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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 135**

**Act of Sederunt (Rules of the Court of Session Amendment No. 6) (Building Society Special Administration etc.) 2009**

**Amendment of the Rules of the Court of Session**

2.—(1) The Rules of the Court of Session 1994(1) are amended in accordance with subparagraphs (2) to (5).

(2) In rule 74.32B (approval of the voluntary winding up of a bank)(2), after “the Act of 1986” insert “or voluntary winding up of a building society under section 88 of the Building Societies Act 1986”.

(3) The heading of rule 74.32B becomes “**Approval of the voluntary winding up of a bank or building society**”.

(4) In rule 74.49 (time and date of lodging in a bank administration)(3), in paragraph (2)(b), after “business day” where it first appears insert “but is not lodged on that day”.

(5) After Part VIII of Chapter 74 (bank administration procedure)(4), insert—

“PART IX

BUILDING SOCIETY SPECIAL ADMINISTRATION PROCEDURE

**Application of rules to building society special administration**

**74.51.**—(1) Subject to paragraph (3), Part VIII of this Chapter applies to an application mentioned in paragraph (2) as it applies to an application for a bank administration order.

(2) An application referred to in paragraph (1) is an application for a building society special administration order under the Act of 2009, as that Act is applied and modified by section 90C of the Building Societies Act 1986(5) and the Building Societies (Insolvency and Special Administration) Order 2009(6).

(3) In the application of Part VIII of this Chapter under paragraph (1)—

(a) references to the Bank Administration Rules shall be read as references to the Building Society Special Administration (Scotland) Rules 2009(7);

(b) references to a rule in the Bank Administration Rules shall be read as references to the corresponding rule in the Building Society Special Administration (Scotland) Rules 2009;

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(1) S.I.1994/1443, last amended by S.S.I. 2009/114.

(2) Rule 74.32B was inserted by S.S.I. 2009/63.

(3) Rule 74.49 was inserted by S.S.I. 2009/63.

(4) Part VIII of Chapter 74 was inserted by S.S.I. 2009/63.

(5) 1986 c. 53. Section 90C was inserted by S.I. 2009/805.

(6) S.I. 2009/805.

(7) S.I. 2009/806.

- (c) references to the Act of 2009 shall be read as references to the Act of 2009, as applied and modified by section 90C of the Building Societies Act 1986 and the Building Societies (Insolvency and Special Administration) Order 2009; and references to specific provisions in the Act of 2009 shall be read accordingly;
- (d) references to “bank” shall be read as references to “building society”;
- (e) references to “bank administration” shall be read as references to “building society special administration”;
- (f) references to “bank administration order” shall be read as references to “building society special administration order”;
- (g) references to “bank administrator” shall be read as references to “building society special administrator”;
- (h) in rule 74.45(2)(e) (averments on power to appoint administrator or receiver), the words “an administrator under paragraph 14 of Schedule B1 to the Act of 1986 (holder of qualifying floating charge) or” and “an administrator or” shall be omitted;
- (i) in rule 74.45(2)(f) (averments on insolvency proceedings), for “section 120 of the Act of 2009” substitute “section 90D of the Building Societies Act 1986(8)”; and
- (j) in rule 74.46(2) (representation at hearing of petition), subparagraph (f) shall be omitted.

(4) The following rules shall, with the necessary modifications, apply in relation to building society special administration procedure as they apply in relation to bank administration procedure:—

- rule 5.1A (further restriction as to caveats),
- rule 33.9 (insolvency or death of cautioner or guarantor),
- rule 74.1 (application and interpretation of Chapter 74),
- rule 74.2 (proceedings before insolvency judge),
- rule 74.3 (notices and reports etc. sent to the court),
- rule 74.9 (form of applications).”.

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(8) 1986 s.53. Section 90D was inserted by S.I. [2009/805](#).