
STATUTORY INSTRUMENTS

2018 No. 208

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

PART 2

Consequential amendments of primary legislation

The Building Societies Act 1986

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

(2) In Schedule 15 (application of companies winding up legislation to building societies), in Part 2 (modified application of Insolvency Act 1986 Parts 4, 12 and 13)⁽²⁾—

- (a) in the heading after “IV,” insert “6, 7,” and at the end insert “and Schedule 10”; and
- (b) after paragraph 6 insert—

“**6ZA.** Parts 4, 6, 7 and 12 of, and Schedule 10 to, the Act, in their application to building societies, have effect without the amendments of those Parts and that Schedule made by—

- (a) section 122 of the Small Business, Enterprise and Employment Act 2015 (abolition of requirements to hold meetings: company insolvency);
- (b) section 124 of that Act (ability for creditors to opt not to receive certain notices: company insolvency); and
- (c) Part 1 of Schedule 9 to that Act (sections 122 to 125: further amendments).”

(3) In Schedule 15A (application of other companies insolvency legislation to building societies), in Part 2 (modified application of Parts 1 to 3 and 13 of Insolvency Act 1986)⁽³⁾—

- (a) in the heading for “and 13” substitute “, 6, 7, 12 and 13”; and
- (b) after paragraph 6 insert—

“**6A.** Parts 1, 3, 6, 7 and 12 of the Act, in their application to building societies, have effect without the amendments of those Parts made by—

- (a) section 122 of the Small Business, Enterprise and Employment Act 2015 (abolition of requirements to hold meetings: company insolvency);
- (b) section 124 of that Act (ability for creditors to opt not to receive certain notices: company insolvency); and
- (c) Part 1 of Schedule 9 to that Act (sections 122 to 125: further amendments).”

(1) 1986 c. 53.

(2) The heading was amended by [S.I 2017/400](#).

(3) Schedule 15A (with section 90A) was inserted by the Building Societies Act 1997 (c. 32), section 39 and Schedule 6. The heading was amended by [S.I 2016/679](#) and [2017/400](#).

The Friendly Societies Act 1992

3. In Schedule 10 to the Friendly Societies Act 1992⁽⁴⁾ (application of companies winding up legislation to incorporated friendly societies), in Part 2 (modified application of Insolvency Act 1986 Parts 4, 12 and 13)⁽⁵⁾—

- (a) in the heading after “IV,” insert “6, 7,” and at the end insert “and Schedule 10”; and
- (b) after paragraph 6 insert—

“**6A.** Parts 4, 6, 7 and 12 of, and Schedule 10 to, the Act, in their application to incorporated friendly societies, have effect without the amendments of those Parts and that Schedule made by—

- (a) section 122 of the Small Business, Enterprise and Employment Act 2015 (abolition of requirements to hold meetings: company insolvency);
- (b) section 124 of that Act (ability for creditors to opt not to receive certain notices: company insolvency); and
- (b) Part 1 of Schedule 9 to that Act (sections 122 to 125: further amendments).”.

The Financial Services and Markets Act 2000

4.—(1) The Financial Services and Markets Act 2000⁽⁶⁾ is amended as follows.

(2) In section 355 (interpretation of Part 24 (insolvency)), in subsection (1)—

- (a) after the definition of “court” insert—

““creditors’ decision procedure” has the meaning given by section 379ZA(11)(7) of the 1986 Act;” and

- (b) at the end insert—

““qualifying decision procedure” has the meaning given by section 246ZE(11) of the 1986 Act.”.

(3) In section 357⁽⁸⁾ (powers of FCA and PRA to participate in proceedings: individual voluntary arrangements)—

- (a) in subsection (2) for “(3)” substitute “(2A)”;
- (b) after subsection (2) insert—

“(2A) Where under section 257 of the 1986 Act the individual’s creditors are asked to decide whether to approve the proposed voluntary arrangement—

- (a) notice of the creditors’ decision procedure must be given to the appropriate regulator; and
- (b) the appropriate regulator or a person appointed by the appropriate regulator is entitled to participate in (but not vote in) the creditors’ decision procedure by which the decision is made⁽⁹⁾.

(2B) Notice of the decision made by the creditors’ decision procedure is to be given to the appropriate regulator by the nominee or the nominee’s replacement under section 256(3) or 256A(4) of the 1986 Act.”;

⁽⁴⁾ 1992 c.40.

⁽⁵⁾ The heading was amended by S.I. 2017/400.

⁽⁶⁾ 2000 c. 8.

⁽⁷⁾ Section 379ZA was inserted by the Small Business, Enterprise and Employment Act 2015, section 123(1) and (2).

⁽⁸⁾ Section 357 was amended by the Financial Services Act 2012 (c. 21), Schedule 14, paragraphs 1 and 4.

⁽⁹⁾ Part 15 of the Insolvency (England and Wales) Rules 2016 (S.I. 2016/1024) contains common rules about decision making for company and personal insolvency proceedings.

- (c) in subsection (3) for “section 257 of the 1986 Act (or Article 231 of the 1989 Order)” substitute “Article 231 of the 1989 Order”; and
- (d) in subsection (7) for paragraph (a) substitute—
 - “(a) in the case of a PRA-authorized person, each of the FCA and the PRA, except that the references in subsections (2A)(b) and (3) to a person appointed by the appropriate regulator are to be read as references to a person appointed by either the FCA or the PRA;”.
- (4) In section 362(10) (powers of FCA and PRA to participate in proceedings: administration)—
 - (a) after subsection (5) insert—
 - “(5A) The appropriate regulator or a person appointed by the appropriate regulator is entitled to participate in (but not vote in) a qualifying decision procedure by which a decision about any matter is sought from the creditors of the company or partnership.”; and
 - (b) for subsection (7) substitute—
 - “(7) “The appropriate regulator” means—
 - (a) where the company or partnership is a PRA-regulated person, each of the FCA and the PRA, except that the references in subsections (5) and (5A) to a person appointed by the appropriate regulator are to be read as references to a person appointed by either the FCA or the PRA;
 - (b) in any other case, the FCA.”.
- (5) In section 365(11) (powers of FCA and PRA to participate in proceedings: voluntary winding up)—
 - (a) after subsection (5) insert—
 - “(5A) The appropriate regulator or a person appointed by the appropriate regulator is entitled to participate in (but not vote in) a qualifying decision procedure by which a decision about any matter is sought from the creditors of the company.”; and
 - (b) for subsection (8) substitute—
 - “(8) “The appropriate regulator” means—
 - (a) where the company is a PRA-authorized person, each of the FCA and the PRA, except that the references in subsections (5) and (5A) to a person appointed by the appropriate regulator are to be read as references to a person appointed by either the FCA or the PRA;
 - (b) in any other case, the FCA.”.
- (6) In section 371(12) (powers of FCA and PRA to participate in proceedings: winding up by the court)—
 - (a) after subsection (4) insert—
 - “(4A) The appropriate regulator or a person appointed by the appropriate regulator is entitled to participate in (but not vote in) a qualifying decision procedure by which a decision about any matter is sought from the creditors of the body.”; and
 - (b) for subsection (6) substitute—
 - “(6) “The appropriate regulator” means—

(10) Section 362 was amended by the Financial Services Act 2012, Schedule 14, paragraphs 1 and 8(1), (4), (5) and (6), and by the Enterprise Act 2002 (c. 40), Schedule 17, paragraph 57(d). There are other amendments, but they are not relevant.

(11) Section 365 was amended by the Financial Services Act 2012, Schedule 14, paragraphs 1 and 12, and by S.I. 2008/948.

(12) Section 371 was amended by the Financial Services Act 2012, Schedule 14, paragraphs 1 and 19, and by S.I. 2008/948.

- (a) where the body is a PRA-regulated person, each of the FCA and the PRA, except that the references in subsections (4) and (4A) to a person appointed by the appropriate regulator are to be read as references to a person appointed by either the FCA or the PRA;
 - (b) in any other case, the FCA.”.
- (7) In section 374(13) (powers of FCA and PRA to participate in proceedings: bankruptcy)—
- (a) after subsection (4) insert—
 - “(4A) The appropriate regulator or a person appointed by the appropriate regulator is entitled to participate in (but not vote in) a creditors’ decision procedure by which a decision about any matter is sought from the creditors of the individual or entity.”; and
 - (b) for subsection (7) substitute—
 - “(7) “The appropriate regulator” means—
 - (a) where the individual or entity is a PRA-regulated person, each of the FCA and the PRA, except that the references in subsections (4) and (4A) to a person appointed by the appropriate regulator are to be read as references to a person appointed by either the FCA or the PRA;
 - (b) in any other case, the FCA.”.

The Banking Act 2009

- 5.—(1) The Banking Act 2009(14) is amended as follows.
- (2) In section 103(15) (general powers and duties of bank liquidators and effect of bank insolvency) after subsection (6) insert—
- “(7) In the Table “Schedule 9 to the 2015 Act” means Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (further amendments relating to the abolition of requirements to hold meetings: company insolvency).”.
- (3) In the Table in section 103 (Table of applied provisions of the Insolvency Act 1986)—
- (a) in the entry for section 141, in column 3 at the beginning insert—
 - “Ignore the amendment made by paragraph 36 of Schedule 9 to the 2015 Act.”;
 - (b) in the entry for section 142, in column 3 at the beginning insert—
 - “Ignore the amendments made by paragraph 37 of Schedule 9 to the 2015 Act.”;
 - (c) in the entry for section 160, in column 3 insert—
 - “Ignore the amendment made by paragraph 39 of Schedule 9 to the 2015 Act.”;
 - (d) in the entry for section 168, in column 3 at the beginning insert—
 - “(za) Ignore the amendment made by paragraph 41 of Schedule 9 to the 2015 Act.”;
 - (e) in the entry for section 194, in column 3 insert—
 - “Section 194 applies as it applied before its repeal by paragraph 46 of Schedule 9 to the 2015 Act.”;
 - (f) in the entry for section 195, in column 3—
 - (i) at the beginning insert—

(13) Section 374 was amended by the Financial Services Act 2012, Schedule 14, paragraphs 1 and 22, and by [S.I. 2016/481](#).

(14) 2009 c. 1.

(15) Section 103 was amended by the Financial Services Act 2012, Schedule 17, paragraphs 29 and 38, and by [S.I. 2017/400](#).

- “(a) Ignore the amendments made by paragraph 47 of Schedule 9 to the 2015 Act.”;
- (ii) after that modification insert “(b)” (so that the existing modification becomes the second of two modifications); and
- (g) in the entry for section 208, in column 3 insert—
- “Ignore the amendment made by paragraph 52 of Schedule 9 to the 2015 Act.”.
- (4) In section 145(16) (general powers and duties of bank administrators and effect of bank administration) after subsection (6) insert—
- “(7) In the Tables “Schedule 9 to the 2015 Act” means Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (further amendments relating to the abolition of requirements to hold meetings: company insolvency).”.
- (5) In Table 1 in section 145 (Table of applied provisions of the Insolvency Act 1986, Schedule B1(17))—
- (a) in the entry for paragraph 49, in column 3 after paragraph (e) insert—
- “(ea) Ignore the amendment made by paragraph 10(2) of Schedule 9 to the 2015 Act.”;
- (b) in the entry for paragraphs 50 to 58, in column 3 at the beginning insert—
- “(za) Ignore the repeal of Paras 50 and 58 by paragraph 10(3) and (22) of Schedule 9 to the 2015 Act.
- (zb) Ignore the amendments of Paras 51 to 57 made by paragraph 10(4) to (21) of Schedule 9 to the 2015 Act.”;
- (c) in the entry for paragraph 62, in column 3 insert—
- “Ignore the amendment made by paragraph 10(23) of Schedule 9 to the 2015 Act.”;
- (d) in the entry for paragraph 74, in column 3 at the beginning insert—
- “(za) Ignore the amendment made by paragraph 10(24) of Schedule 9 to the 2015 Act.”;
- (e) in the entry for paragraph 98, in column 3 at the beginning insert—
- “Ignore the amendments made by paragraph 10(36) to (38) of Schedule 9 to the 2015 Act.”;
- (f) in the entry for paragraph 106 (and section 430 of, and Schedule 10 to, the Insolvency Act 1986), in column 3 insert—
- “Ignore the amendments made by paragraph 11 of Schedule 9 to the 2015 Act.”;
- (g) in the entry for paragraphs 107 to 109, in column 3 after paragraph (b) insert—
- “(ba) Ignore the amendments of Para 108 made by paragraph 10(39) to (43) of Schedule 9 to the 2015 Act.”; and
- (h) in the entry for paragraph 111, in column 3 insert—
- “Ignore the amendment made by paragraph 10(44) of Schedule 9 to the 2015 Act.”.
- (6) In section 154 (winding up or voluntary arrangement)—

(16) Section 145 was amended by the Financial Services Act 2010 (c. 28), section 21(1) and (6), and by S.I. 2017/400.

(17) Schedule B1 was inserted by the Enterprise Act 2002, section 248(2) and Schedule 16; and was amended by the Small Business, Enterprise and Employment Act 2015, section 126 and Schedule 9, paragraph 10. There are other amendments, but they are not relevant.

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- (a) after subsection (2) insert—

“(2A) For the purpose of subsection (2)(a), paragraph 84 of Schedule B1 has effect without the amendment made by paragraph 10(33) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (further amendments relating to opted-out creditors).”;

- (b) in subsection (3) for “that Act” substitute “the Insolvency Act 1986”; and

- (c) after subsection (3) insert—

“(3A) Sections 2 to 6 and 7 and Schedule A1(18) have effect without the amendments of those provisions made by paragraphs 2 to 9 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (further amendments relating to the abolition of requirements to hold meetings).”.

The Financial Services (Banking Reform) Act 2013

6. In Schedule 6 to the Financial Services (Banking Reform) Act 2013(19) (conduct of FMI administration)—

- (a) in Table 1 (applied provisions of Schedule B1 to the Insolvency Act 1986), in the entry for paragraph 98 (vacation from office: discharge from liability), in the third column for “and (3)” substitute “, (3) and (3A)”; and
- (b) in Table 2 (other applied provisions of the Insolvency Act 1986) after the entry for section 246ZD(20) insert—

“Sections 246ZE and 246ZF(21)	Decisions by creditors (company insolvency)	
Section 246C(22)	Creditors’ ability to opt out of receiving certain notices	
Section 248A(23)	Meaning of “opted-out creditor””	

(18) Schedule A1 was inserted by the Insolvency Act 2000, Schedule 1, paragraphs 1 and 4; and was amended by the Enterprise Act 2002, Schedule 17, paragraphs 9 and 37, and by the Financial Services Act 2012, Schedule 18, paragraphs 51 and 54. There are other amendments, but they are not relevant.

(19) 2013 c. 33. Schedule 6 was amended by S.I. 2017/400.

(20) Section 246ZD was inserted by the Small Business, Enterprise and Employment Act 2015, section 118.

(21) Sections 246ZE and 246ZF were inserted by the Small Business, Enterprise and Employment Act 2015, section 122(1) and (2).

(22) Section 246C was inserted by the Small Business, Enterprise and Employment Act 2015, section 124(1) and (3).

(23) Section 248A was inserted by the Small Business, Enterprise and Employment Act 2015, section 124(1) and (4).