

STATUTORY INSTRUMENTS

2017 No. 400

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

PART 3

Amendments of subordinate legislation

The Insurers (Reorganisation and Winding Up) (Lloyd’s) Regulations 2005

7. In regulation 9 of the Insurers (Reorganisation and Winding Up) (Lloyd’s) Regulations 2005(1) (reorganisation controller), in paragraph (2) after “qualified” insert “and fully authorised”.

The Building Societies (Insolvency and Special Administration) Order 2009

8.—(1) Schedule 1 to the Building Societies (Insolvency and Special Administration) Order 2009(2) (modified application of Parts 2 and 3 of the Banking Act 2009 to building societies) is amended as follows.

(2) In Part 1 (general mode of application), in paragraph 3(b) at the beginning insert “except where otherwise specified in this Schedule,”.

(3) In Part 2 (modified application of Part 2 of the Banking Act 2009), in paragraph 13 (process of building society liquidation) after sub-paragraph (6) insert—

“(6A) For the entry for sections 390 to 391T(3) substitute—

“Sections 390 to 391T	Authorisation and regulation of insolvency practitioners	(a) In section 390 treat references to acting as an insolvency practitioner as references to acting as a building society liquidator. (b) For subsection (2) of that section substitute— “(2) A person is not qualified to act as a building society liquidator at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as
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(1) [S.I. 2005/1998](#), as amended by [S.I. 2007/851](#). There are other amendments, but they are not relevant.

(2) [S.I. 2009/805](#).

(3) The entry for sections 390 to 391T is inserted in the Table in section 103 of the Banking Act 2009 by regulation 5(4)(f) of these Regulations.

		<p>an insolvency practitioner only in relation to companies.”.</p> <p>(c) An order under section 391 has effect in relation to any provision applied for the purposes of building society insolvency.</p> <p>(d) In sections 390A, 390B(1) and (3), 391O(1)(b) and 391R(3)(b), 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 3(b) of this Schedule.</p> <p>(e) In sections 391Q(2)(b) and 391S(3) (e) the reference to a company has effect without the modification in paragraph 3(b) of this Schedule.</p> <p>(f) In sections 391O, 391Q and 391R 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.”.</p>
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- (4) In Part 3 (modified application of Part 3 of the Banking Act 2009)—
- (a) in paragraph 27(3), in the substituted entry for paragraph 65, in the third column for paragraph (c) substitute—
 - “(c) Where paragraph (b) applies, ignore sub para. (3).”; and
 - (b) in paragraph 28 after sub-paragraph (2) insert—
 - “(2A) For the entry for sections 390 to 391T(4) substitute—

“Sections 390 to 391T	Authorisation and regulation of insolvency practitioners	<p>(a) In section 390 treat references to acting as an insolvency practitioner as references to acting as a building society special administrator.</p> <p>(b) For subsection (2) of that section substitute—</p> <p>“(2) A person is not qualified to act as a building society special administrator at any time unless at</p>
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(4) The entry for sections 390 to 391T is inserted in Table 2 in section 145 of the Banking Act 2009 by regulation 5(10)(e) of these Regulations.

		<p>that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.”.</p> <p>(c) An order under section 391 has effect in relation to any provision applied for the purposes of building society special administration.</p> <p>(d) In sections 390A, 390B(1) and (3), 391O(1)(b) and 391R(3)(b), 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 3(b) of this Schedule.</p> <p>(e) In sections 391Q(2)(b) and 391S(3) (e) the reference to a company has effect without the modification in paragraph 3(b) of this Schedule.</p> <p>(f) In sections 391O, 391Q and 391R 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.”.”</p>
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The Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2010

9. In the Schedule to the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2010(5) omit paragraph 7.

The Investment Bank Special Administration Regulations 2011

10.—(1) The Investment Bank Special Administration Regulations 2011(6) are amended as follows.

(2) In regulation 4 (special administration order), in paragraph (2) after “practitioner” insert “in relation to the investment bank”.

(3) In regulation 15 (general powers and duties of administrators and effect of special administration), in paragraph (6) at the beginning of sub-paragraph (i) insert “except where otherwise specified in Table 2,”.

(5) S.I. 2010/3023.

(6) S.I. 2011/245.

- (4) In regulation 15, in Table 1 (applied provisions of Schedule B1 to the Insolvency Act 1986)—
 - (a) in the entry for paragraph 65 (distribution to creditors), in the third column after “applied” insert “in England and Wales”; and
 - (b) in the entry for paragraph 98 (vacation from office: discharge from liability), in the third column after “(b)” insert “and (ba)”.
- (5) In regulation 15, in Table 2 (other applied provisions of the Insolvency Act 1986)—
 - (a) in the entry for section 167 (winding up by the court), in the third column, in paragraph (a) for “subsections (1) and (2), references” substitute “subsection (2) the reference”;
 - (b) after the entry for section 176 insert—

“Section 176ZB	Application of proceeds of office-holder claims”	
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- (c) after the entry for section 246 insert—

“Section 246ZD	Power to assign certain causes of action	<ul style="list-style-type: none"> (a) Subsection (1) is not applied. (b) “Office holder” means the administrator.”
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- (d) in the entry for section 389 (offence of acting without being qualified), in the third column, for paragraph (b) substitute “Subsection (2) is not applied.”;
- (e) for the entries for sections 390 and 391 substitute—

“Sections 390 to 391T	Authorisation and regulation of insolvency practitioners	<ul style="list-style-type: none"> (a) In section 390 treat references to acting as an insolvency practitioner as references to acting as the administrator. (b) Read subsection (2) of that section (as so modified) as if after “authorised” there were inserted “to act as an insolvency practitioner”. (c) An order under section 391 has effect in relation to any provision applied for the purposes of special administration. (d) In sections 390A, 390B(1) and (3), 391O(1)(b) and 391R(3)(b), 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 (6)(i) of this regulation. (e) In sections 391Q(2)(b) and 391S(3) (e) the reference to a company has
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	effect without the modification in paragraph (6)(i) of this regulation.”
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(6) In regulation 23 (disqualification of directors) for paragraph (3) substitute—

“**(3)** For the purposes of the application of section 7A of the Disqualification Act**(7)** (office-holder’s report on conduct of directors) to an investment bank which is in special administration—

- (a) the “office-holder” is the administrator;
- (b) the “insolvency date” means the date on which the special administration order is made; and
- (c) subsections (9) to (11) are omitted.”

(7) In Schedule 1 (special administration (bank insolvency)), in paragraph 8(1)(b)(iii) and (2)(c) after “practitioner” insert “in relation to the investment bank”.

(8) In Schedule 5 (table of enactments referred to in the Regulations together with the equivalent enactment having effect in relation to Northern Ireland)—

- (a) in the entry for section 167 of the Insolvency Act 1986 (and Schedule 4 to that Act), in the third column insert “In Article 142, in paragraphs (1) and (2) the reference to the liquidation committee is a reference to the creditors’ committee”;
- (b) for the entries for sections 390 and 391 of the Insolvency Act 1986 substitute—

“Sections 390 to 391T	Articles 349 to 350T (8)	
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- (c) in the entry for paragraph 65 of Schedule B1 to the Insolvency Act 1986, in the third column insert “In Para 66, sub-paragraph (3) is not applied.”; and
- (d) in the entry for section 7 of the Company Directors Disqualification Act 1986—
 - (i) in the first column for “7” substitute “7A”; and
 - (ii) in the second column for “10” substitute “10A**(9)**”.

The Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013

11.—(1) Schedule 2 to the Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013**(10)** (co-ownership schemes: application of the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989) is amended as follows.

(2) In Part 3 (table of applied provisions of the Insolvency Act 1986)—

- (a) in the entry for section 169 (supplementary powers (Scotland)), omit the words in the second column;
- (b) after the entry for section 246 insert—

“Section 246ZD (power to assign certain causes of action)”	
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(7) In the Investment Bank Special Administration Regulations 2011 “the Disqualification Act” means the Company Directors Disqualification Act 1986. Section 7A was inserted by the Small Business, Enterprise and Employment Act 2015, section 107(2).

(8) Article 349 was amended by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), section 14(1) and (2). Articles 349A to 350T were inserted by sections 14(1), (3) and (4) and 15 to 20 of that Act.

(9) Article 10A of the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)) was inserted by the Small Business, Enterprise and Employment Act 2015, section 112 and Schedule 8, paragraph 5.

(10) S.I. 2013/1388, as amended by S.I. 2015/1641 and 1651.

- (c) in the entry for section 390(11) (persons not qualified to act as insolvency practitioner), in the second column for the words from “unless” to the end substitute “unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.”; and
- (d) for the entry for sections for 390A to 391T(12) (qualification and regulation of insolvency practitioners) substitute—

“Section 390A (authorisation of insolvency practitioners)	In these sections a reference to a company, except in a reference to creditors of a company, is to be read without modification by this Schedule(13).”
Sections 391 to 391T (regulation of insolvency practitioners)	

(3) In Part 4 (table of applied provisions of the Insolvency (Northern Ireland) Order 1989) after the entry for Article 348 (acting as insolvency practitioner without qualification) insert—

“Article 349 (persons not qualified to act as insolvency practitioner)	This Article is to be read as if for paragraph (2) there were substituted— “(2) A person is not qualified to act at any time as an insolvency practitioner in relation to a relevant scheme unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.”.
Article 349A (authorisation of insolvency practitioners)	In these Articles a reference to a company, except in a reference to creditors of a company, is to be read without modification by this Schedule(14).”
Articles 350 to 350T (regulation of insolvency practitioners)	

The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014

12.—(1) The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014(15) is amended as follows.

(2) After article 2 insert—

“Application of section 176ZB of the 1986 Act

2A. Section 176ZB of the 1986 Act (application of proceeds of office-holder claims) applies in relation to a relevant society which is in administration, and for that purpose—

- (a) a reference to a company includes a reference to a relevant society;

(11) The entry for section 390 was inserted by [S.I. 2015/1641](#).

(12) The entry for sections 390A to 391T was inserted by [S.I. 2015/1651](#).

(13) A reference to a creditor of a company is to be read as a reference to a creditor of a relevant scheme by virtue of paragraph 5(c) of Schedule 2 to the Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013. Other references to a company are modified by paragraph 5(a) of that Schedule or by the entry in that Schedule for section 388.

(14) See footnote (e) in relation to the entry inserted by paragraph (2)(d).

(15) [S.I. 2014/229](#), as amended by [S.I. 2014/1815](#) and [2014/1822](#). Originally cited as the Industrial and Provident Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014, and given a new citation by [S.I. 2014/1815](#).

- (b) a reference to a section of the 1986 Act is a reference to that section as applied in relation to a relevant society; and
 - (c) the reference to Part 26 of the 2006 Act is a reference to that Part as applied in relation to a relevant society.”
- (3) In Schedule 3 (modified application of other provisions of the Insolvency Act 1986)—
- (a) in paragraph 2(b) after “those modifications” insert “and unless otherwise specified in this Schedule”;
 - (b) for the heading to paragraph 5 substitute “Insolvency practitioners: qualification and regulation”; and
 - (c) after paragraph 5 insert—
- 5A.** Section 390 (persons not qualified to act as insolvency practitioners) has effect as if for subsection (2) there were substituted—
- “(2) A person is not qualified to act as an insolvency practitioner in relation to a relevant society (within the meaning given in article 1(2) of the Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014) at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.”
- 5B.—**(1) In the following provisions, 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 1(c) of Schedule 1—
- (a) sections 390A and 390B(1) and (3) (authorisation of insolvency practitioners); and
 - (b) sections 391O(1)(b) and 391R(3)(b) (court sanction of insolvency practitioners in public interest cases).
- (2) In sections 391Q(2)(b) (direct sanctions order: conditions) and 391S(3)(e) (power for Secretary of State to obtain information) the reference to a company has effect without the modification in paragraph 1(c) of Schedule 1.”