

2007 No. 830

INSOLVENCY

COMPANIES

**The Credit Institutions (Reorganisation and Winding Up)
(Amendment) Regulations 2007**

<i>Made</i> - - - -	<i>13th March 2007</i>
<i>Laid before Parliament</i>	<i>14th March 2007</i>
<i>Coming into force</i> - -	<i>6th April 2007</i>

The Treasury are the government department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to credit and financial institutions and to the taking of deposits or other repayable funds from the public. In exercise of the powers conferred by that section, the Treasury hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Credit Institutions (Reorganisation and Winding Up)(Amendment) Regulations 2007, and come into force on 6th April 2007.

Amendments to Credit Institutions (Reorganisation and Winding Up) Regulations 2004

2.—(1) The Credit Institutions (Reorganisation and Winding Up) Regulations 2004(c) are amended as set out in this regulation.

(2) In regulation 2(1) (interpretation), in the definition of “administrator”—

- (a) After the first occurrence of “the 1986 Act”, for “or”, substitute “, paragraph 14 of Schedule B1 to the 1989 Order,”(d);
- (b) After the second occurrence of “the 1986 Act”, insert “or Article 21(2) of the 1989 Order”.

(3) In regulation 2(3), after “the Limited Liability Partnerships Regulations 2001”, insert “, the Limited Liability Partnerships Regulations (Northern Ireland) 2004(e)”.

(a) Designated by S.I. 2001/3495.

(b) 1972 c.68; by virtue of the amendment of section 1(2) made by section 1 of the European Economic Area Act 1993 (c.51) regulations may be made under section 2(2) to implement obligations of the United Kingdom created or arising by or under the agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the agreement signed at Brussels on 17 March 1993 (Cm 2183). Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions applies in the EEA by virtue of EEA Council Decision No. 167/2002 (OJ L 125, 5.5.2001, p. 15).

(c) S.I. 2004/1045.

(d) S.I. 1989/2405 (N.I. 19); Schedule B1 to the Insolvency (Northern Ireland) Order 1989 is inserted into that Order by Article 3(2) of the Insolvency (Northern Ireland) Order 2005, S.I. 2005/1455 (N.I. 10).

(e) S.R. 2004 No. 307

- (4) In regulation 3(5) (prohibition against winding up etc. EEA credit institutions in the UK)—
- (a) After “Schedule B1”, for “of”, substitute “to”; and
 - (b) After “the 1986 Act”, insert “or paragraphs 15 or 23 of Schedule B1 to the 1989 Order”.
- (5) For regulation 3(7), substitute—
- “(7) An order under section 254 of the Enterprise Act 2002 (application of insolvency law to a foreign company) or under Article 9 of the Insolvency (Northern Ireland) Order 2005(a) (application of insolvency law to company incorporated outside Northern Ireland) may not provide for any of the following provisions of the 1986 Act or of the 1989 Order to apply in relation to an incorporated EEA credit institution—
- (a) Part 1 of the 1986 Act or Part 2 of the 1989 Order (company voluntary arrangements);
 - (b) Part 2 of the 1986 Act or Part 3 of the 1989 Order (administration);
 - (c) Chapter 4 of Part 4 of the 1986 Act or chapter 4 of Part 5 of the 1989 Order (creditors’ voluntary winding up);
 - (d) Chapter 6 of Part 4 of the 1986 Act (winding up by the Court).”
- (6) In regulation 9(1) (notification of relevant decision to the Authority)—
- (a) in sub-paragraph (a), after the first occurrence of “the 1986 Act”, for “or” substitute “, paragraph 14 of Schedule B1 to the 1989 Order,”;
 - (b) in sub-paragraph (a), after the second occurrence of “the 1986 Act”, insert “or Article 21(1) of the 1989 Order”.
 - (c) in sub-paragraph (d), after “the 1986 Act”, insert “, paragraph 14(1)(d) of Schedule B1 to the 1989 Order, section 9(4) of the 1986 Act”.
- (7) In regulation 9(3) after the second occurrence of “the 1986 Act” insert “, paragraph 84 of Schedule B1 to the 1989 Order”.
- (8) In regulation 11(1)—
- (a) in paragraph (b)(ii) (withdrawal of authorisation), after “the 1986 Act”, insert “or paragraph 14 of Schedule B1 to the 1989 Order”; and
 - (b) in paragraph (c)(ii), after the second occurrence of “the 1986 Act”, insert “or paragraph 84 of Schedule B1 to the 1989 Order”.
- (9) At the end of regulation 11(2), insert “or paragraph 4(1)(a) of Schedule B1 to the 1989 Order”.
- (10) In regulation 12(2)(b)(i) (qualifying order)—
- (a) After the first occurrence of “the 1986 Act”, for “or” substitute “, paragraph 14 of Schedule B1 to the 1989 Order,”; and
 - (b) After the second occurrence of “the 1986 Act”, insert “or Article 21(1) of the 1989 Order”.
- (11) In regulation 12(5), remove “, section 27 of the 1986 Act”.
- (12) In regulation 14 (notification to creditors: winding up proceedings)—
- (a) in paragraph (3)(a)(i)—
 - (i) After the first occurrence of “the 1986 Act”, insert “or paragraph 14 of Schedule B1 to the 1989 Order”; and
 - (ii) After the second occurrence of “the 1986 Act”, insert “or Article 21(3) (b) or (d) of the 1989 Order”.
 - (b) for paragraph (8) substitute—

“(8) The prescribed circumstances are where the administrator includes in the statement required under Rule 2.3 of the Insolvency Rules or under Rule 2.003 of the Insolvency

(a) S.I. 2005/1455 (N.I. 10).

Rules (Northern Ireland) a statement to the effect that the objective set out in paragraph 3(1)(a) of Schedule B1 to the 1986 Act or in paragraph 4(1)(a) of Schedule B1 to the 1989 Order is not reasonably likely to be achieved”.

(c) in paragraph (9), after “the 1986 Act”, insert “ or paragraph 4(1)(a) of Schedule B1 to the 1989 Order”.

(13) In regulation 16(1) (reports to creditors)—

(a) in sub-paragraph (a), for “the 1986 Order” substitute “the 1989 Order”;

(b) in sub-paragraph (a), after the second occurrence of “1986 Act”, insert “or paragraph 84 of Schedule B1 to the 1989 Order”; and

(c) for sub-paragraph (d), substitute—

“an administrator is appointed under paragraph 13 of Schedule B1 to the 1986 Act or paragraph 14 of Schedule B1 to the 1989 Order.”

(14) In regulation 19(1)(b) (application of this Part)—

(a) After the first occurrence of “the 1986 Act”, for “or” substitute “, paragraph 14 of Schedule B1 to the 1989 Order,”; and

(b) After the second occurrence of “the 1986 Act”, insert “or Article 21(1) of the 1989 Order”.

(15) In regulation 19(3)(b), after the second occurrence of “the 1986 Act”, insert “or paragraph 84 of Schedule B1 to the 1989 Order”.

(16) In regulation 21(2) (interpretation of Part 4)—

(a) in paragraph (a)(ii), after the second occurrence of “the 1986 Act”, insert “or paragraph 84 of Schedule B1 to the 1989 Order”;

(b) in sub-paragraph (c), after the first occurrence of “the 1986 Act”, for “or” substitute “, paragraph 14 of Schedule B1 to the 1989 Order,”; and

(c) in sub-paragraph (c), after the second occurrence of “the 1986 Act”, insert “or Article 21(1) of the 1989 Order”.

(17) In regulation 36(1)(a)(iii) (interpretation of Part 5)—

(a) After the first occurrence of “the 1986 Act”, for “or” substitute “, paragraph 14 of Schedule B1 to the 1989 Order,”; and

(b) After the second occurrence of “the 1986 Act”, insert “or Article 21(1) of the 1989 Order”.

Frank Roy
Alan Campbell

13th March 2007

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 amends the Credit Institutions (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/1045) (“the 2004 Regulations”) in the light of the changes made to the administration process in Northern Ireland by the Insolvency (Northern Ireland) Order 2005, S.I. 2005/1455 (NI 10) (“the 2005 Order”). The 2005 Order introduces Schedule B1 into the Insolvency (Northern Ireland) Order 1989, which thoroughly updates the administration process in Northern Ireland, and applies the new administration to credit institutions in Northern Ireland. It is therefore necessary to amend the 2004 Regulations to ensure the correct references to the administration procedure are made.

The 2004 Regulations implement the Credit Institutions Reorganisation and Winding up Directive, 2001/24/EC and the administration procedure falls within the scope of the 2004 Regulations.

No Regulatory Impact Assessment has been prepared for this instrument as these amendments are consequential on the changes made to the administration procedure in Northern Ireland by the 2005 Order. A Regulatory Impact Assessment was prepared for the 2005 Order and was placed in the library of each House of Parliament. Copies can be obtained from the Insolvency Service Fermanagh House, Ormeau Avenue, Belfast, BT2 8NJ or are available at www.insolvencyservice.detini.gsi.gov.uk.

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