
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 122

The Bank Insolvency (No. 2) Rules (Northern Ireland) 2009

PART 18

COURT PROCEDURE AND PRACTICE

CHAPTER 1

APPLICATIONS (GENERAL)

Preliminary

188. This Part applies to any application made to the court under the 2009 Act or these Rules except an application under section 95 of the 2009 Act for a bank insolvency order.

Interpretation

189. Apply rule 7.06 of the 1991 Rules.

Form and contents of application

190. Apply rule 7.07 of the 1991 Rules.

Application under Article 150A(5) to disapply Article 150A

- 191.**—(1) Apply rule 7.07A(1) of the 1991 Rules.
(2) In paragraph (1), delete “administrator or receiver”.
(3) Delete paragraph (2)(a).

Filing and service of application

192. Apply rule 7.08 of the 1991 Rules.

Notice of application under Article 150A(5)

- 193.**—(1) Apply rule 7.08A(2) of the 1991 Rules.
(2) Delete from “save that notice” to “State liquidator”.

Other hearings without notice

194. Apply rule 7.09 of the 1991 Rules.

(1) Rule 7.07A was inserted by the Insolvency (Amendment) Rules (Northern Ireland) 2006 (S.R. 2006 No. 47), rule 97.
(2) Rule 7.08A was inserted by the Insolvency (Amendment) Rules (Northern Ireland) 2006 (S.R. 2006 No. 47), rule 98.

Hearing of application

195. Apply rule 7.03 of the 1991 Rules.

Use of affidavit evidence

196. Apply rule 7.10 of the 1991 Rules.

Filing and service of affidavits

197.—(1) Apply rule 7.11 of the 1991 Rules.

(2) Delete paragraph (2).

Use of reports

198.—(1) Unless the application involves other parties, or the court orders otherwise, a report may be filed in court instead of a witness statement by—

- (a) the bank liquidator;
- (b) the provisional bank liquidator; or
- (c) the special manager.

(2) In any case where a report is filed instead of a witness statement, the report shall be treated for the purposes of rule 197 and any hearing before the court as if it were a witness statement.

Adjournment of hearing: directions

199. Apply rule 7.13 of the 1991 Rules.

CHAPTER 3

SHORTHAND WRITERS

Nomination and appointment of shorthand writers

200.—(1) Apply rule 7.14 of the 1991 Rules.

(2) In paragraph (2) delete “113” and “263 or 337”.

(3) Delete paragraph (3).

Remuneration

201. Apply rule 7.16 of the 1991 Rules.

CHAPTER 4

ENFORCEMENT PROCEDURES

Enforcement of court orders

202.—(1) Apply rule 7.19 of the 1991 Rules.

(2) Delete paragraph (2).

Orders enforcing compliance with the rules

203.—(1) The court may on application of the bank liquidator, or the provisional liquidator as the case may be, make such orders as it thinks necessary for the enforcement of obligations falling on any person in accordance with—

- (a) Article 121(2) of the Order (liquidator to furnish information, books, papers etc.); or
- (b) Article 199 of the Order (duty to cooperate with liquidator).

(2) An order of the court under this Rule may provide that all costs of and incidental to the application for it shall be borne by the person against whom the order is made.

Warrants (general provisions)

204.—(1) A warrant issued by the court under any provision of the Order shall be addressed to such officer of the High Court as the warrant specifies, or to any constable.

(2) The person described in Article 199(3) of the Order as the prescribed officer of the court is the tipstaff and his assistants of the court.

(3) In this Chapter references to property include books, paper and records.

Warrants under Article 200

205.—(1) Apply rule 7.22 of the 1991 Rules.

(2) In paragraph (1), delete “or 337 (the equivalent in bankruptcy),”.

CHAPTER 5

COURT RECORDS AND RETURNS

Title of proceedings

206. Every proceeding under Part 2 of the 2009 Act shall, with any necessary additions, be titled “IN THE MATTER OF (naming the bank to which the proceedings relate) AND IN THE MATTER OF THE BANKING ACT 2009”.

Court records

207. Apply rule 7.24 of the 1991 Rules.

Inspection of records

208. Apply rule 7.25 of the 1991 Rules.

File of court proceedings and inspection

209.—(1) The Court shall open and maintain a file for each bank insolvency and (subject to the direction of the registrar) all documents relating to that bank insolvency shall be placed on that file.

(2) Where a file has been opened under paragraph (1), the following have the right, at all reasonable times, to inspect that file—

- (a) the bank liquidator;
- (b) any person stating in writing that they are a creditor of the bank to which the bank insolvency relates; and
- (c) a member of the bank;

- (d) any person who is, or at any time has been, a director or officer of the bank to which the bank insolvency relates;
 - (e) any person who is a contributory of the bank to which the bank insolvency relates; and
 - (f) the Bank of England, the FSA and the FSCS.
- (3) The right of inspection conferred on any person by paragraph (2) may be exercised on their behalf by a person properly authorised by them.
- (4) Any person may, with special leave of the court, inspect the file.
- (5) The right of inspection conferred by this rule is not exercisable in respect of documents, or parts of documents, which the court has directed (either generally or specially) are not to be open to inspection without the court's permission.
- (6) An application for a direction of the court under paragraph (5) may be made by the bank liquidator or by any party appearing to the court to have an interest in the bank insolvency.
- (7) If for the purposes of powers conferred by the Order, the 2009 Act or these Rules the Department requires to inspect the file on a bank insolvency and requests the court to transmit the file to it, the court shall comply with the request or, if the file is for the time being in use for the court's own purposes, as soon as the file is no longer in such use.
- (8) Rule 208 applies in respect of the court's records on any bank insolvency as they apply in respect of court records of general insolvency proceedings.

Filing of Gazette notices and advertisements

- 210.**—(1) Apply rule 7.28 of the 1991 Rules.
- (2) In paragraph (3) for “An officer of the court” substitute “The bank liquidator”.
 - (3) In paragraph (4) for “The officer's” substitute “the bank liquidator's”.

CHAPTER 6

COSTS AND DETAILED ASSESSMENT

Application of the Supreme Court Rules

- 211.** Apply rule 7.29 of the 1991 Rules.

Requirement to assess costs by the detailed procedure

- 212.**—(1) Apply rule 7.30 of the 1991 Rules.
- (2) In paragraph (1)—
 - (a) for “company insolvency” and “liquidation”, substitute “bank insolvency”; and
 - (b) delete sub-paragraph (b).
 - (3) In paragraph (2) delete “or creditors”.
 - (4) In paragraph (3) for “insolvency proceedings” substitute “a bank insolvency”;
 - (5) In paragraph (5) for “trustee in bankruptcy or a liquidator ” substitute “bank liquidator”;
 - (6) Delete paragraph (6).

Procedure where detailed assessment required

- 213.** Apply rule 7.32 of the 1991 Rules.

Cost of officers charged with executions of writs or other process

- 214.—(1) Apply rule 7.31 of the 1991 Rules.
(2) In Paragraph (1) for “insolvency proceedings” substitute “a bank insolvency”.
(3) Delete paragraph (9)

Costs paid otherwise than out of the insolvent estate

215. Apply rule 7.34 of the 1991 Rules.

Award of costs against responsible insolvency practitioner

- 216.—(1) Apply rule 7.35 of the 1991 Rules.
(2) For “Without prejudice” to “the official receiver or” substitute “Where”.

Application for costs

- 217.—(1) Apply rule 7.36 of the 1991 Rules.
(2) In paragraph (1) for “insolvency” substitute “bank insolvency”.
(3) In paragraph (2), delete “, and, in a winding up by the court or bankruptcy, on the official receiver”;
(4) In paragraph (3), delete “and, where appropriate, the official receiver”.

Costs and expenses of witnesses

- 218.—(1) Apply rule 7.37 of the 1991 Rules.
(2) In paragraph (1), delete “the bankrupt or”.
(3) Delete paragraph (2).

CHAPTER 7

PERSONS INCAPABLE OF MANAGING THEIR AFFAIRS

Introductory

219. Apply rule 7.38 of the 1991 Rules.

Appointment of another person to act

- 220.—(1) Apply rule 7.39 of the 1991 Rules.
(2) Delete paragraph (3)(c).

Affidavit in support of application

- 221.—(1) Apply rule 7.40 of the 1991 Rules.
(2) In paragraph (1) delete from the beginning to “receiver”.
(3) Delete paragraph (2).

Service of notices following appointment

222. Apply rule 7.41 of the 1991 Rules.

CHAPTER 8

APPEALS IN BANK INSOLVENCY PROCEEDINGS

Appeals and review of court orders

223.—(1) The High Court may review, rescind or vary any order made by it in the exercise of its jurisdiction under Part 2 of the 2009 Act.

(2) An appeal from a decision of a registrar of the High Court lies, with the permission of the registrar or a judge of the High Court, to a single judge of the High Court, and a second appeal lies, with the permission of the Court of Appeal to the Court of Appeal.

(3) An appeal of a decision of first instance of a judge of the High Court lies, with the permission of the judge or the Court of Appeal, to the Court of Appeal.

(4) A bank insolvency order made under rule 16 cannot be appealed under this rule.

Procedure on appeal

224. Apply rule 7.42 of the 1991 Rules.

Appeal against a decision of the Department

225.—(1) Apply rule 7.44 of the 1991 Rules.

(2) In paragraph (1) delete “or the official receiver”.

(3) Delete paragraph (2).

CHAPTER 9

GENERAL

Principal court rules and practice to apply

226. The Rules of the Supreme Court (Northern Ireland) 1980(3) and the practice and procedure of the High Court (including any practice direction) apply to bank insolvency proceedings in the High Court, with any necessary modifications, except so far as is inconsistent with these Rules.

Right of attendance

227.—(1) Apply rule 7.47 of the 1991 Rules.

(2) For “company” substitute “bank”.

Restriction on concurrent proceedings and remedies

228. Where in a bank insolvency, the court makes an order staying any action, execution or legal process against the property of the bank, service of the order may be effected by delivering a sealed copy by personal service to the applicant for the bank insolvency order.

Security in court

229. Apply rule 7.53 of the 1991 Rules.

Further information and disclosure

230.—(1) Apply rule 7.54 of the 1991 Rules.

(2) After paragraph (2) insert—

“(3) Before the passing of a full payment resolution the court shall only grant an order on an application under paragraph (1)(b) if satisfied that granting the order is unlikely to prejudice the achievement of Objective 1.”.

Office copies of documents

231. Apply rule 7.55 of the 1991 Rules.