before creditors) M22	Omit subsection (2A)(b).
Section 101 (Appointment of liquidation committee)	Omit subsection (4).
Section 107 (Distribution of CIO's property)	For “shall (unless the articles otherwise provide) be distributed among the members according to their rights and interests in the company” substitute “ shall be applied in accordance with the directions contained in the CIO's constitution pursuant to section 206(2)(c) of the Charities Act 2011; and for this purpose the liquidator may require the charity trustees of the CIO to take any necessary action to secure that application. ”.
Section 109 (Notice by liquidator of his appointment)	In subsection (1) omit “for registration”.

Section 110 (Acceptance of shares, etc, as consideration for sale of CIO property)

M23

- Subsection (1) For paragraph (a) substitute: “ to a company (“the transferee company”), whether or not the latter is a company registered under the Companies Act 2006, or ”.
- Subsection (2) In paragraphs (a) and (b) for “distribution among members of the transferor company” substitute “ to be applied in accordance with the directions contained in the CIO's constitution pursuant to section 206(2)(c) of the Charities Act 2011 ”.
- Subsection (3) In paragraph (a) for “company” substitute “ members of the CIO ”.
- Subsection (4) Omit subsection (4).
- New subsections (7) to (11) After subsection (6) insert:
“(7) For the purposes of this section, a resolution of the members of a CIO is to be treated as a special resolution if it is passed—
(a) at a general meeting of the CIO—
(i) by a 75% majority of those voting (including those voting by proxy or by post, if voting that way is permitted); or
(ii) where the CIO's constitution permits the members to make decisions otherwise than by voting, by a decision taken without a vote and without any expression of dissent in response to the question put to the meeting; or
(b) unanimously, otherwise than at a general meeting.
(8) Subject to subsection (10), if a resolution under subsection (3)(a) is to be proposed at a general meeting of a CIO, the person calling the meeting must give notice of not less than 14 days to—
(a) all members of the CIO entitled to vote at the meeting or take part in the decision to be made as to whether to pass the resolution at the meeting; and
(b) any charity trustee of the CIO who is not also a member of the CIO entitled to vote at the meeting or, where the CIO's constitution permits the members to make decisions otherwise than by

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voting, who is not also a member entitled to take part in the decision to be made as to whether to pass the resolution at the meeting; and the notice must contain particulars of the resolution that is to be proposed.

(9) For the purpose of calculating the period of notice to be given under subsection (8) the following are to be excluded—

- (a) the day of the meeting; and
- (b) the day on which notice is given.

(10) If a qualifying majority agrees, a resolution under subsection (3)(a) which is to be proposed at a general meeting of a CIO may be passed without the notice provisions in subsection (8) being satisfied.

(11) In this section “qualifying majority” has the meaning given by section 84.”.

Section 117 (High Court and county court jurisdiction)

M24

- Subsection (2) Omit the words from “Where the amount” to “(subject to this section)”.
- Subsection (3) Omit subsection (3).
- Subsection (7) Omit subsection (7).

Section 123 (Definition of inability to pay debts) Omit subsection (1)(c) and (d).

Section 124 (Application for winding up)

M25

- Subsection (1) Omit the words from “or by the designated officer” to “fines imposed on companies)”.
- Subsections (2) and (3) Omit subsections (2) and (3).
- Subsection (3A) For “section 122(1)(fa)” substitute “section 122(1)(d)”.
- Subsections (4) to (4A) Omit subsections (4) to (4A).

Section 126 (Power to stay or restrain proceedings against company)

M26

- Subsection (1) In paragraph (a) omit “or Northern Ireland”; and in the full out words omit “sist”.
- Subsection (2) Omit subsection (2).

Section 127 (Avoidance of property dispositions, etc) M27

In subsection (1) omit the words from “and any transfer” to “the company's members.”.

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Section 128 (Avoidance of attachments etc.)	Omit subsection (2).
Section 130 (Consequences of a winding up order)	Omit subsection (3).
Section 131 (CIO's statement of affairs) M28	
Subsection (2A)	Omit paragraph (b).
Subsection (3)	For paragraph (d) substitute: “ those who are or have been within that year officers of, or in the employment of, a company or a CIO which is, or within that year was, a charity trustee of the CIO.”.
Subsection (8)	Omit subsection (8).
Section 133 (Public examination of officers)	
Subsection (1)	In the opening words omit “or in Scotland, the liquidator”; in paragraph (b) omit “or, in Scotland, receiver of its property”.
Subsection (2)	Omit “or, in Scotland, the liquidator”.
Subsection (4)(d)	Omit “or, in Scotland, submitted a claim”.
Section 135 (Appointment and powers of provisional liquidator)	Omit subsection (3).
Section 143 (General functions in winding up the court)	In subsection (1) for “to the persons entitled to it” substitute “ applied in accordance with the directions contained in the CIO's constitution pursuant to section 206(2)(c) of the Charities Act 2011 ”.
Section 144 (Custody of CIO's property)	Omit subsection (2).
Section 147 (Power to stay winding up)	Omit all references to the sisting of proceedings.
Section 149 (Debts due from contributory to company) M29	
Subsection (2)	Omit subsection (2).
Subsection (3)	Omit “whether limited or unlimited”.
Section 152 (Order on contributory to be conclusive evidence)	In subsection (2) omit from “except proceedings in Scotland” to the end.
Section 165 (Voluntary winding up) M30	
Subsection (2)	In paragraph (a) for “company” substitute “ members of the CIO ”.
New subsections (7) to (11)	After subsection (6) insert: “(7) For the purposes of this section, a resolution of the members of a CIO is to be treated as a special resolution if it is passed—

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- (a) at a general meeting of the CIO—
 - (i) by a 75% majority of those voting (including those voting by proxy or by post, if voting that way is permitted); or
 - (ii) where the CIO's constitution permits the members to make decisions otherwise than by voting, by a decision taken without a vote and without any expression of dissent in response to the question put to the meeting; or
- (b) unanimously, otherwise than at a general meeting.

(8) Subject to subsection (10), if a resolution under subsection (2)(a) is to be proposed at a general meeting of a CIO, the person calling the meeting must give notice of not less than 14 days to—

- (a) all members of the CIO entitled to vote at the meeting or take part in the decision to be made as to whether to pass the resolution at the meeting; and
- (b) any charity trustee of the CIO who is not also a member of the CIO entitled to vote at the meeting or, where the CIO's constitution permits the members to make decisions otherwise than by voting, who is not also a member entitled to take part in the decision to be made as to whether to pass the resolution at the meeting;

and the notice must contain particulars of the resolution that is to be proposed.

(9) For the purpose of calculating the period of notice to be given under subsection (8) the following are to be excluded—

- (a) the day of the meeting; and
- (b) the day on which notice is given.

(10) If a qualifying majority agrees, a resolution under subsection (2)(a) which is to be proposed at a general meeting of a CIO may be passed without the notice provisions of subsection (8) being satisfied.

(11) In this section “qualifying majority” has the meaning given by section 84.”

Section 172 (Removal, etc (winding up by the court)) Omit subsection (7).

Section 173 (Release (voluntary winding up)) Omit subsection (3).

Section 174 (Release (winding up by court)) Omit subsection (7).

Section 176A (Share of assets for unsecured creditors) Omit subsection (4)(b).
M31

Section 177 (Power to appoint special manager)

Subsection (2) Omit “or members generally”.

Subsection (5)(a) Omit “or, in Scotland, caution”.

Section 184 (Duties of officers charges with execution of writs and other processes (England and Wales)) Omit subsection (8).
M32

Section 187 (Power to make over assets to employees)
M33

Subsection (1) In subsection (1) for the words from “payment” to “business)” substitute “ ex-gratia payment authorised, before the commencement of the winding up, by the Charity Commission under section 106 of the Charities Act 2011 or the Attorney General ”.

Subsection (2) For subsection (2) substitute:
“(2) The liquidator may, after the winding up has commenced, make any relevant payment if the CIO's liabilities have been fully satisfied and provision has been made for the expenses of the winding up.

(2A) For the purposes of subsection (2) a payment is a relevant payment if it is an ex-gratia payment authorised, after the commencement of the winding-up, by the Charity Commission under section 106 of the Charities Act 2011 or the Attorney General.”.

Subsection (3) For “the members on winding up” substitute “ be applied in accordance with the directions contained in the CIO's constitution in compliance with section 206(2)(c) of the Charities Act 2011. ”.

Section 189 (Interest on debts) Omit subsection (5).

Section 190 (Documents exempt from stamp duty)

Subsection (2) Omit “If the company is registered in England and Wales”.

Subsection (3) Omit subsection (3).

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Section 196 (Judicial notice of court documents) M34	Omit references to the Court of Session, sheriff court and High Court in Northern Ireland; in paragraph (b) omit “or the Companies Acts”.
Section 197 (Commission for receiving evidence)	
Subsection (1)	In the opening words omit “in England and Wales or in Scotland”; omit paragraphs (b) and (c).
Subsections (2) and (3)	Omit references to the sheriff principal.
Subsection (5)	Omit subsection (5).
Section 201 (Dissolution (voluntary winding up)) M35	
Subsection (2)	For subsection (2), substitute: “(2) The Charity Commission must remove the CIO from the register of charities on the expiration of 3 months from the date on which it received the account and return and the CIO is dissolved on the date on which it is removed from the register.”.
Subsection (4)	Omit “for registration”.
New subsections (5) and (6)	After subsection (4) insert: “(5) Where the Charity Commission removes a CIO from the register of charities in accordance with this section, it must publish a notice, in such manner as it thinks fit, stating— (a) that the CIO has been removed from the register of charities; and (b) the date on which the CIO was so removed. (6) In determining the manner in which to publish a notice under subsection (5) the Charity Commission must have regard in particular to— (a) the location of the CIO's principal office; (b) the area in which the CIO operated; and (c) the charitable purposes of the CIO.”.
Section 202 (Early Dissolution (England and Wales))	For subsection (5), substitute: “(5) The Charity Commission must remove the CIO from the register of charities on the expiration of 3 months from the date on which it received the official receiver's application under subsection (2) and the CIO is dissolved on the date on which it is removed from the register. However the Secretary of State may, on the application of the official receiver or any other person who appears to the Secretary of State to be interested, give directions

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under section 203 at any time before the end of that period.

(6) Where the Charity Commission removes a CIO from the register of charities in accordance with this section, it must publish a notice, in such manner as it thinks fit, stating—

- (a) that the CIO has been removed from the register of charities; and
- (b) the date on which the CIO was so removed.

(7) In determining the manner in which to publish a notice under subsection (6), the Charity Commission must have regard in particular to—

- (a) the location of the CIO's principal office;
- (c) the area in which the CIO operated; and
- (c) the charitable purposes of the CIO.”.

Section 203 (Consequence of notice under s 202) In subsection (5) omit “for registration”.

Section 205 (Dissolution otherwise than under ss 202-204)

Subsection (2)

For subsection (2), substitute:

“(2) The Charity Commission must remove the CIO from the register of charities on the expiration of 3 months from the date on which it received the notice and the CIO is dissolved on the date on which it is removed from the register.”.

Subsection (5)

Omit subsection (5).

Subsection (6)

Omit paragraph (c); and in the full out words omit “for registration”.

New subsections (8) and (9)

After subsection (7), insert:

“(8) Where the Charity Commission removes a CIO from the register of charities in accordance with this section, it must publish a notice, in such manner as it thinks fit, stating—

- (a) that the CIO has been removed from the register of charities; and
- (b) the date on which the CIO was so removed.

(9) In determining the manner in which to publish a notice under subsection (8), the Charity Commission must have regard in particular to—

- (a) the location of the CIO's principal office;
- (b) the area in which the CIO operated; and

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(c) the charitable purposes of the CIO.”.

Section 216 (Restriction on re-use of Omit subsection (8).
company names)

Section 217 (Personal liability for debts, Omit subsection (6).
following contravention of s 216)

Section 218 (Prosecution of delinquent
officers and members of CIO)
M36

Subsection (1)

Omit paragraph (b).

Subsection (4)

Omit paragraph (b); and in the full out words omit “or (as the case may be) the Lord Advocate” in both places it occurs.

Subsection (5)

After “1985” substitute “ to investigate the CIO's affairs as if the CIO were a company ”.

Section 219 (Obligations arising under s 218)
M37

Subsection (2B)

Omit paragraph (b)

Subsection (3)

Omit the references to the “Lord Advocate” and “defender”.

Subsection (4)

Omit the reference to the “Lord Advocate”.

Section 233 (Supplies of gas, water,
electricity, etc)
M38

In subsection (3)(c) omit the reference to Scottish Water.

Section 235 (Duty to co-operate with office-
holder)
M39

For subsection (3)(d) substitute: “ those who are, or have within that year been, officers of or in the employment (including employment under a contract for services) of a company or a CIO which is, or within that year was, a charity trustee of the CIO in question ”.

Section 236 (Inquiry into CIO's dealings, etc)
M40

In subsection (3A) omit from “(in England and Wales)” to the end.

Section 244 (Extortionate credit transactions)
M41

In subsection (5) omit “or under section 242 (gratuitous alienations in Scotland)”.

Section 245 (Avoidance of certain floating
charges)
M42

In subsection (1) omit “but applies to Scotland as well as to England and Wales”.

Section 246A (Remote attendance at
meetings)
M43

Omit subsection (2).

Section 246B (Use of websites)

Omit subsection (2).

Section 248 (“Secured creditor” etc)

Omit paragraph (b)(ii).

Section 251 (Expressions used generally)

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M44

Definition of administrative receiver	Omit paragraph (b).
Definition of “chattel leasing agreement”	Omit “or, in Scotland, the hiring”.
Definition of “floating charge”	Omit the words from “and includes” to “(Scottish floating charges)”.
Definition of “the Gazette”	Omit paragraph (b).
Definition of “receiver”	Omit the definition.
Section 387 (“The relevant date”) M45	Omit subsections (4)(b), (5) and (6).

Section 388 (Meaning of “to act as an insolvency practitioner”)

M46

Subsection (2)	Omit subsection (2).
Subsection (2A)	Omit subsection (2A).
Subsection (3)	Omit subsection (3).
Subsection (4)	Omit the definitions of “company”, “interim trustee” and “permanent trustee”.
Subsection (5)	Omit paragraph (b).
Section 389 (Acting without qualification an offence) M47	In subsection (2) omit the words from “or the Accountant” to “Act 1985”.

Section 389A (Authorisation of nominees and supervisors)

M48

Subsection (1)	Omit “or Part 8”.
Subsection (2)(b)	Omit “(in Scotland, caution)”; and “or caution”.

Section 390 (Persons not qualified to act as insolvency practitioners)

M49

Subsection (3)	In paragraph (a) omit “or, in Scotland, caution”; in paragraph (b) omit “or caution”.
New subsection (6)	After subsection (5) insert: “(6) This section does not apply to a body corporate appointed as an interim manager under section 76(3)(g) of the Charities Act 2011.”.

Section 399 (Appointment, etc of official receivers)

Subsections (1) and (4)	Omit each reference to bankruptcy; individual voluntary arrangement; debt relief order or application for such an order.
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Section 411 (CIO insolvency rules)

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M50

Subsection (1)	Omit paragraph (b).
Subsections (1A) and (1B)	Omit subsections (1A) and (1B).
Subsection (2)	Omit the reference to subsections (1A) and (1B) and to the Treasury.
Subsections (2C) and (2D)	Omit subsections (2C) and (2D).
Subsection (3)	Omit “bank liquidator or administrator” and the references to the Banking Act 2009.
Subsection (3A)	Omit subsection (3A).
Section 413 (Insolvency Rules Committee) M51	In subsection (2) omit the reference to section 412.

Section 414 (Fees orders (CIO insolvency proceedings))
M52

Subsection (2)	Omit paragraph (b).
Subsection (5)	Omit the reference to the Secretary of State.
Subsection (8A) to (8C)	Omit subsections (8A) to (8C).
Subsection (9)	Omit the words from “and the application of” to the end.
Section 415A (Fees orders (general)) M53	Omit subsection (A1).

Section 416 (Monetary limits (companies winding up))

Subsection (1)	Omit the entries relating to sections 117(2) and 120(3).
Subsection (3)	Omit “117(2), 120(3) or”.

Section 423 (Transactions defrauding creditors)
M54

	For subsection (4) substitute: “(4) In this section “the court” means— (a) the High Court; or (b) any county court having jurisdiction to wind up the CIO.”.
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Section 424 (Those who may apply for an order under s423)
M55

Subsection (1)	For paragraph (a) substitute: “(a) in a case where the debtor is being wound up or is in administration, by the official receiver, by the liquidator or administrator or (with the leave of the court) by a victim of the transaction;”.
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Section 431 (Summary proceedings)
M56

Subsection (3)	Omit subsection (3).
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Subsection (4)	Omit the reference to the Lord Advocate.
Section 432 (Offences by bodies corporate)	
Subsection (2)	The reference to any director, manager, secretary or other similar officer of a body corporate is to be read as including a reference to a charity trustee of a CIO.
Subsection (4)	[^{F11} Omit the words “A27(1)” and “51, 53, 54, 62, 64, 66.”]
Section 433 (Admissibility in evidence of statements of affairs, etc)	
M57	
Subsection (1)	Omit paragraphs (aa) and (ab).
Subsection (3)	In paragraph (a) omit the words “66(6), 67(8),” and from “, 353(1)” to “(2)(a) or (b)”; omit paragraph (e).
Section 434A (Introductory)	For “416 and 417” substitute “ 416 ”.
M58	
Section 434D (Enforcement of a CIO's filing obligations)	In subsection (4) omit “(in Scotland, expenses)”.
M59	
Section 436 (Expressions used generally)	In subsection (2) in the opening words after “Companies Acts” insert: “with the substitution, in relation to CIOs, of references to charity trustees for references to directors; omit the entries relating to: “articles”, “the Joint Stock Companies Acts”, “overseas company”, “paid up”, “private company”, “public company” and “registrar of companies”.
M60	
Section 436B (References to things in writing)	In subsection (2) ignore paragraphs (a), (b), (c) (e), (h) and (i).
M61	
[^{F12} SCHEDULE ZA1 (Eligible CIOs)	
Paragraph 1	Omit the references to paragraphs 3 to 18.
Paragraph 2	For sub-paragraph (4) substitute: “(4) In sub-paragraph (3)(g) “relevant petition” means a petition presented by the Attorney General or the Charity Commission under section 113 of the Charities Act 2011.”.]
SCHEDULE A1 (Moratorium where directors propose voluntary arrangements)	
M62	
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SCHEDULE B1 (Administration)
M63

Paragraph 14	Omit sub-paragraph (2)(d).
Paragraph 15	Omit sub-paragraph (3).
Paragraph 39	In sub-paragraph (1)(d) omit “or under any rule of the law of Scotland”.
Paragraph 40	^{M64} For sub-paragraph (2) substitute: “(2) Sub-paragraph (1)(b) does not apply to a petition presented by the Attorney General or the Charity Commission under section 113 of the Charities Act 2011”.
Paragraph 42	^{M65} For sub-paragraph (4) substitute:

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	<p>“(4) Sub-paragraph (3) does not apply to a petition presented by the Attorney General or the Charity Commission under section 113 of the Charities Act 2011.”.</p>
Paragraph 43	<p>M66 Omit sub-paragraph (5).</p>
Paragraph 47	
Sub-paragraph (3)	<p>For sub-paragraph (3)(d) substitute: “ a person who is or has been during that period an officer or employee of a company or a CIO which is or has been during that year a charity trustee of the CIO.”</p>
Sub-paragraph (5)	<p>Omit sub-paragraph (5).</p>
Paragraph 49	<p>M67 Omit sub-paragraph (3)(b).</p>
Paragraph 73	<p>M68 Omit sub-paragraph (2)(c) and (d).</p>
Paragraph 74	
M69	<p>Omit all references to a “member” or “members”.</p>
The whole paragraph	
Sub-paragraph (6)	<p>Omit sub-paragraphs (b) and (ba).</p>
Paragraph 82	<p>M70 For sub-paragraph (1) substitute: “(1) This paragraph applies where a winding-up order is made for the winding up of a CIO in administration on a petition presented by the Attorney General or the Charity Commission under section 113 of the Charities Act 2011.”.</p>
Paragraph 83	
Sub-paragraph (2)	<p>Omit sub-paragraph (2).</p>
Sub-paragraph (4)	<p>For sub-paragraph (4) substitute: “(4) On receipt of a notice under sub-paragraph (3), the Charity Commission must publish it in such manner as it thinks fit. (4A) In determining the manner in which to publish the notice under sub-paragraph (3) the Charity Commission must have regard in particular to— (a) the location of the principal office of the CIO; (b) the area in which the CIO operates; and (c) the charitable purposes of the CIO.”.</p>
Sub-paragraph (6)	<p>For “registration” substitute “ publication ” and for “registered” substitute “ published ”.</p>

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Paragraph 84

Sub-paragraph (3)

For sub-paragraph (3) substitute:

“(3) On receipt of a notice under sub-paragraph (1), the Charity Commission must publish it in such manner as it thinks fit.

(3A) In determining the manner in which to publish the notice under sub-paragraph (1) the Charity Commission must have regard in particular to—

- (a) the location of the principal office of the CIO;
- (b) the area in which the CIO operates; and
- (c) the charitable purposes of the CIO.”

Sub-paragraph (4)

For “registration” substitute “ publication ”.

Sub-paragraph (6)

For “registration” substitute “ publication ”.

Paragraph 96

Omit sub-paragraph (4).

Paragraph 111

M71

Omit sub-paragraphs (1A) and (1B).

SCHEDULE 1 (Powers of administrator or administrative receiver)

Paragraph 2

M72

Omit the words from “or, in Scotland,” to “private bargain”.

SCHEDULE 4 (Powers of liquidator in a winding up)

Paragraph 3

M73 Omit the paragraph.

Paragraph 3A

Omit “, 242, 243”.

SCHEDULE 6 (The categories of preferential debts)

Paragraph 14

M74

Omit sub-paragraphs (1)(b) and (c).

SCHEDULE 8 (Provisions capable of inclusion in CIO insolvency rules)

Paragraph 14

Omit the words “or in the Bankruptcy (Scotland) Act 1985”.

Paragraph 29

M75

Omit “, 66”.

SCHEDULE 10 (Punishment of offences under this Act)

In the table, [F14 omit the entries relating to sections A27 and A48, and] after the entry relating to section 67(8) insert:

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“84(11) Failing to comply with requirement to send resolution to Charity Commission. Summary. One-fifth of the statutory maximum. One-fiftieth of the statutory maximum.”

Textual Amendments

- F2** Words in Sch. 1 para. 1(1) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\), s. 49\(1\), Sch. 3 para. 49\(2\)](#) (with ss. 2(2), 5(2))
- F3** Words in Sch. 1 para. 1(2)(a) substituted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\), s. 49\(1\), Sch. 3 para. 49\(3\)](#) (with ss. 2(2), 5(2))
- F4** Sch. 1 para. 1(2)(a)(ai) inserted (7.7.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) Regulations 2020 \(S.I. 2020/710\), regs. 1, 4\(2\)\(a\)](#) (with reg. 6); [Editorial note: The affecting legislation is revoked and this amendment is reversed (13.8.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/856\)](#), regs. 1(2), 2]
- F5** Sch. 1 para. 1(2)(a)(iiia) inserted (7.7.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) Regulations 2020 \(S.I. 2020/710\), regs. 1, 4\(2\)\(b\)](#) (with reg. 6); [Editorial note: The affecting legislation is revoked and this amendment is reversed (13.8.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/856\)](#), regs. 1(2), 2]
- F6** Sch. 1 para. 1(2)(a)(iv) omitted (7.7.2020) by virtue of [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) Regulations 2020 \(S.I. 2020/710\), regs. 1, 4\(2\)\(c\)](#) (with reg. 6); [Editorial note: The affecting legislation is revoked and this amendment is reversed (13.8.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/856\)](#), regs. 1(2), 2]
- F7** Sch. 1 para. 1(2A) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\), s. 49\(1\), Sch. 3 para. 49\(4\)](#) (with ss. 2(2), 5(2))
- F8** Sch. 1 para. 1(2A)(a) omitted (29.6.2020 at 10.30 a.m.) by virtue of [The Insolvency Act 1986 Part A1 Moratorium \(Eligibility of Private Registered Providers\) Regulations 2020 \(S.I. 2020/652\)](#), regs. 1, 3
- F9** Words in Sch. 1 para. 1(5) omitted (7.7.2020) by virtue of [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) Regulations 2020 \(S.I. 2020/710\), regs. 1, 4\(3\)](#) (with reg. 6); [Editorial note: The affecting legislation is revoked and this amendment is reversed (13.8.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/856\)](#), regs. 1(2), 2]
- F10** Words in Sch. 1 para. 1(7) Table inserted (7.7.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) Regulations 2020 \(S.I. 2020/710\), regs. 1, 4\(4\)\(a\)](#) (with reg. 6); [Editorial note: The affecting legislation is revoked and this amendment is reversed (13.8.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/856\)](#), regs. 1(2), 2]
- F11** Words in Sch. 1 para. 1(7) Table substituted (7.7.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) Regulations 2020 \(S.I. 2020/710\), regs. 1, 4\(4\)\(b\)](#) (with reg. 6); [Editorial note: The affecting legislation is revoked and this amendment is reversed (13.8.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/856\)](#), regs. 1(2), 2]
- F12** Words in Sch. 1 para. 1(7) Table inserted (7.7.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) Regulations 2020 \(S.I. 2020/710\), regs. 1, 4\(4\)\(c\)](#) (with reg. 6); [Editorial note: The affecting legislation is revoked and this amendment is reversed (13.8.2020)

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- by The Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/856), regs. 1(2), 2]
- F13** Words in Sch. 1 para. 1(7) Table omitted (7.7.2020) by virtue of The Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) Regulations 2020 (S.I. 2020/710), regs. 1, **4(4)(d)** (with reg. 6); [Editorial note: The affecting legislation is revoked and this amendment is reversed (13.8.2020) by The Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/856), regs. 1(2), 2]
- F14** Words in Sch. 1 para. 1(7) Table inserted (7.7.2020) by The Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) Regulations 2020 (S.I. 2020/710), regs. 1, **4(4)(e)** (with reg. 6); [Editorial note: The affecting legislation is revoked and this amendment is reversed (13.8.2020) by The Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/856), regs. 1(2), 2]

Modifications etc. (not altering text)

- C1** Sch. 1 para. 1(1) modified (7.7.2020) by The Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) Regulations 2020 (S.I. 2020/710), regs. 1, **5** (with reg. 6); [Editorial note: The affecting legislation is revoked and this amendment is reversed (13.8.2020) by The Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/856), regs. 1(2), 2]

Marginal Citations

- M1** There are amendments to section 84 not relevant to these Regulations.
- M2** There are amendments to section 122 not relevant to these Regulations.
- M3** Part 1 of the 1986 Act was amended by the *Insolvency Act 2000* (c.39), **Schedule 1**, paragraphs 2 to 10 and Schedule 2, paragraphs 1 to 10; and by the *Enterprise Act 2002* (c.40), **Schedule 17**, paragraphs 10 to 12. Part 2 of the 1986 Act was substituted by the *Enterprise Act 2002*, section 248(1). Part 3 of the 1986 Act was amended by the *Companies Act 1989* (c.40), **Schedule 16**, paragraph 3, and Schedule 24; by the *Insolvency Act 1994* (c.7), **section 2**; by the *Enterprise Act 2002* (c.40), **section 250** and Schedule 21, paragraph 1; by the *Tribunals, Courts and Enforcement Act 2007* (c.15), **Schedule 20**, paragraph 2; by S.I. 2003/1832, **article 2**; by S.I. 2008/1897, **regulation 2(1)**; by S.I. 2009/1941, **Schedule 1**, paragraph 74; by S.I. 2010/18, **article 5(1)**; and by S.I. 2010/866, **Schedule 2**, paragraph 61. Part 4 of the 1986 Act was amended by the *Companies Act 1989* (c.40), **section 60(3)**; by the *Insolvency Act 2000*, sections 10 and 11; by the *Enterprise Act 2002*, sections 252 and 253 and Schedule 17, paragraphs 14 to 18, and Schedule 26; by the *Courts Act 2003*, Schedule 8, paragraphs 295 and 296; by the *Civil Partnerships Act 2004* (c.33), **Schedule 27**, paragraph 112; by the *Constitutional Reform Act 2005* (c.4), **Schedule 4**, paragraph 186; by the *Companies Act 2006* (c.46), **section 1282**; by S.I. 1986/1996, **Schedule**, Part 1; by S.I. 1994/2421, **article 14**; by S.I. 1999/1820, **Schedule 2**, paragraph 85; by S.I. 2001/1090, **Schedule 5**, paragraph 15; by S.I. 2002/1240, **regulation 8**; by S.I. 2002/1555, **article 15**; by S.I. 2006/3429, **regulation 7(1)**; by S.I. 2007/2194, **Schedule 4**, paragraph 40; by S.I. 2008/1897, **regulation 5(1)**; by S.I. 2009/864, **article 3**; by S.I. 2009/1941, **Schedule 1**, paragraph 75; and by S.I. 2010/18, **articles 5 to 7** and 10. There are other amendments not relevant to these Regulations.
- M4** Schedule B1 to the 1986 Act was inserted by the *Enterprise Act 2002*, section 248 and Schedule 16. It was amended by the *Courts Act 2003* (c.39), **Schedule 8**, paragraph 299; by S.I. 2003/2096, **article 2**; by S.I. 2005/879, **regulation 2(4)**; by S.I. 2007/2974, **regulation 65(2)**; by S.I. 2008/1897, **regulation 4**; and by S.I. 2010/18, **article 4(2)**. There are other amendments not relevant to these Regulations.
- M5** There are amendments to Schedule 1 not relevant to these Regulations.
- M6** Schedule 4 was amended by the *Enterprise Act 2002*, section 253 and by S.I. 2010/18, **article 10(2)**.
- M7** Part 6 of the 1986 Act was amended by the *Water Act 1989* (c.15), **Schedule 25**, paragraph 78; by the *Insolvency (No.2) Act 1994* (c.12), **section 1**; by the *Gas Act 1995* (c.45), **Schedule 4**, paragraph 14; by the *Utilities Act 2000* (c.27), **Schedule 6**, paragraph 47; by the *Insolvency Act 2000* (c.39), **Schedule 1**, paragraph 8; by the *Enterprise Act 2002*, Schedule 17, paragraphs 19 to 23 to 27 and 30 to 32, and Schedule 26; by the *Communications Act 2003* (c.21), **Schedule 17**, paragraph 82; and by S.I. 2010/18, **article 3**. Part 7 of the 1986 Act was amended by the *Enterprise Act 2002*, Schedule 17, paragraph 33,

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- and by S.I. 2009/1941, **Schedule 1**, paragraph 77. There are other amendments not relevant to these Regulations.
- M8** The Third Group of Parts of the 1986 Act was amended by the Pension Schemes Act 1993 (c.48), **Schedule 8**, paragraph 18; by the Youth Justice and Criminal Evidence Act 1999 (c.23), **Schedule 3**, paragraph 7; by the Insolvency Act 2000, sections 4 and 13, Schedule 1, paragraphs 9 to 11, and Schedule 4, paragraph 16; by the Adults with Incapacity (Scotland) Act 2000 (asp 4), **Schedule 5**, paragraph 18; by the Enterprise Act 2002, sections 251, 270 to 272, Schedule 17, paragraphs 36 and 38, Schedule 21, paragraph 4, Schedule 23, paragraph 14, and Schedule 26; by the Civil Partnership Act 2004 (c.33), **Schedule 27**, paragraphs 121 and 122; by the Constitutional Reform Act 2005 (c.4), **Schedule 4**, paragraphs 188 and 190; by the Mental Capacity Act 2005 (c.9), **Schedule 6**, paragraph 31 and Schedule 7; by the Tribunals, Courts and Enforcement Act 2007, Schedule 20, paragraphs 6, 7, 10 and 15; by S.I. 2002/1037, **regulations 3** and 4; by S.I. 2002/1240, **regulation 18**; by S.I. 2005/879, **regulation 3**; by S.I. 2005/2078, **article 15**; by S.I. 2005/3129, **Schedule 4**, paragraph 8; by S.I. 2007/2194, **Schedule 4**, paragraph 44; by S.I. 2008/948, **Schedule 1**, paragraph 105; by S.I. 2009/3081 regulation 2; by S.I. 2009/1941, **Schedule 1**, paragraphs 78 to 82; and by S.I. 2010/18, **article 4**. There are other amendments not relevant to these Regulations.
- M9** 2006 c.48.
- M10** Section 1 was amended by the Insolvency Act 2000, Schedule 2, paragraph 2 and by the Enterprise Act 2002, Schedule 17, paragraph 10. There are other amendments to section 1 not relevant to these Regulations.
- M11** Section 4A was inserted by the Insolvency Act 2000, Schedule 2, paragraph 5.
- M12** Section 5 was amended by the Insolvency Act 2000, Schedule 2, paragraph 6 and by the Enterprise Act 2002, Schedule 17, paragraph 11. There are other amendments to section 5 not relevant to these Regulations.
- M13** Section 6 was amended by the Insolvency Act 2000, Schedule 2, paragraph 7 and by the Enterprise Act 2002, Schedule 17, paragraph 12. There are other amendments to section 6 not relevant to these Regulations.
- M14** Section 47 was amended by S.I. 2010/18, **article 5(1)**.
- M15** Section 72A was inserted by the Enterprise Act 2002, section 250. It was amended by S.I. 2003/2093, **Schedule 1**.
- M16** Section 72G was inserted by the Enterprise Act 2002, section 250. It was amended by S.I. 2010/866, **Schedule 2**.
- M17** Section 73 was substituted by S.I. 2009/1941, **Schedule 1**, paragraph 75.
- M18** Section 74 was amended by S.I. 2009/1941, **Schedule 1**, paragraph 75.
- M19** Section 79 was amended by S.I. 2009/1941, **Schedule 1**, paragraph 75.
- M20** Section 95 was amended by S.I. 2009/864, **article 3** and by S.I. 2010/18, **articles 5(2)** and 7.
- M21** Section 98 was amended by S.I. 2009/864, **article 3** and by S.I. 2010/18, **article 7**.
- M22** Section 99 was amended by S.I. 2010/18, **article 5(3)**.
- M23** Section 110 was amended by S.I. 2001/1090, **Schedule 5**, paragraph 15 and by S.I. 2009/1941, **Schedule 1**, paragraph 75. There are other amendments to section 110 not relevant to these Regulations.
- M24** There are amendments to section 117 not relevant to these Regulations.
- M25** Section 124 was amended by the Companies Act 1989, section 60(2); by the Insolvency Act 2000, Schedule 1, paragraph 7; by the Courts Act 2003, Schedule 8, paragraph 294; by S.I. 2002/1240, **regulation 8**; by S.I. 2006/2078, **regulation 33(2)**; and by S.I. 2009/1941, **Schedule 1**, paragraph 75. There are other amendments to section 124 not relevant to these Regulations.
- M26** Section 126 was amended by S.I. 2009/1941, **Schedule 1**, paragraph 75.
- M27** Section 127 was amended by the Enterprise Act 2002, Schedule 17, paragraph 15.
- M28** Section 131 was amended by S.I. 2010/18, **article 5(4)**.
- M29** Section 149 was amended by S.I. 2009/1941, **Schedule 1**, paragraph 75.
- M30** Section 165 was amended by S.I. 2007/2194, **Schedule 4**, paragraph 41.
- M31** Section 176A was inserted by the Enterprise Act 2002, section 252. It was amended by S.I. 2008/948, **Schedule 1**, paragraph 103.
- M32** Section 184 was amended by the Courts Act 2003, Schedule 8 paragraph 296.

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- M33** Section 187 was amended by S.I. 2007/2194, [Schedule 4](#), paragraph 42, and by S.I. 2009/1941, [Schedule 1](#), paragraph 75.
- M34** Section 196 was amended by S.I. 2009/1941, [Schedule 1](#), paragraph 75.
- M35** Section 201 was amended by S.I. 2006/3429, [regulation 3](#).
- M36** Section 218 was amended by the Insolvency Act 2000, section 10, and by S.I. 2009/1941, [Schedule 1](#), paragraph 75.
- M37** Section 219 was amended by the Insolvency Act 2000, sections 10 and 11, and by S.I. 2009/1941, [Schedule 1](#), paragraph 75.
- M38** Section 233 was amended by the Water Act 1989, Schedule 25, paragraph 78; by the Gas Act 1995, Schedule 4, paragraph 14 and Schedule 6; by the Utilities Act 2011, Schedule 6, paragraph 47; by the Insolvency Act 2000, Schedule 1, paragraph 8; by the Enterprise Act 2002, Schedule 17, paragraph 22; by the Communications Act 2003, Schedule 17, paragraph 82 and by S.I. 2004/1822, [paragraph 14](#) of the Schedule.
- M39** Section 235 was amended by the Enterprise Act 2002, Schedule 17, paragraph 24.
- M40** Section 236 was amended by S.I. 2010/18, [article 5\(6\)](#).
- M41** Section 244 was amended by the Enterprise Act 2002, Schedule 17, paragraph 30.
- M42** Section 245 was amended by the Enterprise Act 2002, Schedule 17, paragraph 31.
- M43** Sections 246A and 246B were inserted by S.I. 2010/18, [article 3](#).
- M44** Section 251 was amended by S.I. 2009/1941, [Schedule 1](#), paragraph 77.
- M45** Section 387 was amended by the Insolvency Act 2000, Schedule 1, paragraph 9, and Schedule 3, paragraph 15; by the Enterprise Act 2002, Schedule 17, paragraph 34, and by S.I. 2002/1240, [regulation 16](#).
- M46** Section 388 was amended by the Insolvency Act 2000, section 4; by S.I. 2002/1240, [regulation 17](#); by S.I. 2002/2708, [article 3](#); by S.I. 1994/2421, [article 15](#); and by S.I. 2009/1941, [Schedule 1](#), paragraph 78.
- M47** Section 389 was amended by the Insolvency Act 2000, section 4.
- M48** Section 389A was inserted by the Insolvency Act 2000. It was amended by the [Mental Capacity Act 2005 \(c.9\)](#), [Schedule 6](#), paragraph 31, and Schedule 7; by S.I. 2004/1941, [Schedule](#), paragraph 2; by S.I. 2005/2078, [Schedule 1](#), paragraph 3; and by S.I. 2009/1941, [Schedule 1](#), paragraph 78.
- M49** Section 390 was amended by the Adults with Incapacity (Scotland) Act 2000 (asp. 4), [Schedule 5](#), paragraph 18; by Insolvency Act 2000, Schedule 4, paragraph 16; by the Enterprise Act 2002, Schedule 21, paragraph 4; by the Mental Capacity Act 2005, Schedule 6, paragraph 31, and Schedule 7; by the [Tribunals, Courts and Enforcement Act 2007 \(c.15\)](#), [Schedule 20](#), paragraph 6; by S.I. 2004/1941, [Schedule](#), paragraph 3; by S.I. 2005/2078, [Schedule 1](#), paragraph 3; and by S.I. 2009/1941, [Schedule 1](#), paragraph 78. There are other amendments to section 390 not relevant to these Regulations.
- M50** Section 411 was amended by the [Constitutional Reform Act 2005 \(c.4\)](#), [Schedule 4](#), paragraph 188; S.I. 2002/1037, [regulation 3](#); S.I. 2007/2194, [Schedule 4](#), paragraph 44; S.I. 2009/1941, [Schedule 1](#), paragraph 79. There are other amendments to section 411 not relevant to these Regulations.
- M51** Section 413 was amended by the Water Act 1985, Schedule 25; by the Water Consolidation (Consequential Provisions) Act 1991, Schedule 1; by the Railways Act 1993, Schedule 12; and by the Constitutional Reform Act 2005, Schedule 4.
- M52** Section 414 was amended by S.I. 2007/2194, [Schedule 4](#), paragraph 44. There are other amendments to section 414 not relevant to these Regulations.
- M53** Section 415A was inserted by the Enterprise Act 2002, section 270(1). There are other amendments to section 415A not relevant to these Regulations.
- M54** Section 423 was amended by the [Civil Partnerships Act 2004 \(c.33\)](#), [Schedule 27](#), paragraph 121.
- M55** There is an amendments to section 424 not relevant to these Regulations.
- M56** There are amendments to section 431 not relevant to these Regulations.
- M57** Section 433 was amended by the [Youth Justice and Criminal Evidence Act 1999 \(c.23\)](#), [Schedule 3](#), paragraph 7. There are other amendments to section 433 not relevant to these Regulations.
- M58** Sections 434A to 434C were inserted by S.I. 2008/948, [Schedule 1](#), paragraph 105.
- M59** Section 424D was inserted by S.I. 2009/1941, [Schedule 1](#), paragraph 81.

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- M60** Section 436 was amended by the Tribunals, Courts and Enforcement Act 2007, Schedule 13; by S.I. 2002/1037, **regulation 4**; by S.I. 2005/879, **regulation 2**; by S.I. 2007/2194, **Schedule 4**, paragraph 45; and by S.I. 2009/1941, **Schedule 1**, paragraph 82.
- M61** Section 436B was inserted by S.I. 2010/18, **article 4(1)**.
- M62** Schedule A1 to the 1986 Act is footnoted at Schedule 2 paragraph 1(2)(iv). Where a provision of Schedule A1 is applied subject to modifications specified in the Table, relevant amendments to that provision are footnoted below.
- M63** Schedule B1 to the 1986 Act is footnoted at regulation 10. Where a provision of Schedule B1 is applied subject to modifications specified in the Table, relevant amendments to that provision are footnoted below.
- M64** There are amendments to paragraph 40 not relevant to these Regulations.
- M65** There are amendments to paragraph 42 not relevant to these Regulations.
- M66** Paragraph 43 was amended by the Enterprise Act 2002, section 248 and Schedule 16, as amended by S.I. 2003/2096.
- M67** There are amendments to paragraph 49 not relevant to these Regulations.
- M68** Paragraph 73 was amended by S.I. 2007/2974, **regulation 65**. There are other amendments to paragraph 73 not relevant to these Regulations.
- M69** There are amendments to paragraph 74 not relevant to these Regulations.
- M70** There are amendments to paragraph 82 not relevant to these Regulations.
- M71** Paragraph 111 was amended by S.I. 2005/879, **regulation 2**; by S.I. 2009/1941, **Schedule 1**, paragraph 72; and by S.I. 2010/18, **article 4(2)**.
- M72** There are amendments to paragraph 2 not relevant to these Regulations.
- M73** Paragraph 3A was inserted by the Enterprise Act 2002, section 253.
- M74** Paragraph 14 was amended by the Enterprise Act 2002, Schedule 17, paragraphs 38(4) and (5).
- M75** Paragraph 29 was amended by the Enterprise Act 2002, Schedule 17, paragraph 38(6).

Application to CIOs of subordinate legislation made under the 1986 Act

2.—(1) The legislation made under the 1986 Act specified in sub-paragraph (3) applies to CIOs with any necessary modifications for the purpose of giving effect to the provisions of the 1986 Act which are applied to CIOs by paragraph 1 above.

(2) Where there is a conflict between a provision of the subordinate legislation applied by sub-paragraph (1) and any provision of these Regulations, the latter prevails.

(3) The specified legislation is—

- (a) the Insolvency Rules 1986 ^{M76};
- (b) the Insolvency Practitioners (Recognised Professional Bodies) Order 1986 ^{M77};
- (c) the Insolvency Proceedings (Monetary Limits) Order 1986 ^{M78};
- (d) the Insolvency Practitioners Tribunal (Conduct of Investigations) Rules 1986 ^{M79};
- (e) the Insolvency Regulations 1994 ^{M80};
- (f) the Insolvency Act 1986 (Prescribed Part) Order 2003 ^{M81};
- (g) the Insolvency Proceedings (Fees) Order 2004 ^{M82};
- (h) the Insolvency Practitioners Regulations 2005 ^{M83}; and
- (i) the Civil Proceedings Fees Order 2008 ^{M84}.

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Marginal Citations

- M76** [S.I. 1986/1925](#). The Rules are amended regularly; the most recent relevant amendments are made by [S.I. 2010/686](#).
- M77** [S.I. 1986/1764](#).
- M78** [S.I. 1986/1996](#). There are amendments not relevant to these Regulations.
- M79** [S.I. 1986/952](#).
- M80** [S.I. 1994/2507](#), amended by [S.I. 2000/485](#), 2001/3649, 2004/472, 2005/512, 2008/670, 2009/482, 2009/2748, 2011/2203. There are further amendments not relevant to these Regulations.
- M81** [S.I. 2003/2097](#).
- M82** [S.I. 2004/593](#), amended by [S.I. 2005/544](#), 2007/521, 2009/645, 2010/732, 2011/1167.
- M83** [S.I. 2005/524](#), amended by [S.I. 2009/2748](#), 2009/3081.
- M84** [S.I. 2008/1053](#), amended by [S.I. 2008/2853](#), 2009/1498, 2011/586.

[^{F15}SCHEDULE 2

Regulation 3A

Housing Administration

Textual Amendments

- F15** Sch. 2 inserted (4.7.2018) by [The Insolvency of Registered Providers of Social Housing Regulations 2018](#) (S.I. 2018/728), regs. 1, 3(6), [Sch. 2](#)

PART 1

Application of Schedule B1 to CIOs during housing administration

Introductory

1. The applicable provisions of Schedule B1 to the Insolvency Act 1986 are to have effect in relation to a housing administration order that applies to a CIO as they have effect in relation to an administration order under that Schedule that applies to a company, but with the modifications set out in—

- (a) paragraph 1(3) of Schedule 1, and
- (b) this Schedule.

2. The applicable provisions of Schedule B1 to the Insolvency Act 1986 are paragraphs 1, 40 to 49, 54, 59 to 68, 70 to 79, 83 to 91, 98 to 107, 109 to 111 and 112 to 116.

General modifications of the applicable provisions

3. Those paragraphs are to have effect as if—
- (a) for “administration application”, in each place, there were substituted “housing administration application”,
 - (b) for “administration order”, in each place, there were substituted “housing administration order”,
 - (c) for “administrator”, in each place, there were substituted “housing administrator”,

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- (d) for “enters administration”, in each place, there were substituted “enters housing administration”,
- (e) for “in administration”, in each place, there were substituted “in housing administration”, and
- (f) for “purpose of administration”, in each place (other than in paragraph 111(1)), there were substituted “objectives of the housing administration”.

Specific Modifications

4. Paragraph 1 is to have effect as if—
 - (a) for sub-paragraph (1) there were substituted—

“(1) In this Schedule “housing administrator”, in relation to a CIO, means a person appointed by the court for the purposes of a housing administration order to manage the CIO’s affairs, business and property.”, and
 - (b) in sub-paragraph (2), for “Act” there were substituted “Schedule”.
5. Paragraph 40 is to have effect as if sub-paragraphs (1)(b), (2) and (3) were omitted.
6. Paragraph 42 is to have effect as if sub-paragraphs (4) and (5) were omitted.
7. Paragraph 43 is to have effect as if sub-paragraph (5) were omitted.
8. Paragraph 44 is to have effect as if sub-paragraphs (2) to (4), (6) and (7)(a) to (c) were omitted.
9. Paragraph 46(6) is to have effect as if for paragraphs (a) to (c) there were substituted “the date on which the housing administration order comes into force.”.
10. Paragraph 47 is to have effect as if—
 - (a) for sub-paragraph (3)(d), there were substituted—

“(d) a person who is or has been during that period an officer or employee of a company, or a charity trustee or employee of a CIO, which is or has been during that year a charity trustee of the CIO.”, and
 - (b) sub-paragraph (5) were omitted.
11. Paragraph 49 is to have effect as if—
 - (a) in sub-paragraph (2)(b) for “objective mentioned in paragraph 3(1)(a) or (b) cannot be achieved” there were substituted “objectives of the housing administration should be achieved by means other than just a rescue of the CIO as a going concern”,
 - (b) sub-paragraph (3)(b) were omitted, and
 - (c) in sub-paragraph (4), after paragraph (a) there were inserted—

“(aa) to the Secretary of State and the Regulator of Social Housing.”.
12. Paragraph 54 is to have effect as if the following were substituted for it—

“**54.**—(1) The housing administrator of a CIO may on one or more occasions revise the proposals included in the statement made under paragraph 49 in relation to the CIO.

(2) If the housing administrator thinks that a revision is substantial, the housing administrator must send a copy of the revised proposals—

 - (a) to the Charity Commission,
 - (b) to the Secretary of State and the Regulator of Social Housing,
 - (c) to every creditor of the CIO, other than an opted-out creditor, of whose claim and address the housing administrator is aware, and

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(d) to every member of the CIO of whose address the housing administrator is aware.

(3) A copy sent in accordance with sub-paragraph (2) must be sent within the prescribed period.

(4) The housing administrator is to be taken to have complied with sub-paragraph (2) (d) if the housing administrator publishes, in the prescribed manner, a notice undertaking to provide a copy of the revised proposals free of charge to any member of the CIO who applies in writing to a specified address.

(5) A housing administrator who fails without reasonable excuse to comply with this paragraph commits an offence.”

13. Paragraph 60 has effect as if after sub-paragraph (2) there were inserted—

“(3) The housing administrator of a CIO has the power to act on behalf of the organisation for the purposes of provision contained in any legislation which confers a power on the organisation or imposes a duty on it.

(4) In sub-paragraph (3) “legislation” has the same meaning as in Chapter 5 of Part 4 of the Housing and Planning Act 2016.”

14. Paragraph 68 is to have effect as if—

(a) in sub-paragraph (1), for paragraphs (a) to (c) there were substituted—

“the proposals as—

(a) set out in the statement made under paragraph 49 in relation to the CIO, and

(b) from time to time revised under paragraph 54,

for achieving the objectives of the housing administration.”, and

(b) in sub-paragraph (3), for paragraphs (a) to (d) there were substituted “the directions are consistent with the achievement of the objectives of the housing administration.”

15. Paragraph 73 is to have effect as if—

(a) sub-paragraphs (2)(c) and (d) were omitted, and

(b) in sub-paragraph (3) for “or modified” there were substituted “under paragraph 54”.

16. Paragraph 74 is to have effect as if—

(a) for sub-paragraph (2) there were substituted—

“(2) If a CIO is in housing administration, a person mentioned in sub-paragraph (2A) may apply to the court claiming that the housing administrator is acting in a manner preventing the achievement of the objectives of the housing administration as quickly and efficiently as is reasonably practicable.

(2A) The persons who may apply to the court are—

(a) the Secretary of State;

(b) with the consent of the Secretary of State, the Regulator of Social Housing;

(c) a creditor of the CIO.”,

(b) sub-paragraphs (6)(b), (ba) and (c) were omitted,

(c) after sub-paragraph (6) there were inserted—

“(7) In the case of a claim made otherwise than by the Secretary of State or the Regulator of Social Housing, the court may grant a remedy or relief or make an order under this paragraph only if it has given the Secretary of State or the Regulator a reasonable opportunity of making representations about the claim and the proposed remedy, relief or order.

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(8) The court may grant a remedy or relief or make an order on an application under this paragraph only if it is satisfied, in relation to the matters that are the subject of the application, that the housing administrator—

- (a) is acting,
- (b) has acted, or
- (c) is proposing to act,

in a way that is inconsistent with the achievement of the objectives of the housing administration as quickly and as efficiently as is reasonably practicable.

(9) Before the making of an order of the kind mentioned in sub-paragraph (4)(d)—

- (a) the court must notify the housing administrator of the proposed order and of a period during which the housing administrator is to have the opportunity of taking steps falling within sub-paragraphs (10) to (12), and
- (b) the period notified must have expired without the taking of such of those steps as the court thinks should have been taken,

and that period must be a reasonable period.

(10) In the case of a claim under sub-paragraph (1)(a), the steps referred to in sub-paragraph (9) are—

- (a) ceasing to act in a manner that unfairly harms the interests to which the claim relates,
- (b) remedying any harm unfairly caused to those interests, and
- (c) steps for ensuring that there is no repetition of conduct unfairly causing harm to those interests.

(11) In the case of a claim under sub-paragraph (1)(b), the steps referred to in sub-paragraph (9) are steps for ensuring that the interests to which the claim relates are not unfairly harmed.

(12) In the case of a claim under sub-paragraph (2), the steps referred to in sub-paragraph (9) are—

- (a) ceasing to act in a manner preventing the achievement of the objectives of the housing administration as quickly and as efficiently as is reasonably practicable,
- (b) remedying the consequences of the housing administrator having acted in such a manner, and
- (c) steps for ensuring that there is no repetition of the conduct preventing the achievement of the objectives of the housing administration as quickly and as efficiently as is reasonably practicable.”

17. Paragraph 75(2) is to have effect as if after paragraph (b) there were inserted—

“(ba) a person appointed as an administrator of the CIO under the provisions of this Act, as they have effect in relation to administrators other than housing administrators,”.

18. Paragraph 78 is to have effect as if sub-paragraph (2) were omitted.

19. Paragraph 79 is to have effect as if—

(a) for sub-paragraphs (1) and (2) there were substituted—

“(1) On an application made by a person mentioned in sub-paragraph (2), the court may provide for the appointment of a housing administrator of a CIO to cease to have effect from a specified time.

(2) An application may be made to the court under this paragraph—

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- (a) by the Secretary of State,
 - (b) with the consent of the Secretary of State, by the Regulator of Social Housing, or
 - (c) with the consent of the Secretary of State, by the housing administrator.”,
- (b) sub-paragraph (3) were omitted.
- 20.** Paragraph 83 is to have effect as if—
- (a) sub-paragraph (2) were omitted;
 - (b) in sub-paragraph (3), after “may”, there were inserted “, with the consent of the Secretary of State or of the Regulator of Social Housing.”,
 - (c) for sub-paragraph (4) there were substituted—
 - “(4) On receipt of a notice under sub-paragraph (3), the Charity Commission must publish it in such manner as it thinks fit.
 - (4A) In determining the manner in which to publish the notice under sub-paragraph (3) the Charity Commission must have regard in particular to—
 - (a) the location of the principal office of the CIO,
 - (b) the area in which the CIO operates, and
 - (c) the charitable purposes of the CIO.”.
 - (d) in sub-paragraph (6) for “registration” substitute “publication” and for “registered” substitute “published”.
- 21.** Paragraph 84 is to have effect as if—
- (a) in sub-paragraph (1), for “to the registrar of companies” there were substituted—
 - “(a) to the Secretary of State and the Regulator of Social Housing, and
 - (b) if directed to do so by either the Secretary of State or the Regulator of Social Housing, to the Charity Commission.”,
 - (b) sub-paragraph (2) were omitted,
 - (c) for sub-paragraph (3), there were substituted—
 - “(3) On receipt of a notice under sub-paragraph (1)(b), the Charity Commission must publish it in such manner as it thinks fit.
 - (3A) In determining the manner in which to publish the notice under sub-paragraph (1) (b) the Charity Commission must have regard in particular to—
 - (a) the location of the principal office of the CIO,
 - (b) the area in which the CIO operates, and
 - (c) the charitable purposes of the CIO.”,
 - (d) in sub-paragraphs (4) to (6), for “(1)”, in each place, there were substituted “(1)(b)”,
 - (e) in sub-paragraph (4), for “registration” substitute “publication”, and
 - (f) in sub-paragraph (6), for “registration” substitute “publication”.
- 22.** Paragraph 87(2) is to have effect as if for paragraphs (a) to (d) there were substituted “by notice in writing to the court”.
- 23.** Paragraph 89(2) is to have effect as if for paragraphs (a) to (d) there were substituted “to the court”.
- 24.** Paragraph 90 is to have effect as if for “Paragraphs 91 to 95 apply” there were substituted “Paragraph 91 applies”.

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25. Paragraph 91 is to have effect as if the following were substituted for it
- “91. The court may replace the housing administrator on an application made—
- (a) by the Secretary of State,
 - (b) with the consent of the Secretary of State, by the Regulator of Social Housing, or
 - (c) where more than one person was appointed to act jointly as the housing administrator, by any of those persons who remain in office.”.

26. Paragraph 98 is to have effect as if sub-paragraphs (2)(b) and (ba), (3) and (3A) were omitted.

27. Paragraph 99 is to have effect as if—

 - (a) in sub-paragraph (4), for the words from the beginning to “cessation”, in the first place, there were substituted “A sum falling within sub-paragraph (4A)”,
 - (b) after that sub-paragraph there were inserted—

“(4A) A sum falls within this sub-paragraph if it is—

 - (a) a sum payable in respect of a debt or other liability arising out of a contract that was entered into before cessation by the former housing administrator or a predecessor,
 - (b) a sum that must be repaid by the CIO in respect of a grant that was made under section 109 of the Housing and Planning Act 2016 before cessation,
 - (c) a sum that must be repaid by the CIO in respect of a loan made under that section before cessation or that must be paid by the CIO in respect of interest payable on such a loan,
 - (d) a sum payable by the CIO under section 111 of that Act in respect of an agreement to indemnify made before cessation, or
 - (e) a sum payable by the CIO under section 113 of that Act in respect of a guarantee given before cessation.”, and
 - (c) in sub-paragraph (5), for “(4)” there were substituted “(4A)(a)”.

28. Paragraph 100 is to have effect as if sub-paragraph (2) were omitted.

29. Paragraph 101(3) is to have effect as if after “87 to” there were inserted “91, 98 and”.

30. Paragraph 103 is to have effect as if—

 - (a) in sub-paragraph (2) the words from the beginning to “order” were omitted and for paragraph (a) there were substituted—

“(a) the Secretary of State,

 - (aa) the Regulator of Social Housing, or”,
 - (b) after that sub-paragraph there were inserted—

“(2A) The consent of the Secretary of State is required for an application by the Regulator of Social Housing for the purposes of sub-paragraph (2).”, and
 - (c) sub-paragraphs (3) to (5) were omitted.

31. Paragraph 106(2) is to have effect as if paragraphs (a), (b), (f), (g), (i) and (l) to (n) were omitted.

32. Paragraph 109 is to have effect as if “or 108” were omitted.

33. Paragraph 111 is to have effect as if—

 - (a) in sub-paragraph (1) the definitions of “holder of a qualifying floating charge”, “the purpose of administration” and “unable to pay its debts” were omitted,

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- (b) in that sub-paragraph, at the appropriate places there were inserted—
- ““court”, in relation to a CIO, means the court having jurisdiction to wind up the CIO;”,
- ““housing administration application” means an application to the court for a housing administration order under Chapter 5 of Part 4 of the Housing and Planning Act 2016;”,
- ““housing administration order” has the same meaning as in Chapter 5 of Part 4 of the Housing and Planning Act 2016;”,
- ““objectives”, in relation to a housing administration, is to be read in accordance with section 96(4) of the Housing and Planning Act 2016;”, and
- ““prescribed” means prescribed by housing administration rules within the meaning of Chapter 5 of Part 4 of the Housing and Planning Act 2016.”,
- (c) after sub-paragraph (3) there were inserted—
- “(4) For the purposes of this Schedule a reference to an appointment under a housing administration order includes a reference to an appointment under paragraph 91 or 103.”

PART 2

Other Modifications

General modifications

- 34.**—(1) References within sub-paragraph (2) which are contained—
- (a) in the Insolvency Act 1986 (other than Schedule B1 to that Act), or
 - (b) in other legislation passed or made before the Insolvency of Registered Providers of Social Housing Regulations 2017 come into force+,
- include references to whatever corresponds to them for the purposes of this paragraph.
- (2) The references are those (however expressed) which are or include references to—
- (a) an administrator appointed by an administration order,
 - (b) an administration order,
 - (c) an application for an administration order,
 - (d) a CIO in administration,
 - (e) entering into administration. and
 - (f) Schedule B1 to the Insolvency Act 1986 or a provision of that Schedule.
- (3) For the purposes of this paragraph—
- (a) a housing administrator of a CIO corresponds to an administrator appointed by an administration order,
 - (b) a housing administration order in relation to a CIO corresponds to an administration order,
 - (c) an application for a housing administration order in relation to a CIO corresponds to an application for an administration order,
 - (d) a CIO in housing administration corresponds to a CIO in administration,
 - (e) entering into housing administration corresponds to a CIO entering into administration, and

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- (f) what corresponds to Schedule B1 to the Insolvency Act 1986 or a provision of that Schedule is that Schedule or that provision as applied by Part 1 of this Schedule.

Modifications of the Insolvency Act 1986

35. The following provisions of the Insolvency Act 1986 are to have effect in the case of a CIO in housing administration with the following modifications.

36. Section 5 is to have effect as if after subsection (4) there were inserted—

“(4A) Where the CIO is in housing administration, the court must not make an order or give a direction under subsection (3) unless—

- (a) the court has given the Secretary of State or the Regulator of Social Housing a reasonable opportunity of making representations to it about the proposed order or direction, and
- (b) the order or direction is consistent with the objectives of the housing administration.

(4B) In subsection (4A) “in housing administration” and “objectives of the housing administration” are to be read in accordance with Schedule B1 to this Act, as applied by Schedule 2 to the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012.”

37. Section 6 is to have effect as if—

(a) after subsection (2) there were inserted—

“(2AA) Subject to this section, where a voluntary arrangement in relation to a CIO in housing administration is approved at the meetings summoned under section 3, an application to the court may be made—

- (a) by the Secretary of State, or
- (b) with the consent of the Secretary of State, by the Regulator of Social Housing, on the ground that the voluntary arrangement is not consistent with the achievement of the objectives of the housing administration.”,

(b) in subsection (4), after “subsection (1)” there were inserted “or, in the case of an application under subsection (2AA), as to the ground mentioned in that subsection”, and

(c) after subsection (7) there were inserted—

“(7A) In this section “in housing administration” and “objectives of the housing administration” are to be read in accordance with Schedule B1 to this Act as applied by Schedule 2 to the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012.”.

38. Section 129(1A) is to have effect as if the reference to paragraph 13(1)(e) of Schedule B1 includes section 100(1)(e) of the Housing and Planning Act 2016.]

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