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STATUTORY INSTRUMENTS

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**2009 No. 351**

**The Bank Insolvency (Scotland) Rules 2009**

**PART 9**

**THE LIQUIDATION COMMITTEE**

**Application of rules**

**57.** The rules in this Part apply only in relation to the liquidation committee established under rule 23 after a full payment resolution has been passed.

**Membership of committee**

**58.—**(1) Apply rule 4.41 of the 1986 Rules(1).

(2) For rule 4.41(1) substitute—

“(1) Subject to rule 4.43 of the 1986 Rules as applied by rule 56 of the 2009 Rules, the liquidation committee shall consist of either 3 or 5 creditors of the bank, elected by the meeting of creditors held under rule 23 of those Rules.”.

(3) Ignore paragraphs (3) and (6) and in paragraph (5) ignore any reference to contributory members.

**Formalities of establishment**

**59.—**(1) Apply rule 4.42 of the 1986 Rules(2).

**Committee established by contributories**

**60.—**(1) Apply rule 4.43 of the 1986 Rules(3).

(2) For rule 4.43(1) of that rule substitute—

“(1) This rule applies where the outcome of the creditors’ meeting summoned by the bank liquidator under rule 23 of the 2009 Rules is, by virtue of rule 24(3), that the liquidation committee ceases to exist at the end of the meeting”.

(3) In rule 4.43(2) omit “Section 138 or”.

(4) In rule 4.43(4) omit “at least 3 and not more than 5” and substitute “3 or 5”.

**Obligations of liquidator to committee**

**61.** Apply rule 4.44 of the 1986 Rules.

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(1) Rule 4.41 was amended by paragraph 23 of Schedule 1(I) to [S.I. 1987/1921](#).

(2) Rule 4.42 was amended by paragraph 24 of Schedule 1(I) to [S.I. 1987/1921](#), and paragraph 141(17) of Schedule 2(II) to [S.I. 1999/1820](#). Rule 4.42(3) refers to section 375 of the [Companies Act 1985 \(c.6\)](#). That section was replaced by section 323 of the [Companies Act 2006 \(c.46\)](#) with effect from 1st October 2007.

(3) Rule 4.43 was amended by paragraph 25 of Schedule 1(I) to [S.I. 1987/1921](#).

### **Meetings of the committee**

62. Apply rule 4.45 of the 1986 Rules.

### **The chair at meetings**

63. Apply rule 4.46 of the 1986 Rules.

### **Quorum**

64. Apply rule 4.47 of the 1986 Rules.

### **Committee members' representatives**

65. Apply rule 4.48 of the 1986 Rules(4).

### **Resignation**

66. Apply rule 4.49 of the 1986 Rules.

### **Termination of membership**

67. Apply rule 4.50 of the 1986 Rules.

### **Removal**

68. Apply rule 4.51 of the 1986 Rules.

### **Vacancy (creditor members)**

69. Apply rule 4.52 of the 1986 Rules.

### **Vacancy (contributory members)**

70. Apply rule 4.53 of the 1986 Rules(5).

### **Voting rights and resolutions**

71. Apply rule 4.54 of the 1986 Rules.

### **Resolutions by post**

72.—(1) Apply rule 4.55 of the 1986 Rules(6).

(2) Ignore rule 4.55(3) and (4).

### **Liquidator's reports**

73.—(1) Apply rule 4.56 of the 1986 Rules.

(2) At the end of rule 4.56(1) insert “but does not apply to the FSCS”.

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(4) Rule 4.48 was amended by paragraph 26 of Schedule 1(I) to [S.I. 1987/1921](#). Rule 4.48 of the 1986 Rules refers to section 375 of the [Companies Act 1985 \(c.6\)](#). That section was replaced by section 323 of the [Companies Act 2006 \(c.46\)](#) with effect from 1st October 2007.

(5) Rule 4.53 was amended by paragraph 27 of Schedule 1(I) to [S.I. 1987/1921](#).

(6) Rule 4.55 was amended by paragraph 28 of Schedule 1(I) to [S.I. 1987/1921](#).

**Expenses of members, etc**

74. Apply rule 4.57(1) of the 1986 Rules.

**Dealings by committee-members and others**

75. Apply rule 4.58 of the 1986 Rules.

**Composition of committee when creditors paid in full**

76.—(1) Apply rule 4.59 of the 1986 Rules(7).

(2) For rule 4.59(4) substitute “The members of the liquidation committee will cease to be members at the end of the final meeting held under rule 44 of the 2009 Rules.”

**Formal defects**

77. Apply rule 4.59A of the 1986 Rules(8).

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(7) Rule 4.59 was amended by paragraph 141(18) of Schedule 2(II) to S.I. 1999/1820.

(8) Rule 4.59A was inserted by paragraph 29 of Schedule 1(I) to S.I. 1987/1921.