Status: *Point in time view as at 01/10/1991.*
Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 18 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

SCHEDULE 15

Section 90.

APPLICATION OF COMPANIES WINDING UP LEGISLATION TO BUILDING SOCIETIES

PART I

GENERAL MODE OF APPLICATION

1 The enactments which comprise the companies winding up legislation (referred to in this Schedule as "the enactments") are the provisions of—

(a) Parts IV, VI, VII[F1, XII and XIII] of the M1Insolvency Act 1986, or

[F2(b) Articles 5 to 8 of Part I and Parts V, VII and XI of the Insolvency (Northern Ireland) Order 1989; or]

and, in so far as they relate to offences under any such enactment, sections 430 and 432 of, and Schedule 10 to, the Insolvency Act 1986 or [F3Articles 2(6) and 373 of, and Schedule 7 to, the Insolvency (Northern Ireland) Order 1989].

Textual Amendments

F1 Words substituted by Companies Act 1989 (c. 40, SIF 27), **s. 211(2)(a)** (subject to a saving as referred to in S.I. 1990/1392, **art. 4(a)**)

F2 Sch. 15 para. 1(b) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(a)(i)**; S.R. 1991/411, **art. 2**

F3 Words in Sch. 15 para. 1 substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(a)(ii)**; S.R. 1991/411, **art. 2**

Marginal Citations

M1 1986 c. 45

2 Subject to the following provisions of this Schedule, the enactments apply to the winding up of building societies as they apply to the winding up of companies limited by shares and registered under the M2Companies Act 1985 or (as the case may be) the Companies (Northern Ireland) Order 1986.

Marginal Citations

M2 1985 c. 6.

3 (1) The enactments shall, in their application to building societies, have effect with the substitution—

(a) for "company" of "building society";

(b) for "the registrar of companies" or "the registrar" of "the central office";

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(c) for "the articles" of "the rules"; and

(d) for "registered office" of "principal office".

(2) In the application of the enactments to building societies—

(a) every reference to the officers, or to a particular officer, of a company shall have effect as a reference to the officers, or to the corresponding officer, of the building society and as including a person holding himself out as such an officer; and

(b) every reference to an administrator, an administration order, an administrative receiver [F4] or a voluntary arrangement shall be omitted.

Textual Amendments

F4 Words repealed by Companies Act 1989 (c. 40, SIF 27), ss. 211(2)(b), 212, **Sch. 24**

4 (1) Where any of the enactments as applied to building societies requires a notice or other document to be sent to the central office, it shall have effect as if it required the central office to keep the notice or document in the public file of the society concerned and to record in that file the date on which the notice or document is placed in it.

(2) Where any of the enactments, as so applied, refers to the registration, or to the date of registration, of such a notice or document, that enactment shall have effect as if it referred to the placing of the notice or document in the public file or (as the case may be) to the date on which it was placed there.

5 Any enactment which specifies a money sum altered by order under section 416 of the [M3]Insolvency Act 1986, or, as the case may be, **[**[F5]Article 362 of the Insolvency (Northern Ireland) Order 1989**]**, (powers to alter monetary limits) applies with the effect of the alteration.

Textual Amendments

F5 Words in Sch. 15 para. 5 substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(b)**; S.R. 1991/411, **art. 2**

Marginal Citations

M3 1986 c. 45.

PART II

MODIFIED APPLICATION OF INSOLVENCY ACT 1986

PARTS IV AND XII

Preliminary

6 In this Part of this Schedule, Part IV of the Insolvency Act 1986 is referred to as "Part IV"; and that"Act is referred to as "the Act".

Status: *Point in time view as at 01/10/1991.*
Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 18 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Members of a building society as contributories in winding up

7 (1) Section 74 (liability of members) of the Act is modified as follows.

(2) In subsection (1), the reference to any past member shall be omitted.

(3) Paragraphs (a) to (d) of subsection (2) shall be omitted; and so shall subsection (3).

(4) The extent of the liability of a member of a building society in a winding up shall not exceed the extent of his liability under paragraph 6 of Schedule 2 to this Act.

8 Sections 75 to 78 and 83 in Chapter I of Part IV (miscellaneous provisions not relevant to building societies) do not apply.

9 (1) Section 79 (meaning of "contributory") of the Act does not apply.

(2) In the enactments as applied to a building society, "contributory"—

(a) means every person liable to contribute to the assets of the society in the event of its being wound up, and

(b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory, and

(c) includes persons who are liable to pay or contribute to the payment of—

(i) any debt or liability of the building society being wound up, or

(ii) any sum for the adjustment of rights of members among themselves, or

(iii) the expenses of the winding up;

but does not include persons liable to contribute by virtue of a declaration by the court under section 213 (imputed responsibility for fraudulent trading) or section 214 (wrongful trading) of the Act.

Voluntary winding up

10 (1) Section 84 of the Act does not apply.

(2) In the enactments as applied to a building society, the expression "resolution for voluntary winding up" means a resolution passed under section 88(1) of this Act.

11 In subsection (1) of section 101 (appointment of liquidation committee) of the Act, the reference to functions conferred on a liquidation committee by or under that Act shall have effect as a reference to its functions by or under that Act as applied to building societies.

12 (1) Section 107 (distribution of property) of the Act does not apply; and the following applies in its place.

(2) Subject to the provisions of Part IV relating to preferential payments, a building society's property in a voluntary winding up shall be applied in satisfaction of the society's liabilities to creditors (including any liability resulting from the variation to the liquidator's duty effected by section 28 or 31 of this Act) pari passu and, subject to that application, in accordance with the rules of the society.

13 Sections 110 and 111 (liquidator accepting shares, etc. as consideration for sale of company property) of the Act do not apply.

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14 Section 116 (saving for certain rights) of the Act shall also apply in relation to the dissolution by consent of a building society as it applies in relation to its voluntary winding up.

Winding up by the court

15 In sections 117 (High Court and county court jurisdiction) and 120 (Court of Session and sheriff court jurisdiction) of the Act, each reference to a company's share capital paid up or credited as paid up shall have effect as a reference to the amount standing to the credit of shares in a building society as shown by the latest balance sheet.

16 Section 122 (circumstances in which company may be wound up by the court) of the Act does not apply.

17 Section 124 (application for winding up) of the Act does not apply.

18 (1) In section 125 (powers of court on hearing of petition) of the Act, subsection (1) applies with the omission of the words from "but the court" to the end of the subsection.

(2) The conditions which the court may impose under section 125 of the Act include conditions for securing—

(a) that the building society be dissolved by consent of its members under section 87, or

(b) that the society amalgamates with, or transfers its engagements to, another building society under section 93 or 94, or

(c) that the society transfers its business to a company under section 97,

and may also include conditions for securing that any default which occasioned the petition be made good and that the costs, or in Scotland the expenses, of the proceedings on that petition be defrayed by the person or persons responsible for the default.

19 Section 126 (power of court, between petition and winding up order, to stay or restrain proceedings against company) of the Act has effect with the omission of subsection (2).

20 If, before the presentation of a petition for the winding up by the court of a building society, an instrument of dissolution under section 87 is placed in the society's public file, section 129(1) (commencement of winding up by the court) of the Act shall also apply in relation to the date on which the instrument is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.

21 (1) Section 130 of the Act (consequences of winding-up order) shall have effect with the following modifications.

(2) Subsections (1) and (3) shall be omitted.

(3) A building society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order to the central office; and the central office shall keep the notice in the public file of the society.

Status: *Point in time view as at 01/10/1991.*
Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 18 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) If a building society fails to comply with sub-paragraph (3) above, it shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and so shall any officer who is also guilty of the offence.

22 Section 140 (appointment of liquidator by court in certain circumstances) of the Act does not apply.

23 In the application of sections 141(1) and 142(1) (liquidation committees), of the Act to building societies, the references to functions conferred on a liquidation committee by or under that Act shall have effect as references to its functions by or under that Act as so applied.

24 The conditions which the court may impose under section 147 (power to stay or sist winding up) of the Act shall include those specified in paragraph 18(2) above.

25 Section 154 (adjustment of rights of contributories) of the Act shall have the effect with the modification that any surplus is to be distributed in accordance with the rules of the society.

26 In section 165(2) (liquidator's powers) of the Act, the reference to an extraordinary resolution shall have effect as a reference to a special resolution.

Winding up: general

27 Section 187 (power to make over assets to employees) of the Act does not apply.

28 (1) In section 201 (dissolution: voluntary winding up) of the Act, subsection (2) applies without the words from "and on the expiration" to the end of the subsection and, in subsection (3), the word "However" shall be omitted.

(2) Sections 202 to 204 (early dissolution) of the Act do not apply.

29 In section 205 (dissolution: winding up by the court) of the Act, subsection (2) applies with the omission of the words from "and, subject" to the end of the subsection; and in subsections (3) and (4) references to the Secretary of State shall have effect as references to the Commission.

Penal provisions

30 Sections 216 and 217 of the Act (restriction on re-use of name) do not apply.

31 (1) Sections 218 and 219 (prosecution of delinquent officers) of the Act do not apply in relation to offences committed by members of a building society acting in that capacity.

(2) Sections 218(5) of the Act and subsections (1) and (2) of section 219 of the Act do not apply.

(3) The references in subsections (3) and (4) of section 219 of the Act to the Secretary of State shall have effect as references to the Commission; and the reference in subsection (3) to subsection 218 of the Act shall have effect as a reference to that section as supplemented by paragraph 32 below.

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32 (1) Where a report is made to the prosecuting authority (within the meaning of section 218) under section 218(4) of the Act, in relation to an officer of a building society, he may, if he thinks fit, refer the matter to the Commission for further enquiry.

(2) On such a reference to it the Commission shall exercise its power under section 55(1) of this Act to appoint one or more investigators to investigate and report on the matter.

(3) An answer given by a person to a question put to him in exercise of the powers conferred by section 55 on a person so appointed may be used in evidence against the person giving it.

Preferential debts

33 Section 387 (meaning in Schedule 6 of "the relevant date") of the Act applies with the omission of subsections (2) and (4) to (6).

[F6 PART III

MODIFIED APPLICATION OF INSOLVENCY (NORTHERN IRELAND) ORDER 1989

Textual Amendments

F6 Sch. 15 paras. 34-55E substituted (N.I.) (1.10.1991) for Sch. 15 paras. 34-55 by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(c)**; S.R. 1991/411, **art. 2**

PARTS V AND XI

Preliminary

34 In this Part of this Schedule, Part V of the Insolvency (Northern Ireland) Order 1989 is referred to as "Part V", that Order is referred to as "the Order" and references to "Articles" are references to Articles of that Order.

Members of a building society as contributories in winding up

35 (1) Article 61 (liability of members) is modified as follows.

(2) In paragraph (1), the reference to any past member shall be omitted.

(3) Sub-paragraphs (*a*) to (*d*) of paragraph (2) shall be omitted; and so shall paragraph (3).

(4) The extent of the liability of a member of a building society in a winding up shall not exceed the extent of his liability under paragraph 6 of Schedule 2 to this Act.

36 Articles 62 to 65 and 69 in Chapter I of Part V (miscellaneous provisions not relevant to building societies) do not apply.

37 In the enactments as applied to a building society, "contributory"—

(a) means every person liable to contribute to the assets of the society in the event of its being wound up, and

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(b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory, and

(c) includes persons who are liable to pay or contribute to the payment of—

(i) any debt or liability of the building society being wound up, or

(ii) any sum for the adjustment of rights of members among themselves, or

(iii) the expenses of the winding up;

but does not include persons liable to contribute by virtue of a declaration by the Court under Article 177 (imputed responsibility for fraudulent trading) or Article 178 (wrongful trading).

Voluntary winding up

38 (1) Article 70 does not apply.

(2) In the enactments as applied to a building society, the expression "resolution for voluntary winding up" means a resolution passed under section 88(1) of this Act.

39 In paragraph (1) of Article 87 (appointment of liquidation committee), the reference to functions conferred on a liquidation committee by or under the Order shall have effect as a reference to its functions by or under the Order as applied to building societies.

40 (1) Article 93 (distribution of property) does not apply; and the following applies in its place.

(2) Subject to the provisions of Part V relating to preferential payments, a building society's property in a voluntary winding up shall be applied in satisfaction of the society's liabilities to creditors (including any liability resulting from the variation to the liquidator's duty effected by section 28 or 31 of this Act) pari passu and, subject to that application, in accordance with the rules of the society.

41 Articles 96 and 97 (liquidator accepting shares, etc, as consideration for sale of company property) do not apply.

42 Article 101 (saving for certain rights) shall also apply in relation to the dissolution by consent of a building society as it applies in relation to its voluntary winding up.

Winding up by the High Court

43 Article 102 (circumstances in which company may be wound up by the High Court) does not apply.

44 Article 104 (application for winding up) does not apply.

45 (1) In Article 105 (powers of High Court on hearing of petition), paragraph (1) applies with the omission of the words from "but the Court" to the end of the paragraph.

(2) The conditions which the High Court may impose under Article 105 include conditions for securing—

(a) that the building society be dissolved by consent of its members under section 87, or

(b) that the society amalgamates with, or transfers its engagements to, another building society under section 93 or 94, or

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(c) that the society transfers its business to a company under section 97,

and may also include conditions for securing that any default which occasioned the petition be made good and that the costs of the proceedings on that petition be defrayed by the person or persons responsible for the default.

46 Article 106 (power of High Court, between petition and winding-up order, to stay or restrain proceedings against company) has effect with the omission of paragraph (2).

47 If, before the presentation of a petition for the winding up by the High Court of a building society, an instrument of dissolution under section 87 is placed in the society's public file, Article 109(1) (commencement of winding up by the High Court) shall also apply in relation to the date on which the instrument is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.

48 (1) Article 110 (consequences of winding-up order) shall have effect with the following modifications.

(2) Paragraphs (1) and (3) shall be omitted.

(3) A building society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order to the central office; and the central office shall keep the notice in the public file of the society.

(4) If a building society fails to comply with sub-paragraph (3) above, it shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and so shall any officer who is also guilty of the offence.

49 Article 119 (appointment of liquidator by High Court in certain circumstances) does not apply.

50 In the application of Article 120(1) (liquidation committee) to building societies, the references to functions conferred on a liquidation committee by or under the Order shall have effect as references to its function by or under the Order as so applied.

51 The conditions which the High Court may impose under Article 125 (power to stay winding up) shall include those specified in paragraph 45(2) above.

52 Article 132 (adjustment of rights of contributories) shall have effect with the modification that any surplus is to be distributed in accordance with the rules of the society.

53 In Article 140(2) (liquidator's powers), the reference to an extraordinary resolution shall have effect as a reference to a special resolution.

Winding up: general

54 Article 158 (power to make over assets to employees) does not apply.

55 (1) In Article 166 (dissolution: voluntary winding up), paragraph (2) applies without the words from "and on the expiration" to the end of the paragraph and, in paragraph (3), the word "However" shall be omitted.

(2) Articles 167 and 168 (early dissolution) do not apply.

55A In Article 169 (dissolution: winding up by the High Court) paragraph (1) applies with the omission of the words from "and, subject" to the end of the paragraph;

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and in paragraphs (2) and (3) references to the Department shall have effect as references to the Commission.

Penal provisions

55B Articles 180 and 181 (restriction on re-use of name) do not apply.

55C (1) Articles 182 and 183 (prosecution of delinquent officers) do not apply in relation to offences committed by members of a building society acting in that capacity.

(2) Article 182(4) and paragraphs (1) and (2) of Article 183 do not apply.

(3) The references in paragraphs (3) and (5) of Article 183 to the Department shall have effect as references to the Commission; and the reference in paragraph (3) to Article 182 shall have effect as a reference to that Article as supplemented by paragraph 55D below.

55D (1) Where a report is made to the prosecuting authority (within the meaning of Article 182) under Article 182(3), in relation to an officer of a building society, he may, if he thinks fit, refer the matter to the Commission for further enquiry.

(2) On such a reference to it the Commission shall exercise its power under section 55(1) of this Act to appoint one or more investigators to investigate and report on the matter.

(3) An answer given by a person to a question put to him in exercise of the powers conferred by section 55 on a person so appointed may be used in evidence against the person giving it.

Preferential debts

55E Article 347 (meaning in Schedule 4 of "the relevant date") applies with the omission of paragraphs (2) and (4) to (6).**]**

PART IV

DISSOLUTION OF BUILDING SOCIETY WOUND UP (ENGLAND AND WALES, SCOTLAND AND NORTHERN IRELAND)

56 (1) Where a building society has been wound up voluntarily, it is dissolved as from 3 months from the date of the placing in the public file of the society of the return of the final meetings of the society and its creditors made by the liquidator under—

(a) section 94 or (as the case may be) 106 of the [M4]Insolvency Act 1986 (as applied to building societies), or on such other date as is determined in accordance with section 201 of that Act, or

(b) Article **[**[F7]80 or (as the case may be) 92 of the Insolvency (Northern Ireland) Order 1989**]**(as so applied), or on such other date as is determined in accordance with that Article,

as the case may be.

(2) Where a building society has been wound up by the court, it is dissolved as from 3 months from the date of the placing in the public file of the society of—

(a) the liquidator's notice under section 172(8) of the [M5]Insolvency Act 1986 (as applied to building societies) **[**[F8]or, as the case may be, Article 146(7) of the

Status: *Point in time view as at 01/10/1991.*
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Insolvency (Northern Ireland) Order 1989 (as applied to building societies)**]**, or

(b) the notice of the completion of the winding up from the official receiver or the **[**[F9]official receiver for Northern Ireland**]**,

or on such other date as is determined in accordance with section 205 of that Act **[**[F10]or Article 169 of that Order**]**, as the case may be.

Textual Amendments

F7 Words in Sch. 15 para. 56(1)(b) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(d)(i)**; S.R. 1991/411, **art. 2**

F8 Words in Sch. 15 para. 56(2)(a) inserted (N.I.) (1.10.191) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(d)(ii)**; S.R. 1991/411, **art. 2**

F9 Words in Sch. 15 para. 56(2)(b) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(d)(iii)**; S.R. 1991/411, **art. 2**

F10 Words in Sch. 15 para. 56(2) inserted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(d)(iv)**; S.R. 1991/411, **art. 2**

Marginal Citations

M4 1986 c. 45

M5 1986 c. 45.

57 (1) Sections 654 to 658 of the [M6]Companies Act 1985 or Articles 605 to 609 of the Companies (Northern Ireland) Order 1986 (provisions as to corporate property as bona vacantia) shall have the same effect in relation to the property of a dissolved building society (whether dissolved under section 87 or following its winding up) as they have in relation to the property of a dissolved company, but with the following modifications.

(2) Paragraph 3(1) above shall apply to those sections for the purpose of their application to building societies.

(3) Subsection (2) of section 654 and subsections (1) and (3) of section 655 apply without the words "or 653"; and the references in those subsections to section 651 shall have effect as references to section 91 of this Act.

(4) Paragraph (2) of Article 605 and paragraph (1) of Article 606 apply without the words "or 604"; and references in those paragraphs to Article 602 shall have effect as references to section 91 of this Act.

Marginal Citations

M6 1985 c. 6.

Insolvency rules and fees: England and Wales and Scotland

58 (1) Rules may be made under section 411 of the Insolvency Act for the purpose of giving effect, in relation to building societies, to the provisions of the applicable winding up legislation.

(2) An order made by the competent authority under section 414 of the Insolvency Act 1986 may make provision for fees to be payable under that section in respect of

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proceedings under the applicable winding up legislation and the performance by the official receiver or the Secretary of State of functions under it.

Insolvency rules and fees: Northern Ireland

59 (1) Rules may be made under **[**[F11]Article 359 of the Insolvency (Northern Ireland) Order 1989**]**for the purpose of giving effect in relation to building societies, to the provisions of the applicable winding up legislation.

[[F12](2) An order made by the Department of Economic Development under Article 361 of the Insolvency (Northern Ireland) Order 1989 may make provision for fees to be payable under that Article in respect of proceedings under the applicable winding-up legislation and the performance by the official receiver for Northern Ireland or that Department of functions under it.**]**

Textual Amendments

F11 Words in Sch. 15 para. 59(1) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(e)(i)**; S.R. 1991/411, **art. 2**

F12 Sch. 15 para. 59(2) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(e)(ii)**; S.R. 1991/411, **art. 2**

Status:
Point in time view as at 01/10/1991.

Changes to legislation:
Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 18 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.