

Status: Point in time view as at 26/06/2020.

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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 III

MODIFIED APPLICATION OF PARTS II, III^{F2}, 4 AND 12] OF INSOLVENCY (NORTHERN IRELAND) ORDER 1989

Textual Amendments

F2 Words in Sch. 15A 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(4)(e)**

Preliminary

28 In this Part of this Schedule, the ^{M1}Insolvency (Northern Ireland) Order 1989 is referred to as “the Order”.

Marginal Citations

M1 S.I. 1989/2405 (N.I.19).

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Voluntary arrangements

- 29 Article 14 of the Order (proposals for voluntary arrangements) has effect as if—
- (a) it required any proposal under Part II of the Order 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.
- 30 In Article 15 (procedure where nominee is not liquidator or administrator) and Article 16 (summoning of meetings) of the Order as applied to a building society, any reference to meetings 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.
- [^{F3}and paragraph (1) of Article 15 shall have effect with the omission of the words from “and the directors” to the end.]

Textual Amendments

F3 Words in Sch. 15A para. 30 inserted (NI) (2.2.2004) by [The Insolvency \(Northern Ireland\) Order 2002 \(S.I. 2002/3152\)](#), art. 1(3), **Sch. 2 para. 14(3)**; S.R. 2003/545, art. 2 (subject to S.R. 2003/546, arts. 2-7)

- [^{F4}30A In paragraph (2) of Article 17A of the Order (approval of arrangement) as applied to a building society, sub-paragraph (b) and the word “or” immediately preceding that sub-paragraph are omitted.]

Textual Amendments

F4 Sch. 15A para. 30A inserted (NI) (2.2.2004) by [The Insolvency \(Northern Ireland\) Order 2002 \(S.I. 2002/3152\)](#), art. 1(3), **Sch. 2 para. 14(3)**; S.R. 2003/545, art. 2 (subject to S.R. 2003/546, arts. 2-7)

- 31 In Article 19 of the Order (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 High Court under Article 177 (imputed responsibility for fraudulent trading) or Article 178 (wrongful trading) of the Order.
- [^{F5}31A In Article 20A of the Order (prosecution of delinquent officers) as applied to a building society—
- (a) in paragraph (2) for the words “the Department”, in each place where they occur, there are substituted the words “ [^{F6}each of the Financial Conduct Authority and the Prudential Regulation Authority] ”,

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- (b) paragraphs (3) to (7) are omitted,
- (c) in paragraph (8)—
 - (i) after the words “Northern Ireland” there are inserted the words “or the [^{F7}Financial Conduct Authority or the Prudential Regulation Authority]”, and
 - (ii) after the words “Northern Ireland” and the words “the Director”, in the second place where they occur, there are inserted the words “or the [^{F7}Financial Conduct Authority or the Prudential Regulation Authority]”,
- (d) in paragraph (9) after the words “for Northern Ireland” there are inserted the words “or the [^{F7}Financial Conduct Authority or the Prudential Regulation Authority]”.]

Textual Amendments

- F5** Sch. 15A para. 31A inserted (NI) (2.2.2004) by [The Insolvency \(Northern Ireland\) Order 2002 \(S.I. 2002/3152\)](#), art. 1(3), **Sch. 2 para. 14(4)**; [S.R. 2003/545](#), art. 2 (subject to [S.R. 2003/546](#), arts. 2-7)
- F6** Words in Sch. 15A para. 31A(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(9)(a)** (with Sch. 12)
- F7** Words in Sch. 15A para. 31A(c)(d) 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(9)(b)** (with Sch. 12)

Administration orders

- 32 (1) Article 21 of the Order (power of High 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 [^{F8}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 paragraph (1) to be unable to pay its debts.
- (2) In paragraph (3) of that Article, sub-paragraph (c) and, in paragraph (4) of that Article, the words from “nor where” to the end are omitted.

Textual Amendments

- F8** Words in Sch. 15A para. 32(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(10)** (with Sch. 12)

- 33 (1) Paragraph (1) of Article 22 of the Order (application for administration order) as applied to a building society has effect as if—
- (a) it enabled an application to the High Court for an administration order to be by petition presented, with or without other parties, by the [^{F9}FCA, by the PRA] or by a shareholding member entitled under section 89(3) of this Act to petition for the winding up of the society; and

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- (b) the words from “or by the chief clerk” to “on companies”, in the second place where they occur, were omitted.
- (2) In paragraph (2)(a) of that Article 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 [^{F10}FCA or, as the case may be, the PRA] (unless it is a petitioner).
- (3) Paragraph (3) of that Article, and in paragraph (4) of that Article, the words “Subject to paragraph (3),” are omitted.

Textual Amendments

- F9** Words in Sch. 15A para. 33(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(1)(a)** (with Sch. 12)
- F10** Words in Sch. 15A para. 33(2) 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(1)(b)** (with Sch. 12)

- 34 In Article 23 of the Order (effect of application for administration order), the following are omitted, namely—
- (a) in paragraph (2), sub-paragraphs (b) and (c); and
- (b) paragraph (3).
- 35 In Article 24 of the Order (effect of administration order), the following are omitted, namely—
- (a) in paragraph (1), sub-paragraph (b) and the word “and” immediately preceding that sub-paragraph;
- (b) in paragraph (3), sub-paragraph (b);
- (c) in paragraph (4), the words “an administrative receiver of the company has vacated office under paragraph (1)(b), or”; and
- (d) paragraph (5).
- 36 In paragraph (1) of Article 25 of the Order (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.
- 37 Paragraph (3) of Article 26 of the Order (appointment of administrator) has effect as if it enabled an application for an order under paragraph (2) of that Article to be made by [^{F11}the FCA and the PRA] .

Textual Amendments

- F11** Words in Sch. 15A para. 37 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(12)** (with Sch. 12)

- 38 (1) Subject to sub-paragraph (2) below, Article 27 of the Order (general powers of administrator) has effect as if it required the administrator of a building society, in exercising his powers under that Article—
- (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.

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(2) Sub-paragraph (1)(a) above does not apply in relation to section 5, 6 or 7 of this Act
F12
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(3) In paragraph (4) of that Article as applied to a building society, the reference to any power conferred by the Order or [F13the Companies Acts] or by [F14the 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. 15A para. 38(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. 38(3) substituted (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. 50 (with art. 12)
- F14 Words in Sch. 15A para. 38(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)(c) (with art. 10)
- F15 Sch. 15A para. 38(4) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(b), Sch. 4 (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2

- 39 (1) Subject to sub-paragraph (3) below, paragraph 17 of Schedule 1 to the Order (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 High Court, or by meetings summoned under Article 35(1) or 37(2) of the Order (as modified by paragraph 43 or 45 below).

F1640

Textual Amendments

- F16 Sch. 15A para. 40 omitted (26.3.2015) by virtue of Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), Sch. 9 para. 4(2)(c); S.I. 2015/428, art. 2

- 41 (1) Article 29 of the Order (general duties of administrator) has effect as if, instead of the requirement imposed by paragraph (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 High Court.
- (2) That Article 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

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(b) he is directed to do so by the High Court.

^{F17}42

Textual Amendments

F17 Sch. 15A para. 42 omitted (26.3.2015) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 9 para. 4\(2\)\(d\)](#); S.I. 2015/428, art. 2

- 43 (1) Paragraph (1) of Article 35 of the Order (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 paragraph (2) of that Article 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. 43 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\(13\)](#) (with Sch. 12)

F19 Words in Sch. 15A para. 43(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\(p\)\(i\)\(ii\)](#) (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), art. 2

- 44 Article 36 of the Order (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.
- 45 (1) Article 37 of the Order (approval of substantial revisions) as applied to a building society has effect as if—
- (a) paragraph (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 paragraph to a meeting of creditors included a reference to a meeting of holders of shares in the society.
- (2) In paragraph (3) of that Article 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. 45(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\(q\)](#) (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), art. 2

F21 Words in Sch. 15A para. 45(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\(14\)](#) (with Sch. 12)

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- 46 Paragraph (1) of Article 39 of the Order (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 High Court by petition for an order under that section; and
 - (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. 46(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(r)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F23** Words in Sch. 15A para. 46 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(15)** (with Sch. 12)
- F24** Words in Sch. 15A para. 46(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(s)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

Receivers and managers

- 47 In Article 48 of the Order (receivership accounts), “prescribed” means prescribed by regulations made by statutory instrument by the [^{F25}Treasury].

Textual Amendments

- F25** Word in Sch. 15A para. 47 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(t)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

Modifications etc. (not altering text)

- C1** Sch. 15A para. 47: 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. 2001/3538, **art. 2**

- 48 In paragraph (1) of Article 49 of the Order (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}49 Paragraph (3) of Article 50 of the Order (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. 49-52 substituted for Sch. 15A para. 49 (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(4)**

50. Articles 52 to 59 of the Order (administrative receivers) are omitted.

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Textual Amendments

F26 Sch. 15A paras. 49-52 substituted for Sch. 15A para. 49 (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(4)**

51. Article 59A of the Order (floating charge holder not to appoint administrative receiver), as applied to a building society, has effect as if—
- (a) in paragraph (1) the word “qualifying” were omitted; and
 - (b) paragraphs (2), (3)(a), (4) and (5) were omitted.

Textual Amendments

F26 Sch. 15A paras. 49-52 substituted for Sch. 15A para. 49 (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(4)**

52. Articles 59B to 59J of the Order (exceptions to prohibition) are omitted.]]

Textual Amendments

F26 Sch. 15A paras. 49-52 substituted for Sch. 15A para. 49 (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(4)**

[^{F27}Protection of supplies

Textual Amendments

F27 Sch. 15A para. 52A and cross-heading inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), **Sch. 13 para. 3** (with ss. 2(2), 5(2), 18(4))

- 52A Article 197B of the Order (protection of supplies of goods and services) is omitted.]

[^{F28}Insolvency practitioners: their qualification and regulation

Textual Amendments

F28 Sch. 15A paras. 53-55 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)(f)**

53. Article 349 of the Order (persons not qualified to act as insolvency practitioners) has effect as if for paragraph (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

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authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.”.

54. (1) In the following provisions of the Order, 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) Articles 349A and 349B(1) and (3) (authorisation of insolvency practitioners); and
 - (b) Articles 350O(1)(b) and 350R(3)(b) (court sanction of insolvency practitioners in public interest cases).
- (2) In Articles 350Q(2)(b) (direct sanctions order: conditions) and 350S(3)(e) (power for Department to obtain information) of the Order the reference to a company has effect without the modification in paragraph 2(1)(a) above.
55. In Articles 350O, 350Q and 350R of the Order 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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