

## SCHEDULE 2

Introductory rule 4

### Transitional and savings provisions

#### General

**1.** In this Schedule—

“the 1986 Rules” means the Insolvency Rules 1986 as they had effect immediately before the commencement date and a reference to “1986 rule” followed by a rule number is a reference to a rule in the 1986 Rules; and

“the commencement date” means the date these Rules come into force.

#### Requirement for office-holder to provide information to creditors on opting out

**2.—(1)** Rule 1.39, which requires an office-holder to provide information to a creditor on the right to opt out under rule 1.38 in the first communication to the creditor, does not apply to an office-holder who has delivered the first communication before the commencement date.

**(2)** However, such an office-holder may choose to deliver information on the right to opt out in which case the communication to the creditor must contain the information required by rule 1.39(2).

#### Electronic communication

**3.—(1)** Rule 1.45(4) does not apply where the relevant proceedings commenced before the commencement date.

**(2)** In this paragraph “commenced” means—

- (a) the delivery of a proposal for a voluntary arrangement to the intended nominee;
- (b) the appointment of an administrator under paragraph 14 or 22 of Schedule B1;
- (c) the making of an administration order;
- (d) the appointment of an administrative receiver;
- (e) the passing or deemed passing of a resolution to wind up a company;
- (f) the making of a winding-up order; or
- (g) the making of a bankruptcy order.

#### Statements of affairs

**4.—(1)** The provisions of these Rules relating to statements of affairs in administration, administrative receivership, company winding up and bankruptcy do not apply and the following rules in the 1986 Rules continue to apply where relevant proceedings commenced before the commencement date and a person is required to provide a statement of affairs—

- (a) 1986 rules 2.28 to 2.32 (administration);
- (b) 1986 rules 3.3 to 3.8 (administrative receivership);
- (c) 1986 rules 4.32 to 4.42 (company winding up); and
- (d) 1986 rules 6.58 to 6.72 (bankruptcy).

**(2)** In this paragraph “commenced” means—

- (a) the appointment of an administrator under paragraph 14 or 22 of Schedule B1;
- (b) the making of an administration order;
- (c) the appointment of an administrative receiver

*Status: This is the original version (as it was originally made).*

- (d) the passing or deemed passing of a resolution to wind up a company;
- (e) the making of a winding-up order; or
- (f) the making of a bankruptcy order.

**Savings in respect of meetings taking place on or after the commencement date and resolutions by correspondence**

5.—(1) This paragraph applies where on or after the commencement date—

- (a) a creditors' or contributories' meeting is to be held as a result of a notice issued before that date in relation to a meeting for which provision is made by the 1986 Rules or the 1986 Act;
- (b) a meeting is to be held as a result of a requisition by a creditor or contributory made before that date;
- (c) a meeting is to be held as a result of a statement made under paragraph 52(1)(b) of Schedule B1 and a request is made before that date which obliges the administrator to summon an initial creditors' meeting;
- (d) a progress meeting is required by section 104A of the 1986 Act<sup>(1)</sup> in the winding up of a company where the resolution to wind up was passed before 6th April 2010.

(2) Where a meeting is to be held under sub-paragraph (1)(a) to (1)(d), Part 15 of these Rules does not apply and the 1986 Rules relating to the following continue to apply—

- (a) the requirement to hold the meeting;
- (b) notice and advertisement of the meeting;
- (c) governance of the meeting;
- (d) recording and taking minutes of the meeting;
- (e) the report or return of the meeting;
- (f) membership and formalities of establishment of liquidation and creditors' committees where the resolution to form the committee is passed at the meeting;
- (g) the office-holder's resignation or removal at the meeting;
- (h) the office-holder's release;
- (i) fixing the office-holder's remuneration;
- (j) requests for further information from creditors;
- (k) hand-over of assets to a supervisor of a voluntary arrangement where the proposal is approved at the meeting;
- (l) the notice of the appointment of a supervisor of a voluntary arrangement where the appointment is made at the meeting;
- (m) the advertisement of appointment of a trustee in bankruptcy where the appointment is made at the meeting;
- (n) claims that remuneration is or that other expenses are excessive; and
- (o) complaints about exclusion at the meeting.

(3) Where, before the commencement date, the office-holder sought to obtain a resolution by correspondence under 1986 rule 2.48, 4.63A or 6.88A, the 1986 Rules relating to resolutions by correspondence continue to apply and sub-paragraph (2) applies to any meeting that those rules require the office-holder to summon.

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(1) 1986 c.45. Article 12 of the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010 S.I. 2010/18 saves section 104A of the Act in relation to companies where the resolution to wind up was passed before 6th April 2010.

(4) However, any application to the court in respect of such a meeting or vote is to be made in accordance with Part 12 of these Rules.

### **Savings in respect of final meetings taking place on or after the commencement date**

6.—(1) This paragraph applies where—

(a) before the commencement date—

- (i) a final report to creditors has been sent under 1986 rule 4.49D (final report to creditors in liquidation),
- (ii) a final report to creditors and bankrupt has been sent under 1986 rule 6.78B (final report to creditors and bankrupt), or
- (iii) a meeting has been called under section 94 of the 1986 Act (final meeting prior to dissolution); and

(b) a meeting under section 94, 106, 146 or 331 of the 1986 Act is held on or after the commencement date.

(2) Where a meeting is held to which this paragraph applies, Part 15 of these Rules does not apply and the 1986 Rules relating to the following continue to apply—

- (a) the requirement to hold the meeting;
- (b) notice and advertisement of the meeting;
- (c) governance of the meeting;
- (d) recording and taking minutes of the meeting;
- (e) the form and content of the final report;
- (f) the office-holder's resignation or removal;
- (g) the office-holder's release;
- (h) fixing the office-holder's remuneration;
- (i) requests for further information from creditors;
- (j) claims that remuneration is or other expenses are excessive; and
- (k) complaints about exclusion at the meeting.

(3) However, any application to the court in respect of such a meeting is to be made in accordance with Part 12 of these Rules.

### **Progress reports and statements to the registrar of companies**

7.—(1) Where an obligation to prepare a progress report arises before the commencement date but has not yet been fulfilled the following provisions of the 1986 Rules continue to apply—

- (a) 1986 rule 2.47 (reports to creditors in administration);
- (b) 1986 rules 4.49B and 4.49C (progress reports—winding up); and
- (c) 1986 rule 6.78A (reports to creditors in bankruptcy).

(2) Where before the commencement date, a conversion notice under paragraph 83 of Schedule B1 was sent to the registrar of companies but has not been registered on the commencement date, 1986 rule 2.117A(1) continues to apply once the notice has been registered.

(3) The provisions of these Rules relating to progress reporting do not apply—

- (a) in the case of a bankruptcy, where the bankruptcy order was made on a petition presented before 6th April 2010; or

(b) in the case of a winding up, where the winding-up order was made on a petition presented before 6th April 2010.

(4) Where a voluntary winding up commenced before 6th April 2010, 1986 rule 4.223-CVL as it had effect immediately before that date, continues to apply.

### **Foreign currency**

**8.—(1)** Where, before the commencement date an amount stated in a foreign currency on an application, claim or proof of debt is converted into sterling by the office-holder under 1986 rule 2.86, 1986 rule 4.91, 1986 rule 5A.3 or 1986 rule 6.111, the office-holder and any successor to the office-holder must continue to use that exchange rate for subsequent conversions of that currency into sterling for the purpose of distributing any assets of the insolvent estate.

(2) However when an office-holder, convener, appointed person or chair uses an exchange rate to convert an application, claim or proof in a foreign currency into sterling solely for voting purposes before the commencement date, it does not prevent the office-holder from using an alternative rate for subsequent conversions.

### **CVA moratoria**

**9.** Where, before the commencement date, the directors of a company submit to the nominee the documents required under paragraph 6(1) of Schedule A1, the 1986 Rules relating to moratoria continue to apply to that proposed voluntary arrangement.

### **Priority of expenses of voluntary arrangements**

**10.** 1986 rule 4.21A (expenses of CVA in a liquidation) and 1986 rule 6.46A (expenses of IVA in a bankruptcy) continue to apply where a winding up or bankruptcy petition is presented or a bankruptcy application is made (as the case may be) before the commencement date.

### **General powers of liquidator**

**11.** 1986 rule 4.184 (General powers of liquidator) continues to apply as regards a person dealing in good faith and for value with a liquidator and in respect of the power of the court or the liquidation committee to ratify anything done by the liquidator without permission before the amendments made to sections 165 and 167 of the Act by section 120(2) and (3) of the Small Business, Enterprise and Employment Act 2015<sup>(2)</sup> (which removed the requirements for the liquidator to obtain such permission) came into force.

### **Fast-track voluntary arrangements**

**12.** Where a fast-track voluntary arrangement is in effect on the commencement date the following 1986 Rules continue to apply to it after the commencement date —

- (a) 1986 rules 5.35 to 5.50 (fast-track voluntary arrangement);
- (b) 1986 rules 5.57 to 5.59 (application by official receiver to annul a bankruptcy order under section 263D(3)); and
- (c) 1986 rules 5.60 to 5.61 (other matters arising on annulments under sections 261(2)(a), 261(2)(b) or 263D(3)).

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(2) 2015 c.26.

### **First trustee in bankruptcy**

13. On the commencement date the official receiver becomes trustee of the bankrupt's estate where—

- (a) a bankruptcy order was made before the commencement date; and
- (b) no trustee has yet been appointed.

### **Applications before the court**

14.—(1) Where an application to court is filed or a petition is presented under the Act or under the 1986 Rules before the commencement date and the court remains seised of that application or petition on the commencement date, the 1986 rules continue to apply to that application or petition.

(2) For the purpose of paragraph (1), the court is no longer seised of an application when—

- (a) it makes an order having the effect of determining of the application; or
- (b) in relation to a petition for bankruptcy or winding up when—
  - (i) the court makes a bankruptcy order or a winding up order,
  - (ii) the court dismisses the petition, or
  - (iii) the petition is withdrawn.

(3) Any application to the court to review, rescind or appeal an order made under paragraph 14(2)

(a) is to be made in accordance with Part 12 of these Rules.

### **Forms**

15. A form contained in Schedule 4 to the 1986 Rules may be used on or after the commencement date if—

- (a) the form is used to provide a statement of affairs pursuant to paragraph 4 of this Schedule;
- (b) the form relates to a meeting held under the 1986 Rules as described in paragraph 5(1) of this Schedule;
- (c) the form is required for the administration of a fast-track voluntary arrangement pursuant to paragraph 12 of this Schedule;
- (d) the form is required because before the commencement date, the office-holder sought to obtain the passing of a resolution by correspondence; or
- (e) the form relates to any application to the court or petition presented before the commencement date.

### **Registers**

16.—(1) The Secretary of State must maintain on the individual insolvency register, the bankruptcy restrictions register and the debt relief restrictions register information which is on the registers immediately before the commencement date.

(2) The Secretary of State must also enter on the appropriate register referred to in paragraph (1) information received (but not yet entered on the register) before the commencement date.

(3) The Court's power under Part 20 to order that information must not be entered in those registers where there is a risk of violence applies equally to information received by the Secretary of State before the commencement date but not yet entered on a register.

(4) Any obligation in Part 11 to delete information from a register or to rectify a register applies equally to information entered on the register before these rules come into force.

### **Administrations commenced before 15th September 2003**

17. The 1986 Rules continue to apply to administrations where the petition for an administration order was presented before 15th September 2003.

### **Set-off in insolvency proceedings commenced before 1st April 2005**

18. Where before 1st April 2005 a company has entered administration or gone into liquidation, the office-holder, when calculating any set-off must apply the 1986 Rules as they had effect immediately before 1st April 2005.

### **Calculating the value of future debts in insolvency proceedings commenced before 1st April 2005**

19. Where before 1st April 2005 a company has entered administration or gone into liquidation or a bankruptcy order has been made, the office-holder, when calculating the value of a future debt for the purpose of dividend (and no other purpose) must apply the 1986 Rules as they had effect immediately before 1st April 2005.

### **Obligations arising under family proceedings where bankruptcy order is made on or before 31 March 2005**

20. Rule 12.3 of the 1986 Rules applies, without the amendments made by rule 44 of the Insolvency (Amendment) Rules 2005<sup>(3)</sup> to an obligation arising under an order made in family proceedings in any case where a bankruptcy order was made on or before 31 March 2005.

### **Insolvency practitioner fee estimates**

21.—(1) The 1986 Rules apply without the amendments made by the Insolvency (Amendment) Rules 2015<sup>(4)</sup> in a case where before 1st October 2015—

- (a) the appointment of an administrator took effect;
- (b) a liquidator was nominated under section 100(2), or 139(3) of the Act;
- (c) a liquidator was appointed under section 139(4) or 140 of the Act;
- (d) a person was directed by the court or appointed to be a liquidator under section 100(3) of the Act;
- (e) a liquidator was nominated or the administrator became the liquidator under paragraph 83(7) of Schedule B1 to the Act; or
- (f) a trustee of a bankrupt's estate was appointed.

(2) Paragraphs (4) and (5) of rule 18.20 do not apply where an administrator was appointed before 1st October 2015 and—

- (a) the company is wound up under paragraph 83 of Schedule B1 on or after the commencement date and the administrator becomes the liquidator; or
- (b) a winding-up order is made upon the appointment of an administrator ceasing to have effect on or after the commencement date and the court under section 140(1) appoints as liquidator the person whose appointment as administrator has ceased to have effect.

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<sup>(3)</sup> S.I. 2005/527.

<sup>(4)</sup> S.I. 2015/443.

### **Transitional provision for paragraph 83 cases moving before 6th April 2010**

**22.** Where—

- (a) a company goes into voluntary liquidation under paragraph 83 of Schedule B1; and
- (b) article 12(1) of the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010<sup>(5)</sup> causes section 104A of the Act<sup>(6)</sup> to apply;

the 1986 Rules as amended by the Insolvency (Amendment) Rules 2010<sup>(7)</sup> apply to the extent necessary to give effect to section 104A notwithstanding that by virtue of paragraph 1(6)(a) or (b) of Schedule 4 to the Insolvency (Amendment) Rules 2010 those amendments to the Insolvency Rules 1986 would otherwise not apply.

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<sup>(5)</sup> [S.I. 2010/18](#).

<sup>(6)</sup> [1986 c.45](#). Section 104A is amended by article 6(3) of the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order [2010/18](#). Those amendments have effect subject to transitional provisions specified in [S.I. 2010/18](#) art.12(1).

<sup>(7)</sup> [S.I. 2010/686](#).