

SCHEDULE

Paragraph 2(6)

“PART XII

Payment and Electronic Money Institutions Special Administration Procedure

Interpretation of this Part

74.62. In this Part—

“2021 Regulations” means the Payment and Electronic Money Institution Insolvency Regulations 2021(1);

“2022 Rules” means the Payment and Electronic Money Institution Insolvency (Scotland) Rules 2022(2);

“cause to which this Part applies” means a cause under—

- (a) the 2021 Regulations;
- (b) the 2022 Rules;
- (c) any other enactment applied (with or without modification) by virtue of the 2021 Regulations;

“special administration order” means a special administration order under regulation 7 of the 2021 Regulations (special administration order).

Application and interpretation of other rules

74.63.—(1) In this Chapter, besides this Part, only the following provisions apply to a cause to which this Part applies—

- (a) Part I (general provisions);
- (b) rule 74.13 (report of administrator’s proposals: schedule B1 to the Act of 1986).

(2) In relation to a cause to which this Part applies, a reference in these Rules to an enactment that is applied (with or without modification) by virtue of the 2021 Regulations is to be read as a reference to that enactment as so applied.

Application for special administration order

74.64.—(1) An application for a special administration order under regulation 8 of the 2021 Regulations (application for order) is to be made by petition.

(2) A petition referred to in paragraph (1) must include (in addition to the information required by rule 6 of the 2022 Rules (content of application)) averments on the following matters—

- (a) the reasons why the petitioner considers the grounds stated in accordance with rule 6(h) of the 2022 Rules to be satisfied;
- (b) to the best of the petitioner’s knowledge and belief, the financial position of the institution in respect of which the order is sought (including actual, contingent and prospective assets and liabilities);
- (c) any security the petitioner knows, or believes, is held by the creditors of the institution;

(1) [S.I. 2021/716](#).
(2) [S.I. 2022/1239](#).

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- (d) to the best of the petitioner’s knowledge and belief, the amount of any relevant funds held by the institution;
- (e) how functions are to be apportioned where more than one person is to be appointed as administrator and, in particular, whether functions are to be exercised jointly or by any or all of the persons appointed;
- (f) any other matter that the petitioner considers it will assist the court to be aware of in deciding whether to make a special administration order.

(3) In paragraph (2)(d), “relevant funds” is to be construed in accordance with regulation 6 of the 2021 Regulations (definitions).

Advertisement of petition under rule 74.64(1)

74.65.—(1) Unless the court otherwise directs, the order under rule 14.5 (first order in petitions) for intimation, service and advertisement of a petition under rule 74.64(application for special administration order) must include a requirement to advertise the petition immediately—

- (a) once in the Edinburgh Gazette;
- (b) once in one or more such newspapers as the court directs.

(2) An advertisement under paragraph (1) must include—

- (a) the name and address of the petitioner and, where the petitioner is the institution in respect of which a special administration order is sought, its registered office;
- (b) the name and address of the agent for the petitioner;
- (c) the date on which the petition was presented;
- (d) the nature of the order sought;
- (e) the period of notice for lodging answers;
- (f) a statement that any person who intends to appear in the petition must lodge answers within the period of notice.

(3) This rule is without prejudice to the requirements for service in rule 9 of the 2022 Rules (service of application).

Period of notice for lodging answers to petition under rule 74.64(1)

74.66. Subject to rule 14.6(2) (period of notice for lodging answers), the period of notice for lodging answers to a petition under rule 74.64(1) (application for special administration order) is 8 days.

Time and date of lodging

74.67.—(1) The time and date of lodging a document in a cause to which this Part applies is to be noted by the Deputy Principal Clerk upon the document.

(2) Subject to any provision of the 2022 Rules—

- (a) where the time of lodging the document cannot be ascertained by the Deputy Principal Clerk, the document is to be deemed to have been lodged at 10 a.m. on the date of lodging;
- (b) where the document is delivered on a day other than a business day, but is not lodged on that day, the date of lodging is to be deemed to be the first business day after its delivery.

(3) For the avoidance of doubt, in this rule “document” includes notice.

Appeal against adjudication of claim

74.68.—(1) An appeal under rule 119(5) of the 2022 Rules (adjudication of claims) is to be made by note.

(2) The note is to be served on the administrator.

(3) On being served with the note, the administrator must send to the Deputy Principal Clerk, without delay—

(a) the claim in question;

(b) the administrator’s adjudication in relation to it.

(4) The Deputy Principal Clerk, on receiving the documents sent in accordance with paragraph (3), must cause them to be lodged in process.

(5) After the note has been disposed of, the Deputy Principal Clerk must return the documents sent in accordance with paragraph (3) to the administrator with a copy of the interlocutor disposing of the note.

Application under section 176A of the Act of 1986

74.69.—(1) An application under section 176A(3) of the Act of 1986 (share of assets for unsecured creditors) by an administrator appointed under regulation 7 of the 2021 Regulations, is to be made by note.

(2) After the lodging of the note, the Deputy Principal Clerk must—

(a) fix a hearing for the insolvency judge to consider the application;

(b) give notice of the hearing to the noter.

(3) The noter is not required to give notice of the hearing to another person, unless the insolvency judge directs otherwise.

Form of other applications and appeals

74.70.—(1) An application or appeal to the court under an enactment mentioned in paragraph (2) is to be made—

(a) by note in the process of the petition to which it relates; or

(b) if there is no such petition, by petition.

(2) The enactments referred to in paragraph (1) are—

(a) a provision of the 2021 Regulations, except regulation 8 (application for order) (see rule 74.64);

(b) a provision of the 2022 Rules, except rule 119(5) (adjudication of claims) (see rule 74.68);

(c) any other enactment applied (with or without modification) by virtue of the 2021 Regulations, except section 176A of the Act of 1986 (see rule 74.69).”

(3) Section 176A was inserted by the Enterprise Act 2002 (c. 40), section 252 and applied with modifications by S.I. 2021/716.