
STATUTORY INSTRUMENTS

2009 No. 806

**The Building Society Special
Administration (Scotland) Rules 2009**

PART 1

Introduction

Citation

1. These Rules may be cited as the Building Society Special Administration (Scotland) Rules 2009.

Commencement

2. These Rules come into force at 4.00pm on 29th March 2009.

Extent

3. These Rules extend to Scotland only.

Interpretation

4.—(1) In these Rules—

- (a) “the 1986 Rules” means the Insolvency (Scotland) Rules 1986(1);
- (b) “the 2009 Order” means the Building Societies (Insolvency and Special Administration) Order 2009(2);
- (c) “the Banking Act” means the Banking Act 2009;
- (d) “the Building Societies Act” means the Building Societies Act 1986(3);
- (e) “building society” means a building society incorporated (or deemed to be incorporated) under the Building Societies Act;
- (f) “building society special administration”, “building society special administration order” and “building society special administrator” have the same meaning as in the Building Societies Act (see sections 90C(2) and 119(1) of that Act)(4);
- (g) “contributory”, in relation to a building society—
 - (i) means every person liable to contribute to the assets of the society in the event of its being wound up, and

(1) [S.I. 1986/1915](#). The Insolvency (Scotland) Rules have been amended by a number of instruments.

(2) [S.I. 2009/ 805](#) .

(3) [1986 c.53](#).

(4) Those sections were amended by the Building Societies (Insolvency and Special Administration) Order 2009.

- (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 (responsibility for fraudulent trading) or 214 (wrongful trading) of the Insolvency Act;
- (h) “the Insolvency Act” means the Insolvency Act 1986;
 - (i) “principal office” means—
 - (i) the place which is specified in a building society’s memorandum sent to the FSA under paragraph 1(1)(c) of Schedule 2 to the Building Societies Act as the address of its principal office, or
 - (ii) if notice has been given by a building society to the FSA under paragraph 11(2) of that Schedule (change of principal office), the place specified in that notice or, as the case may be, in the last such notice;
 - (j) “registered name”, in relation to a building society, means the name of the society which is for the time being registered with the FSA;
 - (k) “society”, “special administration”, “special administration order” and “special administrator” mean respectively building society, building society special administration, building society special administration order and building society special administrator;
 - (l) the following expressions have the same meaning as in Part 1 or Part 3 of the Banking Act—
 - (i) “the court” (the Court of Session)— s. 166(1));
 - (ii) “the FSA” (the Financial Services Authority— s. 166(2));
 - (iii) “Objective 1” (support for commercial purchaser or bridge bank— s. 138(1));
 - (iv) “Objective 1 Achievement Notice” (s. 139(4));
 - (v) “Objective 2” (normal administration— s. 140(1));
 - (vi) “residual building society” (s. 136(2));
 - (vii) “resolution fund order” (s. 49(3));
 - (m) any reference to Part 1 of the Banking Act (Special Resolution Regime), or to any provision in that Part, is a reference to that Part or provision as applied, with modifications, by section 84 of that Act;
 - (n) any reference to Part 3 of the Banking Act (Bank Administration), 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 158 of the Banking Act.
- (2) Other expressions used in these Rules, where used in relation to building societies, have the same meaning as in the Building Societies Act.
- (3) Any notice or document sent electronically pursuant to these Rules shall be treated as having been sent or given 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.

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⁽⁵⁾);
- (b) “the Objective 1 Stage” means the period during which a building society special administration order is in force before the Bank of England gives an Objective 1 Achievement Notice; and
- (c) “the Objective 2 Stage” means the period during which a building society special administration order is in force after the Bank of England gives an Objective 1 Achievement Notice.

Overview

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

Forms

7.—(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 the 1986 Rules which requires the use of a prescribed form.

(2) The form prescribed for the purposes of the 1986 Rules is to be used, with any modification that the person using the form thinks desirable to reflect the nature of building society special administration.