
STATUTORY INSTRUMENTS

2018 No. 174

The Scotland Act 1998 (Insolvency Functions) Order 2018

Devolved functions shared by the Scottish Ministers and a Minister of the Crown

5.—(1) Subject to paragraph (2), the functions of the Scottish Ministers described in paragraph (3) are exercisable by a Minister of the Crown concurrently with the Scottish Ministers.

(2) A Minister of the Crown may exercise a function mentioned in paragraph (1) only with the agreement of the Scottish Ministers.

(3) The functions are those conferred by—

- (a) section 411(1)(b) and (2) of the 1986 Act⁽¹⁾ (company insolvency rules) for the purpose of making rules which give effect to any provision about winding up in the Parts of the 1986 Act described in paragraph (4) or the EU Regulation;
- (b) section 411(1)(b) and (2) of the 1986 Act as applied by section 23, paragraph 69(1)(a) of Schedule 10 to the 1992 Act⁽²⁾ (insolvency rules and fees) for the purpose of making rules, in relation to incorporated friendly societies, which give effect to any provision about winding up in the Parts of the 1986 Act described in paragraph (5);
- (c) sections 14(2)(a), 16 and 17(1), (2) and (3) of the 2000 Act (insolvency and winding up) for the purpose of making provision by regulations about the winding up of—
 - (i) limited liability partnerships; and
 - (ii) oversea limited liability partnerships,

by applying or incorporating, with such modifications as appear appropriate, rules made under section 411(1)(b) and (2) of the 1986 Act which give effect to any provision about winding up in the Parts of the 1986 Act described in paragraph (5)⁽³⁾ or the EU Regulation.

(4) The Parts of the 1986 Act are—

- (a) Part 4 (winding up of companies registered under the Companies Acts);
- (b) Part 5 (winding up of unregistered companies);
- (c) Part 6 (miscellaneous provisions applying to companies which are insolvent or in liquidation); and
- (d) Part 7 (interpretation for First Group of Parts), so far as it relates to Parts 4, 5 or 6.

(5) The Parts of the 1986 Act are—

- (a) Part 4 (winding up of companies registered under the Companies Acts);

(1) 1986 c.45. The functions of the Secretary of State were, so far as exercisable within devolved competence, transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(2) 1992 c.40. The functions of the Secretary of State were, so far as exercisable within devolved competence, transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(3) Parts 4, 6 and 7 of the 1986 Act so far as relating to aspects of winding up falling within the exceptions to Section C2 of Schedule 5 to the 1998 Act were, for Scotland, applied to limited liability partnerships, with modifications, by S.S.I. 2001/128, regulation 4 and schedule 2 (as amended by S.S.I. 2009/310 and S.S.I. 2015/989 and prospectively amended by S.S.I. 2016/141); S.I. 1986/1915 (as amended by S.I. 1987/1921, S.I. 1999/1820, S.I. 2002/2709, S.I. 2003/2108, S.I. 2003/2109, S.I. 2003/2111, S.I. 2006/734, S.I. 2006/735, S.I. 2007/2537, S.S.I. 2008/393, S.I. 2008/662, S.I. 2009/662, S.I. 2010/688, S.I. 2012/2404, S.S.I. 2014/114, S.I. 2015/575 and S.I. 2016/1034) so far as relating to aspects of winding up falling within the exceptions to Section C2 of Schedule 5 to the 1998 Act was, for Scotland, applied to limited liability partnerships, with modifications by S.S.I. 2001/128, regulation 6.

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- (b) Part 6 (miscellaneous provisions applying to companies which are insolvent or in liquidation); and
- (c) Part 7 (interpretation for First Group of Parts), so far as it relates to Part 4 or Part 6.