

Status: Point in time view as at 28/06/2016.

Changes to legislation: Building Societies Act 1986, Cross Heading: Winding up by the court is up to date with all changes known to be in force on or before 04 June 2023. 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

APPLICATION OF COMPANIES WINDING UP LEGISLATION TO BUILDING SOCIETIES

Modifications etc. (not altering text)

- C1** Sch. 15 applied (with modifications) (7.4.2010) by [The Building Societies \(Financial Assistance\) Order 2010 \(S.I. 2010/1188\)](#), arts. 1(2), **9**

PART II

MODIFIED APPLICATION OF INSOLVENCY ACT 1986

PARTS IV AND XII

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.
- [^{F1}16 (1) Section 122 (circumstances in which company may be wound up by the court) of the Act does not apply in relation to a building society whose principal office is situated in England and Wales.
- (2) Section 122 has effect in relation to a building society whose principal office is situated in Scotland as if subsection (1) were omitted.]

Textual Amendments

- F1** Sch. 15 para. 16 substituted (with application in accordance with art. 1(4) of the amending S.I.) by [The Building Societies \(Floating Charges and Other Provisions\) Order 2016 \(S.I. 2016/679\)](#), arts. 1(1), **2**

- 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

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(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 [^{F2}to the FCA and, if the society is a PRA-authorized person, the PRA] ; and the [^{F3}FCA must] 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.

Textual Amendments

F2 Word in Sch. 15 para. 21(3) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\), art. 1\(1\), Sch. 8 para. 57\(4\)\(a\)](#) (with Sch. 12)

F3 Word in Sch. 15 para. 21(3) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\), art. 1\(1\), Sch. 8 para. 57\(4\)\(b\)](#) (with Sch. 12)

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.

[^{F4}23A. Section 143 (general functions of liquidator in winding up by the court) of the Act has effect as if after subsection (1) there were inserted—

“(1A) Subject to the provisions of Part 4 relating to preferential payments, a building society's property in the winding up shall be applied in satisfaction of the society's liabilities to creditors *pari passu* and, subject to that application, in accordance with the rules of the society.

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(1B) In subsection (1A) the reference to the society’s liabilities to creditors includes a reference to the society’s liabilities to shareholding members of the society in respect of deposits which are not relevant deposits.”]

Textual Amendments

F4 Sch. 15 para. 23A inserted (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), **33(5)** (with art. 3)

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.

^{F5}26

Textual Amendments

F5 Sch. 15 para. 26 repealed (1.10.2007) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 1(3) (a), Sch. 4 para. 49(1), **Sch. 5** (with art. 12, Sch. 4 para. 49(2))

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