

## SCHEDULES

### SCHEDULE 3

Section 27

#### WINDING-UP AND BANKRUPTCY PETITIONS

##### *Prohibition on presenting a winding-up petition solely in relation to a protected rent debt*

- 1 (1) This paragraph applies where a landlord under a business tenancy is owed a protected rent debt and the tenant is a company.
- (2) The landlord may not, during the moratorium period for the debt, present a petition for the winding up of the company under section 124 of the Insolvency Act 1986 on a ground specified—
- (a) in the case of a registered company, in section 122(1)(f) of that Act, or
  - (b) in the case of an unregistered company, in section 221(5)(b) of that Act,
- unless the landlord is owed a debt by the company which is not a protected rent debt.
- (3) In this paragraph—
- “the moratorium period”, in relation to a protected rent debt, has the same meaning as in section 23;
  - “registered company” means a company registered under the Companies Act 2006 in England and Wales or Scotland;
  - “unregistered company” has the same meaning as in Part 5 of the Insolvency Act 1986.
- (4) This paragraph, so far as relating to registered companies, applies to limited liability partnerships.

##### *Prohibition on presenting a bankruptcy order petition in relation to a protected rent debt*

- 2 (1) This paragraph (and paragraph 3) applies where the landlord under a business tenancy is owed a protected rent debt and the tenant is an individual.
- (2) The landlord may not present a petition for a bankruptcy order against the tenant on a ground specified in section 268(1)(a) or (2) of the Insolvency Act 1986 where the demand referred to in those provisions related to any protected rent debt and was served during the relevant period.
- (3) The landlord may not present a petition for a bankruptcy order against the tenant on a ground specified in section 268(1)(b) of that Act where the judgment or order referred to in that provision related to any protected rent debt and the claim for that debt was issued during the relevant period.
- (4) If a petition mentioned in sub-paragraph (2) or (3) is presented, the court may make such order or give such directions as it thinks appropriate to restore the position to what it would have been if the petition had not been presented.

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*Status: This is the original version (as it was originally enacted).*

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- (5) If it appears to the interim receiver or special manager that the petition is one mentioned in sub-paragraph (2) or (3), the interim receiver or special manager must refer the matter to the court to determine whether to make an order or give directions under sub-paragraph (4).
- (6) Neither the interim receiver or special manager is liable in any civil or criminal proceedings for anything done pursuant to an order made under section 286 or 370 of the Insolvency Act 1986 in relation to a petition that relates to any protected rent debt.
- (7) The “relevant period” is the period which begins on 10 November 2021 and ends with the day mentioned in section 23(2)(b).
- (8) In this paragraph “claim” includes a counterclaim or any other way of claiming payment of a debt in civil proceedings.
- (9) This paragraph is to be regarded as having come into force on 10 November 2021.

*Bankruptcy orders made before the day on which this Act is passed*

- 3
- (1) This paragraph applies where—
    - (a) a court makes a bankruptcy order against the tenant on a petition from the landlord under section 267 of the Insolvency Act 1986,
    - (b) the order was made on or after 10 November 2021 but before the day on which this Schedule comes into force, and
    - (c) the order was not one which the court would have made had this Schedule been in force at the time.
  - (2) The court is to be regarded as having had no power to make the order (and, accordingly, the order is to be regarded as void).
  - (3) Neither the trustee, official receiver, interim receiver or special manager is liable in any civil or criminal proceedings for anything done pursuant to the order.
  - (4) The court may make such order or give such directions as it thinks appropriate to restore the position to what it was immediately before the petition was presented.
  - (5) If at any time it appears to the trustee, official receiver, interim receiver or special manager that—
    - (a) a bankruptcy order made by the court is void by virtue of sub-paragraph (2), and
    - (b) it might be appropriate for the court to make an order or give directions under sub-paragraph (4),
 the trustee, official receiver, interim receiver or special manager must refer the matter to the court to determine whether to make such an order or give such directions.

*Interpretation*

- 4
- (1) In this Schedule—
    - “interim receiver” means a person appointed under section 286 of the Insolvency Act 1986;
    - “special manager” means a person appointed under section 370 of that Act;
    - “trustee” means the trustee of a bankrupt’s estate.

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

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- (2) In this Schedule, references to the “tenant” include—
- (a) a person who has guaranteed the obligations of the tenant under a business tenancy,
  - (b) a person other than the tenant who is liable on an indemnity basis for the payment of rent under a business tenancy, and
  - (c) a former tenant who is liable for the payment of rent under a business tenancy.