Draft Order laid before Parliament under paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and section 90B(6) of the Building Societies Act 1986, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

BANKS AND BANKING

BUILDING SOCIETIES

The Banks and Building Societies (Depositor Preference and Priorities) Order 2014

Made - - - -	***
Coming into force - -	*1st January 2015*

The Treasury are designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**), in relation to financial services.

The Treasury, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, and section 90B(1) and (5) of the Building Societies Act 1986(**c**), make the following Order.

A draft of this Order has been laid before Parliament and approved by a resolution of each House of Parliament in accordance with paragraph 2(2) of Schedule 2 to the European Communities Act 1972, and section 90B(6) of the Building Societies Act 1986.

PART 1

Introductory Provisions

Citation and commencement

1.—(1) This Order may be cited as the Banks and Building Societies (Depositor Preference and Priorities) Order 2014.

(2) This Order comes into force on 1st January 2015.

(**a**) S.I. 2012/1759.
(**b**) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 (c.7).
(**c**) 1986 c.53. Section 90B was inserted by section 2 of the Building Societies (Funding) and Mutual Societies (Transfers) Act 2007 (c. 26).

Extent

2. The amendments made by this Order have the same extent as the enactments amended.

Transitional provision

3.—(1) This Order has no effect in relation to any insolvency proceedings commenced before the date on which this Order comes into force.

(2) For this purpose—

(a) "insolvency proceedings" means——

(i) proceedings under the Bankruptcy (Scotland) Act 1985(**a**);

(ii) proceedings under the Insolvency Act 1986(**b**);

(iii) proceedings under the Insolvency (Northern Ireland) Order 1989(**c**);

(iv) proceedings under the Insolvent Partnerships Order 1994(**d**);

(v) proceedings under the Insolvent Partnerships Order (Northern Ireland) 1995(**e**); or

(vi) proceedings under Part 2 or 3 of the Banking Act 2009(**f**) (including proceedings under either of those Parts as applied to building societies by section 90C of the Building Societies Act 1986(**g**));

(b) insolvency proceedings commence on—

(i) the date of presentation of a petition for a winding-up order, bank insolvency order, building society insolvency order, bankruptcy order or award of sequestration;

(ii) the date on which an application is made for an administration order, bank administration order or building society administration order;

(iii) the date on which notice of appointment of an administrator is given under paragraph 18 or 29 of Schedule B1 to the Insolvency Act 1986(**h**) or paragraph 19 or 30 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989(**i**);

(iv) the date on which a proposal is made by the directors of a company for a company voluntary arrangement under Part 1 of the Insolvency Act 1986 or Part 2 of the Insolvency (Northern Ireland) Order 1989 or by an individual debtor for an individual voluntary arrangement under Part 8 of the Insolvency Act 1986 or Part 8 of the Insolvency (Northern Ireland) Order 1989;

(v) the date on which a resolution for voluntary winding up is passed.

PART 2

Amendments of Insolvency Act 1986

Decisions of meetings

4.—(1) Section 4 of the Insolvency Act 1986 (decisions of meetings)(**j**) is amended as follows.

(2) In subsection (4)—

(a) omit the "or" at the end of paragraph (a);

(**a**) 1985 c.66 (S.).
(**b**) 1986 c.45.
(**c**) S.I. 1989/2405 (N.I.19).
(**d**) S.I. 1994/2421.
(**e**) S.R. (N.I.) 1995/225.
(**f**) 2009 c.1.
(**g**) 1986 c.53. Section 90C was inserted by S.I. 2009/805.
(**h**) Schedule B1 was inserted by the Enterprise Act 2002 (c.40), Schedule 16.
(**i**) Schedule B1 was inserted by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10), Schedule 1.
(**j**) Section 4 was amended by the Insolvency Act 2000 (c.39), Schedule 2, paragraphs 1 and 4.

(b) after paragraph (a) insert—

"(aa) any ordinary preferential debt of the company is to be paid otherwise than in priority to any secondary preferential debts that it may have,";

(c) in paragraph (b)—

(i) for "a preferential debt", substitute "an ordinary preferential debt", and

(ii) for "another", substitute "another ordinary";

(d) at the end of paragraph (b), insert—

"or

(c) a preferential creditor of the company is to be paid an amount in respect of a secondary preferential debt that bears to that debt a smaller proportion than is borne to another secondary preferential debt by the amount that is to be paid in respect of that other debt.".

(3) In subsection (7), after "preferential debts" insert ", ordinary preferential debts, secondary preferential debts".

Preferential debts

5.—(1) Section 175 of the Insolvency Act 1986 (preferential debts: general provision) is amended as follows.

(2) In subsection (1) omit "(within the meaning given by section 386 in Part XII)".

(3) After subsection (1) insert—

"(1A) Ordinary preferential debts rank equally among themselves after the expenses of the winding up and shall be paid in full, unless the assets are insufficient to meet them, in which case they abate in equal proportions.

(1B) Secondary preferential debts rank equally among themselves after the ordinary preferential debts and shall be paid in full, unless the assets are insufficient to meet them, in which case they abate in equal proportions.".

(4) In subsection (2), omit paragraph (a) and the "and" immediately following it.

(5) After subsection (2), insert—

"(3) In this section "preferential debts", "ordinary preferential debts" and "secondary preferential debts" each has the meaning given in section 386 in Part 12.".

Decisions of creditors' meetings and preferential debts

6.—(1) Section 258 of the Insolvency Act 1986 (decisions of creditors' meeting)(**a**) is amended as follows.

(2) In subsection (5)—

(a) omit the "or" at the end of paragraph (a);

(b) after paragraph (a) insert—

"(aa) any ordinary preferential debt of the debtor is to be paid otherwise than in priority to any secondary preferential debts that the debtor may have,";

(c) in paragraph (b)—

(i) for "a preferential debt", substitute "an ordinary preferential debt", and

(ii) for "another", substitute "another ordinary";

(d) at the end of paragraph (b), insert—

"or

(**a**) Section 258 was amended by the Insolvency Act 2000 (c.39), Schedule 3, paras 1 and 9.

(c) a preferential creditor of the debtor is to be paid an amount in respect of a secondary preferential debt that bears to that debt a smaller proportion than is borne to another secondary preferential debt by the amount that is to be paid in respect of that other debt.".

(3) In subsection (7), for "has" substitute ", "ordinary preferential debt" and "secondary preferential debt" each has".

Priority of debts

7.—(1) Section 328 of the Insolvency Act 1986 (priority of debts) is amended as follows.

(2) In subsection (1) omit "(within the meaning given by section 386 in Part XII)".

(3) After subsection (1) insert—

"(1A) Ordinary preferential debts rank equally among themselves after the expenses of the bankruptcy and shall be paid in full, unless the bankrupt's estate is insufficient to meet them, in which case they abate in equal proportions between themselves.

(1B) Secondary preferential debts rank equally among themselves after the ordinary preferential debts and shall be paid in full, unless the bankrupt's estate is insufficient to meet them, in which case they abate in equal proportions between themselves.".

(4) Omit subsection (2).

(5) After subsection (6) insert—

"(7) In this section "preferential debts", "ordinary preferential debts" and "secondary preferential debts" each has the meaning given in section 386 in Part 12.".

Categories of preferential debts

8.—(1) Section 386(**a**) of the Insolvency Act 1986 (categories of preferential debts) is amended as follows.

(2) In subsection (1), after "Compensation Scheme", insert "; other deposits".

(3) After subsection (1), insert—

"(1A) A reference in this Act to the "ordinary preferential debts" of a company or an individual is to the preferential debts listed in any of paragraphs 8 to 15B of Schedule 6 to this Act.

(1B) A reference in this Act to the "secondary preferential debts" of a company or an individual is to the preferential debts listed in paragraph 15BA or 15BB of Schedule 6 to this Act.".

(4) In subsection (2), for "that Schedule" substitute "Schedule 6".

Moratorium where directors propose voluntary arrangement and preferential debts

9.—(1) Schedule A1(**b**) to the Insolvency Act 1986 (moratorium where directors propose voluntary arrangement) is amended as follows.

(2) In paragraph 31(5)—

(a) omit the "or" at the end of paragraph (a);

(b) after paragraph (a) insert—

"(aa) any ordinary preferential debt of the company is to be paid otherwise than in priority to any secondary preferential debts that it may have,";

(c) in paragraph (b)—

(**a**) Section 386 was amended by the Enterprise Act 2002 (c.40), section 251(3), the Financial Services (Banking Reform) Act 2013 (c.33), section 13, and the Pension Schemes Act 1993 (c.48), Schedule 8, paragraph 18.

(**b**) Schedule A1 to the Insolvency Act 1986 was inserted by the Insolvency Act 2000 (c.39), Schedule 1, paragraphs 1 and 4.

(i) for "a preferential debt", substitute "an ordinary preferential debt", and

(ii) for "another", substitute "another ordinary";

(d) at the end of paragraph (b), insert—

"or

(c) a preferential creditor of the company is to be paid an amount in respect of a secondary preferential debt that bears to that debt a smaller proportion than is borne to another secondary preferential debt by the amount that is to be paid in respect of that other debt.".

(3) In paragraph 31(8), after "preferential debts" insert ", ordinary preferential debts, secondary preferential debts".

Administration and preferential debts

10.—(1) Schedule B1(**a**) to the Insolvency Act 1986 (administration), paragraph 73(1) is amended as follows.

(2) Omit the "or" at the end of paragraph (b).

(3) After paragraph (b) insert—

"(bb) would result in an ordinary preferential debt of the company being paid otherwise than in priority to any secondary preferential debts that it may have,".

(4) In paragraph (c), for "his debt" substitute "an ordinary preferential debt".

(5) At the end of paragraph (c), insert—

"or

(d) would result in one preferential creditor of the company being paid a smaller proportion of a secondary preferential debt than another.".

Additional preferential debts

11.—(1) Schedule 6(**b**) to the Insolvency Act 1986 (preferential debts) is amended as follows.

(2) After paragraph 15B, insert—

"Category 8: Other deposits

15BA. So much of any amount owed at the relevant date by the debtor to one or more eligible persons in respect of an eligible deposit as exceeds any compensation that would be payable in respect of the deposit under the Financial Services Compensation Scheme to that person or those persons.

15BB. An amount owed at the relevant date by the debtor to one or more eligible persons in respect of a deposit that—

(a) was made through a non-EEA branch of a credit institution authorised by the competent authority of an EEA state, and

(b) would have been an eligible deposit if it had been made through an EEA branch of that credit institution.".

(3) In the italic heading before paragraph 15C, for "Category 7" substitute "Categories 7 and 8".

(4) In paragraph 15C—

(a) in sub-paragraph (1), for "paragraph 15B" substitute "paragraphs 15B to 15BB";

(**a**) Schedule B1 to the Insolvency Act 1986 was inserted by the Enterprise Act 2002 (c.40), Schedule 16.

(**b**) Schedule 6 to the Insolvency Act 1986 was amended by the Enterprise Act 2002 (c.40), section 251, and Schedule 26; the Pension Schemes Act 1993 (c.48), Schedule 8, paragraph 18; the Employment Rights Act 1996 (c.18), Schedule 1, paragraph 29, the Enterprise and Regulatory Reform Act 2013 (c.24), Schedule 19, paragraphs 1, 64; the Financial Services (Banking Reform) Act 2013 (c.33), section 13 and S.I. 2008/948; 1987/2093.

(b) in sub-paragraph (2), for "this purpose" substitute "the purposes of those paragraphs and this paragraph"; and

(c) after sub-paragraph (2), insert—

"(3) In paragraphs 15BA and 15BB, "eligible person" means—

(a) an individual, or

(b) a micro-enterprise, a small enterprise or a medium-sized enterprise, each of those terms having the meaning given in Article 2.1(107) of Directive 2014/59/EU of 15th May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.(**a**)

(4) In paragraph 15BB—

(a) "credit institution" has the meaning given in Article 4.1(1) of the capital requirements regulation;

(b) "EEA branch" means a branch, as defined in Article 4.1(17) of the capital requirements regulation, which is established in an EEA state;

(c) "non-EEA branch" means a branch, as so defined, which is established in a country which is not an EEA state;

and for this purpose "the capital requirements regulation" means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26th June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012(**b**).".

PART 3

Amendments of Insolvent Partnerships Order 1994

Amendments of Schedule 1 to the Insolvent Partnerships Order 1994

12.—(1) Schedule 1 to the Insolvent Partnerships Order 1994 (modified provisions of Part 1 of, and Schedule A1 to, the Insolvency Act 1986 (company voluntary arrangements) as applied by Article 4)(**c**), is amended as follows.

(2) In modified section 4(4) (decisions of meetings)—

(a) omit the "or" at the end of paragraph (a);

(b) after paragraph (a) insert—

"(aa) any ordinary preferential debt of the partnership is to be paid otherwise than in priority to any secondary preferential debts that it may have,";

(c) in paragraph (b)—

(i) for "a preferential debt", substitute "an ordinary preferential debt", and

(ii) for "another", substitute "another ordinary";

(d) at the end of paragraph (b), insert—

"or

(c) a preferential creditor of the partnership is to be paid an amount in respect of a secondary preferential debt that bears to that debt a smaller proportion than is borne to another secondary preferential debt by the amount that is to be paid in respect of that other debt.".

(**a**) OJ no L173, 12.6.2014, p.190.
(**b**) OJ no L176, 27.6.2013, p.1. For corrigenda see OJ no L208, 2.8.2013 p.68 and OJ no L321, 30.11.2013 p. 6.
(**c**) S.I. 1994/2421. Schedule 1 was substituted by S.I. 2002/2708.

(3) In modified section 4(7) after "preferential debts" insert ", ordinary preferential debts, secondary preferential debts".

Amendments of Schedule 2 to the Insolvent Partnerships Order 1994

13.—(1) Paragraph 25 of Schedule 2 to the Insolvent Partnerships Order 1994 (modified provisions of Part 2 of, and Schedule B1 to, the Insolvency Act 1986 (Administration) as applied by Article 6)(**a**) is amended as follows.

(2) In modified paragraph 73(1)—

(a) omit the "or" at the end of paragraph (b);

(b) after paragraph (b) insert—

"(bb) would result in an ordinary preferential debt of the partnership being paid otherwise than in priority to any secondary preferential debts that it may have,";

(c) in paragraph (c), for "his debt" substitute "an ordinary preferential debt";

(d) at the end of paragraph (c), insert—

"or

(d) would result in one preferential creditor of the partnership being paid a smaller proportion of a secondary preferential debt than another.".

Amendments of Schedule 4 to the Insolvent Partnerships Order 1994

14.—(1) Paragraph 23 of Schedule 4 to the Insolvent Partnerships Order 1994 (provisions of the Insolvency Act 1986(**b**) which apply with modifications for the purposes of article 8 to winding up of insolvent partnership on creditor's petition where concurrent petitions are presented against one or more members) is amended as follows.

(2) In modified section 175A(2) (priority of debts in joint estate), for paragraph (a) substitute—

"(a) the ordinary preferential debts;

(aa) the secondary preferential debts;".

(3) In modified sections 175A(4), 175A(5), 175A(6) and 175B(2), for "paragraphs (a) and (b)" substitute "paragraphs (a), (aa) and (b)".

(4) In modified section 175B(1) (priority of debts in separate estate), for paragraph (a) substitute—

"(a) the ordinary preferential debts;

(aa) the secondary preferential debts;".

Amendments of Schedule 7 to the Insolvent Partnerships Order 1994

15.—(1) Paragraph 21 of Schedule 7 to the Insolvent Partnerships Order 1994 (provisions of the Insolvency Act 1986(**c**) which apply with modifications for the purposes of article 11 where joint bankruptcy presented by individual members without winding up of partnership as unregistered company) is amended as follows.

(2) In modified section 328A(2) (priority of debts in joint estate), for paragraph (a) substitute—

"(a) the ordinary preferential debts;

(aa) the secondary preferential debts;".

(3) In modified sections 328A(4), 328A(5), 328A(6) and 328B(2) for "paragraphs (a) and (b)" substitute "paragraphs (a), (aa) and (b)".

(**a**) Schedule 2 was substituted by S.I. 2005/1516.
(**b**) Schedule 4 to S.I. 1994/2421 has been amended, but those amendments are not relevant to this Order.
(**c**) Schedule 7 to S.I. 1994/2421 has been amended, but those amendments are not relevant to this Order.

(4) In modified section 328B(1) (priority of debts in separate estate), for paragraph (a) substitute—

"(a) the ordinary preferential debts;

(aa) the secondary preferential debts;".

PART 4

Amendments of Insolvency (Northern Ireland) Order 1989

Decisions of meetings and preferential debts

16.—(1) Article 17 of the Insolvency (Northern Ireland) Order 1989 (decisions of meetings)(**a**) is amended as follows.

(2) In paragraph (4)—

(a) omit the "or" at the end of sub-paragraph (a);

(b) after sub-paragraph (a) insert—

"(aa) any ordinary preferential debt of the company is to be paid otherwise than in priority to any secondary preferential debts that it may have,";

(c) in sub-paragraph (b)—

(i) for "a preferential debt", substitute "an ordinary preferential debt", and

(ii) for "another", substitute "another ordinary";

(d) at the end of sub-paragraph (b), insert—

"or

(c) a preferential creditor of the company is to be paid an amount in respect of a secondary preferential debt that bears to that debt a smaller proportion than is borne to another secondary preferential debt by the amount that is to be paid in respect of that other debt.".

(3) In paragraph (7), for "has" substitute ", "ordinary preferential debt" and "secondary preferential debt" each has".

Preferential debts: general provision

17.—(1) Article 149 of the Insolvency (Northern Ireland) Order 1989 (preferential debts: general provision) is amended as follows.

(2) In paragraph (1) omit "(within the meaning of Article 346)".

(3) After paragraph (1) insert—

"(1A) Ordinary preferential debts rank equally among themselves after the expenses of the winding up and shall be paid in full, unless the assets are insufficient to meet them, in which case they abate in equal proportions.

(1B) Secondary preferential debts rank equally among themselves after the ordinary preferential debts and shall be paid in full, unless the assets are insufficient to meet them, in which case they abate in equal proportions.".

(4) In paragraph (2), omit paragraph (a) and the "and" immediately following it.

(5) After paragraph (2), insert—

"(3) In this Article "preferential debts", "ordinary preferential debts" and "secondary preferential debts" each has the meaning given in Article 346.".

(**a**) S.I. 1989/2405 (N.I. 19). Article 17 was amended by S.I. 2002/3152 (N.I. 6).

Decisions of creditors' meetings and preferential debts

18.—(1) Article 232 of the Insolvency (Northern Ireland) Order 1989 (decisions of creditors' meeting)(**a**) is amended as follows.

(2) In paragraph (6)—

(a) omit the "or" at the end of sub-paragraph (a);

(b) after sub-paragraph (a) insert—

"(aa) any ordinary preferential debt of the debtor is to be paid otherwise than in priority to any secondary preferential debts that the debtor may have,";

(c) in sub-paragraph (b)—

(i) for "a preferential debt", substitute "an ordinary preferential debt", and

(ii) for "another", substitute "another ordinary";

(d) at the end of sub-paragraph (b), insert—

"or

(c) a preferential creditor of the debtor is to be paid an amount in respect of a secondary preferential debt that bears to that debt a smaller proportion than is borne to another secondary preferential debt by the amount that is to be paid in respect of that other debt.".

(3) In paragraph (9), for "has" substitute ", "ordinary preferential debt" and "secondary preferential debt" each has".

Priority of debts

19.—(1) Article 300 of the Insolvency (Northern Ireland) Order 1989 (priority of debts) is amended as follows.

(2) In paragraph (1) omit "(within the meaning of Article 346)".

(3) After paragraph (1) insert—

"(1A) Ordinary preferential debts rank equally among themselves after the expenses of the bankruptcy and shall be paid in full, unless the bankrupt's estate is insufficient to meet them, in which case they abate in equal proportions between themselves.

(1B) Secondary preferential debts rank equally among themselves after the ordinary preferential debts and shall be paid in full, unless the bankrupt's estate is insufficient to meet them, in which case they abate in equal proportions between themselves.".

(4) Omit paragraph (2).

(5) After paragraph (6) insert—

"(7) In this Article "preferential debts", "ordinary preferential debts" and "secondary preferential debts" each has the meaning given in Article 346.".

Categories of preferential debts

20.—(1) Article 346 of the Insolvency (Northern Ireland) Order 1989 (categories of preferential debts)(**b**) is amended as follows.

(2) In paragraph (1), after "steel production" insert "; deposits covered by the Financial Services Compensation Scheme; other deposits".

(3) After paragraph (1), insert—

(**a**) Article 232 of S.I. 1989/2405 (N.I. 19) was amended by S.I. 2002/3152 (N.I. 6).
(**b**) Article 346 was amended by S.I. 2005/1455 (N.I. 10).

"(1A) A reference in this Order to the "ordinary preferential debts" of a company or an individual is to the preferential debts listed in any of paragraphs 8 to 18 of Schedule 4 to this Order.

(1B) A reference in this Order to the "secondary preferential debts" of a company or an individual is to the preferential debts listed in paragraphs 19 or 20 of Schedule 4 to this Order.".

Moratorium where directors propose voluntary arrangement and preferential debts

21.—(1) Schedule A1 to the Insolvency (Northern Ireland) Order 1989 (moratorium where directors propose voluntary arrangement)(**a**) is amended as follows.

(2) In paragraph 41(5)—

(a) omit the "or" at the end of sub-paragraph (a);

(b) after sub-paragraph (a) insert—

"(aa) any ordinary preferential debt of the company is to be paid otherwise than in priority to any secondary preferential debts that it may have,";

(c) in sub-paragraph (b)—

(i) for "a preferential debt", substitute "an ordinary preferential debt", and

(ii) for "another", substitute "another ordinary";

(d) at the end of sub-paragraph (b), insert—

"or

(c) a preferential creditor of the company is to be paid an amount in respect of a secondary preferential debt that bears to that debt a smaller proportion than is borne to another secondary preferential debt by the amount that is to be paid in respect of that other debt.".

(3) In paragraph 41(8), after "preferential debts" insert ", ordinary preferential debts, secondary preferential debts".

Administration and preferential debts

22.—(1) Paragraph 74(1) of Schedule B1 to the Insolvency (Northern Ireland) Order 1989 (protection for preferential creditors)(**b**) is amended as follows.

(2) Omit the "or" at the end of paragraph (b).

(3) After paragraph (b) insert—

"(bb) would result in an ordinary preferential debt of the company being paid otherwise than in priority to its secondary preferential debts,".

(4) In paragraph (c), for "his debt" substitute "an ordinary preferential debt".

(5) At the end of paragraph (c), insert—

"or

(d) would result in one preferential creditor of the company being paid a smaller proportion of a secondary preferential debt than another.".

Additional preferential debts

23. In Schedule 4 to the Insolvency (Northern Ireland) Order 1989 (categories of preferential debts)(**c**), after paragraph 17 insert—

(**a**) Schedule A1 was inserted by S.I. 2002/3152 (N.I. 6). There are a number of amendments to Schedule A1 but none are relevant to this Order.

(**b**) Schedule B1 was inserted by S.I. 2005/1455 (N.I. 10), and amended by S.I. 2007/2974 and 2008/948.

(**c**) Schedule 4 was amended by S.I. 2005/1455 (N.I. 10). There are other amendments not relevant to this Order.

"Category 7: Deposits covered by Financial Services Compensation Scheme

18. So much of any amount owed at the relevant date by the debtor in respect of an eligible deposit as does not exceed the compensation that would be payable in respect of the deposit under the Financial Services Compensation Scheme to the person or persons to whom the amount is owed.

Category 8: Other deposits

19. So much of any amount owed at the relevant date by the debtor to one or more eligible persons in respect of an eligible deposit as exceeds any compensation that would be payable in respect of the deposit under the Financial Services Compensation Scheme to that person or those persons.

20. An amount owed at the relevant date by the debtor to one or more eligible persons in respect of a deposit that—

(a) was made through a non-EEA branch of a credit institution authorised by the competent authority of an EEA state, and

(b) would have been an eligible deposit if it had been made through an EEA branch of that credit institution.

Interpretation for Categories 7 and 8

21.—(1) In paragraphs 18 to 20 "eligible deposit" means a deposit in respect of which the person, or any of the persons, to whom it is owed would be eligible for compensation under the Financial Services Compensation Scheme.

(2) For the purposes of those paragraphs and this paragraph a "deposit" means rights of the kind described in—

(a) paragraph 22 of Schedule 2 to the Financial Services and Markets Act 2000(**a**) (deposits), or

(b) section 1(2)(b) of the Dormant Banks and Building Society Accounts Act 2008(**b**) (balances transferred under that Act to authorised reclaim fund).

(3) In paragraphs 19 and 20, "eligible person" means—

(a) an individual, or

(b) a micro-enterprise, a small enterprise or medium-sized enterprise, each of those terms having the meaning given in Article 2.1(107) of the Directive 2014/59/EU of 15th May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms(**c**).

(4) In paragraph 20—

(a) "credit institution" has the meaning given in Article 4.1(1) of the capital requirements regulation;

(b) "EEA branch" means a branch, as defined in Article 4.1(17) of the capital requirements regulation, which is established in an EEA state;

(c) "non-EEA branch" means a branch, as so defined, which is established in a country which is not an EEA state;

and for this purpose "the capital requirements regulation" means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential

(**a**) 2000 c.8.
(**b**) 2008 c.31.
(**c**) OJ no 173, 12/6/2014, p 190.

requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012(**a**).".

PART 5

Amendments of Insolvent Partnerships Order (Northern Ireland) 1995

Amendments of Schedule 1 to the Insolvent Partnerships Order (Northern Ireland) 1995

24.—(1) Schedule 1 to the Insolvent Partnerships Order (Northern Ireland) 1995(**b**) (modified provisions of Part 2 of the Order (company voluntary arrangements) as applied by Article 4)(**c**) is amended as follows.

(2) In modified Article 17(4) (decisions of meetings)—

(a) omit the "or" at the end of sub-paragraph (a);

(b) after sub-paragraph (a) insert—

"(aa) any ordinary preferential debt of the partnership is to be paid otherwise than in priority to any secondary preferential debts that it may have,";

(c) in sub-paragraph (b)—

(i) for "a preferential debt", substitute "an ordinary preferential debt", and

(ii) for "another", substitute "another ordinary";

(d) at the end of sub-paragraph (b), insert—

"or

(c) a preferential creditor of the partnership is to be paid an amount in respect of a secondary preferential debt that bears to that debt a smaller proportion than is borne to another secondary preferential debt by the amount that is to be paid in respect of that other debt.".

(3) In modified Article 17(7) for "has" substitute ","ordinary preferential debt", and "secondary preferential debt" each has".

Amendments of Schedule 2 to the Insolvent Partnerships Order (Northern Ireland) 1995

25.—(1) Paragraph 35 of Schedule 2 to the Insolvent Partnerships Order (Northern Ireland) 1995 (provisions of the Order which apply with modifications for the purposes of Article 6 to administration in relation to insolvent partnerships)(**d**), is amended as follows.

(2) In modified paragraph 74(1)—

(a) omit the "or" at the end of sub-paragraph (b);

(b) after sub-paragraph (b) insert—

"(bb) would result in an ordinary preferential debt of the partnership being paid otherwise than in priority to its secondary preferential debts,";

(c) in sub-paragraph (c), for "his debt" substitute "an ordinary preferential debt";

(d) at the end of sub-paragraph (c), insert—

"or

(d) would result in one preferential creditor being paid a smaller proportion of a secondary preferential debt than another.".

(**a**) OJ no L176, 27/6/2013, p.1. For corrigenda see OJ no L208, 2/8/2013 p.68 and OJ no L321, 30/11/2013 p. 6.
(**b**) S.R. (NI) 1995 No 225.
(**c**) S.R. (NI) 1995 No. 225 as amended by S.R. (NI) 2003 No. 550, S.R. (NI) 2006 No. 515.
(**d**) Schedule 2 was substituted by S.R. (NI) 2006 No. 515.

Amendments of Schedule 4 to the Insolvent Partnerships Order (Northern Ireland) 1995

26.—(1) Paragraph 23 of Schedule 4 to the Insolvent Partnerships Order (Northern Ireland) 1995 (provisions of the Order which apply with modifications for the purposes of Article 8 to winding up of insolvent partnership on creditor's petition where concurrent petitions are presented against one or more members)(**a**) is amended as follows.

(2) In modified Article 149A(2) (priority of debts in joint estate), for sub-paragraph (a) substitute—

"(a) the ordinary preferential debts;

(aa) the secondary preferential debts;".

(3) In modified Articles 149A(4), 149A(5), 149A(6) and 149B(2), for "sub-paragraphs (a) and (b)" substitute "sub-paragraphs (a), (aa) and (b)".

(4) In modified Article 149B(1) (priority of debts in separate estate), for sub-paragraph (a) substitute—

"(a) the ordinary preferential debts;

(aa) the secondary preferential debts;".

Amendments of Schedule 7 to the Insolvent Partnerships Order (Northern Ireland) 1995

27.—(1) Paragraph 21 of Schedule 7 to the Insolvent Partnerships Order (Northern Ireland) 1995 (provisions of the Order which apply with modifications for the purposes of Article 11 where joint bankruptcy petition is presented by individual members without winding up partnership as unregistered company)(**b**) is amended as follows.

(2) In modified Article 300A(2) (priority of debts in joint estate), for sub-paragraph (a) substitute—

"(a) the ordinary preferential debts;

(aa) the secondary preferential debts;".

(3) In modified Articles 300A(4), 300A(5), 300A(6) and 300B(2), for "sub-paragraphs (a) and (b)" substitute "sub-paragraphs (a), (aa) and (b)".

(4) In modified Article 300B(1) (priority of debts in separate estate), for sub-paragraph (a) substitute—

"(a) the ordinary preferential debts;

(aa) the secondary preferential debts;".

PART 6

Further amendments relating to Parts 2 to 5

The Bankruptcy (Scotland) Act 1985

28.—(1) The Bankruptcy (Scotland) Act 1985(**c**) is amended as follows.

(2) In section 51 (order of priority in distribution)(**d**)—

(a) in subsection (1)—

(i) for paragraph (e) substitute—

(**a**) Amended by S.R. 2003 No 144.
(**b**) Amended by S.R. 2006 No 515.
(**c**) 1985 c.66.
(**d**) Section 51 has been amended by the Bankruptcy and Diligence etc (Scotland) Act 2007 (c.66 (S.)), section 226(2), Schedule 1, paragraphs 1, 43; Schedule 6, Part 1; the Civil Partnership Act 2004 (c.33), Schedule 28, paragraph 39, and S.I. 2003/2109.

"(e) ordinary preferred debts (excluding any interest which has accrued thereon to the date of sequestration);

(ea) secondary preferred debts (excluding any interest which has accrued thereon to the date of sequestration);";

(ii) in paragraph (g)(i), before "preferred" insert "ordinary";

(iii) after paragraph (g)(i), insert—

"(ia) the secondary preferred debts;";

(b) for subsection (2), substitute—

"(2) In this Act—

(a) "preferred debt" means a debt listed in Part I of Schedule 3 to this Act,

(b) "ordinary preferred debt" means a debt within any of paragraphs 4 to 6B of Part I of Schedule 3 to this Act,

(c) "secondary preferred debt" means a debt within paragraph 6C or 6D of Part 1 of Schedule 3 to this Act, and

Part II of that Schedule shall have effect for the interpretation of Part I.".

(3) In Schedule 3 (preferred debts) (**a**)—

(a) after paragraph 6B, insert—

"Other deposits

6C. So much of any amount owed at the relevant date by the debtor to one or more eligible persons in respect of an eligible deposit as exceeds any compensation that would be payable in respect of the deposit under the Financial Services Compensation Scheme to that person or those persons.

6D. An amount owed at the relevant date by the debtor to one or more eligible persons in respect of a deposit that—

(a) was made through a non-EEA branch of a credit institution authorised by the competent authority of an EEA state, and

(b) would have been an eligible deposit if it had been made through an EEA branch of that credit institution.";

(b) in paragraph 9A(**b**)—

(i) in sub-paragraph (1), for "paragraph 6B" substitute "paragraphs 6B to 6D";

(ii) in sub-paragraph (2), for "this purpose" substitute "the purposes of those paragraphs and this paragraph"; and

(iii) after sub-paragraph (2), insert—

"(3) In paragraphs 6C and 6D, "eligible person" means—

(a) an individual, or

(b) a micro-enterprise, a small enterprise or a medium-sized enterprise, each of those terms having the meaning given in Article 2.1(107) of the Directive 2014/59/EU of 15th May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms(**c**).

(4) In paragraph 6D—

(a) "credit institution" has the meaning given in Article 4.1(1) of the capital requirements regulation;

(**a**) Schedule 3 was amended by the Enterprise Act 2002 (c.40), section 251, and Schedule 26; the Pension Schemes Act 1993 (c.48), Schedule 8, paragraph 17; the Financial Services (Banking Reform) Act 2013 (c.33), section 13 and S.I. 1987/2093.

(**b**) Paragraph 9A was inserted by the Financial Services (Banking Reform) Act 2013 (c.33), section 13(4).

(**c**) OJ no L173, 12/6/2014, p.190.

(b) "EEA branch" means a branch, as defined in Article 4.1(17) of the capital requirements regulation, which is established in an EEA state;

(c) "non-EEA branch" means a branch, as so defined, which is established in a country which is not an EEA state;

and for this purpose "the capital requirements regulation" means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26th June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012(**a**).".

Housing Act 1996

29.—(1) The Housing Act 1996(**b**) is amended as follows.

(2) In section 44(4) (proposals as to ownership and management of landlord's land)—

(a) omit the "or" at the end of paragraph (a);

(b) after paragraph (a) insert—

"(aa) an ordinary preferential debt of the landlord is to be paid otherwise than in priority to any secondary preferential debts that the landlord may have,";

(c) in paragraph (b), for "his preferential debt" substitute "an ordinary preferential debt";

(d) at the end of paragraph (b), insert—

"or

(c) a preferential creditor is to be paid a smaller proportion of a secondary preferential debt than another preferential creditor, except with the concurrence of the creditor concerned.";

(e) after "references to preferential debts" insert ", ordinary preferential debts, secondary preferential debts".

Housing and Regeneration Act 2008

30.—(1) The Housing and Regeneration Act 2008(**c**) is amended as follows.

(2) In section 152(4) (proposals)—

(a) omit the "or" at the end of paragraph (a);

(b) after paragraph (a) insert—

"(aa) an ordinary preferential debt being paid otherwise than in priority to a secondary preferential debt,";

(c) in paragraph (b), for "a preferential debt" substitute "an ordinary preferential debt";

(d) at the end of paragraph (b), insert—

"or

(c) a preferential creditor (PC1) being paid a smaller proportion of a secondary preferential debt than another preferential creditor (PC2) (unless PC2 consents)."

(3) In section 275 (general)(**d**), for ""preferential creditor" and "preferential debtor"" substitute ""preferential creditor", "preferential debt", "ordinary preferential debt" and "secondary preferential debt"".

(4) In the Table in section 276 (index of defined terms), insert the following entries at the appropriate place—

"Ordinary preferential debt	Section 275"

(**a**) OJ no L176, 27/6/2013, p.1. For corrigenda see OJ no L208, 2/8/2013 p.68 and OJ no L321, 30/11/2013 p. 6.
(**b**) 1996 c.52. There are amendments to section 44 which are not relevant to this Order.
(**c**) 2008 c.17.
(**d**) There are amendments to section 275, but those amendments are not relevant to this Order.

"Secondary preferential debt	Section 275"

Housing (Scotland) Act 2010

31.—(1) Section 80 of the Housing (Scotland) Act 2010 (proposals: formulation)(**a**) is amended as follows.

(2) In subsection (5)—

(a) after paragraph (a) insert—

"(aa) secondary preferential debts being paid before ordinary preferential debts,";

(b) in paragraph (b), after "proportions of" insert "ordinary";

(c) at the end of paragraph (b), insert—

"or

(c) preferential creditors being paid different proportions of secondary preferential debts (except where affected preferential creditors agree to be paid a smaller proportion).";

(d) after ""preferential debt"" insert ", ordinary preferential debt, secondary preferential debt".

PART 7

Amendments of Schedule 15 to Building Societies Act 1986

General mode of application of the companies winding up legislation

32.—(1) Part 1 of Schedule 15 to the Building Societies Act 1986(**b**) (general mode of application) is amended as follows.

(2) After paragraph 1 insert—

"**1A.** In this Schedule—

"deposit" means rights of the kind described in—

(a) paragraph 22 of Schedule 2 to the Financial Services and Markets Act 2000 (deposits); or

(b) section 1(2)(b) of the Dormant Bank and Building Society Accounts Act 2008 (balances transferred under that Act to authorised reclaim fund); and

"relevant deposit" means—

(a) an "eligible deposit" within the meaning given by paragraph 15C(1) of Schedule 6 to the Insolvency Act 1986 (categories of preferential debts) or a deposit of the kind mentioned in paragraph 15BB of that Schedule(**c**); or

(b) an "eligible deposit" within the meaning given by paragraph 21(1) of Schedule 4 to the Insolvency (Northern Ireland) Order 1989 (categories of preferential debts) or a deposit of the kind mentioned in paragraph 20 of that Schedule(**d**).".

(3) In paragraph 3(2), after paragraph (aa) insert—

"(ab) a reference to the debts of a company includes a reference to sums due to shareholding members of a building society in respect of deposits;".

(**a**) 2010 asp 17.
(**b**) 1986 c. 53.
(**c**) Paragraph 15BB is inserted into Schedule 6 to the Act by article 11 of this Order.
(**d**) Paragraph 20 is inserted into Schedule 4 to the 1989 Order by article 23 of this Order.

Modified application of Part 4 of the Insolvency Act 1986

33.—(1) Part 2 of Schedule 15 to the Building Societies Act 1986 (modified application of Insolvency Act 1986, Parts 4 and 12) is amended as follows.

(2) After paragraph 6 insert—

"**6A.** In the following provisions of the Act a reference to the creditors, general creditors or unsecured creditors of a company includes a reference to every shareholding member of the building society to whom a sum due from the society in relation to the member's shareholding is due in respect of a deposit—

(a) subsection (1) of section 143 (general functions of liquidator in winding up by the court);

(b) subsection (3) of section 149 (debts due from contributory to company);

(c) subsection (4) of section 168 (supplementary powers (England and Wales));

(d) subsection (2)(b) of section 175 (preferential debts (general provision));

(e) subsection (1) of section 176ZA (payment of expenses of winding up (England and Wales)(**a**)); and

(f) subsections (3)(b) and (5)(a) of section 176A (share of assets for unsecured creditors)(**b**).".

(3) In paragraph 7 after sub-paragraph (3) insert—

"(3A) In paragraph (f) of subsection (2) the reference to a sum due to a member of the company by way of dividends, profits or otherwise does not include a sum due to a shareholding member of a building society in respect of a deposit.".

(4) In paragraph 12 after sub-paragraph (2) insert—

"(3) In sub-paragraph (2) the reference to the society's liabilities to creditors includes a reference to the society's liabilities to shareholding members of the society in respect of deposits which are not relevant deposits.".

(5) After paragraph 23 insert—

"**23A.** Section 143 (general functions of liquidator in winding up by the court) of the Act has effect as if after subsection (1) there were inserted—

"(1A) Subject to the provisions of Part 4 relating to preferential payments, a building society's property in the winding up shall be applied in satisfaction of the society's liabilities to creditors pari passu and, subject to that application, in accordance with the rules of the society.

(1B) In subsection (1A) the reference to the society's liabilities to creditors includes a reference to the society's liabilities to shareholding members of the society in respect of deposits which are not relevant deposits."".

Modified application of Part 5 of the Insolvency (Northern Ireland) Order 1989

34.—(1) Part 3 of Schedule 15 to the Building Societies Act 1986 (modified application of the Insolvency (Northern Ireland) Order 1989, Parts 5 and 11) is amended as follows.

(2) After paragraph 34 insert—

"**34A.** In the following provisions a reference to the creditors, general creditors or unsecured creditors of a company includes a reference to every shareholding member of the building society to whom a sum due from the society in relation to the member's shareholding is due in respect of a deposit—

(**a**) Section 176ZA was inserted by the Companies Act 2006 (c. 46), section 1282(1).
(**b**) Section 176A was inserted by the Enterprise Act 2002 (c. 40), section 252.

(a) paragraph (1) of Article 121 (general functions of liquidator in winding up by the High Court);

(b) paragraph (3) of Article 127 (debts due from contributory to company);

(c) paragraph (4) of Article 143 (supplementary powers);

(d) paragraph (2)(b) of Article 149 (preferential debts (general provision));

(e) paragraph (1) of Article 150ZA (payment of expenses of winding up(**a**)); and

(f) paragraphs (3)(b) and (5)(a) of Article 150A (share of assets for unsecured creditors)(**b**).".

(3) In paragraph 35 after sub-paragraph (3) insert—

"(3A) In sub-paragraph (f) of paragraph (2) the reference to a sum due to a member of the company by way of dividends, profits or otherwise does not include a sum due to a shareholding member of a building society in respect of a deposit.".

(4) In paragraph 40 after sub-paragraph (2) insert—

"(3) In sub-paragraph (2) the reference to the society's liabilities to creditors includes a reference to the society's liabilities to shareholding members of the society in respect of deposits which are not relevant deposits.".

(5) After paragraph 50 insert—

"**50A.** Article 121 (general functions of liquidator in winding up by the High Court) of the Order has effect as if after paragraph (1) there were inserted—

"(1A) Subject to the provisions of Part V relating to preferential payments, a building society's property in the winding up shall be applied in satisfaction of the society's liabilities to creditors pari passu and, subject to that application, in accordance with the rules of the society.

(1B) In paragraph (1A) the reference to the society's liabilities to creditors includes a reference to the society's liabilities to shareholding members of the society in respect of deposits which are not relevant deposits."".

PART 8

Building society rules

Matters to be covered by the rules

35.—(1) Paragraph 3(4) (table of matters to be covered by the rules) of Schedule 2 to the Building Societies Act 1986 (establishment, incorporation and constitution of building societies) is amended as follows.

(2) In paragraph 14 of the Table for the words ", on the winding up, or dissolution by consent," substitute "on the dissolution by consent".

(3) After paragraph 14 add—

"**15.** The entitlement of members, on the winding up of the society, to participate in the distribution of any surplus assets after payments are made in satisfaction of the society's liabilities to creditors and shareholding members under the companies winding up legislation as modified by Parts 1 to 3 of Schedule 15 to this Act.".

(**a**) Article 150ZA was inserted by the Companies Act 2006, section 1282(2).
(**b**) Article 150A was inserted by S.I. 2005/1455 (N.I. 10).

Supplementary and transitional provision in relation to rules

36.—(1) A relevant rule has no effect in relation to the winding up of a building society commenced on or after 1st January 2015.

(2) Paragraph (3) has effect in place of a relevant rule until the society has changed its rules to provide for the matter specified in paragraph 15 of the Table(**a**).

(3) Any surplus assets of a building society are to be divided among—

(a) the holders of shares in the society, other than deferred shares, according to the value of their shareholdings on the commencement date, and

(b) the holders of deferred shares in the society (if any), in accordance with the terms and conditions of issue of those deferred shares.

(4) In this article—

"the commencement date", in relation to a building society, means the commencement date of the winding up of the society determined in accordance with—

(a) section 86 (commencement of winding up) or 129 (commencement of winding up by the court) of the Insolvency Act 1986(**b**) as applied to building societies by section 90 of the Building Societies Act 1986; or

(b) Article 72 (commencement of voluntary winding up) or 109 (commencement of winding up by the High Court) of the Insolvency (Northern Ireland) Order 1989(**c**) as so applied.

"relevant rule" is a rule of a building society which—

(a) provides for the matter specified in paragraph 14 of the Table, as that paragraph had effect before the amendments made by this Order;

(b) does not satisfy the requirements of paragraphs 14 and 15 of the Table as amended by this Order; and

(c) is registered under paragraph 1(2) of Schedule 2 to the Building Societies Act 1986 before 1st January 2015;

"surplus assets" means any surplus of the society's assets after payments are made in satisfaction of the society's liabilities to creditors and shareholding members under the companies winding up legislation as modified by Parts 1 to 3 of Schedule 15 to the Building Societies 1986; and

"the Table" means the Table in paragraph 3(4) of Schedule 2 to the Building Societies Act 1986.

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

(**a**) Paragraph 15 is inserted by article 35(3) of this Order.
(**b**) 1986 (c. 45). Section 129 was amended by the Enterprise Act 2002 (c. 40), Schedule 17, paragraphs 9 and 16.
(**c**) S.I. 1989/2405 (N.I. 19). Article 109 was amended by S.I. 2005/1455 (N.I. 10).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order implements the obligation in Article 108 of Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms (OJ L 173, 12.6.2014, p.190) ("the Directive") to ensure that both deposits which are eligible for compensation under the financial services compensation scheme ("eligible deposits") and other deposits which would be eligible deposits but for the fact that they are made in branches of UK banks outside the EEA, are treated as preferential debts, and that eligible deposits are given a higher priority within the class of preferential debts than other deposits.

The Order also alters the priorities for the distribution of the assets of a building society on winding up. Sections 88 and 89 of the Building Societies Act 1986 (c.53) provide that a building society may be wound up voluntarily or by the court under the enactments specified in paragraph 1 of Schedule 15 to that Act applicable to the winding up of companies. Schedule 15 modifies those enactments in their application to building societies.

Article 3 ensures that the Order will only apply to insolvency proceedings in relation to banks and building societies which are commenced after the Order comes into force.

Part 2 of the Order amends the Insolvency Act 1986 (c.45) (to implement Article 108 of the Directive.

Schedule 6 to the Insolvency Act 1986 is amended (by article 11) to provide for two new categories of preferential debts for deposits which are not eligible deposits. Section 386 is amended by article 8, to provide that existing preferential debts are to be "ordinary preferential debts". The new preferential debts created by the amendment to Schedule 6 will be "secondary preferential debts".

Sections 175 and 328 of the Insolvency Act 1986 are amended to ensure that secondary preferential debts will rank after ordinary preferential debts on insolvency, and will therefore be paid last if there are insufficient assets to pay all the preferential debts (see article 5 amending section 175 and article 7 amending section 328).

Sections 4(4) and 258(5) of, and paragraphs 31(5) of Schedule A1 and 73(1) of Schedule B1 to, the Insolvency Act 1986 are amended to ensure that voluntary arrangements and a statement of proposals made by an administrator may not provide that preferential creditors with ordinary preferential debts are paid after preferential creditors with secondary preferential debts. These amendments also ensure that preferential creditors with secondary preferential debts must receive the same proportion of their debts (see article 4, which amends section 4, article 6 amending section 258, article 9 amending Schedule A1 and article 10 amending Schedule B1).

Part 3 of the Order makes equivalent amendments to the Insolvent Partnerships Order 1994 ("the 1994 Order"). Article 12 amends the modified section 4 of the Act set out in Schedule 1 to the 1994 Order. Article 13 amends the modified paragraph 73 of Schedule B1 set out in paragraph 25 of Schedule 2 to the 1994 Order. Article 14 amends modified sections 175A and 175B of the Insolvency Act 1986, set out in paragraph 23 of Schedule 4 to the 1994 Order, to provide for ordinary preferential debts and secondary preferential debts and their order of priority in joint and separate estates. Article 15 amends modified sections 328A and 328B of the Insolvency Act 1986, set out in paragraph 21 of Schedule 7 to the 1994 Order, providing for ordinary and secondary preferential debts and their order of priority in joint and separate estates where bankruptcy petitions are presented by individual members of a partnership.

Part 4 of the Order amends the equivalent provisions of the Insolvency (Northern Ireland) Order 1989. Part 5 of the Order amends the equivalent provisions of the Insolvent Partnerships Order (Northern Ireland) 1995.

Part 6 of the Order makes further amendments consequential on the changes made in Parts 2 to 5. Article 28 amends the equivalent provisions of the Bankruptcy (Scotland) Act 1985 (c. 66).

Articles 29 and 30 amend section 44 of the Housing Act 1996 (c. 52) and section 152 of the Housing and Regeneration Act 2008 (c.17) respectively to provide for ordinary preferential debts and secondary preferential debts and their order of priority. Article 31 amends section 80 of the Housing (Scotland) Act 2010 (asp 17) for this purpose.

Part 7 (articles 32 to 34) amends Schedule 15 to the Building Societies Act 1986 (c. 53) to make provision for the purpose of ensuring that, on the winding up of a building society, any assets available for satisfying the society's liabilities to creditors or to shareholders are applied in satisfying those liabilities *pari passu*.

Part 8 (articles 35 and 36) amends Schedule 2 to the Building Societies Act 1986 so that the requirement to make rules for the distribution of any surplus after payments to creditors is, in the case of winding up, a requirement to make rules for the distribution of any surplus after payments to creditors and shareholders, and to make transitional provision.

Article 36 ensures that any existing building society rule dealing with members' entitlement to participate in the distribution of surplus assets after creditors have been paid when a building society is wound up or dissolved by consent, which does not satisfy the requirements in paragraphs 14 and 15 of the Table in paragraph 3(2) of Schedule to the Building Societies Act 1986 as amended, will not apply if the building society is wound up after the Order comes into force. Instead a default rule will apply until the Building Society has revised its rules to take account of the changes made by the Order.

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 HM Treasury's website (www.gov.uk/treasury), and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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