

## STATUTORY INSTRUMENTS

# 2004 No. 1045

## The Credit Institutions (Reorganisation and Winding up) Regulations 2004

### PART 4 U.K.

#### *Reorganisation or Winding up of UK Credit Institutions<sup>F1</sup>...*

#### Textual Amendments

- F1** Words in Pt. 4 heading omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/38), regs. 1(3), **3(10)** (with Pt. 3 Ch. 1) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

#### Application of this Part U.K.

19.—(1) This Part applies as follows—

- (a) where a decision with respect to the approval of a proposed voluntary arrangement having a qualifying purpose is made under section 4A of the 1986 Act or Article 17A of the 1989 Order on or after 5th May 2004 in relation to a UK credit institution;
  - (b) where an administration order made under paragraph 13 of Schedule B1 to the 1986 Act<sup>F2</sup>, paragraph 14 of Schedule B1 to the 1989 Order,] section 8(1) of the 1986 Act [<sup>F3</sup>or Article 21(1) of the 1989 Order] on or after 5th May 2004 is in force in relation to a UK credit institution;
  - (c) where a UK credit institution is subject to a relevant winding up; <sup>F4</sup>...
  - (d) where a provisional liquidator is appointed in relation to a UK credit institution on or after 5th May 2004; <sup>F5</sup>or
  - (e) where a stabilisation instrument is made in respect of a UK credit institution.]
- (2) For the purposes of paragraph (1)(a), a voluntary arrangement has a qualifying purpose if it—
- (a) varies the rights of the creditors as against the credit institution and is intended to enable the credit institution, and the whole or any part of its undertaking, to survive as a going concern; or
  - (b) includes a realisation of some or all of the assets of the credit institution to which the compromise or arrangement relates, with a view to terminating the whole or any part of the business of that credit institution.
- (3) For the purposes of paragraph (1)(c), a winding up is a relevant winding up if—
- (a) in the case of a winding up by the court, the winding-up order is made on or after 5th May 2004; or

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- (b) in the case of a creditors' voluntary winding up, the liquidator is appointed in accordance with section 100 of the 1986 Act, Article 86 of the 1989 Order or paragraph 83 of Schedule B1 to the 1986 Act [<sup>F6</sup>or paragraph 84 of Schedule B1 to the 1989 Order] on or after 5th May 2004.

#### Textual Amendments

- F2** Words in reg. 19(1)(b) substituted (6.4.2007) by [The Credit Institutions \(Reorganisation and Winding Up\) \(Amendment\) Regulations 2007 \(S.I. 2007/830\)](#), regs. 1, **2(14)(a)**
- F3** Words in reg. 19(1)(b) inserted (6.4.2007) by [The Credit Institutions \(Reorganisation and Winding Up\) \(Amendment\) Regulations 2007 \(S.I. 2007/830\)](#), regs. 1, **2(14)(b)**
- F4** Word in reg. 19(1) deleted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 10(6)(a)**
- F5** Reg. 19(1)(e) and word added (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 10(6)(b)**
- F6** Words in reg. 19(3)(b) inserted (6.4.2007) by [The Credit Institutions \(Reorganisation and Winding Up\) \(Amendment\) Regulations 2007 \(S.I. 2007/830\)](#), regs. 1, **2(15)**

#### Application of this Part: [<sup>F7</sup>certain assets excluded from insolvent estate of UK credit institution] **U.K.**

**20.**—(1) For the purposes of this Part, the insolvent estate of a UK credit institution shall not include any assets which at the commencement date are subject to [<sup>F8</sup>a relevant compromise or arrangement].

(2) In this regulation—

- (a) “assets” has the same meaning as “property” in section 436 of the 1986 Act or Article 2(2) of the 1989 Order;
- (b) “commencement date” means the date when a UK credit institution goes into liquidation within the meaning given by section 247(2) of the 1986 Act or Article 6(2) of the 1989 Order;
- (c) “insolvent estate” has the meaning given by [<sup>F9</sup>rule 1.2] of the Insolvency Rules or Rule 0.2 of the Insolvency Rules (Northern Ireland) and in Scotland means the company’s assets;
- [<sup>F10</sup>(d) “relevant compromise or arrangement” means—
- (i) a compromise or arrangement sanctioned by the court before 5th May 2004 under—
- (aa) section 425 of the Companies Act 1985 (excluding a compromise or arrangement falling within section 427 or 427A of that Act), or
- (bb) Article 418 of the Companies (Northern Ireland) Order 1986 (excluding a compromise or arrangement falling within Article 420 or 420A of that Order); or
- (ii) any subsequent compromise or arrangement sanctioned by the court to amend or replace a compromise or arrangement of a kind mentioned in paragraph (i) which is—
- (aa) itself of a kind mentioned in sub-paragraph (aa) or (bb) of paragraph (i) (whether sanctioned before, on or after 5th May 2004), or
- (bb) a section 899 compromise or arrangement.]

**Textual Amendments**

- F7** Words in reg. 20 heading substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **24(4)**
- F8** Words in reg. 20(1) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **24(5)(a)**
- F9** Words in reg. 20(2)(c) substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **5(6)**
- F10** Reg. 20(2)(d) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **24(5)(b)**

**Interpretation of this Part** **U.K.**

**21.—(1)** For the purposes of this Part—

- (a) “affected credit institution” means a UK credit institution which is the subject of a relevant reorganisation or winding up;
- (b) “relevant reorganisation” or “relevant winding up” means any voluntary arrangement, administration, winding up, [<sup>F11</sup>making of a stabilisation instrument] or order referred to in regulation 19(1) to which this Part applies; <sup>F12</sup>...

<sup>F12</sup>(c) .....

(2) In this Part, references to the opening of a relevant reorganisation or a relevant winding up mean—

- (a) in the case of winding-up proceedings—
  - (i) in the case of a winding up by the court, the date on which the winding-up order is made, or
  - (ii) in the case of a creditors' voluntary winding up, the date on which the liquidator is appointed in accordance with section 100 of the 1986 Act, Article 86 of the 1989 Order or paragraph 83 of Schedule B1 to the 1986 Act [<sup>F13</sup>or paragraph 84 of Schedule B1 to the 1989 Order];
- (b) in the case of a voluntary arrangement, the date when a decision with respect to the approval of that voluntary arrangement has effect in accordance with section 4A(2) of the 1986 Act or Article 17A(2) of the 1989 Order;
- (c) in a case where an administration order under paragraph 13 of Schedule B1 to the 1986 Act [<sup>F14</sup>, paragraph 14 of Schedule B1 to the 1989 Order,] section 8(1) of the 1986 Act [<sup>F15</sup>or Article 21(1) of the 1989 Order] is in force, the date of the making of that order; <sup>F16</sup>...
- (d) in a case where a provisional liquidator has been appointed, the date of that appointment, [<sup>F17</sup>and
- (e) in a case where a stabilisation instrument is made, the date on which that instrument is made,]

and references to the time of an opening must be construed accordingly.

**Textual Amendments**

- F11** Words in reg. 21(1)(b) inserted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 10(7)(a)**
- F12** Reg. 21(1)(c) and word omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I.](#)

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- 2019/38), regs. 1(3), **3(11)** (with Pt. 3 Ch. 1) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in reg. 21(2)(a)(ii) inserted (6.4.2007) by [The Credit Institutions \(Reorganisation and Winding Up\) \(Amendment\) Regulations 2007 \(S.I. 2007/830\)](#), regs. 1, **2(16)(a)**
  - F14** Words in reg. 21(2)(c) substituted (6.4.2007) by [The Credit Institutions \(Reorganisation and Winding Up\) \(Amendment\) Regulations 2007 \(S.I. 2007/830\)](#), regs. 1, **2(16)(b)**
  - F15** Words in reg. 21(2)(c) inserted (6.4.2007) by [The Credit Institutions \(Reorganisation and Winding Up\) \(Amendment\) Regulations 2007 \(S.I. 2007/830\)](#), regs. 1, **2(16)(c)**
  - F16** Word in reg. 21(2) omitted (10.1.2015) by virtue of [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 10(7)(b)**
  - F17** Reg. 21(2)(e) and word inserted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 10(7)(c)**

**[<sup>F18</sup>Applicable law in the winding up of a UK credit institution U.K.]**

22. The general law of insolvency of the United Kingdom is applicable in a relevant winding up, subject only to the provisions of regulations 28, 29, 34 and 35.]

- Textual Amendments**
- F18** [Reg. 22](#) substituted (31.12.2020) by [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(12)** (with Pt. 3 Ch. 1) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

**Employment contracts and relationships U.K.]**

<sup>F19</sup>23. ....

- Textual Amendments**
- F19** [Reg. 23](#) omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(13)(a)** (with Pt. 3 Ch. 1) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

**Contracts in connection with immovable property U.K.]**

<sup>F20</sup>24. ....

- Textual Amendments**
- F20** [Reg. 24](#) omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(13)(b)** (with Pt. 3 Ch. 1) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

**Registrable rights U.K.]**

<sup>F21</sup>25. ....

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**Textual Amendments**

**F21** Reg. 25 omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(13)(c)** (with Pt. 3 Ch. 1) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

**Third parties' rights in rem** **U.K.**

<sup>F22</sup>**26.** .....

**Textual Amendments**

**F22** Reg. 26 omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(13)(d)** (with Pt. 3 Ch. 1) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

**Reservation of title agreements etc.** **U.K.**

<sup>F23</sup>**27.** .....

**Textual Amendments**

**F23** Reg. 27 omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(13)(e)** (with Pt. 3 Ch. 1) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

**Creditors' rights to set off** **U.K.**

**28.**—(1) A relevant reorganisation or a relevant winding up shall not affect the right of creditors to demand the set-off of their claims against the claims of the affected credit institution, where such a set-off is permitted by the law applicable to the affected credit institution's claim.

(2) Paragraph (1) does not preclude actions for voidness, voidability or unenforceability of legal acts detrimental to creditors under the general law of insolvency of the United Kingdom.

**Regulated markets** **U.K.**

**29.**—(1) <sup>F24</sup>... The effects of a relevant reorganisation or winding up on transactions carried out in the context of [<sup>F25</sup>UK regulated market] must be determined in accordance with the law applicable to those transactions.

[<sup>F26</sup>(2) For the purposes of this regulation “UK regulated market” has the meaning given by point (13A) of Article 2(1) of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012.]

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**Textual Amendments**

- F24** Words in reg. 29(1) omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(14)(a)(i)** (with Pt. 3 Ch. 1) (as amended by [S.I. 2020/1301](#), reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)
- F25** Words in reg. 29(1) substituted (31.12.2020) by [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(14)(a)(ii)** (with Pt. 3 Ch. 1) (as amended by [S.I. 2020/1301](#), reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)
- F26** Reg. 29(2) substituted (31.12.2020) by [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(14)(b)** (with Pt. 3 Ch. 1) (as amended by [S.I. 2020/1301](#), reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

**Detrimental acts pursuant to the law of an EEA State** **U.K.**

<sup>F27</sup>**30.** . . . . .

**Textual Amendments**

- F27** Reg. 30 omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(15)(a)** (with Pt. 3 Ch. 1) (as amended by [S.I. 2020/1301](#), reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

**Protection of third party purchasers** **U.K.**

<sup>F28</sup>**31.** . . . . .

**Textual Amendments**

- F28** Reg. 31 omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(15)(b)** (with Pt. 3 Ch. 1) (as amended by [S.I. 2020/1301](#), reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

**Lawsuits pending** **U.K.**

<sup>F29</sup>**32.** . . . . .

**Textual Amendments**

- F29** Reg. 32 omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(15)(c)** (with Pt. 3 Ch. 1) (as amended by [S.I. 2020/1301](#), reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

## Lex rei sitae **U.K.**

<sup>F30</sup>33. ....

### Textual Amendments

**F30** Reg. 33 omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3), **3(15)(d)** (with Pt. 3 Ch. 1) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

## Netting agreements **U.K.**

[<sup>F31</sup>34.—(1) The effects of a relevant reorganisation or a relevant winding up on a netting agreement shall be determined in accordance with the law applicable to that agreement.

(2) Nothing in paragraph (1) affects the application of—

(a) section 48Z of the Banking Act 2009 ;

(b) section 70C of the Banking Act 2009 ;

<sup>F32</sup>(c) .....

(d) any instrument made under the provisions referred to in sub-paragraph (a) or (b).]

### Textual Amendments

**F31** Reg. 34 substituted (10.1.2015) by The Bank Recovery and Resolution (No. 2) Order 2014 (S.I. 2014/3348), art. 1(2), **Sch. 3 para. 10(9)**

**F32** Reg. 34(2)(c) omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3), **3(16)** (with Pt. 3 Ch. 1) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

## Repurchase agreements **U.K.**

[<sup>F33</sup>35.—(1) <sup>F34</sup>... The effects of a relevant reorganisation or a relevant winding up on a repurchase agreement shall be determined in accordance with the law applicable to that agreement.

(2) Nothing in paragraph (1) affects the application of—

(a) section 48Z of the Banking Act 2009;

(b) section 70C of the Banking Act 2009;

<sup>F35</sup>(c) .....

(d) any instrument made under the provisions referred to in sub-paragraph (a) or (b).]

### Textual Amendments

**F33** Reg. 35 substituted (10.1.2015) by The Bank Recovery and Resolution (No. 2) Order 2014 (S.I. 2014/3348), art. 1(2), **Sch. 3 para. 10(10)**

**F34** Words in reg. 35 omitted (31.12.2020) by virtue of The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/38), regs. 1(3), **3(17)(a)** (with Pt. 3 Ch. 1) (as amended by S.I. 2020/1301, reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)

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**F35** Reg. 35(2)(c) omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **3(17)(b)** (with Pt. 3 Ch. 1) (as amended by [S.I. 2020/1301](#), reg. 3, Sch. para. 13(c)-(f)); 2020 c. 1, Sch. 5 para. 1(1)



**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](#)