

**Changes to legislation:** Building Societies Act 1986, Cross Heading: Winding up by the High Court is up to date with all changes known to be in force on or before 07 July 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) View outstanding changes

## 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**

### [<sup>F1</sup>PART III

#### MODIFIED APPLICATION OF INSOLVENCY (NORTHERN IRELAND) ORDER 1989

##### Textual Amendments

- F1** 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 [<sup>F1</sup>, 11 AND 12]

##### Textual Amendments

- F1** Words in Sch. 15 Pt. III heading substituted (7.4.2017) by [The Deregulation Act 2015](#), the [Small Business, Enterprise and Employment Act 2015](#) and the [Insolvency \(Amendment\) Act \(Northern Ireland\) 2016 \(Consequential Amendments and Transitional Provisions\) Regulations 2017 \(S.I. 2017/400\)](#), regs. 1(2), **2(3)(e)**

#### *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

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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 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 [<sup>F2</sup>to the FCA and, if the society is a PRA-authorised person, the PRA] ; and [<sup>F3</sup>the 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** Words in Sch. 15 para. 48(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\(8\)\(a\)](#) (with Sch. 12)
- F3** Words in Sch. 15 para. 48(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\(8\)\(b\)](#) (with Sch. 12)

- 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.
- <sup>I</sup>  
<sup>F4</sup>50A. Article 121 (general functions of liquidator in winding up by the High Court) of the Order has effect as if after paragraph (1) there were inserted—
- “(1A) Subject to the provisions of Part V 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 paragraph (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.”]

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**Textual Amendments**

**F4** Sch. 15 para. 50A inserted (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), **34(5)** (with art. 3)

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.

<sup>F5</sup>53 .....]

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**Textual Amendments**

**F5** Sch. 15 para. 53 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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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(11)-(14) inserted by [2007 c. 26 s. 1\(2\)](#)
- s. 5(13)(a) substituted by [S.I. 2013/496 Sch. 8 para. 4\(4\)](#)
- s. 7(6A)-(6C) inserted by [2007 c. 26 s. 1\(1\)\(a\)](#)
- s. 7(8A) inserted by [2007 c. 26 s. 1\(1\)\(c\)](#)
- s. 176ZB excluded by [S.I. 2017/400 reg. 14](#)
- s. 246ZA-246ZC excluded by [S.I. 2017/400 reg. 15](#)
- s. 246ZD excluded by [S.I. 2017/400 reg. 16](#)