

## SCHEDULE 2

Regulation 5

### Companies Act 1985

1.—(1) Section 466 of the Companies Act 1985 (alteration of floating charges (Scotland)) is amended as follows.

(2) In subsection (4), for the words from the beginning to “which” substitute “Subsection (4A) applies to an alteration of a floating charge, where the alteration is one which”.

(3) After subsection (4) insert—

“(4A) Every alteration to a floating charge created by a company is, so far as any security on the company’s property or any part of it is conferred by the alteration, void against the liquidator or administrator and any creditor of the company, unless the documents referred to in subsection (4B) are delivered to the registrar for registration by the company or any person interested in the charge before the end of the relevant period allowed for delivery.

(4B) The documents referred to in subsection (4A) are—

- (a) a certified copy of the instrument of alteration, and
- (b) a statement of particulars including—
  - (i) the registered name and number of the company;
  - (ii) the date of creation of the charge;
  - (iii) a description of the instrument (if any) by which the charge was created or evidenced;
  - (iv) short particulars of the property or undertaking charged as set out when the charge was registered;
  - (v) date(s) of execution of the instrument of alteration;
  - (vi) names and address(es) of the persons who have executed the instrument of alteration.

(4C) In subsection (4A) “the relevant period allowed for delivery” is—

- (a) the period of 21 days beginning with the day after the date of execution of the instrument of alteration, or
- (b) if an order under section 859F(3) of the Companies Act 2006 (as applied by subsection (4E)) has been made, the period allowed by the order.

(4D) Subsection (4A) is without prejudice to any contract or obligation for repayment of the money secured by the alteration to the charge; and when an alteration becomes void under subsection (4A) the money secured by it immediately becomes payable.

(4E) Sections 859F, 859G, 859I, 859M and 859N of the Companies Act 2006 apply to an alteration to a floating charge to which subsection (4A) applies as they apply to a charge.

(4F) As applied by subsection (4E), those sections apply as if—

- (a) references to the documents required or delivered under section 859A or 859B were to the documents referred to in subsection (4B);
- (b) references to the period allowed for delivery under the section concerned were to the period referred to in subsection (4C)(a);
- (c) references to the delivery of a certified copy of an instrument to the registrar for the purposes of Chapter A1 of Part 25 of the Companies Act 2006 were to the delivery of a certified copy of an instrument of alteration to the registrar for the purposes of this section;

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- (d) references to registration in accordance with a provision of Chapter A1 of Part 25 of the Companies Act 2006 were to registration in accordance with this section;
  - (e) references to a section 859D statement of particulars were to the statement of particulars referred to in subsection (4B)(b);
  - (f) references to registration under section 859A or 859B were to registration under this section;
  - (g) references to a statement or notice delivered to the registrar in accordance with Chapter A1 of Part 25 of the Companies Act 2006 were to a statement delivered to the registrar in accordance with subsection (4A).”.
- (4) Omit subsection (5).
- (5) In subsection (6), for “instrument of alteration” substitute “alteration”.

### **Insolvency Act 1986**

**2.—**(1) Chapter 2 of Part 3 of the Insolvency Act 1986<sup>(1)</sup> (receivers (Scotland)) is amended as follows.

(2) In sections 53(5), 54(4) and 62(5) (requirements to register appointment, cessation of acting and removal of receivers), for “register of charges” substitute “register”.

(3) In section 70(1) (interpretation), for the definition of “register of charges” substitute ““the register” has the meaning given by section 1080 of the Companies Act 2006;”.

### **Companies Act 2006**

**3.—**(1) The Companies Act 2006 is amended as follows.

(2) In section 893 (power to make provision for effect of registration in special register)—

- (a) in subsection (1) for “the register of charges kept under this Part” substitute “the register”;
- (b) in subsection (1) for “Chapter 1 or Chapter 2” substitute “Chapter A1”;
- (c) in subsection (3)(a) for “Chapter 1 or Chapter 2” substitute “Chapter A1”;
- (d) in subsection (3)(b) for “Chapter 1 or, as the case may be, Chapter 2” substitute “Chapter A1”;
- (e) in subsection (3)(c) for “Chapter 1 or, as the case may be, Chapter 2” substitute “Chapter A1”;
- (f) in subsection (4) for “register of charges” substitute “register”.

(3) In section 1076 (replacement of document not meeting requirements for proper delivery), in subsection (4) for “sections 873 and 888 (rectification of register of charges)” substitute “section 859M (rectification of register)”.

(4) In section 1081 (annotation of the register) in subsection (1) insert—

- “(e) if a document is rectified under section 859M, the nature and date of rectification;
- (f) if a document is replaced under section 859N, the fact that it has been replaced and the date of delivery of the replacement.”.

(5) In section 1087 (material not available for public inspection) omit subsection (1)(h)<sup>(2)</sup>.

(6) In section 1096 (rectification of the register under court order) in subsection (6)(b) for “873 and 888 (rectification of the register of charges)” substitute “859M (rectification of register)”.

(1) 1986 c.45.

(2) Paragraph (1)(h) of section 1087 was substituted by S.I. 2009/1802.

(7) In section 1105 (documents that may be drawn up and delivered in other languages) in subsection (2)(c) for “instruments or copy instruments required to be” substitute “certified copies”.

(8) In section 1136 (regulations about where certain company records to be kept available for inspection) in subsection (2) for the words from “section 877” to the end substitute “section 859Q (instruments creating charges)”.

(9) In Schedule 8 (definitions) the following entries are amended—

- (a) in the entry for “charge (in Chapter 1 of Part 25)” for “Chapter 1” substitute “Chapter A1” and in the second column substitute “section 859A(7);
- (b) in the entry for “company – in Chapter 1 of Part 25” for “Chapter 1” substitute “Chapter A1” and in the second column substitute “section 859A(7)” and delete the entry for “- in Chapter 2 of Part 25”;
- (c) omit the entry for “register of charges”.

### **Financial Collateral Arrangements (No. 2) Regulations 2003**

4.—(1) The Financial Collateral Arrangements (No. 2) Regulations 2003(3) are amended as follows.

(2) In paragraph (4) of regulation 4, for “Sections 860” substitute “Sections 859A” and for “874” substitute “859H”.

(3) Omit regulation 5.

### **The Land Registration Rules 2003**

5.—(1) The Land Registration Rules 2003(4) are amended as follows.

(2) In rule 111 (certificate of registration of company charge)—

- (a) in paragraph (1)—
  - (i) omit “appropriate”;
  - (ii) for “section 869 or 885” substitute “section 859I”; and
  - (iii) for “section 860 or 878” substitute “section 859A”;
- (b) in paragraph (2)—
  - (i) for “section 860 or 878” substitute “section 859A”; and
  - (ii) omit “(as appropriate)”.

### **The Registrar of Companies & Applications for Striking Off Regulations 2009**

6.—(1) The Registrar of Companies & Applications for Striking Off Regulations 2009(5) are amended as follows.

(2) In regulation 8(2)(g) omit “required to be”.

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(3) [S.I. 2003/3226](#), as amended by [S.I. 2009/2462](#), [2010/2993](#).

(4) [S.I. 2003/1417](#). Rule 111 was substituted by [S.I. 2008/1919](#).

(5) [S.I. 2009/1803](#).