

SCHEDULE 2

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;

Status: This is the original version (as it was originally made).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

- (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”.