STATUTORY INSTRUMENTS

2016 No. 481

INSOLVENCY

The Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016

Made - - - -	*23rd March 2016*
Coming into force - -	*6th April 2016*

A draft of these Regulations was laid before Parliament in accordance with section 99(5) of the Enterprise and Regulatory Reform Act 2013(**1**), section 159(3) and 161(4) of the Small Business, Enterprise and Employment Act 2015(**2**) and section 17(4) of the Limited Liability Partnerships Act 2000(**3**) and approved by a resolution of each House of Parliament.

The Secretary of State, in exercise of the powers conferred by section 99(1) and (2) of the Enterprise and Regulatory Reform Act 2013, section 159(1) and (2) of the Small Business, Enterprise and Employment Act 2015 and section 14(2)(a) of the Limited Liability Partnerships Act 2000, makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016 and come into force on 6th April 2016.

Amendments relating to the Enterprise and Regulatory Reform Act 2013

2.—(1) Schedule 1, which amends Acts of Parliament, has effect.

(2) Schedule 2, which amends subordinate legislation, has effect.

(**1**) 2013 c.24.
(**2**) 2015 c. 26.
(**3**) 2000 c.12; there are amending instruments to the Act but none is relevant.

Amendments relating to the Small Business, Enterprise and Employment Act 2015

3. In paragraph 26 of Schedule 8 to the Insolvency Act 1986 (provisions capable of inclusion in company insolvency rules)(**4**), for "7(3)" substitute "7A".

4.—(1) Part 3 of Schedule 6 to the Limited Liability Partnerships Regulations 2001 (application of subordinate legislation)(**5**)is amended as follows.

(2) In paragraph 6 for "The Insolvent Companies (Reports on Conduct of Directors) Rules 1996" substitute "The Insolvent Companies (Reports on Conduct of Directors) (England and Wales) Rules 2016(**6**)".

(3) In paragraph 7 for "The Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 1996" substitute "The Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 2016(**7**)".

Neville-Rolfe
Minister of State for Small Business, Industry and Enterprise
Department for Business, Innovation and Skills

23rd March 2016

(**4**) 1986 c.45; there are amending instruments to the Act but none is relevant.
(**5**) S.I. 2001/1090; there are amending instruments to these Regulations but none is relevant.
(**6**) S.I. 2016/180.
(**7**) S.I. 2016/185 (S. 1).

SCHEDULE 1 Regulation 2(1)

Consequential amendments to Acts of Parliament

PART 1

Bills of Sale Act 1878

1. In section 8 of the Bills of Sale Act 1878 (avoidance of unregistered bills of sale in certain cases)(**8**) before "filing the petition for bankruptcy" insert "making the bankruptcy application or".

Agricultural Credits Act 1928

2. In section 8(5) of the Agricultural Credits Act 1928 (supplemental provisions as to agricultural charges)(**9**)—

(a) for "adjudged" substitute "made";

(b) before "presentation of the bankruptcy petition" insert "making of the bankruptcy application or".

Law of Property (Joint Tenants) Act 1964

3. In section 1(1)(b) of the Law of Property (Joint Tenants) Act 1964 (assumptions on sale of land by survivor of joint tenants)(**10**)—

(a) before "a petition" insert "an application or";

(b) before "or petition" insert ", application".

Land Charges Act 1972

4.—(1) The Land Charges Act 1972(**11**) is amended as follows.

(2) In section 5 (the register of pending actions)(**12**)—

(a) in subsection (1)—

(i) after paragraph (b) insert—

"(c) a bankruptcy application.";

(b) in subsection (3)—

(i) at the end of paragraph (a) omit "and";

(ii) at the end of paragraph (b) insert "and";

(iii) after paragraph (b) insert—

"(c) if it relates to a bankruptcy application, the date on which the bankruptcy application was made.";

(**8**) 1878 c.31; section 8 was repealed by section 15 of the Bills of Sale (1878) Amendment Act 1882 (c.43) in respect of bills of sale given by way of security for the payment of money.

(**9**) 1928 c.43.

(**10**) 1964 c.63; section 1 was amended by the Insolvency Act 1985 (c.65) section 235(1), Schedule 8, paragraph 13 and the Law of Property (Miscellaneous Provisions) Act 1994 (c.36) Schedule 2, paragraph 1.

(**11**) 1972 c.61.

(**12**) Section 5 was amended by the County Courts Act 1984 (c.28) Schedule 2, Part 4, paragraph. 17, the Insolvency Act 1985 (c.65) section 235(1) and (3), Schedule 8, paragraph 21(2), and Schedule.10, Part 3 and the Law of Property (Miscellaneous Provisions) Act 1994 (c.36) section 15(3).

(c) after subsection (6) insert—

"(6A) No fee shall be charged for the registration of a bankruptcy application.";

(d) in subsection (8) before "petition in bankruptcy" insert "bankruptcy application or".

(3) In section 6(6) (the register of writs and orders affecting land)(**13**)—

(a) before "petition in bankruptcy" insert "bankruptcy application or";

(b) for the words from "either the registration of the petition" to the end of the section substitute—

"either—

(a) the registration of the application or the petition is in force; or

(b) a receiving order on the application or the petition is registered under this section.".

(4) In section 16(2) (general rules)(**14**) before "petition in bankruptcy" insert "bankruptcy application or".

Estate Agents Act 1979

5.—(1) Section 23 of the Estate Agents Act 1979 (bankrupts not to engage in estate agency work)(**15**) is amended as follows.

(2) In subsection (1) for "adjudged" substitute "made".

(3) In subsection (2)(a) for "adjudication of bankruptcy" substitute "bankruptcy order made".

Housing Act 1985

6. In section 121(2)(a) of the Housing Act 1985 (circumstances in which the right to buy cannot be exercised)(**16**) before "has a bankruptcy petition" insert "has made a bankruptcy application that has not been determined or".

Finance Act 1986

7.—(1) The Finance Act 1986(**17**) is amended as follows.

(2) In section 80D(9)(e) (repurchases and stock lending: replacement stock on insolvency)(**18**) before "presentation of a bankruptcy petition" insert "making of a bankruptcy application or".

(3) In section 89AB(9)(e) (stamp duty reserve tax: exception for repurchases and stock lending in case of insolvency)(**19**) before "presentation of a bankruptcy petition" insert "making of a bankruptcy application or".

(**13**) Section 6(6) was amended by the Insolvency Act 1985 (c.65) section 235(1) and (3), Schedule. 8, paragraph. 21(3) and Schedule 10, Part 3.
(**14**) Section 16(2) was amended by the Insolvency Act 1985 (c.65) Schedule 8, paragraph 21(4) and the Insolvency Act 1986 (c.45) section 439(2) and Schedule 14 and the Constitutional Reform Act 2005 (c.4) sections 15(1), 146 and 235(1), Schedule 4, Part 1, paragraph 75 and Schedule 18, Part 2, paragraph 1.
(**15**) 1979 c.38; section 23 was amended by the Insolvency Act 1985 (c.65) section 235(1), Schedule 8, paragraph 33, the Bankruptcy (Scotland) Act 1985 (c.66) section 75(1), Schedule 7, paragraph 17 and S.I. 2012/2404.
(**16**) 1985 c.68; section 121 was amended by the Insolvency Act 1985 (c.65) Schedule 10, Part 3, paragraph 1, the Housing Act 2004 (c.34) section 192(1) and S.I. 2012/2404.
(**17**) 1986 c.41.
(**18**) Section 80D was inserted by the Finance Act 2009 (c.10) Schedule 37, Part 1, paragraph 2.
(**19**) Section 89AB was inserted by the Finance Act 2009 (c.10) Schedule 37, Part 1, paragraph 5.

Company Directors Disqualification Act 1986

8. In section 11(2A) of the Company Directors Disqualification Act 1986 (undischarged bankrupts)(**20**) for paragraph (a)(i) substitute—

"(i) the court by which the bankruptcy order was made or (if the order was not made by a court) the court to which a debtor may appeal against a refusal to make a bankruptcy order, or".

Companies Act 1989

9.—(1) The Companies Act 1989(**21**) is amended as follows.

(2) In section 155(3B)(a) (market contracts)(**22**) before "the presentation of a bankruptcy petition" insert "the making of a bankruptcy application or".

(3) In section 158(3)(a) (modifications of the law of insolvency)(**23**) before "the presentation of a bankruptcy petition" insert "the making of a bankruptcy application or".

(4) In section 163(4)(a) (net sum payable on completion of default proceedings)(**24**) before "a bankruptcy petition" insert "a bankruptcy application or".

(5) In section 164 (disclaimer of property, rescission of contracts etc)(**25**)—

(a) in subsection (3), in the words before paragraph (a) "or presentation of bankruptcy petition" insert ", submission of bankruptcy application or";

(b) in subsection (4)(a) before "a petition has been presented" insert "a bankruptcy application has been submitted or";

(c) in subsection (4)(b) for "such a petition has been presented" substitute "such an application has been made or petition presented".

(6) In section 175 (administration orders etc)(**26**)—

(a) in subsection (4) before "or presentation of bankruptcy petition" insert ", making of bankruptcy application";

(b) in subsection (5) before "a petition has been presented" insert "a bankruptcy application has been made or".

(7) In section 182(2) (powers of court in relation to certain proceedings begun before commencement) before paragraph (a) insert—

"(za) the making of a bankruptcy application on which a bankruptcy order is made, ".

Taxation of Chargeable Gains Act 1992

10. In section 263CA(9)(e) of the Taxation of Chargeable Gains Act 1992 (stock lending: insolvency etc of borrower)(**27**) before "the presentation of a bankruptcy petition" insert "bankruptcy application made or".

(**20**) 1986 c.46; section 11 was amended by the Small Business, Enterprise and Employment Act 2015 (c.26) section 113(1).
(**21**) 1989 c.40.
(**22**) Section 155 was inserted by S.I. 2003/1908; there are other amending instruments to this section but none is relevant.
(**23**) Section 158 was amended by the Enterprise Act 2002 (c.40) Schedule 17, paragraph 44(a).
(**24**) Section 163 was amended by S.I. 2009/853.
(**25**) Section 164 was amended by S.I. 2009/853.
(**26**) Section 175 was amended by S.I. 2013/504.
(**27**) 1992 c.12; section 263CA was inserted by the Finance Act 2009 (c.10) Schedule 13, paragraph 3.