STATUTORY INSTRUMENTS

2015 No. 428 (C. 25)

FINANCIAL SERVICES AND MARKETS

The Financial Services (Banking Reform) Act 2013 (Commencement (No. 8) and Consequential Provisions) Order 2015

Made - - - -	*27th February 2015*
Laid before Parliament	*3rd March 2015*
Coming into force - -	*26th March 2015*

The Treasury make the following Order in exercise of the powers conferred by sections 145 and 148(5) of the Financial Services (Banking Reform) Act 2013(**1**).

Citation and commencement

1. This Order may be cited as the Financial Services (Banking Reform) Act 2013 (Commencement (No. 8) and Consequential Provisions) Order 2015, and comes into force on 26th March 2015.

Appointed day for the coming into force of paragraph 4 of Schedule 9

2. 26th March 2015 is the day appointed for the coming into force of paragraph 4 of Schedule 9 to the Financial Services (Banking Reform) Act 2013 (building societies: ability to create floating charges).

Consequential amendments of the Building Societies (Financial Assistance) Order 2010

3. The Building Societies (Financial Assistance) Order 2010(**2**) is amended as follows—

(a) omit article 7 (floating charges); and

(b) in article 11 (application of other companies insolvency legislation to building societies)—

(i) in paragraph (5) for "12, 13, 18 and 20" substitute "12 and 13"; and

(ii) in paragraph (8) for "34, 35, 40 and 42" substitute "34 and 35".

(**1**) 2013 c. 33.
(**2**) S.I. 2010/1188.

Floating charges (Scotland): application of Part 18 of the Companies Act 1985

4. Chapters 1 and 3 of Part 18 of the Companies Act 1985(**3**) (floating charges: Scotland) apply to a building society as they apply to an incorporated company (whether a company within the meaning of that Act or not), but with the modifications set out in Schedule 1.

Floating charges (Scotland): application of the Bankruptcy and Diligence etc. (Scotland) Act 2007

5.—(1) On the day on which section 46 (repeals, savings and transitional arrangements) of the Bankruptcy and Diligence etc. (Scotland) Act 2007(**4**) ("the 2007 Act") comes into force—

(a) article 4 of, and Schedule 1 to, this Order cease to have effect to the same extent as Chapters 1 and 3 of Part 18 of the Companies Act 1985 cease to have effect by virtue of section 46 of the 2007 Act; and

(b) paragraph (2) has effect.

(2) Part 2 of the 2007 Act(**5**) applies to a building society as it applies to an incorporated company, but—

(a) with the modifications set out in Schedule 2; and

(b) in consequence of those modifications, without the modifications in regulation 5 of the Financial Markets and Insolvency (Settlement Finality and Financial Collateral Arrangements) (Amendment) Regulations 2010(**6**) (registration of charges: Scotland).

Mark Lancaster
David Evennett
Two of the Lords Commissioners of Her Majesty's Treasury

27th February 2015

(**3**) 1985 c. 6. Part 18 is repealed, from a day to be appointed, by the Bankruptcy and Diligence (Scotland) Act 2007 (asp 3), section 46(1). Section 46(2) and (3) provides that nothing in Part 2, except sections 40 and 41 so far as they concern the ranking of floating charges subsisting immediately before the coming into force of section 46 ("subsisting charges"), affects the validity or operation of subsisting charges, so that the provisions of Chapters 1 and 3 of Part 18 of the Companies Act 1985 are to be treated as having effect for the purposes of subsisting charges despite the repeal of those Chapters.

(**4**) 2007 (asp 3).

(**5**) Part 2 has been amended, before being brought into force, by the Banking Act 2009 (c. 1), section 253; and by S.I. 2009/1941 and 2010/2993.

(**6**) S.I. 2010/2993.

SCHEDULE 1

Article 4

Modifications of Part 18 of the Companies Act 1985

1. The modifications of Chapters 1 and 3 of Part 18 of the Companies Act 1985 referred to in article 4 are as follows.

2. References to a company or incorporated company include a reference to a building society.

3. Section 462(**7**) (power of incorporated company to create floating charge) has effect as if in subsection (5)—

(a) the reference to the Companies Act 1985 were a reference to such provisions of that Act as apply (by virtue of this Order) to a building society; and

(b) the words "and Part III of the Insolvency Act 1986" were omitted.

4. Section 463(**8**) (effect of floating charge on winding up) has effect as if—

(a) in subsection (1) for the words "section 247(2) of the Insolvency Act 1986" there were substituted "subsection (1A)";

(b) after subsection (1) there were inserted—

"(1A) For the purposes of this Chapter a building society goes into liquidation if—

(a) it goes into liquidation within the meaning of section 247(2) of the Insolvency Act 1986(**9**); or

(b) the court makes a building society insolvency order in relation to it under section 94 of the Banking Act 2009(**10**) (as applied by section 90C of the Building Societies Act 1986(**11**)) at a time when it has not already gone into liquidation by passing a special resolution for voluntary winding up under section 88 of the Building Societies Act 1986(**12**).."; and

(c) in subsection (3) the words from "derogates" to "or" were omitted.

5. Section 464(**13**) (ranking of floating charges) has effect as if—

(a) for paragraphs (b) and (c) of subsection (4) there were substituted—

"(b) one floating charge has priority of ranking over another if it was created first.";

(b) subsection (5), and the reference to that subsection in subsection (3), were omitted; and

(c) in subsection (6) the words "Part XII and to" were omitted.

6. Section 466(**14**) (alteration of floating charges) has effect as if—

(a) subsections (4) to (4F)(**15**) were omitted; and

(b) in subsection (6) the words "subsection (4) of" were omitted.

(**7**) Section 462 was amended by the Companies Act 1989 (c. 40), section 130(7) and Schedule 17, paragraph 8; by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40), section 74, Schedule 8, paragraph 33(6) and Schedule 9; by the Requirements of Writing (Scotland) Act 1995 (c. 7), section 14(2) and Schedule 5; and by the Insolvency Act 1986 (c. 45), section 439(1) and Schedule 13.

(**8**) Section 463 was amended by the Companies Act 1989, section 140(1); and by the Insolvency Act 1986, sections 438 and 439(1) and Schedules 12 and 13.

(**9**) 1986 c. 45.

(**10**) 2009 c. 1.

(**11**) 1986 c. 53. Section 90C was inserted by S.I. 2009/805.

(**12**) Section 88 was amended by S.I. 2001/2617 and 2013/496.

(**13**) Section 464 was amended by the Companies Act 1989, section 140(2) to (7); and by the Insolvency Act 1986, section 439(1) and Schedule 13.

(**14**) Section 466 was amended by the Companies Act 1989, sections 130(7), 140(8) and 212, Schedule 17, paragraph 9 and Schedule 24; and by S.I. 2013/600.

(**15**) Subsections (4A) to (4F) of section 466 were inserted, and subsection (5) was repealed, by S.I. 2013/600.