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STATUTORY RULES OF NORTHERN IRELAND

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**2014 No. 40**

**BUILDING SOCIETIES**  
**INSOLVENCY**

**The Building Society Special Administration  
Rules (Northern Ireland) 2014**

*Made - - - - 13th February 2014*

*Coming into operation 13th March 2014*

The Department of Justice makes the following Rules in the exercise of powers conferred by Article 359(1D), (2), (2D), (3) and (3A) of the Insolvency (Northern Ireland) Order 1989<sup>M1</sup>.

The Department of Finance and Personnel concurs in the making of the Rules.

The Lord Chief Justice of Northern Ireland concurs in the making of the Rules in so far as they affect court procedure.

The Department of Justice has not consulted the Committee existing for the purposes of Article 360 of the Insolvency (Northern Ireland) Order 1989: this is the first set of Rules made in relation to building society insolvency and the duty to consult does not therefore apply to these Rules by virtue of Article 16 of the Building Societies (Insolvency and Special Administration) Order 2009<sup>M2</sup>.

**Marginal Citations**

- M1** [S.I. 1989/2405 \(N.I. 19\)](#). Article 359 was amended by section 160 of the [Banking Act 2009 \(2009 c. 1\)](#) (applied by section 167) and by the [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), [Article 15\(1\)](#) and Schedule 18, paragraph 142. Paragraph 3(A) was inserted by [S.I. 2009/805](#).
- M2** [S.I. 2009/805](#), amended by [S.I. 2010/1189](#) and [S.I. 2013/496](#).

**PART 1**

Introduction

**Citation**

1. These Rules may be cited as the Building Society Special Administration Rules (Northern Ireland) 2014.

## Commencement

2. These Rules shall come into operation on 13th March 2014.

## Application of Rules

3. These Rules apply in relation to a building society undergoing the procedure in Part 3 of the Banking Act 2009<sup>M3</sup>, as applied and modified by section 90C of the Building Societies Act 1986<sup>M4</sup>.

### Marginal Citations

**M3** 2009 c.1.

**M4** 1986 c.53; section 90C was inserted by Article 2 of the [Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#).

## Interpretation

- 4.—(1) In these Rules—

“the 1989 Order” means the Insolvency (Northern Ireland) Order 1989;

“the 1991 Rules” means the Insolvency Rules (Northern Ireland) 1991<sup>M5</sup> including all amendments to them up to and including those made by the Insolvency (Amendment) Rules (Northern Ireland) 2013<sup>M6</sup>;

“the 2009 Order” means the Building Societies (Insolvency and Special Administration) Order 2009;

“the 2014 Rules” means these Rules;

“an affidavit” means an affidavit as provided for by Article 165 of the 1989 Order;

“the appropriate regulator”, in relation to a building society, means—

- (a) if the building society is a PRA-authorised person (within the meaning of the Financial Services and Markets Act 2000), the Prudential Regulation Authority and, where relevant, the Financial Conduct Authority; and
- (b) in any other case, the Financial Conduct Authority;

“the Banking Act” means the Banking Act 2009 (and includes those provisions as applied by Part 3 of Schedule 1 to the 2009 Order);

“the Building Societies Act” means the Building Societies Act 1986<sup>M7</sup>;

“building society” means a building society incorporated (or deemed to be incorporated) under the Building Societies Act;

“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)<sup>M8</sup>;

“business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of Northern Ireland under or by virtue of the Banking and Financial Dealings Act 1971<sup>M9</sup>;

“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

- (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 Article 177 (fraudulent trading) or 178 (wrongful trading) of the 1989 Order;

“the Department” means the Department of Enterprise, Trade and Investment <sup>M10</sup>;

“principal office” means—

- (a) the place which is specified in a building society's memorandum sent to the appropriate regulator under paragraph 1(1)(c) of Schedule 2 to the Building Societies Act as the address of its principal office, or
- (b) if notice has been given by a building society to the appropriate regulator 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;

“registered name”, in relation to a building society, means the name of the society which is for the time being registered with the appropriate regulator; and

“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;

- (a) (2) (a) the following expressions have the same meaning as in Part 1 or Part 3 of the Banking Act—

[<sup>F1</sup>(ai) “the Bank of England” (s. 256B(1)),]

- (i) “bridge bank” (s. 136(2)),
  - (ii) “the court” (the High Court— s. 166(1)),
  - (iii) “the FCA” (the Financial Conduct Authority—s 166(2)),
  - (iv) “Objective 1” (support for commercial purchaser or bridge bank— ss. 137 and 138),
  - (v) “Objective 1 Achievement Notice” (s. 139(4)),
  - (vi) “Objective 2” (normal administration— ss. 137 & 140),
  - (vii) “the PRA” (the Prudential Regulation Authority—s 166(2)),
  - (viii) “private sector purchaser” (s. 136(2)),
  - (ix) “property transfer instrument” (s. 33),
  - (x) “residual building society” (s. 136(2)) <sup>M11</sup>,
  - (xi) “resolution fund order” (s. 49(3)).
- (b) 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 to that provision as applied, with modifications, by section 84 of that Act;
  - (c) 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 to that provision as applied by section 167 of that Act and as applied and modified by section 90C of the Building Societies Act and by any order made under section 158 of the Banking Act <sup>M12</sup>; and

- (d) any reference to any provision of the Building Societies (Insolvency and Special Administration) Order 2009 is a reference to that provision as applied by Article 17 of that Order.
- (3) Other expressions used in these Rules, where used in relation to building societies, have the same meaning as in the Building Societies Act.

#### Textual Amendments

- F1** Rule 4(2)(a)(ai) inserted (1.3.2017) by [The Bank of England and Financial Services \(Consequential Amendments\) Regulations 2017 \(S.I. 2017/80\)](#), reg. 1, **Sch. para. 41**

#### Marginal Citations

- M5** The Insolvency Rules (Northern Ireland) 1991 (S.R. [1991 No. 364](#)), as amended by S.R. [1994 No. 26](#), S.R. [1995 No. 291](#), S.R. [2000 No. 247](#), S.R. [2002 No. 261](#), S.R. [2003 No. 549](#), S.R. [2006 No. 47](#), S.R. [2008 No. 118](#), S.R. [2009 No. 404](#), S.R. [2011 No. 151](#), [S.I. 2004/355](#) and S.R. [2013 No. 278](#).
- M6** S.R. [2013 No. 278](#).
- M7** [1986 c.53](#).
- M8** Section 90C was inserted, and section 119(1) amended, by [S.I. 2009/805](#).
- M9** [1971 c.80](#).
- M10** Formerly the Department of Economic Development, see the [Departments \(Northern Ireland\) Order 1999 \(S.I. 1999/283 \(N.I. 1\)\)](#).
- M11** In the application of Parts 2 and 3 of the Banking Act 2009 to building societies, references to “bank” (with certain exceptions) have effect as references to “building society”: see section 90C(2) of the Building Societies Act 1986, inserted by [S.I. 2009/805](#).
- M12** Section 90C was inserted by [S.I. 2009/805](#), which also modifies the application of Part 3 in relation to building societies. [S.I. 2009/805](#) was modified by [S.I. 2010/1189](#) and [S.I. 2013/496](#).

#### 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 <sup>M13</sup>);
- (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;
- (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;
- (d) a reference to personal service is a reference to personal service in accordance with Order 65 of the Rules of the Court of Judicature (Northern Ireland) 1980 <sup>M14</sup>;
- (e) a reference to an affidavit (including a reference implied by the application of an enactment) is a reference to an affidavit, if made by a special administrator, stating that the affidavit is made in that capacity and giving the address at which the special administrator works; and
- (f) a reference to “the purpose of the special administration” is a reference to the objectives of building society administration in section 137 of the Banking Act.

#### Marginal Citations

- M13** [2000 c.8](#).

**M14** S.R. 1980 No. 346, as amended by the [Constitutional Reform Act 2005 \(c.4\)](#), [section 59](#) and Schedule 11.

## Overview

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

## Forms

7.—(1) This rule applies where a provision of these rules—

- (a) applies a provision of the 1991 Rules 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 building society insolvency.

# PART 2

## Application for Building Society Special Administration Order

### Introduction

8. This Part makes specific provision for a number of aspects of applications for special administration orders; Part 5 applies a number of provisions of the 1991 Rules to applications for special administration orders (with specified modifications).

### Content of application

9. An application by the Bank of England for a special administration order in respect of a building society shall specify—

- (a) the registered name of the society;
- (b) any other trading names of the society;
- (c) the address of the society's principal office;
- (d) an e-mail address for the society;
- (e) the address of the Bank of England; and
- (f) the identity of the person (or persons) nominated for appointment as building society special administrator.

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

### Statement of proposed special administrator

11. An application shall be accompanied by a statement by the proposed special administrator—

- (a) specifying the name and address of any person proposed to be appointed;

- (b) giving that person's consent to act;
- (c) giving details of the person's qualification to act as an insolvency practitioner; and
- (d) giving details of any prior professional relationship that the person has had with the society.

### **Bank of England affidavit**

**12.**—(1) An application for a special administration order in respect of a society shall be accompanied by an affidavit made on behalf of the Bank of England—

- (a) certifying that the conditions for applying for a special administration order, set out in section 143 of the Banking Act, are met in respect of the society;
- (b) stating the society'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 building society;
- (d) specifying whether any security confers power to appoint an administrative receiver (and whether an administrative receiver has been appointed);
- (e) specifying any insolvency proceedings which have been instituted in respect of the society (including any process notified to the FCA and where relevant the PRA under section 90D of the Building Societies Act) <sup>M15</sup>;
- (f) giving details of the property transfer instrument which the Bank of England has made or intends to make in respect of the society;
- (g) where the property transfer instrument has not yet been made, explaining what effect it is likely to have on the society's financial position;
- (h) specifying how functions are to be apportioned where more than one person is to be appointed as special 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 special administration order.

(2) The affidavit shall identify the person making it and shall include the capacity in which that person makes the affidavit and the basis for that person's knowledge of the matters set out in it.

#### **Marginal Citations**

**M15** [Section 90D](#) was inserted by [S. I. 2009/805](#) and amended by [S.I. 2013/496](#).

### **Filing**

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

**14.** Each filed copy shall—

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

## Service

15. The Bank of England shall serve the application on—

- (a) the society;
- (b) any person nominated for appointment as special administrator;
- (c) any person whom the Bank of England knows to be entitled to appoint an administrative receiver;
- (d) any person who has given notice to the FCA and where relevant the PRA in respect of the society under section 90D of the Building Societies Act (notice of preliminary steps); and
- (e) each transferee, 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).

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

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

18.—(1) Service shall 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 or principal 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 Northern Ireland (where there is no registered office or principal 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 shall (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 an affidavit specifying the date on which, and the manner in which, service was effected.

- (2) The affidavit, with a sealed copy of the application attached 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 shall notify—

- (a) the Enforcement of Judgements Office;
- (b) any person whom the Bank of England knows to have distrained against the society or its property; and

- (c) the FCA and where relevant the PRA.

### **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 to give the building society a reasonable opportunity to attend.

### **Hearing**

- 22.** At the hearing of the application, any of the following may appear or be represented—
- (a) the Bank of England;
  - (b) the appropriate regulator;
  - (c) the society;
  - (d) a director of the society;
  - (e) any person nominated for appointment as special administrator;
  - (f) any person who has given notice to the FCA and where relevant the PRA in respect of the society under section 90D of the Building Societies Act (notice of preliminary steps); and
  - (g) with the permission of the court, any other person who appears to have an interest.

### **The order**

**23.** A special administration order shall be in the form specified in Rule 2.012(2) of the 1991 Rules.

### **Notice of order**

**24.** If the court makes a special administration order, it shall send four or, if the building society is a PRA-authorized person (within the meaning of the Financial Services and Markets Act 2000), five sealed copies to the Bank of England.

**25.** The Bank of England shall as soon as is reasonably practicable send one sealed copy of the special administration order to each of the following—

- (a) the special administrator;
- (b) the FCA and where relevant the PRA; and
- (c) the FSCS.

### **Costs**

**26.** If the court makes a special administration order, the following are payable as an expense of the special 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 Building Society Special Administration

#### Introduction

27. This Part makes specific provision for a number of aspects of special administration; Part 5 applies a number of provisions of the 1991 Rules to special administration (with specified modifications).

#### Building society special administrator's proposals: Objective 1 Stage

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

- (2) In addition to the information required by section 147 the statement shall include—
- (a) details of the court where the proceedings are and the court reference number;
  - (b) the registered name, any other trading names and the address of the principal office of the building society;
  - (c) details of the appointment of the special administrator (including the date);
  - (d) in the case of joint special administrators, details of the apportionment of functions;
  - (e) the names of the directors, secretary and chief executive of the society and details of any shares they hold in the society;
  - (f) an account of the circumstances giving rise to the application for the appointment of the special administrator;
  - (g) if a statement of the society's affairs has been submitted, a copy or summary of it with the comments of the special administrator, if any;
  - (h) if an order limiting the disclosure of the statement of affairs has been made under Rule 2.031 of the 1991 Rules (as applied by Rule 60), 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—
    - (i) 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), and
    - (ii) details of the shares issued by the society (including the types of shares issued and the number of each type in issue);
  - (j) if no statement of affairs has been submitted—
    - (i) details of the financial position of the society at the latest practicable date (which shall, unless the court otherwise orders, be a date not earlier than that on which the society entered special administration),
    - (ii) a list of the society'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),
    - (iii) details of the shares issued by the society (including the types of shares issued and the number of each type in issue), and
    - (iv) an explanation as to why there is no statement of affairs;

- (k) the basis upon which it is proposed that the remuneration of the special administrator should be fixed under Rule 2.107 of the 1991 Rules (as applied by Rule 60);
  - (l) how the special administrator proposes to pursue Objective 1;
  - (m) whether the special administrator proposes to pursue Objective 2(a) or Objective 2(b);
  - (n) if the special administrator proposes to pursue Objective 2(a), how it is envisaged the purpose of the special administration will be achieved in the Objective 2 Stage;
  - (o) if the special administrator proposes to pursue Objective 2(b)—
    - (i) how it is envisaged the purpose of the special administration will be achieved in the Objective 2 Stage, and
    - (ii) how it is proposed that the special administration shall end (winding-up or voluntary arrangement, in accordance with section 154 of the Banking Act <sup>M16</sup>;
  - (p) the manner in which the affairs and business of the society have been managed and financed since the date of the appointment of the special administrator (including the reasons for and terms of any disposal of assets); and
  - (q) the manner in which the affairs and business of the society will be managed and financed if the proposals of the special administrator are approved.
- (3) The statement—
- (a) may exclude information, the disclosure of which could seriously prejudice the commercial interests of the society or of the bridge bank or private sector purchaser; and
  - (b) shall include a statement of any exclusion.

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**Marginal Citations**

**M16** Paragraph 33 of Schedule 1 to S.I. 2009/805 modifies the application of section 154.

**Building society special administrator's proposals: Objective 2 Stage**

**29.**—(1) This Rule makes provision about the statement of proposals which the special administrator is required to make under paragraph 50 of Schedule B1 to the 1989 Order <sup>M17</sup> as it applies during the Objective 2 Stage (in accordance with Table 1 in section 145(6) of the Banking Act).

- (2) The statement shall include—
- (a) details of the court where the proceedings are and the court reference number;
  - (b) the registered name, any other trading names and the principal office of the society;
  - (c) details of the appointment of the special administrator (including the date);
  - (d) in the case of joint special administrators, details of the apportionment of functions;
  - (e) the names of the directors, secretary and chief executive of the society and details of any shares they hold in the society;
  - (f) an account of the circumstances giving rise to the application for the appointment of the special administrator;
  - (g) if a statement of the society's affairs has been submitted, a copy or summary of it with the comments of the special administrator, if any;
  - (h) if an order limiting the disclosure of the statement of affairs has been made under Rule 2.031 of the 1991 Rules (as applied by Rule 60), 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,
  - (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—
  - (i) 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), and
  - (ii) details of the shares issued by the society (including the types of shares issued and the number of each type in issue);
- (j) if no statement of affairs has been submitted—
  - (i) details of the financial position of the society at the latest practicable date (which shall, unless the court otherwise orders, be a date not earlier than that on which the society entered special administration),
  - (ii) a list of the society'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),
  - (iii) details of the shares issued by the society (including the types of shares issued and the number of each type in issue), and
  - (iv) an explanation as to why there is no statement of affairs;
- (k) the basis upon which it is proposed that the remuneration of the special administrator should be fixed under Rule 2.107 of the 1991 Rules (as applied by Rule 60);
- (l) details of whether (and why) the special administrator proposes to apply to the court under Article 150A(5) of the 1989 Order<sup>M18</sup> (omission of distribution to unsecured creditors: as applied by Table 2 in section 145(6) of the Banking Act) (unless the special administrator intends to propose a voluntary arrangement);
- (m) an estimate of the value of the prescribed part for the purposes of Article 150A (unless the special administrator intends to propose a voluntary arrangement) certified as being made to the best of the special administrator's knowledge and belief;
- (n) an estimate of the value of the society's net property (unless the special administrator intends to propose a voluntary arrangement) certified as being made to the best of the special administrator's knowledge and belief;
- (o) whether the special administrator proposes to pursue Objective 2(a) or Objective 2(b);
- (p) if the special administrator proposes to pursue Objective 2(a), how it is envisaged the purpose of the special administration will be achieved;
- (q) if the special administrator proposes to pursue Objective 2(b)—
  - (i) how it is envisaged the purpose of the special administration will be achieved, and
  - (ii) how it is proposed that the special administration shall end (winding-up or voluntary arrangement, in accordance with section 154 of the Banking Act);
- (r) if the special administrator has decided not to call a meeting of creditors, the reasons for that decision;
- (s) the manner in which the affairs and business of the society have been managed and financed since the date of the special 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 society will be managed and financed if the proposals of the special administrator are approved; and
- (u) any other information which the special administrator thinks necessary to enable creditors to decide whether or not to vote for the approval of the proposals.

(3) In the case of special administration following transfer to a bridge bank under section 12(2) of the Banking Act—

- (a) the statement under paragraph 50 of Schedule B1 to the 1989 Order shall state whether any payment is to be made to the society from a scheme under a resolution fund order; or
- (b) if that information is unavailable when the statement under paragraph 50 is made, the special administrator shall issue a supplemental statement as soon as reasonably practicable after the information becomes available.

(4) The statement—

- (a) may exclude information, the disclosure of which could seriously prejudice the commercial interests of the society; and
- (b) shall include a statement of any exclusion.

#### **Marginal Citations**

**M17** Paragraph 50 of Schedule B1 was amended by S.I. 2008/948.

**M18** Article 150A(5) was inserted by Article 7 of the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)).

**30.** If the special administrator thinks that the statement made under section 147 of the Banking Act in accordance with Rule 28 contains information required by Rule 29(2), the statement under paragraph 50 of Schedule B1 to the 1989 Order (as applied by Table 1 in section 145(6) of the Banking Act) may consist of the statement under section 147, with such additions, modifications and supplemental information as the special 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 statement of proposals is sent to creditors, in accordance with paragraph 50(4)(b) of Schedule B1 (as applied by Table 1 in section 145(6) of the Banking Act 2009), it shall be sent to the FCA and where relevant the PRA and the FSCS at the same time.

**32.** Where the court orders an extension of the period of time under paragraph 50(5) of Schedule B1 to the 1989 Order on an application by the special administrator under paragraph 108 of that Schedule (as applied by Table 1 in section 145(6) of the Banking Act), the special administrator shall notify the persons set out in paragraph 50(4) of that Schedule as soon as is reasonably practicable after the making of the order.

**33.** Where the special administrator has made a statement under paragraph 50(1) of Schedule B1 (as applied by Table 1 in section 145(6) of the Banking Act) and has not called an initial meeting of creditors, the proposals issued in accordance with Rule 29 will be deemed to have been approved by the creditors (if no meeting has been requisitioned under paragraph 53(2) of that Schedule within the period set out in Rule 2.038(1) of the 1991 Rules, as applied by Rule 60).

**34.** Where the special administrator intends to apply to the court under paragraph 80 of Schedule B1 (as applied by the 2009 Order) <sup>M19</sup> for the special administration to cease before the statement of proposals is sent to creditors in accordance with paragraph 50 of Schedule B1, the special

administrator shall, at least 10 days before making the application send to all known creditors of the society a report containing the information required by Rule 29(2).

#### **Marginal Citations**

**M19** S.I. 2009/805, as amended by S.I. 2010/1189 and S.I. 2013/496, modifies the application of paragraph 80 of Schedule B1.

**35.**—(1) Where the special administrator wishes to publish a notice under paragraph 50(6) of Schedule B1 (as applied by Table 1 in section 145(6) of the Banking Act) the notice shall be advertised in such manner as the special administrator thinks fit.

(2) The notice shall—

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

(3) The notice shall be published as soon as is reasonably practicable after the special administrator sends the statement of proposals to the society'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 society entered special administration.

#### **Reports to creditors**

**36.**—(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 society's registered name and principal office and other trading names;
- (c) full details of the special administrator's name and address and date of appointment, including any changes in office-holder;
- (d) in the case of joint special 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));
- (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 shall state what assets of the society have been realised, for what value, and what payments have been made to creditors or others.

(3) The account shall be in the form of an abstract showing receipts and payments during the period of the report; and where the special 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 Article 150A of the 1989 Order (share of assets for unsecured creditors).

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

- (a) the extent of the business of the society that has been transferred;

- (b) any property, rights or liabilities that have been transferred, or which the special administrator expects to be transferred, under a power in Part 1 of the Banking Act (Special Resolution Regime);
  - (c) any requirements imposed on the residual building society, for the purpose of the pursuit of Objective 1, under a power in Part 1; and
  - (d) the arrangements for managing and financing the society during the Objective 1 Stage.
- (5) In complying with paragraphs (4)(c) and (4)(d) a report—
- (a) may exclude information, the disclosure of which could seriously prejudice the commercial interests of the building society or of the bridge bank or private sector purchaser; and
  - (b) shall include a statement of any exclusion.

**37.** A progress report shall be produced for—

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

**38.—**(1) The special administrator shall send a copy of each progress report within 28 days of the end of the period covered by the report, to—

- (a) the creditors and shareholding members of the society;
- (b) the court;
- (c) the Bank of England;
- (d) the FCA and where relevant the PRA; and
- (e) the FSCS.

(2) Instead of complying with paragraph(1)(a) the special administrator may publish the progress report on the special administrator's internet website (and take appropriate steps to draw attention to it) and send a copy of it to any creditors and shareholding members on request.

(3) The court may, on the application of the special administrator—

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

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

(2) For that purpose, failure to comply with Rules 37 and 38 shall be treated in the same way as failure to comply with Rule 2.048 of the 1991 Rules.

### **Removal of special administrator in Objective 1 Stage**

**40.—**(1) This Rule is about an application for removal of a special administrator made by the Bank of England during the Objective 1 Stage (in accordance with the modifications for the application of paragraph 92 of Schedule B1 to the 1989 Order in Table 1 in section 145(6) of the Banking Act).

(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 special administrator under Part 2 of these Rules.

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

### **Appointment of provisional special administrator**

**41.** An application to the court for the appointment of a provisional special administrator under Article 115 of the 1989 Order (as applied by Table 2 in section 145(6) of the Banking Act) may be made by the Bank of England.

**42.** The application shall be supported by an affidavit stating—

- (a) why the Bank of England thinks that a provisional special 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 voluntary arrangement under Part II of the 1989 Order (as applied in relation to building societies by section 90A of, and Schedule 15A to, the Building Societies Act) has been proposed or is in force in respect of the society;
- (e) whether, to the Bank of England's knowledge, an administrative receiver is acting in respect of the society; and
- (f) the Bank of England's estimate of the value of the assets in respect of which the provisional special administrator is to be appointed.

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

**44.** An order appointing a provisional special administrator shall specify the functions to be carried out in relation to the society's affairs.

**45.** If the court makes an order appointing a provisional special administrator as soon as reasonably practicable the court shall send four or, if the building society is a PRA-authorized person (within the meaning of the Financial Services and Markets Act 2000), five sealed copies of the order to the person appointed (and one additional copy by email if possible).

**46.—(1)** As soon as is reasonably practicable after appointment a provisional special administrator shall send a copy of the order of appointment to—

- (a) the society;
- (b) any administrative receiver of the society;
- (c) the FCA and where relevant the PRA (together with the form specified in Rule 4.029(3)(ii) of the 1991 Rules); and
- (d) the FSCS.

(2) Notice to the society shall be given by service in accordance with Rule 18.

(3) Unless the court otherwise directs, on receipt of the order of appointment, as soon as reasonably practicable the provisional special administrator shall give notice of that appointment; and such notice—

- (a) shall be gazetted; and
- (b) may be advertised in such other manner as the provisional special administrator thinks fit.

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

#### **Additional joint special administrator**

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

(2) The existing special 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 special administrator may be made during the Objective 1 Stage only by the Bank of England.

(4) Rule 60 applies Rules 2.127 and 2.128 of the 1991 Rules (notification and advertisement of the appointment of joint administrator).

#### **Disapplication of set-off for protected deposits**

49.—(1) This rule applies if—

- (a) The appropriate regulator's rules allow the FSCS to make gross payments of compensation in respect of protected deposits; and
- (b) all or part of a creditor's claim against the building society is in respect of protected deposits.

(2) In respect of protected deposits Rule 2.086 of the 1991 Rules (as applied by Rule 60) shall apply and, for the purpose of determining the sums due from the building society to an eligible depositor under rule 2.086(3)—

- (a) where the total of the sums held by the building society for the eligible depositor in respect of protected deposits is no more than the prescribed limit then paragraph (3) applies; and
- (b) where the sums held exceed the prescribed limit, then paragraph (4) applies.

(3) Where this paragraph applies, there shall be deemed to have been no mutual dealings, regardless of whether there are any sums due from the eligible depositor to the building society, and the sum due to the eligible depositor from the building society in respect of the protected deposits will be the total of the sums held by the building society for that depositor in respect of those deposits.

(4) Where this paragraph applies then—

- (a) any mutual dealings shall be treated as being mutual dealings only in relation to the amount by which the total of the sums due to the eligible depositor exceeds the prescribed limit, and
- (b) the sums due from the building society to the eligible depositor in respect of protected deposits will be—

- (i) the amount by which that total exceeds the prescribed limit, set off in accordance with rule 2.086(3); and



(ii) the sums held by the bank for the eligible depositor in respect of protected deposits up to the prescribed limit.

(5) Any arrangements with regard to set-off between the building society and the eligible depositor in existence before the date of the notice referred to in rule 2.086(1) shall be subject to this rule in so far as they relate to protected deposits.

(6) In this rule—

“eligible depositor” has the meaning given to it by section 93(3) of the Banking Act;

“the appropriate regulator's rules” means the rules, as amended from time to time, made under section 213 of the Financial Services and Markets Act 2000 by—

(a) if the building society is a PRA-authorised person (within the meaning of that Act), the PRA or the FCA; and

(b) in any other case, the FCA;

“prescribed limit” means the amount prescribed as the maximum compensation payable in respect of protected deposits under Part 15 of the Financial Services and Markets Act 2000; and

“protected deposit” means a protected deposit within the meaning given by the appropriate regulator's rules held by the building society at the date of the notice referred to in rule 2.086(1) but does not include a share in the society held by an eligible depositor.

#### **End of special administration: successful rescue**

**50.**—(1) This Rule supplements section 153 of the Banking Act 2009 (successful rescue) <sup>M20</sup>.

(2) The special administrator's application under paragraph 80 of Schedule B1 to the 1989 Order (as applied by section 153 of the Banking Act 2009 <sup>M21</sup> (the “application”) shall have attached to it a progress report for the period from the date of the previous report (or, if there was none, from the beginning of the special administration) and a statement indicating what the special administrator thinks should be the next step for the society.

(3) Before making the application the special administrator shall send a copy of the application and the progress report to—

(a) the Bank of England;

(b) the FCA and where relevant the PRA; and

(c) the FSCS.

(4) Notice under paragraph (3)(b) and (c) shall be sent at least 7 days before the hearing of the application.

(5) Within 5 business days of filing the application with the court, the special administrator shall gazette a notice undertaking to provide a copy of the application to any creditor or shareholding member of the society.

(6) The notice in paragraph (5) may also be published in such other manner as the special administrator thinks fit.

(7) The application shall certify compliance with paragraphs (1) to (6) 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 special administration order; and

(b) notify the special administrator, who shall notify the FCA and where relevant the PRA.

### Marginal Citations

- M20** Paragraph 32A of S.I. 2009/805, inserted by S.I. 2010/1189 and amended by S.I. 2013/496, modifies the application of section 153 of the Banking Act 2009.
- M21** S.I. 2009/805, as amended by S.I. 2010/1189 and S.I. 2013/496, modifies the application of paragraph 80 of Schedule B1.

### End of special administration: dissolution

**51.**—(1) This Rule supplements section 154(2)(a) of the Banking Act (no more assets for distribution).

- (2) The special administrator's notice under paragraph 30 of Schedule 1 to the 2009 Order—
- (a) shall be filed with the court in Form 2.36B (the form specified in rule 2.119(4) of the 1991 Rules subject to Rule 7(2)); and
  - (b) shall be accompanied by a final progress report.
- (3) The notice shall not take effect until the court discharges the special administration order on the application of the special administrator.
- (4) Before applying for discharge the special administrator shall send a copy of the notice referred to in paragraph (2) and the final progress report to—
- (a) the FCA and where relevant the PRA; and
  - (b) each person who received notice of the appointment of the special administrator.
- (5) After the expiry of the period mentioned in paragraph 30(7) of Schedule 1 to the 2009 Order (and subject to extension under paragraph 30(8) of that Schedule) if the court discharges the special administration order—
- (a) the notice takes effect as specified in paragraph 30(7) of that Schedule; and
  - (b) the court shall notify the special administrator, who shall notify the FCA and where relevant the PRA.
- (6) If the court makes an order under paragraph 30(8) of Schedule 1 to the 2009 Order it shall notify the special administrator (in Form 2.36B (the form specified in rule 2.119(4) of the 1991 Rules subject to Rule 7(2)), who shall notify the FCA and where relevant the PRA.

## PART 4

### Court Procedure and Practice

#### Introduction

**52.** This Part makes specific provision for a number of aspects of proceedings for building society special administration under Part 3 of the Banking Act; Part 5 of these Rules applies a number of provisions of the 1991 Rules to proceedings for building society special administration under the Banking Act (with specified modifications).

#### Title of proceedings

**53.** Proceedings for special administration under Part 3 of the Banking Act shall be entitled “IN THE MATTER OF ... (naming the building society to which the proceedings relate) AND IN THE MATTER OF PART 3 OF THE BANKING ACT 2009”.

### **Right to inspect file**

**54.**—(1) The court shall open and maintain a file for each set of building society special administration proceedings.

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

(3) No special administration proceedings shall be filed in the Central Office of the High Court.

(4) The following have the right, at all reasonable times, to inspect the court's file in respect of special administration proceedings—

- (a) the special administrator or provisional special administrator;
- (b) a person who is or was a director or officer of the society;
- (c) a member of the society;
- (d) any person stating himself in writing to be a creditor of the society;
- (e) any person stating himself in writing to be a contributory in respect of the society;
- (f) the Bank of England;
- (g) the FCA and where relevant the PRA; and
- (h) the FSCS.

**55.** A right of inspection may be exercised on a person's behalf by anyone authorised by that person in writing.

**56.** Any person may, with permission of the court, inspect the court's file in respect of special administration proceedings.

**57.** 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 special administrator or provisional special administrator; or
- (b) any person appearing to the court to have an interest.

**58.** Rule 7.25(2) and (3) of the 1991 Rules (as applied by Rule 60) applies in respect of the court's file of special administration proceedings as it applies in respect of court records.

**59.** Proceedings under Articles 177 and 178 of the 1989 Order (fraudulent and wrongful trading) shall be conducted in accordance with Article 179 of that Order subject to the modifications specified in section 145 of the Banking Act.

## PART 5

### Application of the 1991 Rules

#### General application

**60.** The provisions of the 1991 Rules listed in the Table in Rule 63 apply for the purposes of 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 a 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 EC regulation or to the appointment of a member State liquidator are to be ignored;
- (j) a reference to the company is to be treated as a reference to the building society;
- (k) 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;
- (l) 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));
- (m) a reference to the registered office of the company is to be treated as a reference to the principal office of the building society;
- (n) 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 FCA for placing on the public file of the building society;

- (o) a reference to a voluntary arrangement under Part II of the 1989 Order 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;
- (p) a reference to a paragraph of Schedule B1 to the 1989 Order is to be treated as a reference to that paragraph as applied and modified by section 145 of the Banking Act, by section 90C of the Building Societies Act and by any order made under section 158 of the Banking Act; and
- (q) a reference to the 1989 Order includes a reference to Part 3 of the Banking Act.

### Table of applications and specific modifications

63. This Rule contains the Table of applied provisions of the 1991 Rules.

<i>Rule</i>	<i>Subject</i>	<i>Specific modifications</i>
	Preparatory steps	
	Introductory Provisions 0.1 to 0.7	
2.028	Notification and advertisement of administrator's appointment	(1) (1) In paragraph (1), for “newspaper”, substitute “ manner ”.  (2) Ignore paragraph (2)(a), (b) and (e).
2.029	Notice requiring statement of affairs	
2.030	Verification and filing	
2.031	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 FCA and where relevant the PRA.
2.032	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 FCA and where relevant the PRA.
2.033	Expenses of statement of affairs	
	Special administrator's proposals and creditors' meetings	
2.034	<i>Administrator's proposals</i>	<i>Rule 2.034 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
2.035	Meetings to consider administrator's proposals	(1) (1) Rule 2.035 applies in the Objective 2 Stage.

		(2) The FCA, and where relevant the PRA, and the FSCS are added to the list in paragraph (2) of persons entitled to notice.
2.036	Creditors' meetings generally	The FCA, and where relevant the PRA, and FSCS are added to the list in paragraph (3) of persons to whose convenience the special administrator is to have regard.
2.037	Chairman at meetings	
2.038	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.
2.039	Entitlement to vote	
2.040	Admission and rejection of claims	
2.041	Secured creditors	
2.042	Holder of negotiable instruments	
2.043	Hire-purchase, conditional sale and chattel leasing agreements	
2.044	Resolutions	
2.045	Minutes	
2.046	Revision of the administrator's proposals	In paragraph (2)(c) ignore the reference to the person making the appointment.
2.047	Notice to creditors	
2.048	<i>Reports to creditors</i>	<i>Rule 2.048 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
2.049	Correspondence instead of creditors' meetings	
2.050	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 accordance with the applicable provisions of the Building Societies Act.
	Creditors' committee	
2.051	Constitution of committee	<i>(A creditors' committee cannot be established until the Objective 2 Stage – see the modifications for the application of paragraphs 51 to 59 of Schedule B1 to the 1989 Order in Table 1 in section 145 of the Banking Act.)</i>

2.052	Formalities of establishment	
2.053	Functions and meetings of the committee	
2.054	The chair at meetings	
2.055	Quorum	
2.056	Committee-members' representatives	
2.057	Resignation	
2.058	Termination of membership	
2.059	Removal	
2.060	Vacancies	
2.061	Procedure at meetings	
2.062	Resolutions of creditors' committee by post	
2.063	Information from administrator	
2.064	Expenses of members	
2.065	Members dealing with the society	In respect of any application to set aside a transaction under paragraph (3)— (a) notice of the application shall be given to the FCA and where relevant the PRA; and (b) the FCA and where relevant the PRA may appear and be heard.
2.066	Formal defects	
	Process of administration	
2.067	Disposal of charged property	If an application is made during the Objective 1 Stage, then in addition to the requirements of Rule 2.067— (a) the special administrator shall 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 shall send a copy to the Bank of England as soon as is reasonably practicable.
2.068	Expenses of the administration	In addition to the matters listed in Rule 2.068(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.
2.069	Distributions to creditors: introduction	In paragraphs (1) and (2) references to creditors include references to shareholding members. <i>(Distributions in the case of building society special administration following transfer to a bridge bank under section 12(2) of the Banking Act and during the Objective 1 Stage require the Bank of England's consent – see the modification for the application of paragraph 66 of Schedule B1 to the 1989 Order in Table 1 in section 145 of the Banking Act.)</i> <sup>M22</sup>
2.070	Debts of insolvent company to rank equally	“Debts” do not include amounts owing from the society to a member in respect of shares.
2.071	Supplementary provisions as to dividend	
2.072	Division of unsold assets	
2.073	Proving a debt	
2.074	Claim established by affidavit	
2.075	Costs of proving	
2.076	Administrator to allow inspection of proofs	
2.077	New administrator appointed	
2.078	Admission and rejection of proofs for dividend	
2.079	Appeal against decision on proof	In respect of any application under Rule 2.079(1) or (3)— (a) notice of the application shall be given to the FCA and where relevant the PRA and, during the Objective 1 Stage, the Bank of England; and (b) the FCA and where relevant the PRA, and the Bank of England during the Objective 1 Stage, may appear and be heard.
2.080	Withdrawal or variation of proof	
2.081	Expunging of proof by the court	In respect of any application under Rule 2.081(1)(b)—



- (a) notice of the application shall be given to the FCA and where relevant the PRA and, during the Objective 1 Stage, the Bank of England; and
- (b) the FCA and where relevant the PRA, and the Bank of England during the Objective 1 Stage, may appear and be heard.

#### Quantification of claims

2.082	Estimate of quantum	
2.083	Negotiable instruments, etc.	
2.084	Secured creditors	
2.085	Discounts	
2.086	Mutual credit and set-off	<p>In addition to the matters listed in Rule 2.086(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.</p> <p>Where the conditions in paragraph (1) of Rule 49 of the 2012 Rules are met, Rule 2.086 applies with the modifications set out in Rule 49 in addition to the modifications set out above.</p>
2.087	Debt in foreign currency	
2.088	Payments of a periodical nature	
2.089	Interest	
2.090	Debt payable at future time	
2.091	Value of security	
2.092	Surrender for non-disclosure	
2.093	Redemption by administrator	
2.094	Test of security's value	
2.095	Realisation of security by creditor	
2.096	Notice of proposed distribution	<ul style="list-style-type: none"><li>(1) (1) The notice in Rule 2.096(1) shall also be given where the special administrator is proposing to make a distribution to shareholding members.</li><li>(2) The notice in Rule 2.096(1) shall state, where applicable, that the distribution is to shareholding members of the society.</li></ul>

- (3) The following are added to the list of those entitled to receive notice under Rule 2.096(2)(a)—
- (a) the FCA and where relevant the PRA;
  - (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, the Bank of England.
- (4) In Rule 2.096(4)(a) the reference to a distribution to creditors includes, where appropriate, a distribution to shareholding members.
- 2.097 Admission or rejection of proofs
- 2.098 Declaration of dividend In Rule 2.098(1) the reference to one or more classes of creditor includes a reference to one or more classes of shareholding member.
- 2.099 Notice of declaration of dividend
- (1) (1) The following are added to the list of those entitled to receive notice under Rule 2.099(1)—
- (a) the FCA and where relevant the PRA;
  - (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, the Bank of England.
- (2) In the case of special administration following transfer to a bridge bank under section 12(2) of the Banking Act and during the Objective 1 Stage, the particulars required by Rule 2.099(2) include details of any payment made from a scheme under a resolution fund order.

		(3) The particulars required by Rule 2.099(2) include, where appropriate, details of any distribution to shareholding members.
2.100	Payment of dividends and related matters	In Rule 2.100(2) the reference to any creditor includes a reference to any shareholding member.
2.101	Notice of no dividend or no further dividend	(1) (1) The special administrator shall copy any notice under Rule 2.101 to— (a) the FCA and where relevant the PRA; (b) the FSCS; and (c) the Bank of England, in a case where it consented to a distribution under Rule 2.069 (as applied). (2) In Rule 2.101 the reference to creditors includes a reference to shareholding members.
2.102	Proof altered after payment of dividend	
2.103	Secured creditors	
2.104	Disqualification from dividend	In respect of any application for disqualification under Rule 2.104— (a) notice of the application shall be given to the FCA and where relevant the PRA; and (b) the FCA and where relevant the PRA may appear and be heard.
2.105	Assignment of right to dividend	
2.106	Debt payable at future time	The “relevant date” is the date of the special administration order.
	The special administrator	
2.107	Fixing of remuneration	(1) (1) In the Objective 1 Stage the Bank of England shall fix the special administrator's remuneration in accordance with Rule 2.107(2). (2) In the Objective 2 Stage, Rule 2.107 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).

2.108	Recourse to meeting of creditors	
2.109	Recourse to the court	<p>(1) (1) In respect of remuneration fixed by the Bank of England—</p> <p style="padding-left: 20px;">(a) Rule 2.109 applies as if references to the creditors' committee were references to the Bank of England; and</p> <p style="padding-left: 20px;">(b) the court shall have regard to the achievement of Objective 1.</p> <p>(2) In respect of any application under Rule 2.109—</p> <p style="padding-left: 20px;">(a) notice of the application shall be given to the FCA and where relevant the PRA; and</p> <p style="padding-left: 20px;">(b) the FCA and where relevant the PRA may appear and be heard.</p>
2.110	Creditors' claim that remuneration is excessive	Rule 2.110 applies only during the Objective 2 Stage.
4.134B and Schedule 4	Remuneration where assets realised on behalf of chargeholder	
	Ending administration	
2.111	Final progress reports	<p>(1) (1) The reference to Rule 2.048 is to be treated as a reference to Rule 36.</p> <p>(2) In the case of special administration following transfer to a bridge bank under section 12(2) of the Banking Act the final progress report—</p> <p style="padding-left: 20px;">(a) shall not be made until the special administrator is satisfied that any payment likely to be made to the building society from a scheme under a resolution fund order has been made; and</p> <p style="padding-left: 20px;">(b) shall state whether any payment has been received and, if so, its amount.</p>
2.115	Application to court by administrator	<i>Rule 2.115 is not applied – but equivalent provision is made by Part 3 of these Rules</i>
2.119	Moving from administration to dissolution	<i>Rule 2.119 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>

## Replacing special administrator

- |       |                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.120 | 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).                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2.121 | Notice of intention to resign                                              | The Bank of England and the FCA and where relevant the PRA are added to the list of those entitled to notice under paragraph (1).                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 2.122 | Notice of resignation                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2.123 | 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 89 of Schedule B1 to the 1989 Order in Table 1 in section 145 of the Banking Act.)</i></p> <p>(1) An application shall state either—</p> <ul style="list-style-type: none"><li>(a) that the Bank of England has consented to its being made; or</li><li>(b) that the Objective 1 Stage has ended.</li></ul> <p>(2) The FCA and where relevant the PRA are added to the list of those entitled to notice under paragraph (2).</p> |
| 2.124 | Notice of vacation of office on ceasing to be qualified                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2.125 | Death of administrator                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2.126 | Application to replace                                                     | <p>Rule 2.126 is applied during the Objective 2 Stage only (ignoring references to paragraph 96 of Schedule B1 to the 1989 Order).</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 92 of Schedule B1 to the 1989 Order in Table 1 in section 145 of the Banking Act) see Part 3 of these Rules.)</i></p>                                                                                                                                            |
| 2.127 | Notification and advertisement of appointment of replacement administrator |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2.128 | Notification and advertisement of appointment of joint administrator       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2.129 | Notice to FCA of replacement or addition                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2.130 | Administrator's duties on vacating office                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

Provisional special administrator (see application of Article 115 of the 1989 Order in Table 2 in section 145 of the Banking Act )

4.027	<i>Appointment of provisional liquidator</i>	<i>Rule 4.027 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
4.028	<i>Notice of appointment</i>	<i>Rule 4.028 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
4.029	<i>Order of appointment</i>	<i>Rule 4.029 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
4.031	Security	
4.032	Failure to give or keep up security	
4.033	Remuneration	Ignore paragraph (5).
4.034	Termination of appointment	<p>(1) (1) An application for termination may be made by—</p> <p style="margin-left: 40px;">(a) the provisional special administrator; or</p> <p style="margin-left: 40px;">(b) the Bank of England.</p> <p>(2) A provisional special administrator's appointment terminates on the making of a special administration order.</p>
Disclaimer		
4.197	Notice of disclaimer	<i>(In the case of special administration following transfer to a bridge bank under section 12(2) of the Banking Act notice may be given during the Objective 1 Stage only with the Bank of England's consent – see the modifications for the application of Article 152 of the 1989 Order in Table 2 in section 145 of the Banking Act.)</i>
4.198	Communication of disclaimer to persons interested	
4.199	Additional notices	
4.200	Duty to keep court informed	
4.201	Application by interested party under Article 152(4) of the 1989 Order	
4.202	Interest in property to be declared on request	
4.203	Disclaimer presumed valid and effective	
4.204	Application for exercise of court's powers under Article 155 of the 1989 Order	<i>(Article 155 is applied by Table 2 in section 145 of the Banking Act.)</i>

Court procedure and practice

- 7.05 Application of Chapter 2 of Part 7
- 7.06 Interpretation
- 7.07 Form and contents of application
- 7.07A Application to disapply Article 150A of the 1989 Order
- 7.08 Filing and service of application
- 7.08A Notice of application under Article 150A of the 1989 Order
- 7.09 Other hearings *ex parte*
- 7.10 Use of affidavit evidence
- 7.11 Filing and service of affidavit
- 7.12 Use of reports
- 7.13 Adjournment of hearing directions
- 7.14 Nomination and appointment of shorthand writers
- 7.16 Remuneration of shorthand writers
- 7.19 Enforcement of court orders
- 7.20 Orders enforcing compliance with the Order
- 7.21 Warrants
- 7.22 Warrants under Article 200
- 7.24 Court records
- 7.25 Inspection of records
- 7.27 Right to inspect the file *Rule 7.27 is not applied – but equivalent provision is made in Part 4 of these Rules.*
- 7.29 Costs: application of the Rules of the Court of Judicature of (Northern Ireland) 1980  
M23
- 7.30 Requirement to tax costs
- 7.32 Procedure where taxation required
- 7.34 Costs paid otherwise than out of the assets of the insolvent estate
- 7.35 Award of costs against responsible insolvency practitioner
- 7.36 Application for costs
- 7.37 Costs and expenses of witnesses
- 7.38 Persons incapable of managing their affairs

- 7.39 Appointment of another person to act
- 7.40 Affidavit in support of application
- 7.41 Services of notices following appointment
- 7.42 *Appeals from Master*
- 7.44 Procedure on appeal
- 7.45 Principal court rules and practice to apply
- 7.47 Right of attendance
- 7.48 Insolvency practitioner's solicitor
- 7.50 Formal defects
- 7.51 Restriction on concurrent proceedings and remedies
- 7.52 Affidavits
- 7.53 Security in court
- 7.54 Discovery
- 7.55 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
- 8.6 Proxy-holder with financial interest
- Examination of persons
- 9.1 Preliminary
  - (1) (1) *Part 9 applies to applications under Article 200 of the 1989 Order (inquiry into society's dealings, etc.) as applied by Table 2 in section 145 of the Banking Act.*
  - (2) 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.
- 9.4 Procedure for examination
- 9.5 Record of examination



9.6	Costs of proceedings	
	Miscellaneous and general	
12.01	Regulation of specified administrative matters	
12.02	Costs	
12.03	Provable debts	
12.04	Notices	
12.05	Quorum at meetings of creditors or contributories	
12.06	Evidence of proceedings at meetings	
12.07	Documents issuing from Department	
12.09	Insolvency practitioner's security	
12.10	Time	
12.11	Service by post	<i>(Rule 12.11 applies subject to express provision about service made in these Rules.)</i>
12.12	General provisions as to service	
12.13	Service outside jurisdiction	
12.14	Confidentiality of documents	
12.15	Notices sent simultaneously to the same person	
12.16	Right to copy documents	
12.17	Charge for copy documents	
12.18	Non-receipt of notice of meeting	
12.19	Right to have list of creditors	
12.20	False claim of status as creditor, etc.	
12.21	The Gazette	
12.22 and Schedule 3	Punishment of offences	
12.23	Notice of order under Article 150A(5) of the 1989 Order	

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**Marginal Citations**

**M22** S.I. 2009/805 modifies the application of paragraph 66 of Schedule B1

**M23** S.R. 1980 No. 346, as amended by the [Constitutional Reform Act 2005 \(c.4\)](#), [section 59](#) and Schedule 11.

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**Changes to legislation:** There are currently no known outstanding effects for the The Building Society Special Administration Rules (Northern Ireland) 2014. (See end of Document for details)

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Sealed with the Official Seal of the Department of Justice on 13th February 2014

L.S.

*David Ford*  
Minister of Justice

I concur

*Declan Morgan*  
The Lord Chief Justice of Northern Ireland

The Department of Finance and Personnel concurs  
Sealed with the Official Seal of the Department of Finance and Personnel on 13th February 2014

L.S.

*John McKibbin*  
A senior officer of the  
Department of Finance and Personnel

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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules set out the procedure for the building society special administration process under Part 3 of the Banking Act 2009 (c.1) as applied in relation to building societies by the Building Societies (Insolvency and Special Administration) Order 2009 (S.I. 2009/805).

The main features of building society special administration are that:

- (a) it is used where part of the business of a building society is sold to a commercial purchaser or transferred to a bridge bank in accordance with section 12 of the Banking Act 2009;
- (b) the court appoints a building society special administrator on the application of the Bank of England;
- (c) the special administrator ensures that the non-sold or non-transferred part of the building society provides services or facilities to enable the commercial purchaser or bridge bank to operate effectively;
- (d) the special 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 (Northern Ireland) Order 1989, subject to specified modifications.

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

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

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

Part 5 of the Rules applies specified provisions of the Insolvency Rules (Northern Ireland) 1991 for general purposes in connection with building society special administration, subject to a number of general and specific modifications.

An Impact Assessment relating to the rules for building society insolvency and special administration has been prepared and may be obtained from the Financial Regulatory Strategy Team, HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ. It is also available on HM Treasury's website ([www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)).

**Changes to legislation:**

There are currently no known outstanding effects for the The Building Society Special Administration Rules (Northern Ireland) 2014.