

SCHEDULE 2

Consequential amendments to subordinate legislation

Insolvent Partnerships Order 1994

9.—(1) Schedule 7 (provisions which apply with modifications where joint bankruptcy petition presented in certain circumstances) is amended as follows

(2) In paragraph 3, after section 265(2) as there modified, insert—

“(3) A joint bankruptcy petition may be presented to the court by the members of a partnership only on the grounds that the partnership is unable to pay its debts.

(4) A petition under subsection (3) must be accompanied by—

(a) a statement of each member’s affairs in Form 17 in Schedule 9 to the Insolvent Partnerships Order 1994, and

(b) a statement of the affairs of the partnership in Form 18 in that Schedule, sworn by one or more members of the partnership.

(5) The statements of affairs required by subsection (4) must contain—

(a) particulars of the member’s or (as the case may be) partnership’s creditors, debts and other liabilities and of their assets, and

(b) such other information as is required by the relevant form.”.

(3) Omit paragraph 5.

(4) In paragraph 7, in section 283(4)(a) as there modified, for “a meeting summoned by the trustee of that estate under section 331 in Chapter IV has been held” substitute “the trustee of that estate has vacated office under section 298(6)”

(5) In paragraph 10, in section 292 as there modified—

(a) for subsection (1), substitute—

“**292.**—(1) This section applies to any appointment of a person (other than the official receiver) as trustee of a bankrupt’s estate.”; and

(b) omit subsection (5).

(6) Omit paragraphs 11 and 12.

(7) In paragraph 13, for section 296(6) and (7) as there modified substitute—

“(6) In that notice or advertisement the trustee must explain the procedure for establishing a creditors’ committee under section 301, except in a case where such a committee has already been formed, in which case the trustee must state whether he proposes to appoint additional members of the committee under section 301A(3).”.

(8) Omit paragraph 14.

(9) In paragraph 15, in section 298 as there modified, for subsection (6) substitute—

“(6) A trustee who has produced an account of the winding up or administration under section 331 must vacate office immediately upon complying with the requirements of section 331(3).”

(10) In paragraph 16, in section 299 as there modified—

(a) in subsection (1)(a)—

(i) for “a combined general meeting of” substitute “the”; and

(ii) for “to the court” substitute “under this paragraph to the prescribed person”; and

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

(b) for subsection (3)(d) substitute—

“(d) in the case of a person who has vacated office under section 298(6)—

(i) if any of the creditors of the members and of the partnership objected to the person’s release before the end of the period for so objecting prescribed by the rules, such time as the Secretary of State may, on an application by that person, determine, and

(ii) otherwise, the time at which the person vacated office.”.

(11) In paragraph 17, in section 300(5) as there modified, for the words from “holding” to “331” substitute “vacation of office by the trustee under section 298(6)”.

(12) In paragraph 18—

(a) in section 301 as there modified—

(i) in subsection (1) for the words from “a combined” to “otherwise)” substitute “the creditors of the members and of the partnership”;

(ii) in subsection (2)—

(aa) for “A combined general meeting of the” substitute “The”;

(bb) for “an appointment made by that meeting” substitute “the appointment”.

(13) For paragraph 22 substitute—

“Section 331: Final Account

22. Section 331 is modified to read as follows—

“**331.**—(1) Subject as follows in this section and the next, this section applies where—

(a) it appears to the trustee of the estates of the members and of the partnership that the administration of any member’s estate or the winding up of the partnership business and administration of the partnership property is for practical purposes complete, and

(b) the trustee is not the official receiver.

(2) The trustee must—

(a) give the creditors of the members and of the partnership (other than opted-out creditors) notice that it appears to the trustee that the administration of the member’s estate or the winding up of the partnership business and administration of the partnership property is for practical purposes complete,

(b) make up an account of the administration or winding up, showing how it has been conducted and the property disposed of.

(c) send a copy of the account to the creditors of the members and of the partnership (other than opted-out creditors), and

(d) give the creditors of the members and of the partnership (other than opted-out creditors) a notice explaining the effect of section 299(3)(d) and how they may object to the trustee’s release.

(3) The trustee must during the relevant period send to the court and, in the case of a corporate member, send to the registrar of companies—

(a) a copy of the account, and

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

- (b) a statement of whether any of the creditors of the members and of the partnership objected to the trustee's release.
- (4) The relevant period is the period of 7 days beginning with the day after the last day of the period prescribed by the rules as the period within which the creditors may object to the trustee's release.””