
STATUTORY INSTRUMENTS

2016 No. 679

**The Building Societies (Floating Charges
and Other Provisions) Order 2016**

Floating charges: application of other companies insolvency legislation

4.—(1) Schedule 15A to the Act⁽¹⁾ (application of other companies insolvency legislation to building societies) is amended as follows.

(2) In Part 1 (general mode of application)—

- (a) in paragraph 1(2)(a) for “and II, Chapter I of Part III, Parts” substitute “, II, III,”;
- (b) in paragraph 2(2)(b) after “receiver” insert “, other than a reference in section 29(2), 72A(2) or 251 of the Insolvency Act 1986(3) or in Article 5(1) or 59A of the Insolvency (Northern Ireland) Order 1989(4),”;
- (c) in paragraph 3 at the end insert—
 - “(3) Any reference in any of the enactments, as so applied, to the register shall have effect as a reference to the public file.”; and
- (d) for paragraph 5A(5) substitute—

“**5A.** In this Schedule—

“deposit” and “relevant deposit” have the meaning given by paragraph 1A of Schedule 15(6); and

“scheme manager” has the same meaning as in the Financial Services and Markets Act 2000(7).”.

(3) In Part 2 (modified application of Parts 1 and 2 and Chapter 1 of Part 3 of the Insolvency Act 1986)—

- (a) in the heading for “Parts I and II and Chapter I of Part III” substitute “Parts I to III”;
- (b) for paragraph 27 substitute—

“**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.

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

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

(1) Schedule 15A was inserted by the Building Societies Act 1997, section 39(2) and Schedule 6; and was amended by S.I. 2001/3649, 2009/2941 and 2013/496. There are other amendments, but they are not relevant.

(2) Section 72A was inserted by the Enterprise Act 2002 (c. 40), section 250(1).

(3) 1986 c. 45.

(4) S.I. 1989/2405 (N.I. 19). Article 59A, together with Articles 59B to 59J, was inserted by S.I. 2005/1455 (N.I. 10).

(5) Paragraph 5A was inserted by S.I. 2001/2617.

(6) Paragraph 1A was inserted by S.I. 2014/3486.

(7) 2000 c. 8.

a company registered under the Companies Act 2006 or not)” there were substituted “a building society”.

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.

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.

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.

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—

- (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⁽⁸⁾ (exceptions to prohibition) were omitted.”.

(4) In Part 3 (modified application of Parts 2, 3 and 4 of the Insolvency (Northern Ireland) Order 1989⁽⁹⁾) for paragraph 49 substitute—

“**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.

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

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.

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

⁽⁸⁾ Sections 72B to 72H, except sections 72DA and 72GA, were inserted by the Enterprise Act 2002, section 250(1); sections 72DA and 72GA were inserted by S.I. 2003/1832.

⁽⁹⁾ S.I. 1989/2405 (N.I. 19).