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SCHEDULES

SCHEDULE 4

PREFERENTIAL DEBTS

PART II

INTERPRETATION OF PART I

General interpretation of Schedule

- 1 (1) In this Schedule " the debtor "—
- (a) in relation to a winding up, means the company which is being wound up ; and
 - (b) in relation to the distribution of a bankrupt's estate, means the bankrupt.
- (2) In relation to a company, the references in this Schedule to the relevant date are references—
- (a) where the company is being wound up by the court and the winding-up order was made immediately upon the discharge of an administration order, to the date of the making of the administration order;
 - (b) in a case not falling within paragraph (a) above where the company is being wound up by the court and had not commenced to be wound up voluntarily before the date of the making of the winding-up order, to the date of the appointment (or first appointment) of a provisional liquidator or, if no such appointment has been made, to the date of the making of the winding-up order ; and
 - (c) in a case not falling within paragraph (a) or (b) above, to the date of the passing of the resolution for the winding up of the company.
- (3) In relation to a bankrupt, the references in this Schedule to the relevant date are references—
- (a) where at the time the bankruptcy order was made, there was an interim receiver of the debtor's estate appointed under section 133 of this Act, to the date on which the interim receiver was first appointed after the presentation of the bankruptcy petition ; and
 - (b) in a case not falling within paragraph (a) above, to the date of the making of the bankruptcy order.

Periods to which value added tax referable

- 2 For the purposes of paragraph 2(1) of Part I of this Schedule—
- (a) where the whole of the prescribed accounting period to which any value added tax is attributable falls within the period of six months next before

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the relevant date (" the relevant period "), the whole amount of that tax shall be referable to the relevant period ; and

- (b) in any other case the amount of any value added tax which shall be referable to the relevant period shall be the proportion of the tax which is equal to such proportion (if any) of the accounting reference period in question as falls within the relevant period ;

and in this paragraph " prescribed " means prescribed by regulations under the Value Added Tax Act 1983.

Amounts payable by way of remuneration

- 3 (1) For the purposes of paragraph 5 of Part I of this Schedule, a sum is payable by the debtor to a person by way of remuneration in respect of any period if—
 - (a) it is paid as wages or salary (whether payable for time or for piece work or earned wholly or partly by way of commission) in respect of services rendered to the debtor in that period; or
 - (b) it is an amount falling within sub-paragraph (2) below and is payable by the debtor in respect of that period.
- (2) An amount falls within this sub-paragraph if it is—
 - (a) a guarantee payment under section 12(1) of the Employment Protection (Consolidation) Act 1978 (employee without work to do for a day or part of a day);
 - (b) remuneration on suspension on medical grounds under section 19 of that Act;
 - (c) any payment for time off under section 27(3) (trade union duties), 31(3) (looking for work, etc.) or 31A(4) (ante-natal care) of that Act;
 - (d) statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982; or
 - (e) remuneration under a protective award made by an industrial tribunal under section 101 of the Employment Protection Act 1975 (redundancy dismissal with compensation).
- (3) For the purposes of paragraph 5 of Part I of this Schedule, holiday remuneration shall be deemed, in the case of a person whose employment has been terminated by or in consequence of his employer going into liquidation or being adjudged bankrupt, to have accrued to that person in respect of any period of employment if, by virtue of that person's contract of employment or of any enactment (including an order or direction made under any enactment), that remuneration would have accrued in respect of that period if that person's employment had continued until he became entitled to be allowed the holiday.
- (4) Without prejudice to the preceding provisions of this paragraph—
 - (a) any remuneration payable by the debtor to a person in respect of a period of holiday or of absence from work through sickness or other good cause is deemed to be wages or, as the case may be, salary in respect of services rendered to the debtor in that period; and
 - (b) references in this paragraph to remuneration in respect of a period of holiday include references to any sums which, if they had been paid, would have been treated for the purposes of the enactments relating to social security as earnings in respect of that period.

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Orders

- 4 (1) An order under paragraph 5 or 6 of Part I of this Schedule may contain such transitional provisions as may appear to the Secretary of State necessary or expedient.
- (2) An order under the said paragraph 5 or 6 shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.