

2002 No. 1307

**INSOLVENCY, ENGLAND AND WALES
COMPANIES
INDIVIDUALS**

The Insolvency (Amendment) Rules 2002

Made - - - - - *9th May 2002*
Laid before Parliament *10th May 2002*
Coming into force - - *31st May 2002*

The Lord Chancellor, in exercise of the powers conferred upon him by sections 411 and 412 of the Insolvency Act 1986(a), with the concurrence of the Secretary of State, and after consulting the committee existing for that purpose under section 413 of that Act, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Insolvency (Amendment) Rules 2002 and shall come into force on 31st May 2002.

Interpretation

2. In these Rules, references to “the principal Rules” are references to the Insolvency Rules 1986(b) and a Rule referred to by number alone means the Rule so numbered in the principal Rules.

Amendments to the Insolvency Rules 1986

3.—(1) The principal Rules are amended as provided in these Rules.

(2) Anything done before 31st May 2002 under or for the purposes of any provision of the principal Rules is not invalidated by the amendment of that provision by these Rules, but it has effect as if done under or for the purposes of the provision as amended.

Amendments to the Insolvency Rules 1986 in relation to Company Voluntary Arrangements

4.—(1) In Rule 1.1(2)(d) (scope of this Part; interpretation) for “5 and 6” substitute—
“5, 6, 7 and 8”.

(2) In Rule 1.3(2) (contents of proposal)—

(a) at the end of sub-paragraph (o) omit “and”; and

(b) in sub-paragraph (p) after “in relation to the company” insert—
“; and

(a) 1986 c. 45; sections 411 and 412 of the Act were amended, and the definition of “EC Regulation” was inserted in section 436, by the Insolvency Act 1986 (Amendment) Regulations 2002, S.I. 2002/1037; sections 1, 8, 117, 120, 124, 221, 225, 240, 247, 264, 265, 330, 387 and 388 were amended, and section 436A was inserted, by the Insolvency Act 1986 (Amendment) (No. 2) Regulations 2002, S.I. 2002/1240.

(b) S.I. 1986/1925, amended by S.I. 1987/1919, 1989/397, 1991/495, 1993/602, 1995/586, 1999/359, 1999/1022 and 2001/763.

- (q) whether the EC Regulation(a) will apply and, if so, whether the proceedings will be main proceedings, secondary proceedings or territorial proceedings”.
- (3) In Rule 1.24(2)(c) (report of meetings)—
 - (a) at the end of sub-paragraph (c) omit “and”; and
 - (b) after sub-paragraph (c) insert—
 - “(ca) state whether, in the opinion of the supervisor, (i) the EC Regulation applies to the voluntary arrangement and (ii) if so, whether the proceedings are main proceedings, secondary proceedings or territorial proceedings; and”.
- (4) After Rule 1.30 (false representations, etc) insert—

“CHAPTER 7

EC REGULATION—CONVERSION OF VOLUNTARY ARRANGEMENT INTO WINDING UP

Application for conversion into winding up

1.31.—(1) Where a member State liquidator proposes to apply to the court for the conversion under Article 37 of the EC Regulation (conversion of earlier proceedings) of a voluntary arrangement into a winding up, an affidavit complying with Rule 1.32 must be prepared and sworn, and filed in court in support of the application.

- (2) An application under this Rule shall be by originating application.
- (3) The application and the affidavit required under this Rule shall be served upon—
 - (a) the company; and
 - (b) the supervisor.

Contents of affidavit

1.32.—(1) The affidavit shall state—

- (a) that main proceedings have been opened in relation to the company in a member State other than the United Kingdom;
- (b) the deponent’s belief that the conversion of the voluntary arrangement into a winding up would prove to be in the interests of the creditors in the main proceedings;
- (c) the deponent’s opinion as to whether the company ought to enter voluntary winding up or be wound up by the court; and
- (d) all other matters that, in the opinion of the member State liquidator, would assist the court—
 - (i) in deciding whether to make such an order, and
 - (ii) if the court were to do so, in considering the need for any consequential provision that would be necessary or desirable.

(2) An affidavit under this Rule shall be sworn by, or on behalf of, the member State liquidator.

Power of court

1.33.—(1) On hearing the application for conversion into winding up the court may make such order as it thinks fit.

(2) If the court makes an order for conversion into winding up the order may contain all such consequential provisions as the court deems necessary or desirable.

(3) Without prejudice to the generality of paragraph (1), an order under that paragraph may provide that the company be wound up as if a resolution for voluntary winding up under section 84 were passed on the day on which the order is made.

(4) Where the court makes an order for conversion into winding up under paragraph (1), any expenses properly incurred as expenses of the administration of the voluntary arrangement in question shall be a first charge on the company’s assets.

(a) Council Regulation (EC) 1346/2000, OJ No. L160, 30.06.00. p.1.

CHAPTER 8

EC REGULATION—MEMBER STATE LIQUIDATOR

Interpretation of creditor and notice to member State liquidator

1.34.—(1) This Rule applies where a member State liquidator has been appointed in relation to the company.

(2) Where the supervisor is obliged to give notice to, or provide a copy of a document (including an order of court) to, the court, the registrar of companies or the official receiver, the supervisor shall give notice or provide copies, as appropriate, to the member State liquidator.

(3) Paragraph (2) is without prejudice to the generality of the obligations imposed by Article 31 of the EC Regulation (duty to cooperate and communicate information”).

Amendments to the Insolvency Rules 1986 in relation to Administration

- 5.**—(1) In Rule 2.3(1) (contents of affidavit)—
- (a) at the end of sub-paragraph (a) omit “and”; and
 - (b) in sub-paragraph (b) after “administration order” insert—
“; and
 - (c) whether, in the opinion of the deponent, (i) the EC Regulation will apply and (ii) if so, whether the proceedings will be main proceedings, secondary proceedings or territorial proceedings”.
- (2) In Rule 2.6(2) (persons served with petition) after sub-paragraph (b) insert—
“(ba) if a member State liquidator has been appointed in main proceedings in relation to the company, on him;”.
- (3) In Rule 2.9(1) (appearances at hearing)—
- (a) at the end of sub-paragraph (f) omit “and”; and
 - (b) after sub-paragraph (f) insert—
“(fa) if a member State liquidator has been appointed in main proceedings in relation to the company, he;”.
- (4) In Rule 2.16(1) (statement to be annexed to proposals)—
- (a) at the end of sub-paragraph (f) omit “and”; and
 - (b) after sub-paragraph (f) insert—
“(fa) whether (i) the EC Regulation applies and (ii) if so, whether the proceedings are main proceedings, secondary proceedings or territorial proceedings; and”.
- (5) In Rule 2.22 (entitlement to vote)—
- (a) in paragraph (1)(a) for “he claims to be due to him from the company” substitute—
“(i) he claims to be due to him from the company, or
(ii) in relation to a member State liquidator, is claimed to be due to creditors in proceedings in relation to which he holds office”,
 - (b) after paragraph (5) insert—
“(6) No vote shall be cast by virtue of a claim more than once on any resolution put to the meeting.
- (7) Where—
- (a) a creditor is entitled to vote under this Rule,
 - (b) has lodged his claim in one or more sets of other proceedings, and
 - (c) votes (either in person or by proxy) on a resolution put to the meeting,
- only the creditor’s vote shall be counted.
- (8) Where—
- (a) a creditor has lodged his claim in more than one set of other proceedings, and

(b) more than one member State liquidator seeks to vote by virtue of that claim, the entitlement to vote by virtue of that claim is exercisable by the member State liquidator in main proceedings, whether or not the creditor has lodged his claim in the main proceedings.

(9) For the purposes of paragraph (6), the claim of a creditor and of any member State liquidator in relation to the same debt are a single claim.

(10) For the purposes of paragraphs (7) and (8), “other proceedings” means main proceedings, secondary proceedings or territorial proceedings in another member State.”.

(6) After Rule 2.31(5) (conduct of meetings) insert—

“(5A) Paragraph (5) does not apply where the laws of a member State and not the laws of England and Wales apply in relation to the conduct of the meeting.

(5B) Where paragraph (5A) applies, subject as above, the meeting shall be summoned and conducted in accordance with the constitution of the company and the laws of the member State referred to in that paragraph shall apply to the conduct of the meeting.”.

(7) After Rule 2.53(3) (resignation of administrator) insert—

“(4) Where the administrator gives notice under paragraph (3), he must also give notice to a member State liquidator, if such a person has been appointed in relation to the company.”.

(8) After Rule 2.58 (preservation of VAT Bad Debt relief certificate) insert—

“CHAPTER 7

EC REGULATION—CONVERSION OF ADMINISTRATION INTO WINDING UP

Application for conversion into winding up

2.59.—(1) Where a member State liquidator proposes to apply to the court for the conversion under Article 37 of the EC Regulation (conversion of earlier proceedings) of an administration into a winding up, an affidavit complying with Rule 2.60 must be prepared and sworn, and filed in court in support of the application.

(2) An application under this Rule shall be by originating application.

(3) The application and the affidavit required under this Rule shall be served upon—

- (a) the company; and
- (b) the administrator.

Contents of affidavit

2.60.—(1) The affidavit shall state—

- (a) that main proceedings have been opened in relation to the company in a member State other than the United Kingdom;
- (b) the deponent’s belief that the conversion of the administration into a winding up would prove to be in the interests of the creditors in the main proceedings;
- (c) the deponent’s opinion as to whether the company ought to enter voluntary winding up or be wound up by the court; and
- (d) all other matters that, in the opinion of the member State liquidator, would assist the court—
 - (i) in deciding whether to make such an order, and
 - (ii) if the court were to do so, in considering the need for any consequential provision that would be necessary or desirable.

(2) An affidavit under this Rule shall be sworn by, or on behalf of, the member State liquidator.

Power of court

2.61.—(1) On hearing the application for conversion into winding up the court may make such order as it thinks fit.

(2) If the court makes an order for conversion into winding up the order may contain all such consequential provisions as the court deems necessary or desirable.

(3) Without prejudice to the generality of paragraph (1), an order under that paragraph may provide that the company be wound up as if a resolution for voluntary winding up under section 84 were passed on the day on which the order is made.

CHAPTER 8

EC REGULATION—MEMBER STATE LIQUIDATOR

Interpretation of creditor and notice to member State liquidator

2.62.—(1) This Rule applies where a member State liquidator has been appointed in relation to the company.

(2) For the purposes of the Rules referred to in paragraph (3) the member State liquidator is deemed to be a creditor.

(3) The Rules referred to in paragraph (2) are Rules 2.18(1) (notice of creditors' meeting), 2.19(4) (creditors' meeting), 2.21 (requisitioning of creditors' meeting), 2.22 (entitlement to vote), 2.23 (admission and rejection of claims), 2.24 (secured creditors), 2.25 (holders of negotiable instruments), 2.26 (retention of title creditors), 2.27 (hire-purchase, conditional sale and chattel leasing agreements), 2.30 (notice of result of creditors' meeting), 2.32(2) (creditors' committee), 2.39(1)(b) and (c) (termination of membership of creditors' committee), 2.41(3) (vacancies in creditors' committee), 2.49(3) (administrator's remuneration—recourse to court) and 2.50 (challenge to administrator's remuneration).

(4) Paragraphs (2) and (3) are without prejudice to the generality of the right to participate referred to in paragraph 3 of Article 32 of the EC Regulation (exercise of creditor's rights).

(5) Where the administrator is obliged to give notice to, or provide a copy of a document (including an order of court) to, the court, the registrar of companies or the official receiver, the administrator shall give notice or provide copies, as the case may be, to the member State liquidator.

(6) Paragraph (5) is without prejudice to the generality of the obligations imposed by Article 31 of the EC Regulation (duty to cooperate and communicate information)."

Amendments to the Insolvency Rules 1986 in relation to Companies Winding up

6.—(1) In Rule 4.7 (documents delivered with petition filed in court)—

(a) at the end of paragraph (4)(d) omit "and", and

(b) after paragraph (4)(d) insert—

"(da) if a member State liquidator has been appointed in main proceedings in relation to the company, one copy to be sent to him; and".

(2) After Rule 4.10(3) (persons entitled to receive winding up petition) insert—

"(3A) If to the petitioner's knowledge, there is a member State liquidator appointed in main proceedings in relation to the company, a copy of the petition shall be sent by him to that person.

This does not apply if the petitioner referred to in this paragraph is a member State liquidator."

(3) After Rule 4.19(2) (substitution of petitioner) insert—

"(2A) Where a member State liquidator has been appointed in main proceedings in relation to the company, without prejudice to paragraph (2), the court may, on such terms as it thinks just, substitute the member State liquidator as petitioner, where he is desirous of prosecuting the petition."

(4) After Rule 4.22(4) (petition by contributory) insert—

"(5) Where a member State liquidator has been appointed in main proceedings in relation to the company, the petitioner shall send a copy of the petition to him."

(5) For Rule 4.25(1) (application for appointment of provisional liquidator) substitute—

"(1) An application to the court for the appointment of a provisional liquidator under section 135 may be made by—

(a) the petitioner;

- (b) a creditor of the company;
 - (c) a contributory;
 - (d) the company;
 - (e) the Secretary of State;
 - (f) a temporary administrator;
 - (g) a member State liquidator appointed in main proceedings; or
 - (h) any person who under any enactment would be entitled to present a petition for the winding up of the company.”.
- (6) In Rule 4.67 (entitlement to vote at creditors’ meeting)—
- (a) in paragraph (1)(a) for “claimed to be due to him from the company” substitute—
 - “(i) claimed to be due to him from the company, or
 - (ii) in relation to a member State liquidator, is claimed to be due to creditors in proceedings in relation to which he holds office”, and
 - (b) after paragraph (5) insert—
 - “(6) No vote shall be cast by virtue of a debt more than once on any resolution put to the meeting.
 - (7) Where—
 - (a) a creditor is entitled to vote under this Rule and Rule 4.70 (admission of proof),
 - (b) has lodged his claim in one or more sets of other proceedings, and
 - (c) votes (either in person or by proxy) on a resolution put to the meeting, only the creditor’s vote shall be counted.
 - (8) Where—
 - (a) a creditor has lodged his claim in more than one set of other proceedings, and
 - (b) more than one member State liquidator seeks to vote by virtue of that claim,
 the entitlement to vote by virtue of that claim is exercisable by the member State liquidator in main proceedings, whether or not the creditor has lodged his claim in the main proceedings.
 - (9) For the purposes of paragraphs (7) and (8), “other proceedings” means main proceedings, secondary proceedings or territorial proceedings in another member State.”.
- (7) In Rule 4.75(1) (contents of proof)—
- (a) at the end of sub-paragraph (g) omit “and”; and
 - (b) after sub-paragraph (g) insert—
 - “(ga) details of any reservation of title in respect of goods to which the debt refers; and”.
- (8) After Rule 4.96(2) (surrender of security for non-disclosure) insert—
- “(3) Nothing in this Rule or the following two Rules may affect the rights in rem of creditors or third parties protected under Article 5 of the EC Regulation (third parties’ rights in rem).”.
- (9) After Rule 4.230 (leave to act as director—third excepted case) insert—

“CHAPTER 23

EC REGULATION—MEMBER STATE LIQUIDATOR

Interpretation of creditor and notice to member State liquidator

4.231.—(1) This Rule applies where a member State liquidator has been appointed in relation to the company.

(2) For the purposes of the Rules referred to in paragraph (3) the member State liquidator is deemed to be a creditor.

(3) The Rules referred to in paragraph (2) are Rules 4.43(1) (official receiver's report), 4.45(1) (report on statement of affairs), 4.46(2) (report where no statement of affairs), 4.47(2) (general rule on reporting), 4.48(2) (winding up stayed), 4.49 (information to creditors), 4.50(2) (notice of meetings), 4.51(2) (notice of creditors' meeting—CVL), 4.54 (power to call meetings), 4.57(1) (requisitioned meetings), 4.57(3), 4.67 (entitlement to vote (creditors)), 4.68 (chairman's discretion to allow vote—CVL), 4.70 (admission and rejection of proof (creditors' meeting)), 4.73 (meaning of "prove"), 4.74 (supply of forms), 4.75 (contents of proof), 4.76 (particulars of creditor's claim), 4.77 (claim established by affidavit), 4.78 (cost of proving), 4.79 (inspection of proofs), 4.82 (admission and rejection of proofs for dividend), 4.83(1) (appeal against decision in relation to proof), 4.83(2), 4.84 (withdrawal or variation of proof), 4.85(1) (expunging of proof), 4.86 (estimate of quantum), 4.87 (negotiable instruments, etc.), 4.88 (secured creditors), 4.89 (discounts), 4.90 (mutual credit and set-off), 4.91 (debt in foreign currency), 4.92 (payment of a periodical nature), 4.93 (interest), 4.94 (debt payable at future time), 4.101A (power to fill vacancy in office of liquidator), 4.102(5) (appointment by court), 4.103(4) (appointment by court), 4.113(1) (meeting of creditors to remove liquidator), 4.114(1) (meeting of creditors to remove liquidator), 4.115 (regulation of meetings), 4.124(1) (release of official receiver), 4.125(1) (final meeting), 4.126(1) (final meeting), 4.131(1) (challenge to liquidator's remuneration), 4.152(1) (liquidation committee), 4.152(3) (eligibility for liquidation committee), 4.163(3) (vacancy on liquidation committee), 4.175(1) (liquidation committee), 4.180 (notice of dividend) and 4.212(2) (notice of public examination hearing).

(4) Paragraphs (2) and (3) are without prejudice to the generality of the right to participate referred to in paragraph 3 of Article 32 of the EC Regulation (exercise of creditor's rights).

(5) Where the liquidator is obliged to give notice to, or provide a copy of a document (including an order of court) to, the court, the registrar of companies or the official receiver, the liquidator shall give notice or provide copies, as the case may be, to the member State liquidator.

(6) Paragraph (5) is without prejudice to the generality of the obligations imposed by Article 31 of the EC Regulation (duty to cooperate and communicate information).".

Amendments to the Insolvency Rules 1986 in relation to Individual Voluntary Arrangements

7.—(1) After Rule 5.3(2)(p) (contents of proposal) insert—

“(q) whether the EC Regulation will apply and, if so, whether the proceedings will be main proceedings, secondary proceedings or territorial proceedings.”.

(2) In Rule 5.22(2) (report of creditors' meeting)—

(a) at the end of sub-paragraph (c) omit “and”; and

(b) after sub-paragraph (c) insert—

“(ca) whether, in the opinion of the supervisor, (i) the EC Regulation applies to the voluntary arrangement and (ii) if so, whether the proceedings are main proceedings, secondary proceedings or territorial proceedings; and”.

(3) After Rule 5.30 (false representations, etc) insert—

“SECTION E: EC REGULATION—CONVERSION OF VOLUNTARY ARRANGEMENT INTO
BANKRUPTCY

Application for conversion into bankruptcy

5.31.—(1) Where a member State liquidator proposes to apply to the court for the conversion under Article 37 of the EC Regulation (conversion of earlier proceedings) of a voluntary arrangement into bankruptcy, an affidavit complying with Rule 5.32 must be prepared and sworn, and filed in court in support of the application.

(2) An application under this Rule shall be by originating application.

(3) The application and the affidavit required under this Rule shall be served upon—

(a) the debtor; and

(b) the supervisor.

Contents of affidavit

5.32.—(1) The affidavit shall state—

- (a) that main proceedings have been opened in relation to the debtor in a member State other than the United Kingdom;
- (b) the deponent’s belief that the conversion of the voluntary arrangement into a bankruptcy would prove to be in the interests of the creditors in the main proceedings; and
- (c) all other matters that, in the opinion of the member State liquidator, would assist the court—
 - (i) in deciding whether to make an order under Rule 5.33, and
 - (ii) if the court were to do so, in considering the need for any consequential provision that would be necessary or desirable.

(2) An affidavit under this Rule shall be sworn by, or on behalf of, the member State liquidator.

Power of court

5.33.—(1) On hearing the application for conversion into bankruptcy the court may make such order as it thinks fit.

(2) If the court makes an order for conversion into bankruptcy the order may contain all such consequential provisions as the court deems necessary or desirable.

(3) Where the court makes an order for conversion into bankruptcy under paragraph (1), any expenses properly incurred as expenses of the administration of the voluntary arrangement in question shall be a first charge on the bankrupt’s estate.

SECTION F: EC REGULATION—MEMBER STATE LIQUIDATOR

Interpretation of creditor and notice to member State liquidator

5.34.—(1) This Rule applies where a member State liquidator has been appointed in relation to the debtor.

(2) Where the supervisor is obliged to give notice to, or provide a copy of a document (including an order of court) to, the court or the official receiver, the supervisor shall give notice or provide copies, as appropriate, to the member State liquidator.

(3) Paragraph (2) is without prejudice to the generality of the obligations imposed by Article 31 of the EC Regulation (duty to cooperate and communicate information).”.

Amendments to the Insolvency Rules 1986 in relation to Bankruptcy

8.—(1) After Rule 6.7(1)(e) (identification of debtor) insert—

“(f) whether the debtor has his centre of main interests or an establishment in another member State.”

(2) After Rule 6.14(4) (service of petition) insert—

“(5) If to the petitioner’s knowledge, there is a member State liquidator appointed in main proceedings in relation to the bankrupt, a copy of the petition shall be sent by him to the member State liquidator.”.

(3) In Rule 6.30(2)(c) (substitution of petitioner) after “owed to him by the debtor” insert—

“(or in the case of the member State liquidator, owed to creditors in proceedings in relation to which he holds office).”.

(4) For Rule 6.51(1) (application for appointment of interim receiver) substitute—

“(1) An application to the court for the appointment of an interim receiver under section 286 may be made by—

- (a) a creditor;
- (b) the debtor;
- (c) an insolvency practitioner appointed under section 273(2);
- (d) a temporary administrator, or
- (e) a member State liquidator appointed in main proceedings.”.

- (5) In Rule 6.93 (entitlement to vote at creditors' meeting)—
- (a) in paragraph (1)(a) for “claimed to be due to him from the bankrupt” substitute—
 - “(i) claimed to be due to him from the bankrupt, or
 - (ii) in relation to a member State liquidator, is claimed to be due to creditors in proceedings in relation to which he holds office”, and
 - (b) after paragraph (5) insert—
 - “(6) No vote shall be cast by virtue of a debt more than once on any resolution put to the meeting.
 - (7) Where—
 - (a) a creditor is entitled to vote under this Rule and Rule 6.94 (admission of proof),
 - (b) has lodged his claim in one or more sets of other proceedings, and
 - (c) votes (either in person or by proxy) on a resolution put to the meeting, only the creditor’s vote shall be counted.
 - (8) Where—
 - (a) a creditor has lodged his claim in more than one set of other proceedings, and
 - (b) more than one member State liquidator seeks to vote by virtue of that claim,
 the entitlement to vote by virtue of that claim is exercisable by the member State liquidator in main proceedings, whether or not the creditor has lodged his claim in the main proceedings.
 - (9) For the purposes of paragraphs (7) and (8), “other proceedings” means main proceedings, secondary proceedings or territorial proceedings in another member State.”.
- (6) In Rule 6.98(1) (contents of proof)—
- (a) at the end of sub-paragraph (g) omit “and”; and
 - (b) after sub-paragraph (g) insert—
 - “(ga) details of any reservation of title in respect of goods to which the debt refers; and”.
- (7) After Rule 6.116(2) (surrender of security for non-disclosure) insert—
- “(3) Nothing in this Rule or the following two Rules may affect the rights in rem of creditors or third parties protected under Article 5 of the EC Regulation (third parties’ rights in rem).”.
- (8) After Rule 6.198(4) (power of court to order sale) insert—
- “(5) Nothing in this Rule or the following Rule may affect the rights in rem of creditors or third parties protected under Article 5 of the EC Regulation (third parties’ rights in rem).”.
- (9) After Rule 6.237 (bankrupt’s dwelling-house and home) insert—

“CHAPTER 27

EC REGULATION—MEMBER STATE LIQUIDATOR

Interpretation of creditor and notice to member State liquidator

6.238.—(1) This Rule applies where a member State liquidator has been appointed in relation to the bankrupt.

(2) For the purposes of the Rules referred to in paragraph (3) a member State liquidator is deemed to be a creditor.

(3) The Rules referred to in paragraph (2) are Rules 6.73(1) (duty of official receiver), 6.75(1) (report of official receiver), 6.76(2) (report of official receiver), 6.79(2) (creditors’ meeting), 6.81 (power to call creditors’ meeting), 6.83 (requisitioned meetings), 6.93 (entitlement to vote), 6.94 (admission and rejection of proof), 6.96 (meaning of “prove”), 6.97 (supply of forms), 6.98 (contents of proof), 6.99 (claim established by affidavit), 6.100 (cost of proving), 6.101 (inspection of proofs), 6.104 (admission and rejection of proofs)

for dividend), 6.105(1) (appeal against decision on proof), 6.105(2), 6.106 (withdrawal or variation of proofs), 6.107(1) (expunging of proof), 6.108 (negotiable instruments, etc.), 6.109 (secured creditors), 6.110 (discounts), 6.111 (debts in foreign currency), 6.112 (payments of a periodical nature), 6.113 (interest), 6.114 (debt payable at future time), 6.126(1) (resignation of trustee), 6.136(1) (release of official receiver), 6.137(1) (final meeting), 6.142(1) (challenge to remuneration), 6.150(2) (creditors' committee), 6.160(3) (vacancy on creditors' committee), 6.172(3) (request for public examination), 6.212(1) (notice of annulment) and 6.217(3) (application by bankrupt for discharge).

(4) Paragraphs (2) and (3) are without prejudice to the generality of the right to participate referred to in paragraph 3 of Article 32 of the EC Regulation (exercise of creditor's rights).

(5) Where the trustee is obliged to give notice to, or provide a copy of a document (including an order of court) to, the court or the official receiver, the trustee shall give notice or provide copies, as the case may be, to the member State liquidator.

(6) Paragraph (5) is without prejudice to the generality of the obligations imposed by Article 31 of the EC Regulation (duty to cooperate and communicate information).

Interpretation of creditor and notice to member State liquidator appointed in main proceedings

6.239.—(1) This Rule applies, in addition to Rule 6.238, where a member State liquidator has been appointed in main proceedings in relation to the bankrupt.

(2) For the purposes of the Rules referred to in paragraph (3) the member State liquidator is deemed to be a creditor.

(3) The Rules referred to in paragraph (2) are Rules 6.18(3) (hearing of petition), 6.23(1) (notice of intention to appear), 6.28(4) (extension of time), 6.30(2) (substitution of petitioner), 6.31(1) (change of carriage of petition) and 6.218(4) (report of official receiver).

(4) Paragraphs (2) and (3) are without prejudice to the generality of the right to participate referred to in paragraph 3 of Article 32 of the EC Regulation (exercise of creditor's rights).”.

Amendment to Insolvency Rules in relation to Part 7 (court procedure and practice) and Part 8 (proxies and company representation)

9.—(1) After Chapter 9 of Part 7 (court procedure and practice—general) insert—

“CHAPTER 10

EC REGULATION—CREDITORS' VOLUNTARY WINDING UP—CONFIRMATION BY THE COURT

Application for confirmation

7.62.—(1) Where a company has passed a resolution for voluntary winding up, and no declaration under section 89 has been made, the liquidator may apply to court for an order confirming the creditors' voluntary winding up for the purposes of the EC Regulation.

(2) The application shall be in writing and verified by affidavit by the liquidator (using [FORM 7.20] the same form) and shall state—

- (a) the name of the applicant,
- (b) the name of the company and its registered number,
- (c) the date on which the resolution for voluntary winding up was passed,
- (d) that the application is accompanied by all of the documents required under paragraph (3) which are true copies of the documents required, and
- (e) that the EC Regulation will apply to the company and whether the proceedings will be main proceedings, territorial proceedings or secondary proceedings.

(3) The liquidator shall file in court two copies of the application, together with one copy of the following—

- (a) a copy of the resolution for voluntary winding up referred to by section 84(3),
- (b) evidence of his appointment as liquidator of the company, and

- (c) a copy of the statement of affairs required under section 99.
- (4) It shall not be necessary to serve the application on, or give notice of it to, any person.
- (5) On an application under this Rule the court may confirm the creditors' voluntary winding up.
- (6) If the court confirms the creditor's voluntary winding up—
 - (a) it may do so without a hearing,
 - (b) it shall affix its seal to the application.
- (7) A member of the court staff may deal with an application under this Rule.

Notice to member State liquidator and creditors in member States

7.63. Where the court has confirmed the creditors' voluntary winding up, the liquidator shall forthwith give notice—

- (a) if there is a member State liquidator in relation to the company, to the member State liquidator;
- (b) in accordance with Article 40 of the EC Regulation (duty to inform creditors).

CHAPTER 11

EC REGULATION—MEMBER STATE LIQUIDATOR

Interpretation of creditor

7.64.—(1) This Rule applies where a member State liquidator has been appointed in relation to a person subject to insolvency proceedings.

(2) For the purposes of the Rules referred to in paragraph (3) a member State liquidator appointed in main proceedings is deemed to be a creditor.

(3) The Rules referred to in paragraph (2) are Rules 7.31(1) (right to inspect court file) and 7.53(1) (right of attendance).

(4) Paragraphs (2) and (3) are without prejudice to the generality of the right to participate referred to in paragraph 3 of Article 32 of the EC Regulation (exercise of creditor's rights).".

- (2) After Rule 8.7 (company representation) insert—

Interpretation of creditor

8.8.—(1) This Rule applies where a member State liquidator has been appointed in relation to a person subject to insolvency proceedings.

(2) For the purposes of rule 8.5(1) (right of inspection of proxies) a member State liquidator appointed in main proceedings is deemed to be a creditor.

(3) Paragraph (2) is without prejudice to the generality of the right to participate referred to in paragraph 3 of Article 32 of the EC Regulation (exercise of creditor's rights).".

Amendments to the Insolvency Rules 1986 in relation to Parts 11, 12 and 13

- 10.**—(1) After Rule 11.1(2) (preliminary) insert—

“(3) For the purposes of this Part, a member State liquidator appointed in relation to an insolvent is deemed to be a creditor.”.

- (2) In Rule 11.2(1) (notice of intended dividend) after “his intention to do so” substitute—

“(a) to all creditors whose addresses are known to him and who have not proved their debts, and

(b) where a member State liquidator has been appointed in relation to the insolvent, to that person.”.

- (3) After Rule 11.3(2) (final admission/rejection of proofs) insert—

“(3) In the declaration of a dividend no payment shall be made more than once by virtue of the same debt.

- (4) Subject to Rule 11.11, where—
 - (a) a creditor has proved, and
 - (b) a member State liquidator has proved in relation to the same debt, payment shall only be made to the creditor.”.
- (4) In Rule 11.6(1) (notice of declaration) after “notice of the dividend to” substitute—
 - “(a) all creditors who have proved their debts, and
 - (b) where a member State liquidator has been appointed in relation to the insolvent, to that person.”.
- (5) After Rule 12.12(4) (service outside the jurisdiction) insert—
 - “(5) Leave of the court is not required to serve anything referred to in this Rule on a member State liquidator.”.
- (6) After Rule 12.17(2) (right to have list of creditors) insert—
 - “(2A) For the purpose of this Rule a member State liquidator appointed in main proceedings in relation to a person is deemed to be a creditor.”.
- (7) After Rule 13.13(7) (expressions used generally) insert—
 - (8) “Centre of main interests” has the same meaning as in the EC Regulation.
 - (9) “Establishment” has the meaning given by Article 2(h) of the EC Regulation.
 - (10) “Main proceedings” means proceedings opened in accordance with Article 3(1) of the EC Regulation and falling within the definition of insolvency proceedings in Article 2(a) of the EC Regulation and
 - (a) in relation to England and Wales and Scotland set out in Annex A to the EC Regulation under the heading “United Kingdom”, and
 - (b) in relation to another member State, set out in Annex A to the EC Regulation under the heading relating to that member State.
 - (11) “Member State liquidator” means a person falling within the definition of liquidator in Article 2(b) of the EC Regulation appointed in proceedings to which it applies in a member State other than the United Kingdom.
 - (12) “Secondary proceedings” means proceedings opened in accordance with Articles 3(2) and 3(3) of the EC Regulation and falling within the definition of winding-up proceedings in Article 2(c) of the EC Regulation, and
 - (a) in relation to England and Wales and Scotland, set out in Annex B to the EC Regulation under the heading “United Kingdom”, and
 - (b) in relation to another member State, set out in Annex B to the EC Regulation under the heading relating to that member State.
 - (13) “Temporary administrator” means a temporary administrator referred to by Article 38 of the EC Regulation.
 - (14) “Territorial proceedings” means proceedings opened in accordance with Articles 3(2) and 3(4) of the EC Regulation and falling within the definition of insolvency proceedings in Article 2(a) of the EC Regulation, and
 - (a) in relation to England and Wales and Scotland, set out in Annex A to the EC Regulation under the heading “United Kingdom”, and
 - (b) in relation to another member State, set out in Annex A to the EC Regulation under the heading relating to that member State.”.

Amendment of index to Schedule 4

- 11. Insert in the index to forms in Schedule 4 to the principal Rules—
 - “7.20 Application, affidavit and order confirming creditors’ voluntary winding up”.

New form

- 12. Add the form contained in Part 1 of the Schedule to these Rules to Schedule 4 of the principal Rules as Form 7.20.

Amended forms

13. The forms contained in Part 2 of the Schedule to these Rules are substituted for the forms identically numbered in Schedule 4 to the principal Rules.

7th May 2002

Irvine of Lairg, C.

I concur,

9th May 2002

Patricia Hewitt
Secretary of State for Trade and Industry

SCHEDULE

PART 1

RULE 12

NEW FORM

Rule 7.62

Form 7.20

Confirmation by Court of Creditors' Voluntary Winding Up Application and Order

(Title) (Registered No)

(a) Insert name of applicant
(b) Insert name of company
1. I (a) _____ hereby make application to the court for confirmation of the creditors' voluntary winding up proceedings under Part IV of the Insolvency Act 1986 in relation to

(b) _____

(c) Insert date of resolution
2. The resolution for voluntary winding up was passed on

(c) _____

(d) Insert date
3. I was appointed liquidator of the company on (d) _____

(e) Insert whether main, secondary or territorial proceedings
4. I declare that the EC Regulation will apply and that these proceedings will be (e) _____ proceedings as defined in Article 3 of the EC Regulation.

5. I attach the following documents required to accompany the application under Rule 7.62:

- (a) copy of resolution for voluntary winding up
- (b) evidence of my appointment as liquidator of the company
- (c) copy of statement of affairs required under section 99

Affidavit

After sections 1 to 4 have been completed (and having the documents required under section 4 available), this affidavit must be sworn before a solicitor or commissioner for oaths or an officer of the court duly authorised to administer oaths.

(f) Insert name and occupation
I (f) _____

(g) Insert full address
of (g) _____

make oath and say that the contents of this application are to the best of my knowledge and belief true and that the documents exhibited hereto are all those required to accompany this application under Rule 7.62 and that they are true copies of the stated documents.

Sworn at

ORDER

(h) Insert date Upon reading the application dated (h)_____of

(j) Insert name of (j)_____applicant

and the evidence filed in support

It is hereby confirmed by the court that the proceedings are creditors' voluntary winding up proceedings under Part IV of the Insolvency Act 1986

Date_____

(l) Insert name of person swearing affidavit

7. For the reasons stated in the affidavit of (l) it is considered that the EC Regulation (k) will/will not apply (k) and that these proceedings will be

(m) Insert whether main, secondary or territorial proceedings

(m) _____ proceedings as defined in Article 3 of the EC Regulation

(n) Insert full name(s) and address(es) of proposed administrator(s)

8. The petitioner(s) propose(s) that during the period for which the order is in force the affairs, business and property of the company be managed by (n)

who is (are) to the best of the petitioner's knowledge and belief qualified to act as (an) insolvency practitioner(s) in relation to the company. The petitioner(s) therefore pray(s) as follows:-

(o) Insert full name of company

(1) that the court make an administration order in relation to (o)

(p) Insert name(s) of proposed administrator(s)

(2) that (p) be appointed to be the administrator(s) of the said company

(q) Insert details of any ancillary orders sought

(3) (q)

or

(4) that such other order may be made in the premises as shall be just

Note:

It is intended to serve this petition on

(r) Insert here name, address, telephone number and reference (if any) of a solicitor acting for the petitioner

This petition was issued by (r)

(solicitor for the petitioner(s) whose address for service is:

Administration Order

(Title)

(Registered No.)

(a) Insert name and address of petitioner

UPON THE PETITION OF (a) _____

(b) Delete where company itself is petitioner OR insert status of petitioner, ie director, creditor etc

(b) (a _____ of the above named company hereinafter called "the company") presented to the court on _____ 20_____

And upon hearing counsel for the petitioner

(c) Insert details of any other parties (including the company) appearing and by whom represented

and for (c) _____

and upon reading the evidence

IT IS ORDERED that during the period for which this order is in force the affairs, business and property of the company be managed by the administrator hereinafter appointed pursuant to the provisions of section 8 of the Insolvency Act 1986 for the following purposes (d) _____

(d) Set out the purpose(s) which the order is likely to achieve

(e) Insert full name(s) and address(es) of administrator(s)

AND it is ordered that (e) _____

be appointed administrator(s) of the company

(f) Delete as applicable (g) Insert whether main or territorial proceedings

AND the Court being satisfied on the evidence before it that the EC Regulation (f) does/does not apply (f) and that these proceedings are (g) _____ proceedings as defined in Article 3 of the EC Regulation

(h) Insert particulars of any further order made by the court

(h) _____

(j) Insert terms of order for costs

And it is ordered that the costs of the said petition

(j) _____

Dated

(2) that such other order may be made as the court thinks fit

(m) If the company is the petitioner, delete "the company". Add the full name and address of any other person on whom it is intended to serve this petition

Note: It is intended to serve this petition on (m) [the company] [and]

Endorsement

(n) Insert name and address of Court

(o) Insert name and address of District Registry

This petition having been presented to the court on _____ will be heard at (k) [Royal Courts of Justice, Strand, London, WC2A 2LL] [(n) _____ County Court

_____] [(o) _____ District Registry _____]

on:

Date _____

Time _____ hours
(or as soon thereafter as the petition can be heard)

The solicitor to the petitioner is:-

Name _____

Address _____

Telephone no _____

Reference _____

(k) [Whose London Agents are:-

Name _____

Address _____

Telephone no. _____

Reference _____

Order for Winding Up by the Court

(Title) **(Registered No.** _____ **)**

(a) Insert name and address of petitioner (as appropriate) "the company" or "...a creditor of the company" or "...a contributory of the company"

Upon the petition of (a)

presented to this court on

And upon hearing

And upon reading the evidence

(b) Insert full name of the company

It is ordered that (b) be wound up by this court under the provisions of the Insolvency Act 1986

(c) Delete as applicable
 (d) Insert whether main, secondary or territorial proceedings

And the Court being satisfied on the evidence that the EC Regulation (c) does/does not apply (c) and that these proceedings are (d) _____ proceedings as defined in Article 3 of the EC Regulation

(e) Insert names of all parties to be awarded their costs
 (f) Insert any terms concerning costs

And it is ordered that the costs of (e) _____ of the said petition be paid out of the assets of the company (f)

Dated _____

Note: (c) [The][One of the] official receiver(s) attached to the court is by virtue of this order liquidator of the company

Order for Winding Up by the Court following upon the Discharge of an Administration Order

(Title) **(Registered No.** _____ **)**

(a) Delete words in brackets as applicable

Upon the petition of the company (a) [by its administrator (b) _____] or [(b) _____]

(b) Insert name and address

_____ a [creditor] [member] of the above-named company] [pursuant to leave of this court by order dated (c) _____] [by agreement with the administrator dated (c) _____]

(c) Insert date

presented to this court on (c) _____

And upon hearing _____

And upon reading the administration order dated (c) _____

It is ordered that the said administration order be and the same is discharged.

(d) Insert full name of the company

And it is ordered that (d) _____ be wound up by this court under the provisions of the Insolvency Act 1986

(a) [And it is ordered that that _____ be appointed liquidator of the company]

(e) Insert whether main, secondary or territorial proceedings

(a) [And the court being satisfied that these proceedings are (e) _____ proceedings as defined in Article 3 of the EC Regulation]

(f) Insert any further terms of order, eg as to costs

And it is ordered (f) _____

Dated _____

(g) Delete as applicable

Note: (g) [The][One of the] official receiver(s) attached to the court is by virtue of this order liquidator of the company

Petition by Contributory**(Title) (Registered No.)**

(a) Insert title of court To (a)

(b) Insert full name(s) and address(es) of petitioner(s) The petition of (b)

(c) Insert full name of company subject to petition 1. (c)

(hereinafter called "the company") was incorporated on

(d) Insert date of incorporation (d)

under the Companies Act 19

(e) Insert address of registered office 2. The registered office of the company is at (e)

3. The nominal capital of the company is £ divided into shares of £ each. The amount of the capital paid up or credited as paid up is £

(f) Delete as applicable

The petitioner(s) is/are the holder(s) of shares of £ each. Such shares (f) [were allotted to him/them on the incorporation of the company] [have been registered in his/their name(s) for more than 6 months in the last 18 months] [devolved upon him/them through the death of the former holder of the shares].

4. The principal objects for which the company was established are as follows:

and other objects stated in the memorandum of association of the company

(g) Set out the grounds on which a winding-up order is sought

5. (g)

6. The company (f) is/is not an insurance undertaking; a credit institution; an investment undertaking providing services involving the holding of funds or securities for third parties; or a collective investment undertaking as referred to in Article 1.2 of the EC Regulation.

(h) Insert name of person swearing affidavit

7. For the reasons stated in the affidavit of (h) filed in support hereof it is considered that the EC Regulation (f) will/will not apply (f) and that these proceedings will be (j) _____ proceedings as defined in Article 3 of the EC Regulation

(j) Insert whether main, secondary or territorial proceedings

8. In the circumstances it is just and equitable that the company should be wound up The petition(s) therefore pray(s) as follows:-

(1) that (c)

may be wound up by the court under the provisions of the Insolvency Act 1986

or
(2) that such other order may be made as the court thinks fit

(k) If the company is the petitioner, delete "the company". Add the full name and address of any other person on whom it is intended to serve this petition

Note: It is intended to serve this petition on (k) [the company] [and]

Endorsement

This petition having been presented to the court on _____ let all parties attend before the Registrar in Chambers on

Date _____

Time _____ hours

Place _____
for directions to be given

The solicitor(s) for the petitioner is/are:-

Name _____

Address _____

Telephone no _____

Reference _____

(k) Delete if London agents not instructed

(k) [Whose London Agents are:-

Name _____

Address _____

Telephone no. _____

Reference _____

Order of Appointment of Provisional Liquidator

(Title) _____ **(Registered No.** _____ **)**

Mr Registrar _____ in chambers

(a) Give full name and address of applicants

Upon the application of (a)

And upon hearing

And upon reading the petition to wind up the above named company and the evidence

(b) Delete if not applicable

(b) And the court being satisfied that the company is unable to pay its debts

(c) Delete as applicable
(d) Insert whether main, secondary or territorial proceedings

And the court being satisfied that the EC Regulation (c) does/does not apply (c) and that these proceedings are (d) _____ proceedings as defined in Article 3 of the EC Regulation

(d) If a person other than the official receiver is to be appointed delete the words in [] otherwise insert the amount to be deposited

It is ordered that (d) [upon the sum of £ _____ being deposited by the applicant with the official receiver] the following person is appointed provisional liquidator of the above-named company.

(e) Insert either "the official receiver" or it an insolvency practitioner is to be appointed, his full name and address

Name of provisional liquidator (e) _____

Address (if applicable) _____

And it is ordered that:-

(f) Insert details of the functions to be carried out by the provisional liquidator in relation to the company's affairs

(f)

Dated _____

NOTICE TO OFFICERS OF COMPANY

You are required by Section 235 of the Insolvency Act 1986 to give the provisional liquidator all the information as he may reasonably require relating to the company's property and affairs and to attend upon him at such times as he may reasonably require.

Date _____

Proof of Debt – General Form
(TITLE)

Date of Winding-Up Order/Resolution for voluntary winding-up

1	Name of Creditor	
2	Address of Creditor	
3	Total amount of claim, including any Value Added Tax and outstanding uncapitalised interest as at the date the company went into liquidation [see Note]	
4	Details of any documents by reference to which the debt can be substantiated. [Note: the liquidator may call for any document or evidence to substantiate the claim at his discretion]	
5	If the total amount shown above includes Value Added Tax, please show:- (a) amount of Value Added Tax (b) amount of claim NET of Value Added Tax	£ £
6	If total amount above includes outstanding uncapitalised interest, please state amount	£
7	If you have filled in both box 3 and box 5, please state whether you are claiming the amount shown in box 3 or the amount shown in box 5(b)	
8	Give details of whether the whole or any part of the debt falls within any (and if so which) of the categories of preferential debts under section 386 of, and schedule 6 to, the Insolvency Act 1986 (as read with schedule 3 to the Social Security Pensions Act 1975)	Category Amount(s) claimed as preferential £
9	Particulars of how and when debt incurred	

10	Particulars of any security held, the value of the security, and the date it was given	
11	Particulars of any reservation of title claimed, including details of goods supplied, their value and when supplied	
12	Signature of creditor or person authorised to act on his behalf _____ Name in BLOCK LETTERS _____ Position with or relation to creditor _____	

Admitted to vote for

£

Date

Liquidator

Admitted preferentially for

£

Date

Liquidator

Admitted non-preferentially for

£

Date

Liquidator

NOTE: A company goes into liquidation if it passes a resolution for voluntary winding up or an order for its winding up is made by the court at a time when it has not already gone into liquidation by passing such a resolution.

Creditor’s Bankruptcy Petition on Failure to Comply with a Statutory Demand for a Liquidated Sum Payable Immediately (Title)

(a) Insert full names(s) and address(es) of petitioner(s) I/We (a) _____

(b) Insert full name, place of residence and occupation (if any) of debtor _____
petition the court that a bankruptcy order may be made against (b) _____

(c) Insert in full any other name(s) by which the debtor is or has been known [also known as (c) _____]

(d) Insert trading name (adding “with another or others”, if this is so), business address and nature of business [and carrying on business as (d) _____]

(e) Insert any other address or addresses at which the debtor has resided at or after the time the petition debt was incurred [and lately residing at (e) _____]

(f) Give the same details as specified in note (d) above for any other businesses which have been carried on at or after the time the petition debt was incurred [and lately carrying on business as (f) _____]

and say as follows:-

(g) Delete as applicable 1. (g) [The debtor’s centre of main interests has been][The debtor has had an establishment] at _____

OR

The debtor carries on business as an insurance undertaking; a credit institution; an investment undertaking providing services involving the holding of funds or securities for third parties; or a collective investment undertaking as referred to in Article 1.2 of the EC Regulation

OR

The debtor’s centre of main interests is not within a member State

2. The debtor has for the greater part of six months immediately preceding the presentation of this petition (g) [resided at] [carried on business at]

(h) Or as the case may be following the terms of Rule 6.9 _____
within the district of this court (h)

Under the EC Regulation:

(i) The centre of main interests should correspond to the place where the debtor conducts the administration of his interests on a regular basis.

(ii) Establishment is defined as “any place of operations where the debtor carries out a non-transitory economic activity with human means and goods”.

(j) Please give the amount of the debt(s), what they relate to and when they were incurred. Please show separately the amount or rate of any interest or other charge not previously notified to the debtor and the reasons why you are claiming it

3. The debtor is justly and truly indebted to me [us] in the aggregate sum of £(j)_____

4. The above-mentioned debt is for a liquidated sum payable immediately and the debtor appears to be unable to pay it

(k) Insert date of service of a statutory demand

5. On (k)_____ a statutory demand was served upon the debtor by

(l) State manner of service of demand

(l)_____ in respect of the above-mentioned debt. To the best of my knowledge and belief the demand has neither been complied with nor set aside in accordance with the Rules and no application to set it aside is outstanding

(m) If 3 weeks have not elapsed since service of statutory demand give reasons for earlier presentation of petition

(m)

6. I/We do not, nor does any person on my/our behalf, hold any security on the debtor's estate, or any part thereof, for the payment of the above-mentioned sum

OR

I/We hold security for the payment of (g) [part of] the above-mentioned sum. I/We will give up such security for the benefit of all the creditors in the event of a bankruptcy order being made.

OR

I/We hold security for the payment of part of the above-mentioned sum and I/we estimate the value of such security to be £ . This petition is not made in respect of the secured part of my/our debt.

Endorsement

This petition having been presented to the court on _____ it is ordered that the petition shall be heard as follows:-

Date _____

Time _____ hours

Place _____

(n) Insert name of debtor

and you, the above-named (n) _____, are to take notice that if you intend to oppose the petition you must not later than 7 days before the date fixed for the hearing:

(i) file in court a notice (in Form 6.19) specifying the grounds on which you object to the making of a bankruptcy order; and

(ii) send a copy of the notice to the petitioner or his solicitor.

The solicitor to the petitioning creditor is: - (o)

(o) Only to be completed where the petitioning creditor is represented by a solicitor

Name _____

Address _____

Telephone Number _____

Reference _____

Creditor’s Bankruptcy Petition on Failure to Comply with a Statutory Demand for a Liquidated Sum Payable at a Future Date
(Title)

(a) Insert full names(s) and address(es) of petitioner(s) I/We (a) _____

(b) Insert full name, place of residence and occupation (if any) of debtor _____
petition the court that a bankruptcy order may be made against (b) _____

(c) Insert in full any other name(s) by which the debtor is or has been known [also known as (c) _____]

(d) Insert trading name (adding “with another or others”, if this is so), business address and nature of business [and carrying on business as (d) _____]

(e) Insert any other address or addresses at which the debtor has resided at or after the time the petition debt was incurred [and lately residing at (e) _____]

(f) Give the same details as specified in note (d) above for any other businesses which have been carried on at or after the time the petition debt was incurred [and lately carrying on business as (f) _____]

(g) Delete as applicable

and say as follows:-

1. (g) [The debtor’s centre of main interests has been][The debtor has had an establishment] at _____

OR

The debtor carries on business as an insurance undertaking; a credit institution; an investment undertaking providing services involving the holding of funds or securities for third parties; or a collective investment undertaking as referred to in Article 1.2 of the EC Regulation

OR

The debtor’s centre of main interests is not within a member State.

2. The debtor has for the greater part of six months immediately preceding the presentation of this petition (g) [resided at] [carried on business at] _____

(h) Or as the case may be following the terms of Rule 6.9

_____ within the district of this court (h)

Under the EC Regulation:

(i) The centre of main interests should correspond to the place where the debtor conducts the administration of his interests on a regular basis.

(ii) Establishment is defined as “any place of operations where the debtor carries out a non-transitory economic activity with human means and goods”.

(j) Please give the amount of the debt(s), what they relate to and when they were incurred.

Please show separately the amount or rate of any interest or other charge not previously notified to the debtor and the reasons why you are claiming it

(k) Insert date or dates when the debt becomes payable

(l) Insert date of service of a statutory demand

(m) State manner of service of demand

(n) If 3 weeks have not elapsed since service of statutory demand give reasons for earlier presentation of petition

3. The debtor is justly and truly indebted to me [us] in the aggregate sum of

£(j)_____

4. The above-mentioned debt is for a liquidated sum payable on (k) _____ and the debtor appears to have no reasonable prospect of being able to pay it

5. On (l)_____ a statutory demand was served upon the debtor by

(m)_____ in respect of the above-mentioned debt. To the best of my knowledge and belief the demand has neither been complied with nor set aside in accordance with the Rules and no application to set it aside is outstanding

(n)

6. I/We do not, nor does any person on my/our behalf, hold any security on the debtor's estate, or any part thereof, for the payment of the above-mentioned sum

OR

I/We hold security for the payment of (g) [part of] the above-mentioned sum. I/We will give up such security for the benefit of all the creditors in the event of a bankruptcy order being made.

OR

I/We hold security for the payment of part of the above-mentioned sum and I/we estimate the value of such security to be £ . This petition is not made in respect of the secured part of my/our debt.

Endorsement

This petition having been presented to the court on _____ it is ordered that the petition shall be heard as follows:-

Date _____

Time _____ hours

Place _____

and you, the above-named (o) _____, are to take notice that if you intend to oppose the petition you must not later than 7 days before the date fixed for the hearing:

- (i) file in court a notice (in Form 6.19) specifying the grounds on which you object to the making of a bankruptcy order; and
- (ii) send a copy of the notice to the petitioner or his solicitor.

The solicitor to the petitioning creditor is: - (p)

Name _____

Address _____

Telephone Number _____

Reference _____

(o) Insert name of debtor

(p) Only to be completed where the petitioning creditor is represented by a solicitor

Creditor’s Bankruptcy Petition Where Execution or Other Process on a Judgment has been Returned in Whole or Part (Title)

(a) Insert full names(s) and address(es) of petitioner(s) I/We (a) _____

(b) Insert full name, place of residence and occupation (if any) of debtor _____
petition the court that a bankruptcy order may be made against (b) _____

(c) Insert in full any other name(s) by which the debtor is or has been known [also known as (c) _____]

(d) Insert trading name (adding “with another or others”, if this is so), business address and nature of business [and carrying on business as (d) _____]

(e) Insert any other address or addresses at which the debtor has resided at or after the time the petition debt was incurred [and lately residing at (e) _____]

(f) Give the same details as specified in note (d) above for any other businesses which have been carried on at or after the time the petition debt was incurred [and lately carrying on business as (f) _____]

and say as follows:-

(g) Delete as applicable 1. (g) [The debtor’s centre of main interests has been][The debtor has had an establishment] at _____

OR

The debtor carries on business as an insurance undertaking; a credit institution; an investment undertaking providing services involving the holding of funds or securities for third parties; or a collective investment undertaking as referred to in Article 1.2 of the EC Regulation

OR

The debtor’s centre of main interests is not within a member State

2. The debtor has for the greater part of six months immediately preceding the presentation of this petition (g) [resided at] [carried on business at] _____

(h) Or as the case may be following the terms of Rule 6.9 within the district of this court (h)

Under the EC Regulation:

(i) The centre of main interests should correspond to the place where the debtor conducts the administration of his interests on a regular basis.

(ii) Establishment is defined as “any place of operations where the debtor carries out a non-transitory economic activity with human means and goods”.

(j) Please give the amount of the debt(s), what they relate to and when they were incurred. Please show separately the amount or rate of any interest or other charge not previously notified to the debtor and the reasons why you are claiming it

3. The debtor is justly and truly indebted to me [us] in the aggregate sum of

£(j)_____

4. The above-mentioned debt is for a liquidated sum payable immediately and the debtor appears to be unable to pay it

(k) Insert on which judgment was obtained

5. On (k) _____ judgment was obtained in (g) [the High Court of justice _____ Division][_____ County Court] [or as the case may be] on an action the short title and reference to the record whereof is "A _____ V B _____" Number _____ in the sum of £_____ following which execution was issued at the _____ court in respect of the debt and on (l)_____the sheriff/county court (g) [made a return][endorsed upon the writ a statement] to the effect that the execution was unsatisfied (g) [as to the whole][as to part] and the above-mentioned debt represents the amount by which the execution was returned unsatisfied.

(l) Insert date of execution

6. I/We do not, nor does any person on my/our behalf, hold any security on the debtor's estate, or any part thereof, for the payment of the above-mentioned sum

OR

(m) Delete as applicable

I/We hold security for the payment of (m) [part of] the above-mentioned sum. I/We will give up such security for the benefit of all the creditors in the event of a bankruptcy order being made.

OR

I/We hold security for the payment of part of the above-mentioned sum and I/we estimate the value of such security to be £ _____. This petition is not made in respect of the secured part of my/our debt.

Endorsement

This petition having been presented to the court on _____ it is ordered that the petition shall be heard as follows:-

Date _____

Time _____ hours

Place _____

(n) Insert name of debtor

and you, the above-named (n) _____, are to take notice that if you intend to oppose the petition you must not later than 7 days before the date fixed for the hearing:

(i) file in court a notice (in Form 6.19) specifying the grounds on which you object to the making of a bankruptcy order; and

(ii) send a copy of the notice to the petitioner or his solicitor.

The solicitor to the petitioning creditor is: - (o)

(o) Only to be completed where the petitioning creditor is represented by a solicitor

Name _____

Address _____

Telephone Number _____

Reference _____

Bankruptcy Petition for Default in Connection with Voluntary Arrangement (Title)

(a) Insert full names(s) and address(es) of petitioner(s) I/We (a) _____

(b) Insert full name, place of residence and occupation (if any) of debtor _____
petition the court that a bankruptcy order may be made against (b) _____

(c) Insert in full any other name(s) by which the debtor is or has been known [also known as (c) _____]

(d) Insert trading name (adding "with another or others", if this is so), business address and nature of business [and carrying on business as (d) _____]

(e) Insert any other address or addresses at which the debtor has resided at or after the time the petition debt was incurred [and lately residing at (e) _____]

(f) Give the same details as specified in note (d) above for any other businesses which have been carried on at or after the time the petition debt was incurred [and lately carrying on business as (f) _____]

and say as follows:-

1. (g) [The debtor's centre of main interests has been][The debtor has had an establishment] at _____

(g) Delete as applicable

OR

The debtor carries on business as an insurance undertaking; a credit institution; an investment undertaking providing services involving the holding of funds or securities for third parties; or a collective investment undertaking as referred to in Article 1.2 of the EC Regulation

OR

The debtor's centre of main interests is not within a member State

2. The debtor has for the greater part of six months immediately preceding the presentation of this petition (g) [resided at] [carried on business at] _____

(h) Or as the case may be following the terms of Rule 6.9

within the district of this court (h)

Under the EC Regulation:

(i) The centre of main interests should correspond to the place where the debtor conducts the administration of his interests on a regular basis.

(ii) Establishment is defined as "any place of operations where the debtor carries out a non-transitory economic activity with human means and goods".

(j) Insert date the debtor entered into voluntary arrangement

3. On (j) _____ a voluntary arrangement proposed by the debtor was approved by his creditors and I am (g) [a person who is for the time being bound by the said voluntary arrangement and (k) _____ is the supervisor] [(k) _____ the supervisor of the said voluntary arrangement]

(k) Insert name of supervisor

(l) Give details of the default in connection with the composition or scheme, being the grounds under section 276(1) IA86 upon which the bankruptcy order is sought

(l)

Endorsement

This petition having been presented to the court on _____ it is ordered that the petition shall be heard as follows:-

Date _____

Time _____ hours

Place _____

(m) Insert name of debtor

and you, the above-named (m) _____, are to take notice that if you intend to oppose the petition you must not later than 7 days before the date fixed for the hearing:

(i) file in court a notice (in Form 6.19) specifying the grounds on which you object to the making of a bankruptcy order; and

(ii) send a copy of the notice to the petitioner or his solicitor.

The solicitor to the petitioning creditor is: - (n)

(n) Only to be completed where the petitioning creditor is represented by a solicitor

Name _____

Address _____

Telephone Number _____

Reference _____

Bankruptcy Order on Creditor’s Petition (Title)

(a) Insert name and address of petitioning creditor

Upon the petition of (a)
a creditor, which was presented on

and upon hearing

and upon reading the evidence

(b) Insert full description of debtor as set out in the petition

It is ordered that (b)
be adjudged bankrupt.

(c) Delete as applicable
(d) Insert whether main, secondary or territorial proceedings

(c) And the Court being satisfied that the EC Regulation does apply and that these proceedings are (d) _____ proceedings as defined in Article 3 of the EC Regulation

(c) The court is satisfied that the EC Regulation does not apply in relation to these proceedings

Dated _____

Time _____ hours

Important Notice to Bankrupt

(e) Insert address of Official Receiver’s office

(c) [The] [One of the] official receiver(s) attached to the court is by virtue of this order receiver and manager of the bankrupt’s estate. You are required to attend upon the Official Receiver of the court at (e) _____

immediately after you have received this order.

The Official Receiver’s offices are open Monday to Friday (except on Holidays) from 10.00 to 16.00 hours.

(f) Order to be endorsed where petitioning creditor is represented by a solicitor

Endorsement on Order (f)	
The solicitor to the petitioning creditor is:-	
Name	_____
Address	_____

Telephone No.	_____
Reference	_____

**Debtor’s Bankruptcy Petition
(Title)**

(a) Insert full name, address and occupation (if any) of debtor
I
(a) _____

(b) Insert in full any other name(s) by which the debtor is or has been known
also known as
(b) _____

(c) Insert former address or addresses at which the debtor may have incurred debts or liabilities still unpaid or unsatisfied
[lately residing at
(c) _____

(d) Insert trading name (adding “with another or others”, if this is so), business address and nature of the business
[and carrying on business as (d) _____

_____]

(e) Insert any former trading names (adding “with another or others”, if this is so), business address and nature of the business in respect of which the debtor may have incurred debts or liabilities still unpaid or unsatisfied
[and lately carrying on business as (e) _____

_____]

request the court that a bankruptcy order be made against me and say as follows:-

1. (f) [My centre of main interests has been][I have had an establishment] at

OR

I carry on business as an insurance undertaking; a credit institution; investment undertaking providing services involving the holding of funds or securities for third parties; or a collective investment undertaking as referred to in Article 1.2 of the EC Regulation.

OR

My centre of main interests is not within a member State

Under the EC Regulation

- (i) Centre of main interests should correspond to the place where the debtor conducts the administration of his interests on a regular basis.
- (ii) Establishment is defined in the Council Regulation (No 1346/2000) on insolvency proceedings as “any place of operations where the debtor carries out a non-transitory economic activity with human means and goods”

2. I have for the greater part of six months immediately preceding the presentation of this petition (f) [resided at] [carried on business at] _____

(g) Insert name of court within the district of (f) [this court] [(g) county court. I am presenting my petition to this court, as it is the nearest full-time county court to (g) county court, for the following reasons:

(h) State reasons (h)

3. I am unable to pay my debts.

4. (f) That within the period of five years ending with the date of this petition:-

(j) Insert date (i) I have not been adjudged bankrupt

(k) Insert name of court **OR**
I was adjudged bankrupt on (j) in the (k)

(l) Insert number of bankruptcy proceedings Court No. (l)

(ii) I have not (f) [made a composition with my creditors in satisfaction of my debts] or (f) [entered into a scheme of arrangement with creditors] (S16 BA1914)

OR

On (j) I (f) [made a composition] [entered into a scheme of arrangement] with my creditors.

(iii) I have not entered into a voluntary arrangement

OR

On (j) I entered into a voluntary arrangement

(iv) I have not been subject to an administration order under Part VI of the County Courts Act 1984

OR

On (j) an administration order was made against me in the (l) county court.

5. A statement of my affairs is filed with this petition.

Date _____

Signature _____

Complete only if petition not heard immediately

Endorsement

This petition having been presented to the court on _____ it is ordered that the petition shall be heard as follows:-

Date _____

Time _____ hours

Place _____

(a) Insert date Upon the petition of the above named debtor, which was presented on (a)

And upon hearing

(b) Delete words in square brackets if no appointment made under section 273(2)

(b)[and upon considering the report of (c) appointed under section 273(2) of the Insolvency Act 1986]

(c) Insert name of insolvency practitioner appointed under section 273(2)

And upon the petition and statement of affairs

(d) Insert full description of debtor as set out in the petition

It is ordered that (d)

be adjudged bankrupt.

(e) Delete if no certificate of summary administration is issued under section 275

(e) [And it is certified that the estate of the bankrupt be administered in a summary manner]

(f) Only to be completed where a trustee is appointed on the making of the bankruptcy order under section 297(4)

[And it is ordered that (f) be appointed trustee of the bankrupt's estate]

[And it is also ordered that

]

(g) Delete as appropriate
(h) Insert whether main, secondary or territorial proceedings

(g)And the court being satisfied that the EC Regulation does apply and that these proceedings are (h)_____ proceedings as defined in Article 3 of the Regulation
OR

(g) And the court is satisfied that the EC Regulation does not apply in relation to these proceedings

Dated _____

Time _____ hours

Important Notice to Bankrupt

(j) Insert address of Official Receiver's office

(g) [The] [One of the] official receiver(s) attached to the court is by virtue of this order receiver and manager of the bankrupt's estate. You are required to attend upon the Official Receiver of the court at (j)_____ immediately after you have received this order.

The Official Receiver's offices are open Monday to Friday (except on Holidays) from 10.00 to 16.00 hours.

(k) Order to be endorsed where petitioning creditor is represented by a solicitor

Endorsement on Order (k)	
The solicitor to the petitioning creditor is:-	
Name	_____
Address	_____
Telephone No.	_____
Reference	_____

**Order of Appointment of Interim Receiver
(Title)**

Mr Registrar in chambers

(a) Give full name and address of applicants
Upon the application of (a)

And upon hearing

And upon reading the evidence

(b) Delete as applicable
(b) And the court being satisfied that the debtor is unable to pay his debts

(c) Insert whether main, secondary or territorial proceedings
And the court being satisfied that the EC Regulation (b) does/does not apply (b) and that these proceedings are (c) _____ proceedings as defined in Article 3 of the EC Regulation

(d) If a person other than the official receiver is to be appointed delete the words in [] otherwise insert the amount to be deposited
It is ordered that (d) [upon the sum of £_____ being deposited by the applicant with the official receiver] the following person is appointed interim receiver of the property of the above-named debtor.

(e) Insert either "the official receiver" or if an insolvency practitioner is to be appointed, his full name and address
Name of interim receiver (e) _____
Address (if applicable) _____

(f) Insert nature and short description of property of which the interim receiver is to take possession, and the duties to be performed by him in relation to the debtor's affairs
And it is ordered that:-
(f)

Dated _____

NOTICE TO DEBTOR

You must give the interim receiver all the information he may require relating to your property and affairs in order for him to carry out the functions imposed on him by the terms of the above order.

Proof of Debt – General Form
(TITLE)

Date of Bankruptcy Order

1	Name of Creditor	
2	Address of Creditor	
3	Total amount of claim, including any Value Added Tax and outstanding uncapitalised interest as at the date of the bankruptcy order	
4	Details of any documents by reference to which the debt can be substantiated. [Note: the liquidator may call for any document or evidence to substantiate the claim at his discretion]	
5	If the total amount shown above includes Value Added Tax, please show:- (a) amount of Value Added Tax (b) amount of claim NET of Value Added Tax	£ £
6	If total amount above includes outstanding uncapitalised interest, please state amount	£
7	If you have filled in both box 3 and box 5, please state whether you are claiming the amount shown in box 3 or the amount shown in box 5(b)	
8	Give details of whether the whole or any part of the debt falls within any (and if so which) of the categories of preferential debts under section 386 of, and schedule 6 to, the Insolvency Act 1986 (as read with schedule 3 to the Social Security Pensions Act 1975)	Category Amount(s) claimed as preferential £
9	Particulars of how and when debt incurred	

10	Particulars of any security held, the value of the security, and the date it was given	
11	Particulars of any reservation of title claimed, including details of goods supplied, their value and when supplied	
12	Signature of creditor or person authorised to act on his behalf _____ Name in BLOCK LETTERS _____ Position with or relation to creditor _____	

Admitted to vote for

£

Date

Official Receiver/Trustee

Admitted preferentially for

£

Date

Trustee

Admitted non-preferentially for

£

Date

Trustee

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Insolvency Rules 1986 (S.I. 1986/1925) (“the 1986 Rules”) in the light of Council Regulation (EC) No. 1346/2000 of 29th May 2000 on insolvency proceedings, OJ No. L160, 30.06.00. p.1 (the “EC Regulation”) which comes into force on 31st May 2002.

The EC Regulation aims to provide for the efficient and effective functioning of cross-border insolvency proceedings in the European Union. Information concerning the EC Regulation is provided in the Guidance Notes issued by the Insolvency Service which may be found, together with the text of the EC Regulation, on the Insolvency Service website, the address of which is www.insolvency.gov.uk.

The main amendments to the 1986 Rules are—

- to provide procedures for the conversion of company and individual voluntary arrangements and administration into winding up for companies and bankruptcy for individuals on the application of a liquidator appointed in another EU member State (“a member State liquidator”) in main proceedings (“member State liquidator” and “main proceedings” are defined by new definitions by reference to the EC Regulation inserted into the 1986 Rules);
- to note particular rules in the 1986 Rules to which the right of a member State liquidator to participate in proceedings on the same basis as a creditor is relevant, for example, entitlement to vote under Rules 2.22 (administration), 4.67 (winding up) and 6.93 (bankruptcy);
- to provide, under the 1986 Rules, for giving notice of insolvency proceedings, and to give notice of various steps taken in such proceedings, to member State liquidators;
- to provide, under the 1986 Rules, for the right of a member State liquidator appointed in main proceedings or a temporary liquidator to be able to apply for the appointment of a provisional liquidator of a company or an interim receiver of an individual (“temporary administrator” is defined by a new definition by reference to the EC Regulation inserted into the 1986 Rules);
- to provide a procedure allowing a liquidator of a company being wound up voluntarily under Part IV of the Insolvency Act 1986 to apply to court (using a newly prescribed form) for the confirmation of the proceedings, such confirmation being a pre-requisite for recognition of a voluntary winding up in other member States under the EC Regulation;
- to remove conflicts between the EC Regulation and the Rules, for example, in new Rule 6.116(3) in relation to the rights in rem (secured rights) of creditors where the secured assets are in other member States;
- to make provision with regard to voting at creditors’ meeting and proving for dividends in insolvency proceedings where the EC Regulation applies; and
- to provide revised forms, among others forms, for petitions and orders which require petitioners and courts to consider the applicability of the EC Regulation to the proceedings in question.