
STATUTORY INSTRUMENTS

2001 No. 3649

The Financial Services and Markets Act 2000
(Consequential Amendments and Repeals) Order 2001

PART 8

MISCELLANEOUS AMENDMENTS TO PRIMARY LEGISLATION

Insolvency Act 1986 (c. 45)

Further meaning of inability to pay debts where the company is a deposit taker

303.—(1) After section 8(1) of the Insolvency Act 1986 (restrictions on making of administration order) insert—

“(1A) For the purposes of a petition presented by the Financial Services Authority alone or together with any other party, an authorised deposit taker who defaults in an obligation to pay any sum due and payable in respect of a relevant deposit is deemed to be unable to pay its debts as mentioned in subsection (1).

(1B) In subsection (1A)—

(a) “authorised deposit taker” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, but excludes a person who has such permission only for the purpose of carrying on another regulated activity in accordance with that permission; and

(b) “relevant deposit” must be read with—

(i) section 22 of the Financial Services and Markets Act 2000,

(ii) any relevant order under that section, and

(iii) Schedule 2 to that Act,

but any restriction on the meaning of deposit which arises from the identity of the person making it is to be disregarded.”.

Limitation on power to make administration order

304. For section 8(4)(1) of the Insolvency Act 1986 (restrictions on making of administration order) substitute—

“(4) An administration order shall not be made in relation to a company after it has gone into liquidation.

(5) An administration order shall not be made against a company if—

(a) it has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance in the United Kingdom;

- (b) it continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987.
- (6) Subsection (5)(a) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Petition for winding-up by the Secretary of State

305. In subsection (1) of section 124A of the Insolvency Act 1986 (petition for winding-up on the grounds of public interest), for paragraph (b) substitute—

- “(b) any report made by inspectors under—
 - (i) section 167, 168, 169 or 284 of the Financial Services and Markets Act 2000, or
 - (ii) where the company is an open-ended investment company (within the meaning of that Act), regulations made as a result of section 262(2)(k) of that Act;
- (bb) any information or documents obtained under section 165, 171, 172, 173 or 175 of that Act.”.

Winding-up on petition of the Authority: partnerships

306. Section 168(5C)(2) of the Insolvency Act 1986 (which is superseded by section 367 of the Financial Services and Markets Act 2000) is repealed.

Power to apply Parts 1 to 7 to former authorised institutions

307. In section 422(1)(3) of the Insolvency Act 1986 (power to apply first group of Parts to banks etc), for “authorised institutions and former authorised institutions within the meaning of the Banking Act 1987” substitute “any person who continues to have a liability in respect of a deposit which was held by him in accordance with the Banking Act 1979 or the Banking Act 1987”.

(2) Section 168(5C) was inserted by S.I. 194/2421, article 14(1).

(3) Section 422(1) has been amended by the Banking Act 1987 (c. 22), Schedule 5, paragraph 37; and Schedule 6, paragraph 25(2).