
STATUTORY INSTRUMENTS

2010 No. 2584

The Building Society Insolvency (Scotland) Rules 2010

PART 2

BUILDING SOCIETY INSOLVENCY ORDER

Application for building society insolvency order

6. An application for a building society insolvency order under section 95 of the Banking Act shall be in accordance with Part 10 of Chapter 74 of the Rules of the Court of Session.

Persons entitled to copy of application

7.—(1) Every contributory or creditor of the building society is entitled to a copy of the application on request from the applicant.

(2) The applicant shall respond to any request for a copy of the application as soon as reasonably practicable after the application has been made on payment of the appropriate fee.

(3) In paragraph (2), “the appropriate fee” means 15 pence per A4 or A5 page, and 30 pence per A3 page.

Appointment of building society liquidator by the court

8.—(1) This rule applies where an application for a building society insolvency order is made to the court under section 95 of the Banking Act.

(2) The court shall not make the order unless there is lodged in court a statement to the effect that—

- (a) the person proposed to be appointed as the building society liquidator is qualified to act as an insolvency practitioner in accordance with section 390(1) of the Insolvency Act; and
- (b) that person consents so to act.

(3) When the building society insolvency order has been made the court shall immediately send a certified copy of the order to—

- (a) the building society liquidator who shall also, where practicable, be sent an electronic copy of the certified copy order; and
- (b) the applicant.

(4) The building society liquidator shall immediately—

(1) Section 390 was amended by paragraph 16(1) and (2) of Schedule 4(II) to the Insolvency Act 2000 (c.39); paragraph 18 of Schedule 5 to the Adults with Incapacity (Scotland) Act 2000 (asp 4); paragraph 4 of Schedule 21 to the Enterprise Act 2002 (c.40); paragraph 31(3)(c) of Schedule 6 and paragraph 1 of Schedule 7 to the Mental Capacity Act 2005 (c.9); paragraph 18(3) of Schedule 1 to S.S.I. 2005/465; paragraph 3(3) of Schedule 1 to S.I. 2005/2078; paragraphs 1, 6(1),(2) and (3) of Schedule 20, Part 1, to the Tribunal, Courts and Enforcement Act 2007; and S.I. 2009/1941, art.2(1).

- (a) serve a copy of the order on the building society at its principal office and, where the building society liquidator has received an electronic copy of the order and knows the building society's email address, send an electronic copy to the building society;
- (b) give notice of the appointment to the Accountant in Bankruptcy;
- (c) advertise the appointment once in the Edinburgh Gazette and such newspaper as the building society liquidator may select or as the court may otherwise direct; and
- (d) send (electronically or otherwise) a copy of the order to—
 - (i) the FSA, if it is not the applicant;
 - (ii) the Bank of England, if it is not the applicant;
 - (iii) the FSCS;
 - (iv) if there is in force for the building society a voluntary arrangement under Part 1 of the Insolvency Act, the supervisor of that arrangement; and
 - (v) if an administrative receiver has been appointed in relation to the building society, that receiver.

Initial duties of building society liquidation committee

9.—(1) As soon as reasonably practicable after the making of a building society insolvency order the liquidation committee shall meet the building society liquidator for the purpose of discussing which of the Objectives, or combination of Objectives, mentioned in section 102(1) of the Banking Act the committee should recommend the building society liquidator pursue.

(2) If the building society liquidator and every individual on the liquidation committee agree, the meeting may be held by audio or video conference.

(3) The liquidation committee shall make its recommendation to the building society liquidator at the meeting.

(4) The Bank of England shall confirm the liquidation committee's recommendation in writing as soon as reasonably practicable after the meeting.

(5) As soon as reasonably practicable after the making of a building society insolvency order, the liquidation committee shall also pass a resolution as to the terms on which, in accordance with rule 46 the building society liquidator is to be remunerated.

(6) Until a full payment resolution has been passed, the liquidation committee—

- (a) shall take decisions and pass resolutions by a simple majority; and
- (b) for the purpose of taking decisions and passing resolutions, may communicate by any means that its members consider convenient.

Authentication of building society liquidator's appointment

10. Apply rule 4.20 of the 1986 Rules.