

SCHEDULE 1

Modified application of Parts 1 and 2 of the Insolvency Act 1986 to relevant societies

PART 4

Modified application of Schedule 1 to the Insolvency Act 1986 to relevant societies (further modifications)

35. Schedule 1 to the 1986 Act⁽¹⁾ applies in relation to a relevant society with the further modifications set out in this Part and with any other necessary modification.

36. This Part has effect without limiting paragraph 26 of this Schedule.

37. In this Part—

- (a) a reference to a numbered paragraph is a reference to the paragraph so numbered in Schedule 1 to the 1986 Act;
- (b) “the 1979 Act” means the Credit Unions Act 1979⁽²⁾; and
- (c) “credit union” has the meaning given in section 31(1) of the 1979 Act.

38. Paragraph 3 (power to borrow) has effect as if it provided that power to raise or borrow money and grant security over the property of the society—

- (a) in the case of a credit union, is subject to—
 - (i) the provisions of the 1967 Act;
 - (ii) section 7 (shares)⁽³⁾, section 7A (power to issue interest-bearing shares)⁽⁴⁾ and section 8 (general prohibition on deposit-taking)⁽⁵⁾ of the 1979 Act; and
 - (iii) the rules of the society containing provision in respect of the matters mentioned in paragraph 7 of Schedule 1 to the 1979 Act (determination of the maximum amount of the interest in the shares of the society which may be held by any member);
- (b) in the case of a relevant society which is not a credit union, is subject to—
 - (i) section 6 (maximum shareholding in society)⁽⁶⁾ and section 7 (carrying on of banking by societies)⁽⁷⁾ of the 1965 Act;
 - (ii) the provisions of the 1967 Act; and
 - (iii) the rules of the society containing provision in respect of the matters mentioned in paragraph 7 (determination of the maximum amount of a member’s interest in shares) and paragraph 8 (determination whether the society may contract loans or receive deposits) of Schedule 1 to the 1965 Act; and
- (c) in either such case, is subject to such other enactments and such rules of the society as govern or restrict the exercise of that power.

39. Paragraphs 15 (power to establish subsidiaries) and 16 (power to transfer property to subsidiaries) do not apply in relation to credit unions.

⁽¹⁾ Paragraph 2 of Schedule 1 was amended by the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), section 76(2) and Schedule 13, Part 1.

⁽²⁾ 1979 c. 34.

⁽³⁾ Section 7 was amended by S.I. 2011/2687.

⁽⁴⁾ Section 7A was inserted by S.I. 2011/2687.

⁽⁵⁾ Section 8 was amended by S.I. 2002/1501.

⁽⁶⁾ Section 6 was amended by S.I. 1997/627, 2011/2687 and 2014/210.

⁽⁷⁾ Section 7 was amended by the Criminal Procedure (Scotland) Act 1975 (c. 21), section 289G, by the Criminal Justice Act 1982 (c. 48), section 46, and by S.I. 1981/394.

Status: This is the original version (as it was originally made).

40. Paragraph 16 has effect in relation to a relevant society other than a credit union as if—

- (a) the reference to subsidiaries were a reference to subsidiaries within the meaning given in section 15 of the Friendly and Industrial and Provident Societies Act 1968⁽⁸⁾; and
- (b) it provided that power to transfer to subsidiaries of the society the whole or any part of the business or property of the society is only exercisable in accordance with a special resolution under section 51 or 52 of the 1965 Act (as modified in relation to a relevant society by articles 14 and 15).

⁽⁸⁾ 1968 c. 55.