

SCHEDULE

PART 1

AMENDMENT OF THE PRINCIPAL RULES

SECTION 1: AMENDMENT OF INTRODUCTORY PROVISIONS

Amendment of Rule 0.2

1. For Rule 0.2 there shall be substituted the following:—

“Construction and interpretation

0.2.—(1) In these Rules—

“the Act” means the Insolvency Act 1986 (any reference to a numbered section being to a section of that Act);

“the Companies Act” means the Companies Act 1985;

“the Rules” means the Insolvency Rules 1986.

(2) Subject to paragraph (1), Part 13 of the Rules has effect for their interpretation and application.”.

Amendment of Rule 0.3

2. In paragraph (2) of Rule 0.3 there shall be inserted at the beginning the words “Rule 3.1 applies to all receivers to whom Part III of the Act applies and the remainder of”.

SECTION 2: AMENDMENT OF PART I OF THE RULES

Amendment of Rule 1.10

3. In subparagraph (a) of paragraph (1) of Rule 1.10 after the word “them” there shall be inserted the words “, with the addition, where the company is subject to an administration order, of the names and addresses of the company’s preferential creditors (defined in section 4(7)), with the amounts of their respective claims”.

Amendment of Rule 1.12

4. In paragraph (3) of Rule 1.12 after the words “Rule 1.3” there shall be inserted the words “(and, where relevant, Rule 1.10)”.

Amendment of Rule 1.20

5. In paragraph (1) of Rule 1.20 after the words “one-half” there shall be inserted the words “in value” and there shall be added the following subparagraph:—

“The value of members is determined by reference to the number of votes conferred on each member by the company’s articles.”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SECTION 3: AMENDMENT OF PART 2 OF THE RULES

Amendment of Rule 2.6

6. For subparagraph (a) of paragraph (2) of Rule 2.6 there shall be substituted the following:—
- “(a) on any person who has appointed, or is or may be entitled to appoint, an administrative receiver of the company;”.

Insertion of Rule 2.6A

7. After Rule 2.6 there shall be inserted the following rule:—

“Notice to sheriff, etc

2.6A. The petitioner shall forthwith after filing the petition give notice of its presentation to—

- (a) any sheriff or other officer who to his knowledge is charged with an execution or other legal process against the company or its property, and
- (b) any person who to his knowledge has distrained against the company or its property.”.

Amendment of Rule 2.7

8.—(1) In paragraph (4) of Rule 2.7 there shall be inserted at the beginning the words “Subject to paragraph (4A),”.

- (2) After paragraph (4) of Rule 2.7 there shall be inserted the following paragraph:—

“(4A) In the case of a person who—

- (a) is an authorised institution or former authorised institution within the meaning of the Banking Act 1987,
- (b) has appointed, or is or may be entitled to appoint, an administrative receiver of the company, and
- (c) has not notified an address for service,

the proper address is the address of an office of that person where, to the knowledge of the petitioner, the company maintains a bank account or, where no such office is known to the petitioner, the registered office of that person, or, if there is no such office, his usual or last known address.”.

Amendment of Rule 2.9

9. For subparagraph (c) of paragraph (1) of Rule 2.9 there shall be substituted the following:—
- “(c) any person who has appointed, or is or may be entitled to appoint, an administrative receiver of the company;”.

Amendment of Rule 2.10

10. For subparagraph (a) of paragraph (3) of Rule 2.10 there shall be substituted the following:—
- “(a) to any person who has appointed, or is or may be entitled to appoint, an administrative receiver of the company;”.

Amendment of Rule 2.11

11.—(1) In paragraph (1) of Rule 2.11 for the word “If” there shall be substituted the word “Where”.

(2) In paragraph (4) of Rule 2.11 for the words “instructions for” to the end there shall be substituted the words “the forms required for the preparation of the statement of affairs”.

Amendment of Rule 2.16

12.—(1) In Rule 2.16 the existing paragraph shall be numbered (1) and for subparagraph (f) of that paragraph there shall be substituted the following:—

- “(f) the manner in which the affairs and business of the company—
 - (i) have, since the date of the administrator’s appointment, been managed and financed, and
 - (ii) will, if the administrator’s proposals are approved, continue to be managed and financed; and”.

(2) In Rule 2.16 after the existing paragraph there shall be added the following paragraph:—

“(2) Where the administrator intends to apply to the court under section 18 for the administration order to be discharged at a time before he has sent a statement of his proposals to creditors in accordance with section 23(1), he shall, at least 10 days before he makes such an application, send to all creditors of the company (so far as he is aware of their addresses) a report containing the information required by paragraph (1)(a)—(f)(i) of this Rule.”.

Amendment of Rule 2.19

13.—(1) In paragraph (4) of Rule 2.19 the words “At least 21 days” shall be omitted.

(2) After paragraph (4) of Rule 2.19 there shall be inserted the following paragraph:—

“(4A) Except in relation to a meeting summoned under section 23(1) or 25(2), at least 21 days’ notice of the meeting shall be given.”.

Amendment of Rule 2.28

14.—(1) In paragraph (1) of Rule 2.28 there shall be inserted at the beginning the words “Subject to paragraph (1A),”.

(2) After paragraph (1) of Rule 2.28 there shall be inserted the following paragraph:—

“(1A) Any resolution is invalid if those voting against it include more than half in value of the creditors to whom notice of the meeting was sent and who are not, to the best of the chairman’s belief, persons connected with the company.”.

Amendment of Rule 2.29

15. For Rule 2.29 there shall be substituted the following:—

“Reports and notices under sections 23 and 25

2.29. Any report or notice by the administrator of the result of a creditors’ meeting held under section 23 or 25 shall have annexed to it details of the proposals which were considered by the meeting and of the revisions and modifications to the proposals which were so considered.”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment of Rule 2.33

16. For paragraph (2) of Rule 2.33 there shall be substituted the following:—

“(2) No person may act as a member of the committee unless and until he has agreed to do so and, unless the relevant proxy or authorisation contains a statement to the contrary, such agreement may be given by his proxy-holder or representative under section 375 of the Companies Act present at the meeting establishing the committee.

(2A) The administrator’s certificate of the committee’s due constitution shall not issue unless and until at least 3 of the persons who are to be members of the committee have agreed to act.”.

Amendment of Rule 2.37

17. In paragraph (2) of Rule 2.37 there shall be added at the end the words “, and for this purpose any proxy or any authorisation under section 375 of the Companies Act in relation to any meeting of creditors of the company shall, unless it contains a statement to the contrary, be treated as a letter of authority to act generally signed by or on behalf of the committee-member”.

Amendment of Rule 2.43

18. In paragraph (2) of Rule 2.43 for the words from “a statement incorporating” to the end there shall be substituted the words “a copy of any proposed resolution on which a decision is sought, which shall be set out in such a way that agreement with or dissent from each separate resolution may be indicated by the recipient on the copy so sent”.

Insertion of Rule 2.46A

19. After Rule 2.46 there shall be inserted the following rule:—

“Formal defects

2.46A. The acts of the creditors' committee established for any administration are valid notwithstanding any defect in the appointment, election or qualifications of any member of the committee or any committee-member’s representative or in the formalities of its establishment.”.

Amendment of Rule 2.47

20. For paragraph (7) of Rule 2.47 there shall be substituted the following:—

“(7) 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, for settlement by resolution.

(8) If the administrator is a solicitor and employs his own firm, or any partner in it, to act on behalf of the company, profit costs shall not be paid unless this is authorised by the creditors' committee, the creditors or the court.”.

Amendment of Rule 2.49

21. In paragraph (4) of Rule 2.49 after the word “appearing” in both places where it occurs there shall be inserted the words “or being represented”.

Amendment of Rule 2.55

22. In Rule 2.55 for the words “original appointment of an administrator” there shall be substituted the words “administration order”.

SECTION 4: AMENDMENT OF PART 3 OF THE RULES

Amendment of Rule 3.1

23. For Rule 3.1 there shall be substituted the following:—

“Acceptance and confirmation of acceptance of appointment

3.1.—(1) Where two or more persons are appointed as joint receivers or managers of a company’s property under powers contained in an instrument, the acceptance of such an appointment shall be made by each of them in accordance with section 33 as if that person were a sole appointee, but the joint appointment takes effect only when all such persons have so accepted and is then deemed to have been made at the time at which the instrument of appointment was received by or on behalf of all such persons.

(2) Subject to the next paragraph, where a person is appointed as the sole or joint receiver of a company’s property under powers contained in an instrument, the appointee shall, if he accepts the appointment, within 7 days confirm his acceptance in writing to the person appointing him.

(3) Paragraph (2) does not apply where an appointment is accepted in writing.

(4) Any acceptance or confirmation of acceptance of appointment as a receiver or manager of a company’s property, whether under the Act or the Rules, may be given by any person (including, in the case of a joint appointment, any joint appointee) duly authorised for that purpose on behalf of the receiver or manager.

(5) In confirming acceptance the appointee or person authorised for that purpose shall state—

- (a) the time and date of receipt of the instrument of appointment, and
- (b) the time and date of acceptance.”.

Amendment of Rule 3.2

24. In paragraph (2) of Rule 3.2 for the word “notice” there shall be substituted the words “notices sent to the company and the creditors”.

Amendment of Rule 3.3

25.—(1) In paragraph (1) of Rule 3.3 for the word “If” there shall be substituted the word “Where”.

(2) In paragraph (4) of Rule 3.3 for the words “instructions for” to the end there shall be substituted the words “the forms required for the preparation of the statement of affairs”.

Omission of Rule 3.13

26. Rule 3.13 shall be omitted.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment of Rule 3.17

27. For paragraph (2) of Rule 3.17 there shall be substituted the following:—

“(2) No person may act as a member of the committee unless and until he has agreed to do so and, unless the relevant proxy or authorisation contains a statement to the contrary, such agreement may be given by his proxy-holder or representative under section 375 of the Companies Act present at the meeting establishing the committee.

(2A) The receiver’s certificate of the committee’s due constitution shall not issue unless and until at least 3 of the persons who are to be members of the committee have agreed to act.”.

Amendment of Rule 3.21

28. In paragraph (2) of Rule 3.21 there shall be added at the end the words “, and for this purpose any proxy or any authorisation under section 375 of the Companies Act in relation to any meeting of creditors of the company shall, unless it contains a statement to the contrary, be treated as a letter of authority to act generally signed by or on behalf of the committee-member”.

Amendment of Rule 3.27

29. In paragraph (2) of Rule 3.27 for the words from “a statement incorporating” to the end there shall be substituted the words “a copy of any proposed resolution on which a decision is sought, which shall be set out in such a way that agreement with or dissent from each separate resolution may be indicated by the recipient on the copy so sent”.

Insertion of Rule 3.30A

30. After Rule 3.30 there shall be inserted the following rule:—

“Formal defects

3.30A. The acts of the creditors’ committee established for any administrative receivership are valid notwithstanding any defect in the appointment, election or qualifications of any member of the committee or any committee-member’s representative or in the formalities of its establishment.”.

Amendment of Rule 3.33

31. In paragraph (1) of Rule 3.33:—

- (a) the word “and” shall be omitted at the end of subparagraph (a), and
- (b) there shall be added at the end of subparagraph (b) the words:—

“, and

- (c) in any case, to the members of the creditors’ committee (if any)”.

Amendment of Rule 3.34

32. In Rule 3.34:—

- (a) the word “and” shall be omitted at the end of subparagraph (a), and
- (b) there shall be added at the end of subparagraph (b) the words:—

“, and

- (c) in any case, to the members of the creditors' committee (if any)".

Amendment of Rule 3.35

33. In paragraph (1) of Rule 3.35 for subparagraph (a) there shall be substituted the following:—

“(a) to the company or, if it is in liquidation, the liquidator, and”,

and in subparagraph (b) the words “in any case,” shall be omitted.

SECTION 5: AMENDMENT OF PART 4 OF THE RULES

Amendment of Rule 4.1

34.—(1) For paragraph (1) of Rule 4.1 there shall be substituted the following:—

“(1) In a members' voluntary winding up, the Rules in this Part do not apply, except as follows—

- (a) Rule 4.3 applies in the same way as it applies in a creditors' voluntary winding up;
- (b) Rule 4.72 (additional provisions concerning meetings in relation to Bank of England and Deposit Protection Board) applies in the winding up of authorised institutions or former authorised institutions within the meaning of the Banking Act 1987, whether members' or creditors' voluntary or by the court;
- (c) Chapters 9 (proof of debts in a liquidation), 10 (secured creditors), 15 (disclaimer) and 18 (special manager) apply wherever, and in the same way as, they apply in a creditors' voluntary winding up;
- (d) Section F of Chapter 11 (the liquidator) applies only in a members' voluntary winding up, and not otherwise;
- (e) Section G of that Chapter (court's power to set aside certain transactions; rule against solicitation) applies in any winding up, whether members' or creditors' voluntary or by the court;
- (f) Rule 4.182A applies only in a members' voluntary winding up, and not otherwise; and
- (g) Rule 4.223-CVL (liquidator's statements) applies in the same way as it applies in a creditors' voluntary winding up.”.

(2) After the words “creditors' voluntary” in line 3 of paragraph (2) of Rule 4.1 there shall be inserted the words “winding up”.

(3) In paragraph (3) of Rule 4.1—

- (a) after the line beginning “Chapter 19” there shall be inserted in a separate line the words “Chapter 11 (Section F)—The liquidator in a members' voluntary winding up;”; and
- (b) there shall be added at the end in a separate line the words “Chapter 21 (Section C)—Dissolution after winding up”.

Amendment at head of Rule 4.2

35. At the head of Rule 4.2 there shall be inserted the words “(NO CVL APPLICATION)”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment of Rule 4.7

36.—(1) In subparagraph (e) of paragraph (4) of Rule 4.7 for the words from “(i) a recognised bank” to “were licensed” there shall be substituted the words “an authorised institution or former authorised institution within the meaning of the Banking Act 1987”.

(2) After paragraph (6) of Rule 4.7 there shall be added the following paragraphs:—

“(7) Where a petition is filed at the instance of a company’s administrator the petition shall—

- (a) be expressed to be the petition of the company by its administrator,
- (b) state the name of the administrator, the number of the petition on which the administration order was made and the date of that order, and
- (c) contain an application under section 18 requesting that the administration order be discharged and that the court make any such order consequential upon that discharge as it thinks fit.

(8) Any petition filed in relation to a company in respect of which there is in force an administration order or a voluntary arrangement under Part I of the Act shall be presented to the court which made the administration order or, as the case may be, to which the nominee’s report under section 2 was submitted.

(9) Any petition such as is mentioned in paragraph (7) above or presented by the supervisor of a voluntary arrangement under Part I of the Act in force for the company shall be treated as if it were a petition filed by contributories, and Chapter 4 in this Part of the Rules shall apply accordingly.

(10) Where a petition contains a request for the appointment of a person as liquidator in accordance with section 140 (appointment of former administrator or supervisor as liquidator) the person whose appointment is sought shall, not less than 2 days before the return day for the petition, file in court a report including particulars of—

- (a) a date on which he notified creditors of the company, either in writing or at a meeting of creditors, of the intention to seek his appointment as liquidator, such date to be at least 10 days before the day on which the report under this paragraph is filed, and
- (b) details of any response from creditors to that notification, including any objections to his appointment.”.

Amendment of Rule 4.8

37.—(1) For paragraph (4) of Rule 4.8 there shall be substituted the following:—

“(4) If for any reason service at the registered office is not practicable, or the company has no registered office or is an unregistered company, the petition may be served on the company by leaving it at the company’s last known principal place of business in such a way that it is likely to come to the attention of a person attending there, or by delivering it to the secretary or some director, manager or principal officer of the company, wherever that person may be found.”.

(2) In paragraph (6) of Rule 4.8 after the words “the court may” there shall be inserted the words “approve or”.

Amendment of Rule 4.10

38. In paragraph (4) of Rule 4.10 for the words from “a recognised bank” to “were a licensed institution” there shall be substituted the words “an authorised institution or former authorised institution within the meaning of the Banking Act 1987”.

Insertion of Rule 4.21A

39. After Rule 4.21 there shall be inserted the following rule:—

“Expenses of voluntary arrangement

4.21A. Where a winding-up order is made and there is at the time of the presentation of the petition in force for the company a voluntary arrangement under Part I of the Act, any expenses properly incurred as expenses of the administration of the arrangement in question shall be a first charge on the company’s assets.”.

Amendment of Rule 4.22

40.—(1) In paragraph (1) of Rule 4.22 the words “and the nature of the relief which is sought by the petitioner,” shall be omitted.

(2) After paragraph (1) of Rule 4.22 there shall be inserted the following paragraph:—

“(1A) No petition shall be filed unless there is produced with it the receipt for the deposit payable on presentation.”.

Amendment of Rule 4.24

41.—(1) In Rule 4.24 the word “and” at the end of the line beginning “Rule 4.20” shall be omitted.

(2) At the end of Rule 4.24 there shall be added the words:—

“; and

Rule 4.21A (expenses of voluntary arrangement)”.

Insertion of Rule 4.25A

42. After Rule 4.25 there shall be inserted the following rule:—

“Notice of appointment

4.25A.—(1) Where a provisional liquidator has been appointed the court shall forthwith give notice of the fact to the official receiver.

(2) A copy of that notice shall at the same time be sent by the court to the provisional liquidator where he is not the official receiver.”.

Amendment of Rule 4.30

43.—(1) In paragraph (3) of Rule 4.30 for the words from the beginning to “accordingly” there shall be substituted the words:—

“Without prejudice to any order the court may make as to costs, the provisional liquidator’s remuneration (whether the official receiver or another) shall be paid to him, and the amount of any expenses incurred by him (including the remuneration and expenses of any special manager appointed under section 177) reimbursed—

(a) if a winding-up order is not made, out of the property of the company”.

(2) After paragraph (3) of Rule 4.30 there shall be inserted the following paragraph:—

“(3A) Unless the court otherwise directs, in a case falling within paragraph (3)(a) above the provisional liquidator may retain out of the company’s property such sums or property as are or may be required for meeting his remuneration and expenses.”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment of Rule 4.31

44. Paragraph (3) of Rule 4.31 shall be omitted.

Amendment of Rule 4.34-CVL

45. For paragraph (3) of Rule 4.34-CVL there shall be substituted the following:—

“(3) Where it is made out by the directors under section 99(1) the statement of affairs shall be delivered by them to the liquidator in office following the creditors' meeting summoned under section 98 forthwith after that meeting has been held; and he shall, within 7 days, deliver it to the registrar of companies.

(4) A statement of affairs under section 99(1) may be made up to a date not more than 14 days before that on which the resolution for voluntary winding up is passed by the company.”.

Insertion of Rule 4.34A-CVL

46. After Rule 4.34-CVL there shall be inserted the following rule:—

“Copy statement of affairs

4.34A-CVL. Where a liquidator is nominated by the company at a general meeting held on a day prior to that on which the creditors' meeting summoned under section 98 is held, the directors shall forthwith after his nomination or the making of the statement of affairs, whichever is the later, deliver to him a copy of the statement of affairs.”.

Amendment of Rule 4.43

47. In Rule 4.43 the existing paragraph shall be numbered “(1)” and there shall be added after it the following paragraph:—

“(2) The official receiver shall file in court a copy of any report sent under this Chapter.”.

Amendment of Rule 4.45

48. In paragraph (1) of Rule 4.45 there shall be inserted after the words “summary of the statement” the words “(if he thinks fit, as amplified, modified or explained by virtue of Rule 4.42)”.

Insertion of Rule 4.49A

49. After Rule 4.49-CVL there shall be inserted the following rule:—

“Further information where liquidation follows administration

4.49A. Where under section 140 the court appoints as the company's liquidator a person who was formerly its administrator and that person becomes aware of creditors not formerly known to him in his capacity as administrator, he shall send to those creditors a copy of any statement or report sent by him to creditors under Rule 2.16, so noted as to indicate that it is being sent under this Rule.”.

Amendment of Rule 4.50

50. In paragraph (8) of Rule 4.50 for the words from “a recognised bank” to “were a licensed institution” there shall be substituted the words “an authorised institution or former authorised institution within the meaning of the Banking Act 1987”.

Amendment of Rule 4.51-CVL

51.—(1) In paragraph (2) of Rule 4.51-CVL for the words “proofs and (if applicable) proxies” there shall be substituted the words “any proxies necessary to entitle them to vote at the meeting”.

(2) In paragraph (3) of Rule 4.51-CVL for the words from “a recognised bank” to “were a licensed institution” there shall be substituted the words “an authorised institution or former authorised institution within the meaning of the Banking Act 1987”.

Insertion of Rules 4.53A-CVL and 4.53B-CVL

52. After Rule 4.53-CVL there shall be inserted the following rules:—

“Effect of adjournment of company meeting

4.53A-CVL. Where a company meeting at which a resolution for voluntary winding up is to be proposed is adjourned, any resolution passed at a meeting under section 98 held before the holding of the adjourned company meeting only has effect on and from the passing by the company of a resolution for winding up.

Report by director, etc.

4.53B-CVL.—(1) At any meeting held under section 98 where the statement of affairs laid before the meeting does not state the company’s affairs as at the date of the meeting, the directors of the company shall cause to be made to the meeting, either by the director presiding at the meeting or by another person with knowledge of the relevant matters, a report (written or oral) on any material transactions relating to the company occurring between the date of the making of the statement of affairs and that of the meeting.

(2) Any such report shall be recorded in the minutes of the meeting kept under Rule 4.71.”.

Amendment of Rule 4.56-CVL

53. In paragraph (1) of Rule 4.56-CVL for the words “section 98” there shall be substituted the words “section 95 or 98”.

Amendment of Rule 4.63

54.—(1) In paragraph (1) of Rule 4.63 there shall be inserted at the beginning the words “Subject as follows,”.

(2) In subparagraph (a) of paragraph (2) of Rule 4.63 there shall be inserted at the beginning the words “subject to paragraph (2A),”.

(3) After paragraph (2) of Rule 4.63 there shall be inserted the following paragraph:—

“(2A) In a winding up by the court the support referred to in paragraph (2)(a) must represent a majority in value of all those present (in person or by proxy) at the meeting and entitled to vote. (NO CVL APPLICATION)”.

(4) In the second subparagraph of paragraph (4) of Rule 4.63:—

(a) there shall be inserted after the word “person” the words “(whether personally or on his behalf by a proxy-holder)”; and

(b) there shall be substituted for the word “proxy” the word “proxy-holder”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment of Rule 4.65

55.—(1) In paragraph (3) of Rule 4.65 there shall be inserted after the words “Rule 4.113(3)” the words “or, as the case may be, 4.114-CVL(3),”.

(2) In paragraph (4) of Rule 4.65 there shall be substituted for the words from “by virtue of this Rule” to the end the words “the chairman may, at his discretion, adjourn the meeting to such time and place as he may appoint”.

Omission of Rule 4.66

56. Rule 4.66 shall be omitted.

Amendment of Rule 4.72

57. In paragraph (1) of Rule 4.72 for the words from “— (a) a recognised bank” to the end there shall be substituted the words “an authorised institution or former authorised institution within the meaning of the Banking Act 1987”.

Amendment of Rule 4.75

58. In paragraph (1) of Rule 4.75 there shall be inserted at the beginning the words “Subject to Rule 4.73(5),”.

Amendment of Rule 4.93

59.—(1) In paragraph (5) of Rule 4.93 there shall be added at the end the words “and for all the purposes of the Act and the Rules shall be chargeable at a rate not exceeding that mentioned in paragraph (6)”.

(2) For paragraph (6) of Rule 4.93 there shall be substituted the following:—

“(6) The rate of interest to be claimed under paragraphs (3) and (4) is the rate specified in section 17 of the Judgments Act 1838 on the date when the company went into liquidation.”.

Amendment of Rule 4.100

60. For paragraphs (3)—(5) of Rule 4.100 there shall be substituted the following:—

“(3) The liquidator’s appointment is effective from the date on which the appointment is certified, that date to be endorsed on the certificate.

(4) The chairman of the meeting (if not himself the official receiver) shall send the certificate to the official receiver.

(5) The official receiver shall in any case send the certificate to the liquidator and file a copy of it in court.”.

Amendment of Rule 4.101-CVL

61. In paragraph (2) of Rule 4.101-CVL for the words “is effective from the date of the certificate” there shall be substituted the words “takes effect upon the passing of the resolution for that appointment”.

Insertion of Rule 4.101A-CVL

62. After Rule 4.101-CVL there shall be inserted the following rule:—

“Power to fill vacancy in office of liquidator

4.101A-CVL. Where a vacancy in the office of liquidator occurs in the manner mentioned in section 104 a meeting of creditors to fill the vacancy may be convened by any creditor or, if there were more liquidators than one, by the continuing liquidators.”.

Amendment of Rule 4.106

63. In paragraph (4) of Rule 4.106 there shall be inserted at the end the words “(NO CVL APPLICATION)”.

Amendment of Rule 4.108

64. After paragraph (5) of Rule 4.108 there shall be added the following paragraphs:—

“(6) If there is no quorum present at the meeting summoned to receive the liquidator’s resignation, the meeting is deemed to have been held, a resolution is deemed to have been passed that the liquidator’s resignation be accepted and the creditors are deemed not to have resolved against the liquidator having his release.

(7) Where paragraph (6) applies any reference in the Rules to a resolution that the liquidator’s resignation be accepted is replaced by a reference to the making of a written statement, signed by the person who, had there been a quorum present, would have been chairman of the meeting, that no quorum was present and that the liquidator may resign.”.

Amendment of Rule 4.130

65. In paragraph (4) of Rule 4.130 after the word “appearing” in both places where it occurs there shall be inserted the words “or being represented”.

Amendment of Rule 4.137

66. For Rule 4.137 there shall be substituted the following:—

“Notice to official receiver of intention to vacate office (NO CVL APPLICATION)

4.137.—(1) Where the liquidator intends to vacate office, whether by resignation or otherwise, he shall give notice of his intention to the official receiver together with notice of any creditors' meeting to be held in respect of his vacation of office, including any meeting to receive his resignation.

(2) The notice to the official receiver must be given at least 21 days before any such creditors' meeting.

(3) Where there remains any property of the company which has not been realised, applied, distributed or otherwise fully dealt with in the winding up, the liquidator shall include in his notice to the official receiver details of the nature of that property, its value (or the fact that it has no value), its location, any action taken by the liquidator to deal with that property or any reason for his not dealing with it, and the current position in relation to it.”.

Amendment of Rule 4.138

67. After paragraph (2) of Rule 4.138 there shall be added the following paragraph:—

“(3) Where the liquidator vacates office under section 172(8) (final meeting of creditors), he shall deliver up to the official receiver the company’s books, papers and other records which have not already been disposed of in accordance with general regulations in the course of the liquidation. (NO CVL APPLICATION)”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment of Rule 4.142

68. After paragraph (4) of Rule 4.142 there shall be inserted the following paragraph:—
“(4A) If there is no quorum present at the meeting summoned to receive the liquidator’s resignation, the meeting is deemed to have been held.”.

Insertion of Rule 4.148A

69. After Rule 4.148 there shall be inserted the following rule:—

“Remuneration of liquidator in members' voluntary winding up

4.148A.—(1) The liquidator is entitled to receive remuneration for his services as such.

(2) The remuneration shall be fixed either—

- (a) as a percentage of the value of the assets which are realised or distributed, or of the one value and the other in combination, or
- (b) by reference to the time properly given by the insolvency practitioner (as liquidator) and his staff in attending to matters arising in the winding up;

and the company in general meeting shall determine whether the remuneration is to be fixed under subparagraph (a) or (b) and, if under subparagraph (a), the percentage to be applied as there mentioned.

(3) In arriving at that determination the company in general meeting shall have regard to the matters set out in paragraph (4) of Rule 4.127.

(4) If not fixed as above, the liquidator’s remuneration shall be in accordance with the scale laid down for the official receiver by general regulations.

(5) Rule 4.128 shall apply in relation to the remuneration of the liquidator in respect of the matters there mentioned and for this purpose references in that Rule to “the liquidation committee” and “a meeting of creditors” shall be read as references to the company in general meeting.

(6) If the liquidator considers that the remuneration fixed for him by the company in general meeting, or as under paragraph (4), is insufficient, he may apply to the court for an order increasing its amount or rate.

(7) The liquidator shall give at least 14 days' notice of an application under paragraph (6) to the company’s contributories, or such one or more of them as the court may direct, and the contributories may nominate any one or more of their number to appear or be represented.

(8) The court may, if it appears to be a proper case, order the costs of the liquidator’s application, including the costs of any contributory appearing or being represented on it, to be paid out of the assets.”.

Amendment of Rule 4.152

70. In paragraph (7) of Rule 4.152 for the words “28 of the Banking Act 1979(a)” there shall be substituted the words “58 of the Banking Act 1987”.

Amendment of Rule 4.153

71. For paragraph (3) of Rule 4.153 there shall be substituted the following:—
“(3) No person may act as a member of the committee unless and until he has agreed to do so and, unless the relevant proxy or authorisation contains a statement to the contrary,

such agreement may be given by his proxy-holder or representative under section 375 of the Companies Act present at the meeting establishing the committee.

(3A) The liquidator's certificate of the committee's due constitution shall not issue before the minimum number of persons (in accordance with Rule 4.152) who are to be members of the committee have agreed to act."

Amendment of Rule 4.154

72. In paragraph (4) of Rule 4.154 for the words from "substituting" to the end there shall be substituted the words "substituting for the reference in paragraph (3) of that Rule to Rule 4.152 a reference to this paragraph".

Amendment of Rule 4.159

73. In paragraph (2) of Rule 4.159 there shall be added at the end the words " , and for this purpose any proxy or any authorisation under section 375 of the Companies Act in relation to any meeting of creditors (or, as the case may be, members or contributories) of the company shall, unless it contains a statement to the contrary, be treated as such a letter of authority to act generally signed by or on behalf of the committee-member".

Amendment of Rule 4.167

74. In paragraph (2) of Rule 4.167 for the words from "a statement incorporating" to the end there shall be substituted the words "a copy of any proposed resolution on which a decision is sought, which shall be set out in such a way that agreement with or dissent from each separate resolution may be indicated by the recipient on the copy so sent".

Insertion of Rule 4.172A

75. After Rule 4.172 there shall be inserted the following rule:—

"Formal defects

4.172A. The acts of the liquidation committee established for any winding up are valid notwithstanding any defect in the appointment, election or qualifications of any member of the committee or any committee-member's representative or in the formalities of its establishment."

Amendment of Rule 4.178

76. In Rule 4.178 for "4.172" there shall be substituted "4.172A".

Amendment of Rule 4.181

77. In Rule 4.181 the existing paragraph shall be numbered "(1)" and there shall be added after it the following paragraph:—

"(2) Paragraph (1) applies whether or not the company is unable to pay its debts."

Insertion of Rule 4.182A

78. After Rule 4.182 there shall be inserted the following rule:—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“Distribution in members' voluntary winding up (NO CVL APPLICATION)

4.182A.—(1) In a members' voluntary winding up the liquidator may give notice in such newspaper as he considers most appropriate for the purpose of drawing the matter to the attention of the company's creditors that he intends to make a distribution to creditors.

(2) The notice shall specify a date (“the last date for proving”) up to which proofs may be lodged. The date shall be the same for all creditors and not less than 21 days from that of the notice.

(3) The liquidator is not obliged to deal with proofs lodged after the last date for proving; but he may do so, if he thinks fit.

(4) A creditor who has not proved his debt before the last date for proving or after that date increases the claim in his proof is not entitled to disturb, by reason that he has not participated in it, either at all or, as the case may be, to the extent that his increased claim would allow, that distribution or any other distribution made before his debt was proved or his claim increased; but when he has proved his debt or, as the case may be, increased his claim, he is entitled to be paid, out of any money for the time being available for the payment of any further distribution, any distribution or distributions which he has failed to receive.

(5) Where the distribution proposed to be made is to be the only or the final distribution in that winding up, the liquidator may, subject to paragraph (6), make that distribution without regard to the claim of any person in respect of a debt not already proved.

(6) Where the distribution proposed to be made is one specified in paragraph (5), the notice given under paragraph (1) shall state the effect of paragraph (5).”.

Amendment of Rule 4.218

79. In subparagraphs (m) and (p) of paragraph (l) of Rule 4.218 there shall be substituted for the words “capital gains” the word “corporation”.

Amendment of Rule 4.223-CVL

80.—(1) For paragraph (1) of Rule 4.223-CVL there shall be substituted the following:—

“(1) Subject to paragraphs (3) and (3A), the statement which section 192 requires the liquidator to send to the registrar of companies, if the winding up is not concluded within one year from its commencement, shall be sent not more than 30 days after the expiration of that year, and thereafter 6-monthly until the winding up is concluded.”.

(2) After paragraph (3) of Rule 4.223-CVL there shall be inserted the following paragraph:—

“(3A) No statement shall be required to be delivered under this Rule where the return of the final meeting in respect of the company under sections 94 or 106 is delivered before the date at which the statement is to be delivered and that return shows that no assets or funds of the company remain unclaimed or undistributed in the hands or under the control of the liquidator or any former liquidator; but where this paragraph applies, the liquidator shall deliver a copy of that return to the Secretary of State.”.

Amendment of Rule 4.226

81. At the end of subparagraph (a) of Rule 4.226 the word “and” shall be omitted and at the end of subparagraph (b) of that Rule there shall be added the following words:—

“, and

(c) apply to all windings up to which section 216 applies, whether or not the winding up commenced before the coming into force of the Rules”.

Amendment of Rule 4.229

82. For Rule 4.229 there shall be substituted the following:—

“Second excepted case

4.229.—(1) Where a person to whom section 216 applies as having been a director or shadow director of the liquidating company applies for leave of the court under that section not later than 7 days from the date on which the company went into liquidation, he may, during the period specified in paragraph (2) below, act in any of the ways mentioned in section 216(3), notwithstanding that he has not the leave of the court under that section.

(2) The period referred to in paragraph (1) begins with the day on which the company goes into liquidation and ends either on the day falling six weeks after that date or on the day on which the court disposes of the application for leave under section 216, whichever of those days occurs first.”.

SECTION 6: AMENDMENT OF PART 5 OF THE RULES

Amendment of Rule 5.3

83. In subparagraph (c)(iii) of paragraph (2) of Rule 5.3 for the words from the beginning to “(extortionate credit transactions),” there shall be substituted the following:—

“(iii) in Case 1 whether, to the debtor’s knowledge, claims have been made under section 339 (transactions at an undervalue), section 340 (preferences) or section 343 (extortionate credit transactions), or there are circumstances giving rise to the possibility of such claims, and in Case 2 whether there are circumstances which would give rise to the possibility of such claims in the event that he should be adjudged bankrupt,”.

Amendment of Rule 5.5

84. In paragraph (2) of Rule 5.5 after the words “agrees so to act,” there shall be inserted the words “and a copy of the debtor’s proposal given to the nominee under that Rule”.

Insertion of Rule 5.5A

85. After Rule 5.5 there shall be inserted the following rule:—

“Court in which application to be made

5.5A.—(1) Except in the case of a bankrupt, an application to the court under Part VIII of the Act shall be made to a court in which the debtor would be entitled to present his own petition in bankruptcy under Rule 6.40.

(2) The application shall contain sufficient information to establish that it is brought in the appropriate court.

(3) In the case of a bankrupt such an application shall be made to the court having the conduct of his bankruptcy and shall be filed with those bankruptcy proceedings.”.

Amendment of Rule 5.10

86. In paragraph (5) of Rule 5.10 after the words “official receiver” there shall be inserted the words “and (if any) the trustee”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment of Rule 5.13

87. In paragraph (1) of Rule 5.13 the words “, nor more than 28,” shall be omitted and at the end there shall be added the words “, nor more than 28 days from that on which that report is considered by the court under Rule 5.12”.

Amendment of Rule 5.22

88. In paragraph (4) of Rule 5.22 there shall be inserted at the end the words “and, in Case 1, the official receiver and (if any) the trustee”.

Amendment of Rule 5.23

89. In paragraph (1) of Rule 5.23 for the words “this Part of the Rules” there shall be substituted the words “Rules 5.24, 5.25 and 5.29”.

Amendment of Rule 5.25

90. In paragraph (4) of Rule 5.25 for the words “official receiver or the trustee” there shall be substituted the words “trustee, or if there is no trustee, the official receiver”.

SECTION 7: AMENDMENT OF PART 6 OF THE RULES

Amendment of Rule 6.8

91. In subparagraph (c) of paragraph (1) of Rule 6.8 there shall be added at the end the words “, provided that such amount or rate must, in the case of a petition based on a statutory demand, be limited to that claimed in that demand”.

Amendment of Rule 6.9

92. After paragraph (4) of Rule 6.9 there shall be inserted the following paragraph:—

“(4A) Notwithstanding any other provision of this Rule, where there is in force for the debtor a voluntary arrangement under Part VIII of the Act, the petition shall be presented to the court to which the nominee’s report under section 256 was submitted.”.

Amendment of Rule 6.10

93.—(1) In subparagraph (a) of paragraph (3) of Rule 6.10 the word “and” shall be omitted and there shall be added at the end of subparagraph (b) of that paragraph the following words:—

“, and

(c) if there is in force for the debtor a voluntary arrangement under Part VIII of the Act, and the petitioner is not the supervisor of the arrangement, one copy for him”.

(2) After paragraph (5) of Rule 6.10 there shall be added the following paragraph:—

“(6) Where a petition contains a request for the appointment of a person as trustee in accordance with section 297(5) (appointment of former supervisor as trustee) the person whose appointment is sought shall, not less than 2 days before the day appointed for hearing the petition, file in court a report including particulars of—

(a) a date on which he gave written notification to creditors bound by the arrangement of the intention to seek his appointment as trustee, such date to be at least 10 days before the day on which the report under this paragraph is filed, and

- (b) details of any response from creditors to that notice, including any objections to his appointment.”.

Amendment of Rule 6.11

94.—(1) In paragraph (1) of Rule 6.11 there shall be inserted after the word “affidavit” the words “or affidavits”.

(2) In paragraph (2) of Rule 6.11 for the words “The affidavit” there shall be substituted the words “Every affidavit”.

(3) In paragraph (5) of Rule 6.11:—

- (a) after the words “applies, the affidavit” there shall be inserted the words “or affidavits”;
- (b) after the word “person” where it first appears there shall be inserted the words “or persons”;
- and
- (c) in subparagraph (a) of that paragraph after the word “demand” there shall be inserted the word “personally”.

Amendment of Rule 6.14

95. After paragraph (3) of Rule 6.14 there shall be added the following paragraph:—

“(4) If to the petitioner’s knowledge there is in force for the debtor a voluntary arrangement under Part VIII of the Act, and the petitioner is not himself the supervisor of the arrangement, a copy of the petition shall be sent by him to the supervisor.”.

Amendment of Rule 6.18

96. In paragraph (3) of Rule 6.18 after the word “debtor” there shall be inserted the words “, the supervisor of any voluntary arrangement under Part VIII of the Act in force for the debtor”.

Omission of Rule 6.19

97. Rule 6.19 shall be omitted.

Amendment of Rule 6.39

98. After paragraph (2) of Rule 6.39 there shall be added the following paragraph:—

“(3) If there is at the date of the petition in force for the debtor a voluntary arrangement under Part VIII of the Act, the particulars required by paragraph (2) above shall contain a statement to that effect and the name and address of the supervisor of the arrangement.”.

Amendment of Rule 6.40

99. For paragraph (3) of Rule 6.40 there shall be substituted the following:—

“(3) If, in a case not falling within paragraph (1), it is more expedient for the debtor with a view to expediting his petition—

- (a) it may in any case be presented to whichever court is specified by Schedule 2 to the Rules as being, in relation to the debtor’s own court, the nearest full-time court, and
- (b) it may alternatively, in a case falling within paragraph (2)(b), be presented to the court for the insolvency district in which he has resided for the greater part of the 6 months there referred to.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3A) Notwithstanding any other provision of this Rule, where there is in force for the debtor a voluntary arrangement under Part VIII of the Act the petition shall be presented to the court to which the nominee's report under section 256 was submitted.” .

Amendment of Rule 6.42

100.—(1) In paragraph (2) of Rule 6.42 at the beginning there shall be inserted the words “Subject to paragraph (2A),”.

(2) After paragraph (2) of Rule 6.42 there shall be inserted the following paragraph:—

“(2A) If the petition contains particulars of a voluntary arrangement under Part VIII of the Act in force for the debtor, the court shall fix a venue for the hearing and give at least 14 days' notice of it to the supervisor of the arrangement; the supervisor may appear and be heard on the petition.”.

(3) In subparagraph (b) of paragraph (3) of Rule 6.42 for the words from “retained by the court” to the end there shall be substituted the words “sent by the court to the official receiver; and”.

(4) For subparagraph (a) of paragraph (4) of Rule 6.42 there shall be substituted the following:—

“(a) one shall be sent by the court to the official receiver; and”.

(5) After paragraph (5) of Rule 6.42 there shall be added the following paragraphs:—

“(6) Where the court hears a petition forthwith, or it will in the opinion of the court otherwise expedite the delivery of any document to the official receiver, the court may, instead of sending that document to the official receiver, direct the bankrupt forthwith to deliver it to him.

(7) Where a petition contains a request for the appointment of a person as trustee in accordance with section 297(5) (appointment of former supervisor as trustee) the person whose appointment is sought shall, not less than 2 days before the day appointed for hearing the petition, file in court a report including particulars of—

(a) a date on which he gave written notification to creditors bound by the arrangement of the intention to seek his appointment as trustee, such date to be at least 10 days before the day on which the report under this paragraph is filed, and

(b) details of any response from creditors to that notice, including any objections to his appointment.”.

Amendment of Rule 6.44

101.—(1) In paragraph (2) of Rule 6.44 the words “with one copy,” shall be omitted and there shall be added at the end the words “, and a further copy to the official receiver”.

(2) Paragraph (4) of Rule 6.44 shall be omitted.

Insertion of Rule 6.46A

102. After Rule 6.46 there shall be inserted the following rule:—

“Expenses of voluntary arrangement

6.46A. Where a bankruptcy order is made on a debtor's petition and there is at the time of the petition in force for the debtor a voluntary arrangement under Part VIII of the Act, any expenses properly incurred as expenses of the administration of the arrangement in question shall be a first charge on the bankrupt's estate.”.

Amendment of Rule 6.56

103.—(1) In paragraph (3) of Rule 6.56 for the words from the beginning to “accordingly)” there shall be substituted the words:—

“Without prejudice to any order the court may make as to costs, the interim receiver’s remuneration (whether the official receiver or another) shall be paid to him, and the amount of any expenses incurred by him (including the remuneration and expenses of any special manager appointed under section 370) reimbursed—

(a) if a bankruptcy order is not made, out of the property of the debtor”.

(2) After paragraph (3) of Rule 6.56 there shall be added the following paragraph:—

“(4) Unless the court otherwise directs, in a case falling within paragraph (3)(a) above the interim receiver may retain out of the debtor’s property such sums or property as are or may be required for meeting his remuneration and expenses.”.

Amendment of Rule 6.57

104. Paragraph (3) of Rule 6.57 shall be omitted.

Amendment of Rule 6.73

105. In Rule 6.73 the existing paragraph shall be numbered “(1)” and there shall be added after it the following paragraph:—

“(2) The official receiver shall file in court a copy of any report sent under this Chapter.”.

Amendment of Rule 6.75

106. In paragraph (1) of Rule 6.75 there shall be inserted after the words “summary of the statement” the words “(if he thinks fit, as amplified, modified or explained by virtue of Rule 6.66 or 6.72)”.

Amendment of Rule 6.88

107.—(1) In paragraph (1) of Rule 6.88 there shall be inserted at the beginning the words “Subject as follows,”.

(2) In subparagraph (a) of paragraph (2) of Rule 6.88 there shall be added at the end the words “, provided that such support represents a majority in value of all those present (in person or by proxy) at the meeting and entitled to vote”.

(3) In the second subparagraph of paragraph (4) of Rule 6.88:—

(a) there shall be inserted after the word “person” the words “(whether personally or on his behalf by a proxy-holder)”; and

(b) there shall be substituted for the word “proxy” the word “proxy-holder”.

Amendment of Rule 6.91

108. In paragraph (2) of Rule 6.91 there shall be substituted for the words from “by virtue of this Rule” to the end the words “the chairman may, at his discretion, adjourn the meeting to such time and place as he may appoint”.

Omission of Rule 6.92

109. Rule 6.92 shall be omitted.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment of Rule 6.97

110. In paragraph (1) of Rule 6.97 there shall be substituted for the words “to be used for the purpose of proving bankruptcy debts” the words “of proof”.

Amendment of Rule 6.98

111. In paragraph (1) of Rule 6.98 there shall be inserted at the beginning the words “Subject to Rule 6.96(4),”.

Amendment of Rule 6.113

112.—(1) At the end of the first subparagraph of paragraph (3) of Rule 6.113 there shall be added the words “and for all the purposes of the Act and the Rules shall be chargeable at a rate not exceeding that mentioned in paragraph (5)”.

(2) For the second subparagraph of paragraph (3) and for paragraph (4) of Rule 6.113 there shall be substituted the following:—

“(4) Interest under paragraph (3) may only be claimed for the period from the date of the demand to that of the bankruptcy order.

(5) The rate of interest to be claimed under paragraphs (2) and (3) is the rate specified in section 17 of the Judgments Act 1838 on the date of the bankruptcy order.”.

Amendment of Rule 6.120

113. For paragraphs (3) and (4) of Rule 6.120 there shall be substituted the following:—

“(3) The trustee’s appointment is effective from the date on which the appointment is certified, that date to be endorsed on the certificate.

(4) The chairman of the meeting (if not himself the official receiver) shall send the certificate to the official receiver.

(5) The official receiver shall in any case send the certificate to the trustee and file a copy of it in court.”.

Amendment of Rule 6.126

114. After paragraph (4) of Rule 6.126 there shall be added the following paragraphs:—

“(5) If there is no quorum present at the meeting summoned to receive the trustee’s resignation, the meeting is deemed to have been held, a resolution is deemed to have been passed that the trustee’s resignation be accepted and the creditors are deemed not to have resolved against the trustee having his release.

(6) Where paragraph (5) applies any reference in the Rules to a resolution that the trustee’s resignation be accepted is replaced by a reference to the making of a written statement, signed by the person who, had there been a quorum present, would have been chairman of the meeting, that no quorum was present and that the trustee may resign.”.

Amendment of Rule 6.141

115. In paragraph (4) of Rule 6.141 after the word “appearing” in both places where it occurs there shall be inserted the words “or being represented”.

Amendment of Rule 6.145

116. For Rule 6.145 there shall be substituted the following:—

“Notice to official receiver of intention to vacate office

6.145.—(1) Where the trustee intends to vacate office, whether by resignation or otherwise, he shall give notice of his intention to the official receiver together with notice of any creditors' meeting to be held in respect of his vacation of office, including any meeting to receive his resignation.

(2) The notice to the official receiver must be given at least 21 days before any such creditors' meeting.

(3) Where there remains in the bankrupt's estate any property which has not been realised, applied, distributed or otherwise fully dealt with in the bankruptcy, the trustee shall include in his notice to the official receiver details of the nature of that property, its value (or the fact that it has no value), its location, any action taken by the trustee to deal with that property or any reason for his not dealing with it, and the current position in relation to it.”.

Amendment of Rule 6.151

117. For paragraph (3) of Rule 6.151 there shall be substituted the following:—

“(3) No person may act as a member of the committee unless and until he has agreed to do so and, unless the relevant proxy contains a statement to the contrary, such agreement may be given by his proxy-holder present at the meeting establishing the committee.

(3A) The trustee's certificate of the committee's due constitution shall not issue before at least 3 persons elected to be members of the committee have agreed to act.”.

Amendment of Rule 6.156

118.—(1) In paragraph (2) of Rule 6.156 the words from “specially” to the end shall be omitted and there shall be substituted the words “specially) and signed by or on behalf of the committee-member, and for this purpose any proxy in relation to any meeting of creditors of the bankrupt shall, unless it contains a statement to the contrary, be treated as such a letter of authority to act generally signed by or on behalf of the committee-member”.

(2) After paragraph (6) of Rule 6.156 there shall be added the following paragraph:—

“(7) The acts of the committee are valid notwithstanding any defect in the appointment or qualifications of any committee-member's representative.”.

Amendment of Rule 6.162

119.—(1) In paragraph (2) of Rule 6.162 for the words from “a statement incorporating” to the end there shall be substituted the words “a copy of any proposed resolution on which a decision is sought, which shall be set out in such a way that agreement with or dissent from each separate resolution may be indicated by the recipient on the copy so sent”.

(2) In paragraph (3) of Rule 6.162 before the word “day” there shall be inserted the word “business”.

Amendment of Rule 6.179

120. After paragraph (6) of Rule 6.179 there shall be added the following paragraph:—

“(7) A notice or copy notice to be served on any person under the age of 18 in relation to the disclaimer of property in a dwelling-house is sufficiently served if sent or given to the parent or guardian of that person.”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment of Rule 6.206

121.—(1) In paragraph (4) of Rule 6.206 the words “, not less than 28 days before the hearing,” shall be omitted and there shall be added at the end the words:—

- “(a) where the application is made under section 282(1)(a), in sufficient time to enable them to be present at the hearing, and
- (b) where the application is made under section 282(1)(b), not less than 28 days before the hearing”.

(2) After paragraph (4) of Rule 6.206 there shall be added the following paragraph:—

“(5) Where the application is made under section 282(1)(a), paragraph (4) shall additionally be complied with in relation to the person on whose petition the bankruptcy order was made.”.

Amendment of Rule 6.208

122. For paragraph (2) of Rule 6.208 there shall be substituted the following:—

“(2) Except in relation to an application for an order staying all or any part of the proceedings in the bankruptcy, application for an order under this Rule may be made *ex parte*.

(3) Where application is made under this Rule for an order staying all or any part of the proceedings in the bankruptcy, the applicant shall send copies of the application to the official receiver and (if other) the trustee in sufficient time to enable them to be present at the hearing and (if they wish to do so) make representations.

(4) Where the court makes an order under this Rule staying all or any part of the proceedings in the bankruptcy, the rules in this Chapter nevertheless continue to apply to any application for, or other matters in connection with, the annulment of the bankruptcy order.

(5) If the court makes an order under this Rule, it shall send copies of the order to the applicant, the official receiver and (if other) the trustee.”.

Amendment of Rule 6.209

123.—(1) In subparagraph (a) of Rule 6.209 after the word “trustee” there shall be inserted the words “or, if no trustee has been appointed, the official receiver”.

(2) In subparagraph (b) of Rule 6.209 after the word “trustee” there shall be inserted the words “or, if no trustee has been appointed, the official receiver”.

Insertion of Rule 6.212A

124. After Rule 6.212 there shall be inserted the following rule:—

“Annulment under section 261

6.212A. Rules 6.206 to 6.212 apply to an application for annulment under section 261 as they apply to such an application under section 282(1)(a).”.

Amendment of Rule 6.213

125. In paragraph (1) of Rule 6.213 after the word “section” there shall be inserted the words “261 or”.

Amendment of Rule 6.214

126. In paragraph (1) of Rule 6.214 after the word “section” there shall be inserted the words “261 or”.

Amendment of Rule 6.223

127. At the end of Rule 6.223 there shall be added the words “or section 1 of the Criminal Justice (Scotland) Act 1987”.

Amendment of Rule 6.232

128. For paragraph (4) of Rule 6.232 there shall be substituted the following:—

“(4) In criminal bankruptcy, forms of proof shall be sent out by the official receiver within 12 weeks from the making of the bankruptcy order, to every creditor who is known to him, or is identified in the bankrupt’s statement of affairs.”.

Amendment of Rule 6.234

129.—(1) In paragraph (1) of Rule 6.234 for the words “Chapter 11” there shall be substituted the words “Chapter 10”.

(2) In paragraph (2) of Rule 6.234 for the words “Chapter 12” there shall be substituted the words “Chapter 11”.

Amendment of Rule 6.237

130. In paragraph (6) of Rule 6.237 the following subparagraphs shall be substituted for subparagraphs (d) and (f) respectively:—

“(d) indicate, by reference to any, or the total, amount which is payable otherwise than to the bankrupt out of the estate and of interest on that amount, how the amount of the charge to be imposed is to be ascertained;”, and

“(f) identify when any property charged under section 313 shall cease to be comprised in the bankrupt’s estate and, subject to the charge (and any prior charge), to vest in the bankrupt.”.

SECTION 8: AMENDMENT OF PART 7 OF THE RULES

Amendment of Rule 7.34

131.—(1) For paragraph (1) of Rule 7.34 there shall be substituted the following:—

“(1) Subject as follows, where the costs, charges or expenses of any person are payable out of the insolvent estate, those costs, charges or expenses shall be taxed unless agreed between the responsible insolvency practitioner and the person entitled to payment, and in the absence of such agreement the responsible insolvency practitioner may require taxation by notice in writing requiring that person to deliver his bill of costs to the appropriate taxing officer for taxation; the appropriate taxing officer is that in relation to the court to which the insolvency proceedings are allocated or, where in relation to a company there is no such court, that in relation to any court having jurisdiction to wind up the company.”.

(2) In paragraph (3) of Rule 7.34 after the word “taxed” there shall be inserted the words “or fixed by order of the court”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) In paragraph (5) of Rule 7.34 there shall be added at the end the words “specified in Rule 12 of Order 62 of the Rules of the Supreme Court”.

Amendment of Rule 7.35

132. After paragraph (5) of Rule 7.35 there shall be added the following paragraph:—

“(6) Where costs have been incurred in insolvency proceedings in the High Court and those proceedings are subsequently transferred to a county court, all costs of those proceedings directed by the court or otherwise required to be taxed may nevertheless, on the application of the person who incurred the costs, be ordered to be taxed in the High Court.”.

Amendment of Rule 7.49

133. In paragraph (2) of Rule 7.49 there shall be added at the end the words “and any reference to the registrar of civil appeals is replaced by a reference to the registrar of the High Court who deals with insolvency proceedings of the kind involved”.

SECTION 9: AMENDMENT OF PART 8 OF THE RULES

Amendment of Rule 8.1

134.—(1) In paragraph (2) of Rule 8.1 after the word “meetings” there shall be inserted the words “summoned or called”.

(2) For paragraph (5) of Rule 8.1 there shall be substituted the following:—

“(5) A person given a proxy under paragraph (4) cannot decline to be the proxy-holder in relation to that proxy.

(6) A proxy requires the holder to give the principal’s vote on matters arising for determination at the meeting, or to abstain, or to propose, in the principal’s name, a resolution to be voted on by the meeting, either as directed or in accordance with the holder’s own discretion.”.

Amendment of Rule 8.3

135. After paragraph (3) of Rule 8.3 there shall be added the following paragraphs:—

“(4) Where a proxy directs a proxy-holder to vote for or against a resolution for the nomination or appointment of a person as the responsible insolvency practitioner, the proxy-holder may, unless the proxy states otherwise, vote for or against (as he thinks fit) any resolution for the nomination or appointment of that person jointly with another or others.

(5) A proxy-holder may propose any resolution which, if proposed by another, would be a resolution in favour of which by virtue of the proxy he would be entitled to vote.

(6) Where a proxy gives specific directions as to voting, this does not, unless the proxy states otherwise, preclude the proxy-holder from voting at his discretion on resolutions put to the meeting which are not dealt with in the proxy.”.

Amendment of Rule 8.5

136. In paragraph (4) of Rule 8.5 for the words “to be used” to the end there shall be substituted the words “(including proofs) sent or given, in accordance with directions contained in any notice convening the meeting, to the chairman of that meeting or to any other person by a creditor, member or contributory for the purpose of that meeting.”.

Amendment of Rule 8.6

137.—(1) After paragraph (1) of Rule 8.6 there shall be inserted the following paragraph:—

“(1A) Where a proxy-holder has signed the proxy as being authorised to do so by his principal and the proxy specifically directs him to vote in the way mentioned in paragraph (1), he shall nevertheless not vote in that way unless he produces to the chairman of the meeting written authorisation from his principal sufficient to show that the proxy-holder was entitled so to sign the proxy.”.

(2) In paragraph (2) of Rule 8.6 after the word “capacity” there shall be inserted the words “under Rule 8.3”.

Amendment of Rule 8.7

138. After paragraph (2) of Rule 8.7 there shall be added the following paragraph:—

“(3) Nothing in this Rule requires the authority of a person to sign a proxy on behalf of a principal which is a corporation to be in the form of a resolution of that corporation.”.

SECTION 10: AMENDMENT OF PART 11 OF THE RULES

Amendment of Rule 11.2

139.—(1) In paragraph (1) of Rule 11.2 after the word “creditors” there shall be inserted the words “whose addresses are known to him and”.

(2) After paragraph (1) of Rule 11.2 there shall be inserted the following paragraph:—

“(1A) Before declaring a first dividend, the responsible insolvency practitioner shall, unless he has previously by public advertisement invited creditors to prove their debts, give notice of the intended dividend by public advertisement.”.

(3) In paragraph (2) of Rule 11.2 for the words “The notice” there shall be substituted the words “Any notice under paragraph (1) and any notice of a first dividend under paragraph (1A)”.

Amendment of Rule 11.12

140. In paragraph (2) of Rule 11.12 there shall be added at the end the words “and public advertisement of the intended dividend need only be given if the insolvency practitioner thinks fit”.

Amendment of Rule 11.13

141. In paragraph (2) of Rule 11.13 for the words “an amount” there shall be substituted the words “a percentage”.

SECTION 11: AMENDMENT OF PART 12 OF THE RULES

Amendment of Rule 12.1

142.—(1) In paragraph (1) of Rule 12.1 for the words “make regulations” there shall be substituted the words “, subject to the Act and the Rules, make regulations with respect to any matter provided for in the Rules as relates to the carrying out of the functions of a liquidator, provisional liquidator, administrator or administrative receiver of a company, an interim receiver appointed under section 286, of the official receiver while acting as receiver or manager under section 287 or of a trustee of a bankrupt’s estate, including, without prejudice to the generality of the foregoing, provision”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) In paragraph (3) of Rule 12.1 there shall be added at the end the words:—

“; and

(d) contain such incidental, supplemental and transitional provisions as may appear to the Secretary of State necessary or expedient”.

Amendment of Rule 12.3

143.—(1) In subparagraph (b) of paragraph (2) of Rule 12.3 there shall be added at the end the words “or section 1 of the Criminal Justice (Scotland) Act 1987”.

(2) After paragraph (2) of Rule 12.3 there shall be inserted the following paragraph:—

“(2A) The following are not provable except at a time when all other claims of creditors in the insolvency proceedings (other than any of a kind mentioned in this paragraph) have been paid in full with interest under section 189(2) or, as the case may be, section 328(4)—

(a) in a winding up or a bankruptcy, any claim arising by virtue of—

(i) section 6(3)(a) of the Financial Services Act 1986, not being a claim also arising by virtue of section 6(3)(b) of that Act, or

(ii) section 61(3)(a) of that Act, not being a claim also arising by virtue of section 61(3)(b) of that Act;

(b) in a winding up or a bankruptcy, any claim arising by virtue of section 49 of the Banking Act 1987;

(c) in a winding up, any claim which by virtue of the Act or any other enactment is a claim the payment of which in a bankruptcy or a winding up is to be postponed.”.

Insertion of Rule 12.4A

144. After Rule 12.4 there shall be inserted the following rule:—

“Quorum at meeting of creditors or contributories

12.4A.—(1) Any meeting of creditors or contributories in insolvency proceedings is competent to act if a quorum is present.

(2) Subject to the next paragraph, a quorum is—

(a) in the case of a creditors' meeting, at least one creditor entitled to vote;

(b) in the case of a meeting of contributories, at least 2 contributories so entitled, or all the contributories, if their number does not exceed 2.

(3) For the purposes of this Rule, the reference to the creditor or contributories necessary to constitute a quorum is to those persons present or represented by proxy by any person (including the chairman) and in the case of any proceedings under Parts I—VII of the Act includes persons duly represented under section 375 of the Companies Act.

(4) Where at any meeting of creditors or contributories—

(a) the provisions of this Rule as to a quorum being present are satisfied by the attendance of—

(i) the chairman alone, or

(ii) one other person in addition to the chairman, and

(b) the chairman is aware, by virtue of proofs and proxies received or otherwise, that one or more additional persons would, if attending, be entitled to vote,

the meeting shall not commence until at least the expiry of 15 minutes after the time appointed for its commencement.”.

Amendment of Rule 12.7

145. For paragraph (3) of Rule 12.7 there shall be substituted the following:—

“(3) Where any form contained in Schedule 4 is substantially the same as one used for a corresponding purpose under either—

- (a) the law and practice obtaining before the coming into force of the Rules; or
- (b) if the form was first required to be used after the coming into force of the Rules, the law and practice obtaining before the making of the requirement,

whichever shall be appropriate in any case, the latter may continue to be used (with the necessary modifications) until 1 March 1988.”.

Amendment of Rule 12.10

146. After paragraph (1) of Rule 12.10 there shall be inserted the following paragraph:—

“(1A) A document to be served by post may be sent to the last known address of the person to be served.”.

Amendment of Rule 12.11

147. In paragraph (1) of Rule 12.11 after the word “Subject” there shall be inserted the words “to Rule 12.10 and”.

Amendment of Rule 12.13

148. After paragraph (3) of Rule 12.13 there shall be added the following paragraph:—

“(4) Nothing in this Rule entitles the insolvency practitioner to decline to allow the inspection of any proof or proxy.”.

Amendment of Rule 12.15

149. In Rule 12.15 before the word “Rules” there shall be inserted the words “Act or the”.

Insertion of Rule 12.15A

150. After Rule 12.15 there shall be inserted the following rule:—

“Charge for copy documents

12.15A. Where the responsible insolvency practitioner or the official receiver is requested by a creditor, member, contributory or member of a liquidation or creditors' committee to supply copies of any documents he is entitled to require the payment of the appropriate fee in respect of the supply of the documents.”.

SECTION 12: AMENDMENT OF PART 13 OF THE RULES

Amendment of Rule 13.13

151. For paragraph (1) of Rule 13.13 there shall be substituted the following:—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“(1) “Business day” has the same meaning as in section 251 of the Act except in Rules 1.7, 4.10, 4.11, 4.16, 4.20, 5.10 and 6.23, where, if the court is the High Court, it has the same meaning as is given in Order 65, Rule 5(4) of the Rules of the Supreme Court, and, in relation to a county court, it means any day on which the court office is open in accordance with Order 2, Rule 2 of the County Court Rules.”.

Amendment of Rule 13.14

152. In subparagraph (a) of paragraph (1) of Rule 13.14 the word “administrative” shall be omitted.