
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2016 No.

The Public Services Reform (Insolvency) (Scotland) Order 2016

Savings

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14. Where a receiver is appointed in respect of a company under section 51 of the Act⁽¹⁾ before 1st April 2016, that section continues to have effect on and after 1st April 2016 as if the amendment made in article 2 had not been made.

15.—(1) Where this article applies, subject to article 1(3) the Act continues to have effect on and after the day mentioned in article 1(4) as if the amendments made by articles 4 to 6 and 7(2) to 13 had not been made.

(2) This article applies where, in a receivership, a receiver is appointed in respect of a company under section 51 of the Act before the day mentioned in article 1(4).

(3) This article applies where a company goes into liquidation upon a resolution for voluntary winding up passed before the day mentioned in article 1(4).

(4) This article applies where—

- (a) there is an application for the appointment of a provisional liquidator under section 135 of the Act; or
- (b) a company goes into liquidation on the making of a winding up order,

on a winding up petition presented before the day mentioned in article 1(4).

(5) This article applies where—

- (a) there is an application for the appointment of a provisional liquidator under section 135 of the Act; or
- (b) a company goes into liquidation on the making of a winding up order,

on a winding up petition presented on or after the day mentioned in article 1(4) if, at the time the winding up petition is presented, the company is in liquidation upon a resolution for voluntary winding up passed before the day mentioned in article 1(4).

(6) In this article—

“resolution for voluntary winding up” includes a resolution which is deemed to occur by virtue of—

- (a) paragraph 83(6)(b) of Schedule B1 of the Act (administration); or
- (b) an order made following conversion of administration or a voluntary arrangement into winding up by virtue of Article 37 of Council Regulation (EC) No. 1346/2000 on insolvency proceedings⁽²⁾; and

(1) Section 51 was amended by the Enterprise Act 2002 (c.40), Schedule 17, paragraph 13, the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), section 3, the Bankruptcy and Debt Advice (Scotland) Act 2014 (asp 11), schedule 4, paragraph 1 and article 2 of S.S.I. 2011/140.

(2) OJ L 160, 30.6.2000, p.19. Article 37 of Council Regulation (EC) No. 1346/2000 is replaced from 26th June 2017 by Article 51 of EU Regulation (EU) 2015/848 of the Council and the Parliament on insolvency proceedings (OJ L 141, 5.6.2015, p.19).

“winding up petition” includes an administration application under paragraph 12 of Schedule B1 to the Act which the court treats as a winding up petition under paragraph 13(1)(e) of that Schedule.