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Draft Regulations laid before Parliament under sections 159(3) and 161(4) of the Small Business, Enterprise and Employment Act 2015, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2017 No. 000

INSOLVENCY

The Small Business, Enterprise and Employment Act 2015 (Consequential Amendments, Savings and Transitional Provisions) Regulations 2017

*Made - - - - - ***
Coming into force in accordance with regulation 1(2)
and (3)*

The Treasury make the following Regulations in exercise of the powers conferred by sections 159(1), (2) and (9) and 161(2) of the Small Business, Enterprise and Employment Act 2015⁽¹⁾.

A draft of these Regulations has been laid before Parliament and approved by a resolution of each House of Parliament in accordance with sections 159(3) and 161(4) of the Small Business, Enterprise and Employment Act 2015.

PART 1

Introductory provision

Citation and commencement

1.—(1) These Regulations may be cited as the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments, Savings and Transitional Provisions) Regulations 2017.

(2) This Part and Part 5 of these Regulations come into force on the day after the day on which these Regulations are made.

(1) 2015 c. 26. Section 161(6) of the Act provides that any provision that may be included in an instrument under the Act subject to negative resolution procedure may be made by regulations subject to affirmative resolution procedure.

(3) Parts 2, 3 and 4 of these Regulations come into force on the 21st day after the day on which these Regulations are made.

PART 2

Consequential amendments of primary legislation

The Building Societies Act 1986

2.—(1) The Building Societies Act 1986(2) is amended as follows.

(2) In Schedule 15 (application of companies winding up legislation to building societies), in Part 2 (modified application of Insolvency Act 1986 Parts 4, 12 and 13)(3)—

- (a) in the heading after “IV,” insert “6, 7,” and at the end insert “and Schedule 10”; and
- (b) after paragraph 6 insert—

“6ZA. Parts 4, 6, 7 and 12 of, and Schedule 10 to, the Act, in their application to building societies, have effect without the amendments of those Parts and that Schedule made by—

- (a) section 122 of the Small Business, Enterprise and Employment Act 2015 (abolition of requirements to hold meetings: company insolvency);
- (b) section 124 of that Act (ability for creditors to opt not to receive certain notices: company insolvency); and
- (c) Part 1 of Schedule 9 to that Act (sections 122 to 125: further amendments).”

(3) In Schedule 15A (application of other companies insolvency legislation to building societies), in Part 2 (modified application of Parts 1 to 3 and 13 of Insolvency Act 1986)(4)—

- (a) in the heading for “and 13” substitute “, 6, 7, 12 and 13”; and
- (b) after paragraph 6 insert—

“6A. Parts 1, 3, 6, 7 and 12 of the Act, in their application to building societies, have effect without the amendments of those Parts made by—

- (a) section 122 of the Small Business, Enterprise and Employment Act 2015 (abolition of requirements to hold meetings: company insolvency);
- (b) section 124 of that Act (ability for creditors to opt not to receive certain notices: company insolvency); and
- (c) Part 1 of Schedule 9 to that Act (sections 122 to 125: further amendments).”

The Friendly Societies Act 1992

3. In Schedule 10 to the Friendly Societies Act 1992(5) (application of companies winding up legislation to incorporated friendly societies), in Part 2 (modified application of Insolvency Act 1986 Parts 4, 12 and 13)(6)—

- (a) in the heading after “IV,” insert “6, 7,” and at the end insert “and Schedule 10”; and
- (b) after paragraph 6 insert—

(2) 1986 c. 53.

(3) The heading was amended by [S.I 2017/400](#).

(4) Schedule 15A (with section 90A) was inserted by the Building Societies Act 1997 (c. 32), section 39 and Schedule 6. The heading was amended by [S.I 2016/679](#) and [2017/400](#).

(5) 1992 c.40.

(6) The heading was amended by [S.I 2017/400](#).

“6A. Parts 4, 6, 7 and 12 of, and Schedule 10 to, the Act, in their application to incorporated friendly societies, have effect without the amendments of those Parts and that Schedule made by—

- (a) section 122 of the Small Business, Enterprise and Employment Act 2015 (abolition of requirements to hold meetings: company insolvency);
- (b) section 124 of that Act (ability for creditors to opt not to receive certain notices: company insolvency); and
- (b) Part 1 of Schedule 9 to that Act (sections 122 to 125: further amendments).”.

The Financial Services and Markets Act 2000

4.—(1) The Financial Services and Markets Act 2000(7) is amended as follows.

(2) In section 355 (interpretation of Part 24 (insolvency)), in subsection (1)—

(a) after the definition of “court” insert—

““creditors’ decision procedure” has the meaning given by section 379ZA(11)(8) of the 1986 Act;”;

(b) at the end insert—

““qualifying decision procedure” has the meaning given by section 246ZE(11) of the 1986 Act.”.

(3) In section 357(9) (powers of FCA and PRA to participate in proceedings: individual voluntary arrangements)—

(a) in subsection (2) for “(3)” substitute “(2A)”;

(b) after subsection (2) insert—

“(2A) Where under section 257 of the 1986 Act the individual’s creditors are asked to decide whether to approve the proposed voluntary arrangement—

- (a) notice of the creditors’ decision procedure must be given to the appropriate regulator; and
- (b) the appropriate regulator or a person appointed by the appropriate regulator is entitled to participate in (but not vote in) the creditors’ decision procedure by which the decision is made(10).

(2B) Notice of the decision made by the creditors’ decision procedure is to be given to the appropriate regulator by the nominee or the nominee’s replacement under section 256(3) or 256A(4) of the 1986 Act.”;

(c) in subsection (3) for “section 257 of the 1986 Act (or Article 231 of the 1989 Order)” substitute “Article 231 of the 1989 Order”; and

(d) in subsection (7) for paragraph (a) substitute—

“(a) in the case of a PRA-authorized person, each of the FCA and the PRA, except that the references in subsections (2A)(b) and (3) to a person appointed by the appropriate regulator are to be read as references to a person appointed by either the FCA or the PRA;”.

(7) 2000 c. 8.

(8) Section 379ZA was inserted by the Small Business, Enterprise and Employment Act 2015, section 123(1) and (2).

(9) Section 357 was amended by the Financial Services Act 2012 (c. 21), Schedule 14, paragraphs 1 and 4.

(10) Part 15 of the Insolvency (England and Wales) Rules 2016 (S.I. 2016/1024) contains common rules about decision making for company and personal insolvency proceedings.

- (4) In section 362(11) (powers of FCA and PRA to participate in proceedings: administration)—
- (a) after subsection (5) insert—
- “(5A) The appropriate regulator or a person appointed by the appropriate regulator is entitled to participate in (but not vote in) a qualifying decision procedure by which a decision about any matter is sought from the creditors of the company or partnership.”; and
- (b) for subsection (7) substitute—
- “(7) “The appropriate regulator” means—
- (a) where the company or partnership is a PRA-regulated person, each of the FCA and the PRA, except that the references in subsections (5) and (5A) to a person appointed by the appropriate regulator are to be read as references to a person appointed by either the FCA or the PRA;
- (b) in any other case, the FCA.”.
- (5) In section 365(12) (powers of FCA and PRA to participate in proceedings: voluntary winding up)—
- (a) after subsection (5) insert—
- “(5A) The appropriate regulator or a person appointed by the appropriate regulator is entitled to participate in (but not vote in) a qualifying decision procedure by which a decision about any matter is sought from the creditors of the company.”; and
- (b) for subsection (8) substitute—
- “(8) “The appropriate regulator” means—
- (a) where the company is a PRA-authorized person, each of the FCA and the PRA, except that the references in subsections (5) and (5A) to a person appointed by the appropriate regulator are to be read as references to a person appointed by either the FCA or the PRA;
- (b) in any other case, the FCA.”.
- (6) In section 371(13) (powers of FCA and PRA to participate in proceedings: winding up by the court)—
- (a) after subsection (4) insert—
- “(4A) The appropriate regulator or a person appointed by the appropriate regulator is entitled to participate in (but not vote in) a qualifying decision procedure by which a decision about any matter is sought from the creditors of the body.”; and
- (b) for subsection (6) substitute—
- “(6) “The appropriate regulator” means—
- (a) where the body is a PRA-regulated person, each of the FCA and the PRA, except that the references in subsections (4) and (4A) to a person appointed by the appropriate regulator are to be read as references to a person appointed by either the FCA or the PRA;
- (b) in any other case, the FCA.”.
- (7) In section 374(14) (powers of FCA and PRA to participate in proceedings: bankruptcy)—
- (a) after subsection (4) insert—

(11) Section 362 was amended by the Financial Services Act 2012, Schedule 14, paragraphs 1 and 8(1), (4), (5) and (6), and by the Enterprise Act 2002 (c. 40), Schedule 17, paragraph 57(d). There are other amendments, but they are not relevant.

(12) Section 365 was amended by the Financial Services Act 2012, Schedule 14, paragraphs 1 and 12, and by [S.I. 2008/948](#).

(13) Section 371 was amended by the Financial Services Act 2012, Schedule 14, paragraphs 1 and 19, and by [S.I. 2008/948](#).

(14) Section 374 was amended by the Financial Services Act 2012, Schedule 14, paragraphs 1 and 22, and by [S.I. 2016/481](#).

“(4A) The appropriate regulator or a person appointed by the appropriate regulator is entitled to participate in (but not vote in) a creditors’ decision procedure by which a decision about any matter is sought from the creditors of the individual or entity.”; and

(b) for subsection (7) substitute—

“(7) “The appropriate regulator” means—

(a) where the individual or entity is a PRA-regulated person, each of the FCA and the PRA, except that the references in subsections (4) and (4A) to a person appointed by the appropriate regulator are to be read as references to a person appointed by either the FCA or the PRA;

(b) in any other case, the FCA.”.

The Banking Act 2009

5.—(1) The Banking Act 2009(15) is amended as follows.

(2) In section 103(16) (general powers and duties of bank liquidators and effect of bank insolvency) after subsection (6) insert—

“(7) In the Table “Schedule 9 to the 2015 Act” means Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (further amendments relating to the abolition of requirements to hold meetings: company insolvency).”.

(3) In the Table in section 103 (Table of applied provisions of the Insolvency Act 1986)—

(a) in the entry for section 141, in column 3 at the beginning insert—

“Ignore the amendment made by paragraph 36 of Schedule 9 to the 2015 Act.”;

(b) in the entry for section 142, in column 3 at the beginning insert—

“Ignore the amendments made by paragraph 37 of Schedule 9 to the 2015 Act.”;

(c) in the entry for section 160, in column 3 insert—

“Ignore the amendment made by paragraph 39 of Schedule 9 to the 2015 Act.”;

(d) in the entry for section 168, in column 3 at the beginning insert—

“(za) Ignore the amendment made by paragraph 41 of Schedule 9 to the 2015 Act.”;

(e) in the entry for section 194, in column 3 insert—

“Section 194 applies as it applied before its repeal by paragraph 46 of Schedule 9 to the 2015 Act.”;

(f) in the entry for section 195, in column 3—

(i) at the beginning insert—

“(a) Ignore the amendments made by paragraph 47 of Schedule 9 to the 2015 Act.”;

(ii) after that modification insert “(b)” (so that the existing modification becomes the second of two modifications); and

(g) in the entry for section 208, in column 3 insert—

“Ignore the amendment made by paragraph 52 of Schedule 9 to the 2015 Act.”.

(4) In section 145(17) (general powers and duties of bank administrators and effect of bank administration) after subsection (6) insert—

(15) 2009 c. 1.

(16) Section 103 was amended by the Financial Services Act 2012, Schedule 17, paragraphs 29 and 38, and by S.I. 2017/400.

(17) Section 145 was amended by the Financial Services Act 2010 (c. 28), section 21(1) and (6), and by S.I. 2017/400.

“(7) In the Tables “Schedule 9 to the 2015 Act” means Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (further amendments relating to the abolition of requirements to hold meetings: company insolvency).”.

(5) In Table 1 in section 145 (Table of applied provisions of the Insolvency Act 1986, Schedule B1(18))—

- (a) in the entry for paragraph 49, in column 3 after paragraph (e) insert—
 - “(ea) Ignore the amendment made by paragraph 10(2) of Schedule 9 to the 2015 Act.”;
 - (b) in the entry for paragraphs 50 to 58, in column 3 at the beginning insert—
 - “(za) Ignore the repeal of Paras 50 and 58 by paragraph 10(3) and (22) of Schedule 9 to the 2015 Act.
 - (zb) Ignore the amendments of Paras 51 to 57 made by paragraph 10(4) to (21) of Schedule 9 to the 2015 Act.”;
 - (c) in the entry for paragraph 62, in column 3 insert—
 - “Ignore the amendment made by paragraph 10(23) of Schedule 9 to the 2015 Act.”;
 - (d) in the entry for paragraph 74, in column 3 at the beginning insert—
 - “(za) Ignore the amendment made by paragraph 10(24) of Schedule 9 to the 2015 Act.”;
 - (e) in the entry for paragraph 98, in column 3 at the beginning insert—
 - “Ignore the amendments made by paragraph 10(36) to (38) of Schedule 9 to the 2015 Act.”;
 - (f) in the entry for paragraph 106 (and section 430 of, and Schedule 10 to, the Insolvency Act 1986), in column 3 insert—
 - “Ignore the amendments made by paragraph 11 of Schedule 9 to the 2015 Act.”;
 - (g) in the entry for paragraphs 107 to 109, in column 3 after paragraph (b) insert—
 - “(ba) Ignore the amendments of Para 108 made by paragraph 10(39) to (43) of Schedule 9 to the 2015 Act.”; and
 - (h) in the entry for paragraph 111, in column 3 insert—
 - “Ignore the amendment made by paragraph 10(44) of Schedule 9 to the 2015 Act.”.
- (6) In section 154 (winding up or voluntary arrangement)—
- (a) after subsection (2) insert—
 - “(2A) For the purpose of subsection (2)(a), paragraph 84 of Schedule B1 has effect without the amendment made by paragraph 10(33) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (further amendments relating to opted-out creditors).”;
 - (b) in subsection (3) for “that Act” substitute “the Insolvency Act 1986”; and
 - (c) after subsection (3) insert—

(18) Schedule B1 was inserted by the Enterprise Act 2002, section 248(2) and Schedule 16; and was amended by the Small Business, Enterprise and Employment Act 2015, section 126 and Schedule 9, paragraph 10. There are other amendments, but they are not relevant.

“(3A) Sections 2 to 6 and 7 and Schedule A1(19) have effect without the amendments of those provisions made by paragraphs 2 to 9 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (further amendments relating to the abolition of requirements to hold meetings).”.

The Financial Services (Banking Reform) Act 2013

6. In Schedule 6 to the Financial Services (Banking Reform) Act 2013(20) (conduct of FMI administration)—

- (a) in Table 1 (applied provisions of Schedule B1 to the Insolvency Act 1986), in the entry for paragraph 98 (vacation from office: discharge from liability), in the third column for “and (3)” substitute “, (3) and (3A)”; and
- (b) in Table 2 (other applied provisions of the Insolvency Act 1986) after the entry for section 246ZD(21) insert—

“Sections 246ZE and 246ZF(22)	Decisions by creditors (company insolvency)	
Section 246C(23)	Creditors’ ability to opt out of receiving certain notices	
Section 248A(24)	Meaning of “opted-out creditor””	

PART 3

Consequential amendments of subordinate legislation

The Insurers (Winding Up) Rules 2001

- 7.—(1) The Insurers (Winding Up) Rules 2001(25) are amended as follows.
- (2) In rule 2(1) (interpretation), after the definition of “the principal rules” insert—
 - ““qualifying decision procedure” has the meaning given by section 246ZE(11) of the 1986 Act;”.
- (3) In rule 22 (notice of valuation of policy), in paragraph (6)—
 - (a) for “summons a meeting” substitute “seeks a decision”; and
 - (b) for the words from “by the time” to “using” substitute “before the date on which the liquidator seeks the decision, the liquidator may for the purposes of the qualifying decision procedure use”.
- (4) In rule 23 (dividends to creditors), in paragraph (2) for “Part III” substitute “Chapter 3 of Part 14”.

(19) Schedule A1 was inserted by the Insolvency Act 2000, Schedule 1, paragraphs 1 and 4; and was amended by the Enterprise Act 2002, Schedule 17, paragraphs 9 and 37, and by the Financial Services Act 2012, Schedule 18, paragraphs 51 and 54. There are other amendments, but they are not relevant.

(20) 2013 c. 33. Schedule 6 was amended by S.I. 2017/400.

(21) Section 246ZD was inserted by the Small Business, Enterprise and Employment Act 2015, section 118.

(22) Sections 246ZE and 246ZF were inserted by the Small Business, Enterprise and Employment Act 2015, section 122(1) and (2).

(23) Sections 246C was inserted by the Small Business, Enterprise and Employment Act 2015, section 124(1) and (3).

(24) Sections 248A was inserted by the Small Business, Enterprise and Employment Act 2015, section 124(1) and (4).

(25) S.I. 2001/3635, as amended by S.I. 2003/1102, 2004/353 and 2017/369. There are other amendments, but they are not relevant.

- (5) In rule 24 (meetings of creditors)—
- (a) for the heading substitute “creditors’ decisions”;
 - (b) in paragraph (1) for “creditors’ meetings” substitute “a qualifying decision procedure”; and
 - (c) for paragraphs (1A)(26) and (2) substitute—
 - “(1A) For the purposes of any such separate qualifying decision procedure, rule 15.34 of the principal rules (requisite majorities) applies with the modification in paragraph (2).
 - (2) For the purpose of calculating the proportion (in value) of creditors voting who have voted in favour of the proposed decision, the value to be attributed to a creditor who is not, by virtue of rule 6, 7 or 8 above, required to prove for the amount of a debt or claim, is the value most recently notified to the creditor under rule 22 above, or, if the court has determined a different value in accordance with rule 22(4), that different value.”
- (6) In rule 25 (remuneration of liquidator carrying on long-term business), in paragraph (3) for “a resolution of a meeting of creditors” substitute “decision of the creditors made by a qualifying decision procedure”.

The Financial Collateral Arrangements (No. 2) Regulations 2003

8. In regulation 12 of the Financial Collateral Arrangements (No. 2) Regulations 2003(27) (close-out netting provisions to take effect in accordance with their terms), in paragraph (2)—

- (a) after sub-paragraph (a) insert—
 - “(aa) in Scotland, that party had notice that a meeting of creditors of the other party had been summoned under section 98 of the Insolvency Act 1986;
 - (ab) in England and Wales, that party had notice that a statement as to the affairs of the other party had been sent to the other party’s creditors under section 99(1) of that Act(28);
 - (ac) that party had notice that a meeting of creditors of the other party had been summoned under Article 84 of the Insolvency (Northern Ireland) Order 1989(29);”;
- (b) in sub-paragraph (b) omit the words from “that a meeting of creditors” to “Companies (Northern Ireland) Order 1989 or”.

The Insurers (Reorganisation and Winding Up) Regulations 2004

9.—(1) The Insurers (Reorganisation and Winding Up) Regulations 2004(30) are amended as follows.

- (2) After regulation 28 insert—

“Composite insurers: seeking decisions from creditors

28A.—(1) This regulation applies in the same circumstances as regulation 28, but only if the non-transferring composite insurer is—

- (a) a company registered in England and Wales;

(26) Paragraphs (1) and (1A) were substituted by S.I. 2003/1102 and paragraph (1A) was amended by S.I. 2004/353.

(27) S.I. 2003/3226, as amended by S.I. 2010/2993. There are other amendments, but they are not relevant.

(28) Section 99(1) was substituted by the Small Business, Enterprise and Employment Act 2015, section 126 and Schedule 9, paragraphs 1 and 23.

(29) S.I. 1989/2405 (N.I. 19).

(30) S.I. 2004/353.

- (b) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014⁽³¹⁾ which the courts in England and Wales have jurisdiction to wind up; or
 - (c) a friendly society within the meaning of section 7(1)(a) of the Friendly Societies Act 1974⁽³²⁾, which is registered within the meaning of that Act and is being wound up by the High Court under the Insolvency Act 1986.
- (2) The creditors from whom the liquidator is to seek a decision about any matter in relation to the winding up are to be—
- (a) in relation to the long term business assets of that insurer, only those who are creditors in respect of long term business liabilities, and
 - (b) in relation to the general business assets of that insurer, only those who are creditors in respect of general business liabilities.”.
- (3) In regulation 29 (composite insurers: general meetings of creditors)—
- (a) in paragraph (1) at the end insert “, but only if the non-transferring composite insurer is a company registered in Scotland or Northern Ireland or a society other than a society of a kind to which regulation 28A applies”; and
 - (b) in paragraph (2) after “1986 Act” insert “(as applied in relation to such a society)”.
- (4) In regulation 33 (voluntary arrangements: treatment of insurance debts), in paragraph (2)(a), in the text which is treated as inserted in section 4 of the Insolvency Act 1986—
- (a) at the beginning insert—
 - “(4ZA) In relation to a company registered in England and Wales, neither the company nor its creditors may approve any proposal or modification under which any insurance debt of the company is to be paid otherwise than in priority to such of its debts as are not insurance debts or preferential debts.”; and
 - (b) in subsection (4A) for “A meeting so summoned” substitute “In relation to a company registered in Scotland, a meeting summoned under section 3”.

The Insurers (Reorganisation and Winding Up) (Lloyd’s) Regulations 2005

10.—(1) The Insurers (Reorganisation and Winding Up) (Lloyd’s) Regulations 2005⁽³³⁾ are amended as follows.

- (2) In regulation 16 (reorganisation controller’s powers: individual voluntary arrangements in respect of a member)—
- (a) in paragraph (3) for “Paragraphs (4)” substitute “Paragraphs (3A)”;
 - (b) after paragraph (3) insert—
 - “(3A) Notice of the creditors’ decision procedure given under section 257(2B)⁽³⁴⁾ of the 1986 Act must also be given to the reorganisation controller.
 - (3B) The reorganisation controller is entitled to participate (but not vote) in the creditors’ decision procedure specified by that notice.”;
 - (c) in paragraph (4) for “section 257 of the 1986 Act (or Article 231 of the 1989 Order)” substitute “Article 231 of the 1989 Order”; and
 - (d) in paragraph (6) for “meeting’s” substitute “creditors”.

⁽³¹⁾ 2014 c. 14.

⁽³²⁾ 1974 c. 46. Section 7(1)(a) was amended by the Friendly Societies Act 1992, Schedule 16, paragraphs 1 and 4(b).

⁽³³⁾ S.I. 2005/1998.

⁽³⁴⁾ Subsection (2B) was inserted by the Small Business, Enterprise and Employment Act 2015, section 126 and Schedule 9, paragraphs 60 and 64(1) and (2).

(3) In regulation 20 (reorganisation controller’s powers: administration orders in respect of members) after paragraph (5) insert—

“(5A) The reorganisation controller is entitled to participate (but not vote) in a qualifying decision procedure (within the meaning given by section 246ZE(11) of the 1986 Act) by which a decision about any matter is sought from the creditors of the member.”.

(4) In regulation 24 (voluntary winding up of members: powers of reorganisation controller) after paragraph (5) insert—

“(5A) The reorganisation controller is entitled to participate (but not vote) in a qualifying decision procedure (within the meaning given by section 246ZE(11) of the 1986 Act) by which a decision about any matter is sought from the creditors of the member.”.

(5) In regulation 26 (winding up of a member: powers of reorganisation controller) after paragraph (4) insert—

“(4A) The reorganisation controller is entitled to participate (but not vote) in a qualifying decision procedure (within the meaning given by section 246ZE(11) of the 1986 Act) by which a decision about any matter is sought from the creditors of the member.”.

(6) In regulation 28 (bankruptcy of a member: powers of reorganisation controller) after paragraph (4) insert—

“(4A) The reorganisation controller is entitled to participate (but not vote) in a creditors’ decision procedure (within the meaning given by section 379ZA(11) of the 1986 Act) by which a decision about any matter is sought from the creditors of the member.”.

(7) In regulation 30 (winding up of the Society: service of petition etc. on reorganisation controller) after paragraph (5) insert—

“(5A) The reorganisation controller is entitled to participate (but not vote) in a qualifying decision procedure (within the meaning given by section 246ZE(11) of the 1986 Act) by which a decision about any matter is sought from the creditors of the Society.”.

(8) In regulation 35 (application of certain publication requirements in the Insurers (Reorganisation and Winding Up) Regulations 2004 to members)—

(a) in paragraph (3) after “section 258 of the 1986 Act” insert “(approval of debtor’s proposal: individual voluntary arrangements)”; and

(b) in paragraph (4) for “meeting’s”, in the first place it occurs, substitute “creditors”.

(9) In regulation 36 (notification to creditors: winding up proceedings relating to members), in paragraph (3)(b) after “section 258 of the 1986 Act” insert “(approval of debtor’s proposal: individual voluntary arrangements)”.

(10) In regulation 40 (priority for insurance claims)—

(a) in paragraph (8), which modifies regulation 29 of the Insurers (Reorganisation and Winding Up) Regulations 2004—

(i) after “has effect as if” insert “in paragraph (1) the words from “, but only if” to the end were omitted(35) and”;

(ii) in the text which is treated as inserted in that regulation, for paragraph (3) substitute—

“(3) If the bankrupt’s creditors propose to establish a creditors’ committee pursuant to section 301(1) of the 1986 Act or if the general meeting of the bankrupt’s creditors proposes to establish a creditors’ committee pursuant to Article 274(1) of the 1989 Order, separate committees must be established for creditors in respect of

(35) These words are inserted in regulation 29(1) by regulation 9(3)(a) of these Regulations.

long-term business liabilities and creditors in respect of general business liabilities.”;
and

- (b) in paragraph (11), in the text which is treated as inserted in regulation 33 of the Insurers (Reorganisation and Winding Up) Regulations 2004, in paragraph (5)—
- (i) for “(decisions of creditors’ meeting)” substitute “(approval of debtor’s proposal)”;
and
- (ii) in the text which is treated as inserted by paragraph (5)(a) in section 258 of the Insolvency Act 1986⁽³⁶⁾ for the words from the beginning to “in force” substitute “Where a Lloyd’s market reorganisation order is in force and the debtor is an individual member, the debtor’s creditors”.

The Banks (Former Authorised Institutions) (Insolvency) Order 2006

11. In the Schedule to the Banks (Former Authorised Institutions) (Insolvency) Order 2006⁽³⁷⁾ (modifications of Part 2 of the Insolvency Act in its application to companies that are former authorised institutions)—

- (a) in paragraph 7, in the text which is treated as inserted in Schedule B1 to the 1986 Act⁽³⁸⁾ after sub-paragraph (4) insert—

“4A) The Financial Conduct Authority and the Prudential Regulation Authority are entitled to participate (but not vote) in a qualifying decision procedure by which a decision about any matter is sought from the creditors of the company.”; and

- (b) after paragraph 7 insert⁽³⁹⁾—

“8. Where this Schedule applies in relation to the administration in Scotland of a person referred to in article 3(1), paragraph 117 of Schedule B1 (treated as inserted by paragraph 7) has effect as if sub-paragraph (4A) were omitted.”.

The Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2010

12.—(1) The Schedule to the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2010⁽⁴⁰⁾ (modifications of Part 2 of the Insolvency Act 1986 in relation to insurers) is amended as follows.

- (2) After paragraph 3 insert—

“**3A.**—(1) For the purposes of paragraph 51 of Schedule B1 a decision of the insurer’s creditors as to whether they approve the proposals set out in the administrator’s statement made under paragraph 49(1) of Schedule B1 is required to be made by a qualifying decision procedure.

(2) At the time of seeking that decision the administrator must also seek a decision from the insurer’s creditors as to whether they consent to the exercise by the administrator of the powers specified in Schedule 1 to the 1986 Act.

(3) That decision is also required to be made by a qualifying decision procedure.”.

⁽³⁶⁾ The inserted text is subsection (5A) of section 258.

⁽³⁷⁾ [S.I. 2006/3107](#), as amended by [S.I. 2013/472](#).

⁽³⁸⁾ The inserted text is paragraph 117 (Miscellaneous—Powers of the Financial Conduct Authority and Prudential Regulation Authority).

⁽³⁹⁾ The modification made by the additional paragraph ensures that the modification made by paragraph 7 of the Schedule to the Order has effect in relation to Scotland without the amendment made by paragraph (a) of this regulation, pending the commencement in Scotland of the provisions about creditors’ meetings.

⁽⁴⁰⁾ [S.I. 2010/3023](#), as amended by [S.I. 2013/472](#). There are other amendments, but they are not relevant.

(3) In paragraph 4 for “(business and result of initial creditors’ meeting)” substitute “(creditors’ decision)”.

(4) In paragraph 5 for ““creditor”” substitute ““opted-out creditor””.

(5) In paragraph 10—

(a) for sub-paragraph (3) substitute—

“(3) The powers conferred by sub-paragraph (1) may be exercised until the initial decision date for the decision referred to in paragraph 51(1), but may only be exercised after that date—

(a) if—

(i) the administrator, when seeking the decision referred to in paragraph 3A(2), gave the creditors a statement containing the information specified in sub-paragraph (4); and

(ii) a majority in number representing three-fourths in value of the creditors has consented to the exercise by the administrator of those powers; or

(b) with the consent of the court.”; and

(b) omit sub-paragraph (5).

(6) At the end insert(41)—

“11. Where this Schedule applies in relation to the administration of an insurer in Scotland, it is to be read with the following modifications—

(a) ignore paragraph 3A(42);

(b) in paragraph 4 for “(creditors’ decision)” read “(business and result of initial creditors’ meeting)”;

(c) in paragraph 5 for ““opted-out creditor”” read ““creditor””; and

(d) read paragraph 10 as if—

(i) for sub-paragraph (3) there were substituted—

“(3) The powers conferred by sub-paragraph (1) may be exercised until an initial creditors’ meeting, but may only be exercised thereafter—

(a) if the following conditions are met—

(i) the administrator has laid before that meeting or any subsequent creditors’ meeting (“the relevant meeting”) a statement containing the information specified in sub-paragraph (4); and

(i) the powers are exercised with the consent of a majority in number representing three-fourths in value of the creditors present and voting either in person or by proxy at the relevant meeting; or

(b) with the consent of the court.”;

(ii) there were added at the end—

“(5) In this paragraph “initial creditors’ meeting” has the meaning given in paragraph 51(1) of Schedule B1.”.”.

(41) The modifications made by the additional paragraph ensure that the Schedule to the Order has effect in relation to Scotland without the other amendments made by this regulation, pending the commencement in Scotland of the provisions about creditors’ meetings.

(42) Paragraph 3A is inserted by paragraph (2) of this regulation.

The Investment Bank Special Administration Regulations 2011

13.—(1) The Investment Bank Special Administration Regulations 2011⁽⁴³⁾ are amended as follows.

(2) In regulation 15 (general powers and duties of administrators and effect of special administration) after paragraph (6) insert—

“(7) In the Tables “Schedule 9 to the 2015 Act” means Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (further amendments relating to the abolition of requirements to hold meetings: company insolvency).”.

(3) In regulation 15, in Table 1 (applied provisions of the Insolvency Act 1986, Schedule B1⁽⁴⁴⁾)

(a) in the second entry for paragraph 49, in column 3 after paragraph (a) insert—

“(aa) Ignore the amendment made by paragraph 10(2) of Schedule 9 to the 2015 Act.”;

(b) in the entry for paragraph 50, in column 3 at the beginning insert—

“(za) Ignore the repeal of Para 50 by paragraph 10(3) of Schedule 9 to the 2015 Act.”;

(c) in the entry for paragraph 51, in column 3 at the beginning insert—

“(za) Ignore the amendments made by paragraph 10(4) and (5) of Schedule 9 to the 2015 Act.”;

(d) in the entry for paragraph 53, in column 3 at the beginning insert—

“(za) Ignore the amendments made by paragraph 10(8) to (10) of Schedule 9 to the 2015 Act.”;

(e) in the entry for paragraph 54, in column 3 at the beginning insert—

“(za) Ignore the amendments made by paragraph 10(11) to (16) of Schedule 9 to the 2015 Act.”;

(f) in the entry for paragraph 55, in column 3 at the beginning insert—

“(za) Ignore the amendment made by paragraph 10(17) of Schedule 9 to the 2015 Act.”;

(g) in the entry for paragraph 56, in column 3—

(i) at the beginning insert—

“(a) Ignore the amendments made by paragraph 10(18) to (20) of Schedule 9 to the 2015 Act.”;

(ii) after that modification insert “(b)” (so that the existing modification becomes the second of two modifications);

(h) in the entry for paragraph 57, in column 3 at the beginning insert—

“(za) Ignore the amendment made by paragraph 10(21) of Schedule 9 to the 2015 Act.”;

(i) in the entry for paragraph 58, in column 3 insert—

“Para 58 applies as it applied before its repeal by paragraph 10(22) of Schedule 9 to the 2015 Act.”;

⁽⁴³⁾ S.I. 2011/245, as amended by S.I. 2013/472, 2017/400 and 2017/443. There are other amendments, but they are not relevant.

⁽⁴⁴⁾ Schedule B1 was inserted by the Enterprise Act 2002, section 248(2) and Schedule 16; and was amended by the Small Business, Enterprise and Employment Act 2015, section 126 and Schedule 9, paragraph 10. There are other amendments, but they are not relevant.

- (j) in the entry for paragraph 62, in column 3—
 - (i) at the beginning insert—
 - “(a) Ignore the amendment made by paragraph 10(23) of Schedule 9 to the 2015 Act.”;
 - (ii) after that modification insert “(b)” (so that the existing modification becomes the second of two modifications);
- (k) in the entry for paragraph 74, in column 3 at the beginning insert—
 - “(za) Ignore the amendment made by paragraph 10(24) of Schedule 9 to the 2015 Act.”;
- (l) in the entry for paragraph 84, in column 3 after paragraph (a) insert—
 - “(aa) Ignore the amendment made by paragraph 10(33) of Schedule 9 to the 2015 Act.”;
- (m) in the entry for paragraph 98, in column 3—
 - (i) at the beginning insert—
 - “(a) Ignore the amendment made by paragraph 10(38) of Schedule 9 to the 2015 Act.”;
 - (ii) after that modification insert “(b)” (so that the existing modification becomes the second of two modifications);
- (n) in the entry for paragraph 106 (and section 430 of, and Schedule 10 to, the Insolvency Act 1986), in column 3—
 - (i) at the beginning insert—
 - “(a) Ignore the amendments made by paragraph 11 of Schedule 9 to the 2015 Act.”;
 - (ii) after that modification insert “(b)” (so that the existing modification becomes the second of two modifications);
- (o) in the entry for paragraph 108, in column 3 at the beginning insert—
 - “(za) Ignore the amendments of Para 108 made by paragraph 10(39), (40), (42) and (43) of Schedule 9 to the 2015 Act.”; and
- (p) in the entry for paragraph 111, in column 3—
 - (i) at the beginning insert—
 - “(a) Ignore the amendment made by paragraph 10(44) of Schedule 9 to the 2015 Act.”;
 - (ii) after that modification insert “(b)” (so that the existing modification becomes the second of two modifications).
- (4) In regulation 15, in Table 2 (other applied provisions of the Insolvency Act 1986)—
 - (a) in the entry for section 194, in column 3 insert—
 - “Section 194 applies as it applied before its repeal by paragraph 46 of Schedule 9 to the 2015 Act.”;
 - (b) in the entry for section 208, in column 3 at the beginning insert “(a)” and at the end insert—
 - “(b) Ignore the amendment made by paragraph 52 of Schedule 9 to the 2015 Act.”.
 - (c) in the entry for section 246A(45), in column 3—
 - (i) at the beginning insert—

- “(aa) the modifications specified in paragraph 6 in relation to provision about creditors’ meetings and creditors’ notices;” and
- (b) after paragraph 5 insert—
- “6. The modifications relating to provision about creditors’ meetings and creditors’ notices are that—
- (a) sections 136 to 139, 141, 142, 146, 160, 168, 172, 174, 195, 208 and 246A of the 1986 Act have effect without the amendments of those sections made by Part 1 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (further amendments relating to the abolition of requirements to hold meetings; opted-out creditors: company insolvency); and
- (b) section 194 applies as it applied before its repeal by paragraph 46 of that Schedule.”.

The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014

15.—(1) The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014⁽⁴⁸⁾ is amended as follows.

(2) In article 1(2) (interpretation) after the definition of “the 2014 Act” insert—

““the 2015 Act” means the Small Business, Enterprise and Employment Act 2015;”.

(3) In Schedule 1 (modified application of Parts 1 and 2 of the Insolvency Act 1986 to relevant societies)—

(a) in Part 2 (modified application of Part 1 of that Act) after paragraph 3 insert—

“**3A.** Sections 2 to 6 and 7 of, and Schedule A1 to, the 1986 Act have effect without the amendments of those provisions made by paragraphs 2 to 9 of Schedule 9 to the 2015 Act (further amendments relating to the abolition of requirements to hold meetings: company voluntary arrangements).”; and

(b) in Part 3 (modified application of Part 2 of that Act) after paragraph 10 insert—

“Creditors’ meetings and creditors’ notices

10A. Schedule B1 to the 1986 Act has effect without the amendments made by paragraph 10 of Schedule 9 to the 2015 Act (further amendments relating to the abolition of requirements to hold meetings; opted-out creditors: administration).”.

(4) In Schedule 3 (modified application of other provisions of the Insolvency Act 1986)—

(a) after paragraph 5B⁽⁴⁹⁾ insert—

“Creditors’ meetings

5C. Part 6 of the 1986 Act and sections 387, 433 and 434B have effect without the amendments of those provisions made by —

(a) section 122 of the 2015 Act (abolition of requirements to hold meetings: company insolvency); and

⁽⁴⁸⁾ [S.I. 2014/229](#), as amended by [S.I. 2014/1815](#), [2014/1822](#) and [2017/400](#), was originally cited as the Industrial and Provident Societies and Credit Unions (Arrangements, Reconstructions and Administration Order 2014, and was given a new citation by [S.I. 2014/1815](#).

⁽⁴⁹⁾ Paragraph 5B was inserted by [S.I. 2017/400](#).

- (b) paragraphs 54 to 57 of Schedule 9 to that Act (further amendments relating to section 122).

Creditors' notices

5D. Parts 6 and 7 of the 1986 Act have effect without the amendments of those Parts made by section 124 of the 2015 Act (ability for creditors to opt not to receive certain notices: company insolvency).”; and

- (b) at the end insert—

“**8.** Schedule 10 to the 1986 Act also has effect without the amendments made by paragraph 11 of Schedule 9 to the 2015 Act.”.

PART 4

Transitional provision

Interpretation of Part 4

16. In this Part—

“the 1986 Act” means the Insolvency Act 1986;

“the 2000 Act” means the Financial Services and Markets Act 2000;

“the 2009 Act” means the Banking Act 2009; and

“relevant meeting” means a meeting of creditors which is to be held on or after the date on which Parts 2 and 3 of these Regulations come into force, and was—

- (a) called, summoned or otherwise required before 6th April 2017⁽⁵⁰⁾ under a provision of the 1986 Act or the Insolvency Rules 1986⁽⁵¹⁾;
- (b) requisitioned by a creditor before 6th April 2017 under a provision of the 1986 Act or the Insolvency Rules 1986; or
- (c) called or summoned under section 106, 146 or 331 of the 1986 Act as a result of—
 - (i) a final report to creditors sent before 6th April 2017 under rule 4.49D of the Insolvency Rules 1986⁽⁵²⁾ (final report to creditors in liquidation);
 - (ii) a final report to creditors and bankrupt sent before that date under rule 6.78B of those Rules (final report to creditors and bankrupt).

Transitional provisions for regulation 4

17. Where a relevant meeting is to be held in proceedings relating to an application by an individual who is an authorised person under section 253 of the 1986 Act (application for interim order where insolvent debtor intends to make a proposal for a voluntary arrangement), section 357 of the 2000 Act applies in relation to the meeting without the amendments made by regulation 4(3).

⁽⁵⁰⁾ The amendments made by these Regulations, for which Part 4 makes transitional provision, are made in consequence of the commencement on 6th April 2017 (by [S.I. 2016/1020](#)) for all remaining purposes in England and Wales of the following sections of the Small Business, Enterprise and Employment Act 2015: sections 122 and 123 (abolition of requirements to hold meetings: company insolvency and individual insolvency); sections 124 and 125 of that Act (ability for creditors to opt not to receive certain notices: company insolvency and individual insolvency); and section 126 of, and Schedule 9 to, that Act (sections 122 to 125: further amendments).

⁽⁵¹⁾ [S.I. 1986/1925](#).

⁽⁵²⁾ Rules 4.49D and 6.78B were inserted by [S.I. 2010/686](#).

Transitional provision for regulation 7

18. Where a relevant meeting is to be held in proceedings for the winding up of an insurer (within the meaning given in rule 2(1) of the Insurers (Winding Up) Rules 2001(**53**)), those Rules apply in relation to the meeting without the amendments made by regulation 7.

Transitional provision for regulation 8

19.—(1) Paragraph (2) applies where a relevant meeting is to be held in winding up proceedings or in relation to reorganisation measures commenced in England and Wales in respect of the collateral-provider or collateral-taker under—

- (a) a financial collateral arrangement; or
- (b) an arrangement of which a financial collateral arrangement forms part.

(2) Regulation 12 of the Financial Collateral Arrangements (No. 2) Regulations 2003 applies in relation to the meeting without the amendments made by regulation 8.

(3) In this regulation—

- (a) the reference to the commencement of winding up proceedings or reorganisation measures is to be construed in accordance with regulation 12(3) of those Regulations;
- (b) “financial collateral arrangement” has the same meaning as in those Regulations;
- (c) “reorganisation measures” means—
 - (i) administration under Schedule B1 to the 1986 Act;
 - (ii) administration of a partnership under Schedule B1 to the 1986 Act (as applied to insolvent partnerships under section 420 of that Act)(**54**);
 - (iii) a proposal for a company voluntary arrangement under Part 1 of the 1986 Act (company voluntary arrangements);
 - (iv) a proposal for a partnership voluntary arrangement under Part 1 of the 1986 Act (as applied to insolvent partnerships under section 420 of that Act); or
 - (v) the making of an interim order on an administration application (within the meaning given in paragraph 12 of Schedule B1 to the 1986 Act, including that paragraph as applied to insolvent partnerships); and
- (d) “winding up proceedings” means—
 - (i) voluntary winding up or winding up by the court under Part 4 of the 1986 Act; or
 - (ii) bank insolvency under Part 2 of the 2009 Act.

Transitional provision for regulation 9

20.—(1) Where a relevant meeting is to be held in proceedings for the winding up by the court or a creditors’ voluntary winding up of a non-transferring composite insurer (within the meaning given in regulation 17(1) of the Insurers (Reorganisation and Winding Up) Regulations 2004), those Regulations apply in relation to the meeting without the amendments made by regulation 9(2) and (3).

(2) Where a relevant meeting is to be held in proceedings relating to a proposal for a company voluntary arrangement made under Part 1 of the 1986 Act in respect of a UK insurer (within the meaning given in regulation 2(1) of the Insurers (Reorganisation and Winding Up) Regulations

(53) Rule 2(1) provides that “insurer” has the meaning given by article 2 of the Financial Services and Markets Act 2000 (Insolvency) (Definition of “Insurer”) Order 2001 (S.I. 2001/2634).

(54) See S.I. 1994/2421.

2004), those Regulations apply in relation to the meeting without the amendments made by regulation 9(4).

Transitional provision for regulation 10

21.—(1) Where a relevant meeting is to be held in proceedings relating to a proposal for an individual voluntary arrangement, where the interim order under section 252 of the 1986 Act is made on the application of an individual member or former member, the Reorganisation Regulations apply in relation to the meeting without the amendments made by regulation 10(2), (8), (9) and (10)(b).

(2) Where a relevant meeting is to be held in bankruptcy proceedings under Part 9 of the 1986 Act in respect of an individual member or former member, regulation 40 of the Reorganisation Regulations applies in relation to the meeting without the amendment made by regulation 10(10)(a).

(3) In this regulation—

“former member” and “individual member” have the meaning given in regulation 2(1) of the Reorganisation Regulations; and

“the Reorganisation Regulations” means the Insurers (Reorganisation and Winding Up) (Lloyd’s) Regulations 2005.

Transitional provision for regulation 12

22. Where a relevant meeting is to be held in proceedings for the administration under Schedule B1 to the 1986 Act of an insurer within the meaning given in the Financial Services and Markets Act 2000 (Insolvency) (Definition of “Insurer”) Order 2001(55), the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2010 applies in relation to the meeting without the amendments made by regulation 12, so far as those amendments relate to the abolition of requirements to hold creditors’ meetings(56).

PART 5

Saving provisions for the Insolvency Rules 1986

Interpretation of Part 5

23. In this Part a reference to the revocation of the Insolvency Rules 1986 is a reference to the revocation of the Rules listed in Schedule 1 to the Insolvency (England and Wales) Rules 2016(57) by introductory rule 2 of those Rules.

Savings in relation to special insolvency rules

24.—(1) Despite the revocation of the Insolvency Rules 1986, those Rules apply as they applied(58) before they were revoked for the purposes of the application of—

(a) the Bank Insolvency (England and Wales) Rules 2009(59);

(55) [S.I. 2001/2634](#), as amended by [S.I. 2002/1242](#).

(56) All amendments made by regulation 12 relate to the abolition of requirements to hold creditors’ meetings, except the amendment in paragraph (4) and the amendment in paragraph (6), so far as it has effect to insert the modification in subparagraph (c) of the inserted paragraph.

(57) [S.I. 2016/1024](#). These savings are made in consequence of the revocation by those Rules on 6th April 2017 of the Insolvency Rules 1986.

(58) For the purposes specified in this paragraph the Insolvency Rules 1986 applied without the amendments made by the Insolvency (Amendment) Rules 2010 and the amending instruments made after that instrument.

(59) [S.I. 2009/356](#), as amended by [S.I. 2010/2579](#) and [2013/472](#).

- (b) the Bank Administration (England and Wales) Rules 2009(60);
- (c) the Building Society Special Administration (England and Wales) Rules 2010(61); and
- (d) the Building Society Insolvency (England and Wales) Rules 2010(62).

(2) Despite the revocation of the Insolvency Rules, Rule 12A.30 of, and Schedule 4 to, the Insolvency Rules 1986(63) (forms for use in insolvency proceedings) apply as they applied before they were revoked for the purpose of prescribing forms for the statement of affairs required to be delivered and for any statement of concurrence required to be submitted under rule 54 of the Investment Bank Special Administration (England and Wales) Rules 2011(64) (verification and filing).

Savings in relation to insolvency proceedings

25.—(1) Despite the revocation of the Insolvency Rules, those Rules apply as they applied before they were revoked for the purposes of—

- (a) a proposal to a society and its creditors for a voluntary arrangement within the meaning given in section 1 of the Insolvency Act 1986(65) as applied in relation to a relevant society by article 2(1) of the 2014 Order;
- (b) the administration of a society under Part 2 of the Insolvency Act 1986 as applied by article 2(2) of the 2014 Order; and
- (c) proceedings instituted in England and Wales for the winding up of a relevant scheme (within the meaning given in regulation 17(1)(a) of the Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013).

(2) In this regulation—

“the 2014 Order” means the Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014; and

“society” means a relevant society within the meaning given in article 1(2) of the 2014 Order which the courts in England and Wales have jurisdiction to wind up.

Date

Name
Name
Two of the Lords Commissioners of Her
Majesty’s Treasury

(60) S.I. 2009/357, as amended by S.I. 2010/2583 and 2013/472.

(61) S.I. 2010/2580, as amended by S.I. 2013/472 and 2013/496.

(62) S.I. 2010/2581, as amended by S.I. 2013/472.

(63) Rule 12A.30 was inserted with the rest of Part 12A by S.I. 2010/686.

(64) S.I. 2011/1301. There are amendments, but they are not relevant. Rule 54(8) provides that a reference in that rule to a specific form is a reference to that form as prescribed in the Insolvency Rules 1986, with any modification thought to be desirable to reflect the nature of special administration.

(65) Section 1 was amended by the Insolvency Act 2000 (c. 39), Schedule 2, paragraphs 1 and 2, and by the Enterprise Act 2002, Schedule 17, paragraphs 9 and 10. There are other amendments, but they are not relevant.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend certain enactments either in consequence of, or to save them from, provisions of the Small Business, Enterprise and Employment Act 2015 (c. 26) (“SBEEA”) which amend the Insolvency Act 1986 (c. 45) to implement a reform of provisions about creditors’ meetings and provisions about creditors’ notices. The reforms are made by—

- sections 122 and 123 of SBEEA (abolition of requirements to hold meetings: company insolvency and individual insolvency);
- sections 124 and 125 of SBEEA (ability for creditors to opt not to receive certain notices: company insolvency and individual insolvency); and
- section 126 of SBEEA, which introduces Schedule 9 to that Act (further amendments relating to sections 122 to 125).

These provisions (“the reforms”) came into force in England and Wales on 6th April 2017.

Parts 1 and 5 of these Regulations come into force on the day after the day on which these Regulations are made. Parts 2, 3 and 4 of these Regulations come into force on the 21st day after the day on which these Regulations are made.

Parts 2 and 3 of these Regulations make savings and consequential amendments in relation to the reforms. Part 2 amends primary legislation and Part 3 amends subordinate legislation.

Where primary or subordinate legislation applies provisions of the Insolvency Act 1986 with modifications—

- to financial institutions which are not companies or partnerships, or
- for the purposes of special insolvency regimes enacted for financial institutions (whether or not they are companies or partnerships),

the amendments insert savings provision (with one exception), so that the applied provisions will continue to have effect in relation to the institutions and regimes concerned as though the reforms had not been enacted.

The exception is Part 6 of the Financial Services (Banking Reform) Act 2013 (c. 33) (“the 2013 Act”), which provides for the special administration of financial market infrastructure systems. In this case and where primary or subordinate legislation modifies the application of the Insolvency Act 1986 to companies, partnerships or individuals carrying on insurance or other financial activities, consequential amendments are made to take account of the reforms.

The reforms have effect with reference to insolvency rules. In England and Wales those rules are contained in the Insolvency (England and Wales) Rules 2016 (S.I. 2016/1024) (“the 2016 Rules”), which came into force on 6th April 2017. The reforms and the 2016 Rules commenced in England and Wales before the reforms are commenced in Scotland. Consequently, enactments amended to take account of the reforms in England and Wales are also amended, where necessary, so that they apply in Scotland as if the reforms had not been enacted.

Part 4 of these Regulations makes transitional provision, where necessary, for amendments made to give effect to the reforms. Transitional provision ensures that certain amendments will not have effect in relation to creditors’ meetings arranged before 6th April 2017 which are to be held on or after the date on which Parts 2 and 3 of these Regulations come into force.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Small Business, Enterprise and Employment Act 2015 (Consequential Amendments, Savings and Transitional Provisions) Regulations 2018 No. 208

Part 5 of these Regulations makes saving provision for the Insolvency Rules 1986 ([S.I. 1986/1925](#)) as amended, which are revoked by the 2016 Rules.

An impact assessment has not been produced for this instrument as no impact on the costs of business or the voluntary sector is foreseen.