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STATUTORY INSTRUMENTS

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**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 Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2010**

**12.**—(1) The Schedule to the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2010(1) (modifications of Part 2 of the Insolvency Act 1986 in relation to insurers) is amended as follows.

(2) After paragraph 3 insert—

“**3A.**—(1) For the purposes of paragraph 51 of Schedule B1 a decision of the insurer’s creditors as to whether they approve the proposals set out in the administrator’s statement made under paragraph 49(1) of Schedule B1 is required to be made by a qualifying decision procedure.

(2) At the time of seeking that decision the administrator must also seek a decision from the insurer’s creditors as to whether they consent to the exercise by the administrator of the powers specified in Schedule 1 to the 1986 Act.

(3) That decision is also required to be made by a qualifying decision procedure.”.

(3) In paragraph 4 for “(business and result of initial creditors’ meeting)” substitute “(creditors’ decision)”.

(4) In paragraph 5 for ““creditor”” substitute ““opted-out creditor””.

(5) In paragraph 10—

(a) for sub-paragraph (3) substitute—

“(3) The powers conferred by sub-paragraph (1) may be exercised until the initial decision date for the decision referred to in paragraph 51(1), but may only be exercised after that date—

(a) if—

(i) the administrator, when seeking the decision referred to in paragraph 3A(2), gave the creditors a statement containing the information specified in sub-paragraph (4); and

(ii) a majority in number representing three-fourths in value of the creditors has consented to the exercise by the administrator of those powers; or

- (b) with the consent of the court.”; and
- (b) omit sub-paragraph (5).
- (6) At the end insert(2)—

“11. Where this Schedule applies in relation to the administration of an insurer in Scotland, it is to be read with the following modifications—

- (a) ignore paragraph 3A(3);
- (b) in paragraph 4 for “(creditors’ decision)” read “(business and result of initial creditors’ meeting)”;
- (c) in paragraph 5 for ““opted-out creditor”” read ““creditor””; and
- (d) read paragraph 10 as if—

- (i) for sub-paragraph (3) there were substituted—

“(3) The powers conferred by sub-paragraph (1) may be exercised until an initial creditors’ meeting, but may only be exercised thereafter—

- (a) if the following conditions are met—

- (i) the administrator has laid before that meeting or any subsequent creditors’ meeting (“the relevant meeting”) a statement containing the information specified in sub-paragraph (4); and

- (i) the powers are exercised with the consent of a majority in number representing three-fourths in value of the creditors present and voting either in person or by proxy at the relevant meeting; or

- (b) with the consent of the court.”;

- (ii) there were added at the end—

“(5) In this paragraph “initial creditors’ meeting” has the meaning given in paragraph 51(1) of Schedule B1.”.”.

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(2) The modifications made by the additional paragraph ensure that the Schedule to the Order has effect in relation to Scotland without the other amendments made by this regulation, pending the commencement in Scotland of the provisions about creditors’ meetings.

(3) Paragraph 3A is inserted by paragraph (2) of this regulation.