

SCHEDULES

SCHEDULE 9

ARRANGEMENTS AND RECONSTRUCTIONS FOR COMPANIES IN FINANCIAL DIFFICULTY

PART 2

CONSEQUENTIAL AMENDMENTS

Companies Act 2006

- 35 (1) Part 26 (arrangements and reconstructions) is amended as follows.
- (2) The heading becomes “ARRANGEMENTS AND RECONSTRUCTIONS: GENERAL”.
- (3) In section 896, at the end insert—
- “(4) This section is subject to section 899A (moratorium debts, etc).”
- (4) In section 899 (court sanction for compromise or arrangement)—
- (a) after subsection (1) insert—
- “(1A) Subsection (1) is subject to section 899A (moratorium debts, etc).”;
- (b) omit subsection (5).
- (5) After section 899 insert—

“Special cases

899A Moratorium debts, etc

- (1) This section applies where—
- (a) an application under section 896 in respect of a compromise or arrangement is made before the end of the period of 12 weeks beginning with the day after the end of any moratorium for the company under Part A1 of the Insolvency Act 1986 or Part 1A of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), and
- (b) the creditors with whom the compromise or arrangement is proposed include any relevant creditors (see subsection (2)).
- (2) In this section “relevant creditor” means—
- (a) a creditor in respect of a moratorium debt, or
- (b) a creditor in respect of a priority pre-moratorium debt.
- (3) The relevant creditors may not participate in the meeting summoned under section 896.

Status: This is the original version (as it was originally enacted).

- (4) For the purposes of section 897 (statement to be circulated or made available)
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- (a) the requirement in section 897(1)(a) is to be read as including a requirement to send each relevant creditor a statement complying with section 897;
 - (b) any reference to creditors entitled to attend the meeting summoned under section 896 includes a reference to relevant creditors.
- (5) The court may not sanction the compromise or arrangement under section 899 if it includes provision in respect of any relevant creditor who has not agreed to it.
- (6) In this section—
- “moratorium debt”—
 - (a) in the case of a moratorium under Part A1 of the Insolvency Act 1986, has the same meaning as in section 174A of that Act;
 - (b) in the case of a moratorium under Part 1A of the Insolvency (Northern Ireland) Order 1989, has the same meaning as in Article 148A of that Order;
 - “priority pre-moratorium debt”—
 - (a) in the case of a moratorium under Part A1 of the Insolvency Act 1986, has the same meaning as in section 174A of that Act;
 - (b) in the case of a moratorium under Part 1A of the Insolvency (Northern Ireland) Order 1989, has the same meaning as in Article 148A of that Order.”