
STATUTORY INSTRUMENTS

2010 No. 2584

The Building Society Insolvency (Scotland) Rules 2010

PART 7

CLAIMS IN LIQUIDATION

Submission of claims

28. Apply rule 4.15 of the 1986 Rules⁽¹⁾.

Application of the Bankruptcy Act

29.—(1) Apply rule 4.16 of the 1986 Rules⁽²⁾.
(2) Ignore rule 4.16(3).

Claims in foreign currency

30.—(1) Apply rule 4.17 of the 1986 Rules⁽³⁾.
(2) In rule 4.17(2) omit from “or, if” to the end.

Rights of eligible depositor and set-off

31.—(1) This rule applies if the FSA Rules allow the FSCS to make gross payments of compensation.

(2) In respect of protected deposits, in determining the sums due from the building society to an eligible depositor for the purpose of any right or claim of set-off available to the building society against the eligible depositor—

- (a) where the total of the sums held by the building society for any eligible depositor in respect of protected deposits is no more than the amount prescribed as the maximum compensation payable in respect of protected deposits under Part 15 of the Financial Services and Markets Act 2000⁽⁴⁾ (the “prescribed limit”), paragraph (3) applies; and
- (b) where the sums held by the building society exceed the prescribed limit, paragraph (4) applies.

(3) Where this paragraph applies, regardless of whether there are any sums due from the eligible depositor to the building society

- (a) the building society shall not be entitled to exercise or claim any right of set-off available to it against or in respect of those sums held by the building society for the eligible depositor in respect of the protected deposits; and

(1) Rule 4.15 was amended by regulation 27(1) of [S.I. 2003/2109](#).
(2) Rule 4.16 was amended by paragraph 15 of Schedule 1(I) to [S.I. 1987/1921](#), and rule 3 of [S.S.I. 2008/393](#).
(3) Rule 4.17 was amended by rule 4 of [S.S.I. 2008/393](#).
(4) [2000 c.8](#).

- (b) the sum due to the eligible depositor from the building society will be the total of the sums held by the building society for that eligible depositor in respect of protected deposits which sum shall be deemed free from any right or claim of set-off by the building society.
- (4) Where this paragraph applies—
- (a) the building society shall be entitled to exercise any right or claim of set-off available to it only in respect of any sums held by the building society for that eligible depositor in excess of the prescribed limit, which sums shall be subject to any right or claim of set-off available to the building society; and
 - (b) the sums due from the building society to the eligible depositor in respect of the protected deposits will be—
 - (i) the amount by which the total amount exceeds the prescribed limit subject to any right or claim of set-off available to the building society; and
 - (ii) the sums held by the building society for the eligible depositor in respect of protected deposits up to the prescribed limit.
- (5) Any arrangements with regard to set-off between the building society and the eligible depositor in existence before the commencement of building society insolvency shall be subject to this rule in so far as they relate to protected deposits.