

SCHEDULES

SCHEDULE 1

AMENDMENTS OF SERIOUS CRIME ACT 2007: SCOTLAND

20 After section 27 insert—

“27A Powers to wind up companies etc: Scotland

- (1) The Scottish Ministers may present a petition to the court for the winding up of a company or relevant body, or the dissolution of a partnership, if—
 - (a) the company, relevant body or partnership has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
 - (b) the Scottish Ministers consider that it would be in the public interest for the company or (as the case may be) relevant body to be wound up or the partnership to be dissolved.
- (2) The Insolvency Act 1986 applies in relation to—
 - (a) a petition under this section for the winding up of a company; and
 - (b) the company’s winding up;as it applies in relation to a petition under section 124A of the Act of 1986 for the winding up of a company and the company’s winding up (winding up on grounds of public interest) but subject to the modifications in subsections (3) and (4).
- (3) Section 124(4)(b) of the Act of 1986 (application for winding up) applies in relation to a petition under this section as if it permits the petition to be presented by the Scottish Ministers.
- (4) The court may make an order under section 125 of the Act of 1986 (powers of court on hearing of petition) to wind up the company only if—
 - (a) the company has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
 - (b) the court considers that it is just and equitable for the company to be wound up.
- (5) Where a petition is made to the court under this section for the dissolution of a partnership, the court may make an order to dissolve the partnership only if—
 - (a) the partnership has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
 - (b) the court considers that it is just and equitable for the partnership to be dissolved.

Status: This is the original version (as it was originally enacted).

- (6) Where the court makes an order to dissolve a partnership under this section, the Partnership Act 1890 applies in respect of the dissolution as if it were a dissolution under section 35 of that Act.
- (7) The appropriate Minister may by order provide for the Act of 1986 to apply, with such modifications as that person considers appropriate, in relation to a petition under this section for the winding up of a relevant body and the relevant body's winding up.
- (8) An order made by virtue of subsection (7) must ensure that the court may make an order to wind up the relevant body only if—
- (a) the relevant body has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
 - (b) the court considers that it is just and equitable for the relevant body to be wound up.
- (9) No petition may be presented, or order to wind up or dissolve made, by virtue of this section if—
- (a) an appeal against conviction for the offence concerned has been made and not finally determined; or
 - (b) the period during which such an appeal may be made has not expired.
- (10) No petition may be presented, or order to wind up or dissolve made, by virtue of this section if—
- (a) the company or relevant body is already being wound up by the court, or
 - (b) the partnership is already being dissolved by the court.
- (11) In deciding for the purposes of subsection (9) whether an appeal is finally determined or whether the period during which an appeal may be made has expired, any power to appeal out of time is to be ignored.
- (12) In this section—
- “appropriate Minister” means—
- (a) in relation to a relevant body falling within paragraphs (a) to (c) of the definition of “relevant body” below, the Treasury; and
 - (b) in relation to any other relevant body, the Scottish Ministers;
- “company” means—
- (a) a company registered under the Companies Act 2006 in Scotland, or
 - (b) an unregistered company within the meaning of Part 5 of the Insolvency Act 1986 (see section 220 of that Act),
- but does not include a relevant body;
- “the court”, in relation to a company, means a court in Scotland having jurisdiction to wind up the company;
- “partnership” does not include a relevant body; and
- “relevant body” means—
- (a) a building society (within the meaning of the Building Societies Act 1986);

- (b) an incorporated friendly society (within the meaning of the Friendly Societies Act 1992);
- (c) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014;
- (d) a limited liability partnership; or
- (e) such other description of person as may be specified by order made by the Scottish Ministers;

and the references to sections 124 to 125 of the Insolvency Act 1986 include references to those sections as applied by section 221(1) of that Act (unregistered companies).”