
STATUTORY INSTRUMENTS

2018 No. 208

The Small Business, Enterprise and Employment Act 2015 (Consequential Amendments, Savings and Transitional Provisions) Regulations 2018

PART 3

Consequential amendments of subordinate legislation

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

10.—(1) The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005(1) are amended as follows.

(2) In regulation 16 (reorganisation controller's powers: individual voluntary arrangements in respect of a member)—

- (a) in paragraph (3) for "Paragraphs (4)" substitute "Paragraphs (3A)";
- (b) after paragraph (3) insert—

“(3A) Notice of the creditors' decision procedure given under section 257(2B)(2) of the 1986 Act must also be given to the reorganisation controller.

(3B) The reorganisation controller is entitled to participate (but not vote) in the creditors' decision procedure specified by that notice.”;

- (c) in paragraph (4) for “section 257 of the 1986 Act (or Article 231 of the 1989 Order)” substitute “Article 231 of the 1989 Order”; and
- (d) in paragraph (6) for “meeting's” substitute “creditors”.

(3) In regulation 20 (reorganisation controller's powers: administration orders in respect of members) after paragraph (5) insert—

“(5A) The reorganisation controller is entitled to participate (but not vote) in a qualifying decision procedure (within the meaning given by section 246ZE(11) of the 1986 Act) by which a decision about any matter is sought from the creditors of the member.”.

(4) In regulation 24 (voluntary winding up of members: powers of reorganisation controller) after paragraph (5) insert—

“(5A) The reorganisation controller is entitled to participate (but not vote) in a qualifying decision procedure (within the meaning given by section 246ZE(11) of the 1986 Act) by which a decision about any matter is sought from the creditors of the member.”.

(5) In regulation 26 (winding up of a member: powers of reorganisation controller) after paragraph (4) insert—

(1) [S.I. 2005/1998](#).

(2) Subsection (2B) was inserted by the Small Business, Enterprise and Employment Act 2015, section 126 and Schedule 9, paragraphs 60 and 64(1) and (2).

“(4A) The reorganisation controller is entitled to participate (but not vote) in a qualifying decision procedure (within the meaning given by section 246ZE(11) of the 1986 Act) by which a decision about any matter is sought from the creditors of the member.”

(6) In regulation 28 (bankruptcy of a member: powers of reorganisation controller) after paragraph (4) insert—

“(4A) The reorganisation controller is entitled to participate (but not vote) in a creditors’ decision procedure (within the meaning given by section 379ZA(11) of the 1986 Act) by which a decision about any matter is sought from the creditors of the member.”

(7) In regulation 30 (winding up of the Society: service of petition etc. on reorganisation controller) after paragraph (5) insert—

“(5A) The reorganisation controller is entitled to participate (but not vote) in a qualifying decision procedure (within the meaning given by section 246ZE(11) of the 1986 Act) by which a decision about any matter is sought from the creditors of the Society.”

(8) In regulation 35 (application of certain publication requirements in the Insurers (Reorganisation and Winding Up) Regulations 2004 to members)—

(a) in paragraph (3) after “section 258 of the 1986 Act” insert “(approval of debtor’s proposal: individual voluntary arrangements)”;

(b) in paragraph (4) for “meeting’s”, in the first place it occurs, substitute “creditors”.

(9) In regulation 36 (notification to creditors: winding up proceedings relating to members), in paragraph (3)(b) after “section 258 of the 1986 Act” insert “(approval of debtor’s proposal: individual voluntary arrangements)”.

(10) In regulation 40 (priority for insurance claims)—

(a) in paragraph (8), which modifies regulation 29 of the Insurers (Reorganisation and Winding Up) Regulations 2004—

(i) after “has effect as if” insert “in paragraph (1) the words from “, but only if” to the end were omitted(3) and”;

(ii) in the text which is treated as inserted in that regulation, for paragraph (3) substitute—

“(3) If the bankrupt’s creditors propose to establish a creditors’ committee pursuant to section 301(1) of the 1986 Act or if the general meeting of the bankrupt’s creditors proposes to establish a creditors’ committee pursuant to Article 274(1) of the 1989 Order, separate committees must be established for creditors in respect of long-term business liabilities and creditors in respect of general business liabilities.”;

and

(b) in paragraph (11), in the text which is treated as inserted in regulation 33 of the Insurers (Reorganisation and Winding Up) Regulations 2004, in paragraph (5)—

(i) for “(decisions of creditors’ meeting)” substitute “(approval of debtor’s proposal)”;

and

(ii) in the text which is treated as inserted by paragraph (5)(a) in section 258 of the Insolvency Act 1986(4) for the words from the beginning to “in force” substitute “Where a Lloyd’s market reorganisation order is in force and the debtor is an individual member, the debtor’s creditors”.

(3) These words are inserted in regulation 29(1) by regulation 9(3)(a) of these Regulations.

(4) The inserted text is subsection (5A) of section 258.