
STATUTORY INSTRUMENTS

2011 No. 1301

The Investment Bank Special Administration
(England and Wales) Rules 2011

PART 7

The Administrator

CHAPTER 1

Powers of the administrator

General powers

187.—(1) Any permission given by the creditors' committee (or if there is no such committee, a meeting of the company's creditors and clients or the court under the Rules), shall not be a general permission but shall relate to a particular proposed exercise of the administrator's power in Schedule 4 to the 1986 Act.

(2) A person dealing with the administrator in good faith and for value is not concerned to enquire whether any such permission has been given.

(3) Where the administrator has done anything without that permission, the court or the creditors' committee may, for the purpose of enabling the administrator to meet the administrator's expenses out of the assets, ratify what the administrator has done; but neither shall do so unless it is satisfied that the administrator has acted in a case of urgency and has sought ratification without undue delay.

Powers of disclaimer

188.—(1) Where the administrator disclaims property under section 178 of the 1986 Act, the notice of disclaimer shall contain such particulars of the property disclaimed as enable it to be easily identified.

(2) The notice of disclaimer must be authenticated and dated by the administrator.

(3) As soon as reasonably practicable after authenticating the notice of disclaimer, the administrator must—

(a) send a copy of the notice to the registrar of companies; and

(b) in any case where the disclaimer is of registered land as defined in section 132(1) of the Land Registration Act 2002⁽¹⁾, send a copy of the notice to the Chief Land Registrar.

(4) For the purposes of section 178, the date of the prescribed notice is that on which the administrator authenticated it.

Communication of disclaimer to persons interested

189.—(1) Within 7 business days after the date of the notice of disclaimer, the administrator shall send or give copies of the notice to the persons mentioned in paragraphs (2) to (4).

(2) Where the property disclaimed is of a leasehold nature, the administrator shall send or give a copy to every person who (to the administrator’s knowledge) claims under the company as underlessee or mortgagee.

(3) The administrator shall in any case send or give a copy of the notice to every person who (to the administrator’s knowledge)—

- (a) claims an interest in the disclaimed property; or
- (b) is under any liability in respect of the property, not being a liability discharged by the disclaimer.

(4) If the disclaimer is of an unprofitable contract, the administrator shall send or give copies of the notice to all such persons as, to the administrator’s knowledge, are parties to the contract or have interests under it.

(5) If subsequently it comes to the administrator’s knowledge, in the case of any person ‘P’, that P has such an interest in the disclaimed property as would have entitled P to receive a copy of the notice of disclaimer in pursuance of paragraphs (2) to (4), the administrator shall then, as soon as reasonably practicable, send or give to P a copy of the notice.

(6) Compliance with paragraph (5) is not required if—

- (a) the administrator is satisfied that P has already been made aware of the disclaimer and its date, or
- (b) the court, on the administrator’s application, orders that compliance is not required in that particular case.

Additional notices

190.—(1) The administrator disclaiming property may at any time send or give copies of the notice of the disclaimer to any persons who in the administrator’s opinion ought, in the public interest or otherwise, to be informed of the disclaimer.

(2) Paragraph (1) is without prejudice to the administrator’s obligations under sections 178 to 180 of the 1986 Act and rules 188 and 189.

Records

191. The administrator must include in the administrator’s records of the special administration a record of—

- (a) the persons to whom that administrator has sent or given copies of the notice of disclaimer under the two preceding rules, showing their names and addresses, and the nature of their respective interests;
- (b) the dates on which the copies of the notice of disclaimer were sent or given to those persons;
- (c) the date on which, as required by rule 188, a copy of the notice of disclaimer was sent to the registrar of companies; and
- (d) (where applicable) the date on which, as required by rule 188, a copy of the notice was sent to the Chief Land Registrar.

Application by interested party

192.—(1) The following applies where, in the case of any property, application is made to the administrator by an interested party under section 178(5) of the 1986 Act.

- (2) The application must be delivered to the administrator—
- (a) personally;
 - (b) by electronic means in accordance with Part 11; or
 - (c) by any other means of delivery which enables proof of receipt of the application by the administrator to be provided, if requested.

Interest in property to be declared on request

193.—(1) If, in the case of property which the administrator has the right to disclaim, it appears to the administrator that there is some person ‘P’ who claims, or may claim, to have an interest in the property, the administrator may give notice to P calling on that person to declare within 14 days whether P claims any such interest and, if so, the nature and extent of it.

(2) Failing compliance with the notice, the administrator is entitled to assume that P has no such interest in the property as will prevent or impede its disclaimer.

Disclaimer presumed valid and effective

194. Any disclaimer of property by the administrator is presumed valid and effective, unless it is proved that the administrator has been in breach of their duty with respect to the giving of notice of disclaimer, or otherwise, under sections 178 to 180 of the 1986 Act or under this Chapter of the Rules.

Application for the exercise of court’s powers under section 181

195.—(1) This rule applies with respect to an application by any person under section 181 of the 1986 Act for an order of the court to vest or deliver disclaimed property.

(2) The application must be made within 3 months of the applicant becoming aware of the disclaimer, or of the applicant receiving a copy of the administrator’s notice of disclaimer sent under rule 189, whichever is the earlier.

- (3) The applicant shall with the application file a witness statement—
- (a) stating whether the application is made under—
 - (i) paragraph (a) of section 181(2) (claim of interest in the property), or
 - (ii) under paragraph (b) (liability not discharged);
 - (b) specifying the date on which the applicant received a copy of the administrator’s notice of disclaimer, or otherwise became aware of the disclaimer; and
 - (c) specifying the grounds of the application and the order which the applicant desires the court to make under section 181.

(4) The court shall fix a venue for the hearing of the application; and the applicant shall, not later than 5 business days before the date fixed, give to the administrator notice of the venue, accompanied by copies of the application and the witness statement required by paragraph (3).

(5) On the hearing of the application, the court may give directions as to other persons (if any) who should be sent or given notice of the application and the grounds on which it is made.

(6) Sealed copies of any order made on the application shall be sent by the court to the applicant and the administrator.

(7) In a case where the property disclaimed is of a leasehold nature, and section 179 of the 1986 Act applies to suspend the effect of the disclaimer, there shall be included in the court's order a direction giving effect to the disclaimer.

(8) Paragraph (7) does not apply if, at the time when the order is issued, other applications under section 181 are pending in respect of the same property.

CHAPTER 2

Fixing of remuneration

Fixing of remuneration

196.—(1) The administrator is entitled to receive remuneration for services given in respect of—

(a) the pursuit of—

(i) Objective A in a special administration (bank insolvency),

(ii) Objective A in a special administration (bank administration), and

(iii) Objectives 2 and 3,

to be paid out of the estate of the investment bank; and

(b) the pursuit of Objective 1 to be paid out of the client assets held by the investment bank.

(2) The basis of remuneration in both cases in paragraph (1) shall be fixed—

(a) as a percentage of the value of the property with which the administrator has to deal; or

(b) by reference to the time properly given by the insolvency practitioner (as administrator) and his staff in attending to matters arising in the special administration; or

(c) as a set amount.

(3) The basis of remuneration may be fixed as any one or more of the bases set out in paragraph (2), and different bases may be fixed in respect of different things done by the administrator.

(4) Where the basis of remuneration is fixed as set out in paragraph (2)(a), different percentages may be fixed in respect of different things done by the administrator.

(5) It is for the creditors' committee (if there is one) to determine for each case—

(a) which of the bases set out in paragraph (2) are to be fixed and (where appropriate) in what combination under paragraph (3), and

(b) the percentage or percentages (if any) to be fixed under paragraphs (2)(a) and (4) and the amount (if any) to be set under paragraph (2)(c).

(6) In making the determinations, the committee shall have regard to the following matters—

(a) the complexity (or otherwise) of the case;

(b) any respects in which, in connection with the pursuit of either Objective 1, or of Objectives A, 2 and 3, there falls on the administrator any responsibility of an exceptional kind or degree;

(c) the effectiveness with which the administrator appears to be carrying out, or to have carried out, their duties as such; and

(d) the value and nature in each case of the property with which the administrator has to deal.

(7) If there is no creditors' committee, or the committee does not make the requisite determinations, the basis of the administrator's remuneration in each case may be fixed (in accordance with paragraphs (2) to (5)) by resolutions of a meeting of creditors and clients, or in respect of the administrator's remuneration for the purpose outlined in rule 196(1)(b), a meeting of clients and paragraph (6) applies to them as it does to the creditors' committee.

(8) If not fixed as above, the basis of the administrator's remuneration in either case shall, on the administrator's application, be fixed by the court and the provisions above apply as they do to the fixing of the basis of remuneration by the creditors' committee; but such an application may not be made by the administrator unless the administrator has first sought fixing of the basis in accordance with paragraph (5) or (7), and in any event may not be made more than 18 months after the date of the administrator's appointment.

(9) Where there are joint administrators, it is for them to agree between themselves as to how the remuneration payable should be apportioned. Any dispute arising between them may be referred—

- (a) to the court, for settlement by order; or
- (b) to the creditors' committee or a meeting of creditors and clients, for settlement by resolution.

(10) If the administrator is a solicitor and employs their own firm, or any partner in it, to act on behalf of the investment bank, profit costs shall not be paid unless this is authorised by the creditors' committee, the meeting of the creditors and clients, or the court.

Remuneration (special administration (bank insolvency))

197.—(1) In a special administration (bank insolvency), where the basis for the administrator's remuneration for services set out in rule 196(1)(a) has been fixed in accordance with rule 29, the creditors' committee (or if there is no creditors' committee, the meeting of creditors and clients) shall resolve whether to confirm the basis for remuneration as set by the Objective A committee, or whether to redetermine the basis for remuneration in accordance with rule 196(2) to (5).

(2) Any redetermination by the creditors' committee under paragraph (1) shall apply only in respect of the administrator's remuneration as from the date of the committee's decision and shall not have retrospective effect.

Remuneration (special administration (bank administration))

198.—(1) In a special administration (bank administration), where the basis for the administrator's remuneration for services set out in rule 196(1)(a) has been fixed in accordance with rule 48, the creditors' committee (or if there is no creditors' committee, the meeting of creditors and clients) shall resolve whether to confirm the basis for remuneration as set by the Bank of England, or whether to redetermine the basis for remuneration in accordance with rule 196(2) to (5).

(2) Paragraph (1) only applies where the Bank of England has passed an Objective A Achievement Notice.

(3) Any redetermination by the creditors' committee under paragraph (1) shall apply only in respect of the administrator's remuneration as from the date of the committee's decision and shall not have retrospective effect.

Recourse to meeting of creditors and clients

199.—(1) If the basis of the administrator's remuneration for either case in rule 196(1) has been fixed by the creditors' committee or confirmed or redetermined under rules 197 or 198, and the administrator considers, in either or in both cases, the rate or amount to be insufficient, or the basis to be inappropriate, the administrator may request that the rate or amount be increased or the basis changed by resolution of the creditors and the clients.

Recourse to the court

200.—(1) If the administrator considers that the basis of remuneration for either case in rule 196(1) fixed for the administrator by—

- (a) the creditors' committee; or
- (b) by resolution of the creditors and clients, or as the case may be, a meeting of clients,

is insufficient or inappropriate, the administrator may apply to the court for an order changing it or increasing its amount or rate.

(2) If in a special administration (bank insolvency) the administrator considers that the basis for remuneration for services set out in rule 196(1)(a) fixed for the administrator by the Objective A committee or under rule 197 above is insufficient or inappropriate, the administrator may apply to the court for an order changing it or increasing its amount or rate.

(3) If in a special administration (bank administration) the administrator considers that the basis for remuneration for services set out in rule 196(1)(a) fixed for the administrator by the Bank of England or under rule 198 above is insufficient or inappropriate, the administrator may apply to the court for an order changing it or increasing its amount or rate.

(4) The administrator shall give at least 14 days' notice of the application to the members of the creditors' committee; and the committee may nominate one or more members to appear, or be represented, and to be heard on the application.

(5) If there is no creditors' committee, the notice of the application shall be sent to such one or more of the investment bank's creditors or clients as the court may direct; those creditors or clients shall nominate one or more of their number to appear or be represented.

(6) Notice of the application shall also be given to the FSA and the FSA may nominate a person to appear and be heard on the application.

(7) In a special administration (bank administration), before the Bank of England has given an Objective A Achievement Notice, the court on hearing an application under this rule shall have regard to the achievement of Objective A.

(8) The court may, if it appears to be a proper case, order the costs of the administrator's application, including the costs of any member of the creditors' committee appearing or being represented on it, or any creditor or client so appearing or being represented, to be paid as an expense of the administration.

Creditors' and clients' request for further information

201.—(1) If—

- (a) within 21 days of receipt of a progress report under rule 122—
 - (i) a secured creditor,
 - (ii) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question), or
 - (iii) a client with the concurrence of clients claiming for at least 5% in value of the client assets (including the client in question); or
- (b) with the permission of the court upon an application made within that period of 21 days, any unsecured creditor,

makes a request in writing to the administrator for further information about remuneration or expenses (other than pre-administration costs) set out in a statement required by rule 122(1)(g) or (h), the administrator must, within 14 days of receipt of the request, comply with paragraph (2).

(2) The administrator complies with this paragraph by either—

- (a) providing all of the information asked for, or
- (b) so far as the administrator considers that—
 - (i) the time or cost of preparation of the information would be excessive, or

(ii) disclosure of the information would be prejudicial to the conduct of the administration or might reasonably be expected to lead to violence against any person, or

(iii) the administrator is subject to an obligation of confidentiality in respect of the information,

giving reasons for not providing all of the information.

(3) Any creditor or client, who need not be the same as the person who requested further information under paragraph (1), may apply to the court within 21 days of—

(a) the giving by the administrator of reasons for not providing all of the information asked for, or

(b) the expiry of the 14 days provided for in paragraph (1),

and the court may make such order as it thinks just.

(4) Without prejudice to the generality of paragraph (3), the order of the court under that paragraph may extend the period of 8 weeks provided for in rule 202(4) by such further period as the court thinks just.

Claim that remuneration is excessive

202.—(1) The following persons may apply to the court for one or more of the orders in paragraph (7) in respect of the administrator’s remuneration for services set out in rule 196(1)(a) —

(a) a secured creditor;

(b) an unsecured creditor with either the concurrence of at least 10% in value of the unsecured creditors (including that creditor) or the permission of the court; or

(c) a client with the concurrence of clients representing at least 10% of the total claims in respect of client assets held by the investment bank or with the permission of the court; or

(d) the FSA.

(2) A client, with the concurrence of clients representing at least 10% of the total claims in respect of client assets held by the investment bank, or with the permission of the court, may apply to the court for one or more of the orders in paragraph (7) in respect of the administrator’s remuneration for services set out in rule 196(1)(b).

(3) Application under paragraphs (1) and (2) may be made on the grounds that—

(a) the remuneration charged by the administrator;

(b) the basis fixed for the administrator’s remuneration; or

(c) expenses incurred by the administrator,

is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate.

(4) The application must, subject to any order of the court under rule 201(4), be made no later than 8 weeks after receipt by the applicant of the progress report which first reports the charging of the remuneration or the incurring of the expenses in question (“the relevant report”).

(5) The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss it without a hearing but it shall not do so without giving the applicant at least 5 business days’ notice, upon receipt of which the applicant may require the court to list the application for a without notice hearing. If the application is not dismissed, the court shall fix a venue for it to be heard, and give notice to the applicant accordingly.

(6) The applicant shall, at least 14 days before the hearing, send to the administrator a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to adduce in support of it.

(7) If the court considers the application to be well-founded, it must make one or more of the following orders—

- (a) an order reducing the amount of remuneration which the administrator was entitled to charge;
- (b) an order fixing the basis of remuneration at a reduced rate or amount;
- (c) an order changing the basis of remuneration;
- (d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the administration;
- (e) an order that the administrator or the administrator's personal representative pay to the investment bank the amount of the excess of remuneration or expenses or such part of the excess as the court may specify;

and may make any other order that it thinks just; but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report.

(8) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the special administration.

(9) In a special administration (bank administration), this rule only applies after the Bank of England has given an Objective A Achievement Notice.

Review of remuneration

203.—(1) Where, after the basis of the administrator's remuneration has been fixed, there is a material and substantial change in the circumstances which were taken into account in fixing it, the administrator may request that it be changed.

(2) The request must be made—

- (a) where the creditors' committee fixed the basis, to the committee;
- (b) where the creditors and clients fixed the basis, to the creditors and clients;
- (c) where the court fixed the basis, by application to the court;
- (d) where the Objective A committee fixed the basis, to that committee (unless that committee has passed a full payment resolution, in which case the request must be made to the creditors' committee, or if there is no creditors' committee, to the meeting of creditors and clients);
- (e) where the Bank of England fixed the basis, to the Bank of England (unless the Bank of England has given an Objective A Achievement Notice, in which case the request must be made to the creditors' committee, or if there is no creditors' committee, to the meeting of creditors and clients);

and this Chapter applies as appropriate.

(3) Any change in the basis for remuneration applies from the date of the request under paragraph (1) and not for any earlier period.

Remuneration of new administrator

204.—(1) If a new administrator is appointed in place of another, any determination, resolution or court order in effect under the preceding provisions of this Chapter immediately before the former administrator ceased to hold office continues to apply in respect of the remuneration of the new

administrator until a further determination, resolution or court order is made in accordance with those provisions.

Apportionment of set fee remuneration

205.—(1) In a case in which the basis of the administrator’s remuneration is a set amount under rule 196(2)(c) and the administrator (“the former administrator”) ceases (for whatever reason) to hold office before the time has elapsed or the work has been completed in respect of which the amount was set, application may be made for determination of what portion of the amount should be paid to the former administrator or the former administrator’s personal representative in respect of the time which has actually elapsed or the work which has actually been done.

(2) Application may be made—

- (a) by the former administrator or the former administrator’s personal representative within the period of 28 days beginning with the date upon which the former administrator ceased to hold office; or
- (b) by the administrator for the time being in office if the former administrator or the former administrator’s personal representative has not applied by the end of that period.

(3) Application must be made—

- (a) where the creditors’ committee fixed the basis, to that committee for a resolution determining the portion;
- (b) where the creditors and clients fixed the basis, to the creditors and clients for a resolution determining the portion;
- (c) where the court fixed the basis, to the court for an order determining the portion;
- (d) where the Objective A committee fixed the basis, to that committee (unless that committee has passed a full payment resolution, in which case the request must be made to the creditors’ committee, or if there is no creditors’ committee, to the meeting of creditors and clients); and
- (e) where the Bank of England fixed the basis, to the Bank of England (unless the Bank of England has given an Objective A Achievement Notice, in which case the request must be made to the creditors’ committee, or if there is no creditors’ committee, to the meeting of creditors and clients).

(4) The applicant must give a copy of the application to the administrator for the time being in office or to the former administrator or the former administrator’s personal representative, as the case may be (“the recipient”).

(5) The recipient may within 21 days of receipt of the copy of the application give notice of intent to make representations to the creditors’ committee, or to the creditors and clients or to appear or be represented before the court, as the case may be.

(6) No determination may be made upon the application until expiry of the 21 days referred to in paragraph (5) or, if the recipient does give notice of intent in accordance with that paragraph, until the recipient has been afforded the opportunity to make representations or to appear or be represented, as the case may be.

(7) If the former administrator or the former administrator’s personal representative (whether or not the original applicant) considers that the portion determined upon application to the creditors’ committee or the creditors and clients is insufficient, that person may apply—

- (a) in the case of a determination by the creditors’ committee, to the creditors and clients for a resolution increasing the portion;
- (b) in the case of a resolution of the creditors and clients (whether under paragraph (1) or under sub-paragraph (a)), to the court for an order increasing the portion;

and paragraphs (4) to (6) apply as appropriate.

CHAPTER 3

Replacing the administrator

Grounds for resignation

206.—(1) The administrator may resign in the following circumstances—

- (a) on grounds of ill health;
- (b) that the administrator intends ceasing to be in practice as an insolvency practitioner; or
- (c) that there is some conflict of interest, or change of personal circumstances, which precludes or makes impracticable the further discharge by that person of the duties of administrator.

(2) The administrator may, with the permission of the court, resign on grounds other than those specified in paragraph (1).

(3) In a special administration (bank insolvency) before the Objective A committee has passed a full payment resolution, the administrator needs the permission of the Bank of England to resign on grounds other than those specified in paragraph (1).

(4) In a special administration (bank administration) before the Bank of England has given an Objective A Achievement Notice, the administrator needs the permission of the Bank of England to resign on grounds other than those specified in paragraph (1).

Notice of intention to resign

207.—(1) The administrator shall in all cases give at least 5 business days' notice of their intention to resign, or their intention to apply for the court's permission to do so, to the following persons—

- (a) if there is a continuing administrator of the investment bank, to that person; and
- (b) if there is a creditors' committee, to it; but
- (c) if there is no such administrator and no creditors' committee, to the investment bank and its creditors and clients of whose claim the administrator is aware and of whom the administrator has a means of contacting.

(2) Where the administrator was appointed on the application of the FSA or the Secretary of State, notice under paragraph (1) shall also be given to the applicant.

(3) In a special administration (bank insolvency), before the Objective A committee has passed a full payment resolution, notice under paragraph (1) shall be given to the Bank of England.

(4) In a special administration (bank administration), notice under paragraph (1) shall be given to the FSA and to the Bank of England.

(5) The notice under paragraph (1) shall set out—

- (a) a statement that the proceedings are being held in the High Court and the court reference number;
- (b) the full name, registered address, registered number of the investment bank;
- (c) the full name and business address of the administrator;
- (d) either—
 - (i) the date on which the administrator's resignation shall take effect; or
 - (ii) the date upon which the administrator intends to apply to court for leave to resign.

Notice of resignation

208.—(1) The notice of resignation shall set out—

- (a) a statement that the proceedings are being held in the High Court and the court reference number;
- (b) the full name, registered address and registered number of the investment bank;
- (c) the full name and business address of the administrator;
- (d) whether or not the person resigning is the sole administrator of the investment bank; and
- (e) a statement that either—
 - (i) the administrator resigns from office with effect from a specified date; or
 - (ii) the court gave the administrator leave to resign (and the statement shall include the date of the court’s permission) and that the administrator therefore resigns with effect from a specified date.

(2) In a special administration (bank insolvency), before the Objective A committee has passed a full payment resolution, where the administrator has applied to court for leave to resign, the notice of resignation shall also contain confirmation from the Bank of England that it consents to the resignation.

(3) In a special administration (bank administration) before the Bank of England has given an Objective A Achievement Notice, where the administrator has applied to court for leave to resign, the notice of resignation shall also contain confirmation from the Bank of England that it consents to the resignation.

(4) The notice shall be filed with the court and a copy of the notice of resignation shall be sent not more than 5 business days after it has been filed with the court to all those to whom the notice of intention to resign was sent.

(5) The administrator shall notify the registrar of companies of their resignation.

Application to court to remove administrator from office

209.—(1) Any application under paragraph 88 shall state the grounds on which it is requested that the administrator should be removed from office.

(2) In a special administration (bank administration), the application must state that either—

- (a) the Bank of England has consented to the application being made; or
- (b) the Bank of England has given an Objective A Achievement Notice.

(3) Service of the notice of the application shall be effected on—

- (a) the administrator;
- (b) the person who made the application for the special administration order;
- (c) the creditors’ committee (if any);
- (d) the joint administrator (if any);
- (e) where there is neither a creditors’ committee or joint administrator, the investment bank and all the creditors and clients of whose claim the administrator is aware and of whom they have a means of contacting;
- (f) the FSA; and
- (g) in a special administration (bank administration) where the Bank of England has not given an Objective A Achievement Notice, the Bank of England.

(4) Where a court makes an order removing the administrator it shall give a copy of the order to the applicant who as soon as reasonably practicable, shall send a copy to the administrator.

(5) The applicant shall also within 5 business days of the order being made send a copy of the order to all those to whom notice of the application was sent.

(6) The applicant shall send notice of the order to the registrar of companies within the same time period.

Notice of vacation of office when administrator ceases to be qualified

210. Where the administrator who has ceased to be qualified to act as an insolvency practitioner in relation to the investment bank gives notice in accordance with paragraph 89, notice shall also be given—

- (a) to the registrar of companies; and
- (b) (where the administrator was appointed on the application of the FSA or the Secretary of State) to the applicant.

Administrator deceased

211.—(1) Subject as follows, where the administrator has died, it is the duty of the administrator's personal representatives to give notice of the fact to the court, specifying the date of the death. This does not apply if notice has been given under either paragraph (3) or (4) of this rule.

(2) Notice of the death must also be sent to the registrar of companies.

(3) If the deceased administrator was a partner in or an employee of a firm, notice to the court may be given by a partner in the firm who is qualified to act as an insolvency practitioner, or is a member of any body recognised by the Secretary of State or the Department of Enterprise, Trade and Investment for Northern Ireland for the authorisation of insolvency practitioners.

(4) Notice of the death may be given to the court by any person producing to the court the relevant death certificate or a copy of it.

Application to replace (special administration)

212.—(1) Where an application is made to court under paragraph 91(1) to appoint a replacement administrator, the application shall be accompanied by a written statement by the person proposed to be the replacement administrator.

(2) The written statement shall be in accordance with rule 7.

(3) A copy of the application shall be served on—

- (a) the person who made the application for a special administration order;
- (b) the investment bank (if neither the investment bank nor its directors are the applicant);
- (c) on the person nominated for appointment as administrator; and
- (d) on the FSA (if not the applicant).

(4) Rule 10 shall apply to the service of an application under paragraph 91(1) as it applies to service of the application for a special administration order.

(5) Rules 11 and 13 apply to an application under this rule and rule 16(1) and (2) shall apply to the notice of appointment under paragraph 91(1) as it applies to notice of a special administration order.

(6) This rule does not apply—

- (a) in a special administration (bank insolvency) before the Objective A committee has passed a full payment resolution; or
- (b) in a special administration (bank administration) before the Bank of England has given an Objective A Achievement Notice

Application to replace (special administration (bank insolvency))

213.—(1) This rule applies in a special administration (bank insolvency) before the Objective A committee has passed a full payment resolution.

(2) Where there is a vacancy in office the Bank of England must appoint a replacement administrator as soon as reasonably practicable.

(3) The rules for the appointment of an administrator in Chapter 2 of Part 2 shall apply to the appointment of a replacement administrator.

Application to replace (special administration (bank administration))

214.—(1) This rule applies in a special administration (bank administration) before the Bank of England has given an Objective A Achievement Notice.

(2) Where there is a vacancy in office the Bank of England must appoint a replacement administrator as soon as reasonably practicable.

(3) Where an application is made by the Bank of England to remove or replace an administrator, the rules in Chapter 3 of Part 2 for the application to appoint an administrator shall apply to the service of notice of the application and of the hearing.

(4) Both the person proposed to be appointed and the existing administrator are entitled to be served and heard.

Notification and advertisement of appointment of replacement administrator

215.—(1) Where a replacement administrator is appointed, the same provisions apply in respect of giving notice of, and advertising, the replacement appointment as in the case of the appointment, subject to rule 218.

(2) All statements, consents etc as are required shall also be required in the case of the appointment of a replacement.

(3) All notices shall clearly identify that the appointment is of a replacement administrator.

Notification and advertisement of appointment of joint administrator

216. Where, after an initial appointment has been made, an additional person or persons are to be appointed as joint administrator, the same rules shall apply in respect of giving notice of and advertising the appointment as in the case of the initial appointment, subject to rule 218.

Additional joint administrator (special administration (bank administration))

217.—(1) This rule applies to an application to appoint an additional joint administrator in a special administration (bank administration) before the Bank of England has given an Objective A Achievement Notice.

(2) The process for the initial appointment of an administrator under Chapter 3 of Part 2 shall apply to the appointment of an additional joint administrator.

(3) The existing administrator (or each of them) is entitled to a copy of the application and may—

- (a) file written representations; and
- (b) be heard at the hearing.

(4) An application for the appointment of an additional joint administrator under this rule may only be made by the Bank of England.

(5) Rules 216 and 218 apply in respect of the notification and advertisement of the appointment of a additional joint administrator.

Notification of new administrator

218.—(1) The replacement or additional administrator shall send notice of the appointment to the registrar of companies.

(2) The notice in paragraph (1) shall contain—

- (a) the name and business address of the administrator appointed;
- (b) the name, registered address and registered number of the investment bank in respect of which the appointment is made;
- (c) whether the administrator is appointed to replace an existing administrator or in addition to a previously appointed administrator; and
- (d) the date from which the administrator's appointment will take effect.

Administrator's duties on vacating office

219.—(1) Where the administrator ('A') ceases to be in office in consequence of this chapter, A is under obligation as soon as reasonably practicable to deliver up to the person succeeding A as administrator ('B') the assets (after deduction of any expenses properly incurred and distributions made by A) and further to deliver up to B—

- (a) the records of the administration, including correspondence, proofs and other related papers appertaining to the administration while it was within A's responsibility; and
- (b) the investment bank's books, papers and other records.

(2) If A makes default in complying with this rule, A is liable to a fine and, for continued contravention, to a daily default fine.