

Changes to legislation: Financial Services and Markets Act 2000, SCHEDULE 19B is up to date with all changes known to be in force on or before 10 May 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

SCHEDULES

[^{F1}SCHEDULE 19B

Section 377J

FURTHER PROVISION ABOUT WRITE-DOWN ORDERS

Textual Amendments

- F1** Sch. 19B inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2)(e), Sch. 12 para. 3

PART 1

RESTRICTIONS ON ENFORCEMENT

Application of this Part of this Schedule

- 1 (1) This Part of this Schedule applies in relation to an insurer—
 - (a) during the period—
 - (i) beginning with the date on which an application is made for a write-down order in relation to the insurer, and
 - (ii) ending with the date on which the order is made or the application is withdrawn or dismissed;
 - (b) during the period—
 - (i) beginning with the date on which a write-down order is made in relation to the insurer, and
 - (ii) ending with the last day of the period of six months beginning with the day on which the write-down order takes effect (see section 377A(3)(a));
 - (c) during such further period as the court may order.
- (2) This Part of this Schedule ceases to apply—
 - (a) where the court orders that it should cease to apply (and in accordance with the terms of the order), or
 - (b) where the write-down order ceases to have effect (because, in accordance with section 377H, each reduction in the value of a liability of the insurer ceases to have effect).
- (3) The court—
 - (a) may make an order under sub-paragraph (1)(c) or (2)(a) only on an application by a person mentioned in sub-paragraph (4);
 - (b) may not specify in an order under sub-paragraph (1)(c) a period longer than six months (but may make one or more further such orders).
- (4) The persons are—

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- (a) a person entitled to make an application for a write-down order in relation to the insurer (see section 377C(1));
 - (b) a person appointed under section 377G to act as the manager of the write-down order;
 - (c) a provisional liquidator of the insurer;
 - (d) the FCA.
- (5) Before making an application for an order under this Part of this Schedule—
- (a) a person other than the PRA or the Treasury must consult the PRA;
 - (b) the PRA must consult the FCA.

Moratorium on proceedings

- 2 (1) Where this Part of this Schedule applies in relation to an insurer, except with the permission of the court—
- (a) no step may be taken to enforce security over the insurer’s property;
 - (b) no step may be taken to repossess goods in the insurer’s possession under a hire-purchase agreement;
 - (c) a landlord may not exercise a right of forfeiture by peaceable re-entry in relation to premises let to the insurer;
 - (d) in Scotland, a landlord may not exercise a right of irritancy in relation to premises let to the insurer;
 - (e) no legal process (including legal proceedings, execution, distress or diligence) may be instituted, carried out or continued against the insurer or its property.
- (2) Where the court gives permission for something to be done that would otherwise be prevented by this paragraph, it may impose a condition on, or a requirement in connection with, the permission.
- (3) In this paragraph, “landlord” includes a person to whom rent is payable.

Exceptions

- 3 (1) This Part of this Schedule does not apply in relation to—
- (a) arrangements entered into after the date on which this Part of this Schedule first applied in relation to the insurer;
 - (b) employment tribunal proceedings or any legal process arising out of such proceedings;
 - (c) proceedings, not within paragraph (b), involving a claim between an employer and a worker.
- (2) Nothing in this Part of this Schedule—
- (a) prevents the FCA or the PRA from exercising a function it has in relation to the insurer or any other person;
 - (b) prevents a consumer from taking steps to enforce a money award or direction under section 229 or 404B.
- (3) Nothing in this Part of this Schedule affects the operation of—
- (a) Part 7 of the Companies Act 1989 (financial markets and insolvency);
 - (b) the Financial Markets and Insolvency Regulations 1996 (S.I. 1996/1469);

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- (c) the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979);
 - (d) the Financial Collateral Arrangements (No.2) Regulations 2003 (S.I. 2003/3226).
- (4) The Treasury may by regulations amend sub-paragraph (3).
- (5) In this paragraph—
- “agency worker” has the meaning given by section 13(2) of the Employment Relations Act 1999;
 - “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions;
 - “employer”—
 - (a) in relation to an agency worker, has the meaning given by section 13(2) of the Employment Relations Act 1999;
 - (b) otherwise, has the meaning given by section 230(4) of the Employment Rights Act 1996;
 - “worker” means an individual who is—
 - (a) a worker within the meaning of section 230(3) of the Employment Rights Act 1996, or
 - (b) an agency worker.

PART 2

DEALING WITH ASSETS ETC

Application of this Part of this Schedule

- 4 This Part of this Schedule applies while a write-down order has effect in relation to one or more liabilities of an insurer.

Dealing with assets

- 5 The insurer may not dispose of, or otherwise deal with, any of its assets (whether in the United Kingdom or elsewhere) except—
- (a) in the ordinary way of the insurer’s business, or
 - (b) with the consent of the PRA.

Paying variable remuneration

- 6 The insurer may not pay variable remuneration that is not regulated by a collective bargaining agreement, except with the consent of the PRA.

Distributions

- 7 The insurer may not make a distribution, within the meaning of Part 23 of the Companies Act 2006, except with the consent of the PRA.

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PART 3

TREATMENT OF WRITTEN-DOWN LIABILITIES FOR CERTAIN PURPOSES

Application of this Part of this Schedule

- 8 (1) This Part of this Schedule applies in relation to a liability of an insurer while the value of the liability is reduced under a write-down order.
- (2) Where the write-down order is varied, this Part of this Schedule applies as if references to the write-down order were to the order as varied.

Relevant insolvency provisions

- 9 (1) In determining the value of the liability for the purposes of a relevant insolvency provision, no account is to be taken of the contingent or prospective value of the liability, or interest on the liability, arising from any expectation that the write-down order will be varied, further varied or cease to have effect (whether in relation to the liability or generally).
- (2) The relevant insolvency provisions are—
- (a) section 123 of the 1986 Act or Article 103 of the 1989 Order, or any statutory provision which applies that section or that Article;
 - (b) Article 11 of [Commission Delegated Regulation \(EU\) 2015/35](#) of 10 October 2014 supplementing [Directive 2009/138/EC](#) of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency 2);
 - (c) PRA rules applicable to non-directive insurers, within the meaning given by the Rulebook made by the PRA under this Act (as that Rulebook has effect from time to time).
- (3) The Treasury may by regulations amend sub-paragraph (2).

Reinsurance contracts

- 10 (1) This paragraph applies where—
- (a) the liability is a liability under a contract of insurance the insurer carries out as principal (“contract A”), and
 - (b) the insurer enters into a reinsurance contract under which contract A, or any liability under contract A, is reinsured (“contract B”).
- (2) In determining the value of the liability for the purposes of contract B, no account is to be taken of the reduction in value of the liability under the write-down order.

PART 4

INTEREST

- 11 (1) This Part of this Schedule applies where—
- (a) the value of a liability of an insurer is reduced under a write-down order,

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- (b) while the write-down order has effect in relation to the liability, an amount of the liability is due and payable (or would be due and payable but for the write-down order), and
 - (c) the amount remains due and payable after the reduction ceases to have effect.
- (2) The amount carries statutory interest, within the meaning of the Late Payment of Commercial Debts (Interest) Act 1998, for the period—
 - (a) beginning with the date on which the write-down order took effect or, if later, the date on which the amount became due and payable (or would have become due and payable but for the write-down order), and
 - (b) ending with the day on which the amount is paid.
- (3) Where a write-down order is varied, this section applies as if references to the write-down order were to the order as varied.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2023/1347 reg. 8](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 81\(10\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17 Ch. 3B inserted by [2023 c. 29 s. 64\(3\)](#)
- Pt. 20C inserted by [2016 c. 14 s. 30\(3\)](#)
- s. 31(1)(aa) inserted by [2021 c. 22 s. 22\(2\)](#)
- s. 32A inserted by [2021 c. 22 s. 22\(3\)](#)
- s. 32A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- s. 36A and cross-heading inserted by [2021 c. 22 s. 22\(4\)](#)
- s. 71J and cross-heading inserted by [2021 c. 22 Sch. 8 para. 4](#)
- s. 86(9A) inserted by [S.I. 2019/707 reg. 8\(9\)](#) (This amendment not applied to legislation.gov.uk. Reg. 8(6)-(10) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 13(c))
- s. 87A(11) inserted by [S.I. 2019/707 reg. 10\(5\)](#) (This amendment not applied to legislation.gov.uk. Reg. 10(4)(5) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 15(b))
- s. 124(10)(c)(i) word omitted by [S.I. 2019/310 reg. 5\(11\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(11)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(e))
- s. 129(7)(a) word inserted by [S.I. 2019/310 reg. 5\(12\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 129(7)(c) omitted and word by [S.I. 2019/310 reg. 5\(12\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 214(5A) inserted by [2021 c. 22 Sch. 8 para. 8](#)
- s. 261E(A1) inserted by [2023 c. 29 s. 64\(2\)\(a\)](#)
- s. 367A inserted by [2021 c. 22 Sch. 8 para. 10](#)
- s. 395(13)(h)(i) inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(c\)](#)
- s. 395(13)(bc)-(be) word inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(b\)](#)
- s. 395(14) inserted by [2021 c. 22 Sch. 8 para. 12\(3\)](#)
- s. 427A(3) words substituted by [2002 c. 40 Sch. 17 para. 59](#) (This amendment not applied to legislation.gov.uk. The Financial Services and Markets Act 2000 does not contain a section 427A.)
- Sch. 1ZA para. 32(c) and word inserted by [2021 c. 22 Sch. 8 para. 18](#)
- Sch. 2A para. 19(2)(b)(iia) inserted by [2023 c. 29 Sch. 10 para. 19\(a\)](#)
- Sch. 2A2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2B inserted by [2021 c. 22 Sch. 7](#)
- Sch. 2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 11A para. 5(3) inserted by [S.I. 2019/707 reg. 38\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 38(2)-(5)(7)(8) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 20)

- Sch. 17A para. 12 words substituted by [S.I. 2019/662 reg. 13\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 13(1) substituted (25.6.2020) by S.I. 2020/646, regs. 1(2)(c), 11(3))