

SCHEDULE

Regulation 46

MODIFICATIONS TO PRIMARY AND SECONDARY LEGISLATION

PART 1

PRIMARY LEGISLATION

Modification of the Companies Act 1985

1. Section 196 (payment of debts out of assets subject to floating charge (England and Wales)) of the Companies Act 1985 shall not apply to an owner.

Modifications of the 1986 Act

2.—(1) Sections 40 (payment of debts out of assets subject to floating charge) and 43 (power to dispose of charged property) of the 1986 Act shall not apply to an owner.

(2) Section 107 of the 1986 Act (distribution of company's property) shall apply only after payment has been made of the claims of relevant persons.

(3) Section 156 of the 1986 Act (payment of expenses of winding up) shall apply only after payment has been made of the expenses referred to in regulation 29.

(4) Section 175 (preferential debts (general provision)) and 176A (share of assets for unsecured creditors) of the 1986 Act shall not apply to an owner.

(5) Paragraphs 65(1) and 66 of Schedule B1 (distributions) to the 1986 Act shall apply only after payment has been made of the claims of relevant persons.

Modifications of the Act

3. Section 165 ([^{F1}Regulator's] power to require information) of the Act is to apply for the purposes of these Regulations as it applies for the purposes of the Act but with the modification that for references to “an authorised person” there is substituted references to “a person to whom the Regulated Covered Bonds Regulations 2008 apply”>.

Textual Amendments

F1 Word in Sch. para. 3 substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(g)(i)**

4. Section 166 (reports by skilled persons) of the Act is to apply for the purposes of these Regulations as it applies for the purposes of the Act but with the modification that for the reference in subsection (2)(a) to “an authorised person” there is substituted a reference to “a person to whom the Regulated Covered Bond Regulations 2008 apply”.

[^{F2}**4A.** Section 166A (appointment of skilled person to collect and update information) of the Act is to apply for the purposes of these Regulations as it applies for the purposes of the Act but with the following modifications—

(a) omit subsection (10);

(b) for references in other subsections of section 166A to “authorised person” there is substituted references to “person to whom the Regulated Covered Bond Regulations 2008 apply.”]

Changes to legislation: The Regulated Covered Bonds Regulations 2008, SCHEDULE is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

F2 Sch. para. 4A inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(g)(ii)**

[^{F3}5. Paragraph 23 of Schedule 1ZA to the Act (fees) is to apply for the purposes of these Regulations as it applies for the purposes of the Act, but with the following modifications—

- (a) in sub-paragraph (1)—
 - (i) for the reference to “this Act” there is substituted a reference to “the Regulated Covered Bonds Regulations 2008”;
 - (ii) omit paragraphs (b) and (c);
- (b) for sub-paragraph (2) substitute—

“(2) The “qualifying functions” of the FCA are its functions under the Regulated Covered Bonds Regulations 2008.”;
- (c) omit sub-paragraphs (3), (4), (5) and (6);
- (d) for the reference in sub-paragraph (7) to “penalties imposed by it under this Act” there is substituted a reference to “penalties imposed by it under the Regulated Covered Bonds Regulations 2008.]

Textual Amendments

F3 Sch. para. 5 substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(g)(iii)**

Modification of the 2006 Act

6. Where an owner is wound up, section 754 of the 2006 Act (priorities where debentures secured by floating charge) shall apply only after payment has been made of the claims of relevant persons.

PART 2

SECONDARY LEGISLATION

Modifications of the [^{F4}Insolvency (England and Wales) Rules 2016]

7.—(1) [^{F5}Rule 14.12 of the Insolvency (England and Wales) Rules 2016 (administration and winding up by the court: debts of insolvent company to rank equally), so far as it applies in a winding up by the court,] shall apply only after payment has been made of the claims of relevant persons.

(2) [^{F6}Rules 3.51, 6.42, 7.108 and 7.109 of the Insolvency (England and Wales) Rules 2016] (priority of expenses) shall apply to an owner subject to the provisions of regulation 29.

Textual Amendments

F4 Words in Sch. para. 7 heading substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **7(2)(c)**

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- F5** Words in Sch. para. 7(1) substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **7(2)(a)**
- F6** Words in Sch. para. 7(2) substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **7(2)(b)**

[^{F7}Modification of the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018 and the Insolvency (Scotland) (Receivership and Winding up) Rules 2018]

[^{F8}8. [^{F9}Rule 3.51 (order of priority) of the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018 and rule 7.28 (order of priority of expenses of liquidation) of the Insolvency (Scotland) (Receivership and Winding up) Rules 2018] shall apply to an owner subject to the provisions of regulation 29.]

Textual Amendments

- F7** Sch. para. 8 heading substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **7(3)(b)**
- F8** Sch. para. 8 substituted (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008 \(S.I. 2008/1714\)](#), regs. 1, **2(7)(a)**
- F9** Words in Sch. para. 8 substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **7(3)(a)**

Modifications of the 1989 Order

9.—(1) Article 50 (payment of debts out of assets subject to floating charge) [^{F10}and article 53 (power to dispose of charged property)] of the 1989 Order shall not apply to an owner.

[^{F11}(2) Article 93 of and paragraphs 66(1) and 67 of Schedule B1 to the 1989 Order (distribution of company's property) shall apply only after payment has been made of the claims of relevant persons.

(3) Article 134 of the 1989 Order (payment of expenses) shall apply only after payment has been made of the expenses referred to in regulation 29.

(4) Articles 149 (preferential debts (general provision)) and 150A (share of assets for unsecured creditors) of the 1989 Order shall not apply to an owner.]

Textual Amendments

- F10** Words in Sch. para. 9(1) inserted (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008 \(S.I. 2008/1714\)](#), regs. 1, **2(7)(b)**
- F11** Sch. para. 9(2)-(4) substituted for Sch. para. 9(2) (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008 \(S.I. 2008/1714\)](#), regs. 1, **2(7)(c)**

Modifications of the Insolvency Rules (Northern Ireland) 1991

10.—(1) Rule 4.190(1) of the Insolvency Rules (Northern Ireland) 1991 ^{M1} (debts of insolvent company to rank equally) shall apply only after payment has been made of the claims of relevant persons.

(2) Rules 2.068, 4.228 and 4.229 of the Insolvency Rules (Northern Ireland) 1991 (priority of expenses) shall apply to an owner subject to the provisions of regulation 29.

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Marginal Citations

M1 [S.R. 1991 No.364.](#)

Modification of the Cross-Border Insolvency Regulations 2006

11. The Cross-Border Insolvency Regulations 2006 ^{M2} shall not apply to an owner.

Marginal Citations

M2 [S.I. 2006/1030.](#)

Modification of the Cross-Border Insolvency (Northern Ireland) Regulations 2007

12. The Cross-Border Insolvency (Northern Ireland) Regulations 2007 ^{M3} shall not apply to an owner.

Marginal Citations

M3 [S.R. 2007 No. 115.](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)