

SCHEDULE

Article 2

MODIFICATIONS OF PART III OF THE 1989 ORDER IN RELATION TO INSURERS

1. In paragraph (3) of Article 26 (appointment of administrator),(1) at the end of paragraph (c) add—

“or

(d) by the Financial Services Authority”.

2. In paragraph (1) of Article 30 (discharge or variation of administration order), after “company” insert “or the Financial Services Authority”.

3. In paragraph (1)(a) of Article 35 (statement of proposals), after “registrar” insert “, the Financial Services Authority”.

4. In paragraph (4) of Article 36 (consideration of proposals by creditors' meeting), after “registrar” insert “, the Financial Services Authority”.

5. In paragraph (2)(a) of Article 37 (approval of substantial revisions), after “addresses)” insert “and the Financial Services Authority”.

6.—(1) The powers of the administrator referred to in Schedule 1 to the 1989 Order (powers of administrator or administrative receiver) include the power to make—

(a) any payments due to a creditor; or

(b) any payments on account of any sum which may become due to a creditor.

(2) Any payments to a creditor made pursuant to sub-paragraph (1) must not exceed, in aggregate, the amount which the administrator reasonably considers that the creditor would be entitled to receive on a distribution of the insurer’s assets in a winding up.

(3) The powers conferred by sub-paragraph (1) may be exercised until an Article 35 meeting but may only be exercised thereafter—

(a) if the following conditions are met—

(i) the administrator has laid before the Article 35 meeting or any subsequent creditors' meeting (“the relevant meeting”) a statement containing the information mentioned in sub-paragraph (4); and

(ii) the powers are exercised with the consent of a majority in number representing three-fourths in value of the creditors present and voting either in person or by proxy at the relevant meeting; or

(b) with the consent of the High Court.

(4) The information referred to in sub-paragraph (3)(a) is an estimate of the aggregate amount of—

(a) the insurer’s assets and liabilities (whether actual, contingent or prospective); and

(b) all payments which the administrator proposes to make to creditors pursuant to sub-paragraph (1),

including any assumptions which the administrator has made in calculating that estimate.

(1) Articles 26, 35 and 37 were amended, in relation to companies which are authorised institutions or former authorised institutions under the Banking Act 1987, by [S.R. \(N.I.\) 1991/295](#) as amended by [S.I.2001/3649](#), article 414 and [S.I. 2004/355](#), article 16.