

SCHEDULE

Article 3

MODIFICATIONS OF PART 2 OF THE INSOLVENCY ACT IN ITS APPLICATION TO COMPANIES THAT ARE FORMER AUTHORISED INSTITUTIONS

1. References to a numbered paragraph in this Schedule are references to the paragraph so numbered in Schedule B1 to the Insolvency Act 1986(1).

2. In their application to a person falling within article 3(1), section 8 of, and Schedule B1 to, the 1986 Act shall apply subject to the modifications set out below.

3. Paragraph 9 shall apply with the omission of sub-paragraph (1).

4. For paragraph 12(1) there is substituted—

“12.—(1) An application to the court for an administration order in respect of a company (“an administration application”) may be made only by—

- (a) the company,
- (b) the directors of the company,
- (c) one or more creditors of the company,
- (d) the Financial Services Authority,
- (e) the designated officer for a magistrates’ court in exercise of the power conferred by section 87A of the Magistrates’ Courts Act 1980 (c.43) (fine imposed on company), or
- (f) a combination of persons listed in paragraphs (a) to (e).

(1A) Where an administration application is made to which the Financial Services Authority is not a party, the applicant shall, as soon as is reasonably practicable after the making of the application give notice of the making of the application to the Financial Services Authority.”.

5. For paragraph 22 there is substituted—

“22.—(1) Subject as set out in this paragraph—

- (a) a company may appoint an administrator; and
- (b) the directors of a company may appoint an administrator .

(2) An administrator may not be appointed under this paragraph without the consent in writing of the Financial Services Authority.

(3) The written consent under paragraph (2) must be filed in court—

- (a) at the same time that any notice of intention to appoint under paragraph 26 is filed in court pursuant to paragraph 27; or
- (b) where no such notice of intention to appoint is required to be given, at the same time that notice of appointment is filed under paragraph 29.”.

6. After paragraph 91 there is inserted—

“91A. Where the administrator was appointed by administration order, the court may replace the administrator on an application under this paragraph made by the Financial Services Authority.

(1) Section 8 of the Insolvency Act 1986 was substituted by section 248(1) of the Enterprise Act 2002 (c.40) and Schedule B1 was inserted into the 1986 Act by section 248(2).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

91B. Where the administrator was appointed otherwise than by administration order any replacement administrator may only be appointed with the consent of the Financial Services Authority.”.

7. After paragraph 116 there is inserted—

“Miscellaneous - Powers of the Financial Services Authority

117.—(1) In this paragraph “the Authority” means the Financial Services Authority.

(2) The Authority is entitled to be heard at the hearing of an administration application or at any other court hearing in relation to the company pursuant to any provision of Schedule B1.

(3) Any notice or other document required to be sent to a creditor of the company must also be sent to the Authority.

(4) The Authority may apply to the court under paragraph 74 and in such a case paragraphs 74(1)(a) and 74(1)(b) shall have effect as if for the words “harm the interests of the applicant (whether alone or in common with some or all other members or creditors)” there were substituted the words “harm the interests of some or all members or creditors”.

(5) A person appointed for the purpose by the Authority is entitled—

- (a) to attend any meeting of creditors of the company summoned under this Act;
- (b) to attend any meeting of a committee established under paragraph 57; and
- (c) to make representations as to any matter for decision at such a meeting.””