STATUTORY INSTRUMENTS

2017 No. 1119

INSOLVENCY

COMPANIES

INDIVIDUALS

PARTNERSHIP

The Insolvency (Miscellaneous Amendments) Regulations 2017

Made - - - -	*15th November 2017*
Laid before Parliament	*16th November 2017*
Coming into force - -	*8th December 2017*

The Secretary of State, being designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to insolvency(**1**) in exercise of the powers conferred upon him by that section, and in exercise of the powers conferred by section 109 of the Insolvency Act 1986(**2**), sections 14 and 17(3) of the Limited Liability Partnerships Act 2000(**3**), section 99 of the Enterprise and Regulatory Reform Act 2013(**4**), and section 159(1) of the Small Business, Enterprise and Employment Act 2015(**5**), makes the following Regulations (to the extent that they relate to the provisions in Schedules 1, 4 and 5).

The Lord Chancellor, with the concurrence of the Secretary of State and with the concurrence of the Chancellor of the High Court (nominated by the Lord Chief Justice under section 420(4) and 421(5) of the Insolvency Act 1986), in exercise of the powers conferred by sections 420(1) and (2) and 421(1) and (2) of the Insolvency Act 1986, section 99(1) of the Enterprise and Regulatory Reform Act 2013(**6**), section 112(1) of the Deregulation Act 2015(**7**) and section 159(1) of the Small Business, Enterprise and Employment Act 2015, makes the Regulations in Part 1 of Schedule 2 (to the extent that they relate to the provisions in Schedules 2 and 3).

(**1**) 1972 c. 68. The Secretary of State was designated by S.I. 2001/3495. Section 57(1) of the Scotland Act 1998 (c. 46) provides that despite the transfer to the Scottish Ministers of functions in relation to observing and implementing obligations under EU law, any function of a Minister of the Crown shall continue to be exercisable by the Minister as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972.
(**2**) 1986 c. 45.
(**3**) 2000 c. 12; section 14 was modified by paragraph 6(2) of Part 1 of Schedule 3 to S.I. 2009/1804. Section 17(1) defines "regulations" as regulations made by the Secretary of State by statutory instrument.
(**4**) 2013 c. 24.
(**5**) 2015 c. 26.
(**6**) 2013 c. 24.
(**7**) 2015 c. 20.

Citation, commencement and extent

1.—(1) — These Regulations may be cited as the Insolvency (Miscellaneous Amendments) Regulations 2017 and come into effect on 8th December 2017.

(2) Part 1 of Schedule 1 extends to England and Wales and Scotland only, save for paragraphs 1 and 2 which extend to England and Wales only.

(3) Part 2 of Schedule 1 extends to England and Wales only.

(4) Part 3 of Schedule 1 extends to Scotland only.

(5) Part 4 of Schedule 1 extends to Northern Ireland only.

(6) Schedules 2 to 4 extend to England and Wales only.

(7) Part 5 extends to England and Wales and Scotland only.

Amendments

2. Schedules 1 to 5 have effect.

Signed, by the authority of the Lord Chancellor

David Lidington
Secretary of State
13th November 2017 Ministry of Justice

I concur, by the authority of the Lord Chief Justice

Geoffrey Vos
14th November 2017 Chancellor of the High Court

I concur

Margot James
Minister for Small Business, Consumer and Corporate Responsibility
Department for Business, Energy and Industrial Strategy
15th November 2017

SCHEDULES

SCHEDULE 1

Regulation 2

LIMITED LIABILITY PARTNERSHIPS

PART 1

Application of the Insolvency Act 1986 and the Insolvency (England and Wales) Rules 2016

1.—(1) The Limited Liability Partnerships Regulations 2001(**8**) are amended as follows—

(2) In paragraph 3 of Part 2 of Schedule 6 for "Insolvency Rules 1986" substitute "Insolvency (England and Wales) Rules 2016"(**9**).

2.—(1) The Insolvency (England and Wales) Rules 2016 (Consequential Amendments and Savings) Rules 2017(**10**) are amended as follows—

(2) Omit rule 3(b).

3.—(1) The Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017(**11**) are amended as follows—

(2) Omit regulation 4(2)(b).

PART 2

Amendments to the Limited Liability Partnerships Regulations 2001, England and Wales

4. The Limited Liability Partnerships Regulations 2001 are amended as follows.

Part 2 of Schedule 2

5. Omit Part 2 of Schedule 2.

Schedule 3

6. Schedule 3 is amended as follows.

7. For the item relating to subsection (2) of section 2(**12**) substitute—

(**8**) S.I. 2001/1090; relevant amending instruments are S.I. 2004/355, 2005/1989, 2005/2114, 2008/1911, 2009/1804, 2015/1641, and 2016/481.
(**9**) S.I. 2016/1024, amended by S.I. 2017/369.
(**10**) S.I. 2017/369.
(**11**) S.I. 2017/540.
(**12**) As amended by paragraph 3(a)(ii) of Schedule 2 to S.I. 2005/1989.

"Provisions	*Modifications*
Section 2 (procedure where the nominee is not the liquidator or administrator)	
subsection (2)	In paragraph (b) omit "a meeting of the company and by". Omit paragraph (c)."

8. For the items relating to subsections (1) and (2) of section 3 substitute—

"Provisions	*Modifications*
Section 3 (summoning of meetings)	
subsection (1)	For subsection (1) substitute— "(1) Where the nominee under section 1 is not the liquidator or administrator, and it has been reported to the court under section 2(2) that the proposal should be considered by the creditors of the limited liability partnership, the person making the report shall (unless the court otherwise directs) seek a decision from the creditors of the limited liability partnership as to whether they approve the proposal.".
subsection (2)	Omit paragraph (a)."

9. For the item relating to subsection (1) of section 4(**13**) substitute—

"Provisions	*Modifications*
Section 4 (decisions of meetings)	
subsection (1)	Omit paragraph (a)."

10. After the item relating to subsection (1) of section 4 insert—

"Provisions	*Modifications*
Section 4 (decisions of meetings)	
subsection (1A)	For "The company and its creditors" substitute "The creditors of the limited liability partnership".
subsection (3)	For "Neither the company nor its creditors" substitute "The creditors of the limited liability partnership may not".

(**13**) Section 4 was amended by paragraph 4(2) of Part 1 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c. 26).

"Provisions	*Modifications*
Section 4 (decisions of meetings)	
subsection (4)	For "Neither the company nor its creditors" substitute "The creditors of the limited liability partnership may not"."

11. For the item relating to subsection (5) of section 4 substitute—

"Provisions	*Modifications*
Section 4 (decisions of meetings)	
subsection (5)	Omit "the meeting of the company and"."

12. For the item relating to new subsection (5A) of section 4 substitute—

"Provisions	*Modifications*
Section 4 (decisions of meetings)	
new subsection (5A)	Insert a new subsection (5A) as follows— "(5A) If modifications to the proposal are proposed by creditors, the nominee under section 1(2) must, before the date on which the creditors are to be asked whether to approve the proposed voluntary arrangement, ascertain from the limited liability partnership whether or not it agrees to the proposed modifications; and if at that date the limited liability partnership has failed to respond to a proposed modification, it shall be presumed not to have agreed to it.""

13. For the item relating to subsection (6) of section 4 substitute—

"Provisions	*Modifications*
Section 4 (decisions of meetings)	
subsection 6	Omit."

14. After the item relating to subsection (6) of section 4 insert—

"Provisions	*Modifications*
Section 4 (decisions of meetings)	
subsection (6A)	In paragraph (a) after "creditors' decision" insert "(including, where modifications to the proposal were proposed, the response of the limited liability partnership)".