



## 2016 CHAPTER 2

### *Miscellaneous*

#### **Definition of debt**

9.—(1) The Insolvency Order is amended as follows.

(2) In Article 2 (general interpretation), for paragraph (3) substitute—

“(3) In determining for the purposes of any provision of this Order whether any liability in tort is a bankruptcy debt, the bankrupt is deemed to become subject to that liability by reason of an obligation incurred at the time when the cause of action accrued.

(3A) In determining for the purposes of any provision in this Order whether any liability in tort is a debt provable in the winding up of a company or where a company is in administration, that liability is provable if either—

(a) the cause of action has accrued—

- (i) in the case of a winding up which was not immediately preceded by an administration, at the date on which the company went into liquidation;
- (ii) in the case of a winding up which was immediately preceded by an administration, at the date on which the company entered administration;
- (iii) in the case of an administration which was not immediately preceded by a winding up, at the date on which the company entered administration;

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- (iv) in the case of an administration which was immediately preceded by a winding up, at the date on which the company went into liquidation; or
  - (b) all the elements necessary to establish the cause of action exist at that date except for actionable damage.”.
- (3) In Article 5(1) (interpretation for Parts 2 to 7), in the definition of “debt”—
  - (a) for “Article 2(3)” substitute “ Article 2(3A) ”;
  - (b) in sub-paragraph (a) for the words from “date” to the end substitute “ relevant date; ”;
  - (c) in sub-paragraph (b) for “that date” in the first place it occurs substitute “ the relevant date ”;
  - (d) in sub-paragraph (c) for the words from “company” to the end substitute “ relevant date; ”.
- (4) In Article 5, after paragraph (1) insert—

“(1A) For the purposes of the definition of “debt” in paragraph (1), “the relevant date” means—

  - (a) in the case of a winding up which was not immediately preceded by an administration, the date on which the company went into liquidation;
  - (b) in the case of a winding up which was immediately preceded by an administration, the date on which the company entered administration;
  - (c) in the case of an administration which was not immediately preceded by a winding up, the date on which the company entered administration;
  - (d) in the case of an administration which was immediately preceded by a winding up, the date on which the company went into liquidation.”.
- (5) In Article 347 (the relevant date), after paragraph (6) insert—

“(7) Nothing in this Article affects the definition of “the relevant date” in Article 5(1A).”.

#### Commencement Information

**II** S. 9 in operation at 1.4.2016 by [S.R. 2016/203](#), [art. 2](#)

**Changes to legislation:**

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