

2014 No. 000

INDUSTRIAL AND PROVIDENT SOCIETIES

The Industrial and Provident Societies and Credit Unions
(Arrangements, Reconstructions and Administration) Order
2014

<i>Made</i>	- - - -	<i>March 2014</i>
<i>Laid before Parliament</i>		<i>March 2014</i>
<i>Coming into force</i>	- -	<i>April 2014</i>

The Treasury make the following Order in exercise of the powers conferred on them under section 255 of the Enterprise Act 2002^(a).

The Secretary of State concurs in the making of this Order.

Citation, commencement and interpretation

1.— This Order may be cited as the Industrial and Provident Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014, and comes into force on [] 2014.

(1) In this Order—

“the 1965 Act” means the Industrial and Provident Societies Act 1965^(b);

“the 1967 Act” means the Industrial and Provident Societies Act 1967^(c);

“the 1986 Act” means the Insolvency Act 1986^(d);

“the 2006 Act” means the Companies Act 2006^(e);

“the FCA” means the Financial Conduct Authority;

“member”, in relation to a relevant society, means a person whose name is entered as a member in the register kept by the society in accordance with section 44(1) of the 1965 Act;

“the PRA” means the Prudential Regulation Authority;

“PRA-authorized person” has the meaning given in section 2B(5) of the Financial Services and Markets Act 2000 (“FSMA”)^(f);

“relevant person” has the meaning given in section 213(9)(a) of FSMA;

“relevant society” means a society which is registered under the 1965 Act and is not—

(a) a private registered provider of social housing; or

a () 2002 c. 40.
b () 1965 c.12.
c () 1967 c. 48.
d () 1986 c. 45.
e () 2006 c. 46.
f () 2000 c. 8.

- (b) registered as a social landlord under Part 1 of the Housing Act 1996^(a) or under Part 2 of the Housing (Scotland) Act 2010^(b); and
“scheme manager” has the meaning given in section 212(1) of FSMA.

Application to relevant societies of law about company arrangements and administration

2.— Part 1 of the 1986 Act (company voluntary arrangements) applies in relation to a relevant society with the modifications specified in Parts 1 and 2 of Schedule 1.

(2) Part 2 of the 1986 Act (administration)^(c) applies in relation to a relevant society with the modifications specified in Parts 1, 3 and 4 of Schedule 1.

(3) Part 26 of the 2006 Act (arrangements and reconstructions) applies in relation to a relevant society with the modifications specified Schedule 2.

Application of other provisions of the 1986 Act

3. Section 176A of the 1986 Act (share of assets for unsecured creditors)^(d) applies in relation to a relevant society which is in administration; and for that purpose—

- (a) a reference to a company accordingly includes a reference to a relevant society; and
- (b) a reference to a receiver is to be ignored.

4. The following provisions of the 1986 Act, so far as they have effect for the purposes of Part 1 or Part 2 of that Act as applied in relation to a relevant society, apply with the modifications specified in Schedule 3—

- (c) Part 6 (miscellaneous provisions applying to companies which are insolvent or in liquidation);
- (d) Part 7 (interpretation for first Group of Parts); and
- (e) Parts 12 to 19 (the third Group of Parts).

Application of insolvency rules

5. Part 1 (company voluntary arrangements) and, so far as applicable to voluntary arrangements, Parts 7 to 13 (the third Group of Parts) of the Insolvency Rules 1986^(e) apply where—

- (f) it is intended to make, and there is made, a proposal to a relevant society and its creditors for a voluntary arrangement within the meaning given in section 1 of the 1986 Act (as applied in relation to a relevant society); and
- (g) the courts in England and Wales have jurisdiction to wind up the society.

6. Part 1 (company voluntary arrangements) and, so far as applicable to voluntary arrangements, Part 7 (provisions of general application) of the Insolvency (Scotland) Rules 1986^(f) apply where—

- (h) it is intended to make, and there is made, a proposal to a relevant society and its creditors for a voluntary arrangement within the meaning given in section 1 of the 1986 Act (as applied in relation to a relevant society); and
- (i) the courts in Scotland have jurisdiction to wind up the society.

7. Part 2 (administration procedure) and, so far as applicable to administration procedure, Parts 7 to 13 of the Insolvency Rules 1986 apply in relation to the appointment of an administrator of a relevant society which the courts in England and Wales have jurisdiction to wind up.

a () 1996 c. 52.
b () 2010 asp 17.
c () Part 2, substituted by the Enterprise Act 2002, section 248(1), gives effect to Schedule B1, which is inserted in the 1986 Act by the Enterprise Act 2002, section 248(2) and Schedule 16.
d () Section 176A was inserted by the Enterprise Act 2002, section 252.
e () S.I. 1986/1925 as amended by S.I. []. There are other amendments not relevant to these Regulations.
f () S.I. 1986/1915 as amended by S.I. []. There are other amendments not relevant to these Regulations.

8. Part 2 (administration procedure) and, so far as applicable to administration procedure, Part 7 of the Insolvency (Scotland) Rules 1986 apply in relation to the appointment of an administrator of a relevant society which the courts in Scotland have jurisdiction to wind up.

9. Schedule 4 (which makes further provision about the application in relation to a relevant society of the Insolvency Rules 1986 and the Insolvency (Scotland) Rules 1986) has effect.

Application of other subordinate legislation

10. Schedule 5 applies subordinate legislation in relation to a relevant society with the modifications set out in that Schedule.

Modified application of the 1965 Act

11. Section 50 of the 1965 Act (amalgamation of societies) has effect in relation to a relevant society which is in administration as if at the end there were added—

[(7) In the application of this section to a relevant society which is in administration—

- (a) in subsections (1), (4) and (6)^(a) the reference to a special resolution is to be read as a reference to the resolutions by which the administrator’s proposals presented to creditors and members of the society, or a revision of those proposals, are approved; and
- (b) subsections (2), (3) and (5) are to be ignored.].

12. Section 51 of the 1965 Act (transfer of engagements between societies) has effect in relation to a relevant society which is in administration as if at the end there were added—

[(4) In the application of this section to a relevant society which is in administration—

- (a) in subsection (1) the reference to a special resolution is to be read as a reference to the resolutions by which the administrator’s proposals presented to creditors and members of the society, or a revision of those proposals, are approved; and
- (b) in subsection (2) the reference to subsections (2) to (6) of section 50 is to be read as a reference to subsections (4) and (6) of section 50 as modified by subsection (7) of that section.].

13. Section 52 of the 1965 Act (conversion into, amalgamation with, or transfer of engagements to company) has effect in relation to a relevant society which is in administration as if at the end there were added—

[(6) In the application of this section to a relevant society which is in administration—

- (a) in subsections (1) and (2) the reference to a special resolution is to be read as a reference to the resolutions by which the administrator’s proposals presented to creditors and members of the society, or a revision of those proposals, are approved;
- (b) subsections (3) and (3A) are to be ignored; and
- (c) in subsection (3B)^(b)—
 - (i) the reference to subsections (4) to (6) of section 50 is to be read as a reference to subsections (4) and (6) of section 50 as modified by subsection (7) of that section; and
 - (ii) the words from “in subsection (5)” to “and as if” are to be ignored.].

14. Section 59 of the 1965 Act (restriction on dissolution or cancellation of registration) has effect in relation to a relevant society which is in administration as if the reference to the liquidator included a reference to the administrator.

a () Subsection (6) was added by S.I. 2013/496.

b () Subsections (3), (3A) and (3B) were substituted for subsection (3) by S.I. the Industrial and Provident Societies Act 2002 (c. 20), section 1(2). Subsection (3B) was amended by S.I. 2013/496.

Amendment of the 1965 Act

15.— The 1965 Act is amended as follows.

(4) After section 43 (duties of receiver or manager of society’s property) insert—

□ Floating charge holder not to appoint administrative receiver

43A.—(1) The holder of a qualifying floating charge in respect of the property of a relevant society whose registered office is situated in England and Wales may not appoint an administrative receiver of the society.

(2) This section applies to a floating charge which is created by a relevant society on or after [*date*] and is either—

- (a) created or evidenced by an instrument recorded under section 1 of the Industrial and Provident Societies Act 1967; or
- (b) created by a debenture registered under section 9 of the Agricultural Credits Act 1928^(a) as applied by section 14 of that Act.

(3) This section applies in spite of any provision of an agreement or instrument which purports to empower a person to appoint an administrative receiver (by whatever name).

(4) In this section—

“administrative receiver”, in relation to a relevant society, means—

- (a) a receiver or manager of the whole (or substantially the whole) of the society’s property appointed by or on behalf of the holder of a floating charge, or by such a charge and one or more other securities; or
- (b) a person who would be such a receiver or manager but for the appointment of some other person as the receiver of part of the society’s property; and

“holder of a qualifying floating charge in respect of the property of a relevant society” has the meaning given in paragraph 14 of Schedule B1 to the Insolvency Act 1986 as applied in relation to a relevant society by an order made under section 255 of the Enterprise Act 2002.□.

(5) In section 49 (appointment of inspectors and calling of special meetings) after subsection (1) insert—

□(1A) The power of the FCA to call a special meeting of a relevant society in respect of which a moratorium is in force under section 1A of the Insolvency Act 1986 is subject to paragraph 12(1)(b) of Schedule A1 to that Act^(b) as applied in relation to a relevant society by an order made under section 255 of the Enterprise Act 2002.□.

(6) In section 55 (dissolution of society) after subsection (1C)^(c) insert—

□(1D) A relevant society may also be dissolved under paragraph 84 of Schedule B1 to the 1986 Act as applied in relation to a relevant society by an order made under section 255 of the Enterprise Act 2002.□.

(7) In section 74 (interpretation — general), in subsection (1) at the end insert—

□“relevant society” means a registered society which is not—

- (a) a private registered provider of social housing; or
- (b) registered as a social landlord under Part 1 of the Housing Act 1996 or under Part 2 of the Housing (Scotland) Act 2010.□.

Name

a () 1928 c. 43.

b () Section 1A and Schedule A1 were inserted by the Insolvency Act 2000 (c. 39), section 1 and Schedule 1, paragraphs 1, 2 and 4.

c () Subsection (1C) was inserted by S.I. 2011/2687.

Date Two of the Lords Commissioners of Her Majesty's Treasury *Name*

I concur *Vince Cable*
Date Secretary of State for Business, Innovation and Skills

SCHEDULE 1

Article 2(1) and (2)

Modified application of Parts 1 and 2 of the Insolvency Act 1986 to relevant societies

PART 1

General modifications

1. This Schedule specifies modifications of Parts 1 and 2 of the 1986 Act for the purposes of article 2(1) and (2) (application to relevant societies of law about company voluntary arrangements and administration).

2. Unless the context otherwise requires and subject to any further modification in this Schedule, in Parts 1 and 2 of the 1986 Act—

- (a) a reference to a provision of that Act is a reference to that provision as applied in relation to a relevant society;
- (b) an expression defined in that Act (but not an expression modified by this paragraph) has the meaning given in the Act with the modification that a reference to a company includes a reference to a relevant society;
- (c) a reference to a company includes a reference to a relevant society;
- (d) a reference to a company registered in Scotland includes a reference to a relevant society whose registered office is situated in Scotland;
- (e) a reference to a company's creditors does not include a reference to a member of a relevant society in so far as the member is a creditor in relation to amounts owed by the society in respect of the member's shares;
- (f) a reference to the directors of a company is a reference to the members of the committee (within the meaning given in section 74(1) of the 1965 Act) of a relevant society;
- (g) a reference to a meeting of a company or of the members of a company is a reference to a general meeting of a relevant society and, in relation to a society whose rules allow the members to appoint delegates for meetings of the society or its members, includes a reference to a meeting of delegates so appointed;
- (h) a reference to an officer of a company is a reference to an officer (within the meaning given in section 74(1) of the 1965 Act) of a relevant society; and
- (i) a reference to the registrar of companies—
 - (i) is a reference to the FCA or, in the case of a relevant society which is a PRA-authorised person, to the FCA and the PRA; and
 - (ii) in the case of a relevant society which is a relevant person, includes a reference to the scheme manager.

PART 2

Modified application of Part 1 of the Insolvency Act 1986 to relevant societies (further modifications)

3. Part 1 of the 1986 Act applies in relation to a relevant society with the further modifications set out in this Part of this Schedule and with any other necessary modification.

Part 1 (company voluntary arrangements)

4. Section 1 of the 1986 Act (those who may propose an arrangement) has effect as if—
- (j) it required any proposal under Part 1 to be so framed as to enable a relevant society to comply with the requirements of the 1986 Act; and
 - (k) in subsection (1) the reference to debts included a reference to any amounts owed by the society in respect of a member’s shares.
5. Section 7A of the 1986 Act (prosecution of delinquent officers of company)(^a) has effect as if—
- (l) subsection (2) provided that the appropriate authority is the FCA; and
 - (m) in subsection (8) the FCA were substituted as a prosecuting authority for the Secretary of State.

Schedule A1 (moratorium where directors propose voluntary arrangement)

6. In Schedule A1 to the 1986 Act(^b) paragraph 1 (interpretation) has effect as if—
- (n) before the definition of “the beginning of the moratorium” there were inserted—
 - “administrative receiver”, in relation to a relevant society whose registered office is situated in England or Wales, means—
 - (a) a receiver or manager of the whole (or substantially the whole) of the society’s property appointed by or on behalf of the holder of a floating charge, or by such a charge and one or more other securities, or
 - (b) a person who would be such a receiver or manager but for the appointment of some other person as the receiver of part of the society’s property,□; and
 - (o) after the definition of “the nominee” there were inserted—
 - “relevant society” means a society which is registered under the Industrial and Provident Societies Act 1965 and is not—
 - (a) a private registered provider of social housing; or
 - (b) registered as a social landlord under Part 1 of the Housing Act 1996 or under Part 2 of the Housing (Scotland) Act 2010,□.

7. Schedule A1 to the 1986 Act has effect as if after paragraph 1 there were inserted—
- 1A.—(1) In this Schedule a reference to a floating charge, in relation to a relevant society whose registered office is situated in England or Wales, is a reference to a floating charge which is created by the society on or after [*date*] and is either—
- (a) created or evidenced by an instrument recorded under section 1 of the Industrial and Provident Societies Act 1967; or
 - (b) created by a debenture registered under section 9 of the Agricultural Credits Act 1928(^c) as applied by section 14 of that Act.
- (2) In this Schedule a reference to a floating charge, in relation to a relevant society whose registered office is situated in Scotland, is a reference to a floating charge which is created by the society on or after [*date*] and is either—
- (a) created by an instrument filed by the FCA under section 4(3) of the Industrial and Provident Societies Act 1967(^d); or
 - (b) created and registered under Part 2 of the Agricultural Credits (Scotland) Act 1929(^e).□.

a () Section 7A was inserted by the Insolvency Act 2000, section 2 and Schedule 2, paragraphs 1 and 10.
b () Schedule A1 was inserted by the Insolvency Act 2000, section 1 and Schedule 1, paragraphs 1 and 4, and was amended by S.I. . [There are other amendments which are not relevant to this Order.]
c () 1928 c. 43.
d () Section 4 is prospectively repealed by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), section 49(2). Section 4(3) has been amended by S.I. 2001/2617; 2001/3649 and 2013/496.
e () 1929 c. 13.

8. Schedule A1 to the 1986 Act has effect as if for paragraph 3 (requirements for eligibility for a moratorium) there were substituted—

3.—(1) A relevant society meets the requirements of this paragraph in relation to its first year of account if the qualifying conditions are met in that year.

(2) A relevant society meets the requirements of this paragraph in relation to a subsequent year of account—

- (a) if the qualifying conditions are met in that year and the preceding year of account;
- (b) if the qualifying conditions are met in that year and the society met the requirements of this paragraph in relation to the preceding year of account;
- (c) if the qualifying conditions were met in the preceding year of account and the society met the requirements of this paragraph in relation to that year.

(3) The qualifying conditions are met by a society in a year in which—

- (a) the total value of its assets does not [at any time] exceed [£2,800,000]; and
- (b) its turnover does not exceed [£5.600,000].

(4) For a period that is a society's year of account but not in fact a year the maximum figures for turnover must be proportionately adjusted.

(5) This paragraph is subject to paragraph 3A.

(6) In this paragraph and paragraph 3A “year of account” has the meaning given in section 21 of the Friendly and Industrial and Provident Societies Act 1968^(a) (“the 1968 Act”).

3A.—(1) In this paragraph a relevant society is a parent society of a group of societies if it has subsidiaries within the meaning given in section 15 of the 1968 Act and each subsidiary is a relevant society.

(2) A parent society does not meet the requirements of paragraph 3 in relation to a year of account unless the group headed by it qualifies under this paragraph.

(3) A group qualifies under this paragraph in relation to the parent society's first year of account if the qualifying conditions are met in that year.

(4) A group qualifies under this paragraph in relation to a subsequent year of account of the parent society—

- (a) if the qualifying conditions are met in that year and the preceding year of account;
- (b) if the qualifying conditions are met in that year and the group met the requirements of this paragraph in relation to the preceding year of account;
- (c) if the qualifying conditions were met in the preceding year of account and the group met the requirements of this paragraph in relation to that year.

(5) The qualifying conditions are met by a group in a year in which—

- (a) the aggregate value of its assets does not [at any time] exceed []; and
- (b) its aggregate turnover does not exceed [].

(6) The aggregate figures are ascertained by aggregating the relevant figures determined in accordance with paragraph 3 for each member of the group.

(7) The figures for each subsidiary society shall be those included in its individual accounts for the relevant year of account, that is—

- (a) if its year of account ends with that of the parent society, that year of account, and
- (b) if not, its year of account ending last before the end of the year of account of the parent society.

9. Paragraph 5 of Schedule A1 to the 1986 Act does not apply in relation to relevant societies.

a () 1968 c. 55.

PART 3

Modified application of Part 2 of the Insolvency Act 1986 to relevant societies (further modifications)

10. Part 2 of the 1986 Act applies in relation to a relevant society with the further modifications set out in this Part of this Schedule and with any other necessary modification.

11. In this Part—

- (p) a reference to a numbered paragraph is a reference to the paragraph so numbered in Schedule B1 to the 1986 Act (administration)^(a); and
- (q) a reference to a sub-paragraph is a reference to a sub-paragraph of such a paragraph.

Nature of administration

12. Paragraph 3 (purpose of administration) has effect as if a reference to the society's creditors as a whole included a reference to all members of the society who are creditors in relation to amounts owed by the society in respect of shares.

Appointment of administrator by court

13. Paragraph 11 (conditions for making order) has effect as if it included provision that, where —

- (r) an application for an administration order to be made in relation to a relevant society is made by the FCA or the PRA (with or without other parties), and
- (s) the society has defaulted in an obligation to pay any sum due and payable in respect of any deposit or share,

the society is deemed for the purposes of paragraph (a) to be unable to pay its debts.

14. Paragraph 12 (administration application) has effect as if—

- (t) sub-paragraph (1) enabled an application to the court for an administration order to be made in relation to a relevant society also—
 - (i) by the FCA; and
 - (ii) in the case of a relevant society which is a PRA-authorised person, by the PRA; and
- (u) sub-paragraph (2) required the applicant also to notify—
 - (i) the FCA (unless it is the petitioner); and
 - (ii) in the case of a relevant society which is a PRA-authorised person, the PRA (unless it is the petitioner).

Appointment of administrator by holder of floating charge

15. In paragraph 14 (power to appoint) sub-paragraph (2) has effect as if—

- (v) paragraph (a) required the instrument to include the following statement—

¶Paragraph 14 of Schedule B1 to the Insolvency Act 1986, as applied in relation to relevant societies by article 2(2) of the Industrial and Provident Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014, applies to this floating charge.¶;
- (w) in paragraph (c) the words “within the meaning given by section 29(2)” were omitted; and
- (x) paragraph (d) were omitted.

^a () Schedule B1 was inserted by the Enterprise Act 2002, section 248(2) and Schedule 16, and was amended by S.I. . . .
[There are other amendments which are not relevant to this Order.]

16. Paragraph 15 (restrictions on power to appoint) has effect as if for sub-paragraph (3) there were substituted—

[(3) In relation to a relevant society whose registered office is situated in Scotland, sub-paragraph (2) has effect as if the following were substituted for paragraph (a)—

[(a) it has priority of ranking in accordance with section 464(4)(b) of the Companies Act 1985 (c. 6) as applied in relation to a relevant society by section 3 of the Industrial and Provident Societies Act 1967(*)].

Effect of administration

17. In paragraph 41 (dismissal of administrative or other receiver), in sub-paragraph (3) ignore paragraph (b).

18. In paragraph 45 (publicity), sub-paragraph (3) has effect as if after paragraph (b) there were inserted—

[(ba) a statement of account,

(bb) an advertisement].

19. Paragraph 46 (announcement of administrator's appointment) has effect as if sub-paragraph (2) required the administrator to send a notice of appointment also to every member of the society.

Process of administration

20. Paragraph 49 (administrator's proposals) has effect as if—

(y) after sub-paragraph (3) there were inserted—

[(3A) In the case of a relevant society, proposals under this paragraph may include provision for amending the society's rules only if the Financial Conduct Authority has issued a statement to the effect that it would register an amendment in the terms proposed if copies were sent to it for registration in accordance with section 10 of the Industrial and Provident Societies Act 1965.

(3B) The proposals must not include any measure which would be contrary to the provisions of the Industrial and Provident Societies Acts 1965 to 1978 or the Credit Unions Act 1979.

(3C) Sub-paragraph (3A) does not apply if the intended effect of the proposals is that the society will cease to be registered under the Industrial and Provident Societies Act 1965.];

(z) sub-paragraph (4)(c) referred to every member of the society; and

(aa) sub-paragraph (6) were omitted.

21. Paragraph 51 (requirement for initial creditor's meeting) has effect as if—

(bb) after sub-paragraph (1) there were inserted—

[(1A) Each copy of an administrator's statement of proposals sent to a member under paragraph 49(4)(c) must be accompanied by an invitation to a members' meeting.]; and

(cc) in sub-paragraphs (2) and (3) the reference to an initial creditors' meeting included a reference to a members' meeting.

22. Paragraph 52 (requirement for initial creditor's meeting) has effect as if—

(dd) in sub-paragraph (1) for "Paragraph 51(1)" there were substituted "Paragraph 51(1) and (1A)"; and

(ee) where the administrator is required to summon an initial creditors' meeting under sub-paragraph (2), it required the administrator also to summon a members' meeting for a date within the period mentioned in sub-paragraph (3).

a 0 Section 3 was amended by S.I. 2009/1941.

23. In paragraph 53 (business and result of initial creditors' meeting), in sub-paragraphs (1) and (2) the reference to an initial creditors' meeting includes a reference to a members' meeting.

24. Paragraph 54 (revision of administrator's proposals) has effect as if—

- (ff) in sub-paragraph (1) the reference to an initial creditors' meeting, and in sub-paragraphs (2) and (5) the reference to a creditors' meeting, included a reference to a members' meeting;
- (gg) after sub-paragraph (1) there were inserted—
 - [(1A) Where a revision is proposed in the case of a relevant society, sub-paragraphs (3A) to (3C) of paragraph 49 apply in relation to the revision.]
- (hh) sub-paragraph (2) required the administrator to send a statement of the proposed revision in the prescribed form (as well as to each creditor)—
 - (i) to every member of the society;
 - (ii) to the FCA;
 - (iii) in the case of a relevant society which is a PRA-authorized person, also to the PRA;
 - (iv) in the case of a relevant society which is a relevant person, also to the scheme manager;
- (ii) sub-paragraphs (2)(c) and (3) were omitted; and
- (jj) sub-paragraph (6) required the administrator to report any decision taken at a creditors' meeting and any decision taken at a members' meeting as soon as is reasonably practicable after the conclusion of both meetings.

25. In paragraph 55 (failure to obtain approval of administrator's proposals), sub-paragraph (1) has effect as if after "an initial creditors' meeting" and "a creditors' meeting" there were inserted "or a members' meeting".

26. Paragraph 56 (further creditors' meetings) has effect as if—

- (kk) in sub-paragraph (1)(a) the reference to creditors of the company whose debts amount to at least 10% of the total debts of the company were a reference to at least 10% of the total number of creditors of the society or to creditors whose debts amount to at least 10% of the total debts of the society;
- (ll) sub-paragraph (1) also required the administrator to summon a meeting of the society's members if—
 - (i) a meeting is requested in the same manner prescribed for a creditors' meeting by at least 10% of the total number of those members; or
 - (ii) the administrator is directed to do so by the court; and
- (mm) in sub-paragraph (2) the reference to a creditors' meeting included a reference to a members' meeting.

27. In paragraph 58 (correspondence instead of creditors' meeting)—

- (nn) a reference to a creditors' meeting includes a reference to a members' meeting; and
- (oo) in sub-paragraph (1) the reference to correspondence between the administrator and creditors includes a reference to correspondence between the administrator and members.

Functions of administrator

28. Paragraph 59 (general powers) has effect as if it required the administrator to ensure compliance with the provisions of the Industrial and Provident Societies Acts 1965 to 1978 and the Credit Unions Act 1979 and with the rules of the society.

29. Paragraph 61 (removal and appointment of director) has effect as if it required the administrator not to appoint any person to be [an officer] [a member of the committee (within

the meaning given in section 74(1) of the 1965 Act] of the society unless that person is a fit and proper person to hold that position.

30. In paragraph 64 (exercise of management power), in sub-paragraph (2)(b) the reference to an instrument includes a reference to the rules of the society.

31. In paragraph 65 (distribution) sub-paragraph (1) has effect as if it provided that the administrator may make a distribution to a member of the society in relation to any amounts owed by the society in respect of the member's shares.

32. Paragraph 74 (challenge to administrator's conduct of company) and paragraph 75 (misfeasance) have effect as if any application under either of those paragraphs could be also made—

(pp) by the FCA;

(qq) in the case of a relevant society which is a PRA-authorised person, also by the PRA;

(rr) in the case of a relevant society which is a relevant person, also by the scheme manager.

Ending administration

33. In paragraphs 80 (termination of administration where objective achieved), 83 (moving from administration to creditors' voluntary liquidation) and 84 (moving from administration to dissolution) a reference to the registrar of companies is a reference to the FCA.

34. But those paragraphs have effect as if they required the administrator, where the administrator sends any notice or other document to the FCA, to send the document also—

(ss) in the case of a relevant society which is a PRA-authorised person, to the PRA; and

(tt) in the case of a relevant society which is a relevant person, to the scheme manager.

35. In paragraph 80—

(uu) sub-paragraph (4) has effect as if it required the administrator, where the administrator sends a copy of a notice filed under sub-paragraph (2) to creditors, to send a copy also to the members of the society; and

(vv) in sub-paragraph (5) a reference to a creditor includes a reference to a member of the society.

36. Paragraph 84(5) has effect as if it required the administrator, where the administrator sends a copy of a notice under sub-paragraph (1) to creditors, to send a copy also to the members of the society.

Replacing administrator

37. Paragraph 91 (supplying vacancy in office of administrator) has effect as if in sub-paragraph (1) after paragraph (c) there were inserted—

[(ca) in the case of a relevant society, the Financial Conduct Authority,

(cb) in the case of a relevant society which is a PRA-authorised person (within the meaning given in section 2B(5) of the Financial Services and Markets Act 2000), the Financial Conduct Authority or the Prudential Regulation Authority,].

38. Paragraph 96 (substitution of administrator: competing floating charge-holder) has effect as if for sub-paragraph (4) there were substituted—

[(4) In relation to a relevant society whose registered office is situated in Scotland, sub-paragraph (3) has effect as if the following were substituted for paragraph (a)—

[(a) it has priority of ranking in accordance with section 464(4)(b) of the Companies Act 1985 as applied in relation to a relevant society by section 3 of the Industrial and Provident Societies Act 1967^(a)].

a () Section 3 was amended by S.I. 2009/1941.

General

39. Paragraph 111 (interpretation) has effect as if—

(ww) “administrative receiver” and “floating charge” were given the same meaning as in Schedule A1 to the 1986 Act (as applied in relation to a relevant society)^(a); and

(xx) there were inserted at the appropriate place—

□“relevant society” means a society which is registered under the Industrial and Provident Societies Act 1965 and is not—

(a) a private registered provider of social housing; or

(b) registered as a social landlord under Part 1 of the Housing Act 1996 or under Part 2 of the Housing (Scotland) Act 2010,□.

40. Paragraph 115 (Scotland — insufficient property to enable a distribution to be made to unsecured creditors) has effect as if—

(yy) a reference to the registrar of companies were a reference to the FCA; and

(zz) it required the administrator, where the administrator files a notice under sub-paragraph (2), to send the notice also—

(i) in the case of a relevant society which is a PRA-authorized person, to the PRA; and

(ii) in the case of a relevant society which is a relevant person, to the scheme manager.

PART 4

Modified application of Schedule 1 to the Insolvency Act 1986 to relevant societies (further modifications)

41. Schedule 1 to the 1986 Act applies in relation to a relevant society with the further modifications set out in this Part of this Schedule and with any other necessary modification.

42. This Part has effect without prejudice to the generality of paragraph [28] of this Schedule.

43. In this Part—

(aaa) a reference to a numbered paragraph is a reference to the paragraph so numbered in Schedule 1 to the 1986 Act;

(bbb) “the 1979 Act” means the Credit Unions Act 1979^(b); and

(ccc) “credit union” has the meaning given in section 31 of the 1979 Act.

44. Paragraph 3 has effect as if it provided that power to raise or borrow money and grant security over the property of the society—

(ddd) in the case of a credit union, is subject to—

(i) section 6 of the 1965 Act (maximum shareholding in society);

(ii) the provisions of the 1967 Act^(c);

(iii) section 7 (shares), section 7A (power to issue interest-bearing shares)^(d) and section 8 (general prohibition on deposit-taking) of the 1979 Act;

(iv) the rules of the society containing provision in respect of the matters mentioned in paragraph 7 of Schedule 1 to the 1979 Act (determination of the maximum amount of the interest in the shares of the society which may be held by any member);

(eee) in the case of a relevant society which is not a credit union, is subject to—

a () For the meaning of “administrative receiver” see paragraph 1 of Schedule A1 as modified by paragraph 6(a) of this Schedule; and for the meaning of “floating charge” see the modification of Schedule A1 made by paragraph 7 of this Schedule.

b () 1979 c. 34.

c () 1967 c. 48.

d () Section 7A was inserted by S.I. 2011/2687.

- (i) section 6 (maximum shareholding in society) and section 7 (carrying on of banking by societies) of the 1965 Act;
 - (ii) the provisions of the 1967 Act;
 - (iii) the rules of the society containing provision in respect of the matters mentioned in paragraph 7 (determination of the maximum amount of a member's interest in shares) and paragraph 8 (determination whether the society may contract loans or receive deposits) of Schedule 1 to the 1965 Act; and
- (fff) in either such case, is subject to such other enactments and rules of the society as govern or restrict the exercise of that power.

45. Paragraphs 15 and 16 do not apply in relation to credit unions.

46. Paragraph 16 has effect in relation to a relevant society other than a credit union as if the reference to subsidiaries were a reference to subsidiaries within the meaning given in section 15 of the Friendly and Industrial and Provident Societies Act 1968^(a).

a () 1968 c. 55.

SCHEDULE 2

Article 2(3)

Modified application of Part 26 of the Companies Act 2006 to relevant societies

1. This Schedule specifies modifications of Part 26 of the 2006 Act for the purposes of article 2(3) (application to relevant societies of law about arrangements and reconstructions).

2. Unless the context otherwise requires and subject to any further modification in this Schedule, in Part 26 of the 2006 Act—

(ggg) a reference to the articles of a company is a reference to the rules of a relevant society;

(hhh) a reference to a company includes a reference to a relevant society;

(iii) a reference to the directors of a company is a reference to the members of the committee (within the meaning given in section 74(1) of the 1965 Act) of a relevant society;

(jjj) a reference to an officer of a company is a reference to an officer (within the meaning given in section 74(1) of the 1965 Act) of a relevant society; and

(kkk) a reference to the registrar is a reference to the FCA or, in the case of a relevant society which is a PRA-authorized person, to the FCA and the PRA.

3. Part 26 of the 2006 Act applies in relation to a relevant society with the further modifications set out in the following paragraphs of this Schedule and with any other necessary modification.

4. In section 895 (application of this Part) subsection (2) has effect as if after the definition of “company” there were inserted—

□“relevant society” means a society which is registered under the Industrial and Provident Societies Act 1965 and is not—

(a) a private registered provider of social housing; or

(b) registered as a social landlord under Part 1 of the Housing Act 1996 or under Part 2 of the Housing (Scotland) Act 2010.□.

5. In section 899 (court sanction for compromise or arrangement)—

(lll) in subsection (1) the reference to 75% in value of the members or class of members present and voting at the meeting summoned under section 896 is a reference to 75% of the number of members or class of members of a relevant society present and voting at that meeting; and

(mmm) in subsection (3)(b) the reference to contributories has the same meaning as it has in relation to a relevant society in the 1986 Act^a).

6. Section 900 (powers of court to facilitate reconstruction or amalgamation) has effect as if after subsection (4) there were inserted—

□(4A) Subsection (4B) applies where a compromise or arrangement is proposed for the purposes of, or in connection with, a scheme for the reconstruction of a relevant society or the amalgamation of a relevant society with any other relevant society or any company.

(4B) An order under this section may only be made with respect to the compromise or arrangement if the Financial Conduct Authority—

(a) is satisfied that the compromise or arrangement is not contrary to the provisions of the Industrial and Provident Societies Acts 1965 to 1978 or the Credit Unions Act 1979 or to the rules of the society; and

(b) has issued a statement to that effect.□.

^a (i) For the meaning of “contributory” see section 79 of the 1986 Act, which has effect in relation to a relevant society with the modification in paragraph 2(b) of Schedule 1 to this Order.

7. Section 901 (obligations of company with respect to articles etc.) has effect as if after subsection (1) there were inserted—

[(1A) Where, in the case of a relevant society, the compromise or arrangement includes provision for amending the society's rules, the order may be made only if the Financial Conduct Authority has issued a statement to the effect that it would register an amendment in the terms proposed if copies were sent to it for registration in accordance with section 10 of the Industrial and Provident Societies Act 1965.

(1B) Subsection (1A) does not apply if the intended effect of the compromise or arrangement is that the society will cease to be registered under that Act.]

SCHEDULE 3

Article 4

Modified application of other provisions of the Insolvency Act 1986

1. This Schedule specifies modifications of the provisions applied by article 4 (“the applied provisions”).
2. In this Schedule a reference to a section is a reference to a section of the 1986 Act.
3. [Unless the context otherwise requires,] the applied provisions have effect—
 - (nnn) with the modifications specified in this Schedule;
 - (ooo) subject to those modifications, with the modifications in paragraph 2 of Schedule 1; and
 - (ppp) with any other necessary modification.

Miscellaneous provisions applying to companies which are insolvent

4. For the purpose of construing the reference to an associate in subsection (3) of section 242 (gratuitous alienations — Scotland), section 74 of the Bankruptcy (Scotland) Act 1985^(a) (meaning of “associate”) has effect as if—
 - (qqq) a reference to the directors of a company were a reference to the members of the committee (within the meaning given in section 74(1) of the 1965 Act) of the society; and
 - (rrr) a reference to an officer of a company were a reference to an officer (within the meaning given in section 74(1) of the 1965 Act) of the society.

Interpretation for first Group of Parts

5. Section 251 (expressions used generally) has effect as if the definitions of “administrative receiver”, “director”, “floating charge” and “officer” were omitted.

Insolvency practitioners and their qualification

6. Section 388 (meaning of “act as an insolvency practitioner”) has effect as if in subsection (4) the definition of “company” included a reference to a relevant society.

Punishment of offences

7. Sections 430 (provision introducing Schedule of punishments), 431 (summary proceedings) and 432 (offences by bodies corporate) have effect as if a reference to an offence under the 1986 Act or a provision of that Act, in so far as it is a reference to an offence under a provision of that Act applied in relation to a relevant society, were a reference to the offence under that provision as so applied.
8. Schedule 10 to the 1986 Act (punishment of offences under the Act) has effect as if a reference to a provision which is applied in relation to a relevant society were a reference to that provision as so applied.

^a () 1985 c. 66.

Modified application of insolvency rules in relation to relevant societies

PART 1

Interpretation

1. In this Schedule “applied provisions”—

(sss) in Part 2 of this Schedule, means the provisions referred to in paragraph 2;

(ttt) in Part 3 of this Schedule, means the provisions referred to in paragraph [33].

PART 2

Modified application of the Insolvency Rules 1986

2. This Part of this Schedule modifies the Parts of the Insolvency Rules 1986 which are applied by articles 5 and 7 in relation to a relevant society which the courts in England and Wales have jurisdiction to wind up.

3. Unless the context otherwise requires and subject to any further modification in this Part, the applied provisions have effect with the following general modifications—

(uuu) a reference to Part 1 or any provision of Part 1, 2, 4, 6, 7 or 17 of the 1986 Act is a reference to that Part or provision as applied in relation to a relevant society;

(vvv) an expression defined in the 1986 Act (but not an expression modified by this paragraph) has the meaning given in that Act as read with any modification made by this Order;

(www) “administrative receiver” and “floating charge” have the meaning given in Schedule A1 to the 1986 Act (as applied in relation to a relevant society)^(a) in relation to a relevant society whose registered office is situated in England or Wales;

(xxx) a reference to the articles of a company is a reference to the rules of a relevant society;

(yyy) a reference to a company includes a reference to a relevant society;

(zzz) a reference to a company’s creditors does not include a reference to a member of a relevant society in so far as the member is a creditor in relation to amounts owed by the society in respect of the member’s shares;

(aaaa) a reference to the directors of a company is a reference to the members of the committee (within the meaning given in section 74(1) of the 1965 Act) of a relevant society;

(bbbb) a reference to a meeting of a company or of the members of a company is a reference to a general meeting of a relevant society and, in relation to a society whose rules allow the members to appoint delegates for meetings of the society or its members, includes a reference to a meeting of delegates so appointed;

(cccc) a reference to an officer of a company is a reference to an officer (within the meaning given in section 74(1) of the 1965 Act) of a relevant society; and

(dddd) a reference to the registrar of companies—

^a () For the meaning of “administrative receiver” see paragraph 1 of Schedule A1 as modified by paragraph 6(a) of Schedule 1 to this Order; and for the meaning of “floating charge” see the modification of Schedule A1 made by paragraph 7 of Schedule 1 to this Order.

- (i) is a reference to the FCA or, in the case of a relevant society which is a PRA-
authorised person, to the FCA and the PRA; and
- (ii) in the case of a relevant society which is a relevant person, includes a reference to
the scheme manager.

4. The applied provisions have effect with the further modifications set out in this Part and with any other necessary modification.

Proposal by directors for company voluntary arrangement

5. In Rule 1.6 (additional disclosure for assistance of nominee), in paragraph (2)(a) the reference to any other company is a reference to any company or any other relevant society.

Consideration of proposals where moratorium obtained

6. In Rule 1.48 (summoning of meetings), in paragraph (3) the reference to all persons who are, to the best of the nominee’s belief, members of the company is a reference to every member of the society.

Appointment of administrator by holder of floating charge

7. In Rule 2.16 (notice of appointment), in paragraph 5(b) the reference to the date on which the floating charge was registered is a reference to the date on which—

- (eeee) the instrument by which the charge was created or is evidenced was recorded
under section 1 of the 1967 Act; or
- (ffff) the debenture creating the charge was registered under section 9 of the
Agricultural Credits Act 1928^(a) as applied by section 14 of that Act.

Process of administration

8. Rule 2.30 (limited disclosure) has effect as if it provided that on an application for disclosure under paragraph (4) any of the following may appear and be heard, or make written representations—

- (gggg) the administrator;
- (hhhh) the FCA;
- (iii) in the case of a relevant society which is a PRA-
authorised person, also the PRA; and
- (jjjj) in the case of a relevant society which is a relevant person, also the scheme manager.

9. Rule 2.31 (release from duty to submit statement of affairs; extension of time) has effect as if it provided that on an application under paragraph (2) for release or extension of time any of the following (in addition to the administrator) may appear and be heard, or make written representations—

- (kkkk) the FCA;
- (llll) in the case of a relevant society which is a PRA-
authorised person, also the PRA; and
- (mmmm) in the case of a relevant society which is a relevant person, also the scheme
manager.

Meetings and reports

10. In the following Rules a reference to a creditors’ meeting includes a reference to a members’ meeting—

- (nnnn) Rule 2.34 (meetings to consider administrator’s proposals);
- (oooo) Rule 2.35 (creditors’ meetings generally);

a () 1928 c. 43.

- (pppp) Rule 2.36 (the chairman at meetings);
- (qqqq) Rule 2.46 (notice to creditors); and
- (rrrr) Rule 2.48 (correspondence instead of creditors' meetings), except paragraph (7).

11. Rule 2.34 has effect as if it required a copy of the notice sent in accordance with paragraph (2) to be sent also—

- (ssss) to the FCA;
- (tttt) in the case of a relevant society which is a PRA-authorised person, also to the PRA;
- (uuuu) in the case of a relevant society which is a relevant person, also to the scheme manager.

12. In Rule 2.35 has effect as if—

- (vvvv) in paragraph (3) the persons to whose convenience the administrator is to have regard included—
 - (i) in relation to a members' meeting, the members;
 - (ii) the FCA and, where relevant, the PRA and the scheme manager; and
- (wwww) in relation to a members' meeting, paragraph (4) required 14 days' notice to be given to all the members.

13. Rule 2.37 (meeting requisitioned by creditors) has effect as if it required the expenses of summoning and holding a members' meeting requested under paragraph 52(2) or 56(1) of Schedule B1 to the 1986 Act (as applied in relation to a relevant society) to be payable out of the assets of the society as an expense of the administration.

14. In Rule 2.45 (revision of the administrator's proposals)—

- (xxxx) in paragraph (3) ignore the words "Subject to paragraph 54(3),"; and
- (yyyy) ignore paragraphs (4) and (5).

15. In Rule 2.47 (reports to creditors), in paragraphs (1)(g) and (4) the reference to creditors includes a reference to members of the society.

16. In Rule 2.48—

- (zzzz) in paragraph (1) a reference to creditors includes a reference to members of the society; and
- (aaaa) in paragraph (2), in relation to correspondence with members, ignore the reference to the statement on entitlement to vote required by Rule 2.38.

17. Rule 2.49 (venue and conduct of company meeting) has effect as if—

- (bbbb) paragraphs (1) to (4) and (7) were omitted; and
- (cccc) in paragraph (5A) for sub-paragraph (a) there were substituted—
 - (a) in the case of a relevant society (within the meaning given in section 74(1) of the Industrial and Provident Societies Act 1965^(*)), in accordance with the law of England and Wales;□.

Distributions to creditors

18. Rule 2.68 (distributions to creditors — introduction) has effect as if a reference to creditors included a reference to members of the society.

19. Rule 2.69 (debts of insolvent company to rank equally) has effect as if it provided that "debts" do not include any amounts owed by a relevant society to a member of the society in respect of the member's shares.

a () The definition of "relevant society" is inserted by article 15(5) of this Order.

20. Rule 2.85 (mutual credits and set off) has effect as if in addition to the matters excluded from “mutual dealings” in paragraph (2) that paragraph excluded any mutual dealings between a relevant society and a member of the society in so far as the member is a creditor in relation to amounts owed by the society in respect of the member’s shares.

21. Rule 2.95 (notice of proposed distribution) has effect as if—

(ddddd) paragraph (1) required the administrator also to give notice where the administrator is proposing to make a distribution to members of the society;

(eeee) paragraph (2) required the notice to state, where applicable, that the distribution is to members;

(ffff) the persons who are entitled to receive notice under paragraph (2) included—

(i) the members;

(ii) the FCA;

(iii) in the case of a relevant society which is a PRA-authorized person, also the PRA;

(iv) in the case of a relevant society which is a relevant person, also the scheme manager; and

(ggggg) in paragraph (4)(a) the reference to a distribution to creditors included, where appropriate, a reference to a distribution to members.

22. In Rule 2.97 (declaration of dividend), in paragraph (1) the reference to one or more classes of creditor includes a reference to one or more classes of member of the society.

23. Rule 2.98 (notice of declaration of dividend) has effect as if—

(hhhhh) the persons who are entitled to receive notice under paragraph (1) included—

(i) the members of the society;

(ii) the FCA;

(iii) in the case of a relevant society which is a PRA-authorized person, also the PRA;

(iv) in the case of a relevant society which is a relevant person, also the scheme manager; and

(iiii) paragraph (2) required the notice to give particulars, where appropriate, of any distribution to members.

24. In Rule 2.99 (payment of dividends and related matters), in paragraph (2) the reference to any creditor includes a reference to any member of the society.

25. Rule 2.100 (notice of no dividend, or no further dividend) has effect as if—

(jjjj) it required the administrator to send a copy of any notice—

(i) to the FCA;

(ii) in the case of a relevant society which is a PRA-authorized, also to the PRA;

(iii) in the case of a relevant society which is a relevant person, also to the scheme manager; and

(kkkk) the reference to creditors included a reference to members of the society.

26. Rule 2.103 (disqualification from dividend) has effect as if—

(llll) it required notice of the application to be given—

(i) to the FCA;

(ii) in the case of a relevant society which is a PRA-authorized person, also to the PRA;

(iii) in the case of a relevant society which is a relevant person, also to the scheme manager; and

(mmmm) it provided that those persons are entitled to appear and be heard.

Ending administration

27. In Rule 2.112 (applications for extension of administration) the reference to creditors in paragraph (4) and the second reference to creditors in paragraph (5)(^a) include a reference to members of the society.

28. In Rule 2.113 (notice of end of administration), in paragraphs (6)(^b) and (7)(^c) the reference to a creditor includes a reference to a member of the society.

29. In Rule 2.117A (moving from administration to creditors' voluntary liquidation) and Rule 2.118 (moving from administration to dissolution) a reference to the registrar of companies is a reference to the FCA.

Replacing administrator

30. Rule 2.120 (notice of intention to resign), Rule 2.122 (application to court to remove administrator from office) and Rule 2.125 (application to replace) have effect as if the persons who are entitled to receive notice of the matter concerned (of intention to resign or of an application to remove the administrator from office or replace the administrator) included—

(nnnnn) the FCA, except where the FCA is the applicant under paragraph 91(1) or 95 of Schedule B1 to the 1986 Act (as applied in relation to a relevant society);

(ooooo) in the case of a relevant society which is a PRA-authorized person, also the PRA, except where the PRA is the applicant under either of those paragraphs (as so applied); and

(ppppp) in the case of a relevant society which is a relevant person, also the scheme manager.

Forms

31. In Rule 12A.30 (forms for use in insolvency proceedings)—

(qqqqq) any form prescribed for use by paragraph (1) which is used for the purposes of Part 1 or 2 of the 1986 Act is to be read with the modifications specified in this Order (so far as applicable for the form concerned); and

(rrrrr) the requirement in paragraph (2) to use a form with such variations as the circumstances may require includes a requirement to use it with such variations as are necessary to take account of applicable modifications.

“Prescribed part”

32. In Rule 13.13 (expressions used generally), in the definition of “prescribed part”, the reference to the Insolvency Act 1986 (Prescribed Part) Order 2003(^d) is a reference to that Order as applied in relation to a relevant society by article 10 of, and Schedule 5 to, this Order.

PART 3

Modified application of the Insolvency (Scotland) Rules 1986

33. This Part of this Schedule modifies the Parts of the Insolvency (Scotland) Rules 1986 which are applied by articles 6 and 8 in relation to a relevant society which the courts in Scotland have jurisdiction to wind up.

a 0 Paragraphs (4) and (5) were substituted by S.I. 2010/686
b 0 Paragraph (6) was substituted by S.I. 2009/642.
c 0 Paragraph (7) was substituted by S.I. 2010/686.
d 0 S.I. 2003/2097.

34. Unless the context otherwise requires and subject to any further modification in this Part, the applied provisions have effect with the general modifications set out in paragraph 3 of this Schedule (read as if set out in this paragraph), except that—

- (sssss) sub-paragraph (c) of paragraph 3 is omitted for this purpose; and
- (ttttt) “floating charge” has the meaning given in Schedule A1 to the 1986 Act (as applied in relation to a relevant society)^(a) in relation to a relevant society whose registered office is situated in Scotland.

35. The applied provisions have effect with the further modifications set out in this Part and with any other necessary modification.

Proposal by directors for company voluntary arrangement

36. In Rule 1.6 (additional disclosure for assistance of nominee), in paragraph (2)(a) the reference to any other company is a reference to any company or any other relevant society.

Consideration of proposals where moratorium obtained

37. In Rule 1.40 (summoning of meetings; procedure at meetings etc.), in paragraph (3) the reference to all persons who are, to the best of the nominee’s belief, members of the company is a reference to every member of the society.

Appointment of administrator by holder of floating charge

38. In Rule 2.10 (notice of appointment), in paragraph (5)(b) the reference to the date on which the floating charge was registered is a reference to—

- (uuuuu) the date on which a copy of the instrument creating the charge was filed by the FCA pursuant to section 4(3) of the 1967 Act; or
- (vvvvv) the date on which the charge was registered under Part 2 of the Agricultural Credits (Scotland) Act 1929^(b).

Process of administration

39. Rule 2.22 (limited disclosure) has effect as if it provided that on an application for disclosure under paragraph (4) any of the following may appear and be heard, or make written representations—

- (wwwww) the administrator;
- (xxxxx) the FCA;
- (yyyyy) in the case of a relevant society which is a PRA-authorised person, also the PRA;
and
- (zzzzz) in the case of a relevant society which is a relevant person, also the scheme manager.

40. Rule 2.23 (release from duty to submit statement of affairs; extension of time) has effect as if it provided that on an application under paragraph (2) for release or extension of time any of the following may appear and be heard, or make written representations—

- (aaaaa) the administrator;
- (bbbbb) the FCA;
- (ccccc) in the case of a relevant society which is a PRA-authorised person, also the PRA;
and

a () For the meaning of “floating charge” see the modification of Schedule A1 made by paragraph 7 of Schedule 1 to this Order.
b () 1929 c. 13.

(ddddd) in the case of a relevant society which is a relevant person, also the scheme manager.

Meetings

41. In the following Rules a reference to a creditors' meeting includes a reference to a members' meeting—

- (eeeeee) Rule 2.27 (meetings to consider administrator's proposals);
- (ffffff) Rule 2.27A (suspension and adjournment);
- (gggggg) Rule 2.28 (correspondence instead of creditors' meetings), except paragraph (9);
and
- (hhhhh) Rule 2.35 (notice to creditors).

42. Rule 2.27 has effect as if—

- (iiiiii) it required a copy of the notice given under paragraph (1) to be sent also—
 - (i) to the FCA;
 - (ii) in the case of a relevant society which is a PRA-authorized person, also to the PRA;
 - (iii) in the case of a relevant society which is a relevant person, also to the scheme manager; and
- (jjjjj) in paragraph (3) the reference to creditors included a reference to members of the society.

43. In Rule 2.28—

- (kkkkkk) in paragraphs (3), (4) and (10) a reference to creditors includes a reference to members of the society; and
- (lllll) in paragraph (6), in relation to correspondence with members, ignore the reference to the statement of claim and account or voucher referred to in Rule 2.26C.

44. In Rule 2.29 (applicable law — company meetings) ignore paragraph (a).

45. In Rule 2.34 (revision of the administrator's proposals)—

- (mmmmm) in paragraph (2) ignore the words "Subject to paragraph 54(3),"; and
- (nnnnn) ignore paragraphs (3) and (4).

46. In Rule 2.35, in paragraph (1)(a) the reference to every creditor includes a reference to every member of the society.

Distributions to creditors

47. In the following Rules, except paragraph (2)(a) of Rule 2.41, a reference to creditors includes a reference to members of the society—

- (ooooo) Rules 2.40 and 2.41 (distributions to creditors — introduction);
- (ppppp) Rule 2.41A (payments of dividends); and
- (qqqqq) Rule 2.41B (new administrator appointed).

48. Rule 2.41 has effect as if—

- (rrrrr) for paragraph (2) there were substituted—

[(2) Subject to paragraph (5) below, Chapters 5 and 9 and any provision of the Bankruptcy Act applied by Rule 4.16 or 4.68 (as so applied) have effect in relation to a relevant society (within the meaning given in section 74(1) of the Industrial and Provident Societies Act 1965^(a)) with the following modifications and any further modification in this Rule—

a () The definition of "relevant society" is inserted by article 15(5) of this Order.

- (a) a reference to the articles of a company is a reference to the rules of the society;
- (b) a reference to a company includes a reference to the society;
- (c) a reference to creditors includes a reference to members of the society;
- (d) a reference to the date of commencement of winding up is a reference to the date on which the society entered administration;
- (e) a reference to the liquidation is a reference to the administration of the society;
- (f) a reference to the liquidation committee is a reference to the creditors' committee in the administration; and
- (g) a reference to the liquidator is a reference to the administrator of the society.

(2A) In Rule 4.66 (order of priority in distribution)—

- (a) a reference to debts does not include a reference to any amounts owed by the society to a member of the society in respect of the member's shares; and
- (b) in paragraph (2) the reference to section 242 of the 1986 Act (gratuitous alienations — Scotland) is a reference to that section as applied in relation to a relevant society.

(2B) Section 49(6) of the Bankruptcy Act has effect as if—

- (a) it required notice of an appeal to be given—
 - (i) to the FCA;
 - (ii) in the case of a relevant society which is a PRA-authorized person, also to the PRA;
 - (iii) in the case of a relevant society which is a relevant person, also to the scheme manager; and
- (b) it provided that those persons are entitled to appear and be heard.[]; and

(sssss) paragraph (4) required the administrator as a further condition of making a distribution to give notice of a proposal to make a distribution—

- (i) to the FCA;
- (ii) in the case of a relevant society which is a PRA-authorized person, also to the PRA;
- (iii) in the case of a relevant society which is a relevant person, also to the scheme manager.

49. Rule 2.41A (payments of dividends) has effect as if it required the administrator, where the administrator has paid a dividend or is unable to declare any dividend or any further dividend, to give notice of this fact—

- (ttttt) to the creditors and members of the society;
- (uuuuuu) to the FCA;
- (vvvvvv) in the case of a relevant society which is a PRA-authorized person, also to the PRA; and
- (wwwwww) in the case of a relevant society which is a relevant person, also to the scheme manager.

Ending administration

50. In Rule 2.45 (notice of end of administration), in paragraph (4)(d)^(a) the reference to a creditor includes a reference to a member of the society.

51. In Rule 2.47 (moving from administration to creditors' voluntary liquidation) a reference to the registrar of companies is a reference to the FCA.

a () Paragraph (4) was substituted by S.I. 2009/662.

Replacing administrator

52. Rule 2.50 (notice of intention to resign), Rule 2.53 (application to replace) and Rule 2.56 (application to court to remove administrator from office) have effect as if the persons who are entitled to receive notice of the matter concerned (of intention to resign or of an application to replace the administrator or remove the administrator from office) included—

- (xxxxxx) the FCA, except where the FCA is the applicant under paragraph 91(1) or 95 of Schedule B1 to the 1986 Act (as applied in relation to a relevant society);
- (yyyyyy) in the case of a relevant society which is a PRA-authorized person, also the PRA, except where the PRA is the applicant under either of those paragraphs (as so applied); and
- (zzzzzz) in the case of a relevant society which is a relevant person, also the scheme manager.

Forms

53. In Rule 7.30 (forms for use in insolvency proceedings)—

- (i) any form prescribed for use by this Rule which is used for the purposes of Part 1 or 2 of the 1986 Act is to be read with the modifications specified in this Order (so far as applicable for the form concerned); and
- (ii) the reference to the use of a form with such variations as circumstances require includes a reference to its use with such variations as are necessary to take account of applicable modifications.

SCHEDULE 5

Article 10

Modified application of subordinate legislation in relation to relevant societies

1. The Insolvency Act 1986 (Prescribed Part) Order 2003^(a) applies in relation to a relevant society which is in administration; and for that purpose—

(aaaaaaa) a reference to a company accordingly includes a reference to a relevant society; and

(bbbbbbb) a reference to section 176A of the 1986 Act (share of assets for unsecured creditors)^(b) is a reference to that section as applied in relation to a relevant society by article 3 of this Order.

2. In the Pension Protection Fund (Entry Rules) Regulations 2005^(c) regulation 9(1) and (2) (confirmation of scheme status by insolvency practitioner) and regulation 10(3) (confirmation of scheme status by Board) apply with the modification that a reference to a company includes a reference to a relevant society.

a () S.I. 2003/2097.

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

c () S.I. 2005/590; relevant amending instruments are S.I. 2005/993; 2005/2153 and 2009/451.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies Part 1 (company voluntary arrangements) and Part 2 (administration) of the Insolvency Act 1986 (c. 45) and Part 26 (arrangements and reconstructions) of the Companies Act 2006 (c. 46) to relevant societies. A “relevant society” is a society registered under the Industrial and Provident Societies Act 1965 (c. 12) (“the 1965 Act”), namely a co-operative society, community benefit society or credit union, except a society which is a private registered provider of social housing or is registered as a social landlord.

Article 2(1) and (2) applies Parts 1 and 2 of the Insolvency Act with the modifications in Schedule 1. Part 1 of Schedule 1 sets out general modifications. Part 2 sets out further modifications of provisions for making voluntary arrangements (sections 1 to 7B of the Insolvency Act) and for obtaining a moratorium (Schedule A1 to that Act). Part 3 sets out further modifications of provisions for administration (Schedule B1 to the Insolvency Act). Part 4 modifies the powers of an administrator (Schedule 1 to the Insolvency Act).

Article 2(3) applies Part 26 of the Companies Act with the modifications set out in Schedule 2.

Article 3 provides for the modified application of section 176A of the Insolvency Act (share of assets for unsecured creditors) to relevant societies which are in administration.

Article 4 and Schedule 3 provide for the modified application of other provisions of the Insolvency Act for the purpose of relevant society voluntary arrangements and administration.

Articles 5 to 9 and Schedule 4 provide for the modified application of the Insolvency Rules 1986 and the Insolvency (Scotland) Rules 1986 for the purpose of relevant society voluntary arrangements and administration.

Article 10 and Schedule 5 provide for the modified application of subordinate legislation in relation to relevant societies.

Articles 11 to 14 make special provision for the application of provisions of the 1965 Act to relevant societies in administration. Articles 11 to 13 modify sections 50 to 52, which provide for amalgamation, transfer of engagements and conversion into companies, and for restricting dissolution and cancellation of registration.

Article 15 amends the 1965 Act by inserting provision which prohibits the appointment of an administrative receiver by the holder of a floating charge who is entitled to appoint an administrator. The prohibition has effect for a charge given by a relevant society whose registered office is in England and Wales. The holder of a floating charge given by a society whose registered office is in Scotland is not competent to appoint a receiver.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Her Majesty’s Treasury, 1 Horse Guards Road, London SW1A 2HQ or on www.hm-treasury.gov.uk, and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.