
STATUTORY INSTRUMENTS

2010 No. 2580

The Building Society Special Administration
(England and Wales) Rules 2010

PART 5

Application of Insolvency Rules 1986

General application

60. The provisions of the Insolvency Rules 1986 listed in the Table in Rule 63 apply for the purposes of building society special administration and applications for special administration.

61. For that purpose the rules apply with—

- (a) the general modifications set out in Rule 62,
- (b) any specific modification set out in the Table in Rule 63, and
- (c) any other necessary modification.

General modifications

62. The general modifications are that—

- (a) a reference to an administrator or liquidator is to be treated as a reference to the building society special administrator,
- (b) a reference to administration or liquidation is to be treated as a reference to building society special administration,
- (c) a reference to a provisional liquidator is to be treated as a reference to a provisional building society special administrator,
- (d) a reference to a winding-up order is to be treated as a reference to a building society special 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 building society special administration order,
- (f) a reference to insolvency proceedings is to be treated as a reference to building society special administration (or proceedings for special administration),
- (g) a reference to the responsible insolvency practitioner is to be treated as a reference to the building society special administrator or provisional special 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 building society,

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- (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 to the officers, or to a particular officer, of a company is to be treated as a reference to the officers, or to the corresponding officer, of a building society and as including a person holding himself out as such an officer,
- (n) a reference to a contributory is to be treated as a reference to a contributory within the meaning of these Rules (see rule 4(1)(d)),
- (o) a reference to the registered office of the company is to be treated as a reference to the principal office of the building society,
- (p) a reference to sending or giving a document or notice to, or filing it with, the registrar of companies is to be treated as a reference to sending the document or notice to the FSA for placing on the public file of the society,
- (q) a reference to a voluntary arrangement under Part 1 of the Insolvency Act 1986 is to be treated as a reference to a voluntary arrangement under that Part as applied in relation to building societies by section 90A of, and Schedule 15A to, the Building Societies Act 1986,
- (r) 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, by section 90C of the Building Societies Act 1986 and by any order made under section 158 of the Banking Act 2009, and
- (s) a reference to the Insolvency Act 1986 includes a reference to Part 3 of the Banking Act 2009.

Table of applications and specific modifications

63. This Rule contains the Table of applied provisions of the Insolvency Rules 1986.

<i>Rule</i>	<i>Subject</i>	<i>Specific modifications</i>
Preparatory steps		
2.27	Notification and advertisement of administrator's appointment	
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 special 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 special administrator, (b) the Bank of England, and (c) the FSA.

Rule	Subject	Specific modifications
2.32	Expenses of statement of affairs	
Special 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 special 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 special 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	
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	In paragraph (5) the reference to a general meeting of the company summoned under the company's articles of association, and in accordance with the applicable provisions of the Companies Act, has effect as a reference to a general meeting of the society summoned under the society's rules, and in

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Rule	Subject	Specific modifications
		accordance with the applicable provisions of the Building Societies Act 1986.
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 society	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	Disposal 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 special 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 special administrator must send a copy to

Rule	Subject	Specific modifications
		the Bank of England as soon as is reasonably practicable.
2.67	Expenses of the administration	In addition to the matters listed in Rule 2.67(1), expenses in connection with provisional special administration are payable in the following order of priority— (a) the cost of any security provided by the provisional special administrator takes priority equally with security provided by the special administrator, and (b) the remuneration of the provisional special administrator ranks next, and (c) any deposit lodged on an application for the appointment of a provisional special administrator ranks next.
2.68	Distributions to creditors: introduction	In paragraphs (1) and (2), references to creditors include references to shareholding members. <i>(Distributions in the case of special 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 of the application of paragraph 65 of Schedule B1 to the Insolvency Act 1986 in Table 1 in section 145 of the Banking Act 2009(1).)</i>
2.69	Debts of the insolvent company to rank equally	“Debts” do not include any amounts owing from the society to a member in respect of shares.
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 appointed	
2.77	Admission and rejection of proofs for dividend	

(1) S.I. 2009/805 modifies the application of paragraph 65 of Schedule B1.

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Rule	Subject	Specific modifications
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	
2.82	Negotiable instruments, etc	
2.83	Secured creditors	
2.84	Discounts	
2.85	Mutual credit and set-off	In addition to the matters listed in Rule 2.85(2)(a) to (e), “mutual dealings” does not include any mutual dealings between the society and a creditor who is also a shareholding member of the society in respect of shares held by that person in the society. Where the conditions in paragraph (1) of Rule 49 of these Rules are met, Rule 2.85 applies with the modifications set out in Rule 49 in addition to the modifications set out above.
2.86	Debt in foreign currency	
2.87	Payments of a periodical nature	
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	

Rule	Subject	Specific modifications
2.95	Notice of proposed distribution	<p>(1) The notice in Rule 2.95(1) must also be given where the special administrator is proposing to make a distribution to shareholding members.</p> <p>(2) The following are added to the list of those entitled to receive notice under Rule 2.95(2)—</p> <ul style="list-style-type: none"> (a) the FSA, (b) the FSCS, (c) shareholding members of the society, and (d) during the Objective 1 Stage of a special administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009, the Bank of England. <p>(3) The notice in Rule 2.95(1) shall state, where applicable, that the distribution is to shareholding members of the society.</p> <p>(4) In Rule 2.95(4)(a) the reference to a distribution to creditors includes, where appropriate, a distribution to shareholding members.</p>
2.96	Admission or rejection of proofs	
2.97	Declaration of dividend	In Rule 2.97(1) the reference to one or more classes of creditor includes a reference to one or more classes of shareholding member.
2.98	Notice of declaration of dividend	<p>(1) The following are added to the list of those entitled to receive notice under Rule 2.98(1)—</p> <ul style="list-style-type: none"> (a) the FSA, (b) the FSCS, (c) shareholding members of the society, and (d) during the Objective 1 Stage of a special administration following transfer to a bridge bank under section 12(2) of the Banking Act 2009, the Bank of England. <p>(2) In the case of special 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.</p>

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Rule	Subject	Specific modifications
		(3) The particulars required by Rule 2.98(2) include, where appropriate, details of any distribution to shareholding members.
2.99	Payment of dividends and related matters	In Rule 2.99(2) the reference to any creditor includes a reference to any shareholding member.
2.100	Notice of no dividend, or no further dividend	(1) The special 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) In Rule 2.100 the reference to creditors includes a reference to shareholding members.
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 at future time	The “relevant date” is the date of the special administration order.
The special administrator		
2.106	Fixing of remuneration	(1) In the Objective 1 Stage the Bank of England shall fix the special administrator’s remuneration in accordance with Rule 2.106(2). (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’

Rule	Subject	Specific modifications
		<p>committee were references to the Bank of England, and</p> <p>(b) the court shall have regard to the achievement of Objective 1.</p> <p>(2) In respect of any application under Rule 2.108—</p> <p>(a) notice of the application must be given to the FSA, and</p> <p>(b) the FSA may appear and be heard.</p>
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 reports	<p>(1) The reference to Rule 2.47 is to be treated as a reference to Rule 36 above.</p> <p>(2) In the case of special 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 special administrator is satisfied that any payment likely to be made to the society 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>
2.114	Application to court by administrator	<i>Rule 2.114 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
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 special 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	

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Rule	Subject	Specific modifications
2.122	Application to court to remove administrator from office	<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 FSA of replacement or addition	
2.129	Duties on vacating office	
Provisional special 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	

Rule	Subject	Specific modifications
4.29	Failure to give or keep up security	
4.30	Remuneration	Ignore paragraph (4).
4.31	Termination of appointment	(1) An application for termination may be made by— (a) the provisional special administrator, or (b) the Bank of England. (2) A provisional special administrator’s appointment terminates on the making of a special administration order.
Disclaimer		
4.187	Notice of disclaimer	<i>(In the case of special 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 special 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	

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Rule	Subject	Specific modifications
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	
7.31	<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>
7.33	Costs: application of the Civil Procedure 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	

Rule	Subject	Specific modifications
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	
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	
Examination of persons		
9.1	Preliminary	<ol style="list-style-type: none"> <i>Part 9 applies to applications under section 236 of the Insolvency Act 1986 (inquiry into society's dealings) as applied by Table 2 in section 145 of the Banking Act 2009.</i> Treat a reference to "the insolvent" as a reference to the society.
9.2	Form and contents of application	
9.3	Order for examination, etc	

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Rule	Subject	Specific modifications
9.4	Procedure for examination	
9.5	Record of examination	
9.6	Costs of proceedings	
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, expenses, etc	
12.3	Provable debts	
12.4	Notices	
12.4A	Quorum at meetings	
12.5	Evidence of proceedings at meeting	
12.6	Documents issuing from 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 effected. 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, etc.	
12.20	Gazette	

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<i>Rule</i>	<i>Subject</i>	<i>Specific modifications</i>
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	