

SCHEDULES

SCHEDULE 20

VESTING OF DISCLAIMED PROPERTY ; PROTECTION OF THIRD PARTIES

PART II

CROWN DISCLAIMER UNDER SECTION 656

(SCOTLAND ONLY)

- 5 The court shall not under section 657 make a vesting order, where the property disclaimed is held under a lease, in favour of a person claiming under the company (whether as sub-lessee or as creditor in a duly registered or, as appropriate, recorded heritable security over a lease), except on the following terms.
- 6 The person must by the order be made subject—
- (a) to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding up, or
 - (b) (if the court thinks fit) only to the same liabilities and obligations as if the lease had been assigned to him at that date;
- and in either event (if the case so requires) the liabilities and obligations must be as if the lease had comprised only the property comprised in the vesting order.
- 7 A creditor or sub-lessee declining to accept a vesting order on such terms is excluded from all interest in and security over the property.
- 8 If there is no person claiming under the company who is willing to accept an order on such terms, the court has power to vest the company's estate and interest in the property in any person liable (either personally or in a representative character, and either alone or jointly with the company) to perform the lessee's obligations under the lease, freed and discharged from all interests, rights and obligations created by the company in the lease or in relation to the lease.
- 9 For the purposes of paragraph 5 above, a heritable security is duly recorded if it is recorded in the Register of Sasines and is duly registered if registered in accordance with the Land Registration (Scotland) Act 1979.