

2003 No. 2134

FINANCIAL SERVICES AND MARKETS

**The Financial Services and Markets Act 2000
(Administration Orders Relating to Insurers) (Amendment)
Order 2003**

Made - - - - - 14th August 2003

Laid before Parliament 15th August 2003

Coming into force in accordance with article 1

The Treasury, in exercise of the powers conferred on them by sections 360 and 426 to 428 of the Financial Services and Markets Act 2000(a), with the consent of the Secretary of State (for the purposes of articles 2 to 8), hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) (Amendment) Order 2003 and comes into force on the day on which section 248 of the Enterprise Act 2002(b) comes into force.

Amendment of the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2002

2. Articles 3 to 7 amend the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2002(c).

Article 1

3. In article 1(2), for the definition of “section 23 meeting” substitute—
““initial creditors’ meeting” has the meaning given by paragraph 51(1) of Schedule B1;
“Schedule B1” means Schedule B1 to the 1986 Act(d).”.

Article 3

4. In article 3, for “section 8(5)(a) of that Act” substitute “paragraph 9(2) of Schedule B1”.

Article 4

5. In article 4, for “Rule 2.9(1)” substitute “Rule 2.12(1)(e).”

(a) 2000 c. 8.

(b) 2002 c. 40.

(c) S.I. 2002/1242.

(d) Schedule B1 to the Insolvency Act 1986 was inserted by section 248 of, and Schedule 16 to, the Enterprise Act 2002 (c. 40).

(e) Rule 2.12 was substituted for rule 2.9 by virtue of the Insolvency (Amendment) Rules 2003 (S.I. 2003/1730).

Article 5

6. For article 5, substitute—

“5. Where an insurer, in relation to which an administration order has been made, subsequently goes into liquidation, sums due from the insurer to another party are not to be included in the account of mutual dealings rendered under rule 4.90 of the Insolvency Rules 1986 (mutual credit and set-off) if, at the time they became due—

- (a) an administration application had been made under paragraph 12 of Schedule B1 in relation to the insurer;
- (b) in the case of an appointment of an administrator under paragraph 14 of Schedule B1, a notice of appointment had been filed with the court under paragraph 18 of that Schedule in relation to the insurer; or
- (c) in the case of an appointment of an administrator under paragraph 22 of Schedule B1, a notice of intention to appoint had been filed with the court under paragraph 27 of that Schedule in relation to the insurer.”.

Schedule

7. In the Schedule—

- (a) paragraph 6 is renumbered as paragraph 8;
- (b) for paragraphs 1 to 5, substitute—

“1. In paragraph 49(4) of Schedule B1 (administrator’s proposals), at the end of paragraph (c) add—

“and

- (d) to the Financial Services Authority”.

2. In paragraph 53(2) of Schedule B1 (business and result of initial creditors’ meeting), at the end of paragraph (c), add—

“and

- (d) the Financial Services Authority”.

3. In paragraph 54(2)(b) of Schedule B1 (revision of administrator’s proposals), after “creditor” insert “and to the Financial Services Authority”.

4. In paragraph 76(1) of Schedule B1 (automatic end of administration), for “one year” substitute “30 months”.

5. In paragraph 76(2)(b) of Schedule B1 (extension of administrator’s term of office by consent) for “six” substitute “twelve”.

6. In paragraph 79(1) of Schedule B1 (court ending administration on application of administrator), after the first reference to “company” insert “or the Financial Services Authority”.

7. In paragraph 91(1) of Schedule B1 (supplying vacancy in office of administrator), at the end of paragraph (e) add—

“or

- (f) the Financial Services Authority”.; and

- (c) in paragraph 8(3) (as numbered by paragraph (a) above), for the references to “a section 23 meeting” and “the section 23 meeting” substitute, respectively, “an initial creditors’ meeting” and “that meeting”.

Saving

8. Nothing in articles 2 to 7 applies in relation to any case where a petition for an administration order has been presented to the court before the coming into force of this Order.

Amendment of the Financial Services and Markets Act 2000 (Transitional Provisions, Repeals and Savings) (Financial Services Compensation Scheme) Order 2001

9. The first table (modifications to the Policyholders Protection Act) in Part 1 of Schedule 1 to the Financial Services and Markets Act 2000 (Transitional Provisions, Repeals and Savings) (Financial Services Compensation Scheme) Order 2001(a) is amended—

(a) by adding, after the fifth entry (section 13(3))—

“

Section 15	<p>After subsection (3), insert—</p> <p>“(3A) This section continues to apply in the case of a company in provisional liquidation in the event that an administration order is made in relation to that company under Part II of the Insolvency Act 1986, and for the purposes of this Act—</p> <p>(a) such a company shall continue to be regarded as a company in provisional liquidation; and</p> <p>(b) a person appointed as an administrator of such a company shall be regarded as a provisional liquidator.”.</p>
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”; and

(b) by substituting for the sixth entry (section 16(3))—

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Section 16	<p>In subsection (3), for “another authorised insurance company”, substitute, “an authorised person (within the meaning of the Financial Services and Markets Act 2000) who has permission to effect and carry out contracts of insurance (within the meaning of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001)”.</p> <p>After subsection (10), add—</p> <p>“(10A) This section continues to apply in the case of a company in financial difficulties in the event that an administration order is made in relation to that company under Part II of the Insolvency Act 1986, and for the purposes of this Act—</p> <p>(a) such a company shall continue to be regarded as a company in financial difficulties; and</p> <p>(b) the case shall continue to be regarded as falling within subsection (1)(a), (1)(b) or (1)(c), as the case may be.”.</p>
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(a) S.I. 2001/2967.

12th August 2003

Two of the Lords Commissioners of Her Majesty's Treasury

Jim Murphy
Joan Ryan

I consent, on behalf of the Secretary of State

14th August 2003

Nigel Griffiths
Secretary of State for Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2002 (S.I. 2002/1242) (“the principal Order”) to take account of amendments to the Insolvency Act 1986 (c. 45) (“the 1986 Act”) made by the Enterprise Act 2002 (c. 40) (“the 2002 Act”) and to take account of amendments to the Insolvency Rules 1986 made by the Insolvency (Amendment) Rules 2003 (S.I. 2003/1730). References in the principal Order to the 1986 Act have been updated to reflect the changes made to Part II of that Act by the 2002 Act. The normal limit on the duration of an administration order (under paragraph 76(1) of Schedule B1 to the 1986 Act) has been extended from 12 months to 30 months. The period for which creditors may by consent extend the administrator’s term of office (under paragraph 76(2)(b) of that Schedule) has been extended from six months to twelve months.

This Order also amends the Financial Services and Markets Act 2000 (Transitional Provisions, Repeals and Savings) (Financial Services Compensation Scheme) Order 2001 (S.I. 2001/2967) so that cases before the Financial Services Compensation Scheme relating to insurers in liquidation or provisional liquidation are not affected by administration orders made in relation to those insurers.

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