

# **TURKS AND CAICOS ISLANDS**

## **INSOLVENCY (AMENDMENT) ORDINANCE 2021**

**(Ordinance 5 of 2021)**

### **ARRANGEMENT OF SECTIONS**

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*Assent.....11<sup>th</sup> June 2021*

*Publication in Gazette.....11<sup>th</sup> June 2021*

*Commencement..... in accordance with section 1*

**AN ORDINANCE** TO AMEND THE INSOLVENCY ORDINANCE 2017;  
AND FOR CONNECTED PURPOSES.

**ENACTED** by the Legislature of the Turks and Caicos Islands.

#### **Short title and commencement**

**1.** This Ordinance may be cited as the Insolvency (Amendment) Ordinance 2021 and shall come into operation on such day as the Governor may appoint by Notice published in the *Gazette*.

#### **Interpretation**

**2.** In this Ordinance, “principal Ordinance” means the Insolvency Ordinance 2017.

#### **Section 2 amended**

**3.** Section 2 of the principal Ordinance is amended—

- (a) in the definition of “administrator”, by inserting after the words “company in administration”, the words “, under Part IV”;

(b) by repealing the definition of “insolvency proceeding” and substituting the following definition—

““insolvency proceeding” means—

- (a) a company arrangement;
- (b) the administration of a company under Part IV;
- (c) the receivership of a company under Part V;
- (d) the liquidation of a company or an unregistered company under Part VII;
- (e) a personal insolvency agreement;
- (f) the bankruptcy of an individual under Part XII; and
- (g) a prescribed procedure or proceeding;”;

(c) by inserting the following definition after the definition of “insolvent”—

““interim receiver” means the interim receiver of an individual appointed under section 341;”;

and

(d) by repealing the definition of “liquidator” and substituting the following definition—

““liquidator” means—

- (a) the liquidator of a company appointed under section 159 or section 170; or
- (b) the liquidator of an unregistered company appointed under section 237”.

#### **Section 6 amended**

4. Section 6 of the principal Ordinance is amended by repealing the section heading and substituting “**Definitions relating to the duration of certain types of insolvency proceeding**”.

#### **Section 9 amended**

5. Section 9 of the principal Ordinance is amended in subsection (4) by repealing the words “insolvency proceedings before the Court” and substituting the words “any insolvency proceeding before the Court, whether or not a party to the proceeding”.

### **Section 11 amended**

**6.** Section 11 of the principal Ordinance is amended by repealing subsection (1) and substituting the following—

“(1) For the purposes of this Ordinance, a person acts as an insolvency practitioner by acting as—

- (a) the supervisor of a company arrangement approved in accordance with Part III or the supervisor of a personal insolvency agreement approved in accordance with Part XI;
- (b) the interim supervisor under a proposal for a company arrangement made under Part III or for a personal insolvency agreement made under Part XI;
- (c) the administrator of a company appointed under Part IV;
- (d) the administrative receiver of a company;
- (e) the liquidator of a company appointed under section 159 or section 170 or the provisional liquidator of a company appointed under section 171;
- (f) the liquidator of an unregistered company appointed under section 237;
- (g) the interim receiver of an individual appointed under section 341; or
- (h) the bankruptcy trustee of an individual appointed under Part XII.”.

### **Section 14 amended**

**7.** Section 14 of the principal Ordinance is amended by repealing subsection (1) and substituting the following—

“(1) A licensed insolvency practitioner or former licensed insolvency practitioner shall, on being given reasonable notice by the Commission, produce to the Commission for inspection—

- (a) his records and accounts with respect to any matter in which he acts or has acted as an insolvency practitioner;
- (b) any reports that the licensed insolvency practitioner has prepared in respect of any matter in which he acts or has acted as an insolvency practitioner.”.

### **Section 21 amended**

8. Section 21(3)(a) of the principal Ordinance is amended by repealing the words “practitioner or insolvency proceeding” and substituting the words “practitioner, insolvency proceeding or matter”.

### **Section 109 amended**

9. Section 109(1)(d) of the principal Ordinance is amended by repealing the words “, in an insolvency proceeding,”.

### **Section 249 amended**

10. Section 249(1) of the principal Ordinance is amended by repealing the words “for the whole or part of a statement of affairs submitted to him to be disclosed” and substituting the words “in respect of which a statement of affairs is prepared for the whole or part of the statement of affairs to be disclosed”.

### **Section 457 amended**

11. Section 457 of the principal Ordinance is amended—

- (a) by repealing the definition of “insolvency proceeding”;
- (b) in the definition of “office holder”—
  - (i) by deleting the semi colon at the end of paragraph (c) and substituting a full stop; and
  - (ii) by repealing the words “and a reference to an officer holder is to the office holder appointed in the insolvency proceeding in respect of which the creditors’ committee is appointed.”.

### **Section 459 amended**

12. Section 459 of the principal Ordinance is amended in subsection (1)—

- (a) in paragraph (a), by inserting after the words “insolvency proceeding”, the words “in respect of which the committee is appointed”; and
- (b) in paragraph (b), by repealing the words “insolvency holder” and substituting the words “office holder”.