

## SCHEDULES

### SCHEDULE 3

#### INDIVIDUAL VOLUNTARY ARRANGEMENTS

1. The Insolvency Order shall be amended as follows.
2. In Article 226 (interim order of High Court)—
  - (a) in paragraph (2)(a), after “with,” insert—
    - “(aa) no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to premises let to the debtor in respect of a failure by the debtor to comply with any term or condition of his tenancy of such premises, except with the leave of the High Court,”;
  - (b) in paragraph (2)(b), after “continued” insert “and no distress may be levied”.
3. In Article 227 (application for interim order)—
  - (a) in paragraph (1), after “proposal” insert “under this Part, that is, a proposal”,
  - (b) at the end of paragraph (2) insert “and the nominee must be a person who is qualified to act as an insolvency practitioner, or authorised to act as nominee, in relation to the voluntary arrangement”,
  - (c) in paragraph (4), for the words from “his proposal” to “arrangement)” substitute “the proposal”.
4. In Article 228 (effect of application)—
  - (a) in paragraph (1), after “pending” insert—
    - “(a) no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to premises let to the debtor in respect of a failure by the debtor to comply with any term or condition of his tenancy of such premises, except with the leave of the High Court, and
    - (b)”;
  - (b) after “may” insert—

“forbid the levying of any distress on the debtor’s property or its subsequent sale, or both, and”.
5. In Article 229 (cases in which interim order can be made), in paragraph (1)—
  - (a) in sub-paragraph (a), for “such a proposal as is mentioned in that Article” substitute “a proposal under this Part”,
  - (b) in sub-paragraph (d), omit the words from “to his creditors” to “to the debtor, and”.
6. In Article 230 (nominee’s report on debtor’s proposal)—
  - (a) in paragraph (1)(a), at the beginning insert—

“whether, in his opinion, the voluntary arrangement which the debtor is proposing has a reasonable prospect of being approved and implemented,

    - (aa)”;

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- (b) for paragraph (3) substitute—
- “(3) The High Court may—
- (a) on an application made by the debtor in a case where the nominee has failed to submit the report required by this Article or has died, or
  - (b) on an application made by the debtor or the nominee in a case where it is impracticable or inappropriate for the nominee to continue to act as such,
- direct that the nominee shall be replaced as such by another person qualified to act as an insolvency practitioner, or authorised to act as nominee, in relation to the voluntary arrangement.
- (3A) The High Court may, on an application made by the debtor in a case where the nominee has failed to submit the report required by this Article, direct that the interim order shall continue, or (if it has ceased to have effect) be renewed, for such further period as the Court may specify in the direction.”.

7. After Article 230 insert—

*“Procedure where no interim order made*

**Debtor’s proposal and nominee’s report**

**230A.**—(1) This Article applies where a debtor (being an individual)—

- (a) intends to make a proposal under this Part (but an interim order has not been made in relation to the proposal and no application for such an order is pending), and
- (b) if he is an undischarged bankrupt, has given notice of the proposal to the official receiver and, if there is one, the trustee of his estate,

unless a bankruptcy petition presented by the debtor is pending and the High Court has, under Article 247, appointed an insolvency practitioner to inquire into the debtor’s affairs and report.

(2) For the purpose of enabling the nominee to prepare a report to the High Court, the debtor shall submit to the nominee—

- (a) a document setting out the terms of the voluntary arrangement which the debtor is proposing, and
- (b) a statement of his affairs containing—
  - (i) such particulars of his creditors and of his debts and other liabilities and of his assets as may be prescribed, and
  - (ii) such other information as may be prescribed.

(3) If the nominee is of the opinion that the debtor is an undischarged bankrupt, or is able to petition for his own bankruptcy, the nominee shall, within 14 days (or such longer period as the High Court may allow) after receiving the document and statement mentioned in paragraph (2), submit a report to the Court stating—

- (a) whether, in his opinion, the voluntary arrangement which the debtor is proposing has a reasonable prospect of being approved and implemented,
- (b) whether, in his opinion, a meeting of the debtor’s creditors should be summoned to consider the debtor’s proposal, and
- (c) if in his opinion such a meeting should be summoned, the date on which, and time and place at which, he proposes the meeting should be held.

(4) The High Court may—

- (a) on an application made by the debtor in a case where the nominee has failed to submit the report required by this Article or has died, or
  - (b) on an application made by the debtor or the nominee in a case where it is impracticable or inappropriate for the nominee to continue to act as such,
- direct that the nominee shall be replaced as such by another person qualified to act as an insolvency practitioner, or authorised to act as nominee, in relation to the voluntary arrangement.
- (5) The High Court may, on an application made by the nominee, extend the period within which the nominee is to submit his report.

*Creditors' meeting*".

- 8.** In Article 231 (summoning of creditor's meeting), in paragraph (1)—
- (a) after "230" insert "or 230A", and
  - (b) for "230(3)(a)" substitute "230(3) or 230A(4)".
- 9.** In Article 232 (decisions of creditors' meeting)—
- (a) in paragraph (3), for "in relation to the debtor" substitute "or authorised to act as nominee, in relation to the voluntary arrangement", and
  - (b) in paragraph (4), for "such as is mentioned in Article 227" substitute "under this Part".
- 10.** In Article 234 (effect of approval), for paragraph (2)(b) substitute—
- "(b) binds every person who in accordance with the rules—
    - (i) was entitled to vote at the meeting (whether or not he was present or represented at it), or
    - (ii) would have been so entitled if he had had notice of it, as if he were a party to the arrangement.
- (2A) If—
- (a) when the arrangement ceases to have effect any amount payable under the arrangement to a person bound by virtue of paragraph (2)(b)(ii) has not been paid, and
  - (b) the arrangement did not come to an end prematurely,
- the debtor shall at that time become liable to pay to that person the amount payable under the arrangement."
- 11.—**(1) In Article 236 (challenge of meeting's decision), in paragraph (2)—
- (a) for sub-paragraph (b) substitute—
    - "(b) a person who—
      - (i) was entitled, in accordance with the rules, to vote at the creditors' meeting, or
      - (ii) would have been so entitled if he had had notice of it,"
  - (b) in sub-paragraph (c), for "230(3)(a)" substitute "230(3), 230A(4)".
- (2) In paragraph (3) of that Article—
- (a) after "be made" insert "(a)",
  - (b) at the end insert "or

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- (b) in the case of a person who was not given notice of the creditor’s meeting, after the end of the period of 28 days beginning with the day on which he became aware that the meeting had taken place,

but (subject to that) an application made by a person within paragraph (2)(b)(ii) on the ground that the arrangement prejudices his interests may be made after the arrangement has ceased to have effect, unless it has come to an end prematurely.”.

**12. After that Article insert—**

**“False representations etc.**

**236A.**—(1) If for the purpose of obtaining the approval of his creditors to a proposal for a voluntary arrangement, the debtor—

- (a) makes any false representation, or
- (b) fraudulently does, or omits to do, anything,

he shall be guilty of an offence.

- (2) Paragraph (1) applies even if the proposal is not approved.

**Prosecution of delinquent debtors**

**236B.**—(1) This Article applies where a voluntary arrangement approved by a creditors' meeting summoned under Article 231 has taken effect.

(2) If it appears to the nominee or supervisor that the debtor has been guilty of any offence in connection with the arrangement for which he is criminally liable, he shall forthwith—

- (a) report the matter to the Department, and
- (b) provide the Department with such information and give the Department such access to and facilities for inspecting and taking copies of documents (being information or documents in his possession or under his control and relating to the matter in question) as the Department requires.

(3) Where the Director of Public Prosecutions for Northern Ireland institutes criminal proceedings following any report under paragraph (2), the nominee or, as the case may be, supervisor shall give the Director all assistance in connection with the prosecution which he is reasonably able to give.

(4) The High Court may, on the application of the Director of Public Prosecutions for Northern Ireland, direct a nominee or supervisor to comply with paragraph (3) if he has failed to do so.

**Arrangements coming to an end prematurely**

**236C.** For the purposes of this Part, a voluntary arrangement approved by a creditors' meeting summoned under Article 231 comes to an end prematurely if, when it ceases to have effect, it has not been fully implemented in respect of all persons bound by the arrangement by virtue of Article 234(2)(b)(i).”.

**13. In Article 237 (implementation and supervision of approved voluntary arrangement)—**

- (a) in paragraph (2), for “230(3)(a)” substitute “230(3), 230A(4)”, and
- (b) in paragraph (5), for “in relation to the debtor” substitute “or authorised to act as supervisor, in relation to the voluntary arrangement”.

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**14.** In Article 347 (date which determines existence and amount of preferential debt), in paragraph (5), for the words following “undischarged bankrupt” substitute—

“(a) where an interim order has been made under Article 226 with respect to his proposal, the date of that order, and

(b) in any other case, the date on which the voluntary arrangement takes effect.”.

**15.** In Schedule 7 (punishment of offences), after the entry relating to Article 223 insert the following entry—

Article of Order creating offence	General nature of offence	Mode of prosecution	Punishment
236A(1).	False representation or fraud for purpose of obtaining creditor’s approval of proposed voluntary arrangement.	<b>1.</b> On indictment. <b>2.</b> Summary.	7 years or a fine, or both.  6 months or the statutory maximum, or both.