

Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Bankruptcy. (See end of Document for details)

SCHEDULES

SCHEDULE 9

ABOLITION OF REQUIREMENTS TO HOLD MEETINGS; OPTED-OUT CREDITORS

PART 2

INDIVIDUAL INSOLVENCY

Bankruptcy

- 73 In section 276(1)(b)(ii) (default in connection with voluntary arrangement) for “at or in connection with a meeting summoned” substitute “in connection with a creditors' decision procedure instigated”.

Commencement Information

- I1** Sch. 9 para. 73 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)
I2 Sch. 9 para. 73 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

- 74 In section 283(4)(a) (definition of bankrupt's estate), for the words from “a meeting” to “held” substitute “ the trustee of that estate has vacated office under section 298(8) ”.

Commencement Information

- I3** Sch. 9 para. 74 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)
I4 Sch. 9 para. 74 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

- 75 In section 287(3)(c) (powers of interim receiver), for “summon a general meeting of” substitute “ seek a decision on a matter from ”.

Commencement Information

- I5** Sch. 9 para. 75 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)
I6 Sch. 9 para. 75 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

- 76 In section 296(5) (trustee to give notice relating to creditors' committees), for paragraphs (a) and (b) substitute “explain the procedure for establishing a creditors' committee under section 301.”

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- I7** Sch. 9 para. 76 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)
I8 Sch. 9 para. 76 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

- 77 (1) Section 298 (trustee's vacation of office) is amended as follows.
- (2) In subsection (1), for “general meeting of the bankrupt's creditors summoned” substitute “decision of the bankrupt's creditors made by a creditors' decision procedure instigated”.
- (3) In subsection (4)—
- (a) for “general meeting of the bankrupt's creditors shall be summoned” substitute “creditors' decision procedure may be instigated”;
- (b) for “replacing” substitute “removing”;
- (c) in paragraph (c)—
- (i) omit “the meeting is requested by”;
- (ii) after “bankrupt's creditors” insert “so requests, ”.
- (4) After subsection (4) insert—
- “(4A) Where the bankrupt's creditors decide to remove a trustee, they may in accordance with the rules appoint another person as trustee in his place.
- (4B) Where the decision to remove a trustee is made under subsection (4), the decision does not take effect until the bankrupt's creditors appoint another person as trustee in his place.”
- (5) In subsection (8), for the words from “a final” to the end substitute “the trustee has given notice under section 331(2). ”
- (6) After subsection (8) insert—
- “(8A) A notice under subsection (8)—
- (a) must not be given before the end of the period prescribed by the rules as the period within which the bankrupt's creditors may object to the trustee's release, and
- (b) must state whether any of the bankrupt's creditors objected to the trustee's release.”

Commencement Information

- I9** Sch. 9 para. 77 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)
I10 Sch. 9 para. 77 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

- 78 (1) Section 299 (release of trustee) is amended as follows.
- (2) In subsection (1)(a), omit “a general meeting of”.
- (3) In subsection (3)(a)—
- (a) for the words from “case” to “died” substitute “following cases”;
- (b) after “hold office” insert “—

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- (i) the person has been removed from office by a decision of the bankrupt's creditors and the creditors have not decided against his release,
- (ii) the person has died;”.

(4) For subsection (3)(b) substitute—

“(b) in the following cases, such time as the Secretary of State may, on an application by the person, determine—

- (i) the person has been removed from office by a decision of the bankrupt's creditors and the creditors have decided against his release,
- (ii) the person has been removed from office by the court or by the Secretary of State,
- (iii) the person has vacated office under section 298(6);”.

(5) In subsection (3)(d), for paragraphs (i) and (ii) substitute—

- “(i) if any of the bankrupt's creditors 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.”

(6) After subsection (3) insert—

“(3A) Where the person is removed from office by a decision of the bankrupt's creditors, any decision of the bankrupt's creditors as to whether the person should have his release must be made by a creditors' decision procedure.”

Commencement Information

I11 Sch. 9 para. 78 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

I12 Sch. 9 para. 78 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

79 (1) Section 300 (vacancy in office of trustee) is amended as follows.

(2) For subsection (3) substitute—

“(3) The official receiver may ask the bankrupt's creditors to appoint a person as trustee, and must do so if so requested by not less than one tenth in value of the bankrupt's creditors.

(3A) If the official receiver makes such a request the bankrupt's creditors may in accordance with the rules appoint a person as trustee.”

(3) In subsection (4) for the words from “summoned” to “vacancy” substitute “ asked, and is not proposing to ask, the bankrupt's creditors to appoint a person as trustee ”.

(4) In subsection (8) for the words from “holding” to “331” substitute “ vacation of office by the trustee under section 298(8) ”.

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I13 Sch. 9 para. 79 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

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I14 Sch. 9 para. 79 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

- 80 (1) Section 301 (creditors' committees) is amended as follows.
- (2) In subsection (1), for the words from “general” to “otherwise)” substitute “bankrupt's creditors”.
- (3) In subsection (2)—
- (a) for “A general meeting of the” substitute “The”;
- (b) for “an appointment made by that meeting” substitute “the appointment”.

Commencement Information

I15 Sch. 9 para. 80 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

I16 Sch. 9 para. 80 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

- 81 In section 314(7) (trustee's power and duty to summon creditors' meeting)—
- (a) for “summon a general meeting of” substitute “seek a decision on a matter from”;
- (b) for “summon such a meeting” substitute “seek a decision on a matter”.

Commencement Information

I17 Sch. 9 para. 81 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

I18 Sch. 9 para. 81 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

- 82 In section 330 (final distribution), after subsection (1) insert—
- “(1A) A notice under subsection (1)(b) need not be given to opted-out creditors.”

Commencement Information

I19 Sch. 9 para. 82 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

I20 Sch. 9 para. 82 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

- 83 (1) Section 331 (final meeting) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) The trustee must give the bankrupt's creditors (other than opted-out creditors) notice that it appears to the trustee that the administration of the bankrupt's estate is for practical purposes complete.
- (2A) The notice must—
- (a) be accompanied by a report of the trustee's administration of the bankrupt's estate;
- (b) explain the effect of section 299(3)(d) and how the creditors may object to the trustee's release.”

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(3) Omit subsections (3) and (4).

(4) In the heading, for “meeting” substitute “ report ”.

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- I21** Sch. 9 para. 83 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)
I22 Sch. 9 para. 83 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

84 In section 332(2) (bankrupt's home), for “summon a meeting under section 331” substitute “ give notice under section 331(2) ”.

Commencement Information

- I23** Sch. 9 para. 84 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)
I24 Sch. 9 para. 84 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

85 In section 356(2)(c) (offence of making false statements)—
(a) for “at any meeting of his creditors” substitute “in connection with any creditors' decision procedure or deemed consent procedure”;
(b) for “at such a meeting” substitute “ in connection with such a procedure ”.

Commencement Information

- I25** Sch. 9 para. 85 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)
I26 Sch. 9 para. 85 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

86 In Schedule 9, after paragraph 12 insert—
“12A Provision about how a bankrupt's creditors may appoint a person as trustee.”

Commencement Information

- I27** Sch. 9 para. 86 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)
I28 Sch. 9 para. 86 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

87 In paragraph 13 of Schedule 9 (creditors' committee)—
(a) after “to the” insert “ establishment, ”;
(b) for “established under” substitute “ provided for by ”.

Commencement Information

- I29** Sch. 9 para. 87 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)
I30 Sch. 9 para. 87 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

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