
STATUTORY INSTRUMENTS

2020 No. 1350

**The Bank Recovery and Resolution
(Amendment) (EU Exit) Regulations 2020**

PART 5

Other Provision made under the European Communities Act 1972

CHAPTER 5

Amendments to priority of debts in insolvency

Transitional provision

108.—(1) This Chapter has no effect in relation to insolvency proceedings which are commenced before the date on which it comes into force or which are commenced after IP completion day.

(2) For this purpose—

(a) “insolvency proceedings” means—

- (i) proceedings under the Insolvency Act 1986⁽¹⁾;
- (ii) proceedings under the Insolvency (Northern Ireland) Order 1989⁽²⁾;
- (iii) proceedings under the Insolvent Partnerships Order 1994⁽³⁾;
- (iv) proceedings under the Insolvent Partnerships Order (Northern Ireland) 1995⁽⁴⁾;
- (v) proceedings under Part 2 or 3 of the Banking Act 2009 (including proceedings under either of those Parts as applied to building societies by section 90C of the Building Societies Act 1986⁽⁵⁾);
- (vi) proceedings under the Investment Bank Special Administration Regulations 2011⁽⁶⁾; or
- (vii) proceedings under the Bankruptcy (Scotland) Act 2016⁽⁷⁾;

(b) insolvency proceedings commence on—

- (i) the date of presentation of a petition for a winding-up order, bank insolvency order, special administration (bank insolvency) order, building society insolvency order, bankruptcy order or award of sequestration;

(1) 1986 c.45.

(2) S.I. 1989/2045 (N.I.19); amended by the Insolvency (Northern Ireland) Order 2002 (S.I. 2002 No. 3152 (N.I. 6)), S.R. 2004 No. 307, the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I.10)), S.I. 2014 No. 3486, paragraph 83 of schedule 29 to the Civil Partnership Act 2004 (c.33), S.I. 2018/1244, the Corporate Insolvency and Governance Act 2020 (c.12); there are other amending instruments but none is relevant.

(3) S.I. 1994/2421, amended by S.I. 2002/2708, S.I. 2005/1516, S.I. 2014/3486, S.I. 2017/1119 and S.I. 2018/1244; there are other amending instruments but none is relevant.

(4) S.R. (N.I.) 1995 No.225.

(5) 1986 c.53; Section 90C was inserted by S.I. 2009/805.

(6) S.I. 2011/245; amended by S.I. 2017/400; there are other amending instruments but none is relevant.

(7) 2016 asp 21.

- (ii) the date on which an application is made for an administration order, bank administration order, investment bank special administration order, special administration (bank administration) order or building society special administration order;
- (iii) the date on which notice of appointment of an administrator is given under paragraph 18 or 29 of Schedule B1 to the Insolvency Act 1986⁽⁸⁾ or paragraph 19 or 30 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989⁽⁹⁾;
- (iv) the date on which a proposal is made by the directors of a company for a company voluntary arrangement under Part 1 of the Insolvency Act 1986 or Part 2 of the Insolvency (Northern Ireland) Order 1989 or by an individual debtor for an individual voluntary arrangement under Part 8 of the Insolvency Act 1986 or Part 8 of the Insolvency (Northern Ireland) Order 1989;
- (v) the date on which a resolution for voluntary winding-up is passed.

Amendment of the Insolvency Act 1986

Introduction

109. The Insolvency Act 1986 is modified in accordance with regulations [110](#) to [114](#).

Non-preferential debts in company voluntary arrangements

110. Section 4 (decisions of the company and its creditors)⁽¹⁰⁾ applies as if in subsection (4)(d) for “or (3)” there were substituted “, (3) or (3A)”.

Non-preferential debts in winding up of companies

111. Section 176AZA (non-preferential debts of financial institutions)⁽¹¹⁾ applies as if after subsection (3) there were inserted—

“(3A) The company’s tertiary non-preferential debts shall be paid in priority to its quaternary non-preferential debts.”.

Non-preferential debts in bankruptcy proceedings

112. Section 328 (priority of debts)⁽¹²⁾ applies as if in subsection (3A)—

(a) in paragraph (c), the “and” were omitted;

(b) after paragraph (d), there were inserted—

“and

(e) the bankrupt’s tertiary non-preferential debts shall be paid in priority to the bankrupt’s quaternary non-preferential debts.”.

⁽⁸⁾ Schedule B1 was inserted by the Enterprise Act 2002 (c. 40) Schedule 16. There are no amendments to either paragraph 18 or paragraph 29.

⁽⁹⁾ Schedule B1 was inserted by S.I. 2005/1455 (N.I.10), Schedule 1. There are no amendments to either paragraph 19 or paragraph 30.

⁽¹⁰⁾ Section 4 was amended by the Insolvency Act 2000 (c.39), Schedule 2, paragraphs 1 and 4, the Deregulation Act 2015 (c. 20) Schedule 6(6) paragraph 20(2)(c), the Small Business, Enterprise and Employment Act 2015 (c. 26) Schedule 9(1) paragraph 4, S.I. 2014/3486 and S.I. 2018/1244.

⁽¹¹⁾ Section 176AZA was inserted by S.I. 2018/1244.

⁽¹²⁾ Section 328 was amended by S.I. 2014/3486 and S.I. 2018/1244.

Interpretation

113. Section 387A (financial institutions and their non-preferential debts)(**13**) applies as if in subsection (3)—

- (a) in paragraph (a), for “neither secondary non-preferential debts nor tertiary non-preferential debts” there were substituted “not secondary non-preferential debts, tertiary non-preferential debts or quaternary non-preferential debts”;
- (b) in paragraph (b), the final “and” were omitted;
- (c) for paragraph (c) there were substituted—
 - “(c) “tertiary non-preferential debts” means subordinated debts that are not quaternary non-preferential debts, and
 - (d) “quaternary non-preferential debts” means debts under instruments the whole or part of which constitute Common Equity Tier 1 instruments, Additional Tier 1 instruments or Tier 2 instruments (all within the meaning of Part 1 of the Banking Act 2009).”.

Administration

114. Schedule B1 (administration)(**14**) applies as if in paragraph 73(1)(e) (protection for priority creditor) for “or (3)” there were substituted “, (3) or (3A)”.

Amendment of the Insolvency (Northern Ireland) Order 1989

Introduction

115. The Insolvency (Northern Ireland) Order 1989 is modified in accordance with regulations 116 to 120.

Non-preferential debts in company voluntary arrangements

116. Article 17 (decisions of meetings)(**15**) applies as if in paragraph (4)(d) for “or (3)” there were substituted “, (3) or (3A)”.

Non-preferential debts in winding up of companies

117. Article 150ZZA (non-preferential debts of financial institutions)(**16**) applies as if after paragraph (3) there were inserted—

“(3A) The company’s tertiary non-preferential debts are to be paid in priority to its quaternary non-preferential debts.”.

Non-preferential debts in bankruptcy proceedings

118. Article 300 (priority of debts)(**17**) applies as if in paragraph (3A)—

- (a) in sub-paragraph (c), “and” were omitted;
- (b) after sub-paragraph (d) there were inserted—

(13) Section 387A was inserted by [S.I. 2018/1244](#).

(14) Schedule B1 was inserted by the Enterprise Act 2002 (c. 40) Schedule 16 paragraph 1; paragraph 73 was amended by [S.I. 2014/3486](#) and [S.I. 2018/1244](#); there are other amending instruments but none is relevant.

(15) Article 17(4)(d) was inserted by [S.I. 2018/1244](#) Pt 5 art. 23(c).

(16) Article 150ZZA was inserted by [S.I. 2018/1244](#) Pt 5 art. 24.

(17) Article 300(3A) was inserted by [S.I. 2018/1244](#) Pt 5 art. 26.

“and

- (e) the bankrupt’s tertiary non-preferential debts are to be paid in priority to the bankrupt’s quaternary non-preferential debts.”.

Interpretation

119. Article 347A (financial institutions and their non-preferential debts)(**18**) applies as if in paragraph (3)—

- (a) in paragraph (a), for “neither secondary non-preferential debts nor tertiary non-preferential debts” there were substituted “not secondary non-preferential debts, tertiary non-preferential debts or quaternary non-preferential debts”;
- (b) in sub-paragraph (b)(iii), the final “and” were omitted;
- (c) for sub-paragraph (c) there were substituted—
- “(c) “tertiary non-preferential debts” means subordinated debts that are not quaternary non-preferential debts, and
- (d) “quaternary non-preferential debts” means debts under instruments the whole or part of which constitute Common Equity Tier 1 instruments, Additional Tier 1 instruments or Tier 2 instruments (all within the meaning of Part 1 of the Banking Act 2009).”.

Administration

120. Schedule B1 (administration)(**19**) applies as if in paragraph 74(1)(e) (protection for priority creditor) for “or (3)” there were substituted “, (3) or (3A)”.

Further Amendment of Insolvency Legislation

Amendments of the Insolvent Partnerships Order 1994

121.—(1) The Insolvent Partnerships Order 1994 is modified in accordance with this regulation.

(2) Schedule 1 (modified provisions of Part 1 of, and Schedule A1 to, the Insolvency Act 1986 (company voluntary arrangements) as applied by article 4)(**20**) applies as if in modified section 4(4) (decisions of the members of the partnership and its creditors) at the end of paragraph (d) for “or (3)” there were substituted “, (3) or (3A)”.

(3) In Schedule 2 (modified provisions of Part 2 of and Schedule B1 to the Insolvency Act 1986 (administration) as applied by article 6)(**21**) applies as if in paragraph 25, in modified section 73(1) at the end of paragraph (e) for “or (3)” there were substituted “, (3) or (3A)”.

(4) Paragraph 23 of Schedule 4 (provisions of the Insolvency Act 1986 which apply with modifications for the purposes of article 8 to winding up of insolvent partnership on creditor’s petition where concurrent petitions are presented against one or more members)(**22**) applies as if—

- (a) in modified section 175A (priority of debts in joint estate)—

(18) Article 347A was inserted by [S.I. 2018/1244](#) Pt 5 art.29.

(19) Schedule B1 was inserted by [S.I. 2005/1455 \(N.I.10\)](#), Schedule 1, paragraph 1. Paragraph 74(1)(e) was inserted by [S.I. 2018/1244](#), Pt 5 art.31(3)(c).

(20) Schedule 1 was substituted by [S.I. 2002/2708](#) and amended by [S.I. 2014/3486](#), [S.I. 2017/540](#) and [S.I. 2018/1244](#); there are other amending instruments but none is relevant.

(21) Schedule 2 was substituted by [S.I. 2005/1516](#) and amended by [S.I. 2005/1516](#), [S.I. 2014/3486](#) and [S.I. 2018/1244](#); there are other amending instruments but none is relevant.

(22) Schedule 4 was amended by [S.I. 2014/3486](#), [S.I. 2017/1119](#) and [S.I. 2018/1244](#); there are other amending instruments but none is relevant.

- (i) in subsection (2), after paragraph (bb) there were inserted—
 - “(bc) the quaternary non-preferential debts;”;
- (ii) in subsection (5B)(b) for “section 175B(1)(bc)” there were substituted “section 175B(1)(bb)”;
- (iii) after subsection (5B) there were inserted—
 - “(5C) Where the joint estate is not sufficient for the payment of the quaternary non-preferential debts in accordance with paragraph (bc) of subsection (2), the responsible insolvency practitioner shall aggregate the value of those debts to the extent that they have not been satisfied or are not capable of being satisfied, and that aggregate amount shall be a claim against the separate estate of each member of the partnership against whom an insolvency order has been made which—
 - (a) shall be a debt provable by the responsible insolvency practitioner in each such estate, and
 - (b) shall rank as a debt of the member in accordance with section 175B(1)(bc).”;
- (iv) in subsection (9) after “(5B),” there were inserted “(5C),”;
- (b) in modified section 175B(1) (priority of debts in separate estate)—
 - (i) at the end of paragraph (bb) there were inserted “(including any debt referred to in section 175A(5B)(a))”;
 - (ii) after paragraph (bb) there were inserted—
 - “(bba) the quaternary non-preferential debts;”;
 - (iii) for paragraph (bc) there were substituted—
 - “(bc) the debt referred to in section 175A(5C)(a);”;
- (c) in modified section 175C (provisions generally applicable in distribution of joint and separate estates)—
 - (i) in subsection (3), after “(5B)(a)” there were inserted “, (5C)(a)”;
 - (ii) in subsection (4), for “and tertiary non-preferential debts” there were substituted “, tertiary non-preferential debts and quaternary non-preferential debts”;
 - (iii) in paragraph (8)(b), after “(5B),” there were inserted “(5C),”.
- (5) Paragraph 21 of Schedule 7 (provisions of the Insolvency Act 1986 which apply with modifications for the purposes of article 11 where joint bankruptcy petition presented by individual members without winding up partnership as unregistered company)**(23)** applies as if—
 - (a) in modified section 328A (priority of debts in joint estate)—
 - (i) in subsection (2), after paragraph (bb) there were inserted—
 - “(bc) the quaternary non-preferential debts;”;
 - (ii) in subsection (5B)(b), for “section 328B(1)(bc)” there were substituted “section 328B(1)(bb)”;
 - (iii) after subsection (5B) there were inserted—
 - “(5C) Where the joint estate is not sufficient for the payment of the quaternary non-preferential debts in accordance with paragraph (bc) of subsection (2), the responsible insolvency practitioner shall aggregate the value of those debts to the extent that they have not been satisfied or are not capable of being satisfied, and that

(23) Schedule 7 was amended by [S.I. 2014/3486](#), [S.I. 2017/1119](#) and [S.I. 2018/1244](#); there are other amendments but none is relevant.

- aggregate amount shall be a claim against the separate estate of each member of the partnership against whom an insolvency order has been made which—
- (a) shall be a debt provable by the responsible insolvency practitioner in each such estate, and
 - (b) shall rank as a debt of the member in accordance with section 328B(1)(bc).”;
- (iv) in subsection (9), after “(5B),” there were inserted “(5C),”;
- (b) in modified section 328B(1), (priority of debts in separate estate)—
- (i) at the end of paragraph (bb) there were inserted “(including any debt referred to in section 328A(5B)(a))”;
 - (ii) after paragraph (bb) there were inserted—
 - “(bba) the quaternary non-preferential debts;”;
 - (iii) for paragraph (bc) there were substituted—
 - “(bc) the debt referred to in section 328A(5C)(a);”;
- (c) in modified section 328C (provisions generally applicable in distribution of joint and separate estates)—
- (i) in subsection (3), after “(5B)(a)” there were inserted “, (5C)(a)”.
 - (ii) in subsection (4), for “and tertiary non-preferential debts” there were substituted “, tertiary non-preferential debts and quaternary non-preferential debts”.
 - (iii) in paragraph (8)(b), after “(5B),” there were inserted “(5C),”.

Amendments of the Insolvent Partnerships Order (Northern Ireland) 1995

122.—(1) The Insolvent Partnerships Order (Northern Ireland) 1995 is modified in accordance with this regulation.

(2) Schedule 1 (modified provisions of Part 2 of, and Schedule A1 to, the Insolvency (Northern Ireland) Order 1989 (company voluntary arrangements) as applied by article 4)**(24)** applies as if in modified Article 17(4) (decisions of meetings), in sub-paragraph (d), for “or (3)” there were substituted “, (3) or (3A)”.

(3) Schedule 2 (modified provisions of Schedule B1 and Schedule 1 to the Insolvency (Northern Ireland) Order 1989 (administration) as applied by article 6)**(25)** applies as if in paragraph 35, in modified paragraph 74(1), in sub-paragraph (e), for “or (3)” there were substituted “, (3) or (3A)”.

(4) Paragraph 23 of Schedule 4 (provisions of the Insolvency (Northern Ireland) Order 1989 which apply with modifications for the purposes of article 8 to the winding up of an insolvent partnership on a creditor’s petition where concurrent petitions are presented against one or more members)**(26)** applies as if—

- (a) in modified Article 149A (priority of debts in joint estate)—
 - (i) in paragraph (2), after sub-paragraph (bb) there were inserted—
 - “(bc) the quaternary non-preferential debts;”;
 - (ii) in sub-paragraph (5B)(b), for “Article 149B(1)(bc)” there were substituted “Article 149B(1)(bb)”;
 - (iii) after paragraph (5B) there were inserted—

(24) Schedule 1 was substituted by [S.R. 2003 No.550](#) and amended by [S.I. 2014/3486](#) and [S.I. 2018/1244](#).

(25) Schedule 2 was substituted by [S.R. 2006 No.515](#) and amended by [S.I. 2014/3486](#) and [S.I. 2018/1244](#); there are other amendments but none is relevant.

(26) Schedule 4 was amended by [S.I. 2014/3486](#) and [S.I. 2018/1244](#); there are other amendments but none is relevant.

“(5C) Where the joint estate is not sufficient for the payment of the quaternary non-preferential debts in accordance with sub-paragraph (bc) of paragraph (2), the responsible insolvency practitioner shall aggregate the value of those debts to the extent that they have not been satisfied or are not capable of being satisfied, and that aggregate amount shall be a claim against the separate estate of each member of the partnership against whom an insolvency order has been made which—

- (a) shall be a debt provable by the responsible insolvency practitioner in each such estate, and
- (b) shall rank as a debt of the member in accordance with Article 149B(1)(bc).”;
- (iv) in paragraph (9), after “(5B),” there were inserted “(5C),”;
- (b) in modified Article 149B(1) (priority of debts in separate estate)—
 - (i) at the end of sub-paragraph (bb) there were inserted “(including any debt referred to in Article 149A(5B)(a))”;
 - (ii) after sub-paragraph (bb) there were inserted—
 - “(bba) the quaternary non-preferential debts;”;
 - (iii) for sub-paragraph (bc) there were substituted—
 - “(bc) the debt referred to in Article 149A(5C)(a);”;
- (c) in modified Article 149C (provisions generally applicable in distribution of joint and separate estates)—
 - (i) in paragraph (3), after “(5B)(a)” insert “, (5C)(a)”;
 - (ii) in paragraph (4), for “and tertiary non-preferential debts” substitute “, tertiary non-preferential debts and quaternary non-preferential debts”;
 - (iii) in sub-paragraph (8)(b), after “(5B),” insert “(5C),”.

(5) Paragraph 21 of Schedule 7 (provisions of the Insolvency (Northern Ireland) Order 1989 which apply with modifications for the purposes of article 11 where a joint bankruptcy petition is presented by individual members without winding up the partnership as an unregistered company)(27) applies as if—

- (a) in modified Article 300A (priority of debts in joint estate)—
 - (i) in paragraph (2), after sub-paragraph (bb) there were inserted—
 - “(bc) the quaternary non-preferential debts;”;
 - (ii) in paragraph (5B), for “Article 300B(1)(bc)” there were substituted “Article 300B(1)(bb)”;
 - (iii) after paragraph (5B) there were inserted—
 - “(5C) Where the joint estate is not sufficient for the payment of the quaternary non-preferential debts in accordance with sub-paragraph (bc) of paragraph (2), the responsible insolvency practitioner shall aggregate the value of those debts to the extent that they have not been satisfied or are not capable of being satisfied, and that aggregate amount shall be a claim against the separate estate of each member of the partnership against whom an insolvency order has been made which—
 - (a) shall be a debt provable by the responsible insolvency practitioner in each such estate, and

- (b) shall rank as a debt of the member in accordance with Article 300B(1)(bc).”;
- (iv) in paragraph (9) after “(5B),” there were inserted “(5C),”;
- (b) in modified Article 300B(1) (priority of debts in separate estate)—
 - (i) at the end of sub-paragraph (bb) there were inserted “(including any debt referred to in Article 300A(5B)(a))”;
 - (ii) after sub-paragraph (bb) there were inserted—
 - “(bba) the quaternary non-preferential debts;”;
 - (iii) for sub-paragraph (bc) there were substituted—
 - “(bc) the debt referred to in Article 300A(5C)(a);”;
- (c) in modified Article 300C (provisions generally applicable in distribution of joint and separate estates)—
 - (i) in paragraph (3), after “(5B)(a)” there were inserted “, (5C)(a)”;
 - (ii) in paragraph (4), for “and tertiary non-preferential debts” there were substituted “, tertiary non-preferential debts and quaternary non-preferential debts”;
 - (iii) in sub-paragraph (8)(b), after “(5B),” there were inserted “(5C),”.

Housing Act 1996

123. Section 44 of the Housing Act 1996 (proposals as to ownership and management of landlord’s land)(**28**) applies as if subsection (4) were modified as follows—

- (a) in paragraph (d)(ii), the final “or” were omitted;
- (b) after paragraph (d)(iii), there were inserted—
 - “or
 - (iv) a tertiary non-preferential debt of the landlord is to be paid otherwise than in priority to any quaternary non-preferential debts of the landlord”;
- (c) in the words after paragraph (d), after “tertiary non-preferential debts” there were inserted “, quaternary non-preferential debts”.

Housing and Regeneration Act 2008

124. The Housing and Regeneration Act 2008(**29**) applies as if it were modified as follows—

- (a) in section 152 (proposals)(**30**), in subsection (4)—
 - (i) in paragraph (d)(ii), the final “or” were omitted;
 - (ii) after paragraph (d)(iii), there were inserted—
 - “or
 - (iv) a tertiary non-preferential debt being paid otherwise than in priority to a quaternary non-preferential debt.”;

(28) 1996 c. 52; section 44 was amended by the Charities Act 2006 (c. 50) Schedule 8 paragraph 187, the Housing and Regeneration Act 2008 (c. 17) Part 2 chapter 1 section 61(7), the Co-operative and Community Benefit Societies Act 2014 (c. 14) Schedule 4(2) paragraph 56, S.I. 2014/3486 and S.I. 2018/1244.

(29) 2008 c. 17.

(30) Section 152 was amended by S.I. 2014/3486 and S.I. 2018/1244.

- (b) in section 275 (general)(31), after ““tertiary non-preferential debt”” there were inserted “, “quaternary non-preferential debt””;
- (c) in section 276 (index of defined terms)(32), in the table, there were inserted the following entry at the appropriate place—

| | |
|-----------------------------------|---------------|
| “Quaternary non-preferential debt | Section 275”. |
|-----------------------------------|---------------|

Housing (Scotland) Act 2010

125. Section 80 of the Housing (Scotland) Act 2010 (proposals: formulation)(33) applies as if it were modified as follows—

- (a) in subsection (5)—
 - (i) the “or” after paragraph (d)(ii) were omitted, and
 - (ii) after paragraph (d)(iii), there were inserted—
 - “or
 - (iv) quaternary non-preferential debts being paid before tertiary non-preferential debts,” and
- (b) in subsection (6), for “and “tertiary non-preferential debts”” there were substituted “, “tertiary non-preferential debts” and “quaternary non-preferential debts””.

Bankruptcy (Scotland) Act 2016

126. The Bankruptcy (Scotland) Act 2016 is modified in accordance with regulations [127](#) and [128](#).

127. Section 129 (priority in distribution)(34) applies as if it were modified as follows.

- (a) in subsection (1)—
 - (i) after paragraph (gb) there were inserted—
 - “(gc) quaternary non-preferential debts,” and
 - (ii) in paragraph (h)—
 - (aa) the “and” after sub-paragraph (iv) were omitted, and
 - (bb) after sub-paragraph (v) there were inserted—
 - “and
 - (vi) the quaternary non-preferential debts,”.
- (b) in subsection (3A), for “and “tertiary non-preferential debts”” there were substituted “, “tertiary non-preferential debts” and “quaternary non-preferential debts””.

128. Section 129A (section 129: interpretation)(35) applies as if for subsection (4) there were substituted—

(31) Section 275 was amended by the Charities Act 2011 (c. 25) Schedule 7(2) paragraph 135, the Co-operative and Community Benefit Societies Act 2014 (c. 14) Schedule 4(2) paragraphs 122 and 136, the Housing and Planning Act 2016 (c. 22) Schedule 4(4) paragraph 38 and Schedule 6 paragraph 9, S.I. 2014/2486 and S.I. 2018/1244.

(32) Section 276 was amended by the Localism Act 2011 (c. 20) Schedule 16(1) paragraph 53 and Schedule 25(26) paragraph 1, the Co-operative and Community Benefit Societies Act 2014 (c. 14) Schedule 4(2) paragraph 123 and paragraph 137, the Housing and Planning Act 2016 (c. 22) Schedule 6 paragraph 10, S.I. 2010/844, S.I. 2018/1040 and S.I. 2018/1244.

(33) 2010 asp 17; section 80 was amended by S.I. 2013/496, S.I. 2014/3486 and S.I. 2018/1244.

(34) Section 129 was amended by S.S.I. 2017/210, S.I. 2018/1244 and S.S.I. 2019/94.

(35) Section 129A was inserted by S.I. 2018/1244.

“(4) In this Act, “tertiary non-preferential debts” means subordinated debts that are not quaternary non-preferential debts.

(4A) In this Act, “quaternary non-preferential debts” means debts under instruments the whole or part of which constitute Common Equity Tier 1 instruments, Additional Tier 1 instruments or Tier 2 instruments (all within the meaning of Part 1 of the Banking Act 2009).”.