
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Banks and Building Societies (Depositor Preference and Priorities) Order 2014

PART 7

Amendments of Schedule 15 to Building Societies Act 1986

General mode of application of the companies winding up legislation

32.—(1) Part 1 of Schedule 15 to the Building Societies Act 1986⁽¹⁾ (general mode of application) is amended as follows.

(2) After paragraph 1 insert—

“**1A.** In this Schedule—

“deposit” means rights of the kind described in—

- (a) paragraph 22 of Schedule 2 to the Financial Services and Markets Act 2000 (deposits); or
- (b) section 1(2)(b) of the Dormant Bank and Building Society Accounts Act 2008 (balances transferred under that Act to authorised reclaim fund); and

“relevant deposit” means—

- (a) an “eligible deposit” within the meaning given by paragraph 15C(1) of Schedule 6 to the Insolvency Act 1986 (categories of preferential debts) or a deposit of the kind mentioned in paragraph 15BB of that Schedule⁽²⁾; or
- (b) an “eligible deposit” within the meaning given by paragraph 21(1) of Schedule 4 to the Insolvency (Northern Ireland) Order 1989 (categories of preferential debts) or a deposit of the kind mentioned in paragraph 20 of that Schedule⁽³⁾.”

(3) In paragraph 3(2), after paragraph (aa) insert—

“(ab) a reference to the debts of a company includes a reference to sums due to shareholding members of a building society in respect of deposits;”.

Modified application of Part 4 of the Insolvency Act 1986

33.—(1) Part 2 of Schedule 15 to the Building Societies Act 1986 (modified application of Insolvency Act 1986, Parts 4 and 12) is amended as follows.

(2) After paragraph 6 insert—

“**6A.** In the following provisions of the Act a reference to the creditors, general creditors or unsecured creditors of a company includes a reference to every shareholding member

⁽¹⁾ 1986 c. 53.

⁽²⁾ Paragraph 15BB is inserted into Schedule 6 to the Act by article 11 of this Order.

⁽³⁾ Paragraph 20 is inserted into Schedule 4 to the 1989 Order by article 23 of this Order.

of the building society to whom a sum due from the society in relation to the member's shareholding is due in respect of a deposit—

- (a) subsection (1) of section 143 (general functions of liquidator in winding up by the court);
- (b) subsection (3) of section 149 (debts due from contributory to company);
- (c) subsection (4) of section 168 (supplementary powers (England and Wales));
- (d) subsection (2)(b) of section 175 (preferential debts (general provision));
- (e) subsection (1) of section 176ZA (payment of expenses of winding up (England and Wales)(4)); and
- (f) subsections (3)(b) and (5)(a) of section 176A (share of assets for unsecured creditors)(5).”.

(3) In paragraph 7 after sub-paragraph (3) insert—

“(3A) In paragraph (f) of subsection (2) the reference to a sum due to a member of the company by way of dividends, profits or otherwise does not include a sum due to a shareholding member of a building society in respect of a deposit.”.

(4) In paragraph 12 after sub-paragraph (2) insert—

“(3) In sub-paragraph (2) the reference to the society's liabilities to creditors includes a reference to the society's liabilities to shareholding members of the society in respect of deposits which are not relevant deposits.”.

(5) After paragraph 23 insert—

“**23A.** Section 143 (general functions of liquidator in winding up by the court) of the Act has effect as if after subsection (1) there were inserted—

“(1A) Subject to the provisions of Part 4 relating to preferential payments, a building society's property in the winding up shall be applied in satisfaction of the society's liabilities to creditors *pari passu* and, subject to that application, in accordance with the rules of the society.

(1B) In subsection (1A) the reference to the society's liabilities to creditors includes a reference to the society's liabilities to shareholding members of the society in respect of deposits which are not relevant deposits.””

Modified application of Part 5 of the Insolvency (Northern Ireland) Order 1989

34.—(1) Part 3 of Schedule 15 to the Building Societies Act 1986 (modified application of the Insolvency (Northern Ireland) Order 1989, Parts 5 and 11) is amended as follows.

(2) After paragraph 34 insert—

“**34A.** In the following provisions a reference to the creditors, general creditors or unsecured creditors of a company includes a reference to every shareholding member of the building society to whom a sum due from the society in relation to the member's shareholding is due in respect of a deposit—

- (a) paragraph (1) of Article 121 (general functions of liquidator in winding up by the High Court);
- (b) paragraph (3) of Article 127 (debts due from contributory to company);
- (c) paragraph (4) of Article 143 (supplementary powers);

(4) Section 176ZA was inserted by the Companies Act 2006 (c. 46), section 1282(1).

(5) Section 176A was inserted by the Enterprise Act 2002 (c. 40), section 252.

- (d) paragraph (2)(b) of Article 149 (preferential debts (general provision));
- (e) paragraph (1) of Article 150ZA (payment of expenses of winding up⁽⁶⁾); and
- (f) paragraphs (3)(b) and (5)(a) of Article 150A (share of assets for unsecured creditors)⁽⁷⁾.”.

(3) In paragraph 35 after sub-paragraph (3) insert—

“(3A) In sub-paragraph (f) of paragraph (2) the reference to a sum due to a member of the company by way of dividends, profits or otherwise does not include a sum due to a shareholding member of a building society in respect of a deposit.”.

(4) In paragraph 40 after sub-paragraph (2) insert—

“(3) In sub-paragraph (2) the reference to the society’s liabilities to creditors includes a reference to the society’s liabilities to shareholding members of the society in respect of deposits which are not relevant deposits.”.

(5) After paragraph 50 insert—

“**50A.** Article 121 (general functions of liquidator in winding up by the High Court) of the Order has effect as if after paragraph (1) there were inserted—

“(1A) Subject to the provisions of Part V relating to preferential payments, a building society’s property in the winding up shall be applied in satisfaction of the society’s liabilities to creditors *pari passu* and, subject to that application, in accordance with the rules of the society.

(1B) In paragraph (1A) the reference to the society’s liabilities to creditors includes a reference to the society’s liabilities to shareholding members of the society in respect of deposits which are not relevant deposits.””

⁽⁶⁾ Article 150ZA was inserted by the Companies Act 2006, section 1282(2).

⁽⁷⁾ Article 150A was inserted by [S.I. 2005/1455 \(N.I. 10\)](#).