
STATUTORY INSTRUMENTS

2009 No. 357

The Bank Administration (England and Wales) Rules 2009

PART 5

Application of Insolvency Rules 1986

General application

58. The provisions of the Insolvency Rules 1986(1) listed in the Table in Rule 61 apply for the purposes of bank administration and applications for bank administration.

59. For that purpose the rules apply with—

- (a) the general modifications set out in Rule 60,
- (b) any specific modification set out in the Table in Rule 61, and
- (c) any other necessary modification.

General modifications

60. The general modifications are that—

- (a) a reference to an administrator or liquidator is to be treated as a reference to the bank administrator,
- (b) a reference to administration or liquidation is to be treated as a reference to bank administration,
- (c) a reference to a provisional liquidator is to be treated as a reference to a provisional bank administrator,
- (d) a reference to a winding-up order is to be treated as a reference to a bank administration order,
- (e) a reference to a petition for a winding-up order is to be treated as a reference to an application for a bank administration order,
- (f) a reference to insolvency proceedings is to be treated as a reference to bank administration (or proceedings for bank administration),
- (g) a reference to the responsible insolvency practitioner is to be treated as a reference to the bank administrator or provisional bank administrator,
- (h) all references to the Official Receiver are to be ignored,
- (i) all references to the county courts are to be ignored,
- (j) all references to the EC regulation or to the appointment of a member State liquidator are to be ignored,
- (k) a reference to the company is to be treated as a reference to the bank,

(1) [S.I. 1986/1925](#); the Insolvency Rules have been amended by a number of instruments.

Status: This is the original version (as it was originally made).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

- (l) a reference to an affidavit is to be treated as to a witness statement verified by a statement of truth in accordance with Part 22 of the CPR,
- (m) a reference in the rules to a paragraph of Schedule B1 to the Insolvency Act 1986 is to be treated as a reference to that paragraph as applied and modified by section 145 of the Banking Act 2009, and
- (n) a reference to the Insolvency Act 1986 includes a reference to Part 3 of the Banking Act 2009.

Table of applications and specific modifications

61. This Rule contains the Table of applied provisions of the Insolvency Rules 1986(2).

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

- (2) Relevant amendments are made by the Insolvency (Amendment) Rules 1987 (S.I. 1987/1919), the Insolvency (Amendment) Rules 1993 (S.I. 1993/602), the Insolvency (Amendment) (No. 2) Rules 1999 (S.I. 1999/1022), the Insolvency (Amendment) Rules 2001 (S.I. 2001/763), the Insolvency (Amendment) Rules 2002 (S.I. 2002/1307), the Insolvency (Amendment) (No. 2) Rules 2002 (S.I. 2002/2712), the Insolvency (Amendment) Rules 2003 (S.I. 2003/1730), the Insolvency (Amendment) Rules 2004 (S.I. 2004/584), the Insolvency (Amendment) Rules 2005 (S.I. 2005/527), the Insolvency (Amendment) Rules 2006 (S.I. 2006/1272) and the Insolvency (Amendment) Rules 2008 (S.I. 2008/737).

Rule	Subject	Specific modifications
		(2) The FSA and the FSCS are added to the list in paragraph (2) of persons entitled to notice.
2.35	Creditors' meetings generally	The FSA and the FSCS are added to the list in paragraph (3) of persons to whose convenience the bank administrator is to have regard.
2.36	Chairman at meetings	
2.37	Meeting requisitioned by creditors	Treat the reference to the administrator's statement of proposals as a reference to the bank administrator's statement of proposals in accordance with Rule 29 above.
2.38	Entitlement to vote	
2.39	Admission and rejection of claims	
2.40	Secured creditors	
2.41	Holder of negotiable instruments	
2.42	Hire-purchase, conditional sale and chattel leasing agreements	
2.43	Resolutions	
2.44	Minutes	
2.45	Revision of the administrator's proposals	In paragraph (2)(c) ignore the reference to the person making the appointment.
2.46	Notice to creditors	
2.47	<i>Reports to creditors</i>	<i>Rule 2.47 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
2.48	Correspondence instead of creditors' meetings	
2.49	Venue and conduct of company meeting	
Creditors' committee		
2.50	Constitution of committee	<i>(A creditors' committee cannot be established until the Objective 2 Stage – see the modifications for the application of paragraphs 50 to 58 of Schedule B1 to the Insolvency Act 1986 in Table 1 in section 145 of the Banking Act 2009.)</i>
2.51	Formalities of establishment	
2.52	Functions and meetings of the committee	
2.53	The chairman at meetings	

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

Rule	Subject	Specific modifications
2.54	Quorum	
2.55	Committee-members' representatives	
2.56	Resignation	
2.57	Termination of membership	
2.58	Removal	
2.59	Vacancies	
2.60	Procedure at meetings	
2.61	Resolutions of creditors' committee by post	
2.62	Information from administrator	
2.63	Expenses of members	
2.64	Members dealing with the company	In respect of any application to set aside a transaction under paragraph (2)— (a) notice of the application must be given to the FSA, and (b) the FSA may appear and be heard.
2.65	Formal defects	
Process of administration		
2.66	Application to court to dispose of charged property	If an application is made during the Objective 1 Stage, then in addition to the requirements of Rule 2.66— (a) the bank administrator must notify the Bank of England of the time and place of the hearing, (b) the Bank of England may appear, and (c) if an order is made the bank administrator must send a copy to the Bank of England as soon as is reasonably practicable.
2.67	Priority of expenses of administration	In addition to the matters listed in Rule 2.67(1), expenses in connection with provisional bank administration are payable in the following order of priority— (a) the cost of any security provided by the provisional bank administrator takes priority equally with security provided by the bank administrator, and (b) the remuneration of the provisional bank administrator ranks next, and (c) any deposit lodged on an application for the appointment of a provisional bank administrator ranks next.

Rule	Subject	Specific modifications
2.68	Distributions to creditors: introduction	<i>(Distributions in the case of bank administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009 and during the Objective 1 Stage require the Bank of England's consent – see the modification for the application of paragraph 65 of Schedule B1 to the Insolvency Act 1986 in Table 1 in section 145 of the Banking Act 2009.)</i>
2.69	Debts of insolvent company to rank equally	
2.70	Dividends: supplementary	
2.71	Division of unsold assets	
2.72	Proving a debt	
2.73	Claim established by witness statement	
2.74	Costs of proving	
2.75	Administrator to allow inspection of proofs	
2.76	New administrator: transfer of proofs	
2.77	Admission and rejection of proofs for dividend	
2.78	Appeal against decision on proof	In respect of any application under Rule 2.78(1) or (2)— (a) notice of the application must be given to the FSA and, during the Objective 1 Stage, the Bank of England, and (b) the FSA, and the Bank of England during the Objective 1 Stage, may appear and be heard.
2.79	Withdrawal or variation of proof	
2.80	Expunging of proof by the court	In respect of any application under Rule 2.80(1)(b)— (a) notice of the application must be given to the FSA and, during the Objective 1 Stage, the Bank of England, and (b) the FSA, and the Bank of England during the Objective 1 Stage, may appear and be heard.
2.81	Estimate of quantum of claims	
2.82	Negotiable instruments etc.	
2.83	Secured creditors	

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

Rule	Subject	Specific modifications
2.84	Discounts	
2.85	Mutual credit and set-off	
2.86	Debt in foreign currency	
2.87	Periodical payments	
2.88	Interest	
2.89	Debt payable in future	
2.90	Value of security	
2.91	Surrender for non-disclosure	
2.92	Redemption by administrator	
2.93	Test of security's value	
2.94	Realisation of security by creditor	
2.95	Notice of proposed distribution	<p>The following are added to the list of those entitled to receive notice under Rule 2.95(2)</p> <p>—</p> <ul style="list-style-type: none"> (a) the FSA, (b) the FSCS, and (c) during the Objective 1 Stage of a bank administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009, the Bank of England.
2.96	Admission or rejection of proofs	
2.97	Declaration of dividend	
2.98	Notice of declaration of dividend	<ul style="list-style-type: none"> (1) The following are added to the list of those entitled to receive notice under Rule 2.98(1)— <ul style="list-style-type: none"> (a) the FSA, (b) the FSCS, and (c) during the Objective 1 Stage of a bank administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009, the Bank of England. (2) In the case of bank administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009 and during the Objective 1 Stage, the particulars required by rule 2.98(2) include details of any payment made from a scheme under a resolution fund order.
2.99	Payment of dividends etc.	

Rule	Subject	Specific modifications
2.100	Notice of no dividend or no further dividend	The bank administrator must copy any notice under Rule 2.100 to— (a) the FSA, (b) the FSCS, and (c) the Bank of England, in a case where it consented to a distribution under Rule 2.68 (as applied above).
2.101	Proof altered after payment of dividend	
2.102	Secured creditors	
2.103	Disqualification from dividend	In respect of any application for disqualification under Rule 2.103— (a) notice of the application must be given to the FSA, and (b) the FSA may appear and be heard.
2.104	Assignment of right to dividend	
2.105	Debt payable in future	The “relevant date” is the date of the bank administration order.
The bank administrator		
2.106	Fixing of remuneration	(1) In the Objective 1 Stage the Bank of England shall fix the bank administrator’s remuneration in accordance with Rule 2.106(2)(a) or (b). (2) In the Objective 2 Stage, Rule 2.106 applies (but pending action under paragraphs (3) or (5) arrangements established by the Bank of England in the Objective 1 Stage shall continue to apply).
2.107	Recourse to meeting of creditors	
2.108	Recourse to the court	(1) In respect of remuneration fixed by the Bank of England— (a) Rule 2.108 applies as if references to the creditors’ committee were references to the Bank of England, and (b) the court shall have regard to Objective 1. (2) In respect of any application under Rule 2.108— (a) notice of the application must be given to the FSA, and (b) the FSA may appear and be heard.

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

Rule	Subject	Specific modifications
2.109	Creditors' claim that remuneration is excessive	Rule 2.109 applies only during the Objective 2 Stage.
4.127B and Schedule 6	Remuneration where assets realised on behalf of chargeholder	
Ending administration		
2.110	Final progress report	<p>(1) The reference to Rule 2.47 is to be treated as a reference to Rule 35 above.</p> <p>(2) In the case of bank administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009 the final progress report—</p> <p>(a) must not be made until the bank administrator is satisfied that any payment likely to be made to the bank from a scheme under a resolution fund order has been made, and</p> <p>(b) must state whether any payment has been received and, if so, its amount.</p>
2.113	<i>Notice of end of administration</i>	<i>Rule 2.113 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
2.114	Application to court by administrator	The reference to an application to the court under paragraph 79 of Schedule B1 to the Insolvency Act 1986 is to be treated as a reference to a notice under paragraph 80 (as applied by section 153(2) of the Banking Act 2009).
2.118	Moving from administration to dissolution	<i>Rule 2.118 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
Replacing bank administrator		
2.119	Grounds for resignation	During the Objective 1 Stage the Bank of England's consent, as well as the court's permission, is required for resignation under paragraph (2).
2.120	Notice of intention to resign	The Bank of England and the FSA are added to the list of those entitled to notice under paragraph (1).
2.121	Notice of resignation	
2.122	Application to court to remove administrator	<i>(An application may be made during the Objective 1 Stage only with the Bank of England's consent – see the modifications for the application of paragraph 88 of</i>

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

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

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

Rule	Subject	Specific modifications
7.5	Other hearings <i>ex parte</i>	
7.6	Hearing of application	
7.7	Use of witness statement evidence	
7.8	Filing and service of witness statements	
7.9	Use of reports	
7.10	Adjournment of hearings; directions	
7.16	Nomination and appointment of shorthand writers	
7.17	Remuneration of shorthand writers	
7.19	Enforcement of court orders	
7.20	Orders enforcing compliance with Rules	
7.21	Warrants	
7.23	Warrants under section 236	
7.27	Court records	
7.28	Inspection of records	
7.30	File of court proceedings	
7.31	<i>Right to inspect court file</i>	<i>Rule 7.31 is not applied – but equivalent provision is made in Part 4 of these Rules.</i>
7.32	Filing of Gazette notices and advertisements	
7.33	Costs: application of the Civil Proceedings Rules	
7.34	Requirement to assess costs by the detailed procedure	
7.35	Procedure where detailed assessment required	
7.36	Costs of execution or other process	
7.38	Costs paid otherwise than out of the insolvent estate	
7.39	Award of costs against responsible insolvency practitioner	
7.40	Application for costs	
7.41	Costs and expenses of witnesses	
7.42	Final costs certificate	

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

Rule	Subject	Specific modifications
7.43	Persons who lack capacity to manage their affairs: introductory	
7.44	Appointment of another person to act	
7.45	Witness statement in support of application	
7.46	Services of notices following appointment	
7.47	Appeals and reviews of court orders	<i>(Rule 7.47 is not applied so as to permit an appeal against the making of a bank administration order.)</i>
7.49	Procedure on appeal	
7.51	Principal court rules and practice to apply	<i>(The reference to the CPR, the practice and procedure of the High Court and of the county court is to be treated as a reference to the CPR (Part 52).)</i>
7.53	Right of attendance	
7.54	Insolvency practitioner's solicitor	
7.55	Formal defects	
7.56	Restriction on concurrent proceedings and remedies	
7.58	Security in court	
7.59	Payment into court	
7.60	Further information and disclosure	
7.61	Office copies of documents	
Proxies		
8.1	Definition of proxy	
8.2	Issue and use of forms	
8.3	Use of proxies at meetings	
8.4	Retention of proxies	
8.5	Right of inspection of proxies	
8.6	Proxy-holder with financial interest	
8.7	Company representation	<i>(The reference to section 375 of the Companies Act 1985 becomes a reference to section 323 of the Companies Act 2006.)</i>
Examination of persons		
9.1	Preliminary	1. <i>Part 9 applies to applications under section 236 of the Insolvency Act 1986</i>

Rule	Subject	Specific modifications
		<i>(inquiry into company's dealings) as applied by Table 2 in section 145 of the Banking Act 2009.</i> 2. Treat a reference to "the insolvent" as a reference to the bank.
9.2	Form and contents of application	
9.3	Order for examination	
9.4	Procedure for examination	
9.5	Record of examination	
9.6	Costs of proceedings	
Declaration and payment of dividend		
11.1	Preliminary	
11.2	Notice of intended dividend	
11.3	Final admission or rejection of proofs	
11.4	Postponement or cancellation of dividend	
11.5	Decision to declare dividend	
11.6	Notice of declaration	
11.7	Notice of no dividend or no further dividend	
11.8	Proof altered after payment of dividend	
11.9	Secured creditors	
11.10	Disqualification from dividend	
11.11	Assignment of right to dividend	
11.12	Preferential creditors	
11.13	Debt payable in future	The "relevant date" is the date of the bank administration order.
Miscellaneous and general		
12.1	Regulation of specified administrative matters	A reference to the Secretary of State includes a reference to the Treasury.
12.2	Costs and expenses	
12.3	Provable debts	
12.4	Notices	
12.4A	Quorum at meetings	<i>(The reference to section 375 of the Companies Act 1985 becomes a reference to section 323 of the Companies Act 2006.)</i>

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

Rule	Subject	Specific modifications
12.5	Evidence of proceedings at meeting	
12.6	Documents issued by Secretary of State	
12.8	Insolvency practitioner's security	
12.9	Time-limits	
12.10	Service by post	<i>(Rule 12.10 applies subject to express provision about service made in these Rules.)</i>
12.11	Service and notice: general	Part 6 of the CPR applies subject to any provision of these rules.
12.12	Service outside jurisdiction	Part 6 of the CPR applies with regard to service in Scotland or Northern Ireland, subject to any provision of these rules. Where service is to take place outside the United Kingdom, where these rules provide for service, the court may direct how that service is to be effect. With regard to service otherwise, Part 6 of the CPR applies.
12.13	Confidentiality of documents	
12.14	Notices sent simultaneously to same person	
12.15	Right to copy documents	
12.15A	Charge for copy documents	
12.16	Non-receipt of notice of meeting	
12.17	Right to have list of creditors	
12.18	False claim of status as creditor	
12.20	Gazette	
12.21 and Schedule 5	Punishment of offences	
12.22	Notice of order under section 176A of the Insolvency Act 1986	
13.1 to 13.13	Interpretation and application	