

SCHEDULES

SCHEDULE 9

TRANSITIONAL PROVISIONS AND SAVINGS

PART II

COMPANY INSOLVENCY ETC

Disqualification etc.

- 2 Where—
- (a) an application is made under section 12 of this Act by virtue of paragraph (a) of subsection (7) of that section ; and
 - (b) the company in question went into liquidation before the coming into force of that section,
- the court shall not make an order under that section unless it could have made a disqualification order under section 300 of the 1985 Act as it had effect immediately before the coming into force of the said section 12.
- 3 An application shall not be made under section 13 of this Act in relation to a report made or information or documents obtained before the coming into force of that section.
- 4 The court shall not make a declaration under section 15 of this Act in any case where the time mentioned in subsection (2) of that section was before the coming into force of that section.
- 5 Section 17 of this Act shall not apply where the relevant company (within the meaning of that section) went into liquidation before the coming into force of that section.

Administration orders

- 6 (1) Where any right to appoint an administrative receiver of a company is conferred by any debentures or floating charge created before the coming into force of Chapter III of Part II of this Act, the conditions precedent to the exercise of that right shall be deemed to include the presentation of a petition applying for an administration order to be made in relation to the company.
- (2) In this paragraph " administrative receiver " has the same meaning as in Part II of this Act.

Receivers and managers (England and Wales)

- 7 (1) Subject to sub-paragraph (2) below, where any provision of Chapter IV or VII of Part II of this Act or an amendment specified in paragraphs 15 to 17 of Schedule 6 to this

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Act comes into force, that provision or amendment shall not apply in relation to any receiver or manager of a company's property who was appointed before the coming into force of that provision or amendment and, in relation to any such receiver or manager who was so appointed, the 1985 Act shall have effect without such of the repeals made by this Act as come into force at the same time as that provision or amendment.

- (2) Sub-paragraph (1) above shall be without prejudice to the power conferred by this Act under which rules under section 106 of this Act may make transitional provision in connection with the coming into force of those rules; and such provision may apply those rules in relation to the receiver or manager of a company's property notwithstanding that the receiver or manager was appointed before the coming into force of the rules or of the said section 106.

Receivers (Scotland)

- 8 (1) Subject to sub-paragraph (2) below, where any provision of Chapter V or VII of Part II of this Act or any amendment made by paragraphs 18 to 22 of Schedule 6 to this Act comes into force, that provision or amendment shall not apply in relation to any receiver appointed under section 467 of the 1985 Act before the coming into force of that provision or amendment.
- (2) Sub-paragraph (2) above shall be without prejudice to the power conferred by this Act under which rules under section 106 of this Act may make transitional provision in connection with the coming into force of those rules; and such provision may apply those rules in relation to a receiver appointed under section 467 of the 1985 Act notwithstanding that the receiver was appointed before the coming into force of the rules or of the said section 106.

Winding up etc.

- 9 (1) Subject to sub-paragraphs (2) to (8) and paragraph 10 below, where any provision of Chapter VI or VII of Part II of this Act (except section 88) or any amendment specified in any of paragraphs 23 to 52 of Schedule 6 to this Act comes into force, that provision or amendment shall not apply in relation to any winding up which has commenced or is treated as having commenced before the coming into force of that provision or amendment; and, in relation to any such winding up, the 1985 Act shall have effect without such of the repeals made by this Act as come into force at the same time as that provision or amendment.
- (2) Where a Winding up by the court in England and Wales has commenced or is treated as having commenced before the coming into force of section 66 of this Act, the official receiver or (on appeal from a refusal by the official receiver) the court may, at any time after the coming into force of that section—
- (a) release any person from an obligation imposed on him by or under section 528 of the 1985 Act (statements of affairs); or
 - (b) extend the period specified in subsection (6) of the said section 528 ;
- and, accordingly, after the coming into force of the said section 66, subsection (6) of the said section 528 shall have effect in relation to a winding up to which this sub-paragraph applies with the omission of the words from " or within " onwards.
- (3) Where a winding up by the court in England and Wales has commenced or is treated as having commenced before the coming into force of section 70 of this Act, the official receiver may at any time when he is liquidator of the company apply to the

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Secretary of State for the appointment of a person as liquidator in place of the official receiver; and on any such application the Secretary of State shall either make an appointment or decline to make one.

- (4) Where a winding up by the court in England and Wales has commenced or is treated as having commenced before the coming into force of section 80 of this Act and, at the time of the coming into force of that section, the liquidator of that company has not made an application under section 545 of the 1985 Act (release of liquidators), then—
- (a) except where the Secretary of State otherwise directs, section 78(1) and (2) and 79(8) of this Act shall apply, and the said section 545 shall not apply, in relation to any liquidator of that company who holds office on or at any time after the day on which the said section 80 comes into force and is not the official receiver ;
 - (b) section 78(3) of this Act shall apply in relation to the carrying out at any time after the coming into force of the said section 80 by any liquidator of the company of any of his functions ; and
 - (c) a liquidator in relation to whom section 79(8) of this Act has effect by virtue of this paragraph shall have his release with effect from the time specified in section 80(4)(d) of this Act.
- (5) Subsection (6) of section 80 of this Act shall have effect for the purposes of sub-paragraph (4)(c) above as it has effect for the purposes of that section but as if the reference to section 19 of this Act were a reference to section 631 of the 1985 Act.
- (6) The repeals in Part II of Schedule 10 to this Act of references to a winding up under the supervision of the court shall not affect the operation of the enactments in which the references are contained in relation to any case in which an order under section 606 of that Act was made before the coming into force of section 88 of this Act
- (7) The preceding provisions of this paragraph shall be without prejudice to the power conferred by this Act under which rules under section 106 of this Act may make transitional provision in connection with the coming into force of those rules; and such provision may apply those rules in relation to a winding up notwithstanding that the winding up commenced or is treated as having commenced before the coming into force of the rules or of the said section 106.
- (8) Where a winding up has commenced or is treated as having commenced before the coming into force of sub-paragraph (3) of paragraph 31 of Schedule 6 to this Act, the liquidator may nevertheless employ a solicitor to assist him in the carrying out of his functions without the permission of the committee of inspection; but if he does so employ a solicitor he shall inform the committee of inspection that he has done so.

Setting aside preferences and other transactions

- 10 (1) Where a provision of Chapter VII of Part II of this Act applies in relation to a winding up or in relation to a case in which an administration order has been made, a preference given, floating charge created or other transaction entered into before the coming into force of that provision shall not be set aside under that provision except to the extent that it could have been set aside under the law in force immediately before the coming into force of that provision, assuming for this purpose that any relevant administration order had been a winding-up order.

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- (2) The references in sub-paragraph (1) above to setting aside a preference, floating charge or other transaction include references to the making of any order which varies or reverses any effect of a preference, floating charge or other transaction.