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STATUTORY INSTRUMENTS

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**2005 No. 1516**

**The Insolvent Partnerships (Amendment) Order 2005**

**Amendments to Schedule 4 of the Insolvent Partnerships Order 1994**

9.—(1) Schedule 4 to the 1994 Order (modified provisions of the Act applying for purposes of Article 8) is amended as follows.

(2) In paragraph 1(2) of Part I after “283” insert “283A” and after “305” insert “313A”.

(3) In paragraph 15 of Part II (section 140: appointment by the court following administration or voluntary arrangement), in modified section 140(2) for “discharge of an administration order in respect of the partnership” substitute “appointment of an administrator in respect of the partnership ceasing to have effect” and for “who has ceased on the discharge of the administration order to be the administrator of the partnership” substitute “whose appointment as administrator has ceased to have effect”.

(4) After paragraph 28 of Part II (section 283: definition of individual member’s estate) insert new paragraph 28A as follows:—

“**28A.** Section 283A: Individual member’s home ceasing to form part of estate

Section 283A is modified so as to read as follows:—

“**283A.**—(1) This section applies where property comprised in the estate of an individual member consists of an interest in a dwelling-house which at the date of the bankruptcy was the sole or principal residence of—

- (a) the individual member;
- (b) the individual member’s spouse, or
- (c) a former spouse of the individual member.

(2) At the end of the period of three years beginning with the date of the bankruptcy the interest mentioned in subsection (1) shall—

- (a) cease to be comprised in the individual member’s estate, and
- (b) vest in the individual member (without conveyance, assignment or transfer).

(3) Subsection (2) shall not apply if during the period mentioned in that subsection—

- (a) the trustee realises the interest mentioned in subsection (1),
- (b) the trustee applies for an order for sale in respect of the dwelling-house,
- (c) the trustee applies for an order for possession of the dwelling-house,
- (d) the trustee applies for an order under section 313 in Chapter IV in respect of that interest, or
- (e) the trustee and the individual member agree that the individual member shall incur a specified liability to his estate (with or without the addition of interest from the date of the agreement) in

consideration of which the interest mentioned in subsection (1) shall cease to form part of the estate.

(4) Where an application of a kind described in subsection (3)(b) to (d) is made during the period mentioned in subsection (2) and is dismissed, unless the court orders otherwise the interest to which the application relates shall on the dismissal of the application—

- (a) cease to be comprised in the individual member’s estate, and
- (b) vest in the individual member (without conveyance, assignment or transfer).

(5) If the individual member does not inform the trustee or the official receiver of his interest in a property before the end of the period of three months beginning with the date of the bankruptcy, the period of three years mentioned in subsection (2)—

- (a) shall not begin with the date of the bankruptcy, but
- (b) shall begin with the date on which the trustee or official receiver becomes aware of the individual member’s interest.

(6) The court may substitute for the period of three years mentioned in subsection (2) a longer period—

- (a) in prescribed circumstances, and
- (b) in such other circumstances as the court thinks appropriate.

(7) The rules may make provision for this section to have effect with the substitution of a shorter period for the period of three years mentioned in subsection (2) in specified circumstances (which may be described by reference to action to be taken by a trustee in bankruptcy).

(8) The rules may also, in particular, make provision—

- (a) requiring or enabling the trustee of an individual member’s estate to give notice that this section applies or does not apply;
- (b) about the effect of a notice under paragraph (a);
- (c) requiring the trustee of an individual member’s estate to make an application to the Chief Land Registrar.

(9) Rules under subsection (8)(b) may, in particular—

- (a) disapply this section;
- (b) enable a court to disapply this section;
- (c) make provision in consequence of a disapplication of this section;
- (d) enable a court to make provision in consequence of a disapplication of this section;
- (e) make provision (which may include provision conferring jurisdiction on a court or tribunal) about compensation.””.

(5) After paragraph 29 of Part II (section 284: individual member: restrictions on dispositions of property) insert new paragraph 29A as follows—

“**29A.** Section 313A: Low value home: application for sale, possession or charge

Section 313A is modified so as to read as follows:—

“**313A.**—(1) This section applies where—

- (a) property comprised in the individual member's estate consists of an interest in a dwelling-house which at the date of the bankruptcy was the sole or principal residence of—
    - (i) the individual member,
    - (ii) the individual member's spouse, or
    - (iii) a former spouse of the individual member, and
  - (b) the trustee applies for an order for the sale of the property, for an order for possession of the property or for an order under section 313 in respect of the property.
- (2) The court shall dismiss the application if the value of the interest is below the amount prescribed for the purposes of this subsection.
- (3) In determining the value of an interest for the purposes of this section the court shall disregard any matter which it is required to disregard by the order which prescribes the amount for the purposes of subsection (2).”.”.
- (6) In paragraph 30 (modification of Schedule 4) insert after modified paragraph 3 of modified Schedule 4 the following—
- “**3A.** Power to bring legal proceedings under section 213, 214, 238, 239 or 423.”.