
STATUTORY INSTRUMENTS

2010 No. 2581

The Building Society Insolvency
(England and Wales) Rules 2010

PART 18

COURT PROCEDURE AND PRACTICE

CHAPTER 1

APPLICATIONS (GENERAL)

Preliminary

182. This Part applies to any application made to the court under Part 2 of the Banking Act or these Rules except an application under section 95 of the Banking Act for a building society insolvency order.

Interpretation

183. Apply rule 7.2 of the 1986 Rules⁽¹⁾. In paragraph (1) ignore from the second “and” to the end of the paragraph.

Form and contents of application

184. Apply rule 7.3 of the 1986 Rules.

Application under section 176A(5) to disapply section 176A

- 185.**—(1) Apply rule 7.3A(2) of the 1986 Rules.
(2) In paragraph (1), ignore “administrator or receiver.”
(3) Ignore paragraph (2)(a).

Filing and service of application

186. Apply rule 7.4 of the 1986 Rules.

Notice of application under section 176A(5)

187. Apply rule 7.4A(3) of the 1986 Rules. Leave out the words from “save that notice” to the end.

(1) Rule 7.2 was amended by [S.I. 2009/642](#).
(2) Rule 7.3A was inserted by [S.I. 2003/1730](#).
(3) Rule 7.4A was inserted by [S.I. 2003/1730](#).

Other hearings without notice

188. Apply rule 7.5 of the 1986 Rules.

Hearing of application

189. Apply rule 7.6 of the 1986 Rules.

Use of evidence

190. Apply rule 7.7 of the 1986 Rules.

Filing and service of witness statements

191. Apply rule 7.8 of the 1986 Rules. Ignore paragraph (2).

Use of reports

192.—(1) Unless the application involves other parties, or the court orders otherwise, a report may be filed in court instead of a witness statement by—

- (a) the building society liquidator,
- (b) the provisional building society liquidator, or
- (c) the special manager.

(2) In any case where a report is filed instead of a witness statement, the report shall be treated for the purposes of rule 191, and any hearing before the court, as if it were a witness statement.

Adjournment of hearings: directions

193. Apply rule 7.10 of the 1986 Rules. In paragraph (2)(c)(iii), for “Rule 7.9(1)(b)” substitute “Rule 192(1) of the 2010 Rules”.

CHAPTER 2

SHORTHAND WRITERS

Nomination and appointment of shorthand writers

- 194.—(1) Apply rule 7.16(4) of the 1986 Rules.
- (2) In paragraph (1) leave out “and, in a county court, the registrar”.
 - (3) In paragraph (2) leave out “133” and “251N, 290 or 366”.
 - (4) Ignore paragraph (3).

Remuneration

195. Apply rule 7.17 of the 1986 Rules(5).

(4) Rule 7.16 was amended by S.I. 2009/642.

(5) Paragraph (2) was substituted by S.I. 1993/602.

CHAPTER 3 ENFORCEMENT PROCEDURES

Enforcement of court orders

- 196.**—(1) Apply rule 7.19 of the 1986 Rules.
(2) Ignore paragraph (2).

Orders enforcing compliance with the Rules

197.—(1) The court may, on the application of the building society liquidator or the provisional building society liquidator as the case may be, make such orders as it thinks necessary for the enforcement of obligations falling on any person in accordance with—

- (a) section 143(2) (liquidator to furnish information, books, papers etc.) of the Insolvency Act or
- (b) section 235 (duty to cooperate with liquidator) of that Act.

(2) An order of the court under this rule may provide that all the costs of and incidental to the application for it shall be borne by the person against whom the order is made.

Warrants (general provisions)

198.—(1) A warrant issued by the court under any provision of the 1986 Act shall be addressed to such officer of the High Court as the warrant specifies, or to any constable.

(2) The person described in section 236(5) of the Insolvency Act as the prescribed officer of the court is the tipstaff and his assistants of the court.

(3) In this Chapter, references to property include books, papers and records.

Warrants under section 236

199. Apply rule 7.23(6) of the 1986 Rules. In paragraph (1), leave out “251N or 366 (the equivalent in bankruptcy)”.

CHAPTER 4 COURT RECORDS AND RETURNS

Title of proceedings

200. Every proceeding under Part 2 of the Banking Act shall, with any necessary additions, be titled “IN THE MATTER OF (naming the building society to which the proceedings relate) AND IN THE MATTER OF THE BANKING ACT 2009”.

Court records

201. Apply rule 7.27 of the 1986 Rules.

Inspection of records

202. Apply rule 7.28 of the 1986 Rules.

(6) Rule 7.23 was amended by [S.I. 2009/642](#).

File of court proceedings and inspection

203.—(1) The Court shall open and maintain a file for each building society insolvency and (subject to the direction of the registrar) all documents relating to that building society insolvency shall be placed on that file.

(2) Where a file has been opened under paragraph (1), the following have the right, at all reasonable times, to inspect that file—

- (a) the building society liquidator,
- (b) any person stating in writing that they are a creditor of the building society to which the building society insolvency relates,
- (c) a member of the building society,
- (d) any person who is, or at any time has been, a director or officer of the building society to which the building society insolvency relates,
- (e) any person who is a contributory of the building society to which the building society insolvency relates, and
- (f) the Bank of England, the FSA and the FSCS.

(3) The right of inspection conferred on any person by paragraph (2) may be exercised on their behalf by a person properly authorised by them.

(4) Any person may, with permission of the court, inspect the file.

(5) The right of inspection conferred by this rule is not exercisable in respect of documents, or parts of documents, which the court has directed (either generally or specially) are not to be open to inspection without the court's permission.

(6) An application for a direction of the court under paragraph (5) may be made by the building society liquidator or by any party appearing to the court to have an interest in the building society insolvency.

(7) If, for the purposes of powers conferred by the Insolvency Act, the Banking Act or these Rules, the Secretary of State wishes to inspect the file on a building society insolvency and requests the court to transmit the file, the court shall comply with the request or, if the file is for the time being in use for the court's own purposes, as soon as the file is no longer in such use.

(8) Rule 202 applies in respect of the court's file on any building society insolvency as it applies in respect of court records of general insolvency proceedings.

CHAPTER 5

COSTS AND DETAILED ASSESSMENT

Application of the CPR

204. Apply rule 7.33 of the 1986 Rules(7).

Requirement to assess costs by the detailed procedure

205.—(1) Apply rule 7.34 of the 1986 Rules(8).

(2) In paragraph (1)—

- (a) for “company insolvency” and “liquidation” substitute “building society insolvency”,
- (b) ignore sub-paragraph (b), and

(7) All the rules applied by this Chapter were substituted by [S.I. 1999/1022](#).

(8) Paragraph (1) was amended by [S.I. 2008/737](#).

- (c) for the words from “court to which” to the end substitute “High Court”.
- (3) In paragraph (2), leave out “or creditors”.
- (4) In paragraph (5), for “trustee in bankruptcy or a liquidator” substitute “building society liquidator.”
- (5) Ignore paragraph (6).

Procedure where detailed assessment required

- 206.** Apply rule 7.35 of the 1986 Rules. Ignore paragraph (6).

Costs of officers charged with executions of writs or other process

- 207.**—(1) Apply rule 7.36 of the 1986 Rules⁽⁹⁾.
- (2) In paragraph (1)(a), leave out “or 346(2)”.
- (3) In paragraph (1)(b), leave out “or 346(3)”.

Costs paid otherwise than out of the insolvent estate

- 208.** Apply rule 7.38 of the 1986 Rules.

Award of costs against responsible insolvency practitioner

- 209.**—(1) Apply rule 7.39 of the 1986 Rules.
- (2) Leave out from the beginning to “expenses” and “the official receiver or”.

Application for costs

- 210.**—(1) Apply rule 7.40 of the 1986 Rules.
- (2) In paragraph (1) for “insolvency” substitute “building society insolvency”.
- (3) In paragraph (2), leave out the words from “, and, in winding up” to the end.
- (4) In paragraph (3), leave out “and, where appropriate, the official receiver”.
- (5) Ignore paragraph (3A)⁽¹⁰⁾.

Costs and expenses of witnesses

- 211.**—(1) Apply rule 7.41⁽¹¹⁾ of the 1986 Rules.
- (2) In paragraph (1), leave out “the bankrupt or the debtor or”.
- (3) Ignore paragraph (2).

Final costs certificate

- 212.** Apply rule 7.42 of the 1986 Rules.

⁽⁹⁾ Paragraph (1) was amended by [S.I. 2005/527](#).

⁽¹⁰⁾ Paragraph (3A) was inserted by [S.I. 2009/642](#).

⁽¹¹⁾ Rule 7.41 was amended by [S.I. 2009/642](#).

CHAPTER 6

PERSONS INCAPABLE OF MANAGING THEIR AFFAIRS

Introductory

213. Apply rule 7.43 of the 1986 Rules⁽¹²⁾. In paragraph (1), for (a), substitute “ by reason of being a protected person within the meaning of Part 21 of the CPR or”.

Appointment of another person to act

214. Apply rule 7.44 of the 1986 Rules. Ignore paragraph (3)(c).

Witness statement in support of application

215.—(1) Apply rule 7.45 of the 1986 Rules.

(2) In paragraph (1) leave out from the beginning to “receiver”.

(3) Ignore paragraph (2).

Service of notices following appointment

216. Apply rule 7.46 of the 1986 Rules.

CHAPTER 7

APPEALS IN BUILDING SOCIETY INSOLVENCY PROCEEDINGS

Appeals and review of court orders

217.—(1) The High Court may review, rescind or vary any order made by it in the exercise of its jurisdiction under Part 2 of the Banking Act.

(2) An appeal from a decision of a registrar of the High Court lies, with the permission of the registrar or a judge of the High Court, to a single judge of the High Court, and a second appeal lies, with the permission of the Court of Appeal, to the Court of Appeal.

(3) An appeal of a decision of first instance of a judge of the High Court lies, with the permission of the judge or the Court of Appeal, to the Court of Appeal.

Procedure on appeal

218. Part 52 of the CPR applies with regard to the procedure for appeals.

Appeal against a decision of the Secretary of State

219. Apply rule 7.50 of the 1986 Rules⁽¹³⁾. Ignore paragraph (2).

(12) Paragraph (1) was amended by S.I. 2007/1898.

(13) Rule 7.50 was amended by S.I. 2003/1730.

CHAPTER 8

GENERAL

Principal court rules and practice to apply

220.—(1) The CPR and the practice and procedure of the High Court (including any practice direction) apply to building society insolvency proceedings in the High Court, with any necessary modifications, except so far as inconsistent with these Rules.

(2) All building society insolvency proceedings shall be allocated to the multi-track for which CPR Part 29 makes provision, accordingly those provisions of the CPR which provide for allocation questionnaires and track allocation do not apply.

Right of attendance

221. Apply rule 7.53 of the 1986 Rules. In paragraph (1) for “company insolvency proceedings” substitute “building society insolvency proceedings”.

Restriction on concurrent proceedings and remedies

222. Where in a building society insolvency, the court makes an order staying any action, execution or legal process against the property of the building society, service of the order may be effected by delivering a sealed copy to the address for service of the claimant or other person having the carriage of the proceedings to be stayed.

Security in court

223. Apply rule 7.58 of the 1986 Rules.

Payment into court

224. Apply rule 7.59 of the 1986 Rules(14).

Further information and disclosure

225.—(1) Apply rule 7.60 of the 1986 Rules(15).

(2) After paragraph (2) insert—

“(3) Before the passing of a full payment resolution the court shall only grant an order on an application under paragraph (1)(b) if satisfied that granting the order is unlikely to prejudice the achievement of Objective 1.”.

Office copies of documents

226. Apply rule 7.61 of the 1986 Rules.

(14) Rule 7.59 was amended by [S.I.1999/1022](#).

(15) Rule 7.60 was substituted by [S.I. 1999/1022](#).