
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 12

COURT PROCEDURE AND PRACTICE

CHAPTER 1

General

Application of the Civil Procedure Rules 1998

Court rules and practice to apply

12.1.—(1) The provisions of the CPR (including any related Practice Directions) apply for the purposes of proceedings under Parts 1 to 11 of the Act with any necessary modifications, except so far as disapplied by or inconsistent with these Rules.

(2) All insolvency 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 directions questionnaires and track allocation do not apply.

(3) CPR Part 32(1) applies to a false statement in a document verified by a statement of truth made under these Rules as it applies to a false statement in a document verified by a statement of truth made under CPR Part 22(2).

Performance of functions by the Court

12.2.—(1) Anything to be done under or by virtue of the Act or these Rules by, to or before the court may be done by, to or before a judge, District Judge or a registrar.

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

(3) The hearing of an application must be in open court unless the court directs otherwise.

CHAPTER 2

Commencement of insolvency proceedings in the County Court

[A document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

(1) The relevant part of Part 32 is amended by S.I. 2012/2208.

(2) The relevant part of Part 22 is amended by S.I.s 2001/1769, 2001/4015 and 2014/3419.

Commencement of insolvency proceedings under Parts 1 to 7 of the Act (corporate insolvency proceedings)

12.3.—(1) Where section 117(3) of the Act, as extended in its application by section 251, gives jurisdiction to the County Court in respect of proceedings under Parts 1 to 7 of the Act any such proceedings when they are commenced in the County Court may only be commenced in the hearing centre which serves the area in which the company's registered office is situated.

(2) However if the registered office is situated in an area served by a hearing centre for which Schedule 6 lists an alternative court or hearing centre then any such proceedings in the County Court may only be commenced in that alternative court or hearing centre.

Commencement of insolvency proceedings under Parts 7A to 11 of the Act (personal insolvency proceedings; bankruptcy)

12.4.—(1) Proceedings under Parts 7A(4) to 11 of the Act that are allocated in accordance with rule 12.5 to the London Insolvency District when they are commenced in the County Court may only be commenced in the County Court at Central London.

(2) Elsewhere such proceedings when they are commenced in the County Court may only be commenced in the hearing centre determined in accordance with these Rules.

(3) However if the hearing centre so determined is one for which Schedule 6 lists an alternative hearing centre then such proceedings when they are commenced in the County Court may only be commenced in that alternative hearing centre.

Allocation of proceedings to the London Insolvency District

12.5. The following proceedings are allocated to the London Insolvency District—

- (a) bankruptcy petitions or applications in relation to a debt relief order under section 251M (powers of court in relation to debt relief orders) or 251N (inquiry into debtor's dealings and property) where—
 - (i) the debtor is resident in England and Wales and within the six months immediately preceding the presentation of the petition or the making of the application the debtor carried on business within the area of the London Insolvency District—
 - (aa) for the greater part of those six months, or
 - (bb) for a longer period in those six months than in any other insolvency district,
 - (ii) the debtor is resident in England and Wales and within the six months immediately preceding the presentation of the petition or the making of the application the debtor did not carry on business in England and Wales but resided within the area of the London Insolvency District for—
 - (aa) the greater part of those six months, or
 - (bb) a longer period in those six months than in any other insolvency district,
 - (iii) the debtor is not resident in England and Wales but within the six months immediately preceding the presentation of the petition or the making of the application carried on business within the area of the London Insolvency District,

(3) Section 117 is amended by regulation 6 of [S.I. 2002/1240](#); by paragraphs 185 and 186 of Schedule 4 to the Constitutional Reform Act 2005 (c.4); and by paragraph 93(a) and 93(b) of Schedule 9 to the Crime and Courts Act 2013 (c.22). Section 117 only gives jurisdiction to the County Court in relation to winding up proceedings. In so far as rule 12.2 relates to corporate insolvency proceedings under Parts 1 to 7 other than winding up proceedings the rule relies on section 251 of the Act which defines "court" for the purposes of Parts 1 to 7 of the Act as meaning in relation to a company the court that has jurisdiction to wind up the company.

(4) Part 7A is inserted by Schedule 17 to the Tribunals, Courts and Enforcement Act 2007 (c.15).

- (iv) the debtor is not resident in England and Wales and within the 6 months immediately preceding the presentation of the petition or the making of the application did not carry on business in England and Wales but resided within the area of the London Insolvency District, or
- (v) the debtor is not resident in England and Wales and within the 6 months immediately preceding the presentation of the petition or the making of the application the debtor neither carried on business nor resided in England and Wales;
- (b) creditors' bankruptcy petitions presented by a Minister of the Crown or a Government Department, where either—
 - (i) in any statutory demand on which the petition is based the creditor has indicated the intention to present a bankruptcy petition to a court exercising jurisdiction in relation to the London Insolvency District, or
 - (ii) the petition is presented under section 267(2)(c) on the grounds specified in section 268(1)(b);
- (c) bankruptcy petitions—
 - (i) where the petitioner is unable to ascertain the place where the debtor resides or, if the debtor carries on business in England and Wales, both where the debtor resides and where the debtor carries on business, or
 - (ii) where the debtor is a member of a partnership and—
 - (aa) the partnership is being wound up by the High Court sitting in London; or
 - (bb) a petition for the winding up of the partnership has been presented to the High Court sitting in London and at the time of the presentation of the bankruptcy petition, the petition for the winding up of the partnership has not been fully disposed of; and
- (d) bankruptcy petitions based on criminal bankruptcy orders under section 264(1)(d).

CHAPTER 3

Making applications to court: general

[Note: (1) a document required by the Act or these Rules must also contain the standard contents set out in Part 1 and an application to court must also contain the standard contents set out in rule 1.35; (2) Paragraphs 3 and 4 of Schedule 5 make provision in relation to the court's power to extend the time for doing anything required by these Rules; (3) the rules about the applications referred to in rule 12.6 are found in Chapter 2 of Part 3 (administration applications); Chapter 3 of Part 7 (petition for winding up order by creditor) and Chapter 4 of Part 7 (petition for winding up by contributory or office-holder) and Chapter 2 of Part 10 (creditor's bankruptcy petitions).]

Preliminary

12.6. This Chapter applies to an application made to the court except—

- (a) an administration application under Part 2 of the Act;
- (b) a petition for a winding-up order under Part 4 of the Act; and
- (c) a creditor's petition for a bankruptcy order under Part 9 of the Act.

Filing of application

[Note: see rule 1.46 for electronic delivery of documents to the court.]

12.7. An application filed with the court in hard-copy form must be accompanied by one copy and a number of additional copies equal to the number of persons who are to be served with the application.

Fixing the venue

12.8. When an application is filed the court must fix a venue for it 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 12.12 applies.

Service or delivery of application

12.9.—(1) The applicant must serve a sealed copy of the application, endorsed with the venue for the hearing, on the respondent named in the application unless the court directs or these Rules provide otherwise.

(2) The court may also give one or more of the following directions—

- (a) that the application be served upon persons other than those specified by the relevant provision of the Act or these Rules;
- (b) that service upon, or the delivery of a notice to any person may be dispensed with;
- (c) that such persons be notified of the application and venue in such other a way as the court specifies; or
- (d) such other directions as the court sees fit.

(3) A sealed copy of the application must be served, or notice of the application and venue must be delivered, at least 14 days before the date fixed for its hearing unless—

- (a) the provision of the Act or these Rules under which the application is made makes different provision;
- (b) the case is urgent and the court acts under rule 12.10; or
- (c) the court extends or abridges the time limit.

Hearing in urgent case

12.10.—(1) Where the case is urgent, the court may (without prejudice to its general power to extend or abridge time limits) hear the application immediately with or without notification to, or the attendance of, other parties.

(2) The application may be heard on terms providing for the filing or service of documents, notification, or the carrying out of other formalities as the court thinks just.

Directions

12.11. 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; and
- (d) the manner in which any evidence is to be provided and in particular as to—
 - (i) the taking of evidence wholly or partly by witness statement or orally,

- (ii) any report to be made by an office-holder, and
- (iii) the cross-examination of the maker of a witness statement or of a report.

Hearing and determination without notice

12.12.—(1) Where the Act and these Rules do not require service of a sealed copy of the application on, or notice of it to be delivered to, any person, the court may—

- (a) hear the application as soon as reasonably practicable;
- (b) fix a venue for the application to be heard, in which case rule 12.9 applies to the extent that it is relevant; or
- (c) determine the application without a hearing.

(2) However nothing in the Act or these Rules is to be taken as prohibiting the applicant from giving notice.

Adjournment of the hearing of an application

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

(2) The court may give directions as to the manner in which any evidence is to be provided 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 an office-holder.

CHAPTER 4

Making applications to court: specific applications

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Sub-division A: Applications in connection with section 176A (prescribed part)

Applications under section 176A(5) to disapply section 176A

12.14.—(1) An application under section 176A(5) must be accompanied by a witness statement of the liquidator, administrator or receiver.

(2) The witness statement must state—

- (a) the type of insolvency proceedings in which the application arises;
- (b) a summary of the financial position of the company;
- (c) the information substantiating the applicant's view that the cost of making a distribution to unsecured creditors would be disproportionate to the benefits; and
- (d) whether any other office-holder is acting in relation to the company and, if so, that office-holder's address.

Notice of application under section 176A(5)

12.15.—(1) An application under section 176A(5) may be made without the application being served upon, or notification to any other party.

(2) However the office-holder making the application must notify any other office-holder who is acting in relation to the company including any member State liquidator.

Notice of an order under section 176A(5)

12.16.—(1) Where the court makes an order under section 176A(5), the court must, as soon as reasonably practicable, deliver the sealed order to the applicant and a sealed copy to any other office-holder.

(2) The liquidator, administrator or receiver must, as soon as reasonably practicable, deliver notice of the order to each creditor unless the court directs otherwise.

(3) The court may direct that the requirement in paragraph (2) is complied with if a notice is published by the liquidator, administrator or receiver which states that the court has made an order disapplying the requirement to set aside the prescribed part.

(4) As soon as reasonably practicable the notice—

(a) must be gazetted; and

(b) may be advertised in such other manner as the liquidator, administrator, or receiver thinks fit.

(5) The liquidator, administrator or receiver must deliver a copy of the order to the registrar of companies as soon as reasonably practicable after the making of the order.

Sub-division B: Applications for private examination (sections 236, 251N and 366)

[Note: for rules about public examinations see Chapter 13 of Part 7 and Chapter 8 of Part 10.]

Application of this sub-division and interpretation

12.17.—(1) The rules in this sub-division apply to applications to the court for an order under—

(a) section 236 (inquiry into company’s dealings);

(b) section 251N (debt relief orders – inquiry into dealings and property of debtor); and

(c) section 366 (inquiry into bankrupt’s dealings and property) including section 366 as it applies by virtue of section 368.

(2) In this sub-division—

“applicable section” means section 236, 251N or 366; and

“the insolvent” means the company, the debtor or the bankrupt as the case may be.

Contents of application

12.18.—(1) An application to the court under section 236, 251N or 366 must state—

(a) the grounds on which it is made; and

(b) which one or more of the following orders is sought—

(i) for the respondent to appear before the court,

(ii) for the respondent to clarify any matter which is in dispute in the proceedings or to give additional information in relation to any such matter (if so Part 18 CPR (further information) applies to any such order),

(iii) for the respondent to submit witness statements (if so, particulars must be given of the matters to be included), or

(iv) for the respondent to produce books, papers or other records (if so, the items in question to be specified).

(2) An application under an applicable section may be made without notice to any other party.

(3) The court may, whatever the order sought in the application, make any order which it has power to make under the applicable section.

Order for examination etc.

12.19.—(1) Where the court orders the respondent to appear before it, it must specify the venue for the appearance.

(2) The date must not be less than 14 days from the date of the order.

(3) If the respondent is ordered to file with the court a witness statement or a written account, the order must specify—

(a) the matters which are to be dealt with in it; and

(b) the time within which it is to be delivered.

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

(5) The applicant must serve a copy of the order on the respondent as soon as reasonably practicable.

Procedure for examination

12.20.—(1) The applicant may attend an examination of the respondent, in person, or be represented by an appropriately qualified legal representative, and may put such questions to the respondent as the court may allow.

(2) Unless the applicant objects, the following persons may attend the examination with the permission of the court and may put questions to the respondent (but only through the applicant)—

(a) any person who could have applied for an order under the applicable section; and

(b) any creditor who has provided information on which the application was made under section 236 or 366.

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

(4) The respondent may employ an appropriately qualified legal representative at the respondent's own expense, who may—

(a) put to the respondent such questions as the court may allow for the purpose of enabling the respondent to explain or qualify any answers given by the respondent; and

(b) make representations on the respondent's behalf.

(5) Such written record of the examination must be made as the court thinks proper and such record must be read either to or by the respondent and authenticated by the respondent at a venue fixed by the court.

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

Record of examination

12.21.—(1) Unless the court otherwise directs, the record of questions put to the respondent, the respondent's answers and any witness statement or written account delivered to the court by the respondent in compliance with an order of the court under the applicable section are not to be filed with the court.

(2) The documents listed in paragraph (3) may not be inspected without the permission of the court, except by—

- (a) the applicant for an order under the applicable section; or
- (b) any person who could have applied for such an order in relation to the affairs of the same insolvent.

(3) The documents are—

- (a) the 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 that shows the grounds for the application for the 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 provision of copies of, or extracts from, such documents.

Costs of proceedings under sections 236, 251N and 366

12.22.—(1) Where the court has ordered an examination of a person under an applicable section, 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 respondent pay the costs of the examination.

(2) Where the court makes an order against a person under—

- (a) section 237(1) or 367(1) (to deliver up property in any person's possession which belongs to the insolvent estate); or
- (b) section 237(2) or 367(2) (to pay any amount in discharge of a debt due to the insolvent);

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), the applicant's costs must, unless the court orders otherwise, be paid—

- (a) in relation to a company insolvency, as an expense of the insolvency proceedings; and
- (b) in relation to an individual insolvency, but not in proceedings relating to debt relief orders or applications for debt relief orders, out of the bankrupt's estate or (as the case may be) the debtor's property.

(4) A person summoned to attend for examination must be tendered a reasonable sum for travelling expenses incurred in connection with that person's attendance but any other costs falling on that person are at the court's discretion.

(5) Where the examination is on the application of the official receiver otherwise than in the capacity of liquidator or trustee, no order may be made for the payment of costs by the official receiver.

Sub-division C – persons unable to manage own property or affairs

Application and interpretation

12.23.—(1) This sub-division applies where it appears to the court in insolvency proceedings that a person affected by the proceedings is unable to manage and administer that person’s own property and affairs by reason of —

- (a) lacking capacity within the meaning of the Mental Capacity Act 2005(5);
 - (b) suffering from a physical affliction; or
 - (c) disability.
- (2) Such a person is referred to in this sub-division as “the incapacitated person”.

Appointment of another person to act

12.24.—(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 a particular application or proceeding, or for the exercise of particular rights or powers which the incapacitated person might have exercised but for that person’s 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;
 - (b) any person who appears to the court to be a suitable person to make the application;
 - (c) the official receiver; or
 - (d) the office-holder.

(4) An application may be made without notice to any other party.

(5) However the court may require such notice of the application as it thinks necessary to be delivered to the incapacitated person, or any other person, and may adjourn the hearing of the application to enable the notice to be delivered.

Witness statement in support of application

12.25. An application under rule 12.24(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

12.26. Any notice served on, or sent to, a person appointed under rule 12.24 has the same effect as if it had been served on, or delivered to, the incapacitated person.

CHAPTER 5

Obtaining information and evidence

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Further information and disclosure

- 12.27.**—(1) A party to insolvency proceedings in court may apply to court for an order—
- (a) that in accordance with CPR Part 18 (further information)(6) another party—
 - (i) clarify a matter that is in dispute in the proceedings, or
 - (ii) give additional information in relation to such a matter; or
 - (b) for disclosure from any person in accordance with CPR Part 31 (disclosure and inspection of documents)(7).
- (2) An application under this rule may be made without notice to any other party.

Witness statements and reports

- 12.28.**—(1) Where the Act or these Rules require evidence as to a matter, such evidence may be given by witness statement unless—
- (a) in a specific case a rule or the Act makes different provision; or
 - (b) the court otherwise directs.
- (2) Unless either the provision of the Act or rule under which the application is made provides otherwise, or the court directs otherwise—
- (a) if the applicant intends to rely at the first hearing on evidence in a witness statement or report, the applicant must file the witness statement or report with the court and serve a copy of it on the respondent not less than 14 days before the date fixed for the hearing; and
 - (b) where the respondent intends to oppose the application and rely for that purpose on evidence contained in a witness statement or report, the respondent must file the witness statement or report with the court and serve a copy on the applicant not less than five business days before the date fixed for the hearing.
- (3) The court may order a person who has made a witness statement or report to attend for cross-examination.
- (4) Where a person who has been ordered to attend fails to do so the witness statement or report must not be used in evidence without the court's permission.

Evidence provided by the official receiver, an insolvency practitioner or a special manager

- 12.29.**—(1) Where in insolvency proceedings a witness statement is made by an office-holder, the office-holder must state—
- (a) the capacity in which the office-holder is acting; and
 - (b) the office-holder's address.
- (2) The following may file a report with the court instead of a witness statement in all insolvency proceedings—
- (a) the official receiver; and
 - (b) the adjudicator.
- (3) The following may file a report with the court instead of a witness statement unless the application involves other parties or the court otherwise directs—
- (a) an administrator;
 - (b) a provisional liquidator;

(6) There is an amendment to Part 18 which is not relevant to these Rules.

(7) Part 31 has been amended by S.I.s 2000/221, 2001/4015, 2010/1953, 2011/88, 2012/2208, and 2013/262.

- (c) a liquidator;
- (d) an interim receiver;
- (e) a trustee; and
- (f) a special manager.

(4) Where a report is filed instead of a witness statement, the report must be treated for the purpose of rule 12.28 and any hearing before the court as if it were a witness statement.

CHAPTER 6

Transfer of proceedings

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Sub-division A : General

General power of transfer

12.30.—(1) The High Court may order insolvency proceedings which are pending in that court to be transferred to a specified hearing centre.

(2) The County Court may order insolvency proceedings which are pending in a hearing centre to be transferred either to the High Court or another hearing centre.

(3) A judge of the High Court may order insolvency proceedings which are pending in the County Court to be transferred to the High Court.

(4) The court may order a transfer of proceedings—

- (a) of its own motion;
- (b) on the application of the official receiver; or
- (c) on the application of a person appearing to the court to have an interest in the proceedings.

(5) Winding-up proceedings may only be transferred to a hearing centre in which proceedings to wind up companies may be commenced under the Act or to the County Court at Central London.

(6) Bankruptcy proceedings or proceedings relating to a debt relief order may only be transferred to a hearing centre in which bankruptcy proceedings may be commenced under the Act.

(7) A case in a schedule under rule 12.37(8) may be transferred solely for the purposes of rule 12.38 (action following application for a block transfer order) by—

- (a) the registrar to or from the High Court; and
- (b) the District Judge of the hearing centre to which the application is made, to or from that hearing centre.

Proceedings commenced in the wrong court

12.31. Where insolvency proceedings are commenced in the wrong court or hearing centre, that court may order—

- (a) the proceedings be transferred to the court or hearing centre in which they ought to have been commenced;
- (b) the proceedings be continued in the court in which they have been commenced; or
- (c) the proceedings be struck out.

Applications for transfer

12.32.—(1) An application by the official receiver for proceedings to be transferred must be accompanied by a report by the official receiver.

- (2) The report must set out the reasons for the transfer, and include a statement either that—
- (a) the petitioner, or the debtor in proceedings relating to a debt relief order, consents to the transfer; or
 - (b) the petitioner or such a debtor has been given at least 14 days' notice of the official receiver's application.

(3) If the court is satisfied from the report that the proceedings can be conducted more conveniently in another court or hearing centre, it must order that the proceedings be transferred to that court or hearing centre.

(4) A person other than the official receiver who applies for the transfer of winding up or bankruptcy proceedings or proceedings relating to a debt relief order must deliver a notice that such an application is intended to be made at least 14 days' before filing the application with the court to—

- (a) the official receiver attached to the court or hearing centre in which the proceedings are pending; and
- (b) the official receiver attached to the court or hearing centre to which it is proposed that they should be transferred.

Procedure following order for transfer

12.33.—(1) Where a court makes an order for the transfer of proceedings under rule 12.30 (other than paragraph (7) of that rule), it must as soon as reasonably practicable deliver to the transferee court or hearing centre a sealed copy of the order, and the file of the proceedings.

(2) A transferee court (or hearing centre) which receives such an order and the file in winding up or bankruptcy proceedings or proceedings relating to a debt relief order must, as soon as reasonably practicable, deliver notice of the transfer to the official receiver attached to that court or hearing centre and the transferor court respectively.

- (3) Where the High Court makes a transfer order under rule 12.30(7)—
- (a) it must deliver sealed copies of the order—
 - (i) to the hearing centre from which the proceedings are transferred, and
 - (ii) in winding up or bankruptcy proceedings or proceedings relating to a debt relief order, to the official receiver attached to that hearing centre and the High Court respectively; and
 - (b) the hearing centre must deliver the file of the proceedings to the High Court.

Consequential transfer of other proceedings

12.34.—(1) This rule applies where—

- (a) the High Court has—
 - (i) made a winding-up order,
 - (ii) appointed a provisional liquidator,
 - (iii) made a bankruptcy order, or
 - (iv) appointed an interim receiver; or
- (b) winding-up or bankruptcy proceedings have been transferred to the High Court from the County Court.

(2) A judge of any division of the High Court may, of that judge's own motion, order the transfer to that division of any such proceedings as are mentioned below and are pending against the company or individual concerned ("the insolvent") either in another division of the High Court or in a court in England and Wales other than the High Court.

(3) Paragraph (2) is subject to rule 30.5(4) CPR(8) (transfer between divisions and to and from a specialist list).

(4) The proceedings which may be transferred are those brought by or against the insolvent for the purpose of enforcing a claim against the insolvent estate, or brought by a person other than the insolvent for the purpose of enforcing any such claim (including in either case proceedings of any description by a debenture-holder or mortgagee).

(5) Where any such proceedings are transferred, they must be listed before a registrar for directions or final disposal as the registrar sees fit.

Sub-division B : Block transfer of cases where insolvency practitioner has died etc.

Interpretation

12.35. In this Sub-division—

"outgoing office-holder" has the meaning given in rule 12.36(1);

"replacement office-holder" has the meaning given in rule 12.36(1);

"block transfer order" has the meaning given in rule 12.36(2);

"substantive application" is that part of the application in rule 12.37(1)(c) and (d).

Power to make a block transfer order

12.36.—(1) This rule applies where an office-holder ('the outgoing office-holder')—

(a) dies;

(b) retires from practice; or

(c) is otherwise unable or unwilling to continue in office;

and it is expedient to transfer some or all of the cases in which the outgoing office-holder holds office to one or more office-holders ('the replacement office-holder') in a single transaction.

(2) In a case to which this rule applies the court has the power to make an order ('a block transfer order') appointing a replacement office-holder in the place of the outgoing office-holder to be—

(a) liquidator in any winding up (including a case where the official receiver is the liquidator by virtue of section 136(9));

(b) administrator in any administration;

(c) trustee in a bankruptcy (including a case where the official receiver is the trustee by virtue of section 300(10)); or

(d) supervisor of a CVA or an IVA.

(3) The replacement office-holder must be—

(a) qualified to act as an insolvency practitioner in relation to the company or bankrupt; or

(8) Rule 30.5(4) was substituted by rule 4 of SI 2014/2044.

(9) Section 136(4), (5)(a) and (c) and (6) are amended by paragraph 31 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

(10) Section 300(4) and (8) is amended, (3) is substituted and (3A) is inserted by paragraph 79 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

- (b) where the replacement office-holder is to be appointed supervisor of an IVA—
 - (i) qualified to act as an insolvency practitioner in relation to the debtor, or
 - (ii) a person authorised so to act.

Application for a block transfer order

12.37.—(1) An application for a block transfer order may be made to the registrar or District Judge for—

- (a) the transfer to the High Court of the cases specified in the schedule to the application under paragraph (8);
 - (b) the transfer of the cases back to the court or hearing centre from which they were transferred when a replacement office-holder has been appointed;
 - (c) the removal of the outgoing office-holder by the exercise of any of the powers in paragraph (2);
 - (d) the appointment of a replacement office-holder by the exercise of any of the powers in paragraph (3); or
 - (e) such other order or direction as may be necessary or expedient in connection with any of the matters referred to above.
- (2) The powers referred to in paragraph (1)(c) are those in—
- (a) section 7(5) and paragraph 39(6)(**11**) of Schedule A1 (CVA);
 - (b) section 19(**12**), paragraph 88 of Schedule B1 and rule 12.36(2) (administration);
 - (c) section 108 (voluntary winding up);
 - (d) section 172(2)(**13**) and rule 12.36(2) (winding up by the court);
 - (e) section 263(5)(**14**) (IVA); and
 - (f) section 298(**15**) and rule 12.36(2) (bankruptcy).
- (3) The powers referred to in paragraph (1)(d) are those in—
- (a) section 7(5) and paragraph 39(6) of Schedule A1 (CVA);
 - (b) section 13(**16**), paragraphs 63, 91 and 95 of Schedule B1 and rule 12.36(2) (administration);
 - (c) section 108 (voluntary winding up);
 - (d) section 168(3) and (5) and rule 12.36(2) (winding up by the court);
 - (e) section 263(5) (IVA); and
 - (f) sections 298 and 303(2) and rule 12.36(2) (bankruptcy).
- (4) Subject to paragraph (5), the application may be made by any of the following—
- (a) the outgoing office-holder (if able and willing to do so);
 - (b) any person who holds office jointly with the outgoing office-holder;

(11) Section 7(5) is amended by paragraph 20(2)(d) of Schedule 6 to the Deregulation Act 2015 (c.20) and paragraph 39(6) is amended by paragraph 20(2)(e)(iv) of Schedule 6 to the same Act.

(12) Section 19 is substituted by section 248(1) of the Enterprise Act 2002 (c.40).

(13) Section 172(2) is amended by paragraph 43(2) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

(14) Section 263(5) is amended by paragraph 2(11)(b) of Schedule 6 to the Deregulation Act 2015.

(15) Section 298(8A) is inserted and (1) is amended by paragraph 77 of Schedule 9; subsection (4) is amended and, (2) omitted and (4A) and (4B) are inserted by paragraph 9 of Schedule 10 to the Small Business, Enterprise and Employment Act 2015 (c.26) and subsections (7) and (8) are amended by paragraph 23 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c.24).

(16) Section 13 is substituted by section 248(1) of the Enterprise Act 2002.

- (c) any person who is proposed to be appointed as the replacement office-holder;
- (d) any creditor in a case subject to the application;
- (e) the recognised professional body which was the source of the outgoing office-holder's authorisation; or
- (f) the Secretary of State.

(5) Where one or more outgoing office-holder in the schedule under paragraph (8) is an administrator, an application may not be made unless the applicant is a person permitted to apply to replace that office-holder under section 13 or paragraph 63, 91 or 95 of Schedule B1 or such a person is joined as applicant in relation to the replacement of that office-holder.

(6) An applicant (other than the Secretary of State) must deliver a notice of the intended application to the Secretary of State on or before the date the application is made.

(7) The following must be made a respondent to the application and served with it—

- (a) the outgoing office-holder (if not the applicant or deceased);
- (b) any person who holds office jointly with the outgoing office-holder; and
- (c) such other person as the registrar or District Judge directs.

(8) The application must contain a schedule setting out—

- (a) identification details for the proceedings; and
- (b) the capacity in which the outgoing office-holder was appointed.

(9) The application must be supported by evidence—

- (a) setting out the circumstances as a result of which it is expedient to appoint a replacement office-holder; and
- (b) exhibiting the consent to act of each person who is proposed to be appointed as replacement office-holder.

(10) Where all the cases in the schedule under paragraph (8) are in the County Court—

- (a) the application may be made to a District Judge of a convenient hearing centre in which insolvency proceedings of such type may be commenced; and
- (b) this rule applies with appropriate modifications.

Action following application for a block transfer order

12.38.—(1) The registrar or District Judge may in the first instance consider the application without a hearing and make such order as the registrar or District Judge thinks just.

(2) In the first instance, the registrar or District Judge may do any of the following—

- (a) make an order directing the transfer to the High Court of those cases not already within its jurisdiction for the purpose only of the substantive application;
- (b) if the documents are considered to be in order and the matter is considered straightforward, make an order on the substantive application;
- (c) give any directions which are considered to be necessary including (if appropriate) directions for the joinder of any additional respondents or requiring the service of the application on any person or requiring additional evidence to be provided; or
- (d) if an order is not made on the substantive application, give directions for the further consideration of the substantive application by the registrar or District Judge or a judge of the Chancery Division.

(3) The applicant must ensure that a sealed copy of every order transferring any case to the High Court and of every order which is made on a substantive application is filed with the court having jurisdiction over each case affected by such order.

(4) In any case other than an application relating to the appointment of an administrator, in deciding to what extent (if any) the costs of making an application under this rule should be paid as an expense of the insolvency proceedings to which the application relates, the factors to which the court must have regard include—

- (a) the reasons for the making of the application;
- (b) the number of cases to which the application relates;
- (c) the value of assets comprised in those cases; and
- (d) the nature and extent of the costs involved.

(5) Where an application relates to the appointment of an administrator and is made by a person under section 13 or paragraph 63, 91 or 95 of Schedule B1, the costs of making that application are to be paid as an expense of the administration to which the application relates unless the court directs otherwise.

(6) Notice of any appointment made under this rule must be delivered—

- (a) to the Secretary of State as soon as reasonably practicable; and
- (b) to—
 - (i) the creditors, and
 - (ii) such other persons as the court may direct, in such manner as the court may direct.

(7) Where the application was made to the District Judge under rule 12.37(10) this rule applies with appropriate modifications.

CHAPTER 7

The court file

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

The court file

12.39.—(1) Where documents are filed with the court under the Act or these Rules, the court must open and maintain a court file and place those documents on the file.

(2) However where a bankruptcy file has been opened under rule 10.47, documents filed with the court under the Act or these Rules must be placed on the bankruptcy file.

(3) The following may inspect the court file, or obtain from the court a copy of the court file, or of any document in the court file—

- (a) the office-holder in the proceedings;
- (b) the Secretary of State; and
- (c) a creditor who provides the court with a statement confirming that that person is a creditor of the company or the individual to whom the proceedings relate.

(4) The same right to inspect and obtain copies is exercisable—

- (a) in proceedings under Parts 1 to 7 of the Act, by—
 - (i) an officer or former officer of the company to which the proceedings relate, or
 - (ii) a member of the company or a contributory in its winding up;
- (b) in proceedings relating to an IVA, by the debtor;

- (c) in bankruptcy proceedings, by—
 - (i) the bankrupt,
 - (ii) a person against whom a bankruptcy petition has been presented, or
 - (iii) a person who has been served with a statutory demand under section 268;
 - (d) in proceedings relating to a debt relief order, by the debtor.
- (5) The right to inspect and obtain copies may be exercised on a person's behalf by someone authorised to do so by that person.
- (6) Other persons may inspect the file or obtain copies if the court gives permission.
- (7) The right to a copy of a document is subject to payment of the fee chargeable under an order made under section 92 of the Courts Act 2003⁽¹⁷⁾.
- (8) Inspection of the file, with permission if required, may be at any reasonable time.
- (9) 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), (4) or (5) without the permission of the court.
- (10) An application for a direction under paragraph (9) may be made by—
- (a) the official receiver;
 - (b) the office-holder in the proceedings; or
 - (c) any person appearing to the court to have an interest.
- (11) The following applications may be made without notice to any other party, but the court may direct that notice must be delivered to any person who would be affected by its decision—
- (a) an application for permission to inspect the file or obtain a copy of a document under paragraph (6); and
 - (b) an application for a direction under paragraph (9).
- (12) If, for the purposes of powers conferred by the Act or these Rules, the Secretary of State or the official receiver makes a request to inspect or requests the transmission of the file of insolvency proceedings, the court must comply with the request (unless the file is for the time being in use for the court's own purposes).

Office copies of documents

12.40.—(1) The court must provide an office copy of a document from the court file to a person who has under these Rules the right to inspect the court file where that person has requested such a copy and paid the appropriate fee under rule 12.39(7).

(2) A person's right under this rule may be exercised on that person's behalf by someone authorised to do so by that person.

(3) An office copy must be in such form as the registrar or District Judge thinks appropriate, and must bear the court's seal.

CHAPTER 8

Costs

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

(17) 2003 c.39. There are amendments to section 92 which are not relevant to these Rules.

Application of Chapter and interpretation

- 12.41.**—(1) This Chapter applies to costs of and in connection with insolvency proceedings.
- (2) In this Chapter “costs” includes charges and expenses.
- (3) CPR Parts 44(**18**) and 47(**19**) (which relate to costs) apply to such costs.

Requirement to assess costs by the detailed procedure

12.42.—(1) Where the costs of any person are payable as an expense out of the insolvent estate, the amount payable must be decided by detailed assessment unless agreed between the office-holder and the person entitled to payment.

- (2) In the absence of agreement, the office-holder—
- (a) may serve notice requiring the person entitled to payment to commence detailed assessment proceedings in accordance with CPR Part 47; and
 - (b) must serve such notice (except in an administrative receivership) where a liquidation or creditors’ committee formed in relation to the insolvency proceedings resolves that the amount of the costs must be decided by detailed assessment.
- (3) Detailed assessment proceedings must be commenced in the court to which the insolvency proceedings are allocated or, where in relation to a company there is no such court, any court having jurisdiction to wind up the company.
- (4) Where the costs of any person employed by an office-holder in insolvency proceedings are required to be decided by detailed assessment or fixed by order of the court, the office-holder may make payments on account to such person in respect of those costs if 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(**20**) on the date payment was made and for the period beginning with the date of payment and ending with the date of repayment.
- (5) In any proceedings before the court (including proceedings on a petition), the court may order costs to be decided by detailed assessment.
- (6) Unless otherwise directed or authorised, the costs of a trustee in bankruptcy or a liquidator are to be allowed on the standard basis for which provision is made in—
- (a) CPR rule 44.3 (basis of assessment); and
 - (b) CPR rule 44.4 (factors to be taken into account when deciding the amount of costs).

Procedure where detailed assessment is required

- 12.43.**—(1) The costs officer must require a certificate of employment before making a detailed assessment of the costs of a person employed in insolvency proceedings by the office-holder.
- (2) The certificate must be endorsed on the bill and signed by the office-holder and must 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.

(18) Part 44 is substituted for a new Part 44 by S.I. 2013/262.

(19) Part 47 is substituted for a new Part 47 by S.I. 2013/262.

(20) Section 17 is amended by the Statute Law Revision (No 2) Act 1888 (c.57), article 2 of S.I. 1993/564, article 3 of S.I. 1998/2940, Part 1 of the Schedule to the Civil Procedure Acts Repeal Act 1879 (c.59) and article 3(c) of SI 1998/3132.

(3) A person whose costs in insolvency proceedings are required to be decided by detailed assessment must, on being required in writing to do so by the office-holder, 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 such proceedings within 3 months of being required to do so under paragraph (3), or within such further time as the court, on application, may permit, the office-holder may deal with the insolvent estate without regard to any claim for costs by that person, whose claim is forfeited by such failure to commence proceedings.

(5) Where in any such case such a claim for costs lies additionally against an office-holder in the office-holder's personal capacity, that claim is also forfeited by such failure to commence proceedings.

(6) Where costs have been incurred in insolvency proceedings in the High Court and those proceedings are subsequently transferred to the 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 of officers charged with execution of writs or other process

12.44.—(1) This rule applies where an enforcement officer, or other officer charged with execution of the writ or other process—

- (a) is required under section 184(2) or 346(2)(21) to deliver up goods or money; or
- (b) has under section 184(3) or 346(3) deducted costs from the proceeds of an execution or money paid to that officer.

(2) The office-holder may require in writing that the amount of the enforcement officer's or other officer's bill of costs be decided by detailed assessment and where such a requirement is made rule 12.43 (procedure where detailed assessment is required) applies.

(3) Where, in the case of a deduction of the kind mentioned in paragraph (1)(b), any amount deducted is disallowed at the conclusion of the detailed assessment proceedings, the enforcement officer must as soon as reasonably practicable pay a sum equal to that disallowed to the office-holder for the benefit of the insolvent estate.

Petitions presented by insolvent companies

12.45.—(1) This rule applies where a winding-up petition is presented by a company against itself.

(2) A solicitor acting for the company must in the solicitor's bill of costs give credit for any sum or security received by the solicitor as a deposit from the company on account of the costs and expenses to be incurred in respect of the filing and prosecution of the petition and the deposit must be noted by the costs officer on the final costs certificate.

(3) Where an order is made on a petition presented by the company and before the presentation of that petition a petition had been presented by a creditor, no costs are to be allowed to the company or that company's solicitor out of the insolvent estate unless the court considers that—

- (a) the insolvent estate has benefited by the company's conduct; or
- (b) there are otherwise special circumstances justifying the allowance of costs.

(21) Section 346 subsections (1), (2), (3)(b) and (c) and (4)(a) are amended by paragraph 39 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c.24).

Costs paid otherwise than out of the insolvent estate

12.46. 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 insolvent estate, the costs officer must note on the final costs certificate by whom, or the manner in which, the costs are to be paid.

Awards of costs against an office-holder, the adjudicator or the official receiver

12.47. Without prejudice to any provision of the Act or Rules by virtue of which the official receiver or the adjudicator is not in any event to be liable for costs and expenses, where an office-holder, the adjudicator or the official receiver (where the official receiver is not acting as an office-holder) is made a party to any proceedings on the application of another party to the proceedings, the office-holder, the adjudicator or official receiver is not to be personally liable for the costs unless the court otherwise directs.

Applications for costs

12.48.—(1) This rule applies where a party to, or person affected by, any proceedings in an insolvency applies to the court for an order allowing their costs, or part of them, of or incidental to the proceedings, and that application is not made at the time of the proceedings.

(2) The applicant must serve a sealed copy of the application—

(a) in proceedings other than proceedings relating to a debt relief order—

(i) on the office-holder, and

(ii) in a winding up by the court or a bankruptcy, on the official receiver; or

(b) in proceedings relating to a debt relief order, on the official receiver.

(3) The office-holder and, where appropriate, the official receiver may appear on an application to which paragraph (2)(a) applies.

(4) The official receiver may appear on an application to which paragraph (2)(b) applies.

(5) No costs of or incidental to the application are to 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 petitioners and other specified persons

12.49.—(1) The petitioner is not to receive an allowance as a witness for attending the hearing of the petition.

(2) However the costs officer may allow that person's expenses of travelling and subsistence in attending the hearing.

(3) The bankrupt, the debtor or an officer of the insolvent company to which the proceedings relate is not to receive an allowance as a witness in an examination or other proceedings before the court except as directed by the court.

Final costs certificate

12.50.—(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, the costs officer may issue a duplicate.

CHAPTER 9

Enforcement procedures

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Enforcement of court orders

12.51.—(1) In any insolvency proceedings, orders of the court may be enforced in the same manner as a judgment to the same effect.

(2) Where an order in insolvency proceedings is made, or any process is issued, by the County Court, the order or process may be enforced, executed and dealt with by any hearing centre, as if it had been made or issued for the enforcement of a judgment or order to the same effect made by that hearing centre.

(3) Paragraph (2) applies whether or not the other hearing centre is one in which such insolvency proceedings may be commenced.

(4) 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 hearing centre in which insolvency proceedings may be commenced; and
- (b) has given to the County Court a satisfactory undertaking to comply with the obligations that apply to that person under the Act or these Rules.

Orders enforcing compliance

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

- (a) paragraph 47 of Schedule B1 (duty to submit statement of affairs in administration);
- (b) section 47(duty to submit statement of affairs in administrative receivership);
- (c) section 131 (duty to submit statement of affairs in a winding up);
- (d) section 143(2) (liquidator to furnish information, books, papers, etc.); or
- (e) section 235 (duty of various persons to co-operate with office-holder).

(2) The competent person for this purpose is—

- (a) under paragraph 47 of Schedule B1, the administrator;
- (b) under section 47, the administrative receiver;
- (c) under section 131 or 143(2), the official receiver; and
- (d) under section 235, the official receiver, the administrator, the administrative receiver, the liquidator or the provisional liquidator, as the case may be.

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

Warrants (general provisions)

12.53.—(1) A warrant issued by the court under any provision of the Act must be addressed to such officer of the High Court or of the County Court as the warrant specifies, or to any constable.

- (2) The persons referred to in sections 134(2), 236(5), 251N(5), 364(1)(22), 365(3) and 366(3) (court's powers of enforcement) as the prescribed officer of the court are—
- (a) in the case of the High Court, the tipstaff and the tipstaff's assistants of the court; and
 - (b) in the case of the County Court, a bailiff.
- (3) In this Chapter references to property include books, papers and other documents and records.

Warrants under sections 134 and 364

12.54. When a person (“the arrested person”) is arrested under a warrant issued by the court under section 134 (officer of company failing to attend for public examination), or section 364 (arrest of debtor or bankrupt)—

- (a) the arresting officer must give the arrested person into the custody of—
 - (i) the court in a case where the court is ready and able to deal with the arrested person, or
 - (ii) where the court is not ready and able, 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 must keep the arrested person in custody until such time as the court orders otherwise and must produce that person before the court at its next sitting; and
- (b) any property in the arrested person's possession which may be seized must, as directed by the warrant, be—
 - (i) delivered to whoever is specified in the warrant as authorised to receive it, or otherwise dealt with in accordance with the directions in the warrant, or
 - (ii) kept by the officer seizing it pending the receipt of written orders from the court as to its disposal.

Warrants under sections 236, 251N and 366

12.55.—(1) When a person is arrested under a warrant issued under section 236 (inquiry into insolvent company's dealings), 251N (the equivalent in relation to debt relief orders) or 366 (the equivalent in bankruptcy), the arresting officer must as soon as reasonably practicable bring the arrested person before the court issuing the warrant in order that the arrested person may be examined.

(2) If the arrested person cannot immediately be brought up for examination, the officer must deliver that person 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 must keep the arrested person in custody and produce that person before the court as it may from time to time direct.

(3) After arresting the person named in the warrant, the officer must 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 arrested person's examination.

- (4) The court must appoint the earliest practicable time for the examination, and must—
 - (a) direct the governor of the prison to produce the arrested person for examination at the time and place appointed; and
 - (b) as soon as reasonably practicable deliver notice of the venue to the applicant for the warrant.

(5) Where any property in the arrested person's possession is seized, the property must, as directed by the warrant, be—

- (a) delivered to whoever is specified in the warrant as authorised to receive it, or otherwise dealt with in accordance with the directions in the warrant; or
- (b) kept by the officer seizing it pending the receipt of written orders from the court as to its disposal.

Warrants under section 365

12.56.—(1) A warrant issued under section 365(3) (search of premises not belonging to the bankrupt) must authorise any person executing it to seize any property of the bankrupt found as a result of the execution of the warrant.

(2) Any property seized under a warrant issued under section 365(2) or (3) must, as directed by the warrant, be—

- (a) delivered to whoever is specified in the warrant as authorised to receive it, or otherwise dealt with in accordance with the directions in the warrant; or
- (b) kept by the officer seizing it pending the receipt of written orders from the court as to its disposal.

Execution overtaken by judgment debtor's insolvency

12.57.—(1) This rule applies where execution has been taken out against property of a judgment debtor, and notice is delivered to the enforcement officer or other officer charged with the execution—

- (a) under section 184(1) (that a winding-up order has been made against the debtor, or that a provisional liquidator has been appointed, or that a resolution for voluntary winding up has been passed);
- (b) under section 184(4) (that a winding-up petition has been presented, or a winding-up order made, or that a meeting has been called at which there is to be proposed a resolution for voluntary winding up, or that such a resolution has been passed);
- (c) under section 346(2) (that a judgment debtor has been made bankrupt); or
- (d) under section 346(3)(b) (that a bankruptcy petition has been presented or a bankruptcy application has been made in relation to the debtor).

(2) Subject to paragraph (3) and rule 1.47, the notice must be delivered to the office of the enforcement officer or of the officer charged with the execution—

- (a) by hand; or
- (b) by any other means of delivery which enables proof of receipt of the document at the relevant address.

(3) Where the execution is in the County Court then if—

- (a) there is filed with the hearing centre in charge of such execution in relation to the judgment debtor a winding-up or bankruptcy petition; or
- (b) there is made by the hearing centre in charge of such execution in relation to the judgment debtor a winding-up order or an order appointing a provisional liquidator, or a bankruptcy order or an order appointing an interim receiver;

section 184 or 346 is deemed satisfied in relation to the requirement of a notice to be served on, or delivered to, the officer in charge of the execution.

CHAPTER 10

Appeals

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Application of Chapter

12.58. —CPR Part 52(23) (appeals) applies to appeals under this Chapter as varied by any applicable Practice Direction.

Appeals and reviews of court orders in corporate insolvency

12.59.—(1) Every court having jurisdiction for the purposes of Parts 1 to 7 of the Act and the corresponding Parts of these Rules, may review, rescind or vary any order made by it in the exercise of that jurisdiction.

(2) Appeals in civil matters in proceedings under Parts 1 to 7 of the Act and the corresponding Parts of these Rules lie as follows—

- (a) where the decision appealed against is made by a District Judge sitting in a hearing centre specified in the first column of the table in Schedule 10—
 - (i) to a High Court Judge sitting in a district registry, or
 - (ii) to a Registrar in Bankruptcy of the High Court;
 as specified in the second column of the table;
- (b) to a High Court Judge where the decision appealed against is made by—
 - (i) a Circuit Judge sitting in the County Court,
 - (ii) a Master,
 - (iii) a Registrar in Bankruptcy, if that decision is made at first instance, or
 - (iv) a District Judge sitting in a district registry;
- (c) to the Civil Division of the Court of Appeal where the decision appealed against is made by a Registrar in Bankruptcy of the High Court, if that decision is an appeal from a decision made by a District Judge; and
- (d) to the Civil Division of the Court of Appeal where the decision is made by a High Court Judge.

(3) Any application for the rescission of a winding-up order must be made within five business days after the date on which the order was made.

(4) In this rule—

“Circuit Judge sitting in the county court” means a judge sitting pursuant to section 5(1)(a) of the County Courts Act 1984(24);

“Civil Division of the Court of Appeal” means the division of the Court of Appeal established by section 3(1) of the Senior Courts Act 1981(25);

“county court” means the court established by section A1 of the County Courts Act 1984;

(23) Part 52 is amended by S.I.s 1987/2024, 1998/3132, 2000/221, 2000/2092, 2003/2113, 2003/3361, 2004/2072, 2005/2483, 2005/3515, 2006/1689, 2006/3435, 2007/2204, 2009/2092, 2009/3390, 2010/1953, 2012/2208, 2013/262, 2013/1412, 2013/1974, 2014/407, 2014/879, 2014/2044, 2014/3299, paragraph 1(2) of Schedule 11 to the Constitutional Reform Act 2005 (c.4), and sections 59 and 60 of the Access to Justice Act 1999 (c.22).

(24) 1984 c.28. Section A1 was inserted by section 17(1) of the Crime and Courts Act 2013 c.22.

(25) 1981 c.54. There are amending instruments but none is relevant.

“District Judge” means a person appointed a District Judge under section 6(1) of the County Courts Act 1984;

“District Judge sitting in a district registry” means a District Judge sitting in an assigned district registry as a District Judge of the High Court under section 100 of the Senior Courts Act 1981;

“district registry” means a district registry of the High Court under section 99 of the Senior Courts Act 1981;

“High Court Judge” means a judge listed in section 4(1) of the Senior Courts Act 1981;

“Master” means a person appointed to the office of Master, Chancery Division under section 89(1) of the Senior Courts Act 1981;

“Registrar in Bankruptcy of the High Court” means a person appointed to the office of Registrar in Bankruptcy of the High Court under section 89(1) of the Senior Courts Act 1981;

and for the purposes of each definition a person appointed to act as a deputy for any person holding that office is included.

Appeals in bankruptcy by the Secretary of State

12.60. In bankruptcy proceedings, an appeal lies at the instance of the Secretary of State from any order of the court made on an application for the rescission or annulment of a bankruptcy order, or for the bankrupt’s discharge.

Procedure on appeal

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

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

Appeals against decisions of the Secretary of State or official receiver

12.62. An appeal under the Act or these Rules against a decision of the Secretary of State or the official receiver must be brought within 28 days of delivery of notice of the decision.

CHAPTER 11

Court orders, formal defects and shorthand writers

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Court orders

12.63. Notwithstanding any requirement in these Rules as to the contents of a court order the court may make such other order or in such form as the court thinks just.

Formal defects

12.64. No insolvency proceedings will be invalidated by any formal defect or 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.

Shorthand writers: nomination etc.

12.65.—(1) The court may in writing nominate a person to be official shorthand writer to the court.

(2) The court may, at any time in the course of insolvency proceedings, appoint a shorthand writer to take down evidence of a person examined under section 133, 236, 251N, 290(26) or 366.

(3) Where the official receiver applies to the court for an order appointing a shorthand writer, the official receiver must name the person the official receiver proposes for the appointment.

(4) The remuneration of a shorthand writer appointed in insolvency proceedings must be paid by the party at whose instance the appointment was made, or out of the insolvent estate, or otherwise, as the court may direct.

(5) Any question arising as to the rates of remuneration payable under this rule must be determined by the court.