

SCHEDULE 2

Article 5(2)

Modifications of Part 2 of the Bankruptcy and Diligence etc. (Scotland) Act 2007

1. The modifications of Part 2 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 referred to in article 5(2) are as follows.

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

3. Section 38 (creation of floating charges) has effect as if for subsections (3) and (3A) there were substituted—

“(3) A floating charge is created only when the document granting the floating charge is executed by the building society granting the charge.”.

4. Section 39 (advance notice of floating charges) does not apply to building societies.

5. Section 41 (ranking clauses) has effect as if subsection (5) were omitted.

6. Section 42 (assignment of floating charges) has effect as if—

(a) in subsection (1) the words “the registration in the Register of Floating Charges of” were omitted; and

(b) subsection (4) were omitted.

7. Section 43 (alteration of floating charges) has effect as if subsections (3)(b) and (4A) were omitted.

8. Section 44 (discharge of floating charges) has effect as if—

(a) in subsection (1) the words “the registration in the Register of Floating Charges of” were omitted; and

(b) subsection (4) were omitted.

9. Section 45 (effect of floating charges on winding up) has effect as if—

(a) subsections (2), (6)(a) and (8) were omitted; and

(b) for subsection (7) there were substituted—

“(7) For the purposes of this section a building society goes into liquidation if—

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

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

10. Section 47 (interpretation) has effect as if the definition of “company” were omitted.