

Changes to legislation: There are currently no known outstanding effects for the Corporate Insolvency and Governance Act 2020, SCHEDULE 10. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 10

Section 10

RESTRICTION ON WINDING-UP PETITIONS: GREAT BRITAIN

Textual Amendments

- F1** Sch. 10 substituted (1.10.2021) by [The Corporate Insolvency and Governance Act 2020 \(Coronavirus\) \(Amendment of Schedule 10\) \(No. 2\) Regulations 2021 \(S.I. 2021/1091\)](#), regs. 1(3), 3

Restriction on winding-up petitions

1. (1) During the relevant period a creditor may not present a petition for the winding up of a company under section 124 of the 1986 Act on the ground specified—
 - (a) in the case of a registered company, in section 122(1)(f) of that Act, or
 - (b) in the case of an unregistered company, in section 221(5)(b) of that Act, unless conditions A to D are met (subject to sub-paragraphs (9) to (11)).
- (2) Condition A is that the creditor is owed a debt by the company—
 - (a) whose amount is liquidated,
 - (b) which has fallen due for payment, and
 - (c) which is not an excluded debt.
- (3) Condition B is that the creditor has delivered written notice to the company in accordance with sub-paragraphs (4) to (6).
- (4) Notice under sub-paragraph (3) must contain the following—
 - (a) identification details for the company,
 - (b) the name and address of the creditor,
 - (c) the amount of the debt and the way in which it arises,
 - (d) the date of the notice,
 - (e) a statement that the creditor is seeking the company's proposals for the payment of the debt, and
 - (f) a statement that if no proposal to the creditor's satisfaction is made within the period of 21 days beginning with the date on which the notice is delivered, the creditor intends to present a petition to the court for the winding-up of the company.
- (5) Notice under sub-paragraph (3) must be delivered—
 - (a) to the company's registered office, or
 - (b) in accordance with sub-paragraph (6) if—
 - (i) for any reason it is not practicable to deliver the notice to the company's registered office,
 - (ii) the company has no registered office, or

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- (iii) the company is an unregistered company.
- (6) Where this sub-paragraph applies the notice may be delivered to—
- (a) the company's last known principal place of business, or
 - (b) the secretary, or a director, manager or (in relation to an unregistered company) principal officer of the company.
- (7) Condition C is that at end of the period of 21 days beginning with the day on which condition B was met the company has not made a proposal for the payment of the debt that is to the creditor's satisfaction.
- (8) Condition D is that—
- (a) where the petition is presented by one creditor, the sum of the debts (or the debt, if there is only one) owed by the company to that creditor in respect of which conditions A to C are met is £10,000 or more;
 - (b) where the petition is presented by more than one creditor, the sum of the debts owed by the company to the creditors in respect of which conditions A to C are met is £10,000 or more.
- (9) A creditor may at any time apply to the court for an order that, in respect of a specified debt—
- (a) conditions B and C shall not apply, or
 - (b) condition C shall apply as if the reference to the period of 21 days were to such shorter period as the court may direct.
- (10) Where an order is made under sub-paragraph (9)(a), the references in sub-paragraph (8) to conditions A to C are to be read as references to condition A.
- (11) If the court makes an order under sub-paragraph (9)(b) it may—
- (a) give such directions as to delivery of the written notice referred to in condition B as it thinks fit, or
 - (b) direct that sub-paragraphs (4) to (6) shall apply in respect of the delivery of that notice subject to such modifications it thinks fit.

Modification of Insolvency Rules and Rules of Court

2. (1) This paragraph applies in relation to a petition which is presented in England and Wales by a creditor under section 124 of the 1986 Act during the relevant period.
- (2) Rule 7.5(1) of the Insolvency Rules has effect as if it also required the petition to contain a statement—
 - (a) that the requirements in paragraph 1 of this Schedule are met, and
 - (b) that no proposals for the payment of the debt have been made, or a summary of the reasons why the proposals are not to the creditor's satisfaction (as the case may be).
3. (1) This paragraph applies in relation to a petition which is presented in Scotland by a creditor under section 124 of the 1986 Act during the relevant period.
- (2) Rules of Court in Scotland have effect as if they required the petition to contain an averment—
 - (a) that the requirements in paragraph 1 of this Schedule are met, and

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- (b) that no proposals for the payment of the debt have been made, or a summary of the reasons why the proposals are not to the creditor's satisfaction (as the case may be).

Interpretation

4. (1) In this Schedule “relevant period” means the period which—
- (a) begins with 1 October 2021, and
 - (b) ends with 31 March 2022.
- (2) For the purposes of this Schedule, references to a petition presented by a creditor—
- (a) do not include a petition presented by one or more creditors together with one or more other persons, but
 - (b) subject to that, do include a petition presented by more than one creditor, in which case the conditions specified in paragraph 1(2) to (7) must be met in relation to each creditor presenting the petition.
- (3) For the purposes of this Schedule—
- “the 1986 Act” means the Insolvency Act 1986;
 - “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-Cov-2);
 - “excluded debt” means a debt in respect of rent, or any sum or other payment that a tenant is liable to pay, under—
 - (a) in England and Wales, a relevant business tenancy; or
 - (b) in Scotland, a lease as defined in section 7(1) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985,and which is unpaid by reason of a financial effect of coronavirus;
 - “Insolvency Rules” means the Insolvency (England and Wales) Rules 2016 (S.I. 2016/1024);
 - “registered company” means a company registered under the Companies Act 2006 in England and Wales or Scotland;
 - “relevant business tenancy” means—
 - (a) a tenancy to which Part 2 of the Landlord and Tenant Act 1954 applies, or
 - (b) a tenancy to which that Part of that Act would apply if any relevant occupier were the tenant;
 - “relevant occupier” in relation to a tenancy, means a person, other than the tenant, who lawfully occupies premises which are, or form part of, the property comprised in the tenancy; and
 - “unregistered company” has the meaning given in Part 5 of the 1986 Act.

General

5. (1) The provisions of this Schedule, so far as relating to registered companies, have effect as if they were included in Part 4 of the 1986 Act.
- (2) Sub-paragraph (1) does not apply in relation to paragraphs 2 and 3 (modification of insolvency rules).]

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