

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

Section 234: Getting in the partnership property

27. Section 234 is modified, so far as insolvent partnerships are concerned, so as to read as follows—

“**234.**—(1) This section applies where—

- (a) insolvency orders are made by virtue of article 8 of the Insolvent Partnerships Order 1994 in respect of an insolvent partnership and its insolvent member or members, or
- (b) a provisional liquidator of an insolvent partnership and any of its corporate members is appointed by virtue of that article;

and “the office-holder” means the liquidator or the provisional liquidator, as the case may be.

(2) Any person who is or has been an officer of the partnership, or who is an executor or administrator of the estate of a deceased officer of the partnership, shall deliver up to the office-holder, for the purposes of the exercise of the office-holder’s functions under this Act and (where applicable) the Company Directors Disqualification Act 1986⁽¹⁾, possession of any partnership property which he holds for the purposes of the partnership.

(3) Where any person has in his possession or control any property, books, papers or records to which the partnership appears to be entitled, the court may require that person forthwith (or within such period as the court may direct) to pay, deliver, convey, surrender or transfer the property books, papers or records to the office-holder or as the court may direct.

(4) Where the office-holder—

- (a) seizes or disposes of any property which is not partnership property, and
- (b) at the time of seizure or disposal believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property,

the next subsection has effect.

(5) In that case the office-holder—

- (a) is not liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as that loss or damage is caused by the office-holder’s own negligence, and
- (b) has a lien on the property, or the proceeds of its sale, for such expenses as were incurred in connection with the seizure or disposal.”.

(1) 1986 c. 46.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.