

SCHEDULE 1

How special administration applies to English/Welsh LLPs

3. The provisions of the IA 1986 mentioned in the first column of the Table apply to institutions which are formed as limited liability partnerships with the further modifications (in addition to any set out in the table in regulation 37) set out in the third column.

<i>Provision</i>	<i>Subject</i>	<i>Modifications</i>
Those mentioned in regulation 5(2) of the LLPR 2001		Those set out in regulation 5(2) of the LLPR 2001 (except regulation 5(2)(f) of those Regulations).
Section 74	Liability as contributories of present and past members	To be read as if it were substituted with—
		<p>“74.—(1) When a limited liability partnership goes into special administration, every present and past member of the limited liability partnership is liable to contribute to its assets as follows.</p> <p>(2) Where a member has agreed with the other members or with the limited liability partnership, that that member be liable to contribute to the assets of the limited liability partnership in the event that that body goes into liquidation or special administration, that member is liable, to the extent that they have so agreed, to contribute—</p> <p>(a) to its assets to any amount sufficient for payment of its debts and liabilities;</p> <p>(b) to the expenses of the special administration;</p> <p>(c) for the adjustment of the rights of the contributories among themselves.</p> <p>(3) A past member shall only be liable under this section if the obligation arising from such agreement in subsection (2) survived them ceasing to be a member of the limited liability partnership.”</p>
Sections 76–78	Contributories	Omitted.
Section 79	Meaning of “contributory”	To be read as if—
		<p>(a) in subsection (1) for “every person” there were substituted—</p> <p>“every past and present member of the limited liability partnership”;</p>

Status: This is the original version (as it was originally made).

<i>Provision</i>	<i>Subject</i>	<i>Modifications</i>
		(b) at the end of subsection (2), there were inserted— “or section 214A (adjustment of withdrawals)”. (c) subsection (3) were omitted.
Section 83	Companies registered under the Companies Act Part XXII, Chapter II	Omitted.
Section 183	Effect of execution or attachment	
Section 187	Power to make over assets to employees	Omitted.
Section 194	Resolutions passed at meetings	To be read as if after “contributories” there were inserted “or of the members of a limited liability partnership”.
Section 214	Wrongful trading	To be read as if after subsection (2), “but the court shall not” to the end of the subsection were omitted.
After section 214	Adjustment of withdrawals	The IA 1986 is to be read as if after section 214 there were inserted—
		<p>“214A.—(1) This section has effect in relation to a person (“P”) who is or has been a member of a limited liability partnership where, in the course of the special administration of that limited liability partnership, it appears that subsection (2) of this section applies in relation to P.</p> <p>(2) This subsection applies in relation to P if—</p> <p>(a) within the period of two years ending with the commencement of the special administration, P was a member of the limited liability partnership who withdrew property of the limited liability partnership, whether in the form of a share of profits, salary, repayment of or payment of interest on a loan to the limited liability partnership or any other withdrawal of property, and</p> <p>(b) it is proved by the administrator to the satisfaction of the court that at the time of the withdrawal P knew or had reasonable ground for believing that the limited liability partnership—</p>

<i>Provision</i>	<i>Subject</i>	<i>Modifications</i>
		<p>(i) was at the time of the withdrawal unable to pay its debts, or</p> <p>(ii) would become so unable to pay its debts after the assets of the limited liability partnership had been depleted by that withdrawal taken together with all other withdrawals (if any) made by any members contemporaneously with that withdrawal or in contemplation when that withdrawal was made.</p> <p>(3) Where this section has effect in relation to P, the court, on the application of the administrator, may declare that P is to be liable to make such contribution (if any) to the limited liability partnership’s assets as the court thinks proper.</p> <p>(4) The court may not make a declaration in relation to P the amount of which exceeds the aggregate of the amounts or values of all the withdrawals referred to in subsection (2) made by P within the period of two years referred to in that subsection.</p> <p>(5) The court may not make a declaration under this section with respect to P unless P knew or ought to have concluded that after each withdrawal referred to in subsection (2) there was no reasonable prospect that the limited liability partnership would avoid going into an insolvency procedure under the IA 1986 or special administration.</p> <p>(6) For the purposes of subsection (5) the facts which P ought to know or ascertain and the conclusions which P ought to reach are those which would be known, ascertained, or reached by a reasonably diligent person having both—</p> <p>(a) the general knowledge, skill and experience that may reasonably be expected of a person carrying out the same functions as are carried out by P in relation to the limited liability partnership, and</p> <p>(b) the general knowledge, skill and experience that P has.</p>

Status: This is the original version (as it was originally made).

<i>Provision</i>	<i>Subject</i>	<i>Modifications</i>
		<p>(7) In this section “member” includes a shadow member.</p> <p>(8) In this section a reference to being unable to pay debts is to be read in accordance with section 93(4) of the BA 2009 (as applied and modified by the EMR 2011 and the PSR 2017).</p> <p>(9) This section does not limit the effect of section 214.”</p>
Section 215	Proceedings under section 213 or 214	<p>To be read as if—</p> <p>(a) in subsection (1) for “section 213 or 214” there were substituted “section 213, 214 or 214A”;</p> <p>(b) in subsection (2) for “either section” there were substituted “any of those sections”;</p> <p>(c) in subsection (4) for “either section” there were substituted “any of those sections”;</p> <p>(d) in subsection (5) for “sections 213 and 214” there were substituted “sections 213, 214 or 214A”.</p>
Section 218	Prosecution of delinquent officers and members of company	<p>To be read as if—</p> <p>(a) in subsection (1), for “officer, or any member, of the company” there were substituted “member of the limited liability partnership”;</p> <p>(b) in subsection (3) for “officer of the company, or any member of it,” there were substituted “member of the limited liability partnership”.</p>
Section 386 of and Schedule 6 (and Schedule 4 to the Pension Schemes Act 1993)	Preferential debts	<p>To be read as if—</p> <p>(a) in subsection (1) “or an individual” were omitted;</p> <p>(b) in subsection (2) “or the individual” were omitted.</p>
Section 387	“The relevant date”	To be read as if subsections (5) and (6) were omitted.
Section 432	Offences by bodies corporate	To be read as if in subsection (2) “, secretary” were omitted.
Schedule B1, paragraph 42	Moratorium on insolvency proceedings	<p>To be read as if for sub-paragraph (2) there were substituted—</p> <p>“(2) No determination to wind up the limited liability partnership voluntarily may be made.”</p>

<i>Provision</i>	<i>Subject</i>	<i>Modifications</i>
Schedule B1, paragraph 61	Directors	To be read as if for paragraph 61 there were substituted— “61. The administrator may prevent any person from taking part in the management of the business of the limited liability partnership and may appoint any person to be a manager of that business.”.
Schedule B1, paragraph 62	Power to call meetings	To be read as if— (a) the existing provision were renumbered as sub-paragraph (1); (b) after that sub-paragraph there were inserted— “(2) The meeting shall be held in a manner provided by the Payment and Electronic Money Institution Insolvency Regulations 2021, special administration insolvency rules or the limited liability partnership agreement. (3) The quorum required for a meeting of the members of the limited liability partnership shall be any quorum required by the limited liability partnership agreement for meetings of the members of the limited liability partnership and if no requirement for a quorum has been agreed upon, the quorum shall be 2 members.”
Schedule B1, paragraph 91	Replacement	To be read as if sub-paragraph (1)(c) were omitted.
Schedule B1, paragraph 105	Majority decision of directors	Omitted.