
STATUTORY INSTRUMENTS

2022 No. 1239

The Payment and Electronic Money
Institution Insolvency (Scotland) Rules 2022

PART 1

Introductory Provisions

Citation

1. These Rules may be cited as the Payment and Electronic Money Institution Insolvency (Scotland) Rules 2022.

Commencement

2. These Rules come into force on 19th December 2022.

Extent

3. These Rules extend to Scotland only.

Interpretation

4.—(1) The following definitions apply to these Rules or may be seen at the places indicated—

<i>Word or expression</i>	<i>Meaning</i>
accounting period	has the meaning given in rule 86 or, in relation to Part 7, rule 128
asset pool	together (a) the asset pool as defined in the Regulations and (b) any funds properly transferred into a relevant funds account following the commencement of the special administration
authenticate	to authenticate in accordance with rule 168, other than in relation to rule 93, where it shall have the meaning set out in rule 93(4)
business address	the place where a person works
business day	any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of Scotland or

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<i>Word or expression</i>	<i>Meaning</i>
	England and Wales under or by virtue of the Banking and Financial Dealings Act 1971 (1)
contact details	a postal address, an email address or a telephone number through which a customer may be contacted
customer	(a) user, which has the meaning set out in regulation 6, or (b) holder, which has the meaning set out in regulation 6
debt	has the meaning set out in rule 205
expense of the special administration	means those expenses incurred in the course of the special administration, or treated as incurred as such by these Rules, that are to be paid out in accordance with Part 4
final progress report	has the meaning set out in rule 143
the Gazette	the Edinburgh Gazette
gazetted	advertised once in the Gazette
IP number	the number assigned to an office-holder as an insolvency practitioner by the Secretary of State
means of contacting	being able to contact that person specifically
official rate	the rate of interest on a sheriff court decree or extract under section 9 of the Sheriff Courts (Scotland) Extracts Act 1892 (2) (as it may be amended by section 4 of the Administration of Justice (Scotland) Act 1972) (3)
Payment Systems Regulator	the body established under section 40 of the Financial Services (Banking Reform) Act 2013 (4)
prescribed part	has the same meaning as it does in section 176A(2)(a) of the IA 1986 (5) and the Insolvency Act 1986 (Prescribed Part) Order 2003 (6)
principal	has the meaning set out in rule 87(1) , unless the context otherwise requires
progress report	a report which complies with rule 85
proxy-holder	has the meaning set out in rule 87(1)

(1) 1971 c. 80.

(2) 1892 c. 17. See S.I. 1993/769.

(3) 1972 c. 59.

(4) 2013 c. 33.

(5) Section 176A was inserted by section 252 of the Enterprise Act 2002 (c. 40).

(6) S.I. 2003/2097.

<i>Word or expression</i>	<i>Meaning</i>
registered number	has the meaning set out in section 1066 of the CA 2006(7)
registrar of companies	the registrar of companies for Scotland
the Regulations	the Payment and Electronic Money Institution Insolvency Regulations 2021
requisitioned meeting	a meeting requested under paragraph 56(1)
sederunt book	has the meaning set out in rule 194(1)
shortfall claim	that part of a relevant funds claim which will not be met from the asset pool because of a shortfall in the amount available in the asset pool to settle relevant funds claims, including where the shortfall arises as a result of any deduction from the relevant funds of costs under rule 96 or amounts that the court orders be paid from the asset pool or from the relevant funds
standard contents	(a) in relation to a notice to be gazetted, the contents specified in rule 177, (b) in relation to a notice to be advertised in any other way, the contents specified in rule 180
standard fee for copies	15 pence per A4 or A5 page or 30 pence per A3 page
statement of claim	is to be interpreted in accordance with rule 116
statement of concurrence	a statement, verified by a statutory declaration, that that person concurs in the statement of affairs under paragraph 47 submitted by a nominated person

(2) A fee or remuneration is chargeable when the work to which it relates is done.

(3) Reference to a notice or other document being given, delivered or sent under these Rules or in the Regulations shall be interpreted in accordance with Chapters 2 to 4 of Part 12 of these Rules.

(4) Expressions used both in these Rules and in the Regulations (including expressions used in the provisions of the IA 1986 applied by the Regulations) have, unless otherwise stated, the meaning set out in the Regulations.

(5) A reference to a numbered paragraph in these Rules shall, unless—

(a) it is a reference to a paragraph within the same rule (in which case the number of the paragraph is written in parenthesis), or

(b) otherwise stated,

be to the paragraph so numbered in Schedule B1 to the IA 1986, as applied by regulation 37.

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(6) A reference to a provision of the IA 1986, if that provision is listed in the Table in regulation 37, is a reference to that provision as applied and modified by the Regulations.

(7) A reference to a numbered regulation shall, unless otherwise stated, be to the regulation so numbered in the Regulations.

(8) For the purposes of these Rules references to a customer, or to relevant funds do not include a customer of, or relevant funds received by—

(a) a small payment institution, or

(b) in the case of funds received for the execution of payment transactions that are not related to the issuance of electronic money, a small electronic money institution,

where the institution had not chosen voluntarily to safeguard the funds when it entered special administration.

(9) To the extent that a customer claims a shortfall as a creditor, that shortfall claim is to be treated as a debt owed to the customer by the institution arising before the institution entered special administration.

(10) A relevant funds claim which is held jointly by one or more customers shall be treated as a single relevant funds claim under these Rules.

Application of Rules

5. These Rules apply in respect of a special administration.