



Insolvency Act 2000

2000 CHAPTER 39

Voluntary arrangements

1 Moratorium where directors propose voluntary arrangement

Schedule 1 (which—

- (a) enables the directors of a company to obtain an initial moratorium for the company where they propose a voluntary arrangement under Part I of the Insolvency Act 1986,
- (b) makes provision about the approval and implementation of such a voluntary arrangement where a moratorium is obtained, and
- (c) makes consequential amendments),

is to have effect.

2 Company voluntary arrangements

Schedule 2 (which—

- (a) amends the provisions about company voluntary arrangements under Part I of the Insolvency Act 1986, and
- (b) in consequence of Schedule 1 and those amendments, makes amendments of the Building Societies Act 1986),

is to have effect.

3 Individual voluntary arrangements

Schedule 3 (which enables the procedure for the approval of individual voluntary arrangements under Part VIII of the Insolvency Act 1986 to be started without an initial moratorium for the insolvent debtor and makes other amendments of the provisions about individual voluntary arrangements) is to have effect.

4 Qualification or authorisation of nominees and supervisors

- (1) Part XIII of the Insolvency Act 1986 (insolvency practitioners and their qualification) is amended as follows.
- (2) In section 388 (meaning of “act as insolvency practitioner”)—
- (a) for subsection (1)(b) there is substituted—
 - “(b) where a voluntary arrangement in relation to the company is proposed or approved under Part I, as nominee or supervisor”,
 - (b) for subsection (2)(c) there is substituted—
 - “(c) where a voluntary arrangement in relation to the individual is proposed or approved under Part VIII, as nominee or supervisor”, and
 - (c) after subsection (2A) there is inserted—
 - “(2B) In relation to a voluntary arrangement proposed under Part I or VIII, a person acts as nominee if he performs any of the functions conferred on nominees under the Part in question.”
- (3) In section 389 (acting without qualification an offence), after subsection (1) there is inserted—
- “(1A) This section is subject to section 389A.”
- (4) After that section there is inserted—

“389A Authorisation of nominees and supervisors

- (1) Section 389 does not apply to a person acting, in relation to a voluntary arrangement proposed or approved under Part I or Part VIII, as nominee or supervisor if he is authorised so to act.
- (2) For the purposes of subsection (1) and those Parts, an individual to whom subsection (3) does not apply is authorised to act as nominee or supervisor in relation to such an arrangement if—
- (a) he is a member of a body recognised for the purpose by the Secretary of State, and
 - (b) there is in force security (in Scotland, caution) for the proper performance of his functions and that security or caution meets the prescribed requirements with respect to his so acting in relation to the arrangement.
- (3) This subsection applies to a person if—
- (a) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged,
 - (b) he is subject to a disqualification order made or a disqualification undertaking accepted under the Company Directors Disqualification Act 1986 or to a disqualification order made under Part II of the Companies (Northern Ireland) Order 1989, or
 - (c) he is a patient within the meaning of Part VII of the Mental Health Act 1983 or section 125(1) of the Mental Health (Scotland) Act 1984.

- (4) The Secretary of State may by order declare a body which appears to him to fall within subsection (5) to be a recognised body for the purposes of subsection (2)(a).
- (5) A body may be recognised if it maintains and enforces rules for securing that its members—
 - (a) are fit and proper persons to act as nominees or supervisors, and
 - (b) meet acceptable requirements as to education and practical training and experience.
- (6) For the purposes of this section, a person is a member of a body only if he is subject to its rules when acting as nominee or supervisor (whether or not he is in fact a member of the body).
- (7) An order made under subsection (4) in relation to a body may be revoked by a further order if it appears to the Secretary of State that the body no longer falls within subsection (5).
- (8) An order of the Secretary of State under this section has effect from such date as is specified in the order; and any such order revoking a previous order may make provision for members of the body in question to continue to be treated as members of a recognised body for a specified period after the revocation takes effect.”