

## SCHEDULE 4

### PROVISIONS OF THE ACT WHICH APPLY WITH MODIFICATIONS FOR THE PURPOSES OF ARTICLE 8 TO WINDING UP OF INSOLVENT PARTNERSHIP ON CREDITOR'S PETITION WHERE CONCURRENT PETITIONS ARE PRESENTED AGAINST ONE OR MORE MEMBERS

## PART II

### OTHER MODIFIED PROVISIONS OF THE ACT ABOUT WINDING UP BY THE COURT AND BANKRUPTCY OF INDIVIDUALS

#### **Sections 174 and 299: Release of responsible insolvency practitioner or of provisional liquidator**

**22.** Sections 174 and 299 are modified so as to read as follows—

“**174.**—(1) This section applies with respect to the release of—

- (a) the responsible insolvency practitioner of an insolvent partnership which is being wound up by virtue of article 8 of the Insolvent Partnerships Order 1994 and of its insolvent member or members against whom insolvency orders have been made, or
- (b) a provisional liquidator of an insolvent partnership, and of any corporate member of that partnership, against which a winding-up petition is presented by virtue of that article.

(2) Where the official receiver has ceased to be the responsible insolvency practitioner and a person is appointed in his stead, the official receiver has his release with effect from the following time, that is to say—

- (a) in a case where that person was nominated by a combined general meeting of creditor of the partnership and of any insolvent member or members, or was appointed by the Secretary of State, the time at which the official receiver gives notice to the court that he has been replaced;
- (b) in a case where that person is appointed by the court, such time as the court may determine.

(3) If the official receiver while he is a responsible insolvency practitioner give notice to the Secretary of State that the winding up of the partnership or of any corporate member or the administration of the estate of any individual member is for practical purposes complete, he has his release as liquidator or trustee (as the case may be) with effect from such time as the Secretary of State may determine.

(4) A person other than the official receiver who has ceased to be a responsible insolvency practitioner has his release with effect from the following time, that is to say—

- (a) in the case of a person who has died, the time at which notice is given to the court in accordance with the rules that that person has ceased to hold office;
- (b) in the case of a person who has been removed from office by the court or by the Secretary of State, or who has vacated office under section 172(4), such time as the Secretary of State may, on an application by that person, determine;
- (c) in the case of a person who has resigned, such time as may be directed by the court (or, if he was appointed by the Secretary of State, such time as may be directed

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by the court or as the Secretary of State may, on an application by that person, determine);

- (d) in the case of a person who has vacated office under section 172(6)—
  - (i) if the final meeting referred to in that subsection has resolved against that person's release, such time as the Secretary of State may, on an application by that person, determine, and
  - (ii) if that meeting has not so resolved, the time at which that person vacated office.

(5) A person who has ceased to hold office as a provisional liquidator has his release with effect from such time as the court may, on an application by him, determine.

(6) Where a bankruptcy order in respect of an individual member is annulled, the responsible insolvency practitioner at the time of the annulment has his release with effect from such time as the court may determine.

(7) Where the responsible insolvency practitioner or provisional liquidator (including in both cases the official receiver when so acting) has his release under this section, he is, with effect from the time specified in the preceding provisions of this section discharged from all liability both in respect of acts or omissions of his in the winding up of the insolvent partnership or any corporate member or the administration of the estate of any individual member (as the case may be) and otherwise in relation to his conduct as responsible insolvency practitioner or provisional liquidator.

But nothing in this section prevents the exercise, in relation to a person who has had his release under this section, of the court's powers under section 212 (summary remedy against delinquent directors, liquidators, etc.) or section 304 (liability of trustee)."