STATUTORY INSTRUMENTS

2017 No. 540

INSOLVENCY

The Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017

Made - - - -	*4th April 2017*
Coming into force - -	*6th April 2017*

The Secretary of State for Business, Energy and Industrial Strategy makes these Regulations in exercise of the powers conferred by section 112(1) and (2) of the Deregulation Act 2015(**1**) and section 159(1) and (2) of the Small Business, Enterprise and Employment Act 2015(**2**).

In accordance with section 112(3) of the Deregulation Act 2015 and section 159(3) of the Small Business, Enterprise and Employment Act 2015, a draft of these Regulations was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017 and come into force on 6th April 2017.

Consequential amendments to primary legislation

2. Schedule 1 has effect.

Consequential amendments to subordinate legislation

3. Schedule 2 has effect.

Savings for certain insolvency rules

4.—(1) In this regulation, "the relevant amendments" means the amendments made by—

(a) paragraphs 12, 13(1), 14 and 15 of Schedule 6 to, the Deregulation Act 2015; and

(**1**) 2015 c.20.
(**2**) 2015 c.26.

(b) sections 122, 123, 124 and 125 of, and Schedule 9(**3**) to, the Small Business, Enterprise and Employment Act 2015.

(2) The Insolvency Act 1986(**4**), insofar as it applies to proceedings under the following instruments, continues to have effect without the relevant amendments for the purposes of the application of those instruments—

(a) the Railway Administration Order 2001(**5**);

(b) the Limited Liability Partnerships Regulations 2001(**6**);

(c) the Energy Act 2004(**7**);

(d) the Energy Administration Rules 2005(**8**);

(e) the PPP Administration Order Rules 2007(**9**);

(f) the Water Industry (Special Administration) Rules 2009(**10**);

(g) the Energy Act 2011(**11**);

(h) the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012(**12**);

(i) the Energy Supply Company Administration Rules 2013(**13**); and

(j) the Postal Administration Rules 2013(**14**).

Margot James
Minister for Small Business, Consumers and Corporate Responsibility
Department for Business, Energy and Industrial Strategy

4th April 2017

(**3**) Schedule 9 was amended by S.S.I. 2016/141.
(**4**) 1986 c.45.
(**5**) S.I. 2001/3352. Certain provisions of the Insolvency Act 1986 are applied in relation to insolvency proceedings under the Railway Administration Order 2001 by section 59 of, and Schedule 6 to, the Railways Act 1993 (c.43). There are amendments but none are relevant.
(**6**) S.I. 2001/1090. Schedule 3 applies provisions of the Insolvency Act 1986 with modifications. Paragraph 3 of part II of Schedule 6 applies the Insolvency Rules 1986. There are amendments but none are relevant.
(**7**) 2004 c.20. Schedule 20 applies and modifies Schedule B1 to the Insolvency Act 1986 in relation to the conduct of energy administrations.
(**8**) S.I. 2005/2483. There are amendments but none are relevant.
(**9**) S.I. 2007/3141. There are amendments but none are relevant.
(**10**) S.I. 2009/2477. There are amendments but none are relevant.
(**11**) 2011 c.16.
(**12**) S.I. 2012/3013. Part II and the Schedule apply modifications of the Insolvency Act 1986 to the dissolution of CIOs. Part III makes provision for the dissolution of CIOs otherwise than under the Insolvency Act 1986.
(**13**) S.I. 2013/1046. There are amendments but none are relevant.
(**14**) S.I. 2013/3208. There are amendments but none are relevant.

SCHEDULE 1

Regulation 2

Consequential amendments to Primary Legislation

Administration of Justice Act 1985

1.—(1) The Administration of Justice Act 1985(**15**) is amended as follows.

(2) In paragraph 25(4) of Schedule 2 (legal services practices: recognised body: relevant insolvency event)(**16**), for paragraph (d) substitute—

"(d) a winding up becomes a creditors' voluntary winding up under section 96 of that Act (conversion to creditors' voluntary winding up)(**17**);".

(3) In paragraph 10(1A) of Schedule 6 (conveyancing or CLC practitioner services: recognised body: relevant insolvency event)(**18**), for paragraph (d) substitute—

"(d) a winding up becomes a creditors' voluntary winding up under section 96 of that Act (conversion to creditors' voluntary winding up);".

Companies Act 1989

2.—(1) The Companies Act 1989(**19**) is amended as follows.

(2) In subsection (4A) of section 159 (proceedings of exchange or clearing house take precedence over insolvency procedures)(**20**)—

(a) in paragraph (a)—

(i) for "to the chairman of the meeting of creditors" substitute "to the convener", and

(ii) for "at a meeting of creditors" substitute "in a decision procedure"; and

(b) in paragraph (b), for "at a meeting of creditors" substitute " in a decision procedure".

(3) In subsection (4)(b) of section 163 (net sum payable on completion of default proceedings), for "a meeting of creditors had been summoned under section 98" substitute "a statement as to the affairs of the company had been made out and sent under section 99".

Pensions Act 1995

3.—(1) The Pensions Act 1995(**21**) is amended as follows.

(2) In section 75 (deficiencies in the assets)(**22**), in subsection (6D), for paragraph (b), substitute —

"(b) the voluntary winding up of the employer—

(i) is stayed other than in prescribed circumstances, or

(ii) becomes a creditors' voluntary winding up under section 96 of that Act (conversion to creditors' voluntary winding up),"

(**15**) 1985 c.61.
(**16**) Paragraph 25(4) was inserted by the Legal Services Act 2007 (c.29), Schedule 16, paragraph 112.
(**17**) Section 96 of the Insolvency Act 1986 was substituted by the Small Business, Enterprise and Employment Act 2015, Schedule 9, paragraph 20.
(**18**) Paragraph 10(1A) was inserted by the Legal Services Act 2007, Schedule 17, paragraph 32.
(**19**) 1989 c.40.
(**20**) Subsection (4A) was inserted by S.I. 1991/880 and amended by S.I. 2009/853.
(**21**) 1995 c.26.
(**22**) Subsection (6D) was inserted by the Pensions Act 2004, section 271(5).

Pensions Act 2004

4.—(1) Section 121 of the Pensions Act 2004(**23**) (insolvency events etc) is amended as follows.

(2) In subsection (2)(b), for "a meeting of the individual's creditors should be summoned to" substitute "the individual's creditors should".

(3) In subsection (3)(a), for "meetings of" to the end substitute "the proposal should be considered by a meeting of the company and by the company's creditors;".

(4) For subsection (3)(f) substitute—

"(f) a winding up becomes a creditors' voluntary winding up under section 96 of that Act (conversion to creditors' voluntary winding up);".

(5) In subsection (4)(c), for "meetings of" to the end substitute "the proposal should be considered by a meeting of the members of the partnership and by the partnership's creditors;".

Legal Services Act 2007

5.—(1) Schedule 14 to the Legal Services Act 2007 (licensing authority's powers of intervention)(**24**) is amended as follows.

(2) In sub-paragraph (3) of paragraph 1 (licensed body: relevant insolvency event), for paragraph (d) substitute—

"(d) a winding up becomes a creditors' voluntary winding up under section 96 of that Act (conversion to creditors' voluntary winding up);".

Postal Services Act 2011

6.—(1) Part 1 of Schedule 10 to the Postal Services Act 2011(**25**) (conduct of postal administration: application with modifications of Schedule B1 to the Insolvency Act 1986) is amended as follows.

(2) In paragraph 9, at the end of the substituted paragraph 54(2)(d) insert "other than an opted-out creditor".

SCHEDULE 2

Regulation 3

Consequential amendments to subordinate legislation

Administration of Insolvent Estates of Deceased Persons Order 1986

1.—(1) The Administration of Insolvent Estates of Deceased Persons Order 1986(**26**) is amended as follows.

(2) In paragraph 1 of Part II of Schedule 1, after sub-paragraph (b) insert—

"(ba) after subsection (1)(a) there shall be added—

"(aa) by the personal representative of the deceased debtor,";".

(3) For paragraph 15 of Part II of Schedule 1, substitute—

(**23**) 2004 c.35. There are amendments but none is relevant.
(**24**) 2007 c.29. There is an amendment which is not relevant.
(**25**) 2011 c.5.
(**26**) S.I. 1986/1999. Relevant amendments are made by the Administration of Insolvent Estates of Deceased Persons (Amendment) Order 2002 (S.I. 2002/1309) and the Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/481).

"**15.** Section 288(**27**) with the modification that for subsections (1) to (3) there shall be substituted the following—

"(1) Where an insolvency administration order has been made, the official receiver may at any time require the personal representative, or if there is no personal representative such person as the court may on the application of the official receiver direct, to submit to the official receiver a statement of the deceased debtor's affairs.

(2) The statement of affairs must contain—

(a) particulars of the assets and liabilities of the estate as at the date of the insolvency administration order, and

(b) other particulars of the affairs of the deceased debtor in Form 7 set out in Schedule 3 to the Administration of Insolvent Estates of Deceased Persons Order 1986, or as the official receiver may require.

(3) Where the personal representative or such person as the court may direct is required under subsection (1) to submit a statement of affairs to the official receiver, the statement must be submitted before the end of the period of 56 days beginning with the date on which notice of the requirement under subsection (1) is given by the official receiver, or such longer period as he or the court may allow.".".

(4) After paragraph 17 of Part II of Schedule 1, insert—

"**17A.** Section 291A(**28**)."

(5) For paragraph 18 of Part II of Schedule 1, substitute—

"**18.** Sections 292 to 302(**29**)."

(6) For paragraph 28 of Part II of Schedule 1, substitute—

"**28.** Sections 342 to 349(**30**) and 350(1), (2), and (4) to (6)(**31**)."

(7) For paragraph 32 of Part II of Schedule 1, substitute—

"**32.** Sections 383 to 384(**32**)."

(8) For paragraph 2 of Part III of Schedule 1, substitute—

"**2.** Section 257(**33**) with the modification that where the individual dies before the individual's creditors have decided whether to approve the proposed voluntary arrangement, the creditors must not approve the proposal and, if the individual was at the date of his death an undischarged bankrupt, the personal representative shall give notice of the death to the deceased debtor's creditors, the trustee of his estate and the official receiver.".

(**27**) Section 288 was amended by paragraph 18 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c. 24) with effect from 6th April 2016 and by paragraph 15 of Part 5 of Schedule 6 to the Deregulation Act 2015 with effect from 6th April 2017.

(**28**) Section 291A was inserted by section 133(1) of the Small Business, Enterprise and Employment Act 2015 with effect from 6th April 2017.

(**29**) Relevant amendments were made to sections 292 to 302 by the Enterprise Act 2002 (c. 40), paragraph 1 of Schedule 26; the Enterprise and Regulatory Reform Act 2013 (c .24), Schedule 19; and the Small Business, Enterprise and Employment Act, Schedules 9 and 10.

(**30**) Relevant amendments to sections 342 to 349 were made by the Enterprise and Regulatory Reform Act 2013 (c .24), Schedule 19; and the Small Business, Enterprise and Employment Act, Schedules 9 and 10. Sections 342A to 342F were added by the Welfare Reform and Pensions Act 199 (c. 30), section 15 and Schedule 12.

(**31**) Relevant amendments are made by the Enterprise and Regulatory Reform Act 2013 (c .24), Schedule 19.

(**32**) Relevant amendments to section 383 were made by the Enterprise and Regulatory Reform Act 2013 (c. 24), Schedule 19. Section 383A was inserted by the Small Business, Enterprise and Employment Act 2015 (c. 26), section 125(4). Relevant amendments were made to section 384 by the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 12; the Tribunals, Courts and Enforcement Act 2007 (c. 15), Schedule 20; the Enterprise and Regulatory Reform Act 2013 (c. 24), Schedule 19; the Enterprise Act 2002 (c. 40), section 261; and the Tribunals Courts and Enforcement Act 2007 (c. 15), Schedule 20.

(**33**) Relevant amendments to section 257 were made by the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010 (S.I. 2010/18), article 8(2) and by the Small Business, Enterprise and Employment Act 2015 (c. 26), Schedule 9.