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STATUTORY INSTRUMENTS

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**2020 No. 856**

**The Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) (No. 2) Regulations 2020**

**Amendment of the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012**

5.—(1) Paragraph 1 of Schedule 1 (application of the Insolvency Act 1986 to CIOs) is amended as follows.

(2) Sub-paragraph (2)(a) is amended as follows—

(a) before sub-paragraph (i) insert—

“(ai) sections A5, A15, A27 and A49 to A51;”;

(b) after sub-paragraph (iii) insert—

“(iiia) paragraphs 3 to 18 and 20 to 22 of Schedule ZA1;”;

(c) omit sub-paragraph (iv).

(3) In sub-paragraph (5), in substituted section 122(1) omit paragraph (d).

(4) In the table in sub-paragraph (7)—

(a) in the entry relating to section 4A (approval of arrangement), for the second column substitute “Omit subsections (5) and (5A).”;

(b) at the appropriate place insert—

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“**Section A3** (Obtaining moratorium by filing documents) Omit subsection (1)(b).”

**Section A7** (Beginning of moratorium) Omit subsection (1)(c).

**Section A9** (End of moratorium) In subsection (3) omit “section A15 (extension by court in course of other proceedings).”.

**Section A16** (Entry into insolvency procedure etc) Omit subsections (1)(a) and (2).

**Section A17** (Obligation to notify change in end of moratorium) In subsection (1) omit entry 8 of the table.

**Section A20** (Restrictions on insolvency proceedings etc)

Subsection (1)

Omit paragraph (b) and for paragraph (c) substitute:

“(c) a resolution for voluntary winding up under section 84(1) may be passed only if the resolution is recommended by the charity trustees.”.

Subsection (3)	For subsection (3) substitute: “(3) For these purposes, “excepted petition” means a petition presented by the Attorney General or the Charity Commission under section 113 of the Charities Act 2011.”.
<b>Section A21</b> (Restrictions on enforcement and legal proceedings)	Omit subsection (1)(b).
<b>Section A22</b> (Floating charges)	In subsection (7) for “as defined by section A27”, in each place it occurs, substitute “as defined by section A31”.
<b>Section A24</b> (Duty of directors to notify monitor of insolvency proceedings etc)	For subsection (2) substitute: “(2) The charity trustees must notify the monitor if, during a moratorium for the CIO, they recommend a resolution for voluntary winding up be passed under section 84(1).”.
<b>Section A25</b> (Restrictions on obtaining credit)	In subsection (2)(b) omit “(in Scotland, hired)”.
<b>Section A26</b> (Restrictions on grant of security)	Omit subsection (6).
<b>Section A31</b> (Disposal of charged property free from charge)	
Subsection (11)	Omit “(as defined by section A27)”.
New subsection (12)	After subsection (11) insert: “(12) In this section— “collateral security” has the same meaning as in the Financial Markets and Insolvency (Settlement Finality) Regulations 1999(1); “financial collateral arrangement” has the same meaning as in the Financial Collateral Arrangements (No.2) Regulations 2003(2); “market charge” has the same meaning as in Part 7 of the Companies Act 1989(3); “system-charge” has the meaning given by the Financial Markets and Insolvency Regulations 1996(4).”.
<b>Section A32</b> (Disposal of hire-purchase property)	Omit subsection (7).
<b>Section A42</b> (Challenge to monitor’s actions)	In subsection (2)(a) for “creditor, director or member” substitute “creditor or director”.
<b>Section A43</b> (Challenges to monitor remuneration in insolvency proceedings)	In subsection (2)(c) omit “(or, in Scotland, the expenses)”.

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(1) S.I. 1999/2979, amended by S.I. 2010/2993.

(2) S.I. 2003/3226.

(3) 1989 c. 40, section 173(1), amended by S.I. 1991/880, regulation 9, S.I. 2017/1064, regulation 3(1), 19(a)(i), (ii), 19(b).

(4) S.I. 1996/1469.

**Section A44** (Challenges to charity trustees' actions) In subsection (1) omit "or member", and "or members" in both places.

**Section A48** (Prosecution of delinquent officers of CIO)

Subsection (3) Omit paragraphs (b) and (c).

Subsection (4) At end insert "as if the CIO were a company."

Subsection (8) Omit paragraph (b).

Subsection (10) Omit ", the Lord Advocate".

**Section A52** (Void provisions in floating charge documents) In subsection (4) for "as defined by section A27", in each place it occurs, substitute "as defined by section A31".

**Section A54** (Interpretation)

Subsection (1) In the definition of "unable to pay its debts" omit paragraph (b).

Subsection (3) Omit subsection (3).

**Section A55** (Regulations) In subsection (2) omit ", unless they are made by the Scottish Ministers".

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(c) in the entry relating to section 432(4) (offences by bodies corporate), for the second column substitute "Omit the words "A27(1)" and "51, 53, 54, 62, 64, 66,"";

(d) at the appropriate place insert—

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**"SCHEDULE ZA1** (Eligible CIOs)

**Paragraph 1** Omit the references to paragraphs 3 to 18.

**Paragraph 2** For sub-paragraph (4) substitute:  
"(4) In sub-paragraph (3)(g) "relevant petition" means a petition presented by the Attorney General or the Charity Commission under section 113 of the Charities Act 2011."";

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(e) omit the entries relating to Schedule A1 (moratorium where directors propose voluntary arrangements);

(f) in the entry relating to Schedule 10 (punishment of offences), in the second column, after "table," insert "omit the entries relating to sections A27 and A48, and".