

SCHEDULE 3

Regulation 4(2)

MODIFICATIONS TO PROVISIONS OF THE 1986 ACT

<i>Provisions</i>	<i>Modifications</i>
Section 84 (circumstances in which company may be wound up voluntarily)	
subsection (3)	For subsection (3) substitute the following— “(3) Within 15 days after a limited liability partnership has determined that it be wound up there shall be forwarded to the registrar of companies either a printed copy or a copy in some other form approved by the registrar of the determination.” After subsection (3) insert a new subsection—
subsection (4)	“(4) If a limited liability partnership fails to comply with this regulation the limited liability partnership and every designated member of it who is in default is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”
Section 91 (appointment of liquidator)	
subsection (1)	Delete “in general meeting”.
subsection (2)	For subsection (2) substitute the following— “(2) On the appointment of a liquidator the powers of the members of the limited liability partnership shall cease except to the extent that a meeting of the members of the limited liability partnership summoned for the purpose or the liquidator sanctions their continuance.” After subsection (2) insert— “(3) Subsections (3) and (4) of section 92 shall apply for the purposes of this section as they apply for the purposes of that section.”
Section 92 (power to fill vacancy in office of liquidator)	
subsection (1)	For “the company in general meeting” substitute “a meeting of the members of the limited liability partnership summoned for the purpose”.
subsection (2)	For “a general meeting” substitute “a meeting of the members of the limited liability partnership”.
subsection (3)	In subsection (3), for “articles” substitute “limited liability partnership agreement”.

<i>Provisions</i>	<i>Modifications</i>
new subsection (4)	Add a new subsection (4) as follows— “(4) The quorum required for a meeting of the members of the limited liability partnership shall be any quorum required by the limited liability partnership agreement for meetings of the members of the limited liability partnership and if no requirement for a quorum has been agreed upon the quorum shall be 2 members.”
Section 93 (general company meeting at each year’s end)	
subsection (1)	For “a general meeting of the company” substitute “a meeting of the members of the limited liability partnership”.
new subsection (4)	Add a new subsection (4) as follows— “(4) Subsections (3) and (4) of section 92 shall apply for the purposes of this section as they apply for the purposes of that section.”
Section 94 (final meeting prior to dissolution)	
subsection (1)	For “a general meeting of the company” substitute “a meeting of the members of the limited liability partnership”.
new subsection (5A)	Add a new subsection (5A) as follows— “(5A) Subsections (3) and (4) of section 92 shall apply for the purposes of this section as they apply for the purposes of that section.”
subsection (6)	For “a general meeting of the company” substitute “a meeting of the members of the limited liability partnership”.
Section 95 (effect of company’s insolvency)	
subsection (1)	For “directors” substitute “designated members”
subsection (7)	For subsection (7) substitute the following— “(7) In this section ‘the relevant period’ means the period of 6 months immediately preceding the date on which the limited liability partnership determined that it be wound up voluntarily.”
Section 100 (appointment of liquidator)	
subsection (1)	For “The creditors and the company at their respective meetings mentioned in section 98” substitute “The creditors at their meeting

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	mentioned in section 98 and the limited liability partnership”.
subsection (3)	Delete “director,”.
Section 101( appointment of liquidation committee)	
subsection (2)	For subsection (2) substitute the following– “(2) If such a committee is appointed, the limited liability partnership may, when it determines that it be wound up voluntarily or at any time thereafter, appoint such number of persons as they think fit to act as members of the committee, not exceeding 5.”
Section 105 (meetings of company and creditors at each year’s end)	
subsection (1)	For “a general meeting of the company” substitute “a meeting of the members of the limited liability partnership”.
new subsection (5)	Add a new subsection (5) as follows– “(5) Subsections (3) and (4) of section 92 shall apply for the purposes of this section as they apply for the purposes of that section.”
Section 106 (final meeting prior to dissolution)	
subsection (1)	For “a general meeting of the company” substitute “a meeting of the members of the limited liability partnership”.
new subsection (5A)	After subsection (5) insert a new subsection (5A) as follows– “(5A) Subsections (3) and (4) of section 92 shall apply for the purposes of this section as they apply for the purposes of that section.”
subsection (6)	For “a general meeting of the company” substitute “a meeting of the members of the limited liability partnership”.
Sections 110 ( acceptance of shares, etc, as consideration for sale of company property)	
	For the existing section substitute the following: “(1) This section applies, in the case of a limited liability partnership proposed to be, or being, wound up voluntarily, where the whole or part of the limited liability partnership’s business or property is proposed to be transferred

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	<p>or sold to another company whether or not it is a company within the meaning of the Companies Act (“the transferee company”) or to a limited liability partnership (“the transferee limited liability partnership”).</p> <p>(2) With the requisite sanction, the liquidator of the limited liability partnership being, or proposed to be, wound up (“the transferor limited liability partnership”) may receive, in compensation or part compensation for the transfer or sale, shares, policies or other like interests in the transferee company or the transferee limited liability partnership for distribution among the members of the transferor limited liability partnership.</p> <p>(3) The sanction required under subsection (2) is—</p> <p style="margin-left: 40px;">(a) in the case of a members' voluntary winding up, that of a determination of the limited liability partnership at a meeting of the members of the limited liability partnership conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, (subsections (3) and (4) of section 92 to apply for this purpose as they apply for the purposes of that section), and</p> <p style="margin-left: 40px;">(b) in the case of a creditor's voluntary winding up, that of either court or the liquidation committee.</p> <p>(4) Alternatively to subsection (2), the liquidator may (with the sanction) enter into any other arrangement whereby the members of the transferor limited liability partnership may, in lieu of receiving cash, shares, policies or other like interests (or in addition thereto), participate in the profits, or receive any other benefit from the transferee company or the transferee limited liability partnership.</p> <p>(5) A sale or arrangement in pursuance of this section is binding on members of the transferor limited liability partnership.</p>

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	<p>(6) A determination by the limited liability partnership is not invalid for the purposes of this section by reason that it is made before or concurrently with a determination by the limited liability partnership that it be wound up voluntarily or for appointing liquidators; but, if an order is made within a year for winding up the limited liability partnership by the court, the determination by the limited liability partnership is not valid unless sanctioned by the court.”</p>
Section 111 (dissent from arrangement under section 110)	
subsections (1) - (3)	<p>For subsections (1) - (3) substitute the following–</p> <p>“(1) This section applies in the case of a voluntary winding up where, for the purposes of section 110(2) or (4), a determination of the limited liability partnership has provided the sanction requisite for the liquidator under that section.</p> <p>(2) If a member of the transferor limited liability partnership who did not vote in favour of providing the sanction required for the liquidator under section 110 expresses his dissent from it in writing addressed to the liquidator and left at the registered office of the limited liability partnership within 7 days after the date on which that sanction was given, he may require the liquidator either to abstain from carrying the arrangement so sanctioned into effect or to purchase his interest at a price to be determined by agreement or arbitration under this section.</p> <p>(3) If the liquidator elects to purchase the member’s interest, the purchase money must be paid before the limited liability partnership is dissolved and be raised by the liquidator in such manner as may be determined by the limited liability partnership.”</p>
subsection (4)	Omit subsection (4).
Section 126 (power to stay or restrain proceedings against company)	
subsection (2)	Delete subsection (2).
Section 127 ( avoidance of property dispositions, etc)	

<i>Provisions</i>	<i>Modifications</i>
	For “any transfer of shares” substitute “any transfer by a member of the limited liability partnership of his interest in the property of the limited liability partnership”.
Section 165 ( voluntary winding up)	
subsection (2)	In paragraph (a) for “an extraordinary resolution of the company” substitute “a determination by a meeting of the members of the limited liability partnership”.
subsection (4)	For paragraph (c) substitute the following– “(c) summon meetings of the members of the limited liability partnership for the purpose of obtaining their sanction or for any other purpose he may think fit.”
new subsection (4A)	Insert a new subsection (4A) as follows– “(4A) Subsections (3) and (4) of section 92 shall apply for the purposes of this section as they apply for the purposes of that section.”
Section 166 (creditors' voluntary winding up)	
subsection (5)	In paragraph (b) for “directors” substitute “designated members”.
Section 171 (removal, etc (voluntary winding up))	
subsection (2)	For paragraph (a) substitute the following– “(a) in the case of a members' voluntary winding up, by a meeting of the members of the limited liability partnership summoned specially for that purpose, or”.
subsection (6)	In paragraph (a) for “final meeting of the company” substitute “final meeting of the members of the limited liability partnership” and in paragraph (b) for “final meetings of the company” substitute “final meetings of the members of the limited liability partnership”.
new subsection (7)	Insert a new subsection (7) as follows– “(7) Subsections (3) and (4) of section 92 apply for the purposes of this section as they apply for the purposes of that section .”

<i>Provisions</i>	<i>Modifications</i>
Section 173 (release (voluntary winding up)) subsection (2)	In paragraph (a) for “a general meeting of the company” substitute “a meeting of the members of the limited liability partnership”.
Section 187 (power to make over assets to employees)	Delete section 187
Section 194 (resolutions passed at adjourned meetings)	After “contributories” insert “or of the members of a limited liability partnership”.
Section 206 (fraud, etc in anticipation of winding up)(1) subsection (1)	For “passes a resolution for voluntary winding up” substitute “makes a determination that it be wound up voluntarily”.
Section 207 (transactions in fraud of creditors) subsection (1)	For “passes a resolution for voluntary winding up” substitute “makes a determination that it be wound up voluntarily”.
Section 210 (material omissions from statement relating to company’s affairs) subsection (2)	For “passed a resolution for voluntary winding up” substitute “made a determination that it be wound up voluntarily”.
Section 214 (wrongful trading) subsection (2)	Delete from “but the court shall not” to the end of the subsection.
After section 214	Insert the following new section 214A  <b>“214A Adjustment of withdrawals</b> (1) This section has effect in relation to a person who is or has been a member of a limited liability partnership where, in the course of the winding up of that limited liability partnership, it appears that subsection (2) of this section applies in relation to that person. (2) This subsection applies in relation to a person if— (a) within the period of two years ending with the commencement of the winding up, he was a member of the limited liability partnership who withdrew property of the limited liability partnership, whether in the

(1) Section 206 was amended by article 2 of, and Part I of the Schedule to, S.I.1986/1996.

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	<p>form of a share of profits, salary, repayment of or payment of interest on a loan to the limited liability partnership or any other withdrawal of property, and</p> <p>(b) it is proved by the liquidator to the satisfaction of the court that at the time of the withdrawal he knew or had reasonable grounds for believing that the limited liability partnership—</p> <p style="padding-left: 40px;">(i) was at the time of the withdrawal unable to pay its debts within the meaning of section 123 of the Act, or</p> <p style="padding-left: 40px;">(ii) would become so unable to pay its debts after the assets of the limited liability partnership had been depleted by that withdrawal taken together with all other withdrawals (if any) made by any members contemporaneously with that withdrawal or in contemplation when that withdrawal was made.</p> <p>(3) Where this section has effect in relation to any person the court, on the application of the liquidator, may declare that that person is to be liable to make such contribution (if any) to the limited liability partnership’s assets as the court thinks proper.</p> <p>(4) The court shall not make a declaration in relation to any person the amount of which exceeds the aggregate of the amounts or values of all the withdrawals referred to in subsection (2) made by that person within the period of 2 years referred to in that subsection.</p> <p>(5) The court shall not make a declaration under this section with respect to any person unless that person knew or ought to have concluded that after each withdrawal referred to in subsection (2) there was no reasonable prospect that the limited liability partnership would avoid going into insolvent liquidation.</p> <p>(6) For the purposes of subsection (5) the facts which a member ought to know or ascertain, the conclusions which he ought to reach and the steps which he ought to have taken are those which would be known or ascertained, or</p>



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	reached or taken, by a reasonably diligent person having both: <ul style="list-style-type: none"><li>(a) the general knowledge, skill and experience that may reasonably be expected of a person carrying out the same functions as are carried out by that member in relation to the limited liability partnership, and</li><li>(b) the general knowledge, skill and experience that that member has.</li></ul>
	(7) For the purposes of this section a limited liability partnership goes into insolvent liquidation if it goes into liquidation at a time when its assets are insufficient for the payment of its debts and other liabilities and the expenses of the winding up.
	(8) In this section “member” includes a shadow member.
	(9) This section is without prejudice to section 214.”
Section 215 (proceedings under ss 213, 214)	
subsection (1)	Omit the word “or” between the words “213” and “214” and insert after “214” “or 214A”.
subsection (2)	For “either section” substitute “any of those sections”.
subsection (4)	For “either section” substitute “any of those sections”.
subsection (5)	For “Sections 213 and 214” substitute “Sections 213, 214 or 214A”.
Section 218 (prosecution of delinquent officers and members of company)(2)	
subsection (1)	For “officer, or any member, of the company” substitute “member of the limited liability partnership”.
subsections (4) and (6)	For “officer of the company, or any member of it,” substitute “officer or member of the limited liability partnership”.
Section 233 (supplies of gas, water, electricity etc.)(3)	
subsection (1)	For paragraph (c) substitute the following–

(2) Section 218 was amended by section 78 of the Companies Act 1989 (c. 40).

(3) Section 233 was amended by section 112 of, and paragraph 35 of Schedule 16 to, the Electricity Act 1989 (c. 29), by section 190 of, and paragraph 78 of Schedule 25 to, the Water Act 1989 (c. 15), by section 203 of, and paragraph 43 of Schedule 20 to, the Broadcasting Act 1990 (c. 42) and by sections 16 and 17 of, and paragraph 14 of Schedule 4 and Schedule 6 to, the Gas Act 1995 (c. 45).

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subsection (4)	<p>“(c) a voluntary arrangement under Part I has taken effect in accordance with section 5”.</p> <p>For paragraph (c) substitute the following–</p> <p>“(c) the date on which the voluntary arrangement took effect in accordance with section 5”.</p>
Section 251 (expressions used generally)	<p>Delete the word “and” appearing after the definition of “the rules” and insert the word “and” after the definition of “shadow director”.</p> <p>After the definition of “shadow director” insert the following–</p> <p>““shadow member”, in relation to a limited liability partnership, means a person in accordance with whose directions or instructions the members of the limited liability partnership are accustomed to act (but so that a person is not deemed a shadow member by reason only that the members of the limited liability partnership act on advice given by him in a professional capacity);”</p>
Section 416 (monetary limits (companies winding up))	
subsection (1)	<p>In subsection (1), omit the words “section 117(2) (amount of company’s share capital determining whether county court has jurisdiction to wind it up);” and the words “section 120(3) (the equivalent as respects sheriff court jurisdiction in Scotland);”.</p>
Section 436 (expressions used generally)	<p>The following expressions and definitions shall be added to the section–</p> <p>“designated member” has the same meaning as it has in the Limited Liability Partnerships Act 2000;</p> <p>“limited liability partnership” means a limited liability partnership formed and registered under the Limited Liability Partnership Act 2000;</p> <p>“limited liability partnership agreement”, in relation to a limited liability partnership, means any agreement, express or implied, made between the members of the limited liability</p>

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Schedule 2	partnership or between the limited liability partnership and the members of the limited liability partnership which determines the mutual rights and duties of the members, and their rights and duties in relation to the limited liability partnership.
Paragraph 17	For paragraph 17 substitute the following— “17. Power to enforce any rights the limited liability partnership has against the members under the terms of the limited liability partnership agreement”
Schedule 10(4)	
Section 93(3)	In the entry relating to section 93(3) for “general meeting of the company” substitute “meeting of members of the limited liability partnership”.
Section 105(3)	In the entry relating to section 105(3) for “company general meeting” substitute “meeting of the members of the limited liability partnership”.
Section 106(6)	In the entry relating to section 106(6) for “company” substitute “the members of the limited liability partnership”

(4) Certain entries in Column 5 of Schedule 10 were repealed by section 212 of and Schedule 24 to, the Companies Act 1989 (c. 40).