

SCHEDULES

SCHEDULE 6

Section 121

CONDUCT OF FMI ADMINISTRATION

- 1 The following provisions of this Schedule provide for—
 - (a) the general powers and duties of FMI administrators (by application of provisions about administrators), and
 - (b) the general process and effects of FMI administration (by application of provisions about administration).
- 2 The provisions set out in the Tables apply in relation to FMI administration as in relation to administration, with—
 - (a) the modifications set out in paragraph 3,
 - (b) any other modification specified in the Tables, and
 - (c) any other necessary modification.
- 3 The modifications are that—
 - (a) a reference to the administrator is a reference to the FMI administrator,
 - (b) a reference to administration is a reference to FMI administration,
 - (c) a reference to an administration application is a reference to an FMI administration application,
 - (d) a reference to an administration order is a reference to an FMI administration order,
 - (e) a reference to a company is a reference to the infrastructure company, and
 - (f) a reference to the purpose of administration (other than the reference in paragraph 111(1) of Schedule B1) is a reference to the objective in section 115.
- 4 Powers conferred by this Part of this Act and by the 1986 Act (as applied) are in addition to, and not in restriction of, any existing powers of instituting proceedings against any contributory or debtor of an infrastructure company, or the estate of any contributory or debtor, for the recovery of any call or other sum.
- 5 A reference in an enactment or other document to anything done under a provision applied by this Part of this Act includes a reference to the provision as applied.

Status: This is the original version (as it was originally enacted).

TABLE 1 OF APPLIED PROVISIONS
 SCHEDULE B1 TO THE INSOLVENCY ACT 1986

<i>Provision of Schedule B1</i>	<i>Subject</i>	<i>Modification</i>
Para. 40(1)(a)	Dismissal of pending winding-up petition	
Para. 41	Dismissal of administrative or other receiver	
Para. 42	Moratorium on insolvency proceedings	Ignore sub-paras. (4) and (5).
Para. 43	Moratorium on other legal process	
Para. 44(1)(a) and (5)	Interim moratorium	
Para. 46	Announcement of appointment	Ignore sub-para. (6)(b) and (c).
Paras. 47 and 48	Statement of affairs	
Para. 49	Administrator's proposals	(a) The administrator must obtain the approval of the Bank of England to any proposals under sub-para. (1). (b) Treat the reference in sub-para. (2)(b) to the objective mentioned in para. 3(1)(a) or (b) as a reference to the objective in section 115 of this Act. (c) Ignore sub-para. (3)(b).
Para. 59	General powers	
Para. 60 and Schedule 1	General powers	The exercise of powers under Schedule 1 is subject to section 115 of this Act.
Para. 61	Directors	
Para. 62	Power to call meetings of creditors	
Para. 63	Application to court for directions	(a) Before making an application in reliance on this paragraph the FMI administrator must give notice to the Bank of England, which is to be entitled to participate in the proceedings.

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<i>Provision of Schedule B1</i>	<i>Subject</i>	<i>Modification</i>
		(b) In making directions the court must have regard to the objective in section 115 of this Act.
Para. 64	Management powers	
Para. 65	Distribution to creditors	
Para. 66	Payments	
Para. 67	Taking custody of property	
Para. 68	Management	(a) Ignore sub-paras. (1) and (3). (b) The Bank of England may apply to the court for the variation or revocation of any directions given by the court.
Para. 69	Agency	
Para. 70	Floating charges	
Para. 71	Fixed charges	
Para. 72	Hire-purchase property	
Para. 73	Protection for secured and preferential creditors	
Para. 74	Challenge to administrator's conduct	For sub-para. (2) there is to be taken to be substituted— “(2) Where a company is in FMI administration, a creditor or member of the company may apply to the court claiming that the FMI administrator is conducting himself or herself in a manner preventing the achievement of the objective of the FMI administration as quickly and efficiently as is reasonably practicable.”
Para. 75	Misfeasance	In addition to applications that may anyway be made under para. 75, an application may be made by the FMI administrator or the Bank of England.
Para. 79	Court ending administration on application of administrator	For sub-paras. (1) to (3) there are to be taken to be substituted—

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<i>Provision of Schedule B1</i>	<i>Subject</i>	<i>Modification</i>
		<p>“(1) On an application made by a person mentioned in subparagraph (2), the court may provide for the appointment of an FMI administrator of a company to cease to have effect from a specified time.</p> <p>(2) The persons who may apply to the court under subparagraph (1) are—</p> <ul style="list-style-type: none"> (a) the Bank of England; (b) with the consent of the Bank, the FMI administrator.”
Para. 84	Termination: no more assets for distribution	
Para. 85	Discharge of administration order	
Para. 86	Notice to Companies Registrar of end of administration	
Para. 87	Resignation	An FMI administrator may not resign under para. 87 without giving 28 days’ notice of the intention to do so to the Bank of England.
Para. 88	Removal	An application for an order removing an FMI administrator from office may be made only by or with the consent of the Bank of England.
Para. 89	Disqualification	The notice under sub-para. (2) must be given to the Bank of England.
Paras. 90 and 91	Replacement	<ul style="list-style-type: none"> (a) Para. 91(1) applies as if the only person who could make an application were the Bank of England. (b) Ignore para. 91(2).
Para. 98	Discharge	Ignore sub-paras. (2)(b) and (3).
Para. 99	Vacation of office: charges and liabilities	<p>In the application of sub-para. (3), payments may be made only—</p> <ul style="list-style-type: none"> (a) in accordance with directions of the Bank of England, and

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<i>Provision of Schedule B1</i>	<i>Subject</i>	<i>Modification</i>
		(b) if the Bank is satisfied that they will not prejudice the objective in section 115 of this Act.
Paras. 100 to 103	Joint administrators	An application under para. 103 may be made only by the Bank of England.
Para. 104	Validity	
Para. 106 (and section 430 and Schedule 10)	Fines	
Paras. 107 to 109	Extension of time limits	
Para. 110	Amendment of provisions about time	An order under para. 110 may amend a provision of the Schedule as it applies by virtue of this Act (whether or not in the same way as it amends the provision as it applies otherwise).
Para. 111	Interpretation	
Paras. 112 to 116	Scotland	

TABLE 2 OF APPLIED PROVISIONS

OTHER PROVISIONS OF THE INSOLVENCY ACT 1986

<i>Section</i>	<i>Subject</i>	<i>Modification or comment</i>
Section 233	Utilities	
Section 234	Getting in company's property	
Section 235	Duty to co-operate with office-holder	
Section 236	Inquiry into company's dealings	
Section 237	Section 236: enforcement by court	
Section 238	Transactions at an undervalue (England and Wales)	

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<i>Section</i>	<i>Subject</i>	<i>Modification or comment</i>
Section 239	Preferences (England and Wales)	
Section 240	Ss. 238 and 239: relevant time	
Section 241	Orders under ss. 238 and 239	(a) In considering making an order in reliance on section 241 the court must have regard to the objective in section 115 of this Act. (b) Ignore subsections (2A)(a) and (3) to (3C).
Section 242	Gratuitous alienations (Scotland)	
Section 243	Unfair preferences (Scotland)	In considering the grant of a decree under subsection (5) the court must have regard to the objective in section 115 of this Act.
Section 244	Extortionate credit transactions	
Section 245	Avoidance of floating charges	
Section 246	Unenforceability of liens	
Sections 386 and 387, and Schedule 6 (and Schedule 4 to the Pension Schemes Act 1993)	Preferential debts	
Section 389	Offence of acting without being qualified	Treat references to acting as an insolvency practitioner as references to acting as an FMI administrator.
Section 390	Persons not qualified to act	Treat references to acting as an insolvency practitioner as references to acting as an FMI administrator.
Section 391	Recognised professional bodies	An order under section 391 has effect in relation to any provision applied for the purposes of FMI administration.
Sections 423 to 425	Transactions defrauding creditors	In considering granting leave under section 424(1) or making an order in reliance on section 425, the court

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<i>Section</i>	<i>Subject</i>	<i>Modification or comment</i>
		must have regard to the objective in section 115 of this Act.
Sections 430 to 432 and Schedule 10	Offences	

- 6 (1) The Treasury may by order amend this Schedule so as to make further modifications.
- (2) The further modifications that may be made are confined to such modifications of—
- (a) the 1986 Act, or
 - (b) other enactments passed or made before this Act that relate to insolvency or make provision by reference to anything that is or may be done under the 1986 Act,
- as the Treasury consider appropriate in relation to any provision made by or under this Part of this Act.
- (3) An order under this paragraph may also make modifications of the provisions of this Schedule.