

SCHEDULE 1

Modified application of Parts 1 and 2 of the Insolvency Act 1986 to relevant societies

PART 2

Modified application of Part 1 of the Insolvency Act 1986 to relevant societies (further modifications)

2. Part 1 of the 1986 Act applies in relation to a relevant society with the further modifications set out in this Part and with any other necessary modification.

Part 1 (company voluntary arrangements)

3. Section 1 of the 1986 Act (those who may propose an arrangement)(1) has effect as if—

- (a) it required any proposal under Part 1 to be so framed as to enable a relevant society to comply with the rules of the society and the provisions of the Industrial and Provident Societies Acts 1965 to 1968(2) and the Credit Unions Act 1979(3); and
- (b) in subsection (1)(4) the reference to debts included a reference to any amount owed by the society in respect of a member's shares where—
 - (i) the society is an authorised deposit taker; and
 - (ii) the amount concerned is owed in respect of a deposit.

4. Section 3 of the 1986 Act (summoning of meetings) has effect as if subsection (3) provided that the persons required to be summoned to a creditors' meeting included every member of the society to whom an amount is owed in respect of the member's shares where—

- (a) the society is an authorised deposit taker; and
- (b) the amount concerned is owed in respect of a deposit.

5. Section 7A of the 1986 Act (prosecution of delinquent officers of company)(5) has effect as if—

- (a) in subsection (2), in the definition of “the appropriate authority”—
 - (i) at the end of sub-paragraph (i) there were added “or the Financial Conduct Authority (“the FCA”)”; and
 - (ii) at the end of sub-paragraph (ii) there were added “or the FCA”;
- (b) for subsection (3)(6) there were substituted—

“(3) Subsection (3A) applies where a report is made to the Secretary of State or the FCA under subsection (2) in relation to a relevant society (within the meaning given in section 74(1) of the Industrial and Provident Societies Act 1965(7) (“the 1965 Act”)) whose registered office is situated in England and Wales.

(3A) The Secretary of State or the FCA may, for the purpose of investigating the matter reported and such other matters relating to the society's affairs as appear to require

(1) Section 1 was amended by the Insolvency Act 2000, Schedule 2, paragraphs 1 and 2, and by the Enterprise Act 2002 (c. 40), Schedule 17, paragraphs 9 and 10. There are other amendments not relevant to this Order.

(2) For the meaning of this citation see section 23(2) of the Friendly and Industrial and Provident Societies Act 1968 (c. 55).

(3) 1979 c.34.

(4) Subsection 1 was amended by the Enterprise Act 2002, Schedule 17, paragraphs 9 and 10(a).

(5) Section 7A was inserted by the Insolvency Act 2000, Schedule 2, paragraphs 1 and 10.

(6) Subsection (3) was amended by S.I. 2009/1941.

(7) The definition of “relevant society” is inserted by article 17(5) of this Order.

Status: This is the original version (as it was originally made).

investigation, exercise the power to appoint inspectors which would be exercisable by the FCA under section 49 of the 1965 Act upon an application made for that purpose under subsection (1) of that section.”;

- (c) subsections (4) to (7) were omitted; and
- (d) in subsection (8), for the definition of “prosecuting authority” there were substituted—
 - ““prosecuting authority” means—
 - (a) in the case of a relevant society whose registered office is situated in England and Wales, the Director of Public Prosecutions, the Secretary of State or the FCA; and
 - (b) in the case of a relevant society whose registered office is situated in Scotland, the Lord Advocate.”.

Schedule A1 (moratorium where directors propose voluntary arrangement)

6. In Schedule A1 to the 1986 Act⁽⁸⁾ paragraph 1 (interpretation) has effect as if—
 - (a) before the definition of “the beginning of the moratorium” there were inserted—
 - ““administrative receiver”, in relation to a relevant society whose registered office is situated in England or Wales, means—
 - (a) a receiver or manager of the whole (or substantially the whole) of the society’s property appointed by or on behalf of the holder of a floating charge, or
 - (b) a person who would be such a receiver or manager but for the appointment of some other person as the receiver of part of the society’s property,”; and
 - (b) after the definition of “the nominee” there were inserted—
 - ““relevant society” means a society which is registered under the Industrial and Provident Societies Act 1965 and is not—
 - (a) a private registered provider of social housing; or
 - (b) registered as a social landlord under Part 1 of the Housing Act 1996 or under Part 2 of the Housing (Scotland) Act 2010,”.
7. Schedule A1 to the 1986 Act has effect as if after paragraph 1 there were inserted—
 - “**1A.**—(1) In this Schedule a reference to a floating charge, in relation to a relevant society whose registered office is situated in England or Wales, is a reference to a floating charge which is created by the society on or after 6th April 2014 and is either—
 - (a) a charge in respect of which an application has been made for the purposes of section 1 of the Industrial and Provident Societies Act 1967; or
 - (b) created by a debenture registered under section 9 of the Agricultural Credits Act 1928 as applied by section 14 of that Act.
 - (2) In this Schedule a reference to a floating charge, in relation to a relevant society whose registered office is situated in Scotland, is a reference to a floating charge which is created by the society on or after 6th April 2014 and is either—

⁽⁸⁾ Schedule A1 was inserted by the Insolvency Act 2000, Schedule 1, paragraphs 1 and 4; and was amended by the Enterprise Act 2002, Schedule 17, paragraphs 9 and 37, by the Financial Services Act 2012 (c. 21), Schedule 18, paragraphs 51 and 54, and by S.I. 2002/1555, 2004/2312, 2008/1897 and 2009/1941. There are other amendments not relevant to this Order.

- (a) a charge created by an instrument a copy of which has been delivered to the Financial Conduct Authority in pursuance of section 4 of the Industrial and Provident Societies Act 1967⁽⁹⁾; or
- (b) created and registered under Part 2 of the Agricultural Credits (Scotland) Act 1929⁽¹⁰⁾.”.

8. Schedule A1 to the 1986 Act has effect as if—

- (a) in paragraph 2 (companies eligible for a moratorium) in sub-paragraph (1) the words “if it meets the requirements of paragraph 3,” were omitted;
- (b) paragraph 3 (requirements for eligibility for a moratorium) were omitted; and
- (c) paragraph 5 (power to modify qualifications for eligibility) were omitted.

⁽⁹⁾ Section 4 is prospectively repealed by the Bankruptcy and Diligence etc. (Scotland) Act 2007 ([asp 3](#)), section 49(2). Section 4(3) was amended by [S.I. 2001/2617](#); [2001/3649](#) and [2013/496](#).

⁽¹⁰⁾ [1929 c. 13](#) (19 and 20 Geo. 5).