

## SCHEDULE 4

### PROVISIONS OF THE ACT WHICH APPLY WITH MODIFICATIONS FOR THE PURPOSES OF ARTICLE 8 TO WINDING UP OF INSOLVENT PARTNERSHIP ON CREDITOR'S PETITION WHERE CONCURRENT PETITIONS ARE PRESENTED AGAINST ONE OR MORE MEMBERS

## PART II

### OTHER MODIFIED PROVISIONS OF THE ACT ABOUT WINDING UP BY THE COURT AND BANKRUPTCY OF INDIVIDUALS

#### **Sections 131 and 288: Statements of affairs Insolvent partnerships; corporate members; individual members**

10. Sections 131 and 288 are modified so as to read as follows—

“**131.**—(1) This section applies where the court has, by virtue of article 8 of the Insolvent Partnerships Order 1994—

- (a) made a winding-up order or appointed a provisional liquidator in respect of an insolvent partnership, or
- (b) made a winding-up order or appointed a provisional liquidator in respect of any corporate member of that partnership, or
- (c) made a bankruptcy order in respect of any individual member of that partnership.

(2) The official receiver may require some or all of the persons mentioned in subsection (4) below to make out and submit to him a statement as to the affairs of the partnership or member in the prescribed form.

(3) The statement shall be verified by affidavit by the persons required to submit it and shall show—

- (a) particulars of the debts and liabilities of the partnership or of the member (as the case may be), and of the partnership property and member's assets;
- (b) the names and addresses of the creditors of the partnership or of the member (as the case may be);
- (c) the securities held by them respectively;
- (d) the dates when the securities were respectively given; and
- (e) such further or other information as may be prescribed or as the official receiver may require.

(4) The persons referred to in subsection (2) are—

- (a) those who are or have been officers of the partnership;
- (b) those who are or have been officers of the corporate member;
- (c) those who have taken part in the formation of the partnership or of the corporate member at any time within one year before the relevant date;
- (d) those who are in the employment of the partnership or of the corporate member, or have been in such employment within that year, and are in the official receiver's opinion capable of giving the information required;

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- (e) those who are or have been within that year officers of, or in the employment of, a company which is, or within that year was, an officer of the partnership or an officer of the corporate member.

(5) Where any persons are required under this section to submit a statement of affairs to the official receiver, they shall do so (subject to the next subsection) before the end of the period of 21 days beginning with the day after that on which the prescribed notice of the requirement is given to them by the official receiver.

(6) The official receiver, if he thinks fit, may—

- (a) at any time release a person from an obligation imposed on him under subsection (2) or (3) above; or
- (b) either when giving the notice mentioned in subsection (5) or subsequently, extend the period so mentioned;

and where the official receiver has refused to exercise a power conferred by this sub section, the court, if it thinks fit, may exercise it.

(7) In this section

“employment” includes employment under a contract for services; and

“the relevant date” means—

- (a) in a case where a provisional liquidator is appointed, the date of his appointment; and
- (b) in a case where no such appointment is made, the date of the winding-up order.

(8) Any person who without reasonable excuse fails to comply with any obligation imposed under this section (other than, in the case of an individual member, an obligation in respect of his own statement of affairs), is liable to a fine and, for continued contravention, to a daily default fine.

(9) An individual member who without reasonable excuse fails to comply with any obligation imposed under this section in respect of his own statement of affairs, is guilty of a contempt of court and liable to be punished accordingly (in addition to any other punishment to which he may be subject).”.