
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 2

Amendments of primary legislation

The Building Societies Act 1986

2.—(1) The Building Societies Act 1986 is amended as follows.

(2) In section 90E(1) (disqualification of directors)—

(a) for subsections (3) and (4) substitute—

“(3) For the purposes of the application of section 7A of the Disqualification Act(2) (office-holder’s report on conduct of directors) to a building society which is subject to a building society insolvency order—

(a) the “office-holder” is the building society liquidator,

(b) the “insolvency date” means the date on which the building society insolvency order is made, and

(c) subsections (9) to (11) are omitted.

(4) For the purposes of the application of that section to a building society which is subject to a building society special administration order—

(a) the “office-holder” is the building society special administrator,

(b) the “insolvency date” means the date on which the building society special administration order is made, and

(c) subsections (9) to (11) are omitted.”; and

(b) in subsection (5) for the words from “the reference” to the end substitute—

“in subsections (3) and (4)—

(a) the reference to section 7A of the Disqualification Act is a reference to Article 10A of that Order(3) (office-holder’s report on conduct of directors), and

(b) the reference to subsections (9) to (11) of that section is a reference to paragraphs (9) to (11) of that Article.”.

(1) Section 90E was inserted by [S.I. 2009/805](#).

(2) In section 90E “the Disqualification Act” means the Company Directors Disqualification Act 1986 (c. 46). Section 7A was inserted by the Small Business, Enterprise and Employment Act 2015, section 107(2).

(3) 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.

- (3) In Schedule 15(4) (application of companies winding up legislation to building societies)—
- (a) in paragraph 3(1)(a) at the end insert “(except as otherwise specified in paragraphs 33B and 55G below)”;
 - (b) in the heading to Part 2 (modified application of Insolvency Act 1986 Parts 4 and 12) for “and XII” substitute “, 12 and 13”;
 - (c) in paragraph 6A(5) omit “and” after sub-paragraph (e) and after sub-paragraph (f) insert—
 - “(g) subsection (1)(e) of section 391O (direct sanctions orders);
 - (h) subsection (5) of section 391Q (direct sanctions order: conditions); and
 - (i) subsection (3)(e) of section 391R(6) (direct sanctions direction instead of order).”;
 - (d) after paragraph 33 insert—

“Insolvency practitioners: their qualification and regulation

33A. Section 390 of the Act(7) (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 building society 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.”.

33B.—(1) In the following provisions of the Act, 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(1)(a) above—

- (a) sections 390A and 390B(1) and (3)(8) (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)(9) (power for Secretary of State to obtain information) of the Act the reference to a company has effect without the modification in paragraph 3(1)(a) above.”;

- (e) in the heading to Part 3 (modified application of Insolvency (Northern Ireland) Order 1989, Parts 5 and 11) for “and XI” substitute “, 11 and 12”;
- (f) in paragraph 34A(10) omit “and” after sub-paragraph (e) and after sub-paragraph (f) insert—
 - “(g) paragraph (1)(e) of Article 350O (direct sanctions orders);
 - (h) paragraph (5) of Article 350Q (direct sanctions order: conditions); and
 - (i) paragraph (3)(e) of Article 350R(11) (direct sanctions direction instead of order).”;

(4) Schedule 15 was amended by [S.I. 2016/679](#).

(5) Paragraph 6A was inserted by [S.I. 2014/3486](#).

(6) Sections 391O, 391Q and 391R were inserted by the Small Business, Enterprise and Employment Act 2015, section 141.

(7) Section 390 was amended by the Deregulation Act 2015, section 17(1) and (2).

(8) Sections 390A and 390B were inserted by the Deregulation Act 2015, section 17(1) and (3).

(9) Section 391S was inserted by the Small Business, Enterprise and Employment Act 2015, section 142.

(10) Paragraph 34A was inserted by [S.I. 2014/3486](#).

(11) Articles 350O, 350Q and 350R were inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), section 18.

(g) after paragraph 55E(12) insert—

“Insolvency practitioners: their qualification and regulation

55F. Article 349(13) (persons not qualified to act as insolvency practitioners) has effect as if for paragraph (2) there were substituted—

“(2) A person is not qualified to act as an insolvency practitioner in relation to a building society 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.”.

55G.—(1) In the following provisions of the Order, 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(1)(a) above—

(a) Articles 349A and 349B(1) and (3)(14) (authorisation of insolvency practitioners); and

(b) Articles 350O(1)(b) and 350R(3)(b) (court sanction of insolvency practitioners in public interest cases).

(2) In Articles 350Q(2)(b) (direct sanctions order: conditions) and 350S(3)(e)(15) (power for Department to obtain information) the reference to a company has effect without the modification in paragraph 3(1)(a) above.”.

(4) In Schedule 15A(16) (application of other companies insolvency legislation to building societies)—

(a) in paragraph 1(2)(a) for “, III,” substitute “and 3, section 176ZB(17) (in Part 4), and”;

(b) in paragraph 2(1)(a) at the end insert “(except as otherwise specified in paragraphs 27H and 54 below)”;

(c) in the heading to Part 2 (modified application of Parts 1 to 3 of Insolvency Act 1986)(18) after “III” insert “and 13”;

(d) after paragraph 27F insert—

“Insolvency practitioners: their qualification and regulation

27G. Section 390 of the Act (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 building society 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.”.

27H.—(1) In the following provisions of the Act, in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to)

(12) Paragraph 55E was substituted by [S.I. 1989/2405](#).

(13) Article 349 was amended by the Insolvency (Amendment) Act (Northern Ireland) 2016, section 14(1) and (2).

(14) Articles 349A and 349B were inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016, section 14(1) and (3).

(15) Article 350S was inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016, section 19.

(16) Schedule 15A was inserted by the Building Societies Act 1997 (c. 32), section 39(2) and Schedule 6; and was amended by [S.I. 2016/679](#). There are other amendments, but they are not relevant.

(17) Section 176ZB was inserted by the Small Business, Enterprise and Employment Act 2015, section 119.

(18) The heading to Part 2 was amended, and paragraphs 27 to 27F were substituted, by [S.I. 2016/679](#).

companies the reference to companies has effect without the modification in paragraph 2(1)(a) above—

- (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) of the Act the reference to a company has effect without the modification in paragraph 2(1)(a) above.

27I. In sections 391O, 391Q and 391R of the Act 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.”;

- (e) in the heading to Part 3 (modified application of Parts 2, 3 and 4 of Insolvency (Northern Ireland) Order 1989) for “and IV” substitute “, 4 and 12”; and
- (f) after paragraph 52(19) insert—

“Insolvency practitioners: their qualification and regulation

53. Article 349 of the Order (persons not qualified to act as insolvency practitioners) has effect as if for paragraph (2) there were substituted—

“(2) A person is not qualified to act as an insolvency practitioner in relation to a building society 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.”.

54.—(1) In the following provisions of the Order, 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 2(1)(a) above—

- (a) Articles 349A and 349B(1) and (3) (authorisation of insolvency practitioners); and
- (b) Articles 350O(1)(b) and 350R(3)(b) (court sanction of insolvency practitioners in public interest cases).

(2) In Articles 350Q(2)(b) (direct sanctions order: conditions) and 350S(3)(e) (power for Department to obtain information) of the Order the reference to a company has effect without the modification in paragraph 2(1)(a) above.

55. In Articles 350O, 350Q and 350R of the Order 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.”.

Commencement Information

II Reg. 2 in force at 7.4.2017, see [reg. 1\(2\)](#)

Changes to legislation: *There are currently no known outstanding effects for the 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, Section 2. (See end of Document for details)*

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