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BANKS AND BANKING, ENGLAND AND WALES
INSOLVENCY

The Bank Administration (England and Wales) Rules 2009

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

The Treasury concur in the making of the Rules.

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

The Lord Chancellor has not consulted the Committee existing for the purposes of section 413 of the Insolvency Act 1986: this is the first exercise of the power in section 411 of that Act as amended by section 160 of the Banking Act 2009(b), and is therefore excluded from the requirement to consult by section 160(6) of the 2009 Act.

(a) 1986 c. 45; section 411 is amended by section 160 of the Banking Act 2009.
(b) Banking Act 2009 c.1.

PART 1

Introduction

Citation

1. These Rules may be cited as the Bank Administration (England and Wales) Rules 2009.

Commencement

2. These Rules come into force on 25th February 2009.

Extent

3. These Rules extend to England and Wales only.

Interpretation

4.—(1) The following expressions used in these Rules take their meaning from the Banking Act 2009 (in accordance with section 11 of the Interpretation Act 1978(a) – construction of subordinate legislation)—

- (a) “bank” (s. 2),
- (b) “bank administration” (s. 141(4)(a)),
- (c) “bank administration order” (s. 141(1)),
- (d) “bank administrator” (s. 141(1)),
- (e) “bridge bank” (s. 136(2)),
- (f) “the court” (the High Court – s. 166(1)),
- (g) “the FSA” (the Financial Services Authority – s. 166(2)),
- (h) “Objective 1” (support for commercial purchaser or bridge bank – ss. 137 & 138),
- (i) “Objective 1 Achievement Notice” (s. 139(4)),
- (j) “Objective 2” (normal administration – ss. 137 & 140),
- (k) “private sector purchaser” (s. 136(2)),
- (l) “property transfer instrument” (s. 33),
- (m) “residual bank” (s. 136(2)), and
- (n) “resolution fund order” (s. 49(3)).

(2) Expressions used in the Companies Act 2006 have the same meaning as in these rules.

5. In these Rules—

- (a) “the FSCS” means the scheme manager of the Financial Services Compensation Scheme (established under Part 15 of the Financial Services and Markets Act 2000(b)),
- (b) “the Objective 1 Stage” means the period during which a bank administration order is in force before the Bank of England gives an Objective 1 Achievement Notice,
- (c) “the Objective 2 Stage” means the period during which a bank administration order is in force after the Bank of England gives an Objective 1 Achievement Notice,
- (d) a reference to personal service is a reference to personal service in accordance with Part 6 of the Civil Procedure Rules 1998(c),
- (e) a reference to the CPR is to the Civil Procedure Rules 1998, and

(a) 1978 c. 30.
(b) 2000 c. 8.
(c) S.I. 1998/3132.

- (f) a reference to a witness statement (including a reference implied by the application of an enactment) is a reference to a witness statement—
 - (i) verified by a statement of truth in accordance with Part 22 of the CPR, and
 - (ii) if made by a bank administrator, stating that the statement is made in that capacity and giving the address at which the bank administrator works.

Overview

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

Forms

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

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

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

PART 2

Application for Bank Administration Order

Introduction

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

Content of application

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

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

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

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

Statement of proposed bank administrator

- 11.** An application must be accompanied by a statement by the proposed bank administrator—
- (a) specifying the name and address of the person (or of each person) proposed to be appointed,
 - (b) giving that person's (or each person's) consent to act,
 - (c) giving details of the person's (or each person's) qualification to act as an insolvency practitioner, and
 - (d) giving details of any prior professional relationship that the person (or any of them) has had with the bank.

Bank of England witness statement

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

- (a) certifying that the conditions for applying for a bank administration order, set out in section 143 of the Banking Act 2009, are met in respect of the bank,
- (b) stating the bank's current financial position to the best of the Bank of England's knowledge and belief (including actual, contingent and prospective assets and liabilities),
- (c) specifying any security which the Bank of England knows or believes to be held by a creditor of the bank,
- (d) specifying whether any security confers power to appoint an administrator under paragraph 14 of Schedule B1 to the Insolvency Act 1986 (holder of qualifying floating charge) or an administrative receiver (and whether an administrative receiver has been appointed),
- (e) specifying any insolvency proceedings which have been instituted in respect of the bank (including any process notified to the FSA under section 120 of the Banking Act 2009),
- (f) giving details of the property transfer instrument which the Bank of England has made or intends to make in respect of the bank,
- (g) where the property transfer instrument has not yet been made, explaining what effect it is likely to have on the bank's financial position,
- (h) specifying how functions are to be apportioned where more than one person is to be appointed as bank administrator (stating, in particular, whether functions are to be exercisable jointly or concurrently), and
- (i) including any other material which the Bank of England thinks may help the court to decide whether to make the bank administration order.

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

Filing

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

14. Each filed copy—

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

Service

15. The Bank of England shall serve the application—

- (a) on the bank,
- (b) on the person (or each of the persons) nominated for appointment as bank administrator,
- (c) on any person whom the Bank of England knows to be entitled to appoint an administrator under paragraph 14 of Schedule B1 to the Insolvency Act 1986 or an administrative receiver,
- (d) on any person who has given notice to the FSA in respect of the bank under section 120 of the Banking Act 2009 (bank insolvency: notice of preliminary steps of other insolvency procedures), and
- (e) if the property transfer instrument was made or is to be made under section 11(2)(b) of the Banking Act 2009 (transfer to commercial purchaser), on each transferee.

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

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

18.—(1) Service must be effected—

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

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

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

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

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

Other notification

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

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

Venue

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

- (2) In fixing the venue the court shall have regard to—
- (a) the desirability of the application being heard as soon as is reasonably practicable, and
 - (b) the need for the bank’s representatives to be able to reach the venue in time for the hearing.

Hearing

22. At the hearing of the application, any of the following may appear or be represented—
- (a) the Bank of England,
 - (b) the FSA,
 - (c) the bank,
 - (d) a director of the bank,
 - (e) the person (or a person) nominated for appointment as bank administrator,
 - (f) any person who has given notice to the FSA in respect of the bank under section 120 of the Banking Act 2009 (bank insolvency: notice of preliminary steps of other insolvency procedures), and
 - (g) with the permission of the court, any other person who appears to have an interest.

The order

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

Notice of order

24. If the court makes a bank administration order, it shall send 4 sealed copies to the Bank of England.

25. The Bank of England shall as soon as is reasonably practicable send—
- (a) one sealed copy to the bank administrator,
 - (b) one sealed copy to the FSA, and
 - (c) one sealed copy to the FSCS.

Costs

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

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

PART 3

Process of Bank Administration

Introduction

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

Bank administrator's proposals: Objective 1 Stage

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

- (2) In addition to the information required by section 147 the statement must include—
- (a) details of the court where the proceedings are and the court reference number,
 - (b) the full name, any other trading names, the registered address and registered number of the bank,
 - (c) details of the bank administrator's appointment (including the date),
 - (d) in the case of joint bank administrators, details of the apportionment of functions,
 - (e) the names of the directors and secretary of the bank and details of any shareholdings in the bank they have,
 - (f) an account of the circumstances giving rise to the application for the appointment of the bank administrator,
 - (g) if a statement of the bank's affairs has been submitted, a copy or summary of it with the bank administrator's comments, if any,
 - (h) if an order limiting the disclosure of the statement of affairs has been made under Rule 2.30 of the Insolvency Rules 1986 (as applied by Rule 58 below), a statement of that fact, as well as—
 - (i) details of who provided the statement of affairs,
 - (ii) the date of the order for limited disclosure, and
 - (iii) the details or a summary of the details that are not subject to that order,
 - (i) if a full statement of affairs is not provided, the names, addresses and debts of the creditors including details of any security held (or, in the case of depositors, a single statement of their aggregate debt),
 - (j) if no statement of affairs has been submitted, details of the financial position of the bank at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that on which the bank entered bank administration), a list of the bank's creditors including their names, addresses and details of their debts, including any security held, (or, in the case of depositors, a single statement of their aggregate debt), and an explanation as to why there is no statement of affairs,
 - (k) the basis upon which it is proposed that the bank administrator's remuneration should be fixed under Rule 2.106 of the Insolvency Rules 1986 (as applied by Rule 58),
 - (l) how the bank administrator proposes to pursue Objective 1,
 - (m) whether the bank administrator proposes to pursue Objective 2(a) or Objective 2(b),
 - (n) if the bank administrator proposes to pursue Objective 2(a), how it is envisaged the purpose of the bank administration will be achieved in the Objective 2 Stage,
 - (o) if the bank administrator proposes to pursue Objective 2(b)—
 - (i) how it is envisaged the purpose of the bank administration will be achieved in the Objective 2 Stage, and
 - (ii) how it is proposed that the bank administration shall end (winding-up or voluntary arrangement, in accordance with section 154 of the Banking Act 2009),
 - (p) the manner in which the affairs and business of the bank have been managed and financed since the date of the bank administrator's appointment (including the reasons for and terms of any disposal of assets), and
 - (q) the manner in which the affairs and business of the bank will be managed and financed if the bank administrator's proposals are approved.
- (3) The statement—

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

Bank administrator’s proposals: Objective 2 Stage

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

(2) The statement must include—

- (a) details of the court where the proceedings are and the court reference number,
- (b) the full name, any other trading names, the registered address and registered number of the bank,
- (c) details of the bank administrator’s appointment (including the date),
- (d) in the case of joint bank administrators, details of the apportionment of functions,
- (e) the names of the directors and secretary of the bank and details of any shareholdings in the bank they have,
- (f) an account of the circumstances giving rise to the application for the appointment of the bank administrator,
- (g) if a statement of the bank’s affairs has been submitted, a copy or summary of it with the bank administrator’s comments, if any,
- (h) if an order limiting the disclosure of the statement of affairs has been made under Rule 2.30 of the Insolvency Rules 1986 (as applied by Rule 58 below), a statement of that fact, as well as—
 - (i) details of who provided the statement of affairs,
 - (ii) the date of the order for limited disclosure, and
 - (iii) the details or a summary of the details that are not subject to that order,
- (i) if a full statement of affairs is not provided, the names, addresses and debts of the creditors including details of any security held (or, in the case of depositors, a single statement of their aggregate debt),
- (j) if no statement of affairs has been submitted, details of the financial position of the bank at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that on which the bank entered bank administration), a list of the bank’s creditors including their names, addresses and details of their debts including any security held, (or, in the case of depositors, a single statement of their aggregate debt), and an explanation as to why there is no statement of affairs,
- (k) the basis upon which it is proposed that the bank administrator’s remuneration should be fixed under Rule 2.106 of the Insolvency Rules 1986 (as applied by Rule 58 below),
- (l) details of whether (and why) the bank administrator proposes to apply to the court under section 176A(5) of the Insolvency Act 1986 (omission of distribution to unsecured creditors: as applied by Table 2 in section 145(6) of the Banking Act 2009) (unless the bank administrator intends to propose a company voluntary arrangement),
- (m) an estimate of the value of the prescribed part for the purposes of section 176A (unless the bank administrator intends to propose a company voluntary arrangement) certified as being made to the best of the bank administrator’s knowledge and belief,
- (n) an estimate of the value of the bank’s net property (unless the bank administrator intends to propose a company voluntary arrangement) certified as being made to the best of the bank administrator’s knowledge and belief,
- (o) whether the bank administrator proposes to pursue Objective 2(a) or Objective 2(b),

- (p) if the bank administrator proposes to pursue Objective 2(a), how it is envisaged the purpose of the bank administration will be achieved,
 - (q) if the bank administrator proposes to pursue Objective 2(b)—
 - (i) how it is envisaged the purpose of the bank administration will be achieved, and
 - (ii) how it is proposed that the bank administration shall end (winding-up or voluntary arrangement, in accordance with section 154 of the Banking Act 2009),
 - (r) if the bank administrator has decided not to call a meeting of creditors, the reasons,
 - (s) the manner in which the affairs and business of the bank have been managed and financed since the date of the bank administrator’s appointment (including the reasons for and terms of any disposal of assets),
 - (t) the manner in which the affairs and business of the bank will be managed and financed if the bank administrator’s proposals are approved, and
 - (u) any other information which the bank administrator thinks necessary to enable creditors to decide whether or not to vote for the approval of the proposals.
- (3) In the case of bank administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009—
- (a) the statement under paragraph 49 of Schedule B1 must state whether any payment is to be made to the bank from a scheme under a resolution fund order, or
 - (b) if that information is unavailable when the statement under paragraph 49 is made, the bank administrator must issue a supplemental statement when the information is available.
- (4) The statement—
- (a) may exclude information, the disclosure of which could seriously prejudice the commercial interests of the bank, and
 - (b) must include a statement of any exclusion.

30. If the bank administrator thinks that the statement made under section 147 of the Banking Act 2009 in accordance with Rule 28 contains information required by Rule 29(2), the statement under paragraph 49 of Schedule B1 to the Insolvency Act 1986 (as applied by Table 1 in section 145(6) of the Banking Act 2009) may consist of the statement under section 147, with such additions, modifications and supplemental information as the bank administrator thinks necessary—

- (a) to comply with Rule 29(2), and
- (b) to bring the statement under section 147 up to date.

31. Where the court orders an extension of the period of time under paragraph 49(5) of Schedule B1 on an application by the bank administrator under paragraph 107 (as applied by Table 1 in section 145(6) of the Banking Act 2009), the bank administrator must notify the persons set out in paragraph 49(4) as soon as is reasonably practicable after the making of the order.

32. Where the bank administrator has made a statement under paragraph 52(1) of Schedule B1 (as applied by Table 1 in section 145(6) of the Banking Act 2009) and has not called an initial meeting of creditors, the proposals issued in accordance with Rule 29 above will be deemed to have been approved by the creditors (if no meeting has been requisitioned under paragraph 52(2) within the period set out in Rule 2.37(1) of the Insolvency Rules 1986 – as applied by Rule 58 below).

33. Where the bank administrator intends to apply to the court (or file a notice under paragraph 80(2) of Schedule B1 in accordance with section 153 of the Banking Act 2009) for the bank administration to cease before the statement of proposals is sent to creditors in accordance with paragraph 49 of Schedule B1, the bank administrator must, at least 10 days before making the application (or filing the notice), send to all known creditors of the bank a report containing the information required by Rule 29(2).

34.—(1) A bank administrator who wishes to publish a notice under paragraph 49(6) of Schedule B1 (as applied by Table 1 in section 145(6) of the Banking Act 2009) must publish the notice in such manner that the bank administrator thinks most appropriate for ensuring that the notice comes to the attention of the bank’s members.

(2) The notice must—

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

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

Reports to creditors

35.—(1) “Progress report” means a report which includes—

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

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

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

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

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

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

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

36. A progress report must be produced for—

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

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

- (a) the creditors,
- (b) the court,
- (c) the Bank of England,
- (d) the FSA,
- (e) the FSCS, and
- (f) the registrar of companies.

(2) Instead of complying with paragraph (1)(a) the bank administrator may publish the progress report on its internet website (and take appropriate steps to draw attention to it).

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

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

38.—(1) A bank administrator who fails to comply with Rules 36 and 37 is liable to a fine and, for continued contravention, to a daily default fine.

(2) For that purpose, failure to comply with Rules 36 and 37 shall be treated in the same way as failure to comply with Rule 2.47 of the Insolvency Rules 1986.

Removal of bank administrator in Objective 1 Stage

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

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

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

Appointment of provisional bank administrator

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

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

- (a) why the Bank of England thinks that a provisional bank administrator should be appointed,
- (b) that the person to be appointed has consented to act,
- (c) that the person to be appointed is qualified to act as an insolvency practitioner,
- (d) whether, to the Bank of England's knowledge, a company voluntary arrangement under Part 1 of the Insolvency Act 1986 has been proposed or is in force in respect of the bank,
- (e) whether, to the Bank of England's knowledge, an administrative receiver is acting in respect of the bank, and

(f) the Bank of England's estimate of the value of the assets in respect of which the provisional bank administrator is to be appointed.

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

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

44. If the court makes an order appointing a provisional bank administrator the court shall—

- (a) notify the Bank of England,
- (b) send 4 copies of the order to the person appointed (by email if possible), and
- (c) send a copy of the order to any administrative receiver of the bank.

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

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

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

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

Additional joint bank administrator

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

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

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

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

(4) Rule 58 below applies Rules 2.127 and 2.128 of the Insolvency Rules 1986 (notification and advertisement of the appointment of an additional joint administrator).

End of administration: successful rescue

48.—(1) This Rule supplements section 153 of the Banking Act 2009 (end of bank administration where bank administrator satisfied that Objective 2(a) has been achieved).

(2) The bank administrator's notice under paragraph 80 of Schedule B1 to the Insolvency Act 1986 (as applied by section 153)—

- (a) must be filed with the court in Form 2.32B (the form specified in rule 2.113 of the Insolvency Rules 1986 subject to Rule 7(2) above), and
- (b) must be accompanied by a final progress report.

(3) The notice takes effect when the court discharges the bank administration order on the application of the bank administrator.

(4) Before applying for discharge the bank administrator must send a copy of the notice under paragraph 80 of Schedule B1 and the progress report to—

- (a) the Bank of England,
- (b) the FSA,

- (c) the FSCS, and
- (d) the registrar of companies.

(5) Notice under paragraph (4)(b) and (c) must be given at least 7 days' before the hearing of the application for approval of the notice.

(6) The bank administrator shall be taken to have complied with the requirements of paragraph 80(5) if, within 5 business days of filing the notice under paragraph 80 with the court, he publishes in the same manner as he published his notice of appointment, and in the Gazette, a notice specifying—

- (a) the full name of the bank and any other trading names,
- (b) the name and address of the bank administrator,
- (c) the date of the notice under paragraph 80, and
- (d) an address to which creditors can write for a copy of the notice under paragraph 80 and the final progress report.

(7) The bank administrator's application for discharge must certify compliance with the requirements of paragraph 80 and of the preceding paragraphs of this Rule.

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

- (a) discharge the bank administration order, and
- (b) notify the bank administrator, who shall notify the registrar of companies.

End of administration: dissolution

49.—(1) This Rule supplements section 154(2)(a) of the Banking Act 2009 (bank administrator giving notice under paragraph 84 of Schedule B1 to the Insolvency Act 1986 that there are no more assets for distribution, and moving to dissolution).

(2) The bank administrator's notice under paragraph 84—

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

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

(4) Before applying for discharge the bank administrator must send a copy of the notice under paragraph 84 and the progress report to—

- (a) the registrar of companies, and
- (b) each person who received notice of the bank administrator's appointment.

(5) After the expiry of the period mentioned in paragraph 84(6) (and subject to extension under paragraph 84(7)) if the court discharges the bank administration order—

- (a) the notice takes effect as specified in paragraph 84(6),
- (b) the court shall notify the bank administrator, who shall notify the registrar of companies.

(6) If the court makes an order under paragraph 84(7) it shall notify the bank administrator in Form 2.36B (the form specified in rule 2.118 of the Insolvency Rules 1986 subject to Rule 7(2) above), who shall notify the registrar of companies.

PART 4

Court Procedure and Practice

Introduction

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

Title of proceedings

51. Proceedings under Part 3 of the Banking Act 2009 shall be entitled “IN THE MATTER OF ... (naming the bank to which the proceedings relate) AND IN THE MATTER OF PART 3 OF THE BANKING ACT 2009”.

Right to inspect file

52.—(1) The court must open and maintain a file for each set of bank administration proceedings.

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

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

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

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

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

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

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

56. Rule 7.28(2) and (3) of the Insolvency Rules 1986 (as applied by Rule 58 below) apply in respect of the court’s file of bank administration proceedings as they apply in respect of court records.

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

PART 5

Application of Insolvency Rules 1986

General application

58. The provisions of the Insolvency Rules 1986(a) 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,
- (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(b).

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

(b) 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

| Rule | Subject | Specific modifications |
|---|---|--|
| 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) 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 | Holders of negotiable instruments | |
| 2.42 | Hire-purchase, conditional sale and chattel leasing agreements | |
| 2.43 | Resolutions | |
| 2.44 | Minutes | |
| 2.45 | Revision of the administrator's proposals | In paragraph (2)(c) ignore the reference to the person making the appointment. |
| 2.46 | Notice to creditors | |

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).

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| 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 | |
| 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 |

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| | | <p>administrator, and</p> <p>(b) the remuneration of the provisional bank administrator ranks next, and</p> <p>(c) any deposit lodged on an application for the appointment of a provisional bank administrator ranks next.</p> |
| 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 | <p>In respect of any application under Rule 2.78(1) or (2)—</p> <p>(a) notice of the application must be given to the FSA and, during the Objective 1 Stage, the Bank of England, and</p> <p>(b) the FSA, and the Bank of England during the Objective 1 Stage, may appear and be heard.</p> |
| 2.79 | Withdrawal or variation of proof | |
| 2.80 | Expunging of proof by the court | <p>In respect of any application under Rule 2.80(1)(b)—</p> <p>(a) notice of the application must be given to the FSA and, during the Objective 1 Stage, the Bank of England, and</p> <p>(b) the FSA, and the Bank of England during the Objective 1 Stage, may appear and be heard.</p> |
| 2.81 | Estimate of quantum of claims | |
| 2.82 | Negotiable instruments etc. | |
| 2.83 | Secured creditors | |
| 2.84 | Discounts | |
| 2.85 | Mutual credit and set-off | |
| 2.86 | Debt in foreign currency | |
| 2.87 | Periodical payments | |
| 2.88 | Interest | |

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| 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 | The following are added to the list of those entitled to receive notice under Rule 2.95(2)— (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 | (1) The following are added to the list of those entitled to receive notice under Rule 2.98(1)— (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. | |
| 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 |

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| | | 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. |
| 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 | (1) The reference to Rule 2.47 is to be treated as a reference to Rule 35 above. (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— (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 (b) must state whether any payment has been received and, if so, its amount. |
| 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 |

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| | | to the list of those entitled to notice under paragraph (1). |
| 2.121 | Notice of resignation | |
| 2.122 | Application to court to remove administrator | <p><i>(An application may be made during the Objective 1 Stage only with the Bank of England's consent – see the modifications for the application of paragraph 88 of Schedule B1 to the Insolvency Act 1986 in Table 1 in section 145 of the Banking Act 2009.)</i></p> <p>(1) An application must state either—</p> <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). |
| 4.31 | Termination of appointment | <p>(1) An application for termination may be made by—</p> <p>(a) the provisional bank administrator, or</p> <p>(b) the Bank of England.</p> <p>(2) A provisional bank administrator's appointment terminates on the making of a</p> |

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| | | 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 | |
| 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</i> |

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| | | <i>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 | |
| 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 | | |

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| 9.1 | Preliminary | 1. <i>Part 9 applies to applications under section 236 of the Insolvency Act 1986 (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> |
| 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. |

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| | | 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 | |

17th February 2009

Jack Straw
Lord Chancellor

We concur

Steve McCabe
Dave Watts

23rd February 2009

Two of the Lords Commissioners of Her Majesty's Treasury

I concur

19th February 2009

Sir Andrew Morritt
The Chancellor of the High Court

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules set out the procedure for the bank administration process under Part 3 of the Banking Act 2009.

The main features of bank administration are that:

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

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

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

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

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

An Impact Assessment of the effect of the Banking Act 2009 is available on HM Treasury’s website (www.hm-treasury.gov.uk).

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