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STATUTORY RULES OF NORTHERN IRELAND

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**2014 No. 40**

The Building Society Special Administration  
Rules (Northern Ireland) 2014

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)(1);
  - (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.

### **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).

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

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-authorised 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.