
STATUTORY INSTRUMENTS

2010 No. 2580

**BUILDING SOCIETIES, ENGLAND AND WALES
INSOLVENCY, ENGLAND AND WALES**

**The Building Society Special Administration
(England and Wales) Rules 2010**

Made - - - - 20th October 2010

Laid before Parliament 25th October 2010

Coming into force - - 15th November 2010

The Lord Chancellor makes the following Rules in the exercise of powers under section 411(1B)(a), (2), (2D), (3) and (3A) of the Insolvency Act 1986⁽¹⁾.

The Treasury concur in the making of the Rules.

The Chancellor of the High Court (by the authority of the Lord Chief Justice under section 411(7) of the Insolvency Act 1986) concurs in the making of the Rules in so far as they affect court procedure.

The Lord Chancellor has not consulted the Committee existing for the purposes of section 413 of the Insolvency Act 1986: this is the first set of rules made in relation to building society special administration, and is therefore excluded from the requirement to consult by article 16 of the Building Societies (Insolvency and Special Administration) Order 2009⁽²⁾.

PART 1

Introduction

Citation

1. These Rules may be cited as the Building Society Special Administration (England and Wales) Rules 2010.

Commencement

2. These Rules come into force on 15th November 2010.

⁽¹⁾ [1986 c. 45](#); section 411 is amended by section 160 of the Banking Act 2009 and by the Building Societies (Insolvency and Special Administration) Order 2009 ([S.I. 2009/805](#)).

⁽²⁾ [S.I. 2009/805](#).

Extent

3. These Rules extend to England and Wales only.

Interpretation

4.—(1) In these Rules—

- (a) “the 2009 Order” means the Building Societies (Insolvency and Special Administration) Order 2009⁽³⁾;
- (b) “building society” means a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986⁽⁴⁾;
- (c) “building society special administration”, “building society special administration order” and “building society special administrator” have the same meaning as in the Building Societies Act 1986 (see sections 90C(2) and 119(1) of that Act)⁽⁵⁾;

- (d) “contributory”, in relation to a building society—

- (i) means every person liable to contribute to the assets of the society in the event of its being wound up, and
 - (ii) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are deemed to be contributories, includes any person alleged to be a contributory, and
 - (iii) includes persons who are liable to pay or contribute to the payment of any debt or liability of the building society, or any sum for the adjustment of rights of members among themselves, or the expenses of the winding up,

but does not include persons liable to contribute by virtue of a declaration by the court under section 213 (fraudulent trading) or 214 (wrongful trading) of the Insolvency Act 1986;

- (e) “principal office” means—

- (i) the place which is specified in a building society’s memorandum sent to the FSA under paragraph 1(1)(c) of Schedule 2 to the Building Societies Act 1986 as the address of its principal office, or
 - (ii) if notice has been given by a building society to the FSA under paragraph 11(2) of that Schedule (change of principal office), the place specified in that notice or, as the case may be, in the last such notice;

- (f) “registered name”, in relation to a building society, means the name of the society which is for the time being registered with the FSA;

- (g) “society”, “special administration”, “special administration order” and “special administrator” mean respectively building society, building society special administration, building society special administration order and building society special administrator;

- (h) the following expressions have the same meaning as in Part 1 or Part 3 of the Banking Act 2009⁽⁶⁾—

- (i) “bridge bank” (s. 136(2)),
 - (ii) “the court” (the High Court – s. 166(1)),
 - (iii) “the FSA” (the Financial Services Authority – s. 166(2)),

(3) [S.I. 2009/805](#). [S.I.2009/805](#) was amended by [S.I.2010/1189](#).

(4) [1986 c. 53](#).

(5) Section 90C was inserted, and section 119(1) amended, by [S.I. 2009/805](#).

(6) [2009 c.1](#).

- (iv) “Objective 1” (support for commercial purchaser or bridge bank – ss. 137 & 138),
 - (v) “Objective 1 Achievement Notice” (s. 139(4)),
 - (vi) “Objective 2” (normal administration – ss. 137 & 140),
 - (vii) “private sector purchaser” (s. 136(2)),
 - (viii) “property transfer instrument” (s. 33),
 - (ix) “residual building society” (s. 136(2))(7), and
 - (x) “resolution fund order” (s. 49(3));
- (i) any reference to Part 1 of the Banking Act 2009 (Special Resolution Regime), or to any provision in that Part, is a reference to that Part or to that provision as applied, with modifications, by section 84 of that Act;
 - (j) any reference to Part 3 of the Banking Act 2009 (Bank Administration), or to any provision in that Part, is a reference to that Part or to that provision as applied and modified by section 90C of the Building Societies Act 1986 and by any order made under section 158 of the Banking Act 2009(8);
 - (k) any reference to the Insolvency Rules 1986(9) is a reference to those Rules including all amendments to them up to and including those made by the Insolvency (Amendment) (No. 2) Rules 2009(10).
- (2) Other expressions used in these Rules, where used in relation to building societies, have the same meaning as in the Building Societies Act 1986.

5. In these Rules—

- (a) “the FSCS” means the scheme manager of the Financial Services Compensation Scheme (established under Part 15 of the Financial Services and Markets Act 2000(11)),
- (b) “the Objective 1 Stage” means the period during which a building society special administration order is in force before the Bank of England gives an Objective 1 Achievement Notice,
- (c) “the Objective 2 Stage” means the period during which a building society special administration order is in force after the Bank of England gives an Objective 1 Achievement Notice,
- (d) a reference to personal service is a reference to personal service in accordance with Part 6 of the Civil Procedure Rules 1998(12),
- (e) a reference to the CPR is to the Civil Procedure Rules 1998, and
- (f) a reference to a witness statement (including a reference implied by the application of an enactment) is a reference to a witness statement—
 - (i) verified by a statement of truth in accordance with Part 22 of the CPR, and
 - (ii) if made by a building society special administrator, stating that the statement is made in that capacity and giving the address at which the special administrator works, and

(7) In the application of Parts 2 and 3 of the Banking Act 2009 to building societies, references to “bank” (with certain exceptions) have effect as references to “building society”: see section 90C(2) of the Building Societies Act 1986, inserted by [S.I. 2009/805](#).

(8) Section 90C was inserted by [S.I. 2009/805](#), which also modifies the application of Part 3 in relation to building societies. [S.I. 2009/805](#) was modified by [S.I. 2010/1189](#).

(9) [S.I. 1986/1925](#) as amended by [S.I. 1987/1919](#), [1989/397](#), [1991/495](#), [1993/602](#), [1995/586](#), [1999/359](#), [1999/1022](#), [2001/763](#), [2002/1307](#), [2002/2712](#), [2004/584](#), [2004/1070](#), [2005/527](#), [2006/1272](#), [2007/1974](#), [2008/737](#), [2009/642](#) and [2009/2472](#).

(10) [S.I. 2009/2472](#). Later amendments to the Insolvency Rules 1986 were made by [S.I. 2010/686](#) and [S.I. 2010/734](#).

(11) 2000 c. 8.

(12) [S.I. 1998/3132](#).

- (g) “the purpose of the special administration” is a reference to the objectives of building society administration in section 137 of the Banking Act 2009.

Overview

6. The purpose of these Rules is to prescribe a procedure for the appointment of a building society special administrator, and the operation of building society special administration, under Part 3 of the Banking Act 2009 in England and Wales.

Forms

7.—(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 building society special administration (whether or not the modification is set out in a Practice Form issued by the Treasury for that purpose).

PART 2

Application for Building Society Special Administration Order

Introduction

8. This Part makes specific provision for a number of aspects of applications for building society special administration orders; Part 5 applies a number of provisions of the Insolvency Rules 1986 to applications for building society special administration orders (with specified modifications).

Content of application

9. An application by the Bank of England for a building society special administration order in respect of a building society must specify—

- (a) the registered name of the building society,
- (b) any other trading names,
- (c) the address of the society’s principal office,
- (d) an email address for the society,
- (e) the address of the Bank of England, and
- (f) the identity of the person (or persons) nominated for appointment as building society special administrator.

10. If the building society has notified the Bank of England of an address for service which is, because of special circumstances, to be used in place of the principal office, that address shall be specified under Rule 9(c).

Statement of proposed building society special administrator

11. An application must be accompanied by a statement by the proposed building society special administrator—

- (a) specifying the name and address of the person (or of each person) proposed to be appointed,
- (b) giving that person's (or each person's) consent to act,
- (c) giving details of the person's (or each person's) qualification to act as an insolvency practitioner, and
- (d) giving details of any prior professional relationship that the person (or any of them) has had with the building society.

Bank of England witness statement

12.—(1) An application for a building society special administration order in respect of a building society must be accompanied by a witness statement made on behalf of the Bank of England—

- (a) certifying that the conditions for applying for a building society special administration order, set out in section 143 of the Banking Act 2009, are met in respect of the society,
- (b) stating the society's current financial position to the best of the Bank of England's knowledge and belief (including actual, contingent and prospective assets and liabilities),
- (c) specifying any security which the Bank of England knows or believes to be held by a creditor of the building society,
- (d) specifying whether any security confers power to appoint an administrative receiver (and whether an administrative receiver has been appointed),
- (e) specifying any insolvency proceedings which have been instituted in respect of the society (including any process notified to the FSA under section 90D of the Building Societies Act 1986⁽¹³⁾),
- (f) giving details of the property transfer instrument which the Bank of England has made or intends to make in respect of the society,
- (g) where the property transfer instrument has not yet been made, explaining what effect it is likely to have on the society's financial position,
- (h) specifying how functions are to be apportioned where more than one person is to be appointed as building society special administrator (stating, in particular, whether functions are to be exercisable jointly or concurrently), and
- (i) including any other material which the Bank of England thinks may help the court to decide whether to make the special administration order.

(2) The statement must identify the person making the statement and must include the capacity in which that person makes the statement and the basis for that person's knowledge of the matters set out in the statement.

Filing

13. The application, and its accompanying documents, must be filed with the court, together with enough copies of the application and accompanying documents for service under Rule 15.

14. Each filed copy—

- (a) shall have the seal of the court applied to it,

⁽¹³⁾ Section 90D was inserted by [S.I. 2009/805](#).

- (b) shall be endorsed with the date and time of filing,
- (c) shall be endorsed with the venue for the hearing of the application (fixed by the court under Rule 21), and
- (d) shall be issued to the Bank of England.

Service

15. The Bank of England shall serve the application—

- (a) on the building society,
- (b) on the person (or each of the persons) nominated for appointment as building society special administrator,
- (c) on any person whom the Bank of England knows to be entitled to appoint an administrative receiver,
- (d) on any person who has given notice to the FSA in respect of the building society under section 90D of the Building Societies Act 1986 (notice to the Authority of preliminary steps), and
- (e) if the property transfer instrument was made or is to be made under section 11(2)(b) of the Banking Act 2009 (transfer to commercial purchaser), on each transferee.

16. Service under Rule 15 must be service of a sealed and endorsed copy of the application and its accompanying documents issued under Rule 14.

17. Service must be effected as soon as is reasonably practicable, having regard in particular to the need to give the building society's representatives a reasonable opportunity to attend the hearing.

18.—(1) Service must be effected—

- (a) by personal service to an address that the person has notified to the Bank of England as an address for service,
- (b) by personal service to the person's registered office or principal office (where no address for service has been notified),
- (c) by personal service to the person's usual or last known principal place of business in England and Wales (where there is no registered office or principal office and no address for service has been notified), or
- (d) in such other manner and at such a place as the court may direct.

(2) If the Bank of England knows of an email address that is habitually used for business purposes by a person on whom service is required, the Bank must (in addition to personal service) as soon as is reasonably practicable send by email an electronic copy of a sealed and endorsed copy of the application and its accompanying documents.

19.—(1) Service of the application shall be verified by a witness statement specifying the date on which, and the manner in which, service was effected.

(2) The witness statement, with a sealed copy of the application exhibited to it, shall be filed with the court—

- (a) as soon as is reasonably practicable, and
- (b) in any event, before the hearing of the application.

Other notification

20. As soon as is reasonably practicable after filing the application the Bank of England must notify—

- (a) any enforcement officer or other officer whom the Bank of England knows to be charged with effecting an execution or other legal process against the building society or its property,
- (b) any person whom the Bank of England knows to have distrained against the building society or its property, and
- (c) the FSA.

Venue

21.—(1) The court shall fix the venue for the hearing when the application is filed.

(2) In fixing the venue the court shall have regard to—

- (a) the desirability of the application being heard as soon as is reasonably practicable, and
- (b) the need to give the building society a reasonable opportunity to attend.

Hearing

22. At the hearing of the application, any of the following may appear or be represented—

- (a) the Bank of England,
- (b) the FSA,
- (c) the building society,
- (d) a director of the building society,
- (e) the person (or a person) nominated for appointment as building society special administrator,
- (f) any person who has given notice to the FSA in respect of the building society under section 90D of the Building Societies Act 1986 (notice to the Authority of preliminary steps), and
- (g) with the permission of the court, any other person who appears to have an interest.

The order

23. A building society special administration order must be in the form specified in Rule 2.12(2) of the Insolvency Rules 1986, with such variations, if any, as the circumstances may require.

Notice of order

24. If the court makes a building society special administration order, it shall send four sealed copies to the Bank of England.

25. The Bank of England shall as soon as is reasonably practicable send—

- (a) one sealed copy to the building society special administrator,
- (b) one sealed copy to the FSA, and
- (c) one sealed copy to the FSCS.

Costs

26. If the court makes a building society special administration order, the following are payable as an expense of the building society special administration—

- (a) the Bank of England's costs of making the application, and
- (b) any other costs allowed by the court.

PART 3

Process of Building Society Special Administration

Introduction

27. This Part makes specific provision for a number of aspects of building society special administration; Part 5 applies a number of provisions of the Insolvency Rules 1986 to building society special administration (with specified modifications).

Building society special administrator's proposals: Objective 1 Stage

28.—(1) This Rule makes provision about the statement of proposals which the building society special administrator is required to make in the Objective 1 Stage under section 147 of the Banking Act 2009.

(2) In addition to the information required by section 147 the statement must include—

- (a) details of the court where the proceedings are and the court reference number,
- (b) the registered name, any other trading names and the address of the principal office of the building society,
- (c) details of the special administrator's appointment (including the date),
- (d) in the case of joint special administrators, details of the apportionment of functions,
- (e) the names of the directors, secretary and chief executive of the society and details of any shares they hold in the society,
- (f) an account of the circumstances giving rise to the application for the appointment of the special administrator,
- (g) if a statement of the society's affairs has been submitted, a copy or summary of it with the special administrator's comments, if any,
- (h) if an order limiting the disclosure of the statement of affairs has been made under Rule 2.30 of the Insolvency Rules 1986 (as applied by Rule 60 below), a statement of that fact, as well as—
 - (i) details of who provided the statement of affairs,
 - (ii) the date of the order for limited disclosure, and
 - (iii) the details or a summary of the details that are not subject to that order,
- (i) if a full statement of affairs is not provided—
 - (i) the names, addresses and debts of the creditors including details of any security held (or, in the case of depositors, a single statement of their aggregate debt), and
 - (ii) details of the shares issued by the society (including the types of shares issued and the number of each type in issue),
- (j) if no statement of affairs has been submitted—

- (i) details of the financial position of the society at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that on which the society entered special administration),
 - (ii) a list of the society's creditors including their names, addresses and details of their debts, including any security held, (or, in the case of depositors, a single statement of their aggregate debt),
 - (iii) details of the shares issued by the society (including the types of shares issued and the number of each type in issue), and
 - (iv) an explanation as to why there is no statement of affairs,
- (k) the basis upon which it is proposed that the special administrator's remuneration should be fixed under Rule 2.106 of the Insolvency Rules 1986 (as applied by Rule 60),
- (l) how the special administrator proposes to pursue Objective 1,
- (m) whether the special administrator proposes to pursue Objective 2(a) or Objective 2(b),
- (n) if the special administrator proposes to pursue Objective 2(a), how it is envisaged the purpose of the special administration will be achieved in the Objective 2 Stage,
- (o) if the special administrator proposes to pursue Objective 2(b)—
 - (i) how it is envisaged the purpose of the special administration will be achieved in the Objective 2 Stage, and
 - (ii) how it is proposed that the special administration shall end (winding-up or voluntary arrangement, in accordance with section 154 of the Banking Act 2009⁽¹⁴⁾),
- (p) the manner in which the affairs and business of the society have been managed and financed since the date of the special administrator's appointment (including the reasons for and terms of any disposal of assets), and
- (q) the manner in which the affairs and business of the society will be managed and financed if the special administrator's proposals are approved.
- (3) The statement—
 - (a) may exclude information, the disclosure of which could seriously prejudice the commercial interests of the society or of the bridge bank or private sector purchaser, and
 - (b) must include a statement of any exclusion.

Building society special administrator's proposals: Objective 2 Stage

29.—(1) This Rule makes provision about the statement of proposals which the special administrator is required to make under paragraph 49 of Schedule B1 to the Insolvency Act 1986⁽¹⁵⁾ as it applies during the Objective 2 Stage (in accordance with Table 1 in section 145(6) of the Banking Act 2009).

- (2) The statement must include—
 - (a) details of the court where the proceedings are and the court reference number,
 - (b) the registered name, any other trading names, and the principal office of the society,
 - (c) details of the special administrator's appointment (including the date),
 - (d) in the case of joint special administrators, details of the apportionment of functions,
 - (e) the names of the directors, secretary and chief executive of the society and details of any shares they hold in the society,

⁽¹⁴⁾ S.I. 2009/805 modifies the application of section 154.

⁽¹⁵⁾ Paragraph 49 of Schedule B1 was amended by S.I. 2008/948.

- (f) an account of the circumstances giving rise to the application for the appointment of the special administrator,
- (g) if a statement of the society's affairs has been submitted, a copy or summary of it with the special administrator's comments, if any,
- (h) if an order limiting the disclosure of the statement of affairs has been made under Rule 2.30 of the Insolvency Rules 1986 (as applied by Rule 60 below), a statement of that fact, as well as—
 - (i) details of who provided the statement of affairs,
 - (ii) the date of the order for limited disclosure, and
 - (iii) the details or a summary of the details that are not subject to that order,
- (i) if a full statement of affairs is not provided—
 - (i) the names, addresses and debts of the creditors including details of any security held (or, in the case of depositors, a single statement of their aggregate debt),
 - (ii) details of the shares issued by the society (including the types of shares issued and the number of each type in issue),
- (j) if no statement of affairs has been submitted—
 - (i) details of the financial position of the society at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that on which the society entered special administration),
 - (ii) a list of the society's creditors including their names, addresses and details of their debts including any security held, (or, in the case of depositors, a single statement of their aggregate debt),
 - (iii) details of the shares issued by the society (including the types of shares issued and the number of each type in issue), and
 - (iv) an explanation as to why there is no statement of affairs,
- (k) the basis upon which it is proposed that the special administrator's remuneration should be fixed under Rule 2.106 of the Insolvency Rules 1986 (as applied by Rule 60 below),
- (l) details of whether (and why) the special administrator proposes to apply to the court under section 176A(5) of the Insolvency Act 1986⁽¹⁶⁾ (omission of distribution to unsecured creditors: as applied by Table 2 in section 145(6) of the Banking Act 2009) (unless the special administrator intends to propose a voluntary arrangement),
- (m) an estimate of the value of the prescribed part for the purposes of section 176A (unless the special administrator intends to propose a voluntary arrangement) certified as being made to the best of the special administrator's knowledge and belief,
- (n) an estimate of the value of the society's net property (unless the special administrator intends to propose a voluntary arrangement) certified as being made to the best of the special administrator's knowledge and belief,
- (o) whether the special administrator proposes to pursue Objective 2(a) or Objective 2(b),
- (p) if the special administrator proposes to pursue Objective 2(a), how it is envisaged the purpose of the special administration will be achieved,
- (q) if the special administrator proposes to pursue Objective 2(b)—
 - (i) how it is envisaged the purpose of the special administration will be achieved, and
 - (ii) how it is proposed that the special administration shall end (winding-up or voluntary arrangement, in accordance with section 154 of the Banking Act 2009),

⁽¹⁶⁾ Section 176A was inserted by section 252 of the Enterprise Act 2002 (c.40).

- (r) if the special administrator has decided not to call a meeting of creditors, the reasons,
 - (s) the manner in which the affairs and business of the society have been managed and financed since the date of the special administrator's appointment (including the reasons for and terms of any disposal of assets),
 - (t) the manner in which the affairs and business of the society will be managed and financed if the special administrator's proposals are approved, and
 - (u) any other information which the special administrator thinks necessary to enable creditors to decide whether or not to vote for the approval of the proposals.
- (3) In the case of special administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009—
- (a) the statement under paragraph 49 of Schedule B1 must state whether any payment is to be made to the society from a scheme under a resolution fund order, or
 - (b) if that information is unavailable when the statement under paragraph 49 is made, the special administrator must issue a supplemental statement when the information is available.
- (4) The statement—
- (a) may exclude information, the disclosure of which could seriously prejudice the commercial interests of the society, and
 - (b) must include a statement of any exclusion.
- 30.** If the special administrator thinks that the statement made under section 147 of the Banking Act 2009 in accordance with Rule 28 contains information required by Rule 29(2), the statement under paragraph 49 of Schedule B1 to the Insolvency Act 1986 (as applied by Table 1 in section 145(6) of the Banking Act 2009) may consist of the statement under section 147, with such additions, modifications and supplemental information as the special administrator thinks necessary—
- (a) to comply with Rule 29(2), and
 - (b) to bring the statement under section 147 up to date.
- 31.** Where the statement of proposals is sent to creditors, in accordance with paragraph 49(4)(b) of Schedule B1 (as applied by Table 1 in section 145(6) of the Banking Act 2009), it must be sent to the FSA and the FSCS at the same time.
- 32.** Where the court orders an extension of the period of time under paragraph 49(5) of Schedule B1 on an application by the special administrator under paragraph 107 (as applied by Table 1 in section 145(6) of the Banking Act 2009), the special administrator must notify the persons set out in paragraph 49(4) as soon as is reasonably practicable after the making of the order.
- 33.** Where the special administrator has made a statement under paragraph 52(1) of Schedule B1 (as applied by Table 1 in section 145(6) of the Banking Act 2009) and has not called an initial meeting of creditors, the proposals issued in accordance with Rule 29 above will be deemed to have been approved by the creditors (if no meeting has been requisitioned under paragraph 52(2) within the period set out in Rule 2.37(1) of the Insolvency Rules 1986 – as applied by Rule 60 below).
- 34.** Where the special administrator intends to apply to the court under paragraph 79 of Schedule B1 (as applied by the 2009 Order)(17) for the special administration to cease before the statement of proposals is sent to creditors in accordance with paragraph 49 of Schedule B1, the special administrator must, at least 10 days before making the application, send to all known creditors of the society a report containing the information required by Rule 29(2).

(17) [S.I. 2009/805](#), as amended by [S.I. 2010/1189](#), modifies the application of paragraph 79 of Schedule B1.

35.—(1) Where the special administrator wishes to publish a notice under paragraph 49(6) of Schedule B1 (as applied by Table 1 in section 145(6) of the Banking Act 2009), the notice shall be advertised in such manner as the special administrator thinks fit.

(2) The notice must—

- (a) state the full name of the society,
- (b) state the full name and address of the special administrator,
- (c) give details of the special administrator's appointment, and
- (d) specify an address to which members can write for a copy of the statement of proposals.

(3) The notice must be published as soon as is reasonably practicable after the special administrator sends the statement of proposals to the society's creditors but no later than 8 weeks (or such other period as may be agreed by the creditors or as the court may order) from the date that the society entered special administration.

Reports to creditors

36.—(1) "Progress report" means a report which includes—

- (a) details of the court where the proceedings are and the relevant court reference number,
- (b) full details of the society's registered name, principal office and other trading names,
- (c) full details of the special administrator's name and address and date of appointment, including any changes in office-holder,
- (d) in the case of joint special administrators, details of the apportionment of functions,
- (e) details of any extensions of the initial period of appointment,
- (f) details of progress during the period of the report, including a receipts and payments account (as detailed in paragraph (2) below),
- (g) details of any assets that remain to be realised,
- (h) details of any amounts received from a scheme under a resolution fund order, and
- (i) any other information likely to be relevant to the creditors.

(2) A receipts and payments account must state what assets of the society have been realised, for what value, and what payments have been made to creditors or others.

(3) The account must be in the form of an abstract showing receipts and payments during the period of the report; and where the special administrator has ceased to act, the receipts and payments account shall include a statement as to the amount paid to unsecured creditors by virtue of the application of section 176A of the Insolvency Act 1986 (share of assets for unsecured creditors).

(4) During the Objective 1 Stage, a progress report must include details of—

- (a) the extent of the business of the society that has been transferred,
- (b) any property, rights or liabilities that have been transferred, or which the special administrator expects to be transferred, under a power in Part 1 of the Banking Act 2009 (Special Resolution Regime),
- (c) any requirements imposed on the residual building society, for the purpose of the pursuit of Objective 1, under a power in Part 1, and
- (d) the arrangements for managing and financing the society during the Objective 1 Stage.

(5) In complying with paragraph (4)(c) and (d) a report—

- (a) may exclude information, the disclosure of which could seriously prejudice the commercial interests of the society or of the bridge bank or private sector purchaser, and
- (b) must include a statement of any exclusion.

37. A progress report must be produced for—

- (a) the first period of 6 months of the special administration,
- (b) every subsequent period of 6 months, and
- (c) when the special administrator ceases to act, the period from the date of the previous report (or, if there was none, from the beginning of the special administration) until the administrator ceases to act.

38.—(1) The special administrator must send a copy of each progress report within 28 days of the end of the period covered by the report, to

- (a) the creditors and shareholding members,
- (b) the court,
- (c) the Bank of England,
- (d) the FSA, and
- (e) the FSCS.

(2) Instead of complying with paragraph (1)(a) the special administrator may publish the progress report on its internet website (and take appropriate steps to draw attention to it) and send a copy of it to any creditors and shareholding members on request.

(3) The court may, on the special administrator's application—

- (a) extend the period specified in paragraph (1),
- (b) make any other order about the content of a progress report.

39.—(1) A special administrator who fails to comply with Rules 37 and 38 is liable to a fine and, for continued contravention, to a daily default fine.

(2) For that purpose, failure to comply with Rules 37 and 38 shall be treated in the same way as failure to comply with Rule 2.47 of the Insolvency Rules 1986.

Removal of special administrator in Objective 1 Stage

40.—(1) This Rule is about an application for removal of a special administrator made by the Bank of England during the Objective 1 Stage (in accordance with the modifications for the application of paragraph 91 of Schedule B1 to the Insolvency Act 1986 in Table 1 in section 145(6) of the Banking Act 2009).

(2) The rules for service of notice of the application, other notification of the application and for the hearing shall be as for the application to appoint a special administrator under Part 2 of these Rules.

(3) But both the person proposed to be appointed as a replacement and the existing special administrator are entitled to be served and heard.

Appointment of provisional special administrator

41. An application to the court for the appointment of a provisional special administrator under section 135 of the Insolvency Act 1986 (as applied by Table 2 in section 145(6) of the Banking Act 2009) may be made by the Bank of England.

42. The application must be supported by a witness statement stating—

- (a) why the Bank of England thinks that a provisional special administrator should be appointed,
- (b) that the person to be appointed has consented to act,

- (c) that the person to be appointed is qualified to act as an insolvency practitioner,
- (d) whether, to the Bank of England's knowledge, a voluntary arrangement under Part 1 of the Insolvency Act 1986 (as applied in relation to building societies by section 90A of, and Schedule 15A to, the Building Societies Act 1986) has been proposed or is in force in respect of the society,
- (e) whether, to the Bank of England's knowledge, an administrative receiver is acting in respect of the society, and
- (f) the Bank of England's estimate of the value of the assets in respect of which the provisional special administrator is to be appointed.

43. If satisfied that sufficient grounds are shown for the appointment, the court may make it on such terms as it thinks fit.

44. An order appointing a provisional special administrator must specify the functions to be carried out in relation to the society's affairs.

45. If the court makes an order appointing a provisional special administrator, as soon as reasonably practicable the court shall send four sealed copies of the order to the person appointed (and one additional copy by email if possible).

46.—(1) As soon as is reasonably practicable after appointment a provisional special administrator must send a copy of the order of appointment to—

- (a) the society,
- (b) any administrative receiver of the society,
- (c) the FSA (together with the form specified in Rule 4.26(3)(ii) of the Insolvency Rules 1986, with such variations, if any, as the circumstances may require), and
- (d) the FSCS.

(2) Notice to the society must be given by service in accordance with Rule 18 above.

(3) Unless the court otherwise directs, on receipt of the order of appointment, as soon as reasonably practicable, the provisional special administrator shall give notice of that appointment. Such notice—

- (a) shall be gazetted; and
- (b) may be advertised in such other manner as the provisional special administrator thinks fit.

47. The Bank of England may disclose the fact and terms of an order appointing a provisional special administrator to any person whom the Bank thinks has a sufficient business interest.

Additional joint special administrator

48.—(1) The process for the appointment of an additional joint special administrator is the same as for the initial appointment of a special administrator.

(2) The existing special administrator (or each of them) is entitled to a copy of the application and may—

- (a) file written representations, and
- (b) be heard at the hearing.

(3) An application for the appointment of an additional joint special administrator may be made during the Objective 1 Stage only by the Bank of England.

(4) Rule 60 below applies Rules 2.127 and 2.128 of the Insolvency Rules 1986 (notification and advertisement of appointment of joint administrator).

Disapplication of set-off for protected deposits

49.—(1) This rule applies if—

- (a) FSA Rules allow the FSCS to make gross payments of compensation in respect of protected deposits; and
- (b) all or part of a creditor's claim against the building society is in respect of protected deposits.

(2) In respect of protected deposits Rule 2.85 of the Insolvency Rules 1986 (as applied by Rule 60 below) shall apply and, for the purpose of determining the sums due from the building society to an eligible depositor under rule 2.85(3)—

- (a) where the total of the sums held by the building society for the eligible depositor in respect of protected deposits is no more than the prescribed limit then paragraph (3) applies; and
- (b) where the sums held exceed the prescribed limit, then paragraph (4) applies.

(3) Where this paragraph applies, there shall be deemed to have been no mutual dealings, regardless of whether there are any sums due from the depositor to the building society, and the sum due to the eligible depositor from the building society in respect of the protected deposits will be the total of the sums held by the building society for that depositor in respect of those deposits.

(4) Where this paragraph applies then—

- (a) any mutual dealings shall be treated as being mutual dealings only in relation to the amount by which the total of the sums due to the eligible depositor exceeds the prescribed limit, and
- (b) the sums due from the building society to the eligible depositor in respect of protected deposits will be—
 - (i) the amount by which that total exceeds the prescribed limit, set off in accordance with rule 2.85(3); and
 - (ii) the sums held by the bank for the eligible depositor in respect of protected deposits up to the prescribed limit.

(5) Any arrangements with regard to set-off between the building society and the eligible depositor in existence before the date of the notice referred to in rule 2.85(1) shall be subject to this rule in so far as they relate to protected deposits.

(6) In this rule—

“eligible depositor” has the meaning given to it by section 93(3) of the Banking Act 2009;

“FSA Rules” mean the FSA's Compensation Sourcebook, as amended from time to time, made under section 213 of the Financial Services and Markets Act 2000⁽¹⁸⁾;

“prescribed limit” means the amount prescribed as the maximum compensation payable in respect of protected deposits under Part 15 of the Financial Services and Markets Act 2000; and

“protected deposit” means a protected deposit within the meaning given by the FSA Rules held by the building society at the date of the notice referred to in rule 2.85(1) but does not include a share in the society held by an eligible depositor.

End of special administration: successful rescue

50.—(1) This Rule supplements section 153 of the Banking Act 2009 (successful rescue)⁽¹⁹⁾.

(2) The special administrator's application under paragraph 79 of Schedule B1 to the Insolvency Act (as applied by section 153 of the Banking Act 2009⁽²⁰⁾) (the “application”) must have attached

⁽¹⁸⁾ 2008 c.8.

⁽¹⁹⁾ Paragraph 32A of S.I. 2009/805, inserted by S.I. 2010/1189, modifies the application of section 153 of the Banking Act 2009.

⁽²⁰⁾ S.I. 2009/805, as amended by S.I. 2010/1189, modifies the application of paragraph 79 of Schedule B1.

to it a progress report for the period from the date of the previous report (or, if there was none, from the beginning of the special administration) and a statement indicating what the administrator thinks should be the next step for the society.

(3) Before making the application the special administrator must send a copy of the application and the progress report referred to in paragraph 2 to—

- (a) the Bank of England,
- (b) the FSA, and
- (c) the FSCS.

(4) Notice under paragraph (3)(b) and (c) must be sent at least 7 days before the hearing of the application.

(5) Within 5 business days of filing the application with the court, the special administrator must gazette a notice undertaking to provide a copy of the application to any creditor or shareholding member of the society.

(6) The notice in paragraph (5) may also be published in such other manner as the special administrator thinks fit.

(7) The application must certify compliance with the preceding paragraphs of this Rule.

(8) If the court is satisfied that the conditions in section 153(1) of the Banking Act 2009 have been met it shall—

- (a) discharge the special administration order, and
- (b) notify the special administrator, who shall notify the FSA.

End of special administration: dissolution

51.—(1) This Rule supplements section 154(2)(a) of the Banking Act 2009.

(2) The special administrator's notice under paragraph 30 of Schedule 1 to the 2009 Order—

- (a) must be filed with the court in Form 2.35B (the form specified in rule 2.118 of the Insolvency Rules 1986 subject to Rule 7(2) above), and
- (b) must be accompanied by a final progress report.

(3) The notice shall not take effect until the court discharges the special administration order on the application of the special administrator.

(4) Before applying for discharge the special administrator must send a copy of the notice referred to in paragraph (2) and the final progress report to—

- (a) the FSA, and
- (b) each person who received notice of the special administrator's appointment.

(5) After the expiry of the period mentioned in paragraph 30(7) of Schedule 1 to the 2009 Order (and subject to extension under paragraph 30(8) of that Schedule) if the court discharges the special administration order—

- (a) the notice takes effect as specified in paragraph 30(7) of that Schedule,
- (b) the court shall notify the special administrator, who shall notify the FSA.

(6) If the court makes an order under paragraph 30(8) of Schedule 1 to the 2009 Order it shall notify the special administrator in Form 2.36B (the form specified in rule 2.118 of the 1986 Rules subject to Rule 7(2) above), who shall notify the FSA.

PART 4

Court Procedure and Practice

Introduction

52. This Part makes specific provision for a number of aspects of proceedings for building society special administration under Part 3 of the Banking Act 2009; Part 5 of these Rules applies a number of provisions of the Insolvency Rules 1986 to proceedings for building society special administration under the Banking Act 2009 (with specified modifications).

Title of proceedings

53. Proceedings for building society special administration under Part 3 of the Banking Act 2009 shall be entitled “IN THE MATTER OF ... (naming the society to which the proceedings relate) AND IN THE MATTER OF PART 3 OF THE BANKING ACT 2009”.

Right to inspect file

54.—(1) The court must open and maintain a file for each set of building society special administration proceedings.

(2) All documents relating to the special administration are to be placed on the file, subject to any direction of the registrar.

(3) No special administration proceedings shall be filed in the Central Office of the High Court.

(4) The following have the right, at all reasonable times, to inspect the court’s file in respect of special administration proceedings—

- (a) the special administrator or provisional special administrator,
- (b) a person who is or was a director or officer of the society,
- (c) a member of the society,
- (d) any person stating himself in writing to be a creditor of the society,
- (e) any person stating himself in writing to be a contributory in respect of the society,
- (f) the Bank of England,
- (g) the FSA, and
- (h) the FSCS.

55. A right of inspection may be exercised on a person’s behalf by anyone authorised by that person in writing.

56. Any person may, with permission of the court, inspect the court’s file in respect of special administration proceedings.

57. A right of inspection is not exercisable in the case of documents, or parts of documents, as to which the court directs that they are not to be made open to inspection without the court’s permission; and an application for a direction may be made by—

- (a) the special administrator or provisional special administrator, or
- (b) any person appearing to the court to have an interest.

58. Rule 7.28(2) and (3) of the Insolvency Rules 1986 (as applied by Rule 60 below) applies in respect of the court’s file of special administration proceedings as it applies in respect of court records.

59. Proceedings under sections 213 and 214 of the Insolvency Act 1986 (fraudulent and wrongful trading) shall be conducted in accordance with section 215 of that Act subject to the modifications specified in section 145 of the Banking Act 2009.

PART 5

Application of Insolvency Rules 1986

General application

60. The provisions of the Insolvency Rules 1986 listed in the Table in Rule 63 apply for the purposes of building society special administration and applications for special administration.

61. For that purpose the rules apply with—

- (a) the general modifications set out in Rule 62,
- (b) any specific modification set out in the Table in Rule 63, and
- (c) any other necessary modification.

General modifications

62. The general modifications are that—

- (a) a reference to an administrator or liquidator is to be treated as a reference to the building society special administrator,
- (b) a reference to administration or liquidation is to be treated as a reference to building society special administration,
- (c) a reference to a provisional liquidator is to be treated as a reference to a provisional building society special administrator,
- (d) a reference to a winding-up order is to be treated as a reference to a building society special administration order,
- (e) a reference to a petition for a winding-up order is to be treated as a reference to an application for a building society special administration order,
- (f) a reference to insolvency proceedings is to be treated as a reference to building society special administration (or proceedings for special administration),
- (g) a reference to the responsible insolvency practitioner is to be treated as a reference to the building society special administrator or provisional special administrator,
- (h) all references to the Official Receiver are to be ignored,
- (i) all references to the county courts are to be ignored,
- (j) all references to the EC regulation or to the appointment of a member State liquidator are to be ignored,
- (k) a reference to the company is to be treated as a reference to the building society,
- (l) a reference to an affidavit is to be treated as to a witness statement verified by a statement of truth in accordance with Part 22 of the CPR,
- (m) a reference to the officers, or to a particular officer, of a company is to be treated as a reference to the officers, or to the corresponding officer, of a building society and as including a person holding himself out as such an officer,
- (n) a reference to a contributory is to be treated as a reference to a contributory within the meaning of these Rules (see rule 4(1)(d)),

- (o) a reference to the registered office of the company is to be treated as a reference to the principal office of the building society,
- (p) a reference to sending or giving a document or notice to, or filing it with, the registrar of companies is to be treated as a reference to sending the document or notice to the FSA for placing on the public file of the society,
- (q) a reference to a voluntary arrangement under Part 1 of the Insolvency Act 1986 is to be treated as a reference to a voluntary arrangement under that Part as applied in relation to building societies by section 90A of, and Schedule 15A to, the Building Societies Act 1986,
- (r) a reference in the rules to a paragraph of Schedule B1 to the Insolvency Act 1986 is to be treated as a reference to that paragraph as applied and modified by section 145 of the Banking Act 2009, by section 90C of the Building Societies Act 1986 and by any order made under section 158 of the Banking Act 2009, and
- (s) a reference to the Insolvency Act 1986 includes a reference to Part 3 of the Banking Act 2009.

Table of applications and specific modifications

63. This Rule contains the Table of applied provisions of the Insolvency Rules 1986.

Rule	Subject	Specific modifications
Preparatory steps		
2.27	Notification and advertisement of administrator's appointment	
2.28	Notice requiring statement of affairs	
2.29	Verification and filing	
2.30	Limited disclosure	On an application for disclosure under paragraph (4) any of the following may appear and be heard, or make written representations— (a) the special administrator, (b) the Bank of England, and (c) the FSA.
2.31	Release from duty to submit statement of affairs; extension of time	On an application under paragraph (2) for release or extension of time any of the following may appear and be heard, or make written representations— (a) the special administrator, (b) the Bank of England, and (c) the FSA.
2.32	Expenses of statement of affairs	
Special administrator's proposals and creditors' meetings		
2.33	<i>Administrator's proposals</i>	<i>Rule 2.33 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
2.34	Meetings to consider administrator's proposals	(1) Rule 2.34 applies in the Objective 2 Stage.

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Rule	Subject	Specific modifications
		(2) The FSA and the FSCS are added to the list in paragraph (2) of persons entitled to notice.
2.35	Creditors' meetings generally	The FSA and the FSCS are added to the list in paragraph (3) of persons to whose convenience the special administrator is to have regard.
2.36	Chairman at meetings	
2.37	Meeting requisitioned by creditors	Treat the reference to the administrator's statement of proposals as a reference to the special administrator's statement of proposals in accordance with Rule 29 above.
2.38	Entitlement to vote	
2.39	Admission and rejection of claims	
2.40	Secured creditors	
2.41	Holders of negotiable instruments	
2.42	Hire-purchase, conditional sale and chattel leasing agreements	
2.43	Resolutions	
2.44	Minutes	
2.45	Revision of the administrator's proposals	In paragraph (2)(c) ignore the reference to the person making the appointment.
2.46	Notice to creditors	
2.47	<i>Reports to creditors</i>	<i>Rule 2.47 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
2.48	Correspondence instead of creditors' meetings	
2.49	Venue and conduct of company meeting	In paragraph (5) the reference to a general meeting of the company summoned under the company's articles of association, and in accordance with the applicable provisions of the Companies Act, has effect as a reference to a general meeting of the society summoned under the society's rules, and in accordance with the applicable provisions of the Building Societies Act 1986.
Creditors' committee		
2.50	Constitution of committee	<i>(A creditors' committee cannot be established until the Objective 2 Stage – see the modifications for the application of paragraphs 50 to 58 of Schedule B1</i>

Rule	Subject	Specific modifications
		<i>to the Insolvency Act 1986 in Table 1 in section 145 of the Banking Act 2009.)</i>
2.51	Formalities of establishment	
2.52	Functions and meetings of the committee	
2.53	The chairman at meetings	
2.54	Quorum	
2.55	Committee-members' representatives	
2.56	Resignation	
2.57	Termination of membership	
2.58	Removal	
2.59	Vacancies	
2.60	Procedure at meetings	
2.61	Resolutions of creditors' committee by post	
2.62	Information from administrator	
2.63	Expenses of members	
2.64	Members' dealing with the society	In respect of any application to set aside a transaction under paragraph (2)— (a) notice of the application must be given to the FSA, and (b) the FSA may appear and be heard.
2.65	Formal defects	
Process of administration		
2.66	Disposal of charged property	If an application is made during the Objective 1 Stage, then in addition to the requirements of Rule 2.66— (a) the special administrator must notify the Bank of England of the time and place of the hearing, (b) the Bank of England may appear, and (c) if an order is made the special administrator must send a copy to the Bank of England as soon as is reasonably practicable.
2.67	Expenses of the administration	In addition to the matters listed in Rule 2.67(1), expenses in connection with provisional special administration are payable in the following order of priority— (a) the cost of any security provided by the provisional special administrator

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Rule	Subject	Specific modifications
		<p>takes priority equally with security provided by the special administrator, and</p> <p>(b) the remuneration of the provisional special administrator ranks next, and</p> <p>(c) any deposit lodged on an application for the appointment of a provisional special administrator ranks next.</p>
2.68	Distributions to creditors: introduction	<p>In paragraphs (1) and (2), references to creditors include references to shareholding members.</p> <p><i>(Distributions in the case of special administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009 and during the Objective 1 Stage require the Bank of England's consent – see the modification of the application of paragraph 65 of Schedule B1 to the Insolvency Act 1986 in Table 1 in section 145 of the Banking Act 2009(21).)</i></p>
2.69	Debts of the insolvent company to rank equally	“Debts” do not include any amounts owing from the society to a member in respect of shares.
2.70	Dividends: supplementary	
2.71	Division of unsold assets	
2.72	Proving a debt	
2.73	Claim established by witness statement	
2.74	Costs of proving	
2.75	Administrator to allow inspection of proofs	
2.76	New administrator appointed	
2.77	Admission and rejection of proofs for dividend	
2.78	Appeal against decision on proof	<p>In respect of any application under Rule 2.78(1) or (2)—</p> <p>(a) notice of the application must be given to the FSA and, during the Objective 1 Stage, the Bank of England, and</p> <p>(b) the FSA, and the Bank of England during the Objective 1 Stage, may appear and be heard.</p>

(21) S.I. 2009/805 modifies the application of paragraph 65 of Schedule B1.

Rule	Subject	Specific modifications
2.79	Withdrawal or variation of proof	
2.80	Expunging of proof by the court	In respect of any application under Rule 2.80(1)(b)— (a) notice of the application must be given to the FSA and, during the Objective 1 Stage, the Bank of England, and (b) the FSA, and the Bank of England during the Objective 1 Stage, may appear and be heard.
2.81	Estimate of quantum	
2.82	Negotiable instruments, etc	
2.83	Secured creditors	
2.84	Discounts	
2.85	Mutual credit and set-off	In addition to the matters listed in Rule 2.85(2)(a) to (e), “mutual dealings” does not include any mutual dealings between the society and a creditor who is also a shareholding member of the society in respect of shares held by that person in the society. Where the conditions in paragraph (1) of Rule 49 of these Rules are met, Rule 2.85 applies with the modifications set out in Rule 49 in addition to the modifications set out above.
2.86	Debt in foreign currency	
2.87	Payments of a periodical nature	
2.88	Interest	
2.89	Debt payable in future	
2.90	Value of security	
2.91	Surrender for non-disclosure	
2.92	Redemption by administrator	
2.93	Test of security’s value	
2.94	Realisation of security by creditor	
2.95	Notice of proposed distribution	(1) The notice in Rule 2.95(1) must also be given where the special administrator is proposing to make a distribution to shareholding members. (2) The following are added to the list of those entitled to receive notice under Rule 2.95(2)— (a) the FSA,

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Rule	Subject	Specific modifications
		<ul style="list-style-type: none"> (b) the FSCS, (c) shareholding members of the society, and (d) during the Objective 1 Stage of a special administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009, the Bank of England. <p>(3) The notice in Rule 2.95(1) shall state, where applicable, that the distribution is to shareholding members of the society.</p> <p>(4) In Rule 2.95(4)(a) the reference to a distribution to creditors includes, where appropriate, a distribution to shareholding members.</p>
2.96	Admission or rejection of proofs	
2.97	Declaration of dividend	In Rule 2.97(1) the reference to one or more classes of creditor includes a reference to one or more classes of shareholding member.
2.98	Notice of declaration of dividend	<p>(1) The following are added to the list of those entitled to receive notice under Rule 2.98(1)—</p> <ul style="list-style-type: none"> (a) the FSA, (b) the FSCS, (c) shareholding members of the society, and (d) during the Objective 1 Stage of a special administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009, the Bank of England. <p>(2) In the case of special administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009 and during the Objective 1 Stage, the particulars required by Rule 2.98(2) include details of any payment made from a scheme under a resolution fund order.</p> <p>(3) The particulars required by Rule 2.98(2) include, where appropriate, details of any distribution to shareholding members.</p>
2.99	Payment of dividends and related matters	In Rule 2.99(2) the reference to any creditor includes a reference to any shareholding member.

Rule	Subject	Specific modifications
2.100	Notice of no dividend, or no further dividend	<p>(1) The special administrator must copy any notice under Rule 2.100 to—</p> <ul style="list-style-type: none"> (a) the FSA, (b) the FSCS, and (c) the Bank of England, in a case where it consented to a distribution under Rule 2.68 (as applied above). <p>(2) In Rule 2.100 the reference to creditors includes a reference to shareholding members.</p>
2.101	Proof altered after payment of dividend	
2.102	Secured creditors	
2.103	Disqualification from dividend	<p>In respect of any application for disqualification under Rule 2.103—</p> <ul style="list-style-type: none"> (a) notice of the application must be given to the FSA, and (b) the FSA may appear and be heard.
2.104	Assignment of right to dividend	
2.105	Debt payable at future time	The “relevant date” is the date of the special administration order.
The special administrator		
2.106	Fixing of remuneration	<p>(1) In the Objective 1 Stage the Bank of England shall fix the special administrator’s remuneration in accordance with Rule 2.106(2).</p> <p>(2) In the Objective 2 Stage, Rule 2.106 applies (but pending action under paragraphs (3) or (5) arrangements established by the Bank of England in the Objective 1 Stage shall continue to apply).</p>
2.107	Recourse to meeting of creditors	
2.108	Recourse to the court	<p>(1) In respect of remuneration fixed by the Bank of England—</p> <ul style="list-style-type: none"> (a) Rule 2.108 applies as if references to the creditors’ committee were references to the Bank of England, and (b) the court shall have regard to the achievement of Objective 1. <p>(2) In respect of any application under Rule 2.108—</p> <ul style="list-style-type: none"> (a) notice of the application must be given to the FSA, and

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Rule	Subject	Specific modifications
		(b) the FSA may appear and be heard.
2.109	Creditors' claim that remuneration is excessive	Rule 2.109 applies only during the Objective 2 Stage.
4.127B and Schedule 6	Remuneration where assets realised on behalf of chargeholder	
Ending administration		
2.110	Final progress reports	<p>(1) The reference to Rule 2.47 is to be treated as a reference to Rule 36 above.</p> <p>(2) In the case of special administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009 the final progress report—</p> <p>(a) must not be made until the special administrator is satisfied that any payment likely to be made to the society from a scheme under a resolution fund order has been made, and</p> <p>(b) must state whether any payment has been received and, if so, its amount.</p>
2.114	Application to court by administrator	<i>Rule 2.114 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
2.118	Moving from administration to dissolution	<i>Rule 2.118 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
Replacing special administrator		
2.119	Grounds for resignation	During the Objective 1 Stage the Bank of England's consent, as well as the court's permission, is required for resignation under paragraph (2).
2.120	Notice of intention to resign	The Bank of England and the FSA are added to the list of those entitled to notice under paragraph (1).
2.121	Notice of resignation	
2.122	Application to court to remove administrator from office	<p><i>(An application may be made during the Objective 1 Stage only with the Bank of England's consent – see the modifications for the application of paragraph 88 of Schedule B1 to the Insolvency Act 1986 in Table 1 in section 145 of the Banking Act 2009.)</i></p> <p>(1) An application must state either—</p>

Rule	Subject	Specific modifications
		<p>(a) that the Bank of England has consented to its being made, or</p> <p>(b) that the Objective 1 Stage has ended.</p> <p>(2) The FSA is added to the list of those entitled to notice under paragraph (2).</p>
2.123	Notice of vacation of office on ceasing to be qualified	
2.124	Death of administrator	
2.125	Application to replace	<p>Rule 2.125 is applied during the Objective 2 Stage only (and ignoring references to paragraph 95 of Schedule B1).</p> <p><i>(For equivalent provision about application for removal by the Bank of England during the Objective 1 Stage (in accordance with the modifications for the application of paragraph 91 of Schedule B1 to the Insolvency Act 1986 in Table 1 in section 145 of the Banking Act 2009) see Part 3 of these Rules.</i></p>
2.126	Notification and advertisement of replacement	
2.127	Notification and advertisement of appointment of joint administrator	
2.128	Notice to FSA of replacement or addition	
2.129	Duties on vacating office	
Provisional special administrator (see application of section 135 of the Insolvency Act 1986 in Table 2 in section 145 of the Banking Act 2009)		
4.25	<i>Appointment</i>	<i>Rule 4.25 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
4.25A	<i>Notice of appointment</i>	<i>Rule 4.25A is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
4.26	<i>Order of appointment</i>	<i>Rule 4.26 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
4.28	Security	
4.29	Failure to give or keep up security	
4.30	Remuneration	Ignore paragraph (4).
4.31	Termination of appointment	<p>(1) An application for termination may be made by—</p> <p>(a) the provisional special administrator, or</p> <p>(b) the Bank of England.</p>

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Rule	Subject	Specific modifications
		(2) A provisional special administrator's appointment terminates on the making of a special administration order.
Disclaimer		
4.187	Notice of disclaimer	<i>(In the case of special administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009 notice may be given during the Objective 1 Stage only with the Bank of England's consent – see the modifications for the application of section 178 of the Insolvency Act 1986 in Table 2 in section 145 of the Banking Act 2009.)</i>
4.188	Communication to interested persons	
4.189	Additional notices	
4.190	Duty to keep court informed	
4.191	Application by interested party	
4.192	Interest in property to be declared on request	
4.193	Disclaimer presumed valid and effective	
4.194	Application for exercise of court's powers under section 181 of the Insolvency Act 1986	<i>(Section 181 is applied by Table 2 in section 145 of the Banking Act 2009.)</i>
Court procedure and practice		
7.1	Application of Chapter 1 of Part 7	Chapter 1 does not apply to an application for a special administration order (which is addressed in Part 2 of these Rules).
7.2	Interpretation	
7.3	Form and contents of application	
7.3A	Application to disapply section 176A of the Insolvency Act 1986	
7.4	Filing and service of application	
7.4A	Notice of application under section 176A of the Insolvency Act 1986	
7.5	Other hearings <i>ex parte</i>	
7.6	Hearing of application	
7.7	Use of witness statement evidence	

Rule	Subject	Specific modifications
7.8	Filing and service of witness statements	
7.9	Use of reports	
7.10	Adjournment of hearings; directions	
7.16	Nomination and appointment of shorthand writers	
7.17	Remuneration of shorthand writers	
7.19	Enforcement of court orders	
7.20	Orders enforcing compliance with Rules	
7.21	Warrants	
7.23	Warrants under section 236	
7.27	Court records	
7.28	Inspection of records	
7.31	<i>Right to inspect court file</i>	<i>Rule 7.31 is not applied – but equivalent provision is made in Part 4 of these Rules.</i>
7.33	Costs: application of the Civil Procedure Rules	
7.34	Requirement to assess costs by the detailed procedure	
7.35	Procedure where detailed assessment required	
7.36	Costs of execution or other process	
7.38	Costs paid otherwise than out of the insolvent estate	
7.39	Award of costs against responsible insolvency practitioner	
7.40	Application for costs	
7.41	Costs and expenses of witnesses	
7.42	Final costs certificate	
7.43	Persons who lack capacity to manage their affairs: introductory	
7.44	Appointment of another person to act	
7.45	Witness statement in support of application	
7.46	Services of notices following appointment	

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Rule	Subject	Specific modifications
7.47	Appeals and reviews of court orders	
7.49	Procedure on appeal	
7.51	Principal court rules and practice to apply	<i>(The reference to the CPR, the practice and procedure of the High Court and of the county court is to be treated as a reference to the CPR (Part 52).)</i>
7.53	Right of attendance	
7.54	Insolvency practitioner's solicitor	
7.55	Formal defects	
7.56	Restriction on concurrent proceedings and remedies	
7.58	Security in court	
7.59	Payment into court	
7.60	Further information and disclosure	
7.61	Office copies of documents	
Proxies		
8.1	Definition of proxy	
8.2	Issue and use of forms	
8.3	Use of proxies at meetings	
8.4	Retention of proxies	
8.5	Right of inspection of proxies	
8.6	Proxy-holder with financial interest	
Examination of persons		
9.1	Preliminary	<ol style="list-style-type: none"> <i>Part 9 applies to applications under section 236 of the Insolvency Act 1986 (inquiry into society's dealings) as applied by Table 2 in section 145 of the Banking Act 2009.</i> Treat a reference to "the insolvent" as a reference to the society.
9.2	Form and contents of application	
9.3	Order for examination, etc	
9.4	Procedure for examination	
9.5	Record of examination	
9.6	Costs of proceedings	
Miscellaneous and general		

Rule	Subject	Specific modifications
12.1	Regulation of specified administrative matters	A reference to the Secretary of State includes a reference to the Treasury.
12.2	Costs, expenses, etc	
12.3	Provable debts	
12.4	Notices	
12.4A	Quorum at meetings	
12.5	Evidence of proceedings at meeting	
12.6	Documents issuing from Secretary of State	
12.8	Insolvency practitioner's security	
12.9	Time-limits	
12.10	Service by post	<i>(Rule 12.10 applies subject to express provision about service made in these Rules.)</i>
12.11	Service and notice: general	Part 6 of the CPR applies subject to any provision of these rules.
12.12	Service outside jurisdiction	Part 6 of the CPR applies with regard to service in Scotland or Northern Ireland, subject to any provision of these rules. Where service is to take place outside the United Kingdom, where these rules provide for service, the court may direct how that service is to be effected. With regard to service otherwise, Part 6 of the CPR applies.
12.13	Confidentiality of documents	
12.14	Notices sent simultaneously to same person	
12.15	Right to copy documents	
12.15A	Charge for copy documents	
12.16	Non-receipt of notice of meeting	
12.17	Right to have list of creditors	
12.18	False claim of status as creditor, etc.	
12.20	Gazette	
12.21 and Schedule 5	Punishment of offences	
12.22	Notice of order under section 176A of the Insolvency Act 1986	

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Rule	Subject	Specific modifications
13.1 to 13.13	Interpretation and application	

20th October 2010

Kenneth Clarke, C
Lord Chancellor

We concur

21st October 2010

James Duddridge
Michael Fabricant
Two of the Lords Commissioners of Her
Majesty's Treasury

I concur

7th September 2010

Sir Andrew Morritt
The Chancellor of the High Court

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules set out the procedure for the building society special administration process under Part 3 of the Banking Act 2009 (c.1), as applied in relation to building societies by the Building Societies (Insolvency and Special Administration) Order 2009 (S.I. 2009/805).

The main features of building society special administration are that:

- (a) it is used where part of the business of a building society is sold to a commercial purchaser or transferred to a bridge bank in accordance with section 12 of the Banking Act 2009;
- (b) the court appoints a building society special administrator on the application of the Bank of England;
- (c) the special administrator ensures that the non-sold or non-transferred part of the building society provides services or facilities to enable the commercial purchaser or bridge bank to operate effectively;
- (d) the special administrator has two objectives (Objective 1 – supporting the private purchaser or bridge bank; and Objective 2 – “normal administration”); and
- (e) in other respects the process is the same as for normal administration under the Insolvency Act 1986, subject to specified modifications.

Part 2 of the Rules sets out provisions about applications for building society special administration.

Part 3 of the Rules sets out provisions about the special administration process.

Part 4 of the Rules sets out provisions about court procedure and practice in connection with special administration.

Part 5 of the Rules applies specified provisions of the Insolvency Rules 1986 for general purposes in connection with special administration, subject to a number of general and specific modifications.

An Impact Assessment relating to the rules for building society insolvency and special administration has been prepared and may be obtained from the Financial Regulatory Strategy Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. It is also available on HM Treasury’s website (www.hm-treasury.gov.uk).