

Status: Point in time view as at 13/03/2018.

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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)**

Modifications etc. (not altering text)

- C1** Sch. 15A applied (with modifications) (7.4.2010) by **The Building Societies (Financial Assistance) Order 2010** (S.I. 2010/1188), arts. 1(2), **11** (as amended (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013** (S.I. 2013/496), arts. 1(1), 2(c), **Sch. 11 para. 18(5)(d)** (with Sch. 12) and (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), art. 1(1)(2), **5(3)**)
- C1** Sch. 15A: amendment to earlier affecting provision S.I. 2010/1188, **arts. 1(2), 11** (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013** (S.I. 2013/496), arts. 1(1), 2(c), **Sch. 11 para. 018(05)(d)** (with Sch. 12)
- C1** Sch. 15A amendment to earlier affecting provision SI 2010/1188 art. 11 (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), art. 1(1)(2), **5(3)**

PART II

MODIFIED APPLICATION OF [^{F2}PARTS I TO III][^{F3}, 6, 7, 12 AND 13] OF INSOLVENCY ACT 1986

Textual Amendments

- F2** Words in Sch. 15A Pt. II heading 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), **4(3)(a)**
- F3** Words in Sch. 15A Pt. II heading substituted (13.3.2018) by **The Small Business, Enterprise and Employment Act 2015 (Consequential Amendments, Savings and Transitional Provisions) Regulations 2018** (S.I. 2018/208), regs. 1(3), **2(3)(a)**

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.

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- [^{F4}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).]

Textual Amendments

- F4** Sch. 15A para. 6A inserted (13.3.2018) by [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2018 \(S.I. 2018/208\)](#), regs. 1(3), **2(3)(b)**

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.

[^{F5}and subsection (1) of section 2 shall have effect with the omission of the words from “and the directors” to the end.]

Textual Amendments

- F5** 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](#))

- [^{F6}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

- F6** 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

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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 section 213 (imputed responsibility for fraudulent trading) or section 214 (wrongful trading) of the Act.

- [^{F79A} 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 [^{F8}FCA] ”,
 - (b) subsections (3) to (7) are omitted,
 - (c) in subsection (8), for “Secretary of State” there is substituted “ [^{F8}FCA] ”.]

Textual Amendments

- F7** 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)
- F8** Word in Sch. 15A para. 9A substituted (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496)**, art. 1(1), **Sch. 8 para. 58(4)** (with Sch. 12)

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 [^{F9}FCA or the PRA] (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,
- 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

- F9** Words in Sch. 15A para. 10 substituted (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496)**, art. 1(1), **Sch. 8 para. 58(5)** (with Sch. 12)

- 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 [^{F10}FCA or the PRA]

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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

F10 Words in Sch. 15A para. 11 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 58\(5\)](#) (with Sch. 12)

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 ^{F11}FCA or the PRA] .

Textual Amendments

F11 Words in Sch. 15A para. 15 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 58\(5\)](#) (with Sch. 12)

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

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- (3) In subsection (4) of that section as applied to a building society, the reference to any power conferred by the Act or [^{F13}the Companies Acts] or by [^{F14}the company's articles] is a reference to any power conferred by this Act or by the society's memorandum or rules.

^{F15}(4)

Textual Amendments

- F12** 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**
- F13** Words in Sch. 15A para. 16(3) substituted (1.10.2009) by **The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009** (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 87(12)(b)(i)** (with art. 10)
- F14** Words in Sch. 15A para. 16(3) substituted (1.10.2009) by **The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009** (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 87(12)(b)(ii)** (with art. 10)
- F15** 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**

- 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).

^{F16}18

Textual Amendments

- F16** Sch. 15A para. 18 omitted (26.3.2015) by virtue of **Financial Services (Banking Reform) Act 2013 (c. 33)**, s. 148(5), **Sch. 9 para. 4(2)(a)**; S.I. 2015/428, art. 2

- 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—
- (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.

^{F17}20

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Textual Amendments

F17 Sch. 15A para. 20 omitted (26.3.2015) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 9 para. 4\(2\)\(b\)](#); S.I. 2015/428, art. 2

- 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 [^{F18}Financial Conduct Authority] included a reference to the [^{F19}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

F18 Words in Sch. 15A para. 21(1)(a) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 58\(7\)](#) (with Sch. 12)

F19 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 [^{F20}[^{F21}FCA, to the PRA] 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

F20 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

F21 Words in Sch. 15A para. 23(1)(a) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 58\(6\)](#) (with Sch. 12)

- 24 Subsection (1) of section 27 of the Act (protection of interests of creditors and members) has effect—
- (a) as if it enabled the [^{F22}[^{F23}FCA, the PRA] or the scheme manager] to apply to the court by petition for an order under that section; and

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- (b) in relation to an application by the [^{F24}[^{F23}FCA, the PRA] or the scheme manager], as if the words “(including at least himself)” were omitted.

Textual Amendments

- F22** 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**
- F23** Words in Sch. 15A para. 24 substituted (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496)**, art. 1(1), **Sch. 8 para. 58(8)** (with Sch. 12)
- F24** 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 [^{F25}Treasury].

Textual Amendments

- F25** 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.

- [^{F26}27 Subsection (3) of section 40 of the Act (payment of debts out of assets subject to floating charge), as applied to a building society, has effect as if the reference to general creditors included a reference to shareholding members of the society in respect of deposits which are not relevant deposits.

Textual Amendments

- F26** Sch. 15A paras. 27-27F substituted for Sch. 15A para. 27 (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), **4(3)(b)**

- 27A. Sections 42 to 49 of the Act (administrative receivers) are omitted.

Textual Amendments

- F26** Sch. 15A paras. 27-27F substituted for Sch. 15A para. 27 (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), **4(3)(b)**

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- 27B. Subsection (1) of section 51 of the Act (power to appoint receiver), as applied to a building society, has effect as if for the words “an incorporated company (whether a company registered under the Companies Act 2006 or not)” there were substituted “a building society”.

Textual Amendments

- F26** Sch. 15A paras. 27-27F substituted for Sch. 15A para. 27 (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), **4(3)(b)**

- 27C. Subsection (3) of section 59 of the Act (priority of debts), as applied to a building society, has effect as if the reference to ordinary creditors included a reference to shareholding members of the society in respect of deposits which are not relevant deposits.

Textual Amendments

- F26** Sch. 15A paras. 27-27F substituted for Sch. 15A para. 27 (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), **4(3)(b)**

- 27D. Subsection (1) of section 67 of the Act (report by receiver), as applied to a building society, has effect as if—
- (a) the reference to the Financial Conduct Authority included a reference to the scheme manager; and
 - (b) in paragraph (d) the reference to other creditors included a reference to shareholding members of the society in respect of deposits which are not relevant deposits.

Textual Amendments

- F26** Sch. 15A paras. 27-27F substituted for Sch. 15A para. 27 (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), **4(3)(b)**

- 27E. Subsection (1) of section 70 of the Act (interpretation for Chapter 2), as applied to a building society, has effect as if—
- (a) in the definition of “company” for the words “an incorporated company (whether or not a company registered under the Companies Act 2006)” there were substituted “a building society”; and
 - (b) the definition of “the register” were omitted.

Textual Amendments

- F26** Sch. 15A paras. 27-27F substituted for Sch. 15A para. 27 (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), **4(3)(b)**

- 27F. Chapter 4 of Part 3 of the Act (prohibition of appointment of administrative receiver), as applied to a building society, has effect as if—

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- (a) in section 72A (floating charge holder not to appoint administrative receiver)—
 - (i) in subsections (1) and (2) the word “qualifying” and in subsection (3) the definition of “holder of a qualifying floating charge in respect of a company’s property” were omitted; and
 - (ii) subsections (4)(a), (5) and (6) were omitted; and
- (b) sections 72B to 72H (exceptions to prohibition) were omitted.]

Textual Amendments

- F26** Sch. 15A paras. 27-27F substituted for Sch. 15A para. 27 (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), **4(3)(b)**

F27 Insolvency practitioners: their qualification and regulation

Textual Amendments

- F27** Sch. 15A paras. 27G-27I and cross-heading inserted (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(4)(d)**

- 27G. Section 390 of the Act (persons not qualified to act as insolvency practitioners) has effect as if for subsection (2) there were substituted—
- “(2) A person is not qualified to act as an insolvency practitioner in relation to a building society at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.”.
- 27H. (1) In the following provisions of the Act, in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies the reference to companies has effect without the modification in paragraph 2(1)(a) above—
- (a) sections 390A and 390B(1) and (3) (authorisation of insolvency practitioners); and
 - (b) sections 391O(1)(b) and 391R(3)(b) (court sanction of insolvency practitioners in public interest cases).
- (2) In sections 391Q(2)(b) (direct sanctions order: conditions) and 391S(3)(e) (power for Secretary of State to obtain information) of the Act the reference to a company has effect without the modification in paragraph 2(1)(a) above.
- 27I. In sections 391O, 391Q and 391R of the Act a reference to the creditors of a company includes a reference to every shareholding member of the building society to whom a sum due from the society in relation to the member’s shareholding is due in respect of a deposit.]]

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