
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Insolvent Partnerships Order 1994 (S.I.1994/2421) (the “1994 Order”).

The following are the main changes made to the 1994 Order:

1. Article 3 makes a change to the definition of the expression “act as insolvency practitioner” in section 388 of the Insolvency Act 1986 (c. 45) in relation to insolvent partnerships. It provides for acting as a nominee in a voluntary arrangement in relation to an insolvent partnership to be included within that expression.

2. Article 4 amends article 4(1) of the 1994 Order, the amended article applies Part I of the Insolvency Act 1986, together with Schedule A1 to that Act, to insolvent partnerships. Part I and certain provisions of Schedule A1 are set out in modified form in Schedule 1 to this Order. Schedule A1 to the Insolvency Act 1986, introduced by the Insolvency Act 2000, provides for a moratorium for small companies in financial difficulty.

3. Article 5 provides that article 19 of the 1994 Order does not affect the moratorium under paragraph 12 of Schedule A1 to the Insolvency Act 1986.

4. Article 6 and Part I of Schedule 1 make amendments to the existing partnership voluntary arrangement (PVA) procedure set out in Schedule 1 to the 1994 Order which is currently applied to insolvent partnerships. The changes made include technical amendments, making it an offence for an officer of a partnership or of a corporate member to make false representations in order to obtain the approval of a voluntary arrangement (for the insolvent partnership or its members). The introduction of this offence brings the existing PVA procedure into line with that provided for companies in the new moratorium procedure introduced by the Insolvency Act 2000 (c. 39). By virtue of the insertion of section 1A (as modified) into that Schedule it also makes the new moratorium for small companies mentioned above available to insolvent partnerships.

5. Article 7 provides for the expression “partnership” to include a partnership in relation to which an administration order may be made by virtue of the Council Regulation (EC) No. 1346/2000 of 29th May 2000 on insolvency proceedings (a similar provision is included in relation to partnership voluntary arrangements in modified Part I of the Act). It also provides that the amendments made to sections 10 and 11 of the Insolvency Act 1986 (c. 45) by section 9 of the Insolvency Act 2000 (which restricts the exercise of the right of peaceable re-entry by landlords or others in relation to property let to a company) are applied (as modified) to partnerships.

6. The Insolvency Act 2000 amended the Insolvency Act 1986 to provide that where a voluntary arrangement does not have effect at the end of the moratorium, creditors of a company may petition for its winding up. Articles 8 and 9 apply this new ground for the making of a winding up order to insolvent partnerships and for the making of winding up orders or bankruptcy orders against their members, as the case may be.

7. Article 10 provides for the replacement of Forms 5, 6 and 7 in the 1994 Order with amended forms. The amendment provides for the new ground for making winding up orders or bankruptcy orders. The new forms are to be found in Schedule 2 to this Order.

8. Article 11 makes transitional provisions for the PVA moratorium procedure and for the exercise of landlord’s rights of re-entry where a partnership is subject to an administration order. The provisions are similar to those provided for companies.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

9. The cost to business of compliance with the provisions of the Insolvency Act 2000 is detailed in the Regulatory Impact Assessment prepared for that Act. Copies of the Assessment are available from the Policy Unit, The Insolvency Service, 21 Bloomsbury Street, London WC1B 3QW.