

SCHEDULES

SCHEDULE 9

ABOLITION OF REQUIREMENTS TO HOLD MEETINGS; OPTED-OUT CREDITORS

PART 1

COMPANY INSOLVENCY

Introductory

- 1 The Insolvency Act 1986 is amended in accordance with this Part of this Schedule.

Company voluntary arrangements

- 2 In section 2(2) (nominee's report on company's proposal), for paragraphs (aa) and (b) substitute—
- “(b) whether, in his opinion, the proposal should be considered by a meeting of the company and by the company's creditors, and
 - (c) if in his opinion it should, the date on which, and time and place at which, he proposes a meeting of the company should be held.”
- 3 (1) Section 3 (summoning of meetings) is amended as follows.
- (2) In subsection (1)—
- (a) for the words from “that” to “summoned” substitute “under section 2(2) that the proposal should be considered by a meeting of the company and by the company's creditors”;
 - (b) for the words from “directs)” to the end substitute “directs)—
 - (a) summon a meeting of the company to consider the proposal for the time, date and place proposed in the report, and
 - (b) seek a decision from the company's creditors as to whether they approve the proposal.”
- (3) In subsection (2), for the words from “shall” to the end substitute “shall—
- (a) summon a meeting of the company to consider the proposal for such time, date and place as he thinks fit, and
 - (b) seek a decision from the company's creditors as to whether they approve the proposal.”
- (4) For subsection (3) substitute—
- “(3) A decision of the company's creditors as to whether they approve the proposal is to be made by a qualifying decision procedure.

- (4) Notice of the qualifying decision procedure must be given to every creditor of the company of whose claim and address the person seeking the decision is aware.”
- (5) For the heading substitute “Consideration of proposal”.
- 4 (1) Section 4 (decisions of meetings) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies where, under section 3—
- (a) a meeting of the company is summoned to consider the proposed voluntary arrangement, and
- (b) the company’s creditors are asked to decide whether to approve the proposed voluntary arrangement.
- (1A) The company and its creditors may approve the proposed voluntary arrangement with or without modifications.”
- (3) In subsection (3) for “A meeting so summoned shall not” substitute “Neither the company nor its creditors may”.
- (4) In subsection (4)—
- (a) for “a meeting so summoned shall not” substitute “neither the company nor its creditors may”;
- (b) omit “the meeting may approve”;
- (c) after “such a proposal or modification” insert “may be approved”.
- (5) In subsection (5) for “each of the meetings” substitute “the meeting of the company and the qualifying decision procedure”.
- (6) In subsection (6) for “either” substitute “the company”.
- (7) After subsection (6) insert—
- “(6A) After the company’s creditors have decided whether to approve the proposed voluntary arrangement the person who sought the decision must—
- (a) report the creditors’ decision to the court, and
- (b) immediately after reporting to the court, give notice of the creditors’ decision to such persons as may be prescribed.”
- (8) In the heading, for “meetings” substitute “the company and its creditors”.
- 5 (1) Section 4A (approval of arrangement) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a) for “both meetings summoned under section 3” substitute “the meeting of the company summoned under section 3 and by the company’s creditors pursuant to that section”;
- (b) in paragraph (b) for “creditors’ meeting summoned under” substitute “company’s creditors pursuant to”.
- (3) In subsections (3), (4)(a) and (6)(a) for “creditors’ meeting” substitute “company’s creditors”.
- 6 (1) Section 5 (effect of approval) is amended as follows.

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

- (2) In subsection (2)—
- (a) in paragraph (a) for “creditors’ meeting” substitute “time the creditors decided to approve the voluntary arrangement”;
 - (b) in paragraph (b)(i) for the words from “at that” to “it” substitute “in the qualifying decision procedure by which the creditors’ decision to approve the voluntary arrangement was made”.
- (3) In subsection (4)(a) after “4(6)” insert “and (6A)”.
- 7 (1) Section 6 (challenge of decisions) is amended as follows.
- (2) In subsection (1)(b) for “either of the meetings” substitute “the meeting of the company, or in relation to the relevant qualifying decision procedure”.
- (3) After subsection (1) insert—
- “(1A) In this section—
- (a) the “relevant qualifying decision procedure” means the qualifying decision procedure in which the company’s creditors decide whether to approve a voluntary arrangement;
 - (b) references to a decision made in the relevant qualifying decision procedure include any other decision made in that qualifying decision procedure.”
- (4) In subsection (2)—
- (a) in paragraph (a) for “either of the meetings” substitute “the meeting of the company or in the relevant qualifying decision procedure”;
 - (b) in paragraph (aa) for “at the creditors’ meeting” substitute “in the relevant qualifying decision procedure”.
- (5) In subsection (3)(a) after “4(6)” insert “and (6A)”.
- (6) In subsection (3)(b)—
- (a) for “creditors’ meeting” substitute “relevant qualifying decision procedure”;
 - (b) for “the meeting” substitute “the relevant qualifying decision procedure”.
- (7) In subsection (4), for “one or both” substitute “any”.
- (8) In subsection (4)(a), for “in question” substitute “of the company, or in the relevant qualifying decision procedure,”.
- (9) In subsection (4)(b)—
- (a) for “further meetings” substitute “a further company meeting”;
 - (b) for “, a further company or (as the case may be) creditors” substitute “and relating to the company meeting, a further company”.
- (10) In subsection (4), after paragraph (b) insert—
- “(c) direct any person—
- (i) to seek a decision from the company’s creditors (using a qualifying decision procedure) as to whether they approve any revised proposal the person who made the original proposal may make, or
 - (ii) in a case falling within subsection (1)(b) and relating to the relevant qualifying decision procedure, to seek a

decision from the company’s creditors (using a qualifying decision procedure) as to whether they approve the original proposal.”

- (11) In subsection (5) for “for the summoning of meetings to consider” substitute “or (c) in relation to”.
- (12) In subsection (6)—
- (a) after “meeting” insert “or relevant qualifying decision procedure”;
 - (b) in paragraph (a) after “(4)(b)” insert “or (c)”.
- (13) In subsection (7)—
- (a) the words from “a decision” to the end become paragraph (a);
 - (b) in that paragraph (a), after “at a” insert “company”;
 - (c) after that paragraph (a) insert “, and
 - (b) a decision of the company’s creditors made in the relevant qualifying decision procedure is not invalidated by any irregularity in relation to the relevant qualifying decision procedure.”
- 8 In section 7(2)(a) for “given at one or both of the meetings summoned under” substitute “of the voluntary arrangement by the company or its creditors (or both) pursuant to”.
- 9 (1) Schedule A1 (moratorium where directors propose voluntary arrangement) is amended as follows.
- (2) For paragraph 6(2)(c) substitute—
 - “(c) the proposed voluntary arrangement should be considered by a meeting of the company and by the company’s creditors.”
 - (3) For paragraph 7(1)(e)(iii) substitute—
 - “(iii) the proposed voluntary arrangement should be considered by a meeting of the company and by the company’s creditors.”
 - (4) For paragraph 8(2) to (4) substitute—
 - “(2) A moratorium ends with the later of—
 - (a) the day on which the company meeting summoned under paragraph 29 is first held, and
 - (b) the day on which the company’s creditors decide whether to approve the proposed voluntary arrangement,
 unless it is extended under paragraph 32; but this is subject to the rest of this paragraph.
 - (3) In this paragraph the “initial period” means the period of 28 days beginning with the day on which the moratorium comes into force.
 - (3A) If the company meeting has not first met before the end of the initial period the moratorium ends at the end of that period, unless before the end of that period it is extended under paragraph 32.
 - (3B) If the company’s creditors have not decided whether to approve the proposed voluntary arrangement before the end of the initial period the

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

- moratorium ends at the end of that period, unless before the end of that period—
- (a) the moratorium is extended under paragraph 32, or
 - (b) a meeting of the company’s creditors is summoned in accordance with section 246ZE.
- (3C) Where sub-paragraph (3B)(b) applies, the moratorium ends with the day on which the meeting of the company’s creditors is first held, unless it is extended under paragraph 32.
- (4) The moratorium ends at the end of the initial period if the nominee has not before the end of that period—
- (a) summoned a meeting of the company, and
 - (b) sought a decision from the company’s creditors,
- as required by paragraph 29(1).”
- (5) For paragraph 8(6)(c) substitute—
- “(c) a decision of one or both of—
 - (i) the meeting of the company summoned under paragraph 29, or
 - (ii) the company’s creditors.”
- (6) For the heading before paragraph 29 substitute “Duty to summon company meeting and seek creditors’ decision”.
- (7) In paragraph 29(1), for the words from “shall” to the end substitute “shall—
- (a) summon a meeting of the company to consider the proposed voluntary arrangement for such a time, date (within the period of time for the time being specified in paragraph 8(3)) and place as he thinks fit, and
 - (b) seek a decision from the company’s creditors as to whether they approve the proposed voluntary arrangement.”
- (8) For paragraph 29(2) substitute—
- “(2) The decision of the company’s creditors is to be made by a qualifying decision procedure.
 - (3) Notice of the qualifying decision procedure must be given to every creditor of the company of whose claim the nominee is aware.”
- (9) In the heading before paragraph 30, for “meetings” substitute “company meeting and qualifying decision procedure”.
- (10) In paragraph 30(1) for “meetings summoned under paragraph 29” substitute “company meeting summoned under paragraph 29 and the qualifying decision procedure instigated under that paragraph”.
- (11) In paragraph 30(2) for “A meeting so summoned” substitute “The company meeting summoned under paragraph 29”.
- (12) In paragraph 30(3) for “either” substitute “the company”.
- (13) After paragraph 30(3) insert—

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

“(4) After the company’s creditors have decided whether to approve the proposed voluntary arrangement the nominee must—

- (a) report the decision to the court, and
- (b) immediately after reporting to the court, give notice of the decision to such persons as may be prescribed.”

(14) For paragraph 31(1) substitute—

“(1) This paragraph applies where under paragraph 29—

- (a) a meeting of the company is summoned to consider the proposed voluntary arrangement, and
- (b) the nominee seeks a decision from the company’s creditors as to whether they approve the proposed voluntary arrangement.

(1A) The company and its creditors may approve the proposed voluntary arrangement with or without modifications.”

(15) In paragraph 31(4) for “A meeting summoned under paragraph 29 shall not” substitute “Neither the company nor its creditors may”.

(16) In paragraph 31(5) for “a meeting so summoned shall not” substitute “neither the company nor its creditors may”.

(17) In paragraph 31(6) for “The meeting may approve such a proposal or modification” substitute “Such a proposal or modification may be approved”.

(18) In paragraph 31(7)—

- (a) for the words from “period” to “held” substitute “relevant period”;
- (b) for “those meetings” substitute “the company and its creditors”.

(19) In paragraph 31, after sub-paragraph (7) insert—

“(7A) The “relevant period” is—

- (a) in relation to the company, the period of seven days ending with the company meeting summoned under paragraph 29 being held;
- (b) in relation to the company’s creditors, the period of 14 days ending with the end of the period mentioned in paragraph 8(3).

(7B) Where under sub-paragraph (7) the nominee is given notice of proposed modifications, the nominee must seek a decision from the company’s creditors (using a qualifying decision procedure) as to whether the proposed voluntary arrangement should be approved with those modifications.”

(20) In paragraph 32(1), after “a” insert “company”.

(21) In paragraph 32, after sub-paragraph (1) insert—

“(1A) Subject to sub-paragraph (2) the company’s creditors may, by a qualifying decision procedure, decide to extend (or further extend) the moratorium, with or without conditions.”

(22) For paragraph 32(2) substitute—

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

- “(2) The moratorium may not be extended (or further extended) to a day later than the end of the period of two months beginning with the day after the last day of the period mentioned in paragraph 8(3).”
- (23) In paragraph 32(3)—
- (a) for “At any meeting where” substitute “Where”;
 - (b) after “the meeting” insert “of the company or (as the case may be) inform the company’s creditors”.
- (24) In paragraph 32(4)—
- (a) after “a meeting” insert “of the company or informs the company’s creditors,”;
 - (b) after “resolve” insert “, or (as the case may be) the creditors by a qualifying decision procedure shall decide,”.
- (25) In paragraph 32(6) for “may resolve” substitute “of the company may resolve, and the creditors by a qualifying decision procedure may decide,”.
- (26) In paragraph 33(3) for “At any meeting where” substitute “Where”.
- (27) In paragraph 35, for sub-paragraphs (1) and (2) substitute—
- “(1) This paragraph applies where in accordance with paragraph 32 a meeting of the company resolves, or the company’s creditors decide, that the moratorium be extended (or further extended).
- (1A) The meeting may resolve, and the company’s creditors may by a qualifying decision procedure decide, that a committee be established to exercise the functions conferred on it by the meeting or (as the case may be) by the company’s creditors.
- (2) The meeting may resolve that such a committee be established only if—
- (a) the nominee consents, and
 - (b) the meeting approves an estimate of the expenses to be incurred by the committee in the exercise of the proposed functions.
- (2A) A decision of the company’s creditors that such a committee be established is to be taken as made only if—
- (a) the nominee consents, and
 - (b) the creditors by a qualifying decision procedure approve an estimate of the expenses to be incurred by the committee in the exercise of the proposed functions.”

(28) In paragraph 36(2)—

 - (a) in paragraph (a) for “both meetings summoned under paragraph 29” substitute “the meeting of the company summoned under paragraph 29 and by the company’s creditors”;
 - (b) in paragraph (b) for “creditors’ meeting summoned under that paragraph” substitute “company’s creditors”.

(29) In paragraph 36(3), (4)(a) and (5)(a) for “creditors’ meeting” substitute “company’s creditors”.

(30) In paragraph 37(2)—

- (a) in paragraph (a) for “creditors’ meeting” substitute “time the creditors decided to approve the voluntary arrangement”;
 - (b) in paragraph (b)(i) for the words from “at that” to “it” substitute “in the qualifying decision procedure by which the creditors’ decision to approve the voluntary arrangement was made”.
- (31) In paragraph 37(5)(a)—
- (a) omit “of the meetings”;
 - (b) after “30(3)” insert “and (4)”.
- (32) In paragraph 38(1)—
- (a) in paragraph (a) for the words from “approved” to “effect” substitute “which has taken effect under paragraph 37”;
 - (b) in paragraph (b) for “either of those meetings” substitute “the meeting of the company summoned under paragraph 29, or in relation to the relevant qualifying decision procedure”.
- (33) After paragraph 38(1) insert—
- “(1A) In this paragraph—
- (a) the “relevant qualifying decision procedure” means the qualifying decision procedure in which the creditors decided whether to approve the voluntary arrangement;
 - (b) references to a decision made in the relevant qualifying decision procedure include any other decision made in that qualifying decision procedure.”
- (34) In paragraph 38(2)—
- (a) in paragraph (a) for “either of the meetings” substitute “the meeting of the company or in the relevant qualifying decision procedure”;
 - (b) in paragraph (b) for “at the creditors’ meeting” substitute “in the relevant qualifying decision procedure”.
- (35) In paragraph 38(3)(a) after “30(3)” insert “and (4)”.
- (36) In paragraph 38(3)(b)—
- (a) for “creditors’ meeting” substitute “relevant qualifying decision procedure”;
 - (b) for “the meeting” substitute “the relevant qualifying decision procedure”.
- (37) In paragraph 38(4)(a)(ii) for “in question” substitute “of the company, or in the relevant qualifying decision procedure”.
- (38) In paragraph 38(4)(b)—
- (a) for “further meetings” substitute “a further company meeting”;
 - (b) after “(1)(b)” insert “and relating to the company meeting”;
 - (c) omit “or (as the case may be) creditors”.
- (39) In paragraph 38(4), after paragraph (b) insert—
- “(c) direct any person—
- (i) to seek a decision from the company’s creditors (using a qualifying decision procedure) as to whether they approve any revised proposal for a voluntary arrangement which the directors may make, or

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

- (ii) in a case falling within sub-paragraph (1)(b) and relating to the relevant qualifying decision procedure, to seek a decision from the company’s creditors (using a qualifying decision procedure) as to whether they approve the original proposal.”
- (40) In paragraph 38(5), after “(4)(b)(i)” insert “or (c)(i)”.
- (41) In paragraph 38(6) and (7)(a), after “(4)(b)” insert “or (c)”.
- (42) In paragraph 38(9)—
 - (a) the words from “a decision” to the end become paragraph (a);
 - (b) in that paragraph (a), after “at a” insert “company”;
 - (c) after that paragraph (a) insert “, and
 - (b) a decision of the company’s creditors made in the relevant qualifying decision procedure is not invalidated by any irregularity in relation to the relevant qualifying decision procedure.”
- (43) In paragraph 39(1) for the words from “approved” to the end substitute “has taken effect under paragraph 37.”
- (44) In paragraph 40(5)—
 - (a) in paragraph (c), omit “creditors or”;
 - (b) after paragraph (c) insert—
 - “(ca) require a decision of the company’s creditors to be sought (using a qualifying decision procedure) on such matters as the court may direct,”.
- (45) For paragraph 44(8) substitute—
 - “(8) The appropriate regulator must be given notice of any qualifying decision procedure by which a decision of the company’s creditors is sought for the purposes of this Schedule.
 - (8A) The appropriate regulator, or a person appointed by the appropriate regulator, may in the way provided for by the rules participate in (but not vote in) any qualifying decision procedure by which a decision of the company’s creditors is sought for the purposes of this Schedule.”
- (46) Omit paragraph 44(9)(a).
- (47) In paragraph 44(17A)(b) for “sub-paragraph” substitute “sub-paragraphs (8A) and”.

Administration

- 10 (1) Schedule B1 (administration) is amended as follows.
 - (2) In paragraph 49(4)(b), after “company” insert “, other than an opted-out creditor,”.
 - (3) Omit paragraph 50 and the heading before it.
 - (4) For the heading before paragraph 51 substitute “Consideration of administrator’s proposals by creditors”.
 - (5) In paragraph 51, for sub-paragraphs (1) to (3) substitute—

- “(1) The administrator must seek a decision from the company’s creditors as to whether they approve the proposals set out in the statement made under paragraph 49(1).
- (2) The initial decision date for that decision must be within the period of 10 weeks beginning with the day on which the company enters administration.
- (3) The “initial decision date” for that decision—
- (a) if the decision is initially sought using the deemed consent procedure, is the date on which a decision will be made if the creditors by that procedure approve the proposals, and
 - (b) if the decision is initially sought using a qualifying decision procedure, is the date on or before which a decision will be made if it is made by that qualifying decision procedure (assuming that date does not change after the procedure is instigated).”
- (6) In paragraph 52(2), for the words from “summon” to “requested” substitute “seek a decision from the company’s creditors as to whether they approve the proposals set out in the statement made under paragraph 49(1) if requested to do so”.
- (7) For paragraph 52(3) substitute—
- “(3) Where a decision is sought by virtue of sub-paragraph (2) the initial decision date (as defined in paragraph 51(3)) must be within the prescribed period.”
- (8) For the heading before paragraph 53 substitute “Creditors’ decision”.
- (9) In paragraph 53, for sub-paragraph (1) substitute—
- “(1) The company’s creditors may approve the administrator’s proposals—
- (a) without modification, or
 - (b) with modification to which the administrator consents.”
- (10) In paragraph 53(2)—
- (a) for “After the conclusion of an initial creditors’ meeting the” substitute “The”;
 - (b) after “taken” insert “by the company’s creditors”.
- (11) In paragraph 54(1)(a) for “at an initial creditors’ meeting” substitute “by the company’s creditors”.
- (12) Omit paragraph 54(2)(a).
- (13) In paragraph 54(2)(b)—
- (a) omit “with the notice of the meeting sent”;
 - (b) after “creditor” insert “who is not an opted-out creditor”.
- (14) For paragraph 54(2)(d) substitute—
- “(d) seek a decision from the company’s creditors as to whether they approve the proposed revision.”
- (15) For paragraph 54(5) substitute—
- “(5) The company’s creditors may approve the proposed revision—

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

- (a) without modification, or
 - (b) with modification to which the administrator consents.”
- (16) In paragraph 54(6)—
 - (a) for “After the conclusion of a creditors’ meeting the” substitute “The”;
 - (b) after “taken” insert “by the company’s creditors”.
- (17) For paragraph 55(1) substitute—
 - “(1) This paragraph applies where an administrator—
 - (a) reports to the court under paragraph 53 that a company’s creditors have failed to approve the administrator’s proposals, or
 - (b) reports to the court under paragraph 54 that a company’s creditors have failed to approve a revision of the administrator’s proposals.”
- (18) In the heading before paragraph 56, for “meetings” substitute “decisions”.
- (19) In paragraph 56(1), for “summon a creditors’ meeting”—
 - (a) in the first place, substitute “seek a decision from the company’s creditors on a matter”;
 - (b) in the second place, substitute “do so”.
- (20) In paragraph 56(2), for “summon a creditors’ meeting” substitute “seek a decision from the company’s creditors on a matter”.
- (21) In paragraph 57(1), for “A creditors’ meeting may” substitute “The company’s creditors may, in accordance with the rules,”.
- (22) Omit paragraph 58 and the heading before it.
- (23) In paragraph 62, for the words from “may” to the end substitute “may—
 - (a) call a meeting of members of the company;
 - (b) seek a decision on any matter from the company’s creditors.”
- (24) For paragraph 74(4)(c) substitute—
 - “(c) require a decision of the company’s creditors to be sought on a matter,”.
- (25) For paragraph 78(1)(b) substitute—
 - “(b) if the company has unsecured debts, the unsecured creditors of the company.”
- (26) For paragraph 78(2)(b)(ii) substitute—
 - “(ii) the preferential creditors of the company.”
- (27) After paragraph 78(2) insert—
 - “(2A) Whether the company’s unsecured creditors or preferential creditors consent is to be determined by the administrator seeking a decision from those creditors as to whether they consent.”
- (28) Omit paragraph 78(3).
- (29) In paragraph 79(2)(c) for “a creditors’ meeting requires him to” substitute “the company’s creditors decide that he must”.

- (30) In paragraph 80(4) after “company” insert “, other than an opted-out creditor.”.
- (31) In paragraph 83(5)(b) after “creditor” insert “, other than an opted-out creditor.”.
- (32) In paragraph 83(8)(d) omit “98.”.
- (33) In paragraph 84(5)(b) after “creditor” insert “, other than an opted-out creditor.”.
- (34) In the heading before paragraph 97, for “meeting” substitute “decision”.
- (35) For paragraph 97(2) and (3) substitute—
- “(2) The administrator may be replaced by a decision of the creditors made by a qualifying decision procedure.
- (3) The decision has effect only if, before the decision is made, the new administrator has consented to act in writing.”
- (36) In paragraph 98(2)(b), for the second “resolution” substitute “decision”.
- (37) For paragraph 98(3)(b)(ii) substitute—
- “(ii) the preferential creditors of the company.”
- (38) After paragraph 98(3) insert—
- “(3A) In a case where the administrator is removed from office, a decision of the creditors for the purposes of sub-paragraph (2)(b), or of the preferential creditors for the purposes of sub-paragraph (2)(ba), must be made by a qualifying decision procedure.”
- (39) In paragraph 108(1) omit “, 50(1)(b)”.
- (40) For paragraph 108(2)(b) substitute—
- “(b) if the company has unsecured debts, the unsecured creditors of the company.”
- (41) For paragraph 108(3)(b)(ii) substitute—
- “(ii) the preferential creditors of the company.”
- (42) After paragraph 108(3) insert—
- “(3A) Whether the company’s unsecured creditors or preferential creditors consent is to be determined by the administrator seeking a decision from those creditors as to whether they consent.”
- (43) Omit paragraph 108(4).
- (44) In paragraph 111, omit the definitions of “correspondence” and “creditors’ meeting”.
- 11 (1) Schedule 10 (offences) is amended as follows.
- (2) In the entry for Schedule B1, paragraph 51(5), in column 2, for “arrange initial creditors’ meeting” substitute “seek creditors’ decision”.
- (3) In the entry for Schedule B1, paragraph 53(3), in column 2, for “at initial creditors’ meeting” substitute “by creditors”.
- (4) In the entry for Schedule B1, paragraph 54(7), in column 2, for the words from “decision” to “consider” insert “creditors’ decision on”.

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

- (5) In the entry for Schedule B1, paragraph 56(2), in column 2, for “summon creditors’ meeting” substitute “seek creditors’ decision”.

Receivers and managers

- 12 (1) Section 48 (report by administrative receiver - England and Wales) is amended as follows.
- (2) In subsection (1), after “such creditors” insert “, other than opted-out creditors,”.
- (3) In subsection (2)—
- (a) in paragraph (a), after “company” insert “, other than opted-out creditors,”;
- (b) omit the words after paragraph (b).
- (4) Omit subsection (3).
- 13 In section 49(1) (committee of creditors - England and Wales), for the words from the beginning to “fit” substitute “Where an administrative receiver has sent or published a report as mentioned in section 48(2) the company’s unsecured creditors may, in accordance with the rules”.
- 14 (1) Section 67 (report by receiver - Scotland) is amended as follows.
- (2) In subsection (1), after “such creditors” insert “, other than opted-out creditors,”.
- (3) In subsection (2)—
- (a) in paragraph (a), after “company” insert “, other than opted-out creditors,”;
- (b) omit the words after paragraph (b).
- (4) Omit subsection (3).
- 15 In section 68(1) (committee of creditors - Scotland), for the words from the beginning to “fit” substitute “Where a receiver has sent or published a report as mentioned in section 67(2) the company’s unsecured creditors may, in accordance with the rules”.

Winding-up

- 16 In section 92A(1) (members’ voluntary winding-up in England and Wales: progress report to company) for “sections 96 and 102” substitute “section 96”.
- 17 In section 93(1) (members’ voluntary winding-up in Scotland: company meeting at year’s end) for “sections 96 and 102” substitute “section 96”.
- 18 For section 94 (members’ voluntary winding up: final meeting of company prior to dissolution) substitute—

“94 Final account prior to dissolution

- (1) As soon as the company’s affairs are fully wound up the liquidator must make up an account of the winding up, showing how it has been conducted and the company’s property has been disposed of.
- (2) The liquidator must send a copy of the account to the members of the company before the end of the period of 14 days beginning with the day on which the account is made up.

- (3) The liquidator must send a copy of the account to the registrar of companies before the end of that period (but not before sending it to the members of the company).
 - (4) If the liquidator does not comply with subsection (2) the liquidator is liable to a fine.
 - (5) If the liquidator does not comply with subsection (3) the liquidator is liable to a fine and, for continued contravention, a daily default fine.”
- 19 (1) Section 95 (effect of company’s insolvency) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The liquidator must before the end of the period of 7 days beginning with the day after the day on which the liquidator formed that opinion—
- (a) make out a statement in the prescribed form as to the affairs of the company, and
 - (b) send it to the company’s creditors.”
- (3) Omit subsections (2) to (3) and (5) to (7).
- (4) After subsection (4A) insert—
- “(4B) The company’s creditors may in accordance with the rules nominate a person to be liquidator.
- (4C) The liquidator must in accordance with the rules seek such a nomination from the company’s creditors.”
- (5) In subsection (8), for “this section” substitute “subsections (1) to (4A)”.
- 20 (1) For section 96 (conversion to creditors’ voluntary winding up) substitute—

“96 Conversion to creditors’ voluntary winding up

- (1) The winding up becomes a creditors’ voluntary winding up as from the day on which—
 - (a) the company’s creditors under section 95 nominate a person to be liquidator, or
 - (b) the procedure by which the company’s creditors were to have made such a nomination concludes without a nomination having been made.
- (2) As from that day this Act has effect as if the directors’ declaration under section 89 had not been made.
- (3) The liquidator in the creditors’ voluntary winding up is to be the person nominated by the company’s creditors under section 95 or, where no person has been so nominated, the existing liquidator.
- (4) In the case of the creditors nominating a person other than the existing liquidator any director, member or creditor of the company may, within 7 days after the date on which the nomination was made by the creditors, apply to the court for an order either—

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

- (a) directing that the existing liquidator is to be liquidator instead of or jointly with the person nominated by the creditors, or
 - (b) appointing some other person to be liquidator instead of the person nominated by the creditors.
- (5) The “existing liquidator” is the person who is liquidator immediately before the winding up becomes a creditors’ voluntary winding up.”
- (2) In section 96 (as inserted by sub-paragraph (1)), after subsection (4) insert—
 - “(4A) The court shall grant an application under subsection (4) made by the holder of a qualifying floating charge in respect of the company’s property (within the meaning of paragraph 14 of Schedule B1) unless the court thinks it right to refuse the application because of the particular circumstances of the case.”
- 21 In section 97(2) (application of Chapter 4), for “98 and 99” substitute “99 and 100”.
- 22 Omit section 98 (meeting of creditors).
- 23 (1) Section 99 (directors to lay statement of affairs before creditors) is amended as follows.
 - (2) For subsection (1) substitute—
 - “(1) The directors of the company must, before the end of the period of 7 days beginning with the day after the day on which the company passes a resolution for voluntary winding up—
 - (a) make out a statement in the prescribed form as to the affairs of the company, and
 - (b) send the statement to the company’s creditors.”
 - (3) For subsection (3) substitute—
 - “(3) If the directors without reasonable excuse fail to comply with subsection (1), (2) or (2A), they are guilty of an offence and liable to a fine.”
- 24 For section 100(1) (appointment of liquidator) substitute—
 - “(1) The company may nominate a person to be liquidator at the company meeting at which the resolution for voluntary winding up is passed.
 - (1A) The company’s creditors may in accordance with the rules nominate a person to be liquidator.
 - (1B) The directors of the company must in accordance with the rules seek such a nomination from the company’s creditors.”
- 25 (1) Section 101 (appointment of liquidation committee) is amended as follows.
 - (2) For subsection (1) substitute—
 - “(1) The creditors may in accordance with the rules appoint a committee (“the liquidation committee”) of not more than 5 persons to exercise the functions conferred on it by or under this Act.”
 - (3) In subsection (3)—
 - (a) for “resolve” (in both places) substitute “decide”;
 - (b) for “the persons mentioned in the resolution” (in both places) substitute “those persons”.

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

- 26 Omit section 102 (creditors’ meeting where winding up converted under section 96).
- 27 In section 104A (progress report to company and creditors at year’s end (England and Wales)), in subsection (1)(b)(i), after “creditors” insert “, other than opted-out creditors”.
- 28 In section 105(4) (meetings of company and creditors at each year’s end (Scotland)) for “creditors meeting under section 95 is held” substitute “liquidator sends a statement of affairs to the company’s creditors under section 95(1A)(b)”.
- 29 For section 106 (creditors’ voluntary winding-up: final meetings of company and creditors prior to dissolution) substitute—

“106 Final account prior to dissolution

- (1) As soon as the company’s affairs are fully wound up the liquidator must make up an account of the winding up, showing how it has been conducted and the company’s property has been disposed of.
 - (2) The liquidator must, before the end of the period of 14 days beginning with the day on which the account is made up—
 - (a) send a copy of the account to the company’s members,
 - (b) send a copy of the account to the company’s creditors (other than opted-out creditors), and
 - (c) give the company’s creditors (other than opted-out creditors) a notice explaining the effect of section 173(2)(e) and how they may object to the liquidator’s release.
 - (3) The liquidator must during the relevant period send to the registrar of companies—
 - (a) a copy of the account, and
 - (b) a statement of whether any of the company’s creditors objected to the liquidator’s release.
 - (4) The relevant period is the period of 7 days beginning with the day after the last day of the period prescribed by the rules as the period within which the creditors may object to the liquidator’s release.
 - (5) If the liquidator does not comply with subsection (2) the liquidator is liable to a fine.
 - (6) If the liquidator does not comply with subsection (3) the liquidator is liable to a fine and, for continued contravention, a daily default fine.”
- 30 In section 114(2) (powers of directors in voluntary winding up where no liquidator nominated by company)—
- (a) omit “98 (creditors’ meeting) and”;
 - (b) after “affairs” insert “and 100(1B) (nomination of liquidator by creditors)”.
- 31 (1) Section 136 (functions of official receiver in relation to office of liquidator) is amended as follows.
- (2) In subsection (4) for “summon separate meetings of” substitute “in accordance with the rules seek nominations from”.

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

- (3) In subsection (5)(a) and (c), omit “to summon meetings”.
- (4) In subsection (6), for “summon meetings of” substitute “seek nominations from”.
- 32 (1) Section 137 (appointment by Secretary of State) is amended as follows.
- (2) In subsection (2)—
- (a) for “meetings are held” substitute “nominations are sought from the company’s creditors and contributories”;
- (b) omit “of those meetings”.
- (3) In subsection (5), for the words from “shall” to the end substitute “must explain the procedure for establishing a liquidation committee under section 141.”
- 33 (1) Section 138 (appointment of liquidator in Scotland) is amended as follows.
- (2) In subsection (3), for “summon separate meetings of” substitute “in accordance with the rules seek nominations from”.
- (3) In subsection (4), for the words from “summon under” to the second “meeting of” substitute “seek a nomination from the company’s contributories under subsection (3), he may seek a nomination only from”.
- (4) In subsection (5)—
- (a) for “one or more meetings are held” substitute “a nomination is sought from the company’s creditors, or nominations are sought from the company’s creditors and contributories,”;
- (b) for “by the meeting or meetings” substitute “as a result”.
- 34 (1) Section 139 (choice of liquidator at meetings of creditors and contributories) is amended as follows.
- (2) In subsection (1), for “separate meetings of the company’s creditors and contributories are summoned” substitute “nominations are sought from the company’s creditors and contributories”.
- (3) In subsection (2) for “at their respective meetings may” substitute “may in accordance with the rules”.
- (4) In the heading, for “at meetings of” substitute “by”.
- 35 In section 140(3) (appointment of liquidator by court following administration or voluntary arrangement), for the words from “he” to the end substitute “section 136(5) (a) and (b) does not apply.”
- 36 In section 141 (liquidation committee: England and Wales) for subsections (1) to (3) substitute—
- “(1) This section applies where a winding up order has been made by the court in England and Wales.
- (2) If both the company’s creditors and the company’s contributories decide that a liquidation committee should be established, a liquidation committee is to be established in accordance with the rules.
- (3) If only the company’s creditors, or only the company’s contributories, decide that a liquidation committee should be established, a liquidation committee

is to be established in accordance with the rules unless the court orders otherwise.

(3A) A “liquidation committee” is a committee having such functions as are conferred on it by or under this Act.

(3B) The liquidator must seek a decision from the company’s creditors and contributories as to whether a liquidation committee should be established if requested, in accordance with the rules, to do so by one-tenth in value of the company’s creditors.

(3C) Subsection (3B) does not apply where the liquidator is the official receiver.”

37 (1) Section 142 (liquidation committee (Scotland)) is amended as follows.

(2) For subsections (1) to (4) substitute—

“(1) This section applies where a winding up order has been made by the court in Scotland.

(2) If both the company’s creditors and the company’s contributories decide that a liquidation committee should be established, a liquidation committee is to be established in accordance with the rules.

(3) If only the company’s creditors, or only the company’s contributories, decide that a liquidation committee should be established, a liquidation committee is to be established in accordance with the rules unless the court orders otherwise.

(4) A liquidator appointed by the court other than under section 139(4)(a) must seek a decision from the company’s creditors and contributories as to whether a liquidation committee should be established if requested, in accordance with the rules, to do so by one-tenth in value of the company’s creditors.”

(3) In subsection (6), for the words from “In” to “has” substitute “A “liquidation committee” is a committee having the powers and duties conferred and imposed on it by this Act, and”.

38 For section 146 (compulsory winding-up - duty to summon final meeting) substitute

—

“146 Final account

(1) This section applies where a company is being wound up by the court and the liquidator is not the official receiver.

(2) If it appears to the liquidator that the winding up of the company is for practical purposes complete the liquidator must make up an account of the winding up, showing how it has been conducted and the company’s property has been disposed of.

(3) The liquidator must—

(a) send a copy of the account to the company’s creditors (other than opted-out creditors), and

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

- (b) give the company's creditors (other than opted-out creditors) a notice explaining the effect of section 174(4)(d) and how they may object to the liquidator's release.
 - (4) The liquidator must during the relevant period send to the court and the registrar of companies—
 - (a) a copy of the account, and
 - (b) a statement of whether any of the company's creditors objected to the liquidator's release.
 - (5) The relevant period is the period of 7 days beginning with the day after the last day of the period prescribed by the rules as the period within which the creditors may object to the liquidator's release."
- 39 In section 160(1) (delegation of court's powers to liquidator (England and Wales)) for paragraph (a) substitute—
 - "(a) the seeking of decisions on any matter from creditors and contributories,".
- 40 (1) Section 166 (liquidator's powers and duties in creditors' voluntary winding up) is amended as follows.
 - (2) In subsection (2), for the words from "during" to the end substitute "before—
 - (a) the company's creditors under section 100 nominate a person to be liquidator, or
 - (b) the procedure by which the company's creditors were to have made such a nomination concludes without a nomination having been made."
 - (3) Omit subsection (4).
 - (4) In subsection (5), for the words from the beginning to the end of paragraph (b) substitute
 - "If the directors fail to comply with—
 - (a) section 99(1), (2) or (2A), or
 - (b) section 100(1B),".
- 41 In section 168 (liquidator's supplementary powers: England and Wales) for subsection (2) substitute—
 - "(2) The liquidator may seek a decision on any matter from the company's creditors or contributories; and must seek a decision on a matter—
 - (a) from the company's creditors, if requested to do so by one-tenth in value of the creditors;
 - (b) from the company's contributories, if requested to do so by one-tenth in value of the contributories."
- 42 (1) Section 171 (removal of liquidator in voluntary winding up) is amended as follows.
 - (2) In subsection (2)(b), for "general meeting of the company's creditors summoned" substitute "decision of the company's creditors made by a qualifying decision procedure instigated".
 - (3) For subsection (3) substitute—

“(3) Where the liquidator in a members’ voluntary winding up was appointed by the court under section 108, a meeting such as is mentioned in subsection (2) (a) shall be summoned only if—

- (a) the liquidator thinks fit,
- (b) the court so directs, or
- (c) the meeting is requested in accordance with the rules by members representing not less than one-half of the total voting rights of all the members having at the date of the request a right to vote at the meeting.

(3A) Where the liquidator in a creditors’ voluntary winding up was appointed by the court under section 108, a qualifying decision procedure such as is mentioned in subsection (2)(b) is to be instigated only if—

- (a) the liquidator thinks fit,
- (b) the court so directs, or
- (c) it is requested in accordance with the rules by not less than one-half in value of the company’s creditors.”

(4) For subsection (6) substitute—

“(6) In the case of a members’ voluntary winding up where the liquidator has produced an account of the winding up under section 94 (final account), the liquidator vacates office as soon as the liquidator has complied with section 94(3) (requirement to send final account to registrar).

(7) In the case of a creditors’ voluntary winding up where the liquidator has produced an account of the winding up under section 106 (final account), the liquidator vacates office as soon as the liquidator has complied with section 106(3) (requirement to send final account etc. to registrar).”

43 (1) Section 172 (removal of liquidator in compulsory winding up) is amended as follows.

(2) In subsection (2), for “general meeting of the company’s creditors summoned” substitute “decision of the company’s creditors made by a qualifying decision procedure instigated”.

(3) In subsection (3)—

- (a) in paragraph (a) omit “a meeting of”;
- (b) for the words from “a general meeting” to “the meeting” substitute “a qualifying decision procedure such as is mentioned in subsection (2) shall be instigated only if the liquidator thinks fit, the court so directs, or it”.

(4) For subsection (8) substitute—

“(8) Where the liquidator has produced an account of the winding up under section 146 (final account), the liquidator vacates office as soon as the liquidator has complied with section 146(4) (requirement to send account etc. to registrar and to court).”

44 (1) Section 173 (release of liquidator in voluntary winding up) is amended as follows.

(2) In subsection (2), for paragraphs (a) and (b) substitute—

- “(a) in the following cases, the time at which notice is given to the registrar of companies in accordance with the rules that the person has ceased to hold office—

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

- (i) the person has been removed from office by a general meeting of the company,
 - (ii) the person has been removed from office by a decision of the company’s creditors and the company’s creditors have not decided against his release,
 - (iii) the person has died;
 - (b) in the following cases, such time as the Secretary of State may, on the application of the person, determine—
 - (i) the person has been removed from office by a decision of the company’s creditors and the company’s creditors have decided against his release,
 - (ii) the person has been removed from office by the court,
 - (iii) the person has vacated office under section 171(4);”.
- (3) In subsection (2)(d), for “(6)(a)” substitute “(6)”.
- (4) In subsection (2), for paragraph (e) substitute—
 - “(e) in the case of a person who has vacated office under section 171(7)
—
 - (i) if any of the company’s creditors objected to the person’s release before the end of the period for so objecting prescribed by the rules, such time as the Secretary of State may, on an application by that person, determine, and
 - (ii) otherwise, the time at which the person vacated office.”
- (5) After subsection (2) insert—
 - “(2A) Where the person is removed from office by a decision of the company’s creditors, any decision of the company’s creditors as to whether the person should have his release must be made by a qualifying decision procedure.”
- 45 (1) Section 174 (release of liquidator in compulsory winding up) is amended as follows.
- (2) In subsection (2)(a), for “a general meeting of” substitute “the company’s”.
- (3) In subsection (4), for paragraphs (a) and (b) substitute—
 - “(a) in the following cases, the time at which notice is given to the court in accordance with the rules that the person has ceased to hold office
—
 - (i) the person has been removed from office by a decision of the company’s creditors and the company’s creditors have not decided against his release,
 - (ii) the person has died;
 - (b) in the following cases, such time as the Secretary of State may, on the application of the person, determine—
 - (i) the person has been removed from office by a decision of the company’s creditors and the company’s creditors have decided against his release;
 - (ii) the person has been removed from office by the court or the Secretary of State;
 - (iii) the person has vacated office under section 172(5) or (7);”.
- (4) In subsection (4)(d), for sub-paragraphs (i) and (ii) substitute—

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

- “(i) if any of the company’s creditors objected to the person’s release before the end of the period for so objecting prescribed by the rules, such time as the Secretary of State may, on an application by that person, determine, and
(ii) otherwise, the time at which the person vacated office.”

- (5) After subsection (4) insert—
- “(4ZA) Where the person is removed from office by a decision of the company’s creditors, any decision of the company’s creditors as to whether the person should have his release must be made by a qualifying decision procedure.”
- 46 Omit section 194 (resolutions passed at adjourned meetings).
- 47 (1) Section 195 (meetings to ascertain wishes of creditors or contributories) is amended as follows.
- (2) In subsection (1)(b), for the words from “meetings” to the end substitute “qualifying decision procedures to be instigated or the deemed consent procedure to be used in accordance with any directions given by the court, and appoint a person to report the result to the court”.
- (3) In the heading, for “Meetings” substitute “Court’s powers”.
- 48 (1) Section 201 (voluntary winding up - dissolution) is amended as follows.
- (2) In subsection (1)—
- (a) omit “and return”;
- (b) after “or” insert “his final account and statement under”.
- (3) In subsection (2)—
- (a) for “and return” substitute “, or the account and statement,”;
- (b) after “register” insert “it or”;
- (c) for “the return” substitute “the account”.
- 49 In section 202(3) (early dissolution in England and Wales) after “creditors” insert “, other than opted-out creditors,”.
- 50 In section 204(2) (early dissolution: Scotland) for “meeting or meetings” substitute “liquidator has been appointed”.
- 51 (1) Section 205 (compulsory winding up - dissolution) is amended as follows.
- (2) For subsection (1)(a) substitute—
- “(a) a final account and statement sent under section 146(4) (final account);”.
- (3) In subsection (2)—
- (a) after “receipt of” insert “the final account and statement or”;
- (b) after “register” insert “them or”;
- (c) omit the second “of the notice”.
- 52 In section 208(2) (misconduct in course of winding up), for “at any meeting” substitute “in connection with any qualifying decision procedure or deemed consent procedure”.
- 53 (1) Schedule 10 (offences) is amended as follows.

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

(2) For the entries for section 94(4) and (6) substitute—

“94(4)	Liquidator failing to send to company members a copy of account of winding up	Summary	Level 3 on the standard scale	
94(5)	Liquidator failing to send to registrar a copy of account of winding up	Summary	Level 3 on the standard scale	One tenth of level 3 on the standard scale.”

(3) In the entry for section 95(8), in column 2, for “s. 95” substitute “s. 95(1) to (4A)”.

(4) Omit the entry for section 98(6).

(5) In the entry for section 99(3), in column 2, for the words from “attend” to “meeting” substitute “send statement in prescribed form to creditors”.

(6) For the entries for section 106(4) and (6) substitute—

“106(5)	Liquidator failing to send to company members and creditors a copy of account of winding up	Summary	Level 3 on the standard scale	
106(6)	Liquidator failing to send to registrar a copy of account of winding up	Summary	Level 3 on the standard scale	One tenth of level 3 on the standard scale.”

Other provision

54 (1) Section 246A (remote attendance at meetings) is amended as follows.

(2) In subsection (1), for the words from “applies to” to the end substitute “applies to any meeting of the members of a company summoned by the office-holder under this Act or the rules, other than a meeting of the members of the company in a members’ voluntary winding up.”

(3) In subsection (8) for “creditors, members or contributories” substitute “members”.

(4) In subsection (9)(c), for the words from “made” to “of members,” substitute “made”.

55 In section 387(2) and (2A) (definition of “relevant date”) for “meetings to consider” substitute “consideration of”.

56 In section 433(3)(a) (admissibility of evidence in statement of affairs etc)—

- (a) omit “98(6),”;
- (b) for “99(3)(a)” substitute “99(3)”.

57 (1) Section 434B (representation of companies at meetings) is amended as follows.

(2) In subsection (1), for paragraph (a) substitute—

- “(a) in a qualifying decision procedure, held in pursuance of this Act or of rules made under it, by which a decision is sought from the creditors of a company, or”.

(3) In the heading, after “corporations” insert “in decision procedures and”.

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

- 58 In Schedule 8, after paragraph 9 insert—
- “9A Provision about how a company’s creditors may nominate a person to be liquidator, including in the case of a voluntary winding up provision conferring functions on the directors of the company.”
- 59 (1) Paragraph 10 of Schedule 8 (power to make provision about creditors committees etc) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) after “to the” insert “establishment,”;
- (b) for “established under” substitute “provided for by”.
- (3) In sub-paragraph (2)—
- (a) in paragraph (a), omit “a meeting of” in both places;
- (b) in paragraph (b), for “a meeting of” substitute “seeking a decision from”.