

Status: Point in time view as at 01/01/2003.

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SCHEDULES

[^{F1}SCHEDULE 15A

APPLICATION OF OTHER COMPANIES INSOLVENCY LEGISLATION TO BUILDING SOCIETIES

Textual Amendments

F1 Sch. 15A inserted (1.12.1997) by 1997 c. 32, s. 39(2), Sch. 6; S.I. 1997/2668, art. 2, Sch. Pt. I(i)

PART II

MODIFIED APPLICATION OF PARTS I AND II AND CHAPTER I OF PART III OF INSOLVENCY ACT 1986

Preliminary

6 In this Part of this Schedule, the ^{M1}Insolvency Act 1986 is referred to as “the Act”.

Marginal Citations

M1 1986 c.45.

Voluntary arrangements

7 Section 1 of the Act (proposals for voluntary arrangements) has effect as if—

- (a) it required any proposal under Part I of the Act to be so framed as to enable a building society to comply with the requirements of this Act; and
- (b) any reference to debts included a reference to liabilities owed to the holders of shares in a building society.

8 In section 2 (procedure where nominee is not liquidator or administrator) and section 3 (summoning of meetings) of the Act as applied to a building society, any reference to a meeting of the society is a reference to—

- (a) a meeting of both shareholding and borrowing members of the society; and
- (b) a meeting of shareholding members alone.

[^{F2}and subsection (1) of section 2 shall have effect with the omission of the words from “and the directors” to the end.]

Textual Amendments

F2 Words in Sch. 15A para. 8 inserted (1.1.2003) by 2000 c. 39, s. 2, Sch. 2 Pt. II para. 14(3); S.I. 2002/2711, art. 2 (subject to arts. 3-5)

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[^{F3}8A In subsection (2) of section 4A of the Act (approval of arrangement) as applied to a building society, paragraph (b) and the word “or” immediately preceding that paragraph are omitted.]

Textual Amendments

F3 Sch. 15A para. 8A inserted (1.1.2003) by 2000 c. 39, s. 2, **Sch. 2 Pt. II para. 14(3)**; S.I. 2002/2711, **art. 2** (subject to arts. 3-5)

9 In section 6 of the Act (challenge of decisions) 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.

[^{F4}9A In section 7A of the Act (prosecution of delinquent officers) as applied to a building society—

- (a) in subsection (2), for paragraphs (i) and (ii) there is substituted “ the [^{F5}Authority] ”,
- (b) subsections (3) to (7) are omitted,
- (c) in subsection (8), for “Secretary of State” there is substituted “ [^{F5}Authority] ”.]

Textual Amendments

F4 Sch. 15A para. 9A inserted (1.1.2003) by 2000 c. 39, s. 2, **Sch. 2 Pt. II para. 14(4)**; S.I. 2002/2711, **art. 2** (subject to arts. 3-5)

F5 Words in Sch. 15A para. 9A substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 210(e)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

Administration orders

10 (1) Section 8 of the Act (power of court to make administration order) has effect as if it included provision that, where—

- (a) an application for an administration order to be made in relation to a building society is made by the [^{F6}Authority] (with or without other parties); and
- (b) the society has defaulted in an obligation to pay any sum due and payable in respect of any deposit or share,

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the society shall be deemed for the purposes of subsection (1) to be unable to pay its debts.

(2) In subsection (3) of that section, paragraph (c) and, in subsection (4) of that section, the words from “nor where” to the end are omitted.

Textual Amendments

F6 Words in Sch. 15A para. 10(1)(a) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 210(e)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

- 11 (1) Subsection (1) of section 9 of the Act (application for administration order) as applied to a building society has effect as if—
- (a) it enabled an application to the court for an administration order to be by petition presented, with or without other parties, by the [^{F7}Authority] or by a shareholding member entitled under section 89(3) of this Act to petition for the winding up of the society; and
 - (b) the words from “or by the clerk” to “on companies” were omitted.
- (2) In subsection (2)(a) of that section as so applied, the reference to any person who has appointed, or is or may be entitled to appoint, an administrative receiver of the society is a reference to the Commission (unless it is a petitioner).
- (3) Subsection (3) of that section, and in subsection (4) of that section, the words “Subject to subsection (3),” are omitted.

Textual Amendments

F7 Words in Sch. 15A para. 11 substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 210(e)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

- 12 In section 10 of the Act (effect of application for administration order), the following are omitted, namely—
- (a) in subsection (2), paragraphs (b) and (c); and
 - (b) subsection (3).
- 13 In section 11 of the Act (effect of administration order), the following are omitted, namely—
- (a) in subsection (1), paragraph (b) and the word “and” immediately preceding that paragraph;
 - (b) in subsection (3), paragraph (b);
 - (c) in subsection (4), the words “an administrative receiver of the company has vacated office under subsection (1)(b), or”; and
 - (d) subsection (5).
- 14 In subsection (1) of section 12 of the Act (notification of administration order), the reference to every invoice, order for goods or business letter is a reference to every statement of account, order for goods or services, business letter or advertisement.
- 15 Subsection (3) of section 13 of the Act (appointment of administrator) has effect as if it enabled an application for an order under subsection (2) of that section to be made by the [^{F8}Authority].

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Textual Amendments

F8 Words in Sch. 15A para. 15 substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 210(e)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

- 16 (1) Subject to sub-paragraph (2) below, section 14 of the Act (general powers of administrator) has effect as if it required the administrator of a building society, in exercising his powers under that section—
- (a) to ensure compliance with the provisions of this Act; and
 - (b) not to appoint to be a director any person who is not a fit and proper person to hold that position.
- (2) Sub-paragraph (1)(a) above does not apply in relation to section 5, 6 or 7 of this Act^{F9}

- (3) In subsection (4) of that section as applied to a building society, the reference to any power conferred by the Act or the^{M2} Companies Act 1985 or by the memorandum or articles of association is a reference to any power conferred by this Act or by the society's memorandum or rules.
- ^{F10}(4)

Textual Amendments

F9 Words in Sch. 15 para. 16(2) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

F10 Sch. 15A para. 16(4) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

Marginal Citations

M2 1985 c.6.

- 17 (1) Subject to sub-paragraph (3) below, paragraph 16 of Schedule 1 to the Act (powers of administrators) as applied to a building society has effect as if it conferred power to transfer liabilities in respect of deposits with or shares in the society.
- (2) No transfer under that paragraph shall be a transfer of engagements for the purposes of Part X of this Act.
- (3) No transfer under that paragraph which, apart from sub-paragraph (2) above, would be a transfer of engagements for the purposes of that Part shall be made unless it is approved by the court, or by meetings summoned under section 23(1) or 25(2) of the Act (as modified by paragraph 21 or 23 below).
- 18 In section 15 of the Act (power to deal with charged property etc.)—
- (a) subsection (1) is omitted; and
 - (b) for subsections (3) and (4) there is substituted the following subsection—

“(3) Subsection (2) applies to any security other than one which, as created, was a floating charge.”
- 19 (1) Section 17 of the Act (general duties of administrator) has effect as if, instead of the requirement imposed by subsection (3), it required the administrator of a building society to summon a meeting of the society's creditors if—

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- (a) he is requested, in accordance with the rules, to do so by 500 of the society's creditors, or by one-tenth, in number or value, of those creditors, or
 - (b) he is directed to do so by the court.
- (2) That section also has effect as if it required the administrator of a building society to summon a meeting of the society's shareholding members if—
- (a) he is requested, in accordance with the rules, to do so by 500 of the society's shareholding members, or by one-tenth, in number, of those members, or
 - (b) he is directed to do so by the court.
- 20 In subsection (4) of section 19 of the Act (vacation of office) as applied to a building society, the words “in priority to any security to which section 15(1) then applies” are omitted.
- 21 (1) Subsection (1) of section 23 of the Act (statement of proposals) as applied to a building society has effect as if—
- (a) the reference to the [^{F11}Authority] included a reference to the [^{F11}scheme manager];
 - (b) the reference to all creditors included a reference to all holders of shares in the society; and
 - (c) the reference to a meeting of the society's creditors included a reference to a meeting of holders of shares in the society.
- (2) In subsection (2) of that section as so applied, references to members of the society do not include references to holders of shares in the society.

Textual Amendments

F11 Words in Sch. 15A para. 21(1)(a) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 210(h)(i)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2

- 22 Section 24 of the Act (consideration of proposals by creditors' meeting) as applied to a building society has effect as if any reference to a meeting of creditors included a reference to a meeting of holders of shares in the society.
- 23 (1) Section 25 of the Act (approval of substantial revisions) as applied to a building society has effect as if—
- (a) subsection (2) required the administrator to send a statement in the prescribed form of his proposed revisions to the [^{F12}Authority and to the scheme manager]; and
 - (b) the reference in that subsection to a meeting of creditors included a reference to a meeting of holders of shares in the society.
- (2) In subsection (3) of that section as so applied, references to members of the society do not include references to holders of shares in the society.

Textual Amendments

F12 Words in Sch. 15A para. 23(1)(a) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 210(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2

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- 24 Subsection (1) of section 27 of the Act (protection of interests of creditors and members) has effect—
- (a) as if it enabled the [^{F13}Authority or the scheme manager] to apply to the court by petition for an order under that section; and
 - (b) in relation to an application by the [^{F14}Authority or the scheme manager], as if the words “(including at least himself)” were omitted.

Textual Amendments

- F13** Words in Sch. 15A para. 24(a) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8, 13(1), [Sch. 3 Pt. II para. 210\(j\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2](#)
- F14** Words in Sch. 15A para. 24(b) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8, 13(1), [Sch. 3 Pt. II para. 210\(k\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2](#)

Receivers and managers

- 25 In section 38 of the Act (receivership accounts), “prescribed” means prescribed by regulations made by statutory instrument by the [^{F15}Treasury].

Textual Amendments

- F15** Word in Sch. 15A para. 25 substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8, 13(1), [Sch. 3 Pt. II para. 210\(l\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2](#)

Modifications etc. (not altering text)

- C1** Sch. 15A para. 25: Functions of Building Societies Commission transferred (1.12.2001) to the Treasury by [S.I. 2001/2617](#) arts. 2(b), 4(1), Sch. 1 Pt. III; [S.I. 2001/2617](#), [art. 2](#)

- 26 In subsection (1) of section 39 of the Act (notification that receiver or manager appointed), the reference to every invoice, order for goods or business letter is a reference to every statement of account, order for goods or services, business letter or advertisement.
- 27 Section 40 (payment of debts out of assets subject to floating charge) and sections 42 to 49 (administrative receivers) of the Act are omitted.]

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