

SCHEDULE 4

Co-ownership schemes: application of the Insolvency (Scotland) Rules 1986

PART 1

Application of Rules with modifications

1. In relation to the winding up of a relevant scheme by the Court of Session under the 1986 Act, Rule 0.2 (interpretation) and Parts 4 and 7 of the Insolvency (Scotland) Rules 1986(1), in so far as they apply to the winding up of an unregistered company, apply with—

- (a) the general modifications set out in paragraph 2;
- (b) any other modification specified in the Table in Part 2 of this Schedule; and
- (c) any other necessary modification.

2. Unless the context otherwise requires and subject to any modification specified in the Table in Part 2 of this Schedule which has a contrary effect, the general modifications are that—

- (a) a reference to a company includes a reference to a relevant scheme;
- (b) a reference to a voluntary winding up or a resolution for voluntary winding up of a company is to be ignored;
- (c) in any provision relating to—
 - (i) the possession or control of any books, papers, records or other property,
 - (ii) sending any documents or records to a third party, or
 - (iii) the giving or sending of any notice,a reference to the company is to be read as a reference to the operator of the relevant scheme;
- (d) a reference to a creditor of a company is to be read as a reference to a creditor of the relevant scheme;
- (e) a reference to a contributory or to a meeting of contributories is to be ignored;
- (f) a reference to a member of a company is to be ignored;
- (g) a reference to the property or assets of a company is to be read as a reference to the property subject to the relevant scheme;
- (h) a reference to a debt or liability of a company is to be read as a reference to a debt or liability of the relevant scheme;
- (i) a reference to the registrar of companies or to the Accountant in Bankruptcy or to the registrar of companies and the Accountant in Bankruptcy is to be read as a reference to the FCA; and
- (j) where a Rule of the Insolvency (Scotland) Rules 1986 applies a provision of the Bankruptcy (Scotland) Act 1985(2) which contains a reference to the debtor (except in the expression “the debtor’s estate”), the Rule is to be read as if it modified the provision concerned by requiring that reference to be read as a reference to the operator.

(1) S.I. 1986/1915 as amended by S.I. 1987/1921, 1999/1820, 2006/734, 2010/688, 2012/2404 and S.S.I. 2008/393. There are other amendments not relevant to these Regulations.

(2) 1985 c. 66.