

POSTAL SERVICES BILL – SPECIAL ADMINISTRATION
SCHEDULE B1 OF THE INSOLVENCY ACT 1986

SCHEDULE B1 ADMINISTRATION - Arrangement of Schedule

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Nature of Postal Administration

Postal Administration

1

- (1) In this Schedule “postal administrator”, in relation to a company, means a person appointed by the court for the purposes of a postal administration order to manage its affairs, business and property.
- (2) For the purposes of this Schedule—
- (a) a company is “in postal administration” while the appointment of a postal administrator of the company has effect,
- (b) a company “enters postal administration” when the appointment of a postal administrator takes effect,
- (c) a company ceases to be in postal administration when the appointment of a postal administrator of the company ceases to have effect in accordance with this Schedule, and
- (d) a company does not cease to be in postal administration merely because a postal administrator vacates office (by reason of resignation, death or otherwise) or is removed from office.

Effect of Postal Administration

Dismissal of pending winding-up petition

40

- (1) A petition for the winding up of a company—
- (a) shall be dismissed on the making of a postal administration order in respect of the company, and
- (b) ...
- (2) ...

(3) ...

Dismissal of administrative or other receiver

41

- (1) When a postal administration order takes effect in respect of a company any administrative receiver of the company shall vacate office.
- (2) Where a company is in postal administration, any receiver of part of the company's property shall vacate office if the postal administrator requires him to.
- (3) Where an administrative receiver or receiver vacates office under sub-paragraph (1) or (2)—
 - (a) his remuneration shall be charged on and paid out of any property of the company which was in his custody or under his control immediately before he vacated office, and
 - (b) he need not take any further steps under section 40 or 59.
- (4) In the application of sub-paragraph (3)(a)—
 - (a) "remuneration" includes expenses properly incurred and any indemnity to which the administrative receiver or receiver is entitled out of the assets of the company,
 - (b) the charge imposed takes priority over security held by the person by whom or on whose behalf the administrative receiver or receiver was appointed, and
 - (c) the provision for payment is subject to paragraph 43.

Moratorium on insolvency proceedings

42

- (1) This paragraph applies to a company in postal administration.
- (2) No resolution may be passed for the winding up of the company.
- (3) No order may be made for the winding up of the company.
- (4) ...
- (5) ...

Moratorium on other legal process

43

- (1) This paragraph applies to a company in postal administration.
- (2) No step may be taken to enforce security over the company's property except—

- (a) with the consent of the postal administrator, or
 - (b) with the permission of the court.
- (3) No step may be taken to repossess goods in the company's possession under a hire-purchase agreement except—
- (a) with the consent of the postal administrator, or
 - (b) with the permission of the court.
- (4) A landlord may not exercise a right of forfeiture by peaceable re-entry in relation to premises let to the company except—
- (a) with the consent of the postal administrator, or
 - (b) with the permission of the court.
- (5) In Scotland, a landlord may not exercise a right of irritancy in relation to premises let to the company except—
- (a) with the consent of the postal administrator, or
 - (b) with the permission of the court.
- (6) No legal process (including legal proceedings, execution, distress and diligence) may be instituted or continued against the company or property of the company except—
- (a) with the consent of the postal administrator, or
 - (b) with the permission of the court.
- (6A) An administrative receiver of the company may not be appointed.
- (7) Where the court gives permission for a transaction under this paragraph it may impose a condition on or a requirement in connection with the transaction.
- (8) In this paragraph "landlord" includes a person to whom rent is payable.

Interim moratorium

44

- (1) This paragraph applies where a postal administration application in respect of a company has been made and—
- (a) the application has not yet been granted or dismissed, or
 - (b) the application has been granted but the postal administration order has not yet taken effect.
- (2) ...
- (3) ...

- (4) ...
- (5) The provisions of paragraphs 42 and 43 shall apply (ignoring any reference to the consent of the postal administrator).
- (6) ...
- (7) This paragraph does not prevent or require the permission of the court for—
- (a)
 - (b)
 - (c)
 - (d) the carrying out by an administrative receiver (whenever appointed) of his functions.

Publicity

45

- (1) While a company is in postal administration, every business document issued by or on behalf of the company or the postal administrator, and all the company's websites, must state—
- (a) the name of the postal administrator, and
 - (b) that the affairs, business and property of the company are being managed by the postal administrator.
- (2) Any of the following persons commits an offence if without reasonable excuse the person authorises or permits a contravention of sub-paragraph (1)—
- (a) the postal administrator,
 - (b) an officer of the company, and
 - (c) the company.
- (3) In sub-paragraph (1) "business document" means—
- (a) an invoice,
 - (b) an order for goods or services,
 - (c) a business letter, and
 - (d) an order form,
- whether in hard copy, electronic or any other form.

Process of Administration

Announcement of postal administrator's appointment

46

- (1) This paragraph applies where a person becomes the postal administrator of a company.
- (2) As soon as is reasonably practicable the postal administrator shall—
 - (a) send a notice of his appointment to the company, and
 - (b) publish a notice of his appointment in the prescribed manner.
- (3) As soon as is reasonably practicable the postal administrator shall—
 - (a) obtain a list of the company's creditors, and
 - (b) send a notice of his appointment to each creditor of whose claim and address he is aware.
- (4) The postal administrator shall send a notice of his appointment to the registrar of companies before the end of the period of 7 days beginning with the date specified in sub-paragraph (6).
- (5) The postal administrator shall send a notice of his appointment to such persons as may be prescribed before the end of the prescribed period beginning with the date specified in sub-paragraph (6).
- (6) The date for the purpose of sub-paragraphs (4) and (5) is the date on which the postal administration order comes into force.
 - (a) ...
 - (b) ...
 - (c) ...
- (7) The court may direct that sub-paragraph (3)(b) or (5)—
 - (a) shall not apply, or
 - (b) shall apply with the substitution of a different period.
- (8) A notice under this paragraph must—
 - (a) contain the prescribed information, and
 - (b) be in the prescribed form.
- (9) A postal administrator commits an offence if he fails without reasonable excuse to comply with a requirement of this paragraph.

Statement of company's affairs

47

- (1) As soon as is reasonably practicable after appointment the postal administrator of a company shall by notice in the prescribed form require one or more relevant persons to provide the postal administrator with a statement of the affairs of the company.

- (2) The statement must—
- (a) be verified by a statement of truth in accordance with Civil Procedure Rules,
 - (b) be in the prescribed form,
 - (c) give particulars of the company's property, debts and liabilities,
 - (d) give the names and addresses of the company's creditors,
 - (e) specify the security held by each creditor,
 - (f) give the date on which each security was granted, and
 - (g) contain such other information as may be prescribed.
- (3) In sub-paragraph (1) "relevant person" means—
- (a) a person who is or has been an officer of the company,
 - (b) a person who took part in the formation of the company during the period of one year ending with the date on which the company enters postal administration,
 - (c) a person employed by the company during that period, and
 - (d) a person who is or has been during that period an officer or employee of a company which is or has been during that year an officer of the company.
- (4) For the purpose of sub-paragraph (3) a reference to employment is a reference to employment through a contract of employment or a contract for services.
- (5) In Scotland, a statement of affairs under sub-paragraph (1) must be a statutory declaration made in accordance with the Statutory Declarations Act 1835 (c 62) (and sub-paragraph (2)(a) shall not apply).

48

- (1) A person required to submit a statement of affairs must do so before the end of the period of 11 days beginning with the day on which he receives notice of the requirement.
- (2) The postal administrator may—
- (a) revoke a requirement under paragraph 47(1), or
 - (b) extend the period specified in sub-paragraph (1) (whether before or after expiry).
- (3) If the postal administrator refuses a request to act under sub-paragraph (2)—
- (a) the person whose request is refused may apply to the court, and
 - (b) the court may take action of a kind specified in sub-paragraph (2).

(4) A person commits an offence if he fails without reasonable excuse to comply with a requirement under paragraph 47(1).

Postal administrator's proposals

49

(1) The postal administrator of a company shall make a statement setting out proposals for achieving the objective of the postal administration.

(2) A statement under sub-paragraph (1) must, in particular—

(a) deal with such matters as may be prescribed, and

(b) where applicable, explain why the postal administrator thinks that the objective of the postal administration should be achieved by means other than just a rescue of the company as a going concern.

(3) Proposals under this paragraph may include—

(a) a proposal for a voluntary arrangement under Part I of this Act (although this paragraph is without prejudice to section 4(3));

(b) a proposal for a compromise or arrangement to be sanctioned under Part 26 of the Companies Act 2006 (arrangements and reconstructions).

(4) The postal administrator shall send a copy of the statement of his proposals—

(a) to the registrar of companies,

(aa) to the Secretary of State and OFCOM,

(b) to every creditor of the company of whose claim and address he is aware, and

(c) to every member of the company of whose address he is aware.

(5) The postal administrator shall comply with sub-paragraph (4)—

(a) as soon as is reasonably practicable after the company enters postal administration, and

(b) in any event, before the end of the period of eight weeks beginning with the day on which the company enters postal administration.

(6) The postal administrator shall be taken to comply with sub-paragraph (4)(c) if he publishes in the prescribed manner a notice undertaking to provide a copy of the statement of proposals free of charge to any member of the company who applies in writing to a specified address.

(7) A postal administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (5).

(8) A period specified in this paragraph may be varied in accordance with paragraph 107.

Creditors' meeting

50

(1) In this Schedule "creditors' meeting" means a meeting of creditors of a company summoned by the postal administrator—

(a) in the prescribed manner, and

(b) giving the prescribed period of notice to every creditor of the company of whose claim and address he is aware.

(2) A period prescribed under sub-paragraph (1)(b) may be varied in accordance with paragraph 107.

(3) A creditors' meeting shall be conducted in accordance with the rules.

Revision of postal administrator's proposals

54

(1) The postal administrator of a company may on one or more occasions revise the proposals included in the statement made under paragraph 49 in relation to the company.

(2) If the postal administrator thinks that a revision is substantial, the postal administrator must send a copy of the revised proposals—

(a) to the registrar of companies,

(b) to the Secretary of State and OFCOM,

(c) to every creditor of the company of whose address the postal administrator is aware, and

(d) to every member of the company of whose address the postal administrator is aware.

(3) A copy sent in accordance with sub-paragraph (2) must be sent within the prescribed period.

(4) The postal administrator is to be taken to have complied with sub-paragraph (2)(d) if the postal administrator publishes, in the prescribed manner, a notice undertaking to provide a copy of the statement free of charge to any member of the company who applies in writing to a specified address.

(5) A postal administrator who fails without reasonable excuse to comply with this paragraph commits an offence.

Functions of Postal administrator

General powers

59

- (1) The postal administrator of a company may do anything necessary or expedient for the management of the affairs, business and property of the company.
- (2) A provision of this Schedule which expressly permits the postal administrator to do a specified thing is without prejudice to the generality of sub-paragraph (1).
- (3) A person who deals with the postal administrator of a company in good faith and for value need not inquire whether the postal administrator is acting within his powers.

60

- (1) The postal administrator of a company has the powers specified in Schedule 1 to this Act.
- (2) The postal administrator of a company has the power to act on behalf of the company for the purposes of any enactment which confers a power on the company or imposes a duty on it.
- (3) In sub-paragraph (2) "enactment" has the same meaning as in the Postal Services Act 2011 (see section 86).

61

The postal administrator of a company—

- (a) may remove a director of the company, and
- (b) may appoint a director of the company (whether or not to fill a vacancy).

62

The postal administrator of a company may call a meeting of members or creditors of the company.

63

The postal administrator of a company may apply to the court for directions in connection with his functions.

64

- (1) A company in postal administration or an officer of a company in postal administration may not exercise a management power without the consent of the postal administrator.
- (2) For the purpose of sub-paragraph (1)—
 - (a) "management power" means a power which could be exercised so as to interfere with the exercise of the postal administrator's powers,
 - (b) it is immaterial whether the power is conferred by an enactment or an instrument, and

- (c) consent may be general or specific.

Distribution

65

- (1) The postal administrator of a company may make a distribution to a creditor of the company.
- (2) Section 175 shall apply in relation to a distribution under this paragraph as it applies in relation to a winding up.
- (3) A payment may not be made by way of distribution under this paragraph to a creditor of the company who is neither secured nor preferential unless the court gives permission.

66

The postal administrator of a company may make a payment otherwise than in accordance with paragraph 65 or paragraph 13 of Schedule 1 if he thinks it likely to assist achievement of the objective of the postal administration.

General duties

67

The postal administrator of a company shall on his appointment take custody or control of all the property to which he thinks the company is entitled.

68

- (1) Subject to sub-paragraph (2), the postal administrator of a company shall manage its affairs, business and property in accordance with the proposals as—
- (a) set out in the statement made under paragraph 49 in relation to the company, and
 - (b) from time to time revised under paragraph 54,
- for achieving the objective of the postal administration.
- (2) If the court gives directions to the postal administrator of a company in connection with any aspect of his management of the company's affairs, business or property, the postal administrator shall comply with the directions.
- (3) The court may give directions under sub-paragraph (2) only if the directions are consistent with the achievement of the objective of the postal administration.

Charged property: floating charge

70

(1) The postal administrator of a company may dispose of or take action relating to property which is subject to a floating charge as if it were not subject to the charge.

(2) Where property is disposed of in reliance on sub-paragraph (1) the holder of the floating charge shall have the same priority in respect of acquired property as he had in respect of the property disposed of.

(3) In sub-paragraph (2) "acquired property" means property of the company which directly or indirectly represents the property disposed of.

Charged property: non-floating charge

71

(1) The court may by order enable the postal administrator of a company to dispose of property which is subject to a security (other than a floating charge) as if it were not subject to the security.

(2) An order under sub-paragraph (1) may be made only—

(a) on the application of the postal administrator, and

(b) where the court thinks that disposal of the property would be likely to promote the objective of the postal administration in respect of the company.

(3) An order under this paragraph is subject to the condition that there be applied towards discharging the sums secured by the security—

(a) the net proceeds of disposal of the property, and

(b) any additional money required to be added to the net proceeds so as to produce the amount determined by the court as the net amount which would be realised on a sale of the property at the appropriate value.

(4) If an order under this paragraph relates to more than one security, application of money under sub-paragraph (3) shall be in the order of the priorities of the securities.

(5) A postal administrator who makes a successful application for an order under this paragraph shall send a copy of the order to the registrar of companies before the end of the period of 14 days starting with the date of the order.

(6) A postal administrator commits an offence if he fails to comply with sub-paragraph (5) without reasonable excuse.

Hire-purchase property

72

(1) The court may by order enable the postal administrator of a company to dispose of goods which are in the possession of the company under a hire-purchase agreement as if all the rights of the owner under

the agreement were vested in the company.

- (2) An order under sub-paragraph (1) may be made only—
 - (a) on the application of the postal administrator, and
 - (b) where the court thinks that disposal of the goods would be likely to promote the objective of the postal administration in respect of the company.
- (3) An order under this paragraph is subject to the condition that there be applied towards discharging the sums payable under the hire-purchase agreement—
 - (a) the net proceeds of disposal of the goods, and
 - (b) any additional money required to be added to the net proceeds so as to produce the amount determined by the court as the net amount which would be realised on a sale of the goods at the appropriate value.
- (4) A postal administrator who makes a successful application for an order under this paragraph shall send a copy of the order to the registrar of companies before the end of the period of 14 days starting with the date of the order.
- (5) A postal administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (4).

Protection for secured or preferential creditor

73

- (1) A postal administrator's statement of proposals under paragraph 49 may not include any action which—
 - (a) affects the right of a secured creditor of the company to enforce his security,
 - (b) would result in a preferential debt of the company being paid otherwise than in priority to its non-preferential debts, or
 - (c) would result in one preferential creditor of the company being paid a smaller proportion of his debt than another.
- (2) Sub-paragraph (1) does not apply to—
 - (a) action to which the relevant creditor consents,
 - (b) a proposal for a voluntary arrangement under Part I of this Act (although this sub-paragraph is without prejudice to section 4(3)),
 - (c) a proposal for a compromise or arrangement to be sanctioned under Part 26 of the Companies Act 2006 (arrangements and reconstructions), or
 - (d) a proposal for a cross-border merger within the meaning of regulation 2 of the Companies (Cross-Border Mergers) Regulations 2007.

(3) The reference to a statement of proposals in sub-paragraph (1) includes a reference to a statement as revised under paragraph 54.

Challenge to postal administrator's conduct of company

74

(1) A creditor or member of a company in postal administration may apply to the court claiming that—

(a) the postal administrator is acting or has acted so as unfairly to harm the interests of the applicant (whether alone or in common with some or all other members or creditors), or

(b) the postal administrator proposes to act in a way which would unfairly harm the interests of the applicant (whether alone or in common with some or all other members or creditors).

(2) If a company is in postal administration, a person mentioned in sub-paragraph (2A) may apply to the court claiming that the postal administrator is acting in a manner preventing the achievement of the objective of the postal administration as quickly and efficiently as is reasonably practicable.

(2A) The persons who may apply to the court are—

(a) the Secretary of State,

(b) with the consent of the Secretary of State, OFCOM,

(c) a creditor or member of the company.

(3) The court may—

(a) grant relief;

(b) dismiss the application;

(c) adjourn the hearing conditionally or unconditionally;

(d) make an interim order;

(e) make any other order it thinks appropriate.

(4) In particular, an order under this paragraph may—

(a) regulate the postal administrator's exercise of his functions;

(b) require the postal administrator to do or not do a specified thing;

(c) require a creditors' meeting to be held for a specified purpose;

(d) provide for the appointment of a postal administrator to cease to have effect;

(e) make consequential provision.

(5) An order may be made on a claim under sub-paragraph (1) whether

or not the action complained of—

- (a) is within the postal administrator's powers under this Schedule;
- (b) was taken in reliance on an order under paragraph 71 or 72.

(6) An order may not be made under this paragraph if it would impede or prevent the implementation of—

- (a) a voluntary arrangement approved under Part I,
- (b) a compromise or arrangement sanctioned under Part 26 of the Companies Act 2006 (arrangements and reconstructions), or
- (ba) a cross-border merger within the meaning of regulation 2 of the Companies (Cross-Border Mergers) Regulations 2007.

(7) In the case of a claim made otherwise than by the Secretary of State or OFCOM, the court may grant a remedy or relief or make an order under this paragraph only if it has given the Secretary of State or OFCOM a reasonable opportunity of making representations about the claim and the proposed remedy, relief or order.

(8) The court may grant a remedy or relief or make an order on an application under this paragraph only if it is satisfied, in relation to the matters that are the subject of the application, that the postal administrator—

- (a) is acting,
- (b) has acted, or
- (c) is proposing to act,

in a way that is inconsistent with the achievement of the objective of the postal administration as quickly and as efficiently as is reasonably practicable.

(9) Before the making of an order of the kind mentioned in sub-paragraph (4)(d)—

- (a) the court must notify the postal administrator of the proposed order and of a period during which the postal administrator is to have the opportunity of taking steps falling within sub-paragraphs (10) to (12), and
- (b) the period notified must have expired without the taking of such of those steps as the court thinks should have been taken,

and that period must be a reasonable period.

(10) In the case of a claim under sub-paragraph (1)(a), the steps referred to in sub-paragraph (9) are—

- (a) ceasing to act in a manner that unfairly harms the interests to which the claim relates,
- (b) remedying any harm unfairly caused to those interests, and
- (c) steps for ensuring that there is no repetition of conduct unfairly

causing harm to those interests.

(11) In the case of a claim under sub-paragraph (1)(b), the steps referred to in sub-paragraph (9) are steps for ensuring that the interests to which the claim relates are not unfairly harmed.

(12) In the case of a claim under sub-paragraph (2), the steps referred to in sub-paragraph (9) are—

(a) ceasing to act in a manner preventing the achievement of the objective of the postal administration as quickly and as efficiently as is reasonably practicable,

(b) remedying the consequences of the postal administrator having acted in such a manner, and

(c) steps for ensuring that there is no repetition of conduct preventing the achievement of the objective of the postal administration as quickly and as efficiently as is reasonably practicable.

Misfeasance

75

(1) The court may examine the conduct of a person who—

(a) is or purports to be the postal administrator of a company, or

(b) has been or has purported to be the postal administrator of a company.

(2) An examination under this paragraph may be held only on the application of—

(a) the official receiver,

(b) the postal administrator of the company,

(ba) a person appointed as an administrator of the company under the provisions of this Act, as they have effect in relation to administrators other than postal administrators,

(c) the liquidator of the company,

(d) a creditor of the company, or

(e) a contributory of the company.

(3) An application under sub-paragraph (2) must allege that the postal administrator—

(a) has misapplied or retained money or other property of the company,

(b) has become accountable for money or other property of the company,

(c) has breached a fiduciary or other duty in relation to the company, or

- (d) has been guilty of misfeasance.
- (4) On an examination under this paragraph into a person's conduct the court may order him—
 - (a) to repay, restore or account for money or property;
 - (b) to pay interest;
 - (c) to contribute a sum to the company's property by way of compensation for breach of duty or misfeasance.
- (5) In sub-paragraph (3) "postal administrator" includes a person who purports or has purported to be a company's postal administrator.
- (6) An application under sub-paragraph (2) may be made in respect of a postal administrator who has been discharged under paragraph 98 only with the permission of the court.

Ending Administration

Court ending postal administration on application of postal administrator

79

- (1) On an application made by a person mentioned in subparagraph (2), the court may provide for the appointment of a postal administrator of a company to cease to have effect from a specified time.
- (2) An application may be made to the court under this paragraph—
 - (a) by the Secretary of State,
 - (b) with the consent of the Secretary of State, by OFCOM, or
 - (c) with the consent of the Secretary of State, by the postal administrator.
- (3) ...
- (4) On an application under this paragraph the court may—
 - (a) adjourn the hearing conditionally or unconditionally;
 - (b) dismiss the application;
 - (c) make an interim order;
 - (d) make any order it thinks appropriate (whether in addition to, in consequence of or instead of the order applied for).

Moving from postal administration to creditors' voluntary liquidation

83

- (1) This paragraph applies in England and Wales where the postal administrator of a company thinks—
- (a) that the total amount which each secured creditor of the company is likely to receive has been paid to him or set aside for him, and
 - (b) that a distribution will be made to unsecured creditors of the company (if there are any).
- (2) This paragraph applies in Scotland where the postal administrator of a company thinks—
- (a) that each secured creditor of the company will receive payment in respect of his debt, and
 - (b) that a distribution will be made to unsecured creditors (if there are any).
- (3) The postal administrator may, with the consent of the Secretary of State or of OFCOM, send to the registrar of companies a notice that this paragraph applies.
- (4) On receipt of a notice under sub-paragraph (3) the registrar shall register it.
- (5) If a postal administrator sends a notice under sub-paragraph (3) he shall as soon as is reasonably practicable—
- (a) file a copy of the notice with the court, and
 - (b) send a copy of the notice to each creditor of whose claim and address he is aware.
- (6) On the registration of a notice under sub-paragraph (3)—
- (a) the appointment of a postal administrator in respect of the company shall cease to have effect, and
 - (b) the company shall be wound up as if a resolution for voluntary winding up under section 84 were passed on the day on which the notice is registered.
- (7) The liquidator for the purposes of the winding up shall be—
- (a) a person nominated by the creditors of the company in the prescribed manner and within the prescribed period, or
 - (b) if no person is nominated under paragraph (a), the postal administrator.
- (8) In the application of Part IV to a winding up by virtue of this paragraph—
- (a) section 85 shall not apply,
 - (b) section 86 shall apply as if the reference to the time of the passing of the resolution for voluntary winding up were a reference to the beginning of the date of registration of the notice under sub-

paragraph (3),

(c) section 89 does not apply,

(d) sections 98, 99 and 100 shall not apply,

(e) section 129 shall apply as if the reference to the time of the passing of the resolution for voluntary winding up were a reference to the beginning of the date of registration of the notice under sub-paragraph (3), and

(f) any creditors' committee which is in existence immediately before the company ceases to be in postal administration shall continue in existence after that time as if appointed as a liquidation committee under section 101.

Moving from postal administration to dissolution

84

(1) If the postal administrator of a company thinks that the company has no property which might permit a distribution to its creditors, he shall send a notice to that effect—

(a) to the Secretary of State and OFCOM, and

(b) if directed to do so by either the Secretary of State or OFCOM, to the registrar of companies.

(2) ...

(3) On receipt of a notice under sub-paragraph (1)(b) the registrar shall register it.

(4) On the registration of a notice in respect of a company under sub-paragraph (1)(b) the appointment of a postal administrator of the company shall cease to have effect.

(5) If a postal administrator sends a notice under sub-paragraph (1)(b) he shall as soon as is reasonably practicable—

(a) file a copy of the notice with the court, and

(b) send a copy of the notice to each creditor of whose claim and address he is aware.

(6) At the end of the period of three months beginning with the date of registration of a notice in respect of a company under sub-paragraph (1)(b) the company is deemed to be dissolved.

(7) On an application in respect of a company by the postal administrator or another interested person the court may—

(a) extend the period specified in sub-paragraph (6),

(b) suspend that period, or

(c) disapply sub-paragraph (6).

(8) Where an order is made under sub-paragraph (7) in respect of a company the postal administrator shall as soon as is reasonably practicable notify the registrar of companies.

(9) A postal administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (5).

Discharge of postal administration order where postal administration ends

85

(1) This paragraph applies where—

(a) the court makes an order under this Schedule providing for the appointment of a postal administrator of a company to cease to have effect, and

(b) the postal administrator was appointed by postal administration order.

(2) The court shall discharge the postal administration order.

Notice to Companies Registrar where postal administration ends

86

(1) This paragraph applies where the court makes an order under this Schedule providing for the appointment of a postal administrator to cease to have effect.

(2) The postal administrator shall send a copy of the order to the registrar of companies within the period of 14 days beginning with the date of the order.

(3) A postal administrator who fails without reasonable excuse to comply with sub-paragraph (2) commits an offence.

Replacing Postal administrator

Resignation of postal administrator

87

(1) A postal administrator may resign only in prescribed circumstances.

(2) Where a postal administrator may resign he may do so only by notice in writing to the court.

(a) ...

(b) ...

(c) ...

(d) ...

Removal of postal administrator from office

88

The court may by order remove a postal administrator from office.

Postal administrator ceasing to be qualified

89

(1) The postal administrator of a company shall vacate office if he ceases to be qualified to act as an insolvency practitioner in relation to the company.

(2) Where a postal administrator vacates office by virtue of sub-paragraph (1) he shall give notice in writing to the court.

(a) ...

(b) ...

(c) ...

(d) ...

(3) A postal administrator who fails without reasonable excuse to comply with sub-paragraph (2) commits an offence.

Supplying vacancy in office of postal administrator

90

Paragraph 91 applies where a postal administrator—

(a) dies,

(b) resigns,

(c) is removed from office under paragraph 88, or

(d) vacates office under paragraph 89.

91

(1) The court may replace the postal administrator on an application made—

(a) by the Secretary of State,

(b) with the consent of the Secretary of State, by OFCOM, or

(c) where more than one person was appointed to act jointly as the postal administrator, by any of those persons who remains in office.

(d) ...

- (e) ...
- (2) ...

Vacation of office: discharge from liability

98

- (1) Where a person ceases to be the postal administrator of a company (whether because he vacates office by reason of resignation, death or otherwise, because he is removed from office or because his appointment ceases to have effect) he is discharged from liability in respect of any action of his as postal administrator.
- (2) The discharge provided by sub-paragraph (1) takes effect—
 - (a) in the case of a postal administrator who dies, on the filing with the court of notice of his death,
 - (b) ...
 - (c) in any case, at a time specified by the court.
- (3) ...
- (4) Discharge—
 - (a) applies to liability accrued before the discharge takes effect, and
 - (b) does not prevent the exercise of the court's powers under paragraph 75.

Vacation of office: charges and liabilities

99

- (1) This paragraph applies where a person ceases to be the postal administrator of a company (whether because he vacates office by reason of resignation, death or otherwise, because he is removed from office or because his appointment ceases to have effect).
- (2) In this paragraph—
 - “the former postal administrator” means the person referred to in sub-paragraph (1), and
 - “cessation” means the time when he ceases to be the company's postal administrator.
- (3) The former postal administrator's remuneration and expenses shall be—
 - (a) charged on and payable out of property of which he had custody or control immediately before cessation, and
 - (b) payable in priority to any security to which paragraph 70 applies.

- (4) A sum falling within sub-paragraph (4A) shall be—
- (a) charged on and payable out of property of which the former postal administrator had custody or control immediately before cessation, and
 - (b) payable in priority to any charge arising under sub-paragraph (3).
- (4A) A sum falls within this sub-paragraph if it is—
- (a) a sum payable in respect of a debt or other liability arising out of a contract that was entered into before cessation by the former postal administrator or a predecessor,
 - (b) a sum that must be repaid by the company in respect of a grant that was made before cessation under section 76 of the Postal Services Act 2011 as is mentioned in subsection (4) of that section,
 - (c) a sum that must be repaid by the company in respect of a loan made before cessation under that section or that must be paid by the company in respect of interest payable on such a loan,
 - (d) a sum payable by the company under subsection (4) of section 77 of that Act in respect of an agreement to indemnify made before cessation, or
 - (e) a sum payable by the company under subsection (5) of section 78 of that Act in respect of a guarantee given before cessation.
- (5) Sub-paragraph (4A)(a) shall apply to a liability arising under a contract of employment which was adopted by the former postal administrator or a predecessor before cessation; and for that purpose—
- (a) action taken within the period of 14 days after a postal administrator's appointment shall not be taken to amount or contribute to the adoption of a contract,
 - (b) no account shall be taken of a liability which arises, or in so far as it arises, by reference to anything which is done or which occurs before the adoption of the contract of employment, and
 - (c) no account shall be taken of a liability to make a payment other than wages or salary.
- (6) In sub-paragraph (5)(c) "wages or salary" includes—
- (a) a sum payable in respect of a period of holiday (for which purpose the sum shall be treated as relating to the period by reference to which the entitlement to holiday accrued),
 - (b) a sum payable in respect of a period of absence through illness or other good cause,
 - (c) a sum payable in lieu of holiday,
 - (d) in respect of a period, a sum which would be treated as earnings for that period for the purposes of an enactment about social security,

and

- (e) a contribution to an occupational pension scheme.

General

Joint and concurrent postal administrators

100

(1) In this Schedule—

(a) a reference to the appointment of a postal administrator of a company includes a reference to the appointment of a number of persons to act jointly or concurrently as the postal administrator of a company, and

(b) a reference to the appointment of a person as postal administrator of a company includes a reference to the appointment of a person as one of a number of persons to act jointly or concurrently as the postal administrator of a company.

(2) ...

101

(1) This paragraph applies where two or more persons are appointed to act jointly as the postal administrator of a company.

(2) A reference to the postal administrator of the company is a reference to those persons acting jointly.

(3) But a reference to the postal administrator of a company in paragraphs 87 to 91, 98 and 99 of this Schedule is a reference to any or all of the persons appointed to act jointly.

(4) Where an offence of omission is committed by the postal administrator, each of the persons appointed to act jointly—

(a) commits the offence, and

(b) may be proceeded against and punished individually.

(5) The reference in paragraph 45(1)(a) to the name of the postal administrator is a reference to the name of each of the persons appointed to act jointly.

(6) Where persons are appointed to act jointly in respect of only some of the functions of the postal administrator of a company, this paragraph applies only in relation to those functions.

102

(1) This paragraph applies where two or more persons are appointed to act concurrently as the postal administrator of a company.

(2) A reference to the postal administrator of a company in this Schedule is a reference to any of the persons appointed (or any combination of them).

103

- (1) Where a company is in postal administration, a person may be appointed to act as postal administrator jointly or concurrently with the person or persons acting as the postal administrator of the company.
- (2) An appointment under sub-paragraph (1) must be made by the court on the application of—
- (a) the Secretary of State,
 - (aa) OFCOM, or
 - (b) the person or persons acting as the postal administrator of the company.
- (2A) The consent of the Secretary of State is required for an application by OFCOM for the purposes of sub-paragraph (2).
- (3) ...
- (4) ...
- (5) ...
- (6) An appointment under sub-paragraph (1) may be made only with the consent of the person or persons acting as the postal administrator of the company.

Presumption of validity

104

An act of the postal administrator of a company is valid in spite of a defect in his appointment or qualification.

Majority decision of directors

105

A reference in this Schedule to something done by the directors of a company includes a reference to the same thing done by a majority of the directors of a company.

Penalties

106

- (1) A person who is guilty of an offence under this Schedule is liable to a fine (in accordance with section 430 and Schedule 10).
- (2) A person who is guilty of an offence under any of the following paragraphs of this Schedule is liable to a daily default fine (in accordance with section 430 and Schedule 10)—
- (a) ...
 - (b) ...

- (c) paragraph 46,
- (d) paragraph 48,
- (e) paragraph 49,
- (f) ...
- (g) ...
- (h) paragraph 54,
- (i) ...
- (j) paragraph 71,
- (k) paragraph 72,
- (l) ...
- (m) ...
- (n) ...
- (o) paragraph 84,
- (p) paragraph 86, and
- (q) paragraph 89.

Extension of time limit

107

(1) Where a provision of this Schedule provides that a period may be varied in accordance with this paragraph, the period may be varied in respect of a company—

- (a) by the court, and
- (b) on the application of the postal administrator.

(2) A time period may be extended in respect of a company under this paragraph—

- (a) more than once, and
- (b) after expiry.

109

Where a period is extended under paragraph 107, a reference to the period shall be taken as a reference to the period as extended.

Amendment of provision about time

110

- (1) The Secretary of State may by order amend a provision of this Schedule which—
- (a) requires anything to be done within a specified period of time,
 - (b) prevents anything from being done after a specified time, or
 - (c) requires a specified minimum period of notice to be given.
- (2) An order under this paragraph—
- (a) must be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

111

- (1) In this Schedule—
- “administrative receiver” has the meaning given by section 251,
- “postal administrator” has the meaning given by paragraph 1 and, where the context requires, includes a reference to a former postal administrator,
- “appropriate value” means the best price which would be available on a sale which is consistent with the achievement of the objective of the postal administration,
- . . .
- “company” and “court” have the same meaning as in Part 4 of the Postal Services Act 2011,
- “creditors' meeting” has the meaning given by paragraph 50,
- “enters postal administration” has the meaning given by paragraph 1,
- “floating charge” means a charge which is a floating charge on its creation,
- “in postal administration” has the meaning given by paragraph 1,
- “hire-purchase agreement” includes a conditional sale agreement, a chattel leasing agreement and a retention of title agreement,
- “objective”, in relation to a postal administration, is to be read in accordance with section 66 of the Postal Services Act 2011,
- “OFCOM” means the Office of Communications,
- “postal administration application” means an application to the court for a postal administration order under Part 4 of the Postal Services Act

2011,

“postal administration order” has the same meaning as in Part 4 of the Postal Services Act 2011,

“prescribed” means prescribed by postal administration rules within the meaning of Part 4 of the Postal Services Act 2011.

...

...

...

(2)

(3) In this Schedule a reference to action includes a reference to inaction.

(4) For the purposes of this Schedule a reference to a postal administration order includes a reference to an appointment under paragraph 91 or 103.

Scotland

112

In the application of this Schedule to Scotland—

- (a) a reference to filing with the court is a reference to lodging in court, and
- (b) a reference to a charge is a reference to a right in security.

113

Where property in Scotland is disposed of under paragraph 70 or 71, the postal administrator shall grant to the disponee an appropriate document of transfer or conveyance of the property, and—

- (a) that document, or
- (b) recording, intimation or registration of that document (where recording, intimation or registration of the document is a legal requirement for completion of title to the property),

has the effect of disencumbering the property of or, as the case may be, freeing the property from, the security.

114

In Scotland, where goods in the possession of a company under a hire-purchase agreement are disposed of under paragraph 72, the disposal has the effect of extinguishing as against the disponee all rights of the owner of the goods under the agreement.

115

(1) In Scotland, the postal administrator of a company may make, in or

towards the satisfaction of the debt secured by the floating charge, a payment to the holder of a floating charge which has attached to the property subject to the charge.

(2) In Scotland, where the postal administrator thinks that the company has insufficient property to enable a distribution to be made to unsecured creditors other than by virtue of section 176A(2)(a), he may file a notice to that effect with the registrar of companies.

(3) On delivery of the notice to the registrar of companies, any floating charge granted by the company shall, unless it has already so attached, attach to the property which is subject to the charge and that attachment shall have effect as if each floating charge is a fixed security over the property to which it has attached.

116

In Scotland, the postal administrator in making any payment in accordance with paragraph 115 shall make such payment subject to the rights of any of the following categories of persons (which rights shall, except to the extent provided in any instrument, have the following order of priority)—

- (a) the holder of any fixed security which is over property subject to the floating charge and which ranks prior to, or *pari passu* with, the floating charge,
- (b) creditors in respect of all liabilities and expenses incurred by or on behalf of the postal administrator,
- (c) the postal administrator in respect of his liabilities, expenses and remuneration and any indemnity to which he is entitled out of the property of the company,
- (d) the preferential creditors entitled to payment in accordance with paragraph 65,
- (e) the holder of the floating charge in accordance with the priority of that charge in relation to any other floating charge which has attached, and
- (f) the holder of a fixed security, other than one referred to in paragraph (a), which is over property subject to the floating charge.