
STATUTORY INSTRUMENTS

2014 No. 3486

The Banks and Building Societies (Depositor Preference and Priorities) Order 2014

PART 6

Further amendments relating to Parts 2 to 5

The Bankruptcy (Scotland) Act 1985

28.—(1) The Bankruptcy (Scotland) Act 1985⁽¹⁾ is amended as follows.

(2) In section 51 (order of priority in distribution)⁽²⁾—

(a) in subsection (1)—

(i) for paragraph (e) substitute—

“(e) ordinary preferred debts (excluding any interest which has accrued thereon to the date of sequestration);

(ea) secondary preferred debts (excluding any interest which has accrued thereon to the date of sequestration);”;

(ii) in paragraph (g)(i), before “preferred” insert “ordinary”;

(iii) after paragraph (g)(i), insert—

“(ia) the secondary preferred debts;”;

(b) for subsection (2), substitute—

“(2) In this Act—

(a) “preferred debt” means a debt listed in Part I of Schedule 3 to this Act,

(b) “ordinary preferred debt” means a debt within any of paragraphs 4 to 6B of Part I of Schedule 3 to this Act,

(c) “secondary preferred debt” means a debt within paragraph 6C or 6D of Part 1 of Schedule 3 to this Act, and

Part II of that Schedule shall have effect for the interpretation of Part I.”.

(3) In Schedule 3 (preferred debts) ⁽³⁾—

(a) after paragraph 6B, insert—

⁽¹⁾ 1985 c.66.

⁽²⁾ Section 51 has been amended by the Bankruptcy and Diligence etc (Scotland) Act 2007 (c.66 (S.)), section 226(2), Schedule 1, paragraphs 1, 43; Schedule 6, Part 1; the Civil Partnership Act 2004 (c.33), Schedule 28, paragraph 39, and S.I. 2003/2109.

⁽³⁾ Schedule 3 was amended by the Enterprise Act 2002 (c.40), section 251, and Schedule 26; the Pension Schemes Act 1993 (c.48), Schedule 8, paragraph 17; the Financial Services (Banking Reform) Act 2013 (c.33), section 13 and S.I. 1987/2093.

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“Other deposits

6C. So much of any amount owed at the relevant date by the debtor to one or more eligible persons in respect of an eligible deposit as exceeds any compensation that would be payable in respect of the deposit under the Financial Services Compensation Scheme to that person or those persons.

6D. An amount owed at the relevant date by the debtor to one or more eligible persons in respect of a deposit that—

- (a) was made through a non-EEA branch of a credit institution authorised by the competent authority of an EEA state, and
- (b) would have been an eligible deposit if it had been made through an EEA branch of that credit institution.”;

(b) in paragraph 9A(4)—

- (i) in sub-paragraph (1), for “paragraph 6B” substitute “paragraphs 6B to 6D”;
- (ii) in sub-paragraph (2), for “this purpose” substitute “the purposes of those paragraphs and this paragraph”; and
- (iii) after sub-paragraph (2), insert—

“(3) In paragraphs 6C and 6D, “eligible person” means—

- (a) an individual, or
- (b) a micro-enterprise, a small enterprise or a medium-sized enterprise, each of those terms having the meaning given in Article 2.1(107) of the Directive 2014/59/EU of 15th May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms(5).

(4) In paragraph 6D—

- (a) “credit institution” has the meaning given in Article 4.1(1) of the capital requirements regulation;
- (b) “EEA branch” means a branch, as defined in Article 4.1(17) of the capital requirements regulation, which is established in an EEA state;
- (c) “non-EEA branch” means a branch, as so defined, which is established in a country which is not an EEA state;

and for this purpose “the capital requirements regulation” means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26th June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012(6).”.

Commencement Information

II Art. 28 in force at 1.1.2015, see [art. 1\(2\)](#)

Housing Act 1996

29.—(1) The Housing Act 1996(7) is amended as follows.

(4) Paragraph 9A was inserted by the Financial Services (Banking Reform) Act 2013 (c.33), section 13(4).

(5) OJ no L173, 12/6/2014, p.190.

(6) OJ no L176, 27/6/2013, p.1. For corrigenda see OJ no L208, 2/8/2013 p.68 and OJ no L321, 30/11/2013 p. 6.

(7) 1996 c.52. There are amendments to section 44 which are not relevant to this Order.

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- (2) In section 44(4) (proposals as to ownership and management of landlord's land)—
- (a) omit the “or” at the end of paragraph (a);
 - (b) after paragraph (a) insert—
 - “(aa) an ordinary preferential debt of the landlord is to be paid otherwise than in priority to any secondary preferential debts that the landlord may have,”;
 - (c) in paragraph (b), for “his preferential debt” substitute “an ordinary preferential debt”;
 - (d) at the end of paragraph (b), insert—
 - “or
 - (c) a preferential creditor is to be paid a smaller proportion of a secondary preferential debt than another preferential creditor, except with the concurrence of the creditor concerned.”;
 - (e) after “references to preferential debts” insert “, ordinary preferential debts, secondary preferential debts”.

Commencement Information

I2 Art. 29 in force at 1.1.2015, see [art. 1\(2\)](#)

Housing and Regeneration Act 2008

30.—(1) The Housing and Regeneration Act 2008(8) is amended as follows.

- (2) In section 152(4) (proposals)—
- (a) omit the “or” at the end of paragraph (a);
 - (b) after paragraph (a) insert—
 - “(aa) an ordinary preferential debt being paid otherwise than in priority to a secondary preferential debt,”;
 - (c) in paragraph (b), for “a preferential debt” substitute “an ordinary preferential debt”;
 - (d) at the end of paragraph (b), insert—
 - “or
 - (c) a preferential creditor (PC1) being paid a smaller proportion of a secondary preferential debt than another preferential creditor (PC2) (unless PC2 consents).”
- (3) In section 275 (general)(9), for ““preferential creditor” and “preferential debtor”” substitute ““preferential creditor”, “preferential debt”, “ordinary preferential debt” and “secondary preferential debt””.
- (4) In the Table in section 276 (index of defined terms), insert the following entries at the appropriate place—

| | |
|------------------------------|--------------|
| “Ordinary preferential debt | Section 275” |
| “Secondary preferential debt | Section 275” |

(8) [2008 c.17](#).

(9) There are amendments to section 275, but those amendments are not relevant to this Order.

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Commencement Information

I3 Art. 30 in force at 1.1.2015, see [art. 1\(2\)](#)

Housing (Scotland) Act 2010

31.—(1) Section 80 of the Housing (Scotland) Act 2010 (proposals: formulation)(**10**) is amended as follows.

(2) In subsection (5)—

(a) after paragraph (a) insert—

“(aa) secondary preferential debts being paid before ordinary preferential debts,”;

(b) in paragraph (b), after “proportions of” insert “ordinary”;

(c) at the end of paragraph (b), insert—

“or

(c) preferential creditors being paid different proportions of secondary preferential debts (except where affected preferential creditors agree to be paid a smaller proportion).”;

(d) after ““preferential debt”” insert “, ordinary preferential debt, secondary preferential debt”.

Commencement Information

I4 Art. 31 in force at 1.1.2015, see [art. 1\(2\)](#)

(10) 2010 asp 17.

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Order power to modify conferred by [2023 c. 29 s. 3 Sch. 1 Pt. 2](#)
- Order revoked by [2023 c. 29 Sch. 1 Pt. 2](#)