Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 15

Section 90.

APPLICATION OF COMPANIES WINDING UP LEGISLATION TO BUILDING SOCIETIES

Modifications etc. (not altering text)

C1 Sch. 15 applied (with modifications) (7.4.2010) by The Building Societies (Financial Assistance) Order 2010 (S.I. 2010/1188), arts. 1(2), **9**

PART I

GENERAL MODE OF APPLICATION

1 The enactments which comprise the companies winding up legislation (referred to in this Schedule as "the enactments") are the provisions of—

(a) Parts IV, VI, VII[F1, XII and XIII] of the M1Insolvency Act 1986, or

[F2(b) Articles 5 to 8 of Part I and Parts V, VII and XI of the Insolvency (Northern Ireland) Order 1989; or]

and, in so far as they relate to offences under any such enactment, sections 430 and 432 of, and Schedule 10 to, the Insolvency Act 1986 or [F3Articles 2(6) and 373 of, and Schedule 7 to, the Insolvency (Northern Ireland) Order 1989].

Textual Amendments

F1 Words substituted by Companies Act 1989 (c. 40, SIF 27), **s. 211(2)(a)** (subject to a saving as referred to in S.I. 1990/1392, **art. 4(a)**)

F2 Sch. 15 para. 1(b) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(a)(i)**; S.R. 1991/411, **art. 2**

F3 Words in Sch. 15 para. 1 substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(a)(ii)**; S.R. 1991/411, **art. 2**

Marginal Citations

M1 1986 c. 45

[F4 1A. In this Schedule—

"deposit" means rights of the kind described in—

(a) paragraph 22 of Schedule 2 to the Financial Services and Markets Act 2000 (deposits); or

(b) section 1(2)(b) of the Dormant Bank and Building Society Accounts Act 2008 (balances transferred under that Act to authorised reclaim fund); and

"relevant deposit" means—

Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(a) an "eligible deposit" within the meaning given by paragraph 15C(1) of Schedule 6 to the Insolvency Act 1986 (categories of preferential debts) or a deposit of the kind mentioned in paragraph 15BB of that Schedule; or

(b) an "eligible deposit" within the meaning given by paragraph 21(1) of Schedule 4 to the Insolvency (Northern Ireland) Order 1989 (categories of preferential debts) or a deposit of the kind mentioned in paragraph 20 of that Schedule.**]**

Textual Amendments

F4 Sch. 15 para. 1A inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **32(2)** (with art. 3)

2 Subject to the following provisions of this Schedule, the enactments apply to the winding up of building societies as they apply to the winding up of companies limited by shares and **[**[F5]registered under the Companies Act 2006 in England and Wales or Scotland or (as the case may be) in Northern Ireland.**]**

Textual Amendments

F5 Words in Sch. 15 para. 2 substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 87(11)(a)** (with art. 10)

3 (1) The enactments shall, in their application to building societies, have effect with the substitution—

(a) for "company" of " building society "**[**[F6](except as otherwise specified in paragraphs 33B and 55G below)**]** ;

(b) for "the registrar of companies" or "the registrar" of " **[**[F7]Financial Conduct Authority**]** ";

(c) for "the articles" of " the rules "; and

(d) for "registered office" of " principal office ".

(2) In the application of the enactments to building societies—

[[F8](aa) every reference to a company registered in Scotland shall have effect as a reference to a building society whose principal office is situated in Scotland;**]**

[F9]**[**(aa) every reference to a company registered in Scotland shall have effect as a reference to a building society whose registered office is situated in Scotland;**]**

[[F10](ab) a reference to the debts of a company includes a reference to sums due to shareholding members of a building society in respect of deposits;**]**

(a) every reference to the officers, or to a particular officer, of a company shall have effect as a reference to the officers, or to the corresponding officer, of the building society and as including a person holding himself out as such an officer; and

[F11]**[**(b) every reference to an administrative receiver shall be omitted.**]**

Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F6 Words in Sch. 15 para. 3(1)(a) inserted (7.4.2017) by The Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the Insolvency (Amendment) Act (Northern Ireland) 2016 (Consequential Amendments and Transitional Provisions) Regulations 2017 (S.I. 2017/400), regs. 1(2), **2(3)(a)**

F7 Words in Sch. 15 para. 3(1)(b) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 57(2)** (with Sch. 12)

F8 Sch 15 para. 3(2)(aa) inserted (1.12.2001) by S.I. 2001/3649 arts. 1, 200(1)

F9 Sch. 15 para. 3(2)(aa) inserted (17.8.2001 for specified purposes, 1.12.2001 in so far as not already in force) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 209(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

F10 Sch. 15 para. 3(2)(ab) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **32(3)** (with art. 3)

F11 Sch. 15 para. 3(2)(b) substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 65**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xix)**

4 (1) Where any of the enactments as applied to building societies requires a notice or other document to be sent to the **[**[F12]FCA**]** , it shall have effect as if it required the **[**[F12]FCA**]** to keep the notice or document in the public file of the society concerned and to record in that file the date on which the notice or document is placed in it.

(2) Where any of the enactments, as so applied, refers to the registration, or to the date of registration, of such a notice or document, that enactment shall have effect as if it referred to the placing of the notice or document in the public file or (as the case may be) to the date on which it was placed there.

Textual Amendments

F12 Word in Sch. 15 para. 4 substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 57(3)** (with Sch. 12)

5 Any enactment which specifies a money sum altered by order under section 416 of the [M2]Insolvency Act 1986, or, as the case may be, **[**[F13]Article 362 of the Insolvency (Northern Ireland) Order 1989**]**, (powers to alter monetary limits) applies with the effect of the alteration.

Textual Amendments

F13 Words in Sch. 15 para. 5 substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(b)**; S.R. 1991/411, **art. 2**

Marginal Citations

M2 1986 c. 45.

Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

PART II

MODIFIED APPLICATION OF INSOLVENCY ACT 1986

PARTS IV [F14, [F15]6, 7,] 12 AND 13][F15]AND SCHEDULE 10]

Textual Amendments

F14 Words in Sch. 15 Pt. II heading substituted (7.4.2017) by The Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the Insolvency (Amendment) Act (Northern Ireland) 2016 (Consequential Amendments and Transitional Provisions) Regulations 2017 (S.I. 2017/400), regs. 1(2), **2(3)(b)**

F15 Words in Sch. 15 Pt. II heading inserted (13.3.2018) by The Small Business, Enterprise and Employment Act 2015 (Consequential Amendments, Savings and Transitional Provisions) Regulations 2018 (S.I. 2018/208), regs. 1(3), **2(2)(a)**

Preliminary

6 In this Part of this Schedule, Part IV of the Insolvency Act 1986 is referred to as "Part IV"; and that"Act is referred to as "the Act".

[F16 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).]

Textual Amendments

F16 Sch. 15 para. 6ZA inserted (13.3.2018) by The Small Business, Enterprise and Employment Act 2015 (Consequential Amendments, Savings and Transitional Provisions) Regulations 2018 (S.I. 2018/208), regs. 1(3), **2(2)(b)**

[F17 6A. In the following provisions of the Act a reference to the creditors, general creditors or unsecured creditors of a company includes a reference to every shareholding member of the building society to whom a sum due from the society in relation to the member's shareholding is due in respect of a deposit—

(a) subsection (1) of section 143 (general functions of liquidator in winding up by the court);

(b) subsection (3) of section 149 (debts due from contributory to company);

(c) subsection (4) of section 168 (supplementary powers (England and Wales));

(d) subsection (2)(b) of section 175 (preferential debts (general provision));

(e) subsection (1) of section 176ZA (payment of expenses of winding up (England and Wales)); [F18]...

Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(f) subsections (3)(b) and (5)(a) of section 176A (share of assets for unsecured creditors);

[F19(g) subsection (1)(e) of section 391O (direct sanctions orders);

(h) subsection (5) of section 391Q (direct sanctions order: conditions); and

(i) subsection (3)(e) of section 391R (direct sanctions direction instead of order).**]]**

Textual Amendments

F17 Sch. 15 para. 6A inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **33(2)** (with art. 3)

F18 Word in Sch. 15 para. 6A omitted (7.4.2017) by virtue of The Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the Insolvency (Amendment) Act (Northern Ireland) 2016 (Consequential Amendments and Transitional Provisions) Regulations 2017 (S.I. 2017/400), regs. 1(2), **2(3)(c)**

F19 Sch. 15 para. 6A(g)-(i) inserted (7.4.2017) by The Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the Insolvency (Amendment) Act (Northern Ireland) 2016 (Consequential Amendments and Transitional Provisions) Regulations 2017 (S.I. 2017/400), regs. 1(2), **2(3)(c)**

Members of a building society as contributories in winding up

7 (1) Section 74 (liability of members) of the Act is modified as follows.

(2) In subsection (1), the reference to any past member shall be omitted.

(3) Paragraphs (a) to (d) of subsection (2) shall be omitted; and so shall subsection (3).

[F20(3A) In paragraph (f) of subsection (2) the reference to a sum due to a member of the company by way of dividends, profits or otherwise does not include a sum due to a shareholding member of a building society in respect of a deposit.**]**

(4) The extent of the liability of a member of a building society in a winding up shall not exceed the extent of his liability under paragraph 6 of Schedule 2 to this Act.

Textual Amendments

F20 Sch. 15 para. 7(3A) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **33(3)** (with art. 3)

8 Sections 75 to 78 and 83 in Chapter I of Part IV (miscellaneous provisions not relevant to building societies) do not apply.

9 (1) Section 79 (meaning of "contributory") of the Act does not apply.

(2) In the enactments as applied to a building society, "contributory"—

(a) means every person liable to contribute to the assets of the society in the event of its being wound up, and

(b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory, and

(c) includes persons who are liable to pay or contribute to the payment of—

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(i) any debt or liability of the building society being wound up, or

(ii) any sum for the adjustment of rights of members among themselves, or

(iii) the expenses of the winding up;

but does not include persons liable to contribute by virtue of a declaration by the court under section 213 (imputed responsibility for fraudulent trading) or section 214 (wrongful trading) of the Act.

Voluntary winding up

10 (1) Section 84 of the Act does not apply.

(2) In the enactments as applied to a building society, the expression "resolution for voluntary winding up" means a resolution passed under section 88(1) of this Act.

11 In subsection (1) of section 101 (appointment of liquidation committee) of the Act, the reference to functions conferred on a liquidation committee by or under that Act shall have effect as a reference to its functions by or under that Act as applied to building societies.

12 (1) Section 107 (distribution of property) of the Act does not apply; and the following applies in its place.

(2) Subject to the provisions of Part IV relating to preferential payments, a building society's property in a voluntary winding up shall be applied in satisfaction of the society's liabilities to creditors [F21]. . . pari passu and, subject to that application, in accordance with the rules of the society.

[[F22](3) In sub-paragraph (2) the reference to the society's liabilities to creditors includes a reference to the society's liabilities to shareholding members of the society in respect of deposits which are not relevant deposits.**]**

Textual Amendments

F21 Words in Sch. 15 para. 12(2) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

F22 Sch. 15 para. 12(3) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **33(4)** (with art. 3)

13 Sections 110 and 111 (liquidator accepting shares, etc. as consideration for sale of company property) of the Act do not apply.

14 Section 116 (saving for certain rights) of the Act shall also apply in relation to the dissolution by consent of a building society as it applies in relation to its voluntary winding up.

Winding up by the court

15 In sections 117 (High Court and county court jurisdiction) and 120 (Court of Session and sheriff court jurisdiction) of the Act, each reference to a company's share capital paid up or credited as paid up shall have effect as a reference to the amount standing to the credit of shares in a building society as shown by the latest balance sheet.

Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[[F23]16 (1) Section 122 (circumstances in which company may be wound up by the court) of the Act does not apply in relation to a building society whose principal office is situated in England and Wales.

(2) Section 122 has effect in relation to a building society whose principal office is situated in Scotland as if subsection (1) were omitted.**]**

Textual Amendments

F23 Sch. 15 para. 16 substituted (with application in accordance with art. 1(4) of the amending S.I.) by The Building Societies (Floating Charges and Other Provisions) Order 2016 (S.I. 2016/679), arts. 1(1), **2**

17 Section 124 (application for winding up) of the Act does not apply.

18 (1) In section 125 (powers of court on hearing of petition) of the Act, subsection (1) applies with the omission of the words from "but the court" to the end of the subsection.

(2) The conditions which the court may impose under section 125 of the Act include conditions for securing—

(a) that the building society be dissolved by consent of its members under section 87, or

(b) that the society amalgamates with, or transfers its engagements to, another building society under section 93 or 94, or

(c) that the society transfers its business to a company under section 97,

and may also include conditions for securing that any default which occasioned the petition be made good and that the costs, or in Scotland the expenses, of the proceedings on that petition be defrayed by the person or persons responsible for the default.

19 Section 126 (power of court, between petition and winding up order, to stay or restrain proceedings against company) of the Act has effect with the omission of subsection (2).

20 If, before the presentation of a petition for the winding up by the court of a building society, an instrument of dissolution under section 87 is placed in the society's public file, section 129(1) (commencement of winding up by the court) of the Act shall also apply in relation to the date on which the instrument is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.

21 (1) Section 130 of the Act (consequences of winding-up order) shall have effect with the following modifications.

(2) Subsections (1) and (3) shall be omitted.

(3) A building society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order **[**[F24]to the FCA and, if the society is a PRA-authorised person, the PRA**]** ; and the **[**[F25]FCA must**]** keep the notice in the public file of the society.

(4) If a building society fails to comply with sub-paragraph (3) above, it shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and so shall any officer who is also guilty of the offence.

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Textual Amendments

F24 Word in Sch. 15 para. 21(3) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 57(4)(a)** (with Sch. 12)

F25 Word in Sch. 15 para. 21(3) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 57(4)(b)** (with Sch. 12)

22 Section 140 (appointment of liquidator by court in certain circumstances) of the Act does not apply.

23 In the application of sections 141(1) and 142(1) (liquidation committees), of the Act to building societies, the references to functions conferred on a liquidation committee by or under that Act shall have effect as references to its functions by or under that Act as so applied.

[[F26]23A. Section 143 (general functions of liquidator in winding up by the court) of the Act has effect as if after subsection (1) there were inserted—

"(1A) Subject to the provisions of Part 4 relating to preferential payments, a building society's property in the winding up shall be applied in satisfaction of the society's liabilities to creditors pari passu and, subject to that application, in accordance with the rules of the society.

(1B) In subsection (1A) the reference to the society's liabilities to creditors includes a reference to the society's liabilities to shareholding members of the society in respect of deposits which are not relevant deposits."**]**

Textual Amendments

F26 Sch. 15 para. 23A inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **33(5)** (with art. 3)

24 The conditions which the court may impose under section 147 (power to stay or sist winding up) of the Act shall include those specified in paragraph 18(2) above.

25 Section 154 (adjustment of rights of contributories) of the Act shall have the effect with the modification that any surplus is to be distributed in accordance with the rules of the society.

[F27]26 . . . . . .

Textual Amendments

F27 Sch. 15 para. 26 repealed (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 1(3)(a), Sch. 4 para. 49(1), **Sch. 5** (with art. 12, Sch. 4 para. 49(2))

Winding up: general

27 Section 187 (power to make over assets to employees) of the Act does not apply.

28 (1) In section 201 (dissolution: voluntary winding up) of the Act, subsection (2) applies without the words from "and on the expiration" to the end of the subsection and, in subsection (3), the word "However" shall be omitted.

Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) Sections 202 to 204 (early dissolution) of the Act do not apply.

29 In section 205 (dissolution: winding up by the court) of the Act, subsection (2) applies with the omission of the words from "and, subject" to the end of the subsection; and in subsections (3) and (4) references to the Secretary of State shall have effect as references to the **[**[F28]appropriate authority**]** .

Textual Amendments

F28 Words in Sch. 15 para. 29 substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 57(5)** (with Sch. 12)

Penal provisions

30 Sections 216 and 217 of the Act (restriction on re-use of name) do not apply.

31 (1) Sections 218 and 219 (prosecution of delinquent officers) of the Act do not apply in relation to offences committed by members of a building society acting in that capacity.

(2) Sections 218(5) of the Act and subsections (1) and (2) of section 219 of the Act do not apply.

(3) The references in subsections (3) and (4) of section 219 of the Act to the Secretary of State shall have effect as references to the **[**[F29]FCA**]** ; and the reference in subsection (3) to subsection 218 of the Act shall have effect as a reference to that section as supplemented by paragraph 32 below.

Textual Amendments

F29 Word in Sch. 15 para. 31 substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 57(6)** (with Sch. 12)

32 (1) Where a report is made to the prosecuting authority (within the meaning of section 218) under section 218(4) of the Act, in relation to an officer of a building society, he may, if he thinks fit, refer the matter to the **[**[F30]FCA**]** for further enquiry.

(2) On such a reference to it the **[**[F30]FCA**]** shall exercise its power under section 55(1) of this Act to appoint one or more investigators to investigate and report on the matter.

(3) An answer given by a person to a question put to him in exercise of the powers conferred by section 55 on a person so appointed may be used in evidence against the person giving it.

Textual Amendments

F30 Word in Sch. 15 para. 32 substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 57(7)** (with Sch. 12)

Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[F31 Protection of supplies

Textual Amendments

F31 Sch. 15 para. 32A and cross-heading inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 12 para. 2** (with ss. 2(2), 5(2), 14(4))

32A Section 233B of the Act (protection of supplies of goods and services) does not apply.**]**

Preferential debts

33 Section 387 (meaning in Schedule 6 of "the relevant date") of the Act applies with the omission of subsections (2) and (4) to (6).

[F32 Insolvency practitioners: their qualification and regulation

Textual Amendments

F32 Sch. 15 paras. 33A, 33B and cross-heading inserted (7.4.2017) by The Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the Insolvency (Amendment) Act (Northern Ireland) 2016 (Consequential Amendments and Transitional Provisions) Regulations 2017 (S.I. 2017/400), regs. 1(2), **2(3)(d)**

33A. Section 390 of the Act (persons not qualified to act as insolvency practitioners) has effect as if for subsection (2) there were substituted—

"(2) A person is not qualified to act as an insolvency practitioner in relation to a building society at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.".

33B. (1) In the following provisions of the Act, in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies, the reference to companies has effect without the modification in paragraph 3(1)(a) above—

(a) sections 390A and 390B(1) and (3) (authorisation of insolvency practitioners); and

(b) sections 391O(1)(b) and 391R(3)(b) (court sanction of insolvency practitioners in public interest cases).

(2) In sections 391Q(2)(b) (direct sanctions order: conditions) and 391S(3)(e) (power for Secretary of State to obtain information) of the Act the reference to a company has effect without the modification in paragraph 3(1)(a) above.**]**

Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[[F33]PART III

MODIFIED APPLICATION OF INSOLVENCY (NORTHERN IRELAND) ORDER 1989

Textual Amendments

F33 Sch. 15 paras. 34-55E substituted (N.I.) (1.10.1991) for Sch. 15 paras. 34-55 by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(c)**; S.R. 1991/411, **art. 2**

PARTS V [[F34], 11 AND 12]

Textual Amendments

F34 Words in Sch. 15 Pt. III heading substituted (7.4.2017) by The Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the Insolvency (Amendment) Act (Northern Ireland) 2016 (Consequential Amendments and Transitional Provisions) Regulations 2017 (S.I. 2017/400), regs. 1(2), **2(3)(e)**

Preliminary

34 In this Part of this Schedule, Part V of the Insolvency (Northern Ireland) Order 1989 is referred to as "Part V", that Order is referred to as "the Order" and references to "Articles" are references to Articles of that Order.

[[F35]34A. In the following provisions a reference to the creditors, general creditors or unsecured creditors of a company includes a reference to every shareholding member of the building society to whom a sum due from the society in relation to the member's shareholding is due in respect of a deposit—

(a) paragraph (1) of Article 121 (general functions of liquidator in winding up by the High Court);

(b) paragraph (3) of Article 127 (debts due from contributory to company);

(c) paragraph (4) of Article 143 (supplementary powers);

(d) paragraph (2)(b) of Article 149 (preferential debts (general provision));

(e) paragraph (1) of Article 150ZA (payment of expenses of winding up); [F36]...

(f) paragraphs (3)(b) and (5)(a) of Article 150A (share of assets for unsecured creditors);

[[F37](g) paragraph (1)(e) of Article 350O (direct sanctions orders);

(h) paragraph (5) of Article 350Q (direct sanctions order: conditions); and

(i) paragraph (3)(e) of Article 350R (direct sanctions direction instead of order).]]

Textual Amendments

F35 Sch. 15 para. 34A inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **34(2)** (with art. 3)

F36 Word in Sch. 15 para. 34A omitted (7.4.2017) by virtue of The Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the Insolvency (Amendment) Act (Northern Ireland)

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2016 (Consequential Amendments and Transitional Provisions) Regulations 2017 (S.I. 2017/400), regs. 1(2), **2(3)(f)**

F37 Sch. 15 para. 34A(g)-(i) inserted (7.4.2017) by The Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the Insolvency (Amendment) Act (Northern Ireland) 2016 (Consequential Amendments and Transitional Provisions) Regulations 2017 (S.I. 2017/400), regs. 1(2), **2(3)(f)**

Members of a building society as contributories in winding up

35 (1) Article 61 (liability of members) is modified as follows.

(2) In paragraph (1), the reference to any past member shall be omitted.

(3) Sub-paragraphs (*a*) to (*d*) of paragraph (2) shall be omitted; and so shall paragraph (3).

F38 (3A) **[** In sub-paragraph (f) of paragraph (2) the reference to a sum due to a member of the company by way of dividends, profits or otherwise does not include a sum due to a shareholding member of a building society in respect of a deposit.**]**

(4) The extent of the liability of a member of a building society in a winding up shall not exceed the extent of his liability under paragraph 6 of Schedule 2 to this Act.

Textual Amendments

F38 Sch. 15 para. 35(3A) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **34(3)** (with art. 3)

36 Articles 62 to 65 and 69 in Chapter I of Part V (miscellaneous provisions not relevant to building societies) do not apply.

37 In the enactments as applied to a building society, "contributory"—

(a) means every person liable to contribute to the assets of the society in the event of its being wound up, and

(b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory, and

(c) includes persons who are liable to pay or contribute to the payment of—

(i) any debt or liability of the building society being wound up, or

(ii) any sum for the adjustment of rights of members among themselves, or

(iii) the expenses of the winding up;

but does not include persons liable to contribute by virtue of a declaration by the Court under Article 177 (imputed responsibility for fraudulent trading) or Article 178 (wrongful trading).

Voluntary winding up

38 (1) Article 70 does not apply.

(2) In the enactments as applied to a building society, the expression "resolution for voluntary winding up" means a resolution passed under section 88(1) of this Act.

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39 In paragraph (1) of Article 87 (appointment of liquidation committee), the reference to functions conferred on a liquidation committee by or under the Order shall have effect as a reference to its functions by or under the Order as applied to building societies.

40 (1) Article 93 (distribution of property) does not apply; and the following applies in its place.

(2) Subject to the provisions of Part V relating to preferential payments, a building society's property in a voluntary winding up shall be applied in satisfaction of the society's liabilities to creditors (including any liability resulting from the variation to the liquidator's duty effected by section 28 or 31 of this Act) pari passu and, subject to that application, in accordance with the rules of the society.

[F39(3) In sub-paragraph (2) the reference to the society's liabilities to creditors includes a reference to the society's liabilities to shareholding members of the society in respect of deposits which are not relevant deposits.**]**

Textual Amendments

F39 Sch. 15 para. 40(3) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **34(4)** (with art. 3)

41 Articles 96 and 97 (liquidator accepting shares, etc, as consideration for sale of company property) do not apply.

42 Article 101 (saving for certain rights) shall also apply in relation to the dissolution by consent of a building society as it applies in relation to its voluntary winding up.

Winding up by the High Court

43 Article 102 (circumstances in which company may be wound up by the High Court) does not apply.

44 Article 104 (application for winding up) does not apply.

45 (1) In Article 105 (powers of High Court on hearing of petition), paragraph (1) applies with the omission of the words from "but the Court" to the end of the paragraph.

(2) The conditions which the High Court may impose under Article 105 include conditions for securing—

(a) that the building society be dissolved by consent of its members under section 87, or

(b) that the society amalgamates with, or transfers its engagements to, another building society under section 93 or 94, or

(c) that the society transfers its business to a company under section 97,

and may also include conditions for securing that any default which occasioned the petition be made good and that the costs of the proceedings on that petition be defrayed by the person or persons responsible for the default.

46 Article 106 (power of High Court, between petition and winding-up order, to stay or restrain proceedings against company) has effect with the omission of paragraph (2).

47 If, before the presentation of a petition for the winding up by the High Court of a building society, an instrument of dissolution under section 87 is placed in

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the society's public file, Article 109(1) (commencement of winding up by the High Court) shall also apply in relation to the date on which the instrument is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.

48 (1) Article 110 (consequences of winding-up order) shall have effect with the following modifications.

(2) Paragraphs (1) and (3) shall be omitted.

(3) A building society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order **[**[F40]to the FCA and, if the society is a PRA-authorised person, the PRA**]** ; and **[**[F41]the FCA must**]** keep the notice in the public file of the society.

(4) If a building society fails to comply with sub-paragraph (3) above, it shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and so shall any officer who is also guilty of the offence.

Textual Amendments

F40 Words in Sch. 15 para. 48(3) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 57(8)(a)** (with Sch. 12)

F41 Words in Sch. 15 para. 48(3) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 57(8)(b)** (with Sch. 12)

49 Article 119 (appointment of liquidator by High Court in certain circumstances) does not apply.

50 In the application of Article 120(1) (liquidation committee) to building societies, the references to functions conferred on a liquidation committee by or under the Order shall have effect as references to its function by or under the Order as so applied.

[[F42]50A. Article 121 (general functions of liquidator in winding up by the High Court) of the Order has effect as if after paragraph (1) there were inserted—

"(1A) Subject to the provisions of Part V relating to preferential payments, a building society's property in the winding up shall be applied in satisfaction of the society's liabilities to creditors pari passu and, subject to that application, in accordance with the rules of the society.

(1B) In paragraph (1A) the reference to the society's liabilities to creditors includes a reference to the society's liabilities to shareholding members of the society in respect of deposits which are not relevant deposits."**]**

Textual Amendments

F42 Sch. 15 para. 50A inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **34(5)** (with art. 3)

51 The conditions which the High Court may impose under Article 125 (power to stay winding up) shall include those specified in paragraph 45(2) above.

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52 Article 132 (adjustment of rights of contributories) shall have effect with the modification that any surplus is to be distributed in accordance with the rules of the society.

[F43]53 . . . . . .

Textual Amendments

F43 Sch. 15 para. 53 repealed (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 1(3)(a), Sch. 4 para. 49(1), **Sch. 5** (with art. 12, Sch. 4 para. 49(2))

Winding up: general

54 Article 158 (power to make over assets to employees) does not apply.

55 (1) In Article 166 (dissolution: voluntary winding up), paragraph (2) applies without the words from "and on the expiration" to the end of the paragraph and, in paragraph (3), the word "However" shall be omitted.

(2) Articles 167 and 168 (early dissolution) do not apply.

55A In Article 169 (dissolution: winding up by the High Court) paragraph (1) applies with the omission of the words from "and, subject" to the end of the paragraph; and in paragraphs (2) and (3) references to the **[**[F44]appropriate authority**]** .

Textual Amendments

F44 Words in Sch. 15 para. 55A substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 57(9)** (with Sch. 12)

Penal provisions

55B Articles 180 and 181 (restriction on re-use of name) do not apply.

55C (1) Articles 182 and 183 (prosecution of delinquent officers) do not apply in relation to offences committed by members of a building society acting in that capacity.

(2) Article 182(4) and paragraphs (1) and (2) of Article 183 do not apply.

(3) The references in paragraphs (3) and (5) of Article 183 to the Department shall have effect as references to the **[**[F45]FCA**]** ; and the reference in paragraph (3) to Article 182 shall have effect as a reference to that Article as supplemented by paragraph 55D below.

Textual Amendments

F45 Word in Sch. 15 para. 55C substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 57(10)** (with Sch. 12)

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55D (1) Where a report is made to the prosecuting authority (within the meaning of Article 182) under Article 182(3), in relation to an officer of a building society, he may, if he thinks fit, refer the matter to the **[**[F46]FCA**]** for further enquiry.

(2) On such a reference to it the **[**[F46]FCA**]** shall exercise its power under section 55(1) of this Act to appoint one or more investigators to investigate and report on the matter.

(3) An answer given by a person to a question put to him in exercise of the powers conferred by section 55 on a person so appointed may be used in evidence against the person giving it.

Textual Amendments

F46 Word in Sch. 15 para. 55D substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 57(11)** (with Sch. 12)

[[F47]Protection of supplies

Textual Amendments

F47 Sch. 15 para. 55DA and cross-heading inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 13 para. 2** (with ss. 2(2), 5(2), 18(4))

55DA Article 197B (protection of supplies of goods and services) does not apply.**]**

Preferential debts

55E Article 347 (meaning in Schedule 4 of "the relevant date") applies with the omission of paragraphs (2) and (4) to (6).**]**

[[F48]Insolvency practitioners: their qualification and regulation

Textual Amendments

F48 Sch. 15 paras. 55F, 55G and cross-heading inserted (7.4.2017) by The Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the Insolvency (Amendment) Act (Northern Ireland) 2016 (Consequential Amendments and Transitional Provisions) Regulations 2017 (S.I. 2017/400), regs. 1(2), **2(3)(g)**

55F. Article 349 (persons not qualified to act as insolvency practitioners) has effect as if for paragraph (2) there were substituted—

"(2) A person is not qualified to act as an insolvency practitioner in relation to a building society at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.".

55G. (1) In the following provisions of the Order, in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies, the reference to companies has effect without the modification in paragraph 3(1)(a) above—

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(a) Articles 349A and 349B(1) and (3) (authorisation of insolvency practitioners); and

(b) Articles 350O(1)(b) and 350R(3)(b) (court sanction of insolvency practitioners in public interest cases).

(2) In Articles 350Q(2)(b) (direct sanctions order: conditions) and 350S(3)(e) (power for Department to obtain information) the reference to a company has effect without the modification in paragraph 3(1)(a) above.**]**

PART IV

DISSOLUTION OF BUILDING SOCIETY WOUND UP (ENGLAND AND WALES, SCOTLAND AND NORTHERN IRELAND)

56 (1) Where a building society has been wound up voluntarily, it is dissolved as from 3 months from the date of the placing in the public file of the society of the return of the final meetings of the society and its creditors made by the liquidator under—

(a) section 94 or (as the case may be) 106 of the [M3]Insolvency Act 1986 (as applied to building societies), or on such other date as is determined in accordance with section 201 of that Act, or

(b) Article **[**[F49]80 or (as the case may be) 92 of the Insolvency (Northern Ireland) Order 1989**]**(as so applied), or on such other date as is determined in accordance with that Article,

as the case may be.

(2) Where a building society has been wound up by the court, it is dissolved as from 3 months from the date of the placing in the public file of the society of—

(a) the liquidator's notice under section 172(8) of the [M4]Insolvency Act 1986 (as applied to building societies) **[**[F50]or, as the case may be, Article 146(7) of the Insolvency (Northern Ireland) Order 1989 (as applied to building societies)**]**, or

(b) the notice of the completion of the winding up from the official receiver or the **[**[F51]official receiver for Northern Ireland**]**,

or on such other date as is determined in accordance with section 205 of that Act **[**[F52]or Article 169 of that Order**]**, as the case may be.

Textual Amendments

F49 Words in Sch. 15 para. 56(1)(b) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(d)(i)**; S.R. 1991/411, **art. 2**

F50 Words in Sch. 15 para. 56(2)(a) inserted (N.I.) (1.10.191) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(d)(ii)**; S.R. 1991/411, **art. 2**

F51 Words in Sch. 15 para. 56(2)(b) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(d)(iii)**; S.R. 1991/411, **art. 2**

F52 Words in Sch. 15 para. 56(2) inserted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(d)(iv)**; S.R. 1991/411, **art. 2**

Marginal Citations

M3 1986 c. 45

Changes to legislation: *Building Societies Act 1986, SCHEDULE 15 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

M4 1986 c. 45.

57 **[**[F53](1) Sections 1012 to 1023 and 1034 of the Companies Act 2006 (property of dissolved company) apply in relation to the property of a dissolved building society (whether dissolved under section 87 or following its winding up) as they apply in relation to the property of a dissolved company.**]**

(2) Paragraph 3(1) above shall apply to those sections for the purpose of their application to building societies.

[[F54](3) Any reference in those sections to restoration to the register shall be read as a reference to the effect of an order under section 91 of this Act.**]**

Textual Amendments

F53 Sch. 15 para. 57(1) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 87(11)(b)(i)** (with art. 10)

F54 Sch. 15 para. 57(3) substituted for Sch. 15 para. 57(3)(4) (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 87(11)(c)** (with art. 10)

Insolvency rules and fees: England and Wales and Scotland

58 (1) Rules may be made under section 411 of the Insolvency Act for the purpose of giving effect, in relation to building societies, to the provisions of the applicable winding up legislation.

(2) An order made by the competent authority under section 414 of the Insolvency Act 1986 may make provision for fees to be payable under that section in respect of proceedings under the applicable winding up legislation and the performance by the official receiver or the Secretary of State of functions under it.

Insolvency rules and fees: Northern Ireland

59 (1) Rules may be made under **[**[F55]Article 359 of the Insolvency (Northern Ireland) Order 1989**]** for the purpose of giving effect in relation to building societies, to the provisions of the applicable winding up legislation.

[[F56](2) An order made by the Department of Economic Development under Article 361 of the Insolvency (Northern Ireland) Order 1989 may make provision for fees to be payable under that Article in respect of proceedings under the applicable winding-up legislation and the performance by the official receiver for Northern Ireland or that Department of functions under it.**]**

Textual Amendments

F55 Words in Sch. 15 para. 59(1) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(e)(i)**; S.R. 1991/411, **art. 2**

F56 Sch. 15 para. 59(2) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(e)(ii)**; S.R. 1991/411, **art. 2**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(11)-(14) inserted by 2007 c. 26 s. 1(2)
- s. 5(13)(a) substituted by S.I. 2013/496 Sch. 8 para. 4(4)
- s. 7(6A)-(6C) inserted by 2007 c. 26 s. 1(1)(a)
- s. 7(8A) inserted by 2007 c. 26 s. 1(1)(c)
- s. 176ZB excluded by S.I. 2017/400 reg. 14
- s. 246ZA-246ZC excluded by S.I. 2017/400 reg. 15
- s. 246ZD excluded by S.I. 2017/400 reg. 16