
STATUTORY INSTRUMENTS

2013 No. 3208

The Postal Administration Rules 2013

PART 1

Introductory Provisions

Citation and Commencement

1. These Rules may be cited as the Postal Administration Rules 2013 and shall come into force on 31st January 2014.

Construction and Interpretation

2.—(1) In these Rules—

“the 1986 Act” means the Insolvency Act 1986;

“the 2011 Act” means the Postal Services Act 2011;

“administrative receiver” has the same meaning as in section 70(4) of the 2011 Act;

“the appropriate fee” has the meaning given in Rule 203 of these Rules;

“authorised deposit-taker and former authorised deposit-taker” has the meaning given in Rule 204 of these Rules;

“the Companies Act” means the Companies Act 2006(1);

“CPR” means the Civil Procedure Rules 1998(2) and “CPR” followed by a Part or rule number means the Part or rule with that number in those Rules;

“debt” has the meaning given in Rule 206 of these Rules;

“enforcement officer” means an individual who is authorised to act as an enforcement officer under the Courts Act 2003(3);

“insolvency proceedings” has the same meaning as in Rule 13.7 of the Insolvency Rules;

“the Insolvency Rules” means the Insolvency Rules 1986(4);

“OFCOM” means the Office of Communications;

“petitioner” has the meaning given in Rule 207 of these Rules;

“pre-postal administration costs” are—

(a) fees charged, and

(b) expenses incurred,

by the postal administrator, or another person qualified to act as an insolvency practitioner, before the company entered postal administration but with a view to its doing so;

(1) 2006 c. 46.

(2) S.I. 1998/3132.

(3) 2003 c. 39.

(4) S.I. 1986/1925; the Insolvency Rules have been amended by a number of instruments.

“the registrar” has the meaning given in Rule 205 of these Rules;

“registrar of companies” means the registrar of companies for England and Wales;

“the Rules” means the Postal Administration Rules 2013;

“unpaid pre-postal administration costs” are pre-postal administration costs which had not been paid when the company entered postal administration; and

“venue” has the meaning given in Rule 208 of these Rules.

(2) References in the Rules to ex parte hearings shall be construed as references to hearings without notice being served on any other party; references to applications made ex parte as references to applications made without notice being served on any other party and other references which include the expression “ex parte” shall be similarly construed.

(3) References to a numbered paragraph shall, unless otherwise stated, be to the paragraph so numbered in Schedule B1(5) to the 1986 Act as modified and applied by Schedule 10 to the 2011 Act.

(4) References to other provisions of the 1986 Act are, where those provisions have been modified by Schedule 10 to the 2011 Act, references to those provisions as so modified.

(5) Where the universal service provider is a foreign company within the meaning of section 85 of the 2011 Act, references in the Rules to the affairs, business and property of the company are references only to its affairs and business so far as carried on in the United Kingdom and to its property in the United Kingdom unless otherwise stated.

(6) Where the universal service provider is an unregistered company, any requirement to send information to the registrar of companies applies only if the company is subject to a requirement imposed by virtue of section 1043 or 1046 of the Companies Act.

(7) Subject to paragraphs (1) to (6) of this Rule, Part 16 of the Rules has effect for their interpretation and application.

Extent

3. The Rules apply in relation to a company which is a universal service provider which the courts in England and Wales have jurisdiction to wind up.

PART 2

Appointment of Postal Administrator by Court

Witness statement

4. Where it is proposed to apply to the court for a postal administration order to be made in relation to a company, the administration application shall be in Form PA1 and a witness statement complying with Rule 6 must be prepared with a view to its being filed with the court in support of the application.

Form of application

5.—(1) The application shall state whether it is made by OFCOM or the Secretary of State and the applicant’s address for service.

(2) Where it is made by OFCOM, the application shall contain a statement that it is made with the consent of the Secretary of State.

(5) Schedule B1 to the 1986 Act was inserted by Schedule 16 to the Enterprise Act 2002 c. 40.

(3) There shall be attached to the application a written statement which shall be in Form PA2 made by each of the persons proposed to be postal administrator stating—

- (a) that the person consents to accept the appointment; and
- (b) details of any prior professional relationship(s) that the person has had with the company to which that person is to be appointed as postal administrator.

Contents of application and witness statement

6.—(1) The postal administration application shall state that the company is a universal service provider.

(2) The application shall state one or both of the following—

- (a) the applicant's belief that the company is unable, or is likely to be unable, to pay its debts;
- (b) the Secretary of State has certified that it would be appropriate to petition for the winding up of the universal service provider under section 124A(6) of the 1986 Act (petition for winding up on grounds of public interest).

(3) There shall be attached to the application a witness statement in support which shall contain—

- (a) a statement of the company's financial position, specifying (to the best of the applicant's knowledge and belief) its assets and liabilities, including contingent and prospective liabilities;
- (b) details of any security known or believed to be held by creditors of the company, and whether in any case the security is such as to confer power on the holder to appoint an administrative receiver or to appoint an administrator under paragraph 14. If an administrative receiver has been appointed, that fact shall be stated;
- (c) details of any insolvency proceedings in relation to the company including any petition that has been presented for the winding up of the company so far as within the immediate knowledge of the applicant;
- (d) details of any notice served in accordance with section 78 of the 2011 Act by any person intending to enforce any security over the company's assets, so far as within the immediate knowledge of the applicant;
- (e) details of any step taken to enforce any such security, so far as within the immediate knowledge of the applicant;
- (f) details of any application for permission of the court to pass a resolution for the voluntary winding up of the company, so far as within the immediate knowledge of the applicant;
- (g) where it is intended to appoint a number of persons as postal administrators, details of the matters set out in section 72(5) of the 2011 Act regarding the exercise of the powers and duties of the postal administrators; and
- (h) any other matters which, in the opinion of those intending to make the application for a postal administration order, will assist the court in deciding whether to make such an order, so far as lying within the knowledge or belief of the applicant.

Filing of application

7.—(1) The application (and all supporting documents) shall be filed with the court, with a sufficient number of copies for service and use as provided by Rule 8.

(6) 1986 c. 45; section 124A was inserted by the Companies Act 1989 (c. 40), section 60(3) and was amended by S.I. 2001/3694; the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27) and S.I. 2004/3322.

(2) Each of the copies filed shall have applied to it the seal of the court and be issued to the applicant; and on each copy there shall be endorsed the date and time of filing.

(3) The court shall fix a venue for the hearing of the application and this also shall be endorsed on each copy of the application issued under paragraph (2) of this Rule.

(4) After the application is filed, it is the duty of the applicant to notify the court in writing of the existence of any insolvency proceedings in relation to the company, as soon as the applicant becomes aware of them.

Service of application

8.—(1) In the following paragraphs of this Rule, references to the application are to a copy of the application issued by the court under Rule 7(2) together with the witness statement required by Rule 6 and the documents attached to the application.

(2) Notification for the purposes of section 70(2) of the 2011 Act shall be by way of service in accordance with Rule 10, verified in accordance with Rule 11.

(3) The application shall be served, in addition to those persons referred to in section 70(2) of the 2011 Act—

- (a) on any administrative receiver that has been appointed;
- (b) if there is pending an administration application under Schedule B1 to the 1986 Act, without the modifications made by Schedule 10 to the 2011 Act, on the applicant;
- (c) if there is pending a petition for the winding-up of the company, on the petitioner (and also on the provisional liquidator, if any);
- (d) on any creditor who has served notice in accordance with section 78(1) of the 2011 Act of their intention to enforce their security over property of the company;
- (e) on the person proposed as postal administrator;
- (f) on the company;
- (g) if the applicant is the Secretary of State, on OFCOM;
- (h) if the applicant is OFCOM, on the Secretary of State;
- (i) on any supervisor of a voluntary arrangement under Part I of the 1986 Act who has been appointed.

Notice to officers charged with execution of writs or other process

9. The applicant shall as soon as reasonably practicable after filing the application give notice of its being made to—

- (a) any enforcement officer or other officer who to the applicant's knowledge is charged with an execution or other legal process against the company or its property; and
- (b) any person who to the applicant's knowledge has distrained against the company or its property.

Manner in which service to be effected

10.—(1) Service of the application in accordance with Rule 8 shall be effected by the applicant, or the applicant's solicitor, or by a person instructed by the applicant or the applicant's solicitor, not less than 5 business days before the date fixed for the hearing.

(2) Service shall be effected as follows—

- (a) on the company (subject to paragraph (3) of this Rule), by delivering the documents to its registered office;

(b) on any other person (subject to paragraph (4) of this Rule), by delivering the documents to their proper address;

(c) in either case, in such other manner as the court may direct.

(3) If delivery to the company's registered office is not practicable or if the company is an unregistered company, service may be effected by delivery to its last known principal place of business in England and Wales.

(4) Subject to paragraph (5) of this Rule, for the purposes of paragraph (2)(b) of this Rule, a person's proper address is any which they have previously notified as their address for service; but if they have not notified any such address, service may be effected by delivery to their usual or last known address.

(5) In the case of a person who—

(a) is an authorised deposit-taker or former authorised deposit-taker;

(b) either-

(i) has appointed, or is or may be entitled to appoint, an administrative receiver of the company, or

(ii) is, or may be, entitled to appoint an administrator of the company under paragraph 14; 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 applicant, the company maintains a bank account or, where no such office is known to the applicant, the registered office of that person, or, if there is no such office, their usual or last known address.

Proof of service

11.—(1) Service of the application must be verified by a certificate of service.

(2) The certificate of service must be sufficient to identify the application served and must specify—

(a) the name and registered number of the company;

(b) the address of the registered office of the company;

(c) the name of the applicant;

(d) the court to which the application was made and the court reference number;

(e) the date of the application;

(f) whether the copy served was a sealed copy;

(g) the date on which service was effected; and

(h) the manner in which service was effected.

(3) The certificate of service shall be filed with the court as soon as reasonably practicable after service, and in any event not less than 1 business day before the hearing of the application.

The hearing

12.—(1) At the hearing of the postal administration application, any of the following may appear or be represented—

(a) The Secretary of State;

(b) OFCOM;

- (c) the company;
 - (d) one or more of the directors;
 - (e) if an administrative receiver has been appointed, that person;
 - (f) any person who has presented a petition for the winding-up of the company;
 - (g) the person proposed for appointment as postal administrator;
 - (h) any person that is the holder of a qualifying floating charge;
 - (i) any person who has applied to the court for an administration order under Schedule B1 to the 1986 Act, without the modifications made by Schedule 10 to the 2011 Act ;
 - (j) any creditor who has served notice in accordance with section 78(1) of the 2011 Act of their intention to enforce their security over property of the company;
 - (k) any supervisor of a voluntary arrangement under Part I of the 1986 Act;
 - (l) with the permission of the court, any other person who appears to have an interest justifying their appearance.
- (2) If the court makes a postal administration order, it shall be in Form PA3.
- (3) If the court makes a postal administration order, the costs of the applicant, and of any person whose costs are allowed by the court, are payable as an expense of the postal administration.

Notice of postal administration order

- 13.**—(1) If the court makes a postal administration order, it shall as soon as reasonably practicable send two sealed copies of the order to the person who made the application.
- (2) The applicant shall send a sealed copy of the order as soon as reasonably practicable to the person appointed as postal administrator.
- (3) If the court makes an order under section 71(1)(d) of the 2011 Act or any other order under section 71(1)(f) of the 2011 Act, it shall give directions as to the persons to whom, and how, notice of that order is to be given.

PART 3

Process of Postal Administration

Notification and advertisement of postal administrator’s appointment

- 14.**—(1) The notice of appointment to be given by the postal administrator as soon as reasonably practicable after appointment under paragraph 46(2)(b) shall be gazetted and may be advertised in such other manner as the postal administrator thinks fit.
- (2) In addition to the standard contents, the notice under paragraph (1) of this Rule must state—
- (a) that a postal administrator has been appointed; and
 - (b) the date of the appointment.
- (3) The postal administrator shall, as soon as reasonably practicable after the date specified in paragraph 46(6), give notice of their appointment—
- (a) if the application for the postal administration order was made by the Secretary of State, to OFCOM;
 - (b) if the application for the postal administration order was made by OFCOM, to the Secretary of State;

- (c) to any receiver or administrative receiver that has been appointed;
- (d) if there is pending a petition for the winding up of the company, to the petitioner (and also to the provisional liquidator, if any);
- (e) to any person who has applied to the court for an administration order under Schedule B1 to the 1986 Act, without the modifications made by Schedule 10 to the 2011 Act, in relation to the company;
- (f) to any enforcement officer who, to the postal administrator's knowledge, is charged with execution or other legal process against the company;
- (g) to any person who, to the postal administrator's knowledge, has distrained against the company or its property; and
- (h) any supervisor of a voluntary arrangement under Part I of the 1986 Act.

(4) Where, under a provision of Schedule B1 to the 1986 Act or the Rules, the postal administrator is required to send a notice of their appointment to any person other than the registrar of companies they shall do so in Form PA4.

Notice requiring statement of affairs

15.—(1) In this Part “relevant person” shall have the meaning given to it in paragraph 47(3).

(2) The postal administrator shall send notice in Form PA5 to each relevant person whom the postal administrator determines appropriate requiring them to prepare and submit a statement of the company's affairs.

(3) The notice shall inform each of the relevant persons—

- (a) of the names and addresses of all others (if any) to whom the same notice has been sent;
- (b) of the time within which the statement must be delivered;
- (c) of the effect of paragraph 48(4) (penalty for non-compliance); and
- (d) of the application to the relevant person, and to each other relevant person, of section 235 of the 1986 Act (duty to provide information, and to attend on the administrator, if required).

(4) The postal administrator shall furnish each relevant person to whom the postal administrator has sent notice in Form PA5 with the forms required for the preparation of the statement of affairs.

Verification and filing

16.—(1) The statement of the company's affairs shall be in Form PA6, contain all the particulars required by that form and be verified by a statement of truth by the relevant person.

(2) The postal administrator may require any relevant person to submit a statement of concurrence in Form PA7 stating that they concur in the statement of affairs. Where the postal administrator does so, the postal administrator shall inform the person making the statement of affairs of that fact.

(3) The statement of affairs shall be delivered by the relevant person making the statement of truth, together with a copy, to the postal administrator. The relevant person shall also deliver a copy of the statement of affairs to all those persons whom the postal administrator has required to make a statement of concurrence.

(4) A person required to submit a statement of concurrence shall do so before the end of the period of 5 business days (or such other period as the postal administrator may agree) beginning with the day on which the statement of affairs being concurred with is received by them.

(5) A statement of concurrence may be qualified in respect of matters dealt with in the statement of affairs, where the maker of the statement of concurrence is not in agreement with the relevant

person, or the maker of the statement considers the statement of affairs to be erroneous or misleading, or the maker of the statement is without the direct knowledge necessary for concurring with it.

(6) Every statement of concurrence shall be verified by a statement of truth and be delivered to the postal administrator by the person who makes it, together with a copy of it.

(7) Subject to Rule 17, the postal administrator shall as soon as reasonably practicable send to the registrar of companies a copy of the statement of affairs and any statement of concurrence.

Limited disclosure

17.—(1) Where the postal administrator thinks that it would prejudice the conduct of the postal administration or might reasonably be expected to lead to violence against any person for the whole or part of the statement of the company's affairs to be disclosed, the postal administrator may apply to the court for an order of limited disclosure in respect of the statement, or any specified part of it.

(2) The court may, on such application, order that the statement or, as the case may be, the specified part of it, shall not be filed with the registrar of companies.

(3) The postal administrator shall as soon as reasonably practicable send to the registrar of companies a copy of the order and the statement of affairs (to the extent provided by the order) and any statement of concurrence.

(4) If a creditor seeks disclosure of a statement of affairs or a specified part of it in relation to which an order has been made under this Rule, they may apply to the court for an order that the postal administrator disclose it or a specified part of it. The application shall be supported by written evidence in the form of a witness statement.

(5) The applicant shall give the postal administrator notice of their application at least 3 business days before the hearing.

(6) The court may make any order for disclosure subject to any conditions as to confidentiality, duration, the scope of the order in the event of any change of circumstances, or other matters as it sees just.

(7) If there is a material change in circumstances rendering the limit on disclosure or any part of it unnecessary, the postal administrator shall, as soon as reasonably practicable after the change, apply to the court for the order or any part of it to be rescinded.

(8) The postal administrator shall, as soon as reasonably practicable after the making of an order under paragraph (7) of this Rule, file with the registrar of companies a copy of the statement of affairs to the extent provided by the order.

(9) When the statement of affairs is filed in accordance with paragraph (8) of this Rule, the postal administrator shall, where the postal administrator has sent a statement of proposals under paragraph 49, provide the creditors with a copy of the statement of affairs as filed, or a summary thereof.

(10) The provisions of Part 31 of the CPR shall not apply to an application under this Rule.

Release from duty to submit statement of affairs; extension of time

18.—(1) The power of the postal administrator under paragraph 48(2) to give a release from the obligation imposed by paragraph 47(1), or to grant an extension of time, may be exercised at the postal administrator's own discretion, or at the request of any relevant person.

(2) A relevant person may, if they request a release or extension of time and it is refused by the postal administrator, apply to the court for it.

(3) The court may, if it thinks that no sufficient cause is shown for the application, dismiss it without a hearing but it shall not do so without giving the relevant person at least 5 business days' notice, upon receipt of which the relevant person may request the court to list the application for

a without notice hearing. If the application is not dismissed the court shall fix a venue for it to be heard, and give notice to the relevant person accordingly.

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

(5) The postal administrator may appear and be heard on the application and, whether or not they appear, they may file a written report of any matters which they consider ought to be drawn to the court's attention. If such a report is filed, a copy of it shall be sent by the postal administrator to the relevant person, not later than 5 business days before the hearing.

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

(7) On any application under this Rule the relevant person's costs shall be paid in any event by the relevant person and, unless the court otherwise orders, no allowance towards them shall be made as an expense of the postal administration.

Expenses of statement of affairs

19.—(1) A relevant person making the statement of affairs of the company or statement of concurrence shall be allowed, and paid by the postal administrator as an expense of the postal administration, any expenses incurred by the relevant person in so doing which the postal administrator considers reasonable.

(2) Any decision by the postal administrator under this Rule is subject to appeal to the court.

(3) Nothing in this Rule relieves a relevant person from any obligation with respect to the preparation, verification and submission of the statement of affairs, or to the provision of information to the postal administrator.

Postal administrator's proposals

20.—(1) The postal administrator shall, under paragraph 49, make a statement which the postal administrator shall send to the registrar of companies.

(2) The statement shall include, in addition to those matters set out in paragraph 49—

- (a) details of the court where the proceedings are and the relevant court reference number;
- (b) the full name, registered address, registered number and any other trading names of the company;
- (c) details relating to their appointment as postal administrator, including the date of appointment and whether the postal administration application was made by OFCOM or the Secretary of State and, where there are joint postal administrators, details of the matters set out in section 72(5) of the 2011 Act;
- (d) the names of the directors and secretary of the company and details of any shareholdings in the company they may have;
- (e) an account of the circumstances giving rise to the appointment of the postal administrator;
- (f) if a statement of the company's affairs has been submitted, a copy or summary of it, with the postal administrator's comments, if any;
- (g) if an order limiting the disclosure of the statement of affairs (under Rule 17) has been made, a statement of that fact, as well as—
 - (i) details of who provided the statement of affairs;
 - (ii) the date of the order of limited disclosure; and

- (iii) the details or a summary of the details that are not subject to that order;
 - (h) if a full statement of affairs is not provided, the names, addresses and debts of the creditors including details of any security held;
 - (i) if no statement of affairs has been submitted, details of the financial position of the company at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that on which the company entered postal administration), a list of the company's creditors including their names, addresses and details of their debts, including any security held, and an explanation as to why there is no statement of affairs;
 - (j) except where the postal administrator proposes a voluntary arrangement in relation to the company and subject to paragraph (5) of this Rule—
 - (i) to the best of the postal administrator's knowledge and belief—
 - (aa) an estimate of the value of the prescribed part (whether or not they propose to make an application to court under section 176A(5) or section 176A(3) of the 1986 Act⁽⁷⁾ applies); and
 - (bb) an estimate of the value of the company's net property; and
 - (ii) whether, and, if so, why, the postal administrator proposes to make an application to court under section 176A(5) of the 1986 Act;
 - (k) a statement complying with paragraph (3) of this Rule of any pre-postal administration costs charged or incurred by the postal administrator or, to the postal administrator's knowledge, by any other person qualified to act as an insolvency practitioner.
 - (l) a statement (which must comply with paragraph (4) of this Rule where that paragraph applies) of how it is envisaged the purpose of the postal administration will be achieved and how it is proposed that the postal administration shall end;
 - (m) the manner in which the affairs and business of the company—
 - (i) have, since the date of the postal administrator's appointment, been managed and financed, including, where any assets have been disposed of, the reasons for such disposals and the terms upon which such disposals were made; and
 - (ii) will continue to be managed and financed; and
 - (n) such other information (if any) as the postal administrator thinks necessary to enable creditors to decide whether or not to vote for the adoption of the proposals.
- (3) A statement of pre-postal administration costs complies with this paragraph if it includes—
- (a) details of any agreement under which the fees were charged and expenses incurred, including the parties to the agreement and the date on which the agreement was made;
 - (b) details of the work done for which the fees were charged and expenses incurred;
 - (c) an explanation of why the work was done before the company entered postal administration and how it would further the achievement of the objective of the postal administration;
 - (d) a statement of the amount of the pre-postal administration costs, setting out separately—
 - (i) the fees charged by the postal administrator;
 - (ii) the expenses incurred by the postal administrator;
 - (iii) the fees charged (to the postal administrator's knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately); and

(7) 1986 c. 45; section 176A inserted by the Enterprise Act 2002 c. 40, section 252.

- (iv) the expenses incurred (to the postal administrator's knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately);
 - (e) a statement of the amounts of pre-postal administration costs which have already been paid (set out separately as under sub-paragraph (d));
 - (f) the identity of the person who made the payment or, if more than one person made the payment, the identity of each such person and of the amounts paid by each such person set out separately as under sub-paragraph (d);
 - (g) a statement of the amounts of unpaid pre-postal administration costs (set out separately as under paragraph (d)); and
 - (h) a statement that the payment of unpaid pre-postal administration costs as an expense of the postal administration is subject to approval under Rule 38.
- (4) This paragraph applies where it is proposed that the postal administration will end by the company moving to a creditors' voluntary liquidation; and in that case, the statement required by paragraph (2)(l) of this Rule must include—
- (a) details of the proposed liquidator;
 - (b) where applicable, the declaration required by section 231 of the 1986 Act; and
 - (c) a statement that the creditors may nominate a different person as liquidator in accordance with paragraph 83(7)(a) and Rule 81(3).
- (5) Nothing in paragraph (2)(j) of this Rule is to be taken as requiring any such estimate to include any information, the disclosure of which could seriously prejudice the commercial interests of the company. If such information is excluded from the calculation the estimate shall be accompanied by a statement to that effect.
- (6) Where the court orders, upon an application by the postal administrator under paragraph 107, an extension of the period of time in paragraph 49(5), the postal administrator must as soon as reasonably practicable after the making of the order—
- (a) notify in Form PA8 every creditor of the company and every member of the company of whose address (in either case) the postal administrator is aware, and
 - (b) send a copy of the notification to the registrar of companies.
- (7) Where the postal administrator wishes to publish a notice under paragraph 49(6), the notice shall be advertised in such manner as the postal administrator thinks fit.
- (8) In addition to the standard contents, the notice under paragraph (7) of this Rule must state—
- (a) that members can write for a copy of the statement of proposals for achieving the purpose of postal administration; and
 - (b) the address to which to write.
- (9) This notice must be published as soon as reasonably practicable after the postal administrator sends their statement of proposals to the company's creditors but no later than 8 weeks (or such other period as may be agreed by the creditors or as the court may order) from the date that the company entered postal administration.

Limited disclosure of paragraph 49 statement

21.—(1) Where the postal administrator thinks that it would prejudice the conduct of the postal administration or might reasonably be expected to lead to violence against any person for any of the matters specified in Rule 20(2)(h) and (i) to be disclosed, the postal administrator may apply to the court for an order of limited disclosure in respect of any specified part of the statement under paragraph 49.

(2) The court may, on such application, order that some or all of the specified part of the statement must not be sent to the registrar of companies or to creditors or members of the company as otherwise required by paragraph 49(4).

(3) The postal administrator must as soon as reasonably practicable send to the persons specified in paragraph 49(4) the statement under paragraph 49 (to the extent provided by the order) and an indication of the nature of the matter in relation to which the order was made.

(4) The postal administrator must also send a copy of the order to the registrar of companies.

(5) A creditor who seeks disclosure of a part of a statement under paragraph 49 in relation to which an order has been made under this Rule may apply to the court for an order that the postal administrator disclose it. The application must be supported by written evidence in the form of a witness statement.

(6) The applicant must give the postal administrator notice of the application at least 3 business days before the hearing.

(7) The court may make any order for disclosure subject to any conditions as to confidentiality, duration, the scope of the order in the event of any change of circumstances, or other matters as it sees just.

(8) If there is a material change in circumstances rendering the limit on disclosure or any part of it unnecessary, the postal administrator must, as soon as reasonably practicable after the change, apply to the court for the order or any part of it to be rescinded.

(9) The postal administrator must, as soon as reasonably practicable after the making of an order under paragraph (8) of this Rule, send to the persons specified in paragraph 49(4) a copy of the statement under paragraph 49 to the extent provided by the order.

(10) The provisions of CPR Part 31 do not apply to an application under this Rule.

PART 4

MEETINGS AND REPORTS

CHAPTER 1

Creditors Meetings

Creditors' meetings generally

22.—(1) This Rule applies to creditors' meetings summoned by the postal administrator under paragraph 62 (general power to summon meetings of creditors).

(2) Notice of any meeting referred to in paragraph (1) of this Rule shall be in Form PA9.

(3) In fixing the venue for the meeting, the postal administrator shall have regard to the convenience of creditors and the meeting shall be summoned for commencement between 10.00 and 16.00 hours on a business day, unless the court otherwise directs.

(4) Subject to paragraphs (6) and (7) of this Rule, at least 14 days' notice of the meeting shall be given to all creditors who are known to the postal administrator and had claims against the company at the date when the company entered postal administration unless that creditor has subsequently been paid in full; and the notice shall—

- (a) specify the purpose of the meeting;
- (b) contain a statement of the effect of Rule 26 (entitlement to vote); and
- (c) contain the forms of proxy.

(5) As soon as reasonably practicable after notice of the meeting has been given, the postal administrator must have gazetted a notice which, in addition to the standard contents, must state—

- (a) that a creditors' meeting is to take place;
- (b) the venue fixed for the meeting;
- (c) the purpose of the meeting; and
- (d) a statement of the effect of Rule 26 (entitlement to vote).

(6) If within 30 minutes from the time fixed for commencement of the meeting there is no person present to act as chair, the meeting stands adjourned to the same time and place in the following week or, if that is not a business day, to the business day immediately following.

(7) If within 30 minutes from the time fixed for the commencement of the meeting those persons attending the meeting do not constitute a quorum, the chair may adjourn the meeting to such time and place as the chair may appoint.

(8) Once only in the course of the meeting the chair may, without an adjournment, declare the meeting suspended for any period up to 1 hour.

(9) The chair may, and must if the meeting so resolves, adjourn the meeting to such time and place as seems to the chair to be appropriate in the circumstances. An adjournment under this paragraph must not be for a period of more than 14 days, subject to the direction of the court.

(10) If there are subsequently further adjournments, the final adjournment must not be to a day later than 14 days after the date on which the meeting was originally held.

(11) Where a meeting is adjourned under this Rule, proofs and proxies may be used if lodged at any time up to 12.00 hours on the business day immediately before the adjourned meeting.

(12) Paragraph (3) of this Rule applies with regard to the venue fixed for a meeting adjourned under this Rule.

The chair at meetings

23.—(1) At any meeting of creditors summoned by the postal administrator, either the postal administrator shall be chair, or a person nominated by the postal administrator in writing to act in their place.

- (2) A person so nominated must be either—
 - (a) one who is qualified to act as an insolvency practitioner in relation to the company; or
 - (b) an employee of the postal administrator or the postal administrator's firm who is experienced in insolvency matters.

(3) Where the chair holds a proxy which includes a requirement to vote for a particular resolution and no other person proposes that resolution—

- (a) the chair must propose it unless the chair considers that there is good reason for not doing so, and
- (b) if the chair does not propose it, the chair must as soon as reasonably practicable after the meeting notify the principal of the reason why not.

Creditors' meeting for nomination of alternative liquidator

24.—(1) Where under Rules 20(4) or 33(2)(g) the postal administrator has proposed that the company enter creditors' voluntary liquidation once the postal administration has ended, the postal administrator must, in the circumstances detailed in paragraph (2) of this Rule, call a meeting of creditors for the purpose of nominating a person other than the person named as proposed liquidator in the postal administrator's proposals or revised proposals.

(2) The postal administrator must call a meeting of creditors where such a meeting is requested by creditors of the company whose debts amount to at least 10 per cent of the total debts of the company.

(3) The request for a creditors' meeting for the purpose set out in paragraph (1) of this Rule must be in Form PA10. A request for such a meeting must be made within 8 business days of the date on which the postal administrator's statement of proposals is sent out.

(4) A request under this Rule must include—

(a) a list of creditors concurring with the request, showing the amounts of the respective debts in the postal administration; and

(b) from each creditor concurring, written confirmation of the creditor's concurrence;

but this paragraph does not apply if the requesting creditor's debt is alone sufficient without the concurrence of other creditors.

(5) A meeting requested under this Rule must be held within 28 days of the postal administrator's receipt of the notice requesting the meeting.

Notice of meetings by advertisement only

25.—(1) The court may order that notice of any meeting be given by advertisement and not by individual notice to the persons concerned.

(2) In considering whether to act under this Rule, the court must have regard to the cost of advertisement, the amount of assets available and the extent of the interest of creditors, members or any particular class of either.

Entitlement to vote

26.—(1) Subject as follows, at a meeting of creditors in postal administration proceedings a person is entitled to vote only if—

(a) they have given to the postal administrator, not later than 12.00 hours on the business day before the day fixed for the meeting, details in writing of the debt which they claim to be due to them from the company;

(b) the claim has been duly admitted under Rule 27 or this Rule; and

(c) there has been lodged with the postal administrator any proxy which they intend to be used on their behalf,

and details of the debt must include any calculation for the purposes of Rules 28 to 30.

(2) The chair of the meeting may allow a creditor to vote, notwithstanding that the creditor has failed to comply with paragraph (1)(a) of this Rule, if satisfied that the failure was due to circumstances beyond the creditor's control.

(3) The chair of the meeting may call for any document or other evidence to be produced to them, where the chair thinks it necessary for the purpose of substantiating the whole or any part of the claim.

(4) Votes are calculated according to the amount of a creditor's claim as at the date on which the company entered postal administration, less any payments that have been made to them after that date in respect of their claim and any adjustment by way of set-off in accordance with Rule 55 as if that Rule were applied on the date that the votes are counted.

(5) A creditor shall not vote in respect of a debt for an unliquidated amount, or any debt whose value is not ascertained, except where the chair agrees to put upon the debt an estimated minimum value for the purpose of entitlement to vote and admits the claim for that purpose.

(6) No vote shall be cast by virtue of a claim more than once on any resolution put to the meeting.

Admission and rejection of claims

27.—(1) At any creditors' meeting the chair has power to admit or reject a creditor's claim for the purpose of their entitlement to vote; and the power is exercisable with respect to the whole or any part of the claim.

(2) The chair's decision under this Rule, or in respect of any matter arising under Rule 26, is subject to appeal to the court by any creditor.

(3) If the chair is in doubt whether a claim should be admitted or rejected, the chair shall mark it as objected to and allow the creditor to vote, subject to their vote being subsequently declared invalid if the objection to the claim is sustained.

(4) If on an appeal the chair's decision is reversed or varied, or a creditor's vote is declared invalid, the court may order that another meeting be summoned, or make such other order as it thinks just.

(5) An application to the court by way of appeal under this Rule against a decision of the chair must be made not later than 21 days after the date of the meeting.

(6) Neither the postal administrator nor any person nominated by the postal administrator to be chair is personally liable for costs incurred by any person in respect of an appeal to the court under this Rule, unless the court makes an order to that effect.

Secured creditors

28. At a meeting of creditors a secured creditor is entitled to vote only in respect of the balance (if any) of their debt after deducting the value of their security as estimated by them.

Holders of negotiable instruments

29. A creditor shall not vote in respect of a debt on, or secured by, a current bill of exchange or promissory note, unless the creditor is willing—

- (a) to treat the liability to them on the bill or note of every person who is liable on it antecedently to the company, and against whom a bankruptcy order has not been made (or, in the case of a company, which has not gone into liquidation), as a security in their hands; and
- (b) to estimate the value of the security and, for the purpose of their entitlement to vote (but not for dividend), to deduct it from their claim.

Hire-purchase, conditional sale and chattel leasing agreements

30.—(1) Subject as follows, an owner of goods under a hire-purchase or chattel leasing agreement, or a seller of goods under a conditional sale agreement, is entitled to vote in respect of the amount of the debt due and payable to them by the company on the date that the company entered postal administration.

(2) In calculating the amount of any debt for this purpose, no account shall be taken of any amount attributable to the exercise of any right under the relevant agreement, so far as the right has become exercisable solely by virtue of the making of a postal administration application or any matter arising as a consequence, or of the company entering postal administration.

Resolutions

31.—(1) Subject to paragraph (2) of this Rule, at a creditors' meeting in postal administration proceedings, a resolution is passed when a majority (in value) of those present and voting, in person or by proxy, have voted in favour of it.

(2) 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 chair's belief, persons connected with the company.

(3) In the case of a resolution for the nomination of a person to act as liquidator once the postal administration has ended—

- (a) subject to paragraph (4) of this Rule, if on any vote there are two persons put forward by creditors for nomination as liquidator, the person who obtains the most support is nominated as liquidator;
- (b) if there are three or more persons put forward by creditors for nomination as liquidator, and one of them has a clear majority over both or all the others together, that one is nominated as liquidator;
- (c) in any other case, the chair of the meeting must continue to take votes (disregarding at each vote any person who has withdrawn and, if no person has withdrawn, the person who obtained the least support last time), until a clear majority is obtained for any one person.

(4) The support referred to in paragraph (3)(a) of this Rule must represent a majority in value of all those present (in person or by proxy) at the meeting and entitled to vote.

(5) Where on such a resolution no person is nominated as liquidator, the person named as proposed liquidator in the postal administrator's proposals or revised proposals shall be the liquidator once the postal administration has ended.

(6) The chair may at any time put to the meeting a resolution for the joint appointment of any two or more persons put forward by creditors for nomination as liquidator.

(7) In this Rule "connected with the company" has the same meaning as "connected with a company" in section 249 of the 1986 Act.

Minutes

32.—(1) The chair of the meeting must cause minutes of its proceedings to be kept.

(2) The minutes must be authenticated by the chair, and be retained by the chair as part of the records of the postal administration.

(3) The minutes must include—

- (a) a list of the names of creditors who attended (personally or by proxy) and their claims; and
- (b) a record of every resolution passed.

Revision of the postal administrator's proposals

33.—(1) The postal administrator shall, as soon as reasonably practicable, under paragraph 54, make a statement setting out the proposed revisions to their proposals which they shall send to all those to whom they are required to send a copy of their revised proposals and to the registrar of companies.

(2) The statement of revised proposals shall include—

- (a) details of the court where the proceedings are and the relevant court reference number;
- (b) the full name, registered address, registered number and any other trading names of the company;
- (c) details relating to their appointment as postal administrator, including the date of appointment and whether the postal administration application was made by the Secretary of State or OFCOM;

- (d) the names of the directors and secretary of the company and details of any shareholdings in the company they may have;
 - (e) a summary of the initial proposals and the reason(s) for proposing a revision;
 - (f) details of the proposed revision including details of the postal administrator's assessment of the likely impact of the proposed revision upon creditors generally or upon each class of creditors (as the case may be);
 - (g) where a proposed revision relates to the ending of the postal administration by a creditors' voluntary liquidation and the nomination of a person to be the proposed liquidator of the company—
 - (i) details of the proposed liquidator,
 - (ii) where applicable, the declaration required by section 231 of the 1986 Act, and
 - (iii) a statement that the creditors may nominate a different person as liquidator in accordance with paragraph 83(7)(a) and Rule 81(3); and
 - (h) any other information that the postal administrator thinks necessary to enable creditors to decide whether or not to vote for the proposed revisions.
- (3) Subject to paragraph 54(4), within 5 business days of sending out the statement in paragraph (1) of this Rule, the postal administrator shall send a copy of the statement to every member of the company.
- (4) Any notice to be published by the postal administrator acting under paragraph 54(4) shall be advertised in such manner as the postal administrator thinks fit.
- (5) The notice must be published as soon as reasonably practicable after the postal administrator sends the statement to the creditors and in addition to the standard contents must state—
- (a) that members can write for a copy of the statement of revised proposals for the postal administration; and
 - (b) the address to which to write.

Reports to creditors

- 34.**—(1) The postal administrator must prepare a report (“the progress report”) which includes—
- (a) details of the court where the proceedings are and the relevant court reference number;
 - (b) full details of the company's name, address of registered office and registered number;
 - (c) full details of the postal administrator's name and address, date of appointment and name and address of applicant for the postal administration application, including any changes in the postal administrator, and, in the case of joint postal administrators, their functions as set out in the statement made for the purposes of section 72(5) of the 2011 Act;
 - (d) details of progress during the period of the report, including a receipts and payments account (as detailed in paragraph (2) of this Rule);
 - (e) details of any assets that remain to be realised; and
 - (f) any other relevant information for the creditors.
- (2) A receipts and payments account must be in the form of an abstract showing receipts and payments during the period of the report and, where the postal administrator has ceased to act, must also include a statement as to the amount paid to unsecured creditors by virtue of the application of section 176A of the 1986 Act.
- (3) The progress report must, except where paragraph (4) of this Rule applies, cover the period of 6 months commencing on the date on which the company entered postal administration and every subsequent period of 6 months.

(4) The period to be covered by a progress report ends on the date when a postal administrator ceases to act, and the period to be covered by each subsequent progress report of a new postal administrator is each successive period of 6 months beginning immediately after that date (subject to the further application of this paragraph when another postal administrator ceases to act).

(5) The postal administrator must send a copy of the progress report within 1 month of the end of the period covered by the report, to —

- (a) the Secretary of State;
- (b) OFCOM;
- (c) the creditors, and
- (d) the registrar of companies;

(6) The court may, on the postal administrator's application, extend the period of 1 month mentioned in paragraph (5) of this Rule, or make such other order in respect of the content of the report as it thinks just.

(7) If the postal administrator makes default in complying with this Rule, the postal administrator is liable to a fine and, for continued contravention, to a daily default fine.

CHAPTER 2

Company Meetings

Venue and conduct of company meeting

35.—(1) Where the postal administrator summons a meeting of members of the company, the postal administrator shall fix a venue for it having regard to the postal administrator's convenience.

(2) The chair of the meeting shall be the postal administrator or a person nominated by the postal administrator in writing to act in the postal administrator's place.

(3) A person so nominated must be either—

- (a) one who is qualified to act as an insolvency practitioner in relation to the company; or
- (b) an employee of the postal administrator or the postal administrator's firm who is experienced in insolvency matters.

(4) If within 30 minutes from the time fixed for commencement of the meeting there is no person present to act as chair, the meeting stands adjourned to the same time and place in the following week or, if that is not a business day, to the business day immediately following.

(5) Subject to anything to the contrary in the 1986 Act and the Rules, the meeting must be summoned and conducted—

- (a) in the case of a company incorporated—
 - (i) in England and Wales, or in Wales, or
 - (ii) outside the United Kingdom other than in an EEA state,

in accordance with the law of England and Wales, including any applicable provision in or made under the Companies Act;

- (b) in the case of a company incorporated in an EEA state other than the United Kingdom, in accordance with the law of that state applicable to meetings of the company.

(6) The chair of the meeting shall cause minutes of its proceedings to be entered in the company's minute book.

PART 5

DISPOSAL OF CHARGED PROPERTY

Authority to dispose of property

36.—(1) The following applies where the postal administrator applies to the court under paragraphs 71 or 72 for authority to dispose of property of the company which is subject to a security (other than a floating charge), or goods in the possession of the company under a hire purchase agreement.

(2) The court shall fix a venue for the hearing of the application, and the postal administrator shall as soon as reasonably practicable give notice of the venue to the person who is the holder of the security or, as the case may be, the owner under the agreement.

(3) If an order is made under paragraphs 71 or 72 the court shall send two sealed copies to the postal administrator.

(4) The postal administrator shall send one of them to that person who is the holder of the security or owner under the agreement.

(5) The postal administrator must send a copy of the sealed order to the registrar of companies.

PART 6

EXPENSES OF THE POSTAL ADMINISTRATION

Priority of expenses of postal administration

37.—(1) The expenses of the postal administration are payable in the following order of priority—

- (a) expenses properly incurred by the postal administrator in performing the postal administrator's functions in the administration of the company;
- (b) the cost of any security provided by the postal administrator in accordance with the 1986 Act or the Rules;
- (c) where a postal administration order was made, the costs of the applicant and any person appearing on the hearing of the application;
- (d) any amount payable to a person employed or authorised, under Part 3 of the Rules, to assist in the preparation of a statement of affairs or statement of concurrence;
- (e) any allowance made, by order of the court, towards costs on an application for release from the obligation to submit a statement of affairs or statement of concurrence;
- (f) any necessary disbursements by the postal administrator in the course of the postal administration (but not including any payment of corporation tax in circumstances referred to in sub-paragraph (i) below);
- (g) the remuneration or emoluments of any person who has been employed by the postal administrator to perform any services for the company, as required or authorised under the 1986 Act or the Rules;
- (h) the remuneration of the postal administrator fixed by the court under Part 8 of the Rules and unpaid pre-postal administration costs approved under Rule 38;
- (i) the amount of any corporation tax on chargeable gains accruing on the realisation of any asset of the company (without regard to whether the realisation is effected by the

postal administrator, a secured creditor, or a receiver or manager appointed to deal with a security).

(2) The priorities laid down by paragraph (1) of this Rule are subject to the power of the court to make orders under paragraph (3) of this Rule where the assets are insufficient to satisfy the liabilities.

(3) The court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the expenses incurred in the postal administration in such order of priority as the court thinks just.

(4) For the purposes of paragraph 99(3), the former postal administrator's remuneration and expenses shall comprise all those items set out in paragraph (1) of this Rule.

Pre-postal administration costs

38. Where the postal administrator has made a statement of pre-postal administration costs under Rule 20(2)(k), the postal administrator (where the costs consist of fees charged or expenses incurred by the postal administrator) or other insolvency practitioner (where the costs consist of fees charged or expenses incurred by that practitioner) must, before paying such costs, apply to the court for a determination of whether and to what extent the unpaid pre-postal administration costs are approved for payment.

PART 7

DISTRIBUTION TO CREDITORS

CHAPTER 1

Application of Part and General

Distribution to creditors generally

39.—(1) This Part applies where the postal administrator makes, or proposes to make, a distribution to any class of creditors other than secured creditors. Where the distribution is to a particular class of creditors, references in this Part to creditors shall, in so far as the context requires, be a reference to that class of creditors only.

(2) The postal administrator shall give notice to the creditors of the postal administrator's intention to declare and distribute a dividend in accordance with Rule 65.

(3) Where it is intended that the distribution is to be a sole or final dividend, the postal administrator shall, after the date specified in the notice referred to in paragraph (2) of this Rule—

- (a) defray any items payable in accordance with the provisions of paragraph 99;
- (b) defray any amounts (including any debts or liabilities and the postal administrator's own remuneration and expenses) which would, if the postal administrator were to cease to be the postal administrator of the company, be payable out of the property of which the postal administrator had custody or control in accordance with the provisions of paragraph 99; and
- (c) declare and distribute that dividend without regard to the claim of any person in respect of a debt not already proved.

(4) The court may, on the application of any person, postpone the date specified in the notice.

Debts of insolvent company to rank equally

40. Debts other than preferential debts rank equally between themselves in the postal administration and, after the preferential debts, shall be paid in full unless the assets are insufficient for meeting them, in which case they abate in equal proportions between themselves.

Supplementary provisions as to dividend

41.—(1) In the calculation and distribution of a dividend the postal administrator shall make provision for—

- (a) any debts which appear to the postal administrator to be due to persons who, by reason of the distance of their place of residence, may not have had sufficient time to tender and establish their proofs;
- (b) any debts which are the subject of claims which have not yet been determined; and
- (c) disputed proofs and claims.

(2) A creditor who has not proved their debt before the declaration of any dividend is not entitled to disturb, by reason that they have not participated in it, the distribution of that dividend or any other dividend declared before their debt was proved, but—

- (a) when they have proved that debt they are entitled to be paid, out of any money for the time being available for the payment of any further dividend, any dividend or dividends which they have failed to receive; and
- (b) any dividends payable under sub-paragraph (a) of this paragraph shall be paid before the money is applied to the payment of any such further dividend.

(3) No action lies against the postal administrator for a dividend; but if the postal administrator refuses to pay a dividend the court may, if it thinks just, order the postal administrator to pay it and also to pay, out of the postal administrator's own money—

- (a) interest on the dividend, at the rate for the time being specified in section 17 of the Judgments Act 1838⁽⁸⁾, from the time when it was withheld; and
- (b) the costs of the proceedings in which the order to pay is made.

Division of unsold assets

42.—(1) The postal administrator may, with the permission of the creditors, divide in its existing form amongst the company's creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

(2) The postal administrator must—

- (a) in the receipts and payments account included in the final progress report under Part 9 of the Rules, state the estimated value of the property divided amongst the creditors of the company during the period to which the report relates, and
- (b) as a note to the account, provide details of the basis of the valuation.

⁽⁸⁾ 1838 c. 110, as amended by the Civil Procedure Acts Repeal Act 1879, section 2, Schedule 1, Part 1, the Statute Law Revision (No. 2) Act 1888, S.I. 1993/564, article 2, S.I. 1998/2940, article 3(a),(b) and (c).

CHAPTER 2

Machinery of Proving a Debt

Proving a debt

43.—(1) A person claiming to be a creditor of the company and wishing to recover their debt in whole or in part must (subject to any order of the court to the contrary) submit their claim in writing to the postal administrator.

(2) A creditor who claims is referred to as “proving” for their debt and a document by which they seek to establish their claim is their “proof”.

(3) Subject to the next paragraph, a proof must—

(a) be made out by, or under the direction of, the creditor and authenticated by them or a person authorised in that behalf; and

(b) state the following matters—

(i) the creditor’s name and address;

(ii) if the creditor is a company, its registered number;

(iii) the total amount of the creditor’s claim (including value added tax) as at the date on which the company entered postal administration less any payments made after that date in respect of the claim, any deduction under Rule 54 and any adjustment by way of set-off in accordance with Rule 55;

(iv) whether or not the claim includes outstanding uncapitalised interest;

(v) particulars of how and when the debt was incurred by the company;

(vi) particulars of any security held, the date on which it was given and the value which the creditor puts on it;

(vii) details of any reservation of title in respect of goods to which the debt refers; and

(viii) the name, address and authority of the person authenticating the proof (if other than the creditor themselves).

(4) There shall be specified in the proof details of any documents by reference to which the debt can be substantiated; but (subject as follows) it is not essential that such document be attached to the proof or submitted with it.

(5) The postal administrator may call for any document or other evidence to be produced to the postal administrator, where the postal administrator thinks it necessary for the purpose of substantiating the whole or any part of the claim made in the proof.

Costs of proving

44. Unless the court otherwise orders—

(a) every creditor bears the cost of proving their own debt, including costs incurred in providing documents or evidence under Rule 43(5); and

(b) costs incurred by the postal administrator in estimating the quantum of a debt under Rule 51 are payable out of the assets as an expense of the postal administration.

Postal administrator to allow inspection of proofs

45. The postal administrator shall, so long as proofs lodged with the postal administrator are in the postal administrator’s hands, allow them to be inspected, at all reasonable times on any business day, by any of the following persons—

- (a) any creditor who has submitted a proof of debt (unless their proof has been wholly rejected for purposes of dividend or otherwise);
- (b) any contributory of the company; and
- (c) any person acting on behalf of either of the above.

New postal administrator appointed

46.—(1) If a new postal administrator is appointed in place of another, the former postal administrator must as soon as reasonably practicable transmit to the new postal administrator all proofs which the former postal administrator has received, together with an itemised list of them.

(2) The new postal administrator shall authenticate the list by way of receipt for the proofs, and return it to the new postal administrator's predecessor.

(3) From then on, all proofs of debt must be sent to and retained by the new postal administrator.

Admission and rejection of proofs for dividend

47.—(1) A proof may be admitted for dividend either for the whole amount claimed by the creditor, or for part of that amount.

(2) If the postal administrator rejects a proof in whole or in part, the postal administrator shall prepare a written statement of their reasons for doing so, and send it as soon as reasonably practicable to the creditor.

Appeal against decision on proof

48.—(1) If a creditor is dissatisfied with the postal administrator's decision with respect to their proof (including any decision on the question of preference), the creditor may apply to the court for the decision to be reversed or varied. The application must be made within 21 days of the creditor receiving the statement sent under Rule 47(2).

(2) A member or any other creditor may, if dissatisfied with the postal administrator's decision admitting or rejecting the whole or any part of a proof, make such an application within 21 days of becoming aware of the postal administrator's decision.

(3) Where application is made to the court under this Rule, the court shall fix a venue for the application to be heard, notice of which shall be sent by the applicant to the creditor who lodged the proof in question (if it is not themselves) and the postal administrator.

(4) The postal administrator shall, on receipt of the notice, file with the court the relevant proof, together (if appropriate) with a copy of the statement sent under Rule 47(2).

(5) Where the application is made by a member, the court must not disallow the proof (in whole or in part) unless the member shows that there is (or would be but for the amount claimed in the proof), or that it is likely that there will be (or would be but for the amount claimed in the proof), a surplus of assets to which the company would be entitled.

(6) After the application has been heard and determined, the proof shall, unless it has been wholly disallowed, be returned by the court to the postal administrator.

(7) The postal administrator is not personally liable for costs incurred by any person in respect of an application under this Rule unless the court otherwise orders.

Withdrawal or variation of proof

49. A creditor's proof may at any time, by agreement between themselves and the postal administrator, be withdrawn or varied as to the amount claimed.

Expunging of proof by the court

- 50.**—(1) The court may expunge a proof or reduce the amount claimed—
- (a) on the postal administrator’s application, where the postal administrator thinks that the proof has been improperly admitted, or ought to be reduced; or
 - (b) on the application of a creditor, if the postal administrator declines to interfere in the matter.
- (2) Where application is made to the court under this Rule, the court shall fix a venue for the application to be heard, notice of which shall be sent by the applicant—
- (a) in the case of an application by the postal administrator, to the creditor who made the proof; and
 - (b) in the case of an application by a creditor, to the postal administrator and to the creditor who made the proof (if not themselves).

CHAPTER 3

Quantification of Claims

Estimate of quantum

- 51.**—(1) The postal administrator shall estimate the value of any debt which, by reason of its being subject to any contingency or for any other reason, does not bear a certain value; and the postal administrator may revise any estimate previously made, if the postal administrator thinks fit by reference to any change of circumstances or to information becoming available to the postal administrator. The postal administrator shall inform the creditor as to the postal administrator’s estimate and any revision of it.
- (2) Where the value of a debt is estimated under this Rule, the amount provable in the postal administration in the case of that debt is that of the estimate for the time being.

Negotiable instruments, etc

52. Unless the postal administrator allows, a proof in respect of money owed on a bill of exchange, promissory note, cheque or other negotiable instrument or security cannot be admitted unless there is produced the instrument or security itself or a copy of it, certified by the creditor or the creditor’s authorised representative to be a true copy.

Secured creditors

- 53.**—(1) If a secured creditor realises their security, they may prove for the balance of their debt, after deducting the amount realised.
- (2) If a secured creditor voluntarily surrenders their security for the general benefit of creditors, they may prove for their whole debt, as if it were unsecured.

Discounts

54. There shall in every case be deducted from the claim all trade and other discounts which would have been available to the company but for its postal administration except any discount for immediate, early or cash settlement.

Mutual credits and set-off

55.—(1) This Rule applies where the postal administrator, being authorised to make the distribution in question, has, pursuant to Rule 65 given notice that the postal administrator proposes to make it.

(2) In this Rule “mutual dealings” means mutual credits, mutual debts or other mutual dealings between the company and any creditor of the company proving or claiming to prove for a debt in the postal administration but does not include any of the following—

- (a) any debt arising out of an obligation incurred at a time when the creditor had notice that—
 - (i) a meeting of creditors had been summoned under section 98 of the 1986 Act,
 - (ii) a petition for the winding up of the company was pending,
 - (iii) an application for an administration order under the 1986 Act was pending;
 - (iv) an application for a postal administration order was pending; or
 - (v) any person had given notice of intention to appoint an administrator under the 1986 Rules;
- (b) any debt which has been acquired by a creditor by assignment or otherwise, pursuant to an agreement between the creditor and any other party where that agreement was entered into—
 - (i) at a time when the creditor had notice that an application for a postal administration order was pending;
 - (ii) after the commencement of postal administration,
 - (iii) at a time when the creditor had notice that a meeting of creditors had been summoned under section 98 of the 1986 Act, or
 - (iv) at a time when the creditor had notice that a winding up petition was pending, or
 - (v) at a time when the creditor had notice that an application for an administration order under the 1986 Act was pending; or
- (c) any debt arising out of an obligation incurred after the company entered administration.

(3) An account shall be taken as at the date of the notice referred to in paragraph (1) of this Rule of what is due from each party to the other in respect of the mutual dealings and the sums due from one party shall be set off against the sums due from the other.

(4) A sum shall be regarded as being due to or from the company for the purposes of paragraph (3) of this Rule whether—

- (a) it is payable at present or in the future;
- (b) the obligation by virtue of which it is payable is certain or contingent; or
- (c) its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion.

(5) Rule 51 shall apply for the purposes of this Rule to any obligation to or from the company which, by reason of its being subject to any contingency or for any other reason, does not bear a certain value;

(6) Rules 56 to 58 shall apply for the purposes of this Rule in relation to any sums due to the company which—

- (a) are payable in a currency other than sterling;
- (b) are of a periodical nature; or
- (c) bear interest.

(7) Rule 76 shall apply for the purposes of this Rule to any sum due to or from the company which is payable in the future.

(8) Only the balance (if any) of the account owed to the creditor is provable in the postal administration. Alternatively the balance (if any) owed to the company shall be paid to the postal administrator as part of the assets except where all or part of the balance results from a contingent or

prospective debt owed by the creditor and in such a case the balance (or that part of it which results from the contingent or prospective debt) shall be paid if and when that debt becomes due and payable.

(9) In this Rule “obligation” means an obligation however arising, whether by virtue of an agreement, rule of law or otherwise.

Debt in foreign currency

56.—(1) For the purpose of proving any debt incurred or payable in a currency other than sterling, the amount of those debts shall be converted into sterling at a single rate for that currency determined by the postal administrator with reference to the exchange rates prevailing on the relevant date.

(2) If the postal administrator receives any objections from the creditors to that rate the postal administrator must apply to the court to determine the rate.

(3) In this Rule, and Rule 58, “the relevant date” means the date on which the company entered postal administration.

Payments of a periodical nature

57.—(1) In the case of rent and other payments of a periodical nature, the creditor may prove for any amounts due and unpaid up to the date when the company entered postal administration.

(2) Where at that date any payment was accruing due, the creditor may prove for so much as would have fallen due at that date, if accruing from day to day.

Interest

58.—(1) Where a debt proved in the postal administration bears interest, that interest is provable as part of the debt except in so far as it is payable in respect of any period after the relevant date.

(2) In the following circumstances the creditor’s claim may include interest on the debt for periods before the relevant date, although not previously reserved or agreed.

(3) If the debt is due by virtue of a written instrument, and payable at a certain time, interest may be claimed for the period from that time to the relevant date.

(4) If the debt is due otherwise, interest may only be claimed if, before the relevant date, a demand for payment of the debt was made in writing by or on behalf of the creditor, and notice given that interest would be payable from the date of the demand to the date of payment.

(5) Interest under paragraph (4) of this Rule may only be claimed for the period from the date of the demand to the relevant date and for all the purposes of the 1986 Act and the Rules shall be chargeable at a rate not exceeding that mentioned in paragraph (6) of this Rule.

(6) The rate of interest to be claimed under paragraphs (3) and (4) of this Rule is the rate specified in section 17 of the Judgments Act 1838 on the relevant date.

(7) Any surplus remaining after payment of the debts proved shall, before being applied for any purpose, be applied in paying interest on those debts in respect of the periods during which they have been outstanding since the relevant date.

(8) All interest payable under paragraph (7) of this Rule ranks equally whether or not the debts on which it is payable rank equally.

(9) The rate of interest payable under paragraph (7) of this Rule is whichever is the greater of the rate specified under paragraph (6) of this Rule and the rate applicable to the debt apart from the postal administration.

Debt payable at future time

59. A creditor may prove for a debt of which payment was not yet due on the date when the company entered postal administration subject to Rule 76 (adjustment of dividend where payment made before time).

Value of security

60.—(1) A secured creditor may, with the agreement of the postal administrator or the permission of the court, at any time alter the value which they have, in their proof of debt, put upon their security.

(2) However, if a secured creditor has voted in respect of the unsecured balance of their debt, they may re-value their security only with permission of the court.

Surrender for non-disclosure

61.—(1) If a secured creditor omits to disclose their security in their proof of debt, they shall surrender their security for the general benefit of creditors, unless the court, on application by them, relieves them from the effect of this Rule on the ground that the omission was inadvertent or the result of honest mistake.

(2) If the court grants that relief, it may require or allow the creditor's proof of debt to be amended, on such terms as may be just.

Redemption by postal administrator

62.—(1) The postal administrator may at any time give notice to a creditor whose debt is secured that the postal administrator proposes, at the expiration of 28 days from the date of the notice, to redeem the security at the value put upon it in the creditor's proof.

(2) The creditor then has 21 days (or such longer period as the postal administrator may allow) in which, if they so wish, to exercise their right to revalue their security (with the permission of the court, where Rule 60(2) applies). If the creditor re-values their security, the postal administrator may only redeem at the new value.

(3) If the postal administrator redeems the security, the cost of transferring it is payable out of the assets.

(4) A secured creditor may at any time, by a notice in writing, call on the postal administrator to elect whether the postal administrator will or will not exercise the postal administrator's power to redeem the security at the value then placed on it; and the postal administrator then has 3 months in which to exercise the power or determine not to exercise it.

Test of security's value

63.—(1) Subject as follows, if the postal administrator is dissatisfied with the value which a secured creditor puts on their security (whether in their proof or by way of re-valuation under Rule 60) the postal administrator may require any property comprised in the security to be offered for sale.

(2) The terms of sale shall be such as may be agreed, or as the court may direct; and if the sale is by auction, the postal administrator on behalf of the company, and the creditor on his own behalf, may appear and bid.

(3) This Rule does not apply if the security has been re-valued and the revaluation has been approved by the court.

Realisation of security by creditor

64.—(1) If a creditor who has valued their security subsequently realises it (whether or not at the instance of the postal administrator)—

- (a) the net amount realised shall be substituted for the value previously put by the creditor on the security; and
- (b) that amount shall be treated in all respects as an amended valuation made by them.

Notice of proposed distribution

65.—(1) Where a postal administrator is proposing to make a distribution to creditors the postal administrator shall give notice of that fact.

(2) The notice given pursuant to paragraph (1) of this Rule shall—

- (a) be sent to all creditors whose addresses are known to the postal administrator;
- (b) state whether the distribution is to preferential creditors or preferential creditors and unsecured creditors; and
- (c) where the postal administrator proposes to make a distribution to unsecured creditors, state the value of the prescribed part, except where the court has made an order under section 176A(5) of the 1986 Act.

(3) Subject to paragraph (5)(b) of this Rule, before declaring a dividend the postal administrator shall by notice invite the creditors to prove their debts. Such notice—

- (a) shall be gazetted; and
- (b) may be advertised in such other manner as the postal administrator thinks fit.

(4) A notice pursuant to paragraph (1) or (3) of this Rule must, in addition to the standard contents—

- (a) state that it is the intention of the postal administrator to make a distribution to creditors within the period of 2 months from the last date for proving;
- (b) specify whether the proposed dividend is interim or final;
- (c) specify a date up to which proofs may be lodged being a date which—
 - (i) is the same date for all creditors; and
 - (ii) is not less than 21 days from that of the notice.

(5) Where a dividend is to be declared for preferential creditors—

- (a) the notice pursuant to paragraph (1) of this Rule need only be given to those creditors in whose case the postal administrator has reason to believe that their debts are preferential; and
- (b) the notice pursuant to paragraph (3) of this Rule need only be given if the postal administrator thinks fit.

Admission or rejection of proofs

66.—(1) Unless the postal administrator has already dealt with them, within 5 business days of the last date for proving, the postal administrator shall—

- (a) admit or reject (in whole or in part) proofs submitted to the postal administrator; or
- (b) make such provision in respect of them as the postal administrator thinks fit.

(2) The postal administrator is not obliged to deal with proofs lodged after the last date for proving, but may do so, if the postal administrator thinks fit.

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

Postponement or cancellation of dividend

67. If in the period of 2 months referred to in Rule 65(4)(a)—

- (a) the postal administrator has rejected a proof in whole or in part and application is made to the court for that decision to be reversed or varied, or
- (b) application is made to the court for the postal administrator's decision on a proof to be reversed or varied, or for a proof to be expunged, or for a reduction of the amount claimed,

the postal administrator may postpone or cancel the dividend.

Declaration of dividend

68.—(1) Subject to paragraph (2) of this Rule, within the 2 month period referred to in Rule 65(4) (a) the postal administrator shall proceed to declare the dividend to one or more classes of creditor of which the postal administrator gave notice.

(2) Except with the permission of the court, the postal administrator shall not declare a dividend so long as there is pending any application to the court to reverse or vary a decision of the postal administrator on a proof, or to expunge a proof or to reduce the amount claimed.

(3) If the court gives permission under paragraph (2) of this Rule, the postal administrator must make such provision in respect of the proof in question as the court directs.

Notice of declaration of a dividend

69.—(1) Where the postal administrator declares a dividend the postal administrator shall give notice of that fact to all creditors who have proved their debts.

(2) The notice shall include the following particulars relating to the administration—

- (a) amounts raised from the sale of assets, indicating (so far as practicable) amounts raised by the sale of particular assets;
- (b) payments made by the postal administrator when acting as such;
- (c) where the postal administrator proposed to make a distribution to unsecured creditors, the value of the prescribed part, except where the court has made an order under section 176A(5) of the 1986 Act;
- (d) provision (if any) made for unsettled claims, and funds (if any) retained for particular purposes;
- (e) the total amount of dividend and the rate of dividend; and
- (f) whether, and if so when, any further dividend is expected to be declared.

Payments of dividends and related matters

70.—(1) The dividend may be distributed simultaneously with the notice declaring it.

(2) Payment of dividend may be made by post, or arrangements may be made with any creditor for it to be paid to them in another way, or held for their collection.

(3) Where a dividend is paid on a bill of exchange or other negotiable instrument, the amount of the dividend shall be endorsed on the instrument, or on a certified copy of it, if required to be produced by the holder for that purpose.

Notice of no dividend, or no further dividend

71. If the postal administrator gives notice to creditors that the postal administrator is unable to declare any dividend or (as the case may be) any further dividend, the notice shall contain a statement to the effect either—

- (a) that no funds have been realised; or
- (b) that the funds realised have already been distributed or used or allocated for defraying the expenses of the postal administration.

Proof altered after payment of dividend

72.—(1) If after payment of dividend the amount claimed by a creditor in their proof is increased, the creditor is not entitled to disturb the distribution of the dividend; but they are entitled to be paid, out of any money for the time being available for the payment of any further dividend, any dividend or dividends which they have failed to receive.

(2) Any dividend or dividends payable under paragraph (1) of this Rule shall be paid before the money there referred to is applied to the payment of any such further dividend.

(3) If, after a creditor's proof has been admitted, the proof is withdrawn or expunged, or the amount is reduced, the creditor is liable to repay to the postal administrator any amount overpaid by way of dividend.

Secured creditors

73.—(1) The following applies where a creditor re-values their security at a time when a dividend has been declared.

(2) If the revaluation results in a reduction of their unsecured claim ranking for dividend, the creditor shall as soon as reasonably practicable repay to the postal administrator, for the credit of the postal administration, any amount received by them as dividend in excess of that to which they would be entitled having regard to the revaluation of the security.

(3) If the revaluation results in an increase of their unsecured claim, the creditor is entitled to receive from the postal administrator, out of any money for the time being available for the payment of a further dividend, before any such further dividend is paid, any dividend or dividends which they have failed to receive, having regard to the revaluation of the security. However, the creditor is not entitled to disturb any dividend declared (whether or not distributed) before the date of the revaluation.

Disqualification from dividend

74. If a creditor contravenes any provision of the 1986 Act or the Rules relating to the valuation of securities, the court may, on the application of the postal administrator, order that the creditor be wholly or partly disqualified from participation in any dividend.

Assignment of right to dividend

75.—(1) If a person entitled to a dividend gives notice to the postal administrator that they wish the dividend to be paid to another person, or that they have assigned their entitlement to another person, the postal administrator shall pay the dividend to that other accordingly.

(2) A notice given under this Rule must specify the name and address of the person to whom payment is to be made.

Debt payable at future time

76.—(1) Where a creditor has proved for a debt of which payment is not due at the date of the declaration of dividend, they are entitled to dividend equally with other creditors, but subject as follows.

(2) For the purpose of dividend (and no other purpose) the amount of the creditor's admitted proof (or, if a distribution has previously been made to them, the amount remaining outstanding in respect of their admitted proof) shall be reduced by applying the following formula—

$$\frac{X}{1.05^n}$$

where—

- (a) "X" is the value of the admitted proof; and
- (b) "n" is the period beginning with the date the company entered postal administration and ending with the date on which the payment of the creditor's debt would otherwise be due expressed in years and months in a decimalised form.

PART 8

THE POSTAL ADMINISTRATOR

Fixing of remuneration

77.—(1) The postal administrator is entitled to receive remuneration for their services as such.

(2) The basis of remuneration shall be fixed by reference to the time properly given by the insolvency practitioner (as postal administrator) and their staff in attending to matters arising in the postal administration.

(3) The postal administrator's remuneration shall, on the postal administrator's application, be fixed by the court.

(4) The postal administrator shall give at least 14 days notice of their application to the following who may appear or be represented—

- (a) the Secretary of State;
- (b) OFCOM; and
- (c) the creditors of the company.

(5) In fixing the remuneration, the court shall have regard to the following matters—

- (a) the complexity (or otherwise) of the case;
- (b) any respects in which, in connection with the company's affairs, there falls on the postal administrator any responsibility of an exceptional kind or degree;
- (c) the effectiveness with which the postal administrator appears to be carrying out, or to have carried out, the postal administrator's duties as such; and
- (d) the value and nature of the property with which the postal administrator has had to deal.

(6) Where there are joint postal 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 to the court, for settlement by order.

(7) If the postal administrator is a solicitor and employs their 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 court.

PART 9

ENDING POSTAL ADMINISTRATION

Final progress reports

78.—(1) In this Part reference to a progress report is to a report in the form specified in Rule 34.

(2) The final progress report means a progress report which includes a summary of—

- (a) the postal administrator’s proposals;
- (b) any major amendments to, or deviations from, those proposals;
- (c) the steps taken during the postal administration; and
- (d) the outcome.

Application to court

79.—(1) An application to court under paragraph 79 for an order ending a postal administration shall have attached to it a progress report for the period since the last progress report (if any) or the date the company entered postal administration and a statement indicating what the postal administrator thinks should be the next steps for the company (if applicable).

(2) Where such an application is made the applicant shall—

- (a) give notice in writing to the applicant for the postal administration order (unless the applicant in both cases is the same) and the creditors of their intention to apply to court at least 5 business days before the date that they intend to make their application; and
- (b) attach to the application to court a statement that they have notified the creditors, and copies of any response from creditors to that notification.

(3) Where the application is made otherwise than by the postal administrator—

- (a) the applicant shall also give notice in writing to the postal administrator of their intention to apply to court at least 5 business days before the date that the applicant intends to make their application; and
- (b) upon receipt of such written notice the postal administrator shall, before the end of the 5 day period, provide the applicant with a progress report for the period since the last progress report (if any) or the date the company entered postal administration.

(4) Where the postal administrator applies to court under paragraph 79 in conjunction with a petition under section 124 of the 1986 Act⁽⁹⁾ for an order to wind up the company, the postal administrator shall, in addition to the requirements of paragraph (3) of this Rule, notify the creditors whether the postal administrator intends to seek appointment as liquidator.

Notification by postal administrator of court order

80.—(1) Where the court makes an order to end the postal administration, the postal administrator must send to the registrar of companies a copy of the court order and a copy of the postal administrator’s final progress report.

(9) 1986 c. 45; section 124 was amended by the Criminal Justice Act 1988 c.33, section 62(2); the Companies Act 1989 c. 40, section 60(2); the Access to Justice Act 1999 c. 22, Schedule 13, paragraph 133; the Insolvency Act 2000 c. 39, section 1, Schedule 1, paragraphs 1 and 7; S.I. 2002/1240, regulation 8; the Courts Act 2003 c. 39, Schedule 8, paragraph 294, S.I. 2004/2326, regulation 73(4)(a), and the Companies (Audit, Investigations and Community Enterprise) Act 2004, c. 27, section 50(3); S.I. 2006/2078 and S.I. 2009/1941.

(2) As soon as reasonably practicable, the postal administrator must send a copy of the order and the final progress report to all other persons who received notice of the postal administrator's appointment.

Moving from postal administration to creditors' voluntary liquidation

81.—(1) As soon as reasonably practicable after the day on which the registrar of companies registers the notice of moving from postal administration to creditors' voluntary liquidation (sent by the postal administrator for the purposes of paragraph 83(3)), the person who at that point ceases to be the postal administrator must send a final progress report to—

- (a) the registrar of companies; and
- (b) all those who received notice of the postal administrator's appointment.

(2) The postal administrator must comply with the requirement in paragraph (1) of this Rule whether they are the liquidator or not, and the final progress report must include details of the assets to be dealt with in the liquidation.

(3) For the purposes of paragraph 83(7)(a), a person shall be nominated as liquidator in accordance with the provisions of Rule 20(2)(l) or Rule 33(2)(g) and that person's appointment takes effect, following registration under paragraph (1) of this Rule—

- (a) by virtue of the postal administrator's proposals or revised proposals; or
- (b) where a creditors' meeting is held in accordance with Rule 24, as a consequence of such a meeting.

(4) OFCOM must notify the Secretary of State before consenting to the postal administrator delivering a notice of moving from postal administration to creditors' voluntary liquidation to the registrar of companies.

Moving from postal administration to dissolution

82.—(1) Where, for the purposes of paragraph 84(1), the postal administrator sends a notice of moving from postal administration to dissolution to the registrar of companies, the postal administrator must attach to that notice a final progress report.

(2) As soon as reasonably practicable a copy of the notice and the attached document shall be sent to all other persons who received notice of the postal administrator's appointment.

(3) Where a court makes an order under paragraph 84(7) it shall, where the applicant is not the postal administrator, give a copy of the order to the postal administrator.

(4) OFCOM must notify the Secretary of State before directing the postal administrator to deliver a notice of moving from postal administration to dissolution to the registrar of companies.

Provision of information to the Secretary of State

83. Where the postal administration ends pursuant to paragraph 79, 83 or 84 the postal administrator shall, within 5 business days from the date of the end of the postal administration, provide the Secretary of State with the following information—

- (a) a breakdown of the relevant debts (within the meaning of section 83(6) of the 2011 Act) of the company which remain outstanding; and
- (b) details of any shortfall (within the meaning of section 83(5) of the 2011 Act) in the property of the company available for meeting those relevant debts.

PART 10

REPLACING POSTAL ADMINISTRATOR

Grounds for resignation

84.—(1) The postal administrator may give notice of their resignation on grounds of ill health or because—

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

(2) The postal administrator may, with the permission of the court, give notice of their resignation on grounds other than those specified in paragraph (1) of this Rule.

Notice of intention to resign

85. The postal administrator shall in all cases give at least 5 business days' notice in Form PA11 of their intention to resign, or to apply for the court's permission to do so, to the following persons—

- (a) the Secretary of State;
- (b) OFCOM
- (c) if there is a continuing postal administrator of the company, to them; and
- (d) if there is no such postal administrator, to the company and its creditors.

Notice of resignation

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

Application to court to remove postal administrator from office

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

(2) Service of the notice of the application shall be effected on the postal administrator, the Secretary of State, OFCOM, the joint postal administrator (if any), and where there is not a joint postal administrator, to the company and all the creditors, including any floating charge holders, not less than 5 business days before the date fixed for the application to be heard.

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

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

(5) A copy of the order shall also be sent to the registrar of companies within the same time period.

Notice of vacation of office when postal administrator ceases to be qualified to act

88. Where the postal administrator who has ceased to be qualified to act as an insolvency practitioner in relation to the company gives notice in accordance with paragraph 89, the postal administrator shall also give notice to the registrar of companies.

Postal administrator deceased

89.—(1) Subject as follows, where the postal administrator has died, it is the duty of the postal administrator’s personal representatives to give notice of the fact to the court, specifying the date of the death. This does not apply if notice has been given under either paragraph (2) or (3) of this Rule.

(2) If the deceased postal administrator was a partner in or an employee of a firm, notice may be given by a partner in the firm who is qualified to act as an insolvency practitioner, or is a member of any body recognised by the Secretary of State for the authorisation of insolvency practitioners.

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

(4) Where a person gives notice to the court under this Rule, they shall also give notice to the registrar of companies.

Application to replace

90.—(1) Where an application is made to court under paragraph 91(1) to appoint a replacement postal administrator, the application shall be accompanied by a written statement made in Form PA2 by the person proposed to be the replacement postal administrator.

(2) A copy of the application shall be served, in addition to those persons listed in section 70(2) of the 2011 Act and Rule 8(3), on the person who made the application for the postal administration order.

(3) Rule 10 shall apply to the service of an application under paragraph 91(1) as it applies to service in accordance with Rule 8.

(4) Rules 11, 12, 13(1) and (2) apply to an application under paragraph 91(1).

Notification and advertisement of appointment of replacement postal administrator

91. Where a replacement postal administrator is appointed, the same provisions apply in respect of giving notice of, and advertising, the replacement appointment as in the case of the appointment (subject to Rule 93), and all statements, consents etc as are required shall also be required in the case of the appointment of a replacement. All forms and notices shall clearly identify that the appointment is of a replacement postal administrator.

Notification and advertisement of appointment of joint postal administrator

92. Where, after an initial appointment has been made, an additional person or persons are to be appointed as joint postal administrator the same Rules shall apply in respect of giving notice of and advertising the appointment as in the case of the initial appointment, subject to Rule 93.

Notification to Registrar of Companies

93. The replacement or additional postal administrator shall send notice of the appointment to the registrar of companies.

Postal administrator’s duties on vacating office

94.—(1) Where the postal administrator ceases to be in office as such, in consequence of removal, resignation or cesser of qualification as an insolvency practitioner, the postal administrator is under obligation as soon as reasonably practicable to deliver up to the person succeeding them as postal administrator the assets (after deduction of any expenses properly incurred and distributions made by the postal administrator) and further to deliver up to that person—

- (a) the records of the postal administration, including correspondence, proofs and other related papers appertaining to the postal administration while it was within the postal administrator's responsibility; and
 - (b) the company's books, papers and other records.
- (2) If the postal administrator makes default in complying with this Rule, the postal administrator is liable to a fine and, for continued contravention, to a daily default fine.

PART 11
COURT PROCEDURE AND PRACTICE
CHAPTER 1
Applications

Preliminary

95. This Chapter applies to any application made to the court in postal administration proceedings under the Rules, except an application for a postal administration order.

Form and contents of application

- 96.**—(1) Each application shall be in writing and shall state—
- (a) the names of the parties;
 - (b) the name of company which is the subject of the postal administration proceedings to which the application relates;
 - (c) the court (and where applicable, the division or district registry of that court) in which the application is made;
 - (d) where the court has previously allocated a number to the postal administration proceedings within which the application is made, that number;
 - (e) the nature of the remedy or order applied for or the directions sought from the court;
 - (f) the names and addresses of the persons (if any) on whom it is intended to serve the application or that no person is intended to be served;
 - (g) where the 1986 Act or Rules require that notice of the application is to be given to specified persons, the names and addresses of all those persons (so far as known to the applicant); and
 - (h) the applicant's address for service.

(2) The application must be authenticated by the applicant if they are acting in person or, when they are not so acting, by or on behalf of their solicitor.

Application under section 176A(5) of the 1986 Act to disapply section 176A of the 1986 Act

- 97.**—(1) An application under section 176A(5) of the 1986 Act shall be accompanied by a witness statement by the postal administrator.
- (2) The witness statement shall state—
- (a) that the application arises in the course of a postal administration under the 2011 Act;
 - (b) a summary of the financial position of the company;

- (c) the information substantiating the postal administrator's view that the cost of making a distribution to unsecured creditors would be disproportionate to the benefits; and
- (d) whether any other postal administrator is acting in relation to the company and if so their address.

Filing and service of application

98.—(1) An application must be filed with the court, accompanied by one copy and a number of additional copies equal to the number of persons who are to be served with the application.

(2) Where an application is filed with the court in accordance with paragraph (1) of this Rule, the court must fix a venue for the application to be heard unless—

- (a) it considers it is not appropriate to do so;
- (b) the Rule under which the application is brought provides otherwise; or
- (c) the case is one to which Rule 100 applies.

(3) Unless the court otherwise directs, the applicant shall serve a sealed copy of the application, endorsed with the venue for the hearing, on the respondent named in the application (or on each respondent if more than one).

(4) The court may give any of the following directions—

- (a) that the application be served upon persons other than those specified by the relevant provision of the 1986 Act or the Rules;
- (b) that the giving of notice to any person may be dispensed with;
- (c) that notice be given in some way other than that specified in paragraph (3) of this Rule.

(5) An application must be served at least 14 days before the date fixed for its hearing unless—

- (a) the provision of the 1986 Act or the Rules under which the application is made makes different provision; or
- (b) the case is one of urgency, to which paragraph (6) of this Rule applies.

(6) Where the case is one of urgency, the court may (without prejudice to its general power to extend or abridge time limits)—

- (a) hear the application immediately, either with or without notice to, or the attendance of, other parties, or
- (b) authorise a shorter period of service than that provided for by paragraph (5) of this Rule;

and any such application may be heard on terms providing for the filing or service of documents, or the carrying out of other formalities, as the court thinks just.

Notice of application under section 176A(5) of the 1986 Act

99. An application under section 176A(5) of the 1986 Act may be made without the application being served upon or notice being given to any other party.

Hearings without notice

100. Where the relevant provisions of the 1986 Act or the Rules do not require service of the application on, or notice of it to be given to, any person—

- (a) the court may hear the application as soon as reasonably practicable without fixing a venue as required by Rule 98(2); or
- (b) it may fix a venue for the application to be heard in which case Rule 98 will apply to the extent that it is relevant;

but nothing in those provisions is to be taken as prohibiting the applicant from giving such notice if the applicant wishes to do so.

Hearing of application

101.—(1) Unless the court otherwise directs, the hearing of an application must be in open court.

(2) In a county court, the jurisdiction of the court to hear and determine an application may be exercised by the district judge (to whom any application must be made in the first instance) unless—

- (a) a direction to the contrary has been given, or
- (b) it is not within the district judge’s power to make the order required.

(3) In the High Court the jurisdiction of the court to hear and determine an application may be exercised by the registrar (to whom the application must be made in the first instance) unless—

- (a) a direction to the contrary has been given, or
- (b) it is not within the registrar’s power to make the order required.

(4) Where the application is made to the district judge in the county court or to the registrar in the High Court, the district judge or the registrar may refer to the judge any matter which the district judge or the registrar thinks should properly be decided by the judge, and the judge may either dispose of the matter or refer it back to the district judge or the registrar with such directions as that judge thinks just.

(5) Nothing in this Rule precludes an application being made directly to the judge in a proper case.

Witness statements—general

102.—(1) Subject to Rule 104, where evidence is required by the 1986 Act or the Rules as to any matter, such evidence may be provided in the form of a witness statement unless—

- (a) in any specific case a Rule or the 1986 Act makes different provision; or
- (b) the court otherwise directs.

(2) The court may, on the application of any party to the matter in question order the attendance for cross-examination of the person making the witness statement.

(3) Where, after such an order has been made, the person in question does not attend, that person’s witness statement must not be used in evidence without the permission of the court.

Filing and service of witness statements

103. Unless the provision of the 1986 Act or the Rules under which the application is made provides otherwise, or the court otherwise allows—

- (a) if the applicant intends to rely at the first hearing on evidence in a witness statement, the applicant shall file the witness statement with the court and serve a copy on the respondent, not less than 14 days before the date fixed for the hearing, and
- (b) where a respondent to an application intends to oppose it and to rely for that purpose on evidence in a witness statement, the respondent shall file the witness statement with the court and serve a copy on the applicant, not less than 5 business days before the date fixed for the hearing.

Use of reports

104.—(1) A report may be filed in court by the postal administrator instead of a witness statement, unless the application involves other parties or the court otherwise orders.

(2) In any case where a report is filed instead of a witness statement, the report shall be treated for the purposes of Rule 103 and any hearing before the court as if it were a witness statement.

(3) Where the witness statement is made by the postal administrator, the witness statement must state the address at which the postal administrator works.

Adjournment of hearing; directions

105.—(1) The court may adjourn the hearing of an application on such terms as it thinks just.

(2) The court may at any time give such directions as it thinks just as to—

- (a) service or notice of the application on or to any person;
- (b) whether particulars of claim and defence are to be delivered and generally as to the procedure on the application including whether a hearing is necessary;
- (c) the matters to be dealt with in evidence.

(3) The court may give directions as to the manner in which any evidence is to be adduced at a resumed hearing and in particular as to—

- (a) the taking of evidence wholly or partly by witness statement or orally;
- (b) the cross-examination of the maker of a witness statement; or
- (c) any report to be made by the postal administrator.

General power of transfer

106.—(1) Where postal administration proceedings are pending in the High Court, the court may order them to be transferred to a specified county court.

(2) Where postal administration proceedings are pending in a county court, the court may order them to be transferred either to the High Court or to another county court.

(3) In any case where proceedings are transferred to a county court, the transfer must be to a court which has jurisdiction to wind up companies.

(4) A transfer of proceedings under this Rule may be ordered—

- (a) by the court of its own motion, or
- (b) on the application of the postal administrator, or
- (c) on the application of a person appearing to the court to have an interest in the proceedings.

Proceedings commenced in wrong court

107. Where postal administration proceedings are commenced in a court which is, in relation to those proceedings, the wrong court, that court may—

- (a) order the transfer of the proceedings to the court in which they ought to have been commenced;
- (b) order that the proceedings be continued in the court in which they have been commenced; or
- (c) order the proceedings to be struck out.

Applications for transfer

108.—(1) An application by the postal administrator for proceedings to be transferred shall be made with a report by the postal administrator—

- (a) setting out the reasons for the transfer, and

(b) including a statement that the applicant for the postal administration order consents to the transfer, or that the applicant has been given at least 14 days' notice of the postal administrator's application.

(2) If the court is satisfied from the postal administrator's report that the proceedings can be conducted more conveniently in another court, the proceedings shall be transferred to that court.

Procedure following order for transfer

109.—(1) Subject as follows, the court making an order under Rule 106 shall as soon as reasonably practicable send to the transferee court a sealed copy of the order, and the file of the proceedings.

(2) On receipt of these, the transferee court shall as soon as reasonably practicable send notice of the transfer to the transferor court.

CHAPTER 2

Shorthand Writers

Nomination and appointment of shorthand writers

110.—(1) In the High Court the judge or registrar and, in a county court, a district judge may in writing nominate one or more persons to be official shorthand writers to the court.

(2) The court may, at any time in the course of the postal administration proceedings, appoint a shorthand writer to take down the evidence of a person examined under section 236 of the 1986 Act.

Remuneration

111.—(1) The remuneration of a shorthand writer appointed in postal administration proceedings shall be paid by the party at whose instance the appointment was made, or out of the assets of the company, or otherwise, as the court may direct.

(2) Any question arising as to the rates of remuneration payable under this Rule shall be determined by the court in its discretion.

CHAPTER 3

Enforcement Procedures

Enforcement of court orders

112.—(1) In any postal administration proceedings under the Rules, orders of the court may be enforced in the same manner as a judgment to the same effect.

(2) Where a warrant for the arrest of a person is issued by the High Court, the warrant may be discharged by the county court where the person who is the subject of the warrant—

- (a) has been brought before a county court exercising postal administration jurisdiction; and
- (b) has given to the county court an undertaking which is satisfactory to the county court to comply with the obligations that apply to that person under the provisions of the 1986 Act or the Rules.

Orders enforcing compliance with the Rules

113.—(1) The court may, on application by the postal administrator, make such orders as it thinks necessary for the enforcement of obligations falling on any person in accordance with—

- (a) paragraph 47 (duty to submit statement of affairs in postal administration), or

(b) section 235 of the 1986 Act⁽¹⁰⁾ (duty of various persons to co-operate with postal administrator).

(2) An order of the court under this Rule may provide that all costs of and incidental to the application for it shall be borne by the person against whom the order is made.

Warrants under section 236 of the 1986 Act

114.—(1) A warrant issued by the court under section 236 of the 1986 Act (inquiry into insolvent company's dealings) shall be addressed to such officer of the High Court as the warrant specifies, or to any constable.

(2) The persons referred to in section 236(5) of the 1986 Act (court's powers of enforcement) as the prescribed officer of the court are the tipstaff and the tipstaff's assistants of the court.

(3) In this Chapter references to property include books, papers and records.

(4) When a person is arrested under a warrant issued under section 236 of the 1986 Act, the officer arresting them shall as soon as reasonably practicable bring them before the court issuing the warrant in order that they may be examined.

(5) If they cannot immediately be brought up for examination, the officer shall deliver them into the custody of the governor of the prison named in the warrant (or where that prison is not able to accommodate the arrested person, the governor of such other prison with appropriate facilities which is able to accommodate the arrested person), who shall keep them in custody and produce them before the court as it may from time to time direct.

(6) After arresting the person named in the warrant, the officer shall as soon as reasonably practicable report to the court the arrest or delivery into custody (as the case may be) and apply to the court to fix a venue for the person's examination.

(7) The court shall appoint the earliest practicable time for the examination, and shall—

(a) direct the governor of the prison to produce the person for examination at the time and place appointed, and

(b) as soon as reasonably practicable give notice of the venue to the person who applied for the warrant.

(8) Any property in the arrested person's possession which may be seized shall be—

(a) lodged with, or otherwise dealt with as instructed by, whoever is specified in the warrant as authorised to receive it, or

(b) kept by the officer seizing it pending the receipt of written orders from the court as to its disposal,

as may be directed by the court.

CHAPTER 4

Court Records and Returns

Court file

115.—(1) The court must open and maintain a file in any case where documents are filed with it under the 1986 Act or the Rules.

(2) Any documents which are filed with the court under the 1986 Act or the Rules must be placed on the file opened in accordance with paragraph (1) of this Rule.

(10) 1986 c. 45; section 235(4)(a) was amended by the Enterprise Act 2002 c. 40, Schedule 17, paragraph 24.

(3) The following persons may inspect or obtain from the court a copy of, or a copy of any document or documents contained in, the file opened in accordance with paragraph (1) of this Rule—

- (a) the postal administrator;
- (b) the Secretary of State;
- (c) OFCOM;
- (d) any person who is a creditor of the company to which the proceedings relate if that person provides the court with a statement in writing confirming that that person is a creditor; and
- (e) any person who is, or at any time has been, a director or officer of the company to which the postal administration proceedings relate, or who is a member of that company.

(4) The right to inspect or obtain a copy of, or a copy of any document or documents contained in, the file opened in accordance with paragraph (1) of this Rule may be exercised on that person's behalf by a person authorised to do so by that person.

(5) Any person who is not otherwise entitled to inspect or obtain a copy of, or a copy of any document or documents contained in, the file opened in accordance with paragraph (1) of this Rule may do so if that person has the permission of the court.

(6) The court may direct that the file, a document (or part of it) or a copy of a document (or part of it) must not be made available under paragraph (3) or (4) of this Rule without the permission of the court.

(7) An application for a direction under paragraph (6) of this Rule may be made by—

- (a) the postal administrator; or
- (b) any person appearing to the court to have an interest.

(8) Where any person wishes to exercise the right to inspect the file under paragraph (3), (4) or (5) of this Rule that person—

- (a) if the permission of the court is required, must file with the court an application notice in accordance with the Rules; or
- (b) if the permission of the court is not required, may inspect the file at any reasonable time.

(9) Where any person wishes to exercise the right to obtain a copy of a document under paragraph (3), (4) or (5) of this Rule that person must pay any prescribed fee and—

- (a) if the permission of the court is required, file with the court an application notice in accordance with the Rules; or
- (b) if the permission of the court is not required, file with the court a written request for the document.

(10) An application for—

- (a) permission to inspect the file or obtain a copy of a document under paragraph (5) of this Rule; or
- (b) a direction under paragraph (6) of this Rule,

may be made without notice to any other party, but the court may direct that notice must be given to any person who would be affected by its decision.

(11) If for the purposes of powers conferred by the 1986 Act or the Rules, the Secretary of State or the postal administrator requests the transmission of the file of any postal administration proceedings, the court must comply with the request (unless the file is for the time being in use for the court's own purposes).

CHAPTER 5

Costs and Detailed Assessment

Application of Chapter 5

116.—(1) This Chapter applies in relation to costs in connection with postal administration proceedings under the Rules.

(2) In this Chapter a reference to costs includes charges and expenses.

Requirement to assess costs by the detailed procedure

117.—(1) Where the costs of any person are payable as an expense out of the assets of the company, the amount payable must be decided by detailed assessment unless agreed between the postal administrator and the person entitled to payment.

(2) In the absence of such agreement as is mentioned in paragraph (1) of this Rule, the postal administrator may serve notice requiring that person to commence detailed assessment proceedings in accordance with CPR Part 47 (procedure for detailed assessment of costs and default provisions).

(3) Where the costs of any person employed by a postal administrator in postal administration proceedings are required to be decided by detailed assessment or fixed by order of the court, the postal administrator may make payments on account to such person in respect of those costs provided that person undertakes in writing—

- (a) to repay as soon as reasonably practicable any money which may, when detailed assessment is made, prove to have been overpaid; and
- (b) to pay interest on any such sum as is mentioned in sub-paragraph (a) at the rate specified in section 17 of the Judgments Act 1838 on the date payment was made and for the period beginning with the date of payment and ending with the date of repayment.

(4) In any proceedings before the court, the court may order costs to be decided by detailed assessment.

Procedure where detailed assessment required

118.—(1) Before making a detailed assessment of the costs of any person employed in postal administration proceedings by the postal administrator, the costs officer shall require a certificate of employment, which shall be endorsed on the bill and authenticated by the postal administrator.

(2) The certificate shall include—

- (a) the name and address of the person employed,
- (b) details of the functions to be carried out under the employment, and
- (c) a note of any special terms of remuneration which have been agreed.

(3) Every person whose costs in postal administration proceedings are required to be decided by detailed assessment shall, on being required in writing to do so by the postal administrator, commence detailed assessment proceedings in accordance with CPR Part 47 (procedure for detailed assessment of costs and default provisions).

(4) If that person does not commence detailed assessment proceedings within 3 months of the requirement under paragraph (3) of this Rule, or within such further time as the court, on application, may permit, the postal administrator may deal with the assets of the company without regard to any claim by that person, whose claim is forfeited by such failure to commence proceedings.

(5) Where in any such case such a claim lies additionally against a postal administrator in their personal capacity, that claim is also forfeited by such failure to commence proceedings.

(6) Where costs have been incurred in postal administration 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 assessed may nevertheless, on the application of the person who incurred the costs, be ordered to be decided by detailed assessment in the High Court.

Costs paid otherwise than out of the assets of the company

119. Where the amount of costs is decided by detailed assessment under an order of the court directing that those costs are to be paid otherwise than out of the assets of the company, the costs officer shall note on the final costs certificate by whom, or the manner in which, the costs are to be paid.

Award of costs against postal administrator

120. Without prejudice to any provision of the 1986 Act or the Rules by virtue of which the postal administrator is not in any event to be liable for costs and expenses, where a postal administrator is made a party to any proceedings on the application of another party to the proceedings, the postal administrator shall not be personally liable for costs unless the court otherwise directs.

Applications for costs

121.—(1) This Rule applies where a party to, or person affected by, any proceedings under the Rules—

- (a) applies to the court for an order allowing their costs, or part of them, incidental to the proceedings; and
- (b) that application is not made at the time of the proceedings.

(2) The person concerned shall serve a sealed copy of their application on the postal administrator.

(3) The postal administrator may appear on any such application.

(4) No costs of or incidental to the application shall be allowed to the applicant unless the court is satisfied that the application could not have been made at the time of the proceedings.

Costs and expenses of witnesses

122.—(1) Except as directed by the court, no allowance as a witness in any examination or other proceedings before the court shall be made to an officer of the company to which the proceedings relate.

(2) A person making any application in postal administration proceedings shall not be regarded as a witness on the hearing of the application, but the costs officer may allow their expenses of travelling and subsistence.

Final costs certificate

123.—(1) A final costs certificate of the costs officer is final and conclusive as to all matters which have not been objected to in the manner provided for under the rules of the court.

(2) Where it is proved to the satisfaction of a costs officer that a final costs certificate has been lost or destroyed, they may issue a duplicate.

CHAPTER 6

Persons who Lack Capacity to Manage their Affairs

Introductory

124.—(1) The Rules in this Chapter apply where in postal administration proceedings it appears to the court that a person affected by the proceedings is one who lacks capacity within the meaning of the Mental Capacity Act 2005(11) to manage and administer their property and affairs either—

- (a) by reason of lacking capacity within the meaning of the Mental Capacity Act 2005, or
- (b) due to physical affliction or disability.

(2) The person concerned is referred to as “the incapacitated person”.

Appointment of another person to act

125.—(1) The court may appoint such person as it thinks just to appear for, represent or act for the incapacitated person.

(2) The appointment may be made either generally or for the purpose of any particular application or proceeding, or for the exercise of particular rights or powers which the incapacitated person might have exercised but for their incapacity.

(3) The court may make the appointment either of its own motion or on application by—

- (a) a person who has been appointed by a court in the United Kingdom or elsewhere to manage the affairs of, or to represent, the incapacitated person, or
- (b) any relative or friend of the incapacitated person who appears to the court to be a proper person to make the application, or
- (c) the postal administrator.

(4) Application under paragraph (3) of this Rule may be made without notice to any other party; but the court may require such notice of the application as it thinks necessary to be given to the person alleged to be incapacitated, or any other person, and may adjourn the hearing of the application to enable the notice to be given.

Witness statement in support of application

126. An application under Rule 125(3) must be supported by a witness statement made by a registered medical practitioner as to the mental or physical condition of the incapacitated person.

Service of notices following appointment

127. Any notice served on, or sent to, a person appointed under Rule 125 has the same effect as if it had been served on, or given to, the incapacitated person.

CHAPTER 7

Appeals in Postal Administration Proceedings

Appeals and reviews of postal administration orders

128.—(1) The High Court may review, rescind or vary any order made by it in the exercise of its jurisdiction as regards postal administration proceedings.

(2) Appeals from decisions made in the exercise of that jurisdiction lie as follows—

- (a) to a single judge of the High Court where the decision appealed against is made by the county court or the registrar;
- (b) to the Civil Division of the Court of Appeal from a decision of a single judge of the High Court.

(3) A county court is not, in the exercise of its jurisdiction for the purposes of the Rules, subject to be restrained by the order of any other court, and no appeal lies from its decision in the exercise of that jurisdiction except as provided by this Rule.

Procedure on appeal

129.—(1) An appeal against a decision at first instance may only be brought with either the permission of the court which made the decision or the permission of the court which has jurisdiction to hear the appeal.

(2) An appellant must file an appellant’s notice (within the meaning of CPR Part 52) within 21 days after the date of the decision of the court that the appellant wishes to appeal.

(3) The procedure set out in CPR Part 52 applies to any appeal to which this Chapter applies.

CHAPTER 8

General

Principal court rules and practice to apply

130.—(1) The provisions of the CPR (including any related practice direction) apply to postal administration proceedings with any necessary modifications, except so far as inconsistent with the Rules.

(2) All postal administration proceedings must be allocated to the multi-track for which CPR Part 29 makes provision, and accordingly those provisions of the CPR which provide for allocation questionnaires and track allocation do not apply.

(3) CPR Part 32 applies to a false statement in a document verified by a statement of truth made under the Rules as it applies to a false statement in a document verified by a statement of truth made under CPR Part 22.

Right of audience

131. Rights of audience in postal administration proceedings are the same as in insolvency proceedings.

Formal defects

132. No postal administration proceedings shall be invalidated by any formal defect or by any irregularity, unless the court before which objection is made considers that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of the court.

Service of orders staying proceedings

133. Where in postal administration proceedings the court makes an order staying any action, execution or other legal process against the property of the company, service of the order may be effected by sending a sealed copy of the order to whatever is the address for service of the claimant or other party having the carriage of the proceedings to be stayed.

Payment into court

134. CPR Part 37 (miscellaneous provisions about payment into court) applies to money lodged in court under the Rules.

Further Information and Disclosure

135.—(1) Any party to postal administration proceedings may apply to the court for an order—

(a) that any other party

(i) clarify any matter which is in dispute in the proceedings, or

(ii) give additional information in relation to any such matter;

in accordance with CPR Part 18 (further information); or

(b) to obtain disclosure from any other party in accordance with CPR Part 31 (disclosure and inspection of documents), except so far as is otherwise provided by the Rules.

(2) An application under this Rule may be made without notice being served on any other party.

Office copies of documents

136.—(1) Any person who has under the Rules the right to inspect the court file of postal administration proceedings may require the court to provide them with an office copy of any document from the file.

(2) A person's rights under this Rule may be exercised on their behalf by their solicitor.

(3) An office copy provided by the court under this Rule shall be in such form as the registrar thinks appropriate, and shall bear the court's seal.

PART 12

PROXIES AND COMPANY REPRESENTATION

Definition of "proxy"

137.—(1) For the purposes of the Rules, a proxy is an authority given by a person ("the principal") to another person ("the proxy-holder") to attend a meeting and speak and vote as their representative.

(2) Proxies are for use at creditors' or company meetings summoned or called under the 1986 Act or the Rules.

(3) Only one proxy may be given by a person for any one meeting at which they desire to be represented; and it may only be given to one person, being an individual aged 18 or over. But the principal may specify one or more other such individuals to be proxy-holder in the alternative, in the order in which they are named in the proxy.

(4) Without prejudice to the generality of paragraph (3) of this Rule, a proxy for a particular meeting may be given to whoever is to be the chair of the meeting.

(5) A person given a proxy under paragraph (4) of this Rule 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.

Issue and use of forms

138.—(1) When notice is given of a meeting to be held in postal administration proceedings, and forms of proxy are sent out with the notice, no form so sent out shall have inserted in it the name or description of any person.

(2) No form of proxy shall be used at any meeting except that which is sent out with the notice summoning the meeting, or a substantially similar form.

(3) A form of proxy shall be authenticated by the principal, or by some person authorised by the principal (either generally or with reference to a particular meeting). If the form is authenticated by a person other than the principal, the nature of the person's authority shall be stated.

Use of proxies at meetings

139.—(1) A proxy given for a particular meeting may be used at any adjournment of that meeting.

(2) Where the postal administrator holds proxies to be used by the postal administrator as chair of a meeting, and some other person acts as chair, the other person may use the postal administrator's proxies as if that person were themselves proxy-holder.

(3) Where a proxy directs a proxy-holder to vote for or against a resolution for the appointment of a person other than the postal administrator as proposed liquidator of the company, the proxy-holder may, unless the proxy states otherwise, vote for or against (as the proxy-holder thinks fit) any resolution for the nomination or appointment of that person jointly with another or others.

(4) 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 they would be entitled to vote.

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

Retention of proxies

140.—(1) Subject as follows, proxies used for voting at any meeting shall be retained by the chair of the meeting.

(2) The chair shall deliver the proxies, as soon as reasonably practicable after the meeting, to the postal administrator (where that is someone other than the chair).

Right of inspection

141.—(1) The postal administrator shall, so long as proxies lodged with the postal administrator are in the postal administrator's hands, allow them to be inspected, at all reasonable times on any business day, by—

- (a) the creditors, in the case of proxies used at a meeting of creditors, and
- (b) the company's members, in the case of proxies used at a meeting of the company.

(2) The reference in paragraph (1) of this Rule to creditors is to those persons who have submitted in writing a claim to be creditors of the company but does not include a person whose proof or claim has been wholly rejected for purposes of voting, dividend or otherwise.

(3) The right of inspection given by this Rule is also exercisable by the directors of the company.

(4) Any person attending a meeting in postal administration proceedings is entitled, immediately before or in the course of the meeting, to inspect proxies and associated documents (including proofs) sent or given, in accordance with directions contained in any notice convening the meeting, to the chair of that meeting or to any other person by a creditor, member or contributory for the purpose of that meeting.

(5) This Rule is subject to Rule 195 (confidentiality of documents—grounds for refusing inspection).

Proxy-holder with financial interest

142.—(1) A proxy-holder shall not vote in favour of any resolution which would directly or indirectly place them, or any associate of theirs, in a position to receive any remuneration out of the assets of the company, unless the proxy specifically directs them to vote in that way.

(2) Where a proxy-holder has authenticated the proxy as being authorised to do so by their principal and the proxy specifically directs the proxy-holder to vote in the way mentioned in paragraph (1) of this Rule, they shall nevertheless not vote in that way unless they produce to the chair of the meeting written authorisation from their principal sufficient to show that the proxy-holder was entitled so to authenticate the proxy.

(3) This Rule applies also to any person acting as chair of a meeting and using proxies in that capacity under Rule 139; and in its application to them, the proxy-holder is deemed an associate of theirs.

(4) In this Rule “associate” shall have the same meaning as in section 435 of the 1986 Act.

Company representation

143.—(1) Where a person is authorised to represent a corporation at a meeting of creditors or of the company, they shall produce to the chair of the meeting a copy of the resolution from which they derive their authority.

(2) The copy resolution must be under the seal of the corporation, or certified by the secretary or a director of the corporation to be a true copy.

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

PART 13

EXAMINATION OF PERSONS IN POSTAL ADMINISTRATION PROCEEDINGS

Preliminary

144.—(1) The Rules in this Part apply to applications to the court, made by the postal administrator, for an order under section 236 of the 1986 Act (inquiry into company’s dealings),

(2) The following definitions apply—

- (a) the person in respect of whom an order is applied for is “the respondent”;
- (b) “section 236” means section 236 of the 1986 Act;

Form and contents of application

145.—(1) The application shall be in writing and specify the grounds on which it is made.

(2) The application must specify the name of the respondent.

(3) It shall be stated whether the application is for the respondent—

- (a) to be ordered to appear before the court, or

- (b) to be ordered to clarify any matter which is in dispute in the proceedings or to give additional information in relation to any such matter (in which case CPR Part 18 (further information) applies to any such order), or
 - (c) to submit witness statements (if so, particulars to be given of the matters to be included), or
 - (d) to produce books, papers or other records (if so, the items in question to be specified),
- or for any two or more of those purposes.
- (4) The application may be made without notice to any other party.

Order for examination, etc

146.—(1) The court may, whatever the purpose of the application, make any order which it has power to make under section 236.

(2) The court, if it orders the respondent to appear before it, shall specify a venue for their appearance, which shall be not less than 14 days from the date of the order.

(3) If the respondent is ordered to submit witness statements, the order shall specify—

- (a) the matters which are to be dealt with in their witness statements, and
- (b) the time within which they are to be submitted to the court.

(4) If the order is to produce books, papers or other records, the time and manner of compliance shall be specified.

(5) The order must be served as soon as reasonably practicable on the respondent; and it must be served personally, unless the court otherwise orders.

Procedure for examination

147.—(1) At any examination of the respondent, the postal administrator may attend in person, or be represented by a solicitor with or without counsel, and may put such questions to the respondent as the court may allow.

(2) Where application has been made under section 236 on information provided by a creditor of the company, that creditor may, with the permission of the court and if the postal administrator does not object, attend the examination and put questions to the respondent (but only through the postal administrator).

(3) If the respondent is ordered to clarify any matter or to give additional information, the court shall direct them as to the questions which they are required to answer, and as to whether their answers (if any) are to be made in a witness statement.

(4) The respondent may at their own expense employ a solicitor with or without counsel, who may put to them such questions as the court may allow for the purpose of enabling them to explain or qualify any answers given by them, and may make representations on their behalf.

(5) There shall be made in writing such record of the examination as the court thinks proper. The record shall be read over either to or by the respondent and authenticated by them at a venue fixed by the court.

(6) The written record may, in any proceedings (whether under the 1986 Act or otherwise), be used as evidence against the respondent of any statement made by them in the course of their examination.

Record of examination

148.—(1) Unless the court otherwise directs, the written record of questions put to the respondent and the respondent’s answers, and any witness statements submitted by the respondent in compliance with an order of the court under the section 236, are not to be filed with the court.

(2) The documents set out in paragraph (3) of this Rule are not open to inspection without an order of the court, by any person other than the postal administrator.

(3) The documents to which paragraph (2) of this Rule applies are—

- (a) the written record of the respondent’s examination;
- (b) copies of questions put to the respondent or proposed to be put to the respondent and answers to questions given by the respondent;
- (c) any witness statement by the respondent; and
- (d) any document on the court file as shows the grounds for the application for an order.

(4) The court may from time to time give directions as to the custody and inspection of any documents to which this Rule applies, and as to the furnishing of copies of, or extracts from, such documents.

Costs of proceedings under section 236

149.—(1) Where the court has ordered an examination of any person under section 236, and it appears to it that the examination was made necessary because information had been unjustifiably refused by the respondent, it may order that the costs of the examination be paid by the respondent.

(2) Where the court makes an order against a person under section 237(1) or (2) of the 1986 Act (court’s enforcement powers under section 236) the costs of the application for the order may be ordered by the court to be paid by the respondent.

(3) Subject to paragraphs (1) and (2) of this Rule, the postal administrator’s costs shall, unless the court otherwise orders, be paid out of the assets of the company.

(4) A person summoned to attend for examination under this Part shall be tendered a reasonable sum in respect of travelling expenses incurred in connection with their attendance. Other costs falling on them are at the court’s discretion.

PART 14

MISCELLANEOUS AND GENERAL

Power of Secretary of State to regulate certain matters

150.—(1) Pursuant to paragraph 27 of Schedule 8 to the 1986 Act, the Secretary of State may, subject to the 1986 Act, the 2011 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 postal administrator of a company, including, without prejudice to the generality of the foregoing, provision with respect to the following matters arising in a postal administration—

- (a) the preparation and keeping of books, accounts and other records, and their production to such persons as may be authorised or required to inspect them;
- (b) the auditing of a postal administrator’s accounts;
- (c) the manner in which a postal administrator is to act in relation to the company’s books, papers and other records, and the manner of their disposal by the postal administrator or others;

- (d) the supply by the postal administrator to creditors and members of the company of copies of documents relating to the postal administration and the affairs of the company (on payment, in such cases as may be specified by the regulations, of the specified fee);
- (2) Regulations made pursuant to paragraph (1) of this Rule may—
 - (a) confer a discretion on the court;
 - (b) make non-compliance with any of the regulations a criminal offence;
 - (c) make different provision for different cases, including different provision for different areas; and
 - (d) contain such incidental, supplemental and transitional provisions as may appear to the Secretary of State necessary or expedient.

Costs, expenses, etc

151.—(1) All fees, costs, charges and other expenses incurred in the course of the postal administration are to be regarded as expenses of the postal administration.

- (2) The costs associated with the prescribed part shall be paid out of the prescribed part.

Provable debts

152.—(1) Subject as follows, in postal administration all claims by creditors are provable as debts against the company whether they are present or future, certain or contingent, ascertained or sounding only in damages.

(2) Any obligation arising under a confiscation order made under Parts 2, 3 or 4 of the Proceeds of Crime Act 2002⁽¹²⁾ is not provable.

(3) The following are not provable except at a time when all other claims of creditors in the postal administration proceedings (other than any of a kind mentioned in this paragraph) have been paid in full with interest under Rule 58—

- (a) any claim arising by virtue of section 382(1)(a) of the Financial Services and Markets Act 2000⁽¹³⁾, not being a claim also arising by virtue of section 382(1)(b) of that Act;
- (b) any claim which by virtue of the 1986 Act or any other enactment is a claim the payment of which is to be postponed.

(4) Nothing in this Rule prejudices any enactment or rule of law under which a particular kind of debt is not provable, whether on grounds of public policy or otherwise.

False claim of status as creditor, etc

153.—(1) Where the Rules provide for creditors or members of a company a right to inspect any documents, whether on the court's file or in the hands of a postal administrator or other person, it is an offence for a person, with the intention of obtaining a sight of documents which the person has not under the Rules any right to inspect, falsely to claim a status which would entitle the person to inspect them.

- (2) A person guilty of an offence under this Rule is liable to imprisonment, or a fine, or both.

Punishment of offences

154.—(1) Schedule 2 to the Rules has effect with respect to the way in which contraventions of the Rules are punishable on conviction.

⁽¹²⁾ 2002 c. 29.

⁽¹³⁾ 2000 c.8.

(2) In relation to an offence under a provision of the Rules specified in the first column of the Schedule (the general nature of the offence being described in the second column), the third column shows whether the offence is punishable on conviction on indictment, or on summary conviction, or either in the one way or the other.

(3) The fourth column shows, in relation to an offence, the maximum punishment by way of fine or imprisonment which may be imposed on a person convicted of the offence in the way specified in relation to it in the third column (that is to say, on indictment or summarily), a reference to a period of years or months being to a term of imprisonment of that duration.

(4) The fifth column shows (in relation to an offence for which there is an entry in that column) that a person convicted of the offence after continued contravention is liable to a daily default fine; that is to say, the person is liable on a second or subsequent conviction of the offence to the fine specified in that column for each day on which the contravention is continued (instead of the penalty specified for the offence in the fourth column of the Schedule).

(5) Section 431 of the 1986 Act (summary proceedings), as it applies to England and Wales, has effect in relation to offences under the Rules as to offences under the 1986 Act.

PART 15

PROVISIONS OF GENERAL EFFECT

CHAPTER 1

The Giving of Notice and the Supply of Documents—general

Application

155.—(1) Subject to paragraphs (2) and (3) of this Rule, this Chapter applies where a notice or other document is required to be given, delivered or sent under the 1986 Act or the Rules by any person, including a postal administrator.

(2) This Chapter does not apply to the service of—

- (a) any application to the court;
- (b) any evidence in support of that application; or
- (c) any order of the court.

(3) This Chapter does not apply to the delivery of documents to the registrar of companies.

Personal delivery of documents

156. Personal delivery of a notice or other document is permissible in any case.

Postal delivery of documents

157. Unless in any particular case some other form of delivery is required by the 1986 Act, the Rules or an order of the court, a notice or other document may be sent by post in accordance with the rules for postal service in CPR Part 6 and sending by such means has effect as specified in those rules.

Non-receipt of notice of meeting

158. Where in accordance with the 1986 Act or the Rules, a meeting of creditors or other persons is summoned by notice, the meeting is presumed to have been duly summoned and held, notwithstanding that not all those to whom the notice is to be given have received it.

Notice etc to solicitors

159. Where under the 1986 Act or the Rules a notice or other document is required or authorised to be given, delivered or sent to a person, it may be given, delivered or sent instead to a solicitor authorised to accept delivery on that person's behalf.

CHAPTER 2

The Giving of Notice and the Supply of Documents by or to a Postal administrator etc

Application

160.—(1) Subject to paragraphs (2) to (3) of this Rule, this Chapter applies where a notice or other document is required to be given, delivered or sent under the 1986 Act or the Rules.

(2) This Chapter does not apply to the submission of documents to the registrar of companies.

(3) Rules 164 to 167 do not apply to the filing of any notice or other document with the court.

The form of notices and other documents

161. Subject to any order of the court, any notice or other document required to be given, delivered or sent must be in writing and where electronic delivery is permitted a notice or other document in electronic form is treated as being in writing if a copy of it is capable of being produced in a legible form.

Proof of sending etc

162.—(1) Where in any postal administration proceedings a notice or other document is required to be given, delivered or sent by the postal administrator, the giving, delivering or sending of it may be proved by means of a certificate by them, or their solicitor, or a partner or employee of either of them, that the notice or other document was duly given, delivered or sent.

(2) A certificate under this Rule may be endorsed on a copy or specimen of the notice or document to which it relates.

Authentication

163.—(1) A document or information given, delivered or sent in hard copy form is sufficiently authenticated if it is signed by the person sending or supplying it.

(2) A document or information given, delivered or sent in electronic form is sufficiently authenticated—

- (a) if the identity of the sender is confirmed in a manner specified by the recipient, or
- (b) where no such manner has been specified by the recipient, if the communication contains or is accompanied by a statement of the identity of the sender and the recipient has no reason to doubt the truth of that statement.

Electronic delivery in postal administration proceedings—general

164.—(1) Unless in any particular case some other form of delivery is required by the 1986 Act or the Rules or an order of the court and subject to paragraph (3) of this Rule, a notice or other document may be given, delivered or sent by electronic means provided that the intended recipient of the notice or other document has—

- (a) consented (whether in the specific case or generally) to electronic delivery (and has not revoked that consent); and

- (b) provided an electronic address for delivery.
- (2) In the absence of evidence to the contrary, a notice or other document is presumed to have been delivered where—
 - (a) the sender can produce a copy of the electronic message which—
 - (i) contained the notice or other document, or to which the notice or other document was attached, and
 - (ii) shows the time and date the message was sent; and
 - (b) that electronic message contains the address supplied under paragraph (1)(b) of this Rule.
- (3) A message sent electronically is deemed to have been delivered to the recipient no later than 9.00am on the next business day after it was sent.

Electronic delivery by postal administrator

- 165.**—(1) Where a postal administrator gives, sends or delivers a notice or other document to any person by electronic means, the notice or document must contain or be accompanied by a statement that the recipient may request a hard copy of the notice or document and specifying a telephone number, e-mail address and postal address which may be used to request a hard copy.
- (2) Where a hard copy of the notice or other document is requested, it must be sent within 5 business days of receipt of the request by the postal administrator.
- (3) A postal administrator must not require a person making a request under paragraph (2) of this Rule to pay a fee for the supply of the document.

Use of websites by postal administrator

- 166.**—(1) This Rule applies for the purposes of sections 246B (use of websites) of the 1986 Act.
- (2) A postal administrator required to give, deliver or send a document to any person may (other than in a case where personal service is required) satisfy that requirement by sending that person a notice—
 - (a) stating that the document is available for viewing and downloading on a website;
 - (b) specifying the address of that website together with any password necessary to view and download the document from that site; and
 - (c) containing a statement that the person to whom the notice is given, delivered or sent may request a hard copy of the document and specifying a telephone number, e-mail address and postal address which may be used to request a hard copy.
- (3) Where a notice to which this Rule applies is sent, the document to which it relates must—
 - (a) be available on the website for a period of not less than 3 months after the date on which the notice is sent; and
 - (b) must be in such a format as to enable it to be downloaded from the website within a reasonable time of an electronic request being made for it to be downloaded.
- (4) Where a hard copy of the document is requested it must be sent within 5 business days of the receipt of the request by the postal administrator.
- (5) A postal administrator must not require a person making a request under paragraph (4) of this Rule to pay a fee for the supply of the document.
- (6) Where a document is given, delivered or sent to a person by means of a website in accordance with this Rule, it is deemed to have been delivered—
 - (a) when the document was first made available on the website, or

- (b) if later, when the notice under paragraph (2) of this Rule was delivered to that person.

Special provision on account of expense as to website use

167.—(1) Where the court is satisfied that the expense of sending notices in accordance with Rule 166 would, on account of the number of persons entitled to receive them, be disproportionate to the benefit of sending notices in accordance with that Rule, it may order that the requirement to give, deliver or send a relevant document to any person may (other than in a case where personal service is required) be satisfied by the postal administrator sending each of those persons a notice—

- (a) stating that all relevant documents will be made available for viewing and downloading on a website;
- (b) specifying the address of that website together with any password necessary to view and download a relevant document from that site; and
- (c) containing a statement that the person to whom the notice is given, delivered or sent may at any time request that hard copies of all, or specific, relevant documents are sent to that person, and specifying a telephone number, e-mail address and postal address which may be used to make that request.

(2) A document to which this Rule relates must—

- (a) be available on the website for a period of not less than 12 months from the date when it was first made available on the website or, if later, from the date upon which the notice was sent, and
- (b) must be in such a format as to enable it to be downloaded from the website within a reasonable time of an electronic request being made for it to be downloaded.

(3) Where hard copies of relevant documents have been requested, they must be sent by the postal administrator—

- (a) within 5 business days of the receipt by the postal administrator of the request to be sent hard copies, in the case of relevant documents first appearing on the website before the request was received, or
- (b) within 5 business days from the date a relevant document first appears on the website, in all other cases.

(4) A postal administrator must not require a person making a request under paragraph (3) of this Rule to pay a fee for the supply of the document.

(5) Where a relevant document is given, delivered or sent to a person by means of a website in accordance with this Rule, it is deemed to have been delivered—

- (a) when the relevant document was first made available on the website, or
- (b) if later, when the notice under paragraph (1) of this Rule was delivered to that person.

(6) In this Rule a relevant document means any document which the postal administrator is first required to give, deliver or send to any person after the court has made an order under paragraph (1) of this Rule.

Electronic delivery of postal administration proceedings to courts

168.—(1) Except where paragraph (2) of this Rule applies or the requirements of paragraph (3) of this Rule are met, no application, notice or other document may be delivered or made to a court by electronic means.

(2) This paragraph applies where electronic delivery of documents to a court is permitted by another Rule.

(3) The requirements of this paragraph are—

- (a) the court provides an electronic working scheme for the proceedings to which the document relates; and
- (b) the electronic communication is—
 - (i) delivered and authenticated in a form which complies with the requirements of the scheme;
 - (ii) sent to the electronic address provided by the court for electronic delivery of those proceedings; and
 - (iii) accompanied by any payment due to the court in respect of those proceedings made in a manner which complies with the requirements of the scheme.

(4) In this Rule “an electronic working scheme” means a scheme permitting insolvency proceedings to be delivered electronically to the court set out in a practice direction.

(5) Under paragraph (3) of this Rule an electronic communication is to be treated as delivered to the court at the time it is recorded by the court as having been received.

Notice etc to joint postal administrators

169. Where there are joint postal administrators, delivery of a document to one of them is to be treated as delivery to all of them.

CHAPTER 3

Service of Court Documents

Application of CPR Part 6 to service of court documents within the jurisdiction

170.—(1) Except where different provision is made in the Rules, CPR Part 6 applies in relation to the service of court documents within the jurisdiction with such modifications as the court may direct.

(2) For the purpose of the application by this Chapter of CPR Part 6 to the service of documents in postal administration proceedings, an application commencing those proceedings is to be treated as a claim form.

Service on joint postal administrators

171. Where there are joint postal administrators, service on one of them is to be treated as service on all of them.

Application of CPR Part 6 to service of court documents outside the jurisdiction

172. CPR Part 6 applies to the service of court documents outside the jurisdiction with such modifications as the court may direct.

CHAPTER 4

Meetings

Quorum at meeting of creditors

173.—(1) Any meeting of creditors in postal administration proceedings is competent to act if a quorum is present.

(2) Subject to the next paragraph, a quorum is at least one creditor entitled to vote.

(3) For the purposes of this Rule, the reference to the creditor necessary to constitute a quorum is to those persons present or represented by proxy by any person (including the chair) and includes corporations duly represented.

(4) Where at any meeting of creditors—

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

(i) the chair alone, or

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

(b) the chair 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 must not commence until at least the expiry of 15 minutes after the time appointed for its commencement.

Remote attendance at meetings of creditors

174.—(1) This Rule applies to a request to the convener of a meeting under section 246A(9)(14) of the 1986 Act to specify a place for the meeting.

(2) The request must be accompanied by—

(a) in the case of a request by creditors, a list of the creditors making or concurring with the request and the amounts of their respective debts in the postal administration proceedings in question,

(b) in the case of a request by members, a list of the members making or concurring with the request and their voting rights, and

(c) from each person concurring, written confirmation of that person’s concurrence.

(3) The request must be made within 7 business days of the date on which the convener sent the notice of the meeting in question.

(4) Where the convener considers that the request has been properly made in accordance with the 1986 Act and this Rule, the convener must—

(a) give notice to all those previously given notice of the meeting—

(i) that it is to be held at a specified place, and

(ii) as to whether the date and time are to remain the same or not;

(b) set a venue (including specification of a place) for the meeting, the date of which must be not later than 28 days after the original date for the meeting; and

(c) give at least 14 days’ notice of that venue to all those previously given notice of the meeting;

and the notices required by sub-paragraphs (a) and (c) may be given at the same or different times.

(5) Where the convener has specified a place for the meeting in response to a request to which this Rule applies, the chair of the meeting must attend the meeting by being present in person at that place.

Action where person excluded

175.—(1) In this Rule and Rules 176 and 177 an “excluded person” means a person who—

(a) has taken all steps necessary to attend a meeting under the arrangements put in place to do so by the convener of the meeting under section 246A(6) of the 1986 Act; and

- (b) those arrangements do not permit that person to attend the whole or part of that meeting.
- (2) Where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may—
 - (a) continue the meeting;
 - (b) declare the meeting void and convene the meeting again;
 - (c) declare the meeting valid up to the point where the person was excluded and adjourn the meeting.
- (3) Where the chair continues the meeting, the meeting is valid unless—
 - (a) the chair decides in consequence of a complaint under Rule 177 to declare the meeting void and hold the meeting again; or
 - (b) the court directs otherwise.
- (4) Without prejudice to paragraph (2) of this Rule, where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may, in the chair’s discretion and without an adjournment, declare the meeting suspended for any period up to 1 hour.

Indication to excluded person

- 176.**—(1) A person who claims to be an excluded person may request an indication of what occurred during the period of that person’s claimed exclusion (an “indication”).
- (2) A request under paragraph (1) of this Rule must be made as soon as reasonably practicable and, in any event, no later than 4.00 pm on the business day following the day on which the exclusion is claimed to have occurred.
- (3) A request under paragraph (1) of this Rule must be made to—
 - (a) the chair, where it is made during the course of the business of the meeting; or
 - (b) the postal administrator where it is made after the conclusion of the business of the meeting.
- (4) Where satisfied that the person making the request is an excluded person, the person to whom the request is made under paragraph (3) of this Rule must give the indication as soon as reasonably practicable and, in any event, no later than 4.00 pm on the business day following the day on which the request was made under paragraph (1) of this Rule.

Complaint

- 177.**—(1) Any person who—
 - (a) is, or claims to be, an excluded person; or
 - (b) attends the meeting (in person or by proxy) and considers that they have been adversely affected by a person’s actual, apparent or claimed exclusion,(“the complainant”) may make a complaint.
- (2) The person to whom the complaint must be made (“the relevant person”) is—
 - (a) the chair, where it is made during the course of the meeting; or
 - (b) the postal administrator, where it is made after the meeting.
- (3) The relevant person must—
 - (a) consider whether there is an excluded person; and
 - (b) where satisfied that there is an excluded person, consider the complaint; and

- (c) where satisfied that there has been prejudice, take such action as the relevant person considers fit to remedy the prejudice.
- (4) Paragraph (5) of this Rule applies where—
 - (a) the relevant person is satisfied that the complainant is an excluded person;
 - (b) during the period of the person’s exclusion—
 - (i) a resolution was put to the meeting; and
 - (ii) voted on; and
 - (c) the excluded person asserts how the excluded person intended to vote on the resolution.
- (5) Subject to paragraph (6) of this Rule, where satisfied that the effect of the intended vote in paragraph (4) of this Rule, if cast, would have changed the result of the resolution, the relevant person must—
 - (a) count the intended vote as being cast in accordance with the complainant’s stated intention;
 - (b) amend the record of the result of the resolution; and
 - (c) where those entitled to attend the meeting have been notified of the result of the resolution, notify them of the change.
- (6) Where satisfied that more than one complainant in paragraph (4) of this Rule is an excluded person, the relevant person must have regard to the combined effect of the intended votes.
- (7) The relevant person must notify the complainant in writing of any decision.
- (8) A complaint must be made as soon as reasonably practicable and, in any event, no later than 4 pm on the business day following—
 - (a) the day on which the person was, appeared or claimed to be excluded; or
 - (b) where an indication is sought under Rule 176, the day on which the complainant received the indication.
- (9) A complainant who is not satisfied by the action of the relevant person may apply to the court for directions and any application must be made no more than 2 business days from the date of receiving the decision of the relevant person.

CHAPTER 5

Forms

Forms for use in postal administration proceedings

178.—(1) Subject to the next Rule, the forms contained in Schedule 1 to the Rules must be used in postal administration proceedings as provided for in specific Rules.

(2) The forms must be used with such variations, if any, as the circumstances may require.

(3) The Secretary of State or a postal administrator may incorporate a barcode or other reference or recognition mark into any form in Schedule 1 to the Rules a copy of which is received by any of them or is sent to any person by any of them.

Electronic submission of information instead of submission of forms to the Secretary of State, postal administrators, and of copies to the registrar of companies

179.—(1) This Rule applies in any case where information in a prescribed form is required by the Rules to be sent by any person to the Secretary of State or a postal administrator, or a copy of a prescribed form is to be sent to the registrar of companies.

(2) A requirement of the kind mentioned in paragraph (1) of this Rule is treated as having been satisfied where—

- (a) the information is submitted electronically with the agreement of the person to whom the information is sent;
 - (b) the form in which the electronic submission is made satisfies the requirements of the person to whom the information is sent (which may include a requirement that the information supplied can be reproduced in the format of the prescribed form);
 - (c) that all the information required to be given in the prescribed form is provided in the electronic submission; and
 - (d) the person to whom the information is sent can provide in legible form the information so submitted.
- (3) Where information in a prescribed form is permitted to be sent electronically under paragraph (2) of this Rule, any requirement in the prescribed form that the prescribed form be accompanied by a signature is taken to be satisfied—
- (a) if the identity of the person who is supplying the information in the prescribed form and whose signature is required is confirmed in a manner specified by the recipient, or
 - (b) where no such manner has been specified by the recipient, if the communication contains or is accompanied by a statement of the identity of the person who is providing the information in the prescribed form, and the recipient has no reason to doubt the truth of that statement.
- (4) Where information required in prescribed form has been supplied to a person, whether or not it has been supplied electronically in accordance with paragraph (2) of this Rule, and a copy of that information is required to be supplied to another person falling within paragraph (1) of this Rule, the requirements contained in paragraph (2) of this Rule apply in respect of the supply of the copy to that other person, as they apply in respect of the original.

Electronic submission of information instead of submission of forms in all other cases

180.—(1) This Rule applies in any case where Rule 179 does not apply, where information in a prescribed form is required by the Rules to be sent by any person.

(2) A requirement of the kind mentioned in paragraph (1) of this Rule is treated as having been satisfied where—

- (a) the person to whom the information is sent has agreed—
 - (i) to receiving the information electronically and to the form in which it is to be sent; and
 - (ii) to the specified manner in which paragraph (3) of this Rule is to be satisfied.
 - (b) all the information required to be given in the prescribed form is provided in the electronic submission; and
 - (c) the person to whom the information is sent can provide in legible form the information so submitted.
- (3) Any requirement in a prescribed form that it be accompanied by a signature is taken to be satisfied if the identity of the person who is supplying the information and whose signature is required, is confirmed in the specified manner.
- (4) Where information required in a prescribed form has been supplied to a person, whether or not it has been supplied electronically in accordance with paragraph (2) of this Rule, and a copy of that information is required to be supplied to another person falling within paragraph (1) of this Rule, the requirements contained in paragraph (2) of this Rule apply in respect of the supply of the copy to that other person, as they apply in respect of the original.

CHAPTER 6

Gazette Notices

Contents of notices to be gazetted under the 1986 Act or the Rules

181.—(1) Where under the 1986 Act or the Rules a notice is gazetted, in addition to any content specifically required by the 1986 Act or any other provision of the Rules, the content of such a notice must be as set out in this Chapter.

(2) All notices published must specify insofar as it is applicable in relation to the particular notice—

- (a) the name and postal address of the postal administrator acting in the proceedings;
- (b) the date of the postal administrator’s appointment;
- (c) either an e-mail address, or a telephone number, through which the postal administrator may be contacted;
- (d) the name of any person other than the postal administrator (if any) who may be contacted regarding the proceedings;
- (e) the number assigned to the postal administrator by the Secretary of State;
- (f) the court name and any number assigned to the proceedings by the court;
- (g) the registered name of the company;
- (h) its registered number;
- (i) its registered office, or if an unregistered company, the postal address of its principal place of business;
- (j) any principal trading address if this is different from its registered office;
- (k) any name under which it was registered in the 12 months prior to the date of the commencement of the proceedings which are the subject of the Gazette notice; and
- (l) any name or style (other than its registered name) under which—
 - (i) the company carried on business; and
 - (ii) any debt owed to a creditor was incurred.

Omission of unobtainable information

182. Information required under this Chapter to be included in a notice to be gazetted may be omitted if it is not reasonably practicable to obtain it.

The Gazette—general

183.—(1) A copy of the Gazette containing any notice required by the 1986 Act or the Rules to be gazetted is evidence of any facts stated in the notice.

(2) In the case of an order of the court notice of which is required by the 1986 Act or the Rules to be gazetted, a copy of the Gazette containing the notice may in any proceedings be produced as conclusive evidence that the order was made on the date specified in the notice.

(3) Where an order of the court which is gazetted has been varied, and where any matter has been erroneously or inaccurately gazetted, the person whose responsibility it was to procure the requisite entry in the Gazette must as soon as is reasonably practicable cause the variation of the order to be gazetted or a further entry to be made in the Gazette for the purpose of correcting the error or inaccuracy.

CHAPTER 7

Notices Advertised Otherwise than in the Gazette

Notices otherwise advertised under the 1986 Act or the Rules

184.—(1) Where under the 1986 Act or the Rules a notice may be advertised otherwise than in the Gazette, in addition to any content specifically required by the 1986 Act or any other provision of the Rules, the content of such a notice must be as set out in this Chapter.

(2) All notices published must specify insofar as it is applicable in relation to the particular notice—

- (a) the name and postal address of the postal administrator acting in the proceedings to which the notice relates;
- (b) either an e-mail address, or a telephone number, through which the postal administrator may be contacted;
- (c) the registered name of the company;
- (d) its registered number;
- (e) any name under which it was registered in the 12 months prior to the date of the commencement of the proceedings which are the subject of the notice; and
- (f) any name or style (other than its registered name) under which—
 - (i) the company carried on business; and
 - (ii) any debt owed to a creditor was incurred.

Non-Gazette notices—other provisions

185.—(1) The information required to be contained in a notice to which this Chapter applies must be included in the advertisement of that notice in a manner that is reasonably likely to ensure, in relation to the form of the advertising used, that a person reading, hearing or seeing the advertisement, will be able to read, hear or see that information.

(2) Information required under this Chapter to be included in a notice may be omitted if it is not reasonably practicable to obtain it.

CHAPTER 8

Notifications to the Registrar of Companies

Application of this Chapter

186. This Chapter applies where under the 1986 Act or the Rules information is to be sent or delivered to the registrar of companies.

Information to be contained in all notifications to the registrar

187. Where under the 1986 Act or the Rules a return, notice, or any other document or information is to be sent to the registrar of companies, that notification must specify—

- (a) the registered name of the company;
- (b) its registered number;
- (c) the nature of the notification;
- (d) the section of the 1986 Act or the Rule under which the notification is made;
- (e) the date of the notification;

- (f) the name and postal address of person making the notification;
 - (g) the capacity in which that person is acting in respect of the company; and
- the notification must be authenticated by the person making the notification.

Notifications relating to the office of postal administrator

188. In addition to the information required by Rule 187, a notification relating to the office of the postal administrator must also specify—

- (a) the name of the postal administrator;
- (b) the date of the event notified;
- (c) where the notification relates to an appointment, the person, body or court making the appointment;
- (d) where the notification relates to the termination of an appointment, the reason for that termination (for example, resignation); and
- (e) the postal address of the postal administrator.

Notifications relating to documents

189. In addition to the information required by Rule 187 notification relating to a document (for example, a statement of affairs) must also specify—

- (a) the nature of the document; and
- (b) the date of the document; or
- (c) where the document relates to a period of time (for example a report) the period of time to which the document relates.

Notifications relating to court orders

190. In addition to the information required by Rule 187, a notification relating to a court order must also specify—

- (a) the nature of the court order; and
- (b) the date of the order.

Returns or reports of meetings

191. In addition to the information required by Rule 187, the notification of a return or a report of a meeting must specify—

- (a) the purpose of the meeting including the section of the 1986 Act or Rule under which it was convened;
- (b) the venue fixed for the meeting;
- (c) whether a required quorum was present for the meeting to take place; and
- (d) if the meeting took place, the outcome of the meeting (including any resolutions passed at the meeting).

Notifications relating to other events

192. In addition to the information required by Rule 187, a notification relating to any other event (for example the coming in to force of a moratorium) must specify—

- (a) the nature of the event including the section of the 1986 Act or Rule under which it took place; and
- (b) the date the event occurred.

Notifications of more than one nature

193. A notification which includes a notification of more than one nature must satisfy the requirements applying in respect of each of those notifications.

Notifications made to other persons at the same time

194.—(1) Where under the 1986 Act or the Rules a notice or other document is to be sent to another person at the same time that it is to be sent to the registrar of companies, that requirement may be satisfied by sending to that other person a copy of the notification sent to the registrar of companies.

(2) Paragraph (1) of this Rule does not apply—

- (a) where a form is prescribed for the notification to the other person; or
- (b) where the notification to the registrar of companies is incomplete.

CHAPTER 9

Inspection of Documents and the Provision of Information

Confidentiality of documents—grounds for refusing inspection

195.—(1) Where in postal administration proceedings the postal administrator considers that a document forming part of the records of those proceedings—

- (a) should be treated as confidential, or
- (b) is of such a nature that its disclosure would be prejudicial to the conduct of the proceedings or might reasonably be expected to lead to violence against any person,

the postal administrator may decline to allow it to be inspected by a person who would otherwise be entitled to inspect it.

(2) Where under this rule the postal administrator determines to refuse inspection of a document, the person wishing to inspect it may apply to the court for that determination to be overruled and the court may either overrule it altogether or sustain it subject to such conditions (if any) as it thinks just.

Right to copy documents

196. Where the 1986 Act or the Rules confer a right for any person to inspect documents, the right includes that of taking copies of those documents, on payment—

- (a) in the case of documents on the court's file of proceedings, of the fee chargeable under any order made under section 92 of the Courts Act 2003(15), and
- (b) in any other case, of the appropriate fee.

Charges for copy documents

197. Except where prohibited by the Rules, a postal administrator is entitled to require the payment of the appropriate fee for the supply of documents requested by a creditor or member.

(15) 2003 c. 39, as amended by the Constitutional Reform Act 2005 (c. 4).

Right to have list of creditors

198.—(1) In postal administration proceedings a creditor has the right to require the postal administrator to provide a list of the creditors and the amounts of their respective debts unless paragraph (4) of this Rule applies.

(2) The postal administrator on being required to furnish the list under paragraph (1) of this Rule—

(a) as soon as reasonably practicable must send it to the person requiring the list to be furnished; and

(b) may charge the appropriate fee for doing so.

(3) The name and address of any creditor may be omitted from the list furnished under paragraph (2) of this Rule where the postal administrator is of the view that its disclosure would be prejudicial to the conduct of the proceedings or might reasonably be expected to lead to violence against any person provided that—

(a) the amount of the debt in question is shown in the list; and

(b) a statement is included in the list that the name and address of the creditor has been omitted in respect of that debt.

(4) Paragraph (1) of this Rule does not apply where a statement of affairs has been delivered to the registrar of companies.

CHAPTER 10

Computation of Time and Time Limits

Time limits

199.—(1) The provisions of CPR rule 2.8 (time) apply, as regards computation of time, to anything required or authorised to be done by the Rules.

(2) The provisions of CPR rule 3.1(2)(a) (the court's general powers of management) apply so as to enable the court to extend or shorten the time for compliance with anything required or authorised to be done by the Rules.

CHAPTER 11

Security

Postal administrator's security

200.—(1) Wherever under the Rules any person has to appoint a person to the office of postal administrator that person must, before making the appointment, be satisfied that the person appointed or to be appointed has security for the proper performance of the office of postal administrator.

(2) In any postal administration proceedings the cost of the postal administrator's security shall be defrayed as an expense of the postal administration.

CHAPTER 12

Notice of Order Under Section 176A(5) of the 1986 Act

Notice of order under section 176A(5) of the 1986 Act

201.—(1) Where the court makes an order under section 176A(5) of the 1986 Act, it must as soon as reasonably practicable send two sealed copies of the order to the applicant and a sealed copy to the postal administrator.

(2) Where the court has made an order under section 176A(5) of the 1986 Act, the postal administrator must as soon as reasonably practicable, give notice to each creditor of whose address and claim they are aware.

(3) Paragraph (2) of this Rule does not apply where the court directs otherwise.

(4) The court may direct that the requirement in paragraph (2) of this Rule is complied with if a notice has been published by the postal administrator which, in addition to containing the standard contents, states that the court has made an order disapplying the requirement to set aside the prescribed part.

(5) As soon as reasonably practicable the notice—

(a) must be gazetted; and

(b) may be advertised in such other manner as the postal administrator thinks fit.

(6) The postal administrator must send a copy of the order to the registrar of companies as soon as reasonably practicable after the making of the order.

PART 16

Interpretation and application

Introductory

202. This Part of the Rules has effect for their interpretation and application; and any definition given in this Part applies except, and in so far as, the context otherwise requires.

“The appropriate fee”

203. “The appropriate fee” means 15 pence per A4 or A5 page, and 30 pence per A3 page.

“Authorised deposit-taker and former authorised deposit-taker”

204.—(1) “Authorised deposit-taker” means a person with permission under Part 4A(16) of the Financial Services and Markets Act 2000 to accept deposits.

(2) “Former authorised deposit-taker” means a person who—

(a) is not an authorised deposit-taker,

(b) was formerly an authorised institution under the Banking Act 1987(17), or a recognised bank or a licensed institution under the Banking Act 1979(18), and

(c) continues to have liability in respect of any deposit for which it had a liability at a time when it was an authorised institution, recognised bank or licensed institution.

(3) Paragraphs (1) and (2) of this Rule must be read with—

(a) section 22(19) of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.

(16) Part 4A of the Financial Services and Markets Act 2000 was substituted for Part 4 of that Act by section 11(2) of the Financial Services Act 2012 c. 21.

(17) 1987 c. 22; repealed by S.I. 201/3649, article 3(1)(d).

(18) 1979 c. 37; repealed by the Banking Act 1987, section 108, Schedule 7, Part 1.

(19) Section 22 was amended by section 7 of the Financial Services Act 2012 c.

“The court”; “the registrar”

205.—(1) Anything to be done under or by virtue of the 1986 Act or the Rules by, to or before the court may be done by, to or before a judge, district judge or the registrar.

(2) The registrar or district judge may authorise any act of a formal or administrative character which is not by statute the registrar’s or district judge’s responsibility to be carried out by the chief clerk or any other officer of the court acting on the registrar’s behalf, in accordance with directions given by the Lord Chancellor.

(3) “the registrar” means—

- (a) a Registrar in Bankruptcy of the High Court
- (b) where the proceedings are in the District Registry of Birmingham, Bristol, Caernarfon, Cardiff, Leeds, Liverpool, Manchester, Mold, Newcastle-upon-Tyne or Preston, a district judge attached to the District Registry in question.

“Debt”, “liability”

206.—(1) “Debt”, in relation to the postal administration of a company, means (subject to the next paragraph) any of the following—

- (a) any debt or liability to which the company is subject at the date on which the company entered postal administration;
- (b) any debt or liability to which the company may become subject after that date by reason of any obligation incurred before that date; and
- (c) any interest provable as mentioned in Rule 58.

(2) For the purposes of any provision of the 1986 Act or the Rules about postal administration, any liability in tort is a debt provable in the postal administration, if either—

- (a) the cause of action has accrued at the date on which the company entered postal administration; or
- (b) all the elements necessary to establish the cause of action exist at that date except for actionable damage.

(3) For the purposes of references in any provision of the 1986 Act or the Rules about postal administration to a debt or liability, it is immaterial whether the debt or liability is present or future, whether it is certain or contingent, or whether its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion; and references in any such provision to owing a debt are to be read accordingly.

(4) In any provision of the 1986 Act or the Rules about postal administration, except in so far as the context otherwise requires, “liability” means (subject to paragraph (3) of this Rule) a liability to pay money or money’s worth, including any liability under an enactment, any liability for breach of trust, any liability in contract, tort or bailment, and any liability arising out of an obligation to make restitution.

“Petitioner”

207. In winding-up, references to “the petitioner” include any person who has been substituted as such.

“Venue”

208. References to the “venue” for any proceeding or attendance before the court, or for a meeting, are to the time, date and place for the proceeding, attendance or meeting.

Expressions used generally

209.—(1) “Business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of England and Wales under or by virtue of the Banking and Financial Dealings Act 1971(20).

(2) “File in court” and “file with the court” means deliver to the court for filing.

(3) “The Gazette” means the London Gazette.

(4) “gazetted” means advertised once in the Gazette.

(5) “Practice direction” means a direction as to the practice and procedure of any court within the scope of the CPR.

(6) “Prescribed part” has the same meaning as it does in section 176A(2)(a) of the 1986 Act and the Insolvency Act 1986 (Prescribed Part) Order 2003(21).

(7) “Standard contents” means—

(a) in relation to a notice to be gazetted, the contents specified in Rule 181; and

(b) in relation to a notice to be advertised in any other way, the contents specified in Rule 184.

(8) A “certificate of service” means a certificate of service verified by a statement of truth.

(9) A “statement of truth” means a statement of truth in accordance with CPR Part 22.

(10) A “witness statement” means a witness statement verified by a statement of truth in accordance with CPR Part 22.

Application

210. The Rules apply to postal administration proceedings commenced on or after the date on which the Rules come into force. Nothing in the Insolvency Rules shall apply to such proceedings commenced on or after that date.

Application of the 1986 Act

211. For the purposes of the Rules, any reference in the 1986 Act to “leave” of the court is to be construed as meaning “permission” of the court.

Signed, by authority of the Lord Chancellor

18th December 2013

Shailesh Vara
Parliamentary Under Secretary of State
Ministry of Justice

(20) 1971 c. 80.

(21) S.I. 2003/2097.

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

I concur, by authority of the Lord Chief Justice

18th December 2013

Terence Etherton
The Chancellor of the High Court

I concur, on behalf of the Secretary of State

17th December 2013

Jo Swinson
Parliamentary Under Secretary of State for
Employment Relations and Consumer Affairs
Department for Business, Enterprise and Skills