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## STATUTORY INSTRUMENTS

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### 2004 No. 353

## The Insurers (Reorganisation and Winding Up) Regulations 2004

### PART III

#### MODIFICATIONS OF THE LAW OF INSOLVENCY: NOTIFICATION AND PUBLICATION

##### Notification to creditors: winding up proceedings

**12.—**(1) When a relevant order or appointment is made, or a relevant decision is taken, in relation to a UK insurer on or after 20th April 2003, the appointed officer must as soon as is reasonably practicable—

- (a) notify all known creditors of that insurer in writing of—
  - (i) the matters mentioned in paragraph (4), and
  - (ii) the matters mentioned in paragraph (5); and
- (b) notify all known insurance creditors of that insurer in writing of the matters mentioned in paragraph 6,

in any case.

(2) The appointed officer may comply with the requirement in paragraph (1)(a)(i) and the requirement in paragraph (1)(a)(ii) by separate notifications.

(3) For the purposes of this regulation—

- (a) “relevant order” means—
  - (i) an administration order made under section 8 of the 1986 Act before 15th September 2003, or made on or after that date under paragraph 13 of Schedule B1 in the prescribed circumstances [<sup>F1</sup>or under paragraph 14 of Schedule B1 to the 1989 Order in the prescribed circumstances],
  - (ii) a winding up order under section 125 of the 1986 Act (powers of the court on hearing a petition) or Article 105 of the 1989 Order (powers of High Court on hearing of petition),
  - (iii) the appointment of a liquidator in accordance with section 138 of the 1986 Act (appointment of a liquidator in Scotland), and
  - (iv) an order appointing a provisional liquidator in accordance with section 135 of that Act or Article 115 of the 1989 Order;
- (b) “relevant appointment” means the appointment of a liquidator as mentioned in section 100 of the 1986 Act or Article 86 of the 1989 Order (appointment of liquidator in a creditors' voluntary winding up); and
- (c) “relevant decision” means a decision as a result of which a qualifying voluntary arrangement has effect.

(4) The matters which must be notified to all known creditors in accordance with paragraph (1)(a)(i) are as follows—

- (a) that a relevant order or appointment has been made, or a relevant decision taken, in relation to the UK insurer; and
- (b) the date from which that order, appointment or decision has effect.

(5) The matters which must be notified to all known creditors in accordance with paragraph (1)(a)(ii) are as follows—

- (a) if applicable, the date by which a creditor must submit his claim in writing;
- (b) the matters which must be stated in a creditor's claim;
- (c) details of any category of debt in relation to which a claim is not required;
- (d) the person to whom any such claim or any observations on a claim must be submitted; and
- (e) the consequences of any failure to submit a claim by any specified deadline.

(6) The matters which must be notified to all known insurance creditors, in accordance with paragraph (1)(b), are as follows—

- (a) the effect which the relevant order, appointment or decision will, or is likely, to have on the kind of contract of insurance under, or in connection with, which that creditor's insurance claim against the insurer is founded; and
- (b) the date from which any variation (resulting from the relevant order or relevant decision) to the risks covered by, or the sums recoverable under, that contract has effect.

(7) <sup>F2</sup>... Where a creditor is notified in accordance with paragraph (1)(a)(ii), the notification must be headed with the words "Invitation to lodge a claim: time limits to be observed" <sup>F2</sup>...

<sup>F3</sup>(8) .....

(9) The obligation under paragraph (1)(a)(ii) may be discharged by sending a form of proof in accordance with <sup>F4</sup>... Rule 4.080 of the Insolvency Rules (Northern Ireland) [<sup>F5</sup>in cases where those rules apply], provided that the form of proof complies with paragraph (7) or (8) (whichever is applicable).

[<sup>F6</sup>(10) The prescribed circumstances are where the administrator includes in the statement required under [<sup>F7</sup>rule 3.3] of the Insolvency Rules or under Rule 2.003 of the Insolvency Rules (Northern Ireland) a statement to the effect that the objective set out in paragraph 3(1)(a) of Schedule B1 or in paragraph 4(1)(a) of Schedule B1 to the 1989 Order is not reasonably likely to be achieved.]

(11) Where, after the appointment of an administrator, the administrator concludes that it is not reasonably practicable to achieve the objective specified in paragraph 3(1)(a) of Schedule B1 [<sup>F8</sup>or in paragraph 4(1)(a) of Schedule B1 to the 1989 Order], he shall inform the court [<sup>F9</sup>, the FCA and, if the insurer is a PRA-authorised person, the PRA] in writing of that conclusion and upon so doing the order by which he was appointed shall be a relevant order for the purposes of this regulation and the obligation under paragraph (1) shall apply as from the date on which he so informs the court [<sup>F9</sup>, the FCA and, if the insurer is a PRA-authorised person, the PRA].

(12) An appointed officer commits an offence if he fails without reasonable excuse to comply with an applicable requirement under this regulation, and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(13) For the purposes of this regulation—

- (a) "appointed officer" means—
  - (i) in the case of a relevant order falling within paragraph (3)(a)(i) or a relevant appointment falling within paragraph (3)(b)(i), the administrator,

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Insurers (Reorganisation and Winding Up) Regulations 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (ii) in the case of a relevant order falling within paragraph (3)(a)(ii) or (iii) or a relevant appointment falling within paragraph (3)(b)(ii), the liquidator,
- (iii) in the case of a relevant order falling within paragraph (3)(a)(iv), the provisional liquidator, or
- (iv) in the case of a relevant decision, the supervisor; and
- (b) a creditor is a “known” creditor if the appointed officer is aware, or should reasonably be aware of—
  - (i) his identity,
  - (ii) his claim or potential claim, and
  - (iii) a recent address where he is likely to receive a communication.

(14) For the purposes of paragraph (3), and of regulations 13 and 14, a voluntary arrangement is a qualifying voluntary arrangement if its purposes include a realisation of some or all of the assets of the UK insurer to which the order relates and a distribution of the proceeds to creditors, with a view to terminating the whole or any part of the business of that insurer.

- F1** Words in reg. 12(3)(a)(i) added (6.4.2007) by [The Insurers \(Reorganisation and Winding Up\) \(Amendment\) Regulations 2007 \(S.I. 2007/851\)](#), regs. 1, **2(8)**
- F2** Words in reg. 12(7) omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **2(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Reg. 12(8) omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **2(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in reg. 12(9) omitted (23.4.2019) by virtue of [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **4(4)(a)(i)**
- F5** Words in reg. 12(9) substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **4(4)(a)(ii)**
- F6** Reg. 12(10) substituted (6.4.2007) by [The Insurers \(Reorganisation and Winding Up\) \(Amendment\) Regulations 2007 \(S.I. 2007/851\)](#), regs. 1, **2(9)**
- F7** Words in reg. 12(10) substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **4(4)(b)**
- F8** Words in reg. 12(11) inserted (6.4.2007) by [The Insurers \(Reorganisation and Winding Up\) \(Amendment\) Regulations 2007 \(S.I. 2007/851\)](#), regs. 1, **2(10)**
- F9** Words in reg. 12(11) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 88(f)**

#### Modifications etc. (not altering text)

- C1** Reg. 12 applied (with modifications) (10.8.2005) by [The Insurers \(Reorganisation and Winding Up\) \(Lloyd's\) Regulations 2005 \(S.I. 2005/1998\)](#), regs. 1, **36(1)-(7)** (with reg. 32) (as amended by [S.I. 2018/208](#), regs. 1(3), 10(9) (with reg. 21); [S.I. 2019/755](#), regs. 1, 6(3))

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Regulations power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 2](#)
- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)