SCHEDULE

PART 1

Amendments to the Insolvency Act 1986

1. The Insolvency Act 1986 is amended as follows.

Commencement Information
I1 Sch. para. 1 in force at 26.6.2017, see **reg. 1**

2. In section 1 (those who may propose an arrangement) in subsection (5) for the words from "the EC Regulation" to the end substitute "Article 3 of the EU Regulation"(**1**).

Commencement Information
I2 Sch. para. 2 in force at 26.6.2017, see **reg. 1**

3. In section 106 (final account prior to dissolution) after subsection (4) insert—

"(4A) Subsection (4B) applies where, immediately before the liquidator sends a copy of the account of the winding up to the registrar under subsection (3), there are EU insolvency proceedings open in respect of the company in one or more other member States.

(4B) The liquidator must send to the registrar, with the copy of the account, a statement—

(a) identifying those proceedings,

(b) identifying the member State liquidator appointed in each of those proceedings, and

(c) indicating, in relation to each of those member State liquidators, whether that member State liquidator consents to the company being dissolved."

Commencement Information
I3 Sch. para. 3 in force at 26.6.2017, see **reg. 1**

4. In section 117 (High Court and county court jurisdiction) in subsection (7) for "the EC Regulation (jurisdiction under EC Regulation)" substitute "the EU Regulation (jurisdiction under EU Regulation)"(**2**).

Commencement Information
I4 Sch. para. 4 in force at 26.6.2017, see **reg. 1**

5. In section 120 (Court of Session and sheriff court jurisdiction) in subsection (6) for "the EC Regulation (jurisdiction under EC Regulation)" substitute "the EU Regulation (jurisdiction under EU Regulation)"(**3**).

(**1**) Subsection (5) was inserted by S.I. 2005/879.
(**2**) Subsection (7) was inserted by S.I. 2002/1240.
(**3**) Subsection (6) was inserted by S.I. 2002/1240.

Commencement Information
I5 Sch. para. 5 in force at 26.6.2017, see **reg. 1**

6. In section 124 (application for winding up)(**4**) in subsection (1) for the words from "a liquidator" to "(within the meaning of Article 38 of the EC Regulation)" substitute "a member State liquidator appointed in proceedings by virtue of Article 3(1) of the EU Regulation or a temporary administrator (within the meaning of Article 52 of the EU Regulation)".

Commencement Information
I6 Sch. para. 6 in force at 26.6.2017, see **reg. 1**

7. In section 146 (final account)(**5**) after subsection (5) insert—

"(6) Subsection (7) applies where, immediately before the liquidator sends a copy of the account to the registrar under subsection (4) (or, where the liquidator sends a copy of the account to the court and the registrar on different days, immediately before the liquidator sends the first of those copies) there are EU insolvency proceedings open in respect of the company in one or more other member States.

(7) The liquidator must send to the court and the registrar, with the copy of the account, a statement—

(a) identifying those proceedings,

(b) identifying the member State liquidator appointed in each of those proceedings,

(c) indicating, in relation to each of those member State liquidators, whether that member State liquidator consents to the company being dissolved."

Commencement Information
I7 Sch. para. 7 in force at 26.6.2017, see **reg. 1**

8. After section 146 insert—

"**146A Official receiver's duty to send statement to registrar about other proceedings**

(1) This section applies where—

(a) the official receiver sends to the registrar of companies a notice that the winding up of a company by the court is complete, and

(b) immediately before the official receiver sends the notice there are EU insolvency proceedings open in respect of the company in one or more other member States.

(2) The official receiver must send to the registrar, with the notice, a statement—

(a) identifying those proceedings,

(b) identifying the member State liquidator appointed in each of those proceedings, and

(c) indicating, in relation to each of those member State liquidators, whether that member State liquidator consents to the company being dissolved."

(**4**) Relevant amendments to subsection (1) were made by S.I. 2002/1240.
(**5**) Section 146 has been amended by the Small Business, Enterprise and Employment Act 2015.

Commencement Information
I8 Sch. para. 8 in force at 26.6.2017, see **reg. 1**

9.—(1) Section 201 (dissolution on voluntary winding up)(**6**) is amended as follows.

(2) In subsection (2)—

(a) after "or the account and statement" insert "and any statement under section 106(4B),";

(b) at the end insert "(except where subsection (2A) applies)".

(3) After that subsection insert—

"(2A) This subsection applies where a statement sent to the registrar under section 106(4B) indicates that a member State liquidator does not consent to the company being dissolved.

(2B) Where subsection (2A) applies, the company is deemed to be dissolved at the end of the period of 3 months beginning with the date (if any) recorded in the register as the date on which the registrar was notified that—

(a) all proceedings identified in the statement sent under section 106(4B) were closed, or

(b) every member State liquidator appointed in those proceedings consented to the company being dissolved."

Commencement Information
I9 Sch. para. 9 in force at 26.6.2017, see **reg. 1**

10.—(1) Section 202 (early dissolution: England and Wales)(**7**) is amended as follows.

(2) After subsection (2) insert—

"(2A) Subsection (2B) applies where, immediately before the official receiver makes an application under subsection (2), there are EU insolvency proceedings open in respect of the company in one or more other member States.

(2B) The official receiver must send to the registrar, with the application, a statement—

(a) identifying those proceedings,

(b) identifying the member State liquidator appointed in each of those proceedings, and

(c) indicating, in relation to each of those member State liquidators, whether that member State liquidator consents to the company being dissolved."

(3) In subsection (3) for "that application" substitute "an application under subsection (2)".

(4) In subsection (4) for "of this section" substitute "and send any statement under subsection (2B)".

(5) In subsection (5)—

(a) in the first sentence—

(i) after "under subsection (2)" insert "and any statement under subsection (2B)",

(**6**) Relevant amendments to section 201 have been made by the Small Business, Enterprise and Employment Act 2015 (c.26) and by S.I. 2006/3429.

(**7**) Relevant amendments to section 202 have been made by the Small Business, Enterprise and Employment Act 2015 (c.26).

(ii) after “shall forthwith register it” insert “or them”, and

(iii) at the end insert “(except where subsection (6) applies)”;

(b) after the first sentence insert—

“(6) This subsection applies where a statement under subsection (2B) indicates that a member State liquidator does not consent to the company being dissolved.

(7) Where subsection (6) applies, the company is deemed to be dissolved at the end of the period of 3 months beginning with the date (if any) recorded in the register as the date on which the registrar was notified that—

(a) all proceedings identified in the statement under subsection (2B) were closed, or

(b) every member State liquidator appointed in those proceedings consented to the company being dissolved.”

(6) In that subsection the second sentence becomes subsection (8).

(7) In that subsection, for “that period” substitute “the period in subsection (5) or (7)”.

Commencement Information

I10 Sch. para. 10 in force at 26.6.2017, see **reg. 1**

11. In section 203 (consequence of notice under section 202), in subsection (3)(b) for "section 202(5)" substitute “section 202(8)”.

Commencement Information

I11 Sch. para. 11 in force at 26.6.2017, see **reg. 1**

12.—(1) Section 205 (dissolution otherwise than under sections 202 to 204) is amended as follows.

(2) In subsection (2)—

(a) after “or the notice” insert “and any statement under section 146(7) or 146A(2)”, and

(b) after “the registration” insert “of the final account or notice”.

(3) After that subsection insert—

“(2A) Subsection (2B) applies where a statement sent to the registrar under section 146(7) or 146A(2) indicates that a member State liquidator does not consent to the company being dissolved.

(2B) The company is not dissolved at the end of the period mentioned in subsection (2) but is instead dissolved at the end of the period of 3 months beginning with the date (if any) recorded in the register as the date on which the registrar was notified that—

(a) all proceedings identified in the statement under section 146(7) or 146A(2) were closed, or

(b) every member State liquidator appointed in those proceedings consented to the company being dissolved.”

Commencement Information

I12 Sch. para. 12 in force at 26.6.2017, see **reg. 1**

13. In section 221 (winding up of unregistered companies)(**8**) in subsection (4) for "EC Regulation" substitute "EU Regulation".

Commencement Information
I13 Sch. para. 13 in force at 26.6.2017, see **reg. 1**

14. In section 225 (company incorporated outside Great Britain may be wound up though dissolved)(**9**) in subsection (2) for "EC Regulation" substitute "EU Regulation".

Commencement Information
I14 Sch. para. 14 in force at 26.6.2017, see **reg. 1**

15. In section 240 ("relevant time" under sections 238 and 239) in subsection (3)(d) for "Article 37 of the EC Regulation" substitute "Article 51 of the EU Regulation".

Commencement Information
I15 Sch. para. 15 in force at 26.6.2017, see **reg. 1**

16. In section 247 (meaning of "insolvency" and "go into liquidation")(**10**) in subsection (3)(b) for "Article 37 of the EC Regulation" substitute "Article 51 of the EU Regulation".

Commencement Information
I16 Sch. para. 16 in force at 26.6.2017, see **reg. 1**

17. In section 251 (expressions used generally) at the appropriate places insert the following definitions—

> ""EU insolvency proceedings" means insolvency proceedings as defined in Article 2(4) of the EU Regulation;";
>
> ""member State liquidator" means a person falling within the definition of "insolvency practitioner" in Article 2(5) of the EU Regulation appointed in insolvency proceedings listed in Annex A to the EU Regulation;".

Commencement Information
I17 Sch. para. 17 in force at 26.6.2017, see **reg. 1**

18. In section 263I (debtors against whom an adjudicator may make a bankruptcy order)(**11**) in subsections (1)(b) and (4) for "EC Regulation" substitute "EU Regulation".

(**8**) Relevant amendment has been made by S.I. 2002/1240.
(**9**) Relevant amendment has been made by S.I. 2002/1240.
(**10**) Relevant amendments have been made by S.I. 2002/1240 and paragraph 33 of Schedule 17 to the Enterprise Act 2002 (c.40).
(**11**) Section 263I was inserted by the Enterprise and Regulatory Reform Act 2013 (c.24).

Commencement Information
I18 Sch. para. 18 in force at 26.6.2017, see **reg. 1**

19. In section 264 (who may present a bankruptcy petition)(**12**)—

(a) in subsection (1)(ba) for "Article 38 of the EC Regulation" substitute "Article 52 of the EU Regulation", and

(b) for subsection (1)(bb) substitute—

"(bb) by an insolvency practitioner (within the meaning of Article 2(5) of the EU Regulation) appointed in proceedings by virtue of Article 3(1) of the EU Regulation,".

Commencement Information
I19 Sch. para. 19 in force at 26.6.2017, see **reg. 1**

20. In section 265 (creditor's petition: debtors against whom the court may make a bankruptcy order)(**13**) in subsections (1)(b) and (4) for "EC Regulation" substitute "EU Regulation".

Commencement Information
I20 Sch. para. 20 in force at 26.6.2017, see **reg. 1**

21. In section 330 (final distribution)(**14**) in subsection (6) for "Article 35 of the EC Regulation" (surplus in secondary proceedings to be transferred to main proceedings) substitute "Article 49 of the EU Regulation" (assets remaining in the secondary compulsory proceedings).

Commencement Information
I21 Sch. para. 21 in force at 26.6.2017, see **reg. 1**

22. In section 387 (meaning of "the relevant date")(**15**) in subsections (3)(aa) and (ab) for "Article 37 of the EC Regulation" substitute "Article 51 of the EU Regulation"(**16**).

Commencement Information
I22 Sch. para. 22 in force at 26.6.2017, see **reg. 1**

23. In section 388 (meaning of "act as an insolvency practitioner")(**17**) in subsection (6) for "EC Regulation" substitute "EU Regulation".

(**12**) Section 264 has been amended by the Enterprise and Regulatory Reform Act 2013 (c.24) and subsections (1)(ba) and (bb) were inserted by S.I. 2002/1240.
(**13**) Section 265 was substituted by the Enterprise and Regulatory Reform Act 2013.
(**14**) Subsection (6) was inserted by SI 2002/1240.
(**15**) Subsection (3)(aa) and (ab) were inserted by S.I. 2002/1240.
(**16**) Paragraphs (aa) and (ab) were inserted by S.I. 2002/1240.
(**17**) Subsection (6) was inserted by SI 2002/1240.

Commencement Information
I23 Sch. para. 23 in force at 26.6.2017, see **reg. 1**

24. In section 411 (company insolvency rules)(**18**) in subsections (1), (2A) and (2B) for "EC Regulation" in each place where it occurs substitute "EU Regulation".

Commencement Information
I24 Sch. para. 24 in force at 26.6.2017, see **reg. 1**

25. In section 412 (individual insolvency rules (England and Wales))(**19**) in subsections (1), (2A) and (2B) for "EC Regulation" in each place where it occurs substitute "EU Regulation".

Commencement Information
I25 Sch. para. 25 in force at 26.6.2017, see **reg. 1**

26. In section 420 (insolvent partnerships)(**20**) in subsections (1A) and (1B) for "EC Regulation" substitute "EU Regulation".

Commencement Information
I26 Sch. para. 26 in force at 26.6.2017, see **reg. 1**

27. In section 421 (insolvent estates of deceased persons)(**21**) in subsections (1A) and (1B) for "EC Regulation" substitute "EU Regulation".

Commencement Information
I27 Sch. para. 27 in force at 26.6.2017, see **reg. 1**

28. In section 436 (expressions used generally)(**22**) in subsection (1)—

(a) omit the definition of "the EC Regulation", and

(b) at the appropriate place insert—

> ""the EU Regulation" means Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings;".

Commencement Information
I28 Sch. para. 28 in force at 26.6.2017, see **reg. 1**

29. In section 436A (proceedings under EC Regulation: modified definition of property)(**23**) including in the heading, for "EC Regulation" substitute "EU Regulation".

(**18**) Subsection (1) was amended and subsections (2A) and (2B) were inserted by SI 2002/1037.
(**19**) Subsection (1) was amended and subsections (2A) and (2B) were inserted by SI 2002/1037.
(**20**) Subsections (1A) and (1B) were inserted by S.I. 2002/1037.
(**21**) Subsections (1A) and (1B) were inserted by S.I. 2002/1037.
(**22**) The definition of EC Regulation was inserted by S.I. 2002/1037.
(**23**) Section 436A was inserted by S.I. 2002/1240.

Commencement Information
I29 Sch. para. 29 in force at 26.6.2017, see **reg. 1**

30.—(1) Schedule B1 (administration)(**24**) is amended as follows.

(2) In paragraph 84—

(a) after sub-paragraph (1) insert—

"(1A) Sub-paragraph (1B) applies where, immediately before the administrator sends the notice, there are EU insolvency proceedings open in respect of the company in one or more other member States.

(1B) The administrator must send to the registrar, with the notice, a statement—

(a) identifying those proceedings,

(b) identifying the member State liquidator appointed in each of those proceedings, and

(c) indicating, in relation to each of those member State liquidators, whether that member State liquidator consents to the company being dissolved."

(b) In sub-paragraph (3)—

(i) after "sub-paragraph (1)" insert "and any statement under sub-paragraph (1B)", and

(ii) at the end insert "or them".

(3) In sub-paragraph (6) at the end, insert "(except where sub-paragraph (6A) applies)".

(4) After sub-paragraph (6) insert—

"(6A) This sub-paragraph applies where a statement under sub-paragraph (1B) indicates that a member State liquidator does not consent to the company being dissolved.

(6B) Where sub-paragraph (6A) applies, the company is deemed to be dissolved at the end of the period of three months beginning with the date (if any) recorded in the register as the date on which the registrar was notified that—

(a) all proceedings identified in the statement under sub-paragraph (1B) were closed, or

(b) every member State liquidator appointed in those proceedings consented to the company being dissolved."

(5) In sub-paragraph (7)(a) and (c), after "sub-paragraph (6)" insert "or (6B)".

Commencement Information
I30 Sch. para. 30 in force at 26.6.2017, see **reg. 1**

31. In Schedule B1(**25**) (administration) in paragraph 111(1B) for the words from "the EC Regulation" to the end substitute "Article 3 of the EU Regulation".

Commencement Information
I31 Sch. para. 31 in force at 26.6.2017, see **reg. 1**

(**24**) Schedule B1 was inserted by the Enterprise Act 2002 (c.40).
(**25**) Paragraph 111(1B) was inserted by S.I. 2005/879.

Changes to legislation:
There are currently no known outstanding effects for the The Insolvency Amendment (EU 2015/848) Regulations 2017, PART 1.