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SCHEDULES

[^{F1}SCHEDULE 15A

APPLICATION OF OTHER COMPANIES INSOLVENCY LEGISLATION TO BUILDING SOCIETIES

Textual Amendments

F1 Sch. 15A inserted (1.12.1997) by 1997 c. 32, s. 39(2), Sch. 6; S.I. 1997/2668, art. 2, Sch. Pt. 1(i)

PART III

MODIFIED APPLICATION OF PARTS II, III AND IV OF INSOLVENCY (NORTHERN IRELAND) ORDER 1989

Administration orders

- 32 (1) Article 21 of the Order (power of High Court to make administration order) has effect as if it included provision that, where—
- (a) an application for an administration order to be made in relation to a building society is made by the [^{F2}Authority] (with or without other parties); and
 - (b) the society has defaulted in an obligation to pay any sum due and payable in respect of any deposit or share,
- the society shall be deemed for the purposes of paragraph (1) to be unable to pay its debts.
- (2) In paragraph (3) of that Article, sub-paragraph (c) and, in paragraph (4) of that Article, the words from “nor where” to the end are omitted.

Textual Amendments

F2 Words in Sch. 15A para. 32(1)(a) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 210(m) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2

- 33 (1) Paragraph (1) of Article 22 of the Order (application for administration order) as applied to a building society has effect as if—
- (a) it enabled an application to the High Court for an administration order to be by petition presented, with or without other parties, by the [^{F3}Authority] or by a shareholding member entitled under section 89(3) of this Act to petition for the winding up of the society; and
 - (b) the words from “or by the chief clerk” to “on companies”, in the second place where they occur, were omitted.

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- (2) In paragraph (2)(a) of that Article as so applied, the reference to any person who has appointed, or is or may be entitled to appoint, an administrative receiver of the society is a reference to the Commission (unless it is a petitioner).
- (3) Paragraph (3) of that Article, and in paragraph (4) of that Article, the words “Subject to paragraph (3),” are omitted.

Textual Amendments

F3 Words in Sch. 15A para. 33(1)(a) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 200(m)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

- 34 In Article 23 of the Order (effect of application for administration order), the following are omitted, namely—
- (a) in paragraph (2), sub-paragraphs (b) and (c); and
 - (b) paragraph (3).
- 35 In Article 24 of the Order (effect of administration order), the following are omitted, namely—
- (a) in paragraph (1), sub-paragraph (b) and the word “and” immediately preceding that sub-paragraph;
 - (b) in paragraph (3), sub-paragraph (b);
 - (c) in paragraph (4), the words “an administrative receiver of the company has vacated office under paragraph (1)(b), or”; and
 - (d) paragraph (5).
- 36 In paragraph (1) of Article 25 of the Order (notification of administration order), the reference to every invoice, order for goods or business letter is a reference to every statement of account, order for goods or services, business letter or advertisement.
- 37 Paragraph (3) of Article 26 of the Order (appointment of administrator) has effect as if it enabled an application for an order under paragraph (2) of that Article to be made by the [^{F4}Authority].

Textual Amendments

F4 Words in Sch. 15A para. 37 substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 210(m)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

- 38 (1) Subject to sub-paragraph (2) below, Article 27 of the Order (general powers of administrator) has effect as if it required the administrator of a building society, in exercising his powers under that Article—
- (a) to ensure compliance with the provisions of this Act; and
 - (b) not to appoint to be a director any person who is not a fit and proper person to hold that position.
- (2) Sub-paragraph (1)(a) above does not apply in relation to section 5, 6 or 7 of this Act [^{F5}or paragraph (a) of the seventh criterion in section 45(3) of this Act].

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- (3) In paragraph (4) of that Article as applied to a building society, the reference to any power conferred by the Order or the ^{M1}Companies (Northern Ireland) Order 1986 or by the memorandum or articles of association is a reference to any power conferred by this Act or by the society's memorandum or rules.
- [^{F6}(4) Subsection (8) of section 45 of this Act applies for the purposes of sub-paragraph (1) (b) above as it applies for the purposes of the seventh criterion in subsection (3) of that section.]

Textual Amendments

- F5** Words in Sch. 15A para. 38(2) omitted (17.8.2001 for certain purposes otherwise *prosp.*) by virtue of S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 210(n) (with art. 13(3), Sch. 5) and repealed (*prosp.*) by S.I. 2001/2617, art. 2(b), 13(2), Sch. 4 (with art. 13(3), Sch. 5)
- F6** Sch. 15A para. 38(4) omitted (17.8.2001 for certain purposes otherwise *prosp.*) by virtue of S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 210(o) (with art. 13(3), Sch. 5) and repealed (*prosp.*) by S.I. 2001/2617, art. 2(b), 13(2), Sch. 4 (with art. 13(3), Sch. 5)

Marginal Citations

- M1** S.I. 1986/1032 (N.I.6).

- 39 (1) Subject to sub-paragraph (3) below, paragraph 17 of Schedule 1 to the Order (powers of administrators) as applied to a building society has effect as if it conferred power to transfer liabilities in respect of deposits with or shares in the society.
- (2) No transfer under that paragraph shall be a transfer of engagements for the purposes of Part X of this Act.
- (3) No transfer under that paragraph which, apart from sub-paragraph (2) above, would be a transfer of engagements for the purposes of that Part shall be made unless it is approved by the High Court, or by meetings summoned under Article 35(1) or 37(2) of the Order (as modified by paragraph 43 or 45 below).
- 40 In Article 28 of the Order (power to deal with charged property etc.)—
- (a) paragraph (1) is omitted; and
- (b) for paragraphs (3) and (4) there is substituted the following paragraph—
- “(3) Paragraph (2) applies to any security other than one which, as created, was a floating charge.”
- 41 (1) Article 29 of the Order (general duties of administrator) has effect as if, instead of the requirement imposed by paragraph (3), it required the administrator of a building society to summon a meeting of the society's creditors if—
- (a) he is requested, in accordance with the rules, to do so by 500 of the society's creditors, or by one-tenth, in number or value, of those creditors, or
- (b) he is directed to do so by the High Court.
- (2) That Article also has effect as if it required the administrator of a building society to summon a meeting of the society's shareholding members if—
- (a) he is requested, in accordance with the rules, to do so by 500 of the society's shareholding members, or by one-tenth, in number, of those members, or
- (b) he is directed to do so by the High Court.

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- 42 In paragraph (4) of Article 31 of the Order (vacation of office) as applied to a building society, the words “in priority to any security to which Article 28(1) then applies” are omitted.
- 43 (1) Paragraph (1) of Article 35 of the Order (statement of proposals) as applied to a building society has effect as if—
- (a) the reference to the [^{F7}Authority] included a reference to the [^{F7}scheme manager];
 - (b) the reference to all creditors included a reference to all holders of shares in the society; and
 - (c) the reference to a meeting of the society’s creditors included a reference to a meeting of holders of shares in the society.
- (2) In paragraph (2) of that Article as so applied, references to members of the society do not include references to holders of shares in the society.

Textual Amendments

F7 Words in Sch. 15A para. 43(1)(a) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 210(p)(i)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2

- 44 Article 36 of the Order (consideration of proposals by creditors’ meeting) as applied to a building society has effect as if any reference to a meeting of creditors included a reference to a meeting of holders of shares in the society.
- 45 (1) Article 37 of the Order (approval of substantial revisions) as applied to a building society has effect as if—
- (a) paragraph (2) required the administrator to send a statement in the prescribed form of his proposed revisions to the [^{F8}Authority and to the scheme manager]; and
 - (b) the reference in that paragraph to a meeting of creditors included a reference to a meeting of holders of shares in the society.
- (2) In paragraph (3) of that Article as so applied, references to members of the society do not include references to holders of shares in the society.

Textual Amendments

F8 Words in Sch. 15A para. 45(1)(a) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 210(q)** (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2

- 46 Paragraph (1) of Article 39 of the Order (protection of interests of creditors and members) has effect—
- (a) as if it enabled the [^{F9}Authority or the scheme manager] to apply to the High Court by petition for an order under that section; and
 - (b) in relation to an application by the [^{F10}Authority or the scheme manager], as if the words “(including at least himself)” were omitted.]

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Textual Amendments

- F9** Words in Sch. 15A para. 46(a) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 210(r)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F10** Words in Sch. 15A para. 46(b) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 210(s)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

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