

SCHEDULE 2

Regulation 47(2)

How special administration applies to English/Welsh partnerships

1. This Schedule makes provision about how special administration applies to institutions which are formed as partnerships under the law of England and Wales.

2. In this Schedule, the “IPO 1994” means the Insolvent Partnerships Order 1994(1).

3. Where an institution is formed as a partnership, then—

(a) in these Regulations, and

(b) in the CDDA 1986 as applied and modified by these Regulations,

references to the things in the first column of Table 1 are to be read in accordance with the corresponding modification in the second column.

Table 1

<i>Reference</i>	<i>Modification</i>
References to companies	To be read as if they were to partnerships.
References to the registrar of companies	Omitted.
References to shares of a company	To be read as if they were— (a) in relation to a partnership with capital, to rights to share in that capital, and (b) in relation to a partnership without capital, to interests— (i) conferring any right to share in the profits or liability to contribute to the losses of the partnership, or (ii) giving rise to an obligation to contribute to the debts or expenses of the partnership in the event of special administration.
Other references appropriate to companies	To be read as if they were to the corresponding persons, officers, documents or organs (as the case may be) appropriate to a partnership.

4. Table 2 sets out—

(a) in the first column, versions of provisions of the IA 1986 set out in the IPO 1994 (“IPO 1994 versions”),

(b) in the second column, the subject of each of those versions, and

(c) in the third column, modifications to those versions.

5. Each IPO 1994 version in the first column of Table 2 applies to an institution which is formed as a partnership with any corresponding modification in the third column.

(1) [S.I. 1994/2421](#), amended by [S.I. 2005/1516](#), [2013/472](#), [2014/3486](#), [2017/540](#), [2017/1119](#), [2018/1244](#). There are other amending instruments but none is relevant.

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6. Where there is an entry for an IPO 1994 version in Table 2, that version of the provision of the IA 1986 applies, as modified by Table 2, to an institution which is formed as a partnership, and the entry relating to that provision of the IA 1986 in the table in regulation 37 is to be disregarded.

Table 2

<i>Provision (IPO 1994 version)</i>	<i>Subject</i>	<i>Modifications</i>
Sections and other provisions except Schedule B1		
Generally (for those sections or other provisions mentioned below except Schedule B1)		To be read as if references to— (a) references to the IA 1986 were to these Regulations, (b) references to a provision of the IA 1986 which is applied and modified by these Regulations were to the provision as applied and modified by these Regulations, (c) being wound up were to being in special administration; (d) office-holder were to the administrator; (e) an insolvency order were to a special administration order.
Schedule 1 (version in Schedule 2, paragraph 43)	Powers of administrator	To be read as if paragraph 19 were omitted.
Section 234 (version in Schedule 3, paragraph 9)	Getting in the partnership’s property	To be read as if the reference in subsection (1) to article 7 of the IPO 1994 were to regulation 10.
Schedule 4 (version in Schedule 3, paragraph 10)	Powers of liquidator in a winding up	To be read as if— (a) paragraphs 4 to 10, and paragraph 12, were omitted; (b) in paragraph 13, the reference to winding up the partnership’s affairs and distributing its property were to pursuing the special administration objectives.
Section 211 (version in	False representations to creditors	To be read as if for subsection (1) there were substituted—

<i>Provision (IPO 1994 version)</i>	<i>Subject</i>	<i>Modifications</i>
Schedule 4, paragraph 25)		“(1) This section applies where a special administration order is made in respect of an insolvent partnership.”
<i>Schedule B1</i>		
Generally (for those paragraphs mentioned below)		<p>To be read as if—</p> <p>(a) references to a provision of the IA 1986 which is applied and modified by these Regulations were to the provision as applied and modified by these Regulations;</p> <p>(b) references to action included inaction;</p> <p>(c) references to the administrator were to the administrator appointed under regulation 7;</p> <p>(d) references to the court were to the court as defined in regulation 6;</p> <p>(e) references to the creditors’ meeting were to have the meaning given by paragraph 50 of Schedule B1 as applied and modified by these Regulations;</p> <p>(f) references to entering administration were to entering special administration;</p> <p>(g) references to a hire purchase agreement included a conditional sale agreement, a chattel leasing agreement and a retention of title agreement;</p> <p>(h) references to an insolvency order were to a special administration order;</p> <p>(i) references to an insolvency petition were to an application for a special administration order;</p> <p>(j) references to insolvency proceedings were to special administration;</p> <p>(k) references to market value were to the amount which would be realised on a sale of property in the open market by a willing vendor;</p> <p>(l) references to the purpose of administration were to the pursuit of the special administration objectives;</p>

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<i>Provision (IPO 1994 version)</i>	<i>Subject</i>	<i>Modifications</i>
		<p>(m) references to partnership were to an institution;</p> <p>(n) references to the partnership being in administration were to the institution being in special administration;</p> <p>(o) references to a responsible insolvency practitioner were to the administrator;</p> <p>(p) references to a thing in writing included a thing in electronic form;</p> <p>(q) references to being unable to pay debts were 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>
Paragraph 42 (version in Schedule 2, paragraph 17)	Moratorium on insolvency proceedings	To be read as if sub-paragraph (5)(a) were omitted.
Paragraph 43 (version in Schedule 2, paragraph 18)	Moratorium on other legal processes	To be read as if sub-paragraph (6) were omitted.
Paragraph 47 (version in Schedule 2, paragraph 19)	Statement of company's affairs	To be read as if in sub-paragraph (2), the statement were also required to include particulars of the relevant funds held by the institution.
Paragraph 49 (version in Schedule 2, paragraph 20)	Administrator's proposals	<p>To be read as if —</p> <p>(a) sub-paragraph (2)(b) were omitted;</p> <p>(b) there were no amendment made by paragraph 6(2) of Schedule 2 to the Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017(2);</p> <p>(c) in sub-paragraph (4), the administrator were also required to send a copy of the statement of proposals to every user or holder of whose claim the administrator is aware and who the administrator has a means of contacting, and to the FCA;</p>

<i>Provision (IPO 1994 version)</i>	<i>Subject</i>	<i>Modifications</i>
		<p>(d) the administrator were also required to give notice that the statement of proposals is to be provided free of charge to a payment system operator who applies in writing to a specified address.</p> <p>The application of paragraph 49(1) to (3) is subject to regulation 38(6).</p>
Paragraph 61 (version in Schedule 2, paragraph 22)	Directors	
Paragraph 65 (version in Schedule 2, paragraph 23)	Distribution to creditors	To be read as if sub-paragraph (3) were omitted.
Paragraph 69 (version in Schedule 2, paragraph 24)	Agency	
Paragraph 73 (version in Schedule 2, paragraph 25)	Protection for secured or preferential creditors	
Paragraph 74 (version in Schedule 2, paragraph 26)	Challenge to administrator's conduct	<p>To be read as if—</p> <p>(a) there were no amendment made by paragraph 6(4) of Schedule 2 to the Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017;</p> <p>(b) the FCA were also empowered to make an application to the court, on the grounds that—</p> <p>(i) the administrator is acting or has acted so as unfairly to harm the interests of some or all of the members, creditors or users or holders;</p> <p>(ii) the administrator is proposing to act in a way which would unfairly harm the interests of some or all of the members, creditors or users or holders;</p> <p>(iii) the administrator has failed to carry out a reconciliation in accordance with regulation 13;</p>

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<i>Provision (IPO 1994 version)</i>	<i>Subject</i>	<i>Modifications</i>
		<p>(c) a user or holder were also empowered to make an application to the court under sub-paragraph (1) or (2);</p> <p>(d) any of the following persons were also empowered to make an application on the grounds that the administrator is not taking any action in response to a request from that person under regulation 35(3) and that the person is of the opinion that the action requested would not lead to a material reduction in the value of the property of the institution—</p> <p>(i) the Bank of England;</p> <p>(ii) the Treasury;</p> <p>(iii) the FCA;</p> <p>(iv) the Payment Systems Regulator;</p> <p>(e) the following persons were also empowered to make an application on the grounds that the administrator has made, or proposes to make, a PPTA in contravention of regulation 32 or 34—</p> <p>(i) the Bank of England;</p> <p>(ii) the FCA;</p> <p>(f) any person, other than the institution, who is party to an arrangement of a kind referred to in regulation 31(1) were also empowered to make an application on the grounds that the administrator has made, or proposes to make, a relevant transfer in contravention of that regulation;</p> <p>(g) where an application is made on the grounds that the administrator has made a relevant transfer in contravention of regulation 34—</p> <p>(i) sub-paragraphs (3)(a), (d) and (e) and (4) were omitted;</p> <p>(ii) the court were also empowered to make an order declaring that the transfer was made in contravention of the regulation concerned;</p> <p>(h) where an application is made on the grounds that the administrator has made a relevant transfer in contravention of regulation 32 or 33, the court</p>

<i>Provision (IPO 1994 version)</i>	<i>Subject</i>	<i>Modifications</i>
		were also empowered to make such order as it thinks fit for restoring the position to what it would have been if the transfer had not been made in contravention of the regulation concerned; (i) where the FCA has given a direction under regulation 38 which has not been withdrawn, the court did not have power to make an order if it would impede or prevent compliance with the direction.
Paragraph 84 (version in Schedule 2, paragraph 28)	Termination: no more relevant funds for distribution	To be read as if— (a) the administrator were only empowered to file a notice under sub-paragraph (1) if the institution no longer holds relevant funds; (b) in sub-paragraph (5), a copy of the notice were to be sent to every client of the institution of whom the administrator is aware and the FCA.
Paragraph 87 (version in Schedule 2, paragraph 29)	Resignation	To be read as if— (a) where the administrator was appointed by the court on the application of the FCA or the Secretary of State, the notice given in accordance with sub-paragraph (2)(a) must also be given to the applicant; (b) sub-paragraphs (2)(b) and (c) were omitted.
Paragraph 89 (version in Schedule 2, paragraph 30)	Disqualification	To be read as if— (a) where the administrator was appointed by the court on the application of the FCA or the Secretary of State, the notice given in accordance with sub-paragraph (2)(a) were also to be given to the applicant; (b) sub-paragraphs (2)(b) and (c) were omitted.
Paragraph 90 (version in Schedule 2, paragraph 31)	Replacement	To be read as if the reference to paragraphs 91 to 93 and 95 were to paragraph 91.
Paragraph 91 (version in Schedule 2, paragraph 32)	Replacement	To be read as if the FCA were added to the list of persons who may make an application to appoint an administrator but to whom the restrictions in sub-paragraph (2) apply.
Paragraph 103 (version in	Joint administrators	To be read as if—

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<i>Provision (IPO 1994 version)</i>	<i>Subject</i>	<i>Modifications</i>
Schedule 2, paragraph 38)		(a) in sub-paragraph (2)(a), the reference to paragraph 12(1)(a) to (c) were to regulation 8(1); (b) sub-paragraphs (3) and (4) were omitted.
Paragraph 105 (version in Schedule 2, paragraph 39)	Majority decision of directors	
Paragraph 106 (version in Schedule 2, paragraph 40)	Fines	To be read as if— (a) sub-paragraph (2)(a), (b), (j) and (k) was omitted.
Paragraphs 112 to 116 (version in Schedule 2, paragraph 42)	Scotland	

7. Article 16 of the IPO 1994 applies to an institution which is formed as a partnership—

- (a) reading article 16 as if the reference to being wound up under the IA 1986 were to entering special administration;
- (b) reading the reference to the provisions of the CDDA 1986 as if it were to—
 - (i) sections 1, 1A, 8A to 10, 15C, 19(c) and 20 of that Act as applied and modified by regulation 46, and
 - (ii) the versions of sections 5A, 6 to 8ZE, 12C, 13 to 15B and 17 of and Schedule 1 to that Act set out in Schedule 8 to the IPO 1994, reading those versions as if they were modified by regulation 46,

subject to the further general modifications of the provisions mentioned in paragraphs (i) and (ii) in paragraph 8.

8. The general modifications are—

- (i) references to a provision of the IA 1986 which is applied and modified by these Regulations are to be read as if they were to the provision as applied and modified by these Regulations;
- (ii) references to being wound up are to be read as if they were to the partnership being in special administration;
- (iii) references to office-holder are to be read as if they were to the administrator;
- (iv) references to an insolvency order are to be read as if they were to a special administration order.

9. Article 18 of and Schedule 10 to the IPO 1994 apply to institutions which are formed as partnerships—

- (a) reading article 18 as if—
 - (i) in paragraph (1) from “giving effect” to “this Order” were substituted with “giving effect to the provisions of the IA 1986 and the CDDA 1986 as applied and modified by these Regulations”;
 - (ii) in paragraph (2) the reference to the IPO 1994 were to these Regulations;

(b) reading Schedule 10 as if the list of legislation included any special administration insolvency rules and the following legislation were omitted—

The Insolvency Proceedings (Monetary Limits) Order 1986

The Administration of Insolvent Estates of Deceased Persons Order 1986

The Insolvency (Amendment of Subordinate Legislation) Order 1986

The Companies (Disqualification Orders) Regulations 2001

The Co-operation of Insolvency Courts (Designation of Relevant Countries and Territories) Order 1986

The Insolvency Practitioners and Insolvency Services Accounts (Fees) Order 2003

The Insolvency Proceedings (Fees) Order 2004.