

STATUTORY RULES OF NORTHERN IRELAND

2009 No. 63

The Bank Administration Rules (Northern Ireland) 2009

PART 5

Application of Insolvency Rules (Northern Ireland) 1991

Table of applications and specific modifications

61. This Rule contains the Table of applied Insolvency Rules.

<i>Rule</i>	<i>Subject</i>	<i>Specific modifications</i>
Preparatory steps		
Introductory Provisions Rules 0.1 to 0.7	Interpretation and application	
2.028	Notification and advertisement of administrator's appointment	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 bank administrator, (b) the Bank of England, (c) the FSA, and (d) the FSCS.
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 bank administrator, (b) the Bank of England, (c) the FSA, and (d) the FSCS.
2.033	Expenses of statement of affairs	
Bank administrator's proposals and creditors' meetings		

Status: This is the original version (as it was originally made).

Rule	Subject	Specific modifications
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) Rule 2.035 applies in the Objective 2 Stage. (2) The FSA and the FSCS are added to the list in paragraph (2) of persons entitled to notice.
2.036	Creditors' meetings generally	The FSA and FSCS are added to the list in paragraph (3) of persons to whose convenience the bank 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 bank 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	Holders 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	
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 Order in Table 1 in section 145 of the 2009 Act.)</i>
2.052	Formalities of establishment	

Rule	Subject	Specific modifications
2.053	Functions and meetings of the committee	
2.054	The chairman 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 company	In respect of any application to set aside a transaction under paragraph (3)— (a) notice of the application must be given to the FSA and the FSCS, and (b) the FSA and the FSCS may appear and be heard.
2.066	Formal defects	
Process of administration		
2.067	Application to court to dispose 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 bank administrator must notify the Bank of England of the time and place of the hearing, (b) the Bank of England may appear, and (c) if an order is made the bank administrator must send a copy to the Bank of England as soon as is reasonably practicable.
2.068	Priority of expenses of administration	In addition to the matters listed in Rule 2.068(1), expenses in connection with provisional bank administration are payable in the following order of priority— (a) the cost of any security provided by the provisional bank administrator takes priority equally with security provided by the bank administrator, and

Rule	Subject	Specific modifications
		(b) the remuneration of the provisional bank administrator ranks next, and (c) any deposit lodged on an application for the appointment of a provisional bank administrator ranks next.
2.069	Distributions to creditors: introduction	<i>(Distributions in the case of bank administration following transfer to a bridge bank under section 12(2) of the 2009 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 Order in Table 1 in section 145 of the 2009 Act.)</i>
2.070	Debts of insolvent company to rank equally	
2.071	Dividends: supplementary	
2.072	Division of unsold assets	
2.073	Proving a debt	
2.074	Claim established by a witness statement	
2.075	Costs of proving	
2.076	Administrator to allow inspection of proofs	
2.077	New administrator: transfer of proofs	
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 must be given to the FSA and the FSCS and, during the Objective 1 Stage, the Bank of England, and (b) the FSA and the FSCS, 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 must be given to the FSA and the FSCS and, during the Objective 1 Stage, the Bank of England, and

Rule	Subject	Specific modifications
		(b) the FSA and the FSCS, and the Bank of England during the Objective 1 Stage, may appear and be heard.
2.082	Estimate of quantum of claims	
2.083	Negotiable instruments, &c.	
2.084	Secured creditors	
2.085	Discounts	
2.086	Mutual credit and set-off	
2.087	Debt in foreign currency	
2.088	Periodical payments	
2.089	Interest	
2.090	Debt payable in future	
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	The following are added to the list of those entitled to receive notice under Rule 2.096(2)(a)— (a) the FSA, (b) the FSCS and (c) during the Objective 1 Stage of a bank administration following transfer to a bridge bank under section 12(2) of the 2009 Act, the Bank of England.
2.097	Admission or rejection of proofs	
2.098	Declaration of dividend	
2.099	Notice of declaration of dividend	(1) The following are added to the list of those entitled to receive notice under Rule 2.099(1)— (a) the FSA, (b) the FSCS, and (c) during the Objective 1 Stage of a bank administration following transfer to a bridge bank under section 12(2) of the 2009 Act, the Bank of England. (2) In the case of bank administration following transfer to a bridge bank under section 12(2) of the 2009 Act and during the Objective 1 Stage, the

Status: This is the original version (as it was originally made).

Rule	Subject	Specific modifications
		particulars required by rule 2.099(2) include details of any payment made from a scheme under a resolution fund order.
2.100	Payment of dividends, &c.	
2.101	Notice of no dividend or no further dividend	The bank administrator must copy any notice under Rule 2.101 to— (a) the FSA, (b) the FSCS, and (c) the Bank of England, in a case where it consented to a distribution under Rule 2.069 (as applied).
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 must be given to the FSA and the FSCS, and (b) the FSA and the FSCS may appear and be heard.
2.105	Assignment of right to dividend	
2.106	Debt payable in future	The “relevant date” is the date of the bank administration order.
The bank administrator		
2.107	Fixing of remuneration	(1) In the Objective 1 Stage the Bank of England shall fix the bank 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	(1) In respect of remuneration fixed by the Bank of England— (a) Rule 2.109 applies as if references to the creditors’ committee were references to the Bank of England, and (b) the court shall have regard to Objective 1. (2) In respect of any application under Rule 2.109—

Rule	Subject	Specific modifications
		<ul style="list-style-type: none"> (a) notice of the application must be given to the FSA and the FSCS, and (b) the FSA and the FSCS may appear and be heard.
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 report	<ul style="list-style-type: none"> (1) The reference to Rule 2.048 is to be treated as a reference to Rule 35. (2) In the case of bank administration following transfer to a bridge bank under section 12(2) of the 2009 Act the final progress report— <ul style="list-style-type: none"> (a) shall not be made until the bank administrator is satisfied that any payment likely to be made to the bank from a scheme under a resolution fund order has been made, and (b) shall state whether any payment has been received and, if so, its amount
2.114	<i>Notice of end of administration</i>	<i>Rule 2.114 is not applied – but equivalent provision is made by Part 3 of these Rules.</i>
2.115	Application to court by administrator	The reference to paragraph 80 of Schedule B1 to the Order is to be treated as a reference to paragraph 81 (as applied by section 153(2) of the 2009 Act).
2.117	Notification to registrar of companies and Enforcement of Judgements Office	
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 bank 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, the FSA and the FSCS are added to the list of those entitled to notice under paragraph (1).

Rule	Subject	Specific modifications
2.122	Notice of resignation	
2.123	Application to court to remove administrator	<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 Order in Table 1 in section 145 of the 2009 Act..)</i></p> <p>(1) An application must state either—</p> <p>(a) that the Bank of England has consented to its being made, or</p> <p>(b) that the Objective 1 Stage has ended.</p> <p>(2) The FSA and the FSCS 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 (and ignoring references to paragraph 96 of Schedule B1 to the 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 Order in Table 1 in section 145 of the 2009 Act) see Part 3 of these Rules.</i></p>
2.127	Notification and advertisement of replacement	
2.128	Notification and advertisement of appointment of joint administrator	
2.129	Notice to registrar of companies of replacement or addition	
2.130	Duties on vacating office	
Provisional bank administrator (see application of Article 115 of the Order in Table 2 in section 145 of the 2009Act)		
4.027	<i>Appointment</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>

Rule	Subject	Specific modifications
4.031	Security	
4.032	Failure to give or keep security	
4.033	Remuneration	Ignore paragraph (5).
4.034	Termination of appointment	An application for termination may be made by— (a) the provisional bank liquidator, or (b) the Bank of England.
Disclaimer		
4.197	Notice of disclaimer	<i>(In the case of bank administration following transfer to a bridge bank under section 12(2) of the 2009Act 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 Order in Table 2 in section 145 of the 2009Act.)</i>
4.198	Communication to interested persons	
4.199	Additional notices	
4.200	Duty to keep court informed	
4.201	Application by interested party	
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 Order	<i>(Article 155 is applied by Table 2 in section 145 of the Banking Act 2009.)</i>
Court procedure and practice		
7.05	Application of Chapter 1 of Part 7	Chapter 1 does not apply to an application for a bank administration order (which is addressed in Part 2 of these Rules).
7.06	Interpretation	
7.07	Form and contents of application	
7.07A	Application to disapply Article 150A of the Order	
7.08	Filing and service of application	
7.08A	Notice of application under Article 150A of the Order	
7.09	Other hearings <i>ex parte</i>	

Rule	Subject	Specific modifications
7.10	Use of witness statement evidence	
7.11	Filing and service of witness statements	
7.12	Use of reports	
7.13	Adjournment of hearings; 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 Rules	
7.21	Warrants	
7.22	Warrants under Article 200	
7.24	Court records	
7.25	Inspection of records	
7.26	File of court proceedings	
7.27	<i>Right to inspect court file</i>	<i>Rule 7.27 is not applied – but equivalent provision is made in Part 4 of these Rules.</i>
7.28	Filing of Gazette notices and advertisements	
7.29	Costs: application of the Supreme Court Rules	
7.30	Requirement to assess costs by the detailed procedure	
7.32	Procedure where detailed assessment 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 who lack capacity to manage their affairs: introductory	
7.39	Appointment of another person to act	
7.40	Witness statement in support of application	

Rule	Subject	Specific modifications
7.41	Services of notices following appointment	
7.42	Appeals and reviews of court orders from Master	
7.44	Procedure on appeal	
7.45	Principal court rules and practice to apply	
7.47	Right of attendance	
7.54	Insolvency practitioner's solicitor	
7.50	Formal defects	
7.51	Restriction on concurrent proceedings and remedies	
7.52	Witness statements	
7.53	Security in court	
7.54	Further information and disclosure	
7.56	Office copies of documents	
Proxies		
8.1	Definition of proxy	
8.2	Issue and use of forms	
8.3	Use of proxies at meetings	
8.4	Retention of proxies	
8.5	Right of inspection of proxies	
8.6	Proxy-holder with financial interest	
8.7	Company representation	<i>(The reference to Article 383 of the Companies (Northern Ireland) Order 1986 is now a reference to section 323 of the Companies Act 2006.)</i>
Examination of persons		
9.1	Preliminary	<ol style="list-style-type: none"> 1. <i>Part 9 applies to applications under Article 200 of the Order (inquiry into company's dealings) as applied by Table 2 in section 145 of the Banking Act 2009.</i> 2. Treat a reference to "the insolvent" as a reference to the bank.
9.2	Form and contents of application	
9.3	Order for examination	
9.4	Procedure for examination	

Rule	Subject	Specific modifications
9.5	Record of examination	
9.6	Costs of proceedings	
Declaration and payment of dividend		
11.01	Preliminary	
11.02	Notice of intended dividend	
11.03	Final admission or rejection of proofs	
11.04	Postponement or cancellation of dividend	
11.05	Decision to declare dividend	
11.06	Notice of declaration	
11.07	Notice of no dividend or no further dividend	
11.08	Proof altered after payment of dividend	
11.09	Secured creditors	
11.10	Disqualification from dividend	
11.11	Assignment of right to dividend	
11.12	Preferential creditors	
11.13	Debt payable in future	The “relevant date” is the date of the bank administration order.
Miscellaneous and general		
12.01	Regulation of specified administrative matters	A reference to the Department includes a reference to the Treasury.
12.02	Costs and expenses	
12.03	Provable debts	
12.04	Notices	
12.5	Quorum at meetings	<i>(The reference to Article 383 of the Companies (Northern Ireland) Order 1986 is now a reference to section 323 of the Companies Act 2006.)</i>
12.06	Evidence of proceedings at meeting	
12.07	Documents issued by Department	
12.08	Forms	<i>(See Rule 7.)</i>
12.09	Insolvency practitioner’s security	
12.10	Time	

Rule	Subject	Specific modifications
12.11	Service by post	<i>(Rule 12.11 applies subject to express provision about service made in these Rules.)</i>
12.12	Service and notice: general	
12.13	Service outside jurisdiction	
12.14	Confidentiality of documents	
12.15	Notices sent simultaneously to 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	
12.21	Gazette	
12.22 and Schedule 3	Punishment of offences	
12.23	Notice of order under Article 150A of the Order	