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STATUTORY INSTRUMENTS

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**2009 No. 356**

**The Bank Insolvency (England and Wales) Rules 2009**

**PART 1**

**INTRODUCTORY PROVISIONS**

**Citation and commencement**

1. These Rules may be cited as the Bank Insolvency (England and Wales) Rules 2009 and come into force on 25th February 2009.

**Extent**

2. These Rules extend to England and Wales only.

**Application of rules, construction and interpretation**

3.—(1) These Rules apply in relation to a bank undergoing the procedure in Part 2 of the Banking Act 2009(1) known as bank insolvency.

(2) In these Rules—

“the 1985 Act” means the Companies Act 1985(2);

“the 1986 Act” means the Insolvency Act 1986 (and includes those provisions as applied by section 103 of the 2009 Act);

“the 1986 Rules” means the Insolvency Rules 1986(3);

“the 2006 Act” means the Companies Act 2006(4);

“the 2009 Act” means the Banking Act 2009;

“bank” means the bank (as defined by section 91(1) of the 2009 Act) which is or is to be the subject of the bank insolvency order;

“CPR” means the Civil Procedure Rules 1998(5);

“the FSA” means the Financial Services Authority;

“the FSCS” means the Financial Services Compensation Scheme (established under Part 15 of the Financial Services and Markets Act 2000(6)) or, where appropriate, the scheme manager of that scheme;

“the insolvent” means the bank that has been put into bank insolvency;

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(1) 2009 c. 1.  
(2) 1985 c. 6.  
(3) SI 1986/1925.  
(4) 2006 c. 46.  
(5) S.I. 1998/3132.  
(6) 2000 c.8.

“liquidation committee” means the committee established pursuant to section 100 of the 2009 Act;

“personal service” has the meaning given in Part 6 of the CPR;

“registered address” has the meaning given by section 1140 of the 2006 Act;

“sealed” means sealed with the seal of the court under which the application was made: and

“statement of truth” has the meaning set out in Part 22 of the CPR.

(3) These Rules consist of—

(a) the rules set out in full;

(b) in the case of a rule applying a rule in Part 4, 7, 8, 9, 11, 12 or 13 of the 1986 Rules, the rule so applied with—

(i) the modifications set out in paragraph (4),

(ii) the modifications contained in the rule applying it, and

(iii) any other necessary modification;

(c) the Schedule, which applies the relevant schedules of the 1986 Rules.

(4) The modifications are that where applicable, a reference to—

(a) the 1986 Act (or to “the Act”) is a reference to that Act as applied, with modifications, by the 2009 Act, (and includes, where appropriate, a reference to Part 2 of the 2009 Act.)

(b) the 1986 Rules (or to “the Rules”) is a reference to these Rules,

(c) an affidavit is a reference to a witness statement,

(d) the commencement of winding up is a reference to the commencement of bank insolvency,

(e) the chairman is a reference to the chair,

(f) a reference to a company is a reference to a bank,

(g) going into liquidation is a reference to entering bank insolvency,

(h) insolvency proceedings is a reference to bank insolvency proceedings,

(i) the official receiver should be ignored unless otherwise stated,

(j) a petition for winding up is a reference to an application for bank insolvency under section 95 of the 2009 Act,

(k) a petitioner is a reference to an applicant,

(l) the provisional liquidator is a reference to the provisional bank liquidator,

(m) winding up is a reference to bank insolvency,

(n) winding up by the court is a reference to a bank being placed into bank insolvency by the court, and

(o) a winding-up order is a reference to a bank insolvency order.

(5) Expressions used—

(a) both in a rule set out in full and in Part 2 of the 2009 Act, or

(b) both in a modification to a rule from the 1986 Rules applied by these Rules and in Part 2 of the 2009 Act,

have the same meaning as in Part 2 of the 2009 Act.

(6) Where a rule applies a rule of the 1986 Rules and modifies that rule by inserting or substituting text—

(a) any reference in the modified rule to the 2009 Rules is a reference to these rules;

(b) expressions inserted or substituted have the same meaning as in these rules.

(7) Where a rule in the 1986 Rules (Rule A) contains a reference to another such rule (Rule B) and—

- (a) both Rule A and Rule B are applied by these Rules, or
- (b) Rule A is applied by and the provision in Rule B to which Rule A refers is substantially repeated in these Rules,

the reference in Rule A shall be treated, for the purpose of these Rules, as being, respectively, to the rule in these Rules that applies Rule B or the provision in these Rules that substantially repeats the provision in Rule B.

(8) Where a rule (Rule A) refers to another rule (Rule B), and Rule B applies a rule of the 1986 Rules (Rule C) with or without modifications, the reference in Rule A includes a reference to Rule C as applied to Rule B.

(9) Any notice or document required to be sent electronically by these Rules shall be treated as having been sent to the person if—

- (a) it is sent by email to the person's last known email address, and
- (b) the email contains a prompt asking the person for an electronic receipt saying that the email has been read.

(10) Where the rules provide for a witness statement (either expressly, or through the application of the 1986 Rules as modified above)—

- (a) that statement is a reference to a witness statement verified by a statement of truth in accordance with Part 22 of the CPR, and
- (b) if the statement is made by the bank liquidator or provisional bank liquidator, the statement should state as such and should include the address at which that person works.

## **Overview**

4. The purpose of these Rules is to provide a procedure for the appointment of a bank liquidator and the operation of bank insolvency under Part 2 of the 2009 Act in England and Wales.

## **Forms**

5.—(1) This Rule applies where a provision of these Rules—

- (a) applies a provision of the Insolvency Rules 1986 which requires the use of a prescribed form, or
- (b) makes provision similar to that made by a provision of those Rules which requires the use of a prescribed form.

(2) The form prescribed for the purposes of those Rules is to be used with any modification that the person using the form thinks desirable to reflect the nature of bank insolvency (whether or not the modification is set out in a Practice Form issued by the Treasury for that purpose).

## **Time Limits**

6.—(1) Where by any provision of the 1986 Act, the 2009 Act or these Rules, the time for doing anything is limited, the court may extend the time, either before or after it has expired, on such terms, if any, as it thinks fit.

(2) If the court's consideration of whether to extend the time for doing anything takes place before a full payment resolution has been passed, the court shall only extend the time if it considers that the resulting delay will not significantly prejudice the achievement of Objective 1.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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