0.0.STATUTORY INSTRUMENTS

[DRAFT FOR IRC: 17 JULY 2015]

2016 No. [ ]

INSOLVENCY

The Insolvency Rules 2016

Made - - - -	***
Laid before Parliament	***
Coming into force - -	***

The Lord Chancellor has consulted the committee existing for the purposes of section 413 of the Insolvency Act 1986(**a**) ("the Act").
The Lord Chancellor makes the following Rules in exercise of the powers conferred by sections 411 and 412(**b**) of the Act, with the concurrence of the Chancellor of the High Court (by authority of the Lord Chief Justice under sections 411(7) and 412(6) of the Act) in relation to those rules which affect court procedure, and with the concurrence of the Secretary of State.

INTRODUCTORY PROVISIONS

Citation and commencement

1. These Rules may be cited as the Insolvency Rules 2016 and come into force on [ ].

[Revocations

2. The Rules listed in Schedule 1 are revoked.

Scope and extent

3.—(1) The Rules [in Parts] as they relate to company insolvency apply in relation to companies which the courts of England and Wales have jurisdiction to wind up.

(2) Part 4 of the Rules applies to administrative receivers appointed otherwise than under section 51 of the Act (Scottish receiverships).

(3) Parts [ ] of the Rules and Parts common parts as they relate to individual insolvency, extend to England and Wales only.]

(**a**) 1986 c. 45.
(**b**) Relevant amendments to sections 411 and 412 have been made by regulations 2 and 3(1), 3(3) and 3(4) of SI 2002/1037; paragraphs 185, 188(1) and (3) and 189(1) and (3) of Schedule 4 to the Constitutional Reform Act 2005 (c. 4); by paragraphs 1 and 8 of Schedule 20 to the Tribunals, Courts and Enforcement Act 2007 (c.15); paragraph 44 of Schedule 4 to SI 2007/2194; section 160(1) and (5)(a) of the Banking Act 2009 (c. 37); and paragraph 79 of Schedule 1 to SI 2009/1941.AND SBEA

[Application]

[Transitionals and savings

4.—(1) The Insolvency Regulations 1994(**a**) are amended as follows—

(a) in regulation 3(1) in the definition "the Rules" for "the Insolvency Rules 1986" substitute "the Insolvency Rules 2016";

(b) in regulation 14(3) for "Rule 4.125(5)" substitute "rule 7.72(6)";

(c) in regulation 17(1) for "Rule 2.223" [ ],

(d) in regulation 28(3) for "Rule 6.137(5) in the two places in which it appears substitute "rule 10.87(7)".

(2) Rules 5.35 to 5.50 of the Insolvency Rules 1986(**b**) together with form 5.6 as they had effect immediately before their revocation by these Rules continue to have effect for the purposes of any fast-track voluntary arrangement to which section 135(4) of the Small Business, Enterprise and Employment Act 2015(**c**) applies (saving for existing fast-track arrangements).

(3) Rule 4.184 (General powers of liquidator) of the Insolvency Rules 1986 as it had effect immediately before its revocation by these Rules continues to have effect 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 by section [ ] removed the requirement for the liquidator to obtain such permission.

(4) The Secretary of State must maintain on the individual insolvency register, the bankruptcy restrictions register and the debt relief registers information which is on those registers immediately before these Rules come into force.

(5) The Secretary of State must also enter on the appropriate register referred to in paragraph (4) information received (but not yet entered on the register) before these Rules come into force.

(6) 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 entered on a register before these Rules come into force.

(7) 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.]

Consequential amendments

5. The consequential amendments set out in Schedule 2 have effect.

Power of Secretary of State to regulate certain matters

6.—(1) Under paragraph 27 of Schedule 8 to the Insolvency Act 1986, and paragraph 30 of Schedule 9 to that Act, the Secretary of State may, subject to that Act and the Rules made under it, make regulations with respect to any matter provided for such Rules relating to the carrying out of the functions of—

(a) a liquidator, provisional liquidator, administrator or administrative receiver of a company;

(b) an interim receiver appointed under section 286(**d**); and

(c) of the official receiver while acting as receiver or manager under section 287 or of a trustee of a bankrupt's estate.

(**a**) SI 1994/2507 as amended by SI 2000/485, 2001/762, 2001/3649, 2003/1633, 2004/472, 2005/512, 2008/670, 2009/482, 2009/2748 and 2011/2203.

(**b**)

(**c**) 2015 c.26.

(**d**) Section 286 is amended by paragraph 17(2) of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 c., paragraph 13 of Schedule 6 to the Deregulation Act 2015 c. 20, paragraph 2 of Schedule 10 to the Small Business, Enterprise and Employment Act 2015 c.26.

(2) The regulations which may be made may include, without prejudice to the generality of paragraph (1), provision with respect to the following matters arising in companies winding up and individual bankruptcy—

(a) the preparation and keeping by liquidators, trustees, provisional liquidators, interim receivers and the official receiver, 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 liquidators' and trustees' accounts;

(c) the manner in which liquidators and trustees are to act in relation to the insolvent company's or bankrupt's books, papers and other records, and the manner of their disposal by the responsible office-holder or others;

(d) the supply of copies of documents relating to the insolvency and the affairs of the insolvent company or individual (on payment, in such cases as may be specified by the regulations, of the specified fee)—

(i) by the liquidator in company insolvency to creditors and members of the company, contributories in its winding up and the liquidation committee; and

(ii) by the trustee in bankruptcy to creditors and the creditors' committee;

(e) the manner in which insolvent estates are to be distributed by liquidators and trustees, including provision with respect to unclaimed funds and dividends;

(f) the manner in which moneys coming into the hands of a liquidator or trustee in the course of his administration are to be handled and invested, and the payment of interest on sums which, have been paid into the Insolvency Services Account under regulations made by virtue of this sub-paragraph;

(g) the amount (or the manner of determining the amount) to be paid to the official receiver as remuneration when acting as provisional liquidator, liquidator, interim receiver or trustee.

(3) References in this rule to a trustee includes a reference to the official receiver when acting as receiver and manager under section 287.

(4) Regulations made under 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.

Punishment of offences

7. Schedule 3 sets out the punishments for certain contraventions of the Rules.

Review

8.—(1) Before the end of the review period, the Secretary of State must—

(a) carry out a review of these Rules,

(b) set out the conclusions of the review in a report, and

(c) publish the report.

(2) The report must in particular—

(a) set out the objectives intended to be achieved by the regulatory system established by these Rules,

(b) assess the extent to which those objectives are achieved, and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) "Review period" means the period of five years beginning with the day on which these Rules come into force.

PART 1

SCOPE, INTERPRETATION, TIME AND RULES ABOUT DOCUMENTS

CHAPTER 1

Scope of the Rules

1.1.—(1) These Rules are made to give effect to Parts 1 to 11 of the Insolvency Act 1986 and to the EC Regulation.

(2) Consequently references to insolvency proceedings and requirements relating to such proceedings are, unless the context requires otherwise, limited to such proceedings in respect of Parts 1 to 11 of the Act and the EC Regulation.

CHAPTER 2

Interpretation and index of some defined expressions

[Note: the terms which are defined in this rule include terms defined by the Act for limited purposes which are applied generally by these Rules. Such terms have the meaning given by the Act for those limited purposes.]

Defined terms

1.2.—(1) In these Rules, unless otherwise stated, a reference to a Part or a Schedule is to a Part of, or Schedule to, these Rules.

(2) In these Rules—

"the Act" means the Insolvency Act 1986, and—

(a) a reference to a numbered section without mention of another Act is to that section of the Act, and

(b) a reference to Schedule A1, B1, 4ZA, 4ZB or 4A is to that Schedule to the Act;

"appointed person" means a person as described in paragraph (3) who is appointed by an office-holder (other than the official receiver);

"Article 1.2 undertaking" means one of the following within the meaning of Article 1.2 of Council Regulation (EC) No. 1346/2000(**a**) ("the EC Regulation")—

(a) an insurance undertaking;

(b) a credit institution;

(c) an investment undertaking which provides services involving the holding of funds or securities for third parties;

(d) a collective investment undertaking;

"associate" [Note: associate is defined in section 435];

"attendance" and "attend"—

(a) a person attends a meeting who is present, or attends remotely in accordance with section 246A(**b**) or rule 15.5, or who participates in a virtual meeting; and whether

(b) that person attends in person, by proxy, or by corporate representative (in accordance with section 434B or section 323 of the Companies Act, as applicable);

"authenticate" means to authenticate in accordance with rule 1.6;

(**a**) Council Regulation (EC) No.1346/2000 (OJ L160, 30.6.2000 p1.) as last amended by Council Implementing Regulation EU No. 663/2014 (OJEU L179, 19.6.2014 p4).

(**b**) Sections 246A was inserted by S.I 2010/18.

"authorised deposit-taker" means a person with permission under Part 4A of the Financial Services and Markets Act 2000(**a**) to accept deposits and "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(**b**), or a recognised bank or a licensed institution under the Banking Act 1979(**c**); 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;

these definitions must be read with—

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

(b) any relevant order under that section; and

(c) Schedule 2 to that Act;

"bankrupt's estate" [Note: "bankrupt's estate" is defined in section 283];

"bankruptcy application" means the bankruptcy application submitted by the debtor to the adjudicator requesting the making of a bankruptcy order against the debtor;

"bankruptcy file" means the file opened by the adjudicator in accordance with rule 10.49;

"bankruptcy restrictions register" means the register referred to in rule 11.20 so far as it relates to bankruptcy restrictions orders, interim bankruptcy restrictions orders and bankruptcy restrictions undertakings;

"business day" means, for the purposes of these Rules as they relate to Parts 7A to 10 of the Act (insolvency of individuals; bankruptcy), any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales [Note: for the purposes of these Rules as they relate to Parts 1 to 7 of the Act (company insolvency; company winding up) section 251 defines "business day" as including additionally a day which is a bank holiday in Scotland];

"centre of main interests" has the same meaning as in the EC Regulation;

"certificate of service" means a certificate of service which complies with the requirements in Schedule 4;

" Companies Act" means the Companies Act 2006(**e**);

"contributory" [Note: "contributory" is defined in section 79];

"convener" means a person who seeks a decision in accordance with Part 15 of these Rules , including as an appointed person, an office-holder or a nominee;

"the court" [Note: "the court" is defined by section 251 for the purposes of these Rules as they relate to Parts 1 to 7 of the Act (company insolvency; company winding up); by section 385(1) for the purposes of these Rules as they relate to Parts 7A to 10 of the Act (insolvency of individuals; bankruptcy); and by section 423 (transactions defrauding creditors) for the purposes of these Rules as they relate to that section];

"CPR" means the Civil Procedure Rules 1998(**f**);

"credit reference agency" means a person authorised or permitted by the Financial Conduct Authority to carry on the regulated activity of providing credit references;

"CVA" means a voluntary arrangement in relation to a company under Part 1 of the Act;

"debt" has the meaning given in rule 14.1 for the purposes of administration and winding-up and "small debt" is defined in rule 14.1(2) [Note: debt is defined in section 385(1) for the

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(**a**) 2000 c.8. Part 4A was inserted for Part 4 by section 11(2) of the Financial Services Act 2012 c.21..
(**b**) 1987 c.22; repealed by article 3(1)(d) of SI 2001/3649 with effect from 1/12/2001.
(**c**) 1979 c.37; repealed by Schedule 7 to the Banking Act 1987
(**d**) Section 22 was amended by section 7 of the Financial Services Act 2012.
(**e**) 2006 c. 46.
(**f**) S.I 1998/3132 ; relevant amendments are noted where reference is made to specific provisions which have been amended.

purposes of these Rules as they relate to Parts 7A to 10 of the Act (insolvency of individuals; bankruptcy)];

"debt relief restrictions register" means the register referred to in rule 11.20 so far as it relates to debt relief restrictions orders and debt relief restrictions undertakings;

"decision procedure" is to be interpreted in accordance with Part 15 of these Rules, except that a decision must not be made by a physical meeting unless such a meeting has be requested in accordance with rule 15.5, or the Act or these Rules expressly provide otherwise;

"deliver" and "delivery" are to be interpreted in accordance with Chapter 9 of Part 1 except in respect of the registrar of companies where "deliver" and "delivery" are to be interpreted in accordance with sections 1068(**a**)and 1114 of the Companies Act 2006 and any rules made by the registrar of companies under section 1117 of that Act;

"deliver to the creditors" and similar expressions in these Rules and the Act are to be interpreted in accordance with rule 1.34;

"document" includes a written notice or statement or anything else in writing capable of being delivered to a recipient;

"EC Regulation" [Note: for the purposes of these Rules this is defined by section 436 of the Act as Council Regulation (EC) No1346/2000;

[enforcement agent" has the meaning given by]

["enforcement officer" has the meaning given by sections 183(4),184(6), 346(9) and [347(11)] of the Act subject to repeal by TCEA 2007 (c.15)]]

"fees estimate" means a written estimate that specifies—

(a) details of the work the insolvency practitioner and his staff propose to undertake,

(b) the hourly rate or rates the insolvency practitioner and his staff propose to charge for each part of that work,

(c) the time the insolvency practitioner anticipates each part of that work will take,

(d) whether the insolvency practitioner anticipates it will be necessary to seek approval or further approval under rule 18.16, and

(e) the reasons it will be necessary to seek such approval under these Rules;

"file with the court" and like references in the Rules means deliver to the court for filing and such references are to be read as including "submit" and "submission" to the court in the Act (except in sections 236 and 366);

"the Gazette" which has the meaning given in section 251 for the purposes of these Rules as they relate to Parts 1 to 7 of the Act (company insolvency; company winding up) has that meaning for the purposes of these Rules as they relate to Parts 7A to 10 of the Act;

"Gazette notice" means a notice which is, has been or is to be gazetted;

"to gazette" means to advertise once in the Gazette;

"general regulations" means regulations made by the Secretary of State under introductory rule 6;

"hearing centre" means a hearing centre of the County court;

"hire-purchase agreement" [Note: this is defined by section 436(1) as having the same meaning as in the Consumer Credit Act 1974 for the purposes of the Act and by paragraph 1 of Schedule A1 (company voluntary arrangement) for the purposes of that Schedule and by paragraph 111(1) of Schedule B1 (administration) for the purposes of that Schedule];

"identification details" and references to information identifying persons, proceedings, etc. are to be interpreted in accordance with rule 1.7;

(**a**) Section 1068(3)(c) was substituted by SI 2009/1802.

"individual insolvency register" means the register referred to in rule 11.13(1) of matters relating to bankruptcies, debt relief orders and IVAs created and maintained by the Secretary of State;

"IP number" means the number assigned to an office-holder as an insolvency practitioner by the Secretary of State;

"IVA" means a voluntary arrangement in relation to an individual under Part 8 of the Act;

"London Insolvency District" has the meaning given by section 374 of the Act and the London Insolvency District (County Court at Central London) Order 2014, SI 2014/818;

"main proceedings" means proceedings opened in accordance with Article 3(1) of the EC Regulation and falling within the definition of insolvency proceedings in Article 2(a) of the EC Regulation and which—

(a) in relation to England and Wales, are set out in Annex A to the EC Regulation under the heading "United Kingdom"; and

(b) in relation to another member State, are set out in Annex A to the EC Regulation under the heading relating to that member State;

"meeting" in relation to a person's creditors or contributories means either a "physical meeting" or a "virtual meeting" in accordance with Part 15, unless the contrary intention is given;

"member State liquidator" means a person falling within the definition of liquidator in Article 2(b) of the EC Regulation appointed in proceedings to which the Regulation applies in a member State other than the United Kingdom;

"nominated person" means a person who has been required under section 47 or 131 to make out and submit a statement as to the affairs of a company in administrative receivership or being wound up by the court;

"nominee" [Note: "nominee" is defined in section 1(2) in relation to company voluntary arrangements and section 253(2) in relation to individual voluntary arrangements];

"non-EC proceedings" means insolvency proceedings which are not main, secondary or territorial proceedings;

"office-holder" means a person who under the Act or these Rules holds an office in relation to insolvency proceedings and includes a nominee;

"permission" of the court is to be read as including "leave of the court" in the Act and in the Company Directors' Disqualification Act 1986(**a**);

"petitioner" or "petitioning creditor" includes a person who has been substituted as such or has been given carriage of the petition;

"practice direction" means a direction as to the practice and procedure of a court within the scope of the CPR;

"prescribed order of priority" means the order of priority of payments of expenses set out in—

(a) Chapter 10 of Part 3 for administration proceedings;

(b) Chapter 6 of Part 6 for creditors' voluntary winding up proceedings;

(c) Chapter 14 of Part 7 for winding up by the court proceedings; and

(d) Chapter 18 of Part 10 for bankruptcy proceedings;

"prescribed part" has the same meaning as in section 176A(2)(a) and the Insolvency Act 1986 (Prescribed Part) Order 2003(**b**);

"progress report" means a report which complies with Chapter 2 of Part 18;

"property" [Note: "property" is defined by section 436(1) of the Act];

"prove" and "proof" have the following meaning—

(**a**) 1986 c.46.
(**b**) SI 2003/2097.

(a) a creditor who claims for a debt (whether or not in writing) is referred to as proving that debt;

(b) a document by which the creditor makes the claim is referred to as that creditor's proof; and

(c) for the purpose of voting in an administration, an administrative receivership or a company or individual voluntary arrangement, the requirements of a proof are satisfied by the convener or chair having been notified in writing of a debt.

"proxy" and "blank proxy" are to be interpreted in accordance with Part 16;

[Note : "records" are defined in section 436(1) of the Act]

"registered land" has the meaning given by section 132(1) of the Land Registration Act 2002(**a**);

"residential address" means the current residential address of an individual or, if that is not known, the last known residential address;

"secondary proceedings" means proceedings opened in accordance with Articles 3(2) and 3(3) of the EC Regulation and falling within the definition of winding-up proceedings in Article 2(c) of the EC Regulation and which—

(a) in relation to England and Wales, are set out in Annex B to the EC Regulation under the heading "United Kingdom", and

(b) in relation to another member State, are set out in Annex B to the EC Regulation under the heading relating to that member State;

"serve" and "service" are to be interpreted in respect of a particular document by reference to Schedule 4;

"solicitor" means a solicitor of the Senior Courts and, in relation to England and Wales, includes any other person who, for the purpose of the Legal Services Act 2007(**b**) is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act);

"standard contents" means—

(a) for a Gazette notice, the standard contents set out in Chapter 4 of Part 1;

(b) for a notice to be advertised other than in the Gazette, the standard contents set out in Chapter 5 of Part 1;

(c) for a document to be delivered to the registrar of companies, the standard contents set out in Chapter 6 of Part 1;

(d) for notices to be delivered to other persons, the standard contents set out in Chapter 7 of Part 1;

(e) for applications to the court the standard contents set out in Chapter 8 of Part 1;

"standard fee for copies" means 15 pence per A4 or A5 page or 30 pence per A3 page;

"statement of proposals" means a statement made by an administrator under paragraph 49 of Schedule B1(**c**) setting out proposals for achieving the purpose of an administration;

"statement of truth" means a statement of truth made in accordance with Part 22(1) of the CPR(**d**);

"temporary administrator" means a temporary administrator referred to in Article 38 of the EC Regulation;

(**a**) 2002 c. 9.
(**b**) 2007 c. 29.
(**c**) Schedule B1 was inserted by section 248 of the Enterprise Act 2002 (c. 40); paragraph 49 is amended by paragraph 10 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c. 26).
(**d**) Relevant amendments are made by rule 4(2)(a) and (b) of SI 2004/3419.

"territorial proceedings" means proceedings opened in accordance with Articles 3(2) and 3(4) of the EC Regulation which fall within the definition of insolvency proceedings in Article 2(a) of that Regulation and—

(a) in relation to England and Wales, set out in Annex A to the EC Regulation under the heading "United Kingdom", and

(b) in relation to another member State, set out in Annex A to the EC Regulation under the heading relating to that member State;

"the trustee" has the same meaning throughout these Rules as they relate to the insolvency of individuals as it has for bankruptcy in section 385(1).

"venue" in relation to any proceedings or attendance before the court or to a decision procedure means—

(a) the time, date and place or platform for the proceeding, attendance or decision procedure; or

(b) the time and date for a meeting which is held in accordance with section 246A without any place being specified for it;

"winding up by the court" means a winding up under section 122(1), 124A or 221;

"witness statement" means a witness statement verified by a statement of truth made in accordance with Part 22 of the CPR;

"writing" - section 436B(1) of the Act provides that a reference to a thing in writing includes that thing in electronic form; subsection (2) excludes certain documents from the application of subsection (1); and

"written resolution" in respect of a private company refers to a written resolution passed in accordance with Chapter 2 of Part 13 of the Companies Act.

(3) An appointed person in relation to a company, debtor or bankrupt must be —

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

(b) a person who is experienced in insolvency matters who is—

(i) a member or employee of the office-holder's firm; or

(ii) an employee of the office-holder;.

(4) A fee or remuneration is charged when the work to which it relates is done.

Performance of functions by the Court and the registrar

1.3.—(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 the registrar.

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

(3) The registrar means a Registrar in Bankruptcy of the High Court.

Calculation of time periods

1.4.—The rules set out in Schedule 5 apply to the determination of the beginning and end of time periods under these Rules.

CHAPTER 3

Form and content of documents

Requirement for writing and form of documents

1.5.—(1) A notice or statement must be in writing unless the Act or these Rules provide otherwise.

(2) A document in electronic form must be capable of being—

(a) read by the recipient in electronic form; and

(b) reproduced by the recipient in hard-copy form.

Authentication

1.6.—(1) A document 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 the recipient has not so specified, 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.

(2) A document in hard-copy form is sufficiently authenticated if it is signed.

(3) If a document is authenticated by the signature of an individual on behalf of—

(a) a body of persons, the document must also state the position of that individual in relation to the body;

(b) a body corporate of which the individual is the sole member, the document must also state that fact.

Information required to identify persons and proceedings etc.

1.7.—(1) Where the Act or these Rules require a document to identify, or to contain identification details, in respect of a person or proceedings, or to provide contact details for an office-holder, that must be done by providing the information set out below.

(2) The requirements below also apply where the requirement is to identify, or to contain identification details for, a proposed office-holder.

Bankrupt	(a) full name; and (b) residential address (subject to any order for limited disclosure made under Part 20).
Company	In the case of a registered company– (a) the registered name; (b) for a company incorporated in the United Kingdom under the Companies Act, its registered number; (c) for a company incorporated outside the United Kingdom — (i) the country or territory in which it is incorporated; (ii) the number, if any, under which it is so registered; and (iii) the number, if any, under which it is

	registered as an overseas company under Part 34 of the Companies Act In the case of an unregistered company— (a) its name; and (b) the postal address of any principal place of business.
Debtor	(a) full name; and (b) residential address (subject to any order for limited disclosure made under Part 20).
Office-holder	(a) the name of the office-holder; and (b) the nature of the appointment held by the office-holder.
Contact details for an office-holder	(a) a postal address for the office-holder; and (b) either an email address, or a telephone number, through which the office-holder may be contacted.
Proceedings	(a) for proceedings relating to a company, the information identifying the company; (b) for proceedings relating to an individual, the full name of the bankrupt or debtor; (c) the full name of the court or hearing centre in which the proceedings are, or are to be, conducted or where documents relating to the proceedings have been or will be filed; and if applicable (d) any number assigned by the court or by the hearing centre to those proceedings.

CHAPTER 4

Standard contents of Gazette notices

[Note: The requirements in Chapters 4 to 8 must be read with rule 1.7 which sets out the information required to identify an office-holder, a company etc.]

Contents of notices to be gazetted under the Act or Rules

1.8.—(1) Where the Act or the Rules require a notice to be gazetted the notice must also contain the standard contents set out in this Chapter in addition to any content specifically required by the Act or any other provision of these Rules.

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

[Note: this Chapter does not apply to the notice of a liquidator's appointment prescribed under section 109 by SI 1987/752.]

Standard contents of all notices

1.9.—(1) A notice must, if it is relevant to the particular notice, identify the office-holder and state—

(a) the office-holder's contact details;

(b) the office-holder's IP number (except for the official receiver);

(c) the name of any person other than the office-holder who may be contacted about the proceedings;

(d) the date of the office-holder's appointment, and—

(i) the court name and any number assigned by the court to the proceedings; or

(ii) the reference assigned to the proceedings by the adjudicator.

(2) This rule does not apply to a notice under rule 22.3(3) (Permission to act as a director: first excepted case).

Gazette notices relating to a company

1.10. A notice relating to a registered company must also identify the company and state—

(a) the address of its registered office;

(b) any principal trading address if this is different from its registered office;

(c) any name under which it was registered in the 12 months before the date of the commencement of the proceedings which are the subject of the Gazette notice; and

(d) any other name or style (not being a registered name)—

(i) under which the company carried on business; and

(ii) in which any debt owed to a creditor was incurred.

1.11. A notice relating to an unregistered company must identify the company and specify any name or style—

(a) under which the company carried on business; and

(b) in which any debt owed to a creditor was incurred.

Gazette notices relating to a bankruptcy

1.12. A notice relating to a bankruptcy must also identify the bankrupt and state—

(a) any other address at which the bankrupt has resided in the period of 12 months before the making of the bankruptcy order;

(b) any principal trading address if different from the bankrupt's residential address;

(c) the bankrupt's date of birth;

(d) the bankrupt's occupation;

(e) any other name by which the bankrupt has been known; and

(f) any name or style (other than the bankrupt's own name) under which—

(i) the bankrupt carried on business; and

(ii) any debt owed to a creditor was incurred.

The Gazette – as evidence, variations and errors

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

(2) Where the Act or these Rules require an order of the court or of the adjudicator to be gazetted, a copy of the Gazette containing the notice may be produced in any proceedings as conclusive evidence that the order was made on the date specified in the notice.

(3) Where an order of the court or of the adjudicator which is gazetted has been varied, or any matter has been erroneously or inaccurately gazetted, the person whose responsibility it was to gazette the order or other matter must as soon as is reasonably practicable cause the variation to be

gazetted or a further entry to be made in the Gazette for the purpose of correcting the error or inaccuracy.

CHAPTER 5

Standard contents of notices advertised otherwise than in the Gazette

Standard contents of notices advertised otherwise than in the Gazette

1.14.—(1) Where the Act or the Rules provide that a notice may be advertised otherwise than in the Gazette the notice must contain the standard contents set out in this Chapter (in addition to any content specifically required by the Act or any other provision of the Rules).

(2) A notice must, if it is relevant to the particular notice, identify the office-holder and specify the office-holder's contact details.

(3) Information which this Chapter requires to be included in a notice may be omitted if it is not reasonably practicable to obtain it.

Non-Gazette notices relating to a company

1.15. A notice relating to a company must also identify the company and state—

(a) its principal trading address;

(b) any name under which it was registered in the 12 months before the date of the commencement of the proceedings which are the subject of the notice; and

(c) any name or style (not being a registered name) under which—

(i) the company carried on business; and

(ii) any debt owed to a creditor was incurred.

Non-Gazette notices relating to a bankruptcy

1.16. A notice relating to bankruptcy must also identify the bankrupt and state—

(a) any other address at which the bankrupt has resided in the period of 12 months the making of the bankruptcy order;

(b) any principal trading address if different from the bankrupt's residential address;

(c) the bankrupt's date of birth;

(d) the bankrupt's occupation;

(e) any other name by which the bankrupt has been known; and

(f) any name or style (other than the bankrupt's own name) under which—

(i) the bankrupt carried on business; and

(ii) any debt owed to a creditor was incurred.

Non-Gazette notices – other provisions

1.17. Information which this Chapter requires to be stated in a notice must be included in an advertisement of that notice in a way that is clear and comprehensible.

CHAPTER 6

Standard contents of documents to be delivered to the registrar of companies

Standard contents for documents delivered to the registrar of companies

1.18.—(1) Where the Act or the Rules require a document to be delivered to the registrar of companies the document must contain the standard contents set out in this Chapter (in addition to any content specifically required by the Act or any other provision of these Rules).

(2) A document of more than one type must satisfy the requirements which apply to each.

(3) However the requirements in respect of a document which is to be delivered to another person at the same time as the registrar of companies, may be satisfied by delivering to that other person a copy of the document delivered to the registrar.

Standard contents of all documents delivered to the registrar of companies

1.19.—(1) A document to be delivered to the registrar of companies must—

(a) identify the company,

(b) state—

(i) the nature of the document;

(ii) the section of the Act, the paragraph of Schedule A1 or B1 or the rule under which the document is delivered;

(iii) the date of the document;

(iv) the name and address of the person delivering the document;

(v) the capacity in which that person is acting in relation to the company; and

(c) be authenticated by the person delivering the document.

(2) Where the person delivering the document is the office-holder, the address may be omitted if it has previously been notified to the registrar in the proceedings and is unchanged.

Standard contents of documents relating to the office of office-holders

1.20.—(1) A document relating to the office of the office-holder must also identify the office-holder and state—

(a) the date of the event of which notice is delivered;

(b) where the document relates to an appointment, the person, body or court making the appointment;

(c) where the document relates to the termination of an appointment, the reason for that termination; and

(d) the contact details for the office-holder.

(2) Where the person delivering the document is the office-holder, the address may be omitted if it has previously been notified to the registrar in the proceedings and is unchanged.

(a)

Standard contents of documents relating to other documents

1.21. A document relating to another document must also state—

(a) the nature of the other document;

(b) the date of the other document; and

(c) where the other document relates to a period of time, the period of time to which it relates.

Standard contents of documents relating to court orders

1.22. A document relating to a court order must also specify—

(a) the nature of the order; and

(b) the date of the order.

Standard contents of returns or reports of decisions

1.23. A return or report of a decision procedure, deemed consent procedure or meeting must also state—

(a) the purpose of the procedure or meeting;

(b) a description of the procedure or meeting used;

(c) in the case of a decision procedure or meeting, the venue;

(d) whether, in the case of a meeting, the required quorum was in place; and

(e) the outcome (including any decisions made or resolutions passed).

Standard contents of returns or reports of matters considered by company members by correspondence

1.24. A return or report of a matter consideration of which has been sought from the members of a company by correspondence must also specify—

(a) the purpose of the consideration; and

(b) the outcome of the consideration (including any resolutions passed or deemed to be passed).

Standard contents of documents relating to other events

1.25. A document relating to any other event must also state—

(a) the nature of the event, including the section of the Act, the paragraph of Schedule A1 or B1 or the rule under which it took place; and

(b) the date on which the event occurred.

CHAPTER 7

Standard contents of notices for delivery to other persons etc.

Standard contents of notices to be delivered to persons other than the registrar of companies

1.26.—(1) Where the Act or the Rules require a notice to be delivered to a person other than the registrar of companies in respect of proceedings under Parts 1 to 11 of the Act or the EC Regulation, the notice must contain the standard contents set out in this Chapter (in addition to any content specifically required by the Act or another provision of the Rules).

(2) A notice of more than one type must satisfy the requirements which apply to each.

(3) However the requirements in respect of a document which is to be delivered to another person at the same time as the registrar of companies may be satisfied by delivering to that other person a copy of the document delivered to the registrar.

Standard contents of all notices

1.27. A notice must—

(a) state the nature of the notice;

(b) in the case of proceedings relating to a company, identify the company;

(c) in the case of proceedings relating to an individual, identify the bankrupt or debtor;

(d) state the section of the Act, the paragraph of Schedule A1 or B1 or the rule under which the notice is given;

(e) in the case of a notice delivered by the office-holder, state the contact details for the office-holder.

Standard contents of notices relating to the office of office-holders

1.28. A notice relating to the office of the office-holder must also identify the office-holder and state—

(a) the date of the event of which notice is delivered;

(b) where the notice relates to an appointment, the person, body or court making the appointment;

(c) where the notice relates to the termination of an appointment, the reason for that termination.

Standard contents of notices relating to documents

1.29. A notice relating to a document must also state—

(a) the nature of the document; and

(b) the date of the document; or

(c) where the document relates to a period of time the period of time to which the document relates.

Standard contents of notices relating to court proceedings or orders

1.30. A notice relating to court proceedings must also identify those proceedings and if the notice relates to a court order state—

(a) the nature of the court order; and

(b) the date of the order.

Standard contents of notices of the results of decisions

1.31. A notice of the result of a decision procedure, deemed consent procedure or meeting must also state—

(a) the purpose of the procedure or meeting;

(b) a description of the procedure of meeting used;

(c) in the case of a decision procedure or meeting, the venue;

(d) whether, in the case of a meeting, the required quorum was in place; and

(e) the outcome (including any decisions made or resolutions passed).

Standard contents of returns or reports of matters considered by company members by correspondence

1.32. A return or report of a matter consideration of which has been sought from the members of a company by correspondence must also specify—

(a) the purpose of the consideration; and

(b) the outcome of the consideration (including any resolutions passed or deemed to be passed).

CHAPTER 8

Applications to the court

Standard contents and authentication of applications to the court under Parts 1 to 11 of the Act

1.33.—(1) This rule applies to applications to court under Parts 1 to 11 of the Act (other than an application for an administration order, a winding up petition or a bankruptcy petition).

(2) The application must state—

(a) that the application is made under the Act;

(b) the section of the Act or paragraph of a Schedule to the Act or the number of the rule under which it is made;

(c) the names of the parties;

(d) the name of the bankrupt, debtor or company which is the subject of the insolvency proceedings to which the application relates;

(e) the court (and where applicable, the division or district registry of that court) or hearing centre in which the application is made;

(f) where the court has previously allocated a number to the insolvency proceedings within which the application is made, that number;

(g) the nature of the remedy or order applied for or the directions sought from the court;

(h) the names and addresses of the persons on whom it is intended to serve the application or that no person is intended to be served;

(i) where the Act or Rules require that notice of the application is to be delivered to specified persons, the names and addresses of all those persons (so far as known to the applicant); and

(j) the applicant's address for service.

(3) The application must be authenticated by or on behalf of the applicant or the applicant's solicitor.

CHAPTER 9

Delivery of documents and opting out (sections 246C, 248A, 379C and 383A)

Application of Chapter

1.34.—(1) This Chapter applies where a notice is required under the Act or these Rules to be delivered, filed, forwarded, given, sent, or submitted in respect of proceedings under Parts 1 to 11 of the Act or the EC Regulation unless—

(a) the Act, a rule or an order of the court makes different provision including one requiring service on a person; or

(b) the recipient of the notice is the registrar of companies.

(2) A notice is delivered, filed, forwarded, given, sent, or submitted if it is delivered in accordance with this Chapter.

Delivery to all the creditors and opt out

1.35.—(1) Where the Act or a rule requires an office-holder to deliver a notice to all the creditors, or all the creditors in a class, that is satisfied by the delivery of the notice to all such creditors of whose address the office-holder is aware.

(2) Where a creditor has opted out from receiving notices, the opt out does not apply to—

(a) a notice which the Act requires to be delivered to all creditors without expressly excluding opted-out creditors;

(b) a notice of a change in the office-holder or the contact details for the office-holder;

(c) a notice as provided for by sections 246C(2) or 379C(2) (notices of distributions or intended distributions or required to be given by court order); or

(d) a document which these Rules requires to accompany a notice within sub-paragraphs (a) to (c).

(3) A creditor becomes an opted-out creditor when the notice of opting-out is received by the office-holder.

(4) An officer-holder in any consecutive insolvency proceedings of a different kind under Parts 1 to 11 of the Act in respect of the same company or individual who is aware that a creditor is an opted-out creditor must also not deliver any such notice to the creditor (subject to the same exceptions).

[Note: sections 246C(4) and 379C(4), which provide for opting-out, define "notice" as including "any document or information in any other form".]

Creditor's election to opt

1.36.—(1) A creditor may at any time elect to be an opted-out creditor.

(2) The creditor's election to opt out must be by a notice in writing authenticated and dated by the creditor.

(3) The creditor must deliver the notice to the office-holder.

(4) The creditor becomes an opted-out creditor from the date the creditor's notice is received by the office-holder and will be an opted-out creditor for the duration of the proceedings unless the opt out is revoked.

(5) The creditor will also be an opted-out creditor for any consecutive insolvency proceedings under Parts 1 to 11 of the Act of a different kind relating to the same company or individual.

(6) The creditor may at any time revoke the election to opt out by a further notice in writing authenticated and dated by the creditor and delivered to the office-holder.

(7) The creditor ceases to be an opted-out creditor from the date the notice is received by the office-holder.

Office-holder to provide information to creditors on opting-out

1.37.—(1) The office-holder must, in the first communication with a creditor, inform the creditor by a notice in writing that the creditor may elect to opt out of receiving further notices and documents relating to the proceedings.

(2) The notice must contain—

(a) identification and contact details for the office-holder;

(b) a statement that the creditor has the right to elect to opt out of receiving further documents about the proceedings unless

(i) the Act requires it to be delivered to all creditors without expressly excluding opted-out creditors;

(ii) the notice relates to a change in the office-holder or the office-holder's contact details;

(iii) it is a notice of a dividend or proposed dividend or a notice which the court orders to be sent to all creditors or all creditors of a particular category to which the creditor belongs;

(c) a statement that opting-out will not affect the creditor's entitlement to receive dividends should any be paid to creditors;

(d) a statement that unless the Rules provide to the contrary opting-out will not affect the any right the creditor may have to vote in a decision procedure or a participate in a deemed consent procedure in the proceedings although the creditor will not receive notice of it;

(e) a statement that a creditor who opts out will be treated as having opted out in respect of any consecutive insolvency proceedings of a different kind in respect of the same company or individual; and

(f) information about how the creditor may elect to be or cease to be an opted-out creditor.

Delivery of documents to authorised recipients

1.38. Where under the Act or these Rules a document is to be delivered to a person (other than by being served on that person), it may be delivered instead to any other person authorised in writing to accept delivery on behalf of the first-mentioned person.

Delivery of documents to joint office-holders

1.39. Where there are joint office-holders in insolvency proceedings, delivery of a document to one of them is to be treated as delivery to all of them.

Postal delivery of documents

1.40.—(1) A document is delivered if it is sent by post in accordance with the rules for postal delivery in CPR Part 6 subject to the provisions of this rule.

(2) First class or second class post may be used to deliver a document except where these Rules require first class post to be used.

(3) Unless the contrary is shown—

(a) a document sent by first class post is treated as delivered on the second business day after the day on which it is posted;

(b) a document sent by second class post is treated as delivered on the fourth business day after the day on which it is posted;

(c) where a post-mark appears on the envelope in which a document was posted, the date of that post-mark is to be treated as the date on which the document was posted.

(4) In this rule "post-mark" means a mark applied by a postal operator which records the date on which a letter entered the postal system of the postal operator.

Delivery by document exchange

1.41.—(1) A document is delivered to a member of a document exchange if it is delivered to that document exchange.

(2) Unless the contrary is shown, a document is treated as delivered to a document exchange—

(a) one business day after the day it is delivered to the document exchange where the sender and the intended recipient are members of the same document exchange; or

(b) two business days after the day it is delivered to the departure facility of the sender's document exchange where the sender and the intended recipient are members of different document exchanges.

Personal delivery of documents

1.42. A document is delivered if it is personally delivered in accordance with the rules for personal service in CPR Part 6.

Electronic delivery of documents

1.43.—(1) A document is delivered if it is sent by electronic means and the following conditions are met.

(2) The conditions are that the intended recipient of the document has—

(a) given consent for the electronic delivery of the document;

(b) not revoked that consent before the document is sent; and

(c) provided an electronic address for the delivery of the document.

(3) Consent may relate to a specific case or generally.

(4) The intended recipient may be presumed to consent where that person had customarily communicated with the person who is the subject of the insolvency proceedings by electronic means before those proceedings commenced and has not withdrawn such consent.

(5) Unless the contrary is shown, a document is to be treated as delivered by electronic means to an electronic address where the sender can produce a copy of the electronic communication which—

(a) contains the document; and

(b) shows the time and date the communication was sent and the electronic address to which it was sent.

(6) Unless the contrary is shown, a document sent electronically is treated as delivered to the electronic address to which it is sent at 9.00 am on the next business day after it was sent.

Electronic delivery of documents to the court

1.44.—(1) A document may not be delivered to a court by electronic means unless this is expressly permitted by the CPR, a practice direction, or these Rules.

(2) A document delivered by electronic means is to be treated as delivered to the court at the time it is recorded by the court as having been received or otherwise as the CPR, a practice direction or these Rules provide.

Electronic delivery of notice to enforcement officers

1.45. Where anything in the Act or these Rules provides for the delivery of a notice to an enforcement officer or enforcement agent, it may be delivered by electronic means to a person who has been authorised to receive such a notice on behalf of a specified enforcement officer or enforcement agent or on behalf of enforcement officers or enforcement agents generally.

Electronic delivery by office-holders

1.46.—(1) Where an office-holder delivers a document by electronic means, the document must contain—

(a) or be accompanied by, a statement that the recipient may request a hard copy of the document; and

(b) a telephone number, email address and postal address which may be used to make that request.

(2) An office-holder must deliver a hard copy of the document to the recipient within five business days of receipt of a request.

(3) An office-holder must not require the person requesting a hard copy to pay a fee for supplying it.

Use of website by office-holder to deliver a particular document (sections 246B and 379B)

1.47.—(1) This rule applies for the purposes of sections 246B and 379B(**a**) (use of websites).

(2) An office-holder who is required to deliver a document to any person may (except where personal delivery is required) satisfy that requirement by delivering a notice to that person which contains—

(a) a statement that the document is available for viewing and downloading on a website;

(b) the website's address and any password necessary to view and download the document; and

(**a**) Sections 246B and 379B were inserted by S.I. 2010/18.

(c) a statement that the person to whom the notice is delivered may request a hard copy of the document with a telephone number, email address and postal address which may be used make that request.

(3) An office-holder who receives such a request must deliver a hard copy of the document to the recipient free of charge within five business days of receipt of the request.

(4) A document to which a notice under paragraph (2) relates must—

(a) remain available on the website for the period required by rule 1.49; and

(b) be in a format that enables it to be downloaded within a reasonable time of an electronic request being made for it to be downloaded.

(5) A document which is delivered to a person by means of a website in accordance with this rule, is deemed to have been delivered—

(a) when the document is first made available on the website, or

(b) when the notice under paragraph (2) is delivered to that person if that is later.

[Note: rule 3.52(4) allows notice of an extension to an administration to be given on website, and rules 2.40(6) and 8.24(7) do likewise in respect of notice of the result of the consideration of a proposal for a CVA and an IVA respectively.]

General use of website to deliver documents

1.48.—(1) The office-holder may deliver a notice to each person to whom a document will be required to be delivered in the insolvency proceeding which contains—

(a) a statement that future documents in the proceedings other than those mentioned in paragraph (2) will be made available for viewing and downloading on a website without notice to the recipient and that the office-holder will not be obliged to deliver any such documents to the recipient of the notice unless it is requested by that person;

(b) a telephone number, email address and postal address which may be used to make a request for a hard copy of a document;

(c) a statement that the recipient of the notice may at any time request a hard copy of any or all of the following—

(i) all documents currently available for viewing on the website;

(ii) all future documents which may be made available there; and

(iii) the address of the website, any password required to view and download a relevant document from that site.

(2) A statement under paragraph (1)(a) does not apply to the following documents—

(a) a document for which personal delivery is required;

(b) a notice under rule 14.35 of intention to declare a dividend; and

(c) a document which is not delivered generally.

(3) A document is delivered generally if it is delivered to some or all of the following classes of persons—

(a) members,

(b) contributories,

(c) creditors;

(d) any class of members, contributories or creditors.

(4) An office-holder who has delivered a notice under paragraph (1) is under no obligation—

(a) to notify a person to whom the notice has been delivered when a document to which the notice applies has been posted to the website; or

(b) to deliver a hard copy of such a document unless a request is received under paragraph (1)(b).

(5) An office-holder who receives such a request—

(a) in respect of a document which is already available on the website must deliver a hard copy of the document to the recipient free of charge within five business days of receipt of the request;

(b) in respect of all future documents must deliver each such document in accordance with the requirements in the Act and the Rules.

(6) Rule 1.48 does not apply in respect of a person who has made such a request in respect of all future documents.

(7) A document to which a statement under paragraph (1)(a) applies must—

(a) remain available on the website for the period required by rule 1.49; and

(b) must be in such a format as to enable it to be downloaded within a reasonable time of an electronic request being made for it to be downloaded.

(8) A document which is delivered to a person by means of a website in accordance with this rule, 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) was delivered to that person.

Retention period for documents made available on websites

1.49.—(1) This rule applies to a document which is made available on a website under rules 1.47, 1.48, 2.40(6) (notice of the result of the consideration of a proposal for a CVA), 3.52(5) (notice of an extension to an administration) and 8.24(7) (notice of the result of the consideration of a proposal for an IVA).

(2) Such a document must continue to be made available on the website during the period in which any person who is an office-holder when the document is first made available remains in office.

Proof of delivery of documents

1.50.—(1) A certificate complying with this rule is proof that a document has been duly delivered to the recipient in accordance with this Chapter unless the contrary is shown.

(2) A certificate must state the method of delivery and the date of the sending, posting or delivery (as the case may be).

(3) In the case of the official receiver or the adjudicator the certificate must be given by—

(a) the official receiver or the adjudicator; or

(b) a member of the official receiver's staff.

(4) In the case of an office-holder other than the official receiver or the adjudicator the certificate must be given by—

(a) the office-holder;

(b) the office-holder's solicitor; or

(c) a partner or an employee of either of them.

(5) In the case of a person other than an office-holder the certificate must be given by that person and must state—

(a) that the document was delivered by that person; or

(b) that another person (named in the certificate) was instructed to deliver it.

(6) A certificate under this rule may be endorsed on a copy of the document to which it relates.

Delivery of proofs and details of claims

1.51.—(1) Once a proof has, or details of a claim have, been delivered to an office-holder in accordance with these Rules, it need not be delivered again; and accordingly, where a provision of these Rules requires delivery of a proof or details of a claim by a certain time, that requirement is satisfied if the proof has or the details have already been delivered.

(2) Paragraph (1) also applies to those cases set out in rule 14.3(3)(a) and (b) where a creditor who has proved in an insolvency proceeding is deemed to have proved in an insolvency proceeding which immediately follows that proceeding.

CHAPTER 9

Inspection of documents, copies and provision of information

Right to copy documents

1.52. Where the Act in relation to proceedings under Parts 1 to 11 of the Act or these Rules give a person the right to inspect documents, that person has a right to be supplied on request with copies of those documents on payment of the standard fee for copies.

[Note: Rules 12.39 and 12.40 provide for the inspection of and charges for copies of documents on the court file and rule 12.49 provides for inspection of the bankruptcy file for which there will be no charge as it is in electronic form.]

Charges for copies of documents provided by the office-holder

1.53. Except where prohibited by these Rules, a person is entitled to require the payment of the standard fee for copies of documents requested by a creditor, member, contributory or member of a liquidation or creditors' committee.

Offence in relation to inspection of documents

1.54.—(1) It is an offence for a person who does not have a right under these Rules to inspect a relevant document falsely to claim to be a creditor, a member of a company or a contributory of a company with the intention of gaining sight of the document.

(2) A relevant document is one which is on the court file, the bankruptcy file or held by the office-holder or any other person and which a creditor, a member of a company or a contributory of a company has the right to inspect under these Rules.

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

Right to list of creditors

1.55.—(1) This rule applies to—

(a) administration,

(b) creditors' voluntary winding up,

(c) winding up by the court, and

(d) bankruptcy.

(2) A creditor or a member State liquidator has the right to require the office-holder to provide a list of the names and addresses of the creditors and the amounts of their respective debts unless—

(a) a statement of affairs has been filed with the court, in bankruptcy proceedings; or

(b) the information is available for inspection on the bankruptcy file.

(3) The office-holder on being required to provide such a list—

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

(b) may charge the standard fee for copies for a hard copy.

(4) The office-holder may omit the name and address of a creditor if the office-holder thinks its disclosure would be prejudicial to the conduct of the proceedings or might reasonably be expected to lead to violence against any person.

(5) In such a case the list must include—

(a) the amount of that creditor's debt; and

(b) a statement that the name and address of the creditor has been omitted for that debt.

Confidentiality of documents – grounds for refusing inspection

1.56.—(1) Where an office-holder considers that a document forming part of the records of the insolvency 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 office-holder may decline to allow it to be inspected by a person who would otherwise be entitled to inspect it.

(2) The persons to whom the office-holder may refuse inspection include members of a liquidation committee or a creditors' committee.

(3) Where the office-holder refuses inspection of a document, the person wishing to inspect it may appeal to the court.

(4) The court's decision may be subject to such conditions (if any) as it thinks just.

PART 2

COMPANY VOLUNTARY ARRANGEMENTS (CVA) (PART 1 OF THE ACT)

CHAPTER 1

Preliminary

Interpretation

2.1.—In this Part—

"nominee" and "supervisor" include the proposed nominee or supervisor in relation to a proposal for a CVA; and

"proposal" means a proposal for a CVA.

CHAPTER 2

The proposal for a CVA (section 1)

[Note: section 1 of the Act sets out who may propose a CVA.]

Proposal for a CVA: general principles and amendment

2.2.—(1) A proposal must—

(a) identify the company;

(b) explain why the proposer thinks a CVA is desirable;

(c) explain why the creditors are expected to agree to a CVA; and

(d) be authenticated and dated by the proposer.

(2) The proposal may be amended with the nominee's agreement in writing in the following cases.

(3) The first case is where—

(a) no steps have been taken to obtain a moratorium;

(b) the nominee is not the liquidator or administrator of the company; and

(c) the nominee's report has not been filed with the court under section 2(2).

(4) The second case is where—

(a) the proposal is made with a view to obtaining a moratorium; and

(b) the nominee's statement under paragraph 6(2) of Schedule A1 (nominee's opinion on prospects of CVA being approved etc.) has not yet been submitted to the directors.

Proposal: contents

2.3.—(1) The proposal must set out the following so far as known to the proposer—

Assets	(a) the company's assets, with an estimate of their respective values, (b) which assets are charged and the extent of the charge, (c) which assets are to be excluded from the CVA, and (d) particulars of any property to be included in the CVA which is not owned by the company, including details of who owns such property, and the terms on which it will be available for inclusion;
Liabilities	(e) the nature and amount of the company's liabilities; (f) how the company's liabilities will be met, modified, postponed or

	otherwise dealt with by means of the CVA and, in particular— (i) how preferential creditors and creditors who are, or claim to be, secured will be dealt with; (ii) how creditors who are connected with the company(**a**) will be dealt with; and (iii) if the company is not in administration or liquidation whether, if the company did go into administration or liquidation, there are circumstances which might give rise to claims under section 238 (transactions at an undervalue), section 239 (preferences), section 244 (extortionate credit transactions), or section 245 (floating charges invalid); and (iv) where there are circumstances that might give rise to such claims, whether, and if so what, provision will be made to indemnify the company in respect of them;
Nominee's fees and expenses	(g) the amount proposed to be paid to the nominee by way of fees and expenses;
Supervisor	(h) the name, address and qualification of the supervisor and confirmation that that person is qualified to act as an insolvency practitioner in relation to the company; (i) how the fees and expenses of the supervisor will be determined and paid; (j) the functions to be performed by the supervisor; (k) where it is proposed that two or more supervisors be appointed a statement whether acts done in connection with the CVA may be done by any one or more of them or must be done by all of them;
Guarantees and proposed guarantees	(l) whether any, and if so what, guarantees have been given in respect of the company's debts, specifying which of the guarantors are persons connected with the company; (m) whether any guarantees are proposed to be offered for the purposes of the CVA and, if so, by whom and whether security is to be given or sought;
Timing	(n) the proposed duration of the CVA; (o) the proposed dates of distributions to creditors, with estimates of their amounts;
Type of proceedings	(p) whether the proceedings will be main, territorial or non-EC proceedings with reasons;
Conduct of the business	(q) how the business of the company will be conducted during the CVA;
Further credit facilities	(r) details of any further proposed credit facilities for the company, and how the debts so arising are to be paid;
Handling of funds arising	(s) the manner in which funds held for the purposes of the CVA are to be banked, invested or otherwise dealt with pending distribution to creditors; (t) how funds held for the purpose of payment to creditors, and not so paid on the termination of the CVA, will be dealt with; (u) how the claim of any person bound by the CVA by virtue of section 5(2)(b)(ii) or paragraph 37(2)(b)(ii) of Schedule A1 will be dealt with;

(**a**) "Connected with a company" is defined in section 249 of the Act.

Address (where moratorium proposed)	(v) where the proposal is made in relation to an eligible company with a view to obtaining a moratorium under Schedule A1, the address to which the documents referred to in paragraph 6(1) of that Schedule must be delivered;
Other matters	(w) any other matters which the proposer considers appropriate to enable members and creditors to reach an informed decision on the proposal.

(2) Where the proposal is made by the directors, an estimate so far as known to them of—

(a) the value of the prescribed part if the proposal for the CVA is not accepted and the company goes into liquidation (whether or not the liquidator might be required under section 176A to make the prescribed part available for the satisfaction of unsecured debts); and

(b) the value of the company's net property (as defined by section 176A(6)) on the date that the estimate is made.

(3) Where the proposal is made by the administrator or liquidator the following so far as known to the office-holder—

(a) an estimate of—

(i) the value of the prescribed part (whether or not the administrator or liquidator might be required under section 176A to make the prescribed part available for the satisfaction of unsecured debts); and

(ii) the value of the company's net property (as defined by section 176A(6)); and

(b) a statement as to whether the administrator or liquidator proposes to make an application to the court under section 176A(5) and if so the reasons for the application; and

(c) details of the nature and amount of the company's preferential creditors.

(4) Information may be excluded from an estimate under paragraph (3)(a) if the inclusion of the information could seriously prejudice the commercial interests of the company.

(5) If the exclusion of such information affects the calculation of the estimate, the proposal must include a statement to that effect.

CHAPTER 3

Procedure for a CVA without a moratorium

Procedure for proposal where the nominee is not the liquidator or the administrator (section 2(3))

2.4.—(1) This rule applies where the nominee is not the same person as the liquidator or the administrator.

(2) A nominee who consents to act must deliver a notice of that consent to the proposer as soon as reasonably practicable after the proposal has been submitted to the nominee under section 2(3).

(3) The notice must state the date the nominee received the proposal.

(4) The period of 28 days in which the nominee must submit a report to the court under section 2(2) begins on the date the nominee received the proposal as stated in the notice.

Information for the official receiver

2.5. Where the company is being wound up by the court, the liquidator must deliver to the official receiver—

(a) a copy of the proposal, and

(b) the name and address of the nominee (if the nominee is not the liquidator).

Statement of affairs (section 2(3))

2.6.—(1) The statement of the company's affairs required by section 2(3) must contain the following information—

(a) a list of the company's assets, divided into such categories as are appropriate for easy identification, and with each category given an estimated value;

(b) in the case of any property on which a claim against the company is wholly or partly secured, particulars of the claim, and of how and when the security was created;

(c) the names and addresses of the preferential creditors, with the amounts of their respective claims;

(d) the names and addresses of the unsecured creditors with the amounts of their respective claims;

(e) particulars of any debts owed by the company to persons connected with it;

(f) particulars of any debts owed to the company by persons connected with it;

(g) the names and addresses of the company's members, with details of their respective shareholdings; and

(h) any other particulars that the nominee in writing requires to be provided for the purposes of making the nominee's report on the proposal to the court.

(2) The statement must be made up to a date not earlier than two weeks before the date of the proposal.

(3) However the nominee may allow the statement to be made up to an earlier date (but not more than two months before the proposal) where that is more practicable.

(4) Where the statement is made up to an earlier date, the nominee's report to the court on the proposal must explain why.

(5) The statement of affairs must be verified by a statement of truth made by the proposer.

(6) Where the proposal is made by the directors, only one director need make the statement of truth.

Application to omit information from statement of affairs delivered to creditors

2.7. The nominee, the directors or any person appearing to the court to have an interest, may apply to the court for a direction that specified information be omitted from the statement of affairs as delivered to the creditors where disclosure of that information would be likely to prejudice the conduct of the CVA or might reasonably be expected to lead to violence against any person.

Additional disclosure for assistance of nominee

2.8.—(1) This rule applies where the nominee is not the administrator or the liquidator of the company.

(2) If it appears to the nominee that the nominee's report to the court cannot properly be prepared on the basis of information in the proposal and statement of affairs, the nominee may require the proposer to provide—

(a) more information about the circumstances in which, and the reasons why, a CVA is being proposed;

(b) particulars of any previous proposals which have been made in relation to the company under Part 1 of the Act;

(c) any further information relating to the company's affairs which the nominee thinks necessary for the purposes of the report.

(3) The nominee may require the proposer to inform the nominee whether, and if so in what circumstances, any person who is, or has been at any time in the two years before the date the nominee received the proposal, a director or officer of the company has—

(a) been concerned in the affairs of any other company or limited liability partnership which has been the subject of insolvency proceedings,

(b) been made bankrupt,

(c) been the subject of a debt relief order, or

(d) entered into an arrangement with creditors.

(4) The proposer must give the nominee such access to the company's accounts and records as the nominee may require to enable the nominee to consider the proposal and prepare the nominee's report.

Nominee's report on proposal where the nominee is not the liquidator or administrator (section 2(2))

2.9.—(1) The nominee's report must be filed with the court under section 2(2) accompanied by—

(a) a copy of the report;

(b) a copy of the proposal (as amended under rule 2.2(2), if that is the case); and

(c) a copy of the statement of the company's affairs or a summary of it.

(2) The report must state—

(a) why the nominee considers the proposal does or does not have a reasonable prospect of being approved and implemented; and

(b) why the members and the creditors should or should not be invited to consider the proposal.

(3) The court must endorse the nominee's report and the copy of it with the date of filing and return the copy to the nominee.

(4) The nominee must deliver a copy of the report to the company.

Replacement of nominee (section 2(4))

2.10.—(1) A person (other than the nominee) who intends to apply to the court under section 2(4) for the nominee to be replaced must deliver a notice that such an application is being made to the nominee at least five business days before making the application.

(2) A nominee who intends to apply under that section to be replaced must deliver a notice that such an application is being made to the person intending to make the proposal at least five business days before making the application.

(3) The court must not appoint a replacement nominee unless a statement by the replacement nominee has been filed with the court confirming that person—

(a) consents to act, and

(b) is qualified to act as an insolvency practitioner, in relation to the company.

CHAPTER 4

Procedure for a CVA with a Moratorium

Statement of affairs (paragraph 6(1)(b) of Schedule A1)

2.11.—(1) The statement of affairs required by paragraph 6(1)(b) of Schedule A1 must contain the same information as is required by rule 2.6.

(2) The statement must be made up to a date not earlier than two weeks before the date of the proposal.

(3) However the nominee may allow the statement to be made up to an earlier date (but not more than two months before the proposal) where that is more practicable.

(4) Where the statement is made up to an earlier date, the nominee's statement to the directors on the proposal must explain why.

(5) The statement of affairs must be verified by a statement of truth made by at least one director.

Application to omit information from a statement of affairs

2.12. The nominee, the directors or any person appearing to the court to have an interest, may apply to the court for a direction that specified information be omitted from the statement of affairs as delivered to the creditors where disclosure of that information would be likely to prejudice the conduct of the CVA or might reasonably be expected to lead to violence against any person.

The nominee's statement (paragraph 6(2) of Schedule A1)

2.13.—(1) The nominee must submit to the directors the statement required by paragraph 6(2) of Schedule A1 within 28 days of the submission to the nominee of the proposal.

(2) The statement must—

(a) include the name and address of the nominee; and

(b) be authenticated and dated by the nominee.

(3) A statement which contains an opinion on all the matters referred to in paragraph 6(2) must—

(a) explain why the nominee has formed that opinion, and

(b) if the nominee is willing to act, be accompanied by a statement of the nominee's consent to act in relation to the proposed CVA.

(4) The statement of the nominee's consent must—

(a) include the name and address of the nominee;

(b) state that the nominee is qualified to act as an insolvency practitioner in relation to the company; and

(c) be authenticated and dated by the nominee.

Documents filed with court to obtain moratorium (paragraph 7(1) of Schedule A1)

2.14.—(1) The statement of the company's affairs which the directors file with the court under paragraph 7(1)(b) of Schedule A1 must be the same as the statement they submit to the nominee under paragraph 6(1)(b) of that Schedule.

(2) The statement required by paragraph 7(1)(c) of that Schedule that the company is eligible for a moratorium must—

(a) be made by the directors;

(b) state that the company meets the requirements of paragraph 3 of Schedule A1 and is not a company which falls within paragraph 2(2) of that Schedule;

(c) confirm that the company is not ineligible for a moratorium under paragraph 4 of that Schedule; and

(d) be authenticated and dated by the directors.

(3) The statement required by paragraph 7(1)(d) of that Schedule that the nominee has consented to act must be in the same terms as the statement referred to in rule 2.13(3)(b).

(4) The statement of the nominee's opinion required by paragraph 7(1)(e) of that Schedule—

(a) must be the same as the statement of opinion required by paragraph 6(2) of that Schedule; and

(b) must be filed with the court not later than ten business days after it was submitted to the directors.

(5) The documents filed with the court under paragraph 7(1) of that Schedule must be accompanied by four copies of a schedule, authenticated and dated by the directors, identifying the company and listing all the documents filed.

(6) The court must endorse the copies of the schedule with the date on which the documents were filed and deliver three copies of the endorsed schedule to the directors.

Notice and advertisement of beginning of moratorium

2.15.—(1) The directors must as soon as reasonably practicable after delivery to them of the endorsed copies of the schedule deliver two copies of the schedule to the nominee and one to the company.

(2) After delivery of the copies of the schedule, the nominee—

(a) must as soon as reasonably practicable gazette a notice of the coming into force of the moratorium; and

(b) may advertise the notice in such other manner as the nominee thinks fit.

(3) The notice must specify—

(a) the nature of the business of the company;

(b) that a moratorium under section 1A has come into force; and

(c) the date on which it came into force.

(4) The nominee must as soon as reasonably practicable deliver a notice of the coming into force of the moratorium to—

(a) the registrar of companies;

(b) the company; and

(c) any petitioning creditor of whose address the nominee is aware.

(5) The notice must specify—

(a) the date on which the moratorium came into force, and

(b) the court with which the documents to obtain the moratorium were filed.

(6) The nominee must deliver a notice of the coming into force of the moratorium and the date on which it came into force to—

(a) any enforcement agent or other officer who, to the nominee's knowledge, is charged with a distress or other legal process, against the company or its property; and

(b) any person who, to the nominee's knowledge, has distrained against the company or its property.

Notice of continuation of moratorium where physical meeting of creditors is summoned (paragraph 8(3B) of Schedule A1)

2.16.—(1) This rule applies where under paragraph 8(3B)(b) and (3C) of Schedule A1(**a**) the moratorium continues after the initial period of 28 days referred to in 8(3) of that Schedule because a physical meeting of the company's creditors is first summoned to take place after the end of that period.

(2) The nominee must file with the court and deliver to the registrar of companies a notice of the continuation as soon as reasonably practicable after summoning such a meeting of the company's creditors.

(3) The notice filed with the court must—

(a) identify the company;

(**a**) Paragraph 8 is amended by paragraph 9(4) and(5) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

(b) give the name and address of the nominee;

(c) state the date on which the notice of the meeting was sent to the creditors under rule 15.5;

(d) state the date for which the meeting is summoned;

(e) state that under paragraph 8(3B)(b) and (3C) of Schedule A1 the moratorium will be continued to that date; and

(f) be authenticated and dated by the nominee.

Notice of decision extending or further extending a moratorium (paragraph 36 of Schedule A1)

2.17.—(1) This rule applies where the moratorium is extended, or further extended by a decision which takes effect under paragraph 36 of Schedule A1.

(2) The nominee must, as soon as reasonably practicable, file with the court and deliver to the registrar of companies a notice of the decision.

(3) The notice filed with the court must—

(a) identify the company;

(b) give the name and address of the nominee;

(c) state the date on which the moratorium was extended or further extended;

(d) state the new expiry date of the moratorium; and

(e) be authenticated and dated by the nominee.

Notice of court order extending or further extending or continuing or renewing a moratorium (paragraphs 34(2), and 38(4))

2.18. Where the court makes an order extending, further extending, renewing or continuing a moratorium, the nominee must, as soon as reasonably practicable, deliver to the registrar of companies a notice stating the new expiry date of the moratorium.

Advertisement of end of moratorium (paragraph 11(1) of Schedule A1)

2.19.—(1) After the moratorium ends, the nominee—

(a) must, as soon as reasonably practicable, gazette a notice of its coming to an end*;* and

(b) may advertise the notice in such other manner as the nominee thinks fit.

(2) The notice must state—

(a) the nature of the company's business;

(b) that a moratorium under section 1A has ended; and

(c) the date on which it came to an end.

(3) The nominee must, as soon as reasonably practicable—

(a) file with the court a notice specifying the date on which the moratorium ended; and

(b) deliver such a notice to—

(i) the registrar of companies,

(ii) the company, and

(iii) all the creditors.

(4) The notice to the court must—

(a) identify the company,

(b) give the name and address of the nominee, and

(c) be authenticated and dated by the nominee.

Disposal of charged property etc. during moratorium

2.20.—(1) This rule applies where the company applies to the court under paragraph 20 of Schedule A1 for permission to dispose of—

(a) property subject to a security, or

(b) goods under a hire-purchase agreement.

(2) The court must fix a venue for hearing the application.

(3) The company must as soon as reasonably practicable deliver a notice of the venue to the holder of the security or the owner of the goods under the agreement.

(4) If an order is made, the court must deliver two sealed copies of the order to the company and the company must deliver one of them to the holder or owner as soon as reasonably practicable.

Withdrawal of nominee's consent to act (paragraph 25(5) of Schedule A1)

2.21.—(1) A nominee who withdraws consent to act, must file with the court and otherwise deliver a notice under paragraph 25(5) of Schedule A1 as soon as reasonably practicable.

(2) The notice filed with the court must—

(a) identify the company;

(b) give the name and address of the nominee;

(c) specify the date on which the nominee withdrew consent;

(d) state, with reference to the reasons at paragraph 25(2) of that Schedule, why the nominee withdrew consent; and

(e) be authenticated and dated by the nominee.

Application to the court to replace the nominee (paragraph 28 of Schedule A1)

2.22.—(1) Directors who intend to make an application under paragraph 28 of Schedule A1 for the nominee to be replaced must deliver a notice that the application will be made to the nominee at least five business days beforehand.

(2) A nominee who intends to make an application under that paragraph to be replaced must deliver notice that the application will be made to the directors at least five business days beforehand.

(3) The court must not appoint a replacement nominee unless a statement by the replacement nominee has been filed with the court confirming that person—

(a) consents to act, and

(b) is qualified to act as an insolvency practitioner, in relation to the company.

Notice of appointment of replacement nominee

2.23.—(1) A person appointed as a replacement nominee must as soon as reasonably practicable deliver a notice of the appointment to the registrar of companies and the former nominee and, where the appointment is not by the court, file a notice of the appointment with the court.

(2) The notice filed with the court must—

(a) identify the company;

(b) give the name and address of the replacement nominee;

(c) specify the date on which the replacement nominee was appointed to act; and

(d) be authenticated and dated by the replacement nominee.

Applications to court to challenge nominee's actions etc. (paragraphs 26 and 27 of Schedule A1)

2.24. A person intending to make an application to the court under paragraph 26 or 27 of Schedule A1 must deliver a notice that the application will be made to the nominee at least five business days beforehand.

CHAPTER 5

Consideration of the proposal by the company members and creditors

Consideration of proposal - common requirements

2.25.—(1) The nominee may invite the members of the company to consider a proposal either by correspondence or by summoning a meeting of the company.

(2) The nominee must invite the creditors to consider the proposal by way of a decision procedure.

(3) In the case of the members, the nominee must deliver to every person whom the nominee believes to be a member a notice which must—

(a) identify the proceedings;

(b) state the effect of the following—

(i) rule 2.37 about members' voting rights;

(ii) rule 2.33 about the requisite majority of members for passing resolutions; and

(iii) rule 2.38 about rights of appeal; and

(c) be accompanied by—

(i) a copy of the proposal;

(ii) a copy of the statement of affairs, or if the nominee thinks fit a summary including a list of creditors with the amounts of their debts;

(iii) the nominee's comments on the proposal, unless the nominee is the administrator or liquidator; and

(iv) a copy of each resolution to be voted on.

(4) In the case of the creditors, the nominee must deliver to each creditor a notice which complies with rule 15.7 so far as is relevant.

(5) The notice must also—

(a) contain identification details for the proceedings;

(b) be accompanied by—

(i) a copy of the proposal;

(ii) a copy of the statement of affairs, or if the nominee thinks fit a summary including a list of creditors with the amounts of their debts; and

(iii) the nominee's comments on the proposal, unless the nominee is the administrator or liquidator; and

(c) state how a creditor may propose a modification to the proposal, and how the nominee will deal with such a proposal for a modification.

Members' consideration at a meeting

2.26.—(1) Where the nominee invites the members to consider the proposal at a meeting the notice to members under rule 2.25(1) must also—

(a) specify the purpose of and venue for the meeting; and

(b) be accompanied by a blank proxy.

(2) The nominee must have regard to the convenience of those invited to attend when fixing the venue for a meeting (including the resumption of an adjourned meeting).

(3) The date of the meeting (except where the nominee is the administrator or liquidator of the company) must not be more than 28 days from the date on which—

(a) the nominee's report is filed with the court under rule 2.9, or

(b) the moratorium came into force.

Members' consideration by correspondence

2.27.—(1) Where the nominee is inviting the members to consider the proposal by correspondence the notice to members delivered under rule 2.25(3) must also—

(a) invite the recipient to vote for or against each resolution;

(b) state that in order to be counted a vote must be received by the deadline stated in the notice; and

(c) state how a member may propose a modification to the proposal, and how the nominee will deal with such a proposal for a modification.

(2) The deadline must be on a date not less than 14 days from the date of delivery of the notice and not more than 28 days from the date—

(i) the nominee's report is filed with the court under rule 2.9, or

(ii) the moratorium came into force.

Creditors' consideration by a decision procedure

2.28. Where the nominee is inviting the creditors to consider the proposal by a decision procedure, the decision date must be not less than 14 days from the date of delivery of the notice and not more than 28 days from the date—

(a) the nominee's report is filed with the court under rule 2.9, or

(b) the moratorium came into force.

Timing of decisions on proposal

2.29.—(1) The decision date for the creditors' decision procedure may be on the same day as, or on a different day to, the meeting of the company.

(2) But the creditors' decision on the proposal must be made before the members' decision.

(3) The meeting of the company must be held not later than five business days after the creditors' decision.

Creditor approval of modified proposal

2.30.—(1) This rule applies where a decision is sought from the creditors following notice to the nominee of proposed modifications to the proposal from the company's directors under paragraph 31(7) of Schedule A1.

(2) The decision must be sought by a decision procedure with a decision date within 14 days of the date on which the directors gave notice to the nominee of the modifications.

(3) The creditors must be given at least seven days' notice of the decision date.

Notice of members' meeting: when and to whom delivered

2.31. A notice under rule 2.25(3) summoning a meeting of the company must be delivered at least 14 days before the day fixed for the meeting to all the members and to—

(a) every officer or former officer of the company whose presence the nominee thinks is required; and

(b) all other directors of the company.

[Note: in accordance with rule 15.13, this rule also applies to a notice of a creditors' decision procedure under rule 2.25(2) where the decision is to be taken by way of a meeting.]

Requisition of physical meeting by creditors

2.32.—(1) This rule applies where the creditors requisition a physical meeting to consider a proposal (with or without modifications) in accordance with section 246ZE and rule 15.5.

(2) The meeting must take place within 14 days of the date on which the prescribed proportion of creditors have required the meeting to take place.

(3) Notice of at least seven days is required for a physical meeting under this rule.

Non-receipt of notice by members

2.33. Where in accordance with the Act or these Rules the members are invited to consider a proposal, the consideration is presumed to have duly taken place even if not everyone to whom the notice is to be delivered receives it.

Proposal for alternative supervisor

2.34.—(1) If in response to a notice inviting—

(a) members to consider the proposal by correspondence, or

(b) creditors to consider the proposal other than at a meeting,

a member or creditor proposes that a person other than the nominee be appointed as supervisor, that person's consent to act and confirmation of being qualified to act as an insolvency practitioner in relation to the company must be delivered to the nominee by the deadline in the notice of the decision by correspondence or by the decision date (as the case may be).

(2) If, at either a meeting of the company or the creditors to consider the proposal, a resolution is moved for the appointment of a person other than the nominee to be supervisor, the person moving the resolution must produce to the chair at or before the meeting—

(a) confirmation that the person proposed as supervisor is qualified to act as an insolvency practitioner in relation to the company; and

(b) that person's written consent to act (unless that person is present at the meeting and there signifies consent to act).

Chair at meetings

2.35. — The chair of a meeting under this Part must be the nominee or an appointed person.

Attendance at members' meetings

2.36.—(1) Every officer or former officer who receives a notice delivered under rule 2.31 must attend the meeting of the company.

(2) The chair of the meeting may exclude any person who is attending.

(3) The chair may exclude such a person either for the whole meeting or for any part of the meeting, whether or not notice of the meeting has been delivered to that person.

Members' voting rights

2.37.—(1) A member is entitled to vote according to the rights attaching to the member's shares in accordance with the articles of the company.

(2) A member's shares include any other interest that person may have as a member of the company.

(3) The value of a member for the purposes of voting is determined by reference to the number of votes conferred on that member by the company's articles.

Requisite majorities of members

2.38.—(1) A resolution is passed by members by correspondence or at a meeting of the company when a majority (in value) of those voting have voted in favour of it.

(2) This is subject to any express provision to the contrary in the articles.

(3) A resolution is not passed by correspondence unless at least one member has voted in favour of it.

Notice of order made under section 4A(6) or paragraph 36(5) of Schedule A1

2.39.—(1) This rule applies where the court makes an order under section 4A(6) or paragraph 36(5) of Schedule A1.

(1) The member who applied for the order must deliver a sealed copy of it to—

(a) the proposer, and

(b) the supervisor (if different).

(2) If the directors are the proposer a single copy may be delivered to the company at its registered office.

(3) The supervisor, or the proposer where there is no supervisor, must as soon as reasonably practicable deliver a notice that the order has been made to every person who had received a notice to vote on the matter or who is affected by the order.

(4) The member who applied for the order must, within five business days of the order, deliver a copy to the registrar of companies.

Report of consideration of proposal under section 4(6) and (6A) or paragraph 30(3) and (4) of Schedule A1

2.40.—(1) A report must be prepared of the consideration of a proposal under section 4(6) and (6A) or paragraph 30(3) and (4) of Schedule A1 by the nominee or an appointed person.

(2) The report must—

(a) state whether the proposal was approved or rejected and whether by the creditors alone or by both the creditors and members and, in either case, whether any approval was with any modifications;

(b) list the creditors and members who voted or attended or who were represented at a meeting or decision procedure used (as applicable) to consider the proposal, setting out (with their respective values) how they voted on each resolution;

(c) identify which of those creditors were considered to be connected with the company(**a**);

(d) if the proposal was approved, state with reasons whether, the proceedings are main, territorial or non-EC proceedings;

(e) include such further information as the nominee or the appointed person thinks it appropriate to make known to the court.

(3) A copy of the report must be filed with the court, within four business days of the deadline (if the proposal was considered by the company by correspondence) or the date of the company meeting.

(4) The court must endorse the copy of the report with the date of filing.

(**a**) "Connected with a company" is defined in section 249 of the Act.

(5) The nominee or appointed person must give notice of the result of the consideration of the proposal to everyone who was invited to consider the proposal or to whom notice of a decision procedure or meeting was delivered as soon as reasonably practicable after a copy of the report is filed with the court.

(6) An invitation to consider the proposal may contain or be accompanied by a notice that the results of the consideration of the proposal will be made available for viewing on a website and that no other notice will be delivered to the creditors or members (as the case may be).

(7) A notice under paragraph (6) must contain the information required by rule 1.48(1)(b) and (c) and a statement that the recipient of the notice may request free of charge a hard copy of the notice of the result of the consideration.

(8) Where the decision approving the CVA has effect under section 4A or paragraph 36 of Schedule A1 with or without modifications, the supervisor must as soon as reasonably practicable deliver a copy of the nominee or appointed person's report to the registrar of companies.

CHAPTER 6

Additional matters concerning and following approval of CVA

Hand-over of property etc. to supervisor

2.41.—(1) Where the decision approving a CVA has effect under section 4A or paragraph 36 of Schedule A1, and the supervisor is not the same person as the proposer, the proposer must, as soon as reasonably practicable, do all that is required to put the supervisor in possession of the assets included in the CVA.

(2) Where the company is in administration or liquidation and the supervisor is not the same person as the administrator or liquidator, the supervisor must—

(a) before taking possession of the assets included in the CVA, deliver to the administrator or liquidator an undertaking to discharge the balance referred to in paragraph (3) out of the first realisation of assets; or

(b) upon taking possession of the assets included in the CVA, discharge such balance.

(3) The balance is any balance due to the administrator or liquidator, or to the official receiver not acting as liquidator—

(a) by way of fees or expenses properly incurred and payable under the Act or these Rules; and

(b) on account of any advances made to the company; and

(c) interest on such advances at the rate specified in section 17 of the Judgments Act 1838(**a**) at the date on which the company entered administration or went into liquidation.

(4) The administrator or liquidator, or the official receiver not acting as liquidator, has a charge on the assets included in the CVA in respect of any sums comprising such balance, subject only to the deduction from realisations by the supervisor of the proper costs and expenses of such realisations.

(5) The supervisor must from time to time out of the realisation of assets—

(a) discharge all guarantees properly given by the administrator or liquidator for the benefit of the company, and

(b) pay all the expenses of the administrator or liquidator or of the official receiver not acting as liquidator.

(6) Sums due to the official receiver take priority over those due to any other person under this rule.

(**a**) Section 17 has been amended by the Statute Law Revision (No 2) Act 1888 (c.57), article 2 of SI 1993/564, article 3 of SI 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.

Revocation or suspension of CVA

2.42.—(1) This rule applies where the court makes an order of revocation or suspension under section 6 or paragraph 38 of Schedule A1.

(2) The applicant for the order must deliver a sealed copy of it to—

(a) the proposer, and

(b) the supervisor (if different).

(3) If the directors are the proposer a single copy of the order may be delivered to the company at its registered office.

(4) If the order includes a direction by the court under section 6(4)(b) or (c) or under paragraph 38(4)(b) or (c) of Schedule A1 for a matter to be considered further, the applicant for the order must deliver a notice that the order has been made to the person who is directed to take such action.

(5) The proposer must—

(a) as soon as reasonably practicable deliver a notice that the order has been made to all of those persons to whom a notice to consider the matter was delivered or who appear to be affected by the order;

(b) within five business days of delivery of a copy of the order (or within such longer period as the court may allow), deliver (if applicable) a notice to the court advising that it is intended to make a revised proposal to the company and its creditors, or to invite re-consideration of the original proposal.

(6) The applicant for the order must deliver a copy of the order to the registrar of companies within five business days of the making of the order.

Supervisor's accounts and reports

2.43.—(1) The supervisor must keep accounts and records where the CVA authorises or requires the supervisor—

(a) to carry on the business of the company;

(b) to realise assets of the company; or

(c) otherwise to administer or dispose of any of its funds.

(2) The accounts and records which must be kept are of the supervisor's acts and dealings in, and in connection with, the CVA, including in particular records of all receipts and payments of money.

(3) The supervisor must preserve any such accounts and records which were kept by any other person who has acted as supervisor of the CVA and are in the supervisor's possession.

(4) The supervisor must deliver reports on the progress and prospects for the full implementation of the CVA to—

(a) the registrar of companies;

(b) the company;

(c) all of the creditors bound by the CVA;

(d) subject to paragraph (9) below, the members; and

(e) if the company is not in liquidation, the company's auditors (if any) for the time being.

(5) The first report must cover the period of 12 months commencing on the date on which the CVA was approved and a further report must be made for each subsequent period of 12 months.

(6) Each report must be delivered within the period of two months after the end of the 12 month period.

(7) Such a report is not required if the obligation to deliver a final report under rule 2.46(2) arises in the two month period.

(8) Where the supervisor is authorised or required to do any of the things mentioned in paragraph (1), the report must include or be accompanied by—

(a) a summary of receipts and payments required to be recorded by virtue of paragraph (2); or

(b) where there have been no such receipts and payments, .

(9) The court may, on application by the supervisor, dispense with the delivery of such reports or summaries to members, either altogether or on the basis that the availability of the report to members is to be advertised by the supervisor in a specified manner.

Production of accounts and records to Secretary of State

2.44.—(1) The Secretary of State may during the CVA, or after its completion or termination, require the supervisor to produce for inspection (either at the premises of the supervisor or elsewhere)—

(a) the supervisor's accounts and records in relation to the CVA; and

(b) copies of reports and summaries prepared in compliance with rule 2.43

(2) The Secretary of State may require the supervisor's accounts and records to be audited and, if so, the supervisor must provide such further information and assistance as the Secretary of State requires for the purposes of audit.

Fees and expenses

2.45. The fees and expenses that may be incurred for the purposes of the CVA are—

(a) fees for the nominee's services agreed with the company (or, as the case may be, the administrator or liquidator) and disbursements made by the nominee before the decision approving the CVA takes effect under section 4A or paragraph 36 of Schedule A1;

(b) fees or expenses which—

(i) are sanctioned by the terms of the CVA, or

(ii) would be payable, or correspond to those which would be payable, in an administration or winding up.

Termination or full implementation of CVA

2.46.—(1) The supervisor must deliver a notice that the CVA has been terminated or fully implemented to all the members and those creditors referred to in rule 2.40(5) not more than 28 days after the termination or full implementation.

(2) The notice must be accompanied by a copy of a report by the supervisor which—

(a) summarises all receipts and payments in relation to the CVA,

(b) explains any departure from the terms of the CVA as it originally had effect,

(c) sets out the reasons where the CVA has terminated; and

(d) includes (if applicable) a statement as to the amount paid to any unsecured creditors by virtue of section 176A.

(3) Not more than 28 days after the termination or full implementation of the CVA, the supervisor must deliver to the registrar of companies and file with the court a copy of the notice and report.

(4) The supervisor must not vacate office until the notice and report have been delivered and filed in accordance with paragraph (3).

CHAPTER 10

Time recording information

Provision of information

2.47.—(1) This rule applies where the remuneration of the nominee or the supervisor has been agreed and paid on the basis of the rates agreed for the nominee or supervisor and the time spent.

(2) A person who is acting, or has acted within the previous two years, as—

(a) a nominee in relation to a proposal, or

(b) the supervisor in relation to a CVA,

must, within 28 days of receipt of a request from a person mentioned in paragraph (3), deliver free of charge to that person a statement complying with paragraphs (4) and (5).

(3) The persons are—

(a) any director of the company; and

(b) where the proposal has been approved, any creditor or member.

(4) The statement must cover the period which—

(a) in the case of a person who has ceased to act as nominee or supervisor in relation to a company, begins with the date of appointment as nominee or supervisor and ends with the date of ceasing to act; and

(b) in any other case, consists of one or more complete periods of six months beginning with the date of appointment and ending most nearly before the date of receiving the request.

(5) The statement must set out—

(a) the total number of hours spent on the matter during that period by the nominee or supervisor, and any staff;

(b) for each grade of staff engaged on the matter, the average hourly rate at which work carried out by staff in that grade is charged; and

(c) the number of hours spent on the matter by each grade of staff during that period.

PART 3

ADMINISTRATION

CHAPTER 1

Interpretation for this Part

Interpretation for Part 3

3.1. In this Part—

"pre-administration costs" means fees charged, and expenses incurred by the administrator, or another person qualified to act as an insolvency practitioner, before the company entered administration but with a view to it doing so; and

"unpaid pre-administration costs" means pre-administration costs which had not been paid when the company entered administration.

Proposed administrator's statement and consent to act

3.2.—(1) References in this Part to a consent to act are to a statement by a proposed administrator headed "Proposed administrator's statement and consent to act" which contains the following—

(a) identification details for the company immediately below the heading;

(b) a certificate that the proposed administrator is authorised under Part 13 of the Act to act as an insolvency practitioner;

(c) the proposed administrator's IP number;

(d) the source of the proposed administrator's authorisation, being the name of the relevant recognised professional body of which the proposed administrator is a member;

(e) a statement that the proposed administrator consents to act as administrator of the company;

(f) a statement whether or not the proposed administrator has had any prior professional relationship with the company and if so a short summary of the relationship;

(g) identification details for the person by whom the appointment is to be made or the applicant in the case of an application to the court for an appointment;

(h) a statement that the proposed administrator is of the opinion that the purpose of administration is reasonably likely to be achieved in the particular case; and

(2) The statement and consent to act must be authenticated and dated by the proposed administrator.

(3) Where a number of persons are proposed to be appointed to act jointly or concurrently as the administrator of a company, each must make a separate statement and consent to act.

Administrator's security

3.3. The cost of the administrator's security required by section 390(3) for the proper performance of the administrator's functions is an expense of the administration.

CHAPTER 2

Appointment of administrator by Court

Administration application (paragraph 12 of Schedule B1)

3.4.—(1) An administration application in relation to a company must be headed "Administration application" and must identify the company immediately below the heading.

(2) The application must state—

(a) the name of the applicant;

(b) whether the application is being made by—

(i) the company under paragraph 12(1)(a) of Schedule B1,

(ii) the directors of the company under paragraph 12(1)(b) of Schedule B1,

(iii) a single creditor under paragraph 12(1)(c) of Schedule B1,

(iv) a creditor under paragraph 12(1)(c) of Schedule B1 on behalf of that creditor and others,

(v) the holder of a qualifying floating charge under paragraph 35 or 37 of Schedule B1 (specifying which),

(vi) the liquidator of the company under paragraph 38 of Schedule B1,

(vii) the supervisor of a CVA under section 7(4)(b), or

(viii) a designated officer of a magistrates' court under section 87A of the Magistrates' Courts Act 1980(**a**);

(c) if the application is made by a creditor on behalf of that creditor and others, the names of the others;

(**a**) 1980 c.43; section 87A was inserted by 1988 c. 33 and amended by 2002 c.40, 2003 c.39 and 2007 c.15.

(d) if the application is made by the holder of a qualifying floating charge, details of the charge including the date of the charge, the date on which it was registered and the maximum amount if any secured by the charge;

(e) if the company is registered under the Companies Act—

(i) its nominal capital, the number of shares into which the capital is divided, the nominal value of each share and the amount of capital paid up or treated as paid up, or

(ii) that it is a company limited by guarantee;

(f) the principal business carried on by the company;

(g) whether the company is an Article 1.2 undertaking;

(h) whether the proceedings flowing from the appointment will be main, secondary, territorial or non-EC proceedings;

(i) that the reasons for the statement under sub-paragraph (viii) are set out in the witness statement in support of the application made under rule 3.5;

(j) except where the applicant is the holder of a qualifying floating charge and is making the application under paragraph 35 of Schedule B1, that the applicant believes, for the reasons set out in the witness statement in support of the application that the company is, or is likely to become, unable to pay its debts;

(k) the name and address of the proposed administrator;

(l) the address for service of the applicant or the applicant's solicitor;

(m) that the applicant requests the court—

(i) to make an administration order in relation to the company,

(ii) to appoint the proposed person to be administrator, and

(iii) to make such ancillary order as the applicant may request, and such other order as the court thinks appropriate.

(3) The application must be authenticated by the applicant or the applicant's solicitor and dated.

(4) If the company the subject of the application is registered under the Companies Act, its address for service must be that of either the company's registered office or the company's solicitor.

(5) After making an application—

(a) it is to be treated for all purposes as an application by the company, if made by the directors of the company or the supervisor of a CVA;

(b) it is to be treated for all purposes as an application by only that creditor, if made by a creditor on behalf of that creditor and others.

Witness statement in support of administration application

3.5.—(1) If an administration application is to be made by—

(a) the company, a witness statement must be made by one of the following stating that the person making the statement does so on behalf of the company—

(i) one of the directors,

(ii) the secretary of the company, or

(iii) the supervisor of a CVA;

(b) the company's directors, a witness statement must be made by one of the following stating that the person making it does so on behalf of the directors—

(i) one of the directors, or

(ii) the secretary of the company;

(c) a single creditor, a witness statement must be made by—

(i) that creditor, or

(ii) a person acting under that creditor's authority;

(d) two or more creditors, a witness statement must be made by a person acting under the authority of them all, whether or not one of their number.

(2) In a case falling within sub-paragraph (1)(c)(ii) or (d), the witness statement must state the nature of the authority of the person making it and the means of that person's knowledge of the matters to which the witness statement relates.

(3) The witness statement must contain—

(a) a statement of the company's financial position, specifying (to the best of the applicant's knowledge and belief) the company's 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 of Schedule B1;

(c) a statement that an administrative receiver has been appointed if that is the case;

(d) 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 known to the applicant;

(e) where it is intended to appoint a number of persons as administrators, a statement of the matters relating to the exercise of their functions set out in paragraph 100(2) of Schedule B1;

(f) the reasons for the statement that the proceedings will be main, secondary, territorial or non-EC proceedings; and

(g) any other matters which, in the applicant's opinion, will assist the court in deciding whether to make such an order.

(4) Where the application is made by the holder of a qualifying floating charge under paragraph 35 or 37 of Schedule B1, the witness statement must give sufficient details to satisfy the court that the applicant is entitled to appoint an administrator under paragraph 14 of Schedule B1.

(5) Where the application is made under paragraph 37 or 38 of Schedule B1 in relation to a company in liquidation, the witness statement must contain—

(a) details of the existing insolvency proceedings, the name and address of the liquidator, the date the liquidator was appointed and by whom;

(b) the reasons why it has subsequently been considered appropriate that an administration application should be made; and

(c) any other matters that would, in the applicant's opinion, assist the court in deciding whether to make provision in relation to matters arising in connection with the liquidation.

Filing of application

3.6.—(1) The application must be filed with the court together with the witness statement in support and the proposed administrator's consent to act.

(2) The court must fix a venue for the hearing of the application.

(3) There must also be filed, at the same time as the application or at any time after that, a sufficient number of copies of the application and the statement for service in accordance with rule 3.7**.**

(4) Each of the copies filed must—

(a) have applied to it the seal of the court,

(b) be endorsed with—

(i) the date and time of filing, and

(ii) the venue fixed by the court, and

(c) be delivered to the applicant.

Service of application

3.7.—(1) In this rule, references to the application are to a copy of the application and witness statement delivered by the court under rule 3.6(4).

(2) Notification for the purposes of paragraph 12(2) of Schedule B1 must be by service of the application.

(3) The applicant must serve the application on the following (in addition to serving it on the persons referred to in paragraph 12(2)(a) to (c))—

(a) any administrative receiver;

(b) if a petition is pending for the winding up of the company, on—

(i) the petitioner, and

(ii) any provisional liquidator;

(c) any member State liquidator appointed in main proceedings in relation to the company;

(d) the proposed administrator;

(e) the company, if the application is made by anyone other than the company;

(f) any supervisor of a CVA in relation to the company.

Notice to enforcement agents charged with distress or other legal process, etc.

3.8. The applicant must as soon as reasonably practicable after filing the application deliver a notice of its being made to—

(a) any enforcement agent or other officer who to the knowledge of the applicant is charged with distress or other legal process against the company or its property; and

(b) any person who to the knowledge of the applicant has distrained against the company or its property.

Notice of other insolvency proceedings

3.9. After the application has been filed and until an order is made, it is the duty of the applicant to file with the court notice of the existence of any insolvency proceedings in relation to the company, as soon as the applicant becomes aware of them—

(a) anywhere in the world, in the case of a company registered under the Companies Act in England and Wales,

(b) in any EEA State (including the United Kingdom), in the case of a company incorporated in an EEA State other than the United Kingdom, or

(c) in any member State other than Denmark, in the case of a company not incorporated in an EEA State.

Intervention by holder of qualifying floating charge (paragraph 36(1)(b) of Schedule B1)

3.10.—(1) Where the holder of a qualifying floating charge applies to the court under paragraph 36(1)(b) of Schedule B1 to have a specified person appointed as administrator, the holder must produce to the court—

(a) the written consent of the holder of any prior qualifying floating charge;

(b) the proposed administrator's consent to act; and

(c) sufficient evidence to satisfy the court that the holder is entitled to appoint an administrator under paragraph 14 of Schedule B1.

(2) If an administration order is made appointing the specified person, the costs of the person who made the administration application and of the applicant under paragraph 36(1)(b) of Schedule B1 are, unless the court otherwise orders, to be paid as an expense of the administration.

The hearing

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

(a) the applicant;

(b) the company;

(c) one or more of the directors;

(d) any administrative receiver;

(e) any person who has presented a petition for the winding up of the company;

(f) the proposed administrator;

(g) any member State liquidator appointed in main proceedings in relation to the company;

(h) the holder of any qualifying floating charge;

(i) any supervisor of a CVA;

(j) with the permission of the court, any other person who appears to have an interest which justifies appearance.

(2) If the court makes an administration order, the costs of the applicant, and of any other person whose costs are allowed by the court, are payable as an expense of the administration.

The order

3.12.—(1) Where the court makes an administration order the court's order must be headed "Administration order" and must contain the following—

(a) the name of the court in which the order is made;

(b) the name of the person making the order;

(c) identification details for the company;

(d) the address for service of the applicant;

(e) details of any other parties (including the company) appearing and by whom represented;

(f) a statement that upon consideration of the evidence it is ordered that during the period the order is in force the affairs, business and property of the company be managed by the administrator;

(g) the name of the person appointed as administrator;

(h) an order that that person be appointed as administrator of the company;

(i) a statement that the court is satisfied on the evidence either that the EC Regulation does not apply or that it does;

(j) where the EC Regulation does apply, a statement whether the proceedings are main, secondary or territorial proceedings;

(k) the date and time of making the order; and

(l) such other provisions if any as the court thinks just.

(2) Where two or more administrators are appointed the order must also specify (as required by paragraph 100(2) of Schedule B1)—

(a) which functions (if any) are to be exercised by those persons acting jointly; and

(b) which functions (if any) are to be exercised by any or all of those persons.

(3) The court must deliver a sealed copy of the order to the administrator whose appointment takes effect from the date of the order.

3.13. Where the court makes an administration order in relation to a company on an application under paragraph 37 or 38 of Schedule B1, the court must also include in the order—

(a) in the case of a liquidator appointed in a voluntary winding up, the removal of that liquidator from office;

(b) provision for payment of the expenses of the winding up;

(c) such provision as the court thinks just relating to—

(i) any indemnity given to the liquidator;

(ii) the release of the liquidator;

(iii) the handling or realisation of any of the company's assets in the hands of or under the control of the liquidator;

(iv) other matters arising in connection with the winding up; and

(d) such other provisions if any as the court thinks just.

Notice of administration order

3.14.—(1) If the court makes an administration order, it must as soon as reasonably practicable deliver two sealed copies of the order to the applicant.

(2) The applicant must as soon as reasonably practicable deliver a sealed copy of the order to the person appointed as administrator.

(3) If the court makes an order under sub-paragraph (d) or (f) of paragraph 13(1) of Schedule B1, it must give directions as to the persons to whom, and how, notice of that order is to be delivered.

CHAPTER 3

Appointment of Administrator by Holder of Floating Charge

Notice of intention to appoint

3.15.—(1) This rule applies where the holder of a qualifying floating charge ("the appointer") gives a notice under paragraph 15(1)(a) of Schedule B1 of intention to appoint an administrator under paragraph 14 and files a copy of the notice with the court under paragraph 44(2).

(2) The notice filed with the court must be headed "Notice of intention to appoint an administrator by holder of qualifying floating charge" and must contain the following—

(a) identification details for the company immediately below the heading.

(b) the name and address of the appointer;

(c) a statement that the appointer intends to appoint an administrator of the company;

(d) the name and address of the proposed administrator;

(e) a statement that the appointer is the holder of the qualifying floating charge in question and that it is now enforceable;

(f) details of the charge, the date upon which it was registered and the maximum amount if any secured by the charge;

(g) a statement that the notice is being given in accordance with paragraph 15(1)(a) of Schedule B1 to the holder of every prior floating charge which satisfies paragraph 14(2) of that Schedule;

(h) the names and addresses of the holders of such prior floating charges and details of the charges;

(i) a statement whether the company is or is not subject to insolvency proceedings at the date of the notice, and details of the proceedings if it is;

(j) a statement whether the company is an Article 1.2 undertaking;

(k) a statement whether the proceedings flowing from the appointment will be main, secondary, territorial or non-EC proceedings with reasons for the statement.

(3) The notice must be authenticated by the appointer or the appointer's solicitor and dated.

(4) The filing of the copy with the court under paragraph 44(2) of Schedule B1 must be done at the same time as notice is given in accordance with paragraph 15(1)(a).

(5) The giving of notice under paragraph 15(1)(a) must be by service of the notice.

Notice of appointment

3.16.—(1) Notice of an appointment under paragraph 14 of Schedule B1 must be headed "Notice of appointment of an administrator by holder of a qualifying floating charge" and must contain—

(a) the name of the court which has jurisdiction and in the case of the County Court the appropriate hearing centre;

(b) identification details for the company immediately below the heading;

(c) the name and address of the appointer;

(d) a statement that the appointer has appointed the person named as administrator of the company;

(e) the name and address of the person appointed as administrator;

(f) a statement that a copy of the administrator's consent to act accompanies the notice;

(g) a statement that the appointer is the holder of the qualifying floating charge in question and that it is now enforceable;

(h) details of the charge including the date of the charge, the date on which it was registered and the maximum amount if any secured by the charge;

(i) one of the following statements—

(i) that notice has been delivered in accordance with paragraph 15(1)(a) of Schedule B1 to the holder of every prior floating charge which satisfies paragraph 14(2) of that Schedule, that two business days have elapsed from the date the last such notice was delivered (if more than one)—and

(aa) that a copy of every such notice was filed with the court under paragraph 44(2) of Schedule B1, and the date of that filing (or the latest date of filing if more than one); or

(bb) that a copy of every such notice accompanies the notice of appointment but was not filed with the court under paragraph 44(2) of Schedule B1;

(ii) that the holder of every such floating charge to whom notice was given has consented in writing to the making of the appointment and that a copy of every consent accompanies the notice of appointment;

(iii) that the holder of every such floating charge has consented in writing to the making of the appointment without notice having been given to all and that a copy of every consent accompanies the notice of appointment; or

(iv) that there is no such floating charge;

(j) a statement whether the company is or is not subject to insolvency proceedings at the date of the notice, and details of the proceedings if it is;

(k) a statement whether the company is an Article 1.2 undertaking;

(l) a statement whether the proceedings flowing from the appointment will be main, secondary, territorial or non-EC proceedings and the reasons for so stating;

(m) a statement that the appointment is in accordance with Schedule B1.

(2) Where two or more administrators are appointed the notice will also specify (as required by paragraph 100(2) of Schedule B1)—

(a) which functions (if any) are to be exercised by those persons acting jointly; and

(b) which functions (if any) are to be exercised by any or all of those persons.

(3) The statutory declaration included in the notice in accordance with paragraph 18(2) of Schedule B1 must be made not more than five business days before the notice is filed with the court.

Filing of notice with court

3.17.—(1) Three copies of the notice of appointment must be filed with the court, accompanied by—

(a) the administrator's consent to act; and

(b) either—

(i) evidence that the appointer has given notice as required by paragraph 15(1)(a) of Schedule B1; or

(ii) copies of the written consent of all those required to give consent in accordance with paragraph 15(1)(b) of Schedule B1.

(2) The court must apply the seal of the court to the copies of the notice, endorse them with the date and time of filing and deliver two of the sealed copies to the appointer.

(3) The appointer must as soon as reasonably practicable deliver one of the sealed copies to the administrator.

(4) This rule is subject to rules 3.19 and 3.20 (appointment made out of court business hours).

Appointment by floating charge holder after administration application made

3.18.—(1) This rule applies where the holder of a qualifying floating charge, after receiving notice that an administration application has been made, appoints an administrator under paragraph 14 of Schedule B1.

(2) The holder must as soon as reasonably practicable deliver a copy of the notice of appointment to—

(a) the person making the administration application, and

(b) the court in which the application has been made.

Appointment taking place out of court business hours: procedure

3.19.—(1) When (but only when) the court is closed, the holder of a qualifying floating charge may file a notice of appointment with the court by—

(a) faxing it to a designated telephone number, or

(b) emailing it, or attaching it to an email, to a designated email address.

(2) The notice must specify the name of the court which has jurisdiction and in the case of the County Court the appropriate hearing centre.

(3) The Lord Chancellor must designate the telephone number and email address.

(4) The Secretary of State must publish the designated telephone number and email address on the Insolvency Service webpages and deliver notice of them to any person requesting them from the Insolvency Service.

(5) The appointer must ensure that—

(a) a fax transmission report giving the time and date of the fax transmission and the telephone number to which the notice was faxed and containing a copy of the first page (in part or in full) of the document faxed is created by the fax machine that is used to fax the notice, or

(b) a hard copy of the email is created giving the time and date of the email and the address to which it was sent.

(6) The appointer must retain the fax transmission report or hard copy of the email.

(7) The appointer must deliver a notice to the administrator of the filing of the notice of appointment as soon as reasonably practicable.

(8) The copy of the faxed or emailed notice of appointment as received by the Courts Service must be delivered by the Lord Chancellor as soon as reasonably practicable to the court specified in the notice as the court having jurisdiction in the case, to be placed on the relevant court file.

(9) The appointer must take to the court on the occasion that the court is open for business—

(a) three copies of the faxed or emailed notice of appointment,

(b) the transmission report or hard copy required by paragraph (5),

(c) all supporting documents referred to in the notice in accordance with rule 3.20(1) which are in the appointer's possession, and

(d) a statement providing reasons for the out-of-hours filing of the notice of appointment, including why it would have been damaging to the company or its creditors not to have so acted.

(10) The copies of the notice must be sealed by the court and endorsed with—

(a) the date and time when, according to the appointer's fax transmission report or hard copy of the email, the notice was faxed or sent, and

(b) the date when the notice and accompanying documents were delivered to the court.

(11) The court must deliver two of the sealed copies of the notice of appointment to the appointer.

(12) The appointer must, as soon as reasonably practicable, deliver one of the copies to the administrator.

(13) The reference—

(a) to the Insolvency Service in paragraph (4) means the Secretary of State acting by means of the Insolvency Service, and

(b) to the Courts Service in paragraph (8) means the Lord Chancellor acting by means of Her Majesty's Courts and Tribunals Service.

Appointment taking place out of court business hours: content of notice

3.20.—(1) Notice of an appointment filed in accordance with rule 3.19 must be headed "Notice of appointment of an administrator by holder of a qualifying floating charge", identify the company immediately below the heading and must contain the following—

(a) the name and address of the appointer;

(b) a statement that the appointer has appointed the person named as administrator of the company;

(c) the name and address of the person appointed as administrator;

(d) a statement that the appointer is the holder of the qualifying floating charge in question and that it is now enforceable;

(e) details of the charge, the date upon which it was registered and the maximum amount secured by the charge;

(f) one of the following statements—

(i) that notice has been given in accordance with paragraph 15(1)(a) of Schedule B1 to the holder of every prior floating charge which satisfies paragraph 14(2) of that Schedule, that a copy of every such notice was filed with the court under paragraph 44(2) of Schedule B1, the date of that filing (or the latest date of filing if more than one) and that two business days have elapsed from that date;

(ii) that notice has been given in accordance with paragraph 15(1)(a) of Schedule B1 to the holder of every prior floating charge which satisfies paragraph 14(2) of that Schedule and that a copy of every such notice is in the appointer's possession but was not filed with the court under paragraph 44(2) of Schedule B1;

(iii) that the holder of every such floating charge to whom notice was given has consented to the making of the appointment and that a copy of every consent is in the appointer's possession;

(iv) that the holder of every such floating charge has consented to the making of the appointment without notice having been given to all and that a copy of every consent is in the appointer's possession; or

(v) that there is no such floating charge;

(g) a statement whether the company is or is not subject to insolvency proceedings at the date of the notice, and details of the proceedings if it is;

(h) a statement whether the company is an Article 1.2 undertaking and that a statement of the reasons for stating this is in the appointer's possession;

(i) a statement whether the proceedings flowing from the appointment will be main, secondary, territorial or non-EC proceedings;

(j) An undertaking that the following will be delivered to the court on the occasion on which the court is open—

(i) any document referred to in the notice in accordance with rule 3.19as being in the appointer's possession,

(ii) the fax transmission report or hard copy of the email, and

(iii) the statement of reasons for out-of-office filing.

(k) a statement that the proposed administrator consents to act; and

(l) a statement that the appointment is in accordance with Schedule B1;

(2) Where two or more administrators are appointed the notice must also specify (as required by paragraph 100(2) of Schedule B1)—

(a) which functions (if any) are to be exercised by those persons acting jointly; and

(b) which functions (if any) are to be exercised by any or all of those persons.

(3) The statutory declaration included in the notice in accordance with paragraph 18(2) of Schedule B1 must be made not more than five business days before the notice is filed with the court.

Appointment taking place out of court business hours: legal effect

3.21.—(1) The filing of a notice in accordance with rule 3.19 has the same effect for all purposes as the filing of a notice of appointment in accordance with rule 3.17.

(2) The appointment—

(a) takes effect from the date and time of the fax transmission or sending of the email, but

(b) ceases to have effect if the requirements of paragraph (8) of rule 3.19 are not completed on the next day the court is open for business.

(3) Where any question arises in relation to the date and time that the notice of appointment was filed with the court, it is a presumption capable of rebuttal that the date and time shown on the appointer's fax transmission report or hard copy of the email is the date and time at which the notice was filed.

CHAPTER 4

Appointment of administrator by company or directors

Notice of intention to appoint

3.22.—(1) If paragraph 26 of Schedule B1 requires a notice of intention to appoint an administrator under paragraph 22 of that Schedule then the notice must be headed "Notice of intention to appoint an administrator by company or directors" and must contain the following—

(a) the name of the court which has jurisdiction and in the case of the County Court the appropriate hearing centre;

(b) identification details for the company immediately below the heading;

(c) a statement that the company or the directors, as the case may be, intend to appoint an administrator of the company;

(d) the name and address of the proposed administrator;

(e) the names and addresses of the persons to whom notice is being given in accordance with paragraph 26(1) of Schedule B1;

(f) a statement that each of those persons is or may be entitled to appoint—

(i) an administrative receiver of the company; or

(ii) an administrator of the company under paragraph 14 of Schedule B1;

(g) a statement that the company has not within the preceding 12 months been—

(i) in administration, or

(ii) the subject of a moratorium under Schedule A1 which ended on a date when no CVA was in force, or

(iii) the subject of a CVA which was made during a moratorium under Schedule A1 and which ended prematurely within the meaning of section 7B;

(h) a statement that in relation to the company there is no—

(i) petition for winding up which has been presented but not yet disposed of, or

(ii) administration application which has not yet been disposed of, or

(iii) administrative receiver in office;

(i) a statement whether the company is an Article 1.2 undertaking;

(j) a statement whether the proceedings flowing from the appointment will be main, secondary, territorial or non-EC proceedings and the reasons for so stating;

(k) a statement that the notice is accompanied (as appropriate) by either—

(i) a copy of the resolution of the company to appoint an administrator, or

(ii) a record of the decision of the directors to appoint an administrator;

(l) a statement that if a recipient of the notice who is named in paragraph (e) wishes to consent in writing to the appointment that person may do so but that after five business days have expired from delivery of the notice the appointer may make the appointment although such a recipient has not replied.

(2) The notice must be accompanied by—

(a) a copy of the resolution of the company to appoint an administrator, where the company intends to make the appointment, or

(b) a record of the decision of the directors, where the directors intend to make the appointment.

(3) If notice of intention to appoint is given under paragraph 26(1) of Schedule B1, a copy of the notice under paragraph 26(2)(**a**) must be delivered at the same time to—

(a) any enforcement officer, enforcement agent or other officer who, to the knowledge of the person giving the notice, is charged with distress or other legal process against the company;

(b) any person who, to the knowledge of the person giving the notice, has distrained against the company or its property;

(c) any supervisor of a CVA; and

(d) the company, if the company is not intending to make the appointment.

(**a**) Paragraph 26(2) is amended by paragraph 6 of Schedule 6 to the Deregulation Act 2015 (c. 20)

(4) The giving of notice under paragraph 26 of Schedule B1 must be by service of the notice.

(5) The statutory declaration accompanying the notice in accordance with paragraph 27(2) of Schedule B1 must—

(a) if it is not made by the person making the appointment, indicate the capacity in which the person making the declaration does so; and

(b) be made not more than five business days before the notice is filed with the court.

Notice of appointment after notice of intention to appoint

3.23.—(1) Notice of an appointment under paragraph 22 of Schedule B1 (when notice of intention to appoint has been given under paragraph 26) must be headed "Notice of appointment of an administrator by a company" or "Notice of appointment of an administrator by the directors of a company" (where a notice of intention to appoint has been given)" and must contain—

(a) identification details for the company immediately below the heading;

(b) a statement that the company has, or the directors have, as the case may be, appointed the person named as administrator of the company;

(c) the name and address of the person appointed as administrator;

(d) a statement that a copy of the administrator's consent to act accompanies the notice;

(e) a statement that the company is, or the directors are, as the case may be, entitled to make an appointment under paragraph 22 of Schedule B1;

(f) a statement that the appointment is in accordance with Schedule B1;

(g) a statement whether the company is an Article 1.2 undertaking;

(h) a statement whether the proceedings flowing from the appointment will be main, secondary, territorial or non-EC proceedings and the reasons for so stating;

(i) a statement that the company has, or the directors have, as the case may be, given notice of their intention to appoint in accordance with paragraph 26 of Schedule B1, that a copy of the notice was filed with the court, the date of that filing and either—

(i) that five business days have elapsed from that date, or

(ii) that each person to whom the notice was given has consented to the appointment; and

(j) the date and time of the appointment.

(2) Where two or more administrators are appointed the notice must also specify (as required by paragraph 100(2) of Schedule B1)—

(a) which functions (if any) are to be exercised by those persons acting jointly; and

(b) which functions (if any) are to be exercised by any or all of those persons.

(3) The statutory declaration included in the notice in accordance with paragraph 29(2) of Schedule B1 must be made not more than five business days before the notice is filed with the court.

(4) If the statutory declaration is not made by the person making the appointment it must indicate the capacity in which the person making the declaration does so.

Notice of appointment without prior notice of intention to appoint

3.24.—(1) Notice of an appointment under paragraph 22 of Schedule B1 (when notice of intention to appoint has not been given under paragraph 26) must be headed Notice of appointment of an administrator by a company" or "Notice of appointment of an administrator by the directors of a company" "(where a notice of intention to appoint has not been given)" and must identify the company immediately below the heading.

(2) The notice must state the following—

(a) that the company has, or the directors have, as the case may be, appointed the person specified under sub-paragraph (b) as administrator of the company;

(b) the name and address of the person appointed as administrator;

(c) that a copy of the administrator's consent to act accompanies the notice;

(d) that the company is or the directors are, as the case may be, entitled to make an appointment under paragraph 22 of Schedule B1;

(e) that the appointment is in accordance with Schedule B1;

(f) that the company has not within the preceding 12 months been—

(i) in administration, or

(ii) the subject of a moratorium under Schedule A1 which ended on a date when no CVA was in force, or

(iii) the subject of a CVA which was made during a moratorium under Schedule A1 and which ended prematurely within the meaning of section 7B;

(g) that in relation to the company there is no—

(i) petition for winding up which has been presented but not yet disposed of, or

(ii) administration application which has not yet been disposed of, or

(iii) administrative receiver in office;

(h) whether the company is an Article 1.2 undertaking;

(i) whether the proceedings flowing from the appointment will be main, secondary, territorial or non-EC proceedings and the reasons for so stating;

(j) that the notice is accompanied by—

(i) a copy of the resolution of the company to appoint an administrator, or

(ii) a record of the decision of the directors to appoint an administrator; and

(k) the date and time of the appointment.

(3) Where two or more administrators are appointed the notice must also specify (as required by paragraph 100(2) of Schedule B1)—

(i) which functions (if any) are to be exercised by those persons acting jointly; and

(ii) which functions (if any) are to be exercised by any or all of those persons.

(4) The statutory declaration included in the notice in accordance with paragraphs 29(2) and 30 of Schedule B1 must—

(a) if the declaration is made on behalf of the person making the appointment, indicate the capacity in which the person making the declaration does so, and

(b) be made not more than five business days before the notice is filed with the court.

Notice of appointment: filing with court

3.25.—(1) Three copies of the notice of appointment must be filed with the court, accompanied by—

(a) the administrator's consent to act; and

(b) the written consent of all those persons to whom notice was given in accordance with paragraph 26(1) of Schedule B1 unless the period of notice set out in paragraph 26(1) has expired.

(2) Where a notice of intention to appoint an administrator has not been given, the copies of the notice of appointment must also be accompanied by—

(a) a copy of the resolution of the company to appoint an administrator, where the company is making the appointment, or

(b) a record of the decision of the directors, where the directors are making the appointment.

(3) The court must apply to the copies the seal of the court, endorse them with the date and time of filing and deliver two of the sealed copies to the appointer.

(4) The appointer must as soon as reasonably practicable deliver one of the sealed copies to the administrator.

CHAPTER 5

Notice of administrator's appointment

Publication of administrator's appointment

3.26.—(1) The notice of appointment, to be published by the administrator as soon as reasonably practicable after appointment under paragraph 46(2)(b) of Schedule B1, must be gazetted and may be advertised in such other manner as the administrator thinks fit.

(2) The notice of appointment must state the following—

(a) that an administrator has been appointed,

(b) the date of the appointment, and

(c) the nature of the business of the company.

(3) The administrator must, as soon as reasonably practicable after the date specified in paragraph 46(6) of Schedule B1, deliver notice of the appointment—

(a) if a receiver or an administrative receiver has been appointed, to that person;

(b) if there is pending a petition for the winding up of the company, to the petitioner (and also to the provisional liquidator, if any);

(c) to any enforcement officer, enforcement agent or other officer who, to the administrator's knowledge, is charged with distress or other legal process against the company or its property;

(d) to any person who, to the administrator's knowledge, has distrained against the company or its property; and

(e) any supervisor of a CVA.

(4) Where, under Schedule B1 or these Rules, the administrator is required to deliver a notice of the appointment to any person other than the registrar of companies, it must be headed "Notice of administrator's appointment" and must—

(a) state the administrator's name and address and that the administrator has been appointed as administrator of the company;

(b) be authenticated and dated by the administrator;

(c) set out the administrator's IP number.

CHAPTER 6

Statement of affairs

[Note: "relevant person" in this Chapter is defined in paragraph 47(3) of Schedule B1.]

Statement of affairs: notice requiring and delivery to the administrator (paragraph 47(1) of Schedule B1)

3.27.—(1) A requirement under paragraph 47(1) of Schedule B1 for one or more relevant persons to provide the administrator with a statement of the affairs of the company must be made by a notice delivered to each such person.

(2) A relevant person who is required to provide a statement of affairs is called in this Chapter a nominated person.

(3) The notice must be headed "Notice requiring statement of affairs" and must—

(a) require each nominated person to whom the notice is delivered to prepare and submit to the administrator a statement of the affairs of the company;

(b) inform each nominated person of—

(i) the names and addresses of all others (if any) to whom the same notice has been delivered;

(ii) the date by which the statement must be delivered to the administrator; and

(iii) the effect of paragraph 48(4) of Schedule B1 (penalty for non-compliance) and section 235 (duty to co-operate with the office-holder).

(4) The administrator must inform each nominated person to whom notice is delivered that a document for the preparation of the statement of affairs capable of completion in compliance with rule 3.29 will be supplied if requested.

(5) The nominated person (or one of them, if more than one) must deliver the statement of affairs to the administrator with the statement of truth required by paragraph 47(2)(a) of Schedule B1 and a copy of each statement.

Statement of affairs: content (paragraph 47 of Schedule B1)

3.28.—(1) The statement of the company's affairs must be headed "Statement of affairs" and must—

(a) identify the company immediately below the heading; and

(b) state that it is a statement of the affairs of the company on a specified date, being the date on which it entered administration;

(2) The statement of affairs must contain (in addition to the matters required by paragraph 47(2) of Schedule B1)—

(a) a summary of the assets of the company, setting out the book value and the estimated realisable value of—

(i) the assets subject to a fixed charge;

(ii) the assets subject to a floating charge;

(iii) the uncharged assets;

(iv) the total value of all the assets;

(b) a summary of the liabilities of the company, setting out—

(i) the amount of preferential debts;

(ii) an estimate of the deficiency with respect to preferential debts or the surplus available after paying the preferential debts;

(iii) an estimate of the prescribed part, if applicable;

(iv) the amount of debts secured by floating charges;

(v) an estimate of the total assets available to pay debts secured by floating charges;

(vi) an estimate of the deficiency with respect to debts secured by floating charges or the surplus available after paying the debts secured by fixed or floating charges;

(vii) the amount of unsecured debts (excluding preferential debts);

(viii) an estimate of the deficiency with respect to unsecured debts or the surplus available after paying unsecured debts;

(ix) the issued and called-up capital;

(x) an estimate of the deficiency with respect to, or surplus available to, members of the company;

(c) subject to paragraphs (4) and (5), the amount of the debt owed to each creditor with the further particulars required by paragraph (3) identifying—

(i) any creditors under hire-purchase agreements, chattel leasing and conditional sales agreements;

(ii) any customers claiming amounts paid in advance for the supply of goods or services; and

(iii) any creditors claiming retention of title over property in the company's possession; and

(d) the name and address of each member of the company and the number, nominal value and other details of the shares held by each member.

(3) Subject to paragraphs (4) and (5), the particulars required by paragraph 47(2)(d), (e) and (f) of Schedule B1 and paragraph (2)(c) and (d) of this rule relating to each creditor must be given in the following order—

(a) the name of the creditor;

(b) the address of the creditor;

(c) the amount of the debts owed to the creditor;

(d) details of any security held by the creditor;

(e) the date on which any such security was given;

(f) the value of any such security,

(4) Where the particulars required by paragraph (3) relate to creditors who are either—

(a) employees or former employees of the company; or

(b) customers claiming amounts paid in advance for the supply of goods and services,

those particulars must be set out in schedules to the statement of affairs for each of sub-paragraphs (a) and (b).

(5) Where paragraph (4) applies, the statement of affairs itself must give separately for each of paragraph (4)(a) and (b) the number and a summary of the debts owed to such creditors.

Statement of affairs: statement of concurrence

3.29.—(1) The administrator may require a relevant person to deliver to the administrator—

(a) a statement that that person concurs in the statement of affairs submitted by a nominated person ("a statement of concurrence"); and

(b) a statement of truth verifying the statement of concurrence as required by paragraph 47(2)(a) of Schedule B1.

(2) The administrator must inform the nominated person who has been required to submit a statement of affairs that the relevant person has been required to deliver a statement of concurrence.

(3) The nominated person must deliver a copy of the statement of affairs to every relevant person who has been required to submit a statement of concurrence.

(4) A statement of concurrence—

(a) must identify the company, and

(b) may be qualified in relation to matters dealt with in the statement of affairs where the relevant person—

(i) is not in agreement with the statement of affairs;

(ii) considers the statement of affairs to be erroneous or misleading; or

(iii) is without the direct knowledge necessary for concurring with it.

(5) The relevant person must deliver the required statement of concurrence and statement of truth to the administrator before the end of the period of five business days (or such other period as the administrator may agree) beginning with the day on which the relevant person receives the statement of affairs.

(6) The relevant person must deliver to the administrator with these statements a copy of each of them.

Statement of affairs: filing

3.30.—(1) The administrator must as soon as reasonably practicable deliver to the registrar of companies a copy of—

(i) the verified statement of affairs, and

(ii) any verified statement of concurrence,

(2) However the administrator must not deliver to the registrar of companies with the statement of affairs any schedule required by rule 3.28(4).

(3) The requirement to deliver the statement of affairs is subject to any order of the court made under rule 3.43 that the statement of affairs or a specified part must not be delivered to the registrar of companies.

Statement of affairs: release from requirement and extension of time

3.31.—(1) The power of the administrator under paragraph 48(2) of Schedule B1 to revoke a requirement to provide a statement of affairs or to extend the period within which it must be submitted may be exercised upon the administrator's own initiative or at the request of the relevant person who has been required to provide it.

(2) If a relevant person requests a revocation or extension but the administrator refuses it, the relevant person may apply to the court.

(3) If the court thinks that no sufficient cause is shown for the application, it must deliver to the applicant notice to that effect; and—

(a) if, within five business days of delivery of that notice, the applicant applies to the court to fix a venue for a hearing, without notice to any other party, as to whether sufficient cause is shown, the court must do so; but

(b) if the applicant does not deliver such a notice to the court, the court may dismiss the application without a hearing.

(4) Unless the application is dismissed without a hearing, the court must fix a venue for it to be heard, and deliver notice to the applicant accordingly.

(5) The applicant must, at least 14 days before the hearing, deliver to the administrator a notice which states the venue and is accompanied by a copy of the application and of any evidence which the applicant intends to provide in support of it.

(6) The administrator may do one or both of the following—

(a) appear and be heard on the application, or

(b) file a report of any matters which the administrator considers ought to be drawn to the court's attention.

(7) If the administrator files a report then the administrator must deliver a copy of it to the applicant not later than five business days before the hearing.

(8) Sealed copies of any order made on the application must be delivered by the court to the applicant and the administrator.

(9) The applicant’s costs must be paid by the applicant in any event; but the court may order that an allowance towards them may be made as an expense of the administration.

Statement of affairs: expenses

3.32.—(1) The expenses of a relevant person which the administrator considers to have been reasonably incurred in making a statement of affairs or statement of concurrence must be paid by the administrator as an expense of the administration.

(2) A decision by the administrator that expenses were not reasonably incurred (and are therefore not payable as an expense of the administration) may be appealed to the court.

CHAPTER 7

Administrator’s proposals

Administrator's proposals: additional content

3.33.—(1) The administrator’s statement of proposals made under paragraph 49 of Schedule B1(**a**) (which is required by paragraph 49(4) to be sent to the registrar of companies, creditors and members) must identify the proceedings and, in addition to the matters set out in paragraph 49, contain —

(a) any other trading names of the company;

(b) details of the administrator’s appointment, including—

(i) the date of appointment,

(ii) the person making the application or appointment, and

(iii) where a number of persons have been appointed as administrators, details of the matters set out in paragraph 100(2) of Schedule B1 relating to the exercise of their functions;

(c) the names of the directors and secretary of the company and details of any shareholdings in the company which they may have;

(d) an account of the circumstances giving rise to the appointment of the administrator;

(e) if a statement of the company's affairs has been submitted—

(i) a copy or summary of it, except so far as an order under rule 3.43 or 3.44 limits disclosure of it, and excluding any schedule referred to in rule 3.28(4), or the particulars relating to individual creditors contained in any such schedule, and

(ii) details of who provided the statement of affairs;

(iii) any comments which the administrator may have upon the statement of affairs, and

(f) if an order under rule 3.43 or 3.44 has been made—

(i) a statement of that fact,

(ii) the date of the order;

(g) if no statement of affairs has been submitted—

(i) 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 administration), and

(ii) an explanation as to why there is no statement of affairs;

(h) a full list of the company’s creditors (except those creditors to which paragraph (i) relates), with their names and addresses and details of their debts, including any security held, if either—

(i) no statement of affairs has been submitted, or

(ii) a statement of affairs has been submitted but it—

(aa) does not include such a list, or

(bb) includes such a list but the administrator believes it is less than full;

(i) in relation to creditors who are employees or former employees of the company, or customers claiming amounts paid in advance for the supply of goods and services, a summary of the debts owed separately to employees and former employees, and to such customers, if either—

(i) no statement of affairs has been submitted, or

(**a**) Amended by paragraph 10(2) of Schedule 9 to the Small Business, Enterprise and Employment [Act] 2015 (c. 26).

(ii) a statement of affairs has been submitted but it—

(aa) does not include any such summary, or

(bb) includes such a summary but the administrator believes it is less than full;

(j) a statement of—

(i) how it is envisaged the purpose of the administration will be achieved, and

(ii) how it is proposed that the administration will end, including, where it is proposed that the administration will end by the company moving to a creditors' voluntary winding up—

(aa) details of the proposed liquidator,

(bb) where applicable, the declaration required by section 231, and

(cc) a statement that the creditors may, before the proposals are approved, nominate a different person as liquidator in accordance with paragraph 83(7)(a) of Schedule B1 and rule 3.58(5)(b);

(k) either—

(i) the method by which the administrator has decided to seek a decision from creditors as to whether they approve the proposals, or

(ii) the administrator's reasons for not seeking a decision from creditors;

(l) the manner in which the affairs and business of the company—

(i) have, since the date of the administrator's appointment, been managed and financed, including, where any assets have been disposed of, the reasons for the disposals and the terms upon which the disposals were made, and

(ii) will, if the administrator's proposals are approved, continue to be managed and financed;

(m) whether the proceedings are main, secondary, territorial or non-EC proceedings; and

(n) any other information that the administrator thinks necessary to enable creditors to decide whether or not to vote for the adoption of the proposals.

(2) Except where the administrator proposes a CVA in relation to the company, the statement made by the administrator under paragraph 49 of Schedule B1 must also include—

(a) to the best of the administrator's knowledge and belief, an estimate of the value of—

(i) the prescribed part (whether or not the administrator might be required under section 176A to make the prescribed part available for the satisfaction of unsecured debts); and

(ii) the company's net property (as defined by section 176A(6)); and

(b) a statement whether, the administrator proposes to make an application to the court under section 176A(5) and if so the reason for the application

(3) The administrator may exclude from an estimate under paragraph (2)(a) information the disclosure of which could seriously prejudice the commercial interests of the company.

(4) If the exclusion of such information affects the calculation of an estimate, the report must say so.

(5) The document containing the statement of proposals must also include (but not as part of the proposals)—

(a) the basis on which it is proposed that the administrator's remuneration should be fixed under Chapter 4 of Part 18, and

(b) a statement of any pre-administration costs charged or incurred by the administrator or, to the administrator's knowledge, by any other person qualified to act as an insolvency practitioner.

Administrator's proposals: statement of pre-administration costs

3.34. A statement of pre-administration costs under rule 3.33(5)(b) must include—

(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 administration and how it had been intended to further the achievement of an objective in paragraph 3(1) of Schedule B1 in accordance with sub-paragraphs (2) to (4) of that paragraph,

(d) a statement of the amount of the pre-administration costs, setting out separately—

(i) the fees charged by the administrator,

(ii) the expenses incurred by the administrator,

(iii) the fees charged (to the administrator's knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately), and

(iv) the expenses incurred (to the 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-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-administration costs (set out separately as under sub-paragraph (d)), and

(h) a statement that the payment of unpaid pre-administration costs as an expense of the administration is—

(i) subject to approval under rule 3.50, and

(ii) not part of the proposals subject to approval under paragraph 53 of Schedule B1.

Administrator's proposals: ancillary provisions about delivery

3.35.—(1) Where the court orders, upon an application by the administrator under paragraph 107 of Schedule B1, an extension of the period in paragraph 49(5), the administrator must as soon as reasonably practicable after the making of the order deliver a notice of the extension to—

(i) every creditor of the company, and

(ii) every member of the company of whose address the administrator is aware, and

(iii) the registrar of companies.

(2) The administrator is taken to comply with paragraph (1)(a)(ii) if the administrator publishes a notice complying with paragraph (3).

(3) A notice under paragraph 49(6) of Schedule B1 or under paragraph (3) of this rule must—

(a) be advertised in such manner as the administrator thinks fit,

(b) state that members may request in writing a copy of the statement of proposals or notice of the extension, and state the address to which to write, and

(c) be published as soon as reasonably practicable after the administrator has delivered the statement of proposals or notice of the extension to the company's creditors.

(4) However in the case of the statement of proposals, publication must be no later than eight weeks (or such other period as may be agreed by the creditors or as the court may order) from the date on which the company entered administration.

Approval of administrator's proposals

3.36.—(1) This rule applies where the administrator is required by paragraph 51 of Schedule B1(**a**) to seek approval from the company's creditors of the statement of proposals made under paragraph 49 of that Schedule.

(2) The statement of proposals delivered under paragraph 49(4)(**b**) must be accompanied by a notice to the creditors of the decision procedure in accordance with rule 15.7.

(3) The administrator may seek a decision using deemed consent in which case the requirements in rule 15.6 also apply to the notice.

(4) Where the administrator has made a statement under paragraph 52(1) and has not sought a decision on approval from creditors, the proposal will be deemed to have been approved unless a decision has been requested under paragraph 52(2).

Invitation to creditors to form a creditors' committee

3.37.—(1) Where the administrator is required to seek a decision from the company's creditors under rule 3.36, the administrator must at the same time deliver to the creditors a notice inviting them to decide whether a creditors' committee should be established if sufficient creditors are willing to be members of the committee.

(2) The notice must also invite nominations for membership of the committee, such nominations to be received by the administrator by a date to be specified in the notice.

(3) The notice must state that any nominations—

(a) must be delivered to the administrator by the specified date; and

(b) can only be accepted if the administrator is satisfied as to the creditor's eligibility under rule 17.4.

(4) A notice under this rule must also be delivered to the creditors at any other time when the administrator seeks a decision from creditors and a creditors' committee has not already been established at that time.

Notice of extension of time to seek approval

3.38. Where the court orders an extension to the period set out in paragraph 51(2) of Schedule B1, the administrator must deliver a notice of the extension as soon as reasonably practicable to each person to whom the administrator is required to deliver a notice by paragraph 49(4) of Schedule B1.

Notice of the creditors' decision on the administrator's proposals (paragraph 53(2))

3.39.—(1) The administrator must as soon as reasonably practicable deliver a notice to the company's creditors and every other person who received a copy of the statement of proposals of any decision taken by the creditors on the proposals and of the date it was made (in addition to reporting to the registrar of companies and the court as required by paragraph 53(2) of Schedule B1(**c**)).

(2) A copy of the statement of proposals must accompany the report to the court and the notice delivered to any creditor who has not previously received the proposals.

(3) A report required by paragraph 53(2) or notice to the creditors under paragraph (1) must contain details of any modifications to the proposals which were approved by the creditors.

(**a**) Paragraph 51 and the preceding heading are amended by paragraph 10(4) to (5) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c. 26).

(**b**) Paragraph 49 is amended by paragraph 10(2) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.

(**c**) Paragraph 53 and the heading preceding it are amended by paragraph 10(8) to (10) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.

Administrator's proposals: revision

3.40.—(1) Where paragraph 54(1) of Schedule B1(**a**) applies, the statement of the proposed revision which is required to be delivered to all the creditors and members must identify the proceedings and include—

(a) any other trading names of the company;

(b) details of the administrator's appointment, including—

(i) the date of appointment,

(ii) the person making the application or appointment;

(c) the names of the directors and secretary of the company and details of any shareholdings in the company which they may have;

(d) a summary of the original proposals and the reason or reasons for proposing a revision;

(e) details of the proposed revision, including details of the administrator's assessment of the likely impact of the proposed revision upon creditors generally or upon each class of creditors;

(f) where the proposed revision relates to the ending of the administration by a creditors' voluntary winding up 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, and

(iii) a statement that the creditors may, before the proposals are approved, nominate a different person as liquidator in accordance with paragraph 83(7)(a) of Schedule B1 and rule 3.58(5)(b); and

(g) any other information that the administrator thinks necessary to enable creditors to decide whether or not to vote for the proposed revisions, and

must be delivered with a notice of the decision procedure in accordance with rule 15.7.

(2) The administrator may seek a decision using deemed consent in which case the requirements in rule 15.6 also apply to the notice.

(3) As soon as reasonably practicable after sending the statement of the proposed revisions to the creditors, the administrator must deliver a copy to the registrar of companies.

(4) The period within which, subject to paragraph 54(3) of Schedule B1, the administrator must send a copy of the statement to every member of the company of whose address the administrator is aware is five business days after sending the statement of the proposed revision to each creditor.

(5) Notice under paragraph 54(3) and (4) of Schedule B1 must—

(a) be advertised in such manner as the administrator thinks fit as soon as reasonably practicable after the administrator has sent the statement to the creditors, and

(b) state that members may request in writing a copy of the proposed revision, and state the address to which to write.

Notice of result of creditors' decision on revised proposals

3.41.—(1) As soon as reasonably practicable after the creditors' decision on the statement of the administrator's revised proposals, the administrator must (in addition to reporting to the court and the registrar of companies as required by paragraph 54(6) of Schedule B1) deliver notice of the decision to every creditor and to every other person who received a copy of the original proposals.

(2) The administrator must file with the court a copy of the statement of revised proposals.

(**a**) Paragraph 54 is amended by paragraph 10(11) to (16) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.

(3) The notices under paragraph 54(6) of Schedule B1 or under this rule must contain details of any modifications to the proposals which were approved by the creditors.

(4) The administrator must also deliver a copy of both the original and the revised statement of proposals to any creditors who did not receive notice of the decision procedure or deemed consent procedure but of whose claim the administrator has subsequently become aware.

CHAPTER 8

Limited disclosure of statements of affairs and proposals

Application of Chapter

3.42. This Chapter applies to the disclosure of information which would be likely to prejudice the conduct of the administration or might reasonably be expected to lead to violence against any person.

Orders limiting disclosure of statement of affairs etc.

3.43.—(1) If the administrator thinks that the circumstances in rule 3.42 apply in relation to the disclosure of—

(a) the whole or part of a statement of the company's affairs, or

(b) any of the matters specified in rule 3.33(1)(e), (f) and (g) (administrator's proposals),

the administrator may apply to the court for an order in relation to the statement of affairs, a specified part of it or a specified part of the statement of proposals.

(2) The court may order that—

(a) the statement of affairs,

(b) the specified part of the statement of affairs, or

(c) some or all of the specified part of the statement of proposals,

must not be delivered to the registrar of companies or, in the case of the statement of proposals, to creditors or members of the company.

(3) The administrator must as soon as reasonably practicable deliver to the registrar of companies—

(a) a copy of the order,

(b) the statement of affairs or the statement of proposals to the extent provided by the order,

(c) any statement of concurrence, and

(d) if the order relates to the statement of proposals, an indication of the nature of the matter in relation to which the order was made.

(4) If the order relates to the statement of proposals, the administrator must as soon as reasonably practicable also deliver to the creditors and members of the company —

(a) the statement of proposals to the extent provided by the order, and

(b) an indication of the nature of the matter in relation to which the order was made.

Order for disclosure

3.44.—(1) A creditor may apply to the court for an order that the administrator disclose any of the following in relation to which an order has been made under rule 3.43(2)—

(a) a statement of affairs,

(b) a specified part of it, or

(c) a part of a statement of proposals.

(2) The application must be supported by a witness statement.

(3) The applicant must deliver to the administrator notice of the application at least three business days before the hearing.

(4) In an order for disclosure, the court may include conditions as to confidentiality, duration, the scope of the order in the event of any change of circumstances or such other matters as it thinks just.

Rescission or amendment of order for limited disclosure

3.45.—(1) If there is a material change in circumstances rendering an order for limited disclosure under rule 3.43(2) wholly or partially unnecessary, the administrator must, as soon as reasonably practicable after the change, apply to the court for the order to be rescinded or amended.

(2) If the court makes such an order, the administrator must as soon as reasonably practicable deliver to the registrar of companies—

(a) a copy of the order, and

(b) the statement of affairs or the statement of proposals to the extent provided by the order;

(3) If the order relates to the statement of proposals, the administrator must as soon as reasonably practicable also deliver to the creditors and members the statement of proposals to the extent allowed by the order.

Publication etc. of statement of affairs or statement of proposals

3.46.—(1) CPR Part 31 does not apply to an application under rule 3.43, 3.44 or 3.45.

(2) If, after the administrator has sent a statement of proposals under paragraph 49(4) of Schedule B1, a statement of affairs is delivered to the registrar of companies in accordance with rule 3.45(2) as the result of the rescission or amendment of an order**,** the administrator must deliver to the creditors a copy or summary of the statement of affairs as delivered to the registrar of companies.

(3) The administrator is taken to comply with the requirements for delivery to members of the company in rule 3.43(4) or 3.45(3) if the administrator publishes the required notice.

(4) The required notice must—

(a) be advertised in such manner as the administrator thinks fit,

(b) state that members can write for—

(i) a copy of the statement of proposals to the extent provided by the order, and

(ii) an indication of the nature of the matter in relation to which the order was made, and

(c) state the address to which to write, and

(d) be published as soon as reasonably practicable after the administrator has delivered the statement of proposals to the extent provided by the order to the company's creditors.

CHAPTER 9

Disposal of Charged Property

Disposal of charged property

3.47.—(1) This rule applies where the administrator applies to the court under paragraph 71 or 72 of Schedule B1 for authority to dispose of—

(a) property which is subject to a security other than a floating charge, or

(b) goods in the possession of the company under a hire-purchase agreement.

(2) The court must fix a venue for the hearing of the application.

(3) As soon as reasonably practicable after the court has done so, the administrator must deliver notice of the venue to the holder of the security or the owner of the goods.

(4) If an order is made under paragraph 71 or 72 of Schedule B1, the court must deliver two sealed copies to the administrator.

(5) The administrator must deliver—

(a) one of the sealed copies to the holder of the security or the owner of the goods, and

(b) a copy of the sealed order to the registrar of companies.

CHAPTER 10

Expenses of the Administration

Expenses

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

(2) The expenses associated with the prescribed part must be paid out of the prescribed part.

Order of priority

3.49.—(1) The expenses of administration are payable in the following order of priority, subject to an order of the court under paragraph (2)—

(a) expenses properly incurred by the administrator in performing the administrator's functions;

(b) the cost of any security provided by the administrator in accordance with the Act or these Rules;

(c) where an administration order was made, the costs of the applicant and any person appearing on the hearing of the application;

(d) where the administrator was appointed otherwise than by order of the court—

(i) the costs and expenses of the appointer in connection with the making of the appointment, and

(ii) the costs and expenses incurred by any other person in giving notice of intention to appoint an administrator;

(e) any amount payable to a person in respect of assistance in the preparation of a statement of affairs or statement of concurrence;

(f) 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 deliver a statement of concurrence;

(g) any necessary disbursements by the administrator in the course of the administration (including any expenses incurred by members of the creditors' committee or their representatives and allowed for by the administrator under rule 17.22, but not including any payment of corporation tax in circumstances referred to in sub-paragraph (j) below);

(h) the remuneration or emoluments of any person who has been employed by the administrator to perform any services for the company, as required or authorised under the Act or these Rules;

(i) the administrator's remuneration the basis of which has been fixed under Part 17 and unpaid pre-administration costs approved under rule 3.50;

(j) the amount of any corporation tax on chargeable gains accruing on the realisation of any asset of the company (irrespective of the person by whom the realisation is effected).

(2) If the assets are insufficient to satisfy the liabilities, the court may make an order as to the payment out of the assets of the expenses incurred in the administration in such order of priority as the court thinks just.

(3) For the purposes of paragraph 99(3) of Schedule B1, the former administrator's remuneration and expenses comprise all the items in paragraph (1).

Pre-administration costs

3.50.—(1) Where the administrator has made a statement of pre-administration costs under rule 3.33(5)(b), the creditors' committee may determine whether and to what extent the unpaid pre-administration costs set out in the statement are approved for payment.

(2) Paragraph (3) applies where—

(a) there is no creditors' committee, or

(b) there is a creditors' committee but it does not make the necessary determination, or

(c) the creditors' committee does make the necessary determination but the administrator or other insolvency practitioner who has charged fees or incurred expenses as pre-administration costs considers the amount determined to be insufficient.

(3) When this paragraph applies, determination of whether and to what extent the unpaid pre-administration costs are approved for payment must be—

(a) by a decision of the creditors through a decision procedure other than in a case falling in sub-paragraph (b), or

(b) in a case where the administrator has made a statement under paragraph 52(1)(b) of Schedule B1—

(i) by the approval of each secured creditor of the company, or

(ii) if the administrator has made, or intends to make, a distribution to preferential creditors, by the approval of—

(aa) each secured creditor of the company, and

(bb) preferential creditors whose debts amount to more than 50% of the preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval.

(4) The administrator must call a meeting of the creditors' committee or seek a decision of creditors by a decision procedure if so requested for the purposes of paragraphs (1) to (3) by another insolvency practitioner who has charged fees or incurred expenses as pre-administration costs; and the administrator must deliver notice of the meeting within 28 days of receipt of the request.

(5) The administrator (where the fees were charged or expenses incurred by the administrator) or other insolvency practitioner (where the fees were charged or expenses incurred by that practitioner) may apply to the court for a determination of whether and to what extent the unpaid pre-administration costs are approved for payment if either—

(a) there is no determination under paragraph (1) or (3), or

(b) there is such a determination but the administrator or other insolvency practitioner who has charged fees or incurred expenses as pre-administration costs considers the amount determined to be insufficient.

(6) Where there is a creditors' committee the administrator or other insolvency practitioner must deliver at least 14 days' notice of the application to the members of the committee; and the committee may nominate one or more of its members to appear, or be represented, and to be heard on the application.

(7) If there is no creditors' committee, notice of the application must be delivered to such one or more of the company's creditors as the court may direct, and those creditors may nominate one or more of their number to appear or be represented, and to be heard on the application.

(8) The court may, if it appears to be a proper case, order the costs of the application, including the costs of any member of the creditors' committee appearing or being represented on it, or of any creditor so appearing or being represented, to be paid as an expense of the administration.

(9) Where the administrator fails to call a meeting of the creditors' committee or seek a decision from creditors in accordance with paragraph (4), the other insolvency practitioner may apply to the court for an order requiring the administrator to do so.

CHAPTER 11

Extension and ending of administration

Final progress reports

3.51. In this Chapter "final progress report" means a progress report which includes a summary of—

(a) the administrator's proposals;

(b) any major amendments to, or deviations from, those proposals;

(c) the steps taken during the administration; and

(d) the outcome.

Application to extend an administration and extension by consent (paragraph 76(2) of Schedule B1)

3.52.—(1) This rule applies where an administrator makes an application to the court for an order, or delivers a notice to the creditors requesting their consent, to extend the administrator's term of office under paragraph 76(2) of Schedule B1.

(2) The application or the notice must state the reasons why the administrator is seeking an extension.

(3) A request to the creditors may contain or be accompanied by a notice that if the extension is granted a notice of the extension will be made available for viewing on a website and that no other notice will be delivered to the creditors.

(4) Such a notice must contain the website's address and any password necessary to view and download the document and a telephone number, email address and postal address which may be used by a creditor to obtain a hard copy of the notice if the extension is granted.

(5) Where the court makes an order extending the administrator's term of office, the administrator must as soon as reasonably practicable deliver to the creditors a notice of the order together with the reasons for seeking the extension given in the application to the court.

(6) Where the administrator's term of office has been extended with the consent of creditors, the administrator must as soon as reasonably practicable deliver a notice of the extension to all the creditors.

Notice of automatic end of administration (paragraph 76 of Schedule B1)

3.53.—(1) This rule applies where—

(a) the appointment of an administrator has ceased to have effect, and

(b) the administrator is not required by any other rule to give notice of that fact.

(2) The administrator must, as soon as reasonably practicable, and in any event within five business days of the date on which the appointment has ceased, file with the court a notice accompanied by a final progress report.

(3) The notice must be headed "Notice of automatic end of administration" and identify the company immediately below the heading.

(4) The notice must contain—

(a) the administrator's name and address;

(b) a statement that that person has been appointed administrator of the company;

(c) the date of the appointment;

(d) the name of the person who made the appointment or the administration application, as the case may be;

(e) a statement that the appointment has ceased to have effect;

(f) the date on which the appointment ceased to have effect;

(g) a statement that a copy of the final progress report accompanies the notice;

(5) The notice must be authenticated by the administrator and dated.

(6) A copy of the notice and accompanying final progress report must be delivered as soon as reasonably practicable to—

(a) the registrar of companies,

(b) the directors of the company, and

(c) all other persons to whom notice of the administrator's appointment was delivered.

(7) An administrator who fails to comply with this rule is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

Notice of end of administration when purposes achieved (paragraph 80(2) of Schedule B1)

3.54.—(1) Where an administrator who was appointed under paragraph 14 or 22 of Schedule B1 thinks that the purpose of administration has been sufficiently achieved, the notice ("notice of end of administration") which the administrator may file with the court and deliver a copy to the registrar of companies under paragraph 80(2) of Schedule B1 must be headed "Notice of end of administration" and identify the company immediately below the heading.

(2) The notice must contain—

(a) the administrator's name and address;

(b) a statement that that person has been appointed administrator of the company;

(c) the date of the appointment;

(d) the name of the person who made the appointment or the administration application, as the case may be;

(e) a statement that the administrator thinks that the purpose of the administration has been sufficiently achieved;

(f) a statement that a copy of the final progress report accompanies the notice;

(g) a statement that the administrator is filing the notice with the court and delivering a copy to the registrar of companies;

(3) The notice must be authenticated by the administrator and dated.

(4) The notice of end of administration must be accompanied by a final progress report.

(5) The notice of end of administration filed with the court must also be accompanied by a copy of the notice.

(6) The court must endorse the notice and the copy with the date and time of filing, seal the copy and deliver it to the administrator.

(7) The prescribed period within which the administrator must, under paragraph 80(4) of Schedule B1, send a copy of the notice to all the creditors is five business days.

(8) The copy notice sent to creditors must be accompanied by the final progress report.

(9) The administrator must also, within five business days, deliver a copy of the notice and the accompanying report to—

(a) the directors of the company;

(b) all others persons (other than the creditors and the registrar of companies) to whom notice of the administrator's appointment was delivered.

(10) The administrator is taken to have complied with paragraph 80(4) of Schedule B1 if, within five business days of filing with the court the notice of the end of the administration, the administrator gazettes a notice which—

(a) states that the administration has ended, and the date on which it ended,

(b) undertakes that the administrator will provide a copy of the notice of end of administration to any creditor of the company who applies in writing, and

(c) specifies the address to which to write.

(11) The Gazette notice may be advertised in such other manner as the administrator thinks fit.

Administrator's application for order ending administration (paragraph 79 of Schedule B1)

3.55.—(1) An application to court by the administrator under paragraph 79 of Schedule B1 for an order ending an administration must be accompanied by—

(a) a progress report for the period since—

(i) the last progress report (if any), or

(ii) if there has been no previous progress report, the date on which the company entered administration,

(b) a statement indicating what the administrator thinks should be the next steps for the company (if applicable), and

(c) where the administrator makes the application because of a requirement decided by the creditors, a statement indicating with reasons whether or not the administrator agrees with the requirement.

(2) Where the application is made other than because of a requirement by a decision of the creditors—

(a) the administrator must, at least five business days before the application is made, deliver notice of the administrator's intention to apply to court to—

(i) the person who made the administration application or appointment, and

(ii) all the creditors; and

(b) the application must be accompanied by—

(i) a statement that notice has been delivered to the creditors, and

(ii) copies of any response from creditors to that notice.

(3) Where the application is in conjunction with a petition under section 124 for an order to wind up the company, the administrator must, at least five business days before the application is made, deliver notice to the creditors as to whether the administrator intends to seek appointment as liquidator.

Creditor's application for order ending administration (paragraph 81 of Schedule B1)

3.56.—(1) Where a creditor applies to the court under paragraph 81 of Schedule B1 for an order ending an administration, a copy of the application must be delivered, not less than five business days before the date fixed for the hearing, to—

(a) the administrator,

(b) the person who made the administration application or appointment, and

(c) where the appointment was made under paragraph 14 of Schedule B1, the holder of the floating charge by virtue of which the appointment was made (if different to (b)).

(2) Any of those persons may appear at the hearing of the application.

(3) Where the court makes an order under paragraph 81 ending the administration, the court must deliver a copy of the order to the administrator.

Notice by administrator of court order

3.57. Where the court makes an order ending the administration, the administrator must as soon as reasonably practicable deliver a copy of the order and of the final progress report to—

(a) the registrar of companies,

(b) the directors of the company, and

(c) all other persons to whom notice of the administrator's appointment was delivered.

Moving from administration to creditors' voluntary winding up (paragraph 83 of Schedule B1)

3.58.—(1) This rule applies where the administrator delivers to the registrar of companies a notice under paragraph 83(3) of Schedule B1 of moving from administration to creditors' voluntary winding up.

(2) The notice to the registrar of companies must be accompanied by a copy of the administrator's final progress report.

(3) A copy of the notice and the final progress report must be sent to all those persons to whom notice of the administrator's appointment was delivered in addition to the creditors (as required by paragraph 83(5)(b)).

(4) The person who ceases to be administrator on the registration of the notice must inform the person who becomes liquidator of anything which happens after the date of the final progress report and before the registration of the notice which the administrator would have included in the final report had it happened before the date of the report.

(5) For the purposes of paragraph 83(7)(a) of Schedule B1, a person is nominated by the creditors as liquidator by—

(a) their approval of the statement of the proposed liquidator in the administrator's proposals or revised proposals, or

(b) their nomination of a different person, through a decision procedure, before their approval of the proposals or revised proposals.

(6) Where the creditors nominate a different person, the nomination must, where applicable, include the declaration required by section 231.

[Note: the information referred to in paragraph (4) is required to be included in the first progress report of the liquidator. See rule 18.3(5).]

Moving from administration to dissolution (paragraph 84 of Schedule B1)

3.59.—(1) This rule applies where the administrator delivers to the registrar of companies a notice under paragraph 84(1) of Schedule B1 of moving from administration to dissolution.

(2) As soon as reasonably practicable after sending the notice, the administrator must deliver a copy of the notice to all persons to whom notice of the administrator's appointment was delivered (in addition to the creditors mentioned in paragraph 84(5)(b)).

(3) A final progress report must accompany the notice to the registrar of companies and every copy filed or otherwise delivered.

(4) Where a court makes an order under paragraph 84(7) of Schedule B1 it must, where the applicant is not the administrator, deliver a copy of the order to the administrator.

(5) The administrator must deliver a copy of the order to the registrar of companies with the notice required by paragraph 84(8).

CHAPTER 12

Replacing the administrator

Grounds for resignation

3.60.—(1) The administrator may resign—

(a) on grounds of ill health,

(b) because of the intention to cease to practise as an insolvency practitioner, or

(c) because the further discharge of the duties of administrator is prevented or made impractical by—

(i) a conflict of interest, or

(ii) a change of personal circumstances.

(2) The administrator may, with the permission of the court, resign on other grounds.

Notice of intention to resign

3.61.—(1) The administrator must give at least five business days' notice of intention—

(a) to resign in a case falling within rule 3.60(1), or

(b) to apply for the court's permission to resign in a case falling within rule 3.60(2).

(2) Notice must be delivered—

(a) to any continuing administrator of the company;

(b) to any creditors' committee;

(c) if there is neither a continuing administrator nor a creditors' committee, to—

(i) the company, and

(ii) all the company's creditors;

(d) to the member State liquidator appointed in relation to the company, if there is one;

(e) where the administrator was appointed by the holder of a qualifying floating charge under paragraph 14 of Schedule B1, to—

(i) the person who appointed the administrator, and

(ii) all holders of prior qualifying floating charges;

(f) where the administrator was appointed by the company or the directors of the company under paragraph 22 of Schedule B1, to—

(i) the appointer, and

(ii) all holders of qualifying floating charges.

Notice of resignation (paragraph 87of Schedule B1)

3.62.—(1) A resigning administrator must, within five business days of delivering the notice under paragraph 87(2), deliver a copy of the notice to—

(a) the registrar of companies;

(b) all persons, other than the person who made the appointment, to whom notice of intention to resign was delivered under rule 3.61; and

(c) except where the appointment was by administration order, file a copy of the notice with the court.

(2) Where an administrator was appointed by an administration order, notice of resignation under paragraph 87(2)(a) of Schedule B1must be given by filing the notice with the court.

(3) The notice must state—

(a) the date from which the resignation is to have effect, and

(b) where the resignation is with the permission of the court, the date on which permission was given.

Application to court to remove administrator from office

3.63.—(1) An application for an order under paragraph 88 of Schedule B1 that the administrator be removed from office must state the grounds on which the order is requested.

(2) A copy of the application must be delivered, not less than five business days before the date fixed for the hearing—

(a) to the administrator,

(b) to the person who—

(i) made the application for the administration order, or

(ii) appointed the administrator,

(c) to the creditors' committee (if any),

(d) to any other administrator appointed to act jointly or concurrently, and

(e) where there is neither a creditors' committee nor another administrator appointed to act jointly or concurrently, to the company and all the creditors, including any floating charge holders.

(3) The court must deliver to the applicant a copy of an order removing the administrator.

(4) The applicant must deliver a copy—

(a) as soon as reasonably practicable, and in any event within five business days of the copy order being delivered, to the administrator, and

(b) within five business days of the copy order being delivered, to—

(i) all other persons to whom notice of the application was delivered, and

(ii) the registrar of companies.

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

3.64. An administrator who has ceased to be qualified to act as an insolvency practitioner in relation to the company and gives notice in accordance with paragraph 89 of Schedule B1 must also deliver notice to the registrar of companies.

Deceased administrator

3.65.—(1) If the administrator dies a notice of the fact and date of death must be filed with the court.

(2) The notice must be filed as soon as reasonably practicable by one of the following—

(a) a surviving joint administrator;

(b) a member of the deceased administrator's firm (if the deceased was a member or employee of a firm);

(c) an officer of the deceased administrator's company (if the deceased was an officer or employee of a company);

(d) a personal representative of the deceased administrator.

(3) If such a notice has not been filed within the 21 days following the administrator's death then any other person may file the notice.

(4) The person who files the notice must also deliver a notice containing the fact and date of death to the registrar of companies.

Application to replace

3.66.—(1) Where an application to court is made under paragraph 91(1) or 95 of Schedule B1 to appoint a replacement administrator, the application must be accompanied by the proposed replacement administrator's consent to act.

(2) Where the application is made under paragraph 91(1), a copy of the application must be delivered—

(a) to the person who made the application for the administration order,

(b) to any person who has appointed an administrative receiver of the company,

(c) to any person who is or may be entitled to appoint an administrative receiver of the company,

(d) to any person who is or may be entitled to appoint an administrator of the company under paragraph 14 of Schedule B1,

(e) to any administrative receiver,

(f) if there is pending a petition for the winding up of the company, to —

(i) the petitioner, and

(ii) any provisional liquidator,

(g) to any member State liquidator appointed in main proceedings in relation to the company,

(h) to the company, if the application is made by anyone other than the company, and

(i) to any supervisor of any CVA in relation to the company, and

(j) to the proposed administrator.

(3) Where the application is made under paragraph 95, the application must be accompanied by a witness statement setting out the applicant's belief as to the matters set out in that paragraph.

(4) Rules 3.10, 3.11, and 3.14(1) and (2) apply to an application under paragraphs 91(1) and 95 of Schedule B1.

Appointment of replacement or additional administrator

3.67. Where a replacement administrator is appointed or an additional administrator is appointed to act jointly or concurrently—

(a) the following rules apply—

(i) 3.16(1)(a) to (f), 3.16(2) and the requirement as to the heading set out in rule 3.16(1);

(ii) 3.17(1)(a) and (b)(ii), (2) and (3);

(iii) 3.23(1)(a) to (d) and (2);

(iv) 3.24(1), (2)(a) to (c) and (3);

(v) 3.25(1)(a), (3) and (4);

(vi) 3.26(1), (2)(a) and (b), (3) and (4);

(b) the replacement or additional administrator must deliver notice of the appointment to the registrar of companies; and

(c) all documents must clearly identify the appointment as of a replacement administrator or an additional administrator appointed to act jointly or concurrently.

Administrator's duties on vacating office

3.68.—(1) An administrator who ceases to be in office as a result of removal, resignation or ceasing to be qualified as an insolvency practitioner must as soon as reasonably practicable deliver to the person succeeding as administrator—

(a) the assets (after deduction of any expenses properly incurred and distributions made by the departing administrator),

(b) the records of the administration, including correspondence, proofs and other documents relating to the administration while it was within the responsibility of the departing administrator, and

(c) the company's records.

(2) An administrator who fails to comply with this rule is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

PART 4

RECEIVERSHIP

Appointment of joint receivers and managers

CHAPTER 1

Application of Part 4

4.1. This Part applies as follows—

(a) Chapter 2 applies to all receivers to whom Part 3 of the Act applies;

(b) Chapter 3 applies to administrative receivers appointed otherwise than under section 51 (Scottish receiverships); and

(c) Chapter 4 applies to receivers who are not administrative receivers in accordance with rule 4.22

CHAPTER 2

Appointment of joint receivers or managers to whom Part 3 of the Act applies

Receivers or managers appointed under an instrument: acceptance of appointment (section 33)

4.2.—(1) Where two or more persons are appointed as joint receivers or managers of a company's property under powers contained in an instrument—

(a) each of them must accept the appointment in accordance with section 33 as if each were a sole appointee;

(b) the joint appointment takes effect only when all of them have accepted; and

(c) the joint appointment is deemed to have been made at the time at which the instrument of appointment was received by or on behalf of each of them.

(2) A person who is appointed as the sole or joint receiver or manager of a company's property under powers contained in an instrument and accepts the appointment in accordance with section 33(1)(a), but not in writing, must confirm the acceptance in writing to the person making the appointment within five business days.

(3) The confirmation must state the time and date of —

(a) receipt of the instrument of appointment, and

(b) the acceptance.

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

Administrative receiver's security

4.3. The cost of the administrative receiver's security required by section 390(3) for the proper performance of the administrative receiver's functions is an expense of the administrative receivership.

Publication of appointment of administrative receiver (section 46(1))

4.4.—(1) The notice which an administrative receiver is required by section 46(1) to send to the company and creditors on being appointed must identify the company and state—

(a) any other registered name of the company in the 12 months before the date of the appointment;

(b) any name under which the company has traded at any time in those 12 months, if substantially different from its then registered name;

(c) the name and address of the person appointed;

(d) the date of the appointment;

(e) the name of the person who made the appointment;

(f) the date of the instrument conferring the power under which the appointment was made;

(g) a brief description of the instrument;

(h) a brief description of any assets of the company in relation to which the appointment is not made.

(2) The notice which an administrative receiver is required by section 46(1) to publish—

(a) must be gazetted;

(b) may be advertised in such other manner as the administrative receiver thinks fit;

(c) must state—

(i) that an administrative receiver has been appointed;

(ii) the date of the appointment;

(iii) the name of the person who made the appointment; and

(iv) the nature of the business of the company.

CHAPTER 3

Statement of affairs

Interpretation

4.5. In this Chapter—

"nominated person" means a relevant person who has been required by the administrative receiver to make out and deliver to the administrative receiver a statement of affairs; and

"relevant person" means a person mentioned in section 47(3).

Requirement to provide a statement of affairs (section 47(1))

4.6.—(1) A requirement under section 47(1) for a nominated person to make out and submit to the administrative receiver a statement of the affairs of the company must be made by a notice delivered to such a person.

(2) The notice must be headed "Notice requiring statement of affairs" and must—

(a) identify the company immediately below the heading;

(b) require the recipient to prepare and submit to the administrative receiver a statement of the affairs of the company;

(c) inform each recipient of—

(i) the name and address of any other nominated person to whom a notice has been delivered,

(ii) the date by which the statement must be delivered to the receiver, and

(iii) the effect of sections 47(6) (penalty for non-compliance) and 235 (duty to co-operate with the receiver).

(3) The administrative receiver must inform each nominated person that a document for the preparation of the statement of affairs capable of completion in compliance with rule 4.7 can be supplied if requested.

Statement of affairs: content and delivery of copy (section 47(2))

4.7.—(1) The statement of affairs must be headed "Statement of affairs" and must state that it is a statement of the affairs of the company on a specified date, being the date on which the administrative receiver was appointed.

(2) The statement must contain, in addition to the matters required by section 47(2)—

(a) a summary of the assets of the company, setting out the book value and the estimated realisable value of—

(i) the assets subject to a fixed charge;

(ii) the assets subject to a floating charge;

(iii) the uncharged assets;

(iv) the total assets available for preferential creditors;

(b) a summary of the liabilities of the company, setting out—

(i) the amount of preferential debts;

(ii) an estimate of the deficiency with respect to preferential debts or the surplus available after paying the preferential debts;

(iii) an estimate of the prescribed part, if applicable;

(iv) the amount of debts secured by floating charges;

(v) an estimate of the total assets available to pay debts secured by floating charges;

(vi) an estimate of the deficiency with respect to debts secured by floating charges or the surplus available after paying the debts secured by floating charges;

(vii) the amount of unsecured debts (excluding preferential debts and any deficiency with respect to debts secured by floating charges);

(viii) an estimate of the deficiency with respect to unsecured debts or the surplus available after paying unsecured debts (excluding preferential debts and any deficiency with respect to debts secured by fixed and floating charges);

(ix) issued and called-up capital;

(x) an estimate of the deficiency with respect to, or surplus available to, members of the company;

(c) subject to paragraphs (4) and (5) the amount of the debt owed to each creditor with the further particulars required by paragraph (3), identifying—

(i) any creditors under hire-purchase agreements, chattel leasing or conditional sale agreements;

(ii) customers claiming amounts paid in advance for the supply of goods or services; and

(iii) claiming retention of title over property in the company's possession;

(3) Subject to paragraphs (4) and (5), the particulars required by section 47(2)(b), (c) and (d) and paragraph (2)(b)(viii) of this rule to be included in the statement relating to each creditor must be given in the following order—

(a) the name of the creditor;

(b) the address of the creditor;

(c) the amount of the debts owed to the creditor;

(d) details of any security held by the creditor;

(e) the date on which any such security was given;

(f) the value of any such security.

(4) Where the particulars required by paragraph (3) relate to creditors who are either—

(a) employees or former employees of the company; or

(b) customers claiming amounts paid in advance for the supply of goods and services,

those particulars must be set out in schedules to the statement of affairs for each of sub-paragraphs (a) and (b).

(5) Where paragraph (4) applies, the statement of affairs itself must give separately for each of paragraph (4)(a) and (b) the number and a summary of the debts owed to such creditors.

(6) The nominated person who makes the statement of truth required by section 47(2) (or by one of them, if more than one) must deliver the statement of affairs and the statement of truth to the administrative receiver together with a copy of each of them.

Statement of affairs: statement of concurrence

4.8.—(1) The administrative receiver may require a relevant person to deliver to the administrative receiver—

(a) a statement that that person concurs in the statement of affairs submitted by a nominated person ("a statement of concurrence"); and

(b) a statement of truth verifying the statement of concurrence.

(2) The administrative receiver must inform the nominated person who has been required to submit a statement of affairs that the relevant person has been required to deliver a statement of concurrence.

(3) The nominated person must deliver a copy of the statement of affairs to every relevant person who has been required to deliver a statement of concurrence.

(4) A statement of concurrence—

(a) must identify the company; and

(b) may be qualified in relation to matters dealt with in the statement of affairs where the relevant person—

(i) is not in agreement with the statement of affairs;

(ii) considers the statement to be erroneous or misleading; or

(iii) is without the direct knowledge necessary for concurring in it.

(5) The relevant person must deliver the required statement of concurrence and statement of truth to the administrative receiver before the end of the period of five business days (or such other period as the administrative receiver may agree) beginning with the day on which the relevant person receives the statement of affairs.

(6) The relevant person must deliver to the administrative receiver with these statements a copy of each of them.

Statement of affairs: retention by administrative receiver

4.9. The administrative receiver must retain the verified statement of affairs and each statement of concurrence as part of the records of the receivership.

Statement of affairs: release from requirement and extension of time (section 47(5))

4.10.—(1) The administrative receiver may exercise the power in section 47(5) to release a person from an obligation to submit a statement of affairs imposed under section 47(1) or (2), or to grant an extension of time, either on the administrative receiver's own discretion or at the request of a nominated person.

(2) A nominated person may apply to the court if the receiver refuses that person's request.

(3) If the court thinks that no sufficient cause is shown for the application, it must deliver to the applicant notice to that effect; and—

(a) if, within five business days of delivery of that notice, the applicant applies to the court to fix a venue for a hearing, without notice to any other party, as to whether sufficient cause is shown, the court must do so; but

(b) if the applicant does not deliver notice in accordance with sub-paragraph (a), the court may dismiss the application without a hearing.

(4) Unless the application is dismissed under paragraph (3), the court must fix a venue for it to be heard, and deliver notice to the applicant accordingly.

(5) The applicant must, at least 14 days before the hearing, deliver to the administrative receiver a notice stating the venue and accompanied by a copy of the application and of any evidence which the applicant intends to provide in support of it.

(6) The receiver may do either or both of the following—

(a) appear and be heard on the application,

(b) file a report of any matters which the administrative receiver considers ought to be drawn to the court's attention.

(7) If a report is filed, the receiver must deliver a copy of it to the applicant not later than five business days before the hearing.

(8) Sealed copies of any order made on the application must be delivered by the court to the applicant and the administrative receiver.

(9) On any application under this rule, the applicant's costs must be paid by the applicant in any event; but the court may order that allowance towards them may be made out of the assets under the administrative receiver's control.

Statement of affairs: expenses

4.11.—(1) The administrative receiver must pay out of the assets under the receiver's control the expenses of—

(a) a nominated person which the administrative receiver considers to have been reasonably incurred in making a statement of affairs and statement of truth, or

(b) a person which the administrative receiver considers to have been reasonably incurred in making a statement of concurrence.

(2) Any decision by the administrative receiver under this rule is subject to appeal to the court.

Limited disclosure

4.12.—(1) Where the administrative receiver thinks that disclosure of the whole or part of the statement of affairs would be likely to prejudice the conduct of the receivership or might reasonably be expected to lead to violence against any person, the administrative receiver may apply to the court for an order that the statement of affairs or any specified part of it may not be open to inspection except with permission of the court.

(2) The court’s order may include directions regarding the delivery of documents to the registrar of companies and the disclosure of relevant information to other persons.

CHAPTER 4

Administrative receiver’s report

Report delivered to registrar of companies and secured creditors (section 48(1))

4.13.—(1) The report which under section 48(1) an administrative receiver is to send to the registrar of companies must be accompanied by a copy of any statement of affairs under section 47 and any statement of concurrence under rule 4.8.

(2) However the administrator must not deliver to the registrar of companies with the statement of affairs any schedule required by rule 4.7(4).

(3) The duty to send a copy of the report to the registrar of companies is subject to any order for limited disclosure made under rule 4.12.

(4) If a statement of affairs is submitted or statement of concurrence is delivered to the administrative receiver after the report is sent to the registrar of companies, the administrative receiver must deliver a copy of it to the registrar of companies as soon as reasonably practicable after its receipt by the administrative receiver.

(5) The report must contain (in addition to the matters required by section 48(1)) estimates to the best of the administrative receiver's knowledge and belief of —

(a) the value of the prescribed part (whether or not the administrative receiver might be required under section 176A to make the prescribed part available for the satisfaction of unsecured debts); and

(b) the value of the company's net property (as defined by section 176A(6)).

(6) The administrative receiver may exclude from an estimate under paragraph (5) information the disclosure of which could seriously prejudice the commercial interests of the company.

(7) If the exclusion of such information affects the calculation of an estimate, the report must say so.

(8) If the administrative receiver proposes to make an application to court under section 176A(5) the report must say so and give the reason for the application.

Copy of report for unsecured creditors (section 48(2))

4.14. A notice under section 48(2)(b) stating an address to which unsecured creditors should write for copies of an administrative receiver's report under that section—

(a) must be gazetted;

(b) may be advertised in such other manner as the receiver thinks fit; and

(c) must be accompanied by a notice under rule 4.15.

Invitation to creditors to form a creditor's committee

4.15.—(1) An administrative receiver must deliver to the creditors with the report under section 48(1) a notice inviting the creditors to decide whether a creditors' committee should be established if sufficient creditors are willing to be members of the committee.

(2) The notice must also invite nominations for membership of the committee, such nominations to be received by the administrative receiver by a date to be specified in the notice.

(3) The notice must state that any nominations—

(a) must be delivered to the administrative receiver by the specified date; and

(b) can only be accepted if the administrative receiver is satisfied as to the creditor's eligibility under rule 17.4.

CHAPTER 5

Disposal of charged property by administrative receiver

Disposal of charged property (section 43(1))

4.16.—(1) This rule applies where an administrative receiver applies to the court under section 43(1) for authority to dispose of property of the company which is subject to a security.

(2) The court must fix a venue for the hearing of the application.

(3) As soon as reasonably practicable after the court has done so, the administrative receiver must deliver notice of the venue to the person who is the holder of the security.

(4) If an order is made under section 43(1), the court must deliver two sealed copies to the administrative receiver.

(5) The administrative receiver must deliver one of them to the holder of the security.

CHAPTER 6

Administrative receiver's summary of receipts and payments

Summary of receipts and payments

4.17.—(1) The administrative receiver must deliver a summary of receipts and payments as receiver to the registrar of companies, the company and to the person who made the appointment, and to each member of the creditors' committee.

(2) The summary must be delivered to those persons within two months after the following—

(a) the period of 12 months from the date of being appointed,

(b) the end of every subsequent period of 12 months, and

(c) ceasing to act as administrative receiver (unless there is a joint administrator who continues in office).

(3) The summary must show receipts and payments—

(a) during the relevant period of 12 months, or

(b) where the administrative receiver has ceased to act, during the period—

(i) from the end of the last 12-month period to the time when the administrative receiver so ceased, or

(ii) if there has been no previous summary, since being appointed.

(4) This rule is without prejudice to the receiver's duty to produce proper accounts otherwise than as above.

(5) An administrative receiver who fails to comply with this rule is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

CHAPTER 7

Administrative receiver ceasing to hold office

Resignation

4.18.—(1) An administrative receiver must deliver notice of intention to resign at least five business days before the date the resignation is intended to take effect to—

(a) the person by whom the appointment was made,

(b) the company or, if it is then in liquidation, the liquidator, and

(c) the members of the creditors' committee.

(2) Notice given under this rule must specify the date on which the administrative receiver intends the resignation to take effect.

Deceased administrative receiver

4.19.—(1) If the administrative receiver dies a notice of the fact and date of death must be delivered as soon as reasonably practicable to—

(a) the person by whom the appointment was made,

(b) the registrar of companies,

(c) the company or, if it is in liquidation, the liquidator, and

(d) the creditors' committee or a member of that committee.

(2) The notice must be delivered by one of the following—

(a) a surviving joint administrative receiver;

(b) a member of the deceased administrative receiver's firm (if the deceased was a member or employee of a firm);

(c) an officer of the deceased administrative receiver's company (if the deceased was an officer or employee of a company); or

(d) a personal representative of the deceased administrative receiver.

(3) If such a notice has not been delivered within 21 days following the administrative receiver's death then any other person may deliver the notice.

Other vacation of office

4.20. An administrative receiver, on vacating office on completion of the administrative receivership, or in consequence of ceasing to be qualified as an insolvency practitioner, must as soon as reasonably practicable deliver notice of doing so to—

(a) the company or, if it is then in liquidation, the liquidator, and

(b) the members of the creditors' committee.

Notice to registrar of companies (section 45(4))

4.21. Where an administrative receiver's office is vacated other than by death, the notice to the registrar of companies required by section 45(4) may be given by means of an endorsement on the notice required by section 859K(3)(**a**) of the Companies Act.

CHAPTER 8

Non-administrative receivers and the prescribed part

Application of Chapter 8

4.22. This Chapter applies where a receiver (other than an administrative receiver) is appointed by the court or otherwise under a charge which was created as a floating charge; and section 176A applies.

Report to creditors

4.23.—(1) Within three months (or such longer period as the court may allow) of the date of the appointment, the receiver must deliver to the creditors of whose addresses the receiver is aware—

(a) a notice of the appointment, and

(b) a report.

(2) The report must contain estimates to the best of the receiver's knowledge and belief of—

(a) the value of the prescribed part (whether or not the receiver might be required under section 176A to make the prescribed part available for the satisfaction of unsecured debts); and

(b) the value of company's net property (as defined by section 176A(6)).

(3) The receiver may exclude from an estimate under paragraph (2) information the disclosure of which could seriously prejudice the commercial interests of the company.

(4) If the exclusion of such information affects the calculation of an estimate, the report must say so.

(5) If the receiver proposes to make an application to court under section 176A(5) the report must say so and give the reason for the application.

(**a**) Inserted by Schedule 1 to SI 2013/600.

(6) The report must also state whether, and if so why, the receiver proposes to present a petition for the winding up of the company.

(7) The receiver may, instead of delivering the report under paragraph (1), cause a notice to be gazetted and may advertise that notice in such other manner as the receiver thinks fit where—

(a) full details of the unsecured creditors of the company are not available to the receiver, or

(b) the receiver thinks it is otherwise impracticable to deliver such a report.

(8) A notice under paragraph (6) must contain the matters required to be included in the receiver's report.

Receiver to deal with prescribed part

4.24.—(1) The receiver—

(a) may present a petition for the winding up of the company if the ground of the petition is that in section 122(1)(f), and

(b) must deliver to any administrator or liquidator the sums representing the prescribed part.

(2) If there is no administrator or liquidator the receiver must—

(a) apply to the court for directions as to the manner in which to discharge the duty under section 176A(2)(a), and

(b) act in accordance with any directions given.

PART 5

MEMBERS' VOLUNTARY WINDING UP

CHAPTER 1

STATUTORY DECLARATION OF SOLVENCY (SECTION 89)

Statutory declaration of solvency

5.1.—(1) The statutory declaration of solvency required by section 89 must identify the company and state—

(a) the name and a postal address for each director making the declaration (which may be the director's service address provided for by section 163 of the Companies Act);

(b) either—

(i) that all of the directors, or

(ii) that a majority of the directors,

have made a full inquiry into the affairs of the company and have formed the opinion that the company will be able to pay its debts in full together with interest at the official rate within a specified period (which must not exceed 12 months) from the commencement of the winding up;

(c) that the declaration is accompanied by a statement of the company's assets and liabilities as at a date which is stated (being the latest practicable date before the making of the declaration as required by section 89(2)(b)).

(2) The statement of the company's assets and liabilities must contain—

(a) the date of the statement;

(b) a statement that the statement shows the assets of the company at estimated realisable values and liabilities of the company expected to rank as at the date referred to in sub-paragraph (a);

(c) a summary of the assets of the company, setting out the estimated realisable value of—

(i) the assets subject to a fixed charge,

(ii) the assets subject to a floating charge,

(iii) the uncharged assets;

(iv) the total of all the company's assets;

(d) the value of each of the following secured liabilities of the company expected to rank for payment—

(i) liabilities secured on specific assets, and

(ii) liabilities secured by floating charges;

(e) a summary of the unsecured liabilities of the company expected to rank for payment;

(f) the estimated costs of the winding up and other expenses;

(g) the estimated amount of interest accruing until payment of debts in full; and

(h) the estimated value of any surplus after paying debts in full together with interest at the official rate.

CHAPTER 2

THE LIQUIDATOR

Appointment by the company

5.2.—(1) This rule applies where the liquidator is appointed by the company.

(2) The chair of the meeting, or a director or the secretary of the company in the case of a written resolution of a private company, must certify the appointment when the appointee has provided to the person certifying the appointment a statement to the effect that the appointee is an insolvency practitioner qualified under the Act to be the liquidator and consents to act.

(3) The certificate must be authenticated and dated by the person who certifies the appointment and must contain the following—

(a) identification details for the company;

(b) identification and contact details for the person appointed as liquidator;

(c) the date the liquidator was appointed;

(d) a statement that the appointee—

(i) provided a statement of being qualified to act as an insolvency practitioner in relation to the company;

(ii) has consented to act; and

(iii) was appointed liquidator of the company.

(4) Where two or more liquidators are appointed the certificate must also specify (as required by section 231) whether any act required or authorised under any enactment to be done by the liquidator is to be done by all or any one or more of them.

(5) The person who certifies the appointment must deliver the certificate as soon as reasonably practicable to the liquidator, who must keep it as part of the records of the winding up.

(6) Not later than 28 days from the liquidator's appointment, the liquidator must deliver notice of the appointment to all the creditors of the company.

Meetings in members' voluntary winding up of authorised deposit-takers

5.3.—(1) This rule applies to a meeting of the members of an authorised deposit-taker or former authorised deposit-taker at which it is intended to propose a resolution for its winding up.

(2) Notice of such a meeting of the company must be delivered by the directors to the Financial Conduct Authority and to the scheme manager established under section 212(1) of the Financial Services and Markets Act 2000(**a**).

(3) The notice to the Authority and the scheme manager must be the same as delivered to members of the company.

(4) The scheme manager is entitled to be represented at any meeting of which it is required by this rule to be given notice.

Appointment by the court (section 108)

5.4.—(1) This rule applies where the liquidator is appointed by the court under section 108.

(2) The court's order must not be issued until the appointee has filed with the court a statement to the effect that the appointee is an insolvency practitioner qualified under the Act to be the liquidator and consents to act.

(3) The order of the court must contain—

(a) the name of the court in which the order is made;

(b) the name and title of the person making the order;

(c) identification details for the company;

(d) the name and address of the applicant;

(e) the capacity in which the applicant is making the application;

(f) identification details for the proposed liquidator;

(g) a statement that upon consideration of the evidence it is ordered that the proposed liquidator, having filed a statement of being qualified to act as an insolvency practitioner in relation to the company and having consented to act, is appointed liquidator of the company; and

(h) the date of the making of the order.

(4) Where two or more liquidators are appointed the order must also specify (as required by section 231) whether any act required or authorised under any enactment to be done by the liquidator is to be done by all or any one or more of them.

(5) The court must deliver a sealed copy of the order to the liquidator, whose appointment takes effect from the date of the order.

(6) Not later than 28 days from the liquidator's appointment, the liquidator must deliver notice of the appointment to all the creditors of the company.

Cost of liquidator's security section 390(3))

5.5. The cost of the liquidator's security required by section 390(3) for the proper performance of the liquidator's functions is an expense of the winding up.

Liquidator's resignation

5.6.—(1) A liquidator may resign only—

(a) on grounds of ill health;

(b) because of the intention to cease to practise as an insolvency practitioner;

(c) because the further discharge of the duties of liquidator is prevented or made impractical by—

(i) a conflict of interest, or

(ii) a change of personal circumstances;

(**a**) 2000 c.8.

(d) where two or more persons are acting as liquidator jointly and it is the opinion of both or all of them that it is no longer expedient that there should continue to be that number of joint liquidators.

(2) Before resigning, the liquidator must deliver a notice to the members of the company—

(a) stating the liquidator's intention to resign; and

(b) calling a meeting for the members to consider whether a replacement should be appointed.

(3) The notice may suggest the name of a replacement liquidator.

(4) The date of the meeting must be not more than five business days before the date on which the liquidator intends to give notice of resignation to the registrar of companies under section 171(5).

(5) The resigning liquidator's release is effective from the date on which the liquidator delivers notice of resignation to the registrar of companies under section 171(5).

Removal of liquidator by the court

5.7.—(1) This rule applies where an application is made to the court for the removal of the liquidator, or for an order directing the liquidator to summon a company meeting for the purpose of removing the liquidator.

(2) The court must fix a venue for the application to be heard unless the court thinks that no sufficient cause is shown for the application, in which case it must deliver a notice to that effect to the applicant.

(3) If, within five business days of delivery of that notice, the applicant applies for a hearing to determine whether sufficient cause is shown, the court must fix a venue for the hearing without notice to any other party.

(4) If the applicant does not apply for such a hearing the court may dismiss the application without a hearing.

(5) The court may require the applicant to make a deposit or give security for the costs to be incurred by the liquidator on the application.

(6) The applicant must, at least 14 days before the hearing, deliver to the liquidator a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to provide in support of it.

(7) The costs of the application are not payable as an expense of the winding up unless the court orders otherwise.

(8) On a successful application the court's order must contain the following—

(a) the name of the court in which the order is made;

(b) the name and title of the person making the order;

(c) identification details for the company;

(d) the name and address of the applicant;

(e) the capacity in which the applicant is making the application;

(f) identification and contact details for the liquidator;

(g) a statement either—

(i) that upon consideration of the evidence it is ordered that the liquidator be removed from office; or

(ii) that upon consideration of the evidence it is ordered that the liquidator must summon a meeting of the company's creditors on or before a date which is stated in the order for the purpose of considering the liquidator's removal from office; and

(h) the date of the making of the order.

(9) The order of the court may include such provision as the court thinks just relating to matters arising in connection with the removal.

(10) Where the court removes the liquidator—

(a) it must deliver the sealed order of removal to the former liquidator; and

(b) the former liquidator must deliver a copy of the order to the registrar of companies as soon as reasonably practicable.

(11) If the court appoints a new liquidator, rule 5.4 applies.

Removal of liquidator by company meeting

5.8. A liquidator removed by a meeting of the company must as soon as reasonably practicable deliver notice of the removal to the registrar of companies.

Delivery of draft final account to members (section 94)

5.9.—(1) The liquidator must deliver a notice to the members accompanied by a draft of the account required by section 94(1)(**a**) and rule 18.14 giving them eight weeks' notice of the intention to deliver the final account required by section 94(2).

(2) The notice must inform the members that when the company's affairs are fully wound up—

(a) the liquidator will make up the final account and deliver it to the members; and

(b) when the final account is delivered to the registrar of companies the liquidator will be released under section 171(6) (**b**).

(3) The affairs of the company are not fully wound up until the latest of—

(a) the eight week period referred to in paragraph (1) having expired without the liquidator receiving any request for information under rule 18.10 or any application to court under that rule or under rule 18.28 (application to court on the grounds that the liquidator's remuneration or expenses are excessive);

(b) any request for information under rule 18.10 having been finally determined (including any applications to court under that rule); or

(c) any application to the court under rule 18.28 having been finally determined.

(4) However the liquidator may conclude that the company's affairs are fully wound up before the expiry of the eight week period if every member confirms in writing to the liquidator that they do not intend to make any such request or application.

Final account prior to dissolution (section 94)

5.10.—(1) The contents of the final account which the liquidator is required to make up under section 94(**c**) must comply with the requirements of rule 18.14.

(2) When the account is delivered to the members under section 94(2) it must be accompanied by a notice which states that—

(a) the company's affairs are fully wound up;

(b) the liquidator having delivered copies of the account to the members must, within 14 days of the date on which the account is made up, deliver a copy of the account to the registrar of companies; and

(c) the liquidator will vacate office and be released under section 171 on delivering the final account to the registrar of companies.

(**a**) New section 94 substituted by paragraph 18 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.

(**b**) A new section 171(6) was substituted by paragraph 42(4) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.

(**c**) New section 106 substituted by paragraph 29 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

(3) The copy of the account which the liquidator must deliver to the registrar of companies under section 94(3) must be accompanied by a notice stating that the liquidator has delivered the final account of the winding up to the members in accordance with section 94(2).

Deceased liquidator

5.11.—(1) If the liquidator dies a notice of the fact and date of death must be delivered as soon as reasonably practicable to—

(a) one of the company's directors, and

(b) the registrar of companies.

(2) The notice must be delivered by one of the following—

(a) a surviving joint liquidator;

(b) a member of the deceased liquidator's firm (if the deceased was a member or employee of a firm);

(c) an officer of the deceased liquidator's company (if the deceased was an officer or employee of a company); or

(d) a personal representative of the deceased liquidator.

(3) If such notice has not been delivered within the 21 days following the liquidator's death then any other person may deliver the notice.

Loss of qualification as insolvency practitioner

5.12.—(1) This rule applies where the liquidator vacates office on ceasing to be qualified to act as an insolvency practitioner in relation to the company

(2) The liquidator must as soon as reasonably practicable give notice to the registrar of companies and the Secretary of State.

(3) Both notices must be authenticated and dated by the liquidator.

Liquidator's duties on vacating office

5.13. A liquidator who ceases to be in office as a result of removal, resignation or ceasing to be qualified as an insolvency practitioner, must as soon as reasonably practicable deliver to the succeeding liquidator—

(a) the assets (after deduction of any expenses properly incurred, and distributions made, by the former liquidator);

(b) the records of the winding up, including correspondence, proofs and other documents relating to the winding up; and

(c) the company's documents and other records.

Application by former liquidator to the Secretary of State for release (section 173(2)(b))

5.14.—(1) This rule applies to a liquidator who—

(a) is removed by the court;

(b) vacates office on ceasing to be qualified to act as an insolvency practitioner in relation to the company; or

(c) vacates office in consequence of the court making a winding-up order against the company.

(2) Where the former liquidator applies to the Secretary of State for release the application must contain the following—

(a) identification details for the former liquidator;

(b) identification details for the company;

(c) the circumstances under which the former liquidator ceased to act as liquidator;

(d) a statement that the former liquidator is applying to the Secretary of State for release.

(2) The application must be authenticated and dated by the former liquidator.

(3) When the Secretary of State gives a release, the Secretary of State must deliver—

(a) a certificate of the release to the registrar of companies, and

(b) a copy of the certificate to the former liquidator.

(4) Release is effective from the date of the certificate.

Power of court to set aside certain transactions entered into by liquidator

5.15.—(1) If in dealing with the estate the liquidator enters into any transaction with a person who is an associate of the liquidator, the court may, on the application of any person interested, set the transaction aside and order the liquidator to compensate the company for any loss suffered in consequence of it.

(2) This does not apply if either—

(a) the transaction was entered into with the prior consent of the court; or

(b) it is shown to the court's satisfaction that the transaction was for value, and that it was entered into by the liquidator without knowing, or having any reason to suppose, that the person concerned was an associate.

(3) Nothing in this rule is to be taken as prejudicing the operation of any rule of law or equity relating to a liquidator's dealings with trust property, or the fiduciary obligations of any person.

Rule against improper solicitation by or on behalf of the liquidator

5.16.—(1) Where the court is satisfied that any improper solicitation has been used by or on behalf of the liquidator in obtaining proxies or procuring the liquidator's appointment, it may order that no remuneration be allowed as an expense of the winding up to any person by whom, or on whose behalf, the solicitation was exercised.

(2) An order of the court under this Rule overrides any resolution of the members, or any other provision of these Rules relating to the liquidator's remuneration.

CHAPTER 3

SPECIAL MANAGER

Application for and appointment of special manager (section 177)

5.17.—(1) An application by the liquidator under section 177 for the appointment of a special manager must be supported by a report setting out the reasons for the application.

(2) The report must include the applicant's estimate of the value of the business or property in relation to which the special manager is to be appointed.

(3) The court's order appointing a special manager must have the title "Order of Appointment of Special Manager" and must contain—

(a) the name of the court in which the order is made;

(b) the name and title of the person making the order;

(c) identification details for the proceedings;

(d) the name and address of the applicant;

(e) the name and address of the proposed special manager;

(f) the order that upon consideration of the evidence it is ordered that the proposed special manager is appointed as special manager of the company;

(g) details of the special manager's responsibility over the company's business or property;

(h) the powers to be entrusted to the special manager under section 177(4);

(i) the time allowed for the special manager to give the required security for the appointment;

(j) the duration of the special manager's appointment, being one of the following—

(i) for a fixed period stated in the order;

(ii) until the occurrence of a specified event; or

(iii) until the court makes a further order;

(k) the order that the special manager's remuneration will be fixed from time to time by the court; and

(l) the date of the making of the order.

(4) The appointment of the special manager may be renewed by order of the court.

(5) The acts of the special manager are valid notwithstanding any defect in the special manager's appointment or qualifications.

Security

5.18.—(1) The appointment of the special manager does not take effect until the person appointed has given (or, if the court allows, undertaken to give) security to the liquidator for the appointment.

(2) A person appointed as special manager may give security either specifically for a particular winding up, or generally for any winding up in relation to which that person may be appointed as special manager.

(3) The amount of the security must be not less than the value of the business or property in relation to which the special manager is appointed, as estimated in the liquidator's report which accompanied the application for appointment.

(4) When the special manager has given security to the liquidator, the liquidator must file with the court a certificate as to the adequacy of the security.

(5) The cost of providing the security must be paid in the first instance by the special manager; but the special manager is entitled to be reimbursed as an expense of the winding up.

Failure to give or keep up security

5.19.—(1) If the special manager fails to give the required security within the time stated in the order of appointment, or any extension of that time that may be allowed, the liquidator must report the failure to the court, which may discharge the order appointing the special manager.

(2) If the special manager fails to keep up the security, the liquidator must report the failure to the court, which may remove the special manager, and make such order as it thinks just as to costs.

(3) If the court discharges the order appointing the special manager, or makes an order removing the special manager, the court must give directions as to whether any, and if so what, steps should be taken for the appointment of another special manager.

Accounting

5.20.—(1) The special manager must produce accounts, containing details of the special manager's receipts and payments, for the approval of the liquidator.

(2) The accounts must be for—

(a) each three month period for the duration of the special manager's appointment;

(b) any shorter period ending with the termination of the special manager's appointment.

(3) When the accounts have been approved, the special manager's receipts and payments must be added to those of the liquidator.

Termination of appointment

5.21.—(1) If the liquidator thinks that the appointment of the special manager is no longer necessary or beneficial for the company, the liquidator must apply to the court for directions, and the court may order the special manager's appointment to be terminated.

(2) The liquidator must also make such an application if the members pass a resolution requesting that the appointment be terminated.

CHAPTER 4

CONVERSION TO CREDITORS' VOLUNTARY WINDING UP

Statement of affairs (section 95(3))

5.22. The rules in Chapter 2 of Part 6 apply to the statement of affairs made out by the liquidator under section 95(1A) where the liquidator is of the opinion that the company will be unable to pay its debts in full (together with interest at the official rate) within the period stated in the directors' declaration under section 89.

PART 6

CREDITORS' VOLUNTARY WINDING UP

CHAPTER 1

APPLICATION OF PART 6

Application of Part 6

6.1.—(1) This Part applies to a creditors' voluntary winding up.

(2) However where a company moves from administration to creditors' voluntary winding up by the registration of a notice under paragraph 83(3) of Schedule B1 the following rules do not apply—

6.2 to 6.7 (statement of affairs etc.);

6.10 to 6.15 (information to creditors and contributories and appointment of liquidator);

6.17 (report by directors etc.);

6.18 (decisions on nomination);

6.20 (appointment by creditors or by the company);

6.22 (appointment by the court (section 100(3) or 108), other than in respect of appointments under section 108); and

6.23 (appointment to be gazetted and registered);

CHAPTER 2

STATEMENT OF AFFAIRS AND OTHER INFORMATION

Statement of affairs made out by the liquidator under section 95(1A) (effect of company's insolvency in members' voluntary winding up)

6.2.—(1) This rule applies to the statement of affairs made out by the liquidator under section 95(1A)(**a**).

(2) The statement of affairs must be headed "Statement of affairs" and must contain—

(**a**) Section 1A was inserted by paragraph 17(2) of Schedule 9 to the Small Business, Enterprise and Employment [Act] 2015.

(a) identification details for the company;

(b) a statement that it is a statement of the affairs of the company on a date which is specified, being the date of the opinion formed by the liquidator under section 95(1);

(c) a statement that as at that date, the liquidator formed the opinion that the company would be unable to pay its debts in full (together with interest) within the period stated in the directors' declaration of solvency made under section 89.

(3) The statement of affairs must be verified by a statement of truth made by the liquidator and dated.

(4) The statement of affairs must be delivered by the liquidator to the registrar of companies within five business days after the completion of the decision procedure or deemed consent procedure in respect of the appointment of the liquidator.

(5) However the liquidator must not deliver to the registrar of companies with the statement of affairs any schedule required by rule 6.4(2).

Statement of affairs made out by the directors under section 99(1) (creditors' voluntary winding up)

6.3.—(1) This rule applies to the statement of affairs made out by the directors under section 99(1)(**a**).

(2) The statement of affairs must be headed "Statement of affairs" and must contain—

(a) identification details for the company;

(b) a statement that it is a statement of the affairs of the company on a date which is specified, being a date not more than 14 days before the date of the resolution for winding up.

(3) The statement of affairs must be verified by a statement of truth by one or more of the directors and dated.

(4) If a creditor requests a copy of the statement of affairs at a time when no liquidator is appointed the directors must deliver a copy to the creditor.

(5) The directors must deliver the statement of affairs to the liquidator as soon as reasonably practicable after the liquidator is appointed.

(6) The liquidator must deliver the statement of affairs to the registrar of companies within five business days after the completion of the decision procedure or deemed consent procedure in respect of the appointment of the liquidator.

(7) However the liquidator must not deliver to the registrar of companies with the statement of affairs any schedule required by rule 6.4(2).

Additional requirements as to statements of affairs

6.4.—(1) A statement of affairs under section 95(1A)(**b**) or 99(1) must also contain—

(a) a list of the company's shareholders, with the following details about each shareholder—

(i) name and postal address;

(ii) the type of shares held;

(iii) the nominal amount of the shares held;

(iv) the number of shares held;

(v) the amount per share called up;

(vi) the total amount called up;

(b) the total amount of shares called up held by all shareholders;

(**a**) Section 1 was substituted by paragraph 21 of Schedule 9 to the Small Business, Enterprise and Employment [Act] 2015.

(**b**) Section 95(1A) was inserted by paragraph 17 of Schedule 9 to the Small Business, Enterprise and Employment [Act] 2015 which also omitted subsections (2) to (3) and (5) to (7).

(c) a summary of the assets of the company, setting out the book value and estimated realisable value of—

(i) the assets subject to a fixed charge;

(ii) the assets subject to a floating charge;

(iii) the uncharged assets;

(iv) the total value of all the assets available for preferential creditors;

(d) a summary of the liabilities of the company, setting out—

(i) the amount of preferential debts;

(ii) an estimate of the deficiency with respect to preferential debts or the surplus available after paying the preferential debts;

(iii) an estimate of the prescribed part, if applicable;

(iv) the amount of debts secured by floating charges;

(v) an estimate of the total assets available to pay debts secured by floating charges;

(vi) an estimate of the deficiency with respect to debts secured by floating charges or the surplus available after paying the debts secured by fixed or floating charges;

(vii) the amount of unsecured debts (excluding preferential debts);

(viii) an estimate of the deficiency with respect to unsecured debts or the surplus available after paying unsecured debts;

(ix) issued and called up capital;

(x) an estimate of the deficiency with respect to, or surplus available to, members of the company;

(e) subject to paragraphs (2) and (3) the amount of the debt owed to each creditor (as required by section 95(4) or 99(2)) identifying—

(i) any creditors under hire-purchase, chattel leasing or conditional sale agreements,

(ii) any customers claiming amounts paid in advance of the supply of goods or services; and

(iii) any creditors claiming retention of title over property in the company's possession;

(f) subject to paragraphs (2) and (3) the following details about each listed creditor—

(i) name and postal address of the creditor,

(ii) amount of the debt owed to the creditor,

(iii) details of any security held by the creditor,

(iv) the date the security was given,

(v) the value of the security held by the creditor.

(2) Where the details required by paragraph (1)(f) relate to creditors who are either—

(a) employees or former employees of the company; or

(b) customers claiming amounts paid in advance for the supply of goods and services,

those particulars must be set out in schedules to the statement of affairs for each of sub-paragraphs (a) and (b).

(3) Where paragraph (2) applies, the statement of affairs itself must give separately for each of paragraphs (2)(a) and (b) the number and a summary of the debts owed to such creditors.

Statement of Affairs: statement of concurrence

6.5.—(1) The liquidator may require a director ("the relevant person") to deliver to the liquidator—

(a) a statement that the relevant person concurs in the statement of affairs submitted the other director ("a statement of concurrence");

(b) a statement of truth verifying the statement of concurrence.

(2) The liquidator must inform the director who has been required to submit a statement of affairs that the relevant person has been required to deliver a statement of concurrence.

(3) The director who has been required to submit the statement of affairs must deliver a copy to every relevant person who has been required to submit a statement of concurrence.

(4) A statement of concurrence—

(a) must identify the company; and

(b) may be qualified in relation to matters dealt with in the statement of affairs, where the maker of the statement of concurrence—

(i) is not in agreement with the statement of affairs;

(ii) considers the statement of affairs to be erroneous or misleading; or

(iii) is without the direct knowledge necessary for concurring with it.

(5) The relevant person must deliver the required statement of concurrence and statement of truth before the end of the period of five business days (or such other period as the liquidator may agree) beginning with the day on which the relevant person receives the statement of affairs.

(6) The relevant person must deliver to the liquidator with these statements a copy of each of them.

(7) The liquidator must deliver a notice in respect of the statement of concurrence with a copy of the statement to the registrar of companies.

Limited disclosure

6.6.—(1) Where the liquidator thinks that disclosure of the whole or part of the statement of affairs would be likely to prejudice the conduct of the winding up or might reasonably be expected to lead to violence against any person, the liquidator may apply to the court for an order that the statement of affairs or any specified part of it must not be filed with the registrar of companies.

(2) The liquidator must as soon as reasonably practicable deliver to the registrar of companies a copy of the order, the statement of affairs to the extent allowed by the order, and any statement of concurrence.

(3) This rule does not apply so far as section 95, or 99 does not permit limited disclosure.

Expenses of statement of affairs

6.7.—(1) Any reasonable and necessary expenses of preparing the statement of affairs under section 99 may be paid out of the company's assets, either before or after the commencement of the winding up, as an expense of the winding up.

(2) Where the payment is made before the commencement of the winding up, the directors must deliver to the creditors with the statement of affairs a statement of the payment and the identity of the person to whom it was made.

(3) The liquidator appointed under section 100 may make such a payment, but if there is a liquidation committee, the liquidator must deliver to the committee at least five business days' notice of the intention to make it.

(4) However such a payment may not be made to the liquidator, or to any associate of the liquidator, otherwise than with the approval of the liquidation committee, the creditors, or the court.

(5) This is without prejudice to the court’s powers under rule 7.110 (voluntary winding up superseded by winding up by the court).

Delivery of accounts to liquidator (section 235)

6.8.—(1) A person who is specified in section 235(3) must deliver to the liquidator accounts of the company of such nature, as at such date, and for such period, as the liquidator requires.

(2) The period for which the liquidator may require accounts may begin from a date up to three years before the date of the resolution for winding up, or from an earlier date to which audited accounts of the company were last prepared.

(3) The accounts must, if the liquidator so requires, be verified by a statement of truth.

(4) The accounts must be delivered to the liquidator, with the statement of truth if required, within 21 days from the liquidator's request, or such longer period as the liquidator may allow.

Expenses of assistance in preparing accounts

6.9.—(1) Where the liquidator requires a person to deliver accounts under the previous rule the liquidator may, with the approval of the liquidation committee (if there is one) and as an expense of the winding up, employ someone to assist that person in the preparation of the accounts.

(2) The person who is required to deliver accounts may request an allowance towards the expenses to be incurred in employing others to assist in preparing the accounts.

(3) A request for an allowance must be accompanied by an estimate of the expenses involved.

(4) The liquidator must only authorise the employment of a named person or a named firm approved by the liquidator.

(5) The liquidator may, with the approval of the liquidation committee (if there is one), authorise such an allowance, payable as an expense of the winding up.

CHAPTER 3

INFORMATION TO CREDITORS AND CONTRIBUTORIES AND APPOINTMENT OF LIQUIDATOR

Creditors' voluntary winding up – conversion from members' voluntary winding up (section 96)

6.10.—(1) This rule applies in respect of the conversion of a members' voluntary winding up to a creditors' voluntary winding up under section 96.

(2) The liquidator must seek a nomination from the creditors for a liquidator in the creditors' voluntary winding up by—

(a) a decision procedure; or

(b) the deemed consent procedure.

(3) The liquidator must deliver to the creditors a copy of the statement of affairs required by section 95(1A) together with a notice which complies with rules 15.6 and 15.7 so far as are relevant.

(4) The notice must also contain—

(a) identification and contact details for the existing liquidator; and

(b) a statement that if no person is nominated by the creditors then the existing liquidator will be the liquidator in the creditors' voluntary winding up.

(5) The decision date in the notice must be not later than 28 days from the date under section 95(1) that the liquidator formed the opinion that the company will be unable to pay its debts in full.

(6) Subject to paragraph (9), the creditors must be given at least 14 days' notice of the decision date.

(7) Paragraph (8) applies where—

(a) the liquidator has sought a decision from creditors on the nomination of a liquidator by the deemed consent procedure, but

(b) the level of objections to the proposed nomination have meant, under section 246ZF, that no nomination is deemed to have been made.

(8) Where this paragraph applies, the liquidator must seek a nomination from creditors by way of a decision procedure in accordance with this rule, the decision date to be as soon as reasonably practicable, but no more than 28 days from the date that the level of objections had the effect that no nomination was deemed to have been made.

(9) Where paragraph (8) applies, the creditors must be given at least seven days' notice of the decision date.

(10) Where in response to a notice delivered under this rule at least the minimum number of creditors request a physical meeting in accordance with section 246ZE(6A) and rule 15.5, the physical meeting must be summoned to take place within 28 days of the date on which the minimum number of creditors have made such a request, with at least 14 days' notice.

Creditors' decision on appointment other than at a meeting (conversion from members' voluntary winding up into a creditors' voluntary winding up)

6.11.—(1) This rule applies where the creditors' decision on the nomination of a liquidator in a conversion of a members' into a creditors' voluntary winding up is intended to be sought other than through a meeting or through the deemed consent procedure, including where rule 6.10(8) applies.

(2) Subject to paragraph (8), instead of delivering a notice of the decision procedure or deemed consent procedure under rule 6.10, the liquidator must deliver with the statement of affairs a notice to creditors inviting them to make proposals for a liquidator.

(3) The notice must explain that the liquidator is not obliged to seek the creditors' views on any proposal that do not meet the requirements of paragraphs (4) and (5).

(4) Any proposal must state the name and contact details of the proposed liquidator, and contain a statement that the proposed liquidator is qualified to act as an insolvency practitioner in relation to the company and has consented to act as liquidator of the company.

(5) Any proposal must be received by the liquidator within five business days of the date of the notice under paragraph (2).

(6) Within two business days of the end of the period referred to in paragraph (5), the liquidator must deliver a notice to creditors of a decision procedure under rule 6.10.

(7) The notice referred to in paragraph (6) must identify any liquidator proposed to be nominated by the creditors in compliance with this rule.

(8) Where rule 6.10(8) (no nomination deemed to have been made under deemed consent procedure) applies, the directors need not redeliver the statement of affairs to creditors with the notice of the decision procedure under rule 6.10(2).

Information to creditors and appointment of liquidator

6.12.—(1) The directors must seek a decision from the creditors on the nomination of a liquidator by—

(a) a decision procedure; or

(b) the deemed consent procedure.

(2) The directors must deliver to the creditors a copy of the statement of affairs required by section 99(1) together with a notice which complies with rules 15.6 and 15.7 so far as are relevant.

(3) The notice must also contain—

(a) a statement of the date of the meeting of the company at which the resolution to wind up the company is to be considered or has been passed; and

(b) a statement that if no person is nominated by the creditors then the person nominated by the company at the meeting of the company which resolves to wind up the company will be liquidator.

(4) The decision date in the notice must be not later than 14 days from the date of the resolution to wind up the company.

(5) The creditors must be given at least seven days' notice of the decision date.

(6) Paragraph (7) applies where—

(a) the directors have sought a decision from creditors on the nomination of a liquidator by the deemed consent procedure, but

(b) the level of objections to the proposed nomination have meant, under section 246ZF, that no nomination has been deemed to have been made.

(7) Where this paragraph applies, the directors must seek a nomination from creditors by way of a decision procedure in accordance with this rule, the decision date to be as soon as reasonably practicable, but no more than 28 days from the date that the level of objections received meant that no nomination could be deemed to have been made.

(8) Where paragraph (7) applies, the creditors must be given at least seven days' notice of the decision date.

(9) Where in response to a notice delivered under this rule at least the minimum number of creditors request a physical meeting in accordance with section 246ZE(6A) and rule 15.5, the physical meeting must be summoned to take place within 14 days of the date on which the minimum number of creditors have made such a request, with at least 7 days' notice.

(10) Where such a physical meeting is held and a liquidator has already been nominated by the company in accordance with section 100(1), that liquidator, or an appointed person, must report to the physical meeting on any exercise of the liquidator's powers under sections 112, 165 or 166.

Creditors' decision on appointment other than at a meeting

6.13.—(1) This rule applies where the creditors' decision on the nomination of a liquidator is intended to be sought other than through a meeting or through the deemed consent procedure, including where rule 6.12(7) applies.

(2) Subject to paragraph (8), instead of delivering a notice of the decision procedure or deemed consent procedure under rule 6.12, the directors must deliver with the copy of the statement of affairs a notice to creditors inviting them to make proposals for a liquidator.

(3) The notice must explain that the directors are not obliged to seek the creditors' views on any proposals that do not meet the requirements of paragraphs (4) and (5).

(4) Any proposal must state the name and contact details of the proposed liquidator, and contain a statement that the proposed liquidator is qualified to act as an insolvency practitioner in relation to the company and has consented to act as liquidator of the company.

(5) Any proposal must be received by the directors within five business days of the date of the notice under paragraph (2).

(6) Within two business days of the end of the period referred to in paragraph (5), the directors must deliver a notice to the creditors of a decision procedure under rule 6.12.

(7) The notice referred to in paragraph (6) must identify any liquidator—

(a) proposed to be nominated by the company;

(b) already nominated by the company; or

(c) proposed to be nominated by any creditor in compliance with this rule.

(8) Where rule 6.12(7) (no nomination deemed to have been made under deemed consent procedure) applies, the directors need not redeliver the statement of affairs to creditors with the notice of the decision procedure under rule 6.12(2).

Information to creditors and contributories (conversion of members' voluntary winding up into creditors' voluntary winding up)

6.14.—(1) The liquidator must deliver to all the creditors and contributories within 28 days of the conversion of a members' voluntary winding up into a creditors' voluntary winding up under section 96 a notice which must contain—

(a) the date the winding up became a creditors' voluntary winding up;

(b) a report of the decision procedure or deemed consent procedure which took place under rule 6.10; and

(c) the information required by paragraph (3).

(2) The notice must be accompanied by a copy of the statement of affairs or a summary except where the notice is being delivered to a creditor to whom a copy of the statement of affairs has previously been delivered under section 95(1A).

(3) The required information is an estimate to the best of the liquidator's knowledge and belief of—

(a) the value of the prescribed part (whether or not the liquidator might be required under section 176A to make the prescribed part available for the satisfaction of unsecured debts); and

(b) the value of the company's net property (as defined by section 176A(6)).

(4) The liquidator may exclude from an estimate under paragraph (3) information the disclosure of which could seriously prejudice the commercial interests of the company.

(5) If the exclusion of such information affects the calculation of an estimate, the report must say so.

(6) If the liquidator proposes to make an application to court under section 176A(5) the report must say so and give the reason for the application.

Information to creditors and contributories

6.15.—(1) The liquidator must deliver to all the creditors and contributories within 28 days of the appointment of the liquidator under section 100 a notice which must—

(a) be accompanied by a statement of affairs or a summary where the notice is delivered to any contributory or creditor to whom the notice under rule 6.12 was not delivered;

(b) a report on the decision procedure or deemed consent procedure under rule 6.12; and

(c) be accompanied by the information required by paragraph (2).

(2) The required information is an estimate to the best of the liquidator's knowledge and belief of—

(a) the value of the prescribed part (whether or not the liquidator might be required under section 176A to make the prescribed part available for the satisfaction of unsecured debts); and

(b) the value of the company's net property (as defined by section 176A(6)).

(3) The liquidator may exclude from an estimate under paragraph (2) information the disclosure of which could seriously prejudice the commercial interests of the company.

(4) If the exclusion of such information affects the calculation of an estimate, the report must say so.

(5) If the liquidator proposes to make an application to court under section 176A(5) the report must say so and give the reason for the application.

Further information where administrator becomes liquidator (paragraph 83(3) of Schedule B1)

6.16.—(1) This rule applies where an administrator becomes liquidator on the registration of a notice under paragraph 83(3) of Schedule B1, and becomes aware of creditors not formerly known to that person as administrator.

(2) The liquidator must deliver to those creditors a copy of any statement delivered by the administrator to creditors in accordance with paragraph 49(4) of Schedule B1 and rule 3.33.

Report by director etc.

6.17.—(1) Where the statement of affairs sent to creditors under section 99(1) does not, or will not, state the company's affairs at the decision date for the creditors' nomination of a liquidator, the directors of the company must cause a report (written or oral) to be made to the creditors in accordance with this rule on any material transactions relating to the company occurring between the date of the making of the statement and the decision date.

(2) In the case of a decision being taken through a meeting, the report must be made at the meeting by the director chairing the meeting or by another person with knowledge of the relevant matters.

(3) In the case of any other decision procedure or the deemed consent procedure, the report must be delivered to creditors as soon as reasonably practicable after the material transaction takes place in the same manner as the notice of the decision procedure or deemed consent procedure.

(4) Where the decision date is within the period of three business days from the delivery of a report under paragraph (3), this rule extends the decision date until the end of that period.

(5) Where a creditor has already voted in the decision procedure, or objected to the nomination under the deemed consent procedure at the time a report is delivered under paragraph (3), the creditor may change that vote, provided the creditor notifies the directors within three business days from the date of delivery of the report.

(6) On delivery of a report under paragraph (3), the directors must notify the creditors of the effects of paragraphs (4) and (5).

(7) A report under this rule must be recorded in the record of the decision under rule 15.38.

Decisions on nomination

6.18.—(1) In the case of a decision on the nomination of a liquidator—

(a) if on any vote there are two nominees, the person who obtains the most support is appointed;

(b) if there are three or more nominees, and one of them has a clear majority over both or all the others together, that one is appointed; and

(c) in any other case, the convener or chair must continue to take votes (disregarding at each vote any nominee who has withdrawn and, if no nominee has withdrawn, the nominee who obtained the least support last time) until a clear majority is obtained for any one nominee.

(2) In the case of a decision being made at a meeting, the chair may at any time put to the meeting a resolution for the joint nomination of any two or more nominees.

Invitation to creditors to form a liquidation committee

6.19.—(1) Where any decision is sought from the company's creditors—

(a) in a creditors' voluntary winding up, or

(b) where a members' voluntary winding up is converting in a creditors' voluntary winding up,

the convener of the decision must at the same time deliver to the creditors a notice inviting them to decide whether a liquidation committee should be established if sufficient creditors are willing to be members of the committee.

(2) The notice must also invite nominations for membership of the committee, such nominations to be received by a date specified in the notice.

(3) The notice must state that nominations—

(a) must be delivered to the convener by the specified date; and

(b) can only be accepted if the convener is satisfied as to the creditors' eligibility under rule 17.4.

CHAPTER 4

THE LIQUIDATOR

Appointment by creditors or by the company

6.20.—(1) This rule applies where a person is appointed as liquidator.

(2) The appointment must be certified by—

(a) the convener or chair of the decision procedure or deemed consent procedure, or

(b) in respect of an appointment by the company the chair of the company meeting or a director or the secretary of the company (in the case of a written resolution).

(3) The person who certifies the appointment must not do so unless and until the proposed liquidator ("the appointee") has provided that person with a statement of being an insolvency practitioner qualified under the Act to be the liquidator and of consenting to act.

(4) The liquidator's appointment takes effect from the date on which the appointment is certified, that date to be endorsed on the certificate.

(5) The certificate must be authenticated and dated by the person who certifies the appointment and must contain—

(a) identification details for the company;

(b) identification and contact details for the person appointed as liquidator;

(c) the date of the meeting of the company or conclusion of the decision procedure or deemed consent procedure when the liquidator was appointed;

(d) a statement that the appointee—

(i) has provided a statement of being qualified to act as an insolvency practitioner in relation to the company;

(ii) has consented to act; and

(iii) was appointed liquidator of the company.

(6) Where two or more liquidators are appointed the certificate must also specify (as required by section 231) whether any act required or authorised under any enactment to be done by the liquidator is to be done by all or any one or more of them.

(7) The person who certifies the appointment must deliver the certificate as soon as reasonably practicable to the liquidator, who must keep it as part of the records of the winding up.

Power to fill vacancy in office of liquidator

6.21. Where a vacancy in the office of liquidator occurs in the manner mentioned in section 104 a decision procedure to fill the vacancy may be initiated by any creditor or, if there was more than one liquidator, by the continuing liquidator or liquidators.

Appointment by the court (section 100(3) or 108)

6.22.—(1) This rule applies where the liquidator is appointed by the court under section 100(3) or 108.

(2) The court's order must not be made unless and until the proposed liquidator has filed with the court a statement of being qualified under the Act to act as an insolvency practitioner in relation to the company and of consenting to act.

(3) The order of the court must contain—

(a) the name of the court in which the order is made;

(b) the name and title of the person making the order;

(c) the date on which it is made;

(d) identification details for the company;

(e) the name and postal address of the applicant;

(f) the capacity in which the applicant made the application;

(g) identification details for the proposed liquidator;

(h) a statement that upon consideration of the evidence it is ordered that the proposed liquidator, having filed a statement of being qualified to act as an insolvency practitioner in relation to the company and having consented to act, is appointed liquidator of the company.

(4) Where two or more liquidators are appointed the order must also specify (as required by section 231) whether any act required or authorised under any enactment to be done by the liquidator is to be done by all or any one or more of them.

(5) The court must deliver a sealed copy of the order to the liquidator, whose appointment takes effect from the date of the order.

(6) Within 28 days from appointment, the liquidator must—

(a) deliver a notice of the appointment to all creditors of the company; or

(b) advertise the appointment in accordance with any directions given by the court.

Appointment to be gazetted and registered

6.23.—(1) A liquidator appointed in a voluntary winding up in addition to delivering a notice of the appointment in accordance with section 109(1) may advertise the notice in such other manner as the liquidator thinks fit.

(2) The notice must state—

(a) that a liquidator has been appointed; and

(b) the date of the appointment.

(3) The liquidator must initially bear the expense of giving notice under this rule but is entitled to be reimbursed for the expenditure as an expense of the winding up.

Cost of liquidator's security (section 390(3))

6.24. The cost of the liquidator's security required by section 390(3) for the proper performance of the liquidator's functions is an expense of the winding up.

Liquidator's resignation and replacement

6.25.—(1) A liquidator may resign only—

(a) on grounds of ill health;

(b) because of the intention to cease to practise as an insolvency practitioner;

(c) because the further discharge of the duties of liquidator is prevented or made impractical by—

(i) a conflict of interest, or

(ii) or a change of personal circumstances; or

(d) where two or more persons are acting as liquidator jointly and it is the opinion of both or all of them that it is no longer expedient that there should continue to be that number of joint liquidators.

(2) Before resigning the liquidator must invite the creditors by a decision procedure, or by deemed consent, to consider whether a replacement should be appointed.

(3) The notice must—

(a) state the liquidator's intention to resign; and

(b) comply with rules 15.6 and 15.7 so far as are relevant.

(4) The notice may suggest the name of a replacement liquidator.

(5) The decision date must be not more than five business days before the date on which the liquidator intends to give notice under section 171(5).

(6) The resigning liquidator's release is effective from the date of delivery of the notice of resignation to the registrar of companies under section 171(5).

Removal of liquidator by creditors

6.26.—(1) Where the creditors decide that the liquidator be removed, the convener of the decision procedure or the chair of the meeting (as the case may be) must as soon as reasonably practicable deliver the certificate of the liquidator's removal to the removed liquidator.

(2) The removed liquidator must deliver the certificate to the registrar of companies as soon as reasonably practicable.

Removal of liquidator by the court

6.27.—(1) This rule applies where an application is made to the court for the removal of the liquidator, or for an order directing the liquidator to initiate a decision procedure of creditors for the purpose of removing the liquidator.

(2) The court must fix a venue for the application to be heard unless the court thinks that no sufficient cause is shown for the application, it which case it must deliver a notice to that effect to the applicant.

(3) If within five business days of delivery of that notice the applicant applies for a hearing to determine whether sufficient cause is shown, the court must fix a venue for the hearing without notice to any other party.

(4) If the applicant does not apply for such a hearing the court may dismiss the application without a hearing.

(5) The court may require the applicant to make a deposit or give security for the costs to be incurred by the liquidator on the application.

(6) The applicant must, at least 14 days before the hearing, deliver to the liquidator a notice stating the venue with a copy of the application, and of any evidence which the applicant intends to provide in support of it.

(7) The costs of the application are not payable as an expense of the winding up unless the court orders otherwise.

(8) On a successful application the court's order must contain the following—

(a) the name of the court in which the order is made;

(b) the name and title of the person making the order;

(c) identification details for the company;

(d) the name and postal address of the applicant;

(e) the capacity in which the applicant is making the application;

(f) identification and contact details for the liquidator;

(g) a statement that upon consideration of the evidence either—

(i) it is ordered that the liquidator be removed from office; or

(ii) it is ordered that the liquidator initiate a decision procedure of the company's creditors (specifying which procedure is to be used) on or before a date stated in the order for the purpose of considering the liquidator's removal from office; and

(h) the date of the making of the order.

(9) Where the court removes the liquidator—

(a) it must deliver the sealed order of removal to the former liquidator; and

(b) the former liquidator must deliver a copy of the order to the registrar of companies as soon as reasonably practicable.

(10) If the court appoints a new liquidator rule 6.22 applies.

Final account prior to dissolution (section 106)

6.28.—(1) The final account which the liquidator is required to make up under section 106(1)(**a**) and deliver to members and creditors must comply with the requirements of rule 18.14.

(2) When the account is delivered to the creditors it must be accompanied by a notice which states—

(a) that the company's affairs are fully wound up;

(b) that the creditors have the right to request information from the liquidator under rule 18.10;

(c) that the creditors have the right to challenge the liquidator's remuneration and expenses under rule 18.28;

(d) that a creditors may object to the release of the liquidator by giving notice in writing to the liquidator before the end of the prescribed period;

(e) that the prescribed period is the period ending at the later of—

(i) eight weeks after delivery of the notice; or

(ii) if any request for information under rule 18.10 or any application to court under that rule or rule 18.28 is made when that request or application is finally determined;

(f) that the liquidator will vacate office under section 171 on delivering to the registrar of companies the final account and notice saying whether any creditor has objected to release; and

(g) that the liquidator will be released under section 173 at the same time as vacating office unless any of the company's creditors objected to the liquidator's release.

(3) The copy of the account which the liquidator delivers to the registrar of companies under section 106(3) must be accompanied by a notice containing the statement required by section 106(3)(a) whether any creditors have objected to the liquidator's release.

(4) Where any of the creditors have objected to the liquidator's release rule 6.33 applies to an application by the liquidator to the Secretary of State for release.

(5) The liquidator is not obliged to prepare or deliver any progress report which may become due under these Rules in the period between the date to which the final account is made up and the date when the account is delivered to the registrar of companies under section 106(3)(a).

(**a**) New section 106 substituted by paragraph 29 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

Deceased liquidator

6.29.—(1) If the liquidator dies a notice of the fact and date of death must be delivered as soon as reasonably practicable to—

(a) where there is a liquidation committee, to the committee or to or a member of that committee; and

(b) the registrar of companies.

(2) The notice must be delivered by one of the following—

(a) a surviving joint liquidator;

(b) a member of the deceased liquidator's firm (if the deceased was a member or employee of a firm);

(c) an officer of the deceased liquidator's company (if the deceased was an officer or employee of a company);

(d) a personal representative of the deceased liquidator.

(3) If such a notice has not been delivered within the 21 days following the liquidator's death then any other person may deliver the notice.

Loss of qualification as insolvency practitioner (section 173(2)(b))

6.30.—(1) This rule applies where the liquidator vacates office on ceasing to be qualified to act as an insolvency practitioner in relation to the company.

(2) The liquidator must as soon as reasonably practicable give notice of vacating office to the registrar of companies and the Secretary of State.

(3) Both notices must be authenticated and dated by the liquidator.

Vacation of office on making of winding-up order

6.31. Where the liquidator vacates office in consequence of the court making a winding-up order against the company, rule 6.33 applies in relation to the application to the Secretary of State for release of the liquidator.

Liquidator's duties on vacating office

6.32. A liquidator who ceases to be in office in consequence of removal, resignation or ceasing to be qualified as an insolvency practitioner, must as soon as reasonably practicable deliver to the succeeding liquidator—

(a) the assets (after deduction of any expenses properly incurred, and distributions made, by the former liquidator);

(b) the records of the winding up, including correspondence, proofs and other documents ; and

(c) the company's records.

Application by former liquidator for release (section 173(2)(b))

6.33.—(1) An application to the Secretary of State by a former liquidator for release under section 173(2)(b) must contain—

(a) identification and contact details for the former liquidator;

(b) identification details for the company;

(c) details of the circumstances under which the liquidator has ceased to act as liquidator;

(d) a statement that the former liquidator of the company is applying to the Secretary of State for a certificate of release as liquidator as a result of the circumstances specified in the application.

(2) The application must be authenticated and dated by the former liquidator.

(3) When the Secretary of State releases the former liquidator, the Secretary of State must certify the release and deliver the certificate to the registrar of companies.

(4) The Secretary of State must deliver a copy of the certificate to the former liquidator, whose release is effective from the date of the certificate.

Power of court to set aside certain transactions

6.34.—(1) If in dealing with the estate the liquidator enters into any transaction with a person who is an associate of the liquidator, the court may, on the application of any person interested, set the transaction aside and order the liquidator to compensate the company for any loss suffered in consequence of it.

(2) This does not apply if either—

(a) the transaction was entered into with the prior consent of the court; or

(b) it is shown to the court's satisfaction that the transaction was for value, and that it was entered into by the liquidator without knowing, or having any reason to suppose, that the person concerned was an associate.

(3) Nothing in this rule is to be taken as prejudicing the operation of any rule of law or equity relating to a liquidator's dealings with trust property or the fiduciary obligations of any person.

Rule against improper solicitation

6.35.—(1) Where the court is satisfied that any improper solicitation has been used by or on behalf of the liquidator in obtaining proxies or procuring the liquidator's appointment, it may order that no remuneration be allowed as an expense of the winding up to any person by whom, or on whose behalf, the solicitation was exercised.

(2) An order of the court under this rule overrides any resolution of the liquidation committee or the creditors, or any other provision of these Rules relating to the liquidator's remuneration.

Permission for exercise of powers by liquidator

6.36.—(1) Where these Rules require permission for the liquidator to exercise a power any permission given must not be a general permission but must relate to a particular proposed exercise of the liquidator's power.

(2) A person dealing with the liquidator in good faith and for value is not concerned to enquire whether any such permission has been given.

(3) Where the liquidator has done anything without such permission, the court or the liquidation committee may, for the purpose of enabling the liquidator to meet the liquidator's expenses out of the assets, ratify what the liquidator has done; but neither may do so unless satisfied that the liquidator has acted in a case of urgency and has sought ratification without undue delay.

(4) In this rule "permission" includes "sanction".

CHAPTER 5

SPECIAL MANAGER

Application for and appointment of special manager (section 177)

6.37.—(1) An application by the liquidator under section 177 for the appointment of a special manager must be supported by a report setting out the reasons for the application.

(2) The report must include the applicant's estimate of the value of the business or property in relation to which the special manager is to be appointed.

(3) The court's order appointing a special manager must have the title "Order of Appointment of Special Manager" and must contain—

(a) the name of the court in which the order is made;

(b) the name and title of the person making the order;

(c) identification details for the proceedings;

(d) the name and address of the applicant;

(e) the name and address of the proposed special manager;

(f) the order that upon consideration of the evidence it is ordered that the proposed special manager is appointed as special manager of the company;

(g) details of the special manager's responsibility over the company's business or property;

(h) the powers entrusted to the special manager under section 177(4);

(i) the time allowed for the special manager to give the required security for the appointment;

(j) the duration of the special manager's appointment, being one of the following—

(i) for a fixed period stated in the order;

(ii) until the occurrence of a specified event;

(iii) until the court makes a further order;

(k) the order that the special manager's remuneration will be fixed from time to time by the court; and

(l) the date of the making of the order.

(4) The appointment of the special manager may be renewed by order of the court.

(5) The acts of the special manager are valid notwithstanding any defect in the special manager's appointment or qualifications.

Security

6.38.—(1) The appointment of the special manager does not take effect until the person appointed has given (or, if the court allows, undertaken to give) security to the applicant for the appointment.

(2) A person appointed as special manager may give security either specifically for a particular winding up, or generally for any winding up in relation to which that person may be appointed as special manager.

(3) The amount of the security must be not less than the value of the business or property in relation to which the special manager is appointed, as estimated in the applicant's report which accompanied the application for appointment.

(4) When the special manager has given security to the applicant, the applicant must file with the court a certificate as to the adequacy of the security.

(5) The cost of providing the security must be paid in the first instance by the special manager; but the special manager is entitled to be reimbursed as an expense of the winding up, in the prescribed order of priority.

Failure to give or keep up security

6.39.—(1) If the special manager fails to give the required security within the time stated in the order of appointment, or any extension of that time that may be allowed, the liquidator must report the failure to the court which may discharge the order appointing the special manager.

(2) If the special manager fails to keep up the security, the liquidator must report the failure to the court, which may remove the special manager, and make such order as it thinks just as to costs.

(3) If the court discharges the order appointing the special manager or makes an order removing the special manager, the court must give directions as to whether any, and if so what, steps should be taken for the appointment of another special manager.

Accounting

6.40.—(1) The special manager must produce accounts, containing details of the special manager's receipts and payments, for the approval of the liquidator.

(2) The account must be for—

(a) each three month period for the duration of the special manager's appointment;

(b) any shorter period ending with the termination of the special manager's appointment.

(3) When the accounts have been approved, the special manager's receipts and payments must be added to those of the liquidator.

Termination of appointment

6.41.—(1) If the liquidator thinks that the employment of the special manager is no longer necessary or beneficial for the company, the liquidator must apply to the court for directions, and the court may order the special manager's appointment to be terminated.

(2) The liquidator must also make such an application if the creditors decide that the appointment should be terminated.

CHAPTER 6

PRIORITY OF PAYMENT OF COSTS AND EXPENSES, ETC.

General rule as to priority

6.42.—(1) All fees, costs, charges and other expenses incurred in the course of the winding up are to be treated as expenses of the winding up.

(2) The expenses of the winding up are payable out of—

(a) assets of the company available for the payment of general creditors, including—

(i) proceeds of any legal action which the liquidator has power to bring in the liquidator's own name or in the name of the company;

(ii) proceeds arising from any award made under any arbitration or other dispute resolution procedure which the liquidator has power to bring in the liquidator's own name or in the name of the company;

(iii) any payments made under any compromise or other agreement intended to avoid legal action or recourse to arbitration or to any other dispute resolution procedure;

(iv) payments made as a result of a settlement of any such action, arrangement or procedure in lieu of or before any judgment being given or award being made; and

(b) subject as provided in rules 6.44 to 6.48, property comprised in or subject to a floating charge created by the company.

(3) The expenses associated with the prescribed part must be paid out of the prescribed part.

(4) Subject as provided in rules 6.44 to 6.48, the expenses are payable in the following order of priority—

(a) expenses which are properly chargeable or incurred by the liquidator in preserving, realising or getting in any of the assets of the company or otherwise in the preparation or conduct of any legal proceedings, arbitration or other dispute resolution procedures, which the liquidator has power to bring in the liquidator's own name or bring or defend in the name of the company or in the preparation or conduct of any negotiations intended to lead or leading to a settlement or compromise of any legal action or dispute to which the proceedings or procedures relate;

(b) the cost of any security provided by the liquidator or special manger under the Act or these Rules;

(c) the remuneration of the special manager (if any);

(d) any amount payable to a person employed or authorised, under Chapter 2 of this Part, to assist in the preparation of a statement of affairs or of accounts;

(e) the costs of employing a shorthand writer on the application of the liquidator;

(f) any necessary disbursements by the liquidator in the course of the winding up (including any expenses incurred by members of the liquidation committee or their representatives and allowed by the liquidator under Chapter 6 of Part 17, but not including any payment of corporation tax in circumstances referred to in sub-paragraph (i));

(g) the remuneration or emoluments of any person who has been employed by the liquidator to perform any services for the company, as required or authorised by or under the Act or these Rules;

(h) the remuneration of the liquidator, up to any amount not exceeding that which is payable under Schedule 10;

(i) the amount of any corporation tax on chargeable gains accruing on the realisation of any asset of the company (irrespective of the person by whom the realisation is effected);

(j) the balance, after payment of any sums due under sub-paragraph (h) above, of any remuneration due to the liquidator;

(k) any other expenses properly chargeable by the liquidator in carrying out the liquidator's functions in the winding up.

Saving for powers of the court

6.43. Nothing in rule 6.42—

(a) applies to or affects the powers of any court, in proceedings by or against the company, to order costs to be paid by the company, or the liquidator;

(b) affects the rights of any person to whom such costs are ordered to be paid.

CHAPTER 7

LITIGATION EXPENSES AND PROPERTY SUBJECT TO A FLOATING CHARGE

Litigation expenses and property subject to a floating charge – interpretation

6.44.—(1) In this Chapter—

"approval" and "authorisation" respectively mean—

(i) where yet to be incurred, the approval, and

(ii) where already incurred, the authorisation,

of expenses specified in section 176ZA(3);

"the creditor" means—

(i) a preferential creditor of the company, or

(ii) a holder of a debenture secured by, or a holder of, a floating charge created by the company;

"legal proceedings" means—

(i) proceedings under sections 212, 213, 214, 238, 239, 244 and 423 and any arbitration or other dispute resolution proceedings invoked for purposes corresponding to those to which the sections relate and any other proceedings, including arbitration or other dispute resolution procedures, which a liquidator has power to bring in the liquidator's own name for the purpose of preserving, realising, or getting in any of the assets of the company;

(ii) legal actions and proceedings, arbitration or any other dispute resolution procedures which a liquidator has power to bring or defend in the name of the company, and

(iii) negotiations intended to lead or leading to a settlement or compromise of any action, proceeding or procedure to which subparagraphs (i) or (ii) relate;

"litigation expenses" means expenses of a winding up which—

(i) are properly chargeable or incurred in the preparation or conduct of any legal proceedings, and

(ii) as expenses in the winding up, exceed, or in the opinion of the liquidator are likely to exceed (and only in so far as they exceed or are likely to exceed), in the aggregate £5,000;

"specified creditor" means a creditor identified under rule 6.45(2).

(2) Litigation expenses will not have the priority provided by section 176ZA over any claims to property comprised in or subject to a floating charge created by the company and must not be paid out of any such property unless and until approved or authorised in accordance with rules 6.45 to 6.48.

Litigation expenses and property subject to a floating charge – requirement for approval or authorisation

6.45.—(1) Subject to rules 6.46 to 6.48, either paragraphs (3) and (4) apply or paragraph (5) applies where, in the course of winding up a company, the liquidator—

(a) ascertains that property is comprised in or subject to a floating charge;

(b) has personally instituted or proposes to institute or continue legal proceedings or is in the process of defending or proposes to defend any legal proceeding brought or likely to be brought against the company; and

(c) before or at any stage in those proceedings, is of the opinion that—

(i) the assets of the company available for payment of general creditors are or will be insufficient to pay litigation expenses; and

(ii) in order to pay litigation expenses the liquidator will have to have recourse to property comprised in or subject to a floating charge created by the company.

(2) As soon as reasonably practicable after the date on which the liquidator forms the opinion referred to in paragraph (1), the liquidator must identify the creditor who, in the liquidator's opinion at that time—

(a) has a claim to property comprised in or subject to a floating charge created by the company; and

(b) taking into account the value of that claim and any subsisting property then comprised in or secured by such a charge, appears to the liquidator to be the creditor most immediately likely of any persons having such claims to receive some payment in respect of a claim but whose claim would not be paid in full.

(3) The liquidator must request from the specified creditor the approval or authorisation of such amount for litigation expenses as the liquidator thinks fit.

(4) Where the liquidator identifies two or more specified creditors, the liquidator must seek from each of them approval or authorisation of such amount of litigation expenses as the liquidator thinks fit, apportioned between them ("the apportioned amount") according to the value of the property to the extent covered by their charges.

(5) For so long as the conditions specified in paragraph (1) subsist, the liquidator may, in the course of a winding up, make such further requests to the specified creditor or creditors for approval or authorisation of such further amount for litigation expenses as the liquidator thinks fit to be paid out of property comprised in or subject to a floating charge created by the company, taking into account any amount for litigation expenses previously approved or authorised and the value of the property comprised in or subject to the floating charge.

Litigation expenses and property subject to a floating charge – request for approval or authorisation

6.46.—(1) All requests made by the liquidator for approval or authorisation must include the following—

(a) a statement describing the nature of the legal proceedings, including, where relevant, the statutory provision under which proceedings are or are to be brought and the grounds upon which the liquidator relies;

(b) a statement specifying the amount or apportioned amount of litigation expenses for which approval or authorisation is sought ("the specified amount");

(c) notice that approval or authorisation or other reply to the request must be made in writing within 28 days from the date of its being received ("the specified time limit"); and

(d) a statement explaining the consequences of a failure to reply within the specified time limit.

(2) Where anything in paragraph (1) requires the inclusion of any information, the disclosure of which could be seriously prejudicial to the winding up of the company, the liquidator may—

(a) exclude such information from any of the above statements or notices if accompanied by a statement to that effect; or

(b) include it on terms—

(i) that bind the creditor to keep the information confidential; and

(ii) that include an undertaking on the part of the liquidator to apply to the court for an order that so much of the information as may be kept in the files of the court, not be open to public inspection.

(3) The creditor may within the specified time limit apply to the liquidator in writing for such further particulars as is reasonable and in such a case, the time limit specified in paragraph (1)(d) will apply from the date of the creditor's receipt of the liquidator's response to any such request.

(4) Where the liquidator requires the approval or authorisation of two or more creditors, the liquidator must send a request to each creditor, containing the matters listed in paragraph (1) and also giving—

(a) the number of creditors concerned;

(b) the total value of their claims, or if not known, as it is estimated to be by the liquidator immediately before sending any such request; and

(c) to each preferential creditor, notice that approval or authorisation of the specified amount will be taken to be given where a majority in value of those preferential creditors who respond within the specified time limit are in favour of it; or

(d) where rule 6.45 applies, notice to the specified creditors that the amount of litigation expenses will be apportioned between them in accordance with that rule and notice of the value of the portion allocated to, and the identity of, the specified creditors affected by that apportionment.

Litigation expenses and property subject to a floating charge – grant of approval or authorisation

6.47.—(1) Where the liquidator fails to include in the liquidator's request any one of the matters, statements or notices required to be specified by paragraph (1) or paragraphs (1) and (4), of rule 6.46, the request for approval or authorisation will be treated as not having been made.

(2) Subject to paragraphs (3), (4) and (5), approval or authorisation will be taken to have been given where the specified amount has been requested by the liquidator, and—

(a) that amount is approved or authorised within the specified time limit; or

(b) a different amount is approved or authorised within the specified time limit and the liquidator considers it sufficient.

(3) Where the liquidator requires the approval or authorisation of two or more preferential creditors, approval or authorisation will be taken to be given where a majority in value of those who respond within the specified time limit approve or authorise—

(a) the specified amount; or

(b) a different amount which the liquidator considers sufficient.

(4) Where a majority in value of two or more preferential creditors propose an amount other than that specified by the liquidator, they will be taken to have approved or authorised an amount equal to the lowest of the amounts so proposed.

(5) In any case in which there is no response in writing within the specified time limit to the liquidator's request—

(a) at all, or

(b) at any time following the liquidator's provision of further particulars under rule 6.46(3),

the liquidator's request will be taken to have been approved or authorised from the date of the expiry of that time limit.

Litigation expenses and property subject to a floating charge – application to the court by the liquidator

6.48.—(1) In the circumstances specified below the court may, on the application of the liquidator, approve or authorise such amount of litigation expenses as it thinks just.

(2) Except where paragraph (3) applies, the liquidator may apply to the court for an order approving or authorising an amount for litigation expenses only where the specified creditor (or, if more than one, any one of them)—

(a) is or is intended to be a defendant in the legal proceedings in relation to which the litigation expenses have been or are to be incurred; or

(b) has been requested to approve or authorise the amount specified under rule 6.46(1)(c) and has—

(i) declined to approve or authorise, as the case may be, the specified amount;

(ii) has approved or authorised an amount which is less than the specified amount and which lesser amount the liquidator considers insufficient; or

(iii) made such application for further particulars or other response to the liquidator's request as is, in the liquidator's opinion, unreasonable.

(3) Where the liquidator thinks that circumstances are such that the liquidator requires urgent approval or authorisation of litigation expenses, the liquidator may apply to the court for approval or authorisation either—

(a) without seeking approval or authorisation from the specified creditor; or

(b) if sought, before the expiry of the specified time limit.

(4) The court may grant such application for approval or authorisation—

(a) if the liquidator satisfies it of the urgency of the case; and

(b) subject to such terms and conditions as it thinks just.

(5) The liquidator must, at the same time as making any application to the court under this rule, send copies of it to the specified creditor, unless the court orders otherwise.

(6) The specified creditor (or, if more than one, any one of them) is entitled to be heard on any such application unless the court orders otherwise.

(7) The court may grant approval or authorisation subject to such terms and conditions as it may think just, including terms and conditions relating to the amount or nature of the litigation expenses and as to any obligation to make further applications to the court under this rule.

(8) The costs of the liquidator's application under this rule, including the costs of any specified creditor appearing or represented on it, are an expense of the winding up unless the court orders otherwise.

PART 7

WINDING UP BY THE COURT

CHAPTER 1

APPLICATION OF PART

Application of Part 7

7.1. This Part applies to winding up by the court, whether the petition for winding up is presented under section 122(1) or under any other enactment enabling the presentation of a winding-up petition.

CHAPTER 2

THE STATUTORY DEMAND

Interpretation

7.2. A demand served by a creditor on a company under section 123(1)(a) (registered companies) or 222(1)(a) (unregistered companies) is referred to in this Part as "a statutory demand".

The statutory demand (sections 123(1)(a) and 222(1)(a))

7.3.—(1) A statutory demand must contain—

(a) identification details for the company;

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

(c) the name and address of the creditor;

(d) a statement whether the demand is made under section 123(1)(a) or 222(1)(a);

(e) the amount of the debt and the consideration for it (or, if there is no consideration, the way in which it arises);

(f) if the demand is founded on a judgment or order of a court, details of the judgment or order;

(g) if the creditor is entitled to the debt by way of assignment, details of the original creditor and any intermediary assignees.

(2) The demand must be dated, and authenticated either by the creditor, or a person authorised to make the demand on the creditor's behalf.

(3) A demand which is authenticated by a person other than the creditor must state that the person is authorised to make the demand on the creditor's behalf and state the person's relationship to the creditor.

(4) The following must be separately identified in the demand (if claimed) with the amount or rate of the charge and the grounds on which payment is claimed—

(a) any charge by way of interest of which notice had not previously been delivered to the company as included in its liability; and

(b) any other charge accruing from time to time.

(5) However the amount claimed for such charges must be limited to that which has accrued due at the date of the demand.

Further information to be included in a statutory demand

7.4.—(1) The statutory demand must include an explanation to the company of the following matters—

(a) the purpose of the demand, and the fact that, if the demand is not complied with, proceedings may be instituted for the winding up of the company;

(b) the time within which it must be complied with, if that consequence is to be avoided;

(c) the methods of compliance which are open to the company;

(d) that the company has the right to apply to the court for an injunction restraining the creditor from presenting or advertising a petition for the winding up of the company; and

(e) the name of the court or hearing centre to which, according to the present information, the company must make the application (i.e. the High Court, the County Court at Central London or a named hearing centre of the County Court, as the case may be).

(2) A demand must name one or more individuals with whom an officer or representative of the company may communicate with a view to securing or compounding for the debt to the creditor's satisfaction.

(3) The named individual's address, electronic address and telephone number (if any) must be given.

CHAPTER 3

PETITION FOR WINDING-UP ORDER

[Note: for petitions by a contributory or relevant office-holder (an administrator, administrative receiver or supervisor of a company voluntary arrangement) see Chapter 4]

Application of this Chapter

7.5.—(1) This Chapter does not apply to—

(a) a petition for winding up presented by a contributory;

(b) a winding-up petition presented by a relevant office-holder in the company.

(2) "Relevant office-holder" in this Part means an administrator, administrative receiver and supervisor of a company voluntary arrangement.

Contents of petition

7.6.—(1) The petition must contain—

(a) the name of the court;

(b) the name and address of the petitioner;

(c) identification details for the company subject to the petition;

(d) the address of the company's registered office;

(e) the date the company was incorporated;

(f) the nominal capital of the company;

(g) the number of shares the capital is divided into and the value of each share;

(h) the amount of capital paid up or credited as paid up;

(i) a statement of the nature of the company's business if known;

(j) the grounds on which the winding-up order is sought;

(k) where the ground for the winding-up order is section 122(1)(f) or 221(5)(b) and a statutory demand has been served on the company, a statement that such a demand has been served and the date of service;

(l) a statement whether the company is an Article 1.2 undertaking;

(m) a statement whether the proceedings will be main, secondary, territorial or non-EC proceedings and that the reasons for so stating are given in the statement of truth;

(n) a statement that in the circumstances it is just and reasonable that the company should be wound up;

(o) a statement that the petitioner therefore applies for an order that the company may be wound up by the court under the Act, or that such other order may be made as the court thinks just;

(p) the name and address of any person on whom the petitioner intends to serve the petition; and

(q) the contact details of the petitioner's solicitors.

(2) The petition must also contain a blank box for the Court to complete with the details of the venue for hearing the petition.

Verification of petition

7.7.—(1) The petition must be verified by a statement of truth.

(2) Where the petition is in respect of debts due to different creditors then the debt to each creditor must be verified separately.

(3) A statement of truth which is not contained in or endorsed upon the petition must identify the petition and must contain—

(a) identification details for the company;

(b) the name of the petitioner; and

(c) the name of the court in which the petition is to be presented.

(4) The statement of truth must be authenticated and dated by or on behalf of the petitioner.

(5) Where the person authenticating the statement of truth is not the petitioner, or one of the petitioners, the statement of truth must state—

(a) the name and postal address of the person making the statement;

(b) the capacity in which, and the authority by which, the person authenticates the statement; and

(c) the means of that person's knowledge of the matters verified in the statement of truth.

(6) If the petition is based on a statutory demand, and more than four months have elapsed between the service of the demand and the presentation of the petition, the statement of truth must explain the reasons for the delay.

(7) A statement of truth verifying more than one petition must include in its title the names of the companies to which it relates and must set out, in relation to each company, the statements relied on by the petitioner; and a clear and legible photocopy of the statement of truth must be filed with each petition which it verifies.

(8) The statement of truth must give the reasons for the statement that the proceedings will be main, secondary, territorial or non-EC proceedings.

Petition: presentation and filing

7.8.—(1) The petition must be filed with the court.

(2) A petition may not be filed unless—

(a) a receipt for the deposit payable to the official receiver is produced on presentation of the petition; or

(b) the Secretary of State has given notice to the court that the petitioner has made suitable alternative arrangements for the payment of the deposit and that notice has not been revoked.

(3) A notice of alternative arrangements for the deposit may be revoked by a further notice filed with the court.

(4) A copy of the petition must be filed with the court with the petition together with any further copies required by rule 7.10.

(5) The court must fix a venue for hearing the petition, and this must be endorsed on the petition and the copies.

(6) Each copy of the petition must have the seal of the court applied to it, and must be delivered to the petitioner.

Court to which petition is to be presented where the company is subject to a CVA or is in administration

7.9.—(1) A petition which is filed in relation to a company for which there is in force a CVA must be presented to the court or hearing centre to which the nominee's report under section 2 was submitted or where the documents for a moratorium under section 1A were filed.

(2) A petition which is filed in relation to a company which is in administration must be presented to the court or hearing centre of the court having jurisdiction for the administration.

Copies of petition to be served on company or delivered to other persons

7.10.—(1) Where this rule requires the petitioner to serve a copy of the petition on the company or deliver a copy to another person the petitioner must, when filing the petition with the court, file an additional copy with the court for each such person.

(2) Where the petitioner is not the company the petitioner must serve a sealed copy of the petition on the company in accordance with Schedule 4.

(3) If to the petitioner's knowledge—

(a) the company is in course of being wound up voluntarily, the petitioner must deliver a copy of the petition to the liquidator;

(b) an administrative receiver has been appointed in relation to the company, or the company is in administration, the petitioner must deliver a copy of the petition to the receiver or the administrator;

(c) there is in force for the company a CVA, the petitioner must deliver a copy of the petition to the supervisor of the CVA;

(d) there is a member State liquidator appointed in main proceedings in relation to the company, the petitioner must deliver a copy to that person.

(4) If either the Financial Conduct Authority or Prudential Regulation Authority is entitled to be heard at the hearing of the petition in accordance with section 371 of the Financial Services and Markets Act 2000, the petitioner must deliver a copy of the petition to the Financial Conduct Authority or Prudential Regulation Authority (as appropriate).

(5) Where this rule requires the petitioner to deliver a copy of the petition that copy must be delivered within three business days after the day on which the petition is served on the company.

Notice of petition

7.11.—(1) Unless the court otherwise directs, the petitioner must give notice of the petition.

(2) The notice must state—

(a) that a petition has been presented for the winding up of the company;

(b) in the case of an overseas company, the address at which service of the petition was effected;

(c) the name and address of the petitioner;

(d) the date on which the petition was presented;

(e) the venue fixed for the hearing of the petition;

(f) the name and address of the petitioner's solicitor (if any); and

(g) that any person intending to appear at the hearing (whether to support or oppose the petition) must give notice of that intention in accordance with rule 7.15.

(3) The notice must be gazetted.

(4) Where it is not reasonably practicable to gazette the notice, the court may direct that notice of the petition must be given in such other manner as the court thinks just.

(5) The notice must be made to appear—

(a) if the petitioner is the company itself, not less than seven business days before the day appointed for the hearing; and

(b) otherwise, not less than seven business days after service of the petition on the company, nor less than seven business days before the day so appointed.

(6) The court may dismiss the petition if notice of it is not given in accordance with this rule.

Persons entitled to request a copy of petition

7.12. If a director, contributory or creditor requests a hard copy of the petition from the solicitor for the petitioner, or the petitioner, if acting in person, and pays the standard fee for copies the solicitor or petitioner must deliver the copy within two business days.

Certificate of compliance

7.13.—(1) The petitioner or the petitioner's solicitor must, at least five business days before the hearing of the petition, file with the court a certificate of compliance with rules 7.10 and 7.11 relating to service and notice of the petition.

(2) The certificate must be authenticated and dated by the petitioner or the petitioner's solicitor and must state—

(a) the date of presentation of the petition;

(b) the date fixed for the hearing; and

(c) the date or dates on which the petition was served and notice of it was given in compliance with these rules.

(3) A copy of or, where that is not reasonably practicable, a statement of the content of, any notice given must be filed with the court with the certificate.

(4) The court may, if it thinks just, dismiss the petition if this rule is not complied with.

Permission for the petitioner to withdraw

7.14.—(1) The court may order that the petitioner has permission to withdraw the petition on such terms as to costs as the parties may agree if at least five business days before the hearing the petitioner, on an application without notice to any other party, satisfies the court that—

(a) notice of the petition has not been given as required by rule 7.11;

(b) no notices in support or in opposition to the petition have been received by the petitioner; and

(c) the company consents to an order being made under this rule.

(2) The order must contain—

(a) identification details for the company;

(b) the date the winding-up petition was presented;

(c) the name and postal address of the applicant;

(d) a statement that upon the application made without notice to any other party by the applicant named in the order and upon considering the evidence the court is satisfied that notice of the petition has not been given, that no notices in support of or in opposition to the petition have been received by the petitioner and that the company consents to this order; and

(e) an order that the petitioner may withdraw the petition.

Notice by persons intending to appear

7.15.—(1) A creditor or contributory who intends to appear on the hearing of the petition must deliver a notice of intention to appear to the petitioner.

(2) The notice must contain—

(a) the name and address of the creditor or contributory, and any telephone number and reference which may be required for communication with that person or with any other person (also to be specified in the notice) authorised to speak or act on the creditor's or contributory's behalf;

(b) the date of the presentation of the petition and a statement that the notice relates to the matter of that petition;

(c) the date of the hearing of the petition;

(d) for a creditor, the amount and nature of the debt due from the company to the creditor;

(e) for a contributory, the number of shares held in the company;

(f) a statement whether the creditor or contributory intends to support or oppose the petition;

(g) where the creditor or contributory is represented by a solicitor or other agent, the name, postal address, telephone number and any reference number of that person and details of that person's position with or relationship to the creditor or contributory; and

(h) the name and postal address of the petitioner.

(3) The notice must be authenticated and dated by the person delivering it.

(4) The notice must be delivered to the petitioner or the petitioner's solicitor at the address shown in the court records, or in the notice of the petition required by rule 7.11.

(5) The notice must be delivered so as to reach the petitioner (or the petitioner's solicitor) not later than 4pm on the business day before that which is appointed for the hearing (or, where the hearing has been adjourned, for the adjourned hearing).

(6) A person who fails to comply with this rule may appear on the hearing of the petition only with the permission of the court.

List of appearances

7.16.—(1) The petitioner must prepare for the court a list of the creditors and contributories who have given notice under rule 7.15.

(2) The list must contain—

(a) the date of the presentation of the petition;

(b) the date of the hearing of the petition;

(c) a statement that the creditors and contributories listed have delivered notice that they intend to appear at the hearing of the petition;

(d) their names and addresses;

(e) the amount owed to each creditor;

(f) the number of shares held by each contributory;

(g) the name and postal address of any solicitor for a person listed;

(h) whether each person listed intends to support the petition, or to oppose it.

(3) On the day appointed for the hearing of the petition, a copy of the list must be handed to the court before the hearing commences.

(4) If the court gives a person permission to appear under rule 7.15(6), then the petitioner must add that person to the list with the same particulars.

Witness statement in opposition

7.17.—(1) If the company intends to oppose the petition, it must not later than five business days before the date fixed for the hearing—

(a) file with the court a witness statement in opposition; and

(b) deliver a copy of the witness statement to the petitioner or the solicitor to the petitioner.

(2) The witness statement must contain—

(a) identification details for the proceedings;

(b) a statement that the company intends to oppose the making of a winding-up order; and

(c) a statement of the grounds on which the company opposes the making of the order.

Substitution of creditor or contributory for petitioner

7.18.—(1) This rule applies where the petitioner—

(a) is subsequently found not to have been entitled to present the petition;

(b) fails to give notice of the petition in accordance with rule 7.10;

(c) consents to withdraw the petition, or to allow it to be dismissed, consents to an adjournment, or fails to appear in support of the petition when it is called on in court on the day originally fixed for the hearing, or on a day to which it is adjourned; or

(d) appears, but does not apply for an order in the terms requested in the petition.

(2) The court may, on such terms as it thinks just, substitute as petitioner—

(a) a creditor or contributory who in its opinion would have a right to present a petition and who wishes to prosecute it; or

(b) a member State liquidator who has been appointed in main proceedings in relation to the company, and who wishes to prosecute it.

Order for substitution of petitioner

7.19. An order for substitution of a petitioner must contain—

(a) identification details for the proceedings;

(b) the date of hearing of the petition;

(c) the name of the original petitioner;

(d) the name of the creditor, contributory or member State liquidator ("the named person") who is willing to be substituted as petitioner;

(e) a statement that the named person has applied to be substituted as petitioner under rule 7.18;

(f) a statement that the evidence has been considered;

(g) the following orders—

(i) that upon payment by the named person of the statutory deposit to the court, the statutory deposit paid by the original petitioner be repaid to the original petitioner by the official receiver;

(ii) that the named person be substituted as petitioner in place of the original petitioner and that the named person may amend the petition accordingly;

(iii) that the named person must within five business days from the date of the order file a statement of truth of the statements in the amended petition;

(iv) that at least 14 days before the date of the adjourned hearing of the petition the named person must serve a sealed copy of the amended petition on the company and deliver a copy to any other person to whom the original petition was delivered;

(v) that the hearing of the amended petition be adjourned to the venue specified in the order; and

(vi) that the question of the costs of the original petitioner and of the statutory deposit (if appropriate) be reserved until the final determination of the amended petition;

(h) the venue of the adjourned hearing; and

(i) the date of the making of the order.

Adjournment

7.20.—(1) If the court adjourns the hearing of the petition the petitioner must as soon as reasonably practicable deliver a notice of the making of the order of adjournment and of the venue for the adjourned hearing to—

(a) the company; and

(b) any creditor or contributory who has given notice under rule 7.15 but was not present at the hearing.

(2) The notice must identify the proceedings.

(3) The requirement to deliver such a notice applies unless the court otherwise directs.

Order for winding up by the court

7.21.—(1) An order for winding-up by the court must contain—

(a) the name of the court in which the order is made;

(b) the name and title of the person making the order;

(c) identification details for the company;

(d) the name and address of the petitioner;

(e) the nature of the petitioner which entitles that person to present the petition (e.g. the company, a creditor, a contributory; or a regulator);

(f) the date of presentation of the petition;

(g) a statement that upon consideration of the evidence it is ordered that the company be wound up by the court under the Act;

(h) a statement whether the proceedings are main, secondary, territorial or non-EC proceedings;

(i) an order that the costs of the petition of certain persons specified in the order be paid out of the assets of the company;

(j) the date of the making of the order;

(k) either—

(i) a statement that an official receiver attached to the court is by virtue of the order liquidator of the company; or

(ii) the name and postal address of the person appointed as liquidator of the company and an order that that person is appointed liquidator of the company;

(2) The order may contain such additional terms concerning costs as the court considers to be just.

Order for winding up by the court following the cessation of the appointment of an administrator

7.22.—(1) An order for winding-up by the court following the cessation of the appointment of an administrator must contain—

(a) the name of the court in which the order is made;

(b) the name and the title of the person making the order;

(c) identification details for the company;

(d) the name and postal address of the administrator of the company;

(e) the date of the administrator's appointment;

(f) the date of presentation of the petition by the administrator;

(g) an order that upon consideration of the evidence—

(i) the appointment of the administrator ceases to have effect, and

(ii) the company is wound up by the court under the Act;

(h) the name and address of the person appointed as liquidator of the company (if applicable);

(i) an order (if applicable) that the person specified in the order is appointed liquidator of the company;

(j) a statement whether the proceedings are main, secondary, territorial or non-EC proceedings.

(k) the date of the making of the order.

(2) The order may contain such additional terms as the court considers to be just.

[Note: See rule 7.55 for the court's order appointing the liquidator where a winding up follows an administration or a CVA.]

Notice to Official Receiver of winding-up order

7.23.—(1) When a winding-up order has been made, the court must deliver notice of the fact to the official receiver as soon as reasonably practicable.

(2) The notice must have the title "Notice to Official Receiver of Winding-up Order" and must contain—

(a) identification details for the company;

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

(c) the date of presentation of the petition;

(d) the date of the winding-up order; and

(e) the name and postal address of the petitioner or the petitioner's solicitor.

Delivery and notice of the order

7.24.—(1) As soon as reasonably practicable after making a winding-up order, the court must deliver to the official receiver two copies of the order sealed with the seal of the court.

(2) The official receiver must deliver—

(a) a sealed copy of the order to the company; and

(b) a copy of the order to the registrar of companies (in compliance with section 130(1)).

(3) As an alternative to delivering a sealed copy of the order to the company, the court may direct that the sealed copy be delivered to such other person or persons, as the court directs.

(4) The official receiver—

(a) must cause a notice of the order to be gazetted as soon as reasonably practicable; and

(b) may advertise a notice of the order in such other manner as the official receiver thinks fit.

(5) The notice must state—

(a) that a winding-up order has been made in relation to the company; and

(b) the date of the order.

Petition dismissed

7.25.—(1) When a petition is dismissed the petitioner must give a notice of the dismissal as soon as reasonably practicable, unless the court otherwise directs.

(2) The notice must be—

(a) gazetted; or

(b) advertised in accordance with any directions of the court.

(3) The notice must contain—

(a) a statement that a petition for the winding up of the company has been dismissed;

(b) in the case of an overseas company, the address at which service of the petition was effected;

(c) the name and address of the petitioner;

(d) the date on which the petition was presented;

(e) the date on which the petition was gazetted or otherwise advertised; and

(f) the date of the hearing at which the petition was dismissed.

(4) The company may itself gazette notice of the dismissal where—

(a) the petitioner is not the company; and

(b) the petitioner has not given notice in accordance with paragraphs (1) to (3) within 21 days of the date of the hearing at which the petition was dismissed.

Injunction to restrain presentation or advertisement of petition

7.26.—(1) An application by a company for an injunction restraining a creditor from presenting a petition for the winding up of the company must be made to a court having jurisdiction to wind up the company.

(2) An application by a company for an injunction restraining a creditor from giving notice of a petition for the winding up of a company must be made to the court or hearing centre in which the petition is pending.

CHAPTER 4

PETITION BY A CONTRIBUTORY OR A RELEVANT OFFICE-HOLDER

[Note: "relevant office-holder" is defined in rule 7.5(2)]

Interpretation and application of rules in Chapter 3

7.27.—(1) In this Chapter "relevant office-holder" has the same meaning as given by rule 7.5(2) for the purposes of Chapter 3.

(2) The following rules in Chapter 3 apply, with the necessary modifications, to a petition under this Chapter—

rule 7.9 (court to which petition is to be presented where the company is subject to a CVA or is in administration);

rule 7.15 (notice by persons intending to appear);

rule 7.16 (list of appearances);

rule 7.21 (order for winding up by the court);

rule 7.22 (order for winding up by the court following the cessation of the appointment of an administrator;

rule 7.23 (notice to official receiver of winding-up order); and

rule 7.24 (delivery and notice of the order).

(3) The following rules apply to petitions under this Chapter presented by a relevant office-holder—

rule 7.25 (petition dismissed); and

rule 7.26 (injunction to restrain presentation or advertisement of petition).

Contents of petition for winding-up order by a contributory

7.28.—(1) A petition presented by a contributory must contain—

(a) the name of the court;

(b) the name and postal address of the petitioner;

(c) identification details for the company subject to the petition;

(d) the address of the company's registered office;

(e) the date the company was incorporated;

(f) the nominal capital of the company;

(g) the number of shares the capital is divided into and the value of each share;

(h) the amount of capital paid up or credited as paid up;

(i) a statement of the nature of the company's business if known;

(j) the number and total value of the shares held by the petitioner;

(k) a statement whether the shares held by the petitioner—

(i) were allotted to the petitioner on the incorporation of the company,

(ii) have been registered in the name of the petitioner for more than six months in the last 18 months, or

(iii) devolved upon the petitioner through the death of the former holder of the shares;

(l) the grounds on which the winding-up order is sought;

(m) a statement whether the company is an Article 1.2 undertaking;

(n) a statement whether the proceedings will be main, secondary, territorial or non-EC proceedings and that the reasons for so stating are given in the statement of truth;

(o) a statement that in the circumstances it is just and reasonable that the company should be wound up;

(p) a statement that the petitioner therefore applies for an order that the company may be wound up by the court under the Act, or that such other order may be made as the court thinks just;

(q) the name and postal address of any person on whom the petitioner intends to serve the petition; and

(r) the contact details of the petitioner's solicitor

(2) The petition must also contain a blank box for the Court to complete with the details of the venue for hearing the petition.

Petition presented by a relevant office-holder

7.29.—(1) A petition by a relevant office-holder must be expressed to be the petition of the company by the office-holder.

(2) The petition must contain the particulars required by rule 7.28 (other than paragraph (1)(j) and (k) and the following (as applicable)—

(a) identification details for the office-holder;

(b) the full name of the court or hearing centre in which the proceedings are being conducted or where documents relating to the proceedings are filed;

(c) the court case number;

(d) the date the insolvency proceedings in respect of which the office-holder holds office commenced;

(e) where the office-holder is an administrator, an application under paragraph 79 of Schedule B1, requesting that the appointment of the administrator should cease to have effect.

Verification of petition

7.30.—(1) The petition must be verified by a statement of truth.

(2) A statement of truth which is not contained in or endorsed upon the petition must identify the petition and must contain—

(a) identification details for the company;

(b) the name of the petitioner; and

(c) the name of the court in which the petition is to be presented.

(3) The statement of truth must be authenticated and dated by or on behalf of the petitioner.

(4) Where the person authenticating the statement of truth is not the petitioner, or one of the petitioners, the statement of truth must state—

(a) the name and postal address of the person making the statement;

(b) the capacity in which, and the authority by which, the person authenticates the statement; and

(c) the means of the person's knowledge of the matters verified in the statement of truth.

(5) A statement of truth verifying more than one petition must include in its title the names of the companies to which it relates and must set out, in relation to each company, the statements relied on by the petitioner; and a clear and legible photocopy of the statement of truth must be filed with each petition which it verifies.

(6) The statement of truth must give the reasons for the statement that the proceedings will be main, secondary, territorial or non-EC proceedings.

Presentation and service of petition

7.31.—(1) The petition must be filed with the court with one copy.

(2) The petition may not be filed unless a receipt for the deposit payable to the official receiver is produced on presentation of the petition.

(3) The court must fix a hearing for a return day on which, unless the court otherwise directs, the petitioner and the company must attend before the court for—

(a) directions to be given in relation to the procedure on the petition; or

(b) the hearing of the petition where—

(i) it is presented by a relevant office-holder, and

(ii) the court considers it just in all the circumstances.

(4) On fixing the return day, the court must deliver to the petitioner a sealed copy of the petition endorsed with the return day and time of hearing.

(5) The petitioner must serve a sealed copy of the petition on the company at least 14 days before the return day.

(6) Where a member State liquidator has been appointed in main proceedings in relation to the company, the petitioner must deliver a copy of the petition to the member State liquidator.

Request to appoint former administrator or supervisor as liquidator (section 140)

7.32.—(1) This rule applies where a petition requests under section 140 the appointment of a former administrator or supervisor as liquidator.

(2) The person whose appointment is sought ("the appointee") must, not less than two business days before the date fixed for hearing the petition, file with the court a report including particulars of—

(a) the date on which the appointee delivered notice to creditors of the company, of the appointee's intention to seek appointment as liquidator, such date to be at least seven business days before the day on which the report is filed; and

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

Return of petition

7.33.—(1) On the return day, or at any time after it, the court must or, where the petition is presented by a relevant office-holder, may give such directions as it thinks appropriate relating to the following matters—

(a) service or delivery of the petition, whether in connection with the venue for a further hearing, or for any other purpose;

(b) whether particulars of claim and defence are to be delivered, and generally as to the procedure on the petition;

(c) whether and if so by what means, the petition is to be advertised;

(d) the manner in which any evidence is to be provided at any hearing before the judge and in particular (but without prejudice to the generality of the above) as to—

(i) the taking of evidence wholly or in part by witness statement or orally;

(ii) the cross-examination of any person who has made a witness statement;

(iii) the matters to be dealt with in evidence; and

(e) any other matter affecting the procedure on the petition or in connection with the hearing and disposal of the petition.

(2) In giving directions the court must have regard to whether a copy of the petition should be served on or delivered to any of the persons specified in rule 7.10.

CHAPTER 5

PROVISIONAL LIQUIDATOR

Application for appointment of provisional liquidator (section 135)

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

(a) the petitioner;

(b) a creditor of the company;

(c) a contributory;

(d) the company;

(e) the Secretary of State;

(f) a temporary administrator;

(g) a member State liquidator appointed in main proceedings; or

(h) any person who under any enactment would be entitled to present a petition for the winding up of the company.

(2) The application must be supported by a witness statement stating—

(a) the grounds on which it is proposed that a provisional liquidator should be appointed;

(b) if some person other than the official receiver is proposed to be appointed, that that person has consented to act and, to the best of the applicant's belief, is qualified to act as an insolvency practitioner in relation to the company;

(c) whether or not the official receiver has been informed of the application and, if so, whether a copy of it has been delivered to the official receiver;

(d) whether to the applicant's knowledge—

(i) there has been proposed or is in force for the company a CVA,

(ii) an administrator or administrative receiver is acting in relation to the company, or

(iii) a liquidator has been appointed for its voluntary winding up; and

(e) the applicant's estimate of the value of the assets in relation to which the provisional liquidator is to be appointed.

(3) The applicant must deliver copies of the application and the witness statement in support to the official receiver, who may attend the hearing and make any representations which the official receiver thinks appropriate.

(4) If for any reason it is not practicable to deliver copies of the application and statement to the official receiver before the hearing, the applicant must inform the official receiver of the application in sufficient time for the official receiver to be able to attend.

(5) If satisfied that sufficient grounds are shown for the appointment the court may appoint a provisional liquidator on such terms as it thinks just.

Deposit

7.35.—(1) An applicant for an order appointing the official receiver as provisional liquidator must, before the order is made, deposit with the official receiver, or otherwise secure to the official receiver’s satisfaction, such sum as the court directs to cover the official receiver's remuneration and expenses.

(2) If the sum deposited or secured proves to be insufficient, the court may, on the application of the official receiver, order the applicant for the appointment to deposit or secure an additional sum.

(3) If such additional sum is not deposited or secured within two business days after service of the order on the applicant then the court may discharge the order appointing the official receiver as provisional liquidator.

(4) If a winding-up order is made after a provisional liquidator has been appointed, any money deposited under this rule must (unless it is required because the assets are insufficient to pay the remuneration and expenses of the provisional liquidator) be repaid to the person depositing it (or as that person may direct) as an expense of the winding up, in the prescribed order of priority.

Order of appointment of provisional liquidator

7.36.—(1) The order appointing the provisional liquidator must have the title “Order of appointment of Provisional Liquidator” and contain—

(a) the name of the court in which the order is made;

(b) the name and title of the person making the order;

(c) the name and postal address of the applicant;

(d) identification details for the company;

(e) the statement that upon reading the petition and considering the evidence the court is satisfied—

(i) that the company is unable to pay its debts (if applicable); and

(ii) that the proceedings are main, secondary, territorial or non-EC proceedings, as the case may be;

(f) an order either that—

(i) upon the sum, which is specified in the order, being deposited by the applicant with the official receiver, the official receiver is appointed provisional liquidator of the company; or

(ii) the person specified in the order is appointed provisional liquidator of the company;

(g) identification and contact details for the provisional liquidator, where the provisional liquidator is not the official receiver;

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

(i) a notice to the officers of the company that they are required by section 235 to give the provisional liquidator all the information as the provisional liquidator may reasonably require relating to the company's property and affairs and to attend upon the provisional liquidator at such times as the provisional liquidator may reasonably require;

(j) the date of the making of the order.

(2) The court must, as soon as reasonably practicable after the order is made, deliver copies of the order as follows—

(a) if the official receiver is the provisional liquidator, two sealed copies to the official receiver;

(b) if another person is appointed as provisional liquidator—

(i) two sealed copies to that person; and

(ii) one copy to the official receiver;

(c) if there is an administrative receiver acting in relation to the company, one sealed copy to the administrative receiver.

(3) The official receiver or other person appointed as provisional liquidator must as soon as reasonably practicable deliver a sealed copy of the order to either—

(a) the company, or

(b) the liquidator, if a liquidator was appointed for the company's voluntary winding-up.

(4) The official receiver or other person appointed as provisional liquidator must as soon as reasonably practicable deliver a copy of the order to the registrar of companies.

Notice of appointment of provisional liquidator

7.37.—(1) Where a provisional liquidator has been appointed the court must as soon as reasonably practicable deliver a notice of the appointment to the official receiver.

(2) The court must deliver a copy of that notice at the same time to the provisional liquidator, where the provisional liquidator is not the official receiver.

(3) The provisional liquidator must as soon as reasonably practicable after receipt of the notice of appointment give notice of appointment unless the court directs otherwise.

(4) The notice—

(a) must be gazetted; and

(b) may be advertised in such other manner as the provisional liquidator thinks fit.

(5) The notice must state—

(a) that a provisional liquidator has been appointed; and

(b) the date of the appointment.

Security

7.38.—(1) This rule applies where an insolvency practitioner is appointed as provisional liquidator.

(2) The cost of providing the security required under the Act must be paid in the first instance by the provisional liquidator, however—

(a) if a winding-up order is not made, the person appointed is entitled to be reimbursed out of the property of the company, and the court may make an order on the company accordingly; and

(b) if a winding-up order is made, the person appointed is entitled to be reimbursed as an expense of the winding up in the prescribed order of priority.

(3) If the provisional liquidator fails to give or keep up the required security, the court may remove the provisional liquidator, and make such order as it thinks just as to costs.

(4) If an order is made under this rule removing the provisional liquidator, or discharging the order appointing the provisional liquidator, the court must give directions as to whether any, and if so what, steps should be taken for the appointment of another person in the place of the removed or discharged provisional liquidator.

Remuneration

7.39.—(1) The remuneration of the provisional liquidator (other than the official receiver) is to be fixed by the court from time to time on the application of the provisional liquidator.

(2) In fixing the remuneration of the provisional liquidator, the court must take into account—

(a) the time properly given by the provisional liquidator and the staff of the provisional liquidator in attending to the company's affairs;

(b) the complexity of the case;

(c) any respects in which, in connection with the company's affairs, there falls on the provisional liquidator any responsibility of an exceptional kind or degree;

(d) the effectiveness with which the provisional liquidator appears to be carrying out, or to have carried out, the duties of the provisional liquidator; and

(e) the value and nature of the property with which the provisional liquidator has to deal.

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

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

(b) if a winding-up order is made, as an expense of the winding up, in the prescribed order of priority;

(c) in either case (if the relevant funds are insufficient), out of the deposit under rule 7.35.

(d) Unless the court otherwise directs, where a winding up order is not made, the provisional liquidator may retain out of the company's property such sums or property as are or may be required for meeting the remuneration and expenses of the provisional liquidator.

(4) Where a person other than the official receiver has been appointed provisional liquidator, and the official receiver has taken any steps for the purpose of obtaining a statement of affairs or has performed any other duty under these Rules, the provisional liquidator must pay the official receiver such sum (if any) as the court may direct.

Termination of appointment

7.40.—(1) The appointment of the provisional liquidator may be terminated by the court on the application of the provisional liquidator, or a person specified in rule 7.34(1).

(2) If the provisional liquidator's appointment terminates, in consequence of the dismissal of the winding-up petition or otherwise, the court may give such directions as it thinks just relating to the accounts of the provisional liquidator's administration or any other matters which it thinks appropriate.

(3) The provisional liquidator must give notice of termination of the appointment as provisional liquidator, unless the termination is on the making of a winding-up order or the court directs otherwise.

(4) The notice referred to in paragraph (3)—

(a) must be delivered to the registrar of companies as soon as reasonably practicable;

(b) must be gazetted as soon as reasonably practicable; and

(c) may be advertised in such other manner as the provisional liquidator thinks fit.

(5) A notice under paragraph (4)(b) or (c) must state—

(a) that the appointment as provisional liquidator has been terminated;

(b) the date of that termination; and

(c) that the appointment terminated otherwise than on the making of a winding-up order.

CHAPTER 6

STATEMENT OF AFFAIRS AND OTHER INFORMATION

Notice requiring statement of affairs (section 131)

7.41.—(1) Where, under section 131, the official receiver requires a nominated person to provide the official receiver with a statement of the affairs of the company, the official receiver must deliver a notice to that person.

(2) The notice must be headed "Notice requiring statement of affairs" and must—

(a) identify the company immediately below the heading;

(b) require a nominated person to prepare and submit to the official receiver a statement of affairs of the company;

(c) inform the nominated person—

(i) of the names and addresses of all other nominated person to whom such a notice has been delivered;

(ii) of the date by which the statement must be delivered;

(d) state the effect of section 131(7) (penalty for non-compliance) and section 235 (duty to co-operate) as it applies to the official receiver.

(3) The official receiver must inform the nominated person that a document for the preparation of the statement of affairs capable of completion in compliance with rule 7.42 can be supplied by the official receiver if requested.

(4) The nominated person (or one of them, if more than one) must deliver the statement of affairs to the official receiver together with a copy of the verified statement

Statement of affairs

7.42.—(1) The statement of affairs must be headed "Statement of affairs" and must contain—

(a) identification details for the company;

(b) a statement that it is a statement of the affairs of the company on a date which is specified, being—

(i) the date of the winding-up order, or

(ii) the date directed by the official receiver;

(c) a list of the company's shareholders with the following information about each one—

(i) name and postal address,

(ii) the type of shares held,

(iii) the nominal amount of the shares held,

(iv) the number of shares held,

(v) the amount per share called up,

(vi) the total amount of shares called up;

(d) the total amount of shares called up held by all shareholders;

(e) a summary of the assets of the company, setting out the book value and estimated realisable value of—

(i) the assets subject to a fixed charge,

(ii) the assets subject to a floating charge,

(iii) the uncharged assets,

(iv) the total value of all the assets available for preferential creditors;

(f) a summary of the liabilities of the company, setting out—

(i) the amount of preferential debts,

(ii) an estimate of the deficiency with respect to preferential debts or the surplus available after paying the preferential debts,

(iii) an estimate of the prescribed part, if applicable,

(iv) the amount of debts secured by floating charges,

(v) an estimate of the total assets available to pay debts secured by floating charges,

(vi) an estimate of the deficiency with respect to debts secured by floating charges or the surplus available after paying the debts secured by fixed or floating charges,

(vii) the amount of unsecured debts (excluding preferential debts),

(viii) an estimate of the deficiency with respect to unsecured debts or the surplus available after paying unsecured debts,

(ix) the issued and called up capital,

(x) an estimate of the deficiency with respect to, or surplus available to, members of the company;

(g) subject to paragraphs (2) and (3) a list of the company's creditors (as required by section 131(2)) identifying—

(i) any creditors under hire-purchase, chattel leasing or conditional sale agreements;

(ii) any customers claiming amounts paid in advance of the supply of goods or services; and

(iii) any creditors claiming retention of title over property in the company's possession;

(h) subject to paragraphs (2) and (3) the following details in relation to each listed creditor—

(i) name and postal address,

(ii) amount of the debt owed to the creditor,

(iii) details of any security held by the creditor,

(iv) the date the security was given, and

(v) the value of the security held by the creditor.

(2) Where the details required under paragraph (1)(h) relate to creditors who are either—

(a) employees or former employees of the company; or

(b) customers claiming amounts paid in advance for the supply of goods and services,

those particulars must be set out in schedules to the statement of affairs for each of sub-paragraphs (a) and (b).

(3) Where paragraph (2) applies the statement of affairs itself must give separately for each of paragraph (4)(a) and (b) the number and a summary of the debts owed to such creditors.

(4) The statement of affairs must be verified by a statement of truth by the nominated person making the statement of affairs. The official receiver must deliver the verified copy of the statement of affairs and any statements of concurrence delivered under rule 7.43 to the registrar of companies.

(5) However the official receiver must not deliver to the registrar of companies with the statement of affairs any schedule required by paragraph (2).

Statement of affairs: statement of concurrence

7.43.—(1) The official receiver may require a person mentioned in section 131(3) ("a relevant person") to deliver to the official receiver—

(a) a statement that that person concurs in the statement of affairs submitted by a nominated person ("a statement of concurrence"); and

(b) a statement of truth verifying the statement of concurrence.

(2) The official receiver must inform the nominated person who has been required to submit a statement of affairs that the relevant person has been required to deliver a statement of concurrence.

(3) The nominated person must deliver a copy of the statement of affairs to every relevant person who has been required to submit a statement of concurrence.

(4) A statement of concurrence—

(a) must identify the company, and

(b) may be qualified in relation to matters dealt with in the statement of affairs, where the relevant person—

(i) is not in agreement with the statement of affairs;

(ii) considers the statement of affairs to be erroneous or misleading; or

(iii) is without the direct knowledge necessary for concurring in it.

(5) The relevant person must deliver the required statement of concurrence and statement of truth to the official receiver before the end of the period of five business days (or such other period as the official receiver may agree) beginning with the day on which the relevant person receives the statement of affairs.

(6) The relevant person must deliver to the official receiver with these statements a copy of each of them.

Limited disclosure of statement of affairs

7.44.—(1) Where the official receiver thinks that disclosure of the whole or part of the statement of affairs would be likely to prejudice the conduct of the winding up or might reasonably be expected to lead to violence against any person, the official receiver may apply to the court for an order that the statement of affairs or any specified part of it must not be filed with the registrar of companies.

(2) The official receiver must as soon as reasonably practicable deliver to the registrar of companies a copy of the order, the statement of affairs to the extent allowed by the order and any statement of concurrence.

Release from duty to submit statement of affairs: extension of time (section 131)

7.45.—(1) The official receiver may exercise the power in section 131(5) to release a person from an obligation to submit a statement of affairs imposed under section 131(1) or (2), or to grant

an extension of time, either at the official receiver's own discretion, or at the request of a nominated person.

(2) A nominated person may apply to the court for a release or an extension of time if the official receiver refuses that person's request.

(3) The court may, if it thinks that no sufficient cause is shown, dismiss the application, but must not do so unless the applicant has had an opportunity to attend the court for a hearing, without notice to any other party, of which the court has delivered at least five business days' notice to the applicant.

(4) Unless the application is dismissed, the court must fix a venue for it to be heard, and deliver notice to the nominated person accordingly.

(5) The nominated person must, at least 14 days before the hearing, deliver to the official receiver a notice stating the venue and accompanied by a copy of the application, and of any evidence which the nominated person intends to provide in support of it.

(6) The official receiver may appear and be heard on the application; and, whether or not the official receiver appears, the official receiver may file a report of any matters which the official receiver considers ought to be drawn to the court's attention.

(7) Where a report is filed in accordance with paragraph (6), the official receiver must deliver a copy of it to the nominated person, not later than five business days before the hearing.

(8) The court must deliver sealed copies of any order made on the application to the nominated person and the official receiver.

(9) The applicant must pay the applicant's own costs in any event and, unless and to the extent that the court otherwise orders those costs will not be an expense of the winding up.

Statement of affairs: expenses

7.46.—(1) If a nominated person cannot personally prepare a proper statement of affairs, the official receiver may, as an expense of the winding up, employ some person or persons to assist in the preparation of the statement.

(2) At the request of a nominated person, made on the grounds that the nominated person cannot personally prepare a proper statement, the official receiver may authorise an allowance, payable as an expense of the winding up, towards expenses to be incurred by the nominated person in employing some person or persons to assist the nominated person in preparing it.

(3) Any such request by the nominated person must be accompanied by an estimate of the expenses involved; and the official receiver must only authorise the employment of a named person or a named firm, being in either case approved by the official receiver.

(4) An authorisation given by the official receiver under this rule must be subject to such conditions (if any) as the official receiver thinks fit to impose relating to the manner in which any person may obtain access to relevant documents and other records.

(5) Nothing in this rule relieves a nominated person from any obligation relating to the preparation, verification and submission of the statement of affairs, or to the provision of information to the official receiver or the liquidator.

(6) Any payment made as an expense of the winding up under this rule must be made in the prescribed order of priority.

(7) Paragraphs (2) to (6) of this rule may be applied, on application to the official receiver by any nominated person, in relation to the making of a statement of concurrence verified by a statement of truth.

Delivery of accounts to official receiver

7.47.—(1) Any of the persons specified in section 235(3) must, at the request of the official receiver, deliver to the official receiver accounts of the company of such nature, as at such date, and for such period, as the official receiver may specify.

(2) The period specified may begin from a date up to three years before the date of the presentation of the winding-up petition, or from an earlier date to which audited accounts of the company were last prepared.

(3) The court may, on the official receiver's application, require accounts for any earlier period.

(4) Rule 7.46 applies (with the necessary modifications) in relation to accounts to be delivered under this rule as it applies in relation to the statement of affairs.

(5) The accounts must, if the official receiver so requires, be verified by a statement of truth and (whether or not so verified) delivered to the official receiver within 21 days of the request under paragraph (1), or such longer period as the official receiver may allow.

Further disclosure

7.48.—(1) The official receiver may at any time require a nominated person to deliver (in writing) further information amplifying, modifying or explaining any matter contained in the statement of affairs, or in accounts delivered under the Act or these Rules.

(2) The information must, if the official receiver so directs, be verified by a statement of truth, and (whether or not so verified) delivered to the official receiver within 21 days of the requirement under paragraph (1), or such longer period as the official receiver may allow.

CHAPTER 7

REPORTS AND INFORMATION TO CREDITORS AND CONTRIBUTORIES

Reports by official receiver

7.49.—(1) The official receiver must deliver a report on the winding up and the state of the company's affairs to all the creditors and contributories at least once after the making of the winding-up order.

(2) The report must contain—

(a) identification details for the proceedings;

(b) contact details for the official receiver;

(c) a summary of the assets and liabilities of the company as known to the official receiver at the date of the report;

(d) such comments on the summary and the company’s affairs as the official receiver thinks fit; and

(e) any other information of relevance to the creditors or contributories.

(3) The official receiver may apply to the court to be relieved of any duty imposed by this rule or to be authorised to carry out the duty in another way.

(4) On such an application the court must have regard to the cost of carrying out the duty, to the amount of the assets available, and to the extent of the interest of creditors or contributories, or any particular class of them.

(5) If proceedings in a winding-up are stayed by order of the court any duty of the official receiver to deliver a report under this rule ceases.

Reports by official receiver – estimate of prescribed part

7.50.—(1) The official receiver must include in a report under rule 7.49(1) estimates to the best of the official receiver’s knowledge and belief of the value of—

(a) the prescribed part (whether or not the official receiver might be required under section 176A to make the prescribed part available for the satisfaction of unsecured debts); and

(b) the company's net property (as defined by section 176A(6)).

(2) If the official receiver proposes to make an application to court under section 176A(5) the report must say so and give the reason for the application.

(3) The official receiver may exclude from an estimate under paragraph (1) information the disclosure of which could seriously prejudice the commercial interests of the company.

(4) If the exclusion of such information affects the calculation of the estimate, the report must say so.

Further information where winding up follows administration

7.51.—(1) This rule applies where an administrator is appointed by the court under section 140 as the company's liquidator and becomes aware of creditors not formerly known to that person as administrator.

(2) The liquidator must deliver to those creditors a copy of any statement previously sent by the administrator to creditors in accordance with paragraph 49(4) of Schedule B1 and rule 3.33**.**

Notice of stay of winding up

7.52. Where the court grants a stay in a winding up it may include in its order such requirements on the company as it thinks just with a view to bringing the stay to the notice of creditors and contributories.

CHAPTER 8

THE LIQUIDATOR

Choosing a person to be liquidator

7.53.—(1) This rule applies where nominations are sought by the official receiver from the company's creditors and contributories under sections 136 for the purpose of choosing a person to be liquidator of the company in place of the official receiver.

(2) The official receiver must deliver to the creditors and contributories a notice inviting proposals for a liquidator.

(3) The notice must explain that the official receiver is not obliged to seek the creditors' views on any proposals that do not meet the requirements of paragraphs (4) and (5).

(4) Any proposal must state the name and contact details of the proposed liquidator, and contain a statement that the proposed liquidator is qualified to act as an insolvency practitioner in relation to the company and has consented to act as liquidator of the company.

(5) Any proposal must be received by the official receiver within five business days of the date of the notice under paragraph (2).

(6) Following the end of the period for inviting proposals under paragraph (2), where any proposals are received the official receiver must seek a decision on the nomination of a liquidator from the creditors (on any proposals received from creditors) and from the contributories (on any proposals received from contributories) by—

(a) a decision procedure; or

(b) the deemed consent procedure.

(7) Where the official receiver is required to seek such a decision, the official receiver must send a notice to the creditors or contributories (as appropriate) which complies with rule 15.6 or 15.7 so far as are relevant.

(8) The notice must also—

(a) identify any liquidator proposed to be nominated by a creditor (in the case of a notice to creditors) or by a contributory (in the case of a notice to contributories) in accordance with this rule; and

(b) contain a statement explaining the effect of section 137(2) (duty of official receiver to consider referral of need for appointment of liquidator to the Secretary of State where no person is chosen to be liquidator).

(9) The decision date in the notice must be no later than 21 days after the date for receiving proposals has passed.

(10) The creditors and contributories must be given at least 14 days' notice of the decision date.

(11) Where no proposal is received by the official receiver under paragraph (2), the official receiver has no obligation to seek a decision from creditors or contributories on a liquidator.

(12) Nothing in this rule affects the official receiver's ability under section 137(1), at any time when liquidator of the company, to apply to the Secretary of State to appoint a liquidator in place of the official receiver.

Appointment of liquidator by creditors or contributories

7.54.—(1) This rule applies where a person is appointed as liquidator by the creditors or contributories.

(2) The convener of the decision procedure or deemed consent procedure, or the chair in the case of a meeting must certify the appointment, but not unless and until the appointee has provided the convener or the chair a statement to the effect that the appointee is an insolvency practitioner qualified under the Act to be the liquidator and consents to act.

(3) The certificate must be authenticated and dated by the convener or chair and must—

(a) identify the company;

(b) identify and provide contact details for the person appointed as liquidator;

(c) state the date decision date on which the liquidator was appointed;

(d) state that the appointee—

(i) has provided a statement of being qualified to act as an insolvency practitioner in relation to the company;

(ii) has consented to act, and

(iii) was appointed as liquidator of the company.

(4) Where two or more liquidators are appointed the certificate must also specify (as required by section 231) whether any act required or authorised under any enactment to be done by the liquidator is to be done by all or any one or more of them.

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

(6) The convener or chair (if that person is not the official receiver) must deliver the certificate to the official receiver.

(7) The official receiver must in any case deliver the certificate to the liquidator.

Decisions on nomination

7.55.—(1) In the case of a decision for the nomination of a liquidator—

(a) if on any vote there are two nominees, the person who obtains the most support is appointed;

(b) if there are three or more nominees, and one of them has a clear majority over both or all the others together, that one is appointed; and

(c) in any other case, the convener or chair must continue to take votes (disregarding at each vote any nominee who has withdrawn and, if no nominee has withdrawn, the nominee who obtained the least support last time) until a clear majority is obtained for any one nominee.

(2) In the case of a decision being made at a meeting, the chair may at any time put to the meeting a resolution for the joint nomination of any two or more nominees.

Invitation to creditors and contributories to form a liquidation committee

7.56.—(1) Where a decision is sought from the company's creditors and contributories on the appointment of a liquidator, the convener of the decision must at the same time deliver to the creditors and contributories a notice inviting them to decide whether a liquidation committee should be established if sufficient creditors are willing to be members of the committee.

(2) The notice must also invite nominations for membership of the committee, such nominations to be received by a date specified in the notice.

(3) The notice must—

(a) state that nominations must be delivered to the convener by the specified date;

(b) state, in the case of creditors, that nominations can only be accepted if the convener is satisfied as to the creditors' eligibility under rule 17.4; and

(c) explain the effect of section 141(2) and (3) on whether a committee is to be established under Part 17.

Appointment by the court

7.57.—(1) This rule applies where the liquidator is appointed by the court under section 139(4) (different persons nominated by creditors and contributories) or section 140 (winding up following administration or CVA).

(2) The court must not make the order unless and until the person being appointed has filed with the court a statement to the effect that that person is an insolvency practitioner, duly qualified under the Act to be the liquidator, and consents to act.

(3) The order of the court must contain—

(a) identification details for the proceedings;

(b) the name and title of the person making the order;

(c) the name and postal address of the applicant;

(d) the capacity in which the applicant is making the application;

(e) identification and contact details for the proposed appointee as liquidator;

(f) a statement that the appointee has filed—

(i) a statement of qualification to act as an insolvency practitioner in relation to the company; and

(ii) a consent to act;

(g) the order that upon consideration of the evidence it is ordered that the appointee, is appointed liquidator of the company; and

(h) the date on which the order is made.

(4) Where two or more liquidators are appointed the order must also specify (as required by section 231) whether any act required or authorised under any enactment to be done by the liquidator is to be done by all or any one or more of them.

(5) The court must deliver two copies of the order to the official receiver one of which must be sealed.

(6) The official receiver must deliver the sealed copy of the order to the person appointed as liquidator.

(7) The liquidator's appointment takes effect from the date of the order.

(8) Within 28 days from appointment, the liquidator must—

(a) deliver notice of the appointment to all creditors and contributories of the company of whom the liquidator is aware; or

(b) advertise the appointment in accordance with any directions given by the court.

(9) In the notice under this rule the liquidator must—

(a) state whether the liquidator proposes to seek decisions from creditors and contributories for the purpose of establishing a liquidation committee, or proposes only to seek a decision from creditors for that purpose; and

(b) if the liquidator does not propose to seek any such decision, set out the powers of the creditors under the Act to require the liquidator to seek one.

Appointment by Secretary of State

7.58.—(1) This rule applies where the official receiver applies to the Secretary of State to appoint a liquidator in place of the official receiver, or refers to the Secretary of State the need for an appointment.

(2) If the Secretary of State makes an appointment, the Secretary of State must deliver a copy of the certificate of appointment to the official receiver, who must deliver it to the person appointed.

(3) The certificate must specify the date from which the liquidator's appointment is to be effective.

Cost of liquidator's security (section 390(3))

7.59. The cost of the liquidator's security required by section 390(3) for the proper performance of the liquidator's functions is an expense of the winding up.

Appointment to be gazetted and registered

7.60.—(1) The liquidator—

(a) must gazette a notice of the appointment as soon as reasonably practicable after appointment; and

(b) may advertise the notice in such other manner as the liquidator thinks fit.

(2) The notice must state—

(a) that a liquidator has been appointed; and

(b) the date of the appointment.

(3) As soon as reasonably practicable the liquidator must deliver notice of the appointment to the registrar of companies.

Hand-over of assets by official receiver to liquidator

7.61.—(1) This rule only applies where the liquidator is appointed in succession to the official receiver acting as liquidator.

(2) When the liquidator's appointment takes effect, the official receiver must as soon as reasonably practicable do all that is required for putting the liquidator into possession of the assets.

(3) On taking possession of the assets, the liquidator must discharge any balance due to the official receiver on account of—

(a) expenses properly incurred by the official receiver and payable under the Act or these Rules; and

(b) any advances made by the official receiver in respect of the assets, together with interest on such advances at the rate specified in section 17 of the Judgments Act 1838**(a)** at the date of the winding-up order.

(**a**) Section 17 has been amended by the Statute Law Revision (No 2) Act 1888 (c.57), article 2 of SI 1993/564, article 3 of SI 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.

(4) Alternatively, the liquidator may (before taking office) give to the official receiver a written undertaking to discharge any such balance out of the first realisation of assets.

(5) The official receiver has a charge on the assets in respect of any sums due to the official receiver under paragraph (3) until they have been discharged, subject only to the deduction from realisations by the liquidator of the costs and expenses of such realisations.

(6) The liquidator must from time to time out of the realisation of assets discharge all guarantees properly given by the official receiver for the benefit of the estate, and must pay all the official receiver's expenses.

(7) The official receiver must give to the liquidator all such information relating to the affairs of the company and the course of the winding up as the official receiver considers to be reasonably required for the effective discharge by the liquidator of the liquidator's duties.

(8) The official receiver must also deliver to the liquidator a copy of any report made by the official receiver under Chapter 7 of Part 7.

Liquidator's resignation

7.62.—(1) A liquidator may resign only—

(a) on grounds of ill health;

(b) because of the intention to cease to practise as an insolvency practitioner;

(c) because the further discharge of the duties of liquidator is prevented or made impracticable by—

(i) a conflict of interest, or

(ii) a change of personal circumstances;

(d) where two or more persons are acting as liquidator jointly, and it is the opinion of both or all of them that it is no longer expedient that there should continue to be that number of joint liquidators.

(2) Before resigning, the liquidator must deliver a notice to creditors, and invite the creditors by a decision procedure, or by deemed consent, to consider whether a replacement should be appointed.

(3) The notice must—

(a) state the liquidator's intention to resign; and

(b) comply with rule 15.6 or 15.7 so far as applicable.

(4) The notice may suggest the name of a replacement liquidator.

(5) The decision date must be not more than five business days before the date on which the liquidator intends to give notice under section 176(2).

(6) The resigning liquidator's release is effective from the date on which the notice of resignation under section 172(6) is filed with the court.

Notice to official receiver of intention to vacate office

7.63.—(1) This rule applies where the liquidator intends to vacate office, whether by resignation or otherwise, and as a result there will be a vacancy in the office of liquidator (so that by virtue of section 136(3) the official receiver is liquidator until the vacancy is filled).

(2) The liquidator must deliver notice of that intention to the official receiver at least 21 days before the liquidator intends to vacate office.

(3) The liquidator must include in the notice to the official receiver the following details of any property of the company which has not been realised, applied, distributed or otherwise fully dealt with in the winding up—

(a) the nature of the property,

(b) its value (or the fact that it has no value),

(c) its location,

(d) any action taken by the liquidator to deal with the property or any reason for the liquidator not dealing with it, and

(e) the current position in relation to it.

Decision of creditors to remove liquidator

7.64.—(1) Where the convener of the decision procedure or chair of the meeting (as the case may be) is other than the official receiver, and a decision is made, using a decision procedure, to remove the liquidator, the convener or chair must within three business days of the decision to remove the liquidator deliver a certificate to that effect to the official receiver.

(2) If the creditors decided to appoint a new liquidator, the certificate of the new liquidator's appointment must also be delivered to the official receiver within that time; and rule 7.54 must be complied with in relation to it.

(3) The certificate of the liquidator's removal must—

(a) identify the company;

(b) identify and provide contact details for the liquidator;

(c) state that the creditors of the company decided on the date specified in the certificate that the liquidator specified in the certificate be removed from office as liquidator of the company;

(d) state the decision procedure used, and the decision date;

(e) state that the creditors either—

(i) did not decide against the liquidator being released, or

(ii) decided that the liquidator should not be released; and

(f) be authenticated and dated by the convener or chair.

(4) The liquidator's removal is effective from the date of the certificate of removal.

Procedure on removal by creditors

7.65.—(1) Where the creditors have decided that the liquidator be removed, the official receiver must file the certificate of removal with the court.

(2) The official receiver must deliver a copy of the certificate as soon as reasonably practicable to—

(a) the removed liquidator; and

(b) the registrar of companies.

Removal of liquidator by the court (section 172(2))

7.66.—(1) This rule applies where an application is made to the court under section 172(2) for the removal of the liquidator, or for an order directing the liquidator to initiate a decision procedure of creditors for the purpose of removing the liquidator.

(2) The court must fix a venue for the application to be heard unless the court thinks that no sufficient cause is shown for the application, in which case it must deliver a notice to that effect to the applicant.

(3) If, within five business days of delivery of that notice, the applicant applies for a hearing to determine whether sufficient cause is shown, the court must fix a venue for the hearing without notice to any other party.

(4) If the applicant does not apply for such a hearing the court may dismiss the application without a hearing.

(5) The court may require the applicant to make a deposit or give security for the costs to be incurred by the liquidator on the application.

(6) The applicant must, at least 14 days before the hearing, deliver to the liquidator and the official receiver a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to provide in support of it.

(7) On a successful application the court's order must contain—

(a) the name of the court in which the order is made;

(b) the name and title of the person making the order;

(c) the name and postal address of the applicant;

(d) the capacity in which the applicant is making the application;

(e) identification and contact details for the liquidator;

(f) identification details for the company;

(g) an order either—

(i) that upon consideration of the evidence it is ordered that the liquidator be removed from office; or

(ii) that upon consideration of the evidence it is ordered that the liquidator must initiate a decision procedure of the company's creditors (specifying which procedure is to be used) on or before the date specified in the order for the purpose of considering the liquidator's removal from office; and

(h) the date the order is made.

(8) The costs of the application are not payable as an expense of the winding up unless the court orders otherwise.

(9) Where the court removes the liquidator—

(a) it must deliver the sealed order of removal to the former liquidator and a copy of the order to the official receiver; and

(b) the former liquidator must deliver a copy of the order to the registrar of companies as soon as reasonably practicable.

(10) If the court appoints a new liquidator, rule 7.57 applies.

Removal of liquidator by Secretary of State (section 172(4))

7.67.—(1) This rule applies where the Secretary of State decides to direct under section 172(4) the removal of a liquidator appointed by the Secretary of State.

(2) Before doing so the Secretary of State must deliver to the liquidator and the official receiver a notice of the Secretary of State's decision and the grounds for the decision.

(3) The notice must specify a period within which the liquidator may make representations against implementation of the decision.

(4) If the Secretary of State directs the removal of the liquidator, the Secretary of State must as soon as reasonably practicable—

(a) deliver notice of the Secretary of State's decision to the registrar of companies, the liquidator and the official receiver; and

(b) file notice of the decision with the court.

(5) Where the Secretary of State directs the liquidator be removed the court may make any order that it could have made if the liquidator had been removed by the court.

Deceased liquidator

7.68.—(1) If the liquidator (not being the official receiver) dies a notice of the fact and date of death must be delivered to the official receiver by one of the following—

(a) a surviving joint liquidator;

(b) a member in the deceased liquidator's firm (if the deceased was a member or an employee of a firm);

(c) an officer of the deceased liquidator's company (if the deceased was an officer or employee of a company);

(d) a personal representative of the deceased liquidator.

(2) If no such notice has been delivered within the 21 days following the liquidator's death then any other person may deliver the notice.

(3) The official receiver must—

(a) file notice of the death with the court, for the purpose of fixing the date of the deceased liquidator's release under section 174(4)(a); and

(b) deliver a copy of the notice to the registrar of companies.

Loss of qualification as insolvency practitioner

7.69.—(1) This rule applies where the liquidator vacates office on ceasing to be qualified to act as an insolvency practitioner in relation to the company.

(1) The liquidator must as soon as reasonably practicable deliver a notice of doing so to the official receiver.

(2) The notice must be authenticated and dated by the liquidator.

(3) The official receiver must—

(a) deliver a notice of receiving such a notice to the Secretary of State; and

(b) deliver a copy to the registrar of companies.

Application by liquidator for release (section 174(4)(b) or (d))

7.70.—(1) An application by a liquidator to the Secretary of State for release under section 174(4)(b) or (d)(**a**) must—

(a) identify and provide contact details for the liquidator;

(b) identify the company;

(c) state that the liquidator of the company is applying to the Secretary of State to grant the liquidator with a certificate of the liquidator's release as liquidator as a result of the circumstances specified in the application;

(d) provide details of the circumstances referred to in sub-paragraph (c) under which the liquidator has ceased to act as liquidator; and

(e) be authenticated and dated by the liquidator.

(2) When the Secretary of State gives the release, the Secretary of State must certify it accordingly and deliver a copy to the registrar of companies.

(3) The Secretary of State must deliver a copy of the certificate to the former liquidator, whose release is effective from the date of the certificate.

Release of official receiver

7.71.—(1) The official receiver must, before giving notice to the Secretary of State under section 174(3) (that the winding up is for practical purposes complete), deliver notice of intention to do so to all creditors.

(2) The notice must in each case be accompanied by a summary of the official receiver's receipts and payments as liquidator.

(**a**) Section 174 is amended by paragraph 45 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

(3) The summary of receipts and payments must also include a statement as to the amount paid to unsecured creditors under section 176A (prescribed part).

(4) When the Secretary of State has determined the date from which the official receiver's release is to be effective, the Secretary of State must file a notice of the release with the court.

(5) The Secretary of State's notice of release must be accompanied by the summary of the official receiver's receipts and payments.

Final account prior to dissolution (section146)

7.72.—(1) The final account which the liquidator is required to make up under section 146(2) and deliver to creditors must comply with the requirements of rule 18.14.

(2) When the account is delivered to the creditors it must be accompanied by a notice which states—

(a) that the company's affairs are fully wound up;

(b) that the creditor has the right to request information from the liquidator under rule 18.10;

(c) that a creditor has the right to challenge the liquidator's remuneration and expenses under rule 18.28;

(d) that a creditor may object to the release of the liquidator by giving notice in writing to the liquidator before the end of the prescribed period;

(e) that the prescribed period is the period ending at the later of —

(i) eight weeks after delivery of the notice; or

(ii) if any request for information under rule 18.10 or any application to court under that rule or rule 18.28 is made when that request or application is finally determined;

(f) that the liquidator will vacate office under section 172(8)(**a**) as soon as the liquidator has complied with section 146(4) by filing with the court and delivering to the registrar of companies the final account and notice saying whether any creditors have objected to the liquidator's release;

(g) that the liquidator will be released under section 174(4)(d)(ii)(**b**) at the same time as vacating office unless any of the creditors objected to the release.

(3) The liquidator must deliver a copy of the notice under section 146(4) to the Secretary of State.

(4) Rule 7.70 applies to an application by the liquidator to the Secretary of State for release.

Rule as to reporting

7.73.—(1) The court may, on the application of the liquidator or the official receiver, relieve the liquidator or official receiver of any duty imposed on the liquidator or official receiver by rule 7.71 or rule 7.72, or authorise the liquidator or official receiver to carry out the duty in a way other than required by either of those rules.

(2) In considering whether to act under this rule, the court must have regard to the cost of carrying out the duty, to the amount of the assets available, and to the extent of the interest of creditors or contributories, or any particular class of them.

Liquidator's duties on vacating office

7.74.—(1) A liquidator who ceases to be in office in consequence of removal, resignation or loss of qualification as an insolvency practitioner, must as soon as reasonably practicable deliver to the successor as liquidator—

(**a**) New subsection (8) substituted by paragraph 43 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.
(**b**)

(a) the assets (after deduction of any expenses properly incurred, and distributions made, by the previous liquidator);

(b) the records of the winding up, including correspondence, proofs and other documents relating to the winding up while it was within the former liquidator's responsibility; and

(c) the company's documents and other records.

(2) Where the liquidator vacates office under section 172(8) (final report to creditors), the liquidator must deliver to the official receiver the company's documents and other records which have not already been disposed of in accordance with general regulations in the course of the winding up.

Power of court to set aside certain transactions

7.75.—(1) If in dealing with the estate the liquidator enters into any transaction with a person who is an associate of the liquidator, the court may, on the application of any person interested, set the transaction aside and order the liquidator to compensate the company for any loss suffered in consequence of it.

(2) This does not apply if either—

(a) the transaction was entered into with the prior consent of the court; or

(b) it is shown to the court's satisfaction that the transaction was for value, and that it was entered into by the liquidator without knowing, or having any reason to suppose, that the person concerned was an associate.

(3) Nothing in this rule is to be taken as prejudicing the operation of any rule of law or equity relating to a liquidator's dealings with trust property, or the fiduciary obligations of any person.

Rule against improper solicitation

7.76.—(1) Where the court is satisfied that any improper solicitation has been used by or on behalf of the liquidator in obtaining proxies or procuring the liquidator's appointment, it may order that no remuneration be allowed as an expense of the winding up to any person by whom, or on whose behalf, the solicitation was exercised.

(2) An order of the court under this rule overrides any resolution of the liquidation committee or the creditors, or any other provision of these Rules relating to the liquidator's remuneration.

CHAPTER 9

DUTIES AND POWERS OF LIQUIDATOR

General duties of liquidator

7.77.—(1) The duties which the Act imposes on the court relating to the collection of the company's assets and their application in discharge of its liabilities are discharged by the liquidator as an officer of the court subject to its control.

(2) In the discharge of the liquidator's duties, the liquidator, for the purposes of acquiring and retaining possession of the company's property, has the same powers as a receiver appointed by the High Court, and the court may on the application of the liquidator enforce such acquisition or retention accordingly.

Permission for exercise of powers by liquidator

7.78.—(1) Where these Rules require permission for the liquidator to exercise a power any permission given must not be a general permission but must relate to a particular proposed exercise of the liquidator's power.

(2) A person dealing with the liquidator in good faith and for value is not concerned to enquire whether any such permission has been given.

(3) Where the liquidator has done anything without such permission, the court or the liquidation committee may, for the purpose of enabling the liquidator to meet the liquidator's expenses out of the assets, ratify what the liquidator has done; but neither must do so unless satisfied that the liquidator has acted in a case of urgency and has sought ratification without undue delay.

(4) In this Rule "permission" includes "sanction".

Enforced delivery up of company's property (section 234)

7.79.—(1) The powers conferred on the court by section 234 (enforced delivery of company property) are exercisable by the liquidator or, where a provisional liquidator has been appointed, by the provisional liquidator.

(2) Any person on whom a requirement under section 234(2) is imposed by the liquidator or provisional liquidator must, without avoidable delay, comply with it.

CHAPTER 10

SETTLEMENT OF LIST OF CONTRIBUTORIES

Delegation to liquidator of power to settle list of contributories

7.80.—(1) The duties of the court under section 148 in relation to settling the list of contributories are, by virtue of these Rules and in accordance with section 160, delegated to the liquidator.

(2) The liquidator's duties in settling the list of contributories are performed as an officer of the court subject to the court's control.

Duty of liquidator to settle list (section 148)

7.81.—The liquidator must, as soon as reasonably possible after the liquidator's appointment, exercise the court's power to settle a list of the company's contributories for the purposes of section 148 and, with the court's approval, rectify the register of members.

Contents of list

7.82.—(1) The list must identify—

(a) the several classes of the company's shares (if more than one); and

(b) the several classes of contributories, distinguishing between those who are contributories in their own right and those who are so as representatives of, or liable for the debts of, others.

(2) In the case of each contributory the list must state—

(a) the address of the contributory;

(b) the number and class of shares, or the extent of any other interest to be attributed to the contributory; and

(c) if the shares are not fully paid up, the amounts which have been called up and paid in respect of them (and the equivalent, if any, where the interest of the contributory is other than shares).

Procedure for settling list

7.83.—(1) Having settled the list, the liquidator must as soon as reasonably practicable deliver a notice, to every person included in the list, that this has been done.

(2) The notice given to each person must state—

(a) in what character, and for what number of shares or what interest, that person is included in the list;

(b) what amounts have been called up and paid up in respect of the shares or interest; and

(c) that in relation to any shares or interest not fully paid up, that person's inclusion in the list may result in the unpaid capital being called.

(3) The notice must inform any person to whom it is given that, if that person objects to any entry in, or omission from, the list, that person should so inform the liquidator in writing within 21 days from the date of the notice.

(4) On receipt of an objection, the liquidator must within 14 days deliver a notice to the objector either—

(a) that the liquidator has amended the list (specifying the amendment); or

(b) that the liquidator considers the objection to be not well-founded and declines to amend the list.

(5) The notice must in either case inform the objector of the effect of rule 7.84.

Application to court for variation of the list

7.84.—(1) If a person ("the objector") objects to any entry in, or exclusion from, the list of contributories as settled by the liquidator and, notwithstanding notice by the liquidator declining to amend the list, the objector maintains the objection, the objector may apply to the court for an order removing the entry objected to or (as the case may be) otherwise amending the list.

(2) The application must be made within 21 days of the delivery to the applicant of the liquidator's notice under rule 7.83(4).

Variation of, or addition to, the list

7.85. The liquidator may from time to time vary or add to the list of contributories as previously settled by the liquidator, but subject in all respects to the preceding rules in this Chapter.

Costs of applications to vary etc. the list of contributories

7.86. Where a person applies to set aside or vary any act or decision of the liquidator in settling the list of contributories then—

(a) the liquidator (if other than the official receiver) is not liable for any costs incurred by that person in relation to the application unless the court makes an order to that effect; and

(b) the official receiver is not personally liable for such costs.

CHAPTER 11

CALLS ON CONTRIBUTORIES

Delegation to liquidator of power to make calls (sections 150 and 160)

7.87.—(1) Subject as follows the powers relating to the making of calls on contributories are exercisable by the liquidator as an officer of the court.

(2) However as provided by section 160(2) the making of a call requires either the sanction of the liquidation committee or the court's special permission.

Sanction of the liquidation committee for making a call

7.88.—(1) Where the liquidator proposes to make a call, and there is a liquidation committee, the liquidator may summon a meeting of the committee for the purpose of obtaining its sanction.

(2) The liquidator must deliver a notice of the meeting to each member of the committee giving at least five business days' notice of the meeting.

(3) The notice must state the purpose of making the call and the proposed amount of the call.

Application to court for permission to make a call (sections 150 and 160)

7.89.—(1) Where the liquidator proposes to make a call the liquidator may apply to the court without notice to any other party for permission to make a call on any contributories of the company.

(2) The application must state the amount of the proposed call, and the contributories on whom it is to be made.

(3) The application must be supported by a witness statement accompanied by a schedule.

(4) The witness statement must have the title "Witness statement of liquidator in support of application for call" and must contain—

(a) identification and contact details for the liquidator;

(b) identification details for the company;

(c) the number of persons on the list of contributories settled by the liquidator;

(d) the total number of shares to which the proposed call relates;

(e) the statement that in addition to the amount of the assets of the company mentioned in the schedule the liquidator believes a further sum will be required to satisfy the debts and liabilities of the company, and pay the expenses of and incidental to the winding up;

(f) the additional sum required;

(g) a statement that in order to provide the additional sum it is necessary to make a call upon the persons on the settled list of contributories, and that as it is probable that some of those contributories will partly or wholly fail to pay the amount of the call, the liquidator believes that it is necessary that a call of a specified amount per share be made in order to realise the amount required;

(h) the specified amount per share.

(5) The accompanying schedule must show—

(a) the amount due in respect of debts already proved;

(b) the estimated amount of—

(i) further liabilities of the company, and

(ii) the expenses of the winding up;

(c) the total of the amounts referred to in sub-paragraphs (a) and (b);

(d) a list of the assets in hand belonging to the company with their total value.

(6) The schedule must be verified by a statement of truth made by the liquidator.

Order giving permission to make a call

7.90.—(1) The court's order giving permission to make a call must have the title "Order giving permission to make a call" and must contain—

(a) the name of the court;

(b) the name and title of the person making the order;

(c) identification and contact details for the liquidator;

(d) identification details for the company;

(e) a statement that upon consideration of the evidence it is ordered that the liquidator may make a call of the amount per share specified in the order on the contributories who are specified in the order;

(f) the amount per share of the call;

(g) the names of the contributories of the company on whom the liquidator is to make the call;

(h) an order that each such contributory must on or before the date specified in the order pay to the liquidator of the company the amount due from that contributory in respect of the call; and

(i) the date of the making of the order.

(2) The court may direct that notice of the order be delivered to the contributories concerned, or to other contributories, or may direct that the notice be publicly advertised.

Making and enforcement of the call

7.91.—(1) The liquidator must deliver a notice of the call to each of the contributories concerned.

(2) The notice must contain—

(a) identification details for the company;

(b) identification and contact details for the liquidator;

(c) a statement that a call on the contributories specified in the notice of the amount per share stated in the notice was sanctioned by—

(i) a resolution of the liquidation committee of the company passed on the date which is stated in the notice, or

(ii) an order of the court named in the notice on the date which is stated in the notice;

(d) the amount per share of the call;

(e) the amount or balance due from the contributory to whom the notice is addressed in respect of the call;

(f) the date by which the sum must be paid;

(g) a warning to the contributory that, if the required sum is not paid by the date specified in the notice, interest at the rate specified in the notice will be charged on the unpaid amount from that date until payment; and

(h) the specified annual interest rate.

(3) The notice must be accompanied by a copy of the resolution of the liquidation committee sanctioning the call or of the court's order giving permission as the case may be.

Court order to enforce payment of call by a contributory

7.92.—(1) The court may make an order to enforce payment of the amount due from any contributory.

(2) The order must have the title "Order for payment of call due from contributory" and must contain—

(a) the name of the court;

(b) the name and title of the person making the order;

(c) identification and contact details for the liquidator who has made the application;

(d) identification details for the company;

(e) the name and postal address of the contributory who is the subject of the order;

(f) the amount per share of the call;

(g) an order that upon the application of the liquidator and upon consideration of the evidence the contributory must pay the liquidator the sum stated in the order in respect of the call on or before the date stated in the order or within four business days after service of the order whichever is the later;

(h) an order that the contributory pay the liquidator interest at the rate stated in the order for the period commencing from the date specified in the order to the date of payment;

(i) order that the contributory pay the liquidator a stated sum in respect of the liquidator's costs of the application within the same period as the amount of the call must be paid;

(j) a warning to the contributory that if the required sums are not paid within the time specified in the order further steps will be taken to compel the contributory to comply with the order;

(k) the date of the making of the order.

CHAPTER 12

SPECIAL MANAGER

7.93. This Chapter applies to application by a liquidator and by and a provisional liquidator, where one has been appointed, and so references to the liquidator are to be read as including a provisional liquidator.

Appointment and remuneration of special manager (section 177)

7.94.—(1) An application made by the liquidator under section 177 for the appointment of a special manager must be supported by a report setting out the reasons for the application.

(2) The report must include the applicant's estimate of the value of the business or property in relation to which the special manager is to be appointed.

(3) The court's order appointing the special manager must have the title "Order of appointment of special manager" and must contain—

(a) identification details for the proceedings;

(b) the name and title of the person making the order;

(c) the name and address of the applicant;

(d) the name and address of the proposed appointee as special manager;

(e) the order that upon consideration of the evidence it is ordered that the appointee is appointed as special manager of the company;

(f) details of the special manager's responsibility over the company's business or property;

(g) the powers to be entrusted to the special manager under section 177(4);

(h) the time allowed for the special manager to give the required security for the appointment;

(i) the duration of the special manager's appointment being one of the following—

(i) for a fixed period stated in the order;

(ii) until the occurrence of a specified event; or

(iii) until the court makes a further order;

(j) an order that the special manager's remuneration will be fixed from time to time by the court; and

(k) the date of the making of the order.

(4) The appointment of a special manager may be renewed by order of the court.

(5) The special manager's remuneration will be fixed from time to time by the court.

(6) The acts of the special manager are valid notwithstanding any defect in the special manager's appointment or qualifications.

Security

7.95.—(1) The appointment of the special manager does not take effect until the person appointed has given (or, if the court allows, undertaken to give) security to the applicant for the appointment.

(2) A person appointed as a special manager may give security either specifically for a particular winding up, or generally for any winding up in relation to which that person may be employed as special manager.

(3) The amount of the security must be not less than the value of the business or property in relation to which the special manager is appointed, as estimated in the applicant's report which accompanied the application for appointment.

(4) When the special manager has given security to the applicant that person must file with the court a certificate as to the adequacy of the security.

(5) The cost of providing the security must be paid in the first instance by the special manager; but—

(a) where a winding-up order is not made, the special manager is entitled to be reimbursed out of the property of the company, and the court may order accordingly; and

(b) where a winding-up order is made, the special manager is entitled to be reimbursed as an expense of the winding up in the prescribed order of priority.

Failure to give or keep up security

7.96.—(1) If the special manager fails to give the required security within the time allowed for that purpose by the order of appointment, or any extension of that time that may be allowed, the liquidator must report the failure to the court, which may discharge the order appointing the special manager.

(2) If the special manager fails to keep up the security, the liquidator must report the failure to the court, which may remove the special manager, and make such order as it thinks just as to costs.

(3) If the court discharges the order appointing the special manager or makes an order removing the special manager, the court must give directions as to whether any, and if so what, steps should be taken for the appointment of another special manager.

Accounting

7.97.—(1) The special manager must produce accounts, containing details of the special manager's receipts and payments, for the approval of the liquidator.

(2) The accounts must be for—

(a) each three month period for the duration of the special manager's appointment; or

(b) any shorter period ending with the termination of the special manager's appointment.

(3) When the accounts have been approved, the special manager's receipts and payments must be added to those of the liquidator.

Termination of appointment

7.98.—(1) The special manager's appointment terminates—

(a) if the winding-up petition is dismissed; or

(b) in a case where a provisional liquidator was appointed under section 135, if the appointment is discharged without a winding-up order having been made.

(2) If the liquidator is of opinion that the employment of the special manager is no longer necessary or beneficial for the company, the liquidator must apply to the court for directions, and the court may order the special manager's appointment to be terminated.

(3) The liquidator must make the same application if the creditors decide that the appointment should be terminated.

Applications relating to promoters, past managers etc. (section 133(1)(c))

7.99. An application under section 133(1) for the public examination of a person falling within paragraph (c) of subsection (1) (promoters, past managers, etc.) must be accompanied by a report by the official receiver indicating—

(a) the grounds on which the official receiver thinks the person is within that paragraph; and

(b) whether the official receiver thinks it is likely that the order can be served on the person at a known address and, if so, by what means.

Request by a creditor for a public examination (section 133(2))

7.100.—(1) A request made under section 133(2) by a creditor to the official receiver for the public examination of a person must contain—

(a) identification details for the company;

(b) the name and postal address of the creditor;

(c) the name and postal address of the proposed examinee;

(d) a description of the relationship which the proposed examinee has, or has had, with the company;

(e) a request by the creditor to the official receiver to apply to the court for a public examination of the proposed examinee under section 133(2);

(f) the amount of the creditor's claim in the winding up;

(g) a statement that the total amount of the creditor's and any concurring creditors' claims is believed to represent not less than one-half in value of the debts of the company;

(h) a statement that the creditor understands the requirement to deposit with the official receiver such sum as the official receiver may determine to be appropriate by way of security for the expenses of holding a public examination;

(i) a statement that the creditor believes that a public examination is required for the reason stated in the request.

(2) The request must be authenticated and dated by the creditor.

(3) The request must be accompanied by—

(a) a list of the creditors concurring with the request and the amounts of their respective claims in the winding up, with their respective values; and

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

Request by a contributory for a public examination

7.101.—(1) A request made under section 133(2) by a contributory to the official receiver for the public examination of a person must contain—

(a) identification details for the company;

(b) the name and postal address of the contributory;

(c) the name and postal address of the proposed examinee;

(d) a description of the relationship which the proposed examinee has, or has had, with the company;

(e) a request by the contributory to the official receiver to apply to the court for a public examination of the proposed examinee under section 133(2);

(f) the number of shares held in the company by the contributory;

(g) the number of votes to which the contributory is entitled;

(h) a statement that the total amount of the contributory's and any concurring contributories' shares and votes is believed to represent not less than three-quarters in value of the company's contributories;

(i) a statement that the contributory understands the requirement to deposit with the official receiver such sum as the official receiver may determine to be appropriate by way of security for the expenses of holding a public examination;

(j) a statement that the contributory believes that a public examination is required for the reason specified in the request.

(2) The request must be authenticated and dated by the contributory.

(3) The request must be accompanied by—

(a) a list of the contributories concurring with the request and the number of shares and votes each holds in the company; and

(b) from each concurring contributory, confirmation of the concurrence and of the number of shares and votes held in the company.

Further provisions about requests by a creditor or contributory for a public examination

7.102.—(1) A request by a creditor or contributory for a public examination does not require the support of concurring creditors or contributories if the requisitioning creditor's debt or, as the case may be, requisitioning contributory's shares, is sufficient alone under section 133(2).

(2) Before the official receiver makes the requested application, the creditor or contributory requesting the examination must deposit with the official receiver such sum (if any) as the official receiver determines is appropriate as security for the expenses of the public examination (if ordered).

(3) The official receiver must make the application for the examination—

(a) within 28 days of receiving the creditor's or contributory's request (if no security is required under paragraph (2); or

(b) within 28 days of the creditor or contributory (as the case may be) depositing the required security.

(4) However if the official receiver thinks the request is unreasonable, the official receiver may apply to the court for an order to be relieved from making the application.

(5) If the application for an order under paragraph (4) is made without notice to any other party and the court makes such an order then the official receiver must deliver a notice of the order as soon as reasonably practicable to the creditors or contributories who requested the examination.

(6) If the court dismisses the official receiver's application, the official receiver must make the application under section 133(2) as soon as reasonably practicable.

Order for public examination

7.103.—(1) An order for a public examination must have the title "Order of Public Examination" and must contain the following—

(a) identification details for the proceedings;

(b) the name and title of the person making the order;

(c) the name and postal address of the person to be examined;

(d) the venue for the public examination;

(e) the order that upon the application of the official receiver and upon consideration of the evidence it is ordered that the person named in the order must attend the specified venue for the purpose of being publicly examined;

(f) the date of the making of the order;

(g) a warning to the person to be examined that failure without reasonable excuse to attend the public examination at the time and place specified in the order will make the person

liable to be arrested without further notice under section 134(2); and that the person will also be guilty of contempt of court under section 134(1) and be liable to be committed to prison or fined.

(2) The official receiver must serve a copy of the order on the person to be examined as soon as reasonably practicable after the order is made.

(3) The court must rescind an order for the public examination of a person who was said to fall within section 133(1)(c) if that person satisfies the court that it is not so.

Notice of the public examination

7.104.—(1) The official receiver must give at least 14 days' notice of the public examination to—

(a) the liquidator (if a liquidator has been nominated or appointed);

(b) the special manager (if a special manager has been appointed); and

(c) all the creditors and all the contributories of the company who are known to the official receiver (subject to any direction of the court);

(2) Where the official receiver thinks fit notice of the order may be given by gazetting the notice.

(3) The official receiver may in addition to gazetting the notice advertise it in such other manner as the official receiver thinks fit;

(4) The notice must state—

(a) the purpose of the public examination; and

(b) the venue.

(5) Unless the court directs otherwise, the official receiver must not give notice under paragraph (2) of an order relating to a person falling within section 133(1)(c) until at least five business days have elapsed since the examinee was served with the order.

Examinee unfit for examination

7.105.—(1) Where the examinee is a person who lacks capacity within the meaning of the Mental Capacity Act 2005(**a**) or is unfit to undergo or attend for public examination, the court may—

(a) stay the order for the examinee's public examination, or

(b) order that it is to be conducted in such manner and at such place as it thinks just.

(2) The applicant for an order under paragraph (1) must be—

(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 examinee;

(b) a person who appears to the court to be a suitable person to make the application; or

(c) the official receiver.

(3) Where the application is made by a person other than the official receiver, then—

(a) the application must, unless the examinee is a person who lacks capacity within the meaning of the Mental Capacity Act 2005, be supported by the witness statement of a registered medical practitioner as to the examinee's mental and physical condition;

(b) at least five business days' notice of the application must be given to the official receiver and the liquidator (if other than the official receiver); and

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(**a**) 2005 c.9.

(c) before any order is made on the application, the applicant must deposit with the official receiver such sum as the latter certifies to be necessary for the additional expenses of an examination.

(4) An order must contain—

(a) identification details for the proceedings;

(b) the name and title of the person making the order;

(c) the name and postal address of the applicant;

(d) the capacity in which the applicant (other than the official receiver) is making the application;

(e) the name and postal address of the examinee;

(f) the date of the order for the examinee's public examination ("the original order");

(g) the order that upon consideration of the evidence, the court is satisfied that the examinee specified in the order lacks capacity within the meaning of the Mental Capacity Act 2005 to manage and administer the examinee's property and affairs or is unfit to undergo a public examination;

(h) an order that—

(i) the original order be stayed on the grounds that the examinee is unfit to undergo a public examination; or

(ii) the original order be varied (as specified in this order) on the grounds that the examinee is unfit to attend the public examination fixed by the original order; and

(i) the date of the making of the order.

(5) Where a person other than the official receiver makes the application, the court may order that some or all of the expenses of the examination are to be payable out of the deposit under paragraph (3)(c), instead of as an expense of the winding up.

(6) Where the application is made by the official receiver it may be made without notice to any other party, and may be supported by evidence set out in a report by the official receiver to the court.

Procedure at public examination

7.106.—(1) At the public examination the examinee must—

(a) be examined on oath; and

(b) answer all the questions which the court puts, or allows to be put.

(2) A person allowed by section 133(4) to question the examinee may—

(a) with the approval of the court appear by solicitor or counsel; or

(b) in writing authorise another person to question the examinee on that person's behalf.

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

(4) The court must have such record made of the examination as the court thinks proper.

(5) The record may, in any proceedings (whether under the Act or otherwise) be used as evidence of any statement made by the examinee in the course of the public examination.

(6) If criminal proceedings have been instituted against the examinee, and the court is of opinion that continuing the hearing might prejudice a fair trial of those proceedings, the hearing may be adjourned.

Adjournment

7.107.—(1) The court may adjourn the public examination from time to time, either to a fixed date or generally.

(2) Where the examination has been adjourned generally, the court may at any time on the application of the official receiver or of the examinee—

(a) fix a venue for the resumption of the examination; and

(b) give directions as to the manner in which, and the time within which, notice of the resumed public examination is to be given to persons entitled to take part in it.

(3) An order adjourning the public examination to a fixed date must contain a warning to the examinee that failure without reasonable excuse to attend the public examination at the time and place specified in the order will make the examinee liable to be arrested without further notice under section 134(2); and that the examinee will also be guilty of contempt of court under section 134(1) and be liable to be committed to prison or fined.

(4) Where an application to resume an examination is made by the examinee, the court may grant it on terms that the examinee must pay the expenses of giving the notices required by paragraph (2) and that, before a venue for the resumed public examination is fixed, the examinee must deposit with the official receiver such sum as the official receiver considers necessary to cover those expenses.

Expenses of examination

7.108.—(1) Where a public examination of the examinee has been ordered by the court on a request by a creditor under rule 7.100 or by a contributory under rule 7.101, the court may order that some or all of the expenses of the examination are to be paid out of the deposit required under those rules, instead of as an expense of the winding up.

(2) The costs and expenses of a public examination do not fall on the official receiver personally.

CHAPTER 14

PRIORITY OF PAYMENT OF COSTS AND EXPENSES, ETC.

General rule as to priority

7.109.—(1) All fees, costs, charges and other expenses incurred in the course of the winding up are to be treated as expenses of the winding up.

(2) The expenses of the winding up are payable out of—

(a) assets of the company available for the payment of general creditors, which must be taken to include proceeds—

(i) of any legal action which the liquidator has power to bring in the liquidator's own name or in the name of the company; and

(ii) arising from any award made under any arbitration or other dispute resolution procedure which the liquidator has power to bring in the liquidator's own name or in the name of the company;

which must, for the purposes of this subparagraph, also include—

(iii) any payments made under any compromise or other agreement intended to avoid legal action or recourse to arbitration or to any other dispute resolution procedure; and

(iv) payments made as a result of a settlement of any such action, arrangement or procedure in lieu of or before any judgment being given or award being made;

(b) subject as provided in rules 7.114 to 7.117, property comprised in or subject to a floating charge created by the company.

(3) The expenses associated with the prescribed part must be paid out of the prescribed part.

(4) Subject as provided in rules 7.112 to 7.117, the expenses are payable in the following order of priority—

(a) expenses which—

(i) are properly chargeable or incurred by the provisional liquidator in carrying out the functions conferred on the provisional liquidator by the court;

(ii) are properly chargeable or incurred by the official receiver or the liquidator in preserving, realising or getting in any of the assets of the company or otherwise in the preparation or conduct of any legal proceedings, arbitration or other dispute resolution procedures, which the official receiver or liquidator has power to bring in the official receiver's or liquidator's own name or bring or defend in the name of the company or in the preparation or conduct of any negotiations intended to lead or leading to a settlement or compromise of any legal action or dispute to which the proceedings or procedures relate;

(iii) relate to the employment of a shorthand writer, if appointed by an order of the court made at the instance of the official receiver in connection with an examination; or

(iv) are incurred in holding a hearing under rule 7.105 (examinee unfit) where the application for it was made by the official receiver;

(b) any other expenses incurred or disbursements made by the official receiver or under the official receiver's authority, including those incurred or made in carrying on the business of the company;

(c) the fees payable under any order made under section 414 or section 415A, including those payable to the official receiver (other than the fee referred to in sub-paragraph (d)), and any remuneration payable to the official receiver under general regulations;

(d) the fee payable under any order made under section 414 for the performance by the official receiver of the general duties of the official receiver;

(e) any repayable sum deposited under any such order as security for the fee mentioned in sub-paragraph (d);

(f) the cost of any security provided by a provisional liquidator, liquidator or special manager in accordance with the Act or these Rules;

(g) the remuneration of the provisional liquidator (if any);

(h) any sum deposited on an application for the appointment of a provisional liquidator;

(i) the costs of the petitioner, and of any person appearing on the petition whose costs are allowed by the court;

(j) the remuneration of the special manager (if any);

(k) any amount payable to a person employed or authorised, under Chapter 6 of this Part, to assist in the preparation of a statement of affairs or of accounts;

(l) 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 for an extension of time for submitting such a statement;

(m) the costs of employing a shorthand writer in any case other than one appointed by an order of the court at the instance of the official receiver in connection with an examination;

(n) any necessary disbursements by the liquidator in the course of the administration (including any expenses incurred by members of the liquidation committee or their representatives and allowed by the liquidator under rule 17.22, but not including any payment of corporation tax in circumstances referred to in sub-paragraph (q));

(o) the remuneration or emoluments of any person who has been employed by the liquidator to perform any services for the company, as required or authorised by or under the Act or these Rules;

(p) the remuneration of the liquidator, up to any amount not exceeding that which is payable under Schedule 10 to the Rules;

(q) the amount of any corporation tax on chargeable gains accruing on the realisation of any asset of the company (irrespective of the person by whom the realisation is effected);

(r) the balance, after payment of any sums due under sub-paragraph (p) above, of any remuneration due to the liquidator;

(s) any other expenses properly chargeable by the liquidator in carrying out the liquidator's functions in the winding up.

Winding up commencing as voluntary

7.110. Where the winding up follows immediately on a voluntary winding up (whether members' voluntary or creditors' voluntary), such remuneration of the voluntary liquidator and costs and expenses of the voluntary winding up as the court may allow are to rank in priority with the expenses specified in rule 7.109(4)(a).

Saving for powers of the court (section 156)

7.111.—(1) The priorities laid down by rules 7.109 and 7.110 are subject to the power of the court to make orders under section 156, where the assets are insufficient to satisfy the liabilities.

(2) Nothing in those rules applies to or affects the power of any court, in proceedings by or against the company, to order costs to be paid by the company, or the liquidator; nor do they affect the rights of any person to whom such costs are ordered to be paid.

CHAPTER 15

LITIGATION EXPENSES AND PROPERTY SUBJECT TO A FLOATING CHARGE

Interpretation

7.112. In this Chapter

"approval" and "authorisation" respectively mean—

(a) where yet to be incurred, the approval, and

(b) where already incurred, the authorisation,

of expenses specified in section 176ZA(3);

"the creditor" means—

(a) a preferential creditor of the company, or

(b) a holder of a debenture secured by, or a holder of, a floating charge created by the company;

"legal proceedings" means—

(a) proceedings under sections 212, 213, 214, 238, 239, 244 and 423 and any arbitration or other dispute resolution proceedings invoked for purposes corresponding to those to which the sections relate and any other proceedings, including arbitration or other dispute resolution procedures, which a liquidator has power to bring in the liquidator's own name for the purpose of preserving, realising, or getting in any of the assets of the company;

(b) legal actions and proceedings, arbitration or any other dispute resolution procedures which a liquidator has power to bring or defend in the name of the company; and

(c) negotiations intended to lead or leading to a settlement or compromise of any action, proceeding or procedure to which sub-paragraphs (a) or (b) relate;

"litigation expenses" means expenses of a winding up which—

(a) are properly chargeable or incurred in the preparation or conduct of any legal proceedings, and

(b) as expenses in the winding up, exceed, or in the opinion of the liquidator are likely to exceed (and only in so far as they exceed or are likely to exceed), in the aggregate £5,000; and

"specified creditor" means a creditor identified under rule 7.114(2).

Priority of litigation expenses

7.113. Litigation expenses will not have the priority provided by section 176ZA over any claims to property comprised in or subject to a floating charge created by the company and must not be paid out of any such property unless and until approved or authorised in accordance with rules 7.114 to 7.117.

Litigation expenses and property subject to a floating charge – requirement for approval or authorisation

7.114.—(1) Subject to rules 7.115 to 7.117, either paragraphs (3) and (4) apply or paragraph (5) applies where, in the course of winding up a company, the liquidator—

(a) ascertains that property is comprised in or subject to a floating charge;

(b) has personally instituted or proposes to institute or continue legal proceedings or is in the process of defending or proposes to defend any legal proceeding brought or likely to be brought against the company; and

(c) before or at any stage in those proceedings, is of the opinion that—

(i) the assets of the company available for payment of general creditors are or will be insufficient to pay litigation expenses; and

(ii) in order to pay litigation expenses the liquidator will have to have recourse to property comprised in or subject to a floating charge created by the company.

(2) As soon as reasonably practicable after the date on which the liquidator forms the opinion referred to in paragraph (1), the liquidator must identify the creditor who, in the liquidator's opinion at that time—

(a) has a claim to property comprised in or subject to a floating charge created by the company; and

(b) taking into account the value of that claim and any subsisting property then comprised in or secured by such a charge, appears to the liquidator to be the creditor most immediately likely of any persons having such claims to receive some payment in respect of a claim but whose claim would not be paid in full.

(3) The liquidator must request from the specified creditor the approval or authorisation of such amount for litigation expenses as the liquidator thinks fit.

(4) Where the liquidator identifies two or more specified creditors, the liquidator must seek from each of them approval or authorisation of such amount of litigation expenses as the liquidator thinks fit, apportioned between them ("the apportioned amount") according to the value of the property to the extent covered by their charges.

(5) For so long as the conditions specified in paragraph (1) subsist, the liquidator may, in the course of a winding up, make such further requests to the specified creditor or creditors for approval or authorisation of such further amount for litigation expenses as the liquidator thinks fit to be paid out of property comprised in or subject to a floating charge created by the company, taking into account any amount for litigation expenses previously approved or authorised and the value of the property comprised in or subject to the floating charge.

Litigation expenses and property subject to a floating charge – request for approval or authorisation

7.115.—(1) All requests made by the liquidator for approval or authorisation must include the following—

(a) a statement describing the nature of the legal proceedings, including, where relevant, the statutory provision under which proceedings are or are to be brought and the grounds upon which the liquidator relies;

(b) a statement specifying the amount or apportioned amount of litigation expenses for which approval or authorisation is sought ("the specified amount");

(c) notice that approval or authorisation or other reply to the request must be made in writing within 28 days from the date of its being received ("the specified time limit"); and

(d) a statement explaining the consequences of a failure to reply within the specified time limit.

(2) Where anything in paragraph (1) requires the inclusion of any information, the disclosure of which could be seriously prejudicial to the winding up of the company, the liquidator may—

(a) exclude such information from any of the above statements or notices if accompanied by a statement to that effect; or

(b) include it on terms—

(i) that bind the creditor to keep the information confidential, and

(ii) that include an undertaking on the part of the liquidator to apply to the court for an order that so much of the information as may be kept in the files of the court, not be open to public inspection.

(3) The creditor may within the specified time limit apply to the liquidator in writing for such further particulars as is reasonable and in such a case, the time limit specified in paragraph (1)(c) will apply from the date of the creditor's receipt of the liquidator's response to any such request.

(4) Where the liquidator requires the approval or authorisation of two or more creditors, the liquidator must deliver a request to each creditor, containing the matters listed in paragraph (1) and also giving—

(a) the number of creditors concerned;

(b) the total value of their claims, or if not known, as it is estimated to be by the liquidator immediately before delivering any such request; and

(c) to each preferential creditor, notice that approval or authorisation of the specified amount will be taken to be given where a majority in value of those preferential creditors who respond within the specified time limit are in favour of it; or

(d) where rule 7.114 applies, notice to the specified creditors that the amount of litigation expenses will be apportioned between them in accordance with that rule and notice of the value of the portion allocated to, and the identity of, the specified creditors affected by that apportionment.

Litigation expenses and property subject to a floating charge – grant of approval or authorisation

7.116.—(1) Where the liquidator fails to include in the liquidator's request any one of the matters, statements or notices required by paragraph (1) or paragraphs (1) and (4), of rule 7.115, the request for approval or authorisation will be treated as not having been made.

(2) Subject to paragraphs (3), (4) and (5), approval or authorisation will be taken to have been given where the specified amount has been requested by the liquidator, and—

(a) that amount is approved or authorised within the specified time limit; or

(b) a different amount is approved or authorised within the specified time limit and the liquidator considers it sufficient.

(3) Where the liquidator requires the approval or authorisation of two or more preferential creditors, approval or authorisation will be taken to be given where a majority in value of those who respond within the specified time limit approve or authorise—

(a) the specified amount; or

(b) a different amount which the liquidator considers sufficient.

(4) Where a majority in value of two or more preferential creditors propose an amount other than that specified by the liquidator, they will be taken to have approved or authorised an amount equal to the lowest of the amounts so proposed.

(5) In any case in which there is no response in writing within the specified time limit to the liquidator's request—

(a) at all; or

(b) at any time following the liquidator's provision of further particulars under rule 7.115,

the liquidator's request will be taken to have been approved or authorised from the date of the expiry of that time limit.

Litigation expenses and property subject to a floating charge – application to the court by the liquidator

7.117.—(1) In the circumstances specified below the court may, upon the application of the liquidator, approve or authorise such amount of litigation expenses as it thinks just.

(2) The liquidator may apply to the court for an order approving or authorising an amount for litigation expenses only where the specified creditor (or, if more than one, any of them)—

(a) is or is intended to be a defendant in the legal proceedings in relation to which the litigation expenses have been or are to be incurred; or

(b) has been requested to approve or authorise the amount specified under rule 7.115(1)(c) and has—

(i) declined to approve or authorise, as the case may be, the specified amount;

(ii) approved or authorised an amount which is less than the specified amount and which lesser amount the liquidator considers insufficient; or

(iii) made such application for further particulars or other response to the liquidator's request as is, in the liquidator's opinion, unreasonable.

(3) However where the liquidator thinks that circumstances are such that the liquidator requires urgent approval or authorisation of litigation expenses, the liquidator may apply to the court for approval or authorisation either—

(a) without seeking approval or authorisation from the specified creditor; or

(b) if sought, before the expiry of the specified time limit.

(4) The court may grant such application for approval or authorisation—

(a) if the liquidator satisfies the court of the urgency of the case; and

(b) subject to such terms and conditions as the court thinks just.

(5) The liquidator must, at the same time as making any application to the court under this rule, deliver copies of it to the specified creditor, unless the court orders otherwise.

(6) The specified creditor (or, if more than one, any of them) is entitled to be heard on any such application unless the court orders otherwise.

(7) The court may grant approval or authorisation subject to such terms and conditions as it may think just, including terms and conditions relating to the amount or nature of the litigation expenses and as to any obligation to make further applications to the court under this rule.

(8) The costs of the liquidator's application under this rule, including the costs of any specified creditor appearing or represented on it, will be an expense of the winding up unless the court orders otherwise.

CHAPTER 16

MISCELLANEOUS RULES

Sub-division A: Return of capital

Application to court for order authorising return

7.118.—(1) This rule applies where the liquidator intends to apply to the court for an order authorising a return of capital.

(2) The application must be accompanied by a list of the persons to whom the return is to be made.

(3) The list must include the same details of those persons as appears in the settled list of contributories, with any necessary alterations to take account of matters after settlement of the list, and the amount to be paid to each person.

(4) Where the court makes an order authorising the return, it must deliver a sealed copy of the order to the liquidator.

Procedure for return

7.119.—(1) The liquidator must inform each person to whom a return is made of the rate of return per share, and whether it is expected that any further return will be made.

(2) Any payments made by the liquidator by way of the return may be delivered by post, unless for any reason another method of making the payment has been agreed with the payee.

Sub-division B: Dissolution after winding up

Secretary of State's directions under sections 203 and 205 and appeal

7.120.—(1) This rule applies where the Secretary of State gives a direction under—

(a) section 203 (where official receiver applies to registrar of companies for a company's early dissolution); or

(b) section 205 (application by interested person for postponement of dissolution).

(2) The Secretary of State must deliver the direction to the applicant for it.

(3) The applicant must deliver a copy of the direction to the registrar of companies, to comply with section 203(5) or, as the case may be, 205(6).

(4) Following an appeal under section 203(4) or 205(4) (against a decision of the Secretary of State under the applicable section) the court must deliver a sealed copy of its order to the person in whose favour the appeal was determined.

(5) That person must deliver a copy to the registrar of companies to comply with section 203(5) or, as the case may be, 205(6).

PART 8

INDIVIDUAL VOLUNTARY ARRANGEMENTS (IVA) (Part 8 of the Act)

CHAPTER 1

Preliminary

Interpretation

8.1.—In this Part—

"authorised person" means the official receiver where the official receiver is authorised to act as nominee or supervisor under section 389B(1) of the Act(**a**);

"nominee" and "supervisor" include the proposed nominee or supervisor in relation to a proposal for an IVA; and

"proposal" means a proposal for an IVA.

CHAPTER 2

Preparation of the Debtor's Proposal for an IVA

Proposal for an IVA : general principles and amendment

8.2.—(1) A proposal must—

(a) identify the debtor;

(b) explain why the debtor thinks an IVA is desirable;

(c) explain why the creditors are expected to agree to an IVA; and

(d) be authenticated and dated by the debtor.

(2) The proposal may be amended with the nominee's agreement in writing at any time up to the filing of the nominee's report with the court under section 256, or the submission of the nominee's report to the creditors under section 256A(**b**).

Proposal: contents

8.3. The proposal must set out the following so far as known to the debtor—

Assets	(a) the debtor's assets, with an estimate of their respective values; (b) which assets are charged and the extent of the charge; (c) which assets are to be excluded from the IVA; and (d) particulars of any property to be included in the IVA which is not owned by the debtor including details of who owns such property and the terms on which it will be available for inclusion;
Liabilities	(e) the nature and amount of the debtor's liabilities; (f) how the debtor's liabilities will be met, modified, postponed or otherwise dealt with by means of the IVA and, in particular— (i) how preferential creditors and creditors who are, or claim to be, secured will be dealt with; and (ii) how creditors who are associates of the debtor will be dealt with; (iii) if the debtor is an undischarged bankrupt, whether any claim has been made under section 339 (transactions at an undervalue), section 340 (preferences), or section 343 (extortionate credit transactions) and, if it has, whether, and if so what, provision is being made to indemnify the insolvent estate in respect of such a claim; (iv) if the debtor is not an undischarged bankrupt whether there are circumstances which might give rise to a claim referred to in sub-paragraph (iii) if the debtor were made bankrupt and, where there are such circumstances, whether and, if so what, provision will be made to indemnify the insolvent estate in respect of such a claim;

(**a**) Section 389B was inserted by Schedule 22 to the Enterprise Act 2002 (c. 40).
(**b**) Section 256A was inserted by paragraph 7 of Schedule 3 to the Insolvency Act 2000 (c. 39).

Nominee's fees and expenses	(g) the amount proposed to be paid to the nominee by way of fees and expenses;
Supervisor	(h) the name, address and qualification of the supervisor and confirmation that that person is qualified to act as an insolvency practitioner (or is an authorised person) in relation to the debtor; (i) how the fees and expenses of the supervisor will be determined and paid; (j) the functions to be undertaken by the supervisor; (k) where it is proposed that two or more supervisors be appointed, a statement whether acts done in connection with the IVA may be done by any one or more of them or must be done by all of them;
Guarantees and proposed guarantees	(l) whether any, and if so what, guarantees have been given in respect of the debtor's debts, specifying which of the guarantors are associates of the debtor; (m) whether any guarantees are proposed to be offered for the purposes of the IVA, if so, by whom and whether security is to be given or sought;
Timing	(n) the proposed duration of the IVA; (o) the proposed dates of distributions to creditors, with estimates of their amounts;
Type of proceedings	(p) whether the proceedings will be main, territorial or non-EC proceedings with reasons;
Conduct of business	(q) if the debtor has any business, how that business will be conducted during the IVA;
Further credit facilities	(r) details of any further proposed credit facilities for the debtor and how the debts so arising are to be paid;
Handling of funds arising	(s) the manner in which funds held for the purposes of the IVA are to be banked, invested or otherwise dealt with pending distribution to creditors; (t) how funds held for the purpose of payment to creditors, and not so paid on the termination of the IVA, will be dealt with; (u) how the claim of any person bound by the IVA by virtue of section 260(2)(b)(ii) will be dealt with;
Other proposals	(v) whether another proposal in relation to the debtor has been submitted within the 24 months before the date of the submission of the proposal to the nominee— (i) for approval by the creditors and, if so, (aa) whether that proposal was approved or rejected, (bb) whether, if approved, the IVA was completed or was terminated, and (cc) in what respects such a proposal, where rejected, differs from the current proposal; (ii) to the court in connection with an application for an interim order under section 253 and, if so, whether the interim order was made;
Other matters	(w) any other matters which the debtor considers appropriate to enable creditors to reach an informed decision on the proposal.

Notice of nominee's consent

8.4.—(1) A nominee who consents to act must deliver a notice of that consent to the debtor as soon as reasonably practicable after the proposal has been submitted to the nominee under section 256(2) or 256A(2).

(2) The notice must state the date the nominee received the proposal.

Statement of affairs (section 256)

8.5.—(1) Unless the nominee requires a further statement of affairs to supplement or amplify the earlier one, a statement of affairs need not be submitted to the nominee under section 256(2) or 256A(2) where the debtor is an undischarged bankrupt and has already delivered a statement of affairs under section 288.

(2) The statement of affairs must contain—

(a) a list of the debtor's assets, divided into such categories as are appropriate for easy identification, and with each category given an estimated value;

(b) in the case of any property on which a claim against the debtor is wholly or partly secured, particulars of the claim and of how and when the security was created;

(c) the names and addresses of the preferential creditors with the amounts of their respective claims;

(d) the names and addresses of the unsecured creditors, with the amounts of their respective claims;

(e) particulars of any debts owed by the debtor to persons who are associates of the debtor;

(f) particulars of any debts owed to the debtor by persons who are associates of the debtor; and

(g) any other particulars that the nominee in writing requires to be provided for the purposes of making the nominee's report on the proposal to the court or to the creditors (as the case may be).

(3) The statement must be made up to a date not earlier than two weeks before the date of the proposal.

(4) However the nominee may allow the statement to be made up to a date that is earlier than two weeks (but no earlier than two months) before the date of the proposal where that is more practicable.

(5) If the statement is made up to an earlier date the nominee's report must explain why an earlier date was allowed.

(6) The statement must be verified by a statement of truth made by the debtor.

Application to omit information from statement of affairs delivered to creditors

8.6. The nominee, the debtor or any person appearing to the court to have an interest may, if any information in the statement of affairs would be likely to prejudice the conduct of the IVA or might reasonably be expected to lead to violence against any person, apply to the court for an order that specified information be omitted from any statement of affairs required to be delivered to creditors.

Additional disclosure for assistance of nominee

8.7.—(1) If it appears to the nominee that the report to the court under section 256(1) or to the creditors under section 256A(3) cannot properly be prepared on the basis of information in the proposal and statement of affairs, the nominee may require the debtor to provide—

(a) more information about the circumstances in which, and the reasons why, an IVA is being proposed;

(b) more information about any proposals of the kind referred to in rule 8.3(v);

(c) information about any proposals which have at any time been made by the debtor under Part 8 of the Act; and

(d) any further information relating to the debtor's affairs which the nominee thinks necessary for the purposes of the report.

(2) The nominee may require the debtor to inform the nominee whether and in what circumstances the debtor has at any time—

(a) been concerned in the affairs of a company wherever incorporated or limited liability partnership which has become the subject of insolvency proceedings, or

(b) been made bankrupt,

(c) been the subject of a debt relief order, or

(d) entered into an arrangement with creditors.

(3) The debtor must give the nominee such access to the debtor's accounts and records as the nominee requires to enable the nominee to consider the debtor's proposal and prepare the report on it.

CHAPTER 3

Cases in which an application for an interim order is made

Application for interim order

8.8.—(1) An application to the court for an interim order under Part 8 of the Act must be accompanied by a witness statement containing—

(a) the reasons for making the application;

(b) information about any action, execution, other legal process or the levying of any distress which, to the debtor's knowledge, has been commenced against the debtor or the debtor's property;

(c) a statement that the debtor is an undischarged bankrupt or is able to make a bankruptcy application;

(d) a statement that no previous application for an interim order has been made by or in relation to the debtor in the period of 12 months ending with the date of the witness statement;

(e) a statement that a person named in the witness statement is willing to act as nominee in relation to the proposal and is qualified to act as an insolvency practitioner (or is an authorised person) in relation to the debtor.

(2) The witness statement must be accompanied by a copy of—

(a) the proposal, and

(b) the notice of the nominee's consent to act.

(3) When the application and the witness statement have been filed, the court must fix a venue for the hearing of the application.

(4) The applicant must deliver a notice of the hearing and the venue at least two business days before the hearing to—

(a) the nominee;

(b) the debtor, the official receiver or the trustee (whichever is not the applicant) where the debtor is an undischarged bankrupt; and

(c) any creditor who (to the debtor's knowledge) has presented a bankruptcy petition against the debtor where the debtor is not an undischarged bankrupt.

(5) A notice under section 253(4) must contain the name and address of the nominee.

Court in which application to be made

8.9.—(1) An application must be made—

(a) to the court, if any, which has the conduct of the bankruptcy, where the debtor is an undischarged bankrupt; or

(b) to the court in accordance with rule 10.50.

(2) The application must contain sufficient information to establish that it is made to the appropriate court or hearing centre.

Order granting stay

8.10. A court order under section 254(1)(b) granting a stay pending hearing of an application must identify the proceedings and contain—

(a) the section number of the Act under which it is made;

(b) a statement that the evidence has been considered;

(c) details of the action, execution or other legal process which is stayed;

(d) the date on which the application for an interim order will be heard; and

(e) the date that the order granting the stay is made.

Hearing of the application

8.11.—(1) A person to whom a notice of the hearing of the application for an interim order was (or should have been) delivered under rule 8.8(4) may appear or be represented at the hearing.

(2) The court must take into account any representations made by or on behalf of such a person (in particular, as to whether an order should contain such provision as is referred to in section 255(3) (provisions as to the conduct of the bankruptcy etc.) and (4) (provisions staying proceedings in bankruptcy etc.).

(3) If the court makes an interim order, it must fix a venue for consideration of the nominee's report for a date no later than the date on which the order ceases to have effect.

The interim order

8.12. An interim order must identify the proceedings and contain—

(a) the section number of the Act under which it is made;

(b) a statement that the evidence has been considered;

(c) a statement that the order has effect from its making until the end of the period of 14 days beginning on the day after the date on which it is made;

(d) particulars of the effect of the order (as set out in section 252(2));

(e) an order that the report of the nominee be delivered to the court no later than a specified date with a statement that the specified date is two business days before the interim order ceases to have effect;

(f) particulars of any orders made under section 255(3) and (4);

(g) where the debtor is an undischarged bankrupt and the applicant is not the official receiver, an order that the applicant delivers, as soon as reasonably practicable, a copy of the interim order to the official receiver;

(h) the venue for the court's consideration of the report; and

(i) the date of the order.

Action to follow making of interim order

8.13.—(1) The court must deliver at least two sealed copies of the interim order to the applicant.

(2) As soon as reasonably practicable, the applicant must deliver—

(a) one copy to the nominee and, where the debtor is an undischarged bankrupt, another copy to the official receiver (unless the official receiver was the applicant); and

(b) a notice that the order has been made to any other person to whom a notice of the hearing of the application for an interim order was (or should have been) delivered under rule 8.8(4) and who was not in attendance or represented at the hearing.

Order extending period of interim order (section 256(4))

8.14. An order under section 256(4) extending the period for which an interim order has effect must identify the proceedings and contain—

(a) a statement that the application is that of the nominee for an extension of the period under section 256(4) for which an interim order is to have effect;

(b) a statement that the evidence has been considered;

(c) an order that the period for which the interim order has effect is extended to a specified date;

(d) particulars of the effect (as set out in section 252(2)) of the interim order;

(e) an order that the report of the nominee be delivered to the court no later than a specified date which is two business days before the day on which the court is to consider the nominee's report;

(f) particulars of any orders made under section 255(3) or (4);

(g) where the debtor is an undischarged bankrupt and the applicant is not the official receiver, an order that the applicant deliver, as soon as reasonably practicable, a copy of the order to the official receiver;

(h) the venue for the court's consideration of the report; and

(i) the date of the order.

Nominee's report on the proposal

8.15.—(1) The nominee's report under section 256 must be filed with the court not less than two business days before the interim order ceases to have effect, accompanied by—

(a) a copy of the report;

(b) a copy of the proposal (as amended, if applicable, under rule 8.2(2); and

(c) a copy of any statement of affairs or a summary of the statement.

(2) The nominee must also deliver a copy of the report to the debtor.

(3) The nominee's report must explain whether or not the nominee considers that the proposal has a reasonable prospect of being approved and implemented and whether or not creditors should be invited to consider the proposals.

(4) The court must endorse the nominee's report and the copy of it with the date on which they were filed and return the copy to the nominee.

(5) Where the debtor is an undischarged bankrupt, the nominee must deliver to the official receiver and any trustee, a copy of—

(a) the proposal,

(b) the nominee's report, and

(c) any statement of affairs or summary of such statement.

(6) Where the debtor is not an undischarged bankrupt, the nominee must deliver a copy of each of those documents to any person who has presented a bankruptcy petition against the debtor.

Order extending period of interim order to enable the creditors to consider the proposal (section 256(5))

8.16. An order under section 256(5) extending the period for which an interim order has effect to enable creditors to consider the proposal must contain—

(a) identification details for the proceedings;

(b) the section number of the Act under which it is made;

(c) a statement that the evidence has been considered;

(d) a statement that the court has considered the nominee's report filed under section 256;

(e) the date that the nominee's report was filed;

(f) a statement that for the purpose of enabling the creditors to consider the proposal, the period for which the interim order has effect is extended to a specified date;

(g) a statement that the nominee will be inviting the creditors to consider the proposal and details of the decision procedure the nominee intends to use; and

(h) the date of the order.

Replacement of nominee (section 256(3))

8.17.—(1) A debtor who intends to apply under section 256(3)(a) or (b) for the nominee to be replaced must deliver a notice to the nominee that such an application will be made at least five business days before making the application.

(2) A nominee who intends to apply under section 256(3)(b) to be replaced must deliver a notice to the debtor that such an application will be made at least five business days before making the application.

(3) The court must not appoint a replacement nominee unless the replacement nominee has filed with the court a statement confirming—

(a) that person is qualified to act as an insolvency practitioner (or is an authorised person) in relation to the debtor; and

(b) that person's consent to act .

Consideration of nominee's report

8.18.—(1) A person to whom a notice was (or should have been) delivered under rule 8.8(4) may appear or be represented at the court's hearing to consider the nominee's report.

(2) Rule 8.13 applies to any order made by the court at the hearing.

CHAPTER 4

Cases where no interim order is to be obtained

Nominee's report (section 256A)

8.19.—(1) The nominee's report under section 256A(3)(**a**) must explain whether or not the nominee considers that the proposal has a reasonable prospect of being approved and implemented and whether or not creditors should be invited to consider the proposal.

(2) The report must contain sufficient information to enable a person to identify (in accordance with rule 8.20 the appropriate court or hearing centre in which to file an application relating to the proposal or the IVA.

(3) The nominee must also deliver a copy of the report to the debtor.

(**a**) Section 256A(3) has been amended by paragraph 62 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

(4) Where the nominee gives an opinion in the affirmative on the matters referred to in section 256A(3)(a) and (b), the copy of the report delivered by the nominee to each of the creditors must be accompanied by—

(a) a statement that an application for an interim order under section 253 is not being made;

(b) a copy of the proposal (as amended, if applicable, under rule 8.2(2));

(c) a copy of any statement of affairs or a summary of such statement; and

(d) a copy of the notice of the nominee's consent to act.

(5) In such a case the nominee must also deliver those documents within 14 days (or such longer period as the court may allow) of receipt of the document and statement referred to in section 256A(2) to—

(a) the official receiver and any trustee, where the debtor is an undischarged bankrupt; and

(b) any person who has presented a bankruptcy petition against the debtor.

(6) Where the nominee gives an opinion in the negative on the matters referred to in section 256A(3)(a) and (b) the nominee must within 14 days (or such longer period as the court may allow) of receipt of the document and statement referred to in section 256A(2) —

(a) deliver a copy of the report to the creditors; and

(b) give the reasons for that opinion to the debtor.

Court or hearing centre to which applications must be made where no interim order

8.20.—(1) This rule applies where the nominee has made a report under section 256A(3).

(2) Any application relating to a proposal or an IVA must be made—

(a) to the court or hearing centre, if any, which has the conduct of the bankruptcy, where the debtor is an undischarged bankrupt; or

(b) to the court or hearing centre determined in accordance with rule 10.50.

(3) The application must contain sufficient information to establish that it is made to the appropriate court or hearing centre.

(4) The applicant must file with the court (in addition to the documents in support of the application) such other documents required by this Part as the applicant considers may assist the court in determining the application.

Replacement of the nominee (section 256A(4))

8.21.—(1) A debtor who intends to apply under section 256A(4)(a) or (b) for the nominee to be replaced must deliver a notice to the nominee that such an application is being made at least five business days before making the application.

(2) A nominee who intends to apply under section 256A(4)(b) to be replaced must deliver a notice to the debtor that such an application is being made at least five business days before making the application.

(3) The court must not appoint a replacement nominee unless the replacement nominee has filed with the court a statement confirming—

(a) that person is qualified to act as an insolvency practitioner (or is an authorised person) in relation to the debtor; and

(b) that person's consent to act.

CHAPTER 5

Consideration of the proposal by the creditors

Consideration of proposal

8.22.—(1) This rule applies where the nominee is required to seek a decision from the debtor's creditors as to whether they approve the debtor's proposal.

(2) The nominee must deliver to each creditor a notice which complies with rule 15.7 so far as is relevant.

(3) The notice must also contain—

(a) identification details for the proceedings;

(b) where an interim order has not been obtained, details of the court or hearing centre to which an application relating to the proposal or the IVA must be made under rule 8.19 (2);

(c) where an interim order is in force, details of the court or hearing centre in which the nominee's report on the debtor's proposal has been filed under section 256;

(d) a statement how a person entitled to vote for the proposal may propose a modification to the proposal, and how the nominee will deal with such a proposal for a modification;

(4) The notice must be accompanied by the following (unless they have been delivered already under rule 8.19)—

(a) a copy of the proposal;

(b) a copy of the statement of affairs, or if the nominee thinks fit a summary including a list of creditors with the amounts of their debts; and

(c) a copy of the nominee's report on the proposal.

(5) The decision date must be not less than 14 days from the date of delivery of the notice and not more than 28 days from the date on which—

(a) the nominee received the document and statement of affairs referred to in section 256A(2) in a case where an interim order has not been obtained; or

(b) the nominee's report was considered by the court in a case where an interim order is in force.

Proposals for alternative supervisor

8.23.—(1) If in response to a notice of a decision procedure to consider the proposal other than at a meeting, a creditor proposes that a person other than the nominee be appointed as supervisor, that person's consent to act and confirmation of being qualified to act as an insolvency practitioner (or being an authorised person) in relation to the debtor must be delivered to the nominee by the creditor.

(2) If at a creditors' meeting to consider the proposal a resolution is moved for the appointment of a person other than the nominee to be supervisor, that person must produce to the chair at or before the meeting—

(a) confirmation of being qualified to act as an insolvency practitioner (or being an authorised person) in relation to the debtor; and

(b) written consent to act (unless the person is present at the meeting and signifies consent).

Report of creditors' consideration of a proposal

8.24.—(1) A report of the creditors' consideration of a proposal must be prepared by the nominee or an appointed person or the chair in the case of consideration at a meeting.

(2) The report must—

(a) state whether the proposal was approved or rejected and, if approved, with what (if any) modifications;

(b) list the creditors who voted in the decision procedure, setting out with their respective values how they voted on each decision;

(c) if the proposal was approved, state whether the proceedings are main, territorial or non-EC proceedings and the reasons for so stating; and

(d) include such further information as the nominee, the appointed person or the chair thinks appropriate.

(3) Where an interim order was obtained a copy of the report must be filed with the court, within four business days of the decision date.

(4) The court must endorse the copy of the report with the date of filing.

(5) The nominee, appointed person or the chair must give notice of the result of the consideration to—

(a) everyone who was invited to consider the proposal and to whom notice of the decision procedure was delivered;

(b) any other creditor; and

(c) where the debtor is an undischarged bankrupt, the official receiver and any trustee.

(6) The notice must be given—

(a) where an interim order was obtained, as soon as reasonably practicable after a copy of the report is filed with the court;

(b) where an interim order was not obtained, within four business days of the decision date.

(7) The invitation to creditors to consider the proposal may contain or be accompanied by a notice that the result of the consideration of the proposal will be made available for viewing on a website and that no other notice will be delivered to the creditors to whom the invitation was sent.

(8) Such a notice must contain the website's address and any password necessary to view and download the results and a telephone number, email address and postal address which may be used by a creditor to obtain a hard copy of the notice of the result of the consideration.

CHAPTER 6

Action following approval of an IVA

Hand-over of property, etc. to supervisor

8.25.—(1) As soon as reasonably practicable after the IVA is approved, the debtor or, where the debtor is an undischarged bankrupt, the official receiver or any trustee, must do all that is required to put the supervisor in possession of the assets included in the IVA.

(2) Where the debtor is an undischarged bankrupt, the supervisor must—

(a) before taking possession of the assets included in the IVA, deliver to the official receiver or any trustee an undertaking to discharge the balance due to the official receiver or trustee out of the first realisation of the assets; or

(b) upon taking possession of the assets included in the IVA, discharge such balance.

(3) The balance is any balance due to the official receiver or any trustee—

(a) by way of fees or expenses properly incurred and payable under the Act or these Rules; and

(b) on account of any advances made in respect of the insolvent estate, together with interest on such advances at the rate specified in section 17 of the Judgments Act 1838(**a**) at the date of the bankruptcy order.

(**a**) 1838 c.110. Section 17 has been amended by the Statute Law Revision (No 2) Act 1888 (c.57); the Civil Procedure Acts Repeal Act 1879 (c.59); and SIs 1993/564 and 1998/2940.

(4) Where the debtor is an undischarged bankrupt, the official receiver and any trustee have a charge on the assets included in the IVA in respect of any sums comprising such balance, subject only to the deduction by the supervisor from realisations of the proper costs and expenses of realisation.

(5) Any sums due to the official receiver take priority over those due to any trustee.

(6) The supervisor must from time to time out of the realisation of assets—

(a) discharge all guarantees properly given by the official receiver or any trustee for the benefit of the estate; and

(b) pay the expenses of the official receiver and any trustee.

Report to Secretary of State of the approval of an IVA

8.26.—(1) After the creditors approve an IVA the nominee, appointed person or the chair must deliver a report containing the required information to the Secretary of State.

(2) The report must be delivered as soon as reasonably practicable, and in any event within 14 days after the report that the creditors have approved the IVA has been filed with the court under rule 8.24(3) or the notice that the creditors have approved the IVA has been sent to the creditors under rule 8.24(5) as the case may be.

(3) The required information is—

(a) information identifying the debtor;

(b) the debtor's gender;

(c) the debtor's date of birth; and

(d) any name by which the debtor was or is known, not being the name in which the debtor has entered into the IVA;

(e) the date on which the IVA was approved by the creditors; and

(f) the name and address of the supervisor.

(4) A person who is appointed to act as a supervisor as a replacement of another person, or who vacates that office must deliver a notice of that fact to the Secretary of State as soon as reasonably practicable.

Revocation or suspension of an IVA (section 262)

8.27.—(1) This rule applies where the court makes an order of revocation or suspension under section 262.

(2) The applicant for the order must deliver a sealed copy of it to—

(a) the debtor (if different to the applicant);

(b) the supervisor; and

(c) where the debtor is an undischarged bankrupt, the official receiver and any trustee (in either case, if different to the applicant).

(3) If the order includes a direction by the court under section 262(4)(b) for a matter to be considered further by a decision procedure, the applicant for the order must deliver a notice that the order has been made to the person who is directed to take such action.

(4) The debtor, or the trustee (if the debtor is an undischarged bankrupt) must—

(a) as soon as reasonably practicable deliver a notice that the order has been made to everyone to whom a notice to consider the matter by a decision procedure was delivered or who appears to be affected by the order;

(b) within five business days of delivery of a copy of the order (or within such longer period as the court may allow), deliver, if applicable, a notice to the court advising that it is intended to make a revised proposal to the creditors, or to invite re-consideration of the original proposal.

(5) The applicant for the order must, within five business days of the making of the order deliver a notice of the order to the Secretary of State.

(6) The applicant for the order must, within five business days of the expiry of any order of suspension, deliver a notice of the expiry to the Secretary of State.

Supervisor's accounts and reports

8.28.—(1) The supervisor must keep accounts and records where the IVA authorises or requires the supervisor—

(a) to carry on the business of the debtor or trade on behalf of or in the name of the debtor; or

(b) to realise assets of the debtor or (in a case where the debtor is an undischarged bankrupt) belonging to the estate; or

(c) otherwise to administer or dispose of any funds of the debtor or the estate.

(2) The accounts and records which must be kept are of the supervisor's acts and dealings in, and in connection with, the IVA, including in particular records of all receipts and payments of money.

(3) The supervisor must preserve any such accounts and records which were kept by any other person who has acted as supervisor of the IVA and are in the supervisor's possession.

(4) The supervisor must deliver reports on the progress and prospects for the full implementation of the IVA to—

(a) the debtor, and

(b) all the creditors bound by the IVA.

(5) The first report must cover the period of 12 months commencing on the date on which the IVA was approved and a further report must be made for each subsequent period of 12 months.

(6) Each report must be delivered within the period of two months after the end of the 12 month period.

(7) Such a report is not required if an obligation to deliver a final report under rule 8.31 arises in the two months after the end of the period.

(8) Where the supervisor is authorised or required to do any of the things mentioned in paragraph (1), the report must include or be accompanied by—

(a) a summary of receipts and payments which paragraph (2) requires to be recorded; or

(b) where there have been no such receipts and payments, must say so.

Production of accounts and records to Secretary of State

8.29.—(1) The Secretary of State may during the IVA or after its completion or termination require the supervisor to produce for inspection (either at the supervisor's premises or elsewhere)—

(a) the supervisor's accounts and records in relation to the IVA; and

(b) copies of reports and summaries prepared in compliance with rule 8.28.

(2) The Secretary of State may require any accounts and records produced under this rule to be audited and, if so, the supervisor must provide such further information and assistance as the Secretary of State requires for the purposes of the audit.

Fees and expenses

8.30. The fees and expenses that may be incurred for the purposes of the IVA are—

(a) fees for the nominee's services agreed with the debtor, the official receiver or any trustee;

(b) disbursements made by the nominee before the approval of the IVA; and

(c) fees or expenses which—

(i) are sanctioned by the terms of the IVA; or

(ii) which would be payable, or correspond to those which would be payable, in the debtor's bankruptcy.

Termination or full implementation of the IVA

8.31.—(1) The supervisor must deliver a notice that the IVA has been terminated or fully implemented to the debtor and the creditors bound by the IVA not more than 28 days after the termination or full implementation.

(2) The notice must be accompanied by a copy of a report by the supervisor which—

(a) summarises all receipts and payments in relation to the IVA,

(b) explains any departure from the terms of the IVA as approved by the creditors, and

(c) sets out the reasons why the IVA has terminated if that is the case.

(3) Not more than 28 days after the termination or full implementation of the IVA, the supervisor must—

(a) deliver a copy of the notice and report to the Secretary of State; and

(b) if the creditors were invited to consider the proposal following a report under section 256(1)(aa), file a copy of the notice and report with the court.

(4) The supervisor must not vacate office until the notice and report have been delivered to the Secretary of State.

CHAPTER 7

Applications to annul bankruptcy orders under sections 261(2)(a) and (b)

Application under section 261(2)(a)

8.32.—(1) An application to the court under section 261(2)(a) must be supported by a witness statement stating—

(a) that the IVA has been approved by the creditors;

(b) the date of the approval; and

(c) that the 28 day period in section 262(3)(a) for applications to be made under section 262(1) has expired and no applications or appeals remain to be disposed of.

(2) The application and witness statement must be filed with the court and the court must deliver a notice of the venue for the hearing to the bankrupt.

(3) Not less than five business days before the date of the hearing, the bankrupt must deliver a notice of the venue, with a copy of the application and witness statement, to—

(a) the official receiver,

(b) any trustee (if different to the official receiver), and

(c) the supervisor.

(4) The official receiver, any such trustee and the supervisor may attend the hearing or be represented and bring to the court's attention any matters which seem to them to be relevant.

Application to annul the bankruptcy order (section 261(2)(b))

8.33.—(1) An application by the official receiver to the court under section 261(2)(b) to annul a bankruptcy order must be supported by a report stating—

(a) the grounds on which it is made;

(b) that the time period in paragraph (2) has expired; and

(c) that the official receiver is not aware that any application under section 262 or appeal remains to be disposed of.

(2) The official receiver must not make such an application before the expiry of the period of 42 days beginning with the day on which—

(a) the nominee filed the report of the creditors' consideration with the court, where the creditors considered the proposal under section 257 following a report to a court under section 256(1)(aa); or

(b) the nominee delivered a notice to the creditors of the result of their consideration, where the creditors considered the proposal under section 257 following a report to the creditors under section 256A(3).

(3) The application and the report must be filed with the court and the court must deliver a notice of the venue for the hearing to the official receiver.

(4) Not less than five business days before the date of the hearing, the official receiver must deliver a notice of the venue, with a copy of the application and the report, to the bankrupt.

Order annulling bankruptcy

8.34.—(1) An order under section 261(2) annulling a bankruptcy order must identify the proceedings and contain—

(a) the section number of the Act under which it is made;

(b) the name and address of the applicant;

(c) a statement that it appears that an IVA under section 258 has been approved and implemented and the date of approval;

(d) a statement that there has been no application under section 262 for the revocation or suspension of the IVA and that the time period for making such an application has expired;

(e) where the applicant is the official receiver under section 261(2)(b) that the time period in rule 8.33(2) has expired;

(f) a statement that the evidence has been considered;

(g) the order that the relevant bankruptcy order, identified by its date and the name of the bankrupt as set out in the bankruptcy order, be annulled;

(h) if appropriate, an order that the relevant bankruptcy petition (identified by the date of its presentation) or the relevant bankruptcy application (identified by the date it was made) (as the case may be), be dismissed;

(i) where there is a trustee, an order in respect of the trustee's release, having regard to rule 8.37;

(j) an order that the registration of the bankruptcy petition or bankruptcy application as a pending action at the Land Charges Department of HM Land Registry be vacated (identified by the date of registration and reference number);

(k) an order that the registration of the bankruptcy order on the register of writs and orders affecting land at the Land Charges Department of HM Land Registry be vacated (identified by date of registration and reference number);

(l) the date the order is made:

(m) a notice to the effect that if the former bankrupt requires notice of the order to be gazetted and advertised in the same manner as the bankruptcy order was advertised, the bankrupt must deliver a notice to the official receiver within 28 days; and

(n) a notice to the effect that it is the responsibility of the former bankrupt and in the former bankrupt's interest to ensure that any registration of the petition or bankruptcy application and of the bankruptcy order at the Land Charges Department of HM Land Registry and any entries relating to the petition or bankruptcy application and bankruptcy order in any registered titles at HM Land Registry are cancelled (such a notice giving relevant HM Land Registry contact details and referring to relevant Registry guidance).

(2) The court must deliver a sealed copy of the order to—

(a) the former bankrupt,

(b) the official receiver,

(c) any trustee (if different to the official receiver), and

(d) the supervisor.

Notice of order

8.35.—(1) An official receiver, who has delivered a notice of the debtor's bankruptcy to the creditors, must, as soon as reasonably practicable, deliver to a notice of an annulment under section 261(2) to them.

(2) Expenses incurred by the official receiver in delivering a notice under this rule are a charge in the official receiver's favour on the property of the former bankrupt, whether or not actually in the hands of the former bankrupt.

(3) Where any such property is in the hands of any person other than the former bankrupt, the official receiver's charge is valid subject only to any costs that may be incurred by that person in effecting realisation of the property for the purpose of satisfying the charge.

Advertisement of order

8.36.—(1) The former bankrupt may in writing within 28 days of the date of an order for annulment under section 261(2) require the official receiver—

(a) to cause a notice of the order to be gazetted, and

(b) to advertise the order in the same manner as the bankruptcy order was advertised.

(2) The official receiver must comply with any such requirement as soon as reasonably practicable.

(3) The notice must state—

(a) the name of the former bankrupt;

(b) the date on which the bankruptcy order was made;

(c) that the bankruptcy order has been annulled;

(d) the date of the annulment order; and

(e) the grounds of the annulment.

(4) Where the former bankrupt has died, or is a person lacking capacity to manage the person's own affairs (within the meaning of the Mental Capacity Act 2005(**a**)), the references to the former bankrupt in paragraph (1) are to be read as references to the personal representative of the same or, as the case may be, a person appointed by the court to represent or act for the former bankrupt.

Trustee's final account

8.37.—(1) The making of an order under section 261(2) does not of itself release the trustee from any duty or obligation imposed by or under the Act or these Rules to account for all of the trustee's transactions in connection with the former bankrupt's estate.

(2) As soon as reasonably practicable after the making of an order, the trustee must—

(a) deliver a copy of the final account of the trustee to the Secretary of State, and

(b) file a copy of that account with the court.

(3) The final account must include a summary of the trustee's receipts and payments.

(4) The trustee is released from such time as the court may determine, having regard to whether paragraph (2) of this rule has been complied with.

(**a**) 2005 c. 9.

CHAPTER 8

Time Recording Information

Provision of information

8.38.—(1) This rule applies where the remuneration of the nominee or the supervisor has been agreed and paid on the basis of the rates agreed for the nominee or supervisor and the time spent.

(2) A person who is acting, or has acted within the previous two years as—

(a) a nominee in relation to a proposal, or

(b) the supervisor in relation to an IVA,

must, within 28 days of receipt of a request from a person mentioned in paragraph (3), deliver free of charge to that person a statement complying with paragraph (4) and (5).

(3) The persons are—

(a) the debtor; and

(b) where the proposal has been approved, a creditor bound by the IVA.

(4) The statement must cover the period which—

(a) in the case of a person who has ceased to act as nominee or supervisor in relation to an IVA, begins with the date of that person's appointment as nominee or supervisor and ends with the date of ceasing to act; and

(b) in any other case, consists of one or more complete periods of six months beginning with the date of appointment and ending most nearly before the date of receiving the request.

(5) The statement must set out—

(i) the total number of hours spent on the matter during that period by the nominee or supervisor, and by any staff;

(ii) for each grade of staff engaged on the matter, the average hourly rate at which work carried out by staff in that grade is charged; and

(iii) the number of hours spent on the matter by each grade of staff during that period.

PART 9

DEBT RELIEF ORDERS (PART 7A OF THE ACT)

CHAPTER 1

GENERAL

[Notes: (1) a debt relief order under Part 7A of the Act may be made in respect of "qualifying debts" (as defined in section 251A(2)): these do not include "excluded debts" which are prescribed by rule 9.1 for the purposes of section 251A(4).

(2) "approved intermediaries" and "competent authority" are defined in section 251U of the Act for purposes of Part 7A of the Act.]

Excluded debts

9.1.—(1) For the purposes of Part 7A**(a)** of the Act debts of the following descriptions are prescribed under section 251A(4) as "excluded debts"—

(**a**) Part 7A of the Act (sections 251A to 251X) was inserted by Schedule 17 to the Tribunals, Courts and Enforcement Act 2007 (c.).

(a) any fine imposed for an offence and any obligation (including an obligation to pay a lump sum or to pay costs) arising under an order made in family proceedings or any obligation arising under a maintenance assessment or maintenance calculation made under the Child Support Act 1991;

(b) any debt or liability to which a debtor is or may become subject in respect of any sum paid or payable to the debtor as a student by way of a loan and which the debtor receives before or after the debt relief order is made;

(c) any obligation arising under a confiscation order made under section 1 of the Drug Trafficking Offences Act 1986(**a**) or section 1 of the Criminal Justice (Scotland) Act 1987 or section 71 of the Criminal Justice Act 1988(**b**) or under Parts 2, 3 or 4 of the Proceeds of Crime Act 2002(**c**);

(d) any debt which consists of a liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other duty, or to pay damages by virtue of Part 1 of the Consumer Protection Act 1987, being in either case damages in respect of the death of or personal injury (including any disease or other impairment of physical or mental condition) to any person; and

(e) any obligation arising from a payment out of the social fund under section 138(1)(b) of the Social Security Contributions and Benefits Act 1992(**d**) by way of crisis loan or budgeting loan.

(2) In paragraph (1)(a) "family proceedings" and "fine" have the meanings given by section 281(8) (which applies the Magistrates' Courts Act 1980 and the Matrimonial and Family Proceedings Act 1984).

(3) In paragraph (1)(b) "loan" means a loan made under—

(a) regulations made under section 22(1) of the Teaching and Higher Education Act 1998(**e**); or

(b) the Education (Student Loans) Act 1990, or that Act as it continues in force by virtue of any savings made, in connection with its repeal by the Teaching and Higher Education Act 1998, by an order made under section 46(4) of that Act; and

(c) includes any interest on the loan and any penalties or charges incurred in connection with it.

CHAPTER 2

APPLICATION FOR A DEBT RELIEF ORDER

Application for a debt relief order—information required in the application

9.2.—(1) An application for a debt relief order under section 251A must state the matters set out in paragraphs (2) to (9) (which are prescribed for the purposes of section 251B(2)(c)) as they are at the date of the application as well as the matters referred to in section 251B(2)(a) (list of the debtor's debts at the date of the application) and 251B(2)(b) (details of any security held in respect of those debts).

(2) The application must identify the debtor and state—

(a) the debtor's occupation (if any);

(b) the debtor's gender;

(c) the debtor's date of birth;

(**a**) Note: this was repealed on 3/2/1995 by Sch. 3 to the Drug Trafficking Offences Act 1994. All the legislation referred to needs to be checked.

(**b**) Repealed by Schedule 12 to the Proceeds of Crime Act 2002 (c.29) with savings in articles 10 and 13 of SI 2003/333.

(**c**) 2002 (c.29); relevant amendments are made by paragraph 75(1) and (2) of Part 2 of Schedule 3 to the Criminal Justice Act 2003 (c.44); Part 1 of Schedule 8 and paragraphs 1 and 2 and 36 of Schedule 14 to the Serious Crime Act 2007 (c.27); and paragraphs 11 and 12 of the Schedule to the Prevention of Social Housing Fraud Act 2013 (c.3).

(**d**) Note section 138(1)(b) was repealed by the Welfare Reform Act 2012.

(**e**) 1998 c.30. Section 22(1) was amended by section 146(2)(a) of the Learning and Skills Act 2000 (c.21).

(d) the debtor's places of residence during the three years before the date of the application;

(e) any other name used by the debtor for any purpose;

(f) the name, address and nature of any business carried on by the debtor, including any business carried on by—

(i) a firm or partnership of which the debtor is a member;

(ii) an agent or manager for the debtor or for such firm or partnership;

(g) any other liabilities (including those imposed by an order of the court) to which the debtor is subject;

(h) the address of the creditor to whom each debt is owed;

(i) the total amount of the debtor's monthly income from all sources (see rule 9.6(1));

(j) the sources of that income and the amount from each source;

(k) particulars of the expenditure which the debtor claims is necessary to meet the monthly reasonable domestic needs of the debtor and the debtor's family, including the purpose and the amount of that expenditure (see rule 9.6(2));

(l) the total amount available from any source to meet the claimed monthly reasonable domestic needs of the debtor and the debtor's family (see rule 9.6(2)); and

(m) particulars of the debtor's property and its total estimated value (see rules 9.7 and 9.8).

(3) The debtor must also state in the application—

(a) whether or not at the date of the application the debtor —

(i) has given a preference to any person during the period of two years ending with the application date;

(ii) has entered into a transaction with any person at an undervalue during the period of two years ending with the application date;

(iii) is domiciled in England and Wales;

(iv) at any time during the period of three years ending with the application date—

(aa) was resident,

(bb) had a place of residence, or

(cc) carried on business,

in England and Wales;

(v) is an undischarged bankrupt;

(vi) is subject to a debt relief order;

(vii) has been subject to a debt relief order in the six years ending with the application date;

(viii) is subject to an interim order or an IVA under Part 8 of the Act; or

(ix) is subject to a bankruptcy restrictions order or undertaking or debt relief restrictions order or undertaking; and

(b) whether at the date of the application—

(i) a bankruptcy petition has been presented against the debtor;

(ii) a bankruptcy application has been made by the debtor;

(iii) any debt management arrangements (see section 251F) are in force in relation to the debtor; and

(iv) any other legal action has been taken against the debtor in relation to any of the debtor's existing debts.

(4) In the application, the debtor must deduct from each debt all trade and other discounts which are available to the debtor, except any discount for immediate or early settlement.

(5) Where any debts were incurred or are payable in a foreign currency, the amount of those debts must be converted into sterling at a single exchange rate for that currency determined by the official receiver with reference to the exchange rates prevailing on the relevant date.

(6) A creditor who considers that the rate determined by the office receiver is unreasonable may apply to the court.

(7) If the court finds that the rate is unreasonable it may itself determine the rate.

(8) Where a debt consists of unpaid payments of a periodical nature, the amount of the debt will consist of any amounts due and unpaid up to the application date.

(9) Where at the application date any payment was accruing due, the amount of the debt will be so much as would have fallen due at that date, if accruing from day to day.

(10) A debtor may include a debt of which payment is not yet due at the date of the application if it is for a liquidated sum payable at some certain future time.

(11) In the application, the debtor must also—

(a) consent to the official receiver making checks for the purpose of verifying that the debtor complies with the conditions to which the making of a debt relief order is subject;

(b) state that the debtor is unable to pay the debts;

(c) request a debt relief order, and

(d) indicate the date on which the application is completed.

(12) The debtor must deliver to the approved intermediary such information and such documents as will enable the intermediary to substantiate the information in the application, including information about each debt, the amount of the debt and the name and address of the creditor.

Application for a debt relief order

9.3.—(1) An application for a debt relief order must be completed and delivered to the official receiver in electronic form and by electronic means.

(2) The preconditions for delivering a document electronically set out in rule 1.43(2) and (3) do not apply to applications for debt relief orders.

(3) In the event of any malfunction or error in the operation of the electronic form or means of delivery, the official receiver must inform the competent authorities and approved intermediaries—

(a) that approved intermediaries may complete and deliver applications in hard copy for a specified period; and

(b) of the postal address to which such applications are to be delivered and of any terms or conditions to which the use of the address is subject.

(4) Such an application completed in hard copy may not be delivered by fax.

Role of approved intermediary

9.4.—(1) The approved intermediary, through whom the application for a debt relief order is to be made, must create an application for a debt relief order in the name of the debtor as soon as reasonably practicable after being asked by the debtor to do so.

(2) The approved intermediary may assist the debtor—

(a) to identify what information is required to complete the application;

(b) based upon the documentation and information supplied by the debtor, to ascertain whether—

(i) the debtor appears to have debts not exceeding the prescribed amount;

(ii) the debtor's surplus income does not exceed the prescribed amount; and

(iii) the value of the debtor's property does not exceed the prescribed amount; and

(c) to ensure that the application (if made) is completed in full.

(3) The approved intermediary must draw the debtor's attention to—

(a) all the conditions to which an application for, and the making of, a debt relief order is subject;

(b) the possible consequences of the debtor making any false representation or omission in the application; and

(c) the fact that verification checks will be made for the purpose of verifying that the debtor complies with the conditions to which the making of a debt relief order is subject and the requirement for the debtor to consent to such checks being made.

(4) The approved intermediary must deliver the application to the official receiver as soon as reasonably practicable after being instructed by the debtor to do so.

CHAPTER 3

VERIFYING THE APPLICATION AND DETERMINING THE DEBTOR'S INCOME AND PROPERTY

Prescribed verification checks—conditions in paragraphs 1 to 8 of Schedule 4ZA

9.5.—(1) For the purposes of section 251D(4) and (5) and the conditions in paragraphs 1 to 8 of Schedule 4ZA, the prescribed verification checks are those searches or enquiries specified in this rule.

(2) For the purpose of verifying a debtor's connection with England and Wales on the application date, verification checks made in, or with, one or more of the following—

(a) the electoral registers for the areas in England and Wales in which the debtor in, and at the date of, the debtor's application, claims to reside or to carry on business or to have resided or carried on business;

(b) the individual insolvency register;

(c) the bankruptcy restrictions register;

(d) the debt relief restrictions register;

(e) a credit reference agency.

(3) Verification checks made in one or more of the registers specified in paragraph (4), for the purpose of verifying that a debtor—

(a) is not, on the determination date—

(i) an undischarged bankrupt;

(ii) subject to a bankruptcy restrictions order or undertaking;

(iii) subject to a debt relief restrictions order or undertaking;

(iv) subject to an IVA; or

(b) has not been the subject of a debt relief order in the period of six years ending with the determination date.

(4) The registers referred to in paragraph (3) are—

(a) the individual insolvency register;

(b) the bankruptcy restrictions register;

(c) the debt relief restrictions register.

(5) Verification checks made in, or with, one or more of the sources specified in paragraph (6) for the purpose of verifying—

(a) that the debtor is not subject to an interim order on the determination date;

(b) whether a creditor's bankruptcy petition has been presented against the debtor before the determination date;

(c) whether the debtor has made a bankruptcy application before the determination date;

(d) whether proceedings in relation to any such bankruptcy application have finally been disposed of before the determination date;

(e) where a creditor's bankruptcy petition has been presented against the debtor before the determination date, the status of the proceedings in relation to the petition and whether the person who presented the petition has consented to the making of the application for a debt relief order.

(6) The sources are—

(a) the individual insolvency register;

(b) county or other court records;

(c) a credit reference agency.

(7) Verification checks made with a credit reference agency, for the purpose of verifying that each of the following does not exceed the prescribed amount—

(a) the amount of the debtor's overall indebtedness;

(b) the amount of the debtor's monthly surplus income; or

(c) the total value of the debtor's property.

Determination of debtor's monthly surplus income

9.6.—(1) For the purposes of this Part, the income of a debtor comprises every payment in the nature of income which is from time to time made to the debtor or to which the debtor from time to time becomes entitled, including any payment in respect of the carrying on of a business or in respect of an office or employment and any payment under a pension scheme.

(2) In determining the monthly surplus income of a debtor, the official receiver must take into account any contribution made by a member of the debtor's family to the amount necessary for the reasonable domestic needs of the debtor and the debtor's family.

Determination of value of a debtor's property (paragraph 8 of Schedule 4ZA)

9.7.—(1) The official receiver in determining the total value of the debtor's property for the purposes of determining whether the condition in paragraph 8 of Schedule 4ZA is met must treat as a debtor's property for the purposes of this Part—

(a) all property belonging to or vested in the debtor on the determination date; and

(b) any property which by virtue of any of the following provisions of this Part is comprised in or is treated as falling within the preceding sub-paragraph.

(2) For the purposes of this Part—

(a) property, in relation to a debtor, include references to any power exercisable by the debtor over or in relation to property except in so far as the power is exercisable over or in relation to property which is not or is deemed not for the time being to be the property of the debtor and cannot be exercised for the benefit of the debtor;

(b) a power exercisable over or in relation to property is deemed for the purposes of this Part to vest in the person entitled to exercise it at the time of the transaction or event by virtue of which it is exercisable by that person (whether or not it becomes so exercisable at that time);

(c) property belonging to or vested in the debtor so belongs or vests in the debtor subject to the rights of any person other than the debtor (whether as a secured creditor of the debtor or otherwise).

(3) In determining the value of the debtor's property the descriptions of property set out in rule 9.8 must be excluded.

Property to be excluded in determining the value of a person's property

9.8.—(1) For the purposes of determining the value of a person's property under rule 9.7, the official receiver must disregard—

(a) subject to paragraph (2), a single domestic motor vehicle belonging to or vested in the debtor if—

(i) it has been especially adapted for use by the debtor because of a physical impairment that has a substantial and long-term adverse effect on the debtor's ability to carry out normal day-to-day activities; or

(ii) the maximum potential realisable value of the vehicle is less than £1,000 (the prescribed amount);

(b) subject to paragraph (3), such tools, books and other items of equipment as are necessary to the debtor for use personally in the debtor's employment, business or vocation;

(c) subject to paragraph (3), such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the debtor and the debtor's family;

(d) property held by the debtor on trust for any other person;

(e) the right of nomination to a vacant ecclesiastical benefice;

(f) a tenancy which is an assured tenancy or an assured agricultural occupancy, within the meaning of Part 1 of the Housing Act 1988, and the terms of which inhibit an assignment as mentioned in section 127(5) of the Rent Act 1977;

(g) a protected tenancy, within the meaning of the Rent Act 1977, in relation to which, by virtue of any provision of Part 9 of that Act, no premium can lawfully be required as a condition of assignment;

(h) a tenancy of a dwelling-house by virtue of which the debtor is, within the meaning of the Rent (Agriculture) Act 1976, a protected occupier of the dwelling-house, and the terms of which inhibit an assignment as mentioned in section 127(5) of the Rent Act 1977;

(i) a secure tenancy, within the meaning of Part 4 of the Housing Act 1985, which is not capable of being assigned, except in the cases mentioned in section 91(3) of that Act, and

(j) any right of the debtor under an approved pension arrangement (as defined by section 11 of the Welfare Reform and Pensions Act 1999(**a**)).

(2) The amount the official receiver must disregard under paragraph (1)(a)(i) is limited to the value of a reasonable replacement where it appears to the official receiver that the realisable value of the vehicle to be disregarded exceeds the cost of a reasonable replacement for it.

(3) The amount the official receiver must disregard under paragraph (1)(b) or (c) is limited to the value of a reasonable replacement where it appears to the official receiver that the realisable value of the whole or a part of the property to be disregarded exceeds the cost of a reasonable replacement for that property or that part.

(4) A vehicle or other property is a reasonable replacement if it is reasonably adequate for meeting the needs met by the other vehicle or other property.

CHAPTER 4

MAKING OR REFUSAL OF A DEBT RELIEF ORDER

Content of debt relief order

9.9. A debt relief order must contain—

(a) the debtor's identity information;

(b) the date of, and the reference number allocated to, the debtor's application;

(**a**) 1999 c. 30; section 11 is amended by SI 2006/745.

(c) a list of the debtor's qualifying debts as at the application date, specifying the amount owed and the creditor's name, address and reference (if any); and

(d) the date on which the order was made.

Other steps to be taken by official receiver or debtor upon making of the order

9.10.—(1) In addition to delivering a copy of the order to the debtor under section 251E, the official receiver must—

(a) deliver a notice of the making and date of the order to the approved intermediary through whom the debtor's application was made; and

(b) cause an entry to be made in the individual insolvency register in accordance with rule 11.18.

(2) If there are other debt management arrangements or an attachment of earnings order in force in relation to the debtor, the official receiver must deliver a notice of the making of the debt relief order to the court, or the body, as the case may be, responsible for making the debt management arrangements or order.

Prescribed information for creditors on making of debt relief order

9.11. The official receiver must deliver a notice to each creditor to whom a qualifying debt specified in the order is owed, of—

(a) the making, the date and the reference number of the order;

(b) the effect of the order;

(c) the matters to which a creditor may object under section 251K; and

(d) the name, address and telephone number of the official receiver delivering the notice and the address to which any objection under that section may or must be delivered.

Refusal of application for debt relief order

9.12. If the official receiver refuses an application for a debt relief order, the official receiver must deliver a notice to the debtor stating that the official receiver refused the application, and the reason why it has been refused.

CHAPTER 5

OBJECTION AND REVOCATION

Meaning of "creditor"

9.13. In this Chapter, "creditor" means a person specified in a debt relief order as a creditor to whom a qualifying debt is owed.

Creditor's objection to a debt relief order (section 251K)

9.14.—(1) The prescribed period under section 251K(2)(a) for a creditor to object to a debt relief order during the moratorium period is within 30 days of the date on which a notice of the making of the order was delivered to the creditor.

(2) The objection must in writing and must contain—

(a) the name and address of the creditor;

(b) the name of the debtor and the reference number of the order;

(c) the matters under section 251K to which the creditor objects;

(d) a statement of which of the prescribed grounds for objection the creditor relies upon;

(e) a statement of the facts on which the creditor relies; and

(f) information and documents in support of the grounds and the facts on which the creditor relies.

(3) The prescribed grounds for objection are that—

(a) there is an error in, or an omission from, something specified in the debt relief order;

(b) a bankruptcy order has been made in relation to the debtor;

(c) the debtor has made a proposal under Part 8 of the Act;

(d) the official receiver should not have been satisfied that—

(i) the debts specified in the order were qualifying debts of the debtor as at the application date;

(ii) the conditions specified in Part 1 of Schedule 4ZA were met;

(iii) the conditions specified in Part 2 of that Schedule were met; or

(iv) that the official receiver was permitted to make such an order in spite of any failure to meet the conditions referred to in sub-paragraphs (d)(ii) and (iii).

Official receiver's response to objection under section 251K

9.15.—(1) After considering a creditor's objection to a debt relief order in accordance with section 251K, the official receiver, if minded to revoke or amend the debt relief order, must deliver to the debtor—

(a) particulars of the objection;

(b) the grounds and facts upon which the creditor relies;

(c) an invitation to the debtor to comment on them within 21 days of delivery of the particulars; and

(d) the address to which the debtor's comments must be delivered.

(2) Before deciding whether to revoke or amend the debt relief order, the official receiver must consider any comments made by the debtor within the 21 day period.

(3) After coming to a decision on the objection the official receiver must deliver a notice to the creditor within 14 days informing the creditor what the official receiver has decided to do.

(4) If the official receiver has decided to make an application under section 251M(2) then the official receiver must treat the creditor under rule 9.20(3)(b) as a person interested in the application (if the creditor would not otherwise be such).

Creditor's request that a debt relief order be revoked (section 251L(4))

9.16.—(1) A creditor may request that the official receiver revoke a debt relief order under section 251L(4) because either or both of the conditions in paragraphs 7 and 8 of Schedule 4ZA are not met at any time after the debt relief order was made.

(2) The request must contain—

(a) the name and address of the creditor;

(b) the name of the debtor and the reference number of the order;

(c) which of the conditions under paragraph 7 and 8 of Schedule 4ZA are not met;

(d) a statement of the facts on which the creditor relies; and

(e) information and documents supporting the facts which are relied upon.

(3) After coming to a decision on the request the official receiver must deliver a notice to the creditor within 14 days informing the creditor what the official receiver has decided to do.

(4) If the official receiver has decided to make an application under section 251M(2) then the official receiver must treat the creditor under rule 9.20(3)(b) as a person interested in the application (if the creditor would not otherwise be such).

Procedure in revoking or amending a debt relief order (section 251L)

9.17.—(1) The official receiver must as soon as reasonably practicable after deciding to revoke a debt relief order under section 251L deliver notice of the decision to the debtor and the creditors.

(2) The notice must—

(a) identify the date and reference number of the debt relief order;

(b) state the reasons for revocation; and

(c) specify the date (under subsection (5) or (7) of section 251L) on or from which the revocation has effect.

(3) If the official receiver has delivered notice of the revocation date from a specified date but thinks it appropriate to revoke the order with immediate effect under section 215L(7) before that date then the official receiver must notify anyone who has previously received a notice of the new revocation date.

(4) The official receiver must cause the entry in the individual insolvency register relating to the order to be amended so far as information concerning the order has not already been deleted under rule 11.19.

(5) Where the debtor has died during the moratorium period rule 9.19 applies.

(6) The official receiver must as soon as reasonably practicable after amending a debt relief order deliver a notice of the amendment to the debtor and the creditors.

(7) The notice must—

(a) identify the date and reference number of the debt relief order;

(b) specify the amendment;

(c) specify the date on which the amendment was made; and

(d) state the reasons for it.

(8) The official receiver must as soon as reasonably practicable cause the entry in the individual insolvency register relating to the amended debt relief order to be amended accordingly.

Notification of official receiver by debtor of matters in section 251J(3) or (5)

9.18.—(1) The debtor must deliver a notice to the official receiver as soon as reasonably practicable after the debtor becomes aware of an error in, or omission from, the information supplied to the official receiver in, or in support of, the application.

(2) The notice must state the nature of the error or omission and the reason for it.

(3) The debtor must deliver a notice to the official receiver as soon as reasonably practicable after the debtor becomes aware of a change in the debtor's circumstances between the application date and the determination date that would affect (or would have affected) the determination of the application.

(4) The notice must state the nature of the change and the date of the change.

(5) Where a debt relief order is made and—

(a) the debtor's income increases during the moratorium period applicable to the order, the debtor must as soon as reasonably practicable after the date of the increase deliver a notice to the official receiver stating—

(i) the amount of the increase;

(ii) the reason for it;

(iii) the date of the increase; and

(iv) its expected duration;

(b) the debtor acquires property or property is devolved upon the debtor during that period, the debtor must as soon as reasonably practicable after the date of the acquisition or devolution deliver a notice to the official receiver stating—

(i) the nature of the acquisition or devolution;

(ii) the date of the acquisition or devolution;

(iii) the reason for it; and

(iv) its value;

(c) the debtor becomes aware of any error in or omission from any information supplied by the debtor to the official receiver after the determination date, the debtor must as soon as reasonably practicable after the date on which the debtor becomes aware of it deliver a notice to the official receiver, stating—

(i) the nature of the error or omission;

(ii) the reason for it; and

(iii) the date on which the debtor became aware of it.

Death of debtor during a moratorium period under a debt relief order

9.19.—(1) This rule applies where a debtor dies during a moratorium period under a debt relief order.

(2) The official receiver must, as soon as reasonably practicable after being informed of the death of the debtor—

(a) cause a note of the fact and the date of the death to be entered on the individual insolvency register under rule 11.23;

(b) revoke the debt relief order; and

(c) send a notice of the revocation to —

(i) any creditor of to whom a qualifying debt is owed;

(ii) the personal representatives of the debtor

(3) The official receiver must as soon as reasonably practicable after the debt relief order is revoked deliver a notice of the revocation to the creditors and the deceased's personal representatives.

(4) The notice of revocation must—

(a) state the reason for the revocation, and

(b) specify the date on which the revocation took effect.

CHAPTER 6

APPLICATIONS TO THE COURT

Notice of application to court under section 251M

9.20.—(1) This rule applies to applications to the court under section 251M.

(2) Where the application is made by a person who is dissatisfied by an act, omission or decision of the official receiver in connection with a debt relief order or an application for a debt relief order the applicant must deliver a notice—

(a) if the applicant is the debtor, to the official receiver and any creditor specified in the debt relief order or in the application for the debt relief order;

(b) if the applicant is a person other than the debtor, to the official receiver and the debtor.

(3) Where the application is made by the official receiver for directions or an order in relation to a matter arising in connection with a debt relief order or an application for such an order, the official receiver must deliver notice to—

(a) the debtor, and

(b) any person appearing to the official receiver to have an interest in the application.

Court in which applications under sections 251M (powers of court in relation to debt relief orders) or 251N (inquiry into debtor's dealings and property) to be made

9.21.—(1) An application to the court under section 251M or 251N must be made to—

(a) the High Court, where the proceedings are allocated to the London insolvency district under rule 12.4(a)(v);

(b) the County Court at Central London, where the proceedings are allocated to the London insolvency district under rule 12.4(a)(i) to (v)***;***

(c) the debtor's own county court hearing centre as determined under rule 10.12 (subject to paragraph (4)), in any other case where the debtor is resident in England and Wales.

(2) The application may be filed either with the debtor's own county court hearing centre or with the High Court if—

(a) the debtor is not resident in England and Wales but was resident or carried on business in England and Wales within the six months immediately before the application is filed with the court; and

(b) the proceedings are not allocated to the London insolvency district.

(3) In this rule the debtor's own county court hearing centre is—

(a) where the debtor has carried on business in England and Wales within the six months immediately before the application is filed with the court, the county court hearing centre which serves the insolvency district where for the longest period during those six months—

(i) the debtor carried on business, or

(ii) the principal place of business was located, if business was carried on in more than one insolvency district; or

(b) where the debtor has not carried on business in England and Wales within the six months immediately before the application is filed with the court, the county court hearing centre which serves the insolvency district where the debtor resided for the longest period during those six months.

(4) Where, for whatever reason, it is not possible for the application to be filed with the debtor's own county court hearing centre, the applicant may, with a view to expediting the application, file the application—

(a) where paragraph (3)(a) applies, with—

(i) the court for the insolvency district in which the debtor resides, or

(ii) whichever county court hearing centre is specified by Schedule 6 as being the nearest full-time court in relation to the court in paragraph (3)(a), or

(iii) the court in paragraph (i); or

(b) where paragraph (3)(b) applies, whichever court is specified by Schedule 6 as being the nearest full-time court in relation to the court in that paragraph.

(5) The application must contain sufficient information to establish that it is brought in the appropriate court, and where the application is made to the county court, the appropriate county court hearing centre.

Creditor's bankruptcy petition—where creditor consents to making of application for a debt relief order

9.22.—(1) This rule applies where before the determination of an application for a debt relief order , a creditor's petition for bankruptcy has been presented against a debtor and the proceedings in relation to the petition remain before the court.

(2) In this rule "the debt" means the debt to which the creditor's bankruptcy petition relates.

(3) If, on the hearing of the petition, the petitioner consents to the debtor making an application for a debt relief order in relation to the debt the court must—

(a) refer the debtor to an approved intermediary for the purpose of making an application for a debt relief order in relation to the debtor and the debt noting the consent of the creditor on the order for referral;

(b) stay the proceedings on the petition in relation to the debt on such terms and conditions as it thinks just.

(4) The debtor must deliver to the approved intermediary as soon as reasonably practicable after the making of the order of referral—

(a) a sealed copy of the order, and

(b) copies of the petition and the creditor's statutory demand (if there was one),

(5) The approved intermediary must, on receipt of the order and the copies, as soon as reasonably practicable after the application for a debt relief order has been made, deliver them to the official receiver endorsed with the name of the debtor and the number of the application to which they relate.

(6) If, following the reference by the court, a debt relief order is made in relation to the debt, the petition must be dismissed in relation to it unless the court otherwise directs.

Extension of moratorium period

9.23. Where the moratorium period applicable to a debt relief order is extended—

(a) notice of the extension, and the period of extension must be delivered,

(i) where extended by the court, to the official receiver, who must deliver a copy to the debtor and to the creditors specified in the debt relief order;

(ii) where extended by the official receiver, to the debtor and to the creditors specified in the debt relief order; and

(b) the official receiver must cause to be entered in the individual insolvency register—

(i) that such an extension has been made in relation to the debtor;

(ii) the date on which the extension was made;

(iii) its duration; and

(iv) the date of the anticipated end of the moratorium period.

CHAPTER 7

PERMISSION TO ACT AS DIRECTOR, ETC.

Application for permission under Company Directors Disqualification Act 1986

9.24.—(1) This rule relates to an application for permission under section 11 of the Company Directors Disqualification Act 1986, to act as director of, or to take part or be concerned in the promotion, formation or management of a company by a person—

(a) in relation to whom a moratorium period under a debt relief order applies; or

(b) in relation to whom a debt relief restrictions order or undertaking is in force.

(2) The application must be supported by a witness statement which must identify the company and specify—

(a) the nature of its business or intended business, and the place or places where that business is, or is to be, carried on;

(b) in the case of a company which has not yet been incorporated, whether it is, or is to be, a private or a public company;

(c) the persons who are, or are to be, principally responsible for the conduct of its affairs (whether as directors, shadow directors, managers or otherwise);

(d) the manner and capacity in which the applicant for permission proposes to take part or be concerned in the promotion or formation of the company or, as the case may be, its management; and

(e) the emoluments and other benefits to be obtained from the directorship.

(3) The court must fix a venue for the hearing of the application, and must deliver a notice to the applicant for permission accordingly.

Application for permission under Company Directors Disqualification Act 1986 –report of official receiver

9.25.—(1) The applicant for permission must, not less than 28 days before the date fixed for the hearing, deliver to the official receiver, notice of the venue, accompanied by copies of the application and the witness statement under rule 9.24.

(2) The official receiver may, not less than 14 days before the date fixed for the hearing, file with the court a report of any matters which the official receiver considers ought to be drawn to the court's attention.

(3) A copy of the report must be delivered by the official receiver, as soon as reasonably practicable after it is filed, to the applicant for permission.

(4) The applicant for permission may, not later than five business days before the date of the hearing, file with the court a notice specifying any statements in the official receiver's report which are to be denied or disputed.

(5) If a notice is filed under paragraph (4), the applicant for permission must deliver copies of it, not less than three business days before the date of the hearing, to the official receiver.

(6) The official receiver may appear on the hearing of the application, and may make representations and put to the applicant for permission such questions as the court may allow.

Application for permission under Company Directors Disqualification Act 1986 – court's order on application

9.26.—(1) If the court grants the application for permission under section 11 of the Company Directors Disqualification Act 1986, its order must specify that which by virtue of the order the applicant has permission to do.

(2) The court may at the same time, having regard to any representations made by the official receiver on the hearing of the application, exercise in relation to the moratorium period or the debt relief order to which the applicant for permission is subject, any power which it has under section 251M.

(3) Whether or not the application is granted, copies of the order must be delivered by the court to the applicant and the official receiver.

PART 10

BANKRUPTCY

CHAPTER 1

THE STATUTORY DEMAND

The statutory demand (section 268)

10.1.—(1) A statutory demand under section 268 must—

(a) identify the debtor;

(b) state the name and address of the creditor;

(c) specify whether it is made under section 268(1) (debt payable immediately) or section 268(2) (debt not so payable);

(d) state the amount of the debt, and the consideration for it (or, if there is no consideration, the way in which it arises);

(e) if made under section 268(1) and founded on a judgment or order of a court, specify the date of the judgment or order and the court in which it was obtained;

(f) if made under section 268(2), state the grounds on which it is alleged that the debtor appears to have no reasonable prospect of paying the debt;

(g) be dated and authenticated either by the creditor or a person who is authorised to make the demand on the creditor's behalf.

(2) A demand which is authenticated by a person other than the creditor must state that the person is authorised to make the demand on the creditor's behalf and state the person's relationship to the creditor.

(3) If the amount claimed in the demand includes—

(a) any charge by way of interest of which notice had not previously been delivered to the debtor as a liability of the debtor's; or

(b) any other charge accruing from time to time,

the amount or rate of the charge must be separately identified, and the grounds on which payment of it is claimed must be stated.

(4) However the amount claimed for such charges must be limited to that which has accrued due at the date of the demand.

(5) If the creditor holds any security in respect of the debt, the full amount of the debt must be specified, but—

(a) the demand must specify the nature of the security, and the value which the creditor puts upon it at the date of the demand; and

(b) the demand must claim payment of the full amount of the debt, less the specified value of the security.

Further information to be given in the statutory demand

10.2.—(1) The statutory demand must explain the following matters to the debtor—

(a) the purpose of the demand*;*

(b) that if the debtor does not comply with the demand bankruptcy proceedings may be commenced;

(c) the date by which the debtor must comply with the demand, if bankruptcy proceedings are to be avoided;

(d) the methods of compliance which are open to the debtor;

(e) that the debtor has the right to apply to the court to have the demand to be set aside;

(f) that rule 10.5(4) of the Insolvency Rules 2016 states to which court such an application must be made; and name the court or hearing centre court to which, according to the present information, the debtor must make the application (i.e. the High Court, the County Court at Central London or a named hearing centre of the County Court as the case may be);

(g) that any application to set aside the demand must be made within 18 days of service on the debtor;

(h) that if the debtor does not apply to set aside the demand within 18 days or otherwise deal with this demand within 21 days after its service the debtor could be made bankrupt and the debtor's property and goods taken away.

(2) Where the statutory demand is served by a Minister of the Crown or a Government Department the statutory demand must explain that the debtor may alternatively apply to set aside

the demand to the High Court or the County Court at Central London (as the case may be) if the Minister or Department intends to present a bankruptcy petition to one of them.

(3) A demand must name one or more individuals with whom the debtor may communicate with a view to—

(a) securing or compounding for the debt to the satisfaction of the creditor; or

(b) establishing to the creditor's satisfaction that there is a reasonable prospect that the debt will be paid when it falls due.

(4) The named individual(s) postal address, electronic address and telephone number (if any) must be given.

Service of statutory demand

10.3. A creditor must do all that is reasonable to bring the statutory demand to the debtor's attention and, if practicable in the particular circumstances, serve the demand personally**.**

Proof of service of statutory demand

10.4.—(1) Where section 268 requires a statutory demand to be served before the petition, a certificate of service of the demand must be filed with the court with the petition.

(2) The certificate must be verified by a statement of truth and be accompanied by a copy of the demand served.

(3) If the demand has been served personally on the debtor, the certificate must be authenticated by the person who served it unless service has been acknowledged in writing by the debtor or a person authorised to accept service.

(4) If service has been acknowledged in writing either by—

(a) the debtor, or

(b) a person who is authorised to accept service on the debtor's behalf and who has stated that this is the case in the acknowledgement of service,

then the certificate must be authenticated either by the creditor or by a person acting on the creditor's behalf, and the acknowledgement of service must accompany the certificate.

(5) If the demand has been other than personally and there is no acknowledgement of service, the certificate must be authenticated by a person or persons having direct personal knowledge of the means adopted for serving the statutory demand, and must contain the following information—

(a) the steps taken to serve the demand; and

(b) a date by which, to the best of the knowledge, information and belief of the person authenticating the certificate, the demand will have come to the debtor's attention.

(6) Where paragraph (5) applies the statutory demand is deemed to have been served on the debtor on the date referred to in paragraph (5)(b) unless the court determines otherwise.

Application to set aside statutory demand

10.5.—(1) The debtor may apply to the court for an order setting aside the statutory demand.

(2) The application must be made within 18 days from the date of the service of the statutory demand.

(3) The application must—

(a) identify the debtor;

(b) state that the application is for an order that the statutory demand be set aside;

(c) state the date of the statutory demand; and

(d) be dated and authenticated by the debtor, or by a person authorised to act on the debtor's behalf.

(4) The application must be made to the court or county court hearing centre—

(a) determined in accordance with rule 10.50; or

(b) to which rule 10.12(1) requires a petition to be presented if—

(i) the creditor serving the statutory demand is a Minister of the Crown or a government Department;

(ii) the debt in respect of which the statutory demand is made, or part of it equal to or exceeding the bankruptcy level (within the meaning of section 267), is the subject of a judgment or order of a court; and

(iii) the statutory demand—

(aa) specifies the date of the judgment or order and the court in which it was obtained; and

(bb) indicates the creditor's intention to present a bankruptcy petition against the debtor in the High Court or the County Court at Central London as the case may be.

(5) The time within which the debtor must comply with the statutory demand ceases to run starting with the date on which the application is filed with the court, subject to any order of the court under rule 10.6.

(6) The debtor's application must be accompanied by a copy of the statutory demand, where it is in the debtor's possession, and supported by a witness statement containing the following—

(a) the date on which the debtor became aware of the statutory demand;

(b) the grounds on which the debtor claims that it should be set aside; and

(c) any evidence in support of the application.

Hearing of application to set aside

10.6.—(1) On receipt of an application to set aside a statutory demand, the court may, if satisfied that no sufficient cause is shown for it, dismiss it without giving notice of the application to the creditor.

(2) The time for complying with the statutory demand runs again starting with the date on which the application is dismissed.

(3) Unless the application is dismissed for no sufficient cause, the court must fix a venue for it to be heard, and must give at least five business days' notice to—

(a) the debtor or, if the debtor's application was made by a solicitor acting for the debtor, to the solicitor;

(b) the creditor; and

(c) whoever is named in the statutory demand as the person with whom the debtor may communicate about the demand (or the first such if more than one),

(4) The court may grant the application if—

(a) the debtor appears to have a counterclaim, set-off or cross demand which equals or exceeds the amount of the debt specified in the statutory demand;

(b) the debt is disputed on grounds which appear to the court to be substantial;

(c) it appears that the creditor holds some security in relation to the debt claimed by the demand, and either rule 10.1(5) is not complied with in relation to it, or the court is satisfied that the value of the security equals or exceeds the full amount of the debt; or

(d) the court is satisfied, on other grounds, that the demand ought to be set aside.

(5) An order setting aside a statutory demand must—

(a) identify the debtor;

(b) state the date of the hearing of the application;

(c) state that the evidence has been considered;

(d) state the date of the statutory demand;

(e) order that the statutory demand be set aside;

(f) contain details of any further order in the matter; and

(g) state the date of the making of the order.

(6) Where the creditor holds some security in relation to the debt, and has complied with rule 10.1(5) but the court is satisfied that the statutory demand undervalues the security, the creditor may be required to amend the demand (but without prejudice to the creditor's right to present a bankruptcy petition by reference to the original demand as so amended).

(7) If the court dismisses the application, it must make an order authorising the creditor to present a bankruptcy petition either as soon as reasonably practicable, or on or after a date specified in the order.

(8) The court must deliver a copy any order under paragraph (5) or (7) to the creditor as soon as reasonably practicable.

CHAPTER 2

CREDITORS' BANKRUPTCY PETITIONS

Preliminary

10.7.—(1) This Chapter relates to a creditor's petition and making a bankruptcy order on such a petition.

(2) In this Chapter "the debt" means the debt in relation to which the petition is presented.

(3) This Chapter also applies to a petition under section 264(1)(c) by a supervisor of, or person bound by, an IVA , with any necessary modifications.

Contents of petition

10.8. The petition must state—

(a) the name and postal address of the petitioner;

(b) where the petitioner is represented by a solicitor, the name, postal address and telephone number of the solicitor;

(c) that the petitioner requests that the court make a bankruptcy order against the debtor;

(d) that—

(i) the debtor's centre of main interests is within a member State,

(ii) the debtor's centre of main interests is not within a member State, or

(iii) the debtor carries on business as an Article 1.2 undertaking;

(e) that the debtor—

(i) is resident in England and Wales, or

(ii) is not resident in England and Wales;

(f) that the petition is presented to—

(i) the High Court,

(ii) the Central London County Court, or

(iii) a specified hearing centre of the county court, and

(g) the reasons why the court or hearing centre to which the petition is presented is the correct court under rule 10.12.

Identification of debtor

10.9.—(1) The petition must state the following matters about the debtor, so far as they are within the petitioner's knowledge—

(a) the debtor's identity information ;

(b) the occupation (if any) of the debtor;

(c) the name or names in which the debtor carries on business, if other than the name of the debtor, and whether, in the case of any business of a specified nature, the debtor carries it on alone or with others;

(d) the nature of the debtor's business, and the address or addresses at which it is carried on;

(e) any name or names, other than the name of the debtor, in which the debtor has carried on business at or after the time when the debt was incurred, and whether the debtor has done so alone or with others;

(f) any address or addresses at which the debtor has resided or carried on business at or after that time, and the nature of that business;

(g) whether the centre of main interests or an establishment of the debtor (as defined in Article 2(h) of the EC Regulation) is in another member State.

(2) The particulars of the debtor given under this rule determine the title of the proceedings.

(3) If to the petitioner's knowledge the debtor has used any name other than the one specified under paragraph (1)(a), that fact must be stated in the petition.

Identification of debt

10.10.—(1) The petition must state for each debt in relation to which it is presented—

(a) the amount of the debt, the consideration for it (or, if there is no consideration, the way in which it arises) and the fact that it is owed to the petitioner;

(b) when the debt was incurred or became due;

(c) if the amount of the debt includes any charge by way of interest not previously notified to the debtor as a liability of the debtor's, the amount or rate of the charge (separately identified);

(d) if the amount of the debt includes any other charge accruing from time to time, the amount or rate of the charge (separately identified) ;

(e) the grounds on which any such a charge is claimed to form part of the debt, provided that the amount or rate must, in the case of a petition based on a statutory demand, be limited to that claimed in the demand;

(d) that the debt is unsecured (subject to section 269); and

(f) either—

(i) that the debt is for a liquidated sum payable immediately, and the debtor appears to be unable to pay it, or

(ii) that the debt is for a liquidated sum payable at some certain, future time (that time to be specified), and the debtor appears to have no reasonable prospect of being able to pay it.

(2) Where the debt is one for which, under section 268, a statutory demand must have been served on the debtor, the petition must—

(a) specify the date and manner of service of the statutory demand, and

(b) state that, to the best of the creditor's knowledge and belief—

(i) the demand has been neither complied with nor set aside in accordance with these Rules, and

(ii) that no application to set it aside is outstanding.

(3) If the case is within section 268(1)(b) (unsatisfied execution or process in respect of judgment debt, etc.) the petition must state which court issued the execution or other process and give particulars of the return.

Verification of petition

10.11.—(1) The petition must be verified by a statement of truth.

(2) If the petition relates to debts to different creditors, the debt to each creditor must be separately verified.

(3) A statement of truth which is not contained in or endorsed upon the petition which it verifies must be sufficient to identify the petition and must contain—

(a) the name of the debtor,

(b) the name of the petitioner, and

(c) the court or hearing centre in which the petition is to be presented.

(4) The statement of truth must be authenticated and dated by or on behalf of the petitioner.

(5) Where the person authenticating the statement of truth is not the petitioner, or one of the petitioners, the statement of truth must state—

(a) the name and postal address of the authenticating person;

(b) the capacity in which, and the authority by which, that person authenticates the statement of truth; and

(c) the means of the authenticating person's knowledge of the matters verified.

(6) If the petition is based on a statutory demand, and more than four months have elapsed between the service of the demand and the presentation of the petition, the statement of truth must explain the reasons for the delay.

Court in which petition is to be presented

10.12.—(1) Where the proceedings are allocated to the London insolvency district under rule 12.4(a)(i) to (iv) or (b), the creditor must present the petition to—

(a) the High Court where the debt is £50,000 or more;

(b) the County Court at Central London where the debt is less than £50,000.

(2) Where the proceedings are allocated to the London insolvency district under rule 12.4(a)(v), (c) or (d), the creditor must present the petition to the High Court.

(3) Where the debtor is resident in England and Wales and the proceedings are not allocated to the London insolvency district, the creditor must present the petition to the debtor's own county court hearing centre.

(4) The debtor's own county court hearing centre is—

(a) where the debtor has carried on business in England and Wales within the six months immediately preceding the presentation of the petition, the county court hearing centre for the insolvency district where for the longest period during those six months—

(i) the debtor carried on business, or

(ii) the principal place of business was located, if business was carried on in more than one insolvency district; or

(b) where the debtor has not carried on business in England and Wales within the six months immediately preceding the presentation of the petition, the county court for the insolvency district where the debtor resided for the longest period during those six months.

(5) If the debtor is not resident in England and Wales but was resident or carried on business in England and Wales within the six months immediately preceding the presentation of the petition and the proceedings are not allocated to the London insolvency district, the petition may be presented either to the debtor's own county court hearing centre or to the High Court.

(6) Unless paragraph 2 applies where to the petitioner's knowledge there is in force for the debtor an IVA under Part 8 of the Act, the petition must be presented to the court or county court hearing centre—

(a) to which the nominee's report under section 256 was submitted;

(b) to which an application has been made, where a nominee has made a report under section 256A(3); or

(c) as determined under paragraphs (1) to (5) in any other case.

(7) The petition must contain sufficient information to establish that it is presented in the appropriate court and, where the court is the county court, the appropriate county court hearing centre.

Procedure for presentation and filing

10.13.—(1) The petition must be filed with the court.

(2) A petition may not be filed unless—

(a) a receipt for the deposit payable to the official receiver is produced on presentation of the petition; or

(b) the Secretary of State has given notice to the court that the petitioner has made suitable alternative arrangements in accordance with an order made under section 415(3) for the payment of the deposit and that notice has not been revoked.

(3) A notice of alternative arrangements for the deposit may be revoked by a further notice filed with the court.

(4) The following copies of the petition must also be filed with the court with the petition—

(a) one for service on the debtor;

(b) one copy for the supervisor, if to the petitioner's knowledge there is in force for the debtor an IVA under Part 8 of the Act, and the petitioner is not the supervisor of the IVA; and

(c) one copy for the liquidator, if to the petitioner's knowledge there is a member State liquidator appointed in main proceedings in relation to the debtor.

(5) The date and time of filing the petition must be endorsed on the petition and on the copies.

(6) The court must fix a venue for hearing the petition, and this must also be endorsed on the petition and the copies.

(7) Each copy of the petition must have the seal of the court applied to it and will be delivered to the petitioner.

Application to Chief Land Registrar to register petition

10.14.—(1) When the petition is filed, the court must as soon as reasonably practicable deliver to the Chief Land Registrar an application for registration of the petition in the register of pending actions.

(2) The application must contain—

(a) a statement that the court is applying for registration of a petition in bankruptcy proceedings as a pending action with the Chief Land Registrar under section 5 of the Land Charges Act 1972(**a**);

(b) the debtor's name;

(c) the debtor's gender, if known;

(d) details of the debtor's trade, profession or occupation, including any trading name and, in the case of a partnership, the name and gender, if known, of each of the other partners;

(e) the postal address for each known place of residence of the debtor, including the debtor's business address where the court considers it to be appropriate for the purpose of the notice;

(**a**) 1972 c.61.

(f) the relevant key number allocated by the Land Charges Department;

(g) the name of the court;

(h) the number and date of the petition;

(i) the name and postal address of the petitioner.

(3) The application must be sealed and dated by the court.

(4) A separate application must be completed for each debtor and for any alternative name by which the debtor has been or is known (other than any trading name).

Service of petition and delivery of copies

10.15.—(1) The petitioner must serve the petition in accordance with Schedule 4 (Service).

(2) If to the petitioner's knowledge there is in force for the debtor an IVA under Part 8 of the Act, and the petitioner is not the supervisor of the IVA, a copy of the petition must be delivered by the petitioner to the supervisor.

(3) If to the petitioner's knowledge, there is a member State liquidator appointed in main proceedings in relation to the debtor, a copy of the petition must be delivered by the petitioner to the member State liquidator.

Death of debtor before service

10.16. If the debtor dies before service of the petition, the court may order service to be effected on the debtor's personal representative, or on such other person as it thinks just.

Amendment of petition

10.17. The petition may be amended at any time after presentation with the court's permission.

Security for costs

10.18.—(1) This rule applies where the debt is a liquidated sum payable at some future time, it being claimed in the petition that the debtor appears to have no reasonable prospect of being able to pay it.

(2) The debtor may apply for an order that the petitioning creditor give security for the debtor's costs.

(3) The nature and amount of the security to be ordered is in the court's discretion.

(4) If an order for security is made then the petition will not be heard until the whole amount of the security has been given.

Debtor's notice of opposition to petition

10.19.—(1) A debtor who intends to oppose the making of a bankruptcy order must not less than five business days before the day fixed for the hearing—

(a) file a notice with the court; and

(b) deliver a copy of the notice to the petitioning creditor or the solicitor of the petitioner.

(2) The notice must—

(a) identify the proceedings;

(b) state that the debtor intends to oppose the making of a bankruptcy order;

(c) state the grounds on which the debtor opposes the making of the order; and

(d) be authenticated and dated by the debtor.

Notice by persons intending to appear

10.20.—(1) A creditor who intends to appear on the hearing of the petition must deliver a notice of intention to appear to the petitioner.

(2) The notice must contain the following—

(a) the name and address of the creditor, and any telephone number and reference which may be required for communication with that creditor or with any other person (also to be specified in the notice) authorised to speak or act on the creditor's behalf;

(b) the date of the presentation of the bankruptcy petition and a statement that the notice relates to the matter of that petition;

(c) the date of the hearing of the petition;

(d) the amount and nature of the debt due from the debtor to the creditor;

(e) whether the creditor intends to support or oppose the petition;

(f) where the creditor is represented by a solicitor or other agent, the name, postal address, telephone number and reference number (if any) of that person and details of that person's position with or relationship to the creditor; and

(g) the name and postal address of the petitioner.

(3) The notice must be authenticated and dated by the person delivering it.

(4) The notice must be delivered to the petitioner or the petitioner's solicitor at the address shown in the court records.

(5) The notice must be delivered so as to reach the petitioner (or the petitioner's solicitor) not later than 4pm on the business day before that which is appointed for the hearing (or, where the hearing has been adjourned, for the adjourned hearing).

(6) A person who fails to comply with this rule may appear on the hearing of the petition only with the permission of the court.

List of appearances

10.21.—(1) The petitioner must prepare for the court a list of the creditors who have delivered a notice under rule 10.20 of their intention to appear.

(2) The list must contain—

(a) the date of the presentation of the bankruptcy petition;

(b) the date of the hearing of the petition;

(c) a statement that the creditors listed have delivered notice that they intend to appear at the hearing of the petition;

(d) the name and address of each creditor who has delivered notice of intention to appear;

(e) the amount owed to each such creditor;

(f) the name and postal address of any solicitor for a creditor listed;

(g) whether each creditor listed intends to support the petition, or to oppose it.

(3) On the day appointed for hearing the petition, a copy of the list must be handed to the court before the hearing commences.

(4) If the court gives a creditor permission to appear under rule 10.20(6) then the petitioner must add that creditor to the list with the same particulars.

Hearing of petition

10.22.—(1) The petition will not be heard until at least 14 days have elapsed since it was served on the debtor.

(2) However the court may, on such terms as it thinks just, hear the petition at an earlier date, if it appears that the debtor has absconded, or the court is satisfied that it is a proper case for an expedited hearing, or the debtor consents to a hearing within the 14 days.

(3) The following persons may appear and be heard—

(a) the petitioning creditor;

(b) the debtor;

(c) the supervisor of any IVA under Part 8 of the Act in force for the debtor; and

(d) any creditor who has delivered notice under rule 10.20.

Postponement of hearing

10.23.—(1) The petitioner may, if the petition has not been served, apply to the court to appoint another day for the hearing.

(2) The application must state the reasons why the petition has not been served.

(3) No costs of the application will be allowed in the proceedings except by order of the court.

(4) If the court appoints another day for the hearing, the petitioner must as soon as reasonably practicable deliver notice of that day to any creditor who delivered notice of intention to appear under rule 10.20.

Adjournment of the hearing

10.24.—(1) This rule applies if the court adjourns the hearing of a bankruptcy petition.

(2) The order of adjournment must identify the proceedings and contain—

(a) the date of the presentation of the petition;

(b) a statement that the evidence has been considered;

(c) the order that the further hearing of the petition be adjourned to the venue specified in the order;

(d) the venue of the adjourned hearing;

(e) the date of the making of the order.

(3) Unless the court otherwise directs, the petitioner must as soon as reasonably practicable deliver a notice of the order of adjournment to—

(a) the debtor; and

(b) any creditor who has delivered a notice of intention to appear under rule 10.20 but was not present at the hearing.

(4) The notice of the order of adjournment must identify the proceedings and

(a) contain—

(i) the date of the presentation of the petition,

(ii) the date the order of adjournment was made, and

(iii) the venue for the adjourned hearing; and

(b) be authenticated and dated by the petitioner or the solicitor of the petitioner.

Decision on the hearing

10.25.—(1) On the hearing of the petition, the court may make a bankruptcy order if satisfied that the statements in the petition are true, and that the debt on which it is founded has not been paid, or secured or compounded for.

(2) If the petition is brought in relation to a judgment debt, or a sum ordered by any court to be paid, the court may stay or dismiss the petition on the ground that an appeal is pending from the judgment or order, or that execution of the judgment has been stayed.

(3) An order dismissing a bankruptcy petition must contain—

(a) the name of the court;

(b) the date of the presentation of the bankruptcy petition;

(c) the name, postal address and description of the applicant;

(d) a statement that the petition has been heard;

(e) a statement that the evidence has been considered;

(f) the order that the petition be dismissed or that the petitioner has permission to withdraw the petition;

(g) details of any further terms of the order;

(h) the date and reference number of the registration of the petition as a pending action with the Chief Land Registrar;

(i) an order that the entry relating to the petition in the register of pending actions be vacated on the debtor's application;

(j) the date of the making of the order.

(4) The order must notify the debtor that it is the debtor's responsibility and in the debtor's interest to ensure that the registration of the petition as an entry, both with the Chief Land Registrar and in the title register of any property owned by the debtor, is cancelled.

(5) In the case of a petition preceded by a statutory demand, the petition will not be dismissed on the ground only that the amount of the debt was over-stated in the demand, unless the debtor, within the time allowed for complying with the demand, delivered a notice to the creditor disputing the validity of the demand on that ground.

Non-appearance of creditor

10.26. A petitioning creditor who fails to appear on the hearing of the petition may not present a petition either alone or jointly with any other person against the same debtor in respect of the same debt without the permission of the court to which the previous petition was presented.

Vacating registration on withdrawal of petition

10.27. If the petition is withdrawn by permission of the court, an order will be made at the same time permitting vacation of the registration of the petition as a pending action; and the court will deliver to the debtor two sealed copies of the order.

Substitution of petitioner

10.28.—(1) This rule applies where the petitioner—

(a) is subsequently found not to have been entitled to present the petition,

(b) consents to withdraw the petition or to allow it to be dismissed,

(c) consents to an adjournment,

(d) fails to appear in support of the petition when it is called on in court on the day originally fixed for the hearing, or on a day to which it is adjourned, or

(e) appears, but does not apply for an order in the terms of the petition.

(2) The court may, on such terms as it thinks just, substitute as petitioner a creditor who—

(a) has delivered notice under rule 10.20 of intention to appear at the hearing,

(b) is willing to prosecute the petition, and

(c) was, at the date on which the petition was presented, in such a position in relation to the debtor as would have enabled the creditor on that date to present a bankruptcy petition in relation to a debt or debts owed to that creditor by the debtor (or in the case of the member State liquidator, owed to creditors in proceedings in relation to which the

member State liquidator holds office), paragraphs (a) to (d) of section 267(2) being satisfied in relation to that debt or those debts.

Order for substitution of petitioner

10.29. The order for substitution of a petitioner must contain—

(a) identification details for the proceedings;

(b) the date of the hearing of the petition;

(c) the name of the original petitioner;

(d) the name of the creditor who is willing to be substituted as petitioner ("the named creditor");

(e) a statement that the named creditor has applied to be substituted as petitioner in the petition under rule 10.28;

(f) a statement that the evidence has been considered;

(g) details of the statutory demand or return of the enforcement officer or bailiff;

(h) the following orders—

(i) that upon payment by the named creditor of the statutory deposit to the court the statutory deposit paid by the original petitioner to the court be repaid to the original petitioner by the official receiver;

(ii) that the named creditor be substituted as petitioner in place of the original petitioner and that the relevant creditor may amend the petition accordingly;

(iii) that the named creditor must within five business days from the date of the order file a statement of truth of the statements in the amended bankruptcy petition;

(iv) that a sealed copy of the amended petition must be filed with the amended petition;

(v) that at least 14 days before the date of the adjourned hearing of the petition the named creditor must serve upon the debtor a sealed copy of the amended petition;

(vi) that the hearing of the amended petition be adjourned to the venue specified in the order; and

(vii) that the question of the costs of the original petitioner and of the statutory deposit (if appropriate) be reserved until the final determination of the amended petition;

(i) the venue of the adjourned hearing; and

(j) the date of the making of the order.

Change of carriage of petition

10.30.—(1) On the hearing of the petition, a person who claims to be a creditor of the debtor, and who has delivered notice under rule 10.20 of intention to appear at the hearing, may apply to the court for an order giving that person carriage of the petition in place of the petitioner, but without requiring any amendment of the petition.

(2) The court may, on such terms as it thinks just, make a change of carriage order if satisfied that—

(a) the applicant is an unpaid and unsecured creditor of the debtor; and

(b) the petitioner either—

(i) intends by any means to secure the postponement, adjournment or withdrawal of the petition, or

(ii) does not intend to prosecute the petition, either diligently or at all.

(3) The court will not make the order if satisfied that the petitioner's debt has been paid, secured or compounded for by means of—

(a) a disposition of property made by some person other than the debtor, or

(b) a disposition of the debtor's own property made with the approval of, or ratified by, the court.

(4) A change of carriage order may be made whether or not the petitioner appears at the hearing.

(5) If the order is made, the person given the carriage of the petition is entitled to rely on all evidence previously provided in the proceedings.

(6) The change of carriage order will contain—

(a) the date of the hearing of the petition;

(b) the name of the creditor who is willing to be given carriage of the petition ("the relevant creditor");

(c) a statement that the relevant creditor is a creditor of the debtor;

(d) the name of the original petitioner;

(e) a statement that the relevant creditor has applied for an order under this rule to have carriage of the petition in place of the original petitioner;

(f) a statement that the evidence has been considered;

(g) the order that the relevant creditor do within a period which is specified in the order serve upon the debtor and the original petitioner a sealed copy of the order;

(h) the order that the relevant creditor may rely upon all evidence previously provided in the proceedings whether by witness statement or statement of truth or otherwise;

(i) the order that the further hearing of the petition be adjourned to the venue specified in the order;

(j) the venue of the adjourned hearing;

(k) the order that the question of the costs of the original petitioner be reserved until the final determination of the petition;

(l) the date of the making of the order.

Petitioner seeking dismissal or permission to withdraw

10.31.—(1) Where the petitioner applies to the court for the petition to be dismissed, or for permission to withdraw it, the petitioner must, file with the court a witness statement specifying the grounds of the application and the circumstances in which it is made if —

(a) a creditor of the debtor has delivered notice under rule 10.20 of intention to appear at the hearing of the petition, or

(b) the court so orders,

(2) If any payment has been made to the petitioner since the petition was filed by way of settlement (in whole or in part) of the debt or any arrangement has been entered into for securing or compounding the debt, the witness statement must also state—

(a) what dispositions of property have been made for the purposes of the settlement or arrangement;

(b) whether, in the case of any disposition, it was property of the debtor, or of some other person; and

(c) whether, if it was property of the debtor, the disposition was made with the approval of, or has been ratified by, the court (if so, specifying the relevant court order).

(3) No order giving permission to withdraw a petition will be given before the petition is heard.

(4) The order of dismissal of or leave to withdraw a bankruptcy petition must contain—

(a) the name of the court;

(b) the date of the filing of the bankruptcy petition;

(c) the name, postal address and description of the applicant;

(d) a statement that the petition has been heard;

(e) a statement that the evidence has been considered;

(f) the order that the petition be dismissed or that the petitioner has permission to withdraw the petition;

(g) details of any further terms of the order;

(h) the date and reference number of the registration of the petition as a pending action with the Chief Land Registrar;

(i) an order that the entry relating to the petition in the register of pending actions be vacated on the debtor's application; and

(j) the date of the making of the order.

Contents of bankruptcy order

10.32.—(1) The bankruptcy order must identify the proceedings and contain—

(a) the name and address of the petitioning creditor;

(b) the date of the presentation of the petition;

(c) the description of the debtor as set out in the petition;

(d) the order that upon reading the evidence it is ordered that person named be adjudged bankrupt;

(e) the order either—

(i) that the Court being satisfied that the EC Regulation applies declares that the proceedings are main, secondary or territorial proceedings (as the case may be) as defined in Article 3 of the EC Regulations; or

(ii) that the Court is satisfied that the EC Regulation does not apply in relation to the proceedings;

(f) a statement that the official receiver (or one of them) attached to the Court is by virtue of the order trustee of the bankrupt's estate;

(g) a notice of the bankrupt's duties in relation to the official receiver under section 291, and in particular to the bankrupt's duty to give the official receiver such inventory of the bankrupt's estate and such other information, and to attend on the official receiver at such times, as the official receiver may reasonably require.

(2) If the petitioning creditor is represented by a solicitor the order is to be endorsed with the name, address, telephone number and reference of the solicitor.

(3) Subject to section 346 (effect of bankruptcy on enforcement procedures), the order may include provision staying any action or proceeding against the bankrupt.

Delivery and notice of the order

10.33.—(1) As soon as reasonably practicable after making a bankruptcy order the court must deliver two sealed copies of the order to the official receiver.

(2) The official receiver must as soon as reasonably practicable deliver a sealed copy of the order to the bankrupt.

(3) On receipt of the sealed copies of the bankruptcy order the official receiver—

(a) must as soon as reasonably practicable—

(i) deliver an application for registration of the order containing the particulars specified in rule 10.34 to the Chief Land Registrar, for registration in the register of writs and orders affecting land; and

(ii) cause notice of the order to be gazetted;

(b) cause an entry to be made in the individual insolvency register in accordance with rule 11.16; and

(c) may cause notice of the order to be advertised in such other manner as the official receiver thinks fit.

(4) The notice to be gazetted and any notice to be advertised must state—

(a) that a bankruptcy order has been made against the bankrupt;

(b) the date and time of making of the bankruptcy order;

(c) the name and address of the petitioning creditor; and

(d) the date of presentation of the petition.

(5) The court may, on the application of the bankrupt or a creditor, order the official receiver to suspend action under paragraph (3) and rule 11.16, pending a further order of the court.

(6) An application for such action to be suspended must be supported by a witness statement stating the grounds on which it is made.

(7) Where an order to suspend such action is made, the applicant must deliver a copy of the order to the official receiver as soon as reasonably practicable.

Application to Chief Land Registrar to register bankruptcy order

10.34.—(1) The application for registration of the making of the bankruptcy order delivered to the Chief Land Registrar under rule 10.33 must contain—

(a) a statement that the official receiver is applying for registration of a bankruptcy order in the register of writs and orders under section 6 of the Land Charges Act 1972;

(b) the name of the bankrupt;

(c) the bankrupt's gender, if known;

(d) details of the bankrupt's trade, profession or occupation of the bankrupt, including any trading name and, in the case of a partnership, the name and gender, if known, of each of the other partners;

(e) the postal address for each known place of residence of the bankrupt, including the bankrupt's business address where the official receiver considers it to be appropriate for the purpose of the notice;

(f) the relevant key number allocated by the Chief Land Registrar;

(g) the name of the court;

(h) the date of the bankruptcy order;

(i) the name and postal address of the petitioner.

(2) The notice must be authenticated and dated by the official receiver.

(3) A separate notice must be completed for each bankrupt and for any alternative name by which the bankrupt has been or is known (other than any trading name).

Amendment of title of proceedings

10.35.—(1) At any time after the making of a bankruptcy order, the official receiver may amend the title of the proceedings.

(2) An official receiver who amends the title of proceedings must as soon as reasonably practicable—

(a) file a notice of the amendment with the court; and

(b) make an application to the Chief Land Registrar to amend the register of writs and orders.

(3) If the official receiver thinks fit to gazette the order then it must be gazetted as soon as reasonably practicable, and may be advertised in such other manner as the official receiver thinks fit.

(4) The notice must—

(a) state that the title of the proceedings has been amended; and

(b) specify the amendment.

CHAPTER 3

DEBTORS' BANKRUPTCY APPLICATIONS

Preliminary

10.36.—(1) This Chapter relates to a debtor's bankruptcy application and the making of a bankruptcy order on the application of a debtor.

(2) In this Chapter "the debts" means the debt or debts in relation to which the bankruptcy application is made.

[Note: Rule 1.43 on the electronic delivery of documents does not apply to this Chapter]

Bankruptcy application for a bankruptcy order

10.37.—(1) In the bankruptcy application the debtor must—

(a) state that the debtor is unable to pay the debtor's debts;

(b) request that the adjudicator make a bankruptcy order against the debtor;

(c) state that the debtor is not aware of any pending bankruptcy petition;

(d) state whether a bankruptcy order has been made in respect of any of the debts which are the subject of the bankruptcy application;

(e) state whether the debtor has taken debt advice before completing the bankruptcy application;

(f) consent to verification checks being made by the adjudicator;

(g) provide the information set out in Schedule 7;

(h) provide the additional information set out in Schedule 8;

(i) state that the information provided in accordance with this rule is accurate and up-to-date at the date of the bankruptcy application; and

(j) state that the prescribed fee and deposit have been paid in full.

(2) The bankruptcy application must be authenticated by the debtor.

Procedure for making the bankruptcy application and communication with the adjudicator

10.38.—(1) The bankruptcy application must be completed in accordance with these Rules in electronic form and delivered to the adjudicator by electronic means unless otherwise agreed with the adjudicator in accordance with paragraph (4).

(2) The date of the bankruptcy application is the date that the debtor submits the bankruptcy application to the adjudicator under these Rules.

(3) A bankruptcy application will be treated as delivered when its receipt has been acknowledged by the adjudicator by electronic or other means.

(4) In the event of any malfunction or error in the operation of the electronic form or means of delivery, the adjudicator will—

(a) agree that debtors may, for a specified period, complete and deliver bankruptcy applications in another format; and

(b) provide an alternative means of delivery for the bankruptcy application and details of any terms or conditions to which their use is subject.

(5) If a bankruptcy application is completed in hard copy, it may not be delivered by fax.

(6) Where the debtor has given an electronic address in the bankruptcy application, the adjudicator must so far as reasonably practicable communicate with the debtor by electronic means.

(7) Unless the contrary is shown, a document (other than a bankruptcy application) is to be treated as delivered by electronic means to an electronic address where the sender can produce a copy of the electronic communication which—

(a) contains the document; and

(b) shows the time and date the communication was sent and the electronic address to which it was sent,

(8) Unless the contrary is shown, a document (other than a bankruptcy application) is to be treated as delivered to the electronic address to which it is sent at 9am on the next business day after it was sent.

Application to the Chief Land Registrar to register a bankruptcy application

10.39.—(1) When a bankruptcy application is made, the adjudicator must as soon as reasonably practicable deliver to the Chief Land Registrar an application for registration of the bankruptcy application, in the register of pending actions.

(2) The application must contain—

(a) a statement that the adjudicator is applying for registration of a bankruptcy application as a pending action under section 5 of the Land Charges Act 1972;

(b) the debtor's name and any alternative name by which the debtor has been or is known;

(c) the debtor's date of birth;

(d) the debtor's gender, if known;

(e) the debtor's occupation, including any trading name;

(f) the postal address for each known place of residence of the debtor;

(g) the debtor's business address where the adjudicator considers it appropriate for the purpose of the application;

(h) the relevant key number allocated by the Chief Land Registrar;

(i) the reference allocated to the bankruptcy application; and

(j) the date of the bankruptcy application.

(3) The application must be authenticated and dated by the adjudicator.

Verification checks

10.40.— For the purpose of determining whether the adjudicator can make a bankruptcy order, verification checks may be made in, or with, one or more of the following—

(a) the electoral registers for such districts in England and Wales that the adjudicator considers it appropriate to determine the identity and residence of the debtor;

(b) the individual insolvency register;

(c) a credit reference agency.

Determination of the bankruptcy application

10.41.—(1) The adjudicator must determine whether to make a bankruptcy order within the determination period.

(2) In reaching a determination, the adjudicator must have regard to whether the requirements of section 263K of the Act are met.

(3) The adjudicator will make a determination from the information provided under rule 10.37 and from the verification checks.

(4) Where the adjudicator cannot make a determination from the information provided under rule 10.37(g), the adjudicator can have regard to the additional information provided under rule 10.37(h).

(5) During the determination period the adjudicator may request such further information from the debtor as the adjudicator considers is necessary in order to make the determination, such information to be provided in writing, or at the request of the adjudicator, to be provided orally.

The determination period

10.42. The determination period is 28 days from the date of delivery of the bankruptcy application to the adjudicator.

Settlement and content of bankruptcy order

10.43.—(1) The bankruptcy order must be settled by the adjudicator.

(2) The bankruptcy order must contain—

(a) the information set out in Part 1 of Schedule 7;

(b) the date of delivery of the bankruptcy application on which the order is made;

(c) the order that upon reading the application it is ordered that person named be made bankrupt;

(d) the order either—

(i) that the adjudicator being satisfied that the EC Regulation applies declares that the proceedings are main, secondary or territorial proceedings (as the case may be) as defined in Article 3 of the EC Regulations; or

(ii) that the adjudicator is satisfied that the EC Regulation does not apply in relation to the proceedings;

(e) a statement that the official receiver (or one of them) attached to the Court is by virtue of the order trustee of the bankrupt's estate;

(f) a notice of the bankrupt's duties in relation to the official receiver under section 291, and in particular to the bankrupt's duty to give the official receiver such inventory of the bankrupt's estate and such other information, and to attend on the official receiver at such times, as the official receiver may reasonably require.

Refusal to make a bankruptcy order and contents of the notice of refusal

10.44.—(1) Where the adjudicator determines that the requirements of section 263K are not met, the adjudicator must refuse to make a bankruptcy order.

(2) The adjudicator must deliver notice of the refusal to make a bankruptcy order to the debtor as soon as reasonably practicable following the decision to refuse to make the bankruptcy order.

(3) The notice of refusal must state —

(a) the reason or reasons for the refusal to make a bankruptcy order;

(b) that the debtor may request that the adjudicator review the decision to refuse to make a bankruptcy order within 14 days from the date of delivery of the notice of refusal;

(c) that where a review is requested it will be a review of the information that was available to the adjudicator at the date when the adjudicator refused to make a bankruptcy order;

(d) that following a review, the adjudicator must either—

(i) confirm the refusal to make a bankruptcy order; or

(ii) make a bankruptcy order against the debtor;

(e) where the adjudicator confirms the refusal following a review, the debtor may appeal to the court against the decision within 28 days from the date of delivery of the notice of confirmation of the refusal.

Review of the refusal to make a bankruptcy order

10.45.—(1) The debtor may request the adjudicator to review the decision to refuse to make a bankruptcy order within 14 days from the date of delivery of the notice of refusal.

(2) The debtor must give reasons for requesting a review but the debtor must not provide any additional information to the adjudicator with the request.

(3) Where the adjudicator makes a bankruptcy order following a review, the bankruptcy order must be settled by the adjudicator in accordance with rule 10.43.

(4) Where the adjudicator confirms the refusal to make a bankruptcy order, the adjudicator must deliver notice to the debtor as soon as reasonably practicable.

(5) The notice will state—

(a) the reason or reasons for confirming the refusal to make the bankruptcy order;

(b) that the debtor may appeal to the court against the decision within 28 days from the date of delivery of the confirmation of the notice of refusal.

Appeal to the court following a review of the refusal to make a bankruptcy order

10.46.—(1) Following a decision by the adjudicator to confirm the refusal to make a bankruptcy order, a debtor may appeal the decision to the court.

(2) An appeal under this rule must be made within 28 days from the date of delivery of the confirmation of the notice of refusal.

(3) The appeal must set out the grounds for the appeal.

(4) The court must either—

(a) dismiss the application; or

(b) make a bankruptcy order against the debtor.

(5) The bankruptcy order must state—

(a) the information set out in Part 1 of Schedule 7;

(b) the date of delivery of the bankruptcy application on which the order is made;

(c) the date and time of the making of the order; and

(d) the order has been made following an appeal to the court under this rule.

(6) The adjudicator is not personally liable for costs incurred by any person in respect of an application under this rule.

(7) As soon as reasonably practicable after the making of the bankruptcy order the court will deliver sealed copies of the order to the debtor and the official receiver.

Action to follow making of order

10.47.—(1) As soon as reasonably practicable following the making of the bankruptcy order the adjudicator must deliver copies of the bankruptcy order to the debtor and the official receiver.

(2) On the application of the bankrupt to the official receiver, the official receiver must deliver to the bankrupt a hard copy of the bankruptcy order.

(3) Subject to paragraph (5), on receipt of the bankruptcy order, the official receiver—

(a) as soon as reasonably practicable must—

(i) deliver an application, for registration of the bankruptcy order in the register of writs and orders affecting land to the Chief Land Registrar; and

(ii) cause notice of the bankruptcy order to be gazetted;

(b) may cause notice of the bankruptcy order to be advertised in such other manner as the official receiver thinks fit; and

(c) cause an entry to be made in the individual insolvency register in accordance with rule 11.16.

(4) The notice to be gazetted under paragraph (3)(a)(ii) and any notice to be advertised under paragraph (3)(b) must state—

(a) that a bankruptcy order has been made against the bankrupt;

(b) the date of the bankruptcy order;

(c) that the bankruptcy order was made on the debtor's own bankruptcy application; and

(d) the date of delivery of the bankruptcy application.

(5) The court may, on the application of the bankrupt or a creditor, order the official receiver to suspend action under paragraph (3), pending a further order of the court.

(6) An application for such action to be suspended must be supported by a witness statement stating the grounds on which it is made.

(7) Where an order is made to suspend such action, the applicant must deliver a copy of it to the official receiver as soon as reasonably practicable.

Application to the Chief Land Registrar

10.48.—(1) The application to the Chief Land Registrar for registration of the bankruptcy order under rule 10.47 must contain—

(a) a statement that the official receiver is applying for registration of a bankruptcy order made by the adjudicator in the register of writs and orders under section 6 of the Land Charges Act 1972;

(b) the bankrupt's name and any alternative names by which the bankrupt has been or is known;

(c) The bankrupt's date of birth;

(d) the bankrupt's gender, if known;

(e) the bankrupt's occupation including any trading name;

(f) the postal address for each known place of residence of the bankrupt;

(g) the bankrupt's business address where the official receiver considers it appropriate for the purpose of the application;

(h) the relevant key number allocated by the Chief Land Registrar;

(i) the reference allocated to the bankruptcy order; and

(j) the date of the bankruptcy order.

(2) The application must be authenticated and dated by the official receiver.

The bankruptcy file

10.49.—(1) On receipt of a bankruptcy application, the adjudicator must open a file in which the adjudicator will place the bankruptcy application and any documents which are filed with the adjudicator under this Chapter.

(2) As soon as reasonably practicable following the making of the bankruptcy order the adjudicator must deliver the bankruptcy file to the official receiver.

(3) The official receiver must place on the bankruptcy file—

(a) any documents delivered to the official receiver by the court; and

(b) any notices delivered to the official receiver under these Rules.

(4) The following persons may inspect the bankruptcy file—

(a) the court;

(b) the trustee;

(c) the Secretary of State; and

(d) the bankrupt.

(5) Following the making of a bankruptcy order, a creditor may inspect the following information and documents filed on the bankruptcy file—

(a) the information provided to the adjudicator and set out in Schedule 9;

(b) the bankruptcy order; and;

(c) directions and orders of the court, if any.

(6) The right to inspect the bankruptcy file may be exercised on that person's behalf by a person authorised to do so by that person.

(7) Any person who is not otherwise entitled to inspect the bankruptcy file (or any part of it) may do so if the court gives permission.

(8) The court may direct that the bankruptcy file, a document (or part of it) must not be made available under this rule without the permission of the court.

(9) An application for a direction to withhold the bankruptcy file, a document (or part of it) may be made by—

(a) the official receiver;

(b) the trustee; or

(c) any person appearing to the court to have an interest.

(10) An application under this rule for—

(a) permission to inspect the bankruptcy file; or

(b) a direction to withhold the bankruptcy file, a document (or part of it),

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.

Court in which applications are to be made

10.50.—(1) — An application to the court under this Chapter must be made to the debtor's own county court as determined under rule 10.12, where the debtor is resident in England and Wales.

(2) If the debtor is not resident in England and Wales but was resident or carried on business in England and Wales within the six months immediately preceding the making of the bankruptcy application, an application may be made to the debtor's own county court or to the High Court.

(3) In this rule the debtor's own county court is—

(a) where the debtor has carried on business in England and Wales within the six months immediately preceding the filing with the court of the application, the county court for the insolvency district where for the longest period during those six months—

(i) the debtor carried on business, or

(ii) the principal place of business was located, if business was carried on in more than one insolvency district; or

(b) where the debtor has not carried on business in England and Wales within the six months immediately before making the application to the court, the county court for the insolvency district where the debtor resided for the longest period during those six months.

(4) Where, for whatever reason, it is not possible for the application to be made to the debtor's own county court, the applicant may, with a view to expediting the application, make the application—

(a) where paragraph (3)(a) applies, to—

(i) the court for the insolvency district in which the debtor resides, or

(ii) whichever court is specified by Schedule 6 as being the nearest full-time court in relation to—

(aa) the court in paragraph (3)(a), or

(bb) the court in paragraph (i); or

(b) where paragraph (3)(b) applies, whichever court is specified by Schedule 6 as being the nearest full-time court in relation to the court in that paragraph.

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

CHAPTER 4

THE INTERIM RECEIVER

Application for appointment of interim receiver (section 286)

10.51.—(1) An application to the court under section 286(**a**) for the appointment of the official receiver or an insolvency practitioner as interim receiver may be made by—

(a) a creditor;

(b) the debtor;

(c) a temporary administrator; or

(d) a member State liquidator appointed in main proceedings.

(2) The application must be supported by a witness statement stating—

(a) the grounds on which it is proposed that the interim receiver should be appointed;

(b) whether or not the official receiver has been informed of the application and, if so, whether a copy of it has been delivered to that person;

(c) if the proposed appointee is an insolvency practitioner, that the insolvency practitioner has consented to act;

(d) whether to the applicant's knowledge there has been proposed or is in force an IVA under Part 8 of the Act; and

(e) the applicant's estimate of the value of the property or business in relation to which the interim receiver is to be appointed.

(3) The applicant must deliver copies of the application and the witness statement to the proposed appointee and to the official receiver.

(4) If for any reason it is not practicable to deliver a copy of the application to the proposed appointee that person must be informed of the application in sufficient time to be able to be present at the hearing.

(5) The official receiver may attend the hearing of the application and make representations.

(6) If satisfied that sufficient grounds are shown for the appointment, the court may appoint an interim receiver on such terms as it thinks just.

Deposit

10.52.—(1) An applicant for an order appointing the official receiver as interim receiver must, before the order is made, deposit with the official receiver, or otherwise secure to the official receiver's satisfaction, such sum as the court directs to cover the official receiver's remuneration and expenses.

(2) If the sum proves to be insufficient, the court may, on the application of the official receiver, order the applicant to deposit or secure an additional sum.

(**a**) Section 286 is amended by the Enterprise and Regulatory Reform Act 2013 (c. 24) and the Deregulation Act 2015 (c. 20)

(3) If such additional sum is not deposited or secured within two business days after service of the order on the applicant the court may discharge the order appointing the official receiver as interim receiver.

(4) If a bankruptcy order is made after an interim receiver has been appointed, any money deposited under this rule must (unless it is required because the assets are insufficient to pay the remuneration and expenses of the interim receiver, or the deposit was made by the debtor out of the debtor's own property) be repaid to the person depositing it (or as that person may direct) out of the bankrupt's estate, in the prescribed order of priority.

Order of appointment

10.53.—(1) The order appointing the interim receiver must—

(a) state the name of the court in which the order is made;

(b) state the name and title of the person making the order;

(c) state the name and postal address of the applicant;

(d) identify the debtor;

(e) state that upon reading the application and considering the evidence the court is satisfied—

(i) that the debtor is unable to pay the debtor's debts; and

(ii) that the proceedings are main, secondary, territorial or non-EC proceedings (as the case may be);

(f) order either that—

(i) upon the applicant depositing the sum specified in the order with the official receiver, the official receiver is appointed interim receiver of the property of the debtor, or

(ii) the person specified in the order is appointed interim receiver of the property of the debtor;

(g) identify and provide contact details for the interim receiver, where the interim receiver is not the official receiver;

(h) provide details of the nature, together with a short description, of the property of which the interim receiver is to take possession;

(i) provide details of the duties to be carried out by the interim receiver in relation to the debtor's affairs;

(j) contain a notice to the debtor stating that the debtor must give the interim receiver all the information about the debtor's property that the interim receiver may require in order to carry out the functions imposed on the interim receiver by the order; and

(k) state the date of the making of the order.

(2) The court must, as soon as reasonably practicable after the order is made, deliver two sealed copies of the order to the person appointed interim receiver.

(3) The interim receiver must as soon as reasonably practicable deliver a sealed copy of the order to the debtor.

Security

10.54.—(1) This rule applies where an insolvency practitioner is appointed as interim receiver under section 286.

(2) The cost of providing the security required under the Act must be paid in the first instance by the interim receiver.

(3) If a bankruptcy order is not made, the person so appointed is entitled to be reimbursed out of the property of the debtor, and the court may make an order on the debtor accordingly.

(4) If a bankruptcy order is made, the person so appointed is entitled to be reimbursed out of the estate in the prescribed order of priority.

(5) If the interim receiver fails to give or keep up the required security, the court may remove the interim receiver, and make such order as it thinks just as to costs.

(6) If an order is made under this rule removing the interim receiver, or discharging the order appointing the interim receiver, the court must give directions as to whether any, and if so what, steps should be taken for the appointment of another person as interim receiver.

Remuneration

10.55.—(1) The remuneration of an interim receiver (other than the official receiver) will be fixed by the court from time to time on application of the interim receiver.

(2) In fixing the remuneration of the interim receiver, the court must take into account—

(a) the time properly given by the interim receiver and staff of the interim receiver in attending to the debtor's affairs;

(b) the complexity of the case;

(c) any respects in which, in connection with the debtor's affairs, there falls on the interim receiver any responsibility of an exceptional kind or degree;

(d) the effectiveness with which the interim receiver appears to be carrying out, or to have carried out, the duties of the interim receiver; and

(e) the value and nature of the property with which the interim receiver has to deal.

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

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

(b) if a bankruptcy order is made, out of the estate in the prescribed order of priority, or

(c) in either case (the relevant funds being insufficient), out of any deposit under rule 10.52.

(4) Unless the court otherwise directs, if a bankruptcy order is not made the interim receiver may retain out of the debtor's property such sums or property as are or may be required for meeting the remuneration and expenses of the interim receiver.

(5) Where a person other than the official receiver has been appointed interim receiver, and the official receiver has taken any steps for the purpose of obtaining a statement of affairs or has performed any other duty under these Rules, the interim receiver must pay the official receiver such sum (if any) as the court may direct.

Termination of appointment

10.56.—(1) The appointment of the interim receiver may be terminated by the court on the application of the interim receiver, or a person specified in rule 10.51(1).

(2) If the interim receiver's appointment terminates, in consequence of the dismissal of the bankruptcy petition or otherwise, the court may give such directions as it thinks just relating to the accounts of the interim receiver’s administration and any other matters which it thinks appropriate.

CHAPTER 5

DISCLOSURE BY BANKRUPT IN RELATION TO THE STATE OF THE BANKRUPT'S AFFAIRS

Sub-division A: Creditor's petition

Notice requiring statement of affairs (section 288)

10.57.—(1) Where, under section 288**(**a**)**, the official receiver requires a bankrupt to provide the official receiver with a statement of affairs, the official receiver must deliver a notice to that person.

(2) The notice must be headed "Notice requiring statement of affairs" and must—

(a) require the bankrupt to prepare and submit to the official receiver a statement of affairs;

(b) inform the bankrupt of the date by which the statement must be delivered;

(c) state the effect of section 288(4) (penalty for non-compliance) and section 291 (duty to co-operate) as it applies to the official receiver.

(3) The official receiver must deliver instructions for the preparation of the statement of affairs with the notice.

Statement of affairs

10.58.—(1) The statement of affairs must contain—

(a) the name of the court that made the bankruptcy order;

(b) identification details for the bankrupt;

(c) the date of the bankruptcy order;

(d) a list of the bankrupt's secured creditors giving in relation to each—

(i) the name and postal address;

(ii) the amount owed to the creditor;

(iii) particulars of the property of the bankrupt which is claimed by the creditor to clear or reduce the creditor's debt and the value of that property;

(e) a list of unsecured creditors giving in relation to each—

(i) the name and postal address of the creditor;

(ii) the amount the creditor claims the bankrupt owes to that creditor;

(iii) the amount the bankrupt thinks is owed by the bankrupt to that creditor;

(f) a list of the bankrupt's total assets (which must include anything not previously mentioned in the statement of affairs which may be of value) divided into the following categories and giving the value of each asset listed—

(i) cash at the bank or building society;

(ii) household furniture and belongings;

(iii) life policies;

(iv) money owed to the bankrupt;

(v) stock in trade;

(vi) motor vehicles;

(vii) other property;

(g) the total value of the assets listed under paragraph (f).

(**a**) Section 288 is amended by paragraph 18 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c.24) and by paragraph 15 of Schedule 6 to the Deregulation Act 2015 (c. 20).

(2) The bankrupt must authenticate and date each page of the statement of affairs.

(3) The statement of affairs must be verified by a statement of truth and delivered to the official receiver, together with one copy.

(4) The official receiver must file the verified statement with the court

Limited disclosure

10.59. Where the official receiver thinks that disclosure of the whole or part of the statement of affairs would be likely to prejudice the conduct of the bankruptcy or might reasonably be expected to lead to violence against any person, the official receiver may apply to the court for an order that the statement of affairs or any specified part of it—

(a) must not be filed with the court; or

(b) must be filed separately and not open to inspection otherwise than with permission of the court.

Release from duty to submit statement of affairs and extension of time (section 288(3))

10.60.—(1) The official receiver may exercise the power in section 288(3) to release the bankrupt from an obligation to submit a statement of affairs imposed under section 288(3), or to grant an extension of time, either on the official receiver's own initiative, or at the bankrupt's request.

(2) The bankrupt may apply to the court for a release or extension of time if the official receiver refuses the bankrupt’s request.

(3) The court may, if it thinks that no sufficient cause is shown, dismiss the application, but must not do so unless the bankrupt has had an opportunity to attend the court for a hearing without notice to any other party, of which the court has delivered at least five business days' notice to the bankrupt.

(4) Unless the application is dismissed, the court must fix a venue for it to be heard, and deliver notice of the hearing to the bankrupt.

(5) The bankrupt must, at least 14 days before the hearing, deliver to the official receiver a notice stating the venue and accompanied by a copy of the application, and of any evidence which the bankrupt intends to provide in support of it.

(6) The official receiver may appear and be heard on the application; and, whether or not the official receiver appears, the official receiver may file with the court a report of any matters which the official receiver considers ought to be drawn to the court's attention.

(7) If such a report is filed, a copy must be delivered by the official receiver to the bankrupt, not later than five business days before the hearing.

(8) The court must deliver sealed copies of any order made on the application to the bankrupt and the official receiver.

(9) The bankrupt must pay the bankrupt’s costs of the application in any event, and unless and to the extent the court otherwise orders, no allowance towards them will be made out of the estate.

Expenses of assisting bankrupt to prepare statement of affairs

10.61.—(1) If the bankrupt cannot personally prepare a proper statement of affairs, the official receiver may, at the expense of the estate, employ a person or firm to assist in the preparation of the statement.

(2) At the request of the bankrupt, made on the grounds that the bankrupt cannot personally prepare a proper statement, the official receiver may authorise an allowance payable out of the estate (in accordance with the prescribed order of priority) towards expenses to be incurred by the bankrupt in employing a person or firm to assist the bankrupt in preparing it.

(3) The bankrupt's request must be accompanied by an estimate of the expenses involved, and the official receiver must only authorise the employment of a named person or a named firm, being in either case approved by the official receiver.

(4) The official receiver may make the authorisation subject to such conditions (if any) as the official receiver thinks fit relating to the manner in which any person may obtain access to relevant documents and other records.

(5) Nothing in this rule relieves the bankrupt from any obligation relating to the preparation, verification and submission of a statement of affairs, or to the provision of information to the official receiver or the trustee.

Delivery of accounts to official receiver

10.62.—(1) The bankrupt must, at the request of the official receiver, deliver to the official receiver accounts relating to the bankrupt's affairs of such nature, as at such date and for such period as the official receiver may specify.

(2) The period specified may begin from a date up to three years before the date of the presentation of the bankruptcy petition.

(3) The court may, on the official receiver's application, require accounts for any earlier period.

(4) Rule 10.61 (expenses of assisting bankrupt to prepare statement of affairs) applies to accounts to be delivered under this rule as it applies to the statement of affairs.

(5) The accounts must, if the official receiver so requires, be verified by a statement of truth, and (whether or not so verified) delivered to the official receiver within 21 days of the request, or such longer period as the official receiver may allow.

Further disclosure

10.63.—(1) The official receiver may at any time require the bankrupt to deliver in writing further information amplifying, modifying or explaining any matter contained in the bankrupt's statement of affairs, or in accounts delivered under the Act or these Rules.

(2) The information must, if the official receiver directs, be verified by a statement of truth, and (whether or not verified) delivered to the official receiver within 21 days from the date of the requirement, or such longer period as the official receiver may allow.

Sub-division B: Bankruptcy application

Preliminary

10.64. The rules in this sub-division apply in relation to further disclosure which is required of a bankrupt where the bankruptcy order was made on a bankruptcy application.

Delivery of accounts to official receiver

10.65.—(1) The bankrupt must, at the request of the official receiver, deliver to the official receiver accounts relating to the bankrupt's affairs of such nature, as at such date and for such period as the official receiver may specify.

(2) The specified period may begin from a date up to three years preceding the date of the bankruptcy application.

(3) The accounts must, if the official receiver so requires, be verified by a statement of truth, and (whether or not so verified) be delivered to the official receiver within 21 days of the request or such longer period as the official receiver may allow.

(4) The court may, on the official receiver's application, require accounts in respect of any earlier period.

Expenses of preparing accounts

10.66.—(1) If the bankrupt cannot personally prepare adequate accounts under rule 10.65, the official receiver may, at the expense of the estate, employ a person or firm to assist in their preparation.

(2) At the request of the bankrupt, made on the grounds that the bankrupt cannot personally prepare the accounts, the official receiver may authorise an allowance payable out of the estate (in accordance with the prescribed order of priority) towards expenses to be incurred by the bankrupt in employing a person or firm to assist the bankrupt in their preparation.

(3) The bankrupt's request must be accompanied by an estimate of the expenses involved; and the official receiver must only authorise the employment of a named person or a named firm, being in either case approved by the official receiver.

(4) The official receiver may make the authorisation subject to such conditions (if any) as the official receiver thinks fit relating to the manner in which any person may obtain access to relevant documents and other records.

(5) Nothing in this rule relieves the bankrupt from any obligation relating to the preparation and delivery of accounts, or to the provision of information to the official receiver or the trustee.

Further disclosure

10.67.—(1) The official receiver may at any time require the bankrupt to deliver in writing further information amplifying, modifying or explaining any matter contained in the bankruptcy application, or in accounts delivered in pursuance of the Act or these Rules.

(2) The information must, if the official receiver so directs, be verified by a statement of truth, and (whether or not so verified) delivered to the official receiver within 21 days from the date of the requirement, or such longer period as the official receiver may allow.

REPORTS BY THE OFFICIAL RECEIVER

Reports by the official receiver

10.68.—(1) The official receiver must deliver a report on the bankruptcy and the bankrupt's affairs to all the creditors at least once after the making of the bankruptcy order.

(2) The report must contain—

(a) identification details for the proceedings;

(b) contact details for the official receiver;

(c) a summary of the assets and liabilities of the bankrupt as known to the official receiver at the date of the report;

(d) such comments on the summary and the bankrupt's affairs as the official receiver thinks fit; and

(e) any other information of relevance to the creditors.

(3) The official receiver may apply to the court to be relieved of any duty imposed by this rule or to be authorised to carry out the duty in another way.

(4) On such an application the court must have regard to the cost of carrying out the duty, to the amount of the assets available, and to the extent of the interest of creditors or any particular class of them.

(5) If a bankruptcy order is annulled, any duty of the official receiver to deliver a report under this rule ceases.

Appointment by creditors of new trustee

10.69.—(1) This rule applies where the bankrupt's creditors decide to remove a trustee in bankruptcy under section 298 but do not, as part of the decision procedure to remove the trustee, appoint a new trustee.

(2) The existing trustee must send the creditors a notice inviting proposals for a new trustee.

(3) The notice must explain that the existing trustee is not obliged to seek the creditors' views on any proposals that do not meet the requirements of paragraphs (4) and (5).

(4) Any proposal must state the name and contact details of the proposed trustee, and contain a statement that the proposed trustee is qualified to act as trustee in relation to the bankrupt and has consented to act as trustee.

(5) Any proposal must be received by the existing trustee within five business days of the date of the notice.

(6) Following the end of the period for inviting proposals under paragraph (2) of this rule, where any proposals are received the existing trustee must seek a decision from the creditors on the appointment of a replacement trustee by—

(a) a decision procedure; or

(b) the deemed consent procedure.

(7) Where paragraph (6) applies, the existing trustee must send the creditors a notice which complies with rules 15.6 and 15.7 so far as are relevant.

(8) The notice must also—

(a) identify any person proposed to be nominated as trustee in accordance with this rule; and

(b) contain a statement explaining the effect of section 298(4B) (decision of creditors to remove a trustee does not take effect until creditors appoint another trustee).

(9) The decision date in the notice must be no later than 14 days after the date for receiving proposals has passed.

(10) The creditors must be given at least seven days' notice of the decision date.

(11) A notice inviting proposals for a new trustee under paragraph (2) may be sent before or after the date of the decision to remove the trustee.

(12) Nothing in this rule affects the official receiver's ability under section 296(1), at any time when trustee, to apply to the Secretary of State to appoint a trustee instead of the official receiver.

Certification of appointment

10.70.—(1) This rule applies where a person has been appointed as trustee by a decision of the creditors.

(2) The convener or the chair (as the case may be) must certify the appointment, but not unless and until the appointee has delivered to the convener or chair a statement that the appointee is an insolvency practitioner qualified under the Act to act as trustee in relation to the bankrupt and consents to act.

(3) The trustee's appointment takes effect from the date on which the appointment is certified, that date to be endorsed on the certificate.

(4) The certificate must contain—

(a) identification details for the bankrupt;

(b) identification and contact details for the person appointed as trustee;

(c) the date on which the creditors made the appointment;

(d) the statement that the appointee—

(i) has provided a statement of being qualified to act as an insolvency practitioner in relation to the bankrupt;

(ii) has consented to act, and

(iii) was appointed trustee of the bankrupt's estate.

(5) The certificate must be authenticated and dated by the person who certifies the appointment.

(6) Where two or more trustees are appointed the certificate must also specify (as required by section 292(3)) the circumstances in which the trustees must act together and the circumstances in which one or more of them may act for the others.

(7) The trustee's appointment is effective from the date on which the appointment is certified.

(8) The convener or chair (if that person is not the official receiver) must deliver the certificate to the official receiver.

(9) The official receiver must in any case deliver the certificate to the trustee.

Cost of the trustee's security (section 390(3))

10.71. The cost of the trustee's security required by section 390(3) for the proper performance of the trustee's functions is an expense of the bankruptcy.

Creditors' decision to appoint a trustee

10.72.—(1) In the case of a decision on the appointment of a trustee—

(a) if on any vote there are two nominees for appointment, the person who obtains the most support is appointed;

(b) if there are three or more nominees, and one of them has a clear majority over both or all the others together, that one is appointed; and

(c) in any other case the convener or chair must continue to take votes (disregarding at each vote any nominee who has withdrawn and, if no nominee has withdrawn, the nominee who obtained the least support last time) until a clear majority is obtained for any one nominee.

(2) In the case of a decision being made at a meeting, the chair may at any time put to the meeting a resolution for the joint appointment of any two or more nominees.

Appointment by the court (section 291A(2))

10.73.—(1) This rule applies where the court appoints the trustee under section 291A(2).

(2) The court's order must not be made unless and until the appointee has filed with the court a statement that the appointee is an insolvency practitioner, qualified under the Act to be the trustee in relation to the bankrupt and consents to act.

(3) The order of the court must contain—

(a) identification details for the proceedings;

(b) the name and title of the person making the order;

(c) the name and postal address of the applicant;

(d) the capacity in which the applicant is making the application;

(e) identification and contact details for the person appointed as trustee;

(f) a statement that that the appointee has filed a statement of qualification to act as an insolvency practitioner in relation to the bankrupt under the Act and of consent to act;

(g) the order that upon consideration of the evidence it is ordered the appointee is appointed trustee of the bankrupt's estate;

(h) the date of the making of the order.

(4) Where two or more trustees are appointed the order must also specify (as required by section 292(3)) the circumstances in which the trustees must act together and the circumstances in which one or more of them may act for the others.

(5) The court must deliver two copies of the order, one of which must be sealed, to the official receiver.

(6) The official receiver must deliver the sealed copy of the order to the person appointed as trustee.

(7) The trustee's appointment takes effect from the date of the order.

Appointment by Secretary of State

10.74.—(1) This rule applies where the official receiver—

(a) refers to the Secretary of State under section 300 the need for an appointment of a trustee; or

(b) applies to the Secretary of State under section 296 to make the appointment.

(2) If the Secretary of State makes an appointment the Secretary of State must deliver a copy of the certificate of appointment to the official receiver, who must deliver it to the person appointed.

(3) The certificate must specify the date from which the trustee's appointment is to be effective.

Appointment to be gazetted

10.75.—(1) As soon as reasonably practicable after appointment a trustee appointed by a decision of the bankrupt's creditors —

(a) must gazette a notice of the appointment; and

(b) may advertise the notice in other such manner as the trustee thinks fit.

(2) The notice must state—

(a) that a trustee has been appointed by a decision of creditors; and

(b) the date of the appointment.

Hand-over of estate by official receiver to trustee

10.76.—(1) This rule applies where a trustee is appointed in succession to the official receiver acting as trustee.

(2) When the trustee's appointment takes effect, the official receiver must as soon as reasonably practicable do all that is required for putting the trustee into possession of the estate.

(3) On taking possession of the estate, the trustee must discharge any balance due to the official receiver on account of—

(a) expenses properly incurred by the official receiver and payable under the Act or these Rules; and

(b) any advances made by the official receiver in respect of the estate, together with interest on such advances at the rate specified in section 17 of the Judgments Act 1838(**a**) on the date of the bankruptcy order.

(4) Alternatively, the trustee may (before taking office) deliver to the official receiver a written undertaking to discharge any such balance out of the first realisation of assets.

(5) The official receiver has a charge on the estate in respect of any sums due under paragraph (3) until they have been discharged, subject only to the deduction from realisations by the trustee of the costs and expenses of such realisations.

(**a**) Section 17 has been amended by the Statute Law Revision (No 2) Act 1888 (c.57), article 2 of SI 1993/564, article 3 of SI 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.

(6) The trustee must from time to time out of the realisation of assets discharge all guarantees properly given by the official receiver for the benefit of the estate, and must pay all the official receiver's expenses.

(7) The official receiver must give to the trustee all the information relating to the affairs of the bankrupt and the course of the bankruptcy which the official receiver considers to be reasonably required for the effective discharge by the trustee of the trustee's duties in relation to the estate.

(8) The official receiver must also deliver to the trustee any report of the official receiver under rule 10.68.

Invitation to creditors to form a creditors' committee

10.77.—(1) Where the trustee seeks any decision from the bankrupt's creditors, the trustee must at the same time deliver to the creditors a notice inviting them to decide whether a creditors' committee should be established if sufficient creditors are willing to be members of the committee.

(2) The notice must also invite nominations for membership of the committee, such nominations to be received by a date specified in the notice.

(3) The notice must state that nominations—

(a) must be delivered to the trustee by the specified date; and

(b) can only be accepted if the convener is satisfied as to the creditors' eligibility under rule 17.4.

Sub-division B: Resignation and removal

Trustee's resignation and appointment of replacement (section 298(7))

10.78.—(1) A trustee may resign under section 298(7) only—

(a) on grounds of ill health;

(b) because of the intention to cease to practise as an insolvency practitioner;

(c) because the further discharge of the duties of trustee is prevented or made impracticable by —

(i) a conflict of interest, or

(ii) a change of personal circumstances; or

(d) where two or more persons are acting as trustee jointly, and it is the opinion of both or all of them that it is no longer expedient that there should continue to be that number of joint trustees.

(2) Before resigning, the trustee must invite the creditors to consider, either by a decision procedure or by the deemed consent procedure, whether a replacement should be appointed.

(3) The notice to the creditors must state—

(a) the trustee's intention to resign; and

(b) comply with rule 15.6 or 15.7 so far as applicable.

(4) The notice may suggest the name of a replacement trustee.

(5) The decision date must be not more than five business days before the date on which the trustee intends to give notice under section 298(7).

(6) The trustee must deliver a copy of the notice to the official receiver and the bankrupt.

(7) The resigning trustee's release is effective from the date on which the notice of resignation under section 298(7) is filed with the court in a bankruptcy based on a petition or, with the official receiver in a bankruptcy based on a debtor's application.

Decision of creditors to remove trustee (section 298(1))

10.79.—(1) Where the convener of the decision procedure or chair of a meeting of creditors is other than the official receiver, and a decision is taken to remove the trustee, the convener or chair must, within three business days, deliver a certificate to that effect to the official receiver.

(2) If the creditors have decided to appoint a new trustee, the certificate of the new trustee's appointment must also be delivered to the official receiver within three business days from the date of that decision and rule 10.70 must be complied with in relation to it.

(3) The certificate of the trustee's removal must be authenticated and dated by the convener or chair and—

(a) identify the bankrupt;

(b) identify and provide contact details for the removed trustee;

(c) state that on the date specified, and via the decision procedure specified, the creditors decided that the trustee specified in the certificate be removed from office as trustee of the bankrupt's estate;

(d) state the decision date, and the decision procedure used;

(e) state that the creditors either—

(i) did not decide against the trustee being released; or

(ii) decided that the trustee should not be released.

(4) The trustee's removal is effective from the date of the certificate of removal.

Procedure on removal by creditors

10.80.—(1) Where the creditors have decided that the trustee be removed, the official receiver must in a bankruptcy based on a creditor's petition file the certificate of removal with the court or in a bankruptcy based on a debtor's application, place the certificate of removal on the bankruptcy file.

(2) The official receiver must deliver a copy of the certificate to the removed trustee.

Removal of trustee by the court (section 298(1))

10.81.—(1) This rule applies where an application is made to the court under section 298(1) for the removal of the trustee, or for an order directing the trustee to initiate a creditors' decision procedure for the purpose of removing the trustee.

(2) The court must fix a venue for the application to be heard unless the court thinks that no sufficient cause is shown for the application, in which case it must deliver notice to that effect to the applicant.

(3) If within five business days of delivery of that notice the applicant applies for a hearing to determine whether sufficient cause is shown, the court must fix a venue for the hearing without notice to any other party.

(4) If the applicant does not apply for such a hearing the court may dismiss the application without a hearing.

(5) The court may require the applicant to make a deposit or give security for the costs to be incurred by the trustee on the application.

(6) The applicant must, at least 14 days before the hearing of the application to remove the trustee, deliver to the trustee and the official receiver a notice stating the venue, accompanied by a copy of the application, and of any evidence which the applicant intends to provide in support of it.

(7) On a successful application the court's order must contain—

(a) identification details for the proceedings;

(b) the name and title of the person making the order ;

(c) the name and postal address of the applicant;

(d) a statement as to the capacity in which the applicant is making the application;

(e) identification and contact details for the trustee;

(f) the order that upon consideration of the evidence it is ordered that—

(i) the trustee be removed from office; or

(ii) the trustee must instigate a creditors' decision procedure on or before the date specified in the order for the purpose of considering the trustee's removal from office;

(g) provide details of any further order in the matter;

(h) the date of the making of the order.

(8) The costs of the application are not payable as an expense of the bankruptcy unless the court orders otherwise.

(9) Where the court removes the trustee it must deliver the sealed copy of the order of removal to the trustee and a copy to the official receiver.

(10) If the court appoints a new trustee, rule 10.73 applies.

Removal of trustee by Secretary of State (section 298(5))

10.82.—(1) This rule applies where the Secretary of State decides to remove a trustee appointed by the Secretary of State.

(2) Before doing so the Secretary of State must deliver to the trustee and the official receiver a notice of the Secretary of State's decision and the grounds for the decision.

(3) The notice must specify a period within which the trustee may make representations against implementation of the decision.

(4) If the Secretary of State directs the removal of the trustee, the Secretary of State must as soon as reasonably practicable—

(a) deliver the notice to the trustee and the official receiver; and

(b) where the bankruptcy was based upon a creditor's petition, file a notice of the decision with the court.

(5) Where the Secretary of State directs the trustee be removed, the court may make any order that it could have made if the trustee had been removed by the court.

Release of removed trustee (section 299)

10.83.—(1) Where the trustee is removed by a creditors' decision procedure the certificate of removal must state whether or not the creditors decided against the trustee's release.

(2) Where the creditors decided against release the trustee's application to the Secretary of State for release under section 299(3)(b) must—

(a) identify the bankrupt;

(b) identify and provide contact details for the trustee;

(c) provide details of the circumstances under which the trustee has ceased to act as trustee;

(d) state that the trustee is applying to the Secretary of State for a certificate of the trustee's release as a trustee as a result of the circumstances specified in the application;

(e) be authenticated and dated by the trustee.

(3) When the Secretary of State gives the release, the Secretary of State must certify it accordingly and file the certificate with the court.

(4) The Secretary of State must deliver a copy of the certificate to the former trustee, whose release is effective from the date of the certificate.

Deceased trustee

10.84.—(1) If the trustee (not being the official receiver) dies notice of the fact and date of death must be delivered to the official receiver by one of the following—

(a) a surviving joint trustee;

(b) a member in the deceased trustee's firm (if the deceased was a member or an employee a firm);

(c) an officer of the deceased trustee's company (if the deceased was an officer or employee of a company);

(d) a personal representative of the deceased trustee.

(2) If no such notice has been delivered within 21 days following the trustee's death then any other person may deliver the notice.

(3) The official receiver must file notice of the death with the court, for the purpose of fixing the date of the deceased trustee's release under section 299(3)(a).

Loss of qualification as insolvency practitioner (section 298(6))

10.85.—(1) This rule applies where the trustee vacates office under section 298(6), on ceasing to be qualified to act as an insolvency practitioner in relation to the bankrupt.

(2) The trustee must as soon as reasonably practicable deliver a notice to the official receiver.

(3) The notice must be authenticated and dated by the trustee.

(4) On receiving such a notice the official receiver must–

(a) deliver a copy of the notice to the Secretary of State; and

(b) file a copy of the notice with the court where the bankruptcy was based on a creditor's petition.

(5) Rule 10.83 applies in relation to the trustee's application for release under section 299(3)(b).

Sub-division C: Release on completion of administration of bankrupt's estate

Release of official receiver on completion of administration (section 299)

10.86.—(1) Before giving a notice that the administration of the bankrupt's estate is for practical purposes complete to the Secretary of State under section 299(2), the official receiver must deliver a notice of intention to do so to all the creditors and to the bankrupt.

(2) The notice must be accompanied by a summary of the official receiver's receipts and payments as trustee.

(3) When the Secretary of State has determined the date from which the official receiver's release is effective, the Secretary of State must –

(a) where the bankruptcy was based on a bankruptcy application, deliver a notice of release to the official receiver; and

(b) in all other cases, file a notice of the release with the court.

(4) The Secretary of State's notice to the court must be accompanied by the summary of the official receiver's receipts and payments.

Vacation of office on completion of bankruptcy (section 298(8) and 331)

10.87.—(1) The final report which the trustee is required to make under section 331(2A)(**a**) must comply with the requirements of rule 18.14.

(**a**) Section 331 is amended by paragraph 83 of the Small Business, Enterprise and Employment Act 2015 (c.26).

(2) The notice under section 332(2) must also state—

(a) that the creditors have the right to request information from the trustee under rule 18.10;

(b) that the creditors have the right to challenge the trustee's remuneration and expenses under rule 18.28;

(c) that the creditors may object to the trustee's release by giving notice in writing to the trustee before the end of the prescribed period;

(d) that the prescribed period is the period ending at the later of —

(i) eight weeks after delivery of the notice; or

(ii) if any request for information under rule 18.10 or any application to the court under that rule or rule 18.28 is made when that request or application is finally determined;

(e) that the trustee will vacate office under section 298(8) when, after the end of the prescribed period, the trustee files with the court a notice that the trustee has given notice to the creditors under section 331; and

(f) that the trustee will be released under section 299(3)(d)**(a)** at the same time as vacating office unless any of the creditors objected to the trustee's release.

(3) The notice under section 298(8) must be authenticated and dated by the trustee.

(4) The notice must be accompanied by a copy of the final report.

(5) The trustee must deliver a copy of the notice under section 298(8) to

(a) the Secretary of State and the official receiver.

(6) Rule 10.83(2) to (4) applies to an application by the trustee to the Secretary of State for release.

Rule as to reporting

10.88.—(1) The court may, on the application of the trustee or official receiver, relieve the applicant of any duty imposed on the applicant by rule 10.86 and 10.87 and rule 18.14, or authorise the applicant to carry out the duty in any other way.

(2) In considering whether to relieve the applicant, the court must have regard to the cost of carrying out the duty, to the amount of the funds available in the estate, and to the extent of the interest of creditors or any particular class of them.

Notice to official receiver of intention to vacate office

10.89.—(1) This rule applies where the trustee intends to vacate office, whether by resignation or otherwise, and as a result there will be a vacancy in the office of trustee (so that by virtue of section 300 the official receiver is trustee until the vacancy is filled).

(2) The trustee must deliver notice of that intention to the official receiver at least 21 days before the trustee intends to vacate office.

(3) The notice must include the following details of any property which has not been realised, applied, distributed or otherwise fully dealt with in the bankruptcy—

(a) the nature of the property,

(b) its value (or that it has no value),

(c) its location,

(d) any action taken by the trustee to deal with the property or any reason for the trustee not dealing with it, and

(e) the current position in relation to it.

(**a**) Section 299 is amended by paragraph 78 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

Trustee's duties on vacating office

10.90. A trustee who ceases to be in office in consequence of removal, resignation or loss of qualification as an insolvency practitioner, must as soon as reasonably practicable deliver to the successor as trustee—

(a) the assets of the estate (after deduction of any expenses properly incurred, and distributions made, by the trustee);

(b) the records of the bankruptcy, including correspondence, proofs and other documents relating to the bankruptcy while it was within the trustee's responsibility, and

(c) the bankrupt's documents and other records.

Power of the court to set aside certain transactions

10.91.—(1) If in dealing with the estate the trustee enters into any transaction with a person who is an associate of the trustee, the court may, on the application of any person interested, set the transaction aside and order the trustee to compensate the estate for any loss suffered in consequence of it.

(2) This does not apply if either—

(a) the transaction was entered into with the prior consent of the court, or

(b) it is shown to the court's satisfaction that the transaction was for value, and that it was entered into by the trustee without knowing, or having any reason to suppose, that the person concerned was an associate.

(3) Nothing in this rule is to be taken as prejudicing the operation of any rule of law or equity relating to a trustee's dealings with trust property, or the fiduciary obligations of any person.

Rule against improper solicitation

10.92.—(1) Where the court is satisfied that any improper solicitation has been used by or on behalf of the trustee in obtaining proxies or procuring the trustee's appointment, it may order that no remuneration be allowed out of the estate to any person by whom, or on whose behalf, the solicitation was exercised.

(2) An order of the court under this rule overrides any decision of the creditors' committee or the creditors, or any other provision of these Rules relating to the trustee's remuneration.

Enforcement of trustee's obligations to official receiver (section 305(3))

10.93.—(1) On the application of the official receiver, the court may make such orders as it thinks necessary to enforce the duties of the trustee under section 305(3).

(2) An order of the court under this rule may provide that all costs of and incidental to the official receiver's application must be borne by the trustee.

CHAPTER 7

SPECIAL MANAGER

Application for and order of appointment of special manager (section 370)

10.94.—(1) An application by the interim receiver or trustee under section 370(**a**) for the appointment of a special manager must be supported by a report setting out the reasons for the application.

(2) The report must include the applicant's estimate of the value of the estate, property or business in relation to which the special manager is to be appointed.

(**a**) Section 370 is amended by paragraph 14 of Schedule 6 to the Deregulation Act 2015 (c. 20).

(3) The court's order appointing the special manager must contain—

(a) identification details for the proceedings;

(b) the name and title of the person making the order;

(c) the name and postal address of the applicant;

(d) the name and postal address of the proposed appointee as special manager;

(e) a statement that the evidence has been considered;

(f) an order that the appointee is appointed as special manager;

(g) details of the special manager's responsibility over the debtor's property or the bankrupt's estate;

(h) the powers entrusted to the special manager under section 370(4);

(i) the time allowed for the special manager to give the required security for the appointment;

(j) the duration of the special manager's appointment, being one of the following—

(i) for a fixed period stated in the order;

(ii) until the occurrence of a specified event; or

(iii) until the court makes a further order;

(k) an order that the special manager's remuneration will be fixed from time to time by the court; and

(l) the date of the making of the order.

(4) The appointment of a special manager may be renewed by order of the court.

(5) The special manager's remuneration must be fixed from time to time by the court.

[Note: section 377 provides that the acts of the special manager are valid notwithstanding any defect in the special manager's appointment or qualifications.]

Security

10.95.—(1) The appointment of the special manager does not take effect until the person appointed has given (or, if the court allows, undertaken to give) security to the applicant for the appointment.

(2) A person appointed as special manager may give security either specifically for a particular bankruptcy, or generally for any bankruptcy in relation to which that person may be appointed as special manager.

(3) The amount of the security must be not less than the value of the estate, property or business in relation to which the special manager is appointed, as estimated in the applicant's report which accompanied the application for appointment.

(4) When the special manager has given security to the applicant, the applicant must file with the court a certificate as to the adequacy of the security.

(5) The cost of providing the security must be paid in the first instance by the special manager; but—

(a) where a bankruptcy order is not made, the special manager is entitled to be reimbursed out of the property of the debtor, and the court may order accordingly, and

(b) where a bankruptcy order is made, the special manager is entitled to be reimbursed out of the estate in the prescribed order of priority.

Failure to give or keep up security

10.96.—(1) If the special manager fails to give the required security within the time stated for that purpose by the order of appointment, or any extension of that time that may be allowed, the

interim receiver or trustee (as the case may be) must report the failure to the court, which may discharge the order appointing the special manager.

(2) If the special manager fails to keep up the security, the interim receiver or trustee must report the failure to the court, which may remove the special manager, and make such order as it thinks just as to costs.

(3) If the court discharges the order appointing the special manager or makes an order removing the special manager, the court must give directions as to whether any, and if so what, steps should be taken for the appointment of another special manager.

Accounting

10.97.—(1) The special manager must produce accounts, containing details of the special manager's receipts and payments, for the approval of the trustee.

(2) The accounts must be for—

(a) each three month period for the duration of the special manager's appointment; or

(b) any shorter period ending with the termination of the special manager's appointment.

(3) When the accounts have been approved, the special manager's receipts and payments must be added to those of the trustee.

Termination of appointment

10.98.—(1) The special manager's appointment terminates if—

(a) the bankruptcy petition is dismissed; or

(b) in a case where an interim receiver was appointed under section 286, the appointment is discharged without a bankruptcy order having been made.

(2) If the interim receiver or the trustee thinks that the appointment of the special manager is no longer necessary or beneficial to the estate, the interim receiver or the trustee must apply to the court for directions, and the court may order the special manager's appointment to be terminated.

(3) The interim receiver or the trustee must make such an application if the creditors decide that the appointment should be terminated.

CHAPTER 8

PUBLIC EXAMINATION OF BANKRUPT

Order for public examination of bankrupt

10.99.—(1) This rule applies to a court order for the public examination of a bankrupt made on an application by the official receiver under section 290.

(2) The order must have the title "Order for public examination" and contain—

(a) identification details for the proceedings;

(b) the name and the title of the person making the order;

(c) the order that upon the application of the official receiver and upon consideration of the evidence it is ordered that the bankrupt do attend the venue specified in the order for the purpose of being publicly examined;

(d) the venue for the public examination;

(e) the date of the making of the order;

(f) a warning that if the bankrupt fails without reasonable excuse to attend the public examination at the time and place specified in the order the bankrupt will be liable to be arrested without further notice under section 364(1); and will also be guilty of contempt of court under section 290(5) and be liable to be committed to prison or fined.

(3) The official receiver must serve a copy of the court's order on the bankrupt as soon as reasonably practicable after the order is made.

Notice of public examination

10.100.—(1) The official receiver must deliver at least 14 days' notice of the public examination to—

(a) the trustee or special manager; and

(b) subject to any contrary direction of the court, every creditor of the bankrupt who is known to the official receiver.

(2) Where the official receiver thinks fit, a notice of the order must be gazetted not less than 14 days before the day fixed for the hearing.

(3) The official receiver may advertise the notice in such other manner as the official receiver thinks fit.

(4) The notice must state the purpose of the examination hearing and the venue.

Order for public examination requested by creditors

10.101.—(1) A notice by a creditor to the official receiver, under section 290(2), requesting the bankrupt to be publicly examined must be accompanied by—

(a) a list of the creditors concurring with the request with the name and postal address of each and the amount of their respective claims in the bankruptcy; and

(b) confirmation by each creditor of that creditor's concurrence; and

(c) a statement of the reasons why the public examination is requested.

(2) The request must be authenticated and dated by the creditor giving the notice.

(3) A list of concurring creditors is not required if the requisitioning creditor's debt alone is at least one half in value of the bankrupt's creditors.

(4) Before the official receiver makes the requested application, the creditor requesting the examination must deposit with the official receiver such sum (if any) as the official receiver determines is appropriate as security for the expenses of the public examination, if ordered.

(5) The official receiver must make the application for the examination—

(a) within 28 days of receiving the creditor's request (if no security is required under paragraph (4)); or

(b) within 28 days of the creditor depositing such security if security is requested.

(6) However if the official receiver thinks the request is unreasonable the official receiver may apply to the court for an order to be relieved from making the application.

(7) If the court so orders, and the application for the order was made without notice to any other party, the official receiver must deliver a notice of the order as soon as reasonably practicable to the requisitionist.

(8) If such an application is dismissed, the official receiver's application under section 290(2) must be made as soon as reasonably practicable on conclusion of the hearing of the application first mentioned.

Bankrupt unfit for examination

10.102.—(1) Where the bankrupt is a person who lacks capacity within the meaning of the Mental Capacity Act 2005(**a**) or is unfit to undergo or attend for public examination, the court may—

(**a**) 2005 c. 9.

(a) stay the order for the bankrupt's public examination, or

(b) direct that it will be conducted in a manner and place it thinks just.

(2) An application for an order under paragraph (1) must be made—

(a) by a person who has been appointed by a court in the United Kingdom or elsewhere to manage the affairs of, or to represent, the bankrupt; or

(b) by a person who appears to the court to be a suitable person to make the application; or

(c) by the official receiver.

(3) Where an application is made by a person other than the official receiver, then—

(a) the application must, unless the bankrupt is a person who lacks capacity within the meaning of the Mental Capacity Act 2005, be supported by a witness statement by a registered medical practitioner as to the bankrupt's mental and physical condition;

(b) at least five business days' notice of the application must be delivered to the official receiver and the trustee; and

(c) before any order is made on the application, the applicant must deposit with the official receiver such sum as the official receiver determines is necessary for the additional expenses of an examination.

(4) The court may order that some or all of the expenses of the examination are to be payable out of the deposit under paragraph (3)(c), instead of out of the estate.

(5) The order must —

(a) identify the proceedings;

(b) state the name and title of the person making the order;

(c) state the date of the original order for the public examination of the bankrupt;

(d) state the name and postal address of the applicant;

(e) state the capacity in which the applicant (other than the official receiver) is making the application;

(f) state that upon consideration of the evidence, the court is satisfied that the bankrupt is a person who lacks capacity within the meaning of the Mental Capacity Act 2005 to manage and administer the bankrupt's property and affairs or is unfit to undergo a public examination;

(g) order that—

(i) the original order be stayed on the grounds that the bankrupt is unfit to undergo a public examination; or

(ii) the original order be varied (as specified in this order) on the grounds that the bankrupt is unfit to attend the public examination fixed by the original order;

(h) state the date of the making of the order.

(6) If the original order is varied, the order must also contain a warning to the bankrupt stating that if the bankrupt fails without reasonable excuse to attend the bankrupt's public examination at the time and place set out in the order the bankrupt will—

(a) be liable to be arrested without further notice under section 364(1); and

(b) be guilty of contempt of court under section 290(5) and liable to be committed to prison or fined.

(7) Where the application is made by the official receiver, it may be made without notice to any other party, and may be supported by evidence set out in a report by the official receiver to the court.

Procedure at public examination

10.103.—(1) At the public examination the bankrupt must—

(a) be examined on oath; and

(b) answer all the questions the court puts, or allows to be put.

(2) A person allowed by section 290(4) to question the bankrupt may—

(a) with the approval of the court appear by solicitor or counsel*;*

(b) in writing authorise another person to question the bankrupt on that person's behalf.

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

(4) The court must have such record made of the examination as the court thinks proper.

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

(6) If criminal proceedings have been instituted against the bankrupt, and the court is of opinion that the continuance of the hearing might prejudice a fair trial of those proceedings, the hearing may be adjourned.

Adjournment

10.104.—(1) The court may adjourn the public examination from time to time, either to a fixed date or generally.

(2) The order of adjournment of the public examination to a fixed date must contain a warning to the bankrupt stating that if the bankrupt fails without reasonable excuse to attend the public examination at the time and place set out in the order the bankrupt will—

(a) be liable to be arrested without further notice under section 364(1); and

(b) be guilty of contempt of court under section 290(5) and liable to be committed to prison or fined.

(3) Where the examination has been adjourned generally, the court may at any time on the application of the official receiver or of the bankrupt—

(a) fix a venue for the resumption of the examination, and

(b) give directions as to the manner in which, and the time within which, notice of the resumed public examination is to be given to persons entitled to take part in it.

(4) Where such an application is made by the bankrupt, the court may grant it on terms that the expenses of giving the notices required by that paragraph must be paid by the bankrupt and that, before a venue for the resumed public examination is fixed, the bankrupt must deposit with the official receiver such sum as the official receiver considers necessary to cover those expenses.

(5) Where the examination is adjourned, the official receiver may, there and then, make an application under section 279(3) (suspension of automatic discharge).

(6) If the court makes such an order suspending the bankrupt's discharge, then the court must deliver copies of the order to the official receiver, the trustee and the bankrupt.

Expenses of examination

10.105.—(1) Where a public examination of the bankrupt has been ordered by the court on a creditor's request under rule 10.101, the court may order that some or all of the expenses of the examination are to be paid out of the deposit under rule 10.101, instead of out of the estate.

(2) The costs and expenses of a public examination do not fall on the official receiver personally.

CHAPTER 9

REPLACEMENT OF EXEMPT PROPERTY

Purchase of replacement property

10.106.—(1) A purchase of replacement property under section 308(3) may be made either before or after the realisation by the trustee of the value of the property vesting in the trustee under the section.

(2) The trustee is under no obligation to apply funds to the purchase of a replacement for property vested in the trustee, unless and until the trustee has sufficient funds in the estate for that purpose.

Money provided in lieu of sale

10.107.—(1) The following applies where a third party proposes to the trustee that the third party should provide the estate with a sum of money enabling the bankrupt to be left in possession of property which would otherwise be made to vest in the trustee under section 308.

(2) The trustee may accept that proposal, if satisfied that it is a reasonable one, and that the estate will benefit to the extent of the value of the property in question less the cost of a reasonable replacement.

CHAPTER 10

INCOME PAYMENTS ORDERS

Interpretation

10.108. In this Chapter the "permitted fee" means the amount which is prescribed for the purposes of section 7(4)(a) of the Attachment of Earnings Act 1971(**a**).

Application for income payments order (section 310)

10.109.—(1) Where the trustee applies for an income payments order under section 310, the court must fix a venue for the hearing of the application.

(2) Notice of the application and the venue must be delivered by the trustee to the bankrupt at least 28 days before the day fixed for the hearing, together with a copy of the trustee's application and a short statement of the grounds on which it is made.

(3) The notice must inform the bankrupt that—

(a) the bankrupt is required to attend the hearing unless at least five business days before the date fixed for the hearing the bankrupt files with the court and delivers to the trustee, consent to an order being made in the terms of the application; and

(b) if the bankrupt attends, the bankrupt will be given an opportunity to show cause why the order should not be made, or why a different order should be made to that applied for by the trustee.

(4) The notice must be authenticated and dated by the trustee.

Order for income payments order

10.110. The order for income claimed under section 310 must contain—

(a) the name of the court;

(b) the name and postal address of the applicant;

(a) 1971 c.32. See SI 1991/356.

(c) identification details for the bankrupt;

(d) identification and contact details for the trustee;

(e) a statement that the evidence has been considered;

(f) a statement whether or not the bankrupt has consented to the order;

(g) the order that it appears to the court that the sum which is specified in the order should be paid to the trustee in accordance with the payments schedule detailed in the order until the date specified in the order;

(h) the order that the bankrupt must pay to the trustee the sum referred to in paragraph (g) in accordance with the payments schedule out of the bankrupt's income, the first of such instalments to be made on or before the date specified in the order;

(i) the date of the making of the order.

Action to follow making of order

10.111.—(1) Where the court makes an income payments order, the trustee must deliver a sealed copy of the order to the bankrupt as soon as reasonably practicable after it is made.

(2) If the order is made under section 310(3)(b), a sealed copy of the order must also be delivered by the trustee to the person to whom the order is directed.

Variation of order

10.112.—(1) If an income payments order is made under section 310(3)(a), and the bankrupt does not comply with it, the trustee may apply to the court for the order to be varied, so as to take effect under section 310(3)(b) as an order to the payer of the relevant income.

(2) The trustee's application under this rule may be made without notice to any other party.

(3) The order must contain—

(a) the name of the court;

(b) identification and contact details for the trustee who is making the application;

(c) identify the bankrupt;

(d) state the name and address of the payer;

(e) state that the applicant is the trustee of the bankrupt;

(f) state the date of the income payments order;

(g) state that the order referred to in paragraph (f) has been read;

(h) state that it appears to the court that the bankrupt has failed to comply with the income payments order;

(i) order that the income payments order be varied to the effect that the payer specified in this order do take payment in accordance with the payments schedule detailed in this order out of the bankrupt's income and that the first instalment must be paid on the date specified in the order; and that the payer must deliver the sums deducted to the trustee;

(j) the date of the making of the order.

(4) The court must deliver sealed copies of any order made on the application must to the trustee and the bankrupt as soon as reasonably practicable after the order is made.

(5) In the case of an order varying or discharging an income payments order made under section 310(3)(b), the court must deliver an additional sealed copy of the order to the trustee, for delivery as soon as reasonably practicable to the payer of the relevant income.

Order to payer of income: administration

10.113.—(1) Where a person receives notice of an income payments order under section 310(3)(b), with reference to income otherwise payable by that person to the bankrupt, the payer

must make the necessary arrangements for compliance with the order as soon as reasonably practicable.

(2) When making any payment to the trustee, the payer may deduct the permitted fee towards the clerical and administrative costs of compliance with the income payments order.

(3) The payer must give to the bankrupt a statement of any amount deducted by the payer under paragraph (2).

(4) Where a payer receives notice of an income payments order imposing on the payer a requirement under section 310(3)(b), and either—

(a) the payer is then no longer liable to make to the bankrupt any payment of income; or

(b) having made payments in compliance with the order, the payer ceases to be so liable,

the payer must as soon as reasonably practicable deliver notice of that fact to the trustee.

Review of order

10.114.—(1) Where an income payments order is in force, either the trustee or the bankrupt may apply to the court for the order to be varied or discharged.

(2) If the application is made by the trustee, rule 10.109 applies (with any necessary modification) as in the case of an application for an income payments order.

(3) If the application is made by the bankrupt, it must be accompanied by a short statement of the grounds on which it is made.

(4) The court may, if it thinks that no sufficient cause is shown for the application, dismiss it; but it must not do so unless the applicant has had an opportunity to attend the court for a hearing, of which the applicant has been given at least five business days' notice but which is without notice to any other party.

(5) Unless the application is dismissed under paragraph (4), the court must fix a venue for it to be heard.

(6) At least 28 days before the date fixed for the hearing, the applicant must deliver to the trustee or the bankrupt (whichever of them is not the applicant) notice of the venue, accompanied by a copy of the application.

(7) Where the applicant is the bankrupt, the notice referred to in paragraph (6) must be accompanied by a copy of the statement of grounds under paragraph (3).

(8) The trustee may appear and be heard on the application; and, whether or not the trustee intends to appear, the trustee may, not less than five business days before the date fixed for the hearing, file a report of any matters which the trustee considers ought to be drawn to the court's attention.

(9) If a report is filed in accordance with paragraph (8), a copy of it must be delivered by the trustee to the bankrupt.

(10) The court order must—

(a) state the name of the court;

(b) state the name and postal address of the applicant

(c) identify the bankrupt;

(d) state that upon consideration of the evidence it is ordered that the income payments order specified be varied as specified;

(e) state date of the order referred to in paragraph (d)

(f) provide details of how the income payments order is varied by this order;

(g) state the date of the making of the order.

(11) Sealed copies of any order made on the application must be delivered by the court to the trustee, the bankrupt and the payer (if other than the bankrupt) as soon as reasonably practicable after the order is made.

CHAPTER 11

INCOME PAYMENTS AGREEMENTS

Approval of income payments agreements

10.115.—(1) An income payments agreement can only be entered into before the bankrupt's discharge.

(2) The official receiver or trustee must provide a draft of the agreement to the bankrupt for the bankrupt's approval.

(3) Within 14 days or such longer period as may be specified by the official receiver or trustee from the date on which the income payments agreement was delivered, the bankrupt must—

(a) if the bankrupt decides to approve the agreement, authenticate the agreement and return it to the official receiver or trustee; or

(b) if the bankrupt decides not to approve the agreement, deliver a notice of that decision specifying the bankrupt's reasons for not approving the agreement to the official receiver or trustee.

Acceptance of income payments agreements

10.116.—(1) On receipt by the official receiver or trustee of the authenticated income payments agreement, the official receiver or trustee must authenticate and date it at which time it will come into force and a copy must be delivered to the bankrupt.

(2) Where the agreement provides for payments by a third person in accordance with section 310A(1)(b), a notice of the agreement must be delivered by the official receiver or trustee to that person.

(3) The notice must—

(a) identify the bankrupt;

(b) state that an income payments agreement has been made, the date of it, and that it provides for the payment by the third person of sums owed to the bankrupt (or a part of those sums) to be paid to the official receiver or trustee;

(c) state the name and address of the third person;

(d) state of the amount of money to be paid to the official receiver or trustee from the bankrupt's income, the period over which the payments are to be made, and the intervals at which the sums are to be paid; and

(e) identify and provide contact details for the official receiver or trustee and details of how and where the sums are to be paid.

(4) When making any payment to the official receiver or the trustee a person who has received notice of an income payments agreement with reference to income otherwise payable by that person ("the payer") to the bankrupt may deduct the permitted fee towards the clerical and administrative costs of compliance with the income payments agreement.

(5) The payer must give to the bankrupt a statement of any amount deducted by the payer under paragraph (5).

Variation of income payments agreements

10.117.—(1) Where an application is made to court for variation of an income payments agreement, the application must be accompanied by a copy of the agreement.

(2) Where the bankrupt applies to the court for variation of an income payments agreement under section 310A(6)(b), the bankrupt must deliver a copy of the application and notice of the venue to the official receiver or trustee (whichever is appropriate) at least 28 days before the date fixed for the hearing.

(3) When the official receiver or trustee applies to the court for variation of an income payments agreement under section 310A(6)(b), the official receiver or trustee must deliver a copy of the application and notice of the venue to the bankrupt at least 28 days before the date fixed for the hearing.

(4) The court may order the variation of an income payments agreement under section 310A.

(5) The court order must—

(a) state the name of the court;

(b) state the name and postal address of the applicant

(c) identify the bankrupt;

(d) state that upon considering the evidence it is ordered that the income payments agreement be varied as specified;

(e) state date of the agreement referred to in paragraph (d)

(f) provide details of how the income payments agreement is varied by this order;

(g) state the date of the making of the order.

(6) Where the court orders an income payments agreement under section 310A(1)(a) to be varied, so as to be an agreement under section 310A(1)(b) providing that a third person is to make payments to the trustee or the official receiver, the official receiver or trustee must deliver a notice of the agreement to that person in accordance with rule 10.116(2).

(7) A person who has received notice of an income payments agreement relating to income otherwise payable by that person to the bankrupt may deduct the permitted fee towards the clerical and administrative costs of compliance with the agreement when making any payment to the official receiver or the trustee.

(8) The payer must give the bankrupt a statement of any amount deducted under paragraph (6).

CHAPTER 12

ACTION BY COURT UNDER SECTION 369 ORDER

Application for order

10.118.—(1) An application by the official receiver or the trustee for an order under section 369(**a**) (order to an officer of Revenue and Customs to produce documents) must specify (with such details as will enable the order, if made, to be most easily complied with) the documents the production of which is sought, naming the official to whom the order is to be addressed.

(2) The court must fix a venue for the hearing of the application.

(3) The applicant must deliver notice of the venue, accompanied by a copy of the application to the Commissioners for Her Majesty's Revenue and Customs least 28 days before the hearing.

(4) The notice must require the Commissioners, not later than five business days before the date fixed for the hearing of the application, to inform the court whether they consent or object to the making of an order.

(5) If the Commissioners consent to the making of an order, the statement must include the name of the official to whom the order should be addressed, if other than the one named in the application.

(6) If the Commissioners object to the making of an order, they must file with the court a statement of their grounds of objection not less than five business days before the hearing of the application and must ensure that an officer of theirs attends the hearing.

(7) The Commissioners must deliver a copy of the statement of objections to the applicant as soon as reasonably practicable.

(**a**) Section 7 of the Commissioners for Customs and Excise Act 2005 (c.11) vests functions conferred by enactments on an Inland Revenue Official (or relating to such functions) in an officer of Revenue and Customs.

Making and service of the order

10.119.—(1) The court may make the order applied for, with any modifications which appear appropriate, having regard to any representations made on behalf of the Commissioners.

(2) The order—

(a) may be addressed to an officer of Revenue and Customs other than the one named in the application;

(b) must specify a time, not less than 28 days after service on the officer to whom the order is addressed, within which compliance is required; and

(c) may include requirements as to the manner in which documents to which the order relates are to be produced.

(3) A sealed copy of the order must be served by the applicant on the officer to whom it is addressed.

(4) If the officer is unable to comply with the order because the relevant documents are not in the possession of the officer, and the officer has been unable to obtain possession of them, the officer must file with the court a statement as to the reasons for the officer's non-compliance.

(5) The officer must deliver a copy of the statement referred to in paragraph (4) to the applicant as soon as reasonably practicable.

Custody of documents

10.120. When, in compliance with an order under section 369, original documents are produced, any person who, by order of the court under section 369(2, has possession or custody of those documents is responsible to the court for their safe keeping as, and return when, directed.

CHAPTER 13

MORTGAGED PROPERTY

10.121. For the purposes of this Chapter "land" includes any interest in, or right over, land.

Claim by mortgagee of land

10.122.—(1) Any person claiming to be the legal or equitable mortgagee of land belonging to the bankrupt may apply to the court for an order directing that the land be sold.

(2) The court, if satisfied as to the applicant's title, may direct accounts to be taken and enquiries made to ascertain—

(a) the principal, interest and costs due under the mortgage; and

(b) where the mortgagee has been in possession of the land or any part of it, the rents and profits, dividends, interest, or other proceeds received by the mortgagee or on the mortgagee's behalf.

(3) The court may also give directions in relation to any mortgage (whether prior or subsequent) on the same property, other than that of the applicant.

(4) For the purpose of those accounts and enquiries, and of making title to the purchaser, any of the parties may be examined by the court, and must produce on oath before the court all such documents in their custody or under their control relating to the estate of the bankrupt as the court may direct.

(5) The court may under paragraph (4) order any of the parties to clarify any matter which is in dispute in the proceedings or give additional information in relation to any such matter and CPR Part 18 (further information) applies to any such order.

(6) In any proceedings between a mortgagor and mortgagee, or the trustee of either of them, the court may order accounts to be taken and enquiries made in like manner as in the Chancery Division of the High Court.

Power of court to order sale

10.123.—(1) The court may order that the land, or any specified part of it, be sold and any party bound by the order and in possession of the land or part, or in receipt of the rents and profits from it, may be ordered to deliver possession or receipt to the purchaser or to such other person as the court may direct.

(2) The court may—

(a) permit the person having the conduct of the sale to sell the land in such manner as that person thinks fit, or

(b) direct that the land be sold as directed by the order.

(3) The court's order may contain directions—

(a) appointing the person to have the conduct of the sale;

(b) fixing the manner of sale (whether by contract conditional on the court's approval, private treaty, public auction, or otherwise);

(c) settling the particulars and conditions of sale;

(d) for obtaining evidence of the value of the property and for fixing a reserve or minimum price;

(e) requiring particular persons to join in the sale and conveyance;

(f) requiring the payment of the purchase money into court, or to trustees or others;

(g) if the sale is to be by public auction, fixing the security (if any) to be given by the auctioneer, and the auctioneer's remuneration.

(4) The court may direct that, if the sale is to be by public auction, the mortgagee may bid on the mortgagee's own behalf.

(5) Nothing in this rule or rule 10.124 affects the rights in rem of creditors or third parties protected under Article 5 of the EC Regulation.

Proceeds of sale

10.124.—(1) The proceeds of sale must be applied as follows—

(a) first in payment of—

(i) the trustee's expenses in relation to the application to the court;

(ii) the trustee's expenses of the sale and attendance at it; and

(iii) any costs of the trustee arising from the taking of accounts, and making of enquiries, as directed by the court under rule 10.122; and

(b) secondly, in payment of the amount found due to any mortgagee, for principal, interest and costs; and

(c) the balance must be retained by or paid to the trustee.

(2) Where the proceeds of the sale are insufficient to pay in full the amount found due to any mortgagee, the mortgagee is entitled to prove as a creditor for any deficiency, and to receive dividends rateably with other creditors, but not so as to disturb any dividend already declared.

CHAPTER 14

AFTER-ACQUIRED PROPERTY

Duties of bankrupt in relation to after-acquired property

10.125.—(1) The notice to be given by the bankrupt to the trustee, under section 333(2), of property acquired by, or devolving upon, the bankrupt, or of any increase of the bankrupt's income, must be given within 21 days of the bankrupt becoming aware of the relevant facts.

(2) The bankrupt must not, without the trustee's consent in writing, dispose of such property etc. within the period of 42 days beginning with the date of giving the notice.

(3) If the bankrupt disposes of property before giving the notice required by this rule or contrary to paragraph (2), it is the bankrupt's duty as soon as reasonably practicable to disclose to the trustee the name and address of the person to whom the property was disposed, and to provide any other information which may be necessary to enable the trustee to trace the property and recover it for the estate.

(4) Paragraphs (1) to (3) do not apply to property acquired by the bankrupt in the ordinary course of a business carried on by the bankrupt.

(5) A bankrupt who carries on a business must, when required by the trustee, deliver to the trustee—

(a) information about the business, showing the total of goods bought and sold and services supplied and the profit or loss arising from the business; and

(b) fuller details including accounts of the business.

Trustee's recourse to person to whom property disposed

10.126.—(1) Where property has been disposed of by the bankrupt, before giving the notice required by rule 10.125 or otherwise in contravention of that rule, the trustee may serve notice on the person to whom the property was disposed, claiming the property as part of the estate by virtue of section 307.

(2) The trustee's notice must be served within 28 days of the trustee becoming aware of the identity of the person to whom the property was disposed and an address at which that person can be served.

CHAPTER 15

PERMISSION TO ACT AS DIRECTOR, ETC.

Interpretation

10.127. In this Chapter a bankrupt includes a person in relation to whom a bankruptcy restrictions order is in force.

Application for permission

10.128.—(1) An application under section 11 of the Company Directors Disqualification Act 1986(**a**) by the bankrupt for permission to act as director of, or to take part or be concerned in the promotion, formation or management of a company, must be supported by a witness statement.

(2) The witness statement must identify the company and specify—

(a) the nature of its business or intended business, and the place or places where that business is, or is to be, carried on;

(b) whether it is, or in the case of a company which has not yet been incorporated is to be, a private or a public company;

(c) the persons who are, or are to be, principally responsible for the conduct of its affairs (whether as directors, shadow directors, managers or otherwise);

(d) the manner and capacity in which the applicant proposes to take part or be concerned in the promotion or formation of the company or, as the case may be, its management; and

(e) the emoluments and other benefits to be obtained from the directorship.

(3) The court must fix a venue for hearing the bankrupt's application and deliver notice of the hearing to the bankrupt .

(**a**) 1986 c.46.

Report of official receiver

10.129.—(1) The bankrupt must, not less than 28 days before the date fixed for the hearing, deliver to the official receiver and the trustee notice of the venue, accompanied by copies of the application and the witness statement under rule 10.128.

(2) The official receiver may, not less than 14 days before the date fixed for the hearing, file with the court a report of any matters which the official receiver considers ought to be drawn to the court's attention.

(3) The official receiver must deliver a copy of the report to the bankrupt and to the trustee as soon as reasonably practicable after it is filed.

(4) Where a copy of the report is delivered by post under paragraph (3) it must be delivered by first class post.

(5) The bankrupt may, not later than five business days before the date of the hearing, file with the court a notice specifying any statements in the official receiver's report which the bankrupt intends to deny or dispute.

(6) If the bankrupt files such a notice, the bankrupt must deliver copies of it, not less than three business days before the date of the hearing, to the official receiver and the trustee.

(7) The official receiver and the trustee may appear on the hearing of the application, and may make representations and put to the bankrupt such questions as the court may allow.

Court's order on application

10.130.—(1) A court order granting the bankrupt permission under section 11 of the Company Directors Disqualification Act 1986 must specify what the bankrupt has permission to do.

(2) The court, having regard to any representations made by the trustee on the hearing of the application, may—

(a) include in the order provision varying an income payments order or an income payments agreement already in force in relation to the bankrupt; or

(b) if no income payments order is in force, make one.

(3) Whether or not the application is granted, copies of the order must be delivered by the court to the bankrupt, the trustee and the official receiver.

CHAPTER 16

ANNULMENT OF BANKRUPTCY ORDER

Application for annulment

10.131.—(1) An application to the court under section 282(1) for the annulment of a bankruptcy order must specify whether it is made—

(a) under subsection (1)(a) (claim that the order ought not to have been made); or

(b) under subsection (1)(b) (debts and expenses of the bankruptcy all paid or secured).

(2) The application must be supported by a witness statement stating the grounds on which it is made.

(3) Where the application is made under section 282(1)(b), the witness statement must contain all the facts by reference to which, under the Act and these Rules, the court may be satisfied that the condition in section 282(1)(b) applies before annulling the bankruptcy order.

(4) A copy of the application and the witness statement in support must be filed with the court.

(5) The court must deliver notice of the venue fixed for the hearing to the applicant.

(6) Where the application is made under section 282(1)(a) the applicant must deliver notice of the venue, accompanied by copies of the application and the supporting witness statement, to the

official receiver, the trustee (if different), and the person on whose petition the bankruptcy order was made in sufficient time to enable them to be present at the hearing.

(7) Where the application is made under section 282(1)(b) the applicant must deliver notice of the venue, accompanied by copies of the application and the supporting witness statement, to the official receiver and the trustee (if different) not less than 28 days before the hearing.

(8) Where the applicant is not the bankrupt, all notices, documents and evidence required by this Chapter to be delivered to another party by the applicant must also be delivered to the bankrupt.

Report by trustee

10.132.—(1) The following applies where the application is made under section 282(1)(b) (debts and expenses of the bankruptcy all paid or secured).

(2) Not less than 21 days before the date fixed for the hearing, the trustee must file with the court a report relating to the following matters—

(a) the circumstances leading to the bankruptcy;

(b) a summary of the bankrupt's assets and liabilities at the date of the bankruptcy order and at the date of the application;

(c) details of any creditors who are known to the trustee to have claims, but have not proved; and

(d) such other matters as the person making the report considers to be, in the circumstances, necessary for the information of the court.

(3) Where the trustee is other than the official receiver, the report must also include a statement of—

(a) the trustee's remuneration;

(b) the basis fixed for the trustee's remuneration under rule 18.16;

(c) the expenses incurred by the trustee.

(4) The report must include particulars of the extent to which, and the manner in which, the debts and expenses of the bankruptcy have been paid or secured.

(5) In so far as debts and expenses are unpaid but secured, the person making the report must state in it whether and to what extent that person considers the security to be satisfactory.

(6) A copy of the report must be delivered to the applicant as soon as reasonably practicable after it is filed with the court and the applicant may file further witness statements in answer to statements made in the report.

(7) Copies of any such witness statements must be delivered by the applicant to the official receiver and (if other) the trustee.

(8) If the trustee is other than the official receiver, a copy of the trustee’s report must be delivered to the official receiver at least 21 days before the hearing.

(9) The official receiver may then file an additional report, a copy of which must be delivered to the applicant at least five business days before the hearing.

Applicant’s claim that remuneration or expenses are excessive

10.133.—(1) Where the trustee is other than the official receiver and application for annulment is made under section 282(1)(b), the applicant may also apply to the court for one or more of the orders in paragraph (4) on the ground that the remuneration charged, or expenses incurred, by the trustee are in all the circumstances excessive.

(2) Application for such an order must be made no later than five business days before the date fixed for the hearing of the application for annulment and be accompanied by a copy of any evidence which the applicant intends to provide in support.

(3) The applicant must deliver a copy of the application and of any evidence accompanying it to the trustee as soon as reasonably practicable after the application is made.

(4) If the court annuls the bankruptcy order under section 282(1)(b) and considers the application to be well-founded, it must also make one or more of the following orders—

(a) an order reducing the amount of remuneration which the trustee was entitled to charge;

(b) an order that some or all of the remuneration or expenses in question be treated as not being bankruptcy expenses;

(c) an order that the trustee or the trustee's personal representative pay to the applicant the amount of the excess of remuneration or expenses or such part of the excess as the court may specify; and

(d) any other order that the court thinks just.

Power of court to stay proceedings

10.134.—(1) The court may, in advance of the hearing, make an order staying any proceedings which it thinks ought, in the circumstances of the application, to be stayed.

(2) Except in relation to an application for an order staying all or any part of the proceedings in the bankruptcy, application for an order under this rule may be made without notice to any other party.

(3) Where an application is made under this rule for an order staying all or any part of the proceedings in the bankruptcy, the applicant must deliver copies of the application to the official receiver and the trustee, if other than the official receiver in sufficient time to enable them to be present at the hearing and make representations.

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

(5) If the court makes an order under this rule, it must deliver copies of the order to the applicant, the official receiver and the trustee.

Notice to creditors who have not proved

10.135. Where the application for annulment is made under section 282(1)(b) and it has been reported to the court under rule 10.132(2)(c) that there are known creditors of the bankrupt who have not proved, the court may—

(a) direct the trustee or, if no trustee has been appointed, the official receiver to deliver notice of the application to such of those creditors as the court thinks ought to be informed of it, with a view to their proving for their debts within 21 days; and

(b) direct the trustee or, if no trustee has been appointed, the official receiver to advertise the fact that the application has been made, so that creditors who have not proved may do so within a specified time; and

(c) adjourn the application meanwhile, for any period not less than 35 days.

The hearing

10.136.—(1) The trustee must attend the hearing of the application under section 282 unless the court directs otherwise.

(2) The official receiver, if not the trustee, may attend, but is not required to do so unless the official receiver has filed a report under rule 10.132.

(3) If the court makes an order on the application or on an application under rule 10.133, it must deliver copies of the order to the applicant, the official receiver and (if other) the trustee.

(4) An order of annulment under section 282 must contain—

(a) the name of the court;

(b) the name and address of the applicant;

(c) identification details for the bankrupt;

(d) the date of the bankruptcy order;

(e) the date of the filing of the bankruptcy petition or the making of the bankruptcy application;

(f) the date and reference number of the registration of the bankruptcy petition or bankruptcy application as a pending action with the Chief Land Registrar;

(g) the date and reference number of the registration of the bankruptcy order on the register of writs and orders affecting land with the Chief Land Registrar;

(h) a statement that upon considering the evidence filed it appears to the court that—

(i) the bankruptcy order ought not to have been made; or

(ii) the bankruptcy debts and expenses of the bankruptcy have all been paid or secured to the satisfaction of the court;

and that under section 282(2) the bankruptcy order ought to be annulled;

(i) an order—

(i) that the bankruptcy order specified in the order is annulled;

(ii) that the bankruptcy petition or bankruptcy application specified in the order be dismissed; and

(iii) that the registration of the petition or the bankruptcy application as a pending action with the Chief land Registrar and of the bankruptcy order with the Chief land Registrar specified in the order be vacated upon application made by the bankrupt;

(j) the date of the making of the order.

(5) The order must contain a notice to the bankrupt stating—

(a) should the bankrupt require notice of the order to be gazetted and to be advertised in the same manner as the bankruptcy order was advertised, the bankrupt must within 28 days deliver notice of that requirement to the official receiver; and

(b) it is the bankrupt's responsibility and in the bankrupt's interest to ensure that the registration of the petition or bankruptcy application and of the bankruptcy order with the Chief Land Registrar are cancelled.

Matters to be proved under section 282(1)(b)

10.137.—(1) This rule applies in relation to the matters which—

(a) must, in an application under section 282(1)(b), be proved to the satisfaction of the court; and

(b) may be taken into account by the court on hearing such an application.

(2) Subject to the following paragraph, all bankruptcy debts which have been proved must have been—

(a) paid in full; or

(b) secured in full to the satisfaction of the court.

(3) If a debt is disputed, or a creditor who has proved can no longer be traced, the bankrupt must have given such security (in the form of money paid into court, or a bond entered into with approved sureties) as the court considers adequate to satisfy any sum that may subsequently be proved to be due to the creditor concerned and (if the court thinks just) costs.

(4) Where such security has been given in the case of an untraced creditor, the court may direct that particulars of the alleged debt, and the security, be advertised in such manner as it thinks just.

(5) If the court directs such advertisement and no claim on the security is made within 12 months from the date of the advertisement (or the first advertisement, if more than one), the court must, on application, order the security to be released.

(6) In determining whether to annul a bankruptcy order under section 282(1)(b), the court may, if it thinks just and without prejudice to the generality of its discretion under section 282(1), take

into account whether any sums have been paid or payment of any sums has been secured in respect of post-commencement interest on the bankruptcy debts which have been proved.

(7) For the purposes of paragraphs (2) and (6), security includes an undertaking given by a solicitor and accepted by the court.

(8) For the purposes of paragraph (6), "post-commencement interest" means interest on the bankruptcy debts at the rate specified in section 328(5) in relation to periods during which those debts have been outstanding since the commencement of the bankruptcy.

Notice to creditors

10.138.—(1) Where the official receiver has delivered notice of the debtor's bankruptcy to the creditors and the bankruptcy order is annulled, the official receiver must as soon as reasonably practicable deliver notice of the annulment to them.

(2) Expenses incurred by the official receiver in delivering such notice are a charge in the official receiver's favour on the property of the former bankrupt, whether or not the property is actually in the official receiver's hands.

(3) Where any property is in the hands of a trustee or any person other than the former bankrupt, the official receiver's charge is subject to any costs that may be incurred by the trustee or that other person in effecting realisation of the property for the purpose of satisfying the charge.

Other matters arising on annulment

10.139.—(1) In an order under section 282 the court must include provision permitting vacation of the registration of the bankruptcy petition or a bankruptcy application as a pending action, and of the bankruptcy order, in the register of writs and orders affecting land.

(2) Within 28 days of the making of the order, the former bankrupt may require the official receiver to publish a notice of the making of the order in accordance with paragraph 3.

(3) As soon as reasonably practicable the notice must be—

(a) gazetted; and

(b) advertised in the same manner as the bankruptcy order to which it relates was advertised.

(4) The notice must state—

(a) the name of the former bankrupt;

(b) the date on which the bankruptcy order was made;

(c) that the bankruptcy order against the former bankrupt has been annulled under section 282(1); and

(d) the date of the annulment.

(5) Where the former bankrupt—

(a) has died; or

(b) is a person lacking capacity to manage the person's own affairs (within the meaning of the Mental Capacity Act 2005;

the references to the former bankrupt in paragraph (2) is to be read as referring to the former bankrupt's personal representative or, as the case may be, a person appointed by the court to represent or act for the former bankrupt.

Trustee's final account

10.140.—(1) Where a bankruptcy order is annulled under section 282, this does not of itself release the trustee from any duty or obligation, imposed on the trustee by or under the Act or these Rules, to account for all the trustee's transactions in connection with the former bankrupt's estate.

(2) The trustee must deliver a copy of the trustee's final account to the Secretary of State as soon as practicable after the court's order annulling the bankruptcy order.

(3) The trustee must file a copy of the final account with the court.

(4) The final account must include a summary of the trustee's receipts and payments.

(5) The trustee is released from such time as the court may determine, having regard to whether—

(a) the trustee has delivered the final accounts under paragraph (2); and

(b) any security given under rule 10.137 has been, or will be, released.

CHAPTER 17

DISCHARGE

Application for suspension of discharge

10.141.—(1) The following applies where the official receiver or trustee applies to the court for an order under section 279(3) (suspension of automatic discharge), but not where the official receiver makes that application under rule 10.104 on the adjournment of the bankrupt's public examination.

(2) The official receiver or trustee must file, with the application, evidence in support setting out the reasons why it appears that such an order should be made.

(3) The court must fix a venue for the hearing of the application, and deliver notice of it to the official receiver, the trustee, and the bankrupt.

(4) Copies of the official receiver's report under this rule must be delivered by the official receiver to the bankrupt and any trustee who is not the official receiver, so as to reach them at least 21 days before the date fixed for the hearing.

(5) Copies of the trustee's evidence in support of the application must be delivered by the trustee to the official receiver and the bankrupt at least 21 days before the date fixed for the hearing.

(6) If the bankrupt intends to deny or dispute any statements in the official receiver's or trustee's evidence in support then the bankrupt must not later than five business days before the date of the hearing, file with the court a notice specifying the statements which the bankrupt intends to deny or dispute.

(7) If the bankrupt files such a notice under paragraph (6), the bankrupt must deliver copies of it, not less than three business days before the date of the hearing, to the official receiver and any trustee.

(8) If the court makes an order suspending the bankrupt's discharge, copies of the order must be delivered by the court to the official receiver, any trustee and the bankrupt.

(9) An order of suspension of discharge under section 279(3) must—

(a) state the name of the court;

(b) identify and provide contact details for the applicant who will be the official receiver or the trustee;

(c) identify the bankrupt;

(d) state the date of the bankruptcy order;

(e) state that upon considering the evidence it appears to the court that the bankrupt has failed or is failing to comply with the bankrupt’s obligations under the Act for the reasons specified in the order;

(f) state in what respect the bankrupt has failed to comply with the bankrupt’s obligations under the Act;

(g) order that the relevant period for the purpose of section 279 will cease to run for the period specified in the order until the conditions specified in the order have been fulfilled;

(h) state the period and conditions referred to in paragraph (g);

(i) state the date of the making of the order.

Lifting of suspension of discharge

10.142.—(1) Where the court has made an order under section 279(3) that the period specified in section 279(1) will cease to run, the bankrupt may apply to it for the order to be discharged.

(2) The court must fix a venue for the hearing of the application and deliver notice of it to the bankrupt.

(3) The bankrupt must, not less than 28 days before the date fixed for the hearing, deliver notice of the venue with a copy of the application to the official receiver and any trustee.

(4) The official receiver and the trustee may appear and be heard on the bankrupt's application.

(5) Whether or not they appear, the official receiver and trustee may file with the court a report containing evidence in support of any matters which either of them considers ought to be drawn to the court's attention.

(6) If the court made an order under section 279(3)(b), the court may request a report from the official receiver or the trustee as to whether or not the conditions specified in the order have been fulfilled.

(7) Copies of a report filed under paragraph (5) or requested by the court under paragraph (6) must be delivered by the official receiver or trustee to the bankrupt and to either the official receiver or trustee (depending on which has filed the report), not later than 14 days before the hearing.

(8) The bankrupt may, not later than five business days before the date of the hearing, file with the court a notice specifying any statements in the official receiver's or trustee's report which the bankrupt intends to deny or dispute.

(9) If the bankrupt files such a notice, the bankrupt must deliver copies of it to the official receiver and the trustee not less than three business days before the date of the hearing.

(10) If on the bankrupt's application the court discharges the order under section 279(3) (being satisfied that the period specified in section 279(1) should begin to run again), it must deliver to the bankrupt a certificate that it has done so, and must deliver copies of the certificate to the official receiver and the trustee.

(11) The court’s order lifting the suspension of discharge must—

(a) state the name of the court;

(b) identify the bankrupt;

(c) state the date and terms of the order made under section 279;

(d) state that the bankrupt specified in this order has made the application;

(e) state whether or not the court has taken into consideration the report of the official receiver or of the trustee or of both in this matter;

(f) order that upon consideration of the evidence the order be discharged;

(g) state the date of the making of the order.

(12) The certificate that the order suspending discharge has been lifted must—

(a) state the name of the court;

(b) identify the bankrupt;

(c) state the date of the bankruptcy order;

(d) state the date of the order suspending discharge;

(e) state that the court has made—

(i) the bankruptcy order specified in this order against the bankrupt specified in this order; and

(ii) the order suspending the bankrupt’s discharge specified in this order;

(f) state that it is certified that the order of suspension of discharge was lifted on the date specified in this order;

(g) state the date of the certificate.

Certificate of discharge from bankruptcy order made otherwise than on a bankruptcy application

10.143.—(1) A bankrupt may apply to the court for a certificate of discharge where the bankruptcy order was made otherwise than on a bankruptcy application.

(2) Where it appears to the court that the bankrupt is discharged, whether by expiration of time or otherwise, the court must deliver a certificate of discharge to the former bankrupt.

(3) The certificate of discharge must—

(a) state the name of the court;

(b) identify the former bankrupt;

(c) state the date of the bankruptcy order;

(d) certify that the former bankrupt was discharged from bankruptcy;

(e) state the date of discharge from bankruptcy;

(f) state the date of the certificate.

(4) The certificate will also state that—

(a) the former bankrupt may request notice of the discharge to be gazetted and advertised in the same manner as the bankruptcy order;

(b) that such a request must be delivered to the official receiver within 28 days of the making of the certificate of discharge.

(5) As soon as reasonably practicable after delivery of such a request to the official receiver the notice of discharge must be gazetted, and advertised in the same manner as the bankruptcy order.

(6) The notice must state—

(a) the name of the former bankrupt;

(b) the date of the bankruptcy order;

(c) that a certificate of discharge has been delivered to the former bankrupt;

(d) the date of the certificate; and

(e) the date from which the discharge is effective.

(7) An application for a notice of discharge and a request for the notice to be gazetted and advertised may be made by the former bankrupt's personal representative or, as the case may be, a person appointed by the court to represent or act for the former bankrupt where the former bankrupt—

(a) has died; or

(b) is a person lacking capacity to manage the person's own affairs (within the meaning of the Mental Capacity Act 2005.

Certificate of discharge from bankruptcy order made on a bankruptcy application

10.144.—(1) A bankrupt may apply to the official receiver for a certificate of discharge where the bankruptcy order was made on a bankruptcy application.

(2) The bankrupt must send the application to the official receiver with the prescribed fee.

(3) Where it appears to the official receiver that the bankrupt is discharged, the official receiver must deliver a certificate of discharge to the former bankrupt by electronic means.

(4) The certificate of discharge must—

(a) identify the former bankrupt;

(b) state the date of the bankruptcy order;

(c) certify that the former bankrupt was discharged from bankruptcy;

(d) state the date of discharge from the bankruptcy;

(e) state the date of the certificate of discharge.

(5) The certificate must also state—

(a) that the former bankrupt may request notice of the discharge to be gazetted and advertised in the same manner as the bankruptcy order;

(b) that such a request must be delivered to the official receiver within 28 days of the making of the certificate of discharge.

(6) As soon as reasonably practicable after delivery of such a request to the official receiver the notice of discharge must be gazetted, and advertised in the same manner as the bankruptcy order.

(7) The notice must state—

(a) the name of the former bankrupt;

(b) the date of the bankruptcy order;

(c) that a certificate of discharge has been delivered to the former bankrupt; and

(d) the date from which the discharge is effective.

(8) An application for a notice of discharge and a request for the notice to be gazetted and advertised may be made by the former bankrupt's personal representative or, as the case may be, a person appointed by the court to represent or act for the former bankrupt where the former bankrupt—

(a) has died; or

(b) is a person lacking capacity to manage the person's own affairs (within the meaning of the Mental Capacity Act 2005).

Costs under this Chapter

10.145. In no case do any costs or expenses arising under this Chapter fall on the official receiver personally.

Bankrupt's debts surviving discharge

10.146. Discharge does not release the bankrupt from any obligation arising—

(a) under a confiscation order made under section 1 of the Drug Trafficking Offences Act 1986(**a**);

(b) under a confiscation order made under section 1 of the Criminal Justice (Scotland) Act 1987(**b**);

(c) under a confiscation order made under section 71 of the Criminal Justice Act 1988(**c**); or

(d) under a confiscation order made under Parts 2, 3 or 4 of the Proceeds of Crime Act 2002(**d**).

(e) from a payment out of the social fund under section 138(1)(b) of the Social Security Contributions and Benefits Act 1992(**e**) by way of crisis loan or budgeting loan.

[Note: See also section 281 (effect of discharge).]

(**a**) Repealed by Schedule 3 of the Drug Trafficking Act 1994 with effect from 3/2/1995.
(**b**) 1987 c.41 not on Legislation Direct so not yet checked.
(**c**) Repealed by Schedule 12 to the Proceeds of Crime Act 2002 (c.29) with savings in articles 10 and 13 of SI 2003/333.
(**d**) 2002 (c.29); relevant amendments are made by paragraph 75(1) and (2) of Part 2 of Schedule 3 to the Criminal Justice Act 2003 (c.44); Part 1 of Schedule 8 and paragraphs 1 and 2 and 36 of Schedule 14 to the Serious Crime Act 2007 (c.27); and paragraphs 11 and 12 of the Schedule to the Prevention of Social Housing Fraud Act 2013 (c.3).
(**e**) 1992 c. 4.

CHAPTER 18

PRIORITY OF PAYMENT OF COSTS ETC. OUT OF THE ESTATE

Expenses

10.147. All fees, costs, charges and other expenses incurred in the course of the bankruptcy are to be treated as expenses of the bankruptcy.

General rule as to priority

10.148. The expenses of the bankruptcy are payable out of the estate in the following order of priority—

(a) expenses or costs which—

(i) are properly chargeable or incurred by the official receiver or the trustee in preserving, realising or getting in any of the assets of the bankrupt or otherwise relating to the conduct of any legal proceedings which the bankrupt has power to bring (whether the claim on which the proceedings are based forms part of the estate or otherwise) or defend,

(ii) relate to the employment of a shorthand writer, if appointed by an order of the court made at the instance of the official receiver in connection with an examination, or

(iii) are incurred in holding an examination under rule 10.102 (examinee unfit) where the application was made by the official receiver;

(b) any other expenses incurred or disbursements made by the official receiver or under the official receiver's authority, including those incurred or made in carrying on the business of a debtor or bankrupt;

(c) the fees payable under any order made under section 415 or 415A, including those payable to the official receiver (other than the fee referred to in sub-paragraph (d)(i)), and any remuneration payable to the official receiver under general regulations;

(d) the fee payable under any order made under section 415 for the performance by the official receiver of the official receiver's general duties as official receiver,

(e) any repayable sum deposited under any such order as security for the fee mentioned in sub-paragraph (d);

(f) the cost of any security provided by an interim receiver, trustee or special manager in accordance with the Act or these Rules;

(g) the remuneration of the interim receiver (if any);

(h) any sum deposited on an application for the appointment of an interim receiver;

(i) the costs of the petitioner, and of any person appearing on the petition whose costs are allowed by the court;

(j) the remuneration of the special manager (if any);

(k) any amount payable to a person employed or authorised, under rules 10.61 or 10.62, to assist in the preparation of a statement of affairs or of accounts;

(l) 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 for an extension of time for submitting such a statement;

(m) the costs of employing a shorthand writer in any case other than one appointed by an order of the court at the instance of the official receiver in connection with an examination;

(n) any necessary disbursements by the trustee in the course of the trustee's administration (including any expenses incurred by members of the creditors' committee or their representatives and allowed by the trustee under rule 17.22, but not including any payment of capital gains tax in circumstances referred to in sub-paragraph (q));

(o) the remuneration or emoluments of any person (including the bankrupt) who has been employed by the trustee to perform any services for the estate, as required or authorised by or under the Act or these Rules;

(p) the remuneration of the trustee, up to any amount not exceeding that which is payable under Schedule 10;

(q) the amount of any capital gains tax on chargeable gains accruing on the realisation of any asset of the bankrupt (irrespective of the person by whom the realisation is effected);

(r) the balance, after payment of any sums due under sub-paragraph (p), of any remuneration due to the trustee;

(s) any other expenses properly chargeable by the trustee in carrying out the trustee's functions in the bankruptcy.

CHAPTER 19

SECOND BANKRUPTCY

Scope of this Chapter

10.149. The rules in this Chapter relate to the manner in which, in the case of a second bankruptcy, the existing trustee is to deal with property and money to which section 334(3) applies until there is a trustee of the estate in the later bankruptcy.

[Note: "the earlier bankruptcy", "the existing trustee" and "the later bankruptcy" are defined in section 334(1).]

General duty of existing trustee

10.150.—(1) The existing trustee must take into custody or under control the property and money to which section 334(3) applies so far as this has not already been done in the earlier bankruptcy.

(2) Where any of that property consists of perishable goods, or goods the value of which is likely to diminish if they are not disposed of, the existing trustee has power to sell or otherwise dispose of those goods.

(3) The proceeds of such a sale or disposal must be held, under the existing trustee's control, with the other property and money comprised in the bankrupt's estate.

Delivery up to later trustee

10.151. The existing trustee must, if requested by the later trustee for the purposes of the later bankruptcy, deliver to the later trustee as soon as reasonably practicable all the property and money in the existing trustee's custody or under the existing trustee's control under rule 10.150.

Existing trustee's expenses

10.152. Any expenses incurred by the existing trustee in compliance with section 335(1) and this Chapter must be paid out of, and are a charge on, all of the property and money referred to in section 334(3), whether in the hands of the existing trustee or of the later trustee for the purposes of the later bankruptcy.

CHAPTER 20

CRIMINAL BANKRUPTCY

Content of petition

10.153. The petition must identify the debtor and must contain—

(a) the name and postal address of the petitioner if other than the Official Petitioner;

(b) the occupation (if any) of the debtor;

(c) any other address at which the debtor has resided at or after the time the petition debt was incurred;

(d) any other name by which the debtor is or has been known;

(e) the trading name, business address and nature of the business of any business carried on by the debtor;

(f) the details of any other businesses which have been carried on by the debtor at or after the time the petition debt was incurred;

(g) a statement that the petitioner requests that court make a bankruptcy order against the debtor; and

(h) a statement that a criminal bankruptcy order was made against the debtor at the court specified in this petition and that an office copy of the order accompanies the petition;

(i) the name of the court that made the criminal bankruptcy order;

(j) a statement that the criminal bankruptcy order—

(i) remains in force; or

(ii) was amended by the Court of Appeal on the date specified in this petition, that an office copy of the order of the Court of Appeal accompanies the petition and that the order as amended by the Court of Appeal remains in force;

(k) a statement that according to the criminal bankruptcy order the debtor is indebted to the persons specified in this petition as having suffered loss or damage in the aggregate sum of the amount of loss or damage suffered specified in this petition;

(l) the names and addresses of the persons referred to in paragraph (k);

(m) the amount of loss or damage suffered referred to in paragraph (k).

Status and functions of Official Petitioner

10.154.—(1) The Official Petitioner is to be treated for all purposes of the Act and these Rules as a creditor of the bankrupt.

(2) The Official Petitioner may attend or be represented at any meeting of creditors, and is to be given any notice under the Act or these Rules which is required or authorised to be delivered to creditors; and the requirements of these Rules as to the delivery and use of proxies do not apply.

Interim receivership

10.155. The rules in Chapter 4 of this Part about the appointment of an interim receiver apply in criminal bankruptcy only in so far as they provide for the appointment of the official receiver as interim receiver.

Proof of bankruptcy debts and notice of order

10.156.—(1) The making of a bankruptcy order on a criminal bankruptcy petition does not affect the right of creditors to prove for their debts arising otherwise than in consequence of the criminal proceedings.

(2) A person specified in a criminal bankruptcy order as having suffered loss or damage must be treated as a creditor of the bankrupt; and a copy of the order is sufficient evidence of that person's claim, subject to its being shown by any party to the bankruptcy proceedings that the loss or damage actually suffered was more or (as the case may be) less than the amount specified in the order.

(3) The requirements of these Rules about proofs do not apply to the Official Petitioner.

(4) In criminal bankruptcy, notice of the making of the bankruptcy order and blank proofs must be delivered by the official receiver to every creditor who is known to the official receiver within 12 weeks from the making of the bankruptcy order.

Rules not applying in criminal bankruptcy

10.157. The following rules do not apply in criminal bankruptcy—

(a) rule 15.19 (the chair, if other than the official receiver);

(b) Chapter 6 of this Part, except rules 10.86 (release of official receiver) and 10.91 (power of court to set aside transactions);

(c) Part 17 (creditors' and liquidation committees);

(d) rule 10.69 (appointment by creditors of new trustee).

Annulment of criminal bankruptcy order

10.158. Chapter 17 of this Part (annulment of bankruptcy order) applies to an application to the court under section 282(2) as it applies to an application under section 282(1), with any necessary modifications.

Application by bankrupt for discharge

10.159.—(1) A bankrupt who applies under section 280 for an order of discharge must deliver notice of the application to the official receiver, and deposit with the official receiver such sum as the official receiver may require for the purpose of covering the costs of the application.

(2) The court, if satisfied that the bankrupt has complied with paragraph (1), must fix a venue for the hearing of the application, and give at least 42 days' notice of it to the official receiver and the bankrupt.

(3) The official receiver must deliver notice of the application and venue to—

(a) the trustee; and

(b) every creditor who, to the official receiver's knowledge, has a claim outstanding against the estate which has not been satisfied.

(4) These notices must be delivered not later than 14 days before the date fixed for the hearing of the bankrupt's application.

Report of official receiver

10.160.—(1) Where the bankrupt makes an application under section 280, the official receiver must, at least 21 days before the date fixed for the hearing of the application, file with the court a report containing the following information—

(a) any failure by the bankrupt to comply with the bankrupt’s obligations under Parts 8 to 11 of the Act;

(b) the circumstances surrounding the present bankruptcy, and those surrounding any previous bankruptcy of the bankrupt;

(c) the extent to which, in the present and in any previous bankruptcy, the bankrupt’s liabilities have exceeded the bankrupt’s assets; and

(d) particulars of any distribution which has been, or is expected to be, made to creditors in the present bankruptcy or, if such is the case, that there has been and is to be no distribution;

(e) any other matters which in the official receiver’s opinion ought to be brought to the court's attention.

(2) The official receiver must deliver a copy of the report to the bankrupt and the trustee, so as to reach them at least 14 days before the date of the hearing of the application under section 280.

(3) The bankrupt may, not later than five business days before the date of the hearing, file with the court a notice specifying any statements in the official receiver's report which the bankrupt intends to deny or dispute.

(4) Such a notice must be authenticated and dated by the bankrupt and must contain the bankrupt's name and postal address.

(5) The bankrupt must deliver copies of such a notice to the official receiver and the trustee not less than three business days before the date of the hearing.

(6) The official receiver, the trustee and any creditor may appear on the hearing of the bankrupt's application, and may make representations and put to the bankrupt such questions as the court allows.

Order of discharge on application

10.161.—(1) An order of the court under section 280(2)(b) (discharge absolutely) or (c) (discharge subject to conditions relating to income or property) must contain the date on which it is made.

(2) Once drawn up the order has effect from the date on which it was made.

(3) Copies of any order made on an application by the bankrupt for discharge under section 280 must be delivered by the court to the bankrupt, the trustee and the official receiver.

(4) Such an order must—

(a) state the name of the court;

(b) identify the bankrupt;

(c) state the date of the bankruptcy order;

(d) state the date of the report of the official receiver in the matter;

(e) state that the court has taken into consideration the report of the official receiver specified in the order as to the bankrupt's conduct and affairs, including the bankrupt's conduct during the bankruptcy;

(f) state that the court has considered the evidence;

(g) order—

(i) that the bankrupt be discharged absolutely; or

(ii) that the bankrupt be discharged but that the bankrupt's discharge be suspended until the conditions specified in the order are fulfilled;

(h) state the conditions required to be fulfilled for discharge;

(i) state the date of the making of the order.

(5) The order must contain a notice to the bankrupt stating that should the bankrupt require notice of the order to be gazetted and to be advertised in the same manner as the bankruptcy order was advertised, then the bankrupt must within 28 days deliver a notice of that requirement to the official receiver

Deferment of issue of order pending appeal

10.162. An order made by the court on an application by the bankrupt for discharge under section 280 must not be drawn up or gazetted until the time allowed for appealing has expired or, if an appeal is entered, until the appeal has been determined.

CHAPTER 21

MISCELLANEOUS RULES IN BANKRUPTCY

Interpretation

10.163.—In rules 10.167 and 10.171, "individual register" has the meaning given by rule 217(1) of the Land Registration Rules 2003(**a**).

Application for redirection order

10.164.—(1) This rule applies where the official receiver or trustee other than the official receiver makes an application to the court under section 371(1) (re-direction of bankrupt's letters etc.).

(2) The application must be made without notice to the bankrupt or any other person, unless the court directs otherwise.

(3) Where the applicant is the official receiver the applicant must file with the court with the application a report setting out the reasons why the order is sought.

(4) Where the applicant is the trustee the applicant must file with the court a witness statement setting out the reasons why the order is sought.

(5) The court must fix a venue for the hearing of the application if the court thinks just and deliver notice to the applicant.

(6) The court may make an order on such conditions as it thinks just.

(7) The order must identify the person on whom it is to be served, and need not be served on the bankrupt unless the court so directs.

Consolidation of petitions

10.165. Where two or more bankruptcy petitions are presented against the same debtor, the court may order the consolidation of the proceedings, on such terms as it thinks just.

Bankrupt's home – property falling within section 283A

10.166.—(1) Where it appears to a trustee that section 283A(1) applies, the trustee must deliver notice as soon as reasonably practicable to—

(a) the bankrupt;

(b) the bankrupt's spouse or civil partner (in a case falling within section 283A(1)(b)); and

(c) the former spouse or former civil partner of the bankrupt (in a case falling within section 283A(1)(c)).

(2) Such a notice must contain—

(a) the name of the bankrupt;

(b) the address of the dwelling-house; and

(c) if the dwelling-house is registered land, the title number.

(3) A trustee must not deliver such a notice any later than 14 days before the expiry of the three year period under section 283A(2) or 283A(5).

Application in relation to the vesting of an interest in a dwelling-house (registered land)

10.167.—(1) This rule applies where—

(**a**) SI 2003/1417 to which there are amendments not relevant to this instrument.

(a) the bankrupt's estate includes an interest in a dwelling-house which at the date of bankruptcy was the sole or principal residence of—

(i) the bankrupt,

(ii) the bankrupt's spouse or civil partner, or

(iii) a former spouse or former civil partner of the bankrupt; and

(b) the dwelling-house is registered land; and

(c) an entry has been made relating to the bankruptcy in the individual register of the dwelling-house or the register has been altered to reflect the vesting of the bankrupt's interest in a trustee in bankruptcy.

(2) Where such an interest ceases to be comprised in the bankrupt's estate and vests in the bankrupt under either section 283A(2) or 283A(4) of the Act, or under section 261(8) of the Enterprise Act 2002, the trustee must, within five business days of the vesting, make such application to the Chief Land Registrar as is necessary to show in the individual register of the dwelling-house that the interest has vested in the bankrupt.

(3) The trustee's application must be made in accordance with the Land Registration Act 2002 and must be accompanied by—

(a) evidence of the trustee's appointment (where not previously provided to the Chief Land Registrar); and

(b) a certificate from the trustee stating that the interest has vested in the bankrupt under section 283A(2) or 283A(4) of the Act or section 261(8) of the Enterprise Act 2002 (whichever is appropriate).

(4) As soon as reasonably practicable after making such an application, the trustee must deliver notice of the application—

(a) to the bankrupt, and

(b) to the bankrupt's spouse, former spouse, civil partner or former civil partner if the dwelling-house was the sole or principal residence of that person.

(5) The trustee must deliver notice of the application to every person who (to the trustee's knowledge) claims an interest in, or is under any liability in relation to, the dwelling-house.

Vesting of bankrupt's interest (unregistered land)

10.168.—(1) Where an interest in a dwelling-house which at the date of the bankruptcy was the sole or principal residence of—

(a) the bankrupt;

(b) the bankrupt's spouse or civil partner; or

(c) a former spouse or former civil partner of the bankrupt,

ceases to be comprised in the bankrupt's estate and vests in the bankrupt under either section 283A(2) or 283A(4) of the Act or section 261(8) of the Enterprise Act 2002 and the dwelling-house is unregistered land, the trustee must as soon as reasonably practicable deliver to the bankrupt a certificate as to the vesting.

(2) Such a certificate is conclusive proof that the interest mentioned in paragraph (1) has vested in the bankrupt.

(3) As soon as reasonably practicable after delivering the certificate, the trustee must deliver a copy of the certificate to the bankrupt's spouse, former spouse, civil partner or former civil partner if the dwelling-house was the sole or principal residence of that person.

(4) The trustee must deliver a copy of the certificate to every person who (to the trustee's knowledge) claims an interest in, or is under any liability relating to, the dwelling-house.

Vesting of bankrupt's estate – substituted period

10.169.—(1) For the purposes of section 283A(2) the period of one month is substituted for the period of three years set out in that section where the trustee has delivered notice to the bankrupt that the trustee considers—

(a) the continued vesting of the property in the bankrupt's estate to be of no benefit to creditors; or

(b) the re-vesting to the bankrupt will make dealing with the bankrupt's estate more efficient.

(2) The one month period starts from the date of the notice.

Substituted period under section 283A(2)

10.170. The court may substitute for the period of three years mentioned in section 283A(2) such longer period as the court thinks just and reasonable in all the circumstances.

Charging order

10.171.—(1) This rule applies where the trustee applies to the court under section 313 for an order imposing a charge on property consisting of an interest in a dwelling-house.

(2) The respondents to the application must be—

(a) any spouse or former spouse or civil partner or former civil partner of the bankrupt having or claiming to have an interest in the property;

(b) any other person appearing to have an interest in the property; and

(c) such other persons as the court may direct.

(3) The trustee must make a report to the court, containing the following particulars—

(a) the extent of the bankrupt's interest in the property;

(b) the amount which, at the date of the application, remains owing to unsecured creditors of the bankrupt; and

(c) an estimate of the cost of realising the interest.

(4) The terms of the charge to be imposed must be agreed between the trustee and the bankrupt or in the absence of an agreement will be settled by the court.

(5) The rate of interest applicable under section 313(2) is the rate specified in section 17 of the Judgments Act 1838(**a**) on the day on which the charge is imposed, and the rate must be stated in the court's order imposing the charge.

(6) The court's order must also—

(a) describe the property to be charged;

(b) state whether the title to the property is registered and, if it is, specify the title number;

(c) set out the extent of the bankrupt's interest in the property which has vested in the trustee;

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

(e) set out the conditions (if any) imposed by the court under section 3(1) of the Charging Orders Act 1979(**b**); and

(f) identify the date any property charged under section 313 will cease to be comprised in the bankrupt's estate and will, subject to the charge (and any prior charge), vest in the bankrupt.

(**a**) Section 17 has been amended by the Statute Law Revision (No 2) Act 1888 (c.57), article 2 of SI 1993/564, article 3 of SI 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.

(**b**) 1979 c.53.

(7) The date referred to in paragraph (6)(f) must be that of the registration of the charge in accordance with section 3(2) of the Charging Orders Act 1979 unless the court is of the opinion that a different date is appropriate.

(8) Where the court order is capable of giving rise to an application under the Land Charges Act 1972 or the Land Registration Act 2002(**a**) the trustee must, as soon as reasonably practicable after the making of the court order or at the appropriate time, make the appropriate application to the Chief Land Registrar.

(9) The appropriate application is—

(a) an application under section 6(1)(a) of the Land Charges Act 1972(**b**) (application for registration in the register of writs and orders affecting land); or

(b) an application under the Land Registration Act 2002 for an entry in the register in relation to the charge imposed by the order; and such application under that Act as is necessary to show in the individual register or registers of the dwelling-house that the interest has vested in the bankrupt.

(10) In determining the value of the bankrupt's interest for the purposes of paragraph (6)(c), the court must disregard that part of the value of the property in which the bankrupt's interest subsists which is equal to the value of—

(a) any loans secured by mortgage or other charge against the property;

(b) any other third party interest; and

(c) the reasonable costs of sale.

PART 11

BANKRUPTCY AND DEBT RELIEF RESTRICTIONS ORDERS AND UNDERTAKINGS AND THE INSOLVENCY REGISTERS

CHAPTER 1

INTERPRETATION

References to Secretary of State

11.1. References to the Secretary of State in Chapters 2 and 3 include the official receiver acting on the direction of the Secretary of State in making an application for—

(a) a bankruptcy restrictions order or an interim bankruptcy restrictions order in accordance with paragraph 1(2)(b) or 5(3)(b) respectively of Schedule 4A(**c**); or

(b) a debt relief restrictions order or an interim debt relief order in accordance with paragraph 1(2)(b) or 5(3)(b) respectively of Schedule 4ZB(**d**).

CHAPTER 2

BANKRUPTCY AND DEBT RELIEF RESTRICTIONS ORDERS (SCHEDULES 4ZB AND 4A OF THE ACT)

Application for a bankruptcy or debt relief restrictions order

11.2.—(1) An application by the Secretary of State to the court for a bankruptcy restrictions order under paragraph 1 of Schedule 4A, or for a debt relief restrictions order under paragraph 1 of Schedule 4ZB, must be supported by a report by the Secretary of State.

(**a**) 2002 c.9.
(**b**) 1972 c.61.
(**c**) Schedule 4A was inserted by Schedule 20 to the Enterprise Act 2002 (c.40).
(**d**) Schedule 4ZB was inserted by Schedule 19 to the Tribunals, Courts and Enforcement Act 2007 (c.15).

(2) The report must—

(a) set out the conduct which the Secretary of State thinks justifies making a bankruptcy restrictions order or a debt relief restrictions order; and

(b) contain the evidence on which the Secretary of State relies in support of the application.

(3) Any evidence in support of the application provided by a person other than the Secretary of State must be given in a witness statement.

(4) The date for the hearing must be at least eight weeks after the date when the court fixes the venue for the hearing.

Service of the application on the bankrupt or debtor

11.3.—(1) The Secretary of State must serve a notice of the application and the venue on the bankrupt or debtor not more than 14 days after the application is filed with the court.

(2) The notice must be accompanied by—

(a) a copy of the application,

(b) a copy of the Secretary of State's report,

(c) a copy of any other evidence filed in support of the application, and

(d) a document for completion as an acknowledgement of service.

(3) The bankrupt or debtor must file the acknowledgement of service, indicating whether or not the application is contested, not more than 14 days after service of the application.

(4) A bankrupt or debtor who fails to file an acknowledgement of service within that time may attend the hearing of the application but may not take part in the hearing unless the court gives permission.

The bankrupt's or debtor's evidence opposing an application

11.4.—(1) A bankrupt or debtor who wishes to oppose the application must—

(a) file with the court any evidence for the court to take into consideration within 28 days of service of the application; and

(b) serve a copy of it on the Secretary of State within three business days of filing the evidence with the court.

(2) The Secretary of State must file with the court any evidence in reply within 14 days from receiving the copy of the bankrupt's or debtor's evidence, and must serve a copy of that evidence on the bankrupt or debtor as soon as reasonably practicable.

Making a bankruptcy restrictions order or debt relief restrictions order

11.5.—(1) The court may make a bankruptcy restrictions order or a debt relief restrictions order whether or not the bankrupt or debtor appears or has filed evidence.

(2) Where the court makes such an order, it must deliver two sealed copies to the Secretary of State as soon as reasonably practicable.

(3) As soon as reasonably practicable after receiving the sealed copies, the Secretary of State must deliver one of them to the bankrupt or debtor.

CHAPTER 3

INTERIM BANKRUPTCY RESTRICTIONS ORDERS AND INTERIM DEBT RELIEF RESTRICTIONS ORDERS

Application for an interim bankruptcy or debt restrictions order

11.6.—(1) An application by the Secretary of State to the court for an interim bankruptcy restrictions order under paragraph 5 of Schedule 4A or an interim debt relief restrictions order under paragraph 5 of Schedule 4ZB, must be supported by a report by the Secretary of State.

(2) The report must—

(a) set out the conduct which the Secretary of State thinks justifies making an interim bankruptcy restrictions order or an interim debt relief restrictions order; and

(b) contain the evidence on which the Secretary of State relies in support of the application including evidence of why it would be in the public interest to make such an order.

(3) Any evidence in support of the application provided by a person other than the Secretary of State must be given in a witness statement.

(4) The Secretary of State must deliver a notice of the application to the bankrupt or debtor at least two business days before the date set for the hearing unless the court directs otherwise.

(5) The notice must be accompanied by—

(a) a copy of the application,

(b) a copy of the Secretary of State's report,

(c) a copy of any other evidence filed in support of the application, and

(d) a document for completion as an acknowledgement of service.

(6) The bankrupt or debtor may file with the court evidence for the court to take into consideration and may appear at the hearing.

Making an interim bankruptcy or debt relief restrictions order

11.7.—(1) The court may make an interim bankruptcy restrictions order or interim debt relief restrictions order whether or not the bankrupt or debtor appears or has filed evidence.

(2) Where the court makes such an order, it must deliver two sealed copies of the order to the Secretary of State as soon as reasonably practicable.

(3) As soon as reasonably practicable after receiving the sealed copies, the Secretary of State must deliver one of them to the bankrupt or debtor.

Application to set aside an interim order

11.8.—(1) A bankrupt subject to an interim bankruptcy restrictions order or a debtor subject to an interim debt relief restrictions order may apply to the court to set the order aside.

(2) The application must be supported by a witness statement stating the grounds on which it is made.

(3) The bankrupt or debtor must deliver to the Secretary of State, not less than five business days before the hearing—

(a) a notice of the venue,

(b) a copy of the application, and

(c) a copy of the supporting witness statement.

(4) The Secretary of State may attend the hearing and call the attention of the court to any matter which seems to be relevant, and may give evidence or call witnesses.

Order setting aside an interim order

11.9.—(1) Where the court sets aside an interim bankruptcy restrictions order or an interim debt relief restrictions order, it must deliver two sealed copies of the order to the Secretary of State as soon as reasonably practicable.

(2) As soon as reasonably practicable after receiving the sealed copies, the Secretary of State must deliver one of them to the bankrupt or debtor.

CHAPTER 4

BANKRUPTCY RESTRICTIONS UNDERTAKINGS AND DEBT RELIEF RESTRICTIONS UNDERTAKINGS

Acceptance of a bankruptcy restrictions undertaking or a debt relief restrictions undertaking

11.10.—(1) A bankruptcy restrictions undertaking authenticated by the bankrupt is accepted by the Secretary of State for the purposes of paragraph 9 of Schedule 4A when the Secretary of State authenticates the undertaking.

(2) A debt relief restrictions undertaking authenticated by a person in relation to whom a debt relief order has been made is accepted by the Secretary of State for the purposes of paragraph 9 of Schedule 4ZB when the Secretary of State authenticates the undertaking.

Notification

11.11.—(1) The Secretary of State must, as soon as reasonably practicable after accepting a bankruptcy restrictions undertaking or a debt relief restrictions undertaking, deliver copies to the person who offered the undertaking and to the official receiver.

(2) In the case of a bankruptcy restrictions undertaking the Secretary of State must also file a copy with the court in the case of a creditor's bankruptcy petition or on the bankruptcy file in the case of a debtor's bankruptcy application.

Application to annul a bankruptcy restrictions undertaking or a debt relief restrictions undertaking.

11.12.—(1) An application by a bankrupt or debtor to annul or vary an undertaking under paragraph 9(3)(a) or (b) of Schedule 4A or paragraph 9(3)(a) or (b) of Schedule 4ZB must be supported by a witness statement stating the grounds on which the application is made.

(2) The bankrupt or debtor must, at least 28 days before the date fixed for the hearing, deliver to the Secretary of State—

(a) a notice of the venue,

(b) a copy of the application, and

(c) a copy of the supporting witness statement.

(3) The Secretary of State may attend the hearing and call the attention of the court to any matter which seems to be relevant, and may give evidence or call witnesses.

(4) Where the court annuls or varies a bankruptcy restrictions undertaking or debt relief restrictions undertaking, it must deliver two sealed copies of the order to the Secretary of State as soon as reasonably practicable.

(5) As soon as reasonably practicable after receiving the sealed copies, the Secretary of State must deliver one of them to the bankrupt or debtor.

CHAPTER 5

INSOLVENCY REGISTERS: GENERAL

Maintenance of the registers, transitional provisions and inspection

11.13.—(1) The Secretary of State must maintain the individual insolvency register of matters relating to bankruptcies, debt relief orders and IVAs in accordance with Chapter 6.

(2) The Secretary of State must maintain the bankruptcy restrictions register and the debt relief restrictions register in accordance with Chapter 7.

(3) The registers must be available to be searched electronically by members of the public at any time unless there is malfunction or error in the electronic operation of the registers.

(4) Any person may request the official receiver to make a search of the registers on any business day between 9am and 5pm.

(5) An obligation under this Part to enter information on, or delete information from, a register, must be performed as soon as is reasonably practicable after it arises.

CHAPTER 6

INDIVIDUAL INSOLVENCY REGISTER

Entry of information on the individual insolvency register: IVAs

11.14.—(1) This rule applies where—

(a) an IVA has been accepted by the debtor's creditors; and

(b) the Secretary of State receives any of the following—

(i) report under rule 8.26 (report on approval of IVA), or

(ii) a notice under rules 8.27(5) (notice of revocation or suspension of IVA), 8.27(6) (notice of expiry of suspension) or 8.31 (notice that the IVA has been terminated or fully implemented).

(2) The Secretary of State must enter the following on the individual insolvency register—

(a) the debtor’s identity information;

(b) the debtor’s date of birth;

(c) the date on which the IVA was approved by the creditors;

(d) the debtor's gender;

(e) any name other than the name in which the debtor entered into IVA by which the debtor was or is known;

(f) a statement as to whether the IVA has been—

(i) completed in accordance with its terms,

(ii) terminated, or

(iii) revoked;

(g) the name and address of the supervisor.

(3) This rule is subject to any court order for the non-disclosure of the debtor’s current address made under rule 20.2 (debtors at risk of violence: proposed IVA) or 20.3 (debtors at risk of violence: IVA).

Deletion of information from the individual insolvency register: individual voluntary arrangements

11.15. The Secretary of State must delete from the individual insolvency register all information concerning an IVA three months after receiving one of the following—

(a) a notice under rule 8.27(5) of the making of a revocation order in relation to the IVA; or

(b) a notice under rule 8.31(3) of the termination or full implementation of the IVA.

Entry of information on to the individual insolvency register: bankruptcy orders

11.16.—(1) Where the official receiver receives a copy of a bankruptcy order from the court under rule 10.33, or from the adjudicator under rule 10.47, the official receiver must cause the following to be entered on the individual insolvency register—

(a) the matters listed in rules 10.9 or the information set out in Part 1 of Schedule 7, relating to the debtor as they are stated in the bankruptcy petition or bankruptcy application;

(b) the date of the making of the bankruptcy order;

(c) the name of the court that made the order, if applicable; and

(d) the court reference number or the reference allocated to the bankruptcy application as stated on the order.

(2) The official receiver must cause to be entered on to the individual insolvency register the following information —

(a) the bankrupt's identity information and date of birth;

(b) the bankrupt's gender and occupation (if any);

(c) the date of a previous bankruptcy order or debt relief order (if any) made against the bankrupt in the period of six years before the latest bankruptcy order (if there is more than one such previous order only the latest and excluding any bankruptcy order that was annulled or any debt relief order that was revoked);

(d) any name by which the bankrupt was known, not being the name in which the individual was made bankrupt;

(e) the address of any business carried on by the bankrupt and the name in which that business was carried on if carried on in a name other than the name in which the individual was made bankrupt;

(f) the name and address of any insolvency practitioner appointed to act as trustee in bankruptcy;

(g) the address at which the official receiver may be contacted;

(h) the automatic discharge date under section 279; and

(i) where a bankruptcy order is annulled or rescinded by the court, the fact that such an order has been made, the date on which it is made and (if different) the date on which it has effect.

(3) Where the official receiver receives a copy of an order under rule 10.104(5) or 10.141(8) suspending the bankrupt's discharge the official receiver must cause to be entered on to the individual insolvency register—

(a) the fact that such an order has been made; and

(b) the period for which the discharge has been suspended or that the relevant period has ceased to run until the fulfilment of conditions specified in the order.

(4) Where the official receiver receives under rule 10.142(10) a copy of a certificate of the discharge of an order under section 279(3) the official receiver must cause the following to be entered on the individual insolvency register—

(a) that the court has discharged the order made under section 279(3); and

(b) the new date of discharge of the bankrupt.

(5) Where the order discharging the order under section 279(3) is subsequently rescinded by the court, the official receiver must cause the register to be amended accordingly.

(6) Where a bankrupt is discharged from bankruptcy under section 279(1), the official receiver must cause the fact and date of such discharge to be entered in the individual insolvency register.

(7) This rule is subject to any court order for the non-disclosure of the debtor's current address made under rule 20.5 (persons at risk of violence: bankruptcy application) or 20.6 (debtors at risk of violence: bankruptcy and debt relief proceedings).

Deletion of information from the individual insolvency register: bankruptcy orders

11.17. The Secretary of State must delete from the individual insolvency register all information concerning a bankruptcy where—

(a) the bankruptcy order has been annulled under section 261(2)(a), 261(2)(b) or section 282(1)(b) and a period of three months has elapsed since a notice of the annulment was delivered to the official receiver;

(b) the bankrupt has been discharged from the bankruptcy and a period of three months has elapsed from the date of discharge;

(c) the bankruptcy order is annulled under section 282(1)(a) and 28 days have elapsed since a notice of the annulment was delivered to the official receiver under rule 10.136(3); or

(d) an order has been made by the court under section 375 rescinding the bankruptcy order and 28 days have elapsed since receipt by the official receiver.

Entry of information on to the individual insolvency register: debt relief orders

11.18.—(1) The official receiver must cause to be entered on to the individual insolvency register after the making of a debt relief order the following information relating to the order or the debtor—

(a) as they are stated in the debtor's application—

(i) the debtor's identity information and date of birth;

(ii) the debtor's gender and occupation (if any);

(iii) the name or names in which the debtor has carried on business, if other than the debtor's true name; and

(iv) the nature of the debtor's business and the address or addresses at which the debtor carries or has carried it on and whether alone or with others;

(b) the date of the making of the debt relief order;

(c) the reference number of the order;

(d) the date of the end of the moratorium period; and

(e) the date of a previous bankruptcy order or a debt relief order (if any) made against the debtor in the period of six years before the latest debt relief order (if there is more than one such order only the latest and excluding any bankruptcy order that was annulled or debt relief order that was revoked).

(2) Except where information concerning a debt relief order has been deleted under rule 11.19, the official receiver must also cause to be entered on the register in relation to the order—

(a) where the moratorium period is terminated early, the fact that such has happened, the date of early termination and whether the early termination is on revocation of the debt relief order or by virtue of any other enactment;

(b) where the moratorium period is extended, the fact that such has happened, the date on which the extension was made, its duration and the date of the new anticipated end of the moratorium period; or

(c) where the debtor is discharged from all qualifying debts, the date of such discharge.

(3) This rule is subject to any court order for the non-disclosure of the debtor's current address made under rule 20.4 (debtors at risk of violence: debt relief application) or 20.6 (debtors at risk of violence: bankruptcy and debt relief proceedings).

Deletion of information from the individual insolvency register: debt relief orders

11.19. The Secretary of State must delete from the individual insolvency register all information concerning a debt relief order where three months have elapsed from the date on which—

(a) the debt relief order has been revoked, or

(b) the debtor has been discharged from the qualifying debts.

CHAPTER 7

BANKRUPTCY AND DEBT RELIEF RESTRICTIONS REGISTER

Bankruptcy restrictions and debt relief restrictions orders and undertakings: entry of information on the registers

11.20.—(1) Where any of the following orders are made against a bankrupt or a debtor the Secretary of State must enter on the bankruptcy restrictions or debt relief restrictions register as appropriate the specified information—

(a) an interim bankruptcy restrictions order,

(b) a bankruptcy restrictions order,

(c) an interim debt relief restrictions order, or

(d) a debt relief restrictions order.

(2) The specified information is—

(a) the bankrupt's or debtor's identity information;

(b) the bankrupt's or debtor's gender;

(c) the bankrupt's or debtor's occupation (if any);

(d) a statement that an interim bankruptcy restrictions order, a bankruptcy restrictions order, an interim debt relief restrictions order or a debt relief restrictions order has been made against the bankrupt or debtor;

(e) the date of the making of the order;

(f) the court in which the order was made and the court or order reference number; and

(g) the duration of the order.

(3) Where a bankruptcy restrictions undertaking is given by a bankrupt or a debt relief restrictions undertaking is given by a debtor, the Secretary of State must enter on to the bankruptcy restrictions or debt relief restrictions register—

(a) the bankrupt's or debtor's identity information;

(b) the bankrupt's or debtor's gender;

(c) the bankrupt's or debtor's occupation (if any);

(d) a statement that a bankruptcy restrictions undertaking or debt relief restrictions undertaking has been given;

(e) the date of the acceptance of the bankruptcy restrictions undertaking or debt relief restrictions undertaking by the Secretary of State; and

(f) the duration of the bankruptcy restrictions undertaking or debt relief restrictions undertaking.

(4) This rule is subject to any court order for the non-disclosure of the debtor's current address made under rules 20.6 (debtors at risk of violence: bankruptcy and debt relief proceedings) or 20.7 (additional provisions in respect of order under rule 20.6(4)).

Deletion of information from the registers

11.21. The Secretary of State must delete from the bankruptcy restrictions register or debt relief restrictions register all information relating to an interim bankruptcy restrictions order, bankruptcy

restrictions order, interim debt relief restrictions order, debt relief restrictions order, bankruptcy restrictions undertaking or debt relief restrictions undertaking after—

(a) receipt of notice that the order or undertaking has ceased to have effect; or

(b) the expiry of the order or undertaking.

CHAPTER 8

RECTIFICATION OF REGISTERS AND DEATH OF PERSONS ON REGISTER

Rectification of the registers

11.22. Where the Secretary of State becomes aware of an inaccuracy in information on the individual insolvency register, the bankruptcy restrictions register or the debt relief restrictions register, the Secretary of State must rectify the inaccuracy as soon as reasonably practicable.

Death of a person about whom information is held on a register

11.23. Where the Secretary of State receives notice of the date of the death of a person in relation to whom information is held on any of the registers, the Secretary of State must cause the fact and date of the person's death to be entered on to the register.

PART 12

COURT PROCEDURE AND PRACTICE

CHAPTER 1

GENERAL

APPLICATION OF THE CIVIL PROCEDURE RULES 1998

Principal court rules and practice to apply

12.1.—(1) The provisions of the CPR (including any related practice directions) not expressly referred to in this Part 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) However 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 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.

CHAPTER 2

COMMENCEMENT OF INSOLVENCY PROCEEDINGS IN THE COUNTY COURT

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

12.2.—(1) Where section 117(**a**) of the Act 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

(**a**) Section 117 was amended by regulation of 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

county court may only be commenced in the county court 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 county court hearing centre for which Schedule 6 lists an alternative county court hearing centre then any such proceedings in the county court may only be commenced in that alternative county court hearing centre.

(3) For the purposes of this rule a company's registered office is situated in the place which has been its registered office for the longest during the six months before the presentation of the petition for winding up.

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

12.3.—(1) Proceedings under Parts 7A(**a**) to 11 of the Act that are allocated in accordance with rule 12.4 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 county court hearing centre determined in accordance with the Rules.

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

Allocation of proceedings to the London insolvency district

12.4. 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;

(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;

(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 which has jurisdiction to wind up the company.

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

(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, and 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

Preliminary

12.5. 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 petition for a bankruptcy order under Part 9 of the Act.

Filing of application

12.6.—(1) 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.

(2) The court must fix a venue for an 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 12.10 applies.

Service or delivery of application

12.7.—(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 give one or more of the following directions—

(a) that instead of serving a sealed copy of the application the applicant must deliver notice of the application and the venue for the hearing to the respondent;

(b) as to the form or the manner of delivery of such notice of the application and venue;

(c) that a sealed copy of the application be served upon, or notice of the application and venue be delivered to, persons other than those specified by the relevant provision of the Act or these Rules;

(d) that service upon, or the delivery of notice to, any person may be dispensed with;

(e) if service is dispensed with, that notice of the application and venue be delivered to such persons and in such a way as may be specified.

(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; or

(b) the case is urgent and the court acts under rule 12.8.

Hearing in urgent case

12.8.—(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.

(2) The court may hear the application with or without notice to, or the attendance of, other parties.

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

Directions

12.9. 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.

Hearings without notice

12.10.—(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 without fixing a venue as required by rule 12.6(2); or

(b) fix a venue for the application to be heard, in which case rule 12.7 applies to the extent that it is relevant.

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

Hearing of application

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

(2) In the 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 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 prevents an application from being made directly to the judge in a proper case.

Adjournment of the hearing of an application

12.12.—(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

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

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

12.13.—(1) An application under section 176A(5) must be accompanied by a witness statement by 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)

12.14. An application under section 176A(5) may be made without the application being served upon, or notice being delivered to any other party, save that notice of the application must be delivered to 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)

12.15.—(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

Application of this sub-division and interpretation

12.16.—(1) This sub-division applies to inquiries into—

(a) a company's dealings (section 236);

(b) a debtor's dealings and property (section 251N); and

(c) a bankrupt's dealings and property (section 366).

(2) In this sub-division—

"applicable section" means section 236, 251N or 366;

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

Contents of application

12.17.—(1) An application to the court under an applicable section must specify the grounds on which it is made.

(2) CPR Part 18 (further information) applies where the application is for an order that the respondent clarify a matter which is in dispute in the proceedings or give additional information in relation to such a matter.

(3) An application for an order that the respondent submit a witness statement (or in the case of section 251N(3)(a) a written account) must give particular of the matters to be included in the statement or account.

(4) An application for an order for the respondent to produce documents or other records must specify the documents or records to be produced.

(5) CPR Part 31 (disclosure and inspection of documents) applies to an application under this rule for disclosure and inspection of documents.

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

Order for examination etc.

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

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

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

(4) 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.

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

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

Procedure for examination

12.19.—(1) The applicant may attend an examination of the respondent, 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) 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 a solicitor with or without counsel at the respondent's own expense , who may 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 may 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 over 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

12.20.—(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 show 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

12.21.—(1) Where the court has ordered an examination of a person under the 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 property in any person's possession which belongs to the insolvent), 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 otherwise orders, be paid—

(a) in relation to a company insolvency, as an expense of the insolvency proceedings;

(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 under this Section 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

12.22.—(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 property and affairs by reason of —

(a) lacking capacity within the meaning of the Mental Capacity Act 2005(**a**), or

(b) a disability.

(2) Such a person is referred to in this sub-division as "the incapacitated person".

Appointment of another person to act

12.23.—(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.

(**a**) 2007 c. 12

Witness statement in support of application

12.24. An application under rule 12.23(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

12.25. Any notice served on, or sent to, a person appointed under rule 12.23 has the same effect as if it had been served on, or delivered to, the incapacitated person.

CHAPTER 5

OBTAINING INFORMATION AND EVIDENCE

Further information and disclosure

12.26.—(1) A party to insolvency proceedings may apply to court for an order—

(a) that accordance with CPR Part 18 (further information)(**a**) 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 other party in accordance with CPR Part 31 (disclosure and inspection of documents)(**b**).

(2) An application under this rule may be made without notice to any other party.

Witness statements – general

12.27.—(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) The court may order a person who has made a witness statement to attend for cross-examination.

(3) Where the person fails to attend the witness statement must not be used in evidence without the court's permission.

(4) Rule 12.28 makes further provision about witness statements.

Filing and service of witness statements

12.28. 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, the applicant must file that witness statement 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, the respondent must file the witness statement with the court and serve a copy on the applicant not less than five business days before the date fixed for the hearing.

(**a**) There is an amendment to Part 18 which is not relevant to these Rules.
(**b**) Part 31 has been amended by SIs 2000/221, 2001/4015, 2010/1953, 2011/88, 2012/2208, and 2013/262.

Evidence provided by the official receiver an insolvency practitioner or 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,

(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

Sub-division A - General

General power of transfer

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

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

(3) 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.

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

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

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

(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 county court hearing centre to which the application is made to or from that county court hearing centre.

Proceedings commenced in the wrong court

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

(a) the proceedings to be transferred to the court or hearing centre in which they ought to have been commenced;

(b) the proceedings to be continued in the court in which they have been commenced; or

(c) the proceedings to 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 debtor has been given at least 14 days' notice of the official receiver's application.

(3) If the court or county court hearing centre 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 at least 14 days' notice of the application 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 or county court hearing centre makes an order for the transfer of proceedings under rule 12.30 (other than 12.30 (6)), 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 or hearing centre respectively.

(3) Where the High Court makes a transfer order under rule 12.30(6)—

(a) it must deliver sealed copies of the order—

(i) to the county court hearing centre from which the proceedings are to be 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 bankruptcy order;

(ii) made a winding-up order;

(iii) appointed a provisional liquidator; or

(iv) appointed an interim receiver; or

(b) winding-up or bankruptcy proceedings have been transferred to the High Court from a county court hearing centre.

(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) 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).

(4) Where any such proceedings are transferred the registrar may (subject to the directions of the judge) dispose of any matter arising in the proceedings which would, but for the transfer, have been disposed of in chambers or, in the case of proceedings transferred from a county court hearing centre, by the district judge.

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 in rule 12.36(1),

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

"block transfer order" has the meaning 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),

(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), or

(d) supervisor of a voluntary arrangement under Part 1 or 8 of the Act.

(3) The replacement office-holder must be—

(a) qualified to act as an insolvency practitioner, or

(b) where the replacement office-holder is to be appointed supervisor of a voluntary arrangement under Part 1 or 8 of the Act—

(i) qualified to act as an insolvency practitioner, 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 county court 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);

(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 172(2) and rule 12.36(2) (winding up by the court);

(b) section 108 (voluntary winding up);

(c) section 19, paragraph 88 of Schedule B1 and rule 12.36(2) (administration);

(d) section 298 and rule 12.36(2) (bankruptcy);

(e) section 7(5) and paragraph 39(6) of Schedule A1 (voluntary arrangement under Part 1 of the Act); and

(f) section 263(5) (voluntary IVA under Part 8 of the Act).

(3) The powers referred to in paragraph (1)(d) are those in—

(a) section 168(3) and (5) and rule 12.36(2) (winding up by the court);

(b) section 108 (voluntary winding up);

(c) section 13, paragraphs 63, 91 and 95 of Schedule B1 and rule 12.36(2) (administration);

(d) sections 298 and 303(2) and rule 12.36(2) (bankruptcy);

(e) section 7(5) and paragraph 39(6) of Schedule A1 (voluntary arrangement under Part 1 of the Act); and

(f) section 263(5) (IVA under Part 8 of the Act).

(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;

(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 or recognised body by which the outgoing office-holder is or was authorised; 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 notice of the 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) every 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) the name of each case,

(b) the identity of the court or county court hearing centre in which the case is proceeding,

(c) the case number (if any), and

(d) the capacity in which the outgoing office-holder was appointed.

(9) The application must be—

(a) supported by evidence setting out the circumstances as a result of which it was expedient to appoint a replacement office-holder; and

(b) accompanied by 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 county court 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 that 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

Court file

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 10.49, 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 a 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 individual voluntary arrangement under Part 8 of the Act, by the debtor;

(c) in bankruptcy proceedings, by—

(i) the bankrupt;

(ii) a person against whom a bankruptcy petition has been presented;

(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(**a**).

(8) Inspection of the file, with permission if required, may be at any reasonable time.

(**a**) 2003 c.39.

(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 (10) 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 (10).

(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 an insolvency proceeding, 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 of insolvency proceedings to a person who has under these Rules the right to inspect the court file where that person has requested such a copy.

(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

Application of Chapter

12.41.—(1) In this Chapter a reference to costs includes charges and expenses.

(2) This Chapter applies to costs of and in connection with insolvency proceedings.

(3) CPR Parts 44 and 47 (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(**a**) 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.

(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) to deliver 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.

(**a**) Section 17 has been amended by the Statute Law Revision (No 2) Act 1888 (c.57), article 2 of SI 1993/564, article 3 of SI 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.

(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(4) 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 that company's estate unless the court considers that—

(a) the company's estate has benefited by the company's conduct; or

(b) there are otherwise special circumstances justifying the allowance of costs.

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.

Award of costs against an office-holder, the adjudicator and 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, 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;

(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) 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

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 a county court hearing centre ("the primary hearing centre"), the order or process may be enforced, executed and dealt with by any other county court hearing centre ("the secondary hearing centre"), as if it had been made or issued for the enforcement of a judgment or order to the same effect made by the secondary hearing centre.

(3) This applies whether or not the secondary 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 hearing centre where the person who is the subject of the warrant—

(a) has been brought before a county court in which such insolvency proceedings may be commenced; 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 Act or these Rules.

Orders enforcing compliance with these Rules

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 or section 47 or 131 (duty to submit statement of affairs in administration, administrative receivership or winding up),

(b) section 143(2) (liquidator to furnish information, books, papers, etc.), or

(c) 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), 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 a county court hearing centre, the bailiffs.

(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 otherwise orders 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 be—

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

(ii) 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 in the warrant.

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, in accordance with any directions of the court, be—

(a) delivered to, 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.

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 be—

(a) delivered to, 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 warrant.

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); or

(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); or

(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 1.45, the notice must be delivered to the office of the enforcement officer or of the officer charged with the execution—

(a) personally, 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 a county court hearing centre then if—

(a) there is filed with the county court 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 county court 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

Application of Chapter

12.58.—(1) This Chapter applies in relation to decisions of the court under the Act or these Rules.

(2) CPR Part 52 (appeals) applies to appeals under this Chapter.

Appeals and reviews of court orders in corporate insolvency

12.59.—(1) Every court having jurisdiction for the purposes of Parts 1 to 4 of the Act and Parts 2 to 7 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 4 of the Act and Parts 2 to 7 of these Rules 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) The county court is not, in the exercise of its jurisdiction for the purposes of Parts 2 to 7 of these 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.

(4) 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.

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 which 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.

Appeal against decision 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

OTHER MATTERS

Payments into court

12.63. CPR Part 37 (miscellaneous provisions about payments into court)(**a**) applies to money paid into court under these Rules.

Shorthand writers – nomination etc.

12.64.—(1) A judge or registrar in the High Court and a district judge in the county 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 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.

Formal defects

12.65. 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.

PART 13

OFFICIAL RECEIVERS

Official receivers in court

13.1. Judicial notice must be taken of the appointment under sections 399 to 401 of official receivers and deputy official receivers.

13.2. Official receivers and deputy official receivers have a right of audience in insolvency proceedings, whether in the High Court or the county court.

Persons entitled to act on official receiver's behalf

13.3.—(1) In the absence of the official receiver authorised to act in a particular case, an officer authorised in writing for the purpose by the Secretary of State, or by the official receiver, may with the permission of the court, act on the official receiver's behalf and in the official receiver's place–

(a) in any examination under section 133, 236, 251N, 290 or 366, and

(b) in relation to any application to the court.

(2) In case of emergency, where there is no official receiver capable of acting, anything to be done by, to or before the official receiver may be done by, to or before the registrar or district judge.

(**a**) Part 37 was substituted by Schedule 2 to SI 2006/3435.

Application for directions

13.4. The official receiver may apply to the court for directions in relation to any matter arising in insolvency proceedings.

Official receiver's expenses

13.5.—(1) Any expenses (including damages) incurred by the official receiver (in whatever capacity the official receiver may be acting) in connection with proceedings taken against the official receiver in insolvency proceedings are to be treated as expenses of the insolvency proceedings.

(2) The official receiver has a charge on the insolvent estate in respect of any sums due to the official receiver under paragraph (1) in connection with insolvency proceedings other than proceedings relating to debt relief orders or applications for debt relief orders..

Official receiver not to be appointed liquidator or trustee

13.6. The official receiver may not be appointed as liquidator or trustee by any decision of creditors or (in a winding up) contributories or the company.

PART 14

CLAIMS BY AND DISTRIBUTIONS TO CREDITORS IN ADMINISTRATION, WINDING UP AND BANKRUPTCY

CHAPTER 1

APPLICATION AND INTERPRETATION

Application of Part 14 and interpretation

14.1.—(1) This Part applies to administration, winding up and bankruptcy proceedings.

(2) The following definitions apply for the purposes of such proceedings except where the contrary is stated—

"debt", in relation to winding up and administration, means (subject to paragraph (2)) one or more of the following—

(a) a debt or liability to which the company is subject at the relevant date;

(b) a debt or liability to which the company may become subject after the relevant date by reason of any obligation incurred before that date;

(c) interest provable as mentioned in rule 14.23; and

"small debt" means a debt (being the total amount owed to a creditor) which does not exceed £1,000 (which amount is prescribed for the purposes of paragraph 13A of Schedule 8 to the Act and paragraph 18A of Schedule 9 to the Act(**a**));

[Note: in relation to bankruptcy "bankruptcy debt" and related expressions are defined in sections 382 and 383 of the Act]

"dividend", in relation to a members' voluntary winding up, includes a distribution;

"liability", in relation to winding up or administration, means (subject to paragraph (3)) a liability to pay money or money's worth, including any liability to make restitution arising out of an obligation—

(a) under an enactment;

(**a**) Paragraph 13A was inserted into Schedule 8 by section 131 of the Small Business, Enterprise and Employment Act 2015 (c. 26) and paragraph 18A was inserted into Schedule 9 by section 132 of that Act.

(b) for breach of trust;

(c) in contract, tort or bailment;

"provable debt" has the meaning given in rule 14.2;

"relevant date" means—

(d) for an administration which was not immediately preceded by a winding up, the date on which the company entered administration,

(e) for an administration which was immediately preceded by a winding up, the date on which the company went into liquidation,

(f) for a winding up which was not immediately preceded by an administration, the date on which the company went into liquidation,

(g) for a winding up which was immediately preceded by an administration, the date on which the company entered administration, and

(h) for a bankruptcy, the date of the bankruptcy order.

(3) A liability in tort is a debt provable in a winding up or administration, if either—

(a) the cause of action has accrued at the relevant date; or

(b) all the elements necessary to establish the cause of action exist at that date except for actionable damage.

(4) For the purposes of a reference to a debt or liability in respect of winding up or administration, 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.

CHAPTER 2

CREDITORS' CLAIMS IN ADMINISTRATION, WINDING UP AND BANKRUPTCY

Provable debts

14.2.—(1) All claims by creditors except as provided in this rule, are provable as debts against the company or bankrupt, whether they are present or future, certain or contingent, ascertained or sounding only in damages.

(2) The following are not provable—

(a) an obligation arising under a confiscation order made under—

(i) section 1 of the Drug Trafficking Offences Act 1986,

(ii) section 1 of the Criminal Justice (Scotland) Act 1987,

(iii) section 71 of the Criminal Justice Act 1988(**a**), or

(iv) Parts 2, 3 or 4 of the Proceeds of Crime Act 2002(**b**);

(b) an obligation arising from a payment out of the social fund under section 138(1)(b) of the Social Security Contributions and Benefits Act 1992 by way of crisis loan or budgeting loan.

(c) in bankruptcy—

(i) a fine imposed for an offence;

(ii) an obligation (other than an obligation to pay a lump sum or to pay costs) arising under an order made in family proceedings;

(**a**) Repealed by Schedule 12 to the Proceeds of Crime Act 2002 (c.29) with savings in articles 10 and 13 of SI 2003/333.

(**b**) 2002 (c.29); relevant amendments are made by paragraph 75(1) and (2) of Part 2 of Schedule 3 to the Criminal Justice Act 2003 (c.44); Part 1 of Schedule 8 and paragraphs 1 and 2 and 36 of Schedule 14 to the Serious Crime Act 2007 (c.27); and paragraphs 11 and 12 of the Schedule to the Prevention of Social Housing Fraud Act 2013 (c.3).

(iii) an obligation arising under a maintenance assessment made under the Child Support Act 1991;

(3) In paragraph (2), "fine" and "family proceedings" have the meanings given by section 281(8) (which applies the Magistrates Courts Act 1980(**a**) and the Matrimonial and Family Proceedings Act 1984(**b**)).

(4) The following claims are not provable until after all other claims of creditors have been paid in full with interest under sections 189(2) (winding up), section 328(4) (bankruptcy) and rule 14.23 (payment of interest)—

(a) a claim arising by virtue of section 382(1)(a) of the Financial Services and Markets Act 2000 (restitution orders)(**c**), unless it is also a claim arising by virtue of sub-paragraph (b) of that section (a person who has suffered loss etc.);

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

(5) 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.

Proving a debt

14.3.—(1) A creditor wishing to recover a debt must submit a proof to the office-holder unless this rule or an order of the court provides otherwise.

(2) However a creditor is not required to submit a proof in a members' voluntary winding up unless the liquidator requires one to be submitted.

(3) A creditor is deemed to have proved—

(a) in a winding up where it was immediately preceded by an administration and the creditor has already proved in the administration;

(b) in an administration where it was immediately preceded by a winding up and the creditor has already proved in the winding up; and

(c) for the purposes of determination and payment of a dividend but not otherwise where the debt is a small debt, and the creditor has not advised the office-holder that the debt is incorrect or not owed in response to a notice of intention to declare a dividend or make a distribution under rule 14.26 which complies with rule 14.31 (further contents of notice to creditors owed small debts).

Requirements for proof

14.4.—(1) A proof must—

(a) be made out by, or under the direction of, the creditor and authenticated by the creditor or a person authorised on the creditor's behalf;

(b) state the creditor's name and address;

(c) if the creditor is a company, identify the company;

(d) state the total amount of the creditor's claim (including value added tax) as at the relevant date, less any payments made after that date in relation to the claim, any deduction under rule 14.20 and any adjustment by way of set-off in accordance with rules 14.24 and 14.25;

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

(f) contain particulars of how and when the debt was incurred by the company or the bankrupt;

(**a**) 1980 c.43.
(**b**) 1984 c.42.
(**c**) 2000 c.8. Section 382 has been amended by paragraph 21 of Schedule 9 to the Financial Services Act 2012 (c.21).

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

(h) provide details of any reservation of title in relation to goods to which the debt refers;

(i) provide details of any document by reference to which the debt can be substantiated; and

(j) state the name, postal address and authority of the person authorising the proof (if someone other than the creditor).

(2) Where sub-paragraph (i) applies the document need not be delivered with the proof unless the office-holder has requested it.

(3) The office-holder may call for the creditor to produce any document or other evidence which the office-holder considers is necessary to substantiate the whole or any part of a claim.

Costs of proving

14.5.—(1) Unless the court otherwise orders, each creditor bears the cost of proving for that creditor's own debt, including costs incurred in providing documents or evidence under rule 14.4 (3).

(2) In an administration or winding up, costs incurred by the office-holder in estimating the value of a debt under rule 14.4 are payable out of the assets as an expense of the administration or winding up.

(3) In a bankruptcy, costs incurred by the office-holder in estimating the value of a debt under section 322(3) fall on the estate as an expense of the bankruptcy.

Allowing inspection of proofs

14.6.—The office-holder must, so long as proofs delivered to the office-holder are in the possession of the office-holder, allow them to be inspected, at all reasonable times on any business day, by the following—

(a) a creditor who has delivered a proof (unless the proof has been wholly rejected for purposes of dividend or otherwise) or withdrawn;

(b) a member or contributory of the company or, in the case of a bankruptcy, the bankrupt; and

(c) a person acting on behalf of any of the above.

Admission and rejection of proofs for dividend

14.7.—(1) The office-holder may admit or reject a proof for dividend (in whole or in part).

(2) If the office-holder rejects a proof in whole or in part, the office-holder must deliver to the creditor a statement of the office-holder's reasons for doing so, as soon as reasonably practicable.

Appeal against decision on proof

14.8.—(1) If a creditor is dissatisfied with the office-holder's decision under rule 14.7 in relation to the creditor's own proof (including a decision whether the debt is preferential), the creditor may apply to the court for the decision to be reversed or varied.

(2) The application must be made within 21 days of the creditor receiving the statement delivered under rule 14.7 (2).

(3) A member, a contributory, any other creditor or, in a bankruptcy, the bankrupt may, if dissatisfied with the office-holder'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 office-holder's decision.

(4) The court must fix a venue for the application to be heard.

(5) The applicant must deliver notice of the venue to the creditor who delivered the proof in question (unless it is the applicant's own proof) and the office-holder.

(6) The office-holder must, on receipt of the notice, file the relevant proof with the court, together (if appropriate) with a copy of the statement sent under rule 14.7(2).

(7) Where the application is made by a member or a contributory, the court must not disallow the proof (in whole or in part) unless the member or the contributory 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.

(8) After the application has been heard and determined, the proof must be returned by the court to the office-holder.

Office-holder not liable for costs under rule 14.8

14.9.—(1) The official receiver is not personally liable for costs incurred by any person in respect of an application under rule 14.8.

(2) An office-holder other than the official receiver is not personally liable for costs incurred by any person in respect of an application under rule 14.8 unless the court otherwise orders.

Withdrawal or variation of proof

14.10.—(1) A creditor may withdraw a proof at any time by delivering a written notice to the office-holder.

(2) The amount claimed by a creditor's proof may be varied at any time by agreement between the creditor and the officer-holder.

Exclusion of proof by the court

14.11.—(1) The court may exclude a proof or reduce the amount claimed—

(a) on the office-holder's application, where the office-holder thinks that the proof has been improperly admitted, or ought to be reduced; or

(b) on the application of a creditor, a member or a contributory, if the office-holder declines to interfere in the matter.

(2) Where the application is made by a member or a contributory, the court must not exclude a proof or reduce the amount claimed (in whole or in part) unless the member or the contributory shows that there is (or would be but for the amount claimed in the proof), or 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.

(3) Where application is made under paragraph (1), the court must fix a venue for the application to be heard.

(4) The applicant must deliver notice of the venue—

(a) in the case of an application by the office-holder, to the creditor who made the proof; and

(b) in the case of an application by a creditor, a member or a contributory, to the office-holder and to the creditor who made the proof (if not the applicant).

Administration and winding up by the court: debts of insolvent company to rank equally

14.12.—(1) This rule applies in an administration and a winding up by the court.

(2) Debts other than preferential debts rank equally between themselves and, after the preferential debts, must be paid in full unless the assets are insufficient for meeting them, in which case they abate in equal proportions between themselves.

[Note: for the equivalent rule for voluntary liquidation see section 107 of the Act and for bankruptcy section 328 of the Act.]

Administration and winding up: division of unsold assets

14.13.—(1) In an administration or in a winding up of a company, the office-holder may with the required permission divide in its existing form any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold amongst the company's creditors, according to its estimated value.

(2) The required permission is—

(a) the permission of the creditors' committee in an administration, or, if there is no creditors' committee, the creditors; and

(b) the liquidation committee in a winding up, or, if there is no liquidation committee, the creditors (without prejudice to provisions of the Act about disclaimer).

Administration and winding up: estimate of value of debt

14.14.—(1) In an administration or in a winding up, the office-holder must estimate the value of a debt that does not have a certain value because it is subject to a contingency or for any other reason.

(2) The office-holder may revise such an estimate by reference to a change of circumstances or to new information becoming available to the office-holder.

(3) The office-holder must inform the creditor of the office-holder's estimate and any revision.

(4) Where the value of a debt is estimated under this rule or by the court under section 168(3) or (5), the amount provable in the case of that debt is that of the estimate for the time being.

Secured creditor: value of security

14.15.—(1) A secured creditor may, with the agreement of the office–holder, at any time alter the value which that creditor has put upon a security in a proof.

(2) Where the office-holder does not agree the alteration, the secured creditor may apply to the court for permission to alter the value.

Secured creditor: surrender for non-disclosure

14.16.—(1) If a secured creditor fails to disclose a security in a proof, the secured creditor must surrender that security for the general benefit of creditors, unless the court, on application by the secured creditor, relieves the secured creditor 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 to be amended, on such terms as may be just.

(3) Nothing in this rule or in rules 14.17 or 14.18 affects the rights in rem of creditors or third parties protected under Article 5 of the EC Regulation.

Secured creditor: redemption by office-holder

14.17.—(1) The office-holder may at any time deliver a notice to a creditor whose debt is secured that the office-holder 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 office-holder may allow) in which to alter the value of the security in accordance with rule 14.15.

(3) If the creditor alters the value of the security with the permission of the office-holder or the court then the office-holder may only redeem at the new value.

(4) If the office-holder redeems the security the cost of transferring it is—

(a) payable out of the assets in the case of an administration or a winding-up; or

(b) payable out of the estate in the case of a bankruptcy.

(5) A creditor whose debt is secured may at any time deliver a notice to the office-holder requiring the office-holder to elect whether or not to redeem the security at the value then placed on it.

(6) The office-holder then has three months in which to redeem the security or elect not to redeem the security.

Secured creditor: test of security's value

14.18.—(1) If the office-holder is dissatisfied with the value which a secured creditor puts on a security in the creditor's proof the office-holder may require any property comprised in the security to be offered for sale.

(2) The terms of sale will be as agreed, or as the court may direct.

(3) If the sale is by auction, the office-holder on behalf of the company or the estate and the creditor may bid.

(4) This rule does not apply if the value of the security has been altered with the court's permission.

Realisation or surrender of security by creditor

14.19.—(1) If a creditor who has valued a security subsequently realises the security (whether or not at the instance of the office-holder)—

(a) the net amount realised must be treated in all respects (including in relation to any valuation in a proof) as an amended valuation made by the creditor;

(b) the creditor may prove for the balance of the creditor's debt.

(2) A creditor who voluntarily surrenders a security may prove for the whole of the creditor's debt as if it were unsecured.

Discounts

14.20. All trade and other discounts (except a discount for immediate or early settlement) which would have been available but for the insolvency proceedings must be deducted from the claim.

Debts in foreign currency

14.21.—(1) For the purpose of proving for any debts incurred or payable in a foreign currency, the amount of those debts must be converted into sterling at a single rate for that currency determined by the office-holder with reference to the exchange rates prevailing on the relevant date.

(2) A creditor who considers that the rate determined by the office-holder is unreasonable may apply to the court.

(3) If on hearing the application the court finds that the rate is unreasonable it may itself determine the rate.

Payments of a periodical nature

14.22.—(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 relevant date.

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

Interest

14.23.—(1) Where a debt proved in insolvency proceedings 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 circumstances set out below 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 demand for payment of the debt was made in writing by or on behalf of the creditor, and notice was delivered that interest would be payable from the date of the demand to the date of the payment, before—

(a) the relevant date, in respect of administration or winding up; or

(b) the presentation of the bankruptcy petition or the bankruptcy application.

(5) Interest under paragraph (4) may only be claimed for the period from the date of the demand to the relevant date (in respect of administration or winding up) or the date of the bankruptcy order and for the purposes of the Act and these Rules must be charged at a rate not exceeding that mentioned in paragraph (3).

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

(7) In an administration—

(a) any surplus remaining after payment of the debts proved must, 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;

(b) all interest payable under sub-paragraph (a) ranks equally whether or not the debts on which it is payable rank equally; and

(c) the rate of interest payable under sub-paragraph (a) is whichever is the greater of the rate specified under paragraph (6) and the rate applicable to the debt apart from the administration.

Administration: mutual dealings and set-off

14.24.—(1) This rule applies in an administration where the administrator intends to make a distribution and has delivered a notice under rule 14.29.

(2) An account must be taken as at the date of the notice of what is due from the company and a creditor to each other in respect of their mutual dealings and the sums due from the one must be set off against the sums due from the other.

(3) If there is a balance owed to the creditor then only that balance is provable in the administration.

(4) If there is a balance owed to the company that must be paid to the administrator.

(5) However if all or part of the balance owed to the company results from a contingent or prospective debt owed by the creditor then the balance (or that part of it which results from the contingent or prospective debt) must be paid in full (without being discounted under rule 14.45) if and when that debt becomes due and payable.

(6) In this rule—

"obligation" means an obligation however arising, whether by virtue of an agreement, rule of law or otherwise; and

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(**a**) 1838 c. 110.

"mutual dealings" means mutual credits, mutual debts or other mutual dealings between the company and a creditor proving or claiming to prove for a debt in the administration but does not include any of the following—

(a) a debt arising out of an obligation incurred at a time when the creditor had notice that—

(i) an application for an administration order was pending; or

(ii) a person had delivered notice of intention to appoint an administrator;

(b) a debt which has been acquired by a creditor by assignment or otherwise, under an agreement between the creditor and another party where that agreement was entered into at a time when the creditor had notice that—

(i) an application for an administration order was pending; or

(ii) a person had delivered notice of intention to appoint an administrator;

(c) a debt arising out of an obligation incurred after the company entered administration;

(d) a debt which has been acquired by a creditor by assignment or otherwise, under an agreement between the creditor and another party where that agreement was entered into after the company entered administration;

(e) a debt arising out of an obligation where—

(i) at the time the obligation was incurred the creditor had notice of a decision on the nomination of a liquidator under section 100 or a winding up petition was pending; and

(ii) a winding up immediately preceded the administration;

(f) a debt which has been acquired by a creditor by assignment or otherwise, under an agreement between the creditor and another party where that agreement was entered into—

(i) at a time when the creditor had notice of a decision on the nomination of a liquidator under section 100 or that a winding up petition was pending; and

(ii) where a winding up immediately preceded the administration;

(g) a debt arising out of an obligation incurred during a winding up which immediately preceded the administration;

(h) a debt which has been acquired by a creditor by assignment or otherwise, under an agreement between the creditor and another party where that agreement was entered into during a winding up which immediately preceded the administration.

(7) A sum must be treated as being due to or from the company for the purposes of paragraph (3) 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.

(8) For the purposes of this rule—

(a) rule 14.14 applies to an obligation which, by reason of its being subject to a contingency or for any other reason, does not bear a certain value;

(b) rules 14.21 to 14.22 apply to sums due to the company which—

(i) are payable in a currency other than sterling;

(ii) are of a periodical nature; or

(iii) bear interest; and

(c) rule 14.45 applies to a sum due to or from the company which is payable in the future.

Winding up: mutual dealings and set-off

14.25.—(1) This rule applies in a winding up where, before the company goes into liquidation, there have been mutual dealings between the company and a creditor of the company proving or claiming to prove for a debt in the liquidation.

(2) An account must be taken of what is due from the company and the creditor to each other in respect of their mutual dealings and the sums due from the one must be set off against the sums due from the other.

(3) If there is a balance owed to the creditor then only that balance is provable in the winding up.

(4) If there is a balance owed to the company then that must be paid to the liquidator as part of the assets.

(5) However if all or part of the balance owed to the company results from a contingent or prospective debt owed by the creditor then the balance (or that part of it which results from the contingent or prospective debt) must be paid in full (without being discounted under rule 14.45) if and when that debt becomes due and payable.

(6) In this rule—

"obligation" means an obligation however arising, whether by virtue of an agreement, rule of law or otherwise; and

"mutual dealings" means mutual credits, mutual debts or other mutual dealings between the company and a creditor proving or claiming to prove for a debt in the winding up but does not include any of the following—

(a) a debt arising out of an obligation incurred at a time when the creditor had notice that—

(i) a decision had been sought from creditors on the nomination of a liquidator under section 100; or

(ii) a winding up petition was pending;

(b) a debt which has been acquired by a creditor by assignment or otherwise, under an agreement between the creditor and another party where that agreement was entered into at a time when the creditor had notice that—

(i) a decision had been sought from creditors on the nomination of a liquidator under section 100; or

(ii) a winding up petition was pending;

(c) a debt arising out of an obligation where—

(i) at the time the obligation was incurred the creditor had notice that an administration application was pending or a person had delivered notice of intention to appoint an administrator; and

(ii) an administration immediately preceded the winding up;

(d) a debt which has been acquired by a creditor by assignment or otherwise, under an agreement between the creditor and another party where that agreement was entered into—

(i) at a time when the creditor had notice that an administration application was pending or a person had delivered notice of intention to appoint an administrator; and

(ii) an administration immediately preceded the winding up;

(e) a debt arising out of an obligation incurred during an administration which immediately preceded the winding up;

(f) a debt which has been acquired by a creditor by assignment or otherwise, under an agreement between the creditor and another party where that agreement was entered into during an administration which immediately preceded the winding up;

(g) a debt which has been acquired by a creditor by assignment or otherwise, under an agreement between the creditor and another party where that agreement was entered into after the company went into liquidation;

(7) A sum must be treated as being due to or from the company for the purposes of paragraph (3) 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.

(8) For the purposes of this rule—

(a) rule 14.14 applies to an obligation which, by reason of its being subject to a contingency or for any other reason, does not bear a certain value;

(b) rules 14.21 to 14.22 apply to sums due to the company which—

(i) are payable in a currency other than sterling;

(ii) are of a periodical nature; or

(iii) bear interest; and

(c) rule 14.45 applies to a sum due to or from the company which is payable in the future.

CHAPTER 3

DISTRIBUTIONS TO CREDITORS IN ADMINISTRATION, WINDING UP AND BANKRUPTCY

Application of Chapter to particular class of creditors and to distributions

14.26.—(1) This Chapter applies where the office-holder makes, or proposes to make, a distribution to any class of creditors other than secured creditors.

(2) Where the distribution is to a particular class of creditors in an administration, a reference in this Chapter to creditors is a reference to that class of creditors only.

Declaration and distribution of dividends in a winding up

14.27.— Whenever a liquidator in a creditors' voluntary winding up or a winding up by the court has sufficient funds in hand for the purpose the liquidator must, whilst retaining such sums as may be necessary for the expenses of the winding up, declare and distribute dividends among the creditors in respect of the debts which they have proved.

[Note: section 324 makes provision in respect of such a declaration and distribution in a bankruptcy.]

Gazette notice of intended first dividend or distribution

14.28.—(1) Where the office-holder intends to declare a first dividend or distribution the office-holder must gazette a notice containing—

(a) a statement that the office-holder intends to declare a first dividend or distribution;

(b) the date by which and place to which proofs must be delivered; and

(c) in the case of a members' voluntary winding up, where the dividend or distribution is to be a sole or final distribution, a statement that the distribution may be made without regard to the claim of any person in respect of a debt not proved.

(2) Where the intended dividend is only to preferential creditors the office-holder need only gazette a notice if the office-holder thinks fit.

(3) The office-holder may in addition advertise such a notice in such other manner (if any) as the office-holder thinks fit.

(4) Paragraph (1) does not apply where the office-holder has previously, by a notice which has been gazetted, invited creditors to prove their debts.

Individual notices to creditors etc. of intended dividend or distribution

14.29.—(1) The office-holder must deliver a notice of the intention to make a distribution to creditors or declare a dividend—

(a) to all the creditors in an administration;

(b) to all creditors in a winding up or a bankruptcy who have not proved (including creditors who are owed small debts); and

(c) to the member State liquidator if one has been appointed.

(2) A debt is small if it is small according to the statement of affairs or the accounting records of the company or the bankrupt as the case may be.

(3) Where the intended dividend is only for preferential creditors, the officer-holder is only required to deliver such a notice to the preferential creditors.

(4) Where the office-holder intends to declare a dividend to unsecured creditors in an administration or winding-up the notice must also state the value of the prescribed part unless there is no prescribed part or the court has made an order under section 176A(5).

Contents of notice of intention to declare a dividend or make a distribution

14.30.—A notice under rule 14.29 must contain the following—

(a) a statement that the office-holder intends to make a distribution to creditors or declare a dividend (as the case may be) within the period of two months from the last date for proving;

(b) a statement whether the proposed distribution or dividend is interim or final;

(c) the last date by which proofs may be delivered which must be—

(i) the same date for all creditors who prove; and

(ii) not less than 21 days from the date of notice;

(d) a statement of the place to which proofs must be delivered;

(e) the additional information required by rule 14.31 where the office-holder intends to treat a small debt as proved for the purposes of paying a dividend; and

(f) in the case of a members' voluntary winding up, where the distribution is to be a sole or final distribution, a statement that the distribution may be made without regard to the claim of any person in respect of a debt not proved.

Further contents of notice to creditors owed small debts etc.

14.31.—(1) The office-holder may treat a debt, which is a small debt according to the accounting records or the statement of affairs of the company or bankrupt, as if it were proved for the purpose of paying a dividend.

(2) Where the office-holder intends to treat such a debt as if it were proved the notice delivered under rule 14.29 must—

(a) state the amount of the debt which the office-holder believes to be owed to the creditor according to the accounting records or statement of affairs of the company or the bankrupt (as the case may be);

(b) state that the office-holder will treat the debt which is stated in notice, being for £1,000 or less, as proved for the purposes of paying a dividend unless the creditor advises the office-holder that the amount of the debt is incorrect or that no debt is owed;

(c) require the creditor to notify the office-holder by the last date for proving if the amount of the debt is incorrect or if no debt is owed; and

(d) inform the creditor that where the creditor advises the office-holder that the amount of the debt is incorrect the creditor must also submit a proof in order to receive a dividend.

(3) The information required by paragraph (2)(a) may take the form of a list of small debts which the office-holder intends to treat as proved which includes that owed to the particular creditor to whom the notice is being delivered.

Admission or rejection of proofs following last date for proving

14.32.—(1) Unless the office-holder has already dealt with them, the office-holder must within 14 days of the last date for proving set out in the notice under rule 14.29 —

(a) admit or reject (in whole or in part) proofs delivered to the office-holder; or

(b) make such provision in relation to them as the office-holder thinks fit.

(2) The office-holder is not obliged to deal with a proof delivered after the last date for proving, but the office-holder may do so if the office-holder thinks fit.

(3) In the declaration of a dividend a payment must not be made more than once by virtue of the same debt.

(4) Subject to rule 14.44 (assignment of right to dividend), payment must only be made to the creditor where both the creditor and a member State liquidator have proved in relation to the same debt.

Postponement or cancellation of dividend

14.33.—(1) The office-holder may postpone or cancel the dividend in the period of two months from the last date for proving if an application is made to the court for the office-holder's decision on a proof to be reversed or varied, or for a proof to be excluded, or for a reduction of the amount claimed.

(2) The office-holder may postpone a dividend if the office-holder considers that due to the nature of the affairs of the person to whom the proceedings relate there is real complexity in admitting or rejecting proofs of claims submitted.

(3) Where the dividend is postponed or cancelled a new notice under rule 14.29 will be required if the dividend is paid subsequently.

Declaration of dividend

14.34.—(1) The office-holder must declare the dividend in the two month period referred to in rule 14.30(a) in accordance with the notice of intention to declare a dividend unless the office-holder has had cause to postpone or cancel the dividend.

(2) The office-holder must not declare a dividend so long as there is pending an application to the court to reverse or vary a decision of the office-holder on a proof, or to exclude a proof or to reduce the amount claimed unless the court gives permission.

(3) If the court gives such permission, the office-holder must make such provision in relation to the proof as the court directs.

Notice of declaration of a dividend

14.35.—(1) Where the office-holder declares a dividend the office-holder must deliver notice of that fact to—

(a) all creditors who have proved for their debts (subject to paragraph (4)), and

(b) to the member State liquidator, where a member State liquidator has been appointed in relation to the bankrupt or company as the case may be.

(2) The notice must include the following in relation to the insolvency proceedings—

(a) the amounts raised from the sale of assets, indicating (so far as practicable) amounts raised by the sale of particular assets;

(b) the payments made by the office-holder in carrying out the office-holder's functions;

(c) the provision (if any) made for unsettled claims, and funds (if any) retained for particular purposes;

(d) the total amount to be distributed and the rate of dividend; and

(e) whether, and if so when, any further dividend is expected to be declared.

(3) In an administration, a creditors' voluntary winding-up or a winding up by the court, where the administrator or liquidator intends to make a distribution to unsecured creditors, the notice must also state the value of the prescribed part unless there is no prescribed part or the court has made an order under section 176A(5).

(4) Where the office-holder declares a dividend for preferential creditors only, the notice under paragraph (1)(a) need only be delivered to those preferential creditors who have proved for their debts.

Payments of dividends and related matters

14.36. The notice declaring a dividend may be delivered and the dividend may be distributed at the same time.

Notice of final or no dividend in an administration or winding up

14.37.—(1) When the liquidator in a winding up has realised all the company's assets or so much of them as can, in the liquidator's opinion, be realised without needlessly prolonging the winding up, the liquidator must deliver notice as provided for in this Chapter, either—

(a) of intention to declare a final dividend, or

(b) that no dividend, or further dividend, will be declared.

(2) The notice must contain the particulars required by rule 14.29, 14.31, 14.36 or 14.39 as the case may be and must require claims against the assets to be established by a date set out in the notice.

Contents of notice of no, or no further, dividend (administration, winding-up and bankruptcy)

14.38.—(1) If the office-holder delivers notice to creditors that the office-holder is unable to declare any dividend or (as the case may be) any further dividend, the notice must 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 paying the expenses of the insolvency proceedings.

(2) The information required by paragraph (1) may be included in a progress report.

[Note: section 330 makes provision in respect of such a notice in a bankruptcy.]

Sole or final dividend

14.39.—(1) Where, in an administration or winding up, it is intended that the distribution is to be a sole or final dividend, after the date specified as the last date for proving in the notice under rule 14.29, the office-holder—

(a) in a winding up, must pay any outstanding expenses of the winding up out of the assets;

(b) in an administration, must—

(i) pay any outstanding expenses of a winding up (including any of the items mentioned in rule 6.41 or 7.109 (as appropriate)) or provisional winding up that immediately preceded the administration;

(ii) pay any items payable in accordance with the provisions of paragraph 99 of Schedule B1;

(c) in a members' voluntary winding up may, and in every other case must, declare and distribute that dividend without regard to the claim of any person in respect of a debt not already proved or in the case of a small debt treated as proved by the office-holder.

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

Administration and winding up: provisions as to dividends

14.40. In an administration or winding up, in the calculation and distribution of a dividend the office-holder must make provision for—

(a) any debts which are the subject of claims which have not yet been determined; and

(b) disputed proofs and claims.

Supplementary provisions as to dividends

14.41.—(1) A creditor is not entitled to disturb the payment of any dividend or making of any distribution because—

(a) the amount claimed in the creditor's proof is increased after payment of the dividend;

(b) in an administration, a creditors' voluntary winding up or a winding up by the court the creditor did not prove for a debt before the declaration of the dividend; or

(c) in a members' voluntary winding up, the creditor did not prove for a debt before the last date for proving or increases the claim in proof after that date.

(2) However the creditor is entitled to be paid a dividend or receive a distribution which the creditor has failed to receive out of any money for the time being available for the payment of a further dividend or making a further distribution.

(3) Such a dividend must be paid or distribution made before that money is applied to the payment of any further dividend or making of any further distribution.

(4) If, after a creditor's proof has been admitted, the proof is withdrawn or excluded, or the amount of it is reduced, the creditor is liable to repay to the office-holder, for the credit of the insolvency proceedings, any amount overpaid by way of dividend.

Secured creditors

14.42.—(1) The following applies where a creditor alters the value of a security after a dividend has been declared.

(2) If the alteration reduces the creditor's unsecured claim ranking for dividend, the creditor must as soon as reasonably practicable repay to the office-holder, for the credit of the administration or of the insolvent estate, any amount received by the creditor as dividend in excess of that to which the creditor would be entitled, having regard to the alteration of the value of the security.

(3) If the alteration increases the creditor's unsecured claim, the creditor is entitled to receive from the office-holder, 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 the creditor has failed to receive, having regard to the alteration of the value of the security.

(4) The creditor is not entitled to disturb any dividend declared (whether or not distributed) before the date of the alteration.

Disqualification from dividend

14.43. If a creditor contravenes any provision of the Act or these Rules relating to the valuation of securities, the court may, on the application of the office-holder, order that the creditor be wholly or partly disqualified from participation in any dividend.

Assignment of right to dividend

14.44.—(1) If a person entitled to a dividend ("the entitled person") delivers notice to the office-holder that the entitled person wishes the dividend to be paid to another person, or that the entitled person has assigned the entitlement to another person, the office-holder must pay the dividend to that other person accordingly.

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

Debt payable at future time

14.45.—(1) Where a creditor has proved for a debt of which payment is not due at the date of the declaration of a dividend, the creditor is entitled to the 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 must be discounted 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 relevant date and ending with the date on which the payment of the creditor's debt would otherwise be due, expressed in years (part of a year being expressed as a decimal fraction of a year).

Administration and winding up: non-payment of dividend

14.46.—(1) No action lies against the office-holder in an administration or winding up for payment of a dividend.

(2) However ,if the office-holder refuses to pay a dividend the court may, if it thinks just, order the office-holder to pay it and also to pay, out of the office-holder's own money—

(a) interest on the dividend, at the rate for the time being specified in section 17 of the Judgments Act 1838(**a**), from the time when it was withheld; and

(b) the costs of the proceedings in which the order to pay is made.

(**a**) Section 17 has been amended by the Statute Law Revision (No 2) Act 1888 (c.57), article 2 of SI 1993/564, article 3 of SI 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.

PART 15

DECISION MAKING

CHAPTER 1

Application of Part

Interpretation and scope

15.1.—(1) In this Part—

(a) Chapters 2 to 10 apply where the Act or the Rules require a decision to be made by a qualifying decision procedure, or by a creditors' decision procedure or permit a decision to be made by the deemed consent procedure; and

(b) Chapter 11 applies to company meetings.

(2) In Chapters 1 to 10—

"decision date" means the date when a decision is to be made in a decision procedure;

"decision procedure" means a qualifying decision procedure or a creditors' decision procedure as prescribed by rule 15.2;

"electronic voting" includes any electronic system which enables a person to vote for or against a proposition without the need to attend at a particular location to do so;

"physical meeting" means a meeting as described in section 246ZE(9) or 379ZA(9);

"virtual meeting" means a meeting where persons who are not physically present together may participate in the meeting including communicating directly with all the other participants in the meeting and voting (either directly or via a proxy-holder); and

"meeting" means either a "physical meeting" or a "virtual meeting" (as defined in this rule) unless the contrary indication is given.

(3) The decision date is to be set at the discretion of the convener, but must be not less than 14 days from the date of delivery of the notice, except where the table in rule 15.10 requires a different period.

(4) The rules in this Part about decision procedures by creditors apply with any necessary modifications to decision making by contributories.

(5) In particular, in place of the requirement for percentages or majorities in decision making by creditors to be determined by value, where the procedure seeks a decision from contributories value must be determined on the percentage of voting rights in accordance with rule 15.37.

(6) A reference to a decision in this Part includes where such a decision is signified by way of a resolution passed at a meeting.

The prescribed decision procedures

15.2. The following decision procedures are prescribed as decision procedures under sections 246ZE and 379ZA by which a convener may seek a decision under the Act or these Rules from creditors—

(a) correspondence;

(b) electronic voting;

(c) virtual meeting;

(d) physical meeting;

(e) any other decision making procedure which enables all creditors who are entitled to participate in the making of the decision to participate equally.

[Note: under sections 246ZE and 379ZA a decision may not be made by a creditors' meeting (a physical meeting) unless the prescribed proportion of the creditors request in writing that the decision be made by such a meeting.]

Electronic voting

15.3. Where the decision procedure uses electronic voting—

(a) the notice delivered to creditors must give them any necessary information as to how to access the voting system including any password required; and

(b) except where electronic voting is being used at a meeting, the voting system must be a system capable of enabling a creditor to vote at any time between the notice being delivered and the decision date.

Virtual meetings

15.4. Where the decision procedure uses a virtual meeting the notice delivered to creditors must contain—

(a) any necessary information as to how to access the virtual meeting including any telephone number, access code or password required; and

(b) a statement that the meeting may be suspended or adjourned by the chair of the meeting (and must be adjourned if it is so resolved at the meeting).

Physical meetings

15.5.—(1) A request for a physical meeting may be made before or after the notice of the decision procedure or deemed consent has been delivered, but must be made not later than five business days after the date on which the convener delivered the notice of the decision procedure or deemed consent procedure unless these Rules provide to the contrary. It is the convener's responsibility to check whether any requests for a physical meeting are submitted before the deadline and if so whether in aggregate they meet or surpass one of the thresholds requiring a physical meeting under sections 246ZE(6A) or 379ZA(6A).

(2) Where the prescribed proportion of creditors require a physical meeting the convener must summon the meeting by giving written notice which complies with rule 15.7 so far as applicable and which must also contain a statement that the meeting may be suspended or adjourned by the chair of the meeting (and must be adjourned if it is so resolved at the meeting).

(3) In addition, the notice must inform the creditors that as a result of the requirement to hold a physical meeting the original decision procedure is now superseded.

(4) The convener must send the notice under paragraph (2) not later than three business days after one of the thresholds requiring a physical meeting has been met or surpassed.

(5) The convener may permit a creditor to attend a physical meeting remotely if the convener receives a request to do so in advance of the meeting.

(6) The notice of the meeting must contain a statement explaining the effect of paragraph (5).

(7) In this rule, attending a physical meeting "remotely" means attending and being able to participate in the meeting without being in the place where the meeting is being held.

Deemed consent (sections 246ZF and 379ZB)

15.6.—(1) This rule makes further provision about the deemed consent procedure to that set out in sections 246ZF and 379ZB.

(2) A notice seeking deemed consent must, in addition to the requirements of section 246ZF or 379ZB (as applicable) comply with the requirements of rule 15.7 so far as applicable and must also contain—

(a) a statement that in order to object to the decision a creditor must have delivered a notice in writing to the convener not later than the decision date together with a proof in respect of the creditor's claim in accordance with these Rules failing which the objection will be disregarded;

(b) a statement that it is the convener's responsibility to aggregate any objections to see if the threshold is met for the decision to be taken as not having been made; and

(c) a statement that if the threshold is met the deemed consent procedure will terminate without a decision being made and if a decision is sought again on the same matter it will be sought by a decision procedure.

[Note: deemed consent cannot be used to make a decision on remuneration of any person, or where the Act, these Rules or any other legislation requires a decision to be made by a decision procedure.]

CHAPTER 2

Notices, voting and venues for decisions

Notices to creditors of decision procedure

15.7.—(1) This rule sets out the requirements for notices to creditors where a decision is sought by a decision procedure.

(2) The convener must deliver a notice to every creditor who is entitled to notice of the procedure.

(3) The notice must contain the following—

(a) details of the decision to be made or of any resolution on which a decision is sought;

(b) a description of, and arrangements for, the decision procedure which the convener is using;

(c) a statement of the decision date;

(d) a statement of when the creditor must have delivered a proof in respect of the creditor's claim in accordance with these Rules failing which a vote by the creditor will be disregarded;

(e) a statement that a creditor owed an amount which is in total less than £1,000 and who does not deliver a proof will not be able to vote;

(f) a statement that a creditor who has opted out from receiving notices may nevertheless vote if the creditor provides a proof in accordance with paragraph (d);

(g) in the case of a decision to remove a liquidator in a creditors' voluntary winding-up or a winding up by the court, a statement drawing the attention of creditors to section 173(2) or 174(4) (which relate to the release of the liquidator), as appropriate;

(h) in the case of a decision to remove a trustee in a bankruptcy, a statement drawing the attention of creditors to section 299(3) (which relates to the release of the trustee);

(i) in the case of a decision on a proposal in a company or individual voluntary arrangement, a statement of the effects of the following—

(i) rule 15.26 about creditors' voting rights;

(ii) rule 15.29 about the calculation of creditors' voting rights; and

(iii) rule 15.32 about the requisite majority of creditors for making decisions;

(j) except in the case of a physical meeting, a statement that creditors who meet the thresholds in sections 246ZE(6A) or 379ZA(6A) may, within five business days from the date of delivery of the notice, require a physical meeting to be held to consider the matter; and

(k) in the case of a meeting, a statement that any proxy must be delivered to the convener or chair before it may be used at the meeting.

(4) The notice must be authenticated and dated by the office-holder.

(5) Where the decision procedure is a meeting the notice must be accompanied by a blank proxy complying with rule 16.3.

(6) This rule does not apply if the court orders under rule 15.11 that notice of a decision procedure be given by advertisement only.

Voting in a decision procedure

15.8.—(1) In order to be counted in a decision procedure other than where votes are cast at a meeting, votes must—

(a) be received by the convener by the decision date; and

(b) in the case of a vote cast by a creditor, be accompanied by a proof in respect of the creditor's claim.

(2) In an administration, an administrative receivership, a creditors' voluntary winding up, a winding up by the court or a bankruptcy, subject to rule 15.26(b)(ii), a vote must be disregarded if—

(a) a proof in respect of the claim is not received by the convener before the decision date or, in the case of a meeting, 4pm on the business day before the decision date; or

(b) the convener decides, in the application of Chapter 7 of this Part, that the creditor is not entitled to cast the vote.

(3) In a company or individual voluntary arrangement a vote must be disregarded if a proof in respect of the claim is not received by the convener by the decision date.

(4) For the decision to be made, the convener must receive at least one valid vote by the decision date.

Venue for decision procedure

15.9. The convener must have regard to the convenience of those invited to attend when fixing the venue (where applicable) for a decision procedure (including the resumption of an adjourned meeting).

Notice of decision procedures or seeking deemed consent: when and to whom delivered

15.10.—(1) Notices of decision procedures, and notices seeking deemed consent, must be delivered in accordance with the following table.

Proceedings	Decisions	Persons to whom notice must be delivered	Minimum notice required
administration	decisions of creditors	all the creditors who had claims against the company at the date when the company entered administration (except for those who have subsequently been paid in full	14 days
administrative receivership	decisions of creditors	all the creditors	14 days
creditors' voluntary winding up	decisions of creditors for appointment of liquidator (including any decision made at the same time on the liquidator's	all the creditors	14 days on conversion from members' voluntary liquidation (unless decision on deemed consent has already

	remuneration or the establishment of a liquidation committee)		been objected to) in other cases, 7 days
creditors' voluntary winding up or a winding up by the court	decisions of creditors to consider whether a replacement should be appointed after a liquidator's resignation	all the creditors	28 days
winding up by the court	decisions of creditors to consider whether to remove or replace the liquidator	all the creditors and the official receiver	14 days
Creditors' voluntary winding up or a winding up by the court	other decisions of creditors	all the creditors	14 days
winding up by the court	decisions of contributories	every person appearing (by the company's records or otherwise) to be a contributory	14 days
company voluntary arrangement	decisions of creditors	all the creditors	7 days for a decision on proposed modifications to the proposal from the company's directors under paragraph 31(7) of Schedule A1 7 days for consideration of proposal where physical meeting requisitioned in other cases, 14 days
individual voluntary arrangement	decisions of creditors	all the creditors	14 days
bankruptcy	decisions of creditors to consider whether a replacement should be appointed after the resignation of a trustee	all the creditors, the bankrupt and the official receiver	28 days
bankruptcy	decisions of creditors to consider removing the trustee	all the creditors and the official receiver	14 days
bankruptcy	decisions of creditors on appointment of new trustee following removal of previous trustee (including any	all the creditors	7 days

	decision made at the same time on the establishment of a creditors' committee)		
bankruptcy	other decisions of creditors	all the creditors	14 days

(2) This rule does not apply where the court orders under rule 15.11 that notice of a decision procedure be given by advertisement only.

[Note: When an office-holder is obliged to give notice to "all the creditors", this is subject to rule 1.35, which limits the obligation to giving notice to those creditors of whose address the office-holder is aware.]

Notice of decision procedure by advertisement only

15.11.—(1) The court may order that notice of a decision procedure is to be given by advertisement only and not by individual notice to the persons concerned.

(2) In considering whether to make such an order, the court must have regard to the cost of advertisement, the amount of assets available and the extent of the interest of creditors, members and contributories or any particular class of them.

(3) The advertisement must meet the requirements for a notice under rule 15.7, and must also state—

(a) that the court ordered that notice of the decision procedure be given by advertisement only; and

(b) the date of the court's order.

Gazetting and advertisement of meeting

15.12.—(1) In a creditors' voluntary winding up, a winding up by the court, an administration or a bankruptcy, where a decision is being sought by a meeting the convener must gazette a notice of the procedure stating—

(a) that a meeting of creditors or contributories is to take place,

(b) the venue fixed for the meeting,

(c) the purpose of the meeting, and

(d) the time and date by which, and place at which, those attending must deliver proxies and proofs (if not already delivered) in order to be entitled to vote.

(2) The notice must also state—

(a) who is the convener in respect of the decision procedure, and

(b) if the procedure results from a request of one or more creditors, the fact that it was so summoned and the section of the Act under which it was summoned.

(3) The notice must be gazetted before or as soon as reasonably practicable after notice is delivered in accordance with these Rules.

(4) Information to be gazetted under this rule may also be advertised in such other manner as the convener thinks fit.

(5) The convener may gazette other decision procedures or the deemed consent procedure in which case the equivalent information to that required by this rule must be stated in the notice.

Notice to company officers, bankrupts etc. in respect of meetings

15.13.—(1) In an administration, a creditors' voluntary winding up, a winding up by the court or a company voluntary arrangement notice to participate in a creditors' meeting must be delivered to every present or former officer of the company whose presence the convener thinks is required.

(2) In a bankruptcy, notice of a meeting must be delivered to the bankrupt.

(3) In a bankruptcy, where the bankrupt is not required to attend the meeting, the notice must state—

(a) that the bankrupt is not required to attend the meeting;

(b) that if the bankrupt wishes to attend, the bankrupt should tell the convener as soon as reasonably practicable;

(c) that whether the bankrupt will be allowed to participate in the meeting is at the discretion of the chair;

(d) that the decision of the chair as to what intervention, if any, the bankrupt may make is final.

(4) Every person who receives a notice under this rule which states that that person is required to attend the meeting, must attend.

(5) Notices under this rule must be delivered in compliance with the minimum notice requirements set out in rule 15.10.

Non-receipt of notice of decision

15.14. Where a decision is sought by notice in accordance with the Act or these Rules, the decision procedure or deemed consent procedure is presumed to have been duly initiated and conducted, even if not everyone to whom the notice is to be delivered has received it.

CHAPTER 3

Decision making in particular proceedings

Decisions in winding up of authorised deposit-takers

15.15.—(1) This rule applies in a creditors' voluntary winding up or a winding up by the court of an authorised deposit-taker or former authorised deposit-taker.

(2) The directors of a company must deliver a notice of a meeting of the company at which it is intended to propose a resolution for its winding up to the Financial Conduct Authority and to the scheme manager established under section 212(1) of the Financial Services and Markets Act 2000.

(3) These notices must be the same as those delivered to members of the company.

(4) Where any decision is sought for the purpose of considering whether a replacement should be appointed after the liquidator's resignation, removing the liquidator or appointing a new liquidator, the convener must also deliver notice of the decision to the Authority and the scheme manager.

(5) A scheme manager who is required by this rule to be given notice of a meeting is entitled to be represented at the meeting.

CHAPTER 4

Requisitioned decisions

Requisition of decision

15.16.—(1) In this Chapter, "requisitioned decision" means a request to seek nominations under section 136(5)(c) or a decision requested under section 168(2), 171(2)(b), 171(3A), 172(3), 298(4)(c) or 314(7) or paragraph 52(2) or 56(1) of Schedule B1.

(2) A request for a decision under paragraph 52(2) of Schedule B1 must be delivered within 8 business days of the date on which the administrator's statement of proposals is delivered.

(3) The request for a requisitioned decision must include a statement of the purpose of the proposed decision and either—

(a) a statement of the requesting creditor's claim or contributory's value, together with—

(i) a list of the creditors or contributories concurring with the request and of the amounts of their respective claims or values, and

(ii) confirmation of concurrence from each creditor or contributory concurring; or

(b) a statement of the requesting creditor's debt or contributory's value and that that alone is sufficient without the concurrence of other creditors or contributories.

(4) In the preceding paragraph, a contributory's value is the amount for which the contributory may vote in any decision procedure.

(5) A decision procedure must be instigated under section 171(2)(b) for the removal of the liquidator, other than a liquidator appointed by the court under section 108, if 25% in value of the company's creditors, excluding those who are connected with the company(**a**), request it.

(6) Where a decision procedure under 171(2)(b), 171(3), 171(3A) or 298(4)(c) is to be instigated, or is proposed to be instigated, the court may, on the application of any creditor, give directions as to the decision procedure to be used and any other matter which appears to the court to require regulation or control.

(7) Where the official receiver receives a request under section 136(5)(c) and it appears that it is properly made, the official receiver must withdraw any notices previously given under section 136(5)(b) and act in accordance with Chapter 2 as if the official receiver had decided under section 136 to seek nominations.

[Note: this rule is concerned with requests by creditors or contributories for a decision, rather than requests for decisions to be made by way of a physical meeting under sections 246ZE(3) or 379ZA(3).]

Expenses and timing of requisitioned decision

15.17.—(1) The convener must, not later than 14 days of receipt of a request for a requisitioned decision, inform the requesting creditor or contributory of the sum to be deposited as security for payment of the expenses of such procedure.

(2) The convener is not obliged to initiate the decision procedure or deemed consent procedure (where applicable) until either—

(a) the convener has received the required sum, or

(b) the period of 14 days has expired without the convener having informed the requesting creditor or contributory of the sum required to be deposited as security.

(3) A requisitioned decision must be held—

(a) where requested under section 136(5)(c), within three months, or

(b) in any other case, within 28 days,

of the date on which the earlier of the events specified in paragraph (2) of this rule occurs.

(4) The expenses of a requisitioned decision must be paid out of the deposit (if any) unless—

(a) the creditors decide that they are to be payable as an expense of the administration, winding up or bankruptcy, as the case may be, and

(b) in the case of a decision of contributories, the creditors are first paid in full, with interest.

(5) The notice of a requisitioned decision of creditors must contain a statement that the creditors may make a decision under paragraph (4)(a) of this rule.

(6) Where the creditors do not so decide, the expenses must be paid by the requesting creditor or contributory to the extent that the deposit (if any) is not sufficient.

(**a**) "Connected with a company" is defined in section 249 of the Act.

(7) To the extent that the deposit (if any) is not required for payment of the expenses, it must be repaid to the requesting creditor or contributory.

CHAPTER 5

Constitution of meetings

Quorum at meeting

15.18.—(1) A meeting is not competent to act unless a quorum is in attendance.

(2) A quorum is—

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

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

(3) Where a quorum is satisfied in accordance with this rule by the chair alone or the chair and one additional person, but the chair is aware, either by virtue of proofs and proxies received or otherwise, that one or more additional persons would, if attending, be entitled to vote, the chair must delay the start of the meeting by at least 15 minutes after the appointed time.

Chair at meetings

15.19. The chair of a meeting must be—

(a) the convener;

(b) an appointed person; or

(c) in cases where the convener is the official receiver, a person appointed by the official receiver.

Attendance by other persons

15.20. The chair of a meeting may—

(a) allow any person who has given reasonable notice of wishing to attend to participate in a virtual meeting or to be admitted to a physical meeting;

(b) decide what intervention, if any, may be made at—

(i) a meeting of creditors by any person attending who is not a creditor, or

(ii) a meeting of contributories by any person attending who is not a contributory;

(c) decide what questions may be put to—

(i) any present or former officer of the company, or

(ii) the bankrupt.

CHAPTER 6

Adjournment and suspension of meetings

Adjournment by chair

15.21.—(1) The chair may (and must if it is so resolved) adjourn a meeting for not more than 14 days, but subject to any direction of the court and to rule 15.22.

(2) Further adjournment under this rule must not be to a day later than 14 days after the date on which the meeting was originally held (subject to any direction by the court).

(3) But in a company voluntary arrangement, the chair may, and must if the meeting so resolves, adjourn a meeting held under paragraph 29(1) of Schedule A1 to a day which is not more than 14 days after the date on which the moratorium (including any extension) ends.

Adjournment of meetings to remove a liquidator or trustee

15.22. If the chair of a meeting to remove the liquidator or trustee in a creditors' voluntary winding up, a winding up by the court or a bankruptcy is the liquidator or trustee or the liquidator's or trustee's nominee and a resolution has been proposed for the liquidator's or trustee's removal, the chair must not adjourn the meeting without the consent of at least one-half (in value) of the creditors attending and entitled to vote.

Adjournment in absence of chair

15.23.—(1) If no one attends to act as chair within 30 minutes of the time fixed for the meeting to start, then the meeting is adjourned to the same time and place the following week or, if that is not a business day, to the business day immediately following.

(2) If no one attends to act as chair within 30 minutes of the time fixed for the meeting after a second adjournment under this rule, then the meeting comes to an end.

Proofs in adjournment

15.24. Where a meeting in an administration, an administrative receivership, a creditors' voluntary winding-up, a winding up by the court or a bankruptcy is adjourned, proofs may be used if delivered not later than 4pm on the business day immediately before resumption of the adjourned meeting, or later than that time where the chair is content to accept the proof.

Suspension

15.25.—The chair of a meeting may, without an adjournment, declare the meeting suspended for one or more periods not exceeding one hour in total (or, in exceptional circumstances, such longer total period during the same day at the chair's discretion).

CHAPTER 7

Creditors' voting rights and majorities

Creditors' voting rights

15.26.—(1) In an administration, an administrative receivership, a creditors' voluntary winding up, a winding up by the court and a bankruptcy, a creditor is entitled to vote in a decision procedure only if—

(a) the creditor has, subject to 15.27, delivered to the convener a proof of the debt claimed in accordance with paragraph (2), including any calculation for the purposes of rule 15.29 or 15.30, and

(b) the proof was delivered to the convener—

(i) not later than the decision date, or in the case of a meeting, 4pm on the business day before the meeting, or

(ii) in the case of a meeting, later than that time where the chair is content to accept the proof; and

(c) the proof has been admitted for the purposes of entitlement to vote;

and, in the case of a meeting, there has been delivered to the convener or chair any proxy intended to be used on behalf of that person.

(2) A debt is claimed in accordance with this paragraph if it is—

(a) claimed as due from the company or bankrupt to the person seeking to be entitled to vote, or

(b) in relation to a member State liquidator, claimed to be due to creditors in proceedings in relation to which that liquidator holds office.

(3) The convener or chair may call for any document or other evidence to be produced if the convener or chair thinks it necessary for the purpose of substantiating the whole or any part of a claim.

(4) In a company or individual voluntary arrangement every creditor, secured or unsecured, who has notice of the decision procedure is entitled to vote in respect of that creditor's debt.

Scheme manager's voting rights

15.27.—(1) For the purpose of voting in a creditors' voluntary winding up or a winding up by the court of an authorised deposit-taker or former authorised deposit-taker at which the scheme manager established under section 212(1) of the Financial Services and Markets Act 2000 is entitled to be represented under rule 15.15 (but not for any other purpose), the manager may deliver, instead of a proof, a statement containing—

(a) the names of the creditors of the company in relation to whom an obligation of the scheme manager has arisen or may reasonably be expected to arise,

(b) the amount of each such obligation, and

(c) the total amount of all such obligations.

(2) The manager may from time to time deliver a further statement; and each such statement supersedes any previous statement.

Claim made in proceedings in other member States

15.28.—(1) Where a creditor in an administration, a creditors' voluntary winding up, a winding up by the court or a bankruptcy—

(a) is entitled to vote under rule 15.26(1) (as determined, where that be the case, in accordance with rule 15.33),

(b) has made the claim in other proceedings, and

(c) votes on a resolution in a decision procedure,

and a member State liquidator casts a vote in relation to the same claim, only the creditor's vote is to be counted.

(2) Where in an administration, a creditors' voluntary winding up, a winding up by the court or a bankruptcy—

(a) a creditor has made a claim in more than one set of other proceedings, and

(b) more than one member State liquidator seeks to vote by virtue of that claim,

the entitlement to vote by virtue of that claim is exercisable by the member State liquidator in the main proceedings, whether or not the creditor has made the claim in the main proceedings.

(3) In this rule, "other proceedings" mean main, secondary or territorial proceedings in another member State.

Calculation of voting rights

15.29.—(1) Votes are calculated according to the amount of each creditor's claim—

(a) in an administration, as at the date on which the company entered administration, less—

(i) any payments that have been made to the creditor after that date in respect of the claim, and

(ii) any adjustment by way of set-off in accordance with rule 14.24—

(aa) as if that rule were applied on the date on which the votes are counted if notice of declaration of a dividend has not been delivered under rule 14.35, or

(bb) which has actually been made in calculating the dividend to be paid to the creditor if notice of declaration of a dividend has been delivered under rule 14.35;

(b) in an administrative receivership, as at the date of the appointment of the receiver, less any payments that have been made to the creditor after that date in respect of the claim;

(c) in a creditors' voluntary winding up, a winding up by the court or a bankruptcy, as set out in the creditor's proof to the extent that it has been admitted;

(d) in a company voluntary arrangement—

(i) at the date the company went into liquidation where the company is being wound up;

(ii) at the date the company entered into administration (less any payments made to the creditor after that date in respect of the claim) where it is in administration;

(iii) at the beginning of the moratorium where a moratorium has been obtained; or

(iv) where (i) to (iii) do not apply, at the decision date;

(e) in an individual voluntary arrangement—

(i) where the debtor is not an undischarged bankrupt—

(aa) at the date the interim order, where there is an interim order in force;

(bb) otherwise, at the decision date;

(ii) where the debtor is an undischarged bankrupt, at the date of the notice of the decision procedure.

(2) A creditor may vote in respect of a debt of an unliquidated or unascertained amount if the convener or chair decides to put upon it an estimated minimum value for the purpose of entitlement to vote and admits the claim for that purpose.

(3) But in a company or individual voluntary arrangement, a debt of an unliquidated or unascertained amount is to be valued at £1 for the purposes of voting unless the convener or chair or an appointed person decides to put a higher value on it.

(4) Where a debt is wholly secured its value for voting purposes is nil.

(5) Where a debt is partly secured its value for voting purposes is the value of the unsecured part.

(6) However, the value of the debt for voting purposes is its full value without deduction of the value of the security in the following cases—

(a) where the administrator has made a statement under paragraph 52(1)(b) of Schedule B1 and the administrator has been requested to seek a decision under paragraph 52(2);

(b) where in a company voluntary arrangement there is a decision on whether to extend or further extend a moratorium or to bring a moratorium to an end before the end of the period of any extension.

(7) No vote may be cast by virtue of a claim more than once on any resolution put to the meeting; and for this purpose (where relevant), the claim of a creditor and of any member State liquidator in relation to the same debt are a single claim.

(8) Paragraph (7) does not prevent a creditor or member State liquidator from—

(a) voting in respect of less than the full value of an entitlement to vote, or

(b) casting a vote one way in respect of part of the value of an entitlement and another way in respect of some or all of the balance of that value.

Calculation of voting rights: special cases

15.30.—(1) — In an administration, a creditor under a hire-purchase agreement is entitled to vote in respect of the amount of the debt due and payable by the company on the date on which the company entered administration.

(2) In calculating the amount of any debt for the purpose of paragraph (1), no account is to 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—

(a) the making of an administration application,

(b) a notice of intention to appoint an administrator or any matter arising as a consequence of the notice, or

(c) the company entering administration.

(3) Any voting rights which a creditor might otherwise exercise in respect of a claim in a creditors' voluntary winding up or a winding up by the court of an authorised deposit-taker or former authorised deposit-taker are reduced by a sum equal to the amount of that claim in relation to which the scheme manager, by virtue of its having delivered a statement under rule 15.27, is entitled to exercise voting rights.

Procedure for admitting creditors' claims for voting

15.31.—(1) The convener or chair in respect of a decision procedure must ascertain entitlement to vote and admit or reject claims accordingly.

(2) The convener or chair may admit or reject a claim in whole or in part.

(3) If the convener or chair is in any doubt whether a claim should be admitted or rejected, the convener or chair must mark it as objected to and allow votes to be cast in respect of it, subject to such votes being subsequently declared invalid if the objection to the claim is sustained.

Requisite majorities

15.32.—(1) A decision is made by creditors when a majority (in value) of those voting have voted in favour of the proposed decision, except where this rule provides otherwise.

(2) In the case of an administration, any decision is invalid if those voting against it include more than half in value of the creditors to whom notice of the decision procedure was delivered and who are not, to the best of the convener or chair's belief, persons connected with the company.

(3) Each of the following decisions in a company voluntary arrangement is made when three-quarters or more (in value) of those responding vote in favour of it—

(a) a decision approving a proposal or a modification;

(b) a decision extending or further extending a moratorium; or

(c) a decision bringing a moratorium to an end before the end of the period of any extension.

(4) In a company voluntary arrangement a decision is not made if more than half of the total value of the unconnected creditors vote against it.

(5) For the purposes of paragraph (4)—

(a) a creditor is unconnected unless the convener or chair decides that the creditor is connected with the company;

(b) in deciding whether a creditor is connected reliance may be placed on the information provided by the company's statement of affairs or otherwise in accordance with these Rules; and

(c) the total value of the unconnected creditors is the total value of those unconnected creditors whose claims have been admitted for voting.

(6) In the case of an individual voluntary arrangement—

(a) a decision approving a proposal or a modification is made when three-quarters or more (in value) of those responding vote in favour of it;

(b) a decision is not made if more than half of the total value of creditors who are not associates of the debtor vote against it.

(7) For the purposes of paragraph (6)—

(a) a creditor is not an associate of the debtor unless the convener or chair decides that the creditor is an associate of the debtor;

(b) in deciding whether a creditor is an associate of the debtor, reliance may be placed on the information provided by the debtor's statement of affairs or otherwise in accordance with these Rules; and

(c) the total value of the creditors who are not associates of the debtor is the total value of the creditors who are not associates of the debtor whose claims have been admitted for voting.

Appeals against decisions under this Chapter

15.33.—(1) A decision of the convener or chair under this Chapter is subject to appeal to the court by any creditor, by a contributory, or by the bankrupt or debtor (as applicable).

(2) In a company voluntary arrangement, an appeal against a decision under this Chapter may also be made by a member of the company.

(3) If the decision is reversed or varied, or votes are declared invalid, the court may order another decision procedure to be initiated or make such order as it thinks just but, in a company or individual voluntary arrangement, the court may only make an order if it considers that the circumstances which led to the appeal give rise to unfair prejudice or material irregularity.

(4) An appeal under this rule may not be made later than 21 days after the decision date.

(5) However, the previous paragraph does not apply in a company or individual voluntary arrangement, where an appeal may not be made after the end of the period of 28 days beginning with the day—

(a) in a company voluntary arrangement, on which the first of the reports required by section 4(6) or paragraph 30(3) was filed with the court;

(b) in an individual voluntary arrangement—

(i) where an interim order has not been obtained, on which the notice of the result of the consideration of the proposal required by section 259(1)(a) has been given;

(ii) otherwise, on which the report required by section 259(1)(b) is made to the court.

(6) The person who made the decision is not personally liable for costs incurred by any person in relation to an appeal under this rule unless the court makes an order to that effect.

(7) The court may not make an order under paragraph (6) if the person who made the decision in a winding up by the court or a bankruptcy is the official receiver or a person nominated by the official receiver.

CHAPTER 8

Exclusions from meetings

Action where person excluded

15.34.—(1) In this rule and rules 15.35 and 15.36, an "excluded person" means a person who has taken all steps necessary to attend a virtual meeting or has been permitted by the convener to attend a physical meeting remotely under the arrangements which—

(a) have been put in place by the convener of the meeting, but

(b) 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 15.36 to declare the meeting void and hold the meeting again; or

(b) the court directs otherwise.

(4) Without prejudice to paragraph (2), 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

15.35.—(1) A creditor who claims to be an excluded person may request an indication of what occurred during the period of that person's claimed exclusion.

(2) A request under paragraph (1) must be made in accordance with paragraph (3) as soon as reasonably practicable, and in any event, not later than 4pm on the business day following the day on which the exclusion is claimed to have occurred.

(3) A request under paragraph (1) must be made to—

(a) the chair where it is made during the course of the business of the meeting; or

(b) the office-holder 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) must deliver the requested indication to the excluded person as soon as reasonably practicable, and in any event, not later than 4pm on the business day following the day on which the request was made under paragraph (1).

Complaint

15.36.—(1) A person may make a complaint who—

(a) is, or claims to be, an excluded person; or

(b) attends the meeting and claims to have been adversely affected by the actual, apparent or claimed exclusion of another person.

(2) The complaint must be made to the appropriate person who is —

(a) the chair, where the complaint is made during the course of the meeting; or

(b) the office-holder, where it is made after the meeting.

(3) The complaint must be made as soon as reasonably practicable and, in any event, no later than 4pm 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 15.35, the day on which the complainant received the indication.

(4) The appropriate person must, as soon as reasonably practicable following receipt of the complaint,—

(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 appropriate person considers fit to remedy the prejudice.

(5) Paragraph (6) applies where the appropriate person is satisfied that the complainant is an excluded person and—

(a) a resolution was voted on at the meeting during the period of the person's exclusion; and

(b) the excluded person asserts how the excluded person intended to vote on the resolution.

(6) Where the appropriate person is satisfied if the excluded person had voted as that person intended it would have changed the result of the resolution, then the appropriate person must, as soon as reasonably practicable,—

(a) count the intended vote as having been cast in that way;

(b) amend the record of the result of the resolution; and

(c) where notice of the result of the resolution has been delivered to those entitled to attend the meeting, deliver notice to them of the change.

(7) Where satisfied that more than one complainant is an excluded person, the appropriate person must have regard to the combined effect of the intended votes.

(8) The appropriate person must deliver notice to the complainant of any decision as soon as reasonably practicable.

(9) A complainant who is not satisfied by the action of the appropriate person may apply to the court for directions and any application must be made no more than two business days from the date of receiving the decision of the appropriate person.

CHAPTER 9

Contributories' voting rights and majorities

Contributories' voting rights and requisite majorities

15.37. In a decision procedure for contributories—

(a) voting rights are as at a general meeting of the company, subject to any provision of the articles affecting entitlement to vote, either generally or at a time when the company is in liquidation;

(b) a decision is made if more than one half of the votes cast by contributories are in favour.

CHAPTER 10

Records

Record of a decision

15.38.—(1) The convener or chair must cause a record of the decision procedure to be kept.

(2) In the case of a meeting, the record must be in the form of a minute of the meeting.

(3) The record must be authenticated by the convener or chair and be retained by the office-holder as part of the records of the insolvency proceedings in question.

(4) The record must include—

(a) in the case of a creditors' decision procedure, a list of the names of creditors who participated and their claims;

(b) in the case of a contributories' decision procedure, a list of the names of contributories who participated;

(c) where a decision is taken on the election of members of a creditors' committee or liquidation committee, the names and addresses of those elected, and

(d) in any case, a record of every decision made.

(5) Where a decision is sought using the deemed consent procedure, a record must be taken of the procedure, authenticated by the convener, and must be retained by the office-holder as part of the records of the insolvency proceedings in question.

(6) The record under paragraph (5) must—

(a) state whether or not the decision was taken; and

(b) contain a list of the creditors or contributories who objected to the decision, and in the case of creditors, their claims.

CHAPTER 11

Company meetings

Company meetings

15.39.—(1) Unless the Act or these Rules provide otherwise, a company meeting must be called and conducted, and records of the meeting must be kept—

(a) in accordance with the law of England and Wales, including any applicable provision in or made under the Companies Act, in the case of a company incorporated—

(i) in England and Wales, or

(ii) outside the United Kingdom other than in an EEA state;

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

(2) For the purpose of this rule, reference to a company meeting called and conducted to resolve, decide or determine a particular matter includes a reference to that matter being resolved, decided or determined by written resolution of a private company passed in accordance with section 288 of the Companies Act.

Remote attendance at company meetings

Location of company meetings

15.40.—(1) This rule applies to a request to the convener of a meeting under section 246A(9) to specify a place for the meeting.

(2) The request must be accompanied by

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

(b) from each person concurring, confirmation of that person's concurrence.

(3) The request must be delivered to the convener within seven business days of the date on which the convener delivered the notice of the meeting in question.

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

(a) deliver 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) deliver 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 delivered 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

15.41.—(1) In this rule and rules 15.42 and 15.43, an "excluded person" means a person who has taken all steps necessary to attend a company meeting under the arrangements which—

(a) have been put in place by the convener of the meeting under section 246A(6), but

(b) 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 15.43 to declare the meeting void and hold the meeting again; or

(b) the court directs otherwise.

(4) Without prejudice to paragraph (2), 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

15.42.—(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.

(2) A request under paragraph (1) must be made in accordance with paragraph (3) as soon as reasonably practicable, and in any event, not later than 4pm on the business day following the day on which the exclusion is claimed to have occurred.

(3) A request under paragraph (1) must be made to—

(a) the chair where it is made during the course of the business of the meeting; or

(b) the office-holder 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) must deliver the requested indication to the excluded person as soon as reasonably practicable, and in any event, not later than 4pm on the business day following the day on which the request was made under paragraph (1).

Complaint

15.43.—(1) A person may make a complaint who—

(a) is, or claims to be, an excluded person; or

(b) attends the meeting and claims to have been adversely affected by the actual, apparent or claimed exclusion of another person.

(2) The complaint must be made to the appropriate person who is —

(a) the chair, where the complaint is made during the course of the meeting; or

(b) the office-holder, where it is made after the meeting.

(3) The complaint must be made as soon as reasonably practicable and, in any event, no later than 4pm 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 15.42, the day on which the complainant received the indication.

(4) The appropriate person must, as soon as reasonably practicable following receipt of the complaint,—

(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 appropriate person considers fit to remedy the prejudice.

(5) Paragraph (6) applies where the appropriate person is satisfied that the complainant is an excluded person and—

(a) a resolution was voted on at the meeting during the period of the person's exclusion; and

(b) the excluded person asserts how the excluded person intended to vote on the resolution.

(6) Where the appropriate person is satisfied if the excluded person had voted as that person intended it would have changed the result of the resolution, then the appropriate person must, as soon as reasonably practicable,—

(a) count the intended vote as having been cast in that way;

(b) amend the record of the result of the resolution; and

(c) where notice of the result of the resolution has been delivered to those entitled to attend the meeting, deliver notice to them of the change.

(7) Where satisfied that more than one complainant is an excluded person, the appropriate person must have regard to the combined effect of the intended votes.

(8) The appropriate person must deliver notice to the complainant of any decision as soon as reasonably practicable.

(9) A complainant who is not satisfied by the action of the appropriate person may apply to the court for directions and any application must be made no more than two business days from the date of receiving the decision of the appropriate person.

PART 16

PROXIES AND CORPORATE REPRESENTATION

Interpretation

16.1. References in this Part to "the chair" are to the chair of the meeting for which a specific proxy is given or at which a continuing proxy is exercised.

Specific and continuing proxies

16.2.—(1) A "proxy" is a document given by a creditor, member or contributory to another person ("the proxy-holder") which authorises that person to attend, to speak and vote as the representative of the creditor, member or contributory at a meeting.

(2) A proxy is to be treated as a proxy for the specific meeting which is identified in the proxy unless it states that it is a continuing proxy for the insolvency proceeding.

(3) A continuing proxy may be superseded by a proxy for a specific meeting or withdrawn by a written notice to the office-holder.

(4) Where a proxy appoints the chair (however described in the proxy) as proxy-holder the chair may not refuse to be the proxy-holder.

(5) A specific proxy either—

(a) directs or authorises the proxy-holder to vote or abstain, or to propose resolutions as instructed; or

(b) authorises the proxy-holder to do so in accordance with the proxy-holder's discretion.

(6) A continuing proxy must authorise the proxy-holder to vote or abstain, or to propose resolutions in accordance with the proxy-holder's discretion.

(7) A creditor, member or contributory may appoint more than one person to be proxy-holder but if so—

(a) their appointment is as alternates; and

(b) only one of them may act as proxy-holder at a meeting.

(8) The proxy-holder must be an individual.

Blank proxy

16.3.—(1) A "blank proxy" is a document which—

(a) complies with the requirements in this rule; and

(b) when completed with the details specified in paragraph (3) will be a proxy as described in rule 16.2.

(2) A blank proxy must state that the creditor, member or contributory named in the document (when completed)—

(a) appoints a person who is named or identified as the proxy-holder of the creditor, member or contributory;

(b) states whether the proxy is—

(i) for a specific meeting which is identified in the proxy; or

(ii) a continuing proxy for the proceedings; and

(c) directs or authorises the proxy-holder to vote or abstain or propose resolutions as instructed.

(3) The specified details are—

(i) the name and address of the creditor, member or contributory;

(ii) either the name of the proxy-holder or the identification of the proxy-holder (e.g. the chair of the meeting or the official receiver);

(iii) if the proxy is for a specific meeting instructions as to the extent to which the proxy-holder is directed to vote in a particular way or to abstain.

(4) A blank proxy must not have inserted in it the name or description of any person as proxy-holder or as a nominee for office-holder when it is delivered.

(5) A blank proxy must have a note to the effect that the proxy may be completed with the name of the person or the chair of the meeting who is to be proxy-holder.

Use of proxies

16.4.—(1) A proxy for a specific meeting must be delivered to the chair before the meeting.

(2) A continuing proxy must be delivered to the office-holder and may be exercised at any meeting which begins after the proxy is delivered.

(3) A proxy may be used at the resumption of the meeting after an adjournment, but if a different proxy is given for use at a resumed meeting, that proxy must be delivered to the chair before the start of the resumed meeting.

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

(5) A proxy-holder may propose a resolution which is one on which the proxy-holder could vote if someone else proposed it.

(6) Where a proxy gives specific directions as to voting, this does not, unless the proxy states otherwise, prohibit the proxy-holder from exercising discretion how to vote on a resolution which is not dealt with by the proxy.

(7) The chair may require a proxy used at a meeting to be the same as or substantially similar to the blank proxy delivered for that meeting or to a blank proxy previously delivered which has been completed as a continuing proxy.

Use of proxies by the chair

16.5.—(1) Where the office-holder is appointed as proxy-holder but another person acts as chair of the meeting, that other person may use the proxies as if that person were the proxy-holder.

(2) Where, in a meeting of creditors in an administration, creditors' voluntary winding up, winding up by the court or a bankruptcy, the chair holds a proxy which requires the proxy-holder to vote for a particular resolution and no other person proposes that resolution the chair must propose it unless the chair considers that there is good reason for not doing so.

(3) If the chair does not propose such a resolution, the chair must as soon as reasonably practicable after the meeting deliver a notice of the reason why that was not done to the creditor, member or contributory.

Right of inspection and retention of proxies

16.6.—(1) A person attending a meeting is entitled, immediately before or in the course of the meeting, to inspect proxies and associated documents delivered to the chair or to any other person in accordance with the notice convening the meeting.

(2) The chair must—

(a) retain the proxies used for voting at a meeting where the chair is the office-holder, or

(b) deliver them as soon as reasonably practicable after the meeting to the office-holder.

(3) The office-holder must allow proxies, so long as they remain in the office-holder's hands, to be inspected at all reasonable times on any business day by—

(a) a creditor, in the case of proxies used at a meeting of creditors,

(b) a member of the company or a contributory, in the case of proxies used at a meeting of the company, or a meeting of contributories,

(c) a director of the company in the case of corporate insolvency proceedings; or

(d) the debtor or the bankrupt in the case of personal insolvency proceedings.

(4) A creditor in paragraph (3)(a) is a person who has delivered a proof in the proceedings, but does not include a person whose claim has been wholly rejected.

(5) However the right of inspection is subject to rule 1.56 (confidentiality of documents – grounds for refusing inspection).

Proxy-holder with financial interest

16.7.—(1) A proxy-holder (including the chair using a proxy under rule 16.5(1)) must not vote for a resolution which would—

(a) directly or indirectly place the proxy-holder or any associate in a position to receive any remuneration, fees or expenses from the insolvent estate, or

(b) fix or change the amount of or the basis for any remuneration, fees or expenses receivable by the proxy-holder or any associate out of the insolvent estate.

(2) However a proxy-holder may vote for such a resolution if the proxy specifically directs the proxy-holder to vote in that way.

(3) A proxy-holder is an associate of the chair where the chair uses a proxy under rule 16.5(1).

Corporate representation

16.8.—(1) If a corporation is a creditor in a bankruptcy or an individual voluntary arrangement, it may by resolution of its directors or other governing body authorise a person or persons to act as its representative or representatives in relation to any decision procedure of the bankrupt or debtor's creditors held in pursuance of the Act or of these Rules.

(2) Where the corporation authorises only one person, that person is entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if it were an individual creditor.

(3) Where the corporation authorises more than one person, any one of them is entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if it were an individual creditor.

(4) Where the corporation authorises more than one person and more than one of them purport to exercise a power under paragraph (3)—

(a) if they purport to exercise the power in the same way, the power is treated as exercised in that way;

(b) if they do not purport to exercise the power in the same way, the power is treated as not exercised.

[Note: section 424B makes similar provision for corporate representation in company insolvency proceedings.]

16.9.—(1) A person authorised to represent a corporation (other than as a proxy-holder) at a meeting of creditors or contributories must produce to the chair—

(a) the instrument conferring the authority, or

(b) a copy of it certified as a true copy by—

(i) two directors, or

(ii) a director and the secretary, or

(iii) a director in the presence of a witness who attests the director's signature.

(2) The instrument conferring the authority must have been executed in accordance with section 44(1) to (3) of the Companies Act unless the instrument is the constitution of the corporation.

PART 17

CREDITORS' AND LIQUIDATION COMMITTEES

CHAPTER 1

INTRODUCTORY

Scope and interpretation

17.1. (1) This Part applies to the establishment and operation of—

(a) a creditors' committee in an administration;

(b) a creditors' committee in an administrative receivership;

(c) a liquidation committee in a creditors' voluntary winding up;

(d) a liquidation committee in a winding up by the court; and

(e) a creditors' committee in a bankruptcy.

(2) In this Part—

"contributory member" means a member of a liquidation committee appointed by the contributories; and

”creditor member” means a member of a liquidation committee appointed by the creditors.

CHAPTER 2

FUNCTIONS OF A COMMITTEE

Functions of a committee

17.2. In addition to any functions conferred on a committee by any provision of the Act, a committee must assist the office-holder in discharging the office-holder’s functions and act in relation to the office-holder in such manner as may from time to time be agreed.

CHAPTER 3

MEMBERSHIP AND FORMALITIES OF FORMATION OF A COMMITTEE

Number of members of a committee

17.3.—(1) A committee in a bankruptcy, administration or administrative receivership must have at least three members but not more than five members.

(2) A liquidation committee in a creditors’ voluntary winding up appointed pursuant to section 101(**a**) must have at least three members.

[Note: section 101(1) provides that such a committee may have not more than five members.]

(3) A liquidation committee in a winding up by the court established under section 141(**b**) must have—

(a) at least three and not more than five members elected by the creditors; and

(b) where the grounds on which the company was wound up do not include inability to pay its debts, and where the contributories so decide, up to three contributory members elected by the contributories.

[Note: See sections 21, 362, 363, 365, 371 and 374 of the Financial Services and Markets Act 2000 (c.8) for the rights of persons appointed by a scheme manager, the FCA and the PRA to attend committees and make representations.]

Eligibility for membership of creditors’ or liquidation committee

17.4.—(1) This rule applies to a creditors’ committees in an administration, an administrative receivership, and a bankruptcy and to liquidation committees in a creditors’ voluntary winding up and a winding up by the court.

(2) A creditor is eligible to be a member of such a committee if—

(a) the person has proved in writing for a debt (either for the purpose of voting or for distribution of a dividend);

(b) the debt is not fully secured; and

(c) neither of the following apply—

(i) the proof has been wholly disallowed for voting purposes;

(ii) the proof has been wholly rejected for the purpose of distribution or dividend.

(3) A body corporate may be a member of a creditors’ committee, but it cannot act otherwise than by a representative appointed under rule 17.15.

(**a**) In section 101 subsection (1) was substituted by paragraph 25(2) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26) and subsection (3) was amended by paragraph 25(3) of that Schedule.

(**b**) In section 141 subsections (1) to (3C) were substituted by paragraph 36 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

Establishment of committees

17.5.—(1) Where the creditors, or where relevant, contributories, decide that a creditors' or liquidation committee should be established, the convener or chair of the decision (if not the office-holder) must—

(a) as soon as reasonably practicable deliver a notice of the decision to the office-holder (or to the person appointed as office-holder); and

(b) where a decision has also been made as to membership of the committee, inform the office-holder of the names and addresses of the persons elected to be members of the committee.

(2) Before a person may act as a member of the committee that person must agree to do so.

(3) A person's proxy-holder attending a meeting establishing the committee or, in the case of a corporation, its duly appointed representative, may give such agreement (unless the proxy or instrument conferring authority contains a statement to the contrary).

(4) The committee does not come into being (and accordingly cannot act), until the office-holder has delivered a notice of its membership in accordance with paragraph (9) or (10).

(5) Where a decision has been made to establish a committee but not as to its membership, the office-holder must either—

(a) seek a decision from the creditors (on creditor members of the committee) and, where appropriate in a winding up by the court, a decision from contributories (on contributory members of the committee); or

(b) select the committee's members as the office-holder considers appropriate to best represent the nominations for membership received.

(6) The notice must contain the following—

(a) a statement that the committee has been duly constituted;

(b) identification details for each company that is a member of the committee;

(c) the full name and address of each member which is not a company.

(7) The notice must be authenticated and dated by the office-holder.

(8) The notice must be delivered as soon as reasonably practicable after the minimum number of persons required by rule 17.3 have agreed to act as members and been elected.

(9) Where the notice relates to liquidation committee or a creditors' committee other than in a bankruptcy the office-holder must, as soon as reasonably practicable, deliver the notice to the registrar of companies.

(10) Where the notice relates to a creditors' committee in a bankruptcy the office-holder must, as soon as reasonably practicable—

(a) in bankruptcy proceedings based on a petition file the notice with the court; and

(b) in bankruptcy proceedings based on a bankruptcy application deliver the notice to the official receiver.

Notice of change of membership of a committee

17.6.—(1) The office-holder must deliver or file a notice if there is a change in membership of the committee.

(2) The notice must contain the following—

(a) the date of the original notice in respect of the constitution of the committee and the date of the last notice of a membership given under this rule (if any);

(b) a statement that this notice of membership replaces the previous notice;

(c) identification details for any company that is a member of the committee;

(d) the full name and address of any member which is not a company;

(e) a statement whether any member has become a member since the issue of the previous notice;

(f) the identification details for a company or otherwise the full name of any member named in the previous notice who is no longer a member and the date the membership ended.

(3) The notice must be authenticated and dated by the office-holder.

(4) Where the notice relates to liquidation committee or a creditors' committee other than in a bankruptcy the office-holder must, as soon as reasonably practicable, deliver the notice to the registrar of companies.

(5) Where the notice relates to a creditors' committee in a bankruptcy the office-holder must, as soon as reasonably practicable—

(a) in bankruptcy proceedings based on a petition file the notice with the court; and

(b) in bankruptcy proceedings based on a bankruptcy application deliver the notice to the official receiver.

Vacancies: creditor members of creditors' or liquidation committee

17.7.—(1) This rule applies if there is a vacancy in the membership of a creditors' or liquidation committee or where the number of members of the committee is fewer than the maximum allowed.

(2) A vacancy need not be filled if—

(a) the office-holder and a majority of the remaining committee members agree; and

(b) the number of members does not fall below three.

(3) The office-holder may appoint a creditor, who is qualified under rule 17.4 to be a member of the committee, to fill a vacancy or as an additional member of the committee, if—

(a) a majority of the remaining members of the committee (provided there are at least two) agree to the appointment; and

(b) the creditor agrees to act.

(4) Alternatively, the office-holder may seek a decision from creditors to appoint a creditor (with that creditor's consent) to fill the vacancy.

(5) Where the vacancy is filled by an appointment made by a decision of creditors which is not convened or chaired by the office-holder, the convener or chair must report the appointment to the office-holder.

Resignation

17.8. A member of a committee may resign by informing the office-holder in writing.

Termination of membership

17.9.—A person's membership of a committee is automatically terminated if that person—

(a) becomes bankrupt in which case the person's trustee in bankruptcy replaces the bankrupt as a member of the committee;

(b) is a person to whom a moratorium period under a debt relief order applies;

(c) neither attends nor is represented at three consecutive meetings (unless it is resolved at the third of those meetings that this rule is not to apply in that person's case);

(d) has ceased to be eligible to be a member of the committee under rule 17.4;

(e) ceases to be a creditor or is found never to have been a creditor.

Removal

17.10.—(1) A creditor member of a committee may be removed by a decision of the creditors through a decision procedure and in the case of a liquidation committee a contributory member of the committee may be removed by a decision of contributories through a decision procedure.

(2) At least 14 days' notice must be given of a decision procedure under this rule.

Cessation of liquidation committee in a winding up when creditors are paid in full

17.11.—(1) Where the creditors have been paid in full together with interest in accordance with section 189, the liquidator must—

(a) issue a certificate to that effect; and

(b) deliver to the registrar of companies a notice to that effect together with a copy of the certificate referred to in sub-paragraph (a).

(2) On the issue of a certificate the creditors' committee ceases to exist.

(3) The certificate must—

(a) identify the liquidator;

(b) contain a statement by the liquidator certifying that the creditors of the company have been paid in full with interest in accordance with section 189; and

(c) be authenticated and dated by the liquidator.

CHAPTER 4

MEETINGS OF COMMITTEE

Meetings of committee

17.12.—(1) Meetings of the committee must be held when and where determined by the office-holder.

(2) The office-holder must call a first meeting of the committee to take place within six weeks of the committee's establishment.

(3) After the calling of the first meeting, the office-holder must call a meeting—

(a) if so requested by a member of the committee or a member's representative (the meeting then to be held within 21 days of the request being received by the office-holder); and

(b) for a specified date, if the committee has previously resolved that a meeting be held on that date; and

(4) The office-holder must give five business days' notice of the venue of a meeting to each member of the committee (or a member's representative, if designated for that purpose), except where the requirement for notice has been waived by or on behalf of a member.

(5) Waiver may be signified either at or before the meeting.

The chair at meetings

17.13. The chair at a meeting of a committee must be the office-holder or an appointed person.

Quorum

17.14. A meeting of a committee is duly constituted if due notice of it has been delivered to all the members, and at least two of the members are in attendance or represented.

Committee-members' representatives

17.15.—(1) A member of the committee may, in relation to the business of the committee, be represented by another person duly authorised by the member for that purpose.

(2) A person acting as a committee-member's representative must hold a letter of authority entitling that person to act (either generally or specially) and authenticated by or on behalf of the committee-member.

(3) A proxy (in relation to a meeting) or the instrument conferring authority (in respect of a person authorised to represent a corporation) is to be treated as a letter of authority to act generally (unless the proxy or instrument conferring authority contains a statement to the contrary).

(4) The chair at a meeting of the committee may call on a person claiming to act as a committee-member's representative to produce a letter of authority, and may exclude that person if it appears to the chair that the authority is deficient.

(5) A committee member may not be represented by—

(a) another member of the committee;

(b) a person who is at the same time representing another committee-member;

(c) a body corporate;

(d) an undischarged bankrupt;

(e) a person whose estate has been sequestrated and who has not been discharged;

(f) a person to whom a moratorium period under a debt relief order applies;

(g) a disqualified director; or

(h) a person who is subject to a bankruptcy restrictions order (including an interim order), a bankruptcy restrictions undertaking, a debt relief restrictions order (including an interim order) or a debt relief restrictions undertaking.

(6) Where a representative authenticates any document on behalf of a committee-member the fact that the representative authenticates as a representative must be stated below the authentication.

Voting rights and resolutions

17.16.—(1) At a meeting of the committee, each member (whether the member is in attendance or is represented by a representative) has one vote; and a resolution is passed when a majority of the members attending or represented have voted in favour of it.

(2) Every resolution passed must be recorded in writing and authenticated by the chair, either separately or as part of the minutes of the meeting, and the record must be kept with the records of the proceedings.

Resolutions by correspondence

17.17.—(1) The office-holder may seek to obtain the agreement of the committee to a resolution by delivering to every member (or the member's representative designated for the purpose) a copy of the proposed resolution.

(2) The resolution must be set out in such a way that the recipient may indicate agreement or dissent on the copy and where there is more than one resolution may indicate agreement to or dissent from each one separately.

(3) A member of the committee may, within seven business days from the delivery of a resolution, require the office-holder to summon a meeting of the committee to consider the matters raised by the resolution.

(4) In the absence of such a request, the resolution is passed by the committee if a majority of the members (excluding any who are not permitted to vote by reason of rule 17.23(4)) deliver notice to the office-holder that they agree with the resolution.

(5) A copy of every resolution passed under this rule, and a note that the agreement of the committee was obtained, must be kept with the records of the proceedings.

Remote attendance at meetings of committee

17.18.—(1) Where the office-holder considers it appropriate, a meeting may be conducted and, held in such a way that persons who are not present together at the same place may attend it.

(2) A person attends such a meeting who is able to exercise that person's right to speak and vote at the meeting.

(3) A person is able to exercise the right to speak at a meeting when that person is in a position to communicate during the meeting to all those attending the meeting, any information or opinions which that person has on the business of the meeting.

(4) A person is able to exercise the right to vote at a meeting when—

(i) that person is able to vote, during the meeting, on resolutions or determinations put to the vote at the meeting; and

(ii) that person's vote can be taken into account in determining whether or not such resolutions or determinations are passed at the same time as the votes of all the other persons attending the meeting.

(5) Where such a meeting is to be held the office-holder must make whatever arrangements the office-holder considers appropriate to—

(a) enable those attending the meeting to exercise their rights to speak or vote, and

(b) verify the identity of those attending the meeting and to ensure the security of any electronic means used to enable attendance.

(6) A requirement in these rules to specify a place for the meeting may be satisfied by specifying the arrangements the office-holder proposes to enable persons to exercise their rights to speak or vote where in the reasonable opinion of the office-holder—

(a) a meeting will be attended by persons who will not be present together at the same place, and

(b) it is unnecessary or inexpedient to specify a place for the meeting.

(7) In making the arrangements referred to in paragraph (6) and in forming the opinion referred to in paragraph (6)(b), the office-holder must have regard to the legitimate interests of the committee members or their representatives attending the meeting in the efficient despatch of the business of the meeting.

(8) Where the notice of a meeting does not specify a place for the meeting the office-holder must specify a place for the meeting if at least one member of the committee requests the office-holder to do so in accordance with rule 17.19.

Procedure for requests that a place for a meeting should be specified

17.19.—(1) This rule applies to a request to the office-holder under rule 17.18(8) to specify a place for the meeting.

(2) The request must be made within three business days of the date on which the office-holder delivered the notice of the meeting in question.

(3) Where the office-holder considers that the request has been properly made in accordance with this rule, the office-holder must—

(a) deliver 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 seven business days after the original date for the meeting; and

(c) give three business days' notice of the venue to all those previously given notice of the meeting.

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

(5) Where the office-holder has specified a place for the meeting in response to a request under rule 17.18(8), the chairman of the meeting must attend the meeting by being present in person at that place.

CHAPTER 5

SUPPLY OF INFORMATION BY THE OFFICE-HOLDER TO THE COMMITTEE

Notice requiring office-holder to attend the creditors' committee (administration and administrative receivership) (paragraph 57(3)(a) of Schedule B1 and section 49(2))

17.20.—(1) This rule applies where—

(a) a committee in an administration resolves under paragraph 57(3)(a) of Schedule B1 to require the attendance of an administrator; or

(b) a committee in an administrative receivership resolves under section 49(2) to require the attendance of the administrative receiver.

(2) The notice delivered to the office-holder requiring the office-holder's attendance must be—

(a) accompanied by a copy of the resolution; and.

(b) authenticated by a member of the committee.

(3) A member's representative may authenticate the notice for the member.

(4) The meeting at which the office-holder's attendance is required must be fixed by the committee for a business day, and must be held at such time and place as the office-holder determines.

(5) Where the office-holder so attends, the committee may elect one of their number to be chair of the meeting in place of the office-holder or an appointed person.

[Note: In an administration paragraph 57(3) of Schedule B1 enables the creditors' committee to require the administrator to provide the committee with information: section 49(2) makes similar provision in an administrative receivership.]

Office-holder's obligation to supply information to the committee (winding up and bankruptcy)

17.21.—(1) This rule applies in relation to a creditors' voluntary winding up, a winding up by the court and a bankruptcy(**a**).

(2) The office-holder must deliver a report to every member of the liquidation committee or the creditors' committee (as appropriate) containing the information required by paragraph (3)—

(a) not less than once in every period of six months (unless the committee agrees otherwise); and

(b) when directed to do so by the committee.

(3) The required information is a report setting out—

(a) the position generally in relation to the progress of the proceedings; and

(b) any matters arising in connection with them to which the office-holder considers the committee's attention should be drawn.

(**a**) In the case of an administration or an administrative receivership the office-holder is required to supply to the committee such information relating to the carrying out of the office-holder's functions as it may reasonably require – see section 49(2) of, and paragraph 57(2) of Schedule B1 to, the Act.

(4) The office-holder must, as soon as reasonably practicable after being directed by the committee—

(a) deliver any report directed under paragraph (2)(b);

(b) comply with a request by the committee for information.

(5) However the office-holder need not comply with such a direction where it appears to the office-holder that—

(a) the direction is frivolous or unreasonable, or

(b) the cost of complying would be excessive, having regard to the relative importance of the information, or

(c) there are insufficient assets to enable the office-holder to comply.

(6) Where the committee has come into being more than 28 days after the appointment of the office-holder, the office-holder must make a summary report to the members of the committee of what actions the office-holder has taken since the office-holder's appointment, and must answer such questions as they may put to the office-holder relating to the office-holder's conduct of the proceedings so far.

(7) A person who becomes a member of the committee at any time after its first establishment is not entitled to require a report under this rule by the office-holder of any matters previously arising, other than a summary report.

(8) Nothing in this rule disentitles the committee, or any member of it, from having access to the office-holder's record of the proceedings, or from seeking an explanation of any matter within the committee's responsibility.

CHAPTER 6

MISCELLANEOUS

Expenses of members etc.

17.22.—(1) The office-holder must pay, as an expense of the insolvency proceedings, the reasonable travelling expenses directly incurred by members of the committee or their representatives in attending the committee's meetings or otherwise on the committee's business.

(2) The requirement for the office-holder to pay the expenses does not apply to a meeting of the committee held within six weeks of a previous meeting, unless the meeting is summoned by the office-holder.

Dealings by committee members and others

17.23.—(1) This rule applies in a creditors' voluntary winding up, a winding up by the court and a bankruptcy to a person who is, or has been in the preceding 12 months—

(a) a member of the committee;

(b) a member's representative; or

(c) an associate of a member, or of a member's representative.

(2) Such a person must not enter into a transaction as a result of which that person would—

(a) receive as an expense of the insolvency proceedings a payment for services given or goods supplied in connection with the estate's administration;

(b) obtain a profit from the estate's administration; or

(c) acquire an asset forming part of the insolvent estate.

(3) However such a transaction may be entered into—

(a) with the prior sanction of the committee, where it is satisfied (after disclosure of the circumstances) that the person will be giving full value in the transaction;

(b) with the prior permission of the court; or

(c) if that person does so as a matter of urgency, or by way of performance of a contract in force before the start of the insolvency proceedings, and that person obtains the court's permission for the transaction, having applied for it without undue delay

(4) Neither a member nor a representative of a member who is to participate directly or indirectly in a transaction may vote on a resolution to sanction that transaction.

(5) The court may, on the application of an interested person—

(a) set aside a transaction on the ground that it has been entered into in contravention of this rule; and

(b) make such other order about the transaction as it thinks just, including an order requiring a person to whom this rule applies to account for any profit obtained from the transaction and compensate the insolvent estate for any resultant loss.

(6) The court will not make an order under the previous paragraph in respect of an associate of a member of the committee or an associate of a member's representative, if satisfied that the associate or representative entered into the relevant transaction without having any reason to suppose that in doing so the associate or representative would contravene this rule.

(7) The costs of the application are not payable as an expense of the insolvency proceedings unless the court order otherwise.

Dealings by committee members and others: administration and administrative receivership

17.24.—(1) This rule applies in an administration and administrative receivership.

(2) Membership of the committee does not prevent a person from dealing with the company provided that a transaction is in good faith and for value.

(3) The court may, on the application of an interested person—

(a) set aside a transaction which appears to it to be contrary to this rule, and

(b) make such other order about the transaction as it thinks just including an order requiring a person to whom this rule applies to account for any profit obtained from the transaction and compensate the company for any resultant loss.

Formal defects

17.25.—(1) The acts of a creditors' committee or a liquidation committee are valid notwithstanding any defect in the appointment, election or qualifications of a member of the committee or a committee-member's representative or in the formalities of its establishment.

(2) This rule does not apply to the creditors' committee in a bankruptcy.

[Note: section 377 makes similar provision to paragraph (1) for the validity of acts of the creditors' committee in a bankruptcy.]

Special rule for bankruptcy and winding up by the court: functions vested in the Secretary of State

17.26.—(1) At any time when the functions of a committee in a bankruptcy or a winding up by the court are vested in the Secretary of State under section 141(4) or (5) or section 302(1) or (2), requirements of the Act or these Rules about notices to be delivered, or reports to be made, to the committee by the office-holder do not apply, otherwise than as enabling the committee to require a report as to any matter.

(2) Where the committee's functions are so vested under section 141(5) or 302(2), they may be exercised by the official receiver.

CHAPTER 7

WINDING UP BY THE COURT FOLLOWING AN ADMINISTRATION

Continuation of creditors' committee

17.27.—(1) This rule applies where a winding-up order has been made by the court on the application of the administrator under paragraph 79 of Schedule B1—

(a) the court makes an order under section 140(1) appointing the administrator as the liquidator; and

(b) a creditors' committee was in existence immediately before the winding-up order was made.

(2) The creditors' committee shall continue in existence after the date of the order as if appointed as a liquidation committee under section 141.

(3) However, subject to rule 17.7(3)(a), the committee cannot act until—

(a) the minimum number of persons required by rule 17.3 have agreed to act as members of the liquidation committee (including members of the former creditors' committee and any other who may be appointed under rule 17.7); and

(b) the liquidator has delivered a notice of continuance of the committee to the registrar of companies.

(4) The notice must be delivered as soon as reasonably practicable after the minimum number of persons required have agreed to act as members or, if applicable, been appointed.

(5) The notice must contain—

(a) a statement that the former creditors' committee is continuing in existence;

(b) identification details for each company that is a member of the committee;

(c) the full name and address of each member which is not a company.

(6) The notice must be authenticated and dated by the office-holder.

[Note: paragraph 83(3)(f) of Schedule B1 makes similar provision for the liquidation committee to continue where the administration is followed by a creditors' voluntary winding up.]

PART 18

REPORTING AND REMUNERATION

CHAPTER 1

Scope of Part 18 and interpretation

18.1.—(1) This Part applies to administration, winding up and bankruptcy.

(2) However this Part does not apply to the official receiver as office-holder or in respect of any period for which the official receiver is the office-holder.

(3) In particular an office-holder other than the official receiver is not required to make any report in respect of a period during which the official receiver was office-holder.

(4) In this Part a reference to the creditors' committee is to be read as including the liquidation committee.

CHAPTER 2

18.2. The office-holder in an administration, winding-up or bankruptcy must prepare and deliver reports in accordance with this Chapter.

Contents of progress reports in administration, winding up and bankruptcy

18.3.—(1) The office-holder's progress report in an administration, winding up and bankruptcy must contain the following information—

(a) identification details for the proceedings;

(b) identification details for the company or bankrupt;

(c) identification and contact details for the office-holder;

(d) the date of appointment of the office-holder and any changes in the office-holder in accordance with paragraphs (3) and (4);

(e) details of progress during the period of the report, including a summary account of receipts and payments during the period of the report;

(f) the information relating to remuneration and expenses required by rule 18.4; and

(g) any other information of relevance to the creditors.

(2) The receipts and payments account in a final progress report must state the amount paid to unsecured creditors by virtue of the application of section 176A.

(3) A change in the office-holder is only required to be shown in the next report after the change.

(4) However if the current office-holder is seeking the repayment of pre-administration expenses from a former office-holder the change in office-holder must continue to be shown until the next report after the claim is settled.

(5) Where an administration has converted to a voluntary winding up the first progress report must include a note of any information received by the liquidator from the former administrator under rule 3.58 (matters occurring after the date of the administrator's final progress report).

Information about remuneration

18.4.—(1) The information relating to remuneration and expenses referred to in rule 18.3(1)(f) is as follows—

(a) the basis fixed for the remuneration of the office-holder under rules 18.16 and 18.18 (or if not fixed at the date of the report, the steps taken during the period of the report to fix it);

(b) if the basis of remuneration has been fixed, a statement of—

(i) the remuneration charged by the office-holder during the period of the report; and

(ii) where the report is the first to be made after the basis has been fixed, the remuneration charged by the office-holder during the periods covered by the previous reports, together with a description of the things done by the office-holder during those periods in respect of which the remuneration was charged;

(c) where the basis for the remuneration is a set amount under rule 18.16(2)(d), it may be shown as that amount without any apportionment to the period of the report;

(d) a statement of the expenses incurred by the office-holder during the period of the report;

(e) a statement setting out whether at the date of the report—

(i) the remuneration anticipated to be charged by the administrator is likely to exceed the fees estimate or any approval given under rule 18.16(4);

(ii) the expenses incurred or anticipated to be incurred are likely to exceed, or have exceeded, the details given to the creditors prior to the determination of the basis of remuneration, and

(iii) the reasons for that excess; and

(f) a statement of the creditors' right to request information about remuneration or expenses under rule 18.10 and their right to challenge the office-holder's remuneration and expenses under rule 18.28.

(2) The information about remuneration and expenses is required irrespective of whether payment was made in respect of them remuneration during the period of the report.

Information about pre-administration costs

18.5.—(1) Where in an administration the administrator has made a statement of pre-administration costs under rule 3.33(5)(b)—

(a) if they are approved under rule 3.50, the first progress report after the approval must include a statement setting out the date of the approval and the amounts approved; and

(b) if any of the costs remain unapproved each successive report must include a statement of any steps taken to get approval.

(2) However if either the administrator has decided not to seek approval, or another insolvency practitioner entitled to seek approval has told the administrator of that practitioner's decision not to seek approval then—

(a) the next report after that must include a statement of whichever is the case; and

(b) no statement under paragraph (1)(b) is required in subsequent reports.

Progress reports in administration: timing

18.6.—(1) The administrator's progress report in an administration must cover the periods of—

(a) six months starting the date the company entered administration; and

(b) each subsequent period of six months.

(2) The periods for which progress reports are required under paragraph (1) are unaffected by any change in the administrator.

(3) However where an administrator ceases to act the succeeding administrator must, if there are any matters of which the succeeding administrator thinks the creditors should be aware, send them a notice of those matters.

(4) The administrator must deliver a copy of a report to the registrar of companies and the creditors within one month of the end of the period covered by the report unless the report is a final progress report under rule 3.53.

Progress reports in administration: enforcement

18.7. An administrator making default in complying with the provisions of rule 18.6 is liable to a fine and, for continued contravention, to a daily default fine.

Progress reports in voluntary winding up: timing

18.8.—(1) This rule applies for the purposes of sections 92A and 104A and prescribes the periods for which reports must be made.

(2) The liquidator's progress reports in a voluntary winding up must cover the periods of—

(a) 12 months starting on the date the liquidator is appointed; and

(b) each subsequent period of 12 months.

(3) The periods for which progress reports are required under paragraph (1) are unaffected by any change in the liquidator.

(4) Where a liquidator ceases to act the succeeding liquidator must, if there any matters of which the succeeding liquidator thinks the creditors should be informed, send them a notice of those matters.

(5) A progress report is not required for any period which ends after the date to which a final account is made up under section 94 or 106 and is delivered by the liquidator to members (members' voluntary winding up) or to members and creditors (creditors' voluntary winding up).

(6) The liquidator must send a copy of each progress report to the registrar of companies who is a prescribed person for the purposes of sections 92A and 104A, to the members, and (in a creditors' voluntary liquidation) to the creditors within two months after the end of the period covered by a report.

Progress reports in winding up by the court and bankruptcy: timing

18.9.—(1) The liquidator or trustee's progress report in a winding up by the court or bankruptcy must cover the periods of —

(a) 12 months starting on the date a person other than the official receiver is appointed liquidator or trustee; and

(b) each subsequent period of 12 months.

(2) The periods for which progress reports are required under paragraph (1) are unaffected by any change in the liquidator or trustee unless at any time the official receiver becomes liquidator or trustee in succession to another person in which case—

(a) the current reporting period under paragraph (1) ends; and

(b) if a person other that the official receiver is subsequently appointed as liquidator or trustee a new period begins under paragraph (1)(a).

(3) Where a liquidator or trustee ceases to act the succeeding liquidator or trustee must, if there are any matters of which the succeeding liquidator or trustee thinks the creditors should be aware, send the creditors a notice of those matters

(4) A progress report is not required for any period which ends after the date to which a final account is made up under section 146 (winding up by the court) or section 331 (bankruptcy) and is delivered by the liquidator or the trustee to the creditors.

(5) In a winding up by the court, the liquidator must deliver a copy of the progress report to the registrar of companies, the members of the company and the creditors within two months of the end of the period covered by the report.

(6) In a bankruptcy, the trustee must deliver a copy of the progress report to the creditors within two months of the end of the period covered by the report.

Creditors' and members' requests for further information in administration, winding up and bankruptcy

18.10.—(1) The following may make a written request to the office-holder for further information about remuneration or expenses (other than pre-administration costs in an administration) set out in a progress report under rule 18.4(1)(b), (c) or (d) or a final report under rule 18.14—

(a) a secured creditor,

(b) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question),

(c) members of the company in a members' voluntary winding up with at least 5% of the total voting rights of all the members having the right to vote at general meetings of the company,

(d) any unsecured creditor with the permission of the court, or

(e) any member of the company in a members' voluntary winding up with the permission of the court.

(2) The request by a person or persons falling within sub-paragraphs (1)(a) to (c) or the application to the court by a person falling within sub-paragraph (1)(d) or (e) must be made with within 21 days after receipt of the report (by the last of them in the case of an application by more than one member).

(3) The office-holder must, within 14 days of receipt of the request respond by either—

(a) providing all of the information requested,

(b) providing some of the information requested;

(c) declining to provide the information requested.

(4) The office-holder may respond by providing only some of the information requested or decline to provide the information if—

(a) the time or cost of preparation of the information would be excessive, or

(b) disclosure of the information would be prejudicial to the conduct of the proceedings;

(c) disclosure of the information might reasonably be expected to lead to violence against any person, or

(d) the office-holder is subject to an obligation of confidentiality in relation to the information.

(5) An office-holder who does not provide all the information or declines to provide the information must inform the applicant of the reasons for so doing.

(6) A creditor, and a member of the company in a members' voluntary winding up, who need not be the same as the creditor or members who requested the information, may apply to the court within 21 days of—

(a) the office-holder giving reasons for not providing all of the information requested, or

(b) the expiry of the 14 days within which an office-holder must respond to a request.

(7) The court may make such order as it thinks just on an application under paragraph (6).

Arrangement in a voluntary winding up under section 110 (acceptance of shares etc. as consideration for sale of company property)

18.11.—(1) This rule applies where there has been an arrangement in a voluntary winding up under section 110 and a distribution to members has taken place under section 110(2) or (4).

(2) The liquidator must comply with the next paragraph in relation to any account or report prepared under any of the following—

(a) section 92A and rule 18.8 (members' voluntary winding up : progress report to company at year's end);

(b) section 94 and rule 18.14 (members' voluntary winding up : final account prior to dissolution)(**a**);

(c) section 104A (creditors' voluntary winding up : progress report to company and creditors at year's end);

(d) section 106 and rules 6.28 and 18.14 (creditors' voluntary winding up : final account prior to dissolution);

(3) The liquidator must—

(a) in any account or summary of receipts and payments which is required to be included in the account or report state, the estimated value during the period to which the account or report relates of

(i) the property transferred to the transferee,

(ii) the property received from the transferee, and

(iii) the property distributed to members under section 110(2) or (4); and

(b) provide details of the basis of the valuation as a note to the account or summary of receipts and payments.

(**a**) A new section 94 was substituted by paragraph 16 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 c. 26.

Other distributions to members in a members, voluntary winding up

18.12.—(1) Where in a members' voluntary winding up there has been a distribution of property to members in its existing form other than under an arrangement under section 110, the liquidator must comply with the next paragraph in relation to any account or report which the liquidator is required to prepare under section 92A or 94.

(2) The liquidator must in any account or summary of receipts and payments which is required to be included in the account or report —

(a) state the estimated value of the property distributed amongst the members of the company during the period to which the account or report relates; and

(b) provide details of the basis of the valuation as a note to the account or summary of receipts and payments.

Bankruptcy proceedings: information to creditors: distribution of property in specie

18.13.—(1) Where there has been a distribution of property to creditors under section 326, the trustee must include the information required by paragraph (2) in any account or report which the trustee is required to prepare under any of the following—

(a) section 331(**a**) (final report to creditors in bankruptcy);

(b) rule 18.2 (reports to creditors);

(c) rule 18.14 (final report to creditors);

(d) rule 10.78 (consideration of appointment of replacement trustee).

(2) The required information is a statement of the estimated value of the property distributed amongst the creditors during the period to which the account or report relates with a note providing details of the basis of the valuation.

CHAPTER 3

Final accounts in winding up and final reports in bankruptcy

Contents of final account (winding up) and final report (bankruptcy)

18.14.—(1) The liquidator's final account under section 94, 106, 146 or the trustee's final report under section 331 must contain an account of the liquidator's administration of the winding up or of the trustee's administration of the bankruptcy including——

(a) a summary of the office-holder's receipts and payments, including details of the office-holder's remuneration and expenses, and

(b) details of the basis fixed for the office-holder's remuneration.

(2) The liquidator's final account under section 106 or 146(1)(a) must also include a statement as to the amount paid to unsecured creditors by virtue of section 176A.

(3) Where the office-holder has sent a progress report to creditors under section 104A or to members under section 92A or delivered a progress report to creditors under rule 18.2, the final account or report to creditors or members must also contain—

(a) details of the remuneration charged and expenses incurred by the office-holder during the period since the last progress report;

(b) a description of the things done by the office-holder in that period in respect of which the remuneration was charged and the expenses incurred; and

(c) a summary of the receipts and payments during that period.

(**a**) Section 331 is amended by paragraph 83 of the Small Business, Enterprise and Employment Act 2015 (c.26).

(4) If the basis of the office-holder's remuneration had not been fixed by the date to which the last progress report was made up, the final account or report must also include details of the remuneration charged in the period of any preceding progress report in which details of remuneration were not included.

(5) Where the basis of remuneration has been fixed as a set amount, it is sufficient for the office-holder to state that amount and to give details of the expenses charged within the period in question.

CHAPTER 4

Remuneration and expenses in administration, winding up and bankruptcy

Application of Chapter

18.15.—(1) This Chapter applies to the remuneration of—

(a) an administrator,

(b) the liquidator in a creditors' voluntary winding up or a winding up by the court (except where the liquidator in a winding up by the court is the official receiver),

(c) the liquidators in a members' voluntary winding up, and

(d) a trustee in bankruptcy (except where the trustee is the official receiver).

(2) Only the following rules apply in a members' voluntary winding up:

rules 18.16 (remuneration: principles),

18.18(6) (determination of remuneration by company in general meeting), 18.17 (remuneration of joint office-holders),

18.20 (application to court to fix basis of remuneration),

18.22(3)(d) and (9) to (11) (office-holder recourse to court re remuneration),

18.25 (remuneration of new office-holder),

18.26 (apportionment of set fees),

18.28 (1), (2)(c) and (3) and 18.30(1) to (4) (application to court by member on grounds that remuneration or expenses are excessive), and

18.31 (remuneration where assets are realised on behalf of charge holder).

(3) This Chapter does not apply to the remuneration of provisional liquidators or interim receivers.

Remuneration: principles

18.16.—(1) An administrator, liquidator (including in a members' voluntary winding up) or trustee in bankruptcy is entitled to receive remuneration for services as office-holder.

(2) The basis of remuneration must be fixed—

(a) as a percentage of the value of—

(i) the property with which the administrator has to deal, or

(ii) the assets which are realised, distributed or both realised and distributed by the liquidator or trustee;

(b) other than in a members' winding up, by reference to the time properly given by the office-holder and the office-holder's staff in attending to matters arising in the administration, winding up or bankruptcy;

(c) in a members' voluntary winding up, by reference to the time properly given by the office-holder and the office-holder's staff in attending to matters arising in the winding up; or

(d) as a set amount.

(3) The basis of remuneration may be one or a combination of the bases set out in paragraph (2), and different bases, or where the basis of remuneration is fixed as in paragraph (2)(a), different percentages may be in respect of different things done by the office-holder.

(4) Where the office-holder proposes to take all or any part of the remuneration on the basis set out in paragraph (2)(b), the office-holder must, prior to the determination of which of the bases set out in paragraph (2) are to be fixed, give to each creditor of whose claim and address the office-holder is aware—

(a) the fees estimate, and

(b) details of the expenses the office-holder considers will be, or are likely to be, incurred.

(5) The fees estimate and details of expenses given under paragraph (4) may include remuneration anticipated to be charged and expenses anticipated to be incurred if the administrator becomes the liquidator where the administration moves into winding up.

(6) Save—

(a) in a members' voluntary winding up, or

(b) where the office-holder has given the information under paragraph (4),

the office-holder must, prior to the determination of which of the bases set out in paragraph (2) are to be fixed, give to each creditor the information required under paragraph (7).

(7) The information the office-holder is required to give under this paragraph is—

(a) the work the office-holder proposes to undertake, and

(b) the expenses the office-holder considers will be, or are likely to be, incurred.

(8) The matters to be determined in fixing the basis of remuneration are—

(a) which of the bases set out in paragraph (2) are to be fixed and (where appropriate) in what combination;

(b) the percentage or percentages (if any) to be fixed under paragraphs (2)(a) and (3);

(c) the amount (if any) to be set under paragraph (2)(d).

(9) In arriving at that determination, regard must be had to the following—

(a) the complexity (or otherwise) of the case;

(b) any respects in which, in connection with the company's or bankrupt's affairs, there falls on the office-holder, any responsibility of an exceptional kind or degree;

(c) the effectiveness with which the office-holder appears to be carrying out, or to have carried out, the office-holder's duties; and

(d) the value and nature of the property with which the office-holder has to deal.

Remuneration of joint office-holders

18.17. Where there are joint office-holders it is for them to agree between themselves how the remuneration payable should be apportioned; and any dispute arising between them may be referred–

(a) to the court, for settlement by order; or

(b) to the creditors' committee, to the creditors (by a decision procedure) or (in a members' voluntary winding up) the company in general meeting, for settlement by resolution.

Remuneration: procedure for initial determination

18.18.—(1) It is for the creditors' committee, subject to paragraph (4), to determine the basis of remuneration (except in a members' voluntary winding up).

(2) The basis of remuneration may be fixed by a decision of the creditors, by a decision procedure if there is no committee, or the committee fails to determine the basis of remuneration and—

(a) in an administration, the case does not fall within paragraph (3), or

(b) in a winding up (except in a members' voluntary winding up) subject to paragraph (4) (except in a case under rule 18.27(2)(b)).

(3) In an administration if the administrator has made a statement under paragraph 52(1)(b) of Schedule B1 (statement that insufficient funds to make a distribution to unsecured creditors other than out of the prescribed part) and there is no creditors' committee, or the committee does not make determine the basis of remuneration, the basis of the administrator's remuneration may be fixed by the approval of—

(a) each secured creditor; or

(b) if the administrator has made or intends to make a distribution to preferential creditors–

(i) each secured creditor; and

(ii) preferential creditors whose debts amount to more than 50% of the preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval.

(4) Where an administrator becomes liquidator in either of the following two cases the basis of remuneration fixed under this rule for the administrator is treated as having been fixed for the liquidator, and paragraphs (1) and (2) do not apply.

(5) The two cases are—

(a) a company which is in administration moves into winding up under paragraph 83 of Schedule B1 and the administrator becomes the liquidator; and

(b) a winding-up order is made immediately upon the appointment of an administrator ceasing to have effect and the court under section 140(1) appoints as liquidator the person whose appointment as administrator has ceased to have effect.

(6) In a members' voluntary winding up, it is for the company in general meeting to determine the basis of remuneration.

Application of scale fees where creditors fail to fix the basis for the office-holder's remuneration

18.19.—(1) This rule applies where in a winding up by the court or bankruptcy, the liquidator or trustee—

(a) has requested the creditors to fix the basis for remuneration under rule 18.18(2) and the creditors have not done so; or

(b) in any event if the basis for remuneration is not fixed by the creditors within 18 months after the date of the liquidator's or trustee's appointment.

(2) The liquidator or trustee is entitled to such sum as is arrived at (subject to paragraph (3)) by—

(a) applying the realisation scale set out in Schedule 8 to the moneys received by the liquidator or trustee from the realisation of the assets of the company or bankrupt (including any Value Added Tax on the realisation but after deducting any sums paid to secured creditors in respect of their securities and any sums spent out of money received in carrying on the business of the company or bankrupt); and

(b) adding to the sum arrived at under sub-paragraph (a) such sum as is arrived at by applying the distribution scale set out in Schedule 10 to the value of assets distributed to creditors of the company or bankrupt (including payments made in respect of preferential debts) and to contributories.

(3) That part of the trustee's remuneration calculated under paragraph (2) by reference to the realisation scale must not exceed such sum as is arrived at by applying the realisation scale to such part of the bankrupt's assets as are required to pay—

(a) the bankruptcy debts (including any interest payable by virtue of section 328(4)) to the extent required to be paid by these Rules (ignoring those debts paid otherwise than out of

the proceeds of the realisation of the bankrupt's assets or which have been secured to the satisfaction of the court);

(b) the expenses of the bankruptcy other than–

(i) fees or the remuneration of the official receiver; and

(ii) any sums spent out of money received in carrying on the business of the bankrupt;

(c) fees payable by virtue of any order made under section 415; and

(d) the remuneration of the official receiver.

Remuneration: application to the court to fix the basis

18.20.—(1) If the administrator's remuneration or the liquidator's remuneration in a voluntary winding up (including a members' voluntary winding up) is not fixed under the rule 18.18 then the administrator or liquidator must apply to the court for it to be fixed.

(2) Before making such an application the liquidator or administrator must try to fix the basis in accordance with paragraph (1), (2), (3) or (6) (as the case may be) of rule 18.18.

(3) Such an application may not be made more than 18 months after the date of the administrator's or liquidator's appointment.

(4) In a members' voluntary winding up, the liquidator must deliver at least 14 days' notice of such an application to the company's contributories, or such one or more of them as the court may direct.

(5) The contributories may nominate one or more of their number to appear, or be represented, and to be heard on the application.

Remuneration: recourse by administrator, liquidator or trustee to creditors

18.21.—(1) An office-holder who considers the amount of remuneration fixed to be insufficient or the basis fixed to be inappropriate may request that the amount be increased or the basis changed by decision of the creditors (by a decision procedure) where the basis of—

(a) the administrator's, trustee's or liquidator's remuneration has been fixed by the creditors' or liquidation committee (as applicable), or

(b) the liquidator's remuneration had, in a case falling within rule 18.18(4) and (5), been fixed by the creditors' committee in a preceding administration and the administrator had not subsequently requested an increase under this rule.

(2) The following paragraph applies where—

(a) the administrator has made a statement under paragraph 52(1)(b) of Schedule B1,

(b) the basis of the administrator's remuneration has been fixed by the creditors' committee, and

(c) the administrator considers an amount fixed to be insufficient or basis fixed to be inappropriate.

(3) Where this paragraph applies the administrator may request that the amount be increased or the basis changed with the approval of—

(a) each secured creditor of the company; or

(b) if the administrator has made or intends to make a distribution to preferential creditors—

(i) each secured creditor of the company; and

(ii) preferential creditors whose debts amount to more than 50% of the preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval.

Remuneration: recourse by administrator, liquidator or trustee to the court

18.22.—(1) An office-holder who considers an amount of remuneration fixed to be insufficient or the basis fixed to be inappropriate, may apply to the court for an order increasing the amount or changing the basis as follows.

(2) An administrator may make such an application where the administrator's remuneration has been fixed—

(a) by the creditors' committee and the administrator has requested that the amount be increased or the basis changed by decision of the creditors (by a decision procedure), but the creditors have not changed it;

(b) by decision of the creditors (by decision procedure); or

(c) by the approval of either the secured creditors or the preferential creditors or both in a case where the administrator has made a statement under paragraph 52(1)(b) of Schedule B1 (insufficient property to enable a distribution to creditors except by virtue of section 176A(2)(a)).

(3) A liquidator may make such an application where the liquidator's remuneration has been fixed—

(a) by the liquidation committee, and the liquidator has requested that the amount be increased or the basis changed by decision of the creditors (by a decision procedure), but the creditors have not changed it,

(b) by decision of the creditors (by a decision procedure),

(c) under rule 18.18(4) and (5) or 18.19, or

(d) in a members' voluntary winding up, by the company in general meeting.

(4) A trustee may make such an application where the trustee's remuneration has been fixed—

(a) by the creditors' committee and the trustee has requested that the amount be increased or the basis changed by decision of the creditors (by a decision procedure), but the creditors have not changed it,

(b) by decision of the creditors (by a decision procedure), or

(c) under rule 18.19.

(5) Where an application is made under paragraph (2)(c), the administrator must deliver notice to each of the creditors whose approval was sought under rule 18.21(3).

(6) The administrator, liquidator (except in a members' voluntary winding up) or trustee must deliver a notice of the application at least 14 days before the hearing to the members of the creditors' or liquidation committee (as applicable).

(7) The committee may nominate one or more of its members to appear, or be represented, and to be heard on the application.

(8) If there is no liquidation committee, the office-holder's notice of the application must (except in a members' voluntary winding up) be delivered to such one or more of the company's creditors as the court may direct, and those creditors may nominate one or more of their number to appear or be represented.

(9) In a members' voluntary winding up, the liquidator must deliver a notice of the application at least 14 days before the hearing to the company's contributories, or such one or more of them as the court may direct.

(10) The contributories may nominate one or more of their number to appear, or be represented, and to be heard on the application.

(11) The court may, if it appears to be a proper case (including in a members' voluntary winding up), order the costs of the office-holder's application, including the costs of any member of the creditors' committee appearing or being represented on it, or of any creditor or contributory so appearing or being represented on it, to be paid as an expense of the administration or liquidation or out of the estate in the bankruptcy.

Remuneration: review at request of administrator, liquidator or trustee

18.23.—(1) Where, after the basis of the office-holder's remuneration has been fixed, there is a material and substantial change in the circumstances which were taken into account in fixing it, the office-holder may request that the basis be changed.

(2) The request must be made—

(a) where the company in general meeting fixed the basis, to the company;

(b) where the creditors' or liquidation committee (as applicable) fixed the basis, to the committee;

(c) where the creditors or a class of creditors fixed the basis, to the creditors or that class;

(d) where the court fixed the basis, by application to the court;

(e) where, in a winding up or bankruptcy, the remuneration was determined under rule 18.19 to the liquidation or creditors' committee if there is one and otherwise to the creditors.

(3) The preceding provisions of this Chapter apply to the request as appropriate.

(4) Where rule 18.21 is applied in accordance with paragraph (2), the words "and the administrator had not subsequently requested an increase under this rule" in paragraph (1)(b) of that rule, are to be ignored.

(5) Any change in the basis for remuneration applies from the date of the request under paragraph (2) and not for any earlier period.

Remuneration: exceeding the fee estimate

18.24.—(1) The office-holder must not draw remuneration in excess of the total amount set out in the fees estimate without approval.

(2) The request for approval must be made—

(a) where the creditors' committee fixed the basis, to that committee;

(b) where the creditors or a class of creditors fixed the basis, to the creditors or that class of creditors;

(c) where the court fixed the basis, to the court;

and rules 18.16 to 18.20 apply as appropriate.

(3) The request for approval must specify—

(a) the reasons why the office-holder has exceeded, or is likely to exceed, the fees estimate;

(b) the additional work the office-holder has undertaken or proposes to undertake;

(c) the hourly rate or rates the office-holder proposes to charge for each part of that additional work;

(d) the time that additional work has taken or the office-holder anticipates that work will take;

(e) whether the office-holder anticipates that it will be necessary to seek further approval; and

(f) the reasons it will be necessary to seek further approval.

Remuneration: new administrator, liquidator or trustee

18.25. If a new administrator, liquidator or trustee is appointed in place of another, any decision, determination, resolution or court order in effect under the preceding provisions of this Chapter immediately before the former office-holder ceased to hold office (including any application of scale fees under rule 18.19) continues to apply in relation to the remuneration of the new office-holder until a further decision, determination, resolution or court order is made in accordance with those provisions.

Remuneration: apportionment of set fees

18.26.—(1) This rule applies in a case in which the basis of the office-holder's remuneration is a set amount under rule 18.16(2)(d) and the former office-holder ceases (for whatever reason) to hold office before the time has elapsed or the work has been completed in respect of which the amount was set.

(2) An application may be made to determine what portion of the amount should be paid to the former office-holder or the former office-holder's personal representative in respect of the time which has actually elapsed or the work which has actually been done.

(3) The application may be made by—

(a) the former office-holder or the former office-holder's personal representative within the period of 28 days beginning with the date upon which the former office-holder ceased to hold office; or

(b) the office-holder for the time being in office, if the former office-holder or the former office-holder's personal representative has not applied by the end of that period.

(4) Application to determine the portion must be made to the following—

(a) where the company in general meeting fixed the basis, to the company;

(b) where creditors' or liquidation committee fixed the basis, to that committee;

(c) where the creditors or a class of creditors fixed the basis, to the creditors or that class;

(d) where the court fixed the basis, to the court for an order determining the portion.

(5) The applicant must deliver a copy of the application to the office-holder for the time being or to the former office-holder or the former office-holder's personal representative, as the case may be ("the recipient").

(6) The recipient may, within 21 days of receipt of the copy of the application, deliver notice of (as the case may be) intent to—

(a) make representations to—

(i) the creditors' or liquidation committee (as applicable),

(ii) the creditors, or

(iii) the company in general meeting, or

(b) appear or be represented before the court.

(7) No determination may be made upon the application until either—

(i) the expiry of the 21 days, or

(ii) if the recipient delivers a notice of intent, the recipient has been given the opportunity to make representations or to appear or be represented.

(8) Paragraph (9) applies where the former office-holder or the former office-holder's personal representative (whether or not the original applicant) considers that the portion determined upon application to the creditors' or liquidation committee (as applicable) or the creditors is insufficient.

(9) Such a person may apply to the court for an order increasing the portion and paragraphs (4) to (6) apply as appropriate—

(a) in the case of a determination by the creditors' or liquidation committee, to the creditors for a decision increasing the portion;

(b) in the case of a decision or resolution (as appropriate) of—

(i) the creditors (whether under paragraph (4)(c) or under sub-paragraph (a)), or

(ii) the company in general meeting.

Remuneration: variation of the application of rules 18.23, 18.24 and 18.26

18.27.—(1) This rule applies where in an administration—

(a) the administrator has made a statement under paragraph 52(1)(b) of Schedule B1 (statement that insufficient funds to make a distribution to unsecured creditors other than out of the prescribed part);

(b) there is, or is likely to be, sufficient property to enable a distribution to be made to unsecured creditors other than by virtue of section 176A(2)(a); and

(c) the administrator or liquidator makes—

(i) a request under rule 18.23, 18.24 or 18.26; or

(ii) an application under rule 18.26.

(2) A request under 18.23, 18.24 or 18.26, or an application under rule 18.26 must be made—

(a) where there is a creditors' committee, to the committee; or

(b) where there is no creditors' committee, to the creditors under rule 18.18(2),

and rule 18.18(3) and (4) will not apply.

Remuneration and expenses: application to court by a creditor or member on grounds that remuneration or expenses are excessive

18.28.—(1) This rule applies to an application by a member or creditor in an administration or winding-up or by a creditor in a bankruptcy on the grounds that—

(a) the remuneration charged by the office-holder is in all the circumstances excessive;

(b) the basis fixed for the office-holder's remuneration under rule 18.16 and 18.18 is inappropriate; or

(c) the expenses incurred by the office-holder are in all the circumstances excessive.

(2) The following may make such an application for one or more of the orders set out in rule 18.30—

(a) a secured creditor,

(b) an unsecured creditor with either—

(i) the concurrence of at least 10% in value of the unsecured creditors (including that creditor), or

(ii) the permission of the court, or

(c) in a members' voluntary winding up—

(i) members of the company with at least 10% of the total voting rights of all the members having the right to vote at general meetings of the company, or

(ii) a member of the company with the permission of the court.

(3) The application by a creditor or member must be made no later than eight weeks after receipt by the applicant of the progress report, or the final report under rule 18.2 or 18.14 which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report").

Remuneration and expenses: application to court by a bankrupt on grounds that remuneration or expenses are excessive

[Note: where a bankrupt is applying for an annulment under section 282(1)(b) the bankrupt may also make an application in respect of the trustee's remuneration or expenses. See rule 10.133.]

18.29.—(1) A bankrupt may, with the permission of the court, make an application on the grounds that—

(a) the remuneration charged by the office-holder is in all the circumstances excessive;

(b) the expenses incurred by the office-holder are in all the circumstances excessive.

(2) The bankrupt may make such an application for one or more of the orders set out in rule 18.30(6).

(3) The application must be made no later than eight weeks after receipt by the bankrupt of the report under rule 18.2 or 18.14.

(4) The court must not give the bankrupt permission to make an application unless the bankrupt shows—

(a) that there is (or would be but for the remuneration or expenses in question); or

(b) that it is likely that there will be (or would be but for the remuneration or expenses in question),

a surplus of assets to which the bankrupt would be entitled.

(5) Paragraph (4) is without prejudice to the generality of the matters which the court may take into account in determining whether to give the bankrupt permission.

Further provisions about court applications under rules 18.28 and 18.29

18.30.—(1) The court must fix a venue for an application under rule 18.28 and 18.29 to be heard unless the court thinks that no sufficient cause is shown for a reduction, in which case it must deliver a notice to that effect to the applicant.

(2) If, within five business days of delivery of that notice, the applicant applies for a hearing to determine whether sufficient cause is shown, the court must fix a venue for the hearing without notice to any other party.

(3) If the applicant does not apply for such a hearing the court may dismiss the application without a hearing.

(4) Unless an application under rule 18.28 is dismissed without a hearing under paragraph (3) or after a hearing under paragraph (2), the court must fix a venue for the application to be heard and deliver notice to the applicant accordingly.

(5) In respect of an application under rule 18.29, where the bankrupt is given permission under paragraph (1) of that rule, the court must fix a venue for the application to be heard and deliver notice to applicant accordingly.

(6) The applicant must, at least 14 days before the hearing, deliver to the office-holder a notice stating the venue and accompanied by a copy of the application and of any evidence which the applicant intends to provide in support of it.

(7) If the court considers the application to be well-founded, it must make one or more of the following orders—

(a) an order reducing the amount of remuneration which the office-holder is entitled to charge;

(b) an order reducing any fixed amount;

(c) an order changing the basis of remuneration;

(d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the administration or winding up or bankruptcy expenses;

(e) an order for the payment of the amount of the excess of remuneration or expenses or such part of the excess as the court may specify by —

(i) the administrator or liquidator or the administrator's or liquidator’s personal representative to the company, or

(ii) the trustee or the trustee's personal representative to such person as the court may specify as property comprised in the bankrupt's estate;

(f) any other order that it thinks just.

(8) An order which changes the basis of remuneration may be made only in respect of periods after the period covered by the relevant report.

(9) Unless the court orders otherwise the costs of the application must be paid by the applicant, and are not payable as an expense of the administration or as winding up or bankruptcy.

(10) The court may order that the costs to be paid by the applicant, by the respondent or as an expense.

Remuneration in winding up and bankruptcy where assets are realised on behalf of charge holder

18.31.—(1) A liquidator (including in a members' voluntary winding up) or trustee who realises assets on behalf of a secured creditor is entitled to such sum by way of remuneration as is arrived at as follows unless the liquidator or trustee has agreed otherwise with the secured creditor.

(2) in a winding up, where the assets are subject to a charge which when created was a mortgage or a fixed charge, or in a bankruptcy by applying the realisation scale set out in Schedule 10 to the moneys received by the liquidator or trustee in respect of the assets realised (including any sums received in respect of Value Added Tax on the realisation but after deducting any sums spent out of money received in carrying on the business of the company or bankrupt);

(3) In a winding up where the assets realised are subject to a charge which when created was a floating charge, by—

(i) applying the realisation scale set out in Schedule 8 to moneys received by the liquidator from the realisation of those assets (including any Value Added Tax on the realisation but ignoring any sums received which are spent in carrying on the business of the company); and

(ii) adding to the sum arrived at under sub-paragraph (a) such sum as is arrived at by applying the distribution scale set out in Schedule 8 to the value of the assets distributed to the holder of the charge and payments made in respect of preferential debts.

(4) The sum to which the liquidator or trustee is entitled must be taken out of the proceeds of the realisation.

Decisions on remuneration

18.32.—(1) —This rule applies in relation to a decision or resolution which is proposed in an administration, a creditors' voluntary winding up, a winding up by the court or a bankruptcy and which affects a person in relation to that person's remuneration or conduct as administrator, liquidator or trustee (actual, proposed or former).

(2) The following may not vote on such a decision or resolution whether as a creditor, contributory, proxy-holder or corporate representative, except so far as permitted by rule 16.7 (proxy-holder with financial interest)—

(a) that person;

(b) the partners and employees of that person; and

(c) the officers and employees of the company of which that person is a director, officer or employee.

PART 19

Disclaimer in winding up and bankruptcy

Application of this Part

19.1. This Part applies to disclaimer by a liquidator under section 178 (winding up) and by a trustee under section 315 (bankruptcy).

Notice of disclaimer (sections 178 and 315)

19.2.—(1) An office-holder's notice of disclaimer of property under section 178 (winding up) or section 315 (bankruptcy) must (as appropriate)—

(a) have the title—

(i) "Notice of disclaimer under section 178 of the Insolvency Act 1986" (in the case of a winding up); or

(ii) "Notice of disclaimer under section 315 of the Insolvency Act 1986" (in the case of a bankruptcy);

(b) identify the company or the bankrupt;

(c) identify and provide contact details for the office-holder;

(d) contain such particulars of the property disclaimed as will enable it to be easily identified;

(e) state—

(i) that the liquidator of the company disclaims all the company's interest in the property; or

(ii) that the trustee of the bankrupt's estate disclaims all the bankrupt's interest in the property; and

(f) be authenticated and dated by the office-holder.

(2) The liquidator must, as soon as reasonably practicable after authenticating the notice, deliver a copy of the notice to the registrar of companies.

(3) The trustee must, as soon as reasonably practicable after authenticating the notice, file a copy of the notice—

(a) with the court; or

(b) where the bankruptcy is based on a bankruptcy application, on the bankruptcy file.

(4) If the property consists of land or buildings the nature of the interest must be stated in the notice.

(5) If the property consists of registered land—

(a) the notice must state the registered title number; and

(b) the office-holder must deliver a copy of the notice to the Chief Land Registrar as soon as reasonably practicable after authenticating the notice.

(6) The date of disclaimer for the purposes of section 178(4)(a) (winding up) or section 315(3)(a) (bankruptcy) is the date on which the liquidator or trustee authenticated the notice.

Notice of disclaimer to interested persons (sections 178 and 315)

19.3.—(1) The office-holder must deliver a copy of the notice of disclaimer within seven business days after the date of the notice to every person who (to the office-holder's knowledge)—

(a) claims an interest in the disclaimed property;

(b) is under any liability in relation to the property, not being a liability discharged by the disclaimer; and

(c) if the disclaimer is of an unprofitable contract, is a party to the contract or has an interest under it.

(2) If it subsequently comes to the office-holder's knowledge that a person has an interest in the disclaimed property which would have entitled that person to receive a copy of the notice under paragraph (1) then the office-holder must deliver a copy to that person as soon as reasonably practicable.

(3) If it subsequently comes to the office-holder's knowledge that a person has an interest in the disclaimed property which would have entitled that person to receive a copy of the notice under rule 19.4 or 19.5 then the office-holder must serve a copy on that person as soon as reasonably practicable.

(4) The office-holder is not required to deliver or serve a copy of a notice under paragraph (2) or (3) if—

(a) the office-holder is satisfied that the person has already been made aware of the disclaimer and its date, or

(b) the court, on the office-holder's application, orders that delivery or service of a copy is not required in the particular case.

Notice of disclaimer of leasehold property (sections 179 and 317)

19.4. Where a notice of disclaimer relates to leasehold property the office-holder must serve any copies of the notice of disclaimer which are required by either section 179 (winding up) or section 317 (bankruptcy) within seven business days after the date of the notice of disclaimer.

Notice of disclaimer in respect of a dwelling house (bankruptcy) (section 318)

19.5.—(1) This rule applies in a bankruptcy where the disclaimer is of property in a dwelling house.

(2) The trustee must serve any copies of the notice of disclaimer which are required by section 318 within seven business days after the date of the notice of disclaimer.

(3) A notice, or copy notice in relation to the disclaimer by a trustee of property in a dwelling house which is to be served on a person under the age of 18 may be served on the person's parent or guardian.

Additional notices of disclaimer

19.6. An office-holder who is disclaiming property may at any time deliver a copy of the notice of the disclaimer to any other person whom the office-holder thinks ought, in the public interest or otherwise, to be informed of the disclaimer.

Records

19.7. The office-holder must include in the records of the insolvency a record of—

(a) the name and address of each person to whom a copy of the notice of disclaimer has been delivered or served under rules 19.3 to 19.6, with the nature of the person's interest;

(b) the date on which the copy of the notice was delivered to or served on that person;

(c) the date on which the liquidator delivered a copy of the notice to the registrar of companies;

(d) the date on which the trustee filed a copy of the notice with the court or on the bankruptcy file; and

(e) if applicable, the date on which a copy of the notice was delivered to the Chief Land Registrar.

Application for permission to disclaim in bankruptcy (section 315(4))

19.8.—(1) This rule applies where section 315(4) requires the trustee to obtain the court's permission to disclaim property claimed for the bankrupt's estate under section 307 or 308.

(2) The trustee may apply for permission without notice to any other party.

(3) The application must be accompanied by a report—

(a) containing such particulars of the property as will enable it to be easily identified;

(b) setting out the reasons why, the property having been claimed for the estate, the trustee is now applying for the court's permission to disclaim it; and

(c) stating the persons who have been informed of the trustee's intention to make the application.

(4) If the report says that any person has consented to the disclaimer, a copy of that consent must accompany the report.

(5) The court may grant the permission, and may, before doing so—

(a) order that notice of the application be delivered to all such persons who, if the property is disclaimed, will be entitled to apply for a vesting or other order under section 320, and

(b) fix a venue for the hearing of the application.

Application by interested party for decision on disclaimer (sections 178(5) and 316)

19.9.—(1) This rule applies where an interested party makes an application under section 178(5) (winding up) or section 316 (bankruptcy) to the office-holder in respect of any property.

(2) The applicant must deliver the application to the office-holder and must provide proof of delivery in accordance with rule 1.50 if requested.

(3) If in a bankruptcy the trustee cannot disclaim the property concerned without the court's permission and the trustee applies for permission with the period of 28 days mentioned in section 316(1)(b), then the court must extend the time allowed for giving notice of disclaimer to a date not earlier than the date fixed for hearing the application.

Disclaimer presumed valid and effective

19.10. Any disclaimer of property by the office-holder is presumed valid and effective, unless it is proved that the office-holder has been in breach of the office-holder's duties relating to the giving of notice of disclaimer or otherwise under sections 178 to 180 (winding up) or sections 315-319 (bankruptcy), or under this Part.

Application for exercise of court's powers under section 181 (winding up) or section 320 (bankruptcy)

19.11.—(1) This rule applies to an application under section 181 (winding up) or section 320 (bankruptcy) for a court order to vest or deliver disclaimed property.

(2) The application must be made within three months of the applicant becoming aware of the disclaimer, or of the applicant receiving a copy of the office-holder's notice of disclaimer delivered under rule 19.3, 19.4, 19.5 or 19.6, whichever is the earlier.

(3) The applicant must file with the application a witness statement stating—

(a) whether the application is made under—

(i) section 181(2)(a) (claim of interest in the property);

(ii) section 181(2)(b) (liability not discharged);

(iii) section 320(2)(a) (claim of interest in the property);

(iv) section 320(2)(b) (liability not discharged);

(v) section 320(2)(c) (occupation of a dwelling-house).

(b) the date on which the applicant received a copy of the office-holder's notice of disclaimer, or otherwise became aware of the disclaimer; and

(c) the grounds of the application and the order sought.

(4) The court must fix a venue for hearing the application.

(5) The applicant must, not later than five business days before the date fixed, deliver to the office-holder notice of the venue, accompanied by copies of the application and the filed witness statement.

(6) On hearing the application, the court may give directions as to any other persons to whom notice of the application and the grounds on which it is made should be delivered.

(7) The court must deliver sealed copies of any order made on the application to the applicant and the office-holder.

(8) If the property disclaimed is of a leasehold nature, or in a bankruptcy is property in a dwelling house, and section 179 (winding up), 317 or 318 (bankruptcy) applies to suspend the effect of the disclaimer, the court's order must include a direction giving effect to the disclaimer.

(9) However, paragraph (8) does not apply if, before the order is drawn up, other applications under section 181 (winding up) or section 320 (bankruptcy) are pending in relation to the same property.

PART 20

Debtors at risk of violence: orders not to disclose current address

Application of this Part and interpretation

20.1.—(1) This Part applies in any case where disclosure or continuing disclosure to other persons (whether to the public generally or to specific persons) of the current address or whereabouts of a debtor might reasonably be expected to lead to violence against the debtor or against a person who normally resides with the debtor as a member of the debtor's family.

(2) In this Part, "current address" means—

(a) the debtor's residential address; and

(b) any address at which the debtor currently carries on business.

Proposed IVA (order for non-disclosure of current address)

20.2.—(1) This rule applies where a debtor intends to make a proposal for an IVA and has received notice of consent to act from the nominee.

(2) The debtor may make an application for an order as set out in paragraph (4) for the non-disclosure of the debtor's current address.

(3) The application must be accompanied by a witness statement referring to this rule and containing sufficient evidence to satisfy the court that rule 20.1(1) applies to or in respect of that debtor.

(4) If the court is satisfied that the circumstances set out in rule 20.1(1) apply, the court may order that if the IVA is approved—

(a) the debtor's current address must be omitted from—

(i) any part of the court file of the proceedings in relation to the debtor's IVA which is open to inspection;

(ii) the debtor's identity information required to be entered on the individual insolvency register under rule 11.14;

(iii) any notice or advertisement under rule 8.36 of an order under section 261 to annul the bankruptcy order where an IVA is approved; and

(b) where there is a requirement in these Rules to identify the debtor, the debtor's identity information must not include details of the debtor's current address

(5) Where the court makes such an order, it may further order that the details to be entered on the individual insolvency register must include instead such other details of the debtor's addresses or whereabouts as the court thinks just, including details of any address at which the debtor has previously resided or carried on business.

IVA (order for non-disclosure of current address)

20.3.—(1) This rule applies where a debtor has entered into an IVA.

(2) The following may make an application for an order as set out in paragraph (4) for the non-disclosure of the debtor's current address—

(a) the debtor,

(b) the supervisor,

(c) the official receiver (whether acting as a supervisor or otherwise), and

(d) the Secretary of State.

(3) The application must be accompanied by a witness statement referring to this rule and containing sufficient evidence to satisfy the court that rule 20.1(1) applies to or in respect of that debtor.

(4) If the court is satisfied that the circumstances set out in rule 20.1(1) apply, the court may order that—

(a) the debtor's current address must be omitted from—

(i) any part of the court file of the proceedings in relation to the debtor which is open to inspection;

(ii) the debtor's identity information entered or required to be entered on the individual insolvency register under rule 11.14; and

(iii) any notice or advertisement under rule 8.36 of an order under section 261 to annul the bankruptcy order where an IVA is approved; and

(b) where there is a requirement in these Rules to identify the debtor, the debtor's identity information must not include the debtor's current address.

(5) Where the court makes such an order, it may further order that the details to be entered on the individual insolvency register must include instead such other details of the debtor's addresses or whereabouts as the court thinks just, including details of any address at which the debtor has previously resided or carried on business.

Debt relief application (order for non-disclosure of current address)

20.4.—(1) This rule applies where a debtor intends to make a debt relief application and has been issued with a unique identifier for the application.

(2) The debtor may make an application for an order as set out in paragraph (4) for the non-disclosure of the debtor's current address.

(3) The application must be accompanied by a witness statement referring to this rule and containing sufficient evidence to satisfy the court that rule 20.1(1) applies to or in respect of that debtor.

(4) If the court is satisfied that the circumstances set out in rule 20.1(1) apply, the court may order that if a debt relief order is made—

(a) the debtor's current address must be omitted from—

(i) any part of the court file of the proceedings in relation to the debtor which is open to inspection; and

(ii) the debtor's identity information required to be entered on the individual insolvency register under rule 11.18; and

(b) where there is a requirement in these Rules to identify the debtor, the debtor's identity information must not include the debtor's current address.

(5) Where the court makes such an order, it may further order that the details to be entered on the individual insolvency register must include instead such other details of the debtor's addresses or whereabouts as the court thinks just, including details of any address at which the debtor has previously resided or carried on business.

Bankruptcy application (order for non-disclosure of current address)

20.5.—(1) This rule applies where a debtor intends to make a bankruptcy application and has been issued with a unique identifier for the application.

(2) The debtor may make an application for an order as set out in paragraph (4) for the non-disclosure of the debtor's current address.

(3) The application must be accompanied by a witness statement referring to this rule and containing sufficient evidence to satisfy the court that rule 20.1(1) applies to or in respect of that debtor.

(4) If the court is satisfied that the circumstances set out in rule 20.1(1) apply, the court may order that if a bankruptcy order is made—

(a) the debtor's current address must be omitted from—

(i) any part of the bankruptcy file which is open to inspection;

(ii) the details in respect of the debtor to be entered on the individual insolvency register under rule 11.16;

(iii) the details in respect of the debtor to be entered in the bankruptcy order; and

(b) where there is a requirement in these Rules to identify the debtor, the debtor's identity information must not include the debtor's current address.

(5) Where the court makes an order under paragraph (4), it may further order that such other details of the debtor's addresses or whereabouts as the court thinks just, including details of any address at which the debtor has previously resided or carried on business, are to be included in—

(a) the details in respect of the debtor kept on or to be entered on the individual insolvency register under rule 11.16;

(b) the details in respect of the debtor included on the bankruptcy file; or

(c) the description of the debtor to be inserted in the bankruptcy order.

Bankruptcy and debt relief proceedings (order for non-disclosure of current address)

20.6.—(1) For the purposes of this rule, "debtor" means a person subject to a bankruptcy order, a debt relief order, a bankruptcy restrictions order, a debt relief restrictions order, a bankruptcy restrictions undertaking or a debt relief restrictions undertaking.

(2) The following may make an application for an order as set out in paragraph (4) for the non-disclosure of the debtor's current address—

(a) the debtor,

(b) the official receiver, or

(c) in respect of a bankruptcy order, a bankruptcy restrictions order or a bankruptcy restrictions undertaking, the trustee or the Secretary of State.

(3) The application must be accompanied by a witness statement referring to this rule and containing sufficient evidence to satisfy the court that rule 20.1(1) applies to or in respect of that debtor.

(4) If the court is satisfied that the circumstances set out in rule 20.1(1) apply, the court may order that—

(a) the debtor's current address must be omitted from—

(i) any part of the court file of the proceedings in relation to the debtor which is open to inspection;

(ii) the debtor's identity information entered or required to be entered on the individual insolvency register under rule 11.16 (bankruptcy orders), rule 11.18 (debt relief orders), or the bankruptcy restrictions register or the debt relief restrictions register under 11.20 (as the case may be);

(iii) the details in respect of the debtor to be entered in the bankruptcy order or debt relief order;

(b) the full title of the proceedings must be amended by the omission of the debtor's current address; and

(c) where there is a requirement in these Rules to identify the debtor, the debtor identity information must not include the debtor's current address.

(5) Where the court makes an order under paragraph (4), it may further order that such other details of the debtor's addresses or whereabouts as the court thinks just, including details of any address at which the debtor has previously resided or carried on business, are to be included in—

(a) the full title of any proceedings;

(b) the details in respect of the debtor kept on or to be entered on the relevant register; or

(c) the description of the debtor to be inserted in the bankruptcy order or the debt relief order.

Additional provisions in respect of orders under rule 20.6(4)

20.7.—(1) This rule applies where the court is making an order under rule 20.6(4) in respect of a debtor who is subject to a bankruptcy order, a bankruptcy restrictions order or a bankruptcy restrictions undertaking.

(2) The court may make either or both of the following further orders—

(a) that the details of the debtor required to be included in any notice to be gazetted or otherwise advertised must not include the debtor's current address; and.

(b) that the details of the debtor required to be included in any such notice to be gazetted or otherwise advertised must instead of the debtor's current address include such other details of the debtor's addresses or whereabouts as the court thinks just, including details of any address at which the debtor has previously resided or carried on business.

(3) Where the court makes an order under rule 20.6(4) amending the full title of the proceedings by the omission of the debtor's current address from the description of the debtor, the official receiver—

(a) must as soon as reasonably practicable deliver notice of it to the Chief Land Registrar, for corresponding amendment of the register; and

(b) may cause notice of the order to be—

(i) gazetted, or

(ii) both gazetted and delivered in such other manner as the official receiver thinks fit.

(4) A notice of the amendment of the title of the proceedings which is published in accordance with paragraph (3)—

(a) must omit the current address of the debtor;

(b) must contain the amended title of the proceedings, and the date of the bankruptcy order; and

(c) must not include the description under which the proceedings were previously published.

Additional provisions in respect of a debtor subject to a debt relief order, a debt relief restrictions order or a debt relief restrictions undertaking

20.8.—(1) The High Court may order proceedings under rule 20.6 relating to a debtor subject to a debt relief order, a debt relief restrictions orders or a debt relief restrictions undertaking to be transferred to a specified hearing centre of the county court.

(2) The county court may order such proceedings to be transferred to the High Court.

(3) An application to transfer the proceedings may be made by the debtor.

PART 21

THE EC REGULATION

[The drafting of this Part and Schedule 11 is not completed]

Interpretation for this Part

21.1. In this Part—

"winding-up proceedings" are the winding-up proceedings within the meaning of Article 2(c) of the EC Regulation listed under the United Kingdom entry in Annex B to that Regulation, other than bankruptcy and sequestration proceedings; and

"conversion into winding-up proceedings" is an order under Article 37 of the EC Regulation (conversion of earlier proceedings) that—

(a) a CVA be converted into administration proceedings the purposes of which are limited to the winding up of the company through administration and exclude the purpose contained in paragraph 3(1)(a) of Schedule B1;

(b) the purposes of an administration be limited to the winding up of the company through administration and exclude the purpose contained in paragraph 3(1)(a); or

(c) a CVA or an administration be converted into—

(i) a creditors' voluntary winding up; or

(ii) a winding up by the court.

Reasons for stating that proceedings are or will be main, secondary etc. under the EC Regulation

21.2. Where these Rules require reasons to be given for a statement that proceedings are or will be main, secondary or territorial or non-EC proceedings, the reasons must include—

(d) for a company—

(i) the centre of main interests;

(ii) the place of the registered office within the meaning of Article 3(1) of the EC Regulation and where appropriate and explanation why this is not the same as the centre of main interests;

(iii) or that there is no registered office if that be the case in non-EC proceedings;

(e) for a debtor, the centre of main interests.

Conversion into winding up proceedings or bankruptcy: application

21.3.—(1) Where a member State liquidator applies to the court for—

(a) conversion of a CVA or an administration into winding-up proceedings, or

(b) conversion of an IVA into a bankruptcy,

a witness statement made by or on behalf of the member State liquidator must be filed with the court in support of the application.

(2) The witness statement must state—

(a) that main proceedings have been opened in relation to the company or, as the case may be, the debtor in a member State other than the United Kingdom;

(b) the belief of the person making the statement that the conversion of the CVA or administration into winding-up proceedings or the IVA into a bankruptcy would prove to be in the interests of the creditors in the main proceedings;

(c) in a case falling within paragraph (1)(a), the opinion of the person making the statement as to whether the company ought to go into voluntary winding up or be wound up by the court; and

(d) all other matters that, in the opinion of the member State liquidator, would assist the court in—

(i) deciding whether to make such an order, and

(ii) considering whether and, if so, what consequential provision to include.

(3) The application and the witness statement must be served upon—

(a) the company or the debtor, as the case may be, and

(b) the supervisor or the administrator, as the case may be.

Conversion into winding up proceedings or bankruptcy: court order

21.4.—(1) On hearing an application for—

(a) conversion into winding-up proceedings, or

(b) conversion of an IVA into a bankruptcy,

the court may, subject to Article 37 of the EC Regulation, make such order as it thinks just.

(2) An order for—

(a) conversion into winding-up proceedings may—

(i) provide that the company be wound up as if a resolution for voluntary winding up under section 84 were passed on the day on which the order is made, and

(ii) contain such consequential provisions as the court thinks just;

(b) conversion of an IVA into a bankruptcy may contain such consequential provisions as the court thinks just.

Conversion of CVA or IVA: expenses

21.5. Where the court makes an order for—

(a) conversion of a CVA into winding-up proceedings, or

(b) conversion of an IVA into a bankruptcy,

any expenses properly incurred as expenses of the administration of the CVA or IVA in question are a first charge on the company's assets or the bankrupt's estate, as the case may be.

Confirmation of creditors' voluntary winding up: application

21.6.—(1) Where—

(a) a company has passed a resolution for voluntary winding up, and either—

(i) no declaration of solvency has been made in accordance with section 89, or

(ii) a declaration made under section 89—

(aa) has no effect by virtue of section 89(2), or

(bb) is treated as not having been made by virtue of section 96, or

(b) a company has moved from administration to creditors' voluntary winding up in accordance with paragraph 83 of Schedule B1,

the liquidator may apply to court for an order confirming the winding up as a creditors' voluntary winding up for the purposes of the EC Regulation.

(2) The application must—

(a) be supported by a witness statement made by the liquidator, and

(b) state—

(i) the name of the applicant,

(ii) the name of the company and its registered number,

(iii) the date on which the resolution for voluntary winding up was passed,

(iv) that the application is accompanied by the documents required by paragraph (3)(b) to (d),

(v) that the documents required by paragraph (3)(c) and (d) are true copies of the originals, and

(vi) whether the proceedings will be main proceedings, secondary proceedings or territorial proceedings.

(3) The liquidator must file with the court—

(a) two copies of the application,

(b) evidence of having been appointed liquidator of the company,

(c) a copy of—

(i) the resolution for voluntary winding up, or

(ii) the notice of moving from administration to creditors' voluntary winding up sent by the administrator to the registrar of companies under paragraph 83(3) of Schedule B1, and

(d) a copy of—

(i) the statement of affairs required by section 99 or under paragraph 47 of Schedule B1, or

(ii) the information included in the administrator's statement of proposals under rule 3.33(1)(f) or (g).

Confirmation of creditors' voluntary winding up: court order

21.7.—(1) On an application under the preceding rule, the court may confirm the creditors' voluntary winding up.

(2) It may do so without a hearing.

(3) If the court confirms the creditor's voluntary winding up, it must affix its seal to the application.

(4) A member of the court staff may deal with an application under this rule.

Confirmation of creditors' voluntary winding up: notice to member State liquidator

21.8.—(1) Where the court has confirmed the creditors' voluntary winding up, the liquidator must as soon as reasonably practicable give notice to the member State liquidator appointed in relation to the company, if there is one.

(2) Paragraph (1) is in addition to the obligation in Article 40 of the EC Regulation (duty to inform creditors in other member States).

Member State liquidator: duty to give notice

21.9.—(1) Where—

(a) the supervisor of a CVA or an IVA, an administrator, a liquidator or a trustee in bankruptcy is required to give notice, or provide a copy of a document (including an order of court), to the court, the registrar of companies or the official receiver, and

(b) a member State liquidator has been appointed in relation to a company,

the supervisor, administrator, liquidator or trustee must also give notice or provide a copy to the member State liquidator.

(2) Paragraph (1) is in addition to the obligations in Article 31 of the EC Regulation (duty to cooperate and communicate information).

Member State liquidator: treated as creditor.

21.10.—(1) A member State liquidator who has been appointed in relation to a person subject to any insolvency proceedings other than proceedings relating to a debt relief order—

(a) has the same right as a creditor under rule 7.31A(3) to inspect or obtain from the court—

(i) a copy of, or

(ii) a copy of any document contained in,

the court file relating to those proceedings opened and maintained by the court under rule 7.31A(1), and

(b) may appear at any hearing relating to those proceedings.

(2) A member State liquidator who has been appointed in relation to—

(a) a company in administration or liquidation, or

(b) a bankrupt,

is deemed to be a creditor for the purposes of those rules listed in Schedule 11.

(3) A member State liquidator who has been appointed in main proceedings in relation to a bankrupt is also deemed to be a creditor for the purposes of rules 10.20 (notice of intention to appear), 10.22 (hearing of petition), 10.28(substitution of petitioner), 10.30 (change of carriage of petition), and 10.129 (report of official receiver).

(4) Paragraphs (1) to (3) are in addition to the right of member State liquidators to participate under Article 32.3 of the EC Regulation (exercise of creditors' rights).

PART 22

PERMISSION TO ACT AS DIRECTOR ETC. OF COMPANY WITH A PROHIBITED NAME (SECTION 216)

Preliminary

22.1.—(1) The rules in this Part—

(a) relate to applications under section 216 for permission to act as a director etc. in relation to a company or business with a prohibited name; and

(b) prescribe the circumstances in which a person may act as a director etc. without permission.

(2) In this Part "acts as a director etc." means to do any of the things specified by section 216(3)(a) to (c).

Application for permission under section 216(3)

22.2.—(1) An applicant must give at least 14 days' notice to the Secretary of State of an application for permission to act in a way which would otherwise be prohibited by section 216(3).

(2) The Secretary of State or the official receiver may—

(a) appear at the hearing of the application; and

(b) make representations on the application (whether or not appearing).

(3) When considering the application, the court may call on the liquidator, or any former liquidator, of the liquidating company for a report on—

(a) the circumstances in which the company became insolvent; and

(b) the extent (if any) to which the applicant appears to have been responsible for its becoming insolvent.

First excepted case: business of insolvent company acquired under specified arrangements

22.3.—(1) This rule applies where—

(a) a person was within the period mentioned in section 216(1) a director, or a shadow director, of an insolvent company that has gone into insolvent liquidation; and

(b) the person acts in all or any of the ways specified in section 216(3) in connection with, or for the purposes of, the carrying on (or proposed carrying on) of the business of the insolvent company where that business is (or is to be) acquired from the insolvent company under arrangements—

(i) made before the company went into insolvent liquidation by an administrator, administrative receiver or supervisor of a CVA; or

(ii) made by its liquidator.

(2) In this rule "the business of the insolvent company" means the whole or substantially the whole of the business of the insolvent company.

(3) The person will not be taken to have contravened section 216 if before acting as a director etc. the person gives the required notice.

(4) The required notice must identify the insolvent company and state the person's name.

(5) Where the company has not gone into insolvent liquidation the notice must also state—

(a) that the person intends to act or continue to act in all or any of the ways specified in section 216(3) in connection with, or for the purposes of, the carrying on of the business of the insolvent company; and

(b) the name under which the business is being, or is to be, carried on which would be a prohibited name if the company went into insolvent liquidation.

(6) Where paragraph (5) applies and the business of the insolvent company is to be acquired by another company a director of the insolvent company may give a notice whether or not at the time of giving the notice the director was a director of the other company.

(7) Where the company has gone into insolvent liquidation the notice must also state—

(a) that the person intends to act in all or any of the ways specified in section 216(3) in connection with, or for the purposes of, the carrying on of the business of the insolvent company; and

(b) the prohibited name.

(8) The notice must be—

(a) delivered to every creditor of the insolvent company whose name and address the person knows or can ascertain by making reasonable enquiries; and

(b) gazetted.

(9) The notice may be given before the arrangements referred to in paragraph (1)(b) are completed but must be given no later than 28 days after they are completed.

(10) A notice may be given at a time when the person is a director of another company where—

(a) the other company has acquired, or is to acquire, the business of the insolvent company under arrangements made by its liquidator, and

(b) it is proposed that after the giving of the notice a prohibited name should be adopted by the other company.

Second excepted case: application for permission pending

22.4.—(1) The court's permission is not required by a person to whom section 216(1) applies where—

(a) that person applies for permission under section 216(3) not later than seven business days from the date the company entered liquidation; and

(b) that person acts as a director etc. during the specified period.

(2) The specified period begins with the date on which the company entered liquidation and ends on the earlier of—

(a) the day falling six weeks after the day the company entered liquidation; or

(b) the day on which the court disposes of the application for permission.

Third excepted case: pre-existing company with prohibited name

22.5. The court's permission is not required where the other company referred to in section 216(3), though known by a prohibited name—

(a) has been known by that name for the whole of the period of 12 months ending with the day before the liquidating company entered liquidation; and

(b) has not at any time in those 12 months been dormant within the meaning of section 1169(1), (2) and (3)(a) of the Companies Act.

SCHEDULE 1

Rule 0.2

Revocations

The Insolvency Rules 1986	1986/1925
The Insolvency (Amendment) Rules 1987	1987/1919
The Insolvency (Amendment) Rules 1989	1989/397
The Insolvency (Amendment) Rules 1991	1991/495
The Insolvency (Amendment) Rules 1993	1993/602
The Insolvency (Amendment) Rules 1995	1995/586
The Insolvency (Amendment) Rules 1999	1999/1359
The Insolvency (Amendment) (No. 2) Rules 1999	1999/1022
The Insolvency (Amendment) Rules 2001	2001/763
The Insolvency (Amendment) Rules 2002	2002/1307
The Insolvency (Amendment) (No. 2) Rules 2002	2002/2712
The Insolvency (Amendment) Rules 2003	2003/1730
The Insolvency (Amendment) Rules 2004	2004/584
The Insolvency (Amendment No. 2) Rules 2004	2004/1070
The Insolvency (Amendment) Rules 2005	2005/527
The Insolvency (Amendment) Rules 2006	2006/1272
The Insolvency (Amendment) Rules 2007	2007/1974
The Insolvency (Amendment) Rules 2008	2008/737

The Insolvency (Amendment) Rules 2009	2009/642
The Insolvency (Amendment No 2) Rules 2009	2009/2472
The Insolvency (Amendment) Rules 2010	2010/686
The Insolvency (Amendment No 2) Rules 2010	2010/734
The Insolvency (Amendment) Rules 2011	2011/785
The Insolvency (Amendment) Rules 2012	2012/469
The Insolvency (Amendment) Rules 2013	2013/2135
The Insolvency (Commencement of Proceedings) and Insolvency Rules 1986 (Amendment) Rules 2014	2014/817
The Insolvency Amendment Rules 2015	2015 No. 443

SCHEDULE 2

Rule 0.5

Consequential amendments

SCHEDULE 2

Rule 0.7

Punishment of offences under the Rules

Rule creating offence	**General nature of the offence**	**Mode of prosecution**	**Punishment**	**Daily default fine (if applicable)**

SCHEDULE 3

Rule 1.1(2)

Service of documents

1.—(1) This Schedule sets out the requirements for service where the Rules require a document to be served.

(2) Service is to be carried out in accordance with Part 6 of the CPR as that Part applies to either a "claim form" or a "document other than the claim form" except where this Schedule provides otherwise or the court directs otherwise.

(3) The third column of the table below sets out which documents are treated as "claim forms" for the purposes of applying Part 6 of the CPR and which are "documents other than the claim form" (called in this Schedule "other documents").

(4) The fourth column of the table sets out modifications to Part 6 of the CPR which apply to the service of documents listed in the first and second columns.

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

Service of winding-up petitions

2.—(1) A winding-up petition must be served at a company's registered office by handing it to a person at that address who—

(a) at the time of service acknowledges being a director, other officer or employee of the company;

(b) is, to the best of the knowledge and belief of the person serving the petition, a director, other officer or employee of the company; or

(c) acknowledges being authorised to accept service of documents on the company's behalf.

(2) However if there is no one of the kind mentioned in sub-paragraph (1) at the registered office, the petition may be served by depositing it at or about the registered office in such a way that it is likely to come to the notice of a person attending the office.

(3) Sub-paragraph (4) applies if—

(a) for any reason it is not practicable to serve a petition at a company's registered office;

(b) the company has no registered office; or

(c) the company is an unregistered company.

(4) Where this paragraph applies the petition may be served—

(a) by leaving it at the company's last known principal place of business in such a way that it is likely to come to the attention of a person attending there; or

(b) on the secretary or a director, manager or principal officer of the company, wherever that person may be found.

Service on joint office-holders

3. Service of a document on one of joint office-holders is to be treated as service on all of them.

Service of orders staying proceedings

4.—(1) This paragraph applies where the court makes an order staying an action, execution or other legal process against—

(a) the property of a company; or

(b) the property or person of an individual debtor or bankrupt.

(2) The order may be served within the jurisdiction by serving a sealed copy at the address for service of the claimant or other party having the carriage of the proceedings to be stayed.

Certificate of service

5.—(1) The service of an application or petition must be verified by a certificate of service.

(2) The certificate of service must—

(a) identify the application or petition;

(b) identify the company, where the application or petition relates to a company;

(c) identify the debtor, where the application relates to an individual;

(d) identify the applicant or petitioner;

(e) specify—

(i) the court or hearing centre of the county court in which the application was made or at which the petition was filed, and the court reference number;

(ii) the date of the application or petition;

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

(iv) the person(s) served;

(v) the manner of service and the date of service; and

(f) be verified by a statement of truth.

(3) Where substituted service has been ordered, the certificate must be accompanied by a sealed copy of the order for substituted service.

Table of requirements for service

Rule (or section)	Document	Whether treated as claim form or other document	Modifications to Part 6 of the CPR which apply unless the court directs otherwise
3.7	Administration application	Claim form	Service on the company at its registered office or if that is not practicable, at its last known principal place of business in England and Wales. The applicant must serve the application.
3.15 (& Para 15 of Sch B1)	Notice of intention to appoint administrator by a floating charge holder	Claim form	The appointer must serve the notice.
3.22 (& para 26 of Sch B1)	Notice of intention to appoint administrator by company or directors	Claim form	Service on the company at its registered office or if that is not practicable, at its last known principal place of business in England and Wales.
[7.2]	[Statutory demand on a company under section 123(1) or 222(1)(a) (unregistered companies)]		[Note: the requirements for service of a statutory demand are set out in sections 123(1) and 222(1)(a) respectively.]
7.11 and 7.31	Winding-up petition	Claim form	Service in accordance with paragraph 2 of this Schedule. The petitioner must serve the petition.
7.35	Court order for additional	Other document	

	deposit to be paid – provisional liquidator		
7.89	Court order to enforce payment of a call	Other document	
7.103	Court order for public examination served on examinee	Other document	
10.3	Statutory demand (bankruptcy)	Other document	Service in accordance with rule 10.3
10.15	Bankruptcy petition (creditor's)	Claim form	Personal service. The petitioner must serve the petition.
10.30	Court order – change of carriage of petition	Other document	
10.52	Court order for additional deposit to be paid – interim receiver	Other document	
10.99	Court order for public examination served on bankrupt	Other document	
10.119	Court order for disclosure by HMRC	Other document	
10.126	Notice to recipient of after acquired property	Other document	
10.164	Court order for post redirection	Other document	
11.3	Application for debt relief restrictions order (DRRO) or bankruptcy restrictions order (BRO)	Claim form	The applicant must serve the application.
11.4	Service of evidence for DRRO or BRO	Other document	
12.7	Applications to court generally (where service required)	Claim form	The applicant must serve the application.
12.18	Court order for private examination	Other document	Personal service. The applicant must serve the order.
12.28	Witness statement of evidence	Other document	
12.37(7)	Application for block transfer order	Claim form	The applicant must serve the application.
12.42	Notice requiring person to assess costs by detailed assessment	Other document	
12.48	Application for costs	Claim form	The applicant must serve the application.
19.4 (& sections 179 and 317)	Notice of Disclaimer (leasehold property)	Other document	

19.5 (& section 318)	Notice of disclaimer (dwelling house)	Other document	
21.3	Application for conversion into winding up /bankruptcy under EC Regulation	Claim form	The applicant must serve the application.
Paragraph 4(1) of this Schedule	Order staying proceedings	Other document	The applicant must serve the order.

SCHEDULE 4

Rule 1.4

Calculation of time periods

(1) The rules in this Schedule apply for the calculation of periods expressed in days and months in the Act and these Rules in place of rule 2.8 of the CPR.

(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 these Rules.

(3) The beginning and the end of a period expressed in months in the Rules are to be determined as follows—

(a) if the beginning of the period is specified—

(i) the month in which the period ends is the specified number of months after the month in which it begins, and

(ii) the date in the month on which the period ends is—

(aa) the date corresponding to the date in the month on which it begins, or

(bb) if there is no such date in the month in which it ends, the last day of that month;

(b) if the end of the period is specified—

(i) the month in which the period begins is the specified number of months before the month in which it ends, and

(ii) the date in the month on which the period begins is—

(aa) the date corresponding to the date in the month on which it ends, or

(bb) if there is no such date in the month in which it begins, the last day of that month.

(4) This rule shows how to calculate any period of time for doing any act which is specified—

(a) by these Rules;

(b) by a practice direction; or

(c) by a judgment or order of the court.

(5) A period of time expressed as a number of days shall be computed as clear days.

(6) In this rule 'clear days' means that in computing the number of days –

(a) the day on which the period begins; and

(b) if the end of the period is defined by reference to an event, the day on which that event occurs

are not included.

Examples

(i) Notice of an application must be served at least three days before the hearing.

An application is to be heard on Friday 20 October.

The last date for service is Monday 16 October.

(ii) The court is to fix a date for a hearing.

The hearing must be at least 28 days after the date of notice.

If the court gives notice of the date of the hearing on 1 October, the earliest date for the hearing is 30 October.

(iii) Particulars of claim must be served within 14 days of service of the claim form.

The claim form is served on 2 October.

The last day for service of the particulars of claim is 16 October.

[Note: in the Rules periods of five days or less are expressed as business days. Business days are defined in rule 1.2.]

(7) Subject to the provisions of Practice Direction 5C, when the period specified—

(a) by these Rules or a practice direction; or

(b) by any judgment or court order,

for doing any act at the court office ends on a day on which the office is closed, that act shall be in time if done on the next day on which the court office is open.

SCHEDULE 5

Rule 9.21

Insolvency jurisdiction of County Court hearing centres

[Note: where the entry "London Insolvency District" appears in this table, jurisdiction under Parts 1 to 7 of the Act is conferred on the High Court as a result of article 6B of the High Court and County Courts Jurisdiction Order 1991 (S.I. 1991/724) which was inserted by the High Court and County Courts Jurisdiction (Amendment) Order 2014 (S.I. 2014/821.]

Name of County Court Hearing Centre	**Parts of the Insolvency Act under which proceedings may be commenced at a county court hearing centre or the alternative county court hearing centre where proceedings may only be commenced**	**Nearest full time court or hearing centre**
Aberystwyth	Parts 1 to 11	Cardiff
Accrington	Blackburn	
Aldershot & Farnham	Guildford	
Altrincham	Manchester	
Aylesbury	Parts 1 to 11	Luton
Banbury	Parts 1 to 11	Luton, Gloucester or Reading
Barnet	London Insolvency District - High Court for Parts 1 to 7 (see head note); County Court at Central London for Parts 7A to 11	
Barnsley	Parts 1 to 11	Sheffield
Barnstaple	Parts 1 to 11	Exeter
Barrow-in-Furness	Parts 1 to 11	Blackpool or Preston
Basildon	Southend-on-Sea	
Basingstoke	Reading	
Bath	Parts 1 to 11	Bristol
Bedford	Parts 1 to 11	Luton
Birkenhead	Parts 1 to 11	
Birmingham	Parts 1 to 11	
Blackburn	Parts 1 to 11	Preston
Blackpool	Parts 1 to 11	
Blackwood	Parts 1 to 11	Cardiff
Bodmin	Truro	
Bolton	Parts 1 to 11	
Boston	Parts 1 to 11	Nottingham
Bournemouth and Poole	Parts 1 to 11	
Bow	London Insolvency District - High Court for Parts 1 to 7 (see head note); County Court at Central London for Parts 7A to 11	
Bradford	Parts 1 to 11	
Brecon	Merthyr Tydfil	

Name of County Court Hearing Centre	Parts of the Insolvency Act under which proceedings may be commenced at a county court hearing centre or the alternative county court hearing centre where proceedings may only be commenced	Nearest full time court or hearing centre
Brentford	London Insolvency District - High Court for Parts 1 to 7 (see head note); County Court at Central London for Parts 7A to 11	
Bridgend	Parts 1 to 11	Cardiff
Brighton	Parts 1 to 11	
Bristol	Parts 1 to 11	
Bromley	Croydon	
Burnley	Parts 1 to 11	Bolton or Preston
Bury	Parts 1 to 11	Bolton
Bury St. Edmunds	Parts 1 to 11	Cambridge
Buxton	Stockport	
Caernarfon	Parts 1 to 11	
Cambridge	Parts 1 to 11	
Canterbury	Parts 1 to 11	Croydon or the High Court (London)
Cardiff	Parts 1 to 11	
Carlisle	Parts 1 to 11	Preston or Blackpool
Carmarthen	Parts 1 to 11	Cardiff
County Court at Central London	London Insolvency District - High Court for Parts 1 to 7 (see head note); County Court at Central London for Parts 7A to 11	
Chelmsford	Parts 1 to 11	Southend or the High Court (London)
Chester	Parts 1 to 11	
Chesterfield	Parts 1 to 11	Sheffield
Chichester	Brighton	
Chippenham and Trowbridge	Bath	
Clerkenwell and Shoreditch	London Insolvency District - High Court for Parts 1 to 7 (see head note); County Court at Central London for Parts 7A to 11	
Colchester	Parts 1 to 11	Southend or the High Court (London)
Conwy and Colwyn	Caernarfon	
Coventry	Parts 1 to 11	Birmingham
Crewe	Parts 1 to 11	Stoke or Chester
Croydon	Parts 1 to 11	
Darlington	Parts 1 to 11	Middlesbrough
Dartford	Medway	
Derby	Parts 1 to 11	
Doncaster	Parts 1 to 11	Sheffield
Dudley	Parts 1 to 11	Birmingham
Durham	Parts 1 to 11	Newcastle
Eastbourne	Parts 1 to 11	Brighton

Name of County Court Hearing Centre	Parts of the Insolvency Act under which proceedings may be commenced at a county court hearing centre or the alternative county court hearing centre where proceedings may only be commenced	Nearest full time court or hearing centre
Edmonton	London Insolvency District - High Court for Parts 1 to 7 (see head note); County Court at Central London for Parts 7A to 11	
Exeter	Parts 1 to 11	
Gateshead	Newcastle upon Tyne	
Gloucester and Cheltenham	Parts 1 to 11	
Great Grimsby	Parts 1 to 11	Hull
Guildford	Parts 1 to 11	Croydon
Halifax	Parts 1 to 11	Leeds
Harrogate	Parts 1 to 11	Leeds
Hartlepool	Middlesbrough	
Hastings	Parts 1 to 11	Brighton
Haverfordwest	Parts 1 to 11	Cardiff
Hereford	Parts 1 to 11	Gloucester
Hertford	Parts 1 to 11	Luton
High Wycombe	Aylesbury	
Horsham	Brighton	
Huddersfield	Parts 1 to 11	Leeds
Ipswich	Parts 1 to 11	Norwich or Southend
Kendal	Parts 1 to 11	Blackpool or Preston
Kettering	Northampton	
Kings Lynn	Parts 1 to 11	Norwich or Cambridge
Kingston-upon-Hull	Parts 1 to 11	
Kingston-upon-Thames	Parts 1 to 11	
Lambeth	London Insolvency District - High Court for Parts 1 to 7 (see head note); County Court at Central London for Parts 7A to 11	
Lancaster	Parts 1 to 11	Blackpool or Preston
Leeds	Parts 1 to 11	
Leicester	Parts 1 to 11	
Lewes	Brighton	
Lincoln	Parts 1 to 11	Nottingham
Liverpool	Parts 1 to 11	
Llanelli	Swansea	
Llangefni	Parts 1 to 11	
Lowestoft	Norwich	
Luton	Parts 1 to 11	
Macclesfield	Chester	Stoke or Manchester
Maidstone	Parts 1 to 11	Croydon or the High Court (London)
Manchester	Parts 1 to 11	

Name of County Court Hearing Centre	Parts of the Insolvency Act under which proceedings may be commenced at a county court hearing centre or the alternative county court hearing centre where proceedings may only be commenced	Nearest full time court or hearing centre
Mansfield	Nottingham	
Mayor's and City of London	London Insolvency District - High Court for Parts 1 to 7 (see head note); County Court at Central London for Parts 7A to 11	
Medway	Canterbury	Croydon or the High Court (London)
Merthyr Tydfil	Parts 1 to 11	Cardiff
Middlesbrough	Parts 1 to 11	
Milton Keynes	Parts 1 to 11	Luton
Mold	Wrexham	Wrexham
Morpeth & Berwick	Newcastle upon Tyne	
Neath & Port Talbot	Parts 1 to 11	Cardiff
Newcastle upon Tyne	Parts 1 to 11	
Newport (Gwent)	Parts 1 to 11	Cardiff
Newport (Isle of Wight)	Parts 1 to 11	Southampton or Portsmouth
Northampton	Parts 1 to 11	Luton
North Shields	Newcastle upon Tyne	
Norwich	Parts 1 to 11	
Nottingham	Parts 1 to 11	
Nuneaton	Coventry	
Oldham	Parts 1 to 11	
Oxford	Parts 1 to 11	Reading
Peterborough	Parts 1 to 11	Cambridge
Plymouth	Parts 1 to 11	
Pontypridd	Parts 1 to 11	Cardiff
Portsmouth	Parts 1 to 11	
Preston	Parts 1 to 11	
Reading	Parts 1 to 11	
Reigate	Guildford	
Rhyl	Parts 1 to 11	Birkenhead or Chester
Romford	Parts 1 to 11	
Rotherham	Sheffield	
Salisbury	Parts 1 to 11	Bournemouth or Southampton
Scarborough	Parts 1 to 11	York, Hull or Middlesbrough
Scunthorpe	Parts 1 to 11	Hull or Sheffield
Sheffield	Parts 1 to 11	
Skipton	Bradford	
Slough	Parts 1 to 11	
Southampton	Parts 1 to 11	
Southend-on-	Parts 1 to 11	

Name of County Court Hearing Centre	Parts of the Insolvency Act under which proceedings may be commenced at a county court hearing centre or the alternative county court hearing centre where proceedings may only be commenced	Nearest full time court or hearing centre
Sea		
South Shields	Newcastle upon Tyne	
Stafford	Parts 1 to 11	Stoke
Staines	Guildford	
St Albans	Parts 1 to 11	Luton
St Helens	Liverpool	
Stockport	Parts 1 to 11	Manchester
Stoke-on-Trent	Parts 1 to 11	
Sunderland	Parts 1 to 11	Newcastle
Swansea	Parts 1 to 11	Cardiff
Swindon	Parts 1 to 11	Gloucester or Reading
Tameside	Parts 1 to 11	Manchester
Taunton	Parts 1 to 11	Exeter or Bristol
Telford	Parts 1 to 11	
Thanet	Canterbury	
Torquay & Newton Abbot	Parts 1 to 11	Exeter
Truro	Parts 1 to 11	Plymouth
Tunbridge Wells	Parts 1 to 11	Croydon
Uxbridge	The County Court at Central London	
Wakefield	Parts 1 to 11	Leeds
Walsall	Parts 1 to 11	
Wandsworth	London Insolvency District - High Court for Parts 1 to 7 (see head note); County Court at Central London for Parts 7A to 11	
Warrington	Parts 1 to 11	Chester, Liverpool or Manchester
Warwick	Parts 1 to 11	Birmingham
Watford	Luton	
Welshpool & Newton	Parts 1 to 11	Stoke or Chester
West Cumbria	Parts 1 to 11	
West London	London Insolvency District - High Court for Parts 1 to 7 (see head note); County Court at Central London for Parts 7A to 11	
Weston Super Mare	Bristol	
Weymouth	Bournemouth	Bournemouth
Wigan	Parts 1 to 11	Bolton, Manchester or Preston
Willesden	London Insolvency District - High Court for Parts 1 to 7 (see head note); County Court at Central London for Parts 7A to 11	
Winchester	Parts 1 to 11	Southampton

Name of County Court Hearing Centre	Parts of the Insolvency Act under which proceedings may be commenced at a county court hearing centre or the alternative county court hearing centre where proceedings may only be commenced	Nearest full time court or hearing centre
Wolverhampton	Parts 1 to 11	
Woolwich	Croydon	
Worcester	Parts 1 to 11	Gloucester
Worthing	Brighton	
Wrexham	Parts 1 to 11	Birkenhead, Stoke or Chester
Yeovil	Parts 1 to 11	Exeter or Bristol
York	Parts 1 to 11	

SCHEDULE 6

Rule 10.37

Information to be provided in the bankruptcy application

PART 1

Debtor's Personal Information

1. Debtor's title.

2. Debtor's identification details.

3. Any previous name or other names by which the debtor is known or has been known during the last five years immediately before the date of the bankruptcy application.

PART 2

Additional personal information

4. Debtor's contact telephone number.

5. Debtor's email address (if any).

6. Debtor's date of birth.

7. Debtor's National Insurance number.

8. Debtor's gender.

9. Any previous address at which the debtor has resided during the three years immediately before the date of the bankruptcy application.

Occupation and employment details

10. Debtor's occupation (if any).

11. Debtor's employment status.

12. Where the debtor is employed—

(a) date when the debtor commenced the employment; and

(b) name and address of the employer.

13. Where the debtor is unemployed—

(a) date when the debtor was last employed;

(b) date when the debtor commenced the employment; and

(c) name and address of the last employer.

14. Where the debtor has worked for any previous employers during the 12 months immediately before the date of the bankruptcy application—

(a) dates of that employment; and

(b) name and address of those employers.

15. Where the debtor is, or has been, self-employed other than as a partner in a partnership, during the three years preceding the date of the bankruptcy application, in respect of each business—

(a) date when the business commenced trading;

(b) name and trading address of the business;

(c) name or names, other than the debtor's name, in which the debtor carried on business;

(d) nature of the business;

(e) trading address or addresses of the business and any address or addresses at which the debtor has carried on business the period in which any of the debtor's bankruptcy debts were incurred; and

(f) where the business has ceased trading, the date when the business ceased trading.

16. Where the debtor traded in a partnership at any time in the three years immediately preceding the date of the bankruptcy application, in respect of each partnership—

(a) date the partnership commenced;

(b) name and trading address of the partnership;

(c) trading address or addresses of the partnership and any address or addresses at which the partnership has carried on business during or after the time when any of the debtor's bankruptcy debts were incurred; and

(d) date the partnership ceased, if applicable.

17. Where the debtor is, or has been, a director or involved in the management of a company during the 12 months immediately preceding the date of the bankruptcy application—

(a) name and contact details for each company; and

(b) in the case of any company mentioned in accordance with sub paragraph (a) that is subject to any insolvency proceedings, the office-holder and contact details for that office-holder.

Creditors

18. In relation to each creditor—

(a) Name and address;

(b) account number or reference (if known);

(c) date the debt was incurred;

(d) the amount the creditor claims the debtor owes the creditor; and

(e) where the debt is secured, the property of the debtor which is claimed by the creditor to clear or reduce the creditor's debt.

19. Where the debtor has an interest in a property, in relation to each property, its address.

Assets and liabilities

20. Total value of assets.

21. Total value of liabilities.

22. Debtor's net monthly income from all sources.

23. Debtor's monthly surplus income after into account any contribution made by a member of the debtor's family to the amount necessary for the reasonable domestic needs of the debtor and the debtor's family.

SCHEDULE 7

Rule 10.37

Additional information to be provided in the bankruptcy application

Debtor's Personal Information

1. Whether the debtor is—

(a) single;

(b) married;

(c) divorced;

(d) co-habiting;

(e) separated;

(f) widowed;

(g) a civil partner;

(h) a former civil partner; or

(i) a surviving civil partner.

2. All occupants of the debtor's household and in relation to each person—

(a) name;

(b) age;

(c) relationship to the debtor;

(d) whether or not that person is dependent on the debtor.

3. Any other person dependent on the debtor and in relation to each person—

(a) name;

(b) age;

(c) postal address;

(d) reason for that person's dependency on the debtor.

Legal proceedings

4. Where the debtor is, or has been in the five years immediately preceding the date of the bankruptcy application, involved in proceedings for divorce, separation or the dissolution of a civil partnership—

(a) identity of the proceedings;

(b) nature of the proceedings; and

(c) date and details of any agreed settlement, whether formal or informal, and any gifts or transfers of property that occurred in, or as a result, of those proceedings.

5. Where the debtor is involved in proceedings, other than proceedings for divorce, separation or the dissolution of a civil partnership—

(a) identity of the proceedings;

(b) nature of the proceedings; and

(c) date and details of any interim settlement, whether formal or informal, and any interim orders.

Disposal of assets

6. Where in the five years preceding the date of the bankruptcy application the debtor has given away, placed into a trust for the benefit of any person, given a preference within the meaning of section 340 of the Act, has rights or excluded rights under section 342A of the Act or has transferred or sold for less than its true value any assets that the debtor owned, either alone or jointly, including the surrender of life, endowment and pension policies in relation to each asset—

(a) description of the asset;

(b) date the debtor gave away, transferred or sold the asset;

(c) name and address of the person to whom the debtor sold, transferred or gave away the asset;

(d) relationship of that person to the debtor;

(e) estimated market value or true value of the asset at the date of the bankruptcy application;

(f) value at which the asset was given away, transferred or sold; and

(g) net proceeds (if any) (less any charges and legal fees).

7. Where in the five years preceding the date of the bankruptcy application the debtor has disposed of or sold any property at market value or disposed of, sold at market value or realised any life, endowment and pension policies in relation to each asset—

(a) description of the asset;

(b) date the debtor disposed of, sold at market value or realised the asset; and

(c) net proceeds (if any) (less any charges and legal fees).

Financial arrangements with creditors

8. Where the debtor has been made bankrupt in the two years immediately preceding the date of the bankruptcy application—

(a) date of the bankruptcy order; and

(b) reference allocated by the official receiver.

9. Where the debtor has entered into a debt relief order in the two years immediately preceding the date of the bankruptcy application—

(a) date of the debt relief order; and

(b) reference allocated by the official receiver.

10. Where the debtor has, or has had, an individual voluntary arrangement in the two years immediately preceding the date of the bankruptcy application, the date of the arrangement.

11. Where the debtor has, or has had, an arrangement in force with creditors, other than an individual voluntary arrangement in the two years immediately preceding the date of the bankruptcy application, the date of the arrangement.

Legal and financial advisers

12. Where a solicitor has acted for or on behalf of the debtor in the five years immediately preceding the date of the bankruptcy application, in relation to each solicitor—

(a) name, address and reference of the solicitor; and

(b) nature and date of the transaction or transactions on which the solicitor advised.

13. Where an accountant, book keeper or other financial adviser has acted for or on behalf of the debtor in the five years immediately preceding the date of the bankruptcy application, in relation to each accountant, book keeper and financial adviser—

(a) name, address and reference; and

(b) dates of acting for the debtor.

Business affairs of a self-employed debtor

14. Where the debtor traded in a partnership at any time in the three years immediately preceding the date of the bankruptcy application, in respect of each partnership—

(a) names and addresses of each of the partners;

(b) name or names, other than the partners name, in which the partnership carried on business;

(c) nature of the partnership business.

15. Where the debtor is or has been self-employed (other than as a partner in a partnership) at any time in the three years immediately preceding the date of the bankruptcy application—

(a) VAT number, where the business was registered for VAT;

(b) address where the debtor's books of account and other accounting records are kept; and

(c) where the debtor holds records on a computer, details of which records are held, what software is used (including any passwords) and where the computer is located.

16. Where the debtor is or has been self-employed (including a partner in a partnership) at any time in the three years immediately preceding the date of the bankruptcy application—

(a) name and address of any person employed by the debtor immediately preceding the bankruptcy application; and

(b) whether —

(i) the debtor owes any employee or former employee any money; and

(ii) any employee or former employee has or may claim that the debtor owes that person some money.

Financial affairs – asset

17. The nature and value of each asset belonging to the debtor.

18. Where any asset is owned jointly with another person—

(a) name and address of that joint owner; and

(b) relationship of that person to the debtor.

19. Where any asset is subject to the rights of any person (other than a joint owner), whether as a secured creditor of the debtor or otherwise, in respect of each asset—

(a) nature of third party rights;

(b) account number or reference of that creditor or creditors; and

(c) amount each creditor claims is owed to them.

20. Where the debtor holds or has held in the last two years any bank, building society, credit union or national savings account including any joint, business or dormant accounts, in respect of each account—

(a) name, address and sort code of the bank or supplier;

(b) account number; and

(c) whether or not the debtor's regular income is paid into the account.

21. Where the debtor owns a motor vehicle or has disposed of any vehicle during the 12 months immediately preceding the date of the bankruptcy application, in respect of each motor vehicle—

(a) make and model;

(b) registration number;

(c) what the motor vehicle is used for by the debtor

(d) save where the motor vehicle has been disposed of, the location of the motor vehicle; and

(e) where the motor vehicle has been disposed of, the date of disposal and any proceeds from that disposal.

22. Where the debtor regularly uses a motor vehicle that the debtor does not own, in relation of each motor vehicle—

(a) make and model;

(b) registration number;

(c) name and address of the owner; and

(d) debtor's relationship to the vehicle's owner.

23. Where the debtor owns property, in relation to each property—

(a) type of and description of the property;

(b) who lives at the property and their relationship to the debtor;

(c) any income received by the debtor from the property; and

(d) nature of the insurance policy currently in force in relation to the property and the expiry date of that insurance policy.

24. Where the debtor rents or leases a property, in relation to each property—

(a) who lives at the property and their relationship to the debtor;

(b) monthly rent;

(c) name and address of the landlord and any managing agent.

25. Where the debtor has an interest in any other property, in relation to each property—

(a) nature of the interest;

(b) type of and description of the property;

(c) who lives at the property and their relationship to the debtor;

(d) name and address of the person who permits the debtor to use the property;

(e) amount paid by the debtor to the person who permits the debtor to use the property;

(f) any income received by the debtor from the property; and

(g) whether or not there is a written agreement.

26. Where the debtor resides at a property in which the debtor has no interest, the basis on which the debtor resides at that property.

27. Where the debtor has or has held within the five years immediately before the date of the bankruptcy application any occupational pension, personal pension, endowment or other life policy in relation to each policy—

(a) type of policy;

(b) name and address of the pension, endowment or life assurance company or broker;

(c) policy number;

(d) approximate date when the policy was taken out;

(e) estimated value of policy;

(f) amount (if any) being received now by the debtor and the frequency of those payments; and

(g) name of the beneficiary or beneficiaries of the policy.

Financial affairs – income and expenditure

28. Debtor's total annual income from all sources, the sources of that income and the amount from each source.

29. Total annual household income from all sources, the sources of that income and the amount from each source.

30. Current (or last) income tax reference number.

31. Monthly national insurance.

32. Average monthly tax.

33. Where the debtor has any current attachment of earnings orders in force, in respect of each attachment of earnings order—

(a) name of creditor;

(b) name of the court that made the attachment of earnings order.

34. Particulars of the debtor's average monthly expenditure which the debtor claims is necessary to meet the monthly reasonable domestic needs of the debtor's family, including the objective and the amount of that expenditure.

35. Particulars of the debtor's monthly expenditure not otherwise provided under this Schedule.

Bailiffs

36. Where an enforcement officer or bailiff has visited the debtor in the last six months—

(a) name of the creditor by whom the relevant debt is claimed;

(b) date of initial visit;

(c) description and estimated value of property seized.

Cause of insolvency

37. Why the debt was incurred.

38. Date when the debtor first experienced difficulty in paying some or all of the debtor's debts.

39. Reasons for the debtor not having enough money to pay some or all of the debtor's debts.

40. Where the debtor has gambled any money through betting or gambling during the last two years, how much the debtor has gambled.

SCHEDULE 8

Rule 10.49

Information to be given to creditors

1. Title of the debtor.

2. Debtor's full name.

3. Any previous name or other names by which the debtor is known or has been known during the last five years immediately before the date of the bankruptcy application.

4. Any previous address at which the debtor has resided at during the three years immediately before the date of the bankruptcy application.

5.Name and address for each creditor.

6.Amount each creditor claims is due.

7. Debtor's occupation (if any).

8. Debtor's employment status.

9. Where the debtor is, or has been, self-employed other than as a partner in a partnership, during the three years preceding the date of the bankruptcy application, in respect of each business—

(a) name and trading address of the business;

(b) name or names, other than the debtor's name, in which the debtor carried on business;

(c) nature of the business;

(d) trading address or addresses of the business and any address or addresses at which the debtor has carried on business during the period in which any of the debtor's bankruptcy debts were incurred; and

(e) where the business has ceased trading, the date when the business ceased trading.

10. Total value of assets.

11. Total value of liabilities.

12. Where in the five years preceding the date of the bankruptcy application the debtor has given away, placed into a trust for the benefit of any person, given a preference within the meaning of section 340 of the Act, has rights or excluded rights under section 342A of the Act or has transferred or sold for less than its true value any assets that the debtor owned, either alone or jointly, including the surrender of life, endowment and pension policies in relation to each asset—

(a) description of the asset;

(b) date the debtor gave away, transferred or sold the asset;

(c) relationship of that person to the debtor;

(d) estimated market value or true value of the asset at the date of the bankruptcy application;

(e) value at which the asset was given away, transferred or sold; and

(f) net proceeds (if any) (less any charges and legal fees).

13. Where any asset is owned jointly with another person, the nature of the asset.

14. Where any asset is subject to the rights of any person (other than a joint owner), whether as a secured creditor of the debtor or otherwise, in respect of each asset, the nature of third party rights.

15. Where the debtor owns a motor vehicle or has disposed of any vehicle during the 12 months immediately preceding the date of the bankruptcy application, in respect of each motor vehicle—

(a) make, model and year of manufacture;

(b) what the motor vehicle is used for by the debtor

(c) save where the motor vehicle has been disposed of, the location of the motor vehicle;

(d) where the motor vehicle has been disposed of, the date of disposal and any proceeds from that disposal.

16. Where the debtor regularly uses a motor vehicle that the debtor does not own, in relation of each motor vehicle—

(a) make and model; and

(b) debtor's relationship to the vehicle's owner.

17. Where the debtor owns or has an interest in any property, in relation to each property—

(a) address;

(b) type of and description of the property

(c) nature of the interest

(d) value of that interest; and

(e) any income received by the debtor from the property.

18. Where the debtor holds or has held within the five years immediately before the date of the bankruptcy application any occupational pension, personal pension, endowment or other life policy in relation to each policy—

(a) type of policy;

(b) approximate date when the policy was taken out; and

(c) estimated value of policy.

19. Debtor's net monthly income from all sources.

20. Debtor's monthly surplus income after taking into account any contribution made by a member of the debtor's family to the amount necessary for the reasonable domestic needs of the debtor and the debtor's family.

21. Current (or last) income tax reference number.

22. In relation to each creditor—

(a) name and address;

(b) date the debt was incurred;

(c) the amount the creditor claims the debtor owes the creditor;

(d) where the debt is secured, the property of the debtor which is claimed by the creditor to clear of reduce the creditor's debt.

SCHEDULE 9

Rule 18.19

Determination of insolvency office-holder's remuneration

This table sets out the realisation and distribution scales for determining the remuneration of trustees and liquidators.

The realisation scale

on the first £5,000	20%
on the next £5,000	15%

on the next £90,000	10%
on all further sums realised	5%
The distribution scale	
on the first £5,000	10%
on the next £5,000	7.5%
on the next £90,000	5%
on all further sums distributed	2.5%.

SCHEDULE 10

Rule 21.10

The EC Regulation

[In the current Rules adaptations to deal with cases where an EC liquidator has been appointed are contained in rules 2.133, 4.231, 6.239 and 7.64. These include adaptations to provide that a member State liquidator is deemed to be a creditor in applying certain rules. Schedule 11 will contain a list of the corresponding rules in the new rules.]