
STATUTORY INSTRUMENTS

2010 No. 2584

The Building Society Insolvency (Scotland) Rules 2010

PART 8

THE LIQUIDATOR

SECTION E – SUPPLEMENTARY PROVISIONS

Replacement building society liquidator

51.—(1) Where the building society liquidator vacates office for any reason (including death) other than by removal by a meeting of creditors in accordance with rule 37, the Bank of England shall appoint a new building society liquidator as soon as practicable.

(2) Where a building society liquidator has been removed by a meeting of creditors and no resolution has been passed by that meeting to appoint a new building society liquidator, the Bank of England shall appoint a new building society liquidator as soon as practicable.

(3) The Bank of England shall lodge in court the document appointing the new building society liquidator (“the certificate of appointment”) together with statements to the effect that the new building society liquidator—

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

(4) The Bank of England shall send a copy of the certificate of appointment to the building society.

(5) The building society liquidator shall forward a copy of the certificate of appointment to the FSA and the Accountant in Bankruptcy.

Building society liquidator deceased

52.—(1) Apply rule 4.36 of the 1986 Rules(2).

(2) In rule 4.36(1) after “court” insert “the Bank of England and liquidation committee”.

Loss of qualification as insolvency practitioner

53.—(1) Apply rule 4.37 paragraphs (1) and (2)(3) of the 1986 Rules.

(2) In rule 4.37(2) after “Accountant in Bankruptcy” insert “and the Bank of England”.

(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.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).

(2) Rule 4.36 was amended by paragraph 141(15) of Schedule 2(II) to S.I. 1999/1820.

(3) Rule 4.37(2) was amended by paragraph 141(16) of Schedule 2(II) to S.I. 1999/1820.

Resignation of the building society liquidator

54.—(1) This rule applies where the building society liquidator was appointed by the court or by the Bank of England under rule 51.

(2) The building society liquidator can only resign—

- (a) after the liquidation committee has passed a full payment resolution; and
- (b) with the consent of the Bank of England.

(3) Before calling a meeting of creditors under rule 42 to receive notice of the building society liquidator’s resignation, the building society liquidator must write to the Bank of England notifying it of the intention to resign.

(4) The Bank of England shall notify the building society liquidator in writing within 21 days as to whether it consents to the resignation. If the Bank of England does not consent to the resignation, it will set out its reasons in writing.

(5) The building society liquidator, if not content with the Bank of England’s response above, may apply to the court for directions in relation to any particular matter in the building society insolvency.

Notice to Bank of England of intention to vacate office

55.—(1) This rule applies where the building society liquidator was appointed by a meeting of creditors.

(2) Where the building society liquidator intends to vacate office, whether by resignation or otherwise, the building society liquidator shall give notice of his intention to the Bank of England together with notice of any creditors’ meeting to be held in respect of his vacation of office, including any meeting to be notified of his resignation.

(3) The Bank of England must be given at least 21 days’ notice before any such creditors’ meeting.

(4) Where there remains any property of the building society which has not been realised, applied, distributed or otherwise fully dealt with in the building society insolvency, the building society liquidator shall include in his notice to the Bank of England details of the nature of that property, its value (or the fact that it has no value), its location, any action taken by the building society liquidator to deal with that property or any reason for his not dealing with it, and the current position in relation to it.

Power of court to set aside certain transactions

56.—(1) Apply rule 4.38 of the 1986 Rules.

(2) In rule 4.38(2) of that Rule—

- (a) leave out “either”;
- (b) leave out “or” at the end of sub-paragraph (a); and
- (c) after sub-paragraph (b) insert—

“, or (c) it is shown to the court’s satisfaction that the transaction was entered into by the building society liquidator for the purpose of achieving Objective 1.”.

Rule against solicitation

57. Apply rule 4.39 of the 1986 Rules.