
STATUTORY INSTRUMENTS

2010 No. 2581

The Building Society Insolvency
(England and Wales) Rules 2010

PART 1

INTRODUCTORY PROVISIONS

Citation and commencement

1. These Rules may be cited as the Building Society Insolvency (England and Wales) Rules 2010 and come into force on 15th November 2010.

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 building society undergoing the procedure in Part 2 of the Banking Act 2009⁽¹⁾, as applied and modified by section 90C of the Building Societies Act 1986⁽²⁾ and by any order made under section 130 of the Banking Act, known as building society insolvency.

(2) In these Rules—

“the 1986 Rules” means the Insolvency Rules 1986⁽³⁾ including all amendments to them up to and including those made by the Insolvency (Amendment)(No. 2) Rules 2009⁽⁴⁾;

“the 2009 Order” means the Building Societies (Insolvency and Special Administration) Order 2009;

“the 2010 Rules” mean these Rules;

“the Banking Act” means the Banking Act 2009;

“the Building Societies Act” means the Building Societies Act 1986;

“building society” means a building society incorporated under the Building Societies Act;

“building society insolvency”, “building society insolvency order” and “building society liquidator” have the same meaning as in the Building Societies Act (see section 90C(2));

“contributory”, in relation to a building society and subject as provided in rule 40—

(i) means every person liable to contribute to the assets of the society in the event of its being wound up, and

(1) 2009 c. 1.

(2) 1986 c.53. Section 90C was inserted by the Building Societies (Insolvency and Special Administration) Order 2009, article 2.

(3) SI 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.

(4) S.I. 2009/2472.

- (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;

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

“eligible depositor” means a depositor who is eligible for compensation under the FSCS;

“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 Insolvency Act” means the Insolvency Act 1986⁽⁷⁾;

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

“Objective 1” has the same meaning as in Part 2 of the Banking Act (see section 99(2));

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

“principal office” means—

- (b) the place which is specified in the building society’s memorandum sent to the FSA under paragraph 1(1)(c) of Schedule 2 to the Building Societies Act as the address of its principal office; or
- (c) if notice has been given by the 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;

“registered name” in relation to a building society means the name of the society which is for the time being registered with the FSA; and

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

(3) Other expressions used in these Rules, where used in relation to building societies, have the same meaning as in the Building Societies Act.

(4) In these Rules—

- (a) any reference to Part 2 of the Banking Act (Bank Insolvency), or to any provision in that Part, is a reference to that Part or provision as applied and modified by section 90C of the Building Societies Act and by any order made under section 130 of the Banking Act;
- (b) any reference to any provision of the Insolvency Act that is not applied by Part 2 of the Banking Act, is a reference to that provision as applied and modified by section 90A of, and Schedule 15A to, the Building Societies Act;
- (c) any reference to any provision of the Insolvency Act which is applied by Part 2 of the Banking Act is a reference to that provision as applied and modified by section 90C of the Building Societies Act and by any order made under section 130 of the Banking Act.

(5) These Rules consist of—

⁽⁵⁾ S.I. 1998/3132.

⁽⁶⁾ 2000 c.8.

⁽⁷⁾ 1986 c.45.

- (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 (6),
 - (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.
- (6) The modifications are that where applicable, a reference to—
- (a) any provision of the Insolvency Act that is applied by Part 2 of the Banking Act is a reference to that provision as applied and modified by section 90C of the Building Societies Act and by any order made under section 130 of the Banking Act;
 - (b) any provision of the Insolvency Act that is not applied by Part 2 of the Banking Act is a reference to that provision as applied and modified by section 90A of, and Schedule 15A to, the Building Societies Act;
 - (c) the 1986 Rules (or “the Rules”) is a reference to these Rules;
 - (d) an affidavit is a reference to a witness statement;
 - (e) ex parte is a reference to without notice;
 - (f) the commencement of winding up is a reference to the commencement of building society insolvency;
 - (g) the chairman is a reference to the chair;
 - (h) a company is a reference to a building society;
 - (i) going into liquidation is a reference to entering building society insolvency;
 - (j) insolvency proceedings is a reference to building society insolvency proceedings;
 - (k) the official receiver should be ignored unless otherwise stated;
 - (l) a petition for winding up is a reference to an application for building society insolvency under section 95 of the Banking Act;
 - (m) a petitioner is a reference to an applicant;
 - (n) the provisional liquidator is a reference to the provisional building society liquidator;
 - (o) winding up is a reference to building society insolvency;
 - (p) winding up by the court is a reference to a building society being placed into building society insolvency by the court;
 - (q) a winding-up order is a reference to a building society insolvency order;
 - (r) the registered office is a reference to the principal office within the meaning of these Rules;
 - (s) the articles is a reference to the rules of the building society;
 - (t) the officers, or a particular officer of a company, is a reference to the officers, or the corresponding officer, of the building society and includes a person holding themselves out as such an officer;
 - (u) the registrar of companies or the registrar is a reference to the FSA;
 - (v) contributory is a reference to a contributory in relation to a building society within the meaning of these Rules.
- (7) Expressions used—
- (a) both in a rule set out in full and in Part 2 of the Banking Act, or

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

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

(8) Expressions used—

- (a) both in a rule set out in full and in the Building Societies Act, or
- (b) both in a modification to a rule from the 1986 Rules applied by these Rules and in the Building Societies Act,

have the same meaning as in the Building Societies Act.

(9) 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 2010 Rules is a reference to these Rules;
- (b) expressions inserted or substituted have the same meaning as in these Rules.

(10) 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.

(11) 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 by Rule B.

(12) Any notice or document required to be sent electronically pursuant to 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.

(13) Where these 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 building society liquidator or provisional building society 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 building society liquidator and the operation of building society insolvency under Part 2 of the Banking Act in England and Wales.

Forms

5.—(1) This rule applies where a provision of these rules—

- (a) applies a provision of the 1986 Rules 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 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 Insolvency Act, the Banking 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.

PART 2

APPLICATION FOR ORDER

Filing of application

7.—(1) The application for a building society insolvency order, verified by witness statement in accordance with rule 11, shall be filed in court.

(2) There shall be filed with the application—

- (a) one copy for service on the building society,
- (b) one copy to be attached to the proof of service, and
- (c) further copies to be sent to the persons under rule 10.

(3) The court shall fix the venue, date and time for the hearing of the application and in doing so 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.

(4) Each of the copies issued to the applicant shall be sealed and be endorsed with the venue, date and time for the hearing.

(5) Any application filed in relation to a building society in respect of which there is in force a voluntary arrangement under Part 1 of the Insolvency Act shall be filed in accordance with this rule, but a copy of that application shall also be sent to the court to which the nominee's report under section 2 of the Insolvency Act was submitted, if that is not the same court.

Service of application

8.—(1) The applicant shall serve the building society with a sealed copy of the application.

(2) The application shall be served on the building society at its principal office.

(3) Service of the application at the principal office may be effected in any of the following ways—

- (a) it may be handed to a person who there and then acknowledges that they are, or, to the best of the server's knowledge, information and belief, are, a director or other officer, or employee, of the building society, or

- (b) it may be handed to a person who there and then acknowledges that they are authorised to accept service of documents on the building society's behalf, or
- (c) in the absence of such person as is mentioned in sub-paragraphs (a) and (b), it may be deposited at or about the principal office in such a way that it is likely to come to the notice of a person attending the office.

(4) If for any reason it is impracticable to effect service as provided by paragraph (2) or (3), the application may be served in such other manner as the court may approve or direct.

(5) Application for permission of the court under paragraph (4) may be made without notice to the building society, stating in a witness statement what steps have been taken to comply with paragraph (2) or (3), and the reasons why it is impracticable to effect service as there provided.

(6) If the building society or its legal representatives fail to attend the hearing, the court may make the building society insolvency order in its absence if satisfied that the application has been served in accordance with this rule.

Proof of service

- 9. Apply rule 4.9 of the 1986 Rules.

Other persons to receive copy of application

10.—(1) The applicant shall send two copies of the application to—

- (a) the proposed building society liquidator,
- (b) the Bank of England (if it is not the applicant),
- (c) the FSA (if it is not the applicant),
- (d) the FSCS,
- (e) any person who has given notice to the FSA in respect of the building society under section 90D of the Building Societies Act(8),
- (f) if there is in force for the building society a voluntary arrangement under Part 1 of the Insolvency Act, the supervisor of that arrangement, and
- (g) if an administrative receiver has been appointed in relation to the building society, that receiver,

in accordance with paragraph (2).

(2) One copy shall be sent electronically as soon as practicable and the other (a sealed copy) shall be sent by first class post on the business day on which the application is served on the building society.

(3) Any of the persons in sub-paragraph (1) will have the right to attend and be heard at the hearing of the application.

Verification of application

11.—(1) This applies where an application has been filed in court under rule 7.

(2) A witness statement shall be attached to the application to state that the statements in the application are true, or are true to the best of the applicant's knowledge, information and belief.

(3) The witness statement shall identify the person making the statement and shall 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 application.

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

(4) The witness statement is, unless proved otherwise, evidence of the statements in the application.

Persons entitled to copy of application

12.—(1) Every contributory or creditor of the building society is entitled to a copy of the application on request from the applicant.

(2) The applicant shall respond to any request for a copy of the application as soon as reasonably practicable after the application has been made on payment of the appropriate fee.

Certificate of compliance

13.—(1) Apply rule 4.14 of the 1986 Rules.

(2) In paragraph (1) the period for filing shall be as soon as reasonably practicable before the hearing of the application.

(3) In paragraph (2)(9), leave out the words “a copy or” to the end.

(4) After paragraph (2) insert—

“(2A) A witness statement made by the proposed building society liquidator to the effect that—

(a) the person is qualified to act as an insolvency practitioner in accordance with section 390 of the Insolvency Act, and

(b) the person consents to act as the building society liquidator,

shall be filed in court with the certificate.”.

Leave for the applicant to withdraw

14. Apply rule 4.15 of the 1986 Rules. Leave out “at least 5 days” and ignore sub-paragraph (a).

Witness statement in opposition

15.—(1) If the building society intends to oppose an application, the building society may (but need not) file a witness statement in opposition in court.

(2) A statement under paragraph (1) must be filed before the hearing of the application and a copy must be served on the applicant, before the hearing.

(3) The statement may be served on the applicant by personal service or by electronic means.

(4) The statement should also be sent to the persons in rule 10(1) before the hearing.

(5) The fact that the building society has not filed a statement under this rule shall not prevent the building society from being heard at the hearing.

Making, transmission and advertisement of order

16.—(1) The court shall not make a building society insolvency order unless the person nominated to be appointed as the building society liquidator in the application for the order has filed in court a witness statement under rule 13.

(2) When the building society insolvency order has been made the court shall immediately send five sealed copies (or such larger number as the building society liquidator may have requested) to the building society liquidator.

(9) Paragraph (2) was amended by [S.I. 2009/642](#).

(3) The court shall also, if practicable, immediately send a copy of the order to the building society liquidator electronically.

(4) The building society liquidator shall serve a sealed copy of the order on the building society at its principal office and, where the building society liquidator knows the building society's email address, shall send an electronic copy to the building society.

(5) The building society liquidator shall send two copies of the order to—

- (a) the Bank of England,
- (b) the FSA,
- (c) the FSCS,
- (d) if there is in force for the building society a voluntary arrangement under Part 1 of the Insolvency Act, the supervisor of that arrangement, and
- (e) if an administrative receiver has been appointed in relation to the building society, that administrative receiver,

in accordance with paragraph (6).

(6) One copy shall be sent electronically as soon as practicable and the other (a sealed copy) shall be sent by first class post on the business day on which the order is served on the building society.

(7) The building society liquidator—

- (a) shall cause notice of the order to be gazetted as soon as reasonably practicable, and
- (b) may advertise notice of the order in such other manner as the building society liquidator thinks fit.

Authentication of building society liquidator's appointment

17. A sealed copy of the court's order may in any proceedings be adduced as proof that the person appointed is duly authorised to exercise the powers and perform the duties of the building society liquidator in the building society insolvency.

Initial duties of building society liquidation committee

18.—(1) As soon as reasonably practicable after the making of a building society insolvency order, the liquidation committee shall meet the building society liquidator for the purpose of discussing which of the objectives, or combination of objectives, mentioned in section 102(1) of the Banking Act, the committee should recommend the building society liquidator to pursue.

(2) If the building society liquidator and every individual on the liquidation committee agree, the meeting may be held by audio or video conference.

(3) The liquidation committee shall make its recommendation to the building society liquidator at the meeting.

(4) The Bank of England shall confirm the liquidation committee's recommendation in writing as soon as practicable after the meeting.

(5) As soon as practicable after the making of a building society insolvency order, the liquidation committee shall also pass a resolution as to the terms on which, in accordance with rule 99, the building society liquidator is to be remunerated.

(6) Until a full payment resolution has been passed, the building society liquidation committee—

- (a) shall take decisions and pass resolutions by a simple majority, and
- (b) for the purpose of taking decisions and passing resolutions, may communicate by any means that its members consider convenient.

Expenses of voluntary arrangement

19. Apply rule 4.21A of the 1986 Rules⁽¹⁰⁾.

PART 3

PROVISIONAL BUILDING SOCIETY LIQUIDATOR

Appointment of provisional building society liquidator

20.—(1) An application to the court for the appointment of a provisional building society liquidator under section 135 of the Insolvency Act may be made—

- (a) by the Bank of England,
- (b) by the FSA (with the consent of the Bank of England).

(2) The application must be supported by a witness statement stating—

- (a) the grounds upon which it is proposed that the provisional building society liquidator 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 applicant's knowledge—
 - (i) there has been proposed or is in force for the building society a voluntary arrangement under Part 1 of the Insolvency Act, or
 - (ii) an administrative receiver is acting in relation to the building society,
- (e) the applicant's estimate of the value of the assets in respect of which the provisional building society liquidator is to be appointed, and
- (f) the functions the applicant wishes to be carried out by the provisional building society liquidator in relation to the building society's affairs.

(3) The court may on the application, if satisfied that sufficient grounds are shown for the appointment, make it on such terms as it thinks fit.

Notice of appointment

21.—(1) Where a provisional building society liquidator has been appointed, the court shall notify the applicant and the person appointed.

(2) Unless the court otherwise directs, on receipt of the notification under paragraph (1), the provisional liquidator shall give notice of that appointment as soon as reasonably practicable. Such notice—

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

Order of appointment

22.—(1) The order of appointment shall specify the functions to be carried out by the provisional building society liquidator in relation to the building society's affairs.

⁽¹⁰⁾ Rule 4.21A was inserted by [S.I. 1987/1919](#) and amended by [S.I. 2008/737](#).

(2) The court shall, immediately after the order is made, send four sealed copies of the order (or such larger number as the provisional building society liquidator may have requested), to the provisional building society liquidator.

(3) The court shall also, if practicable, immediately send a copy of the order to the provisional building society liquidator electronically.

(4) The provisional building society liquidator shall serve a sealed copy of the order on the building society at its principal office and, where the provisional building society liquidator knows the building society's email address, shall send an electronic copy to the building society.

(5) The provisional building society liquidator shall send two copies of the order to—

- (a) the Bank of England,
- (b) the FSA,
- (c) the FSCS,
- (d) if there is in force for the building society a voluntary arrangement under Part 1 of the Insolvency Act, the supervisor of that arrangement, and
- (e) if an administrative receiver has been appointed in relation to the building society, that administrative receiver,

in accordance with paragraph (6).

(6) One copy shall be sent electronically as soon as practicable and the other (a sealed copy) shall be sent by first class post on the business day on which the order is served on the building society.

Security

23. Apply rule 4.28 of the 1986 Rules(**11**).

Failure to give or keep up security

24. Apply rule 4.29 of the 1986 Rules.

Remuneration

25. Apply rule 4.30 of the 1986 Rules. Ignore paragraph (4).

Termination of appointment

26.—(1) Apply rule 4.31 of the 1986 Rules(**12**).

(2) After paragraph (2) insert—

“(2A) On the making of a building society insolvency order the appointment of the provisional building society liquidator shall terminate.”.

(11) Paragraph (2) was amended by [S.I. 2008/737](#).

(12) Rule 4.31 was amended by [S.I. 1987/1919](#) and [S.I. 2009/642](#).

PART 4

STATEMENT OF AFFAIRS AND OTHER INFORMATION

Notice requiring statement of affairs

27.—(1) Apply rule 4.32 of the 1986 Rules. For “official receiver”, substitute “building society liquidator”.

Verification and filing

28.—(1) Apply rule 4.33 of the 1986 Rules. For “official receiver” substitute “building society liquidator”.

(2) For paragraph (6), substitute—

“(6) The building society liquidator shall file the statement of affairs in court and shall send a copy of it to the FSA.”.

(3) Ignore paragraph (7).

Limited disclosure

29.—(1) Apply rule 4.35 of the 1986 Rules. In paragraph (1), for “official receiver”, substitute “building society liquidator”.

(2) After paragraph (1), insert—

“(1A) The building society liquidator may also apply to the court for an order of limited disclosure in respect of those depositors of the building society who, at the time of the making of the statement of affairs, still have a claim against the building society in respect of their deposits.”.

Release from duty to submit statement of affairs; extension of time

30. Apply rule 4.36 of the 1986 Rules(13). For “official receiver” substitute “building society liquidator”.

Expenses of statement of affairs

31. Apply rule 4.37 of the 1986 Rules(14). For “official receiver”, substitute “building society liquidator”.

Submission of accounts

32. Apply rule 4.39 of the 1986 Rules. For “official receiver”, substitute “building society liquidator”.

Further disclosure

33. Apply rule 4.42 of the 1986 Rules. For “official receiver”, substitute “building society liquidator”.

(13) Paragraph (7) was amended by [S.I. 2008/737](#).

(14) Rule 4.37 was amended by [S.I. 2008/737](#).

PART 5

INFORMATION TO CREDITORS AND CONTRIBUTORIES

Report by building society liquidator

34.—(1) The building society liquidator shall, at least once after the making of the building society insolvency order, make a report with respect to the proceedings in the building society insolvency and the state of the building society's affairs.

(2) Regardless of whether the liquidation committee has passed a full payment resolution, the first report under paragraph (1) shall be, within eight weeks of the commencement of the building society insolvency, made publicly available on the building society's website and the building society liquidator shall send a copy of it to any creditor or contributory on request.

(3) The building society liquidator shall include in the report under paragraph (1)—

- (a) a statement that the proceedings are being held in the High Court and the relevant court reference number;
- (b) the full registered name of the building society, any other trading names of the building society, and the address of its principal office;
- (c) details relating to the building society liquidator's appointment, including the date of appointment, and, where there are joint liquidators, details of—
 - (i) which functions (if any) are to be exercised by the persons appointed acting jointly, and
 - (ii) which functions (if any) are to be exercised by any or all of the persons appointed;
- (d) the names of the directors, chief executive and secretary of the building society and details of any shares in the building society that they have;
- (e) an account of the circumstances giving rise to the building society insolvency;
- (f) if a statement of affairs has been submitted, a copy of that statement;
- (g) if a statement of affairs has yet to be submitted—
 - (i) the names, addresses and details of any debts owed to the creditors, including details of any security held (or, in the case of depositors who are still creditors of the building society at the time the report is made, 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), and
 - (iii) details of the financial position of the building society at the latest practicable date (which must, unless the court orders otherwise, be a date not earlier than the commencement of building society insolvency);
- (h) the basis upon which it has been proposed under rule 42, or, if the full payment resolution has yet to be passed, rule 18, that the building society liquidator's remuneration be fixed;
- (i) to the best of the building society liquidator's knowledge and belief—
 - (i) an estimate of the value of the prescribed part (within the meaning of section 176A of the Insolvency Act) regardless of whether—
 - (aa) the building society liquidator proposes to make an application to the court under section 176A(5) of that Act, or
 - (bb) section 176A(3) of that Act applies, and
 - (ii) an estimate of the value of the building society's net property;

- (j) whether, and if so, why, the building society liquidator proposes to make an application to court under section 176A(5) of the Insolvency Act;
- (k) a summary of—
 - (i) how Objective 1 is being or has been achieved and an estimate of the costs to the building society liquidator of achieving it,
 - (ii) the manner in which the affairs and business of the building society not involved in the achievement of Objective 1 have, since the commencement of the building society insolvency, been managed and financed, including, where any assets have been disposed of, the reasons for such disposals and the terms upon which such disposals were made, and
 - (iii) how the affairs and business of the building society will continue to be managed and financed; and
- (l) an explanation of how it is envisaged the objectives of the building society liquidator will be achieved, including whether a dividend will be paid, an estimate as to the amount of this dividend, and how it is proposed that the building society liquidation shall end.

(4) Nothing in this rule is to be taken as requiring either estimate mentioned in paragraph (3)(i) to include any information the disclosure of which could seriously prejudice the commercial interests of the building society. If such information is excluded from the calculation the estimate shall be accompanied by a statement to that effect.

(5) The building society liquidator shall file with the court a copy of any report sent under this rule.

Meaning of “creditors”

35. Apply rule 4.44 of the 1986 Rules.

Report where statement of affairs lodged

36. Apply rule 4.45 of the 1986 Rules(15). For “official receiver”, substitute “building society liquidator”.

Statement of affairs dispensed with

37. Apply rule 4.46 of the 1986 Rules. For “official receiver”, substitute “building society liquidator”.

General rule as to reporting

38. Apply rule 4.47 of the 1986 Rules. For “official receiver”, substitute “building society liquidator”.

Building society insolvency stayed

39. Apply rule 4.48 of the 1986 Rules. For “official receiver”, substitute “building society liquidator”.

(15) Paragraph (1) was amended by S.I. 1987/1919.

PART 6

MEETINGS OF CREDITORS AND CONTRIBUTORIES

Meaning of “contributories”

40. For the purposes of this Part, “contributories” does not include the borrowing members of the society (see paragraph 5(2) of Schedule 2 to the Building Societies Act).

First meeting

41.—(1) Once the liquidation committee passes a full payment resolution the building society liquidator shall—

- (a) immediately summon a meeting of the building society’s creditors and a meeting of the building society’s contributories, and
- (b) fix a venue, date and time for the meetings,

and the date must be within three months of the date on which the full payment resolution was passed.

(2) When the venue, date and time of the meetings have been fixed the building society liquidator shall give notice of the meetings to—

- (a) the court,
- (b) every creditor who is known to the building society liquidator or is identified in the building society’s statement of affairs,
- (c) every person appearing (by the building society’s books or otherwise) to be a contributory of the building society, and
- (d) each member of the liquidation committee.

(3) The building society liquidator—

- (a) shall gazette the notice of the meeting as soon as reasonably practicable, and
- (b) may advertise it in such other manner as the building society liquidator thinks fit.

(4) In giving the notice mentioned in paragraph (2) the building society liquidator shall, if practicable, indicate whether the present intention of the FSCS is to resign from the liquidation committee at the meeting.

(5) Notice to the court and the members of the liquidation committee shall be given immediately; notice to creditors and contributories shall be given, and the advertisements placed to appear, at least 21 days before the date fixed for the meeting.

(6) The notice to creditors shall specify a time and date, not more than four days before the date fixed for the meeting, by which they must lodge proofs and (if applicable) proxies, in order to be entitled to vote at the meeting.

(7) The FSCS is entitled to be represented at the meeting and Schedule 1 to the 1986 Rules, as applied by rule 285, has effect with respect to its voting rights at such a meeting.

(8) Meetings summoned under this rule are known respectively as “the first meeting of creditors” and “the first meeting of contributories”, and jointly as “the first meetings in the building society liquidation”.

Business at first meetings of creditors and contributories

42.—(1) At the first meeting of creditors the FSCS shall state whether or not it is resigning from the liquidation committee.

(2) At that meeting those creditors present (or represented by proxy) may—

- (a) where the FSCS has not resigned, elect two or four individuals as new members of the liquidation committee,
- (b) where the FSCS has resigned, elect three or five individuals as new members of the liquidation committee,

in place of the members nominated by the Bank of England and the FSA. In accordance with section 100(6)(e) of the Banking Act, the liquidation committee ceases to exist at the end of the meeting if no individuals are elected as mentioned or if the resulting committee would have fewer than three members or an even number of members. The maximum number of committee members will be five.

- (3) At the first meeting of creditors no resolutions shall be taken other than the following—
 - (a) if an application has been made to the court by the creditors under rule 95 for the court to direct the building society liquidator to summon a meeting of creditors for the purpose of removing the building society liquidator, and the court has directed that a resolution may be passed to that effect at the first meeting of creditors, —
 - (i) a resolution to remove the building society liquidator (or a resolution to remove one or more of the building society liquidators if joint liquidators were originally appointed), and
 - (ii) a resolution to appoint a named insolvency practitioner to be building society liquidator or two or more insolvency practitioners as joint liquidators;
 - (b) if no individuals have been elected to form a liquidation committee under paragraph (2), a resolution specifying the terms on which the liquidator is to be remunerated, or to defer consideration of that matter;
 - (c) where two or more persons are appointed jointly to act as building society liquidator, a resolution specifying which acts are to be done by both of them, all of them or by only one;
 - (d) a resolution to adjourn the meeting for not more than three weeks; and
 - (e) any other resolutions which the chair thinks it right to allow for special reasons.
- (4) At the first meeting of contributories, no resolutions shall be taken other than the following—
 - (a) if no individuals have been elected to form a liquidation committee under paragraph (2), a resolution to form a liquidation committee (and rule 118 shall then apply);
 - (b) a resolution to adjourn the meeting for no more than three weeks;
 - (c) any other resolutions which the chair thinks it right to allow for special reasons.
- (5) The FSCS shall be entitled to be a member of any liquidation committee formed where the liquidation committee has ceased to exist at the end of the first meeting of the creditors.

General power to call meetings

43.—(1) Apply rule 4.54 of the 1986 Rules⁽¹⁶⁾.

(2) Where the building society liquidator has been directed to summon a meeting of creditors under section 195 of the Insolvency Act (as applied by section 109 of the Banking Act) for the purpose of removing the building society liquidator, the building society liquidator shall give notice of the meeting to the Bank of England and the FSA.

The chair at meetings

44.—(1) Meetings shall be chaired by the building society liquidator or a person nominated in writing by the building society liquidator.

(16) Paragraph (6) was amended by [S.I. 2009/642](#).

- (2) A person nominated under paragraph (1) must be—
 - (a) qualified to act as an insolvency practitioner in accordance with section 390 of the Insolvency Act, or
 - (b) an employee of the building society liquidator or of the building society liquidator’s firm who is experienced in insolvency matters.

Requisitioned meetings: general

45. Apply rule 4.57 of the 1986 Rules. In rule 4.57(4)(a) for “the amount for which they may vote at any meeting” substitute “the value of the shares held by them in the society”.

Requisitioned meetings: reforming the liquidation committee

- 46.—(1) Rule 4.57 of the 1986 Rules also applies where—
- (a) the liquidation committee has ceased to exist at the end of the first meeting of creditors under rule 42 and no further steps have been taken to re-establish that committee; and
 - (b) the building society liquidator has been requested, by no less than one-tenth in value of the building society’s creditors, to summon a meeting for the purpose of re-establishing the liquidation committee.

(2) Where a meeting is requisitioned to re-establish the liquidation committee, the time periods set out in rule 4.57 of the 1986 Rules may be expedited by the building society liquidator at the request of the building society’s creditors.

(3) The building society liquidator shall give notice of the meeting to the FSA and Bank of England.

(4) Rule 42(1) and (2) shall apply at this meeting as if it were the first meeting of creditors.

Attendance at meetings of building society’s personnel

47. Apply rule 4.58 of the 1986 Rules.

Notice of meetings by advertisement only

48. Apply rule 4.59 of the 1986 Rules.

Venue

49. Apply rule 4.60 of the 1986 Rules.

Expenses of summoning meetings

50. Apply rule 4.61 of the 1986 Rules (17).

Resolutions

51. Apply rule 4.63 of the 1986 Rules(18). In rule 4.63(1) for “the number of votes conferred on each contributory by the company’s articles” substitute “the value of the shares each contributory holds in the building society”.

(17) Paragraphs (3) and (4) were amended by [S.I. 2008/737](#).

(18) Rule 4.63 was amended by [S.I. 1987/1919](#).

Chair of meeting as proxy-holder

52. Apply rule 4.64 of the 1986 Rules.

Suspension and adjournment

53.—(1) Apply rule 4.65 of the 1986 Rules(19).

(2) In paragraph (3), leave out “or, as the case may be, 4.114–CVL(3)”.

Entitlement to vote (creditors)

54.—(1) Apply rule 4.67 of the 1986 Rules(20).

(2) Ignore paragraph (ii) of paragraph (1)(a) and paragraph (8).

(3) In paragraph (9), ignore the reference to paragraph (8).

Entitlement to vote (contributories)

55. Apply rule 4.69 of the 1986 Rules.

Admission and rejection of proof (creditors’ meetings)

56. Apply rule 4.70 of the 1986 Rules. For paragraph (5) substitute—

“(5) The chair is not personally liable for costs incurred by any person in respect of an application under this rule unless the court makes an order to that effect.”.

Record of proceedings

57. Apply rule 4.71 of the 1986 Rules.

PART 7

PROOF OF DEBTS

Meaning of “prove”

58.—(1) Apply rule 4.73 of the 1986 Rules.

(2) In paragraph (5), for “or a Government Department” substitute “, a Government Department or the FSCS”.

(3) Ignore paragraphs (2) and (8)(21).

Supply of forms

59. Apply rule 4.74 of the 1986 Rules(22).

Contents of proof

60. Apply rule 4.75 of the 1986 Rules(23).

(19) Paragraphs (3) and (4) were amended by [S.I. 1987/1919](#).

(20) Rule 4.67 was amended by [S.I. 2002/1307](#).

(21) Paragraph (8) was added by [S.I. 2003/1730](#).

(22) Rule 4.74 was substituted by [S.I. 2004/584](#).

(23) Paragraph (1) was substituted by [S.I. 2004/584](#).

Claim established by witness statement

61. Apply rule 4.77 of the 1986 Rules. Ignore paragraph (3).

Cost of proving

- 62.—(1) Apply rule 4.78 of the 1986 Rules⁽²⁴⁾.
(2) In paragraph (1) leave out “or 4.76–CVL”.

Building society liquidator to allow inspection of proofs

63. Apply rule 4.79 of the 1986 Rules.

New building society liquidator appointed

64. Apply rule 4.81 of the 1986 Rules.

Admission and rejection of proofs for dividend

65. Apply rule 4.82 of the 1986 Rules.

Appeal against decision on proof

- 66.—(1) Apply rule 4.83 of the 1986 Rules.
(2) For paragraph (6) substitute—
 “(6) The building society liquidator is not personally liable for costs incurred by any person in respect of an application under this rule unless the court makes an order to that effect.”.

Withdrawal or variation of proof

67. Apply rule 4.84 of the 1986 Rules.

Expunging of proof by the court

68. Apply rule 4.85 of the 1986 Rules.

Estimate of quantum

69. Apply rule 4.86 of the 1986 Rules.

Negotiable instruments, etc.

70. Apply rule 4.87 of the 1986 Rules.

Secured creditors

71. Apply rule 4.88 of the 1986 Rules.

Discounts

72. Apply rule 4.89 of the 1986 Rules.

(24) Paragraph (2) was amended by [S.I. 2008/737](#).

Mutual credits and set-off

73.—(1) This rule applies where, before the building society goes into building society insolvency, there have been mutual credits, mutual debts or other mutual dealings between the society and any creditor of the society proving or claiming to prove for a debt in the building society insolvency.

(2) The reference in paragraph (1) to mutual credits, mutual debts or other mutual dealings does not include—

- (a) any debt arising out of an obligation incurred at a time when the creditor had notice that—
 - (i) a meeting of creditors had been summoned under section 98 of the Insolvency Act,
 - (ii) a petition for the winding up of the building society was pending, or
 - (iii) an application for a building society insolvency order in respect of the building society was pending;
- (b) any debt which has been acquired by a creditor on assignment or otherwise, pursuant to an agreement between the creditor and any other party where that agreement was entered into—
 - (i) after the commencement of building society insolvency,
 - (ii) at a time when the creditor had notice that a meeting of creditors had been summoned under section 98,
 - (iii) at a time when the creditor had notice that a winding up petition was pending, or
 - (iv) at a time when the creditor had notice that an application for a building society insolvency order in respect of the building society was pending;
- (c) any mutual dealings between the building society and a creditor who is also a shareholding member of the building society in respect of shares held by that person in the building society.

(3) An account shall be taken of what is due from each party to the other in respect of the mutual dealings, and the sums due from one party shall be set off against the sums due from the other.

(4) A sum shall be regarded as being due to or from the building society for the purposes of paragraph (3) whether—

- (a) it is payable at present or in the future;
- (b) the obligation by virtue of which it is payable is certain or contingent; or
- (c) its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion.

(5) Rule 4.86 of the 1986 Rules shall apply for the purposes of this rule to any obligation to or from the building society which, by reason of its being subject to any contingency or for any other reason, does not bear a certain value.

(6) Rules 75 to 77 shall apply for the purposes of this rule in relation to any sums due to the building society which—

- (a) are payable in a currency other than sterling,
- (b) are of a periodical nature, or
- (c) bear interest.

(7) Rule 251 shall apply for the purposes of this rule to any sum due to or from the building society which is payable in the future.

(8) Subject to rule 74, only the balance (if any) of the account owed to the creditor is provable in the liquidation. Alternatively the balance (if any) owed to the building society shall be paid to the building society liquidator as part of the assets except where all or part of the balance results

from a contingent or prospective debt owed by the creditor and in such a case the balance (or that part of it which results from the contingent or prospective debt) shall be paid if and when that debt becomes due and payable.

(9) In this rule, “obligation” means an obligation however arising, whether by virtue of an agreement, rule of law or otherwise.

Disapplication of set-off for eligible depositors

74.—(1) This rule applies if the FSA Rules allow the FSCS to make gross payments of compensation.

(2) In respect of protected deposits Rule 73 shall apply and, for the purpose of determining the sums due from the building society to an eligible depositor under rule 73(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 that total exceeds the prescribed limit, and
- (b) the sums due from the building society to the eligible depositor in respect of the protected deposits will be—
 - (i) the amount by which that total exceeds the prescribed limit, set off in accordance with rule 73(3); and
 - (ii) the sums held by the building society 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 commencement of building society insolvency shall be subject to this rule, insofar as they relate to protected deposits.

(6) In this rule—

“the FSA Rules” means the FSA’s Compensation Sourcebook, as amended from time to time, made under section 213 of the Financial Services and Markets Act 2000(25);

“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 but does not include a share in the society held by an eligible depositor.

Debt in foreign currency

75. Apply rule 4.91 of the 1986 Rules(26). In paragraph (1), leave out from “or, if” to the end.

(25) 2000 c 8.

(26) Rule 4.91 was amended by S.I. 2003/1730 and S.I. 2005/527.

Payments of a periodical nature

76. Apply rule 4.92 of the 1986 Rules. In paragraph (1), leave out from “or, if” to the end(27).

Interest

77. Apply rule 4.93 of the 1986 Rules. In paragraph (1), leave out from “or, if” to the end(28).

Debt payable at future time

78.—(1) Apply rule 4.94 of the 1986 Rules(29).

(2) Leave out from “or, if” to “entered administration”.

PART 8

SECURED CREDITORS

Value of security

79. Apply rule 4.95 of the 1986 Rules.

Surrender for non–disclosure

80. Apply rule 4.96 of the 1986 Rules. Ignore paragraph (3)(30).

Redemption by liquidator

81. Apply rule 4.97 of the 1986 Rules(31).

Test of security’s value

82. Apply rule 4.98 of the 1986 Rules.

Realisation of security by creditor

83. Apply rule 4.99 of the 1986 Rules.

PART 9

THE BUILDING SOCIETY LIQUIDATOR

CHAPTER 1

GENERAL

Remuneration of building society liquidator

84.—(1) This rule applies where—

(27) Paragraph (1) was amended by [S.I. 2005/527](#).

(28) Rule 4.93 was amended by [S.I. 1987/1919](#) and [2005/527](#).

(29) Rule 4.94 was amended by [S.I. 2005/527](#).

(30) Paragraph (3) was inserted by [S.I. 2002/1307](#).

(31) Paragraph (3) was amended by [S.I. 2008/737](#).

- (a) the liquidation committee has ceased to exist as mentioned in rule 42(2),
 - (b) the committee has not been reformed at a meeting of creditors held under rule 42, 45 or 46, and
 - (c) the committee has not been reformed at a meeting of contributories held under rule 118.
- (2) Where this rule applies the creditors may, at the first or any subsequent meeting of creditors, pass a resolution as to the terms on which, in accordance with rule 99, the building society liquidator is to be remunerated.
- (3) Where such a resolution is passed—
- (a) it supersedes any resolution as to the remuneration of the building society liquidator passed by the liquidation committee before the first meeting of creditors, and
 - (b) the building society liquidator shall be paid under the resolution passed by the liquidation committee under rule 18(5) in respect of the performance of the building society liquidator’s functions before the day on which the creditors’ resolution is passed and under the creditors’ resolution in respect of the performance of the building society liquidator’s functions on and after that day.

Replacement of building society liquidator by creditors

- 85.**—(1) Apply rule 4.100 of the 1986 Rules(**32**).
- (2) For paragraph (1) substitute—
- “(1) This rule applies where a person is appointed as building society liquidator by a meeting of creditors.”.
- (3) For paragraph (4) substitute—
- “(4) The chair of the meeting shall—
- (a) send the certificate to the new building society liquidator,
 - (b) send a copy of the certificate to the Bank of England and the FSA, and
 - (c) file a copy of the certificate in court .”.

Authentication of building society liquidator’s appointment

- 86.** Apply rule 4.105 of the 1986 Rules(**33**). Leave out from “or (as” to “the Act”.

Appointment to be advertised and registered

- 87.**—(1) This rule applies where the building society liquidator is appointed by a meeting of the creditors or by the Bank of England under rule 107.
- (2) The building society liquidator shall, after receiving the certificate of appointment, as soon as reasonably practicable give notice of that appointment. Such notice—
- (a) shall be gazetted; and
 - (b) may be advertised in such other manner as the building society liquidator thinks fit.
- (3) The expense of giving notice under this rule shall be borne in the first instance by the building society liquidator; but the building society liquidator is entitled to be reimbursed as an expense of the building society insolvency.
- (4) The building society liquidator shall immediately notify the appointment to the FSA.

(32) Paragraphs (3) to (5) were substituted by [S.I. 1987/1919](#).

(33) Rule 4.105 was amended by [S.I. 2003/1730](#).

CHAPTER 2

RESIGNATION AND REMOVAL

Creditors' meeting to be notified of the building society liquidator's resignation

88.—(1) Apply rule 4.108 of the 1986 Rules⁽³⁴⁾.

(2) For paragraph (1), substitute—

“(1) Before resigning office, the building society liquidator must obtain the consent of the Bank of England and must call a meeting of creditors to notify them of this.

(1A) The notice summoning the meeting shall indicate that this is the purpose, or one of the purposes, of the meeting and shall draw the attention of the creditors to rule 96 with respect to the building society liquidator's release.

(1B) The notice in paragraph (1A) shall enclose a copy of the Bank of England's consent.”.

(3) For paragraph (2) substitute—

“(2) Copies of the notice and of the account mentioned in paragraph (3) shall be sent to the court, the Bank of England and the FSA.”.

Action following acceptance of resignation

89.—(1) This rule applies where a meeting is summoned to notify the creditors of the building society liquidator's resignation.

(2) The meeting shall resolve whether to give the building society liquidator their release.

(3) If the meeting resolves not to release the building society liquidator, the building society liquidator shall be given a copy of that resolution and rule 96 applies.

(4) After the meeting the building society liquidator shall file the notice of resignation in court and shall send copies of the notice to the Bank of England and the FSA.

(5) The building society liquidator's resignation is effective as from the date on which the court receives the notice of that resignation, and the court shall endorse that date on the notice.

Advertisement of resignation

90. Apply rule 4.112 of the 1986 Rules.

Meeting of creditors to remove building society liquidator

91.—(1) Apply rule 4.113 of the 1986 Rules.

(2) In paragraph (1), for “section 174(4)” substitute “section 109 of the Banking Act 2009”.

(3) In paragraph (2), for “official receiver” substitute “Bank of England and the FSA”.

(4) For paragraph (4) substitute—

“(4) Where the meeting passes a resolution that—

- (a) the building society liquidator be removed,
- (b) a new building society liquidator be appointed, or
- (c) the building society liquidator not be given their release,

⁽³⁴⁾ Paragraphs (6) and (7) were added by [S.I.1987/1919](#).

the building society liquidator shall be given a copy of that resolution and if it has been resolved to remove the building society liquidator, the building society liquidator shall be given a certificate to that effect.”.

(5) For paragraph (5) substitute—

“(5) If the creditors have resolved to appoint a new building society liquidator, the certificate of that appointment shall also be sent to the FSA and rule 4.100 shall apply.”.

Court’s power to regulate meetings under rule 89

92. Apply rule 4.115 of the 1986 Rules. Leave out “or 4.114–CVL”.

Procedure on removal

93.—(1) Apply rule 4.116 of the 1986 Rules.

(2) For “official receiver”, wherever it appears, substitute “out-going building society liquidator”.

(3) For paragraph (3) substitute—

“(3) A copy of the certificate so endorsed shall be sent by the court to the outgoing building society liquidator and to any new building society liquidator appointed.”.

(4) Ignore paragraph (4).

Advertisement of removal

94. Apply rule 4.118 of the 1986 Rules.

Removal of building society liquidator by the court

95.—(1) Apply rule 4.119 of the 1986 Rules⁽³⁵⁾.

(2) After paragraph (1) insert—

“(1A) If the liquidation committee has not yet passed a full payment resolution, the court shall dismiss any application under paragraph (1) where the application is made by someone other than the Bank of England, the FSA or the liquidation committee.”.

(3) In paragraph (2), for “at least 7 days’ notice” substitute—

“(a) if the application is made before the passing of a full payment resolution, such notice as is reasonable in all the circumstances, and

(b) if the application is made after the passing of a full payment resolution, at least 7 days’ notice.”.

(4) In paragraph (4), leave out “, at least 14 days before the hearing,”.

(5) After paragraph (4) insert—

“(4A) The notice and copies mentioned in paragraph (4) shall be sent—

(a) if the application is made before the passing of a full payment resolution, within such time so as to give the building society liquidator notice of the hearing as is reasonable in all the circumstances, and

(b) if the application is made after the passing of a full payment resolution, at least 14 days before the hearing.”.

(6) In paragraph (6)—

(35) Paragraph 5 of rule 4.119 was amended by [S.I. 2008/737](#).

- (a) in sub-paragraph (a), for “official receiver” substitute “Bank of England and the FSA” and at the end insert “and”, and
- (b) leave out “and” at the end of sub-paragraph (b), and sub-paragraph (c).

Release of resigning or removed building society liquidator

- 96.**—(1) Apply rule 4.121 of the 1986 Rules.
- (2) In paragraph (1), for “accepted by” substitute “notified to”.
 - (3) For rule 4.109 substitute “rule 89 of the 2010 Rules”.
 - (4) In paragraph (3)—
 - (a) in sub paragraph (a) for “receive his resignation” substitute “be notified of his resignation”; and
 - (b) leave out “or” at the end of sub-paragraph (a) and at the end of sub-paragraph (b) insert “or” and—
 - “(c) the building society liquidator resigns, and the Bank of England has refused his release.”.
 - (5) For paragraph (4) substitute—
 - “(4) When the Secretary of State gives the release, he shall certify it accordingly, file the certificate in court and send a copy to the FSA.”.

CHAPTER 3

RELEASE ON COMPLETION OF WINDING UP

Final meeting

- 97.**—(1) The building society liquidator shall give at least 14 days’ notice of the final meeting of the liquidation committee to be held under section 115 of the Banking Act to the following—
- (a) the FSA,
 - (b) the FSCS,
 - (c) the Bank of England,
 - (d) the Treasury, and
 - (e) the members of the liquidation committee.
- (2) The building society liquidator’s final report to be laid before the meeting under that section shall contain an account of the liquidator’s administration of the winding up, including—
- (a) details as to how Objective 1 was achieved having regard, in particular, to the expenses of the building society liquidator in connection with that Objective,
 - (b) a summary of the building society liquidator’s receipts and payments,
 - (c) a statement that the building society liquidator has reconciled his account with that which is held by the Secretary of State in respect of the winding up, and
 - (d) a statement as to the amount paid to unsecured creditors by virtue of the application of section 176A (prescribed part) of the 1986 Act⁽³⁶⁾.
- (3) At the same time that notice of the final meeting is sent out, the building society liquidator shall file the final report in court and send it to the FSA.

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

(4) The building society liquidator shall give notice to all creditors and contributories that the final report is available, either on request to the building society liquidator or from the FSA, and shall cause that notice to be gazetted and to be advertised by such other method as the liquidator sees fit at least 14 days before the final meeting is held.

(5) At the final meeting, the liquidation committee may question the building society liquidator with respect to any matter contained in the final report, and may resolve against the building society liquidator being released.

(6) The building society liquidator shall give notice to the court that the final meeting has been held and the notice shall state whether or not he has been given his release.

(7) Where the liquidation committee does not resolve against the building society liquidator's release, the building society liquidator vacates office at the end of the meeting and has his release when the notice in paragraph (6) is filed in court.

(8) If there is no quorum present at the final meeting, the building society liquidator shall report to the court that a final meeting was summoned in accordance with section 115 of the Banking Act, but there was no quorum present; and the final meeting is then deemed to have been held, and the liquidation committee not to have resolved against the building society liquidator being released.

(9) If the liquidation committee resolves against the building society liquidator having his release then rule 96 applies.

Rule as to reporting

98. Apply rule 4.125A(37) of the 1986 Rules. For "Rule 4.124 or 4.125" substitute "Rule 97 of the 2010 Rules".

CHAPTER 4 REMUNERATION

Fixing of remuneration

99.—(1) Apply rule 4.127 of the 1986 Rules(38).

(2) In paragraph (3), leave out from the beginning to "receiver".

(3) For paragraph (5) substitute—

“(5) If, under rule 42(2) of the 2010 Rules, the liquidation committee ceases to exist at the end of the first meeting of creditors, the terms on which the building society liquidator is to be remunerated determined by the initial liquidation committee under rule 18 of the 2010 Rules can be re-determined by a resolution of a meeting of creditors, and paragraph (4) applies to the determination of the creditors as it does to the determination of the liquidation committee.”.

(4) In paragraph (6), for the words from the beginning to "his" substitute "Where the building society liquidator's".

Building society liquidator's entitlement to remuneration where it is not fixed under rule 99

100.—(1) Apply rule 4.127A(39) of the 1986 Rules.

(2) In paragraph (1), for the words from "liquidator" to "his" substitute "building society liquidator's".

(37) Rule 4.125A was inserted by [S.I. 2004/584](#).

(38) Paragraph (6) was substituted by [S.I. 2004/584](#).

(39) Rule 4.127A was inserted by [S.I. 2004/584](#).

(3) In paragraph (2), after “Schedule 6” add “to the 1986 Rules as applied by the Schedule to the 2010 Rules”.

Building society liquidator’s remuneration where he realises assets on behalf of chargeholder

101.—(1) Apply rule 4.127B(40) of the 1986 Rules.

(2) In paragraph (1), for the words from “liquidator” to “and” substitute “building society liquidator”.

(3) In paragraphs (2) and (3), after “Schedule 6” add “to the 1986 Rules as applied by the Schedule to the 2010 Rules”.

Other matters affecting remuneration

102. Apply rule 4.128 of the 1986 Rules(41).

Recourse of building society liquidator to meeting of creditors

103. Apply rule 4.129 of the 1986 Rules.

Recourse to the court

104. Apply rule 4.130 of the 1986 Rules(42).

Creditors’ claim that remuneration is excessive

105.—(1) Apply rule 4.131 of the 1986 Rules.

(2) In paragraph (1) at the end insert “The FSCS may also apply to the Court for such an order on those grounds”.

Primacy of Objective 1

106. Nothing done under a rule in this Chapter may prejudice the achievement of Objective 1.

CHAPTER 5

SUPPLEMENTARY PROVISIONS

Replacement building society liquidator

107.—(1) Where the building society liquidator vacates office for any reason (including death) other than by removal by a meeting of creditors in accordance with rule 91, the Bank of England shall appoint a new building society liquidator as soon as practicable.

(2) Where a building society liquidator has been removed by a meeting of creditors and no resolution has been passed by that meeting to appoint a new building society liquidator, the Bank of England shall appoint a new building society liquidator as soon as practicable.

(3) The Bank of England shall file in court the document appointing the new building society liquidator (“the certificate of appointment”) together with statements to the effect that the new building society liquidator—

(40) Rule 4.127B was inserted by [S.I. 2004/584](#).

(41) Paragraph (1) was revoked by [S.I. 2004/584](#).

(42) Paragraph (4) was amended by [S.I. 1987/1919](#) and [S.I. 2008/737](#).

- (a) is qualified to act as an insolvency practitioner in accordance with section 390 of the Insolvency Act, and
 - (b) consents to act as the building society liquidator.
- (4) The building society liquidator shall send a copy of the certificate of appointment to the FSA.

Building society liquidator deceased

108.—(1) Unless notice of the death of the building society liquidator has been given under paragraph (2) or (3), it is the duty of the building society liquidator’s personal representatives, where the building society liquidator has died, to give notice of that fact to the Bank of England and the liquidation committee, specifying the date of the death.

(2) If the deceased building society liquidator was a partner in a firm, notice may be given to the Bank of England, the FSA and the liquidation committee by a partner in the firm who is qualified to act as an insolvency practitioner, or is a member of any body recognised by the Secretary of State for the authorisation of insolvency practitioners.

(3) Notice of the death may also be given by any person producing the relevant death certificate or a copy of it to the Bank of England, the FSA and the liquidation committee.

(4) The Bank of England shall give notice to the court, for the purpose of fixing the date of the deceased building society liquidator’s release.

Loss of qualification as insolvency practitioner

109.—(1) Apply rule 4.134 of the 1986 Rules. For paragraph (2) substitute—

“(2) The building society liquidator shall immediately give notice of his doing so to the Bank of England.

(3) The Bank of England shall file a copy of this notice in court.”.

Resignation of the building society liquidator

110.—(1) This rule applies where the building society liquidator was appointed by the court (in the building society insolvency order) or by the Bank of England.

(2) The building society liquidator can only resign—

- (a) after the liquidation committee have passed a full payment resolution, and
- (b) with the consent of the Bank of England.

(3) Before calling a meeting of creditors under rule 88 to receive notice of the building society liquidator’s resignation, the building society liquidator must write to the Bank of England notifying it of the intention to resign.

(4) The Bank of England shall notify the building society liquidator in writing within 21 days as to whether it consents to the resignation; if the Bank of England does not consent to the resignation, it shall set out its reasons in writing.

(5) The building society liquidator, if not content with the Bank of England’s response, may apply to the court for directions under section 168(3) of the Insolvency Act.

Notice to Bank of England of intention to vacate office

111.—(1) This rule applies where the building society liquidator was appointed by a meeting of creditors.

(2) Apply rule 4.137 of the 1986 Rules(43).

(3) For “official receiver”, wherever it appears, substitute “Bank of England” and for “receive his resignation” substitute “be notified of his resignation”.

Building society liquidator’s duties on vacating office

112. Apply rule 4.138 of the 1986 Rules(44). Ignore paragraph (3).

Power of court to set aside certain transactions

113.—(1) Apply rule 4.149 of the 1986 Rules.

(2) In paragraph (2)—

(a) leave out “either”, and

(b) leave out “or” at the end of sub-paragraph (a), and after sub-paragraph (b) insert “, or” and—

“(c) it is shown to the court’s satisfaction that the transaction was entered into by the building society liquidator for the purpose of achieving Objective 1.”.

Rule against solicitation

114.—(1) Apply rule 4.150 of the 1986 Rules(45).

PART 10

THE LIQUIDATION COMMITTEE

Application of rules in this Part

115. The rules in this Part apply only in relation to the liquidation committee established after a full payment resolution has been passed.

Membership of committee

116.—(1) Apply rule 4.152 of the 1986 Rules.

(2) For paragraph (1) substitute—

“(1) Subject to rule 42(2) and (5) of the 2010 Rules, rule 4.154 as applied by rule 118 of the 2010 Rules and rule 4.171 as applied by rule 134 of the 2010 Rules, the liquidation committee shall consist of either three or five creditors of the company, elected by the meeting of creditors held under rule 42 of those Rules.”.

(3) Ignore paragraphs (2), (4) and (7)(46).

Formalities of establishment

117. Apply rule 4.153 of the 1986 Rules(47).

(43) Rule 4.137 was substituted by [S.I. 1987/1919](#).

(44) Rule 4.138 was amended by [S.I. 1987/1919](#) and [S.I. 2004/584](#).

(45) Paragraph (1) was amended by [S.I. 2008/737](#).

(46) Paragraph (7) was substituted by [S.I. 2001/3649](#).

(47) Paragraphs (3) and (3A) were substituted by [S.I. 1987/1919](#) and amended by [S.I. 2009/2472](#).

Committee established by contributories

118.—(1) Apply rule 4.154 of the 1986 Rules(**48**).

(2) For paragraph (1) substitute—

“(1) This rule applies where the outcome of the creditors’ meeting summoned by the building society liquidator under rule 42 of the 2010 Rules is, (by virtue of rule 42(2)), that the liquidation committee ceases to exist at the end of the meeting.”.

(3) In paragraph (2), for “that section” substitute “section 141 of the Act”.

(4) In paragraph (4) for “at least 3 and not more than 5”, substitute “three or five”.

Obligations of liquidator to committee

119. Apply rule 4.155 of the 1986 Rules.

Meetings of the committee

120.—(1) Apply rule 4.156 of the 1986 Rules.

(2) In paragraph (2)(a), after “representative” insert “or the FSCS”.

The chair at meetings

121. Apply rule 4.157 of the 1986 Rules.

Quorum

122. Subject to rule 4.171(6A) of the 1986 Rules as inserted by rule 134(3) of these rules, a meeting of the committee is duly constituted if due notice of it has been given to all the members, and at least two members are present or represented.

Committee–members’ representatives

123. Apply rule 4.159 of the 1986 Rules(**49**).

Resignation

124. Apply rule 4.160 of the 1986 Rules.

Termination of membership

125. Apply rule 4.161 of the 1986 Rules(**50**).

Removal

126. Apply rule 4.162 of the 1986 Rules.

Vacancy (creditor members)

127. Apply rule 4.163 of the 1986 Rules.

(48) Paragraph (4) was amended by [S.I. 1987/1919](#).

(49) Rule 4.159 was amended by [S.I. 1987/1919](#), [S.I. 2004/584](#) and [S.I. 2009/2472](#).

(50) Paragraph (1) was amended by [S.I. 1987/1919](#).

Vacancy (contributory members)

128. Apply rule 4.164 of the 1986 Rules.

Voting rights and resolutions

129. Apply rule 4.165 of the 1986 Rules. In paragraph (1), leave out “creditor”.

Resolutions by post

130.—(1) Apply rule 4.167 of the 1986 Rules(51).

(2) In paragraph (3), after “committee” insert “or the FSCS”.

Liquidator’s reports

131. Apply rule 4.168 of the 1986 Rules.

Expenses of members, etc.

132. Apply rule 4.169 of the 1986 Rules(52).

Dealings by committee—members and others

133. Apply rule 4.170 of the 1986 Rules(53).

Composition of committee when creditors paid in full

134.—(1) Apply rule 4.171 of the 1986 Rules.

(2) In paragraph (6)—

(a) at the beginning, insert “Subject to paragraph (6A) below”;

(b) after “under paragraph (1)” insert “or since the FSCS has ceased to be on the committee”;

(c) at the end, insert “subject to paragraph (6A) below”.

(3) After paragraph (6) insert—

“(6A) The liquidation committee continues to exist and can act so long as it consists of at least the FSCS.”

Committee’s functions vested in the Secretary of State

135. Apply rule 4.172 of the 1986 Rules. Ignore paragraph (2).

Formal defects

136. Apply rule 4.172A of the 1986 Rules(54).

(51) Paragraph (2) was amended by [S.I. 1987/1919](#).

(52) Rule 4.169 was amended by [S.I. 2008/737](#).

(53) Paragraphs (2) and (7) were amended by [S.I. 2008/737](#).

(54) Rule 4.172A was inserted by [S.I. 1987/1919](#).

PART 11

COLLECTION AND DISTRIBUTION OF BUILDING SOCIETY'S ASSETS BY BUILDING SOCIETY LIQUIDATOR

General duties of building society liquidator

137. Apply rule 4.179 of the 1986 Rules.

General qualification on powers

138. In exercising any power conferred on the building society liquidator by this Part before a full payment resolution has been passed, the building society liquidator shall exercise it consistently with Objective 1.

Manner of distributing assets

139. Apply rule 4.180 of the 1986 Rules.

Debts of insolvent building society to rank equally

140. Apply rule 4.181 of the 1986 Rules⁽⁵⁵⁾.

Supplementary provisions as to dividend

141. Apply rule 4.182 of the 1986 Rules.

Division of unsold assets

142. Apply rule 4.183 of the 1986 Rules.

General powers of the liquidator

143. Apply rule 4.184 of the 1986 Rules⁽⁵⁶⁾. In paragraph (1) leave out "section 165(2) or".

Enforced delivery up of building society's property

144. Apply rule 4.185 of the 1986 Rules.

Final distribution

145. Apply rule 4.186 of the 1986 Rules⁽⁵⁷⁾. For "Part 11 of the Rules", substitute "Part 21 of the 2010 Rules".

⁽⁵⁵⁾ Paragraph (2) was added by [S.I. 1987/1919](#).

⁽⁵⁶⁾ Paragraph (1) was amended by [S.I. 2005/527](#).

⁽⁵⁷⁾ Paragraph (3) was amended by [S.I. 2008/737](#).

PART 12

DISCLAIMER

Liquidator's notice of disclaimer

146. Apply rule 4.187 of the 1986 Rules.

Communication of disclaimer to persons interested

147. Apply rule 4.188 of the 1986 Rules.

Additional notices

148. Apply rule 4.189 of the 1986 Rules.

Duty to keep court informed

149. Apply rule 4.190 of the 1986 Rules.

Application by interested party under section 178(5)

150. Apply rule 4.191 of the 1986 Rules.

Interest in property to be declared on request

151. Apply rule 4.192 of the 1986 Rules.

Disclaimer presumed valid and effective

152. Apply rule 4.193 of the 1986 Rules. For "Chapter" substitute "Part".

Application for exercise of court's powers under s 181

153. Apply rule 4.194 of the 1986 Rules.

PART 13

SETTLEMENT OF LIST OF CONTRIBUTORIES

Preliminary

154. Apply rule 4.195 of the 1986 Rules.

Primacy of Objective 1

155. Where the building society liquidator considers that the carrying out of a duty imposed by a rule in this Part would prejudice the achievement of Objective 1, the building society liquidator shall postpone the carrying out of that duty until the building society liquidator considers that the carrying out of the duty would no longer be likely to prejudice the achievement of that Objective.

Duty of liquidator to settle list

156. Apply rule 4.196 of the 1986 Rules.

Form of list

157. Apply rule 4.197 of the 1986 Rules.

Procedure for settling list

158. Apply rule 4.198 of the 1986 Rules.

Application to court for variation of the list

159. Apply rule 4.199 of the 1986 Rules.

Variation of, or addition to, the list

160. Apply rule 4.200 of the 1986 Rules.

Costs not to fall on building society liquidator

161. The building society liquidator is not personally liable for any costs incurred by a person in respect of an application to set aside or vary the building society liquidator's act or decision in settling the list of contributories, or varying or adding to the list, unless the court makes an order to that effect.

PART 14

CALLS

Calls by building society liquidator

162. Apply rule 4.202 of the 1986 Rules.

Control by building society liquidation committee

163. Apply rule 4.203 of the 1986 Rules.

Application to court for leave to make a call

164. Apply rule 4.204 of the 1986 Rules.

Making and enforcement of the call

165. Apply rule 4.205 of the 1986 Rules.

PART 15

SPECIAL MANAGER

Appointment and remuneration

166. Apply rule 4.206 of the 1986 Rules.

Security

167. Apply rule 4.207 of the 1986 Rules(**58**).

Failure to give or keep up security

168. Apply rule 4.208 of the 1986 Rules.

Accounting

169. Apply rule 4.209 of the 1986 Rules.

Termination of appointment

170. Apply rule 4.210 of the 1986 Rules.

PART 16

ORDER OF PAYMENT AS TO COSTS, ETC. OUT OF ASSETS

General rule as to priority

171.—(1) Apply rule 4.218 of the 1986 Rules(**59**).

(2) In paragraph (3)—

- (a) ignore sub-paragraphs (a)(iii) and (iv), (b), and (d),
- (b) in sub-paragraph (c) leave out the words from “or section 415A” to the end,
- (c) in sub-paragraph (la), leave out the words from “in any case” to the end.

Litigation expenses and property subject to a floating charge—general application

172. Apply rule 4.218A(**60**) of the 1986 Rules.

Litigation expenses and property subject to a floating charge—requirement for approval or authorisation

173. Apply rule 4.218B of the 1986 Rules.

(58) Paragraphs (5) and (6) were amended by [S.I. 2008/737](#).

(59) Rule 4.218 was amended by [S.I. 2008/737](#).

(60) Rules 4.218A to E were inserted by [S.I. 2008/737](#).

Litigation expenses and property subject to a floating charge—request for approval or authorisation

174. Apply rule 4.218C of the 1986 Rules.

Litigation expenses and property subject to a floating charge—grant of approval or authorisation

175. Apply rule 4.218D of the 1986 Rules.

Litigation expenses and property subject to a floating charge—application to court by the building society liquidator

176. Apply rule 4.218E of the 1986 Rules.

Saving for powers of the court

177. Apply rule 4.220 of the 1986 Rules.

PART 17

MISCELLANEOUS RULES

CHAPTER 1

RETURN OF CAPITAL

Application to court for order authorising return of capital

178. Apply rule 4.221 of the 1986 Rules.

Procedure for return of capital

179. Apply rule 4.222 of the 1986 Rules.

CHAPTER 2

CONCLUSION OF BUILDING SOCIETY INSOLVENCY

FSA's directions under section 116 of the Banking Act

180. Where the FSA gives a direction under section 116 of the Banking Act (application by an interested person for postponement of dissolution) the FSA shall send a copy of the direction to that applicant⁽⁶¹⁾.

Procedure following appeal under section 116 of the Banking Act

181. Following an appeal under section 116(2) of the Banking Act (against a decision of the FSA under that section) the court shall send two sealed copies of its order to the person in whose favour the appeal was determined, and that person shall send one of the copies to the FSA.

⁽⁶¹⁾ The Building Societies (Insolvency and Special Administration) Order 2009 (S.I. 2009/805, amended by S.I. 2010/1189)) modifies the application of section 116.

PART 18
COURT PROCEDURE AND PRACTICE
CHAPTER 1
APPLICATIONS (GENERAL)

Preliminary

182. This Part applies to any application made to the court under Part 2 of the Banking Act or these Rules except an application under section 95 of the Banking Act for a building society insolvency order.

Interpretation

183. Apply rule 7.2 of the 1986 Rules⁽⁶²⁾. In paragraph (1) ignore from the second “and” to the end of the paragraph.

Form and contents of application

184. Apply rule 7.3 of the 1986 Rules.

Application under section 176A(5) to disapply section 176A

- 185.**—(1) Apply rule 7.3A⁽⁶³⁾ of the 1986 Rules.
(2) In paragraph (1), ignore “administrator or receiver.”
(3) Ignore paragraph (2)(a).

Filing and service of application

186. Apply rule 7.4 of the 1986 Rules.

Notice of application under section 176A(5)

187. Apply rule 7.4A⁽⁶⁴⁾ of the 1986 Rules. Leave out the words from “save that notice” to the end.

Other hearings without notice

188. Apply rule 7.5 of the 1986 Rules.

Hearing of application

189. Apply rule 7.6 of the 1986 Rules.

Use of evidence

190. Apply rule 7.7 of the 1986 Rules.

⁽⁶²⁾ Rule 7.2 was amended by [S.I. 2009/642](#).

⁽⁶³⁾ Rule 7.3A was inserted by [S.I. 2003/1730](#).

⁽⁶⁴⁾ Rule 7.4A was inserted by [S.I. 2003/1730](#).

Filing and service of witness statements

191. Apply rule 7.8 of the 1986 Rules. Ignore paragraph (2).

Use of reports

192.—(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 building society liquidator,
- (b) the provisional building society 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 191, and any hearing before the court, as if it were a witness statement.

Adjournment of hearings: directions

193. Apply rule 7.10 of the 1986 Rules. In paragraph (2)(c)(iii), for “Rule 7.9(1)(b)” substitute “Rule 192(1) of the 2010 Rules”.

CHAPTER 2

SHORTHAND WRITERS

Nomination and appointment of shorthand writers

- 194.**—(1) Apply rule 7.16(65) of the 1986 Rules.
- (2) In paragraph (1) leave out “and, in a county court, the registrar”.
 - (3) In paragraph (2) leave out “133” and “251N, 290 or 366”.
 - (4) Ignore paragraph (3).

Remuneration

195. Apply rule 7.17 of the 1986 Rules(66).

CHAPTER 3

ENFORCEMENT PROCEDURES

Enforcement of court orders

- 196.**—(1) Apply rule 7.19 of the 1986 Rules.
- (2) Ignore paragraph (2).

Orders enforcing compliance with the Rules

197.—(1) The court may, on the application of the building society liquidator or the provisional building society 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) section 143(2) (liquidator to furnish information, books, papers etc.) of the Insolvency Act or

(65) Rule 7.16 was amended by [S.I. 2009/642](#).

(66) Paragraph (2) was substituted by [S.I. 1993/602](#).

(b) section 235 (duty to cooperate with liquidator) of that Act.

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

Warrants (general provisions)

198.—(1) A warrant issued by the court under any provision of the 1986 Act shall be addressed to such officer of the High Court as the warrant specifies, or to any constable.

(2) The person described in section 236(5) of the Insolvency Act 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, papers and records.

Warrants under section 236

199. Apply rule 7.23(67) of the 1986 Rules. In paragraph (1), leave out “251N or 366 (the equivalent in bankruptcy)”.

CHAPTER 4

COURT RECORDS AND RETURNS

Title of proceedings

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

Court records

201. Apply rule 7.27 of the 1986 Rules.

Inspection of records

202. Apply rule 7.28 of the 1986 Rules.

File of court proceedings and inspection

203.—(1) The Court shall open and maintain a file for each building society insolvency and (subject to the direction of the registrar) all documents relating to that building society 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 building society liquidator,
- (b) any person stating in writing that they are a creditor of the building society to which the building society insolvency relates,
- (c) a member of the building society,
- (d) any person who is, or at any time has been, a director or officer of the building society to which the building society insolvency relates,
- (e) any person who is a contributory of the building society to which the building society insolvency relates, and

(67) Rule 7.23 was amended by [S.I. 2009/642](#).

- (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 permission 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 building society liquidator or by any party appearing to the court to have an interest in the building society insolvency.
- (7) If, for the purposes of powers conferred by the Insolvency Act, the Banking Act or these Rules, the Secretary of State wishes to inspect the file on a building society insolvency and requests the court to transmit the file, 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 202 applies in respect of the court's file on any building society insolvency as it applies in respect of court records of general insolvency proceedings.

CHAPTER 5

COSTS AND DETAILED ASSESSMENT

Application of the CPR

- 204.** Apply rule 7.33 of the 1986 Rules(**68**).

Requirement to assess costs by the detailed procedure

- 205.**—(1) Apply rule 7.34 of the 1986 Rules(**69**).
- (2) In paragraph (1)—
- for “company insolvency” and “liquidation” substitute “building society insolvency”,
 - ignore sub-paragraph (b), and
 - for the words from “court to which” to the end substitute “High Court”.
- (3) In paragraph (2), leave out “or creditors”.
- (4) In paragraph (5), for “trustee in bankruptcy or a liquidator” substitute “building society liquidator.”
- (5) Ignore paragraph (6).

Procedure where detailed assessment required

- 206.** Apply rule 7.35 of the 1986 Rules. Ignore paragraph (6).

Costs of officers charged with executions of writs or other process

- 207.**—(1) Apply rule 7.36 of the 1986 Rules(**70**).
- In paragraph (1)(a), leave out “or 346(2)”.
 - In paragraph (1)(b), leave out “or 346(3)”.

(68) All the rules applied by this Chapter were substituted by [S.I. 1999/1022](#).

(69) Paragraph (1) was amended by [S.I. 2008/737](#).

(70) Paragraph (1) was amended by [S.I. 2005/527](#).

Costs paid otherwise than out of the insolvent estate

208. Apply rule 7.38 of the 1986 Rules.

Award of costs against responsible insolvency practitioner

209.—(1) Apply rule 7.39 of the 1986 Rules.

(2) Leave out from the beginning to “expenses” and “the official receiver or”.

Application for costs

210.—(1) Apply rule 7.40 of the 1986 Rules.

(2) In paragraph (1) for “insolvency” substitute “building society insolvency”.

(3) In paragraph (2), leave out the words from “, and, in winding up” to the end.

(4) In paragraph (3), leave out “and, where appropriate, the official receiver”.

(5) Ignore paragraph (3A)(71).

Costs and expenses of witnesses

211.—(1) Apply rule 7.41(72) of the 1986 Rules.

(2) In paragraph (1), leave out “the bankrupt or the debtor or”.

(3) Ignore paragraph (2).

Final costs certificate

212. Apply rule 7.42 of the 1986 Rules.

CHAPTER 6

PERSONS INCAPABLE OF MANAGING THEIR AFFAIRS

Introductory

213. Apply rule 7.43 of the 1986 Rules(73). In paragraph (1), for (a), substitute “ by reason of being a protected person within the meaning of Part 21 of the CPR or”.

Appointment of another person to act

214. Apply rule 7.44 of the 1986 Rules. Ignore paragraph (3)(c).

Witness statement in support of application

215.—(1) Apply rule 7.45 of the 1986 Rules.

(2) In paragraph (1) leave out from the beginning to “receiver”.

(3) Ignore paragraph (2).

Service of notices following appointment

216. Apply rule 7.46 of the 1986 Rules.

(71) Paragraph (3A) was inserted by [S.I. 2009/642](#).

(72) Rule 7.41 was amended by [S.I. 2009/642](#).

(73) Paragraph (1) was amended by [S.I. 2007/1898](#).

CHAPTER 7

APPEALS IN BUILDING SOCIETY INSOLVENCY PROCEEDINGS

Appeals and review of court orders

217.—(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 Banking 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.

Procedure on appeal

218. Part 52 of the CPR applies with regard to the procedure for appeals.

Appeal against a decision of the Secretary of State

219. Apply rule 7.50 of the 1986 Rules⁽⁷⁴⁾. Ignore paragraph (2).

CHAPTER 8

GENERAL

Principal court rules and practice to apply

220.—(1) The CPR and the practice and procedure of the High Court (including any practice direction) apply to building society insolvency proceedings in the High Court, with any necessary modifications, except so far as inconsistent with these Rules.

(2) All building society insolvency proceedings shall be allocated to the multi-track for which CPR Part 29 makes provision, accordingly those provisions of the CPR which provide for allocation questionnaires and track allocation do not apply.

Right of attendance

221. Apply rule 7.53 of the 1986 Rules. In paragraph (1) for “company insolvency proceedings” substitute “building society insolvency proceedings”.

Restriction on concurrent proceedings and remedies

222. Where in a building society insolvency, the court makes an order staying any action, execution or legal process against the property of the building society, service of the order may be effected by delivering a sealed copy to the address for service of the claimant or other person having the carriage of the proceedings to be stayed.

Security in court

223. Apply rule 7.58 of the 1986 Rules.

(74) Rule 7.50 was amended by [S.I. 2003/1730](#).

Payment into court

224. Apply rule 7.59 of the 1986 Rules(75).

Further information and disclosure

225.—(1) Apply rule 7.60 of the 1986 Rules(76).

(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

226. Apply rule 7.61 of the 1986 Rules.

PART 19

PROXIES

Definition of “proxy”

227.—(1) Apply rule 8.1 of the 1986 Rules(77).

(2) In paragraph (2) leave out “company”.

(3) In paragraph (4), for “chairman of the meeting” to “official receiver” substitute “chair of the meeting or the building society liquidator”.

Issue and use of forms

228. Apply rule 8.2 of the 1986 Rules.

Use of proxies at meetings

229. Apply rule 8.3 of the 1986 Rules. Ignore paragraph (2).

Retention of proxies

230. Apply rule 8.4 of the 1986 Rules.

Right of inspection

231.—(1) Apply rule 8.5 of the 1986 Rules.

(2) In paragraph (1)(b), for “ a company’s members or” substitute “the building society’s” and for “company or of its” substitute “building society’s”.

(3) For paragraph (2) substitute—

“(2) The reference in paragraph (1) to creditors is to those creditors who have proved their debts, but this does not include a person whose proof has been wholly rejected for purposes of voting, dividend or otherwise.”.

(75) Rule 7.59 was amended by [S.I.1999/1022](#).

(76) Rule 7.60 was substituted by [S.I. 1999/1022](#).

(77) All the rules applied by this Chapter were amended by [S.I. 1987/1919](#).

(4) Ignore paragraph (3)(b).

Proxy-holder with financial interest

232. Apply rule 8.6 of the 1986 Rules.

PART 20

**EXAMINATION OF PERSONS CONCERNED
IN BUILDING SOCIETY INSOLVENCY**

Preliminary

233.—(1) The rules in this Part relate to applications to the court for an order under section 236 of the Insolvency Act (inquiry into company’s dealings when it is, or is alleged to be, insolvent).

(2) The following definitions apply—

- (a) the person in respect of whom an order is applied for is “the respondent”,
- (b) “the applicable section” is section 236 of the Insolvency Act, and
- (c) the building society is “the insolvent”.

Form and contents of application

234. Apply rule 9.2 of the 1986 Rules(**78**).

Order for examination, etc.

235. Apply rule 9.3 of the 1986 Rules.

Procedure for examination

236. Apply rule 9.4 of the 1986 Rules(**79**). In paragraph (4) leave out “or 366”(**80**).

Record of examination

237. Apply rule 9.5 of the 1986 Rules.

Costs of proceedings

238.—(1) Apply rule 9.6 of the 1986 Rules(**81**).

- (2) In paragraph (2)(a) leave out “or 367(1)” and in paragraph (2)(b) leave out “or 367(2)”.
- (3) Ignore paragraph (3)(b).
- (4) Ignore paragraph (5).

(78) Paragraph (3)(b) was substituted by [S.I. 1999/1022](#).

(79) Paragraph (3) was substituted by [S.I. 1999/1022](#). Paragraph (4) was amended by [S.I. 2009/642](#).

(80) Paragraph (4) was amended by [S.I. 2009/642](#).

(81) Paragraph (3) was substituted by [S.I. 2008/737](#) and amended by [S.I. 2009/642](#).

PART 21

DECLARATION AND PAYMENT OF DIVIDEND

Preliminary

239.—(1) The rules in this Part relate to the declaration and payment of dividends in a building society insolvency.

(2) In this Part—

“creditors” means those creditors of the building society of whom the building society liquidator is aware, or who are identified in the building society’s statement of affairs, and

“the insolvent” means the building society.

Notice of intended dividend

240. Apply rule 11.2 of the 1986 Rules(**82**). Ignore paragraph (1)(b).

Final admission/rejection of proofs

241. Apply rule 11.3 of the 1986 Rules(**83**). Ignore paragraph (4).

Postponement or cancellation of dividend

242. Apply rule 11.4 of the 1986 Rules.

Decision to declare dividend

243. Apply rule 11.5 of the 1986 Rules.

Notice of declaration

244.—(1) Apply rule 11.6 of the 1986 Rules(**84**).

(2) Ignore paragraph (1)(b)(**85**).

(3) In paragraph (2), after (b), add—

“(ba) expenses incurred by the building society liquidator in the achievement of Objective 1 under section 99 of the Banking Act.”.

Notice of no, or no further, dividend

245. Apply rule 11.7 of the 1986 Rules.

Proof altered after payment of dividend

246. Apply rule 11.8 of the 1986 Rules.

Secured creditors

247. Apply rule 11.9 of the 1986 Rules.

(82) Rule 11.2 was amended by S.I. 2002/1307, S.I. 1987/1919 and S.I. 2009/642.

(83) Paragraphs (3) and (4) were added by S.I. 2002/1307.

(84) Paragraph (3)(b) was substituted by S.I. 2002/1307.

(85) Sub-paragraphs (a) and (b) of rule 11.6(1) were amended by S.I. 2002/1307.

Disqualification from dividend

248. Apply rule 11.10 of the 1986 Rules.

Assignment of right to dividend

249. Apply rule 11.11 of the 1986 Rules.

Preferential creditors

250. Apply rule 11.12 of the 1986 Rules**(86)**.

Debt payable at future time

251. Apply rule 11.13 of the 1986 Rules**(87)**. For paragraph (3) substitute—

“(3) In paragraph (2), “relevant date” means the date of the commencement of building society insolvency.”.

PART 22

MISCELLANEOUS AND GENERAL

Power of Secretary of State or Treasury to regulate certain matters

252.—(1) As provided for in paragraph 27 of Schedule 8 to the Insolvency Act**(88)**, either the Secretary of State or the Treasury may, subject to the Act and to these Rules, make regulations with respect to any matter provided for in these Rules relating to the carrying out of the functions of a building society liquidator or provisional building society liquidator, including, without prejudice to the generality of the above, provision with respect to the following matters arising in building society insolvency—

- (a) the preparation and keeping by building society liquidators and provisional building society liquidators of books, accounts and other records, and their production to such persons as may be authorised or required to inspect them;
- (b) the auditing of building society liquidators’ accounts;
- (c) the manner in which building society liquidators are to act in relation to the building society’s books, papers and other records, and the manner of their disposal by the building society liquidator or others;
- (d) the supply by the building society liquidator to creditors and contributories and to the liquidation committee of copies of documents relating to the building society insolvency and the affairs of the building society (on payment, in such cases as may be specified in the regulations, of a fee);
- (e) the manner in which insolvent estates are to be distributed by the building society liquidator, including provision with respect to unclaimed funds and dividends;
- (f) the manner in which monies coming into the hands of the building society liquidator are to be handled and invested and the payment of interest on sums which, in pursuance of

(86) Paragraph (2) was amended by [S.I. 1987/1919](#).

(87) Paragraph (2) and (3) were substituted for the original paragraph (2) by [S.I. 2005/527](#).

(88) Schedule 8 was amended by section 125 of the Banking Act.

regulations made under this sub-paragraph, have been paid into the Insolvency Services Account⁽⁸⁹⁾.

- (2) Regulations made under paragraph (1) may—
- (a) confer a discretion on the court;
 - (b) make non-compliance with any of the regulations a criminal offence;
 - (c) make different provision for different cases, including different provision for different areas; and
 - (d) contain such incidental, supplemental and transitional provisions as may appear to the Secretary of State or the Treasury as necessary or expedient.

Costs, expenses, etc.

253.—(1) All fees, costs, charges and other expenses incurred in the course of building society insolvency, except for any money paid by the FSCS to eligible depositors in pursuance of Objective 1, and any expense incurred by the FSCS in this process, are to be regarded as expenses of the building society insolvency.

(2) The costs associated with the prescribed part (within the meaning of section 176A of the Insolvency Act) shall be paid out of that prescribed part.

Provable debts

254.—(1) Subject to paragraphs (2) and (3) in a building society insolvency all claims by creditors are provable as debts against the building society, whether they are present or future, certain or contingent, ascertained or sounding only in damages.

(2) Any obligation arising under a confiscation order made under Parts 2, 3 or 4 of the Proceeds of Crime Act 2002⁽⁹⁰⁾ is not provable.

(3) The following are not provable except at a time when all other claims of creditors in the insolvency proceedings (other than any of a kind mentioned in this paragraph) have been paid in full with interest under section 189(2) of the Insolvency Act—

- (a) any claim arising by virtue of section 382(1)(a) of the Financial Services and Markets Act 2000, not being a claim arising by virtue of section 382(1)(b) of that Act; or
- (b) any claim which by virtue of the Insolvency Act or any enactment is a claim the payment of which in the building society insolvency is to be postponed.

(4) Nothing in this rule prejudices any enactment or rule of law under which a particular kind of debt is not provable, whether on grounds of public policy or otherwise.

Notices

255.—(1) Apply rule 12.4 of the 1986 Rules.

(2) Ignore references to the official receiver.

Quorum at meeting of creditors or contributories

256.—(1) Apply rule 12.4A of the 1986 Rules⁽⁹¹⁾.

(2) For paragraph (3) substitute—

⁽⁸⁹⁾ The Insolvency Services Account is referred to at section 403 of the Insolvency Act.

⁽⁹⁰⁾ 2002 c. 29.

⁽⁹¹⁾ Rule 12.4A was inserted by S.I. 1987/1919 and has been amended by S.I. 2009/2472.

“(3) For the purposes of this rule, the reference to the creditor or contributories necessary to constitute a quorum is to those persons present or represented by proxy by any person (including the chair).”

Evidence of proceedings at meetings

257. Apply rule 12.5 of the 1986 Rules.

Documents issuing from Secretary of State

258. Apply rule 12.6 of the 1986 Rules.

Insolvency practitioner’s security

259.—(1) — Apply rule 12.8 of the 1986 Rules.

(2) For paragraph (2) substitute—

“(2) It is the duty of the liquidation committee in a building society insolvency to review from time to time the adequacy of the building society liquidator’s security.”.

Time limits

260. Apply rule 12.9(1) of the 1986 Rules(**92**) as regards time limits for anything required or authorised to be done by these Rules.

Service by post

261. Apply rule 12.10 of the 1986 Rules(**93**).

General provisions as to service

262. CPR Part 6 (service of documents) applies as regards any matter relating to the service of documents and the giving of notice in building society insolvency proceedings except in cases where a rule makes provision as to the service of a document or the giving of a notice.

Service outside the jurisdiction

263.—(1) CPR Part 6 applies as regards any matter relating to the service of documents in Scotland and Northern Ireland except in cases where a rule makes provision as to the service of a document or the giving of a notice.

(2) Where for the purposes of building society insolvency proceedings any process or order of the court, or other document, is required to be served on a person who is not in the United Kingdom—

(a) with regard to the service of documents in relation to which a rule makes provision, the court may order service to be effected within such time, on such person, at such place and in such manner as it thinks fit, and may also require such proof of service as it thinks fit,

(b) with regard to the service of documents otherwise, CPR Rules 6.40(3) to 6.46 apply.

(3) An application under paragraph (2)(a) shall be supported by a witness statement stating—

(a) the grounds on which the application is made, and

(b) in what place or country the person to be served is, or probably may be found.

(92) Rule 12.9 was substituted by [S.I. 1999/1022](#).

(93) Rule 12.10 was amended by [S.I. 1987/1919](#).

Confidentiality of documents

- 264.**—(1) Apply rule 12.13 of the 1986 Rules(**94**).
(2) In paragraph (2) ignore the reference to a creditors' committee.

Notices sent simultaneously to the same person

- 265.** Apply rule 12.14 of the 1986 Rules.

Right to copy documents

- 266.** Apply rule 12.15 of the 1986 Rules(**95**).

Charge for copy documents

- 267.** Apply rule 12.15A of the 1986 Rules(**96**).

Non-receipt of notice of meeting

- 268.** Apply rule 12.16 of the 1986 Rules.

Right to have list of creditors

269.—(1) Where a creditor has the right under these Rules to inspect documents on the court file, the creditor may require the building society liquidator to send them a list of the building society's creditors and the amounts of their respective debts.

(2) Paragraph (1) does not apply if a statement of the building society's affairs has been filed in court or filed with the FSA.

(3) The building society liquidator must respond to a request in paragraph (1) but may charge the appropriate fee for doing so.

False claim of status as creditor, etc

- 270.** Apply rule 12.18 of the 1986 Rules.

Execution overtaken by judgement debtor's insolvency

271.—(1) This rule applies where execution has been taken out against property of a judgment debtor, and notice is given to the enforcement officer or other officer charged with the execution under section 184(1) of the Insolvency Act (that a building society insolvency order has been made against the debtor, or that a provisional building society liquidator has been appointed).

(2) The notice shall be in writing and be delivered by personal service at, or sent by recorded delivery to, the office of the enforcement officer or (as the case may be) of the officer charged with the execution.

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- 272.** Apply rule 12.20 of the 1986 Rules.

(94) Rule 12.13 was amended by [S.I. 1987/1919](#).

(95) Rule 12.15 was inserted by [S.I. 2005/527](#).

(96) Rule 12.15A was inserted by [S.I. 1987/1919](#).

Punishment of offences

273. Apply rule 12.21 of the 1986 Rules.

Notice of order under section 176A(5)

274. Apply rule 12.22 of the 1986 Rules⁽⁹⁷⁾. For references to “the liquidator, administrator or receiver” substitute “building society liquidator”.

PART 23

INTERPRETATION

Introductory

275. This Part of the Rules has effect for their interpretation and application; and any definition given in this Part (and in any provision of the 1986 Rules applied by this Part) applies except, and in so far as, the context requires otherwise.

“The court”; “the registrar”

276.—(1) Apply rule 13.2 of the 1986 Rules.
(2) Ignore paragraphs (3) and (5).

“Give notice”, etc.

277. Apply rule 13.3⁽⁹⁸⁾ of the 1986 Rules. In paragraph (3) leave out from “except” to the end of the paragraph.

Notice, etc. to solicitors

278. Apply rule 13.4 of the 1986 Rules.

Notice to joint building society liquidators

279. Where two or more persons are acting jointly as the building society liquidator, delivery of a document to one of them is to be treated as delivery to them all.

“Insolvent estate”

280. References to “the insolvent estate” are to the assets of the building society.

“Responsible insolvency practitioner”, etc.

281. In relation to a building society insolvency, “the responsible insolvency practitioner” means the person acting in the building society insolvency as the building society liquidator or provisional building society liquidator.

“The appropriate fee”

282. “The appropriate fee” means 15 pence per A4 or A5 page, and 30 pence per A3 page.

⁽⁹⁷⁾ Rule 12.22 was inserted by [S.I. 2003/1730](#) and amended by [S.I. 2009/642](#).

⁽⁹⁸⁾ Rule 13.3 was amended by [S.I. 2009/642](#).

“Debt”, “liability”

283.—(1) Apply rule 13.12 of the 1986 Rules(**99**).

(2) Ignore paragraph (5).

Expressions used generally

284.—(1) Apply rule 13.13 of the 1986 Rules(**100**).

(2) In paragraph (1) for “Rules 1.7” to “6.23” substitute “rule 10 of the 2009 Rules”.

(3) In paragraph (5), after “Secretary of State” insert “or the Treasury”.

(4) In paragraph (7), for “Chapter 20 of Part 4 of these Rules, or Chapter 23 of Part 6” substitute “Part 16 of the 2010 Rules ”.

(5) Ignore paragraphs (8) to (14).

(6) In paragraph (15), after “section 176A(2)(a)” insert “as applied by section 103 of the Banking Act 2009”.

The Schedule

285. The Schedule, which applies relevant schedules to the 1986 Rules to these Rules with modifications, has effect.

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

The Chancellor of the High Court

(99) The rule was substituted by S.I. 2006/1272.

(100) Rule 13.13 was amended by S.I. 1999/1022, S.I. 2003/1730 and S.I. 2009/642.