

## SCHEDULE 2

### Consequential amendments to subordinate legislation

#### **Insolvent Partnerships Order 1994**

**10.** After Schedule 7 insert—

“SCHEDULE 7A

Article 11A

#### **Decisions of Creditors of the Partnership and of the Members of the Partnership**

1. Sections 246ZE, 246ZF, 379ZA and 379ZB of the Act are set out as modified in this Schedule.

2. Sections 246ZE and 246ZF are modified so as to read as follows—

##### **“Creditors’ decisions: general**

**246ZE.**—(1) This section applies where, for the purposes of this Group of Parts, a person (“P”) seeks a decision about any matter from the creditors of the partnership and the creditors of any insolvent members.

(2) The decision may be made by any qualifying decision procedure P thinks fit, except that it may not be made by a meeting of the creditors of the partnership and the creditors of any insolvent members unless subsection (3) applies.

(3) This subsection applies if at least the minimum number of creditors make a request to P in writing that the decision be made by a meeting.

(4) If subsection (3) applies P must summon a meeting of the creditors of the partnership and the creditors of any insolvent members.

(5) Subsection (2) is subject to any provision of this Act, the rules or any other legislation, or any order of the court—

(a) requiring a decision to be made, or prohibiting a decision from being made, by a particular qualifying decision procedure (other than a meeting);

(b) permitting or requiring a decision to be made by a meeting.

(6) Section 246ZF provides that in certain cases the deemed consent procedure may be used instead of a qualifying decision procedure.

(7) For the purposes of subsection (3) the “minimum number” of creditors is any of the following—

(a) 10% in value of the creditors;

(b) 10% in number of the creditors;

(c) 10 creditors.

(8) The references in subsection (7) to creditors are to creditors of any class, even where a decision is sought only from creditors of a particular class.

(9) In this section references to a meeting are to a meeting where the creditors are invited to be present together at the same place (whether or not it is possible to attend the meeting without being present at that place).

(10) Except as provided by subsection (8), references in this section to creditors include creditors of a particular class.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(11) In this Group of Parts “qualifying decision procedure” means a procedure prescribed or authorised under paragraph 8A of Schedule 8.

### **Deemed consent procedure**

**246ZF.**—(1) The deemed consent procedure may be used instead of a qualifying decision procedure where the creditors of the partnership and the creditors of any insolvent members are to make a decision about any matter, unless—

- (a) a decision about the matter is required by virtue of this Act, the rules, or any other legislation to be made by a qualifying decision procedure, or
- (b) the court orders that a decision about the matter is to be made by a qualifying decision procedure.

(2) If the rules provide for the creditors of the partnership and the creditors of any insolvent members to make a decision about the remuneration of any person, they must provide that the decision is to be made by a qualifying decision procedure.

(3) The deemed consent procedure is that the relevant creditors (other than opted-out creditors) are given notice of—

- (a) the matter about which they are to make a decision,
- (b) the decision that the person giving the notice proposes should be made (the “proposed decision”),
- (c) the effect of subsections (4) and (5), and
- (d) the procedure for objecting to the proposed decision.

(4) If less than the appropriate number of relevant creditors object to the proposed decision in accordance with the procedure set out in the notice, the creditors are to be treated as having made the proposed decision.

(5) Otherwise—

- (a) the creditors are to be treated as not having made a decision about the matter in question, and
- (b) if a decision about that matter is again sought from the creditors it must be sought using a qualifying decision procedure.

(6) For the purposes of subsection (4) the “appropriate number” of relevant creditors or is 10% in value of those creditors.

(7) “Relevant creditors” means the creditors who, if the decision were to be made by a qualifying decision procedure, would be entitled to vote in the procedure.

(8) In this section references to creditors include creditors of a particular class.”

3. Sections 379ZA and 379ZB are modified so as to read as follows—

### **“Creditors’ decisions: general**

**379ZA.**—(1) This section applies where, for the purposes of this Group of Parts, a person (“P”) seeks a decision from the creditors of the partnership and the creditors of any insolvent members about any matter.

(2) The decision may be made by any creditors’ decision procedure P thinks fit, except that it may not be made by a meeting of the creditors of the partnership and the creditors of any insolvent members unless subsection (3) applies.

(3) This subsection applies if at least the minimum number of creditors request in writing that the decision be made by a creditors’ meeting.

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(4) If subsection (3) applies, P must summon a meeting of the creditors of the partnership and the creditors of any insolvent member.

(5) Subsection (2) is subject to any provision of this Act, the rules or any other legislation, or any order of the court—

- (a) requiring a decision to be made, or prohibiting a decision from being made, by a particular creditors' decision procedure (other than a meeting);
- (b) permitting or requiring a decision to be made by a meeting.

(6) Section 379ZB provides that in certain cases the deemed consent procedure may be used instead of a creditors' decision procedure.

(7) For the purposes of subsection (3) the "minimum number" of creditors is any of the following—

- (a) 10% in value of the creditors;
- (b) 10% in number of the creditors;
- (c) 10 creditors.

(8) The references in subsection (7) to creditors are to creditors of any class, even where a decision is sought only from creditors of a particular class.

(9) In this section references to a meeting are to a meeting where the creditors are invited to be present together at the same place (whether or not it is possible to attend the meeting without being present at that place).

(10) Except as provided by subsection (8), references in this section to creditors include creditors of a particular class.

(11) In this Group of Parts "creditors' decision procedure" means a procedure prescribed or authorised under paragraph 11A of Schedule 9.

### **Deemed consent procedure**

**379ZB.**—(1) The deemed consent procedure may be used instead of a creditors' decision procedure where the creditors of the partnership and the creditors of any insolvent members are to make a decision about any matter, unless—

- (a) a decision about the matter is required by virtue of this Act, the rules or any other legislation to be made by a creditors' decision procedure, or
- (b) the court orders that a decision about the matter is to be made by a creditors' decision procedure.

(2) If the rules provide for the creditors of the partnership and the creditors of any insolvent members to make a decision about the remuneration of any person, they must provide that the decision is to be made by a creditors' decision procedure.

(3) The deemed consent procedure is that the relevant creditors (other than opted-out creditors) are given notice of—

- (a) the matter about which the creditors are to make a decision,
- (b) the decision the person giving the notice proposes should be made (the "proposed decision"),
- (c) the effect of subsections (4) and (5), and
- (d) the procedure for objecting to the proposed decision.

(4) If less than the appropriate number of relevant creditors object to the proposed decision in accordance with the procedure set out in the notice, the creditors are to be treated as having made the proposed decision.

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- (5) Otherwise—
  - (a) the creditors are to be treated as not having made a decision about the matter in question, and
  - (b) if a decision about that matter is again sought from the creditors, it must be sought using a creditors’ decision procedure.
- (6) For the purposes of subsection (4) the “appropriate number” of relevant creditors is 10% in value of those creditors.
- (7) “Relevant creditors” means the creditors who, if the decision were to be made by a creditors’ decision procedure, would be entitled to vote in the procedure.
- (8) In this section references to creditors include creditors of a particular class.
- (9) The rules may make further provision about the deemed consent procedure.””