Changes to legislation: *The Insurers (Reorganisation and Winding Up) Regulations 2004, PART I is up to date with all changes known to be in force on or before 20 September 2024. 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*

STATUTORY INSTRUMENTS

2004 No. 353

The Insurers (Reorganisation and Winding Up) Regulations 2004

PART I

GENERAL

Citation and Commencement

1. These Regulations may be cited as the Insurers (Reorganisation and Winding Up) Regulations 2004, and come into force on 18th February 2004.

Interpretation

2.—(1) In these Regulations—

[F1] . . . . . .

"the 1986 Act" means the Insolvency Act 1986 [M1];

"the 2000 Act" means the Financial Services and Markets Act 2000 [M2];

[[F2]" the 2006 Act " means the Companies Act 2006;**]**

"the 1989 Order" means the Insolvency (Northern Ireland) Order 1989 [M3];

"administrator" has the meaning given by paragraph 13 of Schedule B1**[**[F3], or by paragraph 14 of Schedule B1 to the 1989 Order**]**;

[F4] . . . . . .

[F5] . . . . . .

[F6]...

"claim" means a claim submitted by a creditor of a UK insurer in the course of—

(a) a winding up,

(b) an administration, or

(c) a voluntary arrangement,

with a view to recovering his debt in whole or in part, and includes **[**[F7]a proof within the meaning given in rule 1.2 of the Insolvency Rules, a proof of debt within the meaning given in Rule 4.079(4) of the Insolvency Rules (Northern Ireland) or in Scotland a claim made in accordance with rule 7.16 of the Insolvency (Scotland) (Receivership and Winding up) Rules 2018 (in relation to a winding up) or rule 3.105 of the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018 (in relation to an administration)**]**;

[F8] . . . . . .

"creditors' voluntary winding up" has the meaning given by section 90 of the 1986 Act or Article 76 of the 1989 Order;

"debt"—

(a) in England and Wales and Northern Ireland—

(i) in relation to a winding up or administration of a UK insurer, has the meaning given by **[**F9rule 14.1(3)**]** of the Insolvency Rules or Article 5 of the 1989 Order, and

(ii) **[**F10in a case where a voluntary arrangement has effect in relation to a UK insurer, means a debt which would constitute a debt in relation to the winding up (not immediately preceded by an administration) of that insurer, except that in paragraph (c) of the definition of "relevant date" in rule 14.1(3) of the Insolvency Rules and in paragraph (1A) of Article 5 of the 1989 Order the reference to the date on which the company went into liquidation has effect as a reference to the date on which the voluntary arrangement had effect;**]**

(b) in Scotland—

(i) **[**F11in relation to a winding up of a UK insurer, shall be interpreted in accordance with rule 7.22 of the Insolvency (Scotland) (Receivership and Winding up) Rules 2018, and, in relation to an administration of a UK insurer, has the meaning given in rule 1.2 of the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018,**]**

(ii) **[**F12in a case where a voluntary arrangement has effect in relation to a UK insurer, means a debt which would constitute a debt in relation to the winding up (not immediately preceded by an administration) of that insurer, except that references in rule 7.22 of the Insolvency (Scotland) (Receivership and Winding up) Rules 2018 to the date on which the company went into liquidation have effect as a reference to the date on which the voluntary arrangement had effect;**]**

F13 …

F14 …

F15 …

F16 …

F17 …

F18 …

[F19"the FCA" means the Financial Conduct Authority;**]**

F20 . . . . . .

F21 …

[F22"the Insolvency Rules" means the Insolvency (England and Wales) Rules 2016;**]**

"the Insolvency Rules (Northern Ireland)" means the Insolvency Rules (Northern Ireland) 1991 M4;

F23 . . . . . .

"insurance claim" means any claim in relation to an insurance debt;

"insurance creditor" means a person who has an insurance claim against a UK insurer (whether or not he has claims other than insurance claims against that insurer);

"insurance debt" means a debt to which a UK insurer is, or may become liable, pursuant to a contract of insurance, to a policyholder or to any person who has a direct right of action

against that insurer, and includes any premium paid in connection with a contract of insurance (whether or not that contract was concluded) which the insurer is liable to refund;

F24 . . . . . .

"officer", in relation to a company, has the meaning given by **[**F25section 1173(1) of the Companies Act 2006**]**;

F26 …

"policyholder" has the meaning given by the Financial Services and Markets Act 2000 (Meaning of "Policy" and "Policyholder") Order 2001 M5;

[F19"the PRA" means the Prudential Regulation Authority;

"PRA-authorised person" has the meaning given in section 2B of the 2000 Act;**]**

[F27"registered society" means a society, other than a society registered as a credit union, which is—

(a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or

(b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;**]**

F28 . . . . . .

"Schedule B1" means Schedule B1 to the 1986 Act as inserted by section 248 of the Enterprise Act 2002M6**[**F29, unless specified otherwise**]**;

[F30section 899 compromise or arrangement" means a compromise or arrangement sanctioned by the court in relation to a UK insurer under section 899 of the 2006 Act but does not include a compromise or arrangement falling within section 900 (powers of court to facilitate reconstruction or amalgamation) or Part 27 (mergers and divisions of public companies) of that Act;**]**

F31 . . . . . .

F32 …

"supervisor" has the meaning given by section 7 of the 1986 Act or Article 20 of the 1989 Order;

F33 . . . . . .

"UK insurer" means a person who has permission under Part IV of the 2000 Act to effect or carry out contracts of insurance, but does not include a person who, in accordance with that permission, carries on that activity exclusively in relation to reinsurance contracts;

"voluntary arrangement" means a voluntary arrangement which has effect in relation to a UK insurer in accordance with section 4A of the 1986 Act or Article 17A of the 1989 Order; and

"winding up" means—

(a) winding up by the court, or

(b) a creditors' voluntary winding up.

F34(2) . . . . . .

(3) In these Regulations, references to the general law of insolvency of the United Kingdom include references to every provision made by or under the 1986 Act or the 1989 Order; and in relation to friendly societies or to **[**F35registered societies**]** references to the law of insolvency or to any provision of the 1986 Act or the 1989 Order are to that law as modified by the Friendly Societies

Act 1992 [M7] or by [[F36]the Co-operative and Community Benefit Societies Act 2014] or the Industrial and Provident Societies Act (Northern Ireland) 1969 [M8] (as the case may be).

(4) References in these Regulations to a "contract of insurance" must be read with—

(a) section 22 of the 2000 Act;

(b) any relevant order made under that section; and

(c) Schedule 2 to that Act,

but for the purposes of these Regulations a contract of insurance does not include a reinsurance contract.

(5) Functions imposed or falling on the [[F37]FCA or the PRA] by or under these Regulations shall be deemed to be functions under the 2000 Act.

Textual Amendments

F1 Words in reg. 2(1) omitted (12.5.2011) by virtue of The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), arts. 1(2), **23(2)(a)**

F2 Words in reg. 2(1) inserted (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), arts. 1(2), **23(2)(b)**

F3 Words in reg. 2(1) added (6.4.2007) by The Insurers (Reorganisation and Winding Up) (Amendment) Regulations 2007 (S.I. 2007/851), regs. 1, **2(2)(a)**

F4 Words in reg. 2(1) omitted (12.5.2011) by virtue of The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), arts. 1(2), **23(2)(c)**

F5 Words in reg. 2(1) omitted (1.4.2013) by virtue of The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 88(a)(i)**

F6 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3), **2(2)(a)(i)** (with Pt. 3 Ch. 2) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(g)(h)); 2020 c. 1, Sch. 5 para. 1(1)

F7 Words in reg. 2(1) substituted (23.4.2019) by The Financial Services and Markets (Insolvency) (Amendment of Miscellaneous Enactments) Regulations 2019 (S.I. 2019/755), regs. 1, **4(2)(a)**

F8 Words in reg. 2(1) omitted (12.5.2011) by virtue of The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), arts. 1(2), **23(2)(d)**

F9 Words in reg. 2(1) substituted (23.4.2019) by The Financial Services and Markets (Insolvency) (Amendment of Miscellaneous Enactments) Regulations 2019 (S.I. 2019/755), regs. 1, **4(2)(b)(i)**

F10 Words in reg. 2(1) substituted (23.4.2019) by The Financial Services and Markets (Insolvency) (Amendment of Miscellaneous Enactments) Regulations 2019 (S.I. 2019/755), regs. 1, **4(2)(b)(ii)**

F11 Reg. 2(1) substituted (23.4.2019) by The Financial Services and Markets (Insolvency) (Amendment of Miscellaneous Enactments) Regulations 2019 (S.I. 2019/755), regs. 1, **4(2)(b)(iii)**

F12 Reg. 2(1) substituted (23.4.2019) by The Financial Services and Markets (Insolvency) (Amendment of Miscellaneous Enactments) Regulations 2019 (S.I. 2019/755), regs. 1, **4(2)(b)(iv)**

F13 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3), **2(2)(a)(ii)** (with Pt. 3 Ch. 2) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(g)(h)); 2020 c. 1, Sch. 5 para. 1(1)

F14 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3), **2(2)(a)(iii)** (with Pt. 3 Ch. 2) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(g)(h)); 2020 c. 1, Sch. 5 para. 1(1)

F15 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I.

2019/38), regs. 1(3), **2(2)(a)(iv)** (with Pt. 3 Ch. 2) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(g)(h)); 2020 c. 1, Sch. 5 para. 1(1)

F16 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3), **2(2)(a)(v)** (with Pt. 3 Ch. 2) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(g)(h)); 2020 c. 1, Sch. 5 para. 1(1)

F17 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3), **2(2)(a)(vi)** (with Pt. 3 Ch. 2) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(g)(h)); 2020 c. 1, Sch. 5 para. 1(1)

F18 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3), **2(2)(a)(vii)** (with Pt. 3 Ch. 2) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(g)(h)); 2020 c. 1, Sch. 5 para. 1(1)

F19 Words in reg. 2(1) inserted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 88(a)(ii)**

F20 Words in reg. 2(1) omitted (1.1.2016) by virtue of The Solvency 2 Regulations 2015 (S.I. 2015/575), reg. 1(2), **Sch. 2 para. 17(2)(a)(i)**

F21 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3), **2(2)(a)(viii)** (with Pt. 3 Ch. 2) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(g)(h)); 2020 c. 1, Sch. 5 para. 1(1)

F22 Words in reg. 2(1) substituted (23.4.2019) by The Financial Services and Markets (Insolvency) (Amendment of Miscellaneous Enactments) Regulations 2019 (S.I. 2019/755), regs. 1, **4(2)(c)**

F23 Words in reg. 2(1) omitted (23.4.2019) by virtue of The Financial Services and Markets (Insolvency) (Amendment of Miscellaneous Enactments) Regulations 2019 (S.I. 2019/755), regs. 1, **4(2)(d)**

F24 Words in reg. 2(1) omitted (1.1.2016) by virtue of The Solvency 2 Regulations 2015 (S.I. 2015/575), reg. 1(2), **Sch. 2 para. 17(2)(a)(ii)**

F25 Words in reg. 2(1) substituted (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), arts. 1(2), **23(2)(e)**

F26 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3), **2(2)(a)(ix)** (with Pt. 3 Ch. 2) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(g)(h)); 2020 c. 1, Sch. 5 para. 1(1)

F27 Words in reg. 2(1) inserted (1.8.2014) by The Co-operative and Community Benefit Societies and Credit Unions Act 2010 (Consequential Amendments) Regulations 2014 (S.I. 2014/1815), reg. 1(2), **Sch. para. 12(2)(a)**

F28 Words in reg. 2(1) omitted (1.1.2016) by virtue of The Solvency 2 Regulations 2015 (S.I. 2015/575), reg. 1(2), **Sch. 2 para. 17(2)(a)(iii)**

F29 Words in reg. 2(1) added (6.4.2007) by The Insurers (Reorganisation and Winding Up) (Amendment) Regulations 2007 (S.I. 2007/851), regs. 1, **2(2)(b)**

F30 Words in reg. 2(1) substituted (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), arts. 1(2), **23(2)(f)**

F31 Words in reg. 2(1) omitted (12.5.2011) by virtue of The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), arts. 1(2), **23(2)(g)**

F32 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3), **2(2)(a)(x)** (with Pt. 3 Ch. 2) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(g)(h)); 2020 c. 1, Sch. 5 para. 1(1)

F33 Words in reg. 2(1) omitted (1.1.2016) by virtue of The Solvency 2 Regulations 2015 (S.I. 2015/575), reg. 1(2), **Sch. 2 para. 17(2)(a)(iv)**

F34 Reg. 2(2) omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3),

2(2)(b) (with Pt. 3 Ch. 2) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(g)(h)); 2020 c. 1, Sch. 5 para. 1(1)

F35 Words in reg. 2(3) substituted (1.8.2014) by The Co-operative and Community Benefit Societies and Credit Unions Act 2010 (Consequential Amendments) Regulations 2014 (S.I. 2014/1815), reg. 1(2), **Sch. para. 12(2)(b)(i)**

F36 Words in reg. 2(3) substituted (1.8.2014) by The Co-operative and Community Benefit Societies and Credit Unions Act 2010 (Consequential Amendments) Regulations 2014 (S.I. 2014/1815), reg. 1(2), **Sch. para. 12(2)(b)(ii)**

F37 Words in reg. 2(5) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 88(b)**

Marginal Citations

M1 1986 c. 45, as last amended by the Enterprise Act 2002 (2002 c. 40).

M2 2000 c. 8.

M3 S.I. 1989/2405 (N.I. 19).

M4 S.I. 1991/364.

M5 S.I. 2001/2361.

M6 2002 c. 40.

M7 1992 c. 40.

M8 1969 c. 24 (N.I.).

Scope

3. For the purposes of these Regulations, neither the Society of Lloyd's nor the persons specified in section 316(1) of the 2000 Act are UK insurers.

Changes to legislation:
The Insurers (Reorganisation and Winding Up) Regulations 2004, PART I is up to date with all changes known to be in force on or before 20 September 2024. 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.
View outstanding changes

Changes and effects yet to be applied to :

– Regulations revoked by 2023 c. 29 Sch. 1 Pt. 2