
STATUTORY INSTRUMENTS

1995 No. 1442

**The Credit Institutions (Protection
of Depositors) Regulations 1995**

Part IV

Amendments of Part IV of 1986 Act

Function of Investor Protection Board

36.—(1) In subsection (1) of section 24 of the 1986 Act (the Investor Protection Board), for paragraph (b) there shall be substituted the following paragraph—

“(b) shall, if a participating institution becomes insolvent, levy contributions to the Fund from other participating institutions in accordance with section 26; and.”

(2) In subsection (3) of that section, for the words “sections 25 to 29” there shall be substituted the words “sections 25 to 29A”.

(3) After that subsection there shall be inserted the following subsection—

“(4) In this section and the protective scheme provisions—

‘the 1992 Regulations’ means the Banking Coordination (Second Council Directive) Regulations 1992(1);

‘the 1995 Regulations’ means the Credit Institutions (Protection of Depositors) Regulations 1995;

‘ecu’ means—

(a) the European currency unit as defined in Article 1 of Council Regulation No. 3320/94/EC(2); or

(b) except in section 27(5A), any other unit of account which is defined by reference to the European currency unit as so defined;

‘EEA currency’ means the currency of an EEA State or ecus;

‘EEA State’ means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(3) as adjusted by the Protocol signed at Brussels on 17th March 1993(4);

‘European authorised institution’ has the same meaning as in the 1992 Regulations;

‘home State’ and ‘home State scheme’ have the same meaning as in the 1995 Regulations;

(1) S.I.1992/3218; amended by S.I. 1993/3225.

(2) O.J. L35, 31.12.94, page 1.

(3) Cm 2073.

(4) Cm 2183.

‘Irish building society’ means an institution which is incorporated in or formed under the laws of the Republic of Ireland and whose characteristics correspond as nearly as may be to those of a building society;

‘participating EEA institution’ means—

- (a) a European authorised institution which, in accordance with Chapter I of Part II of the 1995 Regulations, is participating in the scheme established by the protective scheme provisions; or
- (b) an institution which was formerly such an institution and continues to have a liability in respect of any investment for which it had a liability when it was such an institution;

‘participating institution’ means a building society or participating EEA institution.”

The Investor Protection Fund

37.—(1) In subsection (1) of section 25 of the 1986 Act⁽⁵⁾ (the Investor Protection Fund), for the words “building societies” there shall be substituted the words “participating institutions”.

(2) After subsection (3) of that section there shall be inserted the following subsection—

“(3A) In subsection (3) above, the reference to Treasury bills includes a reference to bills and other short-term instruments issued by the government of another EEA State and appearing to the Bank of England to correspond as nearly as may be to Treasury bills:”

(3) In subsection (5) of that section, in the definition of “the expenses attributable to the insolvency”, for the words “building society” there shall be substituted the words “participating institution”.

Meaning of insolvency etc.

38. After section 25 of the 1986 Act there shall be inserted the following section—

“Meaning of insolvency etc.

25A.—(1) For the purpose of the protective scheme provisions of this Part, a building society becomes insolvent—

- (a) on the making by the Commission of a determination that, for reasons which directly relate to the society’s financial circumstances, the society—
 - (i) is unable to repay investments which are due and payable; and
 - (ii) has no current prospect of being able to do so; or
- (b) on the making by a court in any part of the United Kingdom, or in another EEA State, of a judicial ruling which—
 - (i) directly relates to the society’s financial circumstances; and
 - (ii) has the effect of suspending the ability of investors to make claims against the society,

but only if investments made with the society have become due and payable and have not been repaid; and the occurrence of any of those events in those

(5) 1986 c. 53; section 25 was amended by the Banking Act 1987 (c. 22), section 108(1) and Schedule 6, paragraph 26(2) and (3), and section 108(2) and Schedule 7, Part I, and extended by the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218), regulation 82(1) and Schedule 10, paragraph 22.

circumstances constitutes a ‘participating institution insolvency’ for the purposes of those provisions.

(2) For the purposes of the protective scheme provisions of this Part, a participating EEA institution becomes insolvent—

- (a) on the making by the supervisory authority in the institution’s home State of a declaration that investments held by the institution are no longer available; or
- (b) on the making by a court in any part of the United Kingdom, or in an EEA State other than the institution’s home State, of a judicial ruling which—
 - (i) directly relates to the institution’s financial circumstances; and
 - (ii) has the effect of suspending the ability of investors to make claims against the institution,

but only if, in a case falling within paragraph (b) above, investments made with the society have become due and payable and have not been repaid; and the occurrence of any of those events, in those circumstances in a case falling within that paragraph, constitutes a ‘participating institution insolvency’ for the purposes of those provisions.

(3) For the purposes of the protective scheme provisions of this Part—

- (a) a participating institution which has become insolvent by virtue of such a determination or declaration as is mentioned in subsection (1)(a) or (2)(a) above ceases to be insolvent on any withdrawal of the determination or declaration; and
- (b) a participating institution which has become insolvent by virtue of such a judicial ruling as is mentioned in subsection (1)(b) or (2)(b) above ceases to be insolvent on any reversal of the ruling (whether on appeal or otherwise).

(4) In relation to a building society, it shall be the duty of the Commission—

- (a) to make such a determination as is mentioned in subsection (1)(a) above within 21 days of its being satisfied as there mentioned; and
- (b) to withdraw such a determination within 21 days of its ceasing to be so satisfied.

(5) In this section ‘investment’—

- (a) in relation to a building society or Irish building society, means a deposit with or a share in the society;
- (b) in relation to any other participating institution, means a deposit with the institution.”

Duty to levy contributions etc.

39.—(1) In section 26 of the 1986 Act(6) (power to levy contributions etc.), subsection (1), which is superseded by regulation 38 above, shall be omitted.

(2) For subsections (2) to (6) of that section there shall be substituted the following subsections—

“(2) If a participating institution becomes insolvent the Board shall levy contributions to the Fund for the purpose of making insolvency payments to investors at such level of investor protection as is provided for by section 27 and meeting the other expenses attributable to the insolvency.

(3) All institutions (other than the insolvent institution) which on the date of the insolvency are—

(6) 1986 c. 53; section 26 was amended by the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405) (N.I. 19), article 381(2) and Schedule 9, Part II, paragraph 42.

- (a) authorised building societies; or
- (b) European authorised institutions which, in accordance with Chapter I of Part II of the 1995 Regulations, are participating in the scheme established by the protective scheme provisions,

are liable to contribute to the Fund and are in the protective scheme provisions of this Part referred to as ‘contributory institutions’.

(4) If a participating institution becomes insolvent—

- (a) the Board shall, subject to subsection (10) below, levy a contribution from each of the contributory institutions; and
- (b) the amount of the contribution due from an institution shall be determined by applying to its share and deposit base a percentage determined by the Board for the purpose of the contributions levied to meet the expenses attributable to the insolvency.

(5) In determining the percentage to be applied under subsection (4) above to the share and deposit bases of contributory institutions, the Board shall have regard to the factors specified in subsection (6) below.

(6) Those factors are—

- (a) the amount available to meet the expenses attributable to the insolvency from the contributions leviable from contributory institutions; and
- (b) the amount of the expenses attributable to the insolvency at the level of investor protection provided for by section 27.”

(3) In subsection (7) of that section—

- (a) for the words “building society” there shall be substituted the words “participating institution”;
- (b) for the words “determined by the Board under” there shall be substituted the words “provided for by”; and
- (c) for the words “contributory societies” there shall be substituted the words “contributory institutions”.

(4) In subsection (8) of that section—

- (a) for the words “contributory society” there shall be substituted the words “contributory institution”; and
- (b) for the words “the society”, in both places where they occur, there shall be substituted the words “the institution”.

(5) For subsection (9) of that section there shall be substituted the following subsections—

“(8A) Where—

- (a) a notice under subsection (8) above is served on a contributory institution; and
- (b) the amount specified in the notice remains unpaid after the period of twenty-one days mentioned in that subsection,

the Board shall as soon as practicable give written notice of that fact to the Commission.

(9) In relation to any contribution, the share and deposit base of an authorised building society is such amount as represents the aggregate of so much of the society’s liabilities as is referable to sums desposited with the society, or to shares in the society, as shown in the latest balance sheet sent to the Commission in accordance with section 81.

(9A) In relation to any contribution, the share and deposit base of a participating EEA institution is the difference between—

- (a) such amount as represents the aggregate of so much of the institution's liabilities as is referable to sums deposited with the institution, or (in the case of an Irish building society) to shares in the institution, as shown in the latest balance sheet sent to the supervisory authority in its home State; and
- (b) the amount mentioned in subsection (9B) below.

(9B) The amount referred to in subsection (9A) above is the amount given by the formula—

$$PA \times \frac{HS}{UK}$$

where—

- PA = so much of the first-mentioned amount as is attributable to deposits which are protected by the institution's home State scheme;
- HS = the level of protection (expressed in ecus) afforded by that scheme at the time as at which the balance sheet was drawn up, or the level of protection mentioned below, whichever is the less
- UK = the level of protection (so expressed) afforded by this Part of this Act at that time."

(6) In subsection (10) of that section—

- (a) for the words "contributory society" there shall be substituted the words "contributory institution";
- (b) for the words "building society" there shall be substituted the words "participating institution"; and
- (c) for the word "society's" there shall be substituted the word "institution's".

(7) In subsection (11) of that section—

- (a) for the words "a society" there shall be substituted the words "an institution"; and
- (b) for the words "contributory societies" there shall be substituted the words "contributory institutions".

(8) In subsection (14) of that section, for the words "building society" there shall be substituted the words "participating institution".

(9) In subsection (15) of that section, for the words "contributory societies" there shall be substituted the words "contributory institutions".

(10) In subsection (16) of that section—

- (a) for the words "building society" there shall be substituted the words "participating institution"; and
- (b) for the words "contributory societies" there shall be substituted the words "contributory institutions".

Payments to investors

40.—(1) For subsections (1) and (2) of section 27 of the 1986 Act⁽⁷⁾ (payments to investors) there shall be substituted the following subsections—

"(1) Subject to the following provisions of this section, if at any time a participating institution becomes insolvent, the Board—

(7) 1986 c. 53; section 27 was amended by the Banking Act 1987 (c. 22), section 108(1) and Schedule 6, paragraph 26(3) and by the Building Societies Investor Protection Scheme (Maximum Protected Investment) Order 1987 (S.I. 1987/1349), article 2.

- (a) shall as soon as practicable pay out of the Fund to persons who have at that time protected investments in the institution which are due and payable amounts equal to 90 per cent of their protected investments; and
 - (b) shall in any event secure that, before the end of the relevant period, it is in a position to make those payments as soon as they fall to be made.
- (2) If at any time a participating institution ceases to be insolvent, subsection (1) above shall cease to apply in relation to that institution.
 - (2A) In subsection (1) above “the relevant period” means—
 - (a) the period of three months beginning with the time when the institution becomes insolvent; or
 - (b) that period and such additional period or periods, being not more than three and of not more than three months each, as the Commission may in exceptional circumstances allow.”
 - (2) In subsection (3) of that section, for the words “insolvent building society” there shall be substituted the words “insolvent participating institution”.
 - (3) After that subsection there shall be inserted the following subsections—
 - “(3A) The amount of any payment which falls to be made under subsection (1) above in respect of a protected investment made with an office of a building society in another EEA State shall not exceed such amount as the Board may determine is or would be payable, in respect of an equivalent investment or deposit made with an institution authorised in that State, under any corresponding scheme for the protection of investors or depositors which is in force in that State.
 - (3B) Where the Board is satisfied that an investor has received or is entitled to receive, under any home State scheme, a payment in respect of a protected investment made with a United Kingdom office of a participating EEA institution, the Board shall deduct an amount equal to that payment from the payment that would otherwise be made to the investor under subsection (1) above.”
 - (4) In subsection (4) of that section, for the word “society's” there shall be substituted the word “institution's”.
 - (5) For subsection (5) of that section there shall be substituted the following subsections—
 - “(4A) There shall be deducted from any payment to be made by the Board under subsection (1) above in respect of a protected investment any payment already made in respect of that investment by a liquidator of the institution; and in this subsection, in relation to an institution formed under the law of a country or territory outside the United Kingdom, the reference to a liquidator includes a reference to a person whose functions appear to the Board to correspond as nearly as may be to those of a liquidator.
 - (5) For the purposes of this section in its application in relation to a participating institution which has become insolvent—
 - (a) a person has at any time a protected investment in the institution if he has a deposit with the institution in an EEA currency or, in the case of a building society or Irish building society, a share in the society; and
 - (b) his protected investment is the total liability of the institution to him, limited to the maximum mentioned in subsection (5A) below, which is referable to sums deposited with the institution or, in the case of a building society or Irish building society, to shares in the society.
 - (5A) The maximum is £20,000 or the sterling equivalent of 22,222 ecus immediately before the institution became insolvent, whichever is the greater.

(5B) In calculating a person’s protected investment for the purposes of subsection (5) above, the amount to be taken into account as regards any deposit made in another EEA currency shall be its sterling equivalent immediately before the time when the institution became insolvent, or the time when the investment became due and payable, whichever is the later.

(5C) In its application to a participating EEA institutions, subsection (5) above shall have effect as if any reference to a deposit with, or sums deposited with, the institution were a reference to a deposit with or sums deposited with, a United Kingdom office of the institution.”

(6) In subsection (6) of that section—

(a) in paragraph (a), for the words “subsection (2)” there shall be substituted the words “subsection (1)” and for the words “such other percentage” there shall be substituted the words “such greater percentage”; and

(b) for paragraph (b) there be substituted the following paragraph—

“(b) amend subsection (5A) above so as to substitute for either sum for the time being specified in that subsection such greater sum as may be specified in the order.”

(7) For subsections (8) and (9) of that section there shall be substituted the following subsections—

“(8) In determining whether a person has a protected investment in a participating institution and the amount of it there shall be disregarded—

- (a) any deposit or shares which are own funds within the meaning given by Article 2 of Directive [89/299/EEC](#)(8);
- (b) any deposit made or share acquired by a credit institution on its own behalf and for its own account;
- (c) any deposit or share which the Board is satisfied was made or acquired in the course of a money-laundering transaction;
- (d) any deposit by a person mentioned in item 1 or 2 of Annex I to Directive [94/19/EC](#)(9) which was made otherwise than as trustee for a person not so mentioned;
- (e) any deposit, security or liability which falls within item 10 or 12 of that Annex; and
- (f) in the case of an institution which has ceased to be a European authorised institution which, in accordance with Chapter I of Part II of the 1995 Regulations, is participating in the scheme established by the protective scheme provisions, any deposit made with the institutions after it ceased to be a such an institution.

(8A) Paragraph (b) of subsection (8) above has effect subject to the provisions of Schedule 6 to this Act; and a transaction in connection with which an offence has been committed under—

- (a) any enactment specified in a regulation 2(3) of the Money Laundering Regulations 1993(10) ; or
- (b) any enactment in force in another EEA State, or in a country or territory outside the European Economic Area, which has effect for the purpose of prohibiting money laundering within the meaning of Article 1 of Directive [91/308/EEC](#)(11),

(8) O.J. L124, 5.5.89, page 16.

(9) O.J. L135, 31.5.94, page 5.

(10) S.I. [1993/1933](#).

(11) O.J. L166, 28.6.91, page 77.

is a money-laundering transaction for the purposes of paragraph (c) of that subsection at any time if, at that time, a person stands convicted of the offence or has been charged with the offence and has not been tried.

(9) In determining what is a protected investment of an investor, no account shall be taken of any liability unless—

- (a) proof of the debt, or a claim for repayment of the investment, which gives rise to the liability has been lodged with a liquidator of the institution; or
- (b) the investor has provided the Board with all such written authorities, information and documents as, in the event of a liquidator being appointed, the Board will need for the purpose of lodging and pursuing, on the investor's behalf, a proof of the debt, or a claim for the repayment of the investment, which gives rise to the liability.

(9A) In subsection (9) above, in relation to an institution incorporated in or formed under the law of an EEA State other than the United Kingdom—

- (a) references to a liquidator include references to a person whose functions appear to the Board to correspond as nearly as may be to those of a liquidator; and
- (b) references to the lodging, or the lodging and pursuing, of a proof of the debt, or a claim for the repayment of the deposit, which gives rise to the liability include references to the doing of an act or acts which appear to the Board to correspond as nearly as may be to the lodging, or the lodging and pursuing, of such a proof or claim,”

(8) In subsection (10) of that section—

- (a) for the words “building society” there shall be substituted the words “participating institution”; and
- (b) for the words “the society”, in both places where they occur, there shall be substituted the words “the institution”.

(9) In subsection (11) of that section, for the words “building society” there shall be substituted the words “participating institution”.

Liability of insolvent institution in respect of payments made by Board

41.—(1) For subsection (1) of section 28 of the 1986 Act⁽¹²⁾ (liability of insolvent society in respect of payments by Board) there shall be substituted the following subsection—

“(1) This section applies where—

- (a) a participating institution becomes insolvent, and
- (b) the Board, by reason of the insolvency, has made, or is under a liability to make, an insolvency payment to an investor in respect of his protected investment.”

(2) In subsection (2) of that section—

- (a) after the words “Where this section applies” there shall be inserted the words “in respect of an institution that is being wound up”;
- (b) for the words “insolvent society” there shall be substituted the word “institution”;
- (c) for the words “the society”, in each place where they occur, there shall be substituted the words “the institution”;

⁽¹²⁾ 1986 c. 53; section 28 was amended by the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405) (N.I. 19), article 381(2) and Schedule 9, Part II, paragraph 43.

- (d) for the words “became insolvent” there shall be substituted the words “began to be wound up”; and
 - (e) for the words “insolvent building society” there shall be substituted the word “institution”.
- (3) In subsection (3) of that section, for the word “society's” there shall be substituted the word “institution's”.
- (4) After subsection (5) of that section there shall be inserted the following subsections—
- “(5A) Where this section applies in respect of an institution that is not being wound up—
 - (a) the institution shall, at the time when the insolvency payment falls to be made by the Board, become liable to the Board for an amount equal to that payment; and
 - (b) the liability of the institution to the investor shall be reduced by an amount equal to that payment.
 - (5B) Where a participating institution is wound up after it has become insolvent subsections (2) to (5) above shall not apply to any insolvency payment to the extent to which the Board has received a payment in respect of it by virtue of subsection (5A)(a) above.”
- (5) In subsection (6) of that section, for the word “society” there shall be substituted the word “institution”.
- (6) Subsections (7) and (8) of that section (which are superseded by regulation 43 below) shall be omitted.
- (7) In subsection (9) of that section, after the words “this section” there shall be inserted the words “and section 29A(3) to (5)”.

Repayments in respect of contributions

- 42.**—(1) In subsection (1) of section 29 of the 1986 Act (repayments in respect of contributions), for the words “building society” there shall be substituted the words “participating institution”.
- (2) In subsection (2) of that section—
- (a) for the words “building society” there shall be substituted the words “participating institution”;
 - (b) for the words “contributory societies” there shall be substituted the words “contributory institutions”; and
 - (c) for the words “such society” there shall be substituted the words “such institution”.
- (3) In subsection (3) of that section, for the words “building society” there shall be substituted the words “participating institution”.
- (4) In subsection (4) of that section—
- (a) for the words “building societies” there shall be substituted the words “participating institutions”;
 - (b) for the words “building society”, in both places where they occur, there shall be substituted the words “participating institution”; and
 - (c) for the words “those societies”, in both places where they occur, there shall be substituted the words “those institutions”.
- (5) In subsection (5) of that section, for the word “societies”, in both places where it occurs, there shall be substituted the word “institutions”.
- (6) In subsection (7) of that section—
- (a) for the words “contributory societies” there shall be substituted the words “contributory institutions”; and

- (b) for the word “society” there shall be substituted the word “institution”.
- (7) In subsection (8) of that section—
 - (a) for the words “building societies” there shall be substituted the words “participating institutions”; and
 - (b) for the words “contributory societies” there shall be substituted the words “contributory institutions”.

Power to obtain information

43. After section 29 of the 1986 Act there shall be inserted the following section—

“Power to obtain information.

29A.—(1) If required to do so by a request in writing made by the Board, the Commission may by notice in writing served on a contributory institution require the institution, within such time and at such place as may be specified in the notice, to furnish the Board with such information and to produce to it such documents, or documents of such a description, as the Board may reasonably require for the purpose of determining the contributions of the institution under this Part of this Act.

(2) Subsections (6) to (10) of section 52(13) shall have effect in relation to any requirement imposed under subsection (1) above on a building society as they have effect in relation to a requirement imposed under that section.

(3) The Board may by notice in writing served on an insolvent participating institution or, where a person has been appointed as liquidator of such an institution, on that person, require the institution or person, at such time or times and at such place as may be specified in the notice—

- (a) to furnish the Board with such information; and
- (b) to produce to the Board such books or papers specified in the notice,

as the Board may reasonably require to enable it to carry out its functions under the protective scheme provisions of this Part.

(4) Where, as a result of a participating institution being wound up, any books or papers have come into the possession of the office-holder mentioned in subsection (5) below, he shall permit any person duly authorised by the Board to inspect the books or papers for the purpose of establishing—

- (a) the identity of those of the institution’s investors to whom the Board is liable to make an insolvency payment; and
- (b) the amount of the protected investment held by each of those investors.

(5) The office-holder referred to in subsection (4) above is—

- (a) in England and Wales, the Official Receiver;
- (b) in Scotland, the liquidator; and
- (c) in Northern Ireland, the Official Receiver for Northern Ireland.”

Trusts and joint or client account holdings

44. After paragraph 7 of Schedule 6 to the 1986 Act (trusts and joint or client account holdings) there shall be inserted the following paragraph—

(13) Section 52 was amended by the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218), regulation 75.

“(8) In the application of this Schedule in relation to investments in an office of a building society in another EEA State, references to persons entitled in any of the following capacities, namely—

- (a) as trustees;
- (b) as partners; or
- (c) as persons jointly entitled other than as trustees,

shall be construed as references to persons entitled under the law of that State in a capacity appearing to the Board to correspond as nearly as may be to that capacity.”