

TURKS AND CAICOS ISLANDS

**INSOLVENCY (TRANSITIONAL PROVISIONS)
REGULATIONS 2019**

(Legal Notice 16 of 2019)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation and commencement
2. Interpretation
3. Company arrangements
4. Administration
5. Receivership
6. Voidable transactions
7. Offences
8. Insolvency practitioner appointed prior to commencement date

TURKS AND CAICOS ISLANDS

INSOLVENCY (TRANSITIONAL PROVISIONS) REGULATIONS 2019

(Legal Notice 16 of 2019)

MADE by the Governor under section 481 of the Insolvency Ordinance 2017.

Citation and commencement

1. These Regulations may be cited as the Insolvency (Transitional Provisions) Regulations 2019 and come into force on 1 April 2019.

Interpretation

2. (1) In these Regulations—

“commencement date” means the date that the Ordinance came into force;

“former Ordinance” means the Companies Ordinance 1981;

“Ordinance” means the Insolvency Ordinance 2017;

“Part” means a Part of the Ordinance; and

“section” means a section of the Ordinance.

(2) Any word or phrase defined in the Ordinance has, unless the context otherwise requires, the same meaning in these Regulations.

Company arrangements

3. Part III applies to, and in relation to, a company being wound up under the former Ordinance as if the following amendments had effect—

(a) a reference in Part III to—

(i) a company “in liquidation” includes a company being wound up under the former Ordinance;

(ii) “liquidation” includes a liquidation under the former Ordinance; and

(iii) “liquidator” includes a liquidator appointed under or in accordance with the former Ordinance;

- (b) “preferential creditor” means a creditor who would have been a preferential creditor under the former Ordinance and the preferential claim of the preferential creditor shall be quantified in accordance with the former Ordinance;
- (c) section 28(1)(a) does not apply to the liquidator of a company being wound up under the former Ordinance unless the liquidator is an eligible insolvency practitioner; and
- (d) in section 41(3)(a), the commencement of the liquidation of the company being wound up under the former Ordinance shall be determined in accordance with the former Ordinance.

Administration

4. (1) For the purposes of sections 60 and 56(2)(b) of the Ordinance, a receiver who, if he had been appointed after the commencement date, would have been an administrative receiver, is deemed to be an administrative receiver.

(2) For the purposes of sections 60 of the Ordinance—

“company in liquidation” includes a company being wound up under the former Ordinance; and

“provisional liquidator” includes an Official liquidator appointed provisionally under the former Ordinance.

(3) The liquidator of a company being wound up under the former Ordinance may apply to the Court for the appointment of an administrator under section 64(1)(f) of the Ordinance.

(4) The Court shall not make an administration order in respect of a company being wound up under the former Ordinance except on the application of the liquidator.

Receivership

5. Part V does not apply to a receiver or manager of a company’s property appointed prior to the commencement date and the former law applicable to receivers and managers continues to apply.

Voidable transactions

6. The Court may make an order under section 263 in respect of a transaction entered into or a floating charge created prior to the commencement date, but only to the extent that it could have made such an order under the former Ordinance.

Offences

7. A person does not commit an offence under section 273, 274, 275, 276, 277 or 278 in respect of any act or omission prior to the commencement date.

Insolvency practitioner appointed prior to commencement date

8. Section 11(2) does not apply to a person who acts as an insolvency practitioner by virtue of an appointment made prior to the commencement date.

MADE by this 22nd day of March 2019.

**DR. JOHN FREEMAN
GOVERNOR**