
Changes to legislation: There are currently no known outstanding effects for the Insolvency Act 2000, Paragraph 10. (See end of Document for details)

SCHEDULES

SCHEDULE 2

COMPANY VOLUNTARY ARRANGEMENTS

PART I

AMENDMENTS OF THE INSOLVENCY ACT 1986

10 After that section there is inserted—

“7A Prosecution of delinquent officers of company.

- (1) This section applies where a moratorium under section 1A has been obtained for a company or the approval of a voluntary arrangement in relation to a company has taken effect under section 4A or paragraph 36 of Schedule A1.
- (2) If it appears to the nominee or supervisor that any past or present officer of the company has been guilty of any offence in connection with the moratorium or, as the case may be, voluntary arrangement for which he is criminally liable, the nominee or supervisor shall forthwith—
 - (a) report the matter to the appropriate authority, and
 - (b) provide the appropriate authority with such information and give the authority such access to and facilities for inspecting and taking copies of documents (being information or documents in the possession or under the control of the nominee or supervisor and relating to the matter in question) as the authority requires.

In this subsection, “the appropriate authority” means—

 - (i) in the case of a company registered in England and Wales, the Secretary of State, and
 - (ii) in the case of a company registered in Scotland, the Lord Advocate.
- (3) Where a report is made to the Secretary of State under subsection (2), he may, for the purpose of investigating the matter reported to him and such other matters relating to the affairs of the company as appear to him to require investigation, exercise any of the powers which are exercisable by inspectors appointed under section 431 or 432 of the Companies Act to investigate a company’s affairs.
- (4) For the purpose of such an investigation any obligation imposed on a person by any provision of the Companies Act to produce documents or give information to, or otherwise to assist, inspectors so appointed is to be regarded as an obligation similarly to assist the Secretary of State in his investigation.

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- (5) An answer given by a person to a question put to him in exercise of the powers conferred by subsection (3) may be used in evidence against him.
- (6) However, in criminal proceedings in which that person is charged with an offence to which this subsection applies—
- (a) no evidence relating to the answer may be adduced, and
 - (b) no question relating to it may be asked,
- by or on behalf of the prosecution, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person.
- (7) Subsection (6) applies to any offence other than—
- (a) an offence under section 2 or 5 of the ^{M1}Perjury Act 1911 (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath), or
 - (b) an offence under section 44(1) or (2) of the ^{M2}Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made on oath or otherwise than on oath).
- (8) Where a prosecuting authority institutes criminal proceedings following any report under subsection (2), the nominee or supervisor, and every officer and agent of the company past and present (other than the defendant or defender), shall give the authority all assistance in connection with the prosecution which he is reasonably able to give.
- For this purpose—
- “agent” includes any banker or solicitor of the company and any person employed by the company as auditor, whether that person is or is not an officer of the company,
- “prosecuting authority” means the Director of Public Prosecutions, the Lord Advocate or the Secretary of State.
- (9) The court may, on the application of the prosecuting authority, direct any person referred to in subsection (8) to comply with that subsection if he has failed to do so.

7B Arrangements coming to an end prematurely.

For the purposes of this Part, a voluntary arrangement the approval of which has taken effect under section 4A or paragraph 36 of Schedule A1 comes to an end prematurely if, when it ceases to have effect, it has not been fully implemented in respect of all persons bound by the arrangement by virtue of section 5(2)(b)(i) or, as the case may be, paragraph 37(2)(b)(i) of Schedule A1.”

Marginal Citations

M1 1911 c. 6.

M2 1995 c. 39.

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