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SCHEDULES

[^{F1}SCHEDULE B1

ADMINISTRATION

Textual Amendments

- F1** Sch. B1 inserted (15.9.2003) by 2002 c. 40, ss. 248(2), 279, Sch. 16 (with s. 249(1)-(3)(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

Modifications etc. (not altering text)

- C1** Sch. B1 applied in part (with modifications) (5.10.2004) by Energy Act 2004 (c. 20), ss. 159(1), 198, Sch. 20 Pts. 1-3; S.I. 2004/2575, art. 2(1), Sch. 1
- C1** Pt. 2 (including Sch. B1) applied (with modifications) (1.2.2011) by The Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2010 (S.I. 2010/3023), art. 2, Sch. (with art. 6) (as amended (1.4.2013) by S.I. 2013/472, Sch. 2 para. 195(c); and (7.4.2017) by S.I. 2017/400, regs. 1(2), 9)
- C1** Pt. 2 (including Sch. B1) applied (with modifications) (6.4.2014) by The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014 (S.I. 2014/229), art. 2(2), Sch. 1 (as renamed (1.8.2014) by S.I. 2014/1815, Sch. para 33; and as amended (1.8.2014) by S.I. 2014/1822, art. 5; and (13.3.2018) by S.I. 2018/208, regs. 1(3), 15(3)(b))
- C1** Sch. B1 applied in part (with modifications) (1.10.2011) by Postal Services Act 2011 (c. 5), ss. 73, 93(2) (3), Sch. 10 Pts. 1, 2; S.I. 2011/2329, art. 3 (with arts. 4, 5) (as amended (6.4.2017) by S.I. 2017/540, reg. 1, Sch. 1 para. 6(2) (with reg. 4))
- C1** Pt. 2 (including Sch. B1) applied (with modifications) (1.12.1994) by The Insolvent Partnerships Order 1994 (S.I. 1994/2421), art. 6(1), Sch. 2 (as amended (1.7.2005) by S.I. 2005/1516, art. 7, Sch. 1; (1.4.2013) by S.I. 2013/472, Sch. 2 para. 11(b)); (1.1.2015) by S.I. 2014/3486, arts. 1(2), 13 (with art. 3); (6.4.2017) by S.I. 2017/540, reg. 1, Sch. 2 para. 6 (with reg. 4); (19.12.2018) by S.I. 2018/1244, arts. 1(2), 19(2)(3) (with art. 3)); and (28.12.2020) (temp.) by S.I. 2020/1350, regs. 1(4), 121(3))
- C1** Sch. B1 applied (with modifications) by S.I. 2010/3023, art. 2, Sch. (as amended (13.3.2018) by The Small Business, Enterprise and Employment Act 2015 (Consequential Amendments, Savings and Transitional Provisions) Regulations 2018 (S.I. 2018/208), regs. 1(3), 12 (with reg. 22))
- C1** Sch. B1 specified provisions applied (with modifications) (4.7.2018) by The Insolvency of Registered Providers of Social Housing Regulations 2018 (S.I. 2018/728), regs. 1, 2(2), Sch. 1 Pt. 1
- C1** Sch. B1 specified provisions applied (with modifications) by S.I. 2012/3013, Sch. 2 Pt. 1 (as inserted (4.7.2018) by The Insolvency of Registered Providers of Social Housing Regulations 2018 (S.I. 2018/728), regs. 1, 3(6), Sch. 2)

APPOINTMENT OF ADMINISTRATOR BY HOLDER OF FLOATING CHARGE

Power to appoint

- 14 (1) The holder of a qualifying floating charge in respect of a company's property may appoint an administrator of the company.

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- (2) For the purposes of sub-paragraph (1) a floating charge qualifies if created by an instrument which—
- (a) states that this paragraph applies to the floating charge,
 - (b) purports to empower the holder of the floating charge to appoint an administrator of the company,
 - (c) purports to empower the holder of the floating charge to make an appointment which would be the appointment of an administrative receiver within the meaning given by section 29(2), or
 - (d) purports to empower the holder of a floating charge in Scotland to appoint a receiver who on appointment would be an administrative receiver.
- (3) For the purposes of sub-paragraph (1) a person is the holder of a qualifying floating charge in respect of a company's property if he holds one or more debentures of the company secured—
- (a) by a qualifying floating charge which relates to the whole or substantially the whole of the company's property,
 - (b) by a number of qualifying floating charges which together relate to the whole or substantially the whole of the company's property, or
 - (c) by charges and other forms of security which together relate to the whole or substantially the whole of the company's property and at least one of which is a qualifying floating charge.

Modifications etc. (not altering text)

- C1** Sch. B1 para. 14 restricted (5.10.2004) by [Energy Act 2004 \(c. 20\)](#), **ss. 163**, 198; [S.I. 2004/2575](#), **art. 2(1)**, Sch. 1
- C2** Sch. B1 para. 14 modified (5.7.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 107**, 216(3) (with [ss. 116](#), 117); [S.I. 2018/805](#), [reg. 3\(a\)](#)

Restrictions on power to appoint

- 15 (1) A person may not appoint an administrator under paragraph 14 unless—
- (a) he has given at least two business days' written notice to the holder of any prior floating charge which satisfies paragraph 14(2), or
 - (b) the holder of any prior floating charge which satisfies paragraph 14(2) has consented in writing to the making of the appointment.
- (2) One floating charge is prior to another for the purposes of this paragraph if—
- (a) it was created first, or
 - (b) it is to be treated as having priority in accordance with an agreement to which the holder of each floating charge was party.
- (3) Sub-paragraph (2) shall have effect in relation to Scotland as if the following were substituted for paragraph (a)—
- (“ it has priority of ranking in accordance with section 464(4)(b) of the Companies Act 1985 (c. 6), ”.
- 16 An administrator may not be appointed under paragraph 14 while a floating charge on which the appointment relies is not enforceable.
- 17 An administrator of a company may not be appointed under paragraph 14 if—

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- (a) a provisional liquidator of the company has been appointed under section 135, or
- (b) an administrative receiver of the company is in office.

Notice of appointment

- 18 (1) A person who appoints an administrator of a company under paragraph 14 shall file with the court—
- (a) a notice of appointment, and
 - (b) such other documents as may be prescribed.
- (2) The notice of appointment must include a statutory declaration by or on behalf of the person who makes the appointment—
- (a) that the person is the holder of a qualifying floating charge in respect of the company's property,
 - (b) that each floating charge relied on in making the appointment is (or was) enforceable on the date of the appointment, and
 - (c) that the appointment is in accordance with this Schedule.
- (3) The notice of appointment must identify the administrator and must be accompanied by a statement by the administrator—
- (a) that he consents to the appointment,
 - (b) that in his opinion the purpose of administration is reasonably likely to be achieved, and
 - (c) giving such other information and opinions as may be prescribed.
- (4) For the purpose of a statement under sub-paragraph (3) an administrator may rely on information supplied by directors of the company (unless he has reason to doubt its accuracy).
- (5) The notice of appointment and any document accompanying it must be in the prescribed form.
- (6) A statutory declaration under sub-paragraph (2) must be made during the prescribed period.
- (7) A person commits an offence if in a statutory declaration under sub-paragraph (2) he makes a statement—
- (a) which is false, and
 - (b) which he does not reasonably believe to be true.

Commencement of appointment

- 19 The appointment of an administrator under paragraph 14 takes effect when the requirements of paragraph 18 are satisfied.
- 20 A person who appoints an administrator under paragraph 14—
- (a) shall notify the administrator and such other persons as may be prescribed as soon as is reasonably practicable after the requirements of paragraph 18 are satisfied, and
 - (b) commits an offence if he fails without reasonable excuse to comply with paragraph (a).

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Invalid appointment: indemnity

- 21 (1) This paragraph applies where—
- (a) a person purports to appoint an administrator under paragraph 14, and
 - (b) the appointment is discovered to be invalid.
- (2) The court may order the person who purported to make the appointment to indemnify the person appointed against liability which arises solely by reason of the appointment's invalidity.]

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