
STATUTORY INSTRUMENTS

2010 No. 2581

**The Building Society Insolvency
(England and Wales) Rules 2010**

PART 22

MISCELLANEOUS AND GENERAL

Power of Secretary of State or Treasury to regulate certain matters

252.—(1) As provided for in paragraph 27 of Schedule 8 to the Insolvency Act⁽¹⁾, either the Secretary of State or the Treasury may, subject to the Act and to these Rules, make regulations with respect to any matter provided for in these Rules relating to the carrying out of the functions of a building society liquidator or provisional building society liquidator, including, without prejudice to the generality of the above, provision with respect to the following matters arising in building society insolvency—

- (a) the preparation and keeping by building society liquidators and provisional building society liquidators of books, accounts and other records, and their production to such persons as may be authorised or required to inspect them;
 - (b) the auditing of building society liquidators' accounts;
 - (c) the manner in which building society liquidators are to act in relation to the building society's books, papers and other records, and the manner of their disposal by the building society liquidator or others;
 - (d) the supply by the building society liquidator to creditors and contributories and to the liquidation committee of copies of documents relating to the building society insolvency and the affairs of the building society (on payment, in such cases as may be specified in the regulations, of a fee);
 - (e) the manner in which insolvent estates are to be distributed by the building society liquidator, including provision with respect to unclaimed funds and dividends;
 - (f) the manner in which monies coming into the hands of the building society liquidator are to be handled and invested and the payment of interest on sums which, in pursuance of regulations made under this sub-paragraph, have been paid into the Insolvency Services Account⁽²⁾.
- (2) Regulations made under paragraph (1) may—
- (a) confer a discretion on the court;
 - (b) make non-compliance with any of the regulations a criminal offence;
 - (c) make different provision for different cases, including different provision for different areas; and

(1) Schedule 8 was amended by section 125 of the Banking Act.

(2) The Insolvency Services Account is referred to at section 403 of the Insolvency Act.

- (d) contain such incidental, supplemental and transitional provisions as may appear to the Secretary of State or the Treasury as necessary or expedient.

Costs, expenses, etc.

253.—(1) All fees, costs, charges and other expenses incurred in the course of building society insolvency, except for any money paid by the FSCS to eligible depositors in pursuance of Objective 1, and any expense incurred by the FSCS in this process, are to be regarded as expenses of the building society insolvency.

(2) The costs associated with the prescribed part (within the meaning of section 176A of the Insolvency Act) shall be paid out of that prescribed part.

Provable debts

254.—(1) Subject to paragraphs (2) and (3) in a building society insolvency all claims by creditors are provable as debts against the building society, whether they are present or future, certain or contingent, ascertained or sounding only in damages.

(2) Any obligation arising under a confiscation order made under Parts 2, 3 or 4 of the Proceeds of Crime Act 2002⁽³⁾ is not provable.

(3) The following are not provable except at a time when all other claims of creditors in the insolvency proceedings (other than any of a kind mentioned in this paragraph) have been paid in full with interest under section 189(2) of the Insolvency Act—

- (a) any claim arising by virtue of section 382(1)(a) of the Financial Services and Markets Act 2000, not being a claim arising by virtue of section 382(1)(b) of that Act; or
- (b) any claim which by virtue of the Insolvency Act or any enactment is a claim the payment of which in the building society insolvency is to be postponed.

(4) Nothing in this rule prejudices any enactment or rule of law under which a particular kind of debt is not provable, whether on grounds of public policy or otherwise.

Notices

255.—(1) Apply rule 12.4 of the 1986 Rules.

(2) Ignore references to the official receiver.

Quorum at meeting of creditors or contributories

256.—(1) Apply rule 12.4A of the 1986 Rules⁽⁴⁾.

(2) For paragraph (3) substitute—

“(3) For the purposes of this rule, the reference to the creditor or contributories necessary to constitute a quorum is to those persons present or represented by proxy by any person (including the chair).”

Evidence of proceedings at meetings

257. Apply rule 12.5 of the 1986 Rules.

(3) 2002 c. 29.

(4) Rule 12.4A was inserted by S.I. 1987/1919 and has been amended by S.I. 2009/2472.

Documents issuing from Secretary of State

258. Apply rule 12.6 of the 1986 Rules.

Insolvency practitioner's security

259.—(1) — Apply rule 12.8 of the 1986 Rules.

(2) For paragraph (2) substitute—

“(2) It is the duty of the liquidation committee in a building society insolvency to review from time to time the adequacy of the building society liquidator's security.”.

Time limits

260. Apply rule 12.9(1) of the 1986 Rules⁽⁵⁾ as regards time limits for anything required or authorised to be done by these Rules.

Service by post

261. Apply rule 12.10 of the 1986 Rules⁽⁶⁾.

General provisions as to service

262. CPR Part 6 (service of documents) applies as regards any matter relating to the service of documents and the giving of notice in building society insolvency proceedings except in cases where a rule makes provision as to the service of a document or the giving of a notice.

Service outside the jurisdiction

263.—(1) CPR Part 6 applies as regards any matter relating to the service of documents in Scotland and Northern Ireland except in cases where a rule makes provision as to the service of a document or the giving of a notice.

(2) Where for the purposes of building society insolvency proceedings any process or order of the court, or other document, is required to be served on a person who is not in the United Kingdom—

(a) with regard to the service of documents in relation to which a rule makes provision, the court may order service to be effected within such time, on such person, at such place and in such manner as it thinks fit, and may also require such proof of service as it thinks fit,

(b) with regard to the service of documents otherwise, CPR Rules 6.40(3) to 6.46 apply.

(3) An application under paragraph (2)(a) shall be supported by a witness statement stating—

(a) the grounds on which the application is made, and

(b) in what place or country the person to be served is, or probably may be found.

Confidentiality of documents

264.—(1) Apply rule 12.13 of the 1986 Rules⁽⁷⁾.

(2) In paragraph (2) ignore the reference to a creditors' committee.

⁽⁵⁾ Rule 12.9 was substituted by [S.I. 1999/1022](#).

⁽⁶⁾ Rule 12.10 was amended by [S.I. 1987/1919](#).

⁽⁷⁾ Rule 12.13 was amended by [S.I. 1987/1919](#).

Notices sent simultaneously to the same person

265. Apply rule 12.14 of the 1986 Rules.

Right to copy documents

266. Apply rule 12.15 of the 1986 Rules(8).

Charge for copy documents

267. Apply rule 12.15A of the 1986 Rules(9).

Non-receipt of notice of meeting

268. Apply rule 12.16 of the 1986 Rules.

Right to have list of creditors

269.—(1) Where a creditor has the right under these Rules to inspect documents on the court file, the creditor may require the building society liquidator to send them a list of the building society's creditors and the amounts of their respective debts.

(2) Paragraph (1) does not apply if a statement of the building society's affairs has been filed in court or filed with the FSA.

(3) The building society liquidator must respond to a request in paragraph (1) but may charge the appropriate fee for doing so.

False claim of status as creditor, etc

270. Apply rule 12.18 of the 1986 Rules.

Execution overtaken by judgement debtor's insolvency

271.—(1) This rule applies where execution has been taken out against property of a judgment debtor, and notice is given to the enforcement officer or other officer charged with the execution under section 184(1) of the Insolvency Act (that a building society insolvency order has been made against the debtor, or that a provisional building society liquidator has been appointed).

(2) The notice shall be in writing and be delivered by personal service at, or sent by recorded delivery to, the office of the enforcement officer or (as the case may be) of the officer charged with the execution.

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272. Apply rule 12.20 of the 1986 Rules.

Punishment of offences

273. Apply rule 12.21 of the 1986 Rules.

(8) Rule 12.15 was inserted by [S.I. 2005/527](#).

(9) Rule 12.15A was inserted by [S.I. 1987/1919](#).

Notice of order under section 176A(5)

274. Apply rule 12.22 of the 1986 Rules(**10**). For references to “the liquidator, administrator or receiver” substitute “building society liquidator”.