

SCHEDULE 5

PROVISIONS OF THE ACT WHICH APPLY WITH MODIFICATIONS FOR THE PURPOSES OF ARTICLE 9 TO WINDING UP OF INSOLVENT PARTNERSHIP ON MEMBER'S PETITION WHERE NO CONCURRENT PETITION PRESENTED AGAINST MEMBER

Section 117: High Court and county court jurisdiction

1. Section 117 is modified so as to read as follows—

“117.—(1) Subject to subsections (3) and (4) below, the High Court has jurisdiction to wind up any insolvent partnership as an unregistered company by virtue of article 9 of the Insolvent Partnerships Order 1994 if the partnership has, or at any time had, a principal place of business in England and Wales.

(2) Subject to subsections (3) and (4) below, a petition for the winding up of an insolvent partnership by virtue of the said article 9 may be presented to a county court in England and Wales if the partnership has, or at any time had, a principal place of business within the insolvency district of that court.

(3) Subject to subsection (4) below, the court only has jurisdiction to wind up an insolvent partnership if the business of the partnership has been carried on in England and Wales at any time in the period of 3 years ending with the day on which the petition for winding it up is presented.

(4) If an insolvent partnership has a principal place of business situated in Scotland or in Northern Ireland, the court shall not have jurisdiction to wind up the partnership unless it had a principal place of business in England and Wales—

- (a) in the case of a partnership with a principal place of business in Scotland, at any time in the period of 1 year, or
- (b) in the case of a partnership with a principal place of business in Northern Ireland at any time in the period of 3 years,

ending with the day on which the petition for winding it up is presented.

(5) The Lord Chancellor may by order in a statutory instrument exclude a county court from having winding-up jurisdiction, and for the purposes of that jurisdiction may attach its district, or any part thereof, to any other county court, and may by statutory instrument revoke or vary any such order.

In exercising the powers of this section, the Lord Chancellor shall provide that a county court is not to have winding-up jurisdiction unless it has for the time being jurisdiction for the purposes of Parts VIII to XI of this Act (individual insolvency).

(6) Every court in England and Wales having winding-up jurisdiction has for the purposes of that jurisdiction all the powers of the High Court; and every prescribed officer of the court shall perform any duties which an officer of the High Court may discharge by order of a judge of that court or otherwise in relation to winding up.”