

## SCHEDULE 1

Rule 2

### Amendments to the Insolvency Rules 1986

#### General amendments

1. Except in the Forms contained in Schedule 4 to the 1986 Rules, for each word in the first column wherever it appears substitute the corresponding word in the second column.

Old words	New words
Fit (when used of decisions by the court)	Just
Leave (except in Rule 4.20)	Permission
Sign	Authenticate
Signing	Authenticating
Signs	Authenticates
Signed	Authenticated
Signature	Authentication

#### Amendments to Rule 0.2

- 2.—(1) Rule 0.2 (construction and interpretation) is amended as follows.
- (2) Omit paragraph (2).
- (3) In paragraph (3), for “paragraphs (1) and (2)” substitute “paragraph (1)”.

#### Amendments to Rule 1.3

- 3.—(1) Rule 1.3 (contents of the proposal) is amended as follows.
- (2) In paragraph (2)—
- (a) in sub-paragraph (p), at the end omit “and”;
- (b) after sub-paragraph (q) add—
- “; and
- (r) such other matters (if any) as the directors consider appropriate for ensuring that members and creditors are enabled to reach an informed decision on the proposal.”
- (3) In paragraph (3) for “former’s” substitute “nominee’s”.

#### Amendments to Rule 1.5

- 4.—(1) Rule 1.5 (statement of affairs) is amended as follows.
- (2) In paragraph (1)—
- (a) for “within 7 days after their” substitute “at the same time as the”;
- (b) omit “or within such longer time as he may allow”.
- (3) For paragraph (4), substitute—
- “The statement must be verified by a statement of truth made by at least one director.”.

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#### **Amendment to Rule 1.6**

5.—(1) Rule 1.6 (additional disclosure for assistance of nominee) is amended as follows.

(2) In paragraph (3) for “him” to “records” substitute “the nominee such access to the company’s accounts and records as the nominee may require”.

#### **Amendments to Rule 1.8**

6.—(1) Rule 1.8 (replacement of nominee) is amended as follows.

(2) In paragraphs (1) and (2), for “7” substitute “5 business”.

#### **Amendments to Rule 1.9**

7.—(1) Rule 1.9 (summoning of meetings under s 3) is amended as follows.

(2) In paragraph (1) omit “less than 14, nor”.

(3) In paragraph (2)(a), for “whom he” substitute “whose address the nominee”.

(4) In paragraph (3), for “Rule 1.19(1)” substitute “Rule 1.19(2)”.

#### **Amendment to Rule 1.10**

8.—(1) Rule 1.10 (preparation of proposal) is amended as follows.

(2) For paragraph (1) substitute—

“(1) The responsible insolvency practitioner’s proposal must specify all such matters as under Rule 1.3 (subject to paragraph (3) below) in Chapter 2 the directors of the company would be required to include in a proposal by them, with the addition, where the company is in administration or liquidation, of the nature and amount of its preferential creditors.”.

#### **Amendment to Rule 1.11**

9.—(1) Rule 1.11 (summoning of meetings under s 3) is amended as follows.

(2) In paragraph (1)(a), for “whom the insolvency practitioner is” substitute “whose address the insolvency practitioner is otherwise”.

#### **Amendments to Rule 1.13**

10.—(1) Rule 1.13 (summoning of meetings) is amended as follows.

(2) In paragraph (1), for “the person summoning the meeting (“the convener”) shall” substitute “the nominee must”.

(3) In paragraph (4), for “7” substitute “5 business”.

#### **Amendments to Rule 1.14**

11.—(1) Rule 1.14 (the chairman at meetings) is amended as follows.

(2) In paragraph (1) for “convener shall” substitute “nominee must”.

(3) In paragraph (2)(c) for “convenor” substitute “nominee”.

#### **Amendment to Rule 1.16**

12.—(1) Rule 1.16 (attendance by company officers) is amended as follows.

(2) In paragraph (1), for “convener” wherever it appears substitute “nominee”.

### **Amendments to Rule 1.19**

13.—(1) Rule 1.19 (requisite majorities (creditors)) is amended as follows.

(2) For paragraphs (1) and (2) substitute—

“(1) Subject to paragraph (2), at the creditors’ meeting, a resolution is passed when a majority (in value) of those present and voting in person or by proxy have voted in favour of it.

(2) A resolution to approve the proposal or a modification is passed when a majority of three-quarters or more (in value) of those present and voting in person or by proxy have voted in favour of it.”.

(3) In paragraph (3)(a), for “convener of the meeting” substitute “nominee”.

### **Amendment to Rule 1.21**

14.—(1) Rule 1.21 (conduct of meetings) is amended as follows.

(2) After paragraph (4) insert —

“(4A) Once only in the course of a meeting the chairman may, without an adjournment, declare it suspended for any period up to 1 hour.”.

### **Amendment to Rule 1.22**

15.—(1) Rule 1.22 (resolutions to follow approval) is amended as follows.

(2) In paragraph (1), for “may” where it appears first substitute “must”.

### **Amendment to Rule 1.22A**

16.—(1) Rule 1.22A (notice of order made under section 4A(6)) is amended as follows.

(2) In paragraph (5), for “7” substitute “5 business”.

### **Amendments to Rule 1.24**

17.—(1) Rule 1.24 (report of meetings) is amended as follows.

(2) In paragraph (3), after “4” insert “business”.

(3) In the second sentence of paragraph (4), for “immediately” substitute “as soon as reasonably practicable”.

### **Amendment to Rule 1.25**

18.—(1) Rule 1.25 (revocation or suspension of the arrangement) is amended as follows.

(2) In paragraphs (4)(b) and (5), for “7” substitute “5 business”.

### **Substitution of Rule 1.26**

19. For Rule 1.26 (supervisor’s accounts and reports) substitute—

#### **“1.26A Supervisor’s accounts and reports**

(1) Paragraph (2) applies where the voluntary arrangement authorises or requires the supervisor—

(a) to carry on the business of the company or trade on its behalf or in its name; or

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- (b) to realise assets of the company; or
  - (c) otherwise to administer or dispose of any of its funds.
- (2) The supervisor must keep accounts and records of the supervisor's acts and dealings in, and in connection with, the arrangement, including in particular records of all receipts and payments of money.
- (3) The supervisor must preserve any accounts and records in paragraph (2) which—
- (a) were kept by any other person who has acted as supervisor of the arrangement; and
  - (b) are in the supervisor's possession.
- (4) Subject to paragraph (5), the supervisor must in respect of each period of 12 months ending with the anniversary of the commencement of the arrangement send within 2 months of the end of that period a report on the progress and prospects for the full implementation of the voluntary arrangement to—
- (a) the registrar of companies;
  - (b) the company;
  - (c) all those of the company's creditors who are bound by the voluntary arrangement of whose address the supervisor is aware;
  - (d) subject to paragraph (7) below, the members of the company; and
  - (e) if the company is not in liquidation, the company's auditors (if any) for the time being.
- (5) The supervisor is released from an obligation to send a report under paragraph (4), if an obligation to send a final report under Rule 1.29 arises in the period of 2 months mentioned in paragraph (4).
- (6) Where the supervisor is authorised or required to do any of the things mentioned in paragraph (1)(a) to (c), the report required to be sent pursuant to paragraph (4) must include or be accompanied by—
- (a) an abstract of receipts and payments required to be recorded by virtue of paragraph (2); or
  - (b) where there have been no such receipts and payments, a statement to that effect.
- (7) The court may, on application by the supervisor dispense with the sending under this Rule of abstracts or reports to members of the company, either altogether or on the basis that the availability of the abstract or report to members is to be advertised by the supervisor in a specified manner.”.

#### **Amendment to Rule 1.27**

**20.**—(1) Rule 1.27 (production of accounts and records to Secretary of State) is amended as follows.

- (2) In paragraph (1)(b), for “1.26” substitute “1.26A”.

#### **Amendments to Rule 1.31**

**21.**—(1) Rule 1.31 (application for conversion into winding up) is amended as follows.

- (2) For paragraph (1) substitute—

“(1) Where a member State liquidator proposes to apply to the court for conversion of a voluntary arrangement into winding-up proceedings, a witness statement complying with Rule 1.32 must be prepared and filed in court in support of the application.

(1A) In this Rule, and in Rules 1.32 and 1.33, “conversion into winding-up proceedings” means an order under Article 37 of the EC Regulation (conversion of earlier proceedings) that the voluntary arrangement is converted into—

- (a) administration proceedings whose purposes are limited to the winding up of the company through administration and are to exclude the purpose contained in paragraph 3(1)(a) of Schedule B1 to the Act<sup>(1)</sup>;
- (b) a creditors’ voluntary winding up; or
- (c) a winding up by the court.”.

(3) In paragraph (3), for “affidavit” substitute “witness statement”.

### **Amendments to Rule 1.32**

**22.**—(1) Rule 1.32 (contents of affidavit) is amended as follows.

(2) In the heading, for “affidavit” substitute “witness statement”.

(3) In paragraph (1)—

- (a) for “affidavit” substitute “witness statement”;
- (b) in sub-paragraph (b)—
  - (i) for “deponent’s belief” substitute “belief of the person making the statement”;
  - (ii) for “a winding up” substitute “winding-up proceedings”;

(c) for sub-paragraph (c) substitute—

“(c) the opinion of the person making the statement as to whether the company ought to go into voluntary liquidation or be wound up by the court; and”.

(4) In paragraph (2)—

- (a) for “An affidavit” substitute “A witness statement”; and
- (b) for “sworn” substitute “made”.

### **Amendment to Rule 1.33**

**23.**—(1) Rule 1.33 (power of court) is amended as follows.

(2) In paragraphs (1), (2) and (4), for “winding up” substitute “winding-up proceedings”.

### **Amendments to Rule 1.37**

**24.**—(1) Rule 1.37 (particulars in statement) is amended as follows.

(2) In paragraph (1)—

- (a) for “no later than 7 days after” substitute “at the same time as”; and
- (b) omit “or such longer time as he may allow”.

(3) For paragraph (4), substitute—

“The statement of affairs must be verified by a statement of truth made by at least one director.”.

### **Amendment to Rule 1.39**

**25.**—(1) Rule 1.39 (documents submitted to the court to obtain moratorium) is amended as follows.

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(1) Schedule B1 was inserted by 2002 c. 40, s. 248(2) and Schedule 16.

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- (2) In paragraph (1), for “working” substitute “business”.

#### **Amendments to Rule 1.40**

**26.**—(1) Rule 1.40 (notice and advertisement of beginning of a moratorium) is amended as follows.

- (2) After paragraph (2), insert—

“(2A) In addition to the standard contents, the notice under paragraph (2) must state—

- (a) the nature of the business of the company;
- (b) that a moratorium under section 1A(2) has come into force; and
- (c) the date upon which the moratorium came into force.”.

- (3) In paragraph (3)—

- (a) for “claim he” substitute “address the nominee”, and
- (b) at the end add—

“and the court at which the documents to obtain the moratorium were filed”.

#### **Amendments to Rule 1.42**

**27.**—(1) Rule 1.42 (notice and advertisement of end of moratorium) is amended as follows.

- (2) After paragraph (1) insert—

“(1A) In addition to the standard contents, the notice under paragraph (1) must state—

- (a) the nature of the business of the company;
- (b) that a moratorium under section 1A has come to an end; and
- (c) the date upon which the moratorium came to an end.”.

- (3) In paragraph (2), for “claim he” substitute “address the nominee”.

#### **Amendment to Rule 1.44**

**28.**—(1) Rule 1.44 (withdrawal of nominee’s consent to act) is amended as follows.

- (2) In subparagraph (d) for “he” substitute “and address the nominee”.

#### **Amendments to Rule 1.45**

**29.**—(1) Rule 1.45 (replacement of nominee by court) is amended as follows.

- (2) In paragraphs (1) and (2), for “7” substitute “5 business”.

- (3) In paragraph (3) for “his consent to act” substitute—

“that the replacement nominee—

- (a) consents to act; and
- (b) is qualified to act as an insolvency practitioner in relation to the company or is an authorised person in relation to the company”.

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(2) Section 1A was inserted by 2000 c. 39, s. 1 and Schedule 1, paragraphs 1 and 2.

### **Amendment to Rule 1.47**

**30.**—(1) Rule 1.47 (application to court under paragraph 26 or 27 of Schedule A1 to the Act(3)) is amended as follows.

(2) For “7” substitute “5 business”.

### **Amendments to Rule 1.48**

**31.**—(1) Rule 1.48 (summoning of meetings; procedure at meetings etc.) is amended as follows.

(2) For paragraph (4) substitute—

“(4) Each notice sent under this Rule must—

(a) specify—

(i) the court in which the documents relating to the obtaining of the moratorium were filed and

(ii) the court reference; and

(b) state the effect of paragraphs (2) to (4) of Rule 1.52 (requisite majorities (creditors)).

(4A) With each notice there must be sent—

(a) a copy of the directors’ proposal;

(b) a copy of the statement of affairs or, if the nominee thinks fit, a summary of it (the summary to include a list of creditors and the amount of their debts); and

(c) the nominee’s comments on the proposal.”.

### **Amendments to Rule 1.52**

**32.**—(1) Rule 1.52 (requisite majorities (creditors)) is amended as follows.

(2) For paragraphs (1) and (2) substitute—

“(1) Subject to paragraph (2), at the creditors’ meeting, a resolution is passed when a majority (in value) of those present and voting in person or by proxy have voted in favour of it.

(2) A resolution to approve the proposal or a modification is passed when a majority of three-quarters or more (in value) of those present and voting in person or by proxy have voted in favour of it.”.

(3) In paragraph (4)(a) for “convener of the meeting” substitute “nominee”.

### **Amendment to Rule 1.53**

**33.**—(1) Rule 1.53 (requisite majorities (members) and proceedings to obtain agreement on the proposal) is amended as follows.

(2) After paragraph (4) insert —

“(4A) Once only in the course of a meeting the chairman may, without an adjournment, declare it suspended for any period up to 1 hour.”.

### **New Chapters in Part 1**

**34.** After Rule 1.54 add—

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(3) Schedule A1 was inserted by 2000 c. 39, s. 1 and Schedule 1, paragraphs 1 and 4.

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## “CHAPTER 10

### TIME RECORDING INFORMATION

#### **1.55 Provision by nominee or supervisor of information about time spent on a proposal or voluntary arrangement**

(1) Subject as set out in this Rule, a person (“the relevant person”) who has acted or is acting as—

- (a) a nominee in respect of a proposed voluntary arrangement; or
- (b) a supervisor in respect of a voluntary arrangement

must, on request in writing by any person mentioned in paragraph (2), supply free of charge to that person a statement of the kind described in paragraph (3).

(2) The persons referred to in paragraph (1) are—

- (a) any director of the company;
- (b) where the proposal has been approved, any creditor or member of the company in respect of the arrangement.

(3) The statement referred to in paragraph (1)—

- (a) must cover the period beginning with the date of the appointment of the relevant person as nominee or supervisor, as the case may be, and ending—
  - (i) with the date next before the date of making the request on which the relevant person has completed any period as nominee or supervisor, or both, which is a multiple of 6 months or,
  - (ii) where the relevant person has ceased to act as nominee or supervisor, the date upon which the person so ceased; and
- (b) must comprise the following details—
  - (i) the total number of hours spent on the voluntary arrangement by the relevant person whether as nominee or supervisor, or both, and any staff assigned to the voluntary arrangement during that period;
  - (ii) for each grade of individual so engaged, the average hourly rate at which any work carried out by individuals in that grade is charged; and
  - (iii) the number of hours spent by each grade of staff during that period.

(4) No request pursuant to this Rule may be made where more than 2 years has elapsed since the relevant person ceased to act in any capacity in relation to the proposal or any voluntary arrangement arising out of the approval of the proposal.

(5) Any statement required to be provided to any person under this Rule must be supplied within 28 days of the date of the receipt of the request by the person required to supply it.

## CHAPTER 11

### OMISSION OF INFORMATION FROM STATEMENT OF AFFAIRS

#### **1.56. Omission of Information from Statement of Affairs**

**1.56.** The court, on the application of the nominee, the directors or any person appearing to it to have an interest, may direct that specified information may be omitted from any statement of affairs required to be sent to the creditors where the disclosure of such information would be likely to prejudice the conduct of the voluntary arrangement or might reasonably be expected to lead to violence against any person.”

### **Amendments to Rule 2.2**

- 35.**—(1) Rule 2.2 (affidavit in support of administration application) is amended as follows.
- (2) In the heading, for “Affidavit” substitute “Witness statement”.
  - (3) In paragraph (1)—
    - (a) for “an affidavit” substitute “a witness statement”; and
    - (b) omit “and sworn,”.
  - (4) In paragraphs (2) and (3), for “affidavit” wherever it appears substitute “witness statement”.

### **Amendments to Rule 2.4**

- 36.**—(1) Rule 2.4 (contents of application) is amended as follows.
- (2) In the heading, for “affidavit” substitute “witness statement”.
  - (3) In paragraph (2), for “an affidavit” substitute “a witness statement”.
  - (4) In paragraphs (3) and (4), for “affidavit” substitute “witness statement”.
  - (5) In paragraph (4), after “main proceedings” insert “, secondary proceedings”.

### **Amendment to Rule 2.6**

- 37.**—(1) Rule 2.6 (service of application) is amended as follows.
- (2) In paragraph (1), for “affidavit in support of it” substitute “witness statement required by Rule 2.4”.

### **Amendments to Rule 2.8.**

- 38.**—(1) Rule 2.8 (manner in which service to be effected) is amended as follows.
- (2) In paragraph (1), after “5” insert “business”.
  - (3) Omit paragraph (6).

### **Amendments to Rule 2.9**

- 39.**—(1) Rule 2.9 (proof of service) is amended as follows.
- (2) For paragraph (1) substitute—
    - “(1) Service of the application must be verified by a certificate of service.
    - (1A) The certificate of service must be sufficient to identify the application served and must specify—
      - (a) the name and registered number of the company,
      - (b) the address of the registered office of the company,
      - (c) the name of the applicant,
      - (d) the court to which the application was made and the court reference number,
      - (e) the date of the application,
      - (f) whether the copy served was a sealed copy,
      - (g) the date on which service was effected, and
      - (h) the manner in which service was effected.”.
  - (3) In paragraph (2)—

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- (a) for “affidavit of service, with a sealed copy of the application exhibited to it,” substitute “certificate of service”;
- (b) after “1” insert “business”.

#### **Amendments to Rule 2.11**

**40.**—(1) Rule 2.11 (application where company in liquidation) is amended as follows.

(2) In paragraph (1), for “affidavit in support of the administration application” substitute “witness statement required by Rule 2.4”.

(3) In paragraph (2), for “affidavit” substitute “witness statement required by Rule 2.4”.

#### **Amendments to Rule 2.19**

**41.**—(1) Rule 2.19 (appointment taking place out of court business hours) is amended as follows.

(2) In paragraph (1), for “in accordance with paragraph (3)” substitute “or sending it as an attachment to an e-mail in accordance with paragraphs (3) and (3A)”.

(3) For paragraph (3) substitute—

“(3) The notice must be—

- (a) faxed to a designated telephone number, or
- (b) sent as an attachment by e-mail to a designated e-mail address,

which must be provided by the Court Service for that purpose.

(3A) The Secretary of State must publish the designated telephone number and e-mail address on The Insolvency Service website and, on request to The Insolvency Service, make them available in writing.”.

(4) In paragraph (4)—

- (a) after “ensure that” insert “(a)”;
- (b) after “date of the fax transmission” insert “and the telephone number to which the notice was faxed”;
- (c) at the end add—
  - “,or
  - (b) a hard copy of the e-mail is created detailing the time and date of the e-mail and the address to which it was sent and containing a copy of the document sent as an attachment,

as the case may be; and the appointor must retain the report or hard copy.”.

(5) In paragraph (5), for “that fax transmission” substitute “the fax transmission or sending of the e-mail”.

(6) In paragraph (6), for “received by the Court Service fax machine” substitute “, or the e-mail (or a hard copy of the e-mail) containing the notice of appointment, as (in either case) received by the Court Service.”.

(7) In paragraph (7), for the words from “showing the date” to “designated telephone number” substitute “or hard copy required by paragraph (4)”.

(8) In paragraph (9)—

- (a) after “transmission report” insert “or hard copy of the e-mail”;
- (b) after “faxed” insert “or sent”.

(9) In paragraph (11), after “transmission report” insert “or hard copy of the e-mail”.

#### **Amendment to Rule 2.20**

- 42.—(1) Rule 2.20 (notice of intention to appoint) is amended as follows.  
(2) In paragraph (3), for “2.8(6)” substitute “2.8(5)”.

#### **Amendments to Rule 2.27**

- 43.—(1) Rule 2.27 (notification and advertisement of administrator’s appointment) is amended as follows.  
(2) In paragraph (1), omit “in Form 2.11B”.  
(3) After paragraph (1), insert—  
    “(1A) In addition to the standard contents, the notice under paragraph (1) must state—  
        (a) that an administrator has been appointed,  
        (b) the date of the appointment, and  
        (c) the nature of the business of the company.”  
(4) In paragraph (3), after “person” insert “other than the registrar of companies”.

#### **Amendment to Rule 2.29**

- 44.—(1) Rule 2.29 (verification and filing) is amended as follows.  
(2) In paragraph (7) omit “and file with the court a Form 2.16B together with”.

#### **Amendments to Rule 2.30**

- 45.—(1) Rule 2.30 (limited disclosure) is amended as follows.  
(2) In paragraph (1), after “administration” insert “or might reasonably be expected to lead to violence against any person”.  
(3) In paragraph (3) omit “a Form 2.16B together with”.  
(4) In paragraph (4), for “an affidavit” substitute “a witness statement”.  
(5) In paragraph (5), after “3” insert “business”.  
(6) In paragraph (8), omit “Form 2.16B together with”.

#### **Amendments to Rule 2.31**

- 46.—(1) Rule 2.31 (release from duty to submit statement of affairs; extension of time) is amended as follows.  
(2) In paragraph (3), for “7” substitute “5 business”.  
(3) In paragraph (5), after “5” insert “business”.  
(4) In paragraph (7), for “out of the assets” substitute “as an expense of the administration”.

#### **Amendments to Rule 2.32**

- 47.—(1) Rule 2.32 (expenses of statement of affairs) is amended as follows.  
(2) In paragraph (1), for “the company’s affairs” substitute “affairs of the company”.  
(3) In paragraph (1), for “out of his receipts” substitute “as an expense of the administration”.

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### **Amendments to Rule 2.33**

**48.**—(1) Rule 2.33 (administrator’s proposals) is amended as follows.

(2) In paragraph (1), omit “attached to Form 2.17B”.

(3) In paragraph (2)—

(a) after sub-paragraph (k) insert—

“(ka) a statement complying with paragraph (2B) 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;”;

(b) in sub-paragraph (m)—

(i) at the beginning insert, “a statement (which must comply with paragraph (2C) where that paragraph applies) of”;

(ii) omit the second sentence;

(c) in sub-paragraph (p)(ii), after “main proceedings” insert “, secondary proceedings”.

(4) After paragraph (2) insert—

“(2A) In this Part—

(a) “pre-administration costs” are—

(i) fees charged, and

(ii) 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 its doing so; and

(b) “unpaid pre-administration costs” are pre-administration costs which had not been paid when the company entered administration.

(2B) A statement of pre-administration costs complies with this paragraph if it includes—

(a) details of any agreement under which the fees were charged and expenses incurred, including the parties to the agreement and the date on which the agreement was made,

(b) details of the work done for which the fees were charged and expenses incurred,

(c) an explanation of why the work was done before the company entered administration and how it would further the achievement of an objective in sub-paragraph (1) of paragraph 3 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)),

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- (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 2.67A, and
  - (ii) not part of the proposals subject to approval under paragraph 53.

(2C) This paragraph applies where it is proposed that the administration will end by the company moving to a creditors' voluntary liquidation; and in that case, the statement required by paragraph (2)(m) must include—

- (a) details of the proposed liquidator;
- (b) where applicable, the declaration required by section 231; and
- (c) a statement that the creditors may, before the proposals are approved, nominate a different person as liquidator in accordance with paragraph 83(7)(a) and Rule 2.117A(2)(b).”.

(5) In paragraph (4), for the words from “shall notify” to the end substitute—  
“must as soon as reasonably practicable after the making of the order—

- (a) notify in Form 2.18B every creditor of the company and every member of the company of whose address (in either case) the administrator is aware, and
- (b) send a copy of the notification to the registrar of companies.”.

(6) After paragraph (5) insert—

“(5A) Where proposals are deemed under paragraph (5) to have been approved, the administrator must, as soon as reasonably practicable after expiry of the period set out in Rule 2.37(1), give notice of the date on which they were deemed to have been approved to the registrar of companies, the court and the creditors; and a copy of the proposals must be attached to the notice given to the court and to creditors who have not previously received them.”.

(7) In paragraph (6), for “10” insert “7 business”.

(8) For paragraph (7A) substitute—

“(7A) In addition to the standard contents, the notice under paragraph (7) must state—

- (a) that members can write for a copy of the statement of proposals for achieving the purpose of administration; and
- (b) the address to which to write.”.

### **New Rule after Rule 2.33**

**49.** After Rule 2.33 insert—

#### **“2.33A Limited disclosure of para 49 statement**

(1) Where the administrator thinks that it would prejudice the conduct of the administration or might reasonably be expected to lead to violence against any person for any of the matters specified in Rule 2.33(2)(h) and (j) to be disclosed, the administrator may apply to the court for an order of limited disclosure in respect of any specified part of the statement under paragraph 49.

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

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

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

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

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

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

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

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

(10) The provisions of CPR(4) Part 31 do not apply to an application under this Rule.”.

#### **Amendments to Rule 2.34**

**50.**—(1) Rule 2.34 (meetings to consider administrator’s proposals) is amended as follows.

(2) In paragraph (1), for the words from “shall” to the end substitute—

“must have gazetted a notice which, in addition to the standard contents, must state—

(a) that an initial creditors’ meeting is to take place; and

(b) the venue fixed for the meeting.”.

(3) In paragraph (4) omit “and may only adjourn once”.

(4) After paragraph (4) add—

“(5) If there are subsequently further adjournments, the final adjournment must not be to a day later than 14 days after the date on which the meeting was originally held, subject to any direction of the court.

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

#### **Amendments to Rule 2.35**

**51.**—(1) Rule 2.35 (creditors’ meetings generally) is amended as follows.

(2) After paragraph (4) insert—

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(4) Civil Procedure Rules 1998 (S.I. 1998/3132), as defined by 1986/1925, Rule 0.2(1).

“(4A) As soon as reasonably practicable after notice of the meeting has been given, the administrator must have gazetted a notice which, in addition to the standard contents, must state—

- (a) that a creditors’ meeting is to take place;
- (b) the venue fixed for the meeting;
- (c) the purpose of the meeting; and
- (d) a statement of the effect of Rule 2.38 (entitlement to vote).”.

(3) For paragraph (6) substitute—

“(6A) If within 30 minutes from the time fixed for the commencement of the meeting those persons attending the meeting do not constitute a quorum, the chairman may adjourn the meeting to such time and place as the chairman may appoint.

(6B) Once only in the course of the meeting the chairman may, without an adjournment, declare the meeting suspended for any period up to 1 hour.

(6C) The chairman may, and must if the meeting so resolves, adjourn the meeting to such time and place as seems to the chairman to be appropriate in the circumstances.

An adjournment under this paragraph must not be for a period of more than 14 days, subject to the direction of the court.

(6D) If there are subsequently further adjournments, the final adjournment must not be to a day later than 14 days after the date on which the meeting was originally held.

(6E) Where a meeting is adjourned under this Rule, proofs and proxies may be used if lodged at any time up to 12.00 hours on the business day immediately before the adjourned meeting.

(6F) Paragraph (3) applies with regard to the venue fixed for a meeting adjourned under this Rule.”.

(4) Omit paragraph (7).

#### **Amendment to Rule 2.36**

**52.**—(1) Rule 2.36 (the chairman at meetings) is amended as follows.

(2) After paragraph (2) add—

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

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

#### **Amendments to Rule 2.37**

**53.**—(1) Rule 2.37 (meeting requisitioned by creditors) is amended as follows.

(2) In paragraph (1)—

- (a) for “12” substitute “8 business”;
- (b) for “sub-paragraph (a) does” substitute “sub-paragraphs (a) and (b) do”.

#### **New Rule after Rule 2.37**

**54.** After Rule 2.37 insert—

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**“2.37A Notice of meetings by advertisement only**

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

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

**Amendments to Rule 2.38**

55.—(1) Rule 2.38 (entitlement to vote) is amended as follows.

(2) In paragraph (1)(b), for “the following provisions of” substitute “Rule 2.39 or”.

(3) At the end of paragraph (7)(a) add “and Rule 2.39”.

**Amendment to Rule 2.39**

56.—(1) Rule 2.39 (admission and rejection of claims) is amended as follows.

(2) For paragraph (5) substitute—

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

**Amendment to Rule 2.41**

57.—(1) Rule 2.41 (holders of negotiable instruments) is amended as follows.

(2) In sub-paragraph (b), after “vote” insert “(but not for dividend)”.

**Substitution of Rule 2.44**

58. For Rule 2.44 (minutes) substitute—

**“2.44A Minutes**

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

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

(3) The chairman must also cause to be made up and kept a list of all the creditors who attended the meeting.

(4) The minutes must include—

(a) a list of the names of creditors who attended (personally or by proxy) and their claims,

(b) if a creditors’ committee has been established, the names and addresses of those elected to be members of the committee, and

(c) a record of every resolution passed.”.

**Amendments to Rule 2.45**

59.—(1) Rule 2.45 (revision of the administrator’s proposals) is amended as follows.

(2) In paragraph (2)(g), for the words from “a statement that” to “are approved” substitute—

“(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) and Rule 2.117A(2)(b);”.
- (3) In paragraph (3), after “5” insert “business”.
- (4) In paragraph (4), for the second sentence substitute—
  - “(5) The notice must be published as soon as reasonably practicable after the administrator sends the statement to the creditors and in addition to the standard contents must state—
    - (a) that members can write for a copy of the statement of revised proposals for the administration; and
    - (b) the address to which to write.”.

#### **Amendment to Rule 2.46**

- 60.**—(1) Rule 2.46 (notice to creditors) is amended as follows.
- (2) For paragraphs (a) and (b) substitute—
  - “(a) send notice in Form 2.23B of the result of the meeting to every creditor and to every other person who received a copy of the original proposals,
  - (b) attach a copy of the proposals considered at the meeting to the notice sent to each creditor who did not receive notice of the meeting but of whose claim the administrator has subsequently become aware, and
  - (c) file with the court a copy of the proposals considered at the meeting and notice of the result of the meeting.”.

#### **Amendments to Rule 2.47**

- 61.**—(1) Rule 2.47 (reports to creditors) is amended as follows.
- (2) In paragraph (1)—
  - (a) after sub-paragraph (d) insert—
    - “(da) details of the basis fixed for the remuneration of the administrator under Rule 2.106 (or if not fixed at the date of the report, the steps taken during the period of the report to fix it);
    - (db) if the basis of remuneration has been fixed, a statement of—
      - (i) the remuneration charged by the administrator during the period of the report (subject to paragraph (2A)), and
      - (ii) where the report is the first to be made after the basis has been fixed, the remuneration charged by the administrator during the periods covered by the previous reports (subject to paragraph (2A)), together with a description of the things done by the administrator during those periods in respect of which the remuneration was charged,irrespective in either case of whether payment was made in respect of that remuneration during the period of the report;
    - (dc) a statement of the expenses incurred by the administrator during the period of the report, irrespective of whether payment was made in respect of them during that period;”;
  - (b) at the end of sub-paragraph (f) omit “and”;

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(c) after sub-paragraph (f) insert—

“(fa) a statement of the creditors’ right to request information under Rule 2.48A and their right to challenge the administrator’s remuneration and expenses under Rule 2.109; and”

(3) For paragraph (2) substitute—

“(2) A receipts and payments account must be in the form of an abstract showing receipts and payments during the period of the report and, where the administrator has ceased to act, must also include a statement as to the amount paid to unsecured creditors by virtue of the application of section 176A(5).

(2A) Where the basis for the remuneration is a set amount under Rule 2.106(2)(c), it may be shown as that amount without any apportionment to the period of the report.

(2B) Where the administrator has made a statement of pre-administration costs under Rule 2.33(2)(ka)—

(a) if they are approved under Rule 2.67A, the first progress report after the approval must include a statement setting out the date of the approval and the amounts approved;

(b) each successive report, so long as any of the costs remain unapproved, must include a statement either—

(i) of any steps taken to get approval, or

(ii) that the administrator has decided, or (as the case may be) another insolvency practitioner entitled to seek approval has told the administrator of that practitioner’s decision, not to seek approval.”

(4) For paragraph (3) substitute—

“(3) The progress report must, except where paragraph (3A) or (3B) applies, cover the period of 6 months commencing on the date on which the company entered administration and every subsequent period of 6 months.

(3A) The period to be covered by a progress report ends on the date when an administrator ceases to act, and the period to be covered by each subsequent progress report is each successive period of 6 months beginning immediately after that date (subject to the further application of this paragraph when another administrator ceases to act).

(3B) The sending of a progress report to creditors under Rule 2.112 (application for extension of administration) also satisfies paragraph (3) or (3A) of this Rule in respect of the period covered by that report; and the period to be covered by each subsequent progress report under this Rule is each successive period of 6 months beginning with the end of the period covered by the report under Rule 2.112.”

(5) For paragraph (4) substitute—

“(4) The administrator must, within 1 month of the end of the period covered by the report, send—

(a) a copy to the creditors attached to Form 2.24B, and

(b) a copy to the registrar of companies;

but this paragraph does not apply when the period covered by the report is that of a final progress report under Rule 2.110.”

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(5) Section 176A was inserted by [2002 c. 40](#), s. 252.

### **Amendments to Rule 2.48**

62.—(1) Rule 2.48 (correspondence instead of creditors' meetings) is amended as follows.

(2) At the end of paragraph (2) add, “unless it has already been given to the administrator under that Rule”.

(3) Omit paragraph (8).

### **New Rule after Rule 2.48**

63. After Rule 2.48 insert—

#### **“2.48A Creditors’ request for further information**

(1) If—

(a) within 21 days of receipt of a progress report under Rule 2.47—

(i) a secured creditor, or

(ii) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question), or

(b) with the permission of the court upon an application made within that period of 21 days, any unsecured creditor,

makes a request in writing to the administrator for further information about remuneration or expenses (other than pre-administration costs) set out in a statement required by Rule 2.47(1)(db) or (dc), the administrator must, within 14 days of receipt of the request, comply with paragraph (2).

(2) The administrator complies with this paragraph by either—

(a) providing all of the information asked for, or

(b) so far as the administrator considers that—

(i) the time or cost of preparation of the information would be excessive, or

(ii) disclosure of the information would be prejudicial to the conduct of the administration or might reasonably be expected to lead to violence against any person, or

(iii) the administrator is subject to an obligation of confidentiality in respect of the information,

giving reasons for not providing all of the information.

(3) Any creditor, who need not be the same as the creditor who requested further information under paragraph (1), may apply to the court within 21 days of—

(a) the giving by the administrator of reasons for not providing all of the information asked for, or

(b) the expiry of the 14 days provided for in paragraph (1),

and the court may make such order as it thinks just.

(4) Without prejudice to the generality of paragraph (3), the order of the court under that paragraph may extend the period of 8 weeks provided for in Rule 2.109(1B) by such further period as the court thinks just.”.

### **Amendment to Rule 2.49**

64.—(1) Rule 2.49 (venue and conduct of company meeting) is amended as follows.

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(2) For paragraphs (5) and (6) substitute—

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

(a) in the case of a company incorporated—

(i) in England and Wales, or in Wales, or

(ii) outside the United Kingdom other than in an EEA state,

in accordance with the law of England and Wales, including any applicable provision in or made under the Companies Act<sup>(6)</sup>;

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

#### **Amendment to Rule 2.50**

**65.**—(1) Rule 2.50 (constitution of committee) is amended as follows.

(2) For paragraph (2), substitute—

“(2) A person claiming to be a creditor is entitled to be a member of the committee provided that—

(a) that person’s claim has neither been wholly disallowed for voting purposes, nor wholly rejected for the purpose of distribution or dividend; and

(b) the claim mentioned in sub-paragraph (a) is not fully secured.”.

#### **Amendments to Rule 2.51**

**66.**—(1) Rule 2.51 (formalities of establishment of creditors’ committee) is amended as follows.

(2) After paragraph (1) add—

“(1A) If the chairman of the creditors’ meeting which resolves to establish the committee is not the administrator, the chairman must as soon as reasonably practicable give notice of the resolution to the administrator and inform the administrator of the names and addresses of the persons elected to be members of the committee.”.

(3) In paragraph (2)—

(a) omit “or representative under section 323 of the Companies Act”; and

(b) after “establishing the committee” add “or, in the case of a corporation, by its duly appointed representative”.

(4) In paragraph (3), for “unless and until at least 3 of the persons who are” substitute “before the minimum number of members set out in Rule 2.50 elected”.

(5) In paragraph (5), omit “filed with the court and a copy”.

(6) In paragraph (6), for the words from “court” to the end substitute “registrar of companies by filing an amended certificate”.

#### **Amendments to Rule 2.52**

**67.**—(1) Rule 2.52 (functions and meetings of the committee) is amended as follows.

(2) In paragraph (1), at the beginning insert “In addition to any functions conferred on the creditors’ committee by any provision of the Act,”.

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(6) 2006 c. 46.

- (3) For paragraph (3) substitute—
  - “(3) The administrator must call a first meeting of the committee to take place within 6 weeks of the committee’s establishment.
  - (3A) After the calling of the first meeting, the administrator must call a meeting—
    - (a) if so requested by a member of the committee or the member’s representative (the meeting then to be held within 21 days of the request being received by the administrator); and
    - (b) for a specified date, if the committee has previously resolved that a meeting be held on that date.”.
- (4) In paragraph (4)—
  - (a) at the beginning insert “Subject to paragraph (5),”;
  - (b) for “7” substitute “5 business”.
- (5) After paragraph (4) add—
  - “(5) Where the administrator has determined that a meeting should be conducted and held in the manner referred to in Rule 12A.26(2), the notice period mentioned in paragraph (4) is 7 business days.”.

#### **Amendments to Rule 2.53**

- 68.**—(1) Rule 2.53 (the chairman at meetings) is amended as follows.
- (2) For paragraph (1), substitute—
  - “(1) The chairman at any meeting of the creditors’ committee must be the administrator, or a person appointed by the administrator in writing to act.”.
- (3) In paragraph (2), for “nominated” substitute “appointed”.

#### **Amendments to Rule 2.55**

- 69.**—(1) Rule 2.55 (committee-members’ representatives) is amended as follows.
- (2) In paragraph (2), omit “or any authorisation under section 323 of the Companies Act”.
- (3) For paragraph (4) substitute—
  - “(4) No member may 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 disqualified director; or
    - (f) 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.”.
- (4) Omit paragraph (5).

#### **Amendment to Rule 2.57**

- 70.**—(1) Rule 2.57 (termination of membership) is amended as follows.
- (2) For paragraph (1)(c) substitute—

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“(c) ceases to be a creditor and a period of 3 months has elapsed from the date that that member ceased to be a creditor or is found never to have been a creditor.”.

#### **Amendments to Rule 2.59**

71.—(1) Rule 2.59 (vacancies) is amended as follows.

(2) In paragraph (2), for “the minimum required under Rule 2.50(1)” substitute “3”.

(3) After paragraph (3), add—

“(4) Alternatively, a meeting of creditors may resolve that a creditor be appointed (with that creditor’s consent) to fill the vacancy.

(5) Where the vacancy is filled by an appointment made by a creditors’ meeting at which the administrator is not present, the chairman of the meeting must report to the administrator the appointment which has been made.”.

#### **Amendment to Rule 2.60**

72.—(1) Rule 2.60 (procedure at meetings) is amended as follows.

(2) For paragraphs (2) and (3) substitute—

“(2) Every resolution passed must be recorded in writing and authenticated by the chairman, either separately or as part of the minutes of the meeting, and the record must be kept with the records of the proceedings.”.

#### **Amendments to Rule 2.61**

73.—(1) Rule 2.61 (resolutions of creditors’ committee by post) is amended as follows.

(2) In the heading, for “by post” substitute “otherwise than at a meeting”.

(3) In paragraph (5), for “placed in the company’s minute book” substitute “kept with the records of the proceedings”.

#### **Amendment to Rule 2.63**

74.—(1) Rule 2.63 (expenses of members etc.) is amended as follows.

(2) In paragraph (1), after “defray” insert “, in the prescribed order of priority,”.

#### **Amendment to Rule 2.66**

75.—(1) Rule 2.66 (disposal of charged property) is amended as follows.

(2) For paragraph (5) substitute—

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

#### **Amendment to Rule 2.67**

76.—(1) Rule 2.67 (expenses of the administration) is amended as follows.

(2) In paragraph (1), for sub-paragraph (h) substitute—

“(h) the administrator’s remuneration the basis of which has been fixed under Chapter 11 of this Part of the Rules and unpaid pre-administration costs approved under Rule 2.67A;”.

## New Rule after Rule 2.67

77. After Rule 2.67 insert—

### “2.67A Pre-administration costs

(1) Where the administrator has made a statement of pre-administration costs under Rule 2.33(2)(ka), 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) But if—

- (a) there is no creditors’ committee, or
- (b) there is but it does not make the necessary determination, or
- (c) it does do so 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,

paragraph (3) applies.

(3) When this paragraph applies, determination of whether and to what extent the unpaid pre-administration costs are approved for payment shall be—

- (a) by resolution of a meeting of creditors 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)—
  - (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 of creditors 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 give notice of the meeting within 28 days of receipt of the request.

(5) If—

- (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,

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.

(6) Paragraphs (2) to (4) of Rule 2.108 apply to an application under paragraph (5) of this Rule as they do to an application under paragraph (1) of that Rule (references to the administrator being read as references to the insolvency practitioner who has charged fees or incurred expenses as pre-administration costs).

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(7) Where the administrator fails to call a meeting of the creditors' committee or of creditors in accordance with paragraph (4), the other insolvency practitioner may apply to the court for an order requiring the administrator to do so.”.

#### **Amendment to Rule 2.68**

**78.**—(1) Rule 2.68 (distribution to creditors – general) is amended as follows.

(2) In paragraph (1), at the end of the first sentence add, “other than secured creditors”.

#### **Amendments to Rule 2.71**

**79.**—(1) Rule 2.71 (division of unsold assets) is amended as follows.

(2) The existing provision becomes paragraph (1).

(3) After paragraph (1) add—

“(2) The administrator must—

(a) in the receipts and payments account included in the final progress report under Chapter 12 of this Part, state the estimated value of the property divided amongst the creditors of the company during the period to which the report relates, and

(b) as a note to the account, provide details of the basis of the valuation.”.

#### **Amendments to Rule 2.72**

**80.**—(1) Rule 2.72 (proving a debt) is amended as follows.

(2) In paragraph (3)(b)—

(a) after sub-paragraph (i) insert—

“(ia) if the creditor is a company, its registered number;”

(b) for sub-paragraph (ii) substitute—

“(ii) the total amount of the creditor’s claim (including value added tax) as at the date on which the company entered administration (or, if the company was in liquidation when it entered administration, the date on which it went into liquidation), less any payments made after that date in respect of the claim, any deduction under Rule 2.84 and any adjustment by way of set-off in accordance with Rule 2.85;”;

(c) omit sub-paragraphs (iv) and (v).

(3) After paragraph (5) add—

“(6) Where an administration is immediately preceded by a winding up, a creditor proving in the winding up is deemed to have proved in the administration.”.

#### **Amendments to Rule 2.76**

**81.**—(1) Rule 2.76 (new administrator appointed) is amended as follows.

(2) In paragraph (1), for “shall” substitute “must as soon as reasonably practicable”.

(3) After paragraph (2) add—

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

### **Amendments to Rule 2.78**

**82.**—(1) Rule 2.78 (appeal against decision on proof) is amended as follows.

(2) In paragraph (2), at the beginning insert “A member or”.

(3) After paragraph (4) insert—

“(4A) Where the application is made by a member, the court must not disallow the proof (in whole or in part) unless the member shows that there is (or would be but for the amount claimed in the proof), or that it is likely that there will be (or would be but for the amount claimed in the proof), a surplus of assets to which the company would be entitled.”.

### **Amendments to Rule 2.88**

**83.**—(1) Rule 2.88 (interest) is amended as follows.

(2) Before paragraph (1) insert—

“(A1) In this Rule, “the relevant date” means the date on which the company entered administration or, if the administration was immediately preceded by a winding up, the date on which the company went into liquidation.”.

(3) In paragraph (1), for all the words after “after” substitute “the relevant date”.

(4) In paragraph (2), for “the company entered administration” substitute “the relevant date”.

(5) In paragraph (3), for “the date when the company entered administration” substitute “the relevant date”.

(6) In paragraph (4), for “that date” substitute “the relevant date”.

(7) In paragraph (5), for “that of the company’s entering administration” substitute “the relevant date”.

(8) In paragraph (6), for “the date when the company entered administration” substitute “the relevant date”.

(9) In paragraph (7), for “the company entered administration” substitute “the relevant date”.

(10) In paragraph (9), for “or” substitute “and”.

### **Amendments to Rule 2.93**

**84.**—(1) Rule 2.93 (test of security’s value) is amended as follows.

(2) In paragraph (1), for “Rule 2.90” substitute “Rule 2.92”.

(3) After paragraph (2) add—

“(3) This Rule does not apply if the security has been revalued and the revaluation has been approved by the court.”.

### **Amendments to Rule 2.95**

**85.**—(1) Rule 2.95 (notice of proposed distribution) is amended as follows.

(2) In paragraph (1) omit “28 days”.

(3) In paragraph (4), for “paragraphs (1) or (3) shall”, substitute “paragraph (1) or (3) must, in addition to the standard contents”.

### **Amendments to Rule 2.96**

**86.**—(1) Rule 2.96 (admission or rejection of proofs) is amended as follows.

(2) In paragraph (1)—

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- (a) for “7” substitute “5 business”;
- (b) in sub-paragraph (a), after “reject” insert “(in whole or in part)”.

**New Rule after Rule 2.96**

**87.** After Rule 2.96 insert—

**“2.96A Postponement or cancellation of dividend**

If in the period of 2 months referred to in Rule 2.95(4)(a)—

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

the administrator may postpone or cancel the dividend.”.

**Amendment to Rule 2.97**

**88.**—(1) Rule 2.97 (declaration of dividend) is amended as follows.

(2) After paragraph (2) add—

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

**Amendment to Rule 2.98**

**89.**—(1) Rule 2.98 (notice of declaration of a dividend) is amended as follows.

(2) Omit paragraph (2)(f).

**Amendments to Rule 2.106**

**90.**—(1) Rule 2.106 (fixing of remuneration) is amended as follows.

(2) In paragraph (2)—

- (a) for “The remuneration” substitute “The basis of remuneration”;
- (b) omit “either”;
- (c) at the end add—

“; or

(c) as a set amount.”.

(3) For paragraph (3) substitute—

“(3A) The basis of remuneration may be fixed as any one or more of the bases set out in paragraph (2), and different bases may be fixed in respect of different things done by the administrator.

(3B) Where the basis of remuneration is fixed as set out in paragraph (2)(a), different percentages may be fixed in respect of different things done by the administrator.

(3C) It is for the creditors’ committee (if there is one) to determine—

- (a) which of the bases set out in paragraph (2) are to be fixed and (where appropriate) in what combination under paragraph (3A), and

(b) the percentage or percentages (if any) to be fixed under paragraphs (2)(a) and (3B) and the amount (if any) to be set under paragraph (2)(c).”.

(4) In paragraph (5), after “determination,” insert “and the case does not fall within paragraph (5A), the basis of”.

(5) In each of paragraphs (5) and (5A), for “paragraph (2)” substitute “paragraphs (2), (3A) and (3B)”.

(6) In paragraph (5A), after “determination,” insert “the basis of”.

(7) In paragraph (6), after “as above,” insert “the basis of”.

(8) At the end of paragraph (6) add—

“and the provisions of paragraphs (2) to (4) apply as they do to the fixing of the basis of remuneration by the creditors’ committee; but such an application may not be made by the administrator unless the administrator has first sought fixing of the basis in accordance with paragraph (3), (5) or (5A), and in any event may not be made more than 18 months after the date of the administrator’s appointment.”.

#### **Amendments to Rule 2.107**

**91.**—(1) Rule 2.107 (recourse to meeting of creditors) is amended as follows.

(2) In each of paragraphs (1) and (2)—

(a) after “if” insert “the basis of”;

(b) for “he may request that it be increased” substitute “or the basis to be inappropriate, the administrator may request that the rate or amount be increased or the basis changed”.

#### **Amendments to Rule 2.108**

**92.**—(1) Rule 2.108 (recourse to the court) is amended as follows.

(2) In paragraphs (1) and (1A)—

(a) after “considers that the” insert “basis of”;

(b) after “insufficient” insert “or inappropriate”;

(c) after “order” insert “changing it or”.

(3) After paragraph (1A) insert—

“(1B) Where an application is made under paragraph (1A), the administrator must give notice to each of the creditors whose approval was sought under Rule 2.106(5A).”.

#### **Amendments to Rule 2.109**

**93.**—(1) Rule 2.109 (creditors’ claim that remuneration is excessive) is amended as follows.

(2) In the heading, after “is” insert “or other expenses are”.

(3) For paragraph (1) substitute—

“(1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the unsecured creditors (including that creditor) or the permission of the court, may apply to the court for one or more of the orders in paragraph (4).

(1A) Application may be made on the grounds that—

(a) the remuneration charged by the administrator,

(b) the basis fixed for the administrator’s remuneration under Rule 2.106, or

(c) expenses incurred by the administrator,

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is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate.

(1B) The application must, subject to any order of the court under Rule 2.48A(4), be made no later than 8 weeks after receipt by the applicant of the progress report which first reports the charging of the remuneration or the incurring of the expenses in question (“the relevant report”).”.

(4) In paragraph (2), for “7” substitute “5 business”.

(5) For paragraph (4) substitute—

“(4) 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 administrator was entitled to charge;
- (b) an order fixing the basis of remuneration at a reduced rate or 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;
- (e) an order that the administrator or the administrator’s personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify;

and may make any other order that it thinks just; but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report.”.

## **New Rules after Rule 2.109**

**94.** After Rule 2.109 insert—

### **“2.109A Review of remuneration**

(1) Where, after the basis of the administrator’s remuneration has been fixed, there is a material and substantial change in the circumstances which were taken into account in fixing it, the administrator may request that it be changed.

(2) The request must be made—

- (a) where the creditors’ committee fixed the basis, to the committee;
- (b) where the creditors fixed the basis, to the creditors;
- (c) where the court fixed the basis, by application to the court;

and Rules 2.106 to 2.109 apply as appropriate.

(3) Any change in the basis for remuneration applies from the date of the request under paragraph (2) and not for any earlier period.

### **2.109B Remuneration of new administrator**

**2.109B** If a new administrator is appointed in place of another, any determination, resolution or court order in effect under the preceding provisions of this Chapter immediately before the former administrator ceased to hold office continues to apply in respect of the remuneration of the new administrator until a further determination, resolution or court order is made in accordance with those provisions.

### **2.109C Apportionment of set fee remuneration**

(1) In a case in which the basis of the administrator’s remuneration is a set amount under Rule 2.106(2)(c) and the administrator (“the former administrator”) 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, application may be made for determination of what portion of the amount should be paid to the former administrator or the former administrator’s personal representative in respect of the time which has actually elapsed or the work which has actually been done.

(2) Application may be made—

- (a) by the former administrator or the former administrator’s personal representative within the period of 28 days beginning with the date upon which the former administrator ceased to hold office, or
- (b) by the administrator for the time being in office if the former administrator or the former administrator’s personal representative has not applied by the end of that period.

(3) Application must be made—

- (a) where the creditors’ committee fixed the basis, to the committee;
- (b) where the creditors fixed the basis, to the creditors for a resolution determining the portion;
- (c) where the court fixed the basis, to the court for an order determining the portion.

(4) The applicant must give a copy of the application to the administrator for the time being in office or to the former administrator or the former administrator’s personal representative, as the case may be (“the recipient”).

(5) The recipient may within 21 days of receipt of the copy of the application give notice of intent to make representations to the creditors’ committee or the creditors or to appear or be represented before the court, as the case may be.

(6) No determination may be made upon the application until expiry of the 21 days referred to in paragraph (5) or, if the recipient does give notice of intent in accordance with that paragraph, until the recipient has been afforded the opportunity to make representations or to appear or be represented, as the case may be.

(7) If the former administrator or the former administrator’s personal representative (whether or not the original applicant) considers that the portion determined upon application to the creditors’ committee or the creditors is insufficient, that person may apply—

- (a) in the case of a determination by the creditors’ committee, to the creditors for a resolution increasing the portion;
- (b) in the case of a resolution of the creditors (whether under paragraph (1) or under sub-paragraph (a)), to the court for an order increasing the portion;

and paragraphs (4) to (6) apply as appropriate.”.

### **Amendment to Rule 2.111**

**95.**—(1) Rule 2.111 (notice of automatic end of administration) is amended as follows.

(2) In paragraph (2), after “all” insert “other”.

### **Amendment to Rule 2.112**

**96.**—(1) Rule 2.112 (applications for extension of administration) is amended as follows.

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(2) For paragraph (3) substitute—

“(4) Where the court makes an order extending the administration, the administrator must give notice of the order to the creditors as soon as reasonably practicable, together with a copy of the progress report which accompanied the application to the court.

(5) Where the period of the administration has been extended by consent of creditors, the administrator must give notice to the creditors as soon as reasonably practicable.”.

#### **Amendment to Rule 2.113**

**97.**—(1) Rule 2.113 (notice of end of administration) is amended as follows.

(2) In paragraph (5), after “persons” insert “(except the registrar of companies – see paragraph (2))”.

(3) For paragraph (7) substitute—

“(7) In addition to the standard contents, the notice under paragraph (6) must state—

(a) the date that the administration ended; and

(b) that creditors can write for a copy of the notice of end of administration and the address to which to write.”.

#### **Amendment to Rule 2.114**

**98.**—(1) Rule 2.114 (application to court by administrator) is amended as follows.

(2) In paragraph (3)(a), for “7” substitute “5 business”.

#### **Amendments to Rule 2.116**

**99.**—(1) Rule 2.116 (notification by administrator of court order) is amended as follows.

(2) The existing provision becomes paragraph (1).

(3) In paragraph (1), for “shall notify the registrar of companies in Form 2.33B, attaching” substitute “must send to the registrar of companies”.

(4) After paragraph (1) add—

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

#### **Substitution of Rule 2.117**

**100.** For Rule 2.117 (moving from administration to creditors’ voluntary liquidation) substitute—

##### **“2.117A Moving from administration to creditors’ voluntary liquidation**

(1) As soon as reasonably practicable after the day on which the registrar of companies registers the notice of moving from administration to creditors’ voluntary liquidation sent by the administrator for the purposes of paragraph 83(3), the person who at that point ceases to be the administrator must (whether the administrator becomes the liquidator or not) send a final progress report (which must include details of the assets to be dealt with in the liquidation) to the registrar of companies and to all those who received notice of the administrator’s appointment.

(2) For the purposes of paragraph 83(7)(a), 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 before their approval of the proposals or revised proposals.

(3) Where the creditors nominate a different person, the nomination must, where applicable, include the declaration required by section 231.”.

### **Amendments to Rule 2.118**

**101.**—(1) Rule 2.118 (moving from administration to dissolution) is amended as follows.

(2) In paragraph (1), for “he shall do so in Form 2.35B and shall” substitute “the administrator must”.

(3) In paragraph (2), for “those” substitute “other persons”.

(4) Omit paragraph (4).

### **Amendment to Rule 2.120**

**102.**—(1) Rule 2.120 (notice of intention to resign) is amended as follows.

(2) In paragraph (1), for “7” substitute “5 business”.

### **Amendment to Rule 2.122**

**103.**—(1) Rule 2.122 (application to court to remove administrator from office) is amended as follows.

(2) In paragraph (5), omit “in Form 2.39B”.

### **Amendment to Rule 2.123**

**104.**—(1) Rule 2.123 (notice of vacation of office when administrator ceases to be qualified to act) is amended as follows.

(2) Omit “in Form 2.39B”.

### **Amendments to Rule 2.124**

**105.**—(1) Rule 2.124 (administrator deceased) is amended as follows.

(2) In paragraph (2), after “partner in” where it appears first insert “or an employee of”.

(3) In paragraph (4), omit “in Form 2.39B”.

### **Amendment to Rule 2.125**

**106.**—(1) Rule 2.125 (application to replace) is amended as follows.

(2) In paragraph (3), for “an affidavit” substitute “a witness statement”.

### **Amendment to Rule 2.128**

**107.**—(1) Rule 2.128 (notice of appointment of replacement or additional administrator) is amended as follows.

(2) Omit “in Form 2.40B”.

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### **Amendments to Rule 2.130**

**108.**—(1) Rule 2.130 (application for conversion into winding up) is amended as follows.

(2) For paragraph (1) substitute—

“(1) Where a member State liquidator proposes to apply to the court for the conversion into winding-up proceedings of an administration, a witness statement complying with Rule 2.131 must be prepared and filed with the court in support of the application.

(1A) In this Rule, and in Rules 2.131 and 2.132, “conversion into winding-up proceedings” means an order under Article 37 of the EC Regulation (conversion of earlier proceedings) that—

(a) the purposes of the administration are to be limited to the winding up of the company through administration and are to exclude the purpose contained in sub-paragraph (a) of paragraph 3(1);

(b) the administration is converted into a creditors’ voluntary winding up; or

(c) the administration is converted into a winding up by the court.”.

(3) In paragraph (3), for “affidavit” substitute “witness statement”.

### **Amendments to Rule 2.131**

**109.**—(1) Rule 2.131 (contents of affidavit) is amended as follows.

(2) In the heading, for “affidavit” substitute “witness statement”.

(3) In paragraph (1)—

(a) for “affidavit” substitute “witness statement”;

(b) in sub-paragraph (b)—

(i) for “deponent’s belief” substitute “belief of the person making the statement”;

(ii) for “a winding up”, substitute “winding-up proceedings”;

(c) for sub-paragraph (c) substitute—

“(c) the opinion of the person making the statement as to whether the company ought to go into voluntary liquidation or be wound up by the court; and”.

(4) In paragraph (2)—

(a) for “An affidavit” substitute “A witness statement”; and

(b) for “sworn” substitute “made”.

### **Amendments to Rule 2.132**

**110.**—(1) Rule 2.132 (power of court) is amended as follows.

(2) In paragraphs (1) and (2), for “winding up” substitute “winding-up proceedings”.

### **Amendment to Rule 3.1**

**111.**—(1) Rule 3.1 (acceptance and confirmation of acceptance of appointment) is amended as follows.

(2) In paragraph (2), for “7” substitute “5 business”.

### **Amendment to Rule 3.2**

**112.**—(1) Rule 3.2 (notice and advertisement of appointment) is amended as follows.

(2) For paragraph (4) substitute—

“(4) In addition to the standard contents, the notice under paragraph (3) must state—

- (a) that an administrative receiver has been appointed;
- (b) the date of the appointment;
- (c) the name of the person who made the appointment, and that the appointment was made by that person; and
- (d) the nature of the business of the company.”

### **Amendments to Rule 3.3**

**113.**—(1) Rule 3.3 (notice requiring statement of affairs) is amended as follows.

- (2) In paragraphs (2) and (3), for “deponents” wherever it appears substitute “nominated persons”.
- (3) In paragraph (4), for “deponent” substitute “nominated person”.

### **Amendments to Rule 3.4**

**114.**—(1) Rule 3.4 (verification and filing) is amended as follows.

- (2) In paragraph (1)—
  - (a) for “affidavit” substitute “a statement of truth”; and
  - (b) for “deponents” substitute “nominated persons”.
- (3) In paragraph (2)—
  - (a) for “an affidavit of concurrence” substitute “a statement of concurrence”; and
  - (b) for “in the statement of affairs” substitute “with the statement of affairs”.
- (4) In paragraph (3)—
  - (a) for “An affidavit” substitute “A statement”;
  - (b) for “the affidavit” substitute “the statement of concurrence”; and
  - (c) for “deponents” substitute “nominated persons”.
- (5) In paragraph (4)—
  - (a) for “deponent” substitute “nominated person”; and
  - (b) for “affidavit of verification” substitute “statement of truth”.
- (6) In paragraph (5), for “affidavit” substitute “statement”.
- (7) In paragraph (6)—
  - (a) after “statement” insert “of affairs”; and
  - (b) for “affidavits” substitute “statements”.

### **Amendment to Rule 3.5**

**115.**—(1) Rule 3.5 (limited disclosure) is amended as follows.

- (2) In paragraph (1), after “receivership” insert “or might reasonably be expected to lead to violence against any person”.

### **Amendments to Rule 3.6**

**116.**—(1) Rule 3.6 (release from duty to submit statement of affairs: extension of time) is amended as follows.

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- (2) For “deponent” wherever it appears substitute “nominated person”.
- (3) In paragraph (3)—
  - (a) for “an *ex parte* hearing” substitute “a hearing without notice to any other party”;
  - (b) for “7” substitute “5 business”.
- (4) In paragraph (5), after “5” insert “business”.

#### **Amendments to Rule 3.7**

- 117.**—(1) Rule 3.7 (expenses of statement of affairs) is amended as follows.
- (2) In paragraph (1)—
    - (a) for “deponent” wherever it appears substitute “nominated person”; and
    - (b) for “affidavit” substitute “statement of truth”.
  - (3) In paragraph (3), for “deponent” substitute “nominated person”.

#### **Amendments to Rule 3.8**

- 118.**—(1) Rule 3.8 (report to creditors) is amended as follows.
- (2) For “affidavits” wherever it appears substitute “statements”.
  - (3) After paragraph (1) insert—

“(1A) In addition to the standard contents, the notice under paragraph (1) must state that creditors can write for a copy of the report and the address to which to write.”.
  - (4) In paragraph (4), after “copy of the statement” insert “of affairs”.

#### **Amendments to Rule 3.9**

- 119.**—(1) Rule 3.9 (procedure for summoning meeting under s 48(2)) is amended as follows.
- (2) In paragraph (3), omit “are identified in the statement of affairs, or”.
  - (3) For paragraph (6) substitute—

“(6) The administrative receiver—

    - (a) as soon as reasonably practicable must also have gazetted a notice of the meeting; and
    - (b) may advertise the notice of the meeting in such other manner as the administrative receiver thinks fit.

(6A) In addition to the standard contents, the notice under paragraph (6) must—

    - (a) state that a meeting under section 48(2) is to take place;
    - (b) include the statement required by paragraph (5); and
    - (c) state the venue for the meeting.”.

#### **Amendments to Rule 3.11**

- 120.**—(1) Rule 3.11 (voting rights) is amended as follows.
- (2) In paragraph (1)(a), for “the following provisions of” substitute “Rule 3.12 or”.
  - (3) At the end of paragraph (1), after (not as part of) sub-paragraph (b), add—

“and details of the debt must include any calculation for the purposes of paragraphs (6) and (7).”.
  - (4) After paragraph (5) insert—

“(5A) No vote may be cast by virtue of a claim more than once on any resolution put to the meeting.”

(5) In paragraph (7)(b), after “vote” insert “(but not for dividend)”.

### **New Rule after Rule 3.11**

**121.** After Rule 3.11 insert—

#### **“3.11A Contents of claim**

(1) The following matters must be stated in a creditor’s claim under Rule 3.11—

- (a) the creditor’s name and address, and, if a company, its company registration number;
- (b) the total amount of the claim (including any value added tax) as at the date of the appointment of the receiver, less all trade and other discounts available to the company, or which would have been available to the company but for the appointment, except for any discount for immediate, early or cash settlement;
- (c) whether or not that amount includes outstanding uncapitalised interest;
- (d) particulars of how and when the debt was incurred by the company;
- (e) particulars of any security held, the date when it was given and the value which the creditor puts upon it;
- (f) details of any reservation of title in respect of goods to which the debt refers; and
- (g) the name, and address and authority of the person making out the claim (if other than the creditor himself).

(2) The claim must specify any documents by reference to which the debt can be substantiated; but it is not essential that such documents be attached to the claim or submitted with it.”

### **Amendment to Rule 3.12**

**122.**—(1) Rule 3.12 (admission and rejection of claim) is amended as follows

(2) After paragraph (4) insert—

“(4A) An application to the court by way of appeal under this Rule against a decision of the chairman must be made not later than 21 days after the date of the meeting.”

### **Amendment to Rule 3.14**

**123.**—(1) Rule 3.14 (adjournment) is amended as follows.

(2) After paragraph (2) insert—

“(2A) Once only in the course of a meeting the chairman may, without an adjournment, declare it suspended for any period up to 1 hour.”

### **Amendment to Rule 3.15**

**124.**—(1) Rule 3.15 (resolutions and minutes) is amended as follows.

(2) In paragraph (2), after “proceedings” insert “(including of every resolution passed)”.

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### **Amendment to Rule 3.16**

**125.**—(1) Rule 3.16 (constitution of committee) is amended as follows.

(2) For paragraph (2), substitute—

“(2) A person claiming to be a creditor is entitled to be a member of the committee provided that—

- (a) that person’s claim has not been wholly disallowed for voting purposes; and
- (b) the claim mentioned in sub-paragraph (a) is not fully secured.”.

### **Amendments to Rule 3.17**

**126.**—(1) Rule 3.17 (formalities of establishment) is amended as follows.

(2) After paragraph (1) insert—

“(1A) If the chairman of the creditors’ meeting which resolves to establish the committee is not the administrative receiver, the chairman must as soon as reasonably practicable give notice of the resolution to the receiver and inform the receiver of the names and addresses of the persons elected to be members of the committee.”.

(3) In paragraph (2)—

- (a) omit “or representative under section 323 of the Companies Act”; and
- (b) after “establishing the committee” add “or, in the case of a corporation, by its duly appointed representative”.

(4) In paragraph (2A)—

- (a) for “issue unless and until at least 3 of the persons who are” substitute “be issued before the minimum number of members set out in Rule 3.16 elected”; and
- (b) after “agreed to act” add “and must be issued as soon as reasonably practicable thereafter”.

(5) In paragraph (4), after “registrar of companies” add “as soon as reasonably practicable”.

(6) In paragraph (5), after “membership,” insert “as soon as reasonably practicable”.

### **Amendments to Rule 3.18**

**127.**—(1) Rule 3.18 (functions and meetings of the committee) is amended as follows.

(2) In paragraph (1), at the beginning insert “In addition to any functions conferred on the creditors’ committee by any provision of the Act,”.

(3) For paragraph (3) substitute—

“(3) The receiver must call a first meeting of the committee to take place within 6 weeks of the committee’s establishment.

(3A) After the calling of the first meeting, the receiver must call a meeting—

- (a) if so requested by a member of the committee or the member’s representative (the meeting then to be held within 21 days of the request being received by the receiver); and
- (b) for a specified date, if the committee has previously resolved that a meeting be held on that date.”.

(4) In paragraph (4)—

- (a) at the beginning insert “Subject to paragraph (5),”;
- (b) for “7” substitute “5 business”.

(5) After paragraph (4), add—

“(5) Where the receiver has determined that a meeting should be conducted and held in the manner referred to in Rule 12A.26(2), the notice period mentioned in paragraph (4) is 7 business days.”.

#### **Amendments to Rule 3.19**

**128.**—(1) Rule 3.19 (the chairman at meetings) is amended as follows.

(2) For paragraph (1), substitute—

“(1) The chairman at any meeting of the creditors’ committee must be the administrative receiver, or a person appointed by the receiver in writing to act.”.

(3) In paragraph (2), for “nominated” substitute “appointed”.

#### **Amendments to Rule 3.21**

**129.**—(1) Rule 3.21 (committee-members’ representatives) is amended as follows.

(2) In paragraph (2), omit “or any authorisation under section 323 of the Companies Act”.

(3) For paragraph (4), substitute—

“(4) No member may 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 disqualified director; or

(f) 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.”.

(4) Omit paragraph (5).

#### **Amendment to Rule 3.23**

**130.**—(1) Rule 3.23 (termination of membership) is amended as follows.

(2) For paragraph (1)(c), substitute—

“(c) ceases to be a creditor and a period of 3 months has elapsed from the date that that member ceased to be a creditor or is found never to have been a creditor.”.

#### **Amendments to Rule 3.25**

**131.**—(1) Rule 3.25 (vacancies) is amended as follows.

(2) In paragraph (2), for “the minimum required under Rule 3.16” substitute “3”.

(3) After paragraph (3) add—

“(4) Alternatively, a meeting of creditors may resolve that a creditor be appointed (with that creditor’s consent) to fill the vacancy. In this case at least 14 days’ notice must have been given of a resolution to make such an appointment (whether or not of a person named in the notice).

(5) Where the vacancy is filled by an appointment made by a creditors’ meeting at which the receiver is not present, the chairman of the meeting must report to the receiver the appointment which has been made.”.

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#### **Amendment to Rule 3.26**

132.—(1) Rule 3.26 (procedure at meetings) is amended as follows.

(2) For paragraphs (2) and (3) substitute—

“(2) Every resolution passed must be recorded in writing and authenticated by the chairman, either separately or as part of the minutes of the meeting and the record must be kept with the records of the proceedings.”.

#### **Amendment to Rule 3.27**

133.—(1) Rule 3.27 (resolutions by post) is amended as follows.

(2) In the heading, for “by post” substitute “otherwise than at a meeting”.

#### **Amendment to Rule 3.29**

134.—(1) Rule 3.29 (expenses of members) is amended as follows.

(2) In paragraph (1), after “defray” insert “, in the prescribed order of priority,”.

#### **Amendment to Rule 3.31**

135.—(1) Rule 3.31 (disposal of charged property) is amended as follows.

(2) For paragraphs (3) and (4) substitute—

“(3) If an order is made under section 43(1), the court must send two sealed copies to the administrative receiver.

(4) The administrative receiver must send one of them to that person who is the holder of the security.”.

#### **Amendments to Rule 3.33**

136.—(1) Rule 3.33 (resignation) is amended as follows.

(2) In paragraph (1), for “7” substitute “5 business”.

(3) Omit paragraph (3).

#### **Amendment to Rule 3.39**

137.—(1) Rule 3.39 (report to creditors) is amended as follows.

(2) In paragraph (4)(a), omit “to the same effect”.

(3) After paragraph (4) insert—

“(4A) In addition to the standard contents, the notice under paragraph (4) must include a statement of the matters required to be included in the receiver’s report under paragraph (2).”.

#### **Amendments to Rule 4.1**

138.—(1) Rule 4.1 (scheme of Part 4: voluntary winding up; winding up by the court) is amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (a)—

(i) for “Rule 4.3 applies” substitute “Rules 4.3 and 4.35 apply”;

- (ii) for “it applies” substitute “they apply”;
- (b) after sub-paragraph (a) insert—
  - “(aa) Rules 4.49C, 4.49E and 4.49F apply except so far as it is provided (expressly or by necessary implication) that they do not apply;
  - (ab) Rule 4.49G applies only in a members’ voluntary winding up, and not otherwise;”;
- (c) in sub-paragraph (f), for “Rule 4.182A applies” substitute “Rules 4.126A and 4.182A apply”.

#### **Amendment to Rule 4.4**

- 139.—(1) Rule 4.4 (preliminary) is amended as follows.
- (2) In paragraph (2), omit “in winding-up proceedings”.

#### **Amendments to Rule 4.6**

- 140.—(1) Rule 4.6 (information to be given in the statutory demand) is amended as follows.
- (2) In paragraph (1)—
  - (a) in sub-paragraph (b) omit “and”; and
  - (b) in sub-paragraph (c) after “company” insert—
    - “; and
    - (d) that the company has the right to make an application to the court for an injunction restraining the creditor from presenting or advertising a petition for the winding up of the company”.

#### **New Rule before Rule 4.7**

- 141. At the beginning of Chapter 3 of Part 4, before Rule 4.7, insert—

##### **“4.6A Injunction to restrain presentation or advertisement of petition**

- 4.6A An application by a company for an injunction restraining a creditor from—
  - (a) presenting a petition for the winding up of the company must be made to a court having jurisdiction to wind up the company;
  - (b) advertising a petition for the winding up of a company must be made to the court in which the petition is pending.”.

#### **Amendments to Rule 4.7**

- 142.—(1) Rule 4.7 (presentation and filing of petition) is amended as follows.
- (2) In paragraph (1), for “affidavit” substitute “a statement of truth”.
- (3) For paragraph (3) substitute—
  - “(3) A petitioner who is a person other than the company must also deliver to the court one copy for service on the company.”.
- (4) In paragraph (10)—
  - (a) after “2” insert “business”;
  - (b) in sub-paragraph (a), for “10” substitute “7 business”.

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### **Amendments to Rule 4.8**

**143.**—(1) Rule 4.8 (service of petition) is amended as follows.

(2) In paragraph (7)—

- (a) for “*ex parte*” substitute “by an application without notice to any other party”; and
- (b) for “on affidavit” substitute “supported by a witness statement”.

### **Substitution of Rule 4.9**

**144.** For Rule 4.9 (proof of service) substitute—

#### **“4.9A Proof of Service**

(1) Service of the petition must be proved by a certificate of service.

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

- (a) the name and registered number of the company,
- (b) the address of the registered office of the company,
- (c) the name of the petitioner,
- (d) the court in which the petition was filed and the court reference number,
- (e) the date of the petition,
- (f) whether the copy served was a sealed copy,
- (g) the date on which service was effected, and
- (h) the manner in which service was effected.

(3) Where substituted service has been ordered, the certificate of service must have attached to it a sealed copy of the order.

(4) The certificate of service must be filed in court as soon as reasonably practicable after service, and in any event not less than 5 business days before the hearing of the petition.”.

### **Amendment to Rule 4.11**

**145.**—(1) Rule 4.11 (advertisement of petition) is amended as follows.

(2) For paragraph (5) substitute—

“(5) In addition to the standard contents, the notice under paragraph (4) 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 4.16.”.

#### **Amendments to Rule 4.12**

**146.**—(1) Rule 4.12 (verification of petition) is amended as follows.

(2) In paragraph (1), for “an affidavit that the statements in the petition are true, or are true to the best of the deponent’s knowledge, information and belief” substitute “a statement of truth”.

(3) For paragraph (3) substitute—

“(3A) 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 specify—

- (a) the name and registered number of the company,
- (b) the name of the petitioner, and
- (c) the court in which the petition is to be presented.”

(4) In paragraph (4)—

- (a) for “affidavit shall be made” substitute “statement of truth must be authenticated”; and
- (b) in sub-paragraph (c), for “make the affidavit” substitute “authenticate the statement of truth”.

(5) In paragraph (5)—

- (a) for “deponent” substitute “person authenticating the statement of truth”;
- (b) for “affidavit” where it appears first substitute “statement of truth”;
- (c) in sub-paragraph (a), for “makes” substitute “authenticates”; and
- (d) in sub-paragraph (b), for “sworn to in the affidavit” substitute “verified in the statement of truth”.

(6) Omit paragraph (6).

(7) In paragraph (7)—

- (a) for “An affidavit” substitute “A statement of truth”; and
- (b) for “affidavit shall be filed” substitute “statement of truth must be filed”.

(8) In paragraph (8)—

- (a) for “affidavit” substitute “statement of truth”; and
- (b) after “main proceedings” insert “, secondary proceedings”.

#### **Amendment to Rule 4.13**

**147.**—(1) Rule 4.13 (persons entitled to copy of petition) is amended as follows.

(2) After “2” insert “business”.

#### **Amendment to Rule 4.14**

**148.**—(1) Rule 4.14 (certificate of compliance) is amended as follows.

(2) In paragraph (1), after “5” insert “business”.

#### **Amendments to Rule 4.15**

**149.**—(1) Rule 4.15 (leave for petitioner to withdraw) is amended as follows.

(2) After “5” insert “business”.

(3) For “*ex parte* application” substitute “application without notice to any other party”.

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#### **Amendments to Rule 4.18**

- 150.**—(1) Rule 4.18 (affidavit in opposition) is amended as follows.
- (2) In the heading, for “Affidavit” substitute “Witness statement”.
  - (3) In paragraph (1)—
    - (a) for “affidavit” substitute “witness statement”;
    - (b) for “7” substitute “5 business”.
  - (4) In paragraph (2), for “affidavit” substitute “witness statement”.

#### **New Rule after Rule 4.18**

- 151.** After Rule 4.18 insert—

##### **“4.18A Adjournment**

- (1) If the court adjourns the hearing of the petition, the following applies.
- (2) Unless the court otherwise directs, the petitioning creditor must forthwith send—
  - (a) to the company, and
  - (b) where any creditor has given notice under Rule 4.16 but was not present at the hearing, to that creditor,notice of the making of the order of adjournment. The notice must state the venue for the adjourned hearing.”.

#### **Amendment to Rule 4.21**

- 152.**—(1) Rule 4.21 (transmission and advertisement of order) is amended as follows.
- (2) After paragraph (4) add—
    - “(5) In addition to the standard contents a notice under paragraph (4) must state—
      - (a) that a winding-up order has been made in respect of the company; and
      - (b) the date of the order.”.

#### **Amendment to Rule 4.21B**

- 153.**—(1) Rule 4.21B (petition dismissed) is amended as follows.
- (2) For paragraph (2) substitute—
    - “(2) In addition to the standard contents, the notice published under paragraph (1) must state—
      - (a) 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.”.

#### **Amendment to Rule 4.22**

**154.**—(1) Rule 4.22 (presentation and service of petition) is amended as follows.

(2) In paragraph (2), for “in chambers” to the end substitute—

“or district judge for—

(a) directions to be given in relation to the procedure on the petition; or

(b) where—

(i) the petition is presented under Rule 4.7(9), and

(ii) the court considers it just in all the circumstances,  
the hearing of the petition.”.

#### **Amendments to Rule 4.23**

**155.**—(1) Rule 4.23 (return of petition) is amended as follows.

(2) In paragraph (1)—

(a) for “shall” substitute “must or, where the petition is presented under Rule 4.7(9), may”;

(b) in sub-paragraph (d)(i), for “affidavit” substitute “witness statement”; and

(c) in sub-paragraph (d)(ii), for “deponents to affidavits” substitute “persons authenticating witness statements”.

#### **Amendments to Rule 4.25**

**156.**—(1) Rule 4.25 (appointment of provisional liquidator) is amended as follows.

(2) In paragraph (2), for “an affidavit” substitute “a witness statement”.

(3) In paragraph (3), for “affidavit” substitute “witness statement”.

#### **Amendment to Rule 4.25A**

**157.**—(1) Rule 4.25A (notice of appointment) is amended as follows.

(2) After paragraph (3) add—

“(4) In addition to the standard contents, the notice under paragraph (3) must state—

(a) that a provisional liquidator has been appointed; and

(b) the date of the appointment.”.

#### **Amendment to Rule 4.26**

**158.**—(1) Rule 4.26 (order of appointment) is amended as follows.

(2) In paragraph (3)(ii) omit “with Form 4.15A”.

#### **Amendment to Rule 4.27**

**159.**—(1) Rule 4.27 (deposit) is amended as follows.

(2) In paragraph (2), after “2” insert “business”.

#### **Amendment to Rule 4.31**

**160.**—(1) Rule 4.31 (termination of appointment) is amended as follows.

(2) For paragraph (3) substitute—

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“(4) Notice of termination of the appointment of a provisional liquidator must be given by the provisional liquidator, unless the termination is on the making of a winding-up order or the court otherwise directs. Such notice—

- (a) as soon as reasonably practicable must be sent to the registrar of companies;
- (b) as soon as reasonably practicable must be gazetted; and
- (c) may be advertised in such other manner as the provisional liquidator thinks fit.

(5) In addition to the standard contents, 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.”.

#### **Amendments to Rule 4.32**

**161.**—(1) Rule 4.32 (notice requiring statement of affairs) is amended as follows.

(2) In paragraphs (3) and (4), for “deponents” wherever it appears substitute “nominated persons”.

(3) In paragraph (5), for “deponent” substitute “nominated person”.

#### **Amendments to Rule 4.33**

**162.**—(1) Rule 4.33 (verification and filing) is amended as follows.

(2) In paragraph (1)—

- (a) for “affidavit” substitute “a statement of truth”; and
- (b) for “deponents” substitute “persons making the statement of affairs”.

(3) In paragraph (2), for “an affidavit of concurrence” substitute “a statement of concurrence verified by a statement of truth”.

(4) In paragraph (3)—

- (a) for “An affidavit” substitute “A statement”;
- (b) for “maker of the affidavit” substitute “maker of the statement of concurrence”; and
- (c) for “deponents” substitute “persons making the statement of affairs”.

(5) In paragraph (4), for “deponent making the affidavit of verification” substitute “nominated person”.

(6) In paragraph (5), for “affidavit” substitute “statement”.

(7) For paragraph (6) substitute—

“(6) The official receiver must send the verified copy of the statement of affairs and any statements of concurrence to the registrar of companies.”.

(8) Omit paragraph (7).

#### **Amendments to Rule 4.34**

**163.**—(1) Rule 4.34 (statement of affairs) is amended as follows.

(2) In paragraphs (2) and (3), for “7” substitute “5 business”.

(3) After paragraph (4) add—

“(5) The liquidator may require any of the directors who has not submitted the statement of affairs to submit a statement of concurrence verified by a statement of truth, stating that that director concurs in the statement of affairs.

(6) A statement of concurrence made under paragraph (5) may be qualified in respect of matters dealt with in the statement of affairs, where the maker of the statement of concurrence—

- (a) is not in agreement with the persons making the statement of affairs, or
- (b) considers the statement to be erroneous or misleading, or
- (c) is without the direct knowledge necessary for concurring in the statement.

(7) Every statement of concurrence must be delivered to the liquidator by the person who makes it, together with a copy.”.

#### **Amendments to Rule 4.35**

**164.**—(1) Rule 4.35 (limited disclosure) is amended as follows.

(2) After the heading omit “(NO CVL APPLICATION)”(7).

(3) In paragraph (1)—

- (a) after “official receiver” insert “or liquidator”;
- (b) after “liquidation” insert “or might reasonably be expected to lead to violence against any person”.

(4) In paragraph (2), for the words from “, or that it is” to the end substitute “with the registrar of companies”.

(5) After paragraph (2) add—

“(3) The official receiver or liquidator must as soon as reasonably practicable send to the registrar of companies a copy of the order and the statement of affairs (to the extent provided by the order) and any statement of concurrence.

(4) In a voluntary winding up, this Rule does not apply so far as section 95, 98 or 99 does not permit limited disclosure.”.

#### **Amendments to Rule 4.36**

**165.**—(1) Rule 4.36 (release from duty to submit statement of affairs; extension of time) is amended as follows.

(2) For “deponent” wherever it appears substitute “nominated person”

(3) In the first sentence of paragraph (3)—

- (a) for “an *ex parte*” substitute “a”;
- (b) for “7” substitute “5 business”;
- (c) at the end add “but which is without notice to any other party”.

(4) In paragraph (5), after “5” substitute “business”.

#### **Amendments to Rule 4.37**

**166.**—(1) Rule 4.37 (expenses of statement of affairs) is amended as follows.

(2) For “deponent” wherever it appears substitute “nominated person”.

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(7) By virtue of Rule 4.1(4), the presence of the words “(NO CVL APPLICATION)” after the heading to a Rule or at the end of a paragraph in Part 4 excludes the application of the Rule or paragraph from creditors’ voluntary winding up.

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(3) In paragraph (7), for “an affidavit of concurrence” substitute “a statement of concurrence verified by a statement of truth”.

**Amendment to Rule 4.38**

167.—(1) Rule 4.38 (expenses of statements of affairs) is amended as follows.

(2) In paragraph (3), for “7” substitute “5 business”.

**Amendments to Rule 4.39**

168.—(1) Rule 4.39 (submission of accounts) is amended as follows.

(2) In paragraph (5), for “affidavit” substitute “a statement of truth”.

(3) Omit paragraph (6).

**Amendments to Rule 4.40**

169.—(1) Rule 4.40 (submission of accounts) is amended as follows.

(2) In paragraph (3)—

(a) for “by affidavit” substitute “by a statement of truth”; and

(b) for “the affidavit” substitute “the statement of truth”.

**Amendments to Rule 4.42**

170.—(1) Rule 4.42 (further disclosure) is amended as follows.

(2) In paragraph (1), for “deponents” substitute “nominated persons”.

(3) In paragraph (2), for “affidavit” substitute “a statement of truth”.

(4) Omit paragraph (3).

**Amendment to Rule 4.43**

171.—(1) Rule 4.43 (reports by official receiver) is amended as follows.

(2) Omit paragraph (2).

**Amendment to Rule 4.44**

172.—(1) Rule 4.44 (meaning of “creditors”) is amended as follows.

(2) Omit from second “or” to the end.

**Amendment to Rule 4.45**

173.—(1) Rule 4.45 (report where statement of affairs lodged) is amended as follows.

(2) In paragraph (1) omit “and filed in court”.

**New Rules after Rule 4.49A**

174. After Rule 4.49A insert—

**“4.49B Reports to creditors and members – winding up by the court**

**4.49B (NO CVL APPLICATION)**

- (1) “Progress report” means a report which includes—
  - (a) details of the court where the proceedings are and the relevant court reference number;
  - (b) full details of the company’s name, address of registered office and registered number;
  - (c) full details of the liquidator’s name and address and date of appointment, including any changes in office-holder;
  - (d) details of the basis fixed for the remuneration of the liquidator under Rule 4.127 (or if not fixed at the date of the report, the steps taken during the period of the report to fix it);
  - (e) if the basis of remuneration has been fixed, a statement of—
    - (i) the remuneration charged by the liquidator during the period of the report (subject to paragraph (3)), and
    - (ii) where the report is the first to be made after the basis has been fixed, the remuneration charged by the liquidator during the periods covered by the previous reports (subject to paragraph (3)), together with a description of the things done by the liquidator during those periods in respect of which the remuneration was charged,irrespective in either case of whether payment was made in respect of that remuneration during that period;
  - (f) a statement of the expenses incurred by the liquidator during the period of the report, irrespective of whether payment was made in respect of them during that period;
  - (g) details of progress during the period of the report, including a receipts and payments account (as detailed in paragraph (2));
  - (h) details of any assets that remain to be realised;
  - (j) a statement of the creditors’ right to request information under Rule 4.49E and their right to challenge the liquidator’s remuneration and expenses under Rule 4.131; and
  - (k) any other relevant information for the creditors.

(2) A receipts and payments account must be in the form of an abstract showing receipts and payments during the period of the report and, where the liquidator has ceased to act, must also include a statement as to the amount paid to unsecured creditors by virtue of the application of section 176A.

(3) Where the basis for the remuneration is a set amount under Rule 4.127(2)(c), it may be shown as that amount without any apportionment to the period of the report.

(4) The progress report must, except where paragraph (5) or (6) applies, cover the period of 1 year commencing on the date on which the liquidator is appointed and every subsequent period of 1 year.

(5) The period to be covered by a progress report ends on the date when a liquidator ceases to act, and the period to be covered by each subsequent progress report is each successive period of 1 year beginning immediately after that date (subject to the further application of this paragraph when another liquidator ceases to act).

(6) A progress report is not required for any period which ends after the liquidator has sent a draft report to creditors under Rule 4.49D.

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(7) The liquidator must send a copy of the progress report within 2 months of the end of the period covered by the report, to the registrar of companies, to the members of the company and to the creditors.

(8) The court may, on the liquidator's application, extend the period of 2 months mentioned in paragraph (7), or make such other order in respect of the content of the report as it thinks just.

(9) This Rule does not apply where the liquidator is the official receiver.

#### **4.49C CVL Progress reports – voluntary winding up**

(1) This Rule applies for the purposes of sections 92A and 104A(8).

(2) The prescribed period for which the liquidator must produce a progress report, except when the liquidator ceases to act (in which case paragraph (3) applies) and subject to paragraph (4), is the period of 1 year commencing on the date on which the liquidator is appointed and every subsequent period of 1 year.

(3) When a liquidator ceases to act, and subject to paragraph (4)—

- (a) the prescribed period for which the liquidator must produce a progress report ends on the date of that liquidator's ceasing to act, and
- (b) the prescribed period for which the new liquidator (if any) must produce a progress report is the period of 1 year commencing immediately after that date and every subsequent period of 1 year (subject to the further application of this paragraph when that new liquidator ceases to act).

(4) A progress report is not required for any period which ends after the liquidator has sent a draft report to creditors under Rule 4.49D (final report to creditors).

(5) The prescribed matters to which a progress report must relate are those set out in Rule 4.49B(1)(b) to (j), (2) and (3); and for that purpose in a members' voluntary winding up—

- (a) the reference in Rule 4.49B(1)(d) to Rule 4.127 is to be read as a reference to Rule 4.148A,
- (b) the reference in Rule 4.49B(1)(j) to—
  - (i) the creditors' right to request information is to be read as a reference to the members' right to request information,
  - (ii) Rule 4.131 is to be read as a reference to Rule 4.148C, and
- (c) the reference in Rule 4.49B(3) to Rule 4.127(2)(c) is to be read as a reference to Rule 4.148A(2)(c).

(6) The prescribed person (in addition to members and creditors) to whom the liquidator must send a copy of a progress report is the registrar of companies.

(7) The prescribed period commencing with the end of the period prescribed in subparagraph (a) or (b) of paragraph (3) within which the liquidator must send a copy of a progress report to members, creditors and the registrar of companies is 2 months.

#### **4.49D Final report to creditors**

(1) The liquidator must, at least 8 weeks before holding a final meeting in accordance with section 106 or 146, send to each creditor known to the liquidator a draft of the report which the liquidator intends to lay before the meeting under Rule 4.125 or 4.126.

(2) The draft report must—

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(8) Sections 92A and 104A were inserted by [S.I. 2010/18](#).

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- (a) contain such matters and be in such terms as would comply with Rule 4.125 or 4.126, as the case may be, if the report were to be laid before a meeting as soon as reasonably practicable after the draft had been sent to creditors, and
- (b) be accompanied by a statement of the creditors' right to request information under Rule 4.49E and their right to challenge the liquidator's remuneration and expenses under Rule 4.131.

(3) The liquidator may not send a draft report to creditors under this Rule before giving notice under Rule 4.186 of intention to declare a final dividend or that no dividend or further dividend will be declared.

(4) If any creditor has applied to the court under Rule 4.131 and given a copy of the application to the liquidator, the final meeting may not be held until the application (including any appeal) has been disposed of and the liquidator has complied with any order of the court.

(5) This Rule does not apply where the liquidator is the official receiver.

#### **4.49E Creditors' and members' request for further information**

(1) If—

- (a) within the period mentioned in paragraph (2)—
  - (i) a secured creditor, or
  - (ii) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question), or
  - (iii) 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, or
- (b) with the permission of the court upon an application made within the period mentioned in paragraph (2)—
  - (i) any unsecured creditor, or
  - (ii) any member of the company in a members' voluntary winding up,

makes a request in writing to the liquidator for further information about remuneration or expenses set out in a progress report in accordance with Rule 4.49B(1)(e) or (f) (including by virtue of Rule 4.49C(5)) or in a draft report under Rule 4.49D, the liquidator must, within 14 days of receipt of the request, comply with paragraph (3) except to the extent that the request is in respect of matter in a draft report under Rule 4.49D or a progress report required by Rule 4.108 which (in either case) was previously included in a progress report not required by Rule 4.108.

(2) The period referred to in paragraph (1)(a) and (b) is—

- (a) 7 business days of receipt (by the last of them in the case of an application by more than one member) of the progress report where it is required by Rule 4.108, and
- (b) 21 days of receipt (by the last of them in the case of an application by more than one member) of the report or draft report in any other case.

(3) The liquidator complies with this paragraph by either—

- (a) providing all of the information asked for, or
- (b) so far as the liquidator considers that—
  - (i) the time or cost of preparation of the information would be excessive, or

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- (ii) disclosure of the information would be prejudicial to the conduct of the liquidation or might reasonably be expected to lead to violence against any person, or
  - (iii) the liquidator is subject to an obligation of confidentiality in respect of the information,
- giving reasons for not providing all of the information.
- (4) Any creditor, and any member of the company in a members' voluntary winding up, who need not be the same as the creditors or members who asked for the information, may apply to the court within 21 days of—
- (a) the giving by the liquidator of reasons for not providing all of the information asked for, or
  - (b) the expiry of the 14 days provided for in paragraph (1),
- and the court may make such order as it thinks just.
- (5) Without prejudice to the generality of paragraph (4), the order of the court under that paragraph may extend the period of 8 weeks or, as the case may be, 4 weeks provided for in Rule 4.131(1B) or 4.148C(2) by such further period as the court thinks just.
- (6) This Rule does not apply where the liquidator is the official receiver.

**4.49F Arrangements under s 110 (acceptance of shares, etc., as consideration for sale of company property)**

- (1) Where there has been an arrangement under section 110 and a distribution to members has taken place pursuant to subsection (2) or (4) of that section, the liquidator must comply with paragraph (2) in respect of any account or report which the liquidator is required to prepare pursuant to any of the following—
- (a) section 92A (progress report to company at year's end);
  - (b) section 94 (final meeting prior to dissolution – members' voluntary winding up);
  - (c) section 104A (progress report to company and creditors at year's end);
  - (d) section 106 (final meeting prior to dissolution – creditors' voluntary winding up);
  - (e) Rule 4.49B (reports to creditors and members – winding up by the court);
  - (f) Rule 4.49D (final report to creditors);
  - (g) Rule 4.108 (creditors' meeting to receive liquidator's resignation);
  - (h) Rule 4.126 (final meeting – creditors' voluntary liquidation);
  - (j) Rule 4.142 (company meeting to receive liquidator's resignation).
- (2) 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 of—
    - (i) the property transferred to the transferee;
    - (ii) the property received from the transferee; and
    - (iii) the property distributed to members pursuant to section 110(2) or (4),during the period to which the account or report relates, and
  - (b) as a note to the account or summary of receipts and payments, provide details of the basis of the valuation.

#### **4.49G Other distributions to members in specie**

(1) In a members' voluntary winding up, where there has been a distribution of property to members in its existing form other than pursuant to an arrangement under section 110, the liquidator must comply with paragraph (2) in respect of any account or report which the liquidator is required to prepare pursuant to any of the following—

- (a) section 92A (progress report to company at year's end);
- (b) section 94 (final meeting prior to dissolution);
- (c) Rule 4.142 (company meeting to receive liquidator's resignation)

(2) 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 of the property distributed amongst the members of the company during the period to which the account or report relates, and
- (b) as a note to the account or summary of receipts and payments, provide details of the basis of the valuation.”.

#### **Amendments to Rule 4.50**

**175.**—(1) Rule 4.50 (first meetings) is amended as follows.

(2) In paragraph (2)—

- (a) omit “to the court and”, and
- (b) in sub-paragraph (a), omit “or is identified in the company's statement of affairs”.

(3) For paragraph (3) substitute—

“(3) Notice for each meeting must be given at least 14 days before the date fixed for it.”.

(4) For paragraph (4) substitute—

“(4) The notice to creditors must state that proofs and (if applicable) proxies must be lodged at a specified place not later than 12.00 hours on the business day before the date fixed for the meeting in order for creditors to be entitled to vote at the meeting; and the same applies in respect of contributories and their proxies.”.

(5) After paragraph (5) insert—

“(5A) In addition to the standard contents, a notice under paragraph (5) must state—

- (a) that a meeting of the creditors or contributories is to take place;
- (b) the venue fixed for the meeting; and
- (c) the time and date by which, and place at which, creditors must lodge proxies and hitherto unlodged proofs in order to be entitled to vote at the meeting.”.

#### **Amendment to Rule 4.51**

**176.**—(1) Rule 4.51 (first meeting of creditors) is amended as follows.

(2) In paragraph (2) after “must lodge any” insert “proofs and”.

#### **Amendments to Rule 4.52**

**177.**—(1) Rule 4.52 (business at first meetings) is amended as follows.

(2) In paragraph (1)(f), omit “for not more than 3 weeks”.

(3) For paragraph (3) substitute—

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“(3A) The meeting may be adjourned, either in accordance with a resolution under paragraph (1)(f) or if the chairman thinks fit, but for not more than 14 days from the date on which it was fixed to commence, subject to any direction of the court.

(3B) If there are subsequently further adjournments, the final adjournment must not be to a day later than 14 days after the date on which the meeting was originally held, subject to any direction of the court.

(3C) Where a meeting is adjourned under this Rule, proofs and proxies may be used if lodged at any time up to 12.00 hours on the business day immediately before the adjourned meeting.”.

### **New Rules after Rule 4.53B**

178. After Rule 4.53B insert—

#### **“4.53C CVL Additional contents of notices gazetted or advertised under s.95**

**4.53C** In addition to the statement of duty required under subsection (2A) of section 95(9), and to the standard contents, notices under paragraphs (c) and (d) of that subsection must state—

- (a) the purpose of the meeting; and
- (b) the venue fixed for the meeting.

#### **4.53D CVL Additional contents of notices gazetted or advertised under s 98**

**4.53D** In addition to the content required by section 98(2), and the standard contents, notices under section 98(1A) (c) or (d)(10) must state—

- (a) the purpose of the meeting; and
- (b) the venue fixed for the meeting.”.

### **Amendments to Rule 4.54**

179.—(1) Rule 4.54 (general power to call meetings) is amended as follows.

(2) In paragraph (2)(a), omit “or is identified in the company’s statement of affairs”.

(3) In paragraph (3), for “21” substitute “14”.

(4) For paragraph (4) substitute—

“(4) The notice must state that proofs and (if applicable) proxies must be lodged at a specified place not later than 12.00 hours on the business day before the date fixed for the meeting in order for creditors to be entitled to vote at the meeting; and the same applies in respect of contributories and their proxies. (NO CVL APPLICATION)”.

(5) For paragraph (5) substitute—

“(5–CVL) The notice must state that proofs and (if applicable) proxies must be lodged at a specified place not later than 12.00 hours on the business day before the date fixed for the meeting in order for creditors to be entitled to vote at the meeting.”.

(6) After paragraph (6) add—

“(7) In addition to the standard contents, the notice under paragraph (6) must state—

- (a) who summoned the meeting;

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(9) Subsection (2A) was inserted by [S.I. 2009/864](#).

(10) Subsection (1A) was inserted by [S.I. 2009/864](#).

- (b) if the meeting was summoned by a creditor, the fact that it was so summoned and the section of the Act under which it was summoned;
- (c) the purpose for which the meeting was summoned;
- (d) the venue fixed for the meeting; and
- (e) the time and date by which, and place at which, creditors must lodge proxies and hitherto unlodged proofs in order to be entitled to vote at the meeting.”.

#### **Amendments to Rule 4.57**

**180.**—(1) Rule 4.57 (requisitioned meetings) is amended as follows.

- (2) In paragraph (2), for “35” substitute “28”.
- (3) In paragraph (3), for “21” substitute “14”.

#### **Amendment to Rule 4.58**

**181.**—(1) Rule 4.58 (attendance at meetings of company’s personnel) is amended as follows.

- (2) In paragraph (2), for “21” substitute “14”.

#### **Amendments to Rule 4.59**

**182.**—(1) Rule 4.59 (notice of meetings by advertisement only) is amended as follows.

- (2) In paragraphs (1) and (2), omit “public”.
- (3) At the end add—
  - “(3) In addition to the standard contents, the advertisement must state—
  - (a) the venue fixed for the meeting;
  - (b) that proofs and (if applicable) proxies must be lodged at a specified place not later than 12.00 hours on the business day before the date fixed for the meeting;
  - (c) the date of the court order or the date of the resolution to wind up.”.

#### **Amendment to Rule 4.62**

**183.**—(1) Rule 4.62 (expenses of meeting under s 98) is amended as follows.

- (2) In paragraph (3), for “7” substitute “5 business”.

#### **Amendments to Rule 4.63**

**184.**—(1) Rule 4.63 (resolutions) is amended as follows.

- (2) In paragraph (2)(a), omit “subject to paragraph (2A)”.
- (3) Omit paragraph (2A).

#### **New Rule after Rule 4.63**

**185.** After Rule 4.63 insert—

##### **“4.63A Resolutions by correspondence**

- (1) The liquidator may seek to obtain the passing of a resolution by creditors or contributories without holding a meeting by giving notice of the resolution to every creditor

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or contributory who is entitled to be notified of a meeting at which the resolution could be passed.

(2) In order to be counted, votes must be received by the liquidator in writing by 12.00 hours on the closing date specified in the notice, and in the case of votes cast by creditors must be accompanied by a proof of debt as required by Rule 4.67(1)(a) unless it has already been lodged under that Rule.

(3) If any vote cast by a creditor is received without a proof of debt, or the liquidator decides that the creditor or contributory is not entitled to vote according to Rules 4.67 to 4.70, then that creditor's or contributory's vote must be disregarded.

(4) The closing date shall be set at the discretion of the liquidator; but in any event it must not be set less than 14 days from the giving of notice provided for in paragraph (1).

(5) For the resolution to be passed, the liquidator must receive at least one valid vote by the closing date specified in the notice.

(6) If no valid vote is received by the closing date specified, the liquidator must call a meeting of creditors or contributories at which the resolution could be passed.

(7) Creditors whose debts amount to at least 10% of the total debts of the company may, within 5 business days from the giving of notice provided for in paragraph (1), require the liquidator to summon a meeting of creditors to consider the resolution.

(8) Contributories representing at least 10% of the total voting rights of all contributories having the right to vote at a meeting of contributories may, within 5 business days from the giving of notice provided for in paragraph (1), require the liquidator to summon a meeting of contributories to consider the resolution.

(9) A reference in these Rules to a resolution passed at a creditors' or contributories' meeting includes a reference to a resolution passed under this Rule.

(10) This Rule does not apply in respect of any resolution which the Act requires to be passed at a meeting."

#### **Amendments to Rule 4.65**

**186.**—(1) Rule 4.65 (suspension and adjournment) is amended as follows.

(2) In paragraph (5), for "21" substitute "14".

(3) For paragraph (6) substitute—

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

(6B) Paragraph (6A) applies to further adjournments of a final meeting.

(6C) In the case of any other meeting, further adjournment must be to the same time and place in the following week or, if either—

(a) that is not a business day, or

(b) whether or not it is a business day, it is later than 14 days after the date on which the meeting in question was originally held,

to the same time and place on the business day immediately preceding which is not later than 14 days after the date on which the meeting in question was originally held.”.

#### **Amendment to Rule 4.67**

- 187.**—(1) Rule 4.67 (entitlement to vote (creditors)) is amended as follows.  
(2) In paragraph (1)(a), omit “in a winding up by the court”.

#### **Amendments to Rule 4.68**

- 188.**—(1) Rule 4.68 (chairman’s discretion to allow vote) is amended as follows.  
(2) In the heading, delete “CVL”(11).  
(3) After “creditors’ meeting” insert “in a creditors’ voluntary winding up or a winding up by the court”.

#### **Amendment to Rule 4.70**

- 189.**—(1) Rule 4.70 (admission and rejection of proof (creditors’ meeting)) is amended as follows.  
(2) After paragraph (4) insert—  
    “(4A) An application to the court by way of appeal under this Rule against a decision of the chairman must be made not later than 21 days after the date of the meeting.”.

#### **Amendments to Rule 4.71**

- 190.**—(1) Rule 4.71 (record of proceedings) is amended as follows.  
(2) At the end of paragraph (3) add, “and if a creditors’ committee has been established, the names and addresses of those elected to be members of the committee.”.  
(3) Omit paragraph (4).

#### **Amendment to Rule 4.73**

- 191.**—(1) Rule 4.73 (meaning of “prove”) is amended as follows.  
(2) Omit paragraph (7).

#### **Amendment to Rule 4.75**

- 192.**—(1) Rule 4.75 (contents of proof) is amended as follows.  
(2) In paragraph (1)(b), at the end add “(or, if the liquidation was immediately preceded by an administration, the date on which the company entered administration), less any payments made after that date in respect of the claim and any deduction under Rule 4.89”.

#### **Amendments to Rule 4.81**

- 193.**—(1) Rule 4.81 (new liquidator appointed) is amended as follows.  
(2) In paragraph (1), for “shall” substitute “must as soon as reasonably practicable”.  
(3) After paragraph (2) add—  
    “(3) From then on, all proofs of debt must be sent to and retained by the new liquidator.”.

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(11) By virtue of Rule 4.1(5), the presence of the letters “CVL” in the number of a Rule or paragraph in Part 4 limits the application of the Rule or paragraph to creditors’ voluntary winding up.

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### **Amendment to Rule 4.83**

**194.**—(1) Rule 4.83 (appeal against decision on proof) is amended as follows.

(2) After paragraph (4) insert—

“(4A) Where the application is made by a contributory, the court must not disallow the proof (in whole or in part) unless 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.”.

### **Amendments to Rule 4.93**

**195.**—(1) Rule 4.93 (interest) is amended as follows.

(2) Before paragraph (1) insert—

“(A1) In this Rule, “the relevant date” means the date on which the company went into liquidation or, if the liquidation was immediately preceded by an administration, the date on which the company entered administration.”.

(3) In paragraph (1), for all the words after “after” substitute “the relevant date”.

(4) In paragraph (2), for “the company went into liquidation” substitute “the relevant date”.

(5) In paragraph (3), for “the date when the company went into liquidation” substitute “the relevant date”.

(6) In paragraph (4), for “that date” substitute “the relevant date”.

(7) In paragraph (5), for “that of the company’s going into liquidation” substitute “the relevant date”.

(8) In paragraph (6), for “the date when the company went into liquidation” substitute “the relevant date”.

### **Amendment to Rule 4.96**

**196.**—(1) Rule 4.96 (surrender for non-disclosure) is amended as follows.

(2) In paragraph (1), for “for” where it appears second substitute “from”.

### **Amendment to Rule 4.97**

**197.**—(1) Rule 4.97 (redemption by liquidator) is amended as follows.

(2) In paragraph (4), for “6 months” substitute “3 months”.

### **Amendment to Rule 4.98**

**198.**—(1) Rule 4.98 (test of security’s value) is amended as follows.

(2) After paragraph (2) add—

“(3) This Rule does not apply if the security has been revalued and the revaluation has been approved by the court.”.

### **Amendment to rule 4.100**

**199.**—(1) Rule 4.100 (appointment by creditors of contributories) is amended as follows.

(2) In paragraph (5) omit “and file a copy of it in court”.

### **New Rule after Rule 4.101A**

**200.** After Rule 4.101A insert—

#### **“4.101B Official receiver not to be appointed liquidator**

**4.101B** The official receiver may not be appointed as liquidator by any meeting of creditors, contributories or the company.”.

### **Amendments to Rule 4.102**

**201.**—(1) Rule 4.102 (appointment by the court) is amended as follows.

- (2) Omit paragraph (4A).
- (3) In paragraph (5), omit “also”.

### **Amendment to Rule 4.104**

**202.**—(1) Rule 4.104 (appointment by Secretary of State) is amended as follows.

- (2) In paragraph (2)—
  - (a) for “two copies” substitute “a copy”;
  - (b) for “one such copy” substitute “it”; and
  - (c) omit “, and file the other copy in court”.

### **Substitution of Rule 4.106**

**203.** For Rule 4.106 (appointment to be advertised and registered) substitute—

#### **“4.106A Appointment to be gazetted and registered**

(1) A liquidator appointed in a voluntary winding up in addition to giving notice of the appointment in accordance with section 109(1) may advertise the notice in such other manner as the liquidator thinks fit.

- (2) A liquidator appointed in a winding up by the court -
  - (a) as soon as reasonably practicable must have gazetted a notice of the appointment; and
  - (b) may advertise the notice in such other manner as the liquidator thinks fit.
- (3) In addition to the standard contents, the notice must state –
  - (a) that a liquidator has been appointed; and
  - (b) the date of the appointment.

(4) As soon as reasonably practicable a liquidator appointed in a winding up by the court must notify the appointment to the registrar of companies.

(5) At first instance the liquidator must bear the expense of giving notice under this Rule.

(6) The liquidator is entitled to be reimbursed for such expenditure as an expense of the liquidation.”.

### **Amendments to Rule 4.108**

**204.**—(1) Rule 4.108 (creditors’ meeting to receive liquidator’s resignation) is amended as follows.

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- (2) In paragraph (1), for the second sentence substitute—
- “(1A) The liquidator must give at least 28 days’ notice of the meeting.
  - (1B) The notice summoning the meeting must—
    - (a) indicate that the purpose or one of the purposes of the meeting is to receive the liquidator’s resignation; and
    - (b) draw the attention of the creditors with respect to the liquidator’s release to Rule 4.121 or, as the case may be, Rule 4.122.”.
- (3) For paragraph (3) substitute—
- “(3) The notice to creditors under paragraph (1) must be accompanied by an account of the liquidator’s administration of the winding up including—
    - (a) where appropriate, a statement that the liquidator has reconciled the account with that held by the Secretary of State in respect of the winding up; and
    - (b) a progress report for the period—
      - (i) commencing with the later of the date of—
        - (aa) the appointment of the liquidator; and
        - (bb) the day immediately following the end of the period of the last progress report; and
      - (ii) ending with the date of the meeting.”.
- (4) In paragraph (6), at the beginning insert “Except where Rule 4.108A applies,”.

#### **New Rule after Rule 4.108**

**205.** After Rule 4.108 insert—

##### **“4.108A Resignation (application under Rule 4.131)**

- (1) This Rule applies where at the date of a meeting summoned for the purpose of receiving the liquidator’s resignation, an application made to the court under Rule 4.131 (including any appeal) has not been disposed of.
- (2) At the meeting no resolution may be put regarding the liquidator’s release.
- (3) If at the meeting the liquidator’s resignation is accepted, the meeting must be adjourned (notwithstanding anything in Rule 4.65 (suspension and adjournment)) to a day not less than 14 days after the day on which the application under Rule 4.131 (including any appeal) has been disposed of.
- (4) The liquidator must give at least 14 days’ notice of the meeting adjourned in accordance with paragraph (3) to the creditors.
- (5) At the meeting adjourned in accordance with paragraph (3)—
- (a) a revised version of the account which accompanied the notice of the meeting must be laid showing any changes required as a result, or arising out of the application under Rule 4.131; and
  - (b) a resolution must be put for the release of the liquidator whose resignation has been accepted.
- (6) If there is no quorum present at the adjourned meeting, the meeting is deemed to have been held and the creditors are deemed to have resolved that the liquidator be released.
- (7) Where the creditors have resolved at the adjourned meeting that the liquidator be released (or are deemed to have so resolved by virtue of paragraph (5)), the chairman of the

meeting (or the person who, had there been a quorum present would have been chairman of the meeting) must send as soon as reasonably practicable a certificate to that effect with a copy of the revised account to—

- (a) the official receiver; and (NO CVL APPLICATION)
- (b) the registrar of companies.

(8) The official receiver must file a copy of the certificate in court.

(9) If at the meeting the liquidator's resignation is not accepted, the liquidator must not summon any further meeting under Rule 4.108 until the application under Rule 4.131 (including any appeal) has been disposed of.

(10) Paragraph (7) is subject to the powers of the court on an application being made to it by the liquidator under Rule 4.111 (permission to resign granted by the court).

(11) Rule 4.108 applies to any such further meeting with the modification that the progress report required to accompany the notice of the meeting must show any changes from the report which accompanied the notice of the earlier meeting called to receive the liquidator's resignation, and in particular any changes required as a result of the application under Rule 4.131 and any further remuneration charged or expenses incurred.

(12) The creditors' rights under Rules 4.49E and 4.131 do not apply in respect of any matter included in that report which—

- (a) was included in the report which accompanied the notice of the earlier meeting called to receive the liquidator's resignation; or
- (b) was the subject of the order of the court on the application made to it by the liquidator under Rule 4.131.”.

#### **Amendments to Rule 4.109**

**206.**—(1) Rule 4.109 (action following acceptance of resignation) is amended as follows.

(2) In paragraph (2), for “days” substitute “business days of the date of the resolution”.

(3) In paragraph (4), for “meeting” substitute “resolution has been passed”.

#### **Amendment to Rule 4.110**

**207.**—(1) Rule 4.110 (action following acceptance of resignation) is amended as follows.

(2) In paragraph (2), for “meeting” substitute “resolution has been passed”.

#### **Amendment to Rule 4.113**

**208.**—(1) Rule 4.113 (meeting of creditors to remove liquidator) is amended as follows.

(2) In paragraph (4), after “3” insert “business”.

#### **Amendment to Rule 4.116**

**209.**—(1) Rule 4.116 (procedure on removal) is amended as follows.

(2) For paragraph (3) substitute—

“(3) The official receiver must send a copy of the certificate, so endorsed, as soon as reasonably practicable to—

- (a) the removed liquidator;
- (b) the new liquidator (if appointed); and

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- (c) the registrar of companies.”.

#### **Amendments to Rule 4.119**

**210.**—(1) Rule 4.119 (removal of liquidator by the court) is amended as follows.

- (2) In the first sentence of paragraph (2)—
  - (a) for “an *ex parte*” substitute “a”;
  - (b) for “7” substitute “5 business”;
  - (c) at the end add, “but which is without notice to any other party”.

#### **Amendments to Rule 4.120**

**211.**—(1) Rule 4.120 (removal of liquidator by the court) is amended as follows.

- (2) In the first sentence of paragraph (2)—
  - (a) for “an *ex parte*” substitute “a”;
  - (b) for “7” substitute “5 business”;
  - (c) at the end add, “but which is without notice to any other party”.

#### **Amendments to Rule 4.121**

**212.**—(1) Rule 4.121 (release of resigning or removed liquidator) is amended as follows.

- (2) In paragraph (1), at the beginning insert “Subject to paragraph (1A),”.
- (3) After paragraph (1) insert—
  - “(1A) Where the liquidator’s resignation is accepted under Rule 4.108A, the liquidator’s release is effective as from the date on which the official receiver files the copy of the certificate under paragraph (8) of that Rule in court, that date to be endorsed on the copy certificate.”.

#### **Amendments to Rule 4.122**

**213.**—(1) Rule 4.122 (release of resigning or removed liquidator) is amended as follows.

- (2) In paragraph (1), at the beginning insert “Subject to paragraph (1A),”.
- (3) After paragraph (1) insert—
  - “(1A) Where the liquidator’s resignation is accepted under Rule 4.108A, the liquidator’s release is effective as from the date of the certificate.”.

#### **Amendments to Rule 4.125**

**214.**—(1) Rule 4.125 (final meeting – winding up by court) is amended as follows.

- (2) In paragraph (1), omit from “; and the liquidator” to the end.
- (3) After paragraph (1) insert—
  - “(1A) The final meeting must not be held unless Rule 4.49D has been complied with; and if for that reason the meeting is not held—
    - (a) the liquidator must give notice of that fact as soon as reasonably practicable to all to whom notice of the meeting was given, and
    - (b) fresh notice of the meeting complying with this Rule must be given when Rule 4.49D has been complied with.

- (1B) The liquidator—
  - (a) at least 1 month before the meeting is held must have gazetted a notice of the meeting; and
  - (b) may advertise the notice in such other manner as the liquidator thinks fit.
- (1C) In addition to the standard contents, the notice under paragraph (1B) must state—
  - (a) who summoned the meeting;
  - (b) if the meeting was summoned at the request of a creditor, the fact that it was so summoned and the section of the Act under which it was requested;
  - (c) the purpose for which the meeting is summoned;
  - (d) the venue fixed for the meeting; and
  - (e) the time and date by which, and place at which, creditors must lodge proxies and hitherto unlodged proofs in order to be entitled to vote at the meeting.”.
- (4) In paragraph (2), at the end of sub-paragraph (a), for “and” substitute—  
“including details of remuneration charged and expenses incurred by the liquidator,
  - (ab) details of the basis fixed for the liquidator’s remuneration, and”.
- (5) After paragraph (2A) insert—
  - “(2B) Where the liquidator has sent a progress report to creditors in accordance with Rule 4.49B, the report to be laid at the final meeting of creditors must also—
    - (a) contain a receipts and payments account in the form of an abstract showing the receipts and payments during the period since the last progress report, and
    - (b) include—
      - (i) details of the remuneration charged and expenses incurred by the liquidator during that period, and
      - (ii) a description of the things done by the liquidator during that period in respect of which that remuneration was charged and those expenses incurred.
- (2C) In any case where the basis of the liquidator’s remuneration had not been fixed by the date to which the last progress report was made up, the receipts and payments account required by paragraph (2B)(a) must also include details of the remuneration charged in the period of any preceding progress report in which details of remuneration were not included.
- (2D) Where the basis of remuneration has been fixed as a set amount only, it is sufficient compliance with paragraph (2B)(b) for the liquidator to state the amount which has been set and to supply details of the expenses charged within the period in question.”.

#### **Amendments to Rule 4.126**

- 215.**—(1) Rule 4.126 (final meeting – creditors’ voluntary liquidation) is amended as follows.
- (2) At the end of paragraph (1), for “have proved their debts” substitute “are known to the liquidator”.
  - (3) After paragraph (1) insert—
    - “(1A) In addition to information required by subsection (2) of section 106 and the standard contents, the advertisement required by that subsection must state the time and date by which, and place at which, creditors must lodge proxies and hitherto unlodged proofs in order to be entitled to vote at the meeting.

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(1B) In addition to the notice required by paragraph (1) and the advertisement required by section 106(2), the liquidator may advertise notice of the meeting in such other manner as the liquidator thinks fit.

(1C) In addition to the standard contents, notice under paragraph (1B) must state—

- (a) the purpose of the meeting;
- (b) the venue fixed for the meeting; and
- (c) the time and date by which, and place at which, creditors must lodge proxies and hitherto unlodged proofs in order to be entitled to vote at the meeting.

(1D) The final meeting must not be held unless Rule 4.49D has been complied with; and if for that reason the meeting is not held—

- (a) the liquidator must give notice of that fact as soon as reasonably practicable to all to whom notice of the meeting was given, and
- (b) fresh notice of the meeting complying with this Rule must be given when Rule 4.49D has been complied with.

(1E) The liquidator's report laid before the meeting of creditors under section 106 must contain an account of the liquidator's administration of the winding up, including—

- (a) a summary of the liquidator's receipts and payments, including at least the following items separately specified (except where the amount for an item is zero)

—

- (i) the total of all receipts, with separate specification thereunder of—
  - (aa) receipts from trading carried on by the liquidator;
  - (bb) payments made in the course of trading carried on by the liquidator;
  - (cc) the source of all other receipts;
  - (dd) payments to redeem securities;
  - (ee) costs of execution; and
  - (ff) net realisations;
- (ii) the cost of employing a solicitor;
- (iii) other legal costs;
- (iv) the liquidator's remuneration;
- (v) the cost of employing an auctioneer;
- (vi) the cost of employing a valuer;
- (vii) the costs of taking possession of and maintaining the company's property;
- (viii) the cost of advertising in the Gazette and other newspapers;
- (ix) incidental outlays;
- (x) a statement of the total of costs and charges incurred;
- (xi) the amount paid to holders of debentures of each class of debenture, setting out the amount paid per debenture, the nominal value of each debenture in each class and the total amount paid in respect of each class;
- (xii) the aggregate numbers of preferential and unsecured creditors and the aggregate amounts paid out to them, the aggregates for preferential and unsecured creditors set out separately unless all creditors have been paid in full;

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- (xiii) statements of the aggregate dividend paid on each pound of preferential and of unsecured debt and of the estimate of the value of the company's net property which had been made under Rule 4.49(2)(a)(ii);
  - (xiv) the amount of interest paid under section 189;
  - (xv) the amount paid to contributories in respect of each class of share, setting out the amount per share and the nominal value of each share in each class;
  - (xvi) a statement of the total amount paid to holders of debentures, preferential and unsecured creditors and contributories;
  - (xvii) a statement of assets which have proved to be unrealisable, including the value of those assets which had been made for the purpose of Rule 4.49(2)(a)(ii);
  - (xviii) the amounts paid into the Insolvency Services Account, set out separately, in respect of—
    - (aa) unclaimed dividends payable to creditors in the winding up;
    - (bb) other unclaimed dividends in the winding up;
    - (cc) moneys held by the company in trust in respect of dividends or other sums due before the commencement of the winding up to any person as a member of the company;
  - (b) details of the basis fixed for the liquidator's remuneration and by whom it was fixed;
  - (c) a statement by the liquidator that the account included in the report has been reconciled with that which is held by the Secretary of State in respect of the winding up;
  - (d) any other statement which the liquidator thinks it desirable to make.”.
- (4) In paragraph (2), for “the section” substitute “section 106”.
- (5) After paragraph (4) add—
- “(5) Where the liquidator has sent a progress report to creditors in accordance with section 104A, the report to be laid at the final meeting of creditors must also—
  - (a) contain a receipts and payments account in the form of an abstract showing the receipts and payments during the period since the last progress report, and
  - (b) include—
    - (i) details of the remuneration charged and expenses incurred by the liquidator during that period, and
    - (ii) a description of the things done by the liquidator during that period in respect of which that remuneration was charged and those expenses incurred.
- (6) In any case where the basis of the liquidator's remuneration had not been fixed by the date to which the last progress report was made up, the receipts and payments account required by paragraph (5)(a) must also include details of the remuneration charged in the period of any preceding progress report in which details of remuneration were not included.
- (7) Where the basis of remuneration has been fixed as a set amount only, it is sufficient compliance with paragraph (5)(b) for the liquidator to state the amount which has been set and to supply details of the expenses charged within the period in question.”.

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## **New Rule after Rule 4.126**

**216.** After Rule 4.126 insert—

### **“Final meeting in members’ voluntary liquidation**

#### **4.126A (NO CVL APPLICATION)**

(1) In addition to the information required by section 94(2) and the standard contents, the advertisement required by that subsection must state the time and date by which, and place at which, members must lodge proxies in order to be entitled to vote.

(2) In addition to the advertisement required by section 94(2), the liquidator may advertise notice of the meeting in such other manner as the liquidator thinks fit.

(3) In addition to the standard contents, notice given under paragraph (2) must state—

- (a) the purpose of the meeting,
- (b) the venue fixed for the meeting, and
- (c) the time and date by which, and place at which, members must lodge proxies in order to be entitled to vote at the meeting.

(4) The liquidator’s report laid before the meeting of the company under section 94 must contain an account of the liquidator’s administration of the winding up, including (except where the amount for an item is zero)—

(a) a summary of the liquidator’s receipts and payments, including at least the following items separately specified—

- (i) the total of all receipts, with separate specification thereunder of—
  - (aa) receipts from trading carried on by the liquidator;
  - (bb) payments made in the course of trading carried on by the liquidator;
  - (cc) the source of all other receipts;
  - (dd) payments to redeem securities;
  - (ee) costs of execution; and
  - (ff) net realisations;
- (ii) the cost of employing a solicitor;
- (iii) other legal costs;
- (iv) the liquidator’s remuneration;
- (v) the cost of employing an auctioneer;
- (vi) the cost of employing a valuer;
- (vii) the costs of taking possession of and maintaining the company’s property;
- (viii) the cost of advertising in the Gazette and other newspapers;
- (ix) incidental outlays;
- (x) a statement of the total of costs and charges incurred;
- (xi) the amount paid to holders of debentures of each class of debenture, setting out the amount paid per debenture, the nominal value of each debenture in each class and the total amount paid in respect of each class;
- (xii) the aggregate amount paid out to creditors;
- (xiii) the amount of interest paid under section 189;

- (xiv) the amount paid to contributories in respect of each class of share, setting out the amount per share and the nominal value of each share in each class;
- (xv) a statement of the total amount paid to holders of debentures, preferential and unsecured creditors and contributories;
- (xvi) a statement of assets which have proved to be unrealisable, including the value of those assets which had been made for the purpose of Rule 4.49(2)(a)(ii);
- (xvii) the amounts paid into the Insolvency Services Account, set out separately, in respect of—
  - (aa) unclaimed dividends payable to creditors in the winding up;
  - (bb) other unclaimed dividends in the winding up;
  - (cc) moneys held by the company in trust in respect of dividends or other sums due before the commencement of the winding up to any person as a member of the company;
- (b) details of the basis fixed for the liquidator’s remuneration and by whom it was fixed;
- (c) any other statement which the liquidator thinks it desirable to make.”.

#### **Amendments to Rule 4.127**

**217.**—(1) Rule 4.127 (fixing of remuneration) is amended as follows.

(2) In paragraph (2)—

- (a) for “The remuneration” substitute “The basis of remuneration”;
- (b) omit “either”;
- (c) at the end add—

“, or

(c) as a set amount.”.

(3) For paragraph (3) substitute—

“(3A) The basis of remuneration may be fixed as any one or more of the bases set out in paragraph (2), and different bases may be fixed in respect of different things done by the liquidator.

(3B) Where the basis of remuneration is fixed as set out in paragraph (2)(a), different percentages may be fixed in respect of different things done by the liquidator.

(3C) Where the liquidator is other than the official receiver, and subject to paragraph (5A), it is for the liquidation committee (if there is one) to determine—

- (a) which of the bases set out in paragraph (2) are to be fixed and (where appropriate) in what combination under paragraph (3A), and
- (b) the percentage or percentages (if any) to be fixed under paragraphs (2)(a) and (3B) and the amount (if any) to be set under paragraph (2)(c).”.

(4) In paragraph (5)—

- (a) after “determination,” insert “and subject to paragraph (5A), the basis of”;
- (b) for “paragraph (2)” substitute “paragraphs (2), (3A) and (3B)”.

(5) After paragraph (5) insert—

“(5A) Where—

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- (a) a company which is in administration moves into winding up under paragraph 83 of Schedule B1 to the Act and the administrator becomes the liquidator, or
- (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)(12) appoints as liquidator the person whose appointment as administrator has ceased to have effect,

the basis of remuneration fixed under Rule 2.106 is treated as having been fixed under this Rule and paragraphs (4) and (5) do not apply.”.

(6) In paragraph (6)—

- (a) after “official receiver and” insert “the basis of”;
- (b) after “as above” insert “within 18 months after the date of the liquidator’s appointment”;
- (c) at the end add “(NO CVL APPLICATION)”.

(7) After paragraph (6) add—

“(7–CVL) If not fixed as above, the basis of the liquidator’s remuneration shall, on application by the liquidator, be fixed by the court, and the provisions of paragraphs (2) to (4) apply as they do to the fixing of the basis of remuneration by the liquidation committee; but such an application may not be made by the liquidator unless the liquidator has first sought fixing of the basis in accordance with paragraph (3C) or (5), and in any event may not be made more than 18 months after the date of the liquidator’s appointment.”.

#### **Amendments to Rule 4.127A**

**218.**—(1) Rule 4.127A (liquidator’s entitlement to remuneration where it is not fixed under Rule 4.127) is amended as follows.

- (2) After the heading insert “(NO CVL APPLICATION)”.
- (3) In paragraph (1)—
  - (a) after “official receiver and” insert “the basis of”;
  - (b) after “fixed” inserted “or treated as fixed”.

#### **Amendment to Rule 4.127B**

**219.**—(1) Rule 4.127B (liquidator’s remuneration where the liquidator realises assets on behalf of chargeholder) is amended as follows.

(2) After paragraph (3) add—

“(4) The sum to which the liquidator is entitled under paragraph (2) or (3) shall be taken out of the proceeds of the realisation effected under that paragraph.”.

#### **Substitution of Rule 4.129**

**220.** For Rule 4.129 (recourse of liquidator to meeting of creditors) substitute—

##### **“4.129A Recourse of liquidator to meeting of creditors**

**4.129A** If the basis of the liquidator’s remuneration has been fixed by the liquidation committee, or by the creditors’ committee under Rule 2.106(3C) in a case falling within Rule 4.127(5A) in which the administrator had not requested an increase under Rule 2.107, and the liquidator considers the rate or amount to be insufficient or the basis to be inappropriate,

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(12) Section 140(1) was substituted by 2002 c. 40, s. 248(3) and Schedule 17, paragraphs 9 and 17.

the liquidator may request that the rate or amount be increased or the basis changed by resolution of the creditors.”.

#### **Amendment to Rule 4.130**

**221.**—(1) Rule 4.130 (recourse to the court) is amended as follows.

(2) For paragraph (1) substitute—

“(1) If the liquidator considers that the basis of remuneration fixed by the liquidation committee, or by resolution of the creditors, or as under Rule 4.127(5A) or (6), is insufficient or inappropriate, the liquidator may apply to the court for an order changing it or increasing its amount or rate.”.

#### **Amendments to Rule 4.131**

**222.**—(1) Rule 4.131 (creditors’ claim that remuneration is excessive) is amended as follows.

(2) In the heading, after “is” insert “or other expenses are”.

(3) For paragraph (1) substitute—

“(1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the creditors (including that creditor) or the permission of the court, may apply to the court for one or more of the orders in paragraph (4).

(1A) Application may be made on the grounds that—

- (a) the remuneration charged by the liquidator,
- (b) the basis fixed for the liquidator’s remuneration under Rule 4.127, or
- (c) expenses incurred by the liquidator,

is or are, in all the circumstances, excessive or, in the case of an application under subparagraph (b), inappropriate.

(1B) The application must, subject to any order of the court under Rule 4.49E(5), be made no later than 8 weeks (or, in a case falling within Rule 4.108, 4 weeks) after receipt by the applicant of the progress report, or the draft report under Rule 4.49D, which first reports the charging of the remuneration or the incurring of the expenses in question (“the relevant report”).”.

(4) In paragraph (2)—

- (a) for “an *ex parte*” substitute “a”;
- (b) for “7” substitute “5 business ”;
- (c) at the end of the first sentence add, “but which is without notice to any other party”.

(5) For paragraph (4) substitute—

“(4) 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 liquidator was entitled to charge;
- (b) an order fixing the basis of remuneration at a reduced rate or 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 liquidation;

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- (e) an order that the liquidator or the liquidator's personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify;
- and may make any other order that it thinks just; but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report.”.

### **New Rules after Rule 4.131**

**223.** After Rule 4.131 insert—

#### **“4.131A Review of remuneration**

(1) Where, after the basis of the liquidator's remuneration has been fixed, there is a material and substantial change in the circumstances which were taken into account in fixing it, the liquidator may request that it be changed.

(2) The request must be made—

- (a) where the liquidation committee fixed the basis, to the committee;
- (b) where the creditors fixed the basis, to the creditors;
- (c) where the court fixed the basis, by application to the court;
- (d) where the remuneration was determined by application of the realisation scale under Rule 4.127A, to the liquidation committee if there is one or otherwise to the creditors;

and subject to paragraph (3), Rules 4.127 to 4.131 apply as appropriate.

(3) Where Rule 4.129A is applied in accordance with paragraph (2) of this Rule, ignore the words “in which the administrator had not requested an increase under Rule 2.107”.

(4) Any change in the basis for remuneration applies from the date of the request under paragraph (2) and not for any earlier period.

(5) This Rule does not apply where the liquidator is the official receiver.

#### **4.131B Remuneration of new liquidator**

(1) If a new liquidator is appointed in place of another, any determination, resolution or court order in effect under the preceding provisions of this Section of this Chapter immediately before the former liquidator ceased to hold office continues to apply in respect of the remuneration of the new liquidator until a further determination, resolution or court order is made in accordance with those provisions.

(2) This Rule does not apply where the new liquidator is the official receiver.

#### **4.131C Apportionment of set fee remuneration**

(1) In a case in which the basis of the liquidator's remuneration is a set amount under Rule 4.127(2)(c) and the liquidator (“the former liquidator”) 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, application may be made for determination of what portion of the amount should be paid to the former liquidator or the former liquidator's personal representative in respect of the time which has actually elapsed or the work which has actually been done.

(2) Application may be made—

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- (a) by the former liquidator or the former liquidator’s personal representative within the period of 28 days beginning with the date upon which the former liquidator ceased to hold office, or
  - (b) by the liquidator for the time being in office if the former liquidator or the former liquidator’s personal representative has not applied by the end of that period.
- (3) Application must be made—
- (a) where the liquidation committee fixed the basis, to the committee;
  - (b) where the creditors fixed the basis, to the creditors for a resolution determining the portion;
  - (c) where the court fixed the basis, to the court for an order determining the portion.
- (4) The applicant must give a copy of the application to the liquidator for the time being in office or to the former liquidator or the former liquidator’s personal representative, as the case may be (“the recipient”).
- (5) The recipient may within 21 days of receipt of the copy of the application give notice of intent to make representations to the liquidation committee or the creditors or to appear or be represented before the court, as the case may be.
- (6) No determination may be made upon the application until expiry of the 21 days referred to in paragraph (5) or, if the recipient does give notice of intent in accordance with that paragraph, until the recipient has been afforded the opportunity to make representations or to appear or be represented, as the case may be.
- (7) If the former liquidator or the former liquidator’s personal representative (whether or not the original applicant) considers that the portion determined upon application to the liquidation committee or the creditors is insufficient, that person may apply—
- (a) in the case of a determination by the liquidation committee, to the creditors for a resolution increasing the portion;
  - (b) in the case of a resolution of the creditors (whether under paragraph (1) or under sub-paragraph (a)), to the court for an order increasing the portion;
- and paragraphs (4) to (6) apply as appropriate.”.

#### **Amendment to Rule 4.132**

- 224.**—(1) Rule 4.132 (liquidator deceased – winding up by court) is amended as follows.
- (2) In paragraph (2), after “partner in” where it appears first insert “or an employee of”.

#### **Amendments to Rule 4.133**

- 225.**—(1) Rule 4.133 (liquidator deceased – creditors’ voluntary liquidation) is amended as follows.
- (2) In paragraph (2)(a)—
- (a) after “partner in” insert “or an employee of”, and
  - (b) after “partner” where it appears second insert “in the firm”.

#### **Amendments to Rule 4.143**

- 226.**—(1) Rule 4.143 (removal of liquidator by the court) is amended as follows.
- (2) In the first sentence of paragraph (2)—
- (a) for “an *ex parte*” substitute “a”;

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- (b) for “7” substitute “5 business”;
- (c) at the end add, “but which is without notice to any other party”.

#### **Amendments to Rule 4.145**

**227.**—(1) Rule 4.145 (liquidator deceased – members’ voluntary liquidation) is amended as follows.

- (2) In paragraph (2)(a)—
  - (a) after “partner in” insert “or an employee of”, and
  - (b) after “partner” where it appears second insert “in the firm”.

#### **Amendments to Rule 4.148A**

**228.**—(1) Rule 4.148A (remuneration of liquidator in members’ voluntary winding up) is amended as follows.

(2) In paragraph (2), for “The remuneration shall be fixed either” substitute “The basis of remuneration shall be fixed”.

(3) For all the words in paragraph (2) after sub-paragraph (b) substitute—  
“, or

(c) as a set amount.

(2A) The basis of remuneration may be fixed as any one or more of the bases set out in paragraph (2), and different bases may be fixed in respect of different things done by the liquidator.

(2B) Where the basis of remuneration is fixed as set out in paragraph (2)(a), different percentages may be fixed in respect of different things done by the liquidator.

(2C) It is for the company in general meeting to determine—

- (a) which of the bases set out in paragraph (2) are to be fixed and (where appropriate) in what combination under paragraph (2A), and
- (b) the percentage or percentages (if any) to be fixed under paragraphs (2)(a) and (2B) and the amount (if any) to be set under paragraph (2)(c).”.

(4) For paragraph (4) substitute—

“(4) If not fixed as above, the basis of the liquidator’s remuneration shall, on application by the liquidator, be fixed by the court, and the provisions of paragraphs (2) to (3) apply as they do to the fixing of the basis of remuneration by the company in general meeting; but such an application may not be made by the liquidator unless the liquidator has first sought fixing of the basis in accordance with paragraph (2C), and in any event may not be made more than 18 months after the date of the liquidator’s appointment.”.

(5) For paragraph (6) substitute—

“(6) If the liquidator considers that the basis of the remuneration fixed by the company in general meeting is insufficient or inappropriate, the liquidator may apply to the court for an order changing it or increasing its amount or rate.”.

(6) In paragraph (7), after “paragraph” insert “(4) or”.

## **New Rules after Rule 4.148A**

**229.** After Rule 4.148A(13) insert—

### **“4.148C Members’ claim that remuneration is excessive**

(1) 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 any member with the permission of the court, may apply to the court for one or more of the orders in paragraph (6) on the grounds that—

- (a) the remuneration charged by the liquidator,
- (b) the basis fixed for the liquidator’s remuneration under Rule 4.148A, or
- (c) expenses incurred by the liquidator,

is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate.

(2) Application must, subject to any order of the court under Rule 4.49E(5), be made no later than 8 weeks (or 4 weeks when the liquidator has resigned in accordance with Rule 4.142) after receipt by the applicant of the report or account which first reports the charging of the remuneration or the incurring of the expenses in question (“the relevant report”).

(3) The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss the application; but it must not do so unless the applicant has had the opportunity to attend the court for a hearing of which the applicant has been given at least 5 business days’ notice but which is without notice to any other party.

(4) If the application is not dismissed under paragraph (3), the court must fix a venue for it to be heard and give notice to the applicant accordingly.

(5) The applicant must at least 14 days before the hearing send 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 adduce in support of it.

(6) 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 liquidator was entitled to charge;
- (b) an order fixing the basis of remuneration at a reduced rate or 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 liquidation;
- (e) an order that the liquidator or the liquidator’s personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify;

and may make any other order that it thinks just; but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report.

(7) 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 liquidation.

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(13) Rule 148B is revoked by rule 4 of these Rules.

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#### **4.148D Remuneration of new liquidator**

**4.148D** If a new liquidator is appointed in place of another, any determination or court order in effect under Rule 4.148A immediately before the former liquidator ceased to hold office continues to apply in respect of the remuneration of the new liquidator until a further determination or court order is made in accordance with that Rule.

#### **4.148E Apportionment of fixed fee remuneration**

(1) In a case in which the basis of the liquidator's remuneration is a set amount under Rule 4.148A(2)(c) and the liquidator ("the former liquidator") 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, application may be made for determination of what portion of the amount should be paid to the former liquidator or the former liquidator's personal representative in respect of the time which has actually elapsed or the work which has actually been done.

(2) Application may be made—

- (a) by the former liquidator or the former liquidator's personal representative within the period of 28 days beginning with the date upon which the former liquidator ceased to hold office, or
- (b) by the liquidator for the time being in office if the former liquidator or the former liquidator's personal representative has not applied by the end of that period.

(3) Application must be made—

- (a) where the company in general meeting fixed the basis, to the company for a resolution determining the portion;
- (b) where the court fixed the basis, to the court for an order determining the portion.

(4) The applicant must give a copy of the application to the liquidator for the time being in office or to the former liquidator or the former liquidator's personal representative, as the case may be ("the recipient").

(5) The recipient may within 21 days of receipt of the copy of the application give notice of intent to make representations to the company in general meeting or to appear or be represented before the court, as the case may be.

(6) No determination may be made upon the application until expiry of the 21 days referred to in paragraph (5) or, if the recipient does give notice of intent in accordance with that paragraph, until the recipient has been afforded the opportunity to make representations or to appear or be represented, as the case may be.

(7) If the former liquidator or the former liquidator's personal representative (whether or not the original applicant) considers that the portion determined upon application to the company in general meeting is insufficient, that person may apply to the court for an order increasing the portion; and paragraphs (4) to (6) apply as appropriate."

#### **Amendments to Rule 4.153**

**230.**—(1) Rule 4.153 (formalities of establishment) is amended as follows.

(2) In paragraph (3)—

- (a) omit "or representative under section 323 of the Companies Act"; and
- (b) after "establishing the committee" add "or, in the case of a corporation, by its duly appointed representative".

(3) In paragraph (3A)—

- (a) for “issue” substitute “be issued”;
- (b) at the end add “and must be issued as soon as reasonably practicable thereafter”.
- (4) Omit paragraph (5).
- (5) In paragraph (6), after “companies” add “as soon as reasonably practicable”.
- (6) Omit paragraph (7).
- (7) In paragraph (8), after “membership,” insert “as soon as reasonably practicable”.

#### **Amendments to Rule 4.156**

- 231.**—(1) Rule 4.156 (meetings of the committee) is amended as follows.
- (2) In paragraph (2), for “3 months” substitute “6 weeks”.
  - (3) In paragraph (3)—
    - (a) at the beginning insert “Subject to paragraph (4),”;
    - (b) for “7” substitute “5 business”.
  - (4) After paragraph (3) add—
    - “(4) Where the liquidator has determined that a meeting should be conducted and held in the manner referred to in Rule 12A.26(2), the notice period mentioned in paragraph (3) is 7 business days.
    - (5) In addition to any functions conferred on a committee by any provision of the Act, a committee must assist the liquidator in discharging the liquidator’s functions and act in relation to that liquidator in such manner as may from time to time be agreed.”.

#### **Amendments to Rule 4.157**

- 232.**—(1) Rule 4.157 (the chairman at meetings) is amended as follows.
- (2) In paragraph (1), for “nominated by him” substitute “appointed by the liquidator in writing”.
  - (3) In paragraph (2), for “nominated” substitute “appointed”.

#### **Amendments to Rule 4.159**

- 233.**—(1) Rule 4.159 (committee-members’ representatives) is amended as follows.
- (2) In paragraph (2), omit “or any authorisation under section 323 of the Companies Act”.
  - (3) For paragraph (4) substitute—
    - “(4) No member may 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 disqualified director; or
      - (f) 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.”.
  - (4) Omit paragraph (5).

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#### **Amendment to Rule 4.163**

- 234.**—(1) Rule 4.163 (vacancy (creditor members)) is amended as follows.  
(2) In paragraph (2), for “the minimum required under Rule 4.152” substitute “3”.

#### **Amendment to Rule 4.164**

- 235.**—(1) Rule 4.164 (vacancy (contributory members)) is amended as follows.  
(2) In paragraph (2), for “the minimum required by Rule 4.154(4) or, as the case may be, 4.171(5)” substitute “3”.

#### **Amendment to Rule 4.167.**

- 236.**—(1) Rule 4.167 (resolutions by post) is amended as follows.  
(2) In the heading, for “by post”, substitute “otherwise than at a meeting”.

#### **Substitution of Rule 4.171**

- 237.** For Rule 4.171 (composition of committee when creditors paid in full) substitute—

##### **“4.171A Composition of committee when creditors paid in full**

- (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) send to the registrar of companies a notification to that effect together with a copy of the certificate referred to in sub-paragraph (a).
- (2) On the issue of a certificate pursuant to paragraph (1), the creditor members of the liquidation committee cease to be members of the committee.
- (3) The committee continues in existence unless—
- (a) it is abolished by a decision of a meeting of contributories; or
  - (b) the number of members is less than 3 and 28 days have elapsed since the issue of the liquidator’s certificate.
- (4) At any time in the period referred to in paragraph (3)(b) where the committee consists of less than 3 contributory members it is suspended and cannot act.
- (5) The certificate referred to in paragraph (1)(a) must include the following information—
- (a) the name of the liquidator; and
  - (b) a statement by the liquidator certifying that the creditors of the company have been paid in full together with interest in accordance with section 189;
- and must be authenticated and dated by the liquidator.”.

#### **Amendments to Rule 4.173**

- 238.**—(1) Rule 4.173 (preliminary) is amended as follows.  
(2) In paragraph (1)—
- (a) in sub-paragraph (a), omit “and”;
  - (b) after sub-paragraph (b) add—

- “(c) a creditors’ committee was established under paragraph 57 of Schedule B1 to the Act, and
- (d) as at the date of the making of the order under section 140(1) the committee has at least three, but not more than five, members (leaving out of account any member whose debt is fully secured).”.

#### **Substitution of Rule 4.174**

**239.** For Rule 4.174 (continuation of creditors’ committee), substitute—

##### **“4.174A Continuation of creditors’ committee**

**4.174A** Where a committee of the kind mentioned in Rule 4.173 is in existence in the circumstances mentioned in that Rule—

- (a) that committee is deemed to have been established under section 141;
- (b) no action may be taken under section 141(1) to (3) to establish any other committee;
- (c) in the case of a solvent winding up, the liquidator must, on not less than 14 days’ notice summon a meeting of contributories, in order to elect (if it so wishes) contributory members of the liquidation committee, up to 3 in number; and
- (d) pending the issue of the liquidator’s certificate referred to in Rule 4.176 the committee is suspended and cannot act.”.

#### **Amendments to Rule 4.176**

**240.**—(1) Rule 4.176 (liquidator’s certificate) is amended as follows.

(2) In paragraph (1), for “shall” substitute “must ascertain whether the members of the committee agree to continue to act as members of the committee; and if the minimum number of 3 members required by Rule 4.152 to form a committee have signified their agreement so to act, the liquidator must”.

(3) In paragraph (2), for “Rule 4.175(2)” substitute “Rule 4.174A(c)”.

(4) Omit paragraph (3).

(5) In paragraph (4), omit “; and the liquidator’s certificate shall not issue until at least the minimum number of persons required under Rule 4.175 to form a committee have signified their agreement”.

(6) For paragraph (6) substitute—

“(6) The liquidator must send the certificate in paragraph (1) or as the case may be the amended certificate in paragraph (5) to the registrar of companies.”.

(7) In paragraph (7) for “shall report the change to the court” substitute “must send an amended certificate to the registrar of companies”.

#### **Amendments to Rule 4.177**

**241.**—(1) Rule 4.177 (obligations of liquidator to committee) is amended as follows.

(2) In paragraph (1), for “may be” substitute “reasonably practicable”.

(3) In paragraph (2), for “that date” substitute “the date of issue of the liquidator’s certificate”.

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#### **Amendment to Rule 4.182A**

**242.**—(1) Rule 182A (distribution in members’ voluntary winding up) is amended as follows.

(2) For paragraph (2) substitute—

“(2) In addition to the standard contents, the notice under paragraph (1) must—

- (a) state that the liquidator intends to make a distribution to creditors; and
- (b) specify a date (“the last date for proving”) up to which proofs may be lodged at a specified place, which must be the same date for all creditors and not less than 21 days from that of the notice.”.

#### **Amendments to Rule 4.183**

**243.**—(1) Rule 4.183 (division of unsold assets) is amended as follows.

(2) The existing provision becomes paragraph (1).

(3) In paragraph (1), after “committee” insert, “(or if there is no such committee, a meeting of the company’s creditors)”.

(4) After paragraph (1) add—

“(2) The liquidator must comply with paragraph (3) in respect of any account or report which the liquidator is required to prepare pursuant to any of the following—

- (a) section 104A (progress report to company and creditors at year’s end);
- (b) section 106 (final meeting prior to dissolution – creditors’ voluntary winding up);
- (c) section 146 (duty to summon final meeting – winding up by the court);
- (d) Rule 4.49B (reports to creditors and members – winding up by the court);
- (e) Rule 4.49D (final report to creditors);
- (f) Rule 4.108 (creditors’ meeting to receive liquidator’s resignation);
- (g) Rule 4.125 (final meeting – winding up by the court);
- (h) Rule 4.126 (final meeting – creditors’ voluntary liquidation).

(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 of the property distributed amongst the creditors of the company during the period to which the account or report relates, and
- (b) as a note to the account or summary of receipts and payments, provide details of the basis of the valuation.”.

#### **Amendment to Rule 4.187**

**244.**—(1) Rule 4.187 (liquidator’s notice of disclaimer) is amended as follows.

(2) For paragraph (2) substitute—

“(2) The notice of disclaimer must be authenticated and dated by the liquidator.”.

(3) For paragraph (3), substitute—

“(3A) As soon as reasonably practicable after authenticating the notice of disclaimer, the liquidator must—

- (a) send a copy of the notice to the registrar of companies; and

- (b) in any case where the disclaimer is of registered land as defined in section 132(1) of the Land Registration Act 2002(14), send a copy of the notice to the Chief Land Registrar.”.

(4) In paragraph (4) for “which is endorsed on it, and upon the copy, in accordance with this Rule” substitute “on which the liquidator authenticated it”.

#### **Amendment to Rule 4.188**

**245.**—(1) Rule 4.188 (communication of disclaimer to persons interested) is amended as follows.

(2) For paragraph (1), substitute—

“(1) Within 7 business days after the date of the notice of disclaimer, the liquidator shall send or give copies of the notice to the persons mentioned in paragraphs (2) to (4).”.

#### **Amendments to Rule 4.189**

**246.**—(1) Rule 4.189 (additional notices) is amended as follows.

(2) For “give” substitute “send or give copies of the”.

(3) For “it” substitute “the disclaimer”.

#### **Substitution of Rules 4.190 and 4.191**

**247.** For Rules 4.190 (duty to keep court informed) and 4.191 (application to interested party under s 178(5)) substitute—

##### **“4.190A Records**

The liquidator must include in the liquidator’s records of the insolvency a record of—

- (a) the persons to whom that liquidator has sent or given copies of the notice of disclaimer under the two preceding Rules, showing their names and addresses, and the nature of their respective interests;
- (b) the dates on which the copies of the notice of disclaimer were sent or given to those persons;
- (c) the date on which, as required by Rule 4.187(3)(a), a copy of the notice of disclaimer was sent to the registrar of companies; and
- (d) (where applicable) the date on which, as required by Rule 4.187(3)(b), a copy of the notice was sent to the Chief Land Registrar.

##### **4.191A Application to interested party under s 178(5)**

(1) The following applies where, in the case of any property, application is made to the liquidator by an interested party under section 178(5).

(2) The application must be delivered to the liquidator—

- (a) personally;
- (b) by electronic means in accordance with Part 12A; or
- (c) by any other means of delivery which enables proof of receipt of the application by the liquidator to be provided, if requested.”.

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#### **Amendments to Rule 4.194**

**248.**—(1) Rule 4.194 (application for exercise of court’s powers under s 181) is amended as follows.

- (2) In paragraph (3), for “in court an affidavit” substitute “a witness statement”.
- (3) In paragraph (4)—
  - (a) for “7” substitute “5 business”;
  - (b) for “affidavit under” substitute “witness statement required by”.

#### **Amendment to Rule 4.203**

**249.**—(1) Rule 4.203 is amended as follows.

- (2) In paragraph (2), for “7” substitute “5 business”.

#### **Amendments to Rule 4.204**

**250.**—(1) Rule 4.204 (application to court for leave to make a call) is amended as follows.

- (2) In paragraph (1)—
  - (a) for “*ex parte*” substitute “without notice to any other party”; and
  - (b) for “affidavit” substitute “witness statement”.

#### **Amendment to Rules 4.206 and 4.207**

**251.**—(1) Rules 4.206 (appointment and remuneration) and 4.207 (security) are amended as follows.

- (2) In—
    - (a) the second sentence of Rule 4.206(1), and
    - (b) Rule 4.207(3),
- for “assets” substitute “business or property”.

#### **Amendments to Rule 4.211**

**252.**—(1) Rule 4.211 (order for public examination) is amended as follows.

- (2) In paragraph (2)(b)—
  - (a) omit “by post”; and
  - (b) after “known address” add “in accordance with Chapter 3 of Part 12A, (service of court documents), and, if so, by what means”.
- (3) In paragraph (3)—
  - (a) for “by post” substitute “at a known address in accordance with Chapter 3 of Part 12A”; and
  - (b) for “addition to, post” substitute “addition to, service in such manner”.

#### **Amendments to Rule 4.212**

**253.**—(1) Rule 4.212 (notice of hearing) is amended as follows.

- (2) In paragraph (2)(c), omit “or is identified in the company’s statement of affairs”.
- (3) After paragraph (3) insert—

“(3A) In addition to the standard contents, the notice under paragraph (3) must state—

- (a) the purpose of the hearing; and
- (b) the venue for the hearing.”.

(4) In paragraph (4)—

- (a) at the beginning insert “Where the court’s order relates to a person falling within section 133(1)(c),”;
- (b) for “7” substitute “5 business”.

#### **Amendments to Rule 4.213**

**254.**—(1) Rule 4.213 (order on request by creditors or contributories) is amended as follows.

- (2) In paragraph (2), after “company and” insert “a statement of”.
- (3) In paragraph (6), for “*ex parte*” substitute “without notice to any other party”.

#### **Amendments to Rule 4.214**

**255.**—(1) Rule 4.214 (witness unfit for examination) is amended as follows.

- (2) In the heading, for “Witness” substitute “Examinee”.
- (3) In paragraph (1), for “application in that behalf” substitute “an application being made to it under this Rule”.
- (4) In paragraph (3)(a), for “affidavit” substitute “witness statement”.
- (5) In paragraph (4), for “*ex parte*” substitute “without notice to any other party”.

#### **Amendment to Rule 4.215**

**256.**—(1) Rule 4.215 (procedure at hearing) is amended as follows.

- (2) In paragraph (4), for “affidavit” substitute “a statement of truth”.

#### **Substitution of Rule 4.227**

**257.** For Rule 4.227 (application for leave under s.216(3)) substitute—

##### **“4.227A Application for permission under s 216(3)**

(1) At least 14 days notice of any application for permission to act in any of the circumstances which would otherwise be prohibited by section 216(3) must be given by the applicant to the Secretary of State, who may—

- (a) appear at the hearing of the application; and
- (b) whether or not appearing at the hearing, make representations.

(2) When considering an application for permission under section 216, the court may call on the liquidator, or any former liquidator, of the liquidating company for a report of the circumstances in which that company became insolvent and the extent (if any) of the applicant’s apparent responsibility for its doing so.”.

#### **Amendment to Rule 4.228**

**258.**—(1) Rule 4.228 (first excepted case (leave to act as director)) is amended as follows.

- (2) In paragraph (3), omit “, subject to compliance with sub-paragraph (a),”.

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#### **Amendment to Rule 4.229**

- 259.**—(1) Rule 4.229 (second excepted case (leave to act as a director)) is amended as follows.  
(2) In paragraph (1), after “7” insert “business”.

#### **Amendment to Rule 4.231**

- 260.**—(1) Rule 4.231 (interpretation of creditor and notice to member State liquidator) is amended as follows.  
(2) In paragraph (3), omit “,4.77 (claim established by affidavit)”.

#### **Amendments to Rule 5.1**

- 261.**—(1) Rule 5.1 (individual voluntary arrangements – introductory) is amended as follows.  
(2) In paragraph (1), for “7, 10, 11 and 12” substitute “7 and 10 to 14”.  
(3) In paragraph (4), for “and 12” substitute “to 14”.

#### **Amendment to Rule 5.2**

- 262.**—(1) Rule 5.2 (preparation of proposal) is amended as follows.  
(2) After “section 256 or” insert “the debtor’s creditors under”.

#### **Amendments to Rule 5.3**

- 263.**—(1) In Rule 5.3 (contents of proposal) is amended as follows.  
(2) In paragraph (2)—  
(a) in sub-paragraph (q), at the end omit “and”;  
(b) after sub-paragraph (r) add—  
    “(s) within the 24 months preceding the date on which the proposal is delivered to the nominee, whether a proposal for an individual voluntary arrangement in respect of the debtor was submitted—  
        (i) to a meeting of the debtor’s creditors for approval and if so,  
            (aa) whether the proposal was approved and the arrangement completed, or  
            (bb) whether the proposal was rejected or the arrangement was terminated and if so, in what respects it differs from the proposal in this Rule;  
        (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.”.  
(3) In paragraph (3)—  
(a) for “former’s” substitute “nominee’s”; and  
(b) after “section 256 or” insert “to the debtor’s creditors under”.

#### **Amendments to Rule 5.5**

- 264.**—(1) Rule 5.5 (statement of affairs) is amended as follows.  
(2) In paragraph (1)—  
(a) for “within 7 days after his” substitute “at the same time as the”;

- (b) omit “or such longer time as the latter may allow.”;
- (c) for “his (the debtor’s)” substitute “the debtor’s”.
- (3) In paragraph (3)(f)—
  - (a) after “report” insert “on the debtor’s proposal”; and
  - (b) for “on the debtor’s proposal” substitute “or to the debtor’s creditors as the case may be”.
- (4) In paragraph (4) omit “to the court”.
- (5) For paragraph (5), substitute—

“The statement must be verified by a statement of truth made by the debtor.”.

#### **Amendments to Rule 5.6**

- 265.**—(1) Rule 5.6 (additional disclosure for assistance of nominee) is amended as follows.
- (2) In paragraph (1)—
    - (a) after sub-paragraph (a) insert—

“(aa) further and better particulars of any proposals of the kind, and within the period, referred to in Rule 5.3(2)(s) which have been submitted by the debtor;”.
    - (b) in sub-paragraph (b)—
      - (i) after “proposals” insert “other than those referred to in Rule 5.3(2)(s)”;
      - (ii) for “him” substitute “the debtor at any time”;
      - (iii) after “the Act;” insert “and”.
  - (3) In paragraph (3) for “him” to “records” substitute “the nominee such access to the debtor’s accounts and records as the nominee may require”.

#### **Amendments to Rule 5.7**

- 266.**—(1) Rule 5.7 (application for interim order) is amended as follows.
- (2) In paragraph (1)—
    - (a) for “an affidavit” substitute “a witness statement”;
    - (b) in sub-paragraph (d), for “the affidavit” substitute “the witness statement”; and
    - (c) in sub-paragraph (f)—
      - (i) for “that” substitute “whether”;
      - (ii) omit “not”;
      - (iii) at the end add “and, if so, when and with what result”.
  - (3) In paragraph (2)—
    - (a) for “exhibited” substitute “attached”; and
    - (b) for “affidavit” substitute “witness statement”.
  - (4) In paragraph (3), for “affidavit” substitute “the witness statement”.
  - (5) In paragraph (4), after “2” insert “business”.

#### **Amendment to Rule 5.8**

- 267.**—(1) Rule 5.8 (court in which application to be made) is amended as follows.
- (2) In paragraph (1), for “6.40” substitute “6.40A”.

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### **Amendments to Rule 5.11**

- 268.**—(1) Rule 5.11 (nominee’s report on the proposal) is amended as follows.
- (2) In paragraph (1), after “2” insert “business”.
  - (3) Omit paragraph (5).

### **Amendments to Rule 5.12**

- 269.**—(1) Rule 5.12 (replacement of nominee) is amended as follows.
- (2) In paragraph (1), for “7” substitute “5 business”.
  - (3) In paragraph (2) for “his consent to act” substitute—  
“that the replacement nominee—
    - (a) consents to act; and
    - (b) is qualified to act as an insolvency practitioner in relation to the debtor or is an authorised person in relation to the debtor.”.

### **Substitution of Rule 5.14**

- 270.** For rule 5.14 (nominee’s report to the court) substitute—

#### **“5.14A Nominee’s report**

- (1) This rule applies where the nominee has received the document and statement mentioned in section 256A(2)(**15**).
- (2) The nominee must within 14 days (or such longer period as the court may allow)—
  - (a) if the nominee has the opinions in section 256A(3)(a) and (b), attach to the report the nominee’s comments on the debtor’s proposal and comply with paragraph (3); or
  - (b) if the nominee does not have the opinions in section 256A(3)(a) and (b), comply with paragraph (5).
- (3) Where paragraph (2)(a) applies, the nominee must deliver the documents in paragraph (4) to—
  - (a) each of the debtor’s creditors of whose address the nominee is aware;
  - (b) where the debtor is an undischarged bankrupt, the official receiver and (if any) the trustee; and
  - (c) any person who has presented a bankruptcy petition against the debtor.
- (4) The documents are—
  - (a) a copy of the report;
  - (b) a copy of the nominee’s comments attached to the report;
  - (c) a copy of the debtor’s proposal (with amendments, if any, authorised under Rule 5.3(3));
  - (d) a copy or summary of any statement of affairs provided by the debtor; and
  - (e) a copy of the notice referred to in Rule 5.4(3), and
  - (f) a statement that no application for an interim order under section 253 is to be made.

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(15) Section 256A was inserted by 2000 c. 39, s. 3 and Schedule 3, paragraphs 1 and 7.

- (5) Where paragraph (2)(b) applies the nominee must—
  - (a) deliver a copy of the report to each of the debtor’s creditors of whose address the nominee is aware; and
  - (b) give the reasons for that opinion to the debtor.

#### **5.14B Applications to the court**

(1) Subject to paragraph (2), where a report has been made under section 256A any application relating to a voluntary arrangement or a proposal for a voluntary arrangement must be filed in the court in which the debtor would be entitled to present the debtor’s petition in bankruptcy under Rule 6.40A.

(2) Where the debtor is an undischarged bankrupt, the appropriate court is the court having the conduct of the debtor’s bankruptcy and any application must be filed with the bankruptcy proceedings.

(3) The report must contain sufficient information to identify the appropriate court in which to file an application relating to a voluntary arrangement or to a proposal for a voluntary arrangement.

(4) Where an application is made to the court in relation to any matter relating to a voluntary arrangement or a proposal for a voluntary arrangement, in addition to the documents in support of the application, the applicant must file in court such other documents required by this Part as the applicant considers may assist the court in determining the application.

(5) Where the debtor intends to apply to the court under section 256A(4)(a) or (b) for the nominee to be replaced, the debtor must give to the nominee at least 5 business days’ notice of the application.

(6) Where the nominee intends to apply to the court under section 256A(4)(b) to be replaced as nominee, the nominee must give to the debtor at least 5 business days’ notice of the application.

(7) The court must not appoint a replacement nominee unless a statement by the replacement nominee indicating consent to act is filed in court.”.

#### **Amendments to Rule 5.17**

**271.**—(1) Rule 5.17 (summoning of creditors’ meeting) is amended as follows.

(2) In paragraph (1)(a)—

- (a) omit “not less than 14 days and”; and
- (b) for “nominee’s report” to “Rule 5.14” substitute “nominee received the document and statement in section 256A(2)”;

(3) In paragraph (2), for “specified in” to “otherwise aware” substitute “of the debtor of whose address the nominee is aware”;

(4) For paragraph (3) substitute—

“(3) Each notice sent under this rule must specify—

- (a) in a case where an interim order has not been obtained, the court to which application must be made under Rule 5.14B(1) or (2) as the case may be; or
- (b) in a case where an interim order is in force, the court in which the nominee’s report on the debtor’s proposal has been filed under Rule 5.8;

and must state the effect of Rule 5.23(2) to (4) (requisite majorities).

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(3A) Unless they have been sent under Rule 5.14A, the following documents must be sent with every notice under paragraph (3)—

- (a) a copy of the proposal;
- (b) a copy of the statement of affairs or, if the nominee thinks fit, a summary of it (the summary to include a list of the creditors and the amounts of their debts); and
- (c) the nominee’s report with the comments on the proposal annexed to it.”.

#### **Amendment to Rule 5.22**

**272.**—(1) Rule 5.22 (procedure for admission of creditors’ claims for voting purposes) is amended as follows.

(2) In paragraph (6) for the words from “the report” to the end substitute—

- “(a) where the creditors’ meeting was summoned under section 257 pursuant to a report to the debtor’s creditors under section 256A(3), the notice of the result of the meeting required by section 259(1)(a) has been given; or
- (b) where the creditors’ meeting was summoned under section 257 pursuant to a report to a court under section 256(1)(aa)(16), the report required by section 259(1)(b) is made to the court.”.

#### **Amendment to Rule 5.23**

**273.**—(1) Rule 5.23 (requisite majorities) is amended as follows.

(2) For paragraphs (1) and (2) substitute—

“(1) Subject to paragraph (2), at the creditors’ meeting, a resolution is passed when a majority (in value) of those present and voting in person or by proxy have voted in favour of it.

(2) A resolution to approve the proposal or a modification is passed when a majority of three-quarters or more (in value) of those present and voting in person or by proxy have voted in favour of it.”.

#### **Amendment to Rule 5.24**

**274.**—(1) Rule 5.24 is amended as follows.

(2) After paragraph (4) insert—

“(4A) Once only in the course of a meeting the chairman may, without an adjournment, declare it suspended for any period up to 1 hour.”.

#### **Amendment to Rule 5.25**

**275.**—(1) Rule 5.25 (resolutions to follow approval) is amended as follows.

(2) In paragraph (1), for “may” where it appears first substitute “must”.

#### **Amendments to Rule 5.27**

**276.**—(1) Rule 5.27 (report of creditors’ meeting) is amended as follows.

(2) In paragraph (2)(e) after “court” insert “or the debtor’s creditors as the case may be”.

(3) In paragraph (3)—

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(16) See 2000 c. 39, s. 3 and Schedule 3, paragraphs 1 and 6(a).

- (a) at the beginning insert, “Where the creditors’ meeting was summoned under section 257 pursuant to a report to a court under section 256(1)(aa),”;
  - (b) after “4” insert “business”.
- (4) In paragraph (4)—
- (a) for “whom” where it appears second substitute “whose address”; and
  - (b) for the second sentence substitute—
    - “(4A) The notice must be sent—
    - (a) where the creditors’ meeting was summoned under section 257 pursuant to a report to a court under section 256(1)(aa), as soon as reasonably practicable after a copy of the chairman’s report is filed in court;
    - (b) where the creditors’ meeting was summoned under section 257 pursuant to a report to creditors under section 256A(3), within 4 business days of the meeting being held.”.

#### **Amendment to Rule 5.29**

**277.**—(1) Rule 5.29 (reports to Secretary of State) is amended as follows.

(2) For paragraph (1) substitute—

“(1) As soon as reasonably practicable, and in any event, within the period of 14 days after a report that the creditors’ meeting has approved the voluntary arrangement has been filed in court or sent to the creditors as the case may be, the chairman of the creditors’ meeting must send to the Secretary of State the following information—

- (a) the name and address of the debtor;
- (b) the date on which the arrangement was approved by the creditors;
- (c) the name and address of the supervisor;
- (d) the debtor’s gender;
- (e) the debtor’s date of birth; and
- (f) any name by which the debtor was or is known, not being the name in which the debtor has entered into the voluntary arrangement.”.

#### **Amendments to Rule 5.30**

**278.**—(1) Rule 5.30 (revocation or suspension of the arrangement) is amended as follows.

(2) In paragraphs (4)(b) and (5), for “7” wherever it appears substitute “5 business”.

#### **Substitution of Rule 5.31**

**279.** For rule 5.31 (supervisor’s accounts and reports) substitute—

##### **“5.31A Supervisor’s accounts and reports**

(1) Paragraph (2) applies where the voluntary arrangement 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

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- (c) otherwise to administer or dispose of any funds of the debtor or the estate.
- (2) The supervisor must keep accounts and records of the supervisor's acts and dealings in, and in connection with, the arrangement, including in particular records of all receipts and payments of money.
- (3) The supervisor must preserve any accounts and records in paragraph (2) which—
  - (a) were kept by any other person who has acted as supervisor of the arrangement; and
  - (b) are in the supervisor's possession.
- (4) Subject to paragraph (5), the supervisor must in respect of each period of 12 months ending with the anniversary of the commencement of the arrangement send within 2 months of the end of that period a report on the progress and prospects for the full implementation of the voluntary arrangement to—
  - (a) the debtor, and
  - (b) all those of the debtor's creditors who are bound by the voluntary arrangement and of whose address the supervisor is aware.
- (5) The supervisor is released from an obligation to send a report under paragraph (4), if an obligation to send a final report under Rule 5.34 arises in the period of 2 months mentioned in paragraph (4).
- (6) Where the supervisor is authorised or required to do any of the things mentioned in paragraph (1)(a) to (c) the report required to be sent pursuant to paragraph (2) must include or be accompanied by—
  - (a) an abstract of receipts and payments required to be recorded by virtue of paragraph (2); or
  - (b) where there have been no such receipts and payments, a statement to that effect.”.

#### **Amendment to Rule 5.32**

**280.**—(1) Rule 5.32 (production of accounts and records to Secretary of State) is amended as follows.

- (2) In paragraph (1)(b), for “5.31” substitute “5.31A”.

#### **Amendments to Rule 5.34**

**281.**—(1) Rule 5.34 (completion or termination of the agreement) is amended as follows.

- (2) For paragraph (3) substitute—
  - “(3) The Supervisor must not vacate office until paragraph (3A) has been complied with.
  - (3A) Within the period in paragraph (1), a copy of the notice under paragraph (1), together with a copy of the report under paragraph (2) must be—
    - (a) sent by the supervisor to the Secretary of State; and
    - (b) where the creditors' meeting was summoned under section 257 pursuant to a report to a court under section 256(1)(aa), filed with the court by the supervisor.”.
- (3) In paragraph (4), omit “and (3)”.

#### **Amendment to Rule 5.37**

**282.**—(1) Rule 5.37 (contents of proposal) is amended as follows.

- (2) In paragraph (2), in the words after the sub-paragraphs, omit “and dated”.

### **Amendments to Rule 5.39**

**283.**—(1) Rule 5.39 (arrangements for approval of fast-track voluntary arrangement) is amended as follows.

(2) In paragraph (1)(b)(i)—

(a) omit “in excess”;

(b) after “three-quarters” insert “or more”; and

(c) for “report to the court” substitute “notify the Secretary of State”.

(3) In paragraph (1)(b)(ii)(aa), for “reports to the court” substitute “notifies the Secretary of State”.

### **Amendments to Rule 5.40**

**284.**—(1) Rule 5.40 (approval by creditors) is amended as follows.

(2) For paragraph (2) substitute—

“(2) That notice may be sent by a representative of a creditor if it is accompanied by a written authority for that representation authenticated by the creditor.”.

(3) Omit paragraph (3).

### **Amendments to Rule 5.42**

**285.**—(1) Rule 5.42 (procedure for admission of creditors’ claims for voting purposes) is amended as follows.

(2) In paragraph (4)—

(a) for “report” substitute “official receiver is”; and

(b) for “is made to the court” substitute “to notify the Secretary of State”.

### **Amendment to Rule 5.43**

**286.**—(1) Rule 5.43 (requisite majorities) is amended as follows.

(2) In paragraph (1), for “a majority in excess of three-quarters” substitute “three-quarters or more”.

### **Amendments to Rule 5.45**

**287.**—(1) Rule 5.45 (notice of appointment as supervisor etc.) is amended as follows.

(2) In paragraph (1) for “whom he” substitute “whose address the official receiver”.

(3) In paragraph (2), for “shall” substitute “must, as soon as reasonably practicable after doing so,”.

### **Amendment to Rule 5.46**

**288.**—(1) Rule 5.46 (revocation of the fast-track voluntary arrangement) is amended as follows.

(2) In paragraph (4), for “7” substitute “5 business”.

### **Substitution of Rule 5.47**

**289.** For Rule 5.47 (supervisor’s accounts and reports) substitute—

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#### **“5.47A Supervisor’s accounts and reports**

(1) The supervisor must keep accounts and records of the supervisor’s acts and dealings in, and in connection with, the arrangement including in particular records of all receipts and payments of money.

(2) Subject to paragraph (3), the supervisor must in respect of each period of 12 months ending with the anniversary of the commencement of the arrangement send within 2 months of the end of that period a report on the progress and prospects for the full implementation of the voluntary arrangement to—

- (a) the debtor;
- (b) all those of the debtor’s creditors who are bound by the voluntary arrangement of whose address the supervisor is aware;

(3) The supervisor is released from an obligation to send a report under paragraph (2), if an obligation to send a final report under Rule 5.50 arises in the period of 2 months mentioned in paragraph (2).”.

#### **Amendment to Rule 5.50**

**290.**—(1) Rule 5.50 (completion or termination of fast-track voluntary arrangement) is amended as follows.

- (2) In paragraph (1), for “(or as” substitute “or (as”.

#### **Amendments to Rule 5.52**

**291.**—(1) Rule 5.52 (application by bankrupt to court) is amended as follows.

- (2) In paragraph (2), for “an affidavit” substitute “a witness statement”.
- (3) In paragraph (3), for “affidavit” substitute “witness statement”.
- (4) In paragraph (4)—
  - (a) for “affidavit” substitute “witness statement”;
  - (b) for “7” substitute “5 business”.

#### **Amendments to Rule 5.55**

**292.**—(1) Rule 5.55 (application by official receiver to court) is amended as follows.

- (2) For paragraph (2) substitute—
  - “(2) The official receiver may not make an application under section 261(2)(b) before the expiry of the period of 42 days beginning with the day on which—
    - (a) where the creditors’ meeting was summoned under section 257 pursuant to a report to a court under section 256(1)(aa), the nominee filed the report of the creditors’ meeting with the court; or
    - (b) where the creditors’ meeting was summoned under section 257 pursuant to a report to the debtor’s creditors under section 256A(3), the result of the creditors’ meeting was notified to the creditors.”.
- (3) In paragraph (5), for “7” substitute “5 business”.

#### **Amendment to Rule 5.56**

**293.**—(1) Rule 5.56 (notice to creditors) is amended as follows.

- (2) In paragraph (1) for “whom he” substitute “whose address the official receiver”.

#### **Amendment to Rule 5.58**

- 294.**—(1) Rule 5.58 (application to court) is amended as follows.  
(2) In paragraph (6), for “7” substitute “5 business”.

#### **Amendment to Rule 5.60**

- 295.**—(1) Rule 5.60 (other matters arising on annulments) is amended as follows.  
(2) After paragraph (3) insert—  
“(3A) In addition to the standard contents, the notice under paragraph (3) 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 annulling order; and  
(e) the grounds of the annulment.”.

#### **Amendments to Rule 5.62**

- 296.**—(1) Rule 5.62 (application for conversion of voluntary arrangement into bankruptcy) is amended as follows.  
(2) In paragraph (1)—  
(a) for “an affidavit” substitute “a witness statement”; and  
(b) omit “and sworn”.  
(3) In paragraph (2), for “affidavit” substitute “witness statement”.

#### **Amendments to Rule 5.63**

- 297.**—(1) Rule 5.63 (contents of affidavit) is amended as follows.  
(2) In the heading, for “affidavit” substitute “witness statement”.  
(3) In paragraph (1)—  
(a) for “affidavit” substitute “witness statement”; and  
(b) in sub-paragraph (b) for “deponent’s belief” substitute “belief of the person making the witness statement”.  
(4) In paragraph (2)—  
(a) for “An affidavit” substitute “A witness statement”; and  
(b) for “sworn” substitute “made”.

#### **New Chapters in Part 5**

- 298.** After Rule 5.65 add—

#### **“CHAPTER 13**

#### **INFORMATION ABOUT TIME SPENT ON A CASE TO BE PROVIDED BY PERSON ACTING AS NOMINEE OR SUPERVISOR**

#### **5.66 Provision of information**

- (1) A person (“the relevant person”) who has acted or is acting as—

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- (a) a nominee in respect of a proposed voluntary arrangement, or
- (b) a supervisor in respect of a voluntary arrangement

must, on request in writing by any person mentioned in paragraph (2), supply free of charge to that person a statement complying with paragraph (3).

- (2) The persons mentioned in this paragraph are—
  - (a) the debtor; and
  - (b) where the proposal has been approved, any creditor of the debtor in respect of the arrangement.
- (3) The statement referred to in paragraph (1)—
  - (a) must cover the period beginning with the date of the appointment of the relevant person as nominee or supervisor, as the case may be, and ending—
    - (i) with the date next before the date of making the request on which the relevant person has completed any period as nominee or supervisor, or both, which is a multiple of 6 months, or
    - (ii) where the relevant person has ceased to act as nominee or supervisor, the date upon which the person so ceased; and
  - (b) must comprise the following details—
    - (i) the total number of hours spent on the voluntary arrangement by the relevant person whether as nominee or supervisor, or both, and any staff assigned to the voluntary arrangement during that period;
    - (ii) for each grade of individual so engaged, the average hourly rate at which any work carried out by individuals in that grade is charged; and
    - (iii) the number of hours spent by each grade of staff during that period.
- (4) No request pursuant to this Rule may be made where more than 2 years has elapsed since the relevant person ceased to act in any capacity in relation to the proposal or any voluntary arrangement arising out of the approval of the proposal.
- (5) Any statement required to be provided to any person under this Rule must be supplied within 28 days of the date of the receipt of the request by the person required to supply it.

## CHAPTER 14

### PERSONS AT RISK OF VIOLENCE

#### **Persons at risk of violence**

**5.67.**—(1) The provisions of this Rule apply 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) For the purposes of this Rule—
  - “current address” means, in relation to any debtor, the address of the debtor’s current place of residence and any address at which the debtor currently carries on business;
  - “debtor” means a debtor who has entered into an individual voluntary arrangement.

(3) The court may, on the application of the debtor, the supervisor, the official receiver (whether acting as a supervisor or otherwise) or the Secretary of State, order that—

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- (a) details of the debtor’s current address be removed from any part of the court file of the proceedings in relation to the debtor which is open to inspection and be kept on a separate file not open to inspection;
  - (b) the details in respect of the debtor to be entered onto the individual insolvency register under Rule 6A.2A in respect of an individual voluntary arrangement must not include details of the debtor’s current address; and
  - (c) that any notice published by the Secretary of State of the making of any order permitting vacation of the registration of a bankruptcy petition referred to in Rule 5.60, must not include details of the bankrupt’s address.
- (4) Where the court makes an order under paragraph (3), it may further order that the details in respect of the debtor to be entered onto the register referred to in paragraph (3) must instead 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.
- (5) In any case where an application is made in respect of a debtor under or by virtue of this Rule, the application must be accompanied by a witness statement referring to this Rule and containing sufficient evidence to satisfy the court that paragraph (1) of this Rule applies to or in respect of that debtor.

## CHAPTER 15

### OMISSION OF INFORMATION FROM STATEMENT OF AFFAIRS

#### **Omission of information from statement of affairs**

**5.68** The court, on the application of the nominee, the debtor or any person appearing to it to have an interest, may direct that specified information may be omitted from any statement of affairs required to be sent to the creditors where the disclosure of such information would be likely to prejudice the conduct of the voluntary arrangement or might reasonably be expected to lead to violence against any person.”.

#### **Amendments to Rule 5A.2**

**299.**—(1) Rule 5A.2 (excluded debts) is amended as follows.

(2) In the definition of “excluded debt”—

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

(b) after sub-paragraph (c), add—

“; and

(d) any debt which consists in 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<sup>(17)</sup>, 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.”.

#### **Amendment to Rule 5A.18**

**300.**—(1) Rule 5A.18 (persons at risk of violence – debt relief restrictions orders and debt relief restrictions undertakings) is amended as follows.

(2) In paragraph (6), for “an affidavit” substitute “a witness statement”.

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(17) 1987 c. 43.

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#### **Amendments to Rule 5A.24**

**301.**—(1) Rule 5A.24 (application for leave under Company Directors Disqualification Act 1986) is amended as follows.

- (2) In paragraph (1), for “an affidavit” substitute “a witness statement”.
- (3) In each of paragraphs (2), (3) and (4), for “affidavit” substitute “witness statement”.
- (4) In paragraph (4), for “7” substitute “5 business”.

#### **Amendments to Rule 5A.25**

**302.**—(1) Rule 5A.25 (application for leave under Company Directors Disqualification Act 1986 – report of official receiver) is amended as follows.

- (2) In paragraph (1), for “affidavit” substitute “witness statement”.
- (3) In paragraph (3), for “7” substitute “5 business”.
- (4) In paragraph (4), after “4” insert “business”.

#### **Amendment to Rule 6.3**

**303.**—(1) Rule 6.3 (requirements as to service) is amended as follows.

- (2) In paragraph (1), for “affidavit” substitute “a certificate of service”.

#### **Amendments to Rule 6.4**

**304.**—(1) Rule 6.4 (application to set aside statutory demand) is amended as follows.

- (2) For paragraph (2) substitute—

“(2) Subject to paragraph (2A), an application to the court under this Rule must be made to the court to which the debtor would in accordance with Rule 6.40A present the petition for the debtor’s bankruptcy.

(2A) A debtor may make an application to the High Court where the High Court is not the court to which the debtor would in accordance with Rule 6.40A present the petition for the debtor’s bankruptcy if—

- (a) the creditor issuing the statutory demand is a Minister of the Crown or a Government Department;
- (b) the debt in respect of which the statutory demand is made, or a 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 any court; and
- (c) the statutory demand—
  - (i) specifies the date of the judgment or order and the court in which it was obtained; and
  - (ii) indicates the creditor’s intention to present a bankruptcy petition against the debtor in the High Court.”

- (3) In paragraph (4)—

- (a) for “an affidavit” substitute “a witness statement”; and
- (b) omit “The affidavit shall have exhibited to it a copy of the statutory demand.”

- (4) After paragraph (4) add—

“(5) The witness statement must have attached to it a copy of the statutory demand.”

### **Amendment to Rule 6.5**

- 305.**—(1) Rule 6.5 (hearing of application to set aside) is amended as follows.  
(2) In paragraph (2), for “7” substitute “5 business”.

### **Substitution of Rule 6.9**

- 306.** For Rule 6.9 (court in which petition to be presented) substitute—

#### **“6.9A Court in which petition to be presented**

(1) If the debtor is resident in England and Wales, the petition must, in the following cases, be presented to the High Court—

- (a) if the petition is 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 that Court, or
  - (ii) the petition is presented under section 268(1)(b);
- (b) if, for the greater part of the 6 months immediately preceding the presentation of the petition, the debtor—
  - (i) has carried on a business in the London insolvency district; or
  - (ii) has not carried on a business in England and Wales but has resided in the London insolvency district; or
- (c) if the petitioner is unable to ascertain the debtor’s residence or place of business within England and Wales.

(2) Where the debtor is resident in England and Wales and paragraph (1) does not apply, the petition must be presented to the debtor’s own county court if the debtor—

- (a) has carried on a business in England and Wales other than in the London insolvency district, or
- (b) has not carried on a business in England and Wales and has resided outside the London insolvency district.

(3) In this Rule the debtor’s own county court is—

- (a) where the debtor has carried on a business within the 6 months immediately preceding the presentation of the petition, the county court for the insolvency district where for the greater part of that period of 6 months—
  - (i) the debtor carried on the business, or
  - (ii) the principal place of business was located, if the business was carried on in more than one insolvency district; or
- (b) where the debtor has not carried on a business in the 6 months immediately preceding the presentation of the petition, the county court for the insolvency district where the debtor resided for the greater part of that 6 month period.

(4) If the debtor is not resident in England and Wales but was resident or carried on business in England and Wales within the 6 months immediately preceding the presentation of the petition, the petition—

- (a) must be presented to the High Court if the debtor—
  - (i) carried on a business in the London insolvency district for a longer period in those 6 months than in any other insolvency district, or

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- (ii) did not carry on a business in England and Wales but resided in the London insolvency district for a longer period in those 6 months than in any other insolvency district; and
  - (b) in any other case, may be presented either to the debtor’s own county court or to the High Court.
- (5) The petition must be presented to the High Court if the debtor is not resident in England and Wales and—
- (a) has not resided or carried on business in England and Wales within the 6 months immediately preceding the presentation of the petition, or
  - (b) the petitioner is unable to ascertain the debtor’s residence or place of business.
- (6) Notwithstanding any other provision of this Rule, where there is in force for the debtor a voluntary arrangement under Part 8 of the Act, the petition must be presented to the court to which the nominee’s report under section 256 was submitted.
- (7) The petition must contain sufficient information to establish that it is presented in the appropriate court.”.

#### **Amendments to Rule 6.10**

- 307.**—(1) Rule 6.10 (procedure for presentation and filing) is amended as follows.
- (2) In paragraph (1), for “affidavit” substitute “a statement of truth”.
  - (3) In paragraph (3)—
    - (a) in sub-paragraph (a), at the end add “and”; and
    - (b) omit sub-paragraph (b).
  - (4) In paragraph (6)—
    - (a) after “2” insert “business”;
    - (b) in sub-paragraph (a), for “10” substitute “7 business”.

#### **Amendments to Rule 6.11**

- 308.**—(1) Rule 6.11 (proof of service of statutory demand) is amended as follows.
- (2) In paragraph (1), for “an affidavit or affidavits” substitute “a certificate or certificates”.
  - (3) In paragraph (2)—
    - (a) for “affidavit must” substitute “certificate must be verified by a statement of truth and”; and
    - (b) for “exhibited” substitute “attached”.
  - (4) In paragraph (3), for “affidavit must be made” substitute “certificate must be authenticated”.
  - (5) In paragraph (4)—
    - (a) for “affidavit must be made” substitute “certificate must be authenticated”; and
    - (b) for “exhibited to the affidavit” substitute “exhibited to the certificate”.
  - (6) In paragraph (5)—
    - (a) for “affidavit or affidavits must be made” substitute “certificate or certificates must be authenticated”; and
    - (b) in sub-paragraph (c) for “making the affidavit” substitute “authenticating the certificate”.
  - (7) In paragraph (7), for “affidavit” substitute “certificate”.

- (8) In paragraph (8)—
  - (a) for “affidavit must be made” substitute “certificate must be authenticated”;
  - (b) for “specified in the affidavit” substitute “specified in the certificate”;
  - (c) for “exhibited to the affidavit” substitute “exhibited to the certificate”; and
  - (d) for “affidavit shall contain or exhibit” substitute “certificate must contain or attach”.

#### **Amendments to Rule 6.12**

**309.**—(1) Rule 6.12 (verification of petition) is amended as follows.

(2) In paragraph (1), for “an affidavit that the statements in the petition are true, or are true to the best of the deponent’s knowledge, information and belief” substitute “a statement of truth”.

(3) For paragraph (3) substitute—

“(3A) 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 specify—

- (a) the name of the debtor,
- (b) the name of the petitioner, and
- (c) the court in which the petition is to be presented.”.

(4) In paragraph (4)—

- (a) for “affidavit shall be made” substitute “statement of truth must be authenticated”; and
- (b) in sub-paragraph (c) for “make the affidavit” substitute “authenticate the statement of truth”.

(5) In paragraph (5)—

- (a) for “maker of the affidavit” substitute “person authenticating the statement of truth”;
- (b) for “affidavit” substitute “statement of truth”;
- (c) in sub-paragraph (a) for “makes” substitute “authenticates”; and
- (d) in sub-paragraph (b) for “sworn to in the affidavit” substitute “verified in the statement of truth”.

(6) Omit paragraph (6).

(7) In paragraph (7), for “affidavit must also state” substitute “petition must include a statement explaining”.

#### **Amendments to Rule 6.14**

**310.**—(1) Rule 6.14 (service of petition) is amended as follows.

(2) In paragraph (2), for “affidavit” substitute “a witness statement”.

(3) After paragraph (5) add—

“(6) A bankruptcy petition may, with the permission of the court, be served outside England and Wales in such manner as the court may direct.”.

#### **Substitution of Rule 6.15**

**311.** For Rule 6.15 (proof of service) substitute—

##### **“6.15A Proof of service**

- (1) Service of the petition must be proved by a certificate of service.

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

- (a) the name of the debtor,
- (b) the name of the petitioner,
- (c) the court in which the petition was filed and the court reference number,
- (d) the date of the petition,
- (e) whether the copy served was a sealed copy,
- (f) the date on which service was effected, and
- (g) the manner in which service was effected.

(3) Where substituted service has been ordered, the certificate of service must have attached to it a sealed copy of the order.

(4) The certificate of service must be filed in court as soon as reasonably practicable after service, and in any event not less than 5 business days before the hearing of the petition.”.

#### **Amendment to Rule 6.21**

**312.**—(1) Rule 6.21 (petition opposed by debtor) is amended as follows.

(2) For “7” substitute “5 business”.

#### **Amendment to Rule 6.22**

**313.**—(1) Rule 6.22 (amendment of petition) is amended as follows.

(2) Omit “by the omission of any creditor or any debt”.

#### **Amendment to Rule 6.31**

**314.**—(1) Rule 6.31 (change of carriage petition) is amended as follows.

(2) In paragraph (5), omit “(whether by affidavit or otherwise)”.

#### **Amendments to Rule 6.32**

**315.**—(1) Rule 6.32 (petitioner seeking dismissal or leave to withdraw) is amended as follows.

(2) For paragraph (1) substitute—

“(1) Where the petitioner applies to the court for the petition to be dismissed, or for permission to withdraw it, the petitioner must, in any case where—

- (a) a creditor of the debtor has given notice under Rule 6.23 of intention to appear at the hearing of the petition, or
- (b) the court so orders,

file with the court a witness statement specifying the grounds of the application and the circumstances in which it is made.”.

(3) In paragraph (2), for “affidavit must” substitute “witness statement must also”.

#### **Amendment to Rule 6.33**

**316.**—(1) Rule 6.33 (settlement and content of bankruptcy order) is amended as follows.

(2) For paragraph (2)(b) substitute—

- “(b) contain a notice referring to 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.”.

#### **Amendments to Rule 6.34**

**317.**—(1) Rule 6.34 (action to follow making of order) is amended as follows.

(2) After paragraph (2) insert—

“(2A) In addition to the standard contents, the notice to be gazetted and any notice to be advertised under paragraph (2) 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.”.

(3) In paragraph (3), for “an affidavit” substitute “a witness statement”.

#### **Amendment to Rule 6.35**

**318.**—(1) Rule 6.35 (amendment of title of proceedings) is amended as follows.

(2) After paragraph (3) add—

“(4) In addition to the standard contents, the notice under paragraph (3) must—

- (a) state that an amendment to the full title of the proceedings has been made; and
- (b) specify the amendment.”.

#### **Substitution of Rule 6.40**

**319.** For Rule 6.40 (court in which petition to be filed) substitute—

##### **“6.40A Court in which petition to be presented**

(1) If the debtor is resident in England and Wales, the petition—

- (a) must be presented to the High Court if, for the greater part of the 6 months immediately preceding the presentation of the petition, the debtor—
  - (i) has carried on a business in the London insolvency district; or
  - (ii) has not carried on a business in England and Wales but has resided in the London insolvency district; or
- (b) must be presented to the debtor’s own county court (unless paragraph (5) applies) if the debtor—
  - (i) has carried on a business in England and Wales other than in the London insolvency district, or
  - (ii) has not carried on a business in England and Wales and has resided outside the London insolvency district.

(2) If the debtor is not resident in England and Wales but was resident or carried on business in England and Wales within the 6 months immediately preceding the presentation of the petition, the petition—

- (a) must be presented to the High Court if the debtor—

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- (i) carried on a business in the London insolvency district for a longer period in those 6 months than in any other insolvency district, or
  - (ii) did not carry on a business in England and Wales but resided in the London insolvency district for a longer period in those 6 months than in any other insolvency district; and
- (b) in any other case, may be presented either to the debtor’s own county court or to the High Court.
- (3) In a case not falling within either paragraph (1) or (2), the petition must be presented to the High Court.
- (4) For the purposes of this Rule, what constitutes the debtor’s own county court is to be determined in accordance with Rule 6.9A(3).
- (5) Where, for whatever reason, it is not possible for the petition to be presented to the debtor’s own county court, the debtor may, with a view to expediting the presentation of the petition, present the petition—
- (a) where Rule 6.9A(3)(a) applies, to—
    - (i) the court for the insolvency district in which the debtor resides, or
    - (ii) whichever court is specified by Schedule 2 to these Rules as being the nearest full time court in relation to—
      - (aa) the court in Rule 6.9A(3)(a), or
      - (bb) where the court in paragraph (i) is a county court, that court; or
  - (b) where Rule 6.9A(3)(b) applies, whichever court is specified by Schedule 2 to these Rules as being the nearest full time court in relation to the court in that paragraph.
- (6) Notwithstanding any other provision of this Rule, where there is in force for the debtor a voluntary arrangement under Part 8 of the Act, the petition must be presented to the court to which the nominee’s report under section 256 was submitted.
- (7) The petition must contain sufficient information to establish that it is presented to the appropriate court.”.

#### **Amendment to Rule 6.41**

- 320.**—(1) Rule 6.41 (statement of affairs) is amended as follows.
- (2) In paragraph (1), for “affidavit” substitute “a statement of truth”.

#### **Amendments to Rule 6.42**

- 321.**—(1) Rule 6.42 (procedure for presentation and filing) is amended as follows.
- (2) Omit paragraph (5).
- (3) In paragraph (7)—
- (a) after “2” insert “business”;
  - (b) in sub-paragraph (a), for “10” substitute “7 business”.

#### **Amendment to Rule 6.44**

- 322.**—(1) Rule 6.44 (report of insolvency practitioner) is amended as follows.
- (2) In paragraph (2), after “3” insert “business”.

#### **Amendment to Rule 6.45**

**323.**—(1) Rule 6.45 (settlement and content of bankruptcy order) is amended as follows.

(2) For paragraph (2)(b) substitute—

“(b) contain a notice referring to 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 attend on the official receiver at such times, as the official receiver may reasonably require.”.

#### **Amendments to Rule 6.46**

**324.**—(1) Rule 6.46 (action to follow making of order) is amended as follows.

(2) In paragraph (1), for “shall” where it appears second substitute “must (unless the official receiver is satisfied that the bankrupt has already received a copy of the order)”.

(3) After paragraph (2) insert—

“(2A) In addition to the standard contents, the notice to be gazetted under paragraph (2) (b) and any notice to be advertised under paragraph (2)(c) 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) that the bankruptcy order was made on the debtor’s own petition; and
- (d) the date of presentation of the petition.”.

(4) In paragraph (3), omit the second sentence.

(5) After paragraph (3), add—

“(3A) An application under this paragraph must be supported by a witness statement stating the grounds on which it is made.”.

#### **Amendment to Rule 6.47**

**325.**—(1) Rule 6.47 (amendment of title of proceedings) is amended as follows.

(2) After paragraph (3) add—

“(4) In addition to the standard contents, the notice under paragraph (3) must—

- (a) state that an amendment to the full title of the proceedings has been made; and
- (b) specify the amendment.”.

#### **Amendments to Rule 6.51**

**326.**—(1) Rule 6.51 (application for appointment of interim receiver) is amended as follows.

(2) In paragraph (2), for “an affidavit” substitute “a witness statement”.

(3) In paragraphs (3) and (4), for “affidavit” wherever it appears substitute “witness statement”.

#### **Amendment to Rule 6.53**

**327.**—(1) Rule 6.53 (deposit) is amended as follows.

(2) In paragraph (2), after “2” insert “business”.

#### **Amendments to Rule 6.60**

**328.**—(1) Rule 6.60 (verification and filing) is amended as follows.

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- (2) In paragraph (2), for “affidavit” substitute “a statement of truth”.
- (3) Omit paragraph (4).

#### **Amendment to Rule 6.61**

**329.**—(1) Rule 6.61 (limited disclosure) is amended as follows.

- (2) In paragraph (1), after “bankruptcy” insert “or might reasonably be expected to lead to violence against any person”.

#### **Amendments to Rule 6.62**

**330.**—(1) Rule 6.62 (release from duty to submit statement of affairs; extension of time) is amended as follows.

- (2) In paragraph (3)—
  - (a) for “an *ex parte*” substitute “a”;
  - (b) for “7” substitute “5 business”;
  - (c) after “notice” insert “but which is without notice to any other party”.
- (3) In paragraph (5), after “5” insert “business”.

#### **Amendments to Rule 6.65**

**331.**—(1) Rule 6.65 (submission and filing of accounts) is amended as follows.

- (2) In paragraph (1), for “affidavit” substitute “a statement of truth”.
- (3) Omit paragraph (2)

#### **Amendments to Rule 6.66**

**332.**—(1) Rule 6.66 (further disclosure) is amended as follows.

- (2) In paragraph (2), for “affidavit” substitute “a statement of truth”.
- (3) Omit paragraph (3).

#### **Amendments to Rule 6.70**

**333.**—(1) Rule 6.70 (submission and filing of accounts) is amended as follows.

- (2) In paragraph (1), for “affidavit” substitute “a statement of truth”.
- (3) Omit paragraph (2).

#### **Amendments to Rule 6.72**

**334.**—(1) Rule 6.72 (further disclosure) is amended as follows.

- (2) In paragraph (2), for “affidavit” substitute “a statement of truth”.
- (3) Omit paragraph (3).

#### **Amendment to Rule 6.73**

**335.**—(1) Rule 6.73 (general duty of official receiver) is amended as follows.

- (2) Omit paragraph (2).

#### **Amendment to Rule 6.74**

**336.**—(1) Rule 6.74 (those entitled to be informed) is amended as follows.

(2) Omit from “or” to the end.

#### **Amendment to Rule 6.75**

**337.**—(1) Rule 6.75 (report where statement of affairs lodged) is amended as follows.

(2) In paragraph (1) omit “and it has been filed in court.”.

#### **New Rules after Rule 6.78**

**338.** After Rule 6.78 insert—

##### **“6.78A Reports to creditors**

(1) “Progress report” means a report which includes—

- (a) details of the court where the proceedings are and the relevant court reference number;
- (b) the bankrupt’s name;
- (c) the title of the proceedings;
- (d) full details of the trustee’s name and address and date of appointment, including any changes in office-holder;
- (e) details of the basis fixed for the remuneration of the trustee under Rule 6.138 (or if not fixed at the date of the report, the steps taken during the period of the report to fix it);
- (f) if the basis of remuneration has been fixed, a statement of—
  - (i) the remuneration charged by the trustee during the period of the report (subject to paragraph (2)), and
  - (ii) where the report is the first to be made after the basis has been fixed, the remuneration charged by the trustee during the periods covered by the previous reports (subject to paragraph (2)), together with a description of the things done by the trustee during those periods in respect of which the remuneration was charged,irrespective in either case of whether payment was made in respect of that remuneration during that period;
- (g) a statement of the expenses incurred by the trustee during the period of the report, irrespective of whether payment was made in respect of them during that period;
- (h) details of progress during the period of the report, including a receipts and payments account in the form of an abstract showing receipts and payments during the period of the report;
- (j) details of any assets that remain to be realised;
- (k) a statement of the creditors’ right to request information under Rule 6.78C and their right to challenge the trustee’s remuneration and expenses under Rule 6.142; and
- (l) any other relevant information for the creditors.

(2) Where the basis for the remuneration is a set amount under Rule 6.138(2)(c), it may be shown as that amount without any apportionment to the period of the report.

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(3) The progress report must, except where paragraph (4) or (5) applies, cover the period of 1 year commencing on the date on which the trustee is appointed and every subsequent period of 1 year.

(4) The period to be covered by a progress report ends on the date when a trustee ceases to act, and the period to be covered by each subsequent progress report is each successive period of 1 year beginning immediately after that date (subject to the further application of this paragraph when another trustee ceases to act).

(5) A progress report is not required for any period which ends after the trustee has sent a draft report to creditors under Rule 6.78B (final report to creditors).

(6) The trustee must send a copy of the progress report to the creditors within 2 months of the end of the period covered by the report.

(7) The court may, on the trustee's application, extend the period of 2 months mentioned in paragraph (6), or make such other order in respect of the content of the report as it thinks just.

(8) This Rule does not apply where the trustee is the official receiver.

#### **6.78B Final report to creditors and bankrupt**

(1) The trustee must, at least 8 weeks before holding a final meeting in accordance with section 331, send to each creditor known to the trustee and to the bankrupt a draft of the report which the trustee intends to lay before the meeting under Rule 6.137.

(2) The draft report must—

- (a) contain such matters and be in such terms as would comply with Rule 6.137 if the report were to be laid before a meeting as soon as reasonably practicable after the draft had been sent to creditors, and
- (b) be accompanied by a statement of the creditors' right to request information under Rule 6.78C and their right to challenge the trustee's remuneration and expenses under Rule 6.142.

(3) The trustee may not send a draft report to creditors under this Rule before giving notice—

- (a) under Rule 11.2 of intention to declare a final dividend, or
- (b) under Rule 11.7 that no dividend or further dividend will be declared.

(4) If any creditor has applied to the court under Rule 6.142 and given a copy of the application to the trustee, the final meeting may not be held until the application (including any appeal) has been disposed of and the trustee has complied with any order of the court.

(5) This Rule does not apply where the trustee is the official receiver.

#### **6.78C Creditors' request for further information**

(1) If—

- (a) within the period mentioned in paragraph (2)—
  - (i) a secured creditor, or
  - (ii) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question), or
- (b) with the permission of the court upon an application made within the period mentioned in paragraph (2), any unsecured creditor,

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makes a request in writing to the trustee for further information about remuneration or expenses set out in a progress report under Rule 6.78A(1)(f) or (g) or in a draft report under Rule 6.78B, the trustee must, within 14 days of receipt of the request, comply with paragraph (3) except to the extent that the request is in respect of matter in a draft report under Rule 6.78B or a progress report required by Rule 6.126 which (in either case) was previously included in a progress report not required by Rule 6.126.

- (2) The period referred to in paragraph (1)(a) is—
  - (a) 7 business days of receipt of the progress report where it is required by Rule 6.126, and
  - (b) 21 days of receipt of the report or draft report in any other case.
- (3) The trustee complies with this paragraph by either—
  - (a) providing all of the information asked for, or
  - (b) so far as the trustee considers that—
    - (i) the time or cost of preparation of the information would be excessive, or
    - (ii) disclosure of the information would be prejudicial to the conduct of the bankruptcy or might reasonably be expected to lead to violence against any person, or
    - (iii) the trustee is subject to an obligation of confidentiality in respect of the information,giving reasons for not providing all of the information.

(4) Any creditor, who need not be the same as the creditor who asked for the information, may apply to the court within 21 days of—

- (a) the giving by the trustee of reasons for not providing all of the information asked for, or
- (b) the expiry of the 14 days provided for in paragraph (1),

and the court may make such order as it thinks just.

(5) Without prejudice to the generality of paragraph (4), the order of the court under that paragraph may extend the period of 8 weeks or, as the case may be, 4 weeks provided for in Rule 6.142(1B) by such further period as the court thinks just.

(6) This Rule does not apply where the trustee is the official receiver.

#### **6.78D Distribution of property in specie**

(1) Where there has been a distribution of property to creditors under section 326, the trustee must comply with paragraph (2) in respect of any account or report which the trustee is required to prepare pursuant to any of the following—

- (a) section 331 (final meeting);
- (b) Rule 6.78A (reports to creditors);
- (c) Rule 6.78B (final report to creditors);
- (d) Rule 6.126 (creditors' meeting to receive trustee's resignation);
- (e) Rule 6.137 (final meeting of creditors).

(2) The trustee 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 of the property

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distributed amongst the creditors during the period to which the account or report relates, and

- (b) as a note to the account or summary of receipts and payments, provide details of the basis of the valuation.”.

#### **Amendments to Rule 6.79**

**339.**—(1) Rule 6.79 (first meeting of creditors) is amended as follows.

(2) In paragraph (2), for sub-paragraphs (a) and (b) substitute “to every creditor of the bankrupt who is known to the official receiver”.

(3) For paragraph (3) substitute—

“(3) Notice must be given at least 14 days before the date fixed for the meeting.”.

(4) For paragraph (4) substitute—

“(4) The notice to creditors must state that proofs and (if applicable) proxies must be lodged at a specified place not later than 12.00 hours on the business day before the date fixed for the meeting in order for creditors to be entitled to vote at the meeting.”.

(5) After paragraph (5), insert—

“(5A) In addition to the standard contents, the notice under paragraph (5) must state—

- (a) the purpose for which the meeting is summoned;
- (b) the venue fixed for the meeting; and
- (c) the time and date by which, and place at which, creditors must lodge proxies and hitherto unlodged proofs in order to be entitled to vote at the meeting.”.

#### **Amendments to Rule 6.80**

**340.**—(1) Rule 6.80 (business at first meeting) is amended as follows.

(2) In paragraph (1)(f), omit “for not more than 3 weeks”.

(3) For paragraph (2) substitute—

“(2A) The meeting may be adjourned, either in accordance with a resolution under paragraph (1)(f) or if the chairman thinks fit, but for not more than 14 days from the date on which it was fixed to commence, subject to any direction of the court.

(2B) If there are subsequently further adjournments, the final adjournment must not be to a day later than 14 days after the date on which the meeting was originally held, subject to any direction of the court.

(2C) Where a meeting is adjourned under this Rule, proofs and proxies may be used if lodged at any time up to 12.00 hours on the business day immediately before the adjourned meeting.”.

#### **Amendments to Rule 6.81**

**341.**—(1) Rule 6.81 (general power to call meetings) is amended as follows.

(2) In paragraph (2)—

- (a) omit “or is identified in the bankrupt’s statement of affairs”, and
- (b) for “21” substitute “14”.

(3) For paragraph (3) substitute—

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“(3) The notice must specify the purpose for which the meeting is summoned and state that proofs and (if applicable) proxies must be lodged at a specified place not later than 12.00 hours on the business day before the date fixed for the meeting in order for creditors to be entitled to vote at the meeting.”.

(4) In paragraph (4), for the first sentence substitute—

“As soon as reasonably practicable after sending notice of the meeting to the creditors under paragraph (2), the convener must give additional notice of the meeting.”.

(5) After paragraph (4) insert—

“(5) In addition to the standard contents, the notice under paragraph (4) must specify—

- (a) who summoned the meeting;
- (b) if the meeting was summoned at the request of a creditor, the fact that it was so summoned and the section of the Act under which it was requested;
- (c) the purpose for which the meeting is summoned;
- (d) the venue fixed for the meeting; and
- (e) the time and date by which, and place at which, creditors must lodge proxies and hitherto unlodged proofs in order to be entitled to vote at the meeting.”.

#### **Amendments to Rule 6.83**

**342.**—(1) Rule 6.83 (requisitioned meetings) is amended as follows.

(2) In paragraph (2)—

- (a) in sub-paragraph (a), for “35” substitute “28”;
- (b) in sub-paragraph (b), for “21” substitute “14”.

#### **Amendment to Rule 6.84**

**343.**—(1) Rule 6.84 (attendance at meetings of bankrupt, etc) is amended as follows.

(2) In paragraph (1), for “21” substitute “14”.

#### **Amendments to Rule 6.85**

**344.**—(1) Rule 6.85 (notice of meetings by advertisement only) is amended as follows.

(2) In paragraphs (1) and (2), omit “public”.

(3) At the end add—

“(3) In addition to the standard contents, the advertisement must state—

- (a) the venue fixed for the meeting;
- (b) that proofs and (if applicable) proxies must be lodged at a specified place not later than 12.00 hours on the business day before the date fixed for the meeting; and
- (c) the date of the court order.”.

#### **Amendment to Rule 6.88**

**345.**—(1) Rule 6.88 (resolutions) is amended as follows.

(2) In paragraph (2)(a), omit all the words after “appointed”.

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## **New Rule after Rule 6.88**

**346.** After Rule 6.88 insert—

### **“6.88A resolutions by correspondence**

(1) The trustee may seek to obtain the passing of a resolution by creditors without holding a meeting by giving notice of the resolution to every creditor who is entitled to be notified of a meeting at which the resolution could be passed.

(2) In order to be counted, votes must be received by the trustee in writing by 12.00 hours on the closing date specified in the notice, and must be accompanied by a proof of debt as required by Rule 6.93(1)(a) unless it has already been lodged under that Rule.

(3) If any vote cast by a creditor is received without a proof of debt, or the trustee decides that the creditor is not entitled to vote according to Rules 6.93 to 6.94, then that creditor’s vote must be disregarded.

(4) The closing date shall be set at the discretion of the trustee, but in any event it must not be set less than 14 days from the giving of notice provided for in paragraph (1).

(5) For the resolution to be passed, the trustee must receive at least one valid vote by the closing date specified in the notice.

(6) If no valid vote is received by the closing date specified, the trustee must call a meeting of creditors at which the resolution could be passed.

(7) Creditors whose debts amount to at least 10% of the bankrupt’s total debts may, within 5 business days from the giving of notice provided for in paragraph (1), require the trustee to summon a meeting of creditors to consider the resolution.

(8) A reference in these Rules to a resolution passed at a creditors’ meeting includes a reference to a resolution passed under this Rule.

(9) This Rule does not apply in respect of any resolution which the Act requires to be passed at a meeting.”.

## **Amendments to Rule 6.91**

**347.**—(1) Rule 6.91 (adjournment) is amended as follows.

(2) In paragraph (3), for “21” substitute “14”.

(3) For paragraph (4) substitute—

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

(4B) Paragraph (4A) applies to further adjournments of a final meeting.

(4C) In the case of any other meeting, further adjournment must be to the same time and place in the following week or, if either—

(a) that is not a business day, or

(b) whether or not it is a business day, it is later than 14 days after the date on which the meeting in question was originally held,

to the same time and place on the business day immediately preceding which is not later than 14 days after the date on which the meeting in question was originally held.”.

### **Amendment to Rule 6.93**

- 348.**—(1) Rule 6.93 (entitlement to vote) is amended as follows.  
(2) In paragraph (1), after “Subject as follows” insert “in this Rule and the next”.

### **New Rule after Rule 6.93**

- 349.** After Rule 6.93 insert—

#### **“6.93A Chairman’s discretion to allow vote**

At a creditors’ meeting, the chairman may allow a creditor to vote, notwithstanding that the creditor has failed to comply with Rule 6.93(1)(a), if satisfied that the failure was due to circumstances beyond the creditor’s control.”.

### **Amendment to Rule 6.94**

- 350.**—(1) Rule 6.94 (admission and rejection of proof) is amended as follows.  
(2) After paragraph (4) insert—  
“(4A) An application to the court by way of appeal under this Rule against a decision of the chairman must be made not later than 21 days after the date of the meeting.”.

### **Amendment to Rule 6.95**

- 351.**—(1) Rule 6.95 (record of proceedings) is amended as follows.  
(2) In paragraph (3), for all the words after “resolution passed;” substitute “and if a creditors’ committee has been established, the names and addresses of those elected to be members of the committee.”.

### **Amendment to Rule 6.96**

- 352.**—(1) Rule 6.96 (meaning of “prove”) is amended as follows.  
(2) Omit paragraph (6).

### **Amendment to Rule 6.98**

- 353.**—(1) Rule 6.98 (contents of proof) is amended as follows.  
(2) In paragraph (1)(b), at the end add “, less any deduction under Rule 6.110”.

### **New Rule after Rule 6.103**

- 354.** After Rule 6.103 insert—

#### **“6.103A New trustee appointed**

- (1) If a new trustee is appointed in place of another, the former trustee must as soon as reasonably practicable transmit to the new one all proofs which the former trustee has received, together with an itemised list of them.  
(2) The new trustee must authenticate the list by way of receipt for the proofs, and return it to the former trustee.  
(3) From then on, all proofs of debt must be sent to and retained by the new trustee.”.

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**Amendment to Rule 6.117**

- 355.**—(1) Rule 6.117 (redemption by trustee) is amended as follows.  
(2) In paragraph (4), for “6 months” substitute “3 months”.

**Amendment to Rule 6.120**

- 356.**—(1) Rule 6.120 (appointment by creditors’ meeting) is amended as follows,  
(2) In paragraph (5) omit “and file a copy of it in court”.

**New Rule after Rule 6.120**

- 357.** After Rule 6.120 insert—

**“6.120A Official receiver not to be appointed trustee**

The official receiver may not be appointed as trustee by resolution of a creditors’ meeting.”.

**Amendments to Rule 6.122**

- 358.**—(1) Rule 6.122 (appointment by secretary of State) is amended as follows.  
(2) In paragraph (2)—  
(a) for “two copies” substitute “a copy”;  
(b) for “one such copy” substitute “it”; and  
(c) omit “, and file the other copy in court”.

**Amendment to Rule 6.123**

- 359.**—(1) Rule 6.123 is amended as follows.  
(2) For “the 3 preceding Rules” substitute “Rules 6.120, 6.121 and 6.122”.

**Amendment to Rule 6.124**

- 360.**—(1) Rule 6.124 (advertisement of appointment) is amended as follows.  
(2) After paragraph (1) insert—  
“(1A) In addition to the standard contents, the notice under paragraph (1) must state—  
(a) that a trustee has been appointed by a creditors’ meeting; and  
(b) the date of the appointment.”.

**Amendments to Rule 6.126**

- 361.**—(1) Rule 6.126 (creditors’ meeting to receive trustee’s resignation) is amended as follows.  
(2) In paragraph (1)—  
(a) omit the second sentence; and  
(b) insert—  
“(1A) The trustee must give at least 28 days’ notice of the meeting.  
(1B) The notice summoning the meeting must—

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- (a) indicate that the purpose or one of the purposes of the meeting is to receive the trustee's resignation; and
  - (b) draw the attention of the creditors to Rule 6.142.
- (1C) Notice of the meeting must be sent to the official receiver and to the bankrupt at the same time as it is sent to creditors.”
- (3) For paragraph (2) substitute—
- “(2) The notice to creditors and the bankrupt must be accompanied by an account of the trustee's administration of the bankrupt's estate, including—
- (a) a statement that the trustee has reconciled the account with that held by the Secretary of State in respect of the bankruptcy; and
  - (b) a progress report for the period—
    - (i) commencing with the later of the date of—
      - (aa) the appointment of the trustee; and
      - (bb) the day immediately following the end of the period of the last progress report; and
    - (ii) ending with the date of the meeting.”
- (4) In paragraph (5), at the beginning insert “Except where Rule 6.126A applies,”.

#### **New Rule after Rule 6.126**

**362.** After Rule 6.126 insert—

##### **“6.126A Resignation (application under Rule 6.142)**

- (1) This Rule applies where at the date of a meeting summoned for the purpose of receiving the trustee's resignation, an application made to the court under Rule 6.142 (including any appeal) has not been disposed of.
- (2) At the meeting no resolution may be put regarding the trustee's release.
- (3) If at the meeting the trustee's resignation is accepted the meeting must be adjourned (notwithstanding anything in Rule 6.90 (suspension of meeting)) to a day not less than 14 days after the day on which the application under Rule 6.142 (including any appeal) has been disposed of.
- (4) The trustee must give at least 14 days' notice of the meeting adjourned in accordance with paragraph (3) to the creditors.
- (5) At the meeting adjourned in accordance with paragraph (3)—
  - (a) a revised version of the account which accompanied the notice of the meeting must be laid showing any changes required as a result, or arising out of the application under Rule 6.142; and
  - (b) a resolution for the release of the trustee whose resignation has been accepted must be put.
- (6) If there is no quorum present at the adjourned meeting, the meeting is deemed to have been held and the creditors are deemed to have resolved that the trustee be released.
- (7) Where the creditors have resolved at the adjourned meeting that the trustee be released (or are deemed to have so resolved by virtue of paragraph (5))—
  - (a) the chairman of the meeting (or the person who, had there been a quorum present would have been chairman of the meeting) must send as soon as reasonably

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practicable a certificate to that effect to the official receiver with a copy of the revised account; and

(b) the official receiver must file a copy of the certificate in court.

(8) If at the meeting the trustee's resignation is not accepted, the trustee must not summon any further meeting under Rule 6.126 until the application under Rule 6.142 (including any appeal) has been disposed of.

(9) Paragraph (7) is subject to the powers of the court on an application being made to it by the trustee under Rule 6.128 (permission to resign granted by the court).

(10) Rule 6.126 applies to any such further meeting with the modification that the account required to accompany the notice of the meeting must show any changes from the account which accompanied the notice of the earlier meeting called to receive the trustee's resignation, and in particular any changes required as a result of the application under Rule 6.142 and any further remuneration charged or expenses incurred.

(11) The creditors' rights under Rules 6.78C and 6.142 do not apply in respect of any matter included in that account which—

- (a) was included in the account which accompanied the notice of the earlier meeting called to receive the trustee's resignation; or
- (b) was the subject of the order of the court on the application made to it by the trustee under Rule 6.142.”.

#### **Amendments to Rule 6.127**

**363.**—(1) Rule 6.127 (action following acceptance of resignation) is amended as follows.

(2) Omit paragraphs (1) and (2).

(3) In paragraph (3)—

- (a) for “meeting” where it appears first substitute “creditors’ meeting summoned for the purpose of receiving the trustee’s resignation”; and
- (b) for “days” substitute “business days of the date of the resolution”.

(4) In paragraph (5), for “meeting” substitute “resolution has been passed”.

#### **Amendment to Rule 6.129**

**364.**—(1) Rule 6.129 (meeting of creditors to remove trustee) is amended as follows.

(2) In paragraph (4), after “3” insert “business”.

#### **Amendments to Rule 6.132**

**365.**—(1) Rule 6.132 (removal of trustee by the court) is amended as follows.

(2) In the first sentence of paragraph (2)—

- (a) for “an *ex parte*” substitute “a”;
- (b) for “7” substitute “5 business ”;
- (c) at the end add, “but which is without notice to any other party”.

#### **Amendments to Rule 6.135**

**366.**—(1) Rule 6.135 (release of resigning or removed trustee) is amended as follows.

(2) In paragraph (1), at the beginning insert “Subject to paragraph (1A), ”.

(3) After paragraph (1) insert—

“(1A) Where the trustee’s resignation is accepted under Rule 6.126A, the trustee’s release is effective as from the date on which the official receiver files the copy of the certificate under paragraph (7) of that Rule in court, that date to be endorsed on the copy certificate.”.

### **Amendments to Rule 6.137**

**367.**—(1) Rule 6.137 (final meeting of creditors) is amended as follows.

(2) After paragraph (1) insert—

“(1A) The trustee—

(a) as soon as reasonably practicable after giving notice under paragraph (1) must have gazetted a notice of the final meeting; and

(b) may advertise notice of the meeting in such other manner as the trustee thinks fit.

(1B) In addition to the standard contents, the notice under paragraph (1A) must state—

(a) that the trustee has summoned the meeting;

(b) if the meeting was summoned at the request of a creditor, the fact that it was so summoned and the section of the Act under which it was summoned;

(c) the purpose for which the meeting was summoned;

(d) the venue fixed for the meeting; and

(e) the time and date by which, and place at which, creditors must lodge proxies and hitherto unlodged proofs in order to be entitled to vote at the meeting.

(1C) The final meeting must not be held unless Rule 6.78B has been complied with; and if for that reason the meeting is not held—

(a) the trustee must give notice of that fact as soon as reasonably practicable to all to whom notice of the meeting was given, and

(b) fresh notice of the meeting complying with this Rule must be given when Rule 6.78B has been complied with.”.

(3) In paragraph (2), at the end of sub-paragraph (a), for “and” substitute—

“including details of remuneration charged and expenses incurred by the trustee,

(ab) details of the basis fixed for the trustee’s remuneration, and”.

(4) After paragraph (2) insert—

“(2A) Where the trustee has sent a progress report to creditors in accordance with Rule 6.78A, the report to be laid at the final meeting of creditors must also—

(a) contain a receipts and payments account in the form of an abstract showing the receipts and payments during the period since the last progress report, and

(b) include—

(i) details of the remuneration charged and expenses incurred by the trustee during that period, and

(ii) a description of the things done by the trustee during that period in respect of which that remuneration was charged and those expenses incurred.

(2B) In any case where the basis of the trustee’s remuneration had not been fixed by the date to which the last progress report was made up, the receipts and payments account required by paragraph (2A)(a) must also include details of the remuneration charged in the period of any preceding progress report in which details of remuneration were not included.

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(2C) Where the basis of remuneration has been fixed as a set amount only, it is sufficient compliance with paragraph (2A)(b) for the trustee to state the amount which has been set and to supply details of the expenses charged within the period in question.”.

### **Amendments to Rule 6.138**

**368.**—(1) Rule 6.138 (fixing of remuneration) is amended as follows.

(2) In paragraph (2)—

- (a) for “The remuneration” substitute “The basis of remuneration”;
- (b) omit “either”;
- (c) at the end add—
  - “, or
  - (c) as a set amount.”.

(3) For paragraph (3) substitute—

“(3A) The basis of remuneration may be fixed as any one or more of the bases set out in paragraph (2), and different bases may be fixed in respect of different things done by the trustee.

(3B) Where remuneration is fixed as set out in paragraph (2)(a), different percentages may be fixed in respect of different things done by the trustee.

(3C) Where the trustee is other than the official receiver, it is for the creditors’ committee (if there is one) to determine—

- (a) which of the bases set out in paragraph (2) are to be fixed and (where appropriate) in what combination under paragraph (3A), and
- (b) the percentage or percentages (if any) to be fixed under paragraphs (2)(a) and (3B) and the amount (if any) to be set under paragraph (2)(c).”.

(4) In paragraph (5)—

- (a) after “determination,” insert “the basis of”;
- (b) for “paragraph (2)” substitute “paragraphs (2), (3A) and (3B)”.

(5) In paragraph (6)—

- (a) after “official receiver and” insert “the basis of”;
- (b) after “as above” insert “within 18 months after the date of the trustee’s appointment”.

### **Substitution of Rule 6.140**

**369.** For Rule 6.140 (recourse of trustee to meeting of creditors) substitute—

#### **“6.140A Recourse of trustee to meeting of creditors**

**6.140A** If the basis of the trustee’s remuneration has been fixed by the creditors’ committee and the trustee considers the rate or amount to be insufficient or the basis to be inappropriate, the trustee may request that the rate or amount be increased or the basis changed by resolution of the creditors.”.

### **Amendment to Rule 6.141**

**370.**—(1) Rule 6.141 (recourse to the court) is amended as follows.

(2) For paragraph (1) substitute—

“(1) If the trustee considers that the basis of remuneration fixed by the creditors’ committee, or by resolution of the creditors, or as under Rule 6.138(6), is insufficient or inappropriate, the trustee may apply to the court for an order changing it or increasing its amount or rate.”

### **Amendments to Rule 6.142**

**371.**—(1) Rule 6.142 (creditors’ claim that remuneration is excessive) is amended as follows.

(2) In the heading, after “is” insert “or other expenses are”.

(3) For paragraph (1) substitute—

“(1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the creditors (including that creditor) or the permission of the court, or the bankrupt may apply to the court for one or more of the orders in paragraph (4).

(1A) Application by a creditor may be made on the grounds that—

- (a) the remuneration charged by the trustee,
- (b) the basis fixed for the trustee’s remuneration under Rule 6.138, or
- (c) expenses incurred by the trustee,

is or are, in all the circumstances, excessive or, in the case of an application under subparagraph (b), inappropriate.

(1B) Application by a creditor must, subject to any order of the court under Rule 6.78C(5), be made no later than 8 weeks (or in a case falling within Rule 6.126, 4 weeks) after receipt by the applicant of the progress report, or the draft report under Rule 6.78B, which first reports the charging of the remuneration or the incurring of the expenses in question (“the relevant report”).

(1C) Application by the bankrupt may be made only on one or both of the grounds in paragraph (1A)(a) and (c) and no later than—

- (a) 8 weeks after receipt by the bankrupt of the draft report under Rule 6.78B, or
- (b) in a case falling within Rule 6.126, 4 weeks after receipt by the bankrupt of notice under Rule 6.126(1C).”.

(4) For paragraph (2) substitute—

“(2) When the application is made by a creditor, the court may dismiss it if it thinks that no sufficient cause is shown; 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 5 business days’ notice but which is without notice to any other party.

(2A) Application may be made by the bankrupt only with the permission of the court; and without prejudice to the generality of the matters which the court may take into account, permission must not be given unless the bankrupt shows that there is (or would be but for the remuneration or expenses in question), or 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.

(2B) If, as the case may be, the application is not dismissed under paragraph (2) or the bankrupt is given permission under paragraph (2A), the court must fix a venue for the application to be heard.”.

(5) For paragraph (4) substitute—

“(4) If the court considers the application to be well-founded, it must make one or more of the following orders—

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- (a) an order reducing the amount of remuneration which the trustee was entitled to charge;
- (b) an order fixing the basis of remuneration at a reduced rate or 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 bankruptcy expenses;
- (e) an order that the trustee or the trustee's personal representative pay to such person as the court may specify as property comprised in the bankrupt's estate the amount of the excess of remuneration or expenses or such part of the excess as the court may specify;

and may make any other order that it thinks just; but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report.”.

## **New Rules after Rule 6.142**

**372.** After Rule 6.142 insert—

### **“6.142A Review of remuneration**

(1) Where, after the basis of the trustee's remuneration has been fixed, there is a material and substantial change in the circumstances which were taken into account in fixing it, the trustee may request that it be changed.

(2) The request must be made—

- (a) where the creditors' committee fixed the basis, to the committee;
- (b) where the creditors fixed the basis, to the creditors;
- (c) where the court fixed the basis, by application to the court;
- (d) where the remuneration was fixed by application of the realisation scale under Rule 6.138A, to the creditors' committee if there is one or otherwise to the creditors;

and Rules 6.138 to 6.142 apply as appropriate.

(3) Any change in the basis for remuneration applies from the date of the request under paragraph (2) and not for any earlier period.

(4) This Rule does not apply where the trustee is the official receiver.

### **6.142B Remuneration of new trustee**

(1) If a new trustee is appointed in place of another, any determination, resolution or court order in effect under the preceding provisions of this Section of this Chapter immediately before the former trustee ceased to hold office continues to apply in respect of the remuneration of the new trustee until a further determination, resolution or court order is made in accordance with those provisions.

(2) This Rule does not apply where the new trustee is the official receiver.

### **6.142C Apportionment of set fee remuneration**

(1) In a case in which the basis of the trustee's remuneration is a set amount under Rule 6.138(2)(c) and the trustee (“the former trustee”) 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, application may be made for determination of what portion of the amount should

be paid to the former trustee or the former trustee's personal representative in respect of the time which has actually elapsed or the work which has actually been done.

(2) Application may be made—

- (a) by the former trustee or the former trustee's personal representative within the period of 28 days beginning with the date upon which the former trustee ceased to hold office, or
- (b) by the trustee for the time being in office if the former trustee or the former trustee's personal representative has not applied by the end of that period.

(3) Application must be made—

- (a) where the creditors' committee fixed the basis, to the committee;
- (b) where the creditors fixed the basis, to the creditors for a resolution determining the portion;
- (c) where the court fixed the basis, to the court for an order determining the portion.

(4) The applicant must give a copy of the application to the trustee for the time being in office or to the former trustee or the former trustee's personal representative, as the case may be ("the recipient").

(5) The recipient may within 21 days of receipt of the copy of the application give notice of intent to make representations to the creditors' committee or the creditors or to appear or be represented before the court, as the case may be.

(6) No determination may be made upon the application until expiry of the 21 days referred to in paragraph (5) or, if the recipient does give notice of intent in accordance with that paragraph, until the recipient has been afforded the opportunity to make representations or to appear or be represented, as the case may be.

(7) If the former trustee or the former trustee's personal representative (whether or not the original applicant) considers that the portion determined upon application to the creditors' committee or the creditors is insufficient, that person may apply—

- (a) in the case of a determination by the creditors' committee, to the creditors for a resolution increasing the portion;
- (b) in the case of a resolution of the creditors (whether under paragraph (1) or under sub-paragraph (a)), to the court for an order increasing the portion,

and paragraphs (4) to (6) apply as appropriate."

### **Amendment to Rule 6.143**

**373.**—(1) Rule 6.143 (trustee deceased) is amended as follows.

(2) In paragraph (2), after "partner in" insert "or an employee of".

### **Amendment to Rule 6.150**

**374.**—(1) Rule 6.150 (membership of creditors' committee) is amended as follows.

(2) For paragraph (2), substitute—

"(2) A person claiming to be a creditor is entitled to be a member of the committee provided that—

- (a) that person has lodged a proof of debt;
- (b) the proof mentioned in sub-paragraph (a) has neither been wholly disallowed for voting purposes, nor wholly rejected for the purpose of distribution or dividend; and

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(c) the debt mentioned in sub-paragraph (a) is not fully secured.”.

#### **Amendments to Rule 6.151**

**375.**—(1) Rule 6.151 (formalities of establishment) is amended as follows.

(2) In paragraph (3), after “proxy” insert “or authorisation”.

(3) In paragraph (3A)—

(a) for “issue before at least 3 persons” substitute “be issued before the minimum number of members set out in Rule 6.150”; and

(b) at the end add “and must be issued as soon as reasonably practicable thereafter”.

(4) In paragraph (5), after “trustee” add “as soon as reasonably practicable”.

(5) For paragraph (6), substitute—

“(6) If after the first establishment of the committee there is any change in its membership, as soon as reasonably practicable the trustee must file with the court notice of the change.”.

#### **Amendments to Rule 6.153**

**376.**—(1) Rule 6.153 (meetings of the committee) is amended as follows.

(2) In paragraph (2)—

(a) for “3 months of his appointment or” substitute “6 weeks”; and

(b) omit “(whichever is the later)”.

(3) In paragraph (3)—

(a) at the beginning insert, “Subject to paragraph (4),”;

(b) for “7” substitute “5 business”.

(4) After paragraph (3), add—

“(4) Where the trustee has determined that a meeting should be conducted and held in the manner referred to in Rule 12A.26(2), the notice period mentioned in paragraph (3) is 7 business days.

(5) In addition to any functions conferred on a committee by any provision of the Act, a committee must assist the trustee in discharging the trustee’s functions and act in relation to that trustee in such manner as may from time to time be agreed.”.

#### **Amendment to Rule 6.154**

**377.**—(1) Rule 6.154 (the chairman at meetings) is amended as follows.

(2) In paragraph (2), for “nominated” substitute “appointed”.

#### **Amendments to Rule 6.156**

**378.**—(1) Rule 6.156 (committee-members’ representatives) is amended as follows.

(2) For paragraph (4), substitute—

“(4) No member may 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 disqualified director; or
  - (f) 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.”
- (3) Omit paragraph (5).

#### **Amendment to Rule 6.158**

- 379.**—(1) Rule 6.158 (termination of membership) is amended as follows.
- (2) For paragraph (1)(c), substitute—
- “(c) ceases to be a creditor and a period of 3 months has elapsed from the date that that member ceased to be a creditor or is found never to have been a creditor.”.

#### **Amendment to Rule 6.160**

- 380.**—(1) Rule 6.160 (vacancies) is amended as follows.
- (2) In paragraph (2), for “the minimum required under Rule 6.150(1)” substitute “3”.

#### **Amendment to Rule 6.162**

- 381.**—(1) Rule 6.162 (resolutions by post) is amended as follows.
- (2) In the heading, for “by post” substitute “otherwise than at a meeting”.

#### **Amendments to Rule 6.172**

- 382.**—(1) Rule 6.172 (order for public examination) is amended as follows.
- (2) In paragraph (3)(c), omit “or is identified in the bankrupt’s statement of affairs”.
- (3) After paragraph (5) add—
- “(5A) In addition to the standard contents, notices under paragraphs (4) and (5) must state—
- (a) the purpose of the hearing; and
  - (b) the venue fixed for the hearing.”.

#### **Amendment to Rule 6.173**

- 383.**—(1) Rule 6.173 (order on request by creditors) is amended as follows.
- (2) In paragraph (5), for “*ex parte*” substitute “without notice to any other party”.

#### **Amendments to Rule 6.174**

- 384.**—(1) Rule 6.174 (bankrupt unfit for examination) is amended as follows.
- (2) In paragraph (1), for “application in that behalf” substitute “an application being made to it under this Rule”.
- (3) In paragraph (3)—
- (a) in sub-paragraph (a), for “the affidavit” substitute “a witness statement”;
  - (b) in sub-paragraph (b), for “7” substitute “5 business”.
- (4) In paragraph (4), for “*ex parte*” substitute “without notice to any other party”.

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#### **Amendment to Rule 6.175**

- 385.**—(1) Rule 6.175 (procedure at hearing) is amended as follows.  
(2) In paragraph (4), for “affidavit” substitute “a statement of truth”.

#### **Amendment to Rule 6.176**

- 386.**—(1) Rule 6.176 (adjournment) is amended as follows.  
(2) In paragraph (4), omit “generally”.

#### **Amendments to Rule 6.178**

- 387.**—(1) Rule 6.178 (trustee’s notice of disclaimer) is amended as follows.  
(2) For paragraph (2), substitute—  
    “(2) The notice of disclaimer must be authenticated and dated by the trustee.”.  
(3) For paragraph (3), substitute—  
    “(3) As soon as reasonably practicable after authenticating the notice of disclaimer, the trustee must—  
        (a) file a copy of the notice with the court; and  
        (b) in any case where the disclaimer is of registered land as defined in section 132(1) of the Land Registration Act 2002, send a copy of the notice to the Chief Land Registrar.”.  
(4) In paragraph (4), for “which is endorsed on it, and on the copy, in accordance with this Rule” substitute “on which the trustee authenticates it”.

#### **Amendment to Rule 6.179**

- 388.**—(1) Rule 6.179 (communication of disclaimer to persons interested) is amended as follows.  
(2) For paragraph (1), substitute—  
    “(1) Within 7 business days after the date of the notice of disclaimer, the trustee shall send or give copies of the notice to the persons mentioned in paragraphs (2) to (5).”.

#### **Amendments to 6.180**

- 389.**—(1) Rule 6.180 (additional notices) is amended as follows.  
(2) For “give” substitute “send or give copies of the”.  
(3) For “it” substitute “the disclaimer”.

#### **Substitution of Rule 6.181**

- 390.** For Rule 6.181 (duty to keep court informed) substitute—

##### **“6.181A Records**

- 6.181A** The trustee must include in that trustee’s records of the insolvency a record of—  
(a) the persons to whom that trustee has sent or given copies of the notice of disclaimer under the two preceding Rules, showing their names and addresses, and the nature of their respective interests;

- (b) the dates on which the copies of the notice of disclaimer were sent or given to those persons;
- (c) the date on which, as required by Rule 6.178(3)(a), a copy of the notice of disclaimer was filed with the court; and
- (d) (where applicable) the date on which, as required by Rule 6.178(3)(b), a copy of the notice was sent to the Chief Land Registrar.”.

#### **Amendments to Rule 6.182**

- 391.**—(1) Rule 6.182 (application for leave to disclaim) is amended as follows.
- (2) In paragraph (1), for “*ex parte*” substitute “without notice to any other party”.
  - (3) In paragraph (3)—
    - (a) for “person’s consent” substitute “person has consented”; and
    - (b) omit “has been signified”.

#### **Amendments to Rule 6.183**

- 392.**—(1) Rule 6.183 (application to interested party under s 316) is amended as follows.
- (2) For paragraph (1), substitute—

“(1) The following applies where, in the case of any property, application is made to the trustee by an interested party under section 316.”.
  - (3) For paragraph (2), substitute—

“(2) The application must be delivered to the trustee—

    - (a) personally;
    - (b) by electronic means in accordance with Part 12A; or
    - (c) by any other means of delivery which enables proof of receipt of the application by the trustee to be provided, if requested.”.

#### **Amendments to Rule 6.186**

- 393.**—(1) Rule 6.186 (application for exercise of court’s powers under s 320) is amended as follows.
- (2) In paragraph (3), for “an affidavit” substitute “a witness statement”.
  - (3) In paragraph (4)—
    - (a) for “7” substitute “5 business”;
    - (b) for “affidavit under” substitute “witness statement required by”.

#### **Amendment to Rule 6.189**

- 394.**—(1) Rule 6.189 (application for order) is amended as follows.
- (2) In paragraph (3)(a), for “7” substitute “5 business”.

#### **Amendment to Rule 6.191**

- 395.**—(1) Rule 6.191 (variation of order) is amended as follows.
- (2) In paragraph (2), for “*ex parte*” substitute “without notice to any other party”.

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#### **Amendment to Rule 6.192**

**396.**—(1) Rule 6.192 (order to payor of income – administration) is amended as follows.

(2) In paragraph (1), for “immediate compliance with the order” substitute “compliance with the order as soon as reasonably practicable”.

#### **Amendments to Rule 6.193**

**397.**—(1) Rule 6.193 (review of order) is amended as follows.

(2) In the first sentence of paragraph (4)—

(a) for “an *ex parte*” substitute “a”;

(b) for “7” substitute “5 business”;

(c) at the end add, “but which is without notice to any other party”.

(3) In paragraph (6), for “7” substitute “5 business”.

#### **Amendments to Rule 6.194**

**398.**—(1) Rule 6.194 (application for order) is amended as follows.

(2) In paragraph (1), for “inland revenue”, substitute “HM Revenue and Customs”.

(3) In paragraph (3), for “of Inland Revenue” substitute “for HM Revenue and Customs”.

(4) In paragraphs (4) and (6), for “7” substitute “5 business”.

#### **Amendment to Rule 6.195**

**399.**—(1) Rule 6.195 (making and service of the order) is amended as follows.

(2) In paragraph (2)(a), for “inland revenue”, substitute “HM Revenue and Customs”.

#### **Amendment to Rule 6.200**

**400.**—(1) Rule 6.200 (duties of bankrupt in respect of after-acquired property) is amended as follows.

(2) In paragraph (5), for “not less often than 6-monthly” substitute “when required by the trustee”.

#### **Amendments to Rule 6.203**

**401.**—(1) Rule 6.203 (application for leave) is amended as follows.

(2) In paragraph (1), for “an affidavit” substitute “a witness statement”.

(3) In paragraph (2)—

(a) for “affidavit” substitute “witness statement”;

(b) in sub-paragraph (b), at the beginning insert “in the case of a company which has not yet been incorporated,”.

(4) Omit paragraphs (3) and (4).

#### **Amendments to Rule 6.204**

**402.**—(1) Rule 6.204 (report of official receiver) is amended as follows.

(2) In paragraph (1), for “affidavit” substitute “witness statement”.

(3) In paragraph (3), for “7” substitute “5 business”.

### **Amendments to Rule 6.206**

- 403.**—(1) Rule 6.206 (application for annulment) is amended as follows.
- (2) In paragraph (2)—
- (a) for “an affidavit” substitute “a witness statement”; and
  - (b) for “the affidavit” substitute “the witness statement”.
- (3) In paragraph (3), for “supporting affidavit shall be filed in court” substitute “the witness statement in support must be filed with the court”.
- (4) In paragraph (4), for “affidavit” substitute “witness statement”.
- (5) In paragraph (6), for “affidavits” substitute “evidence”.

### **Amendments to Rule 6.207**

- 404.**—(1) Rule 6.207 (report by trustee) is amended as follows.
- (2) After paragraph (2) insert—
- “(2A) Where the trustee is other than the official receiver, the report under paragraph (2) must also include a statement of—
- (a) the trustee’s remuneration;
  - (b) the basis fixed for the trustee’s remuneration under Rule 6.138;
  - (c) the expenses incurred by the trustee.”.

(3) In paragraph (4)—

    - (a) for “at least 14 days before the date fixed for the hearing” substitute “at the same time that it is filed in court”;
    - (b) for “affidavits” wherever it appears substitute “witness statements”.

(4) In paragraph (5), for “7” substitute “5 business”.

### **New Rule after Rule 6.207**

- 405.** After Rule 6.207 insert-

#### **“6.207A Applicant’s claim that remuneration is or expenses are excessive**

(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 is or are, in all the circumstances, excessive.

(2) Application under paragraph (1) must be made no later than 5 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 adduce in support.

(3) The applicant under paragraph (1) must send a copy of the application and of any evidence accompanying it to the trustee at the same time that the application is made.

(4) If the court annuls the bankruptcy order under section 282(1)(b) and considers the application under paragraph (1) 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;

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- (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 may make any other order that it thinks just.”.

#### **Amendment to Rule 6.208**

- 406.**—(1) Rule 6.208 (power of court to stay proceedings) is amended as follows.
- (2) In paragraph (2), for “*ex parte*” substitute “without notice to any other party”.

#### **Amendment to Rule 6.210**

- 407.**—(1) Rule 6.210 is amended as follows.
- (2) In paragraph (3), after “application” insert “or on an application under Rule 6.207A”.

#### **Amendments to Rule 6.211**

- 408.**—(1) Rule 6.211 (matters to be proved under s 282(1)(b)) is amended as follows.
- (2) In paragraph (1), after “which” insert “(a)” and after “court” add “; and (b) may be taken into account by the court on hearing such an application.”
  - (3) In paragraph (2), after “been” where it appears second insert “(a)”, and after “paid in full” add “, or (b) secured in full to the satisfaction of the court.”
  - (4) After paragraph (4) add—
    - “(5) 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.
    - (6) For the purposes of paragraphs (2) and (5), security includes an undertaking given by a solicitor and accepted by the court.
    - (7) For the purposes of paragraph (5), “post-commencement interest” means interest on the bankruptcy debts at the rate specified in section 328(5) in respect of periods during which those debts have been outstanding since the commencement of the bankruptcy.”.

#### **Amendment to Rule 6.213**

- 409.**—(1) Rule 6.213 (other matters arising on annulment) is amended as follows.
- (2) After paragraph (3) insert—
    - “(3A) In addition to the standard contents, the notice under paragraph (3) 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.”.

**Amendment to Rule 6.215**

- 410.**—(1) Rule 6.215 (application for suspension of discharge) is amended as follows.
- (2) In paragraph (6), for “7” substitute “5 business”.
  - (3) In paragraph (7), after “4” insert “business”.

**Amendment to Rule 6.216**

- 411.**—(1) Rule 6.216 (lifting of suspension of discharge) is amended as follows.
- (2) In paragraph (6)—
    - (a) for “7” substitute “5 business”;
    - (b) after “4” insert “business”.

**Amendment to Rule 6.218**

- 412.**—(1) Rule 6.218 (report of official receiver) is amended as follows.
- (2) In paragraph (3), for “7” substitute “5 business”.

**Amendments to Rule 6.220**

- 413.**—(1) Rule 6.220 (certificate of discharge) is amended as follows.
- (2) In paragraph (2), after “require” insert “within 28 days of the order”.
  - (3) After paragraph (2) insert—
    - “(2A) In addition to the standard contents, a notice under paragraph (2) must state—
      - (a) the name of the former bankrupt;
      - (b) the date of the bankruptcy order;
      - (c) that a certificate of discharge has been issued;
      - (d) the date of the certificate; and
      - (e) the date from which the discharge is effective.”
  - (4) In paragraph (3), omit the second sentence.

**Amendment to Rule 6.229**

- 414.**—(1) Rule 6.229 (presentation of petition) is amended as follows.
- (2) In paragraph (1) for “Rule 6.9” substitute “Rule 6.9A”.

**Amendment to Rule 6.232**

- 415.**—(1) Rule 6.232 is amended as follows.
- (2) In paragraph (4), omit “or is identified in the bankrupt’s statement of affairs”.

**Amendment to Rule 6.235A**

- 416.**—(1) Rule 6.235A (application for redirection order) is amended as follows.
- (2) In paragraph (3), for “an affidavit” substitute “a witness statement”.

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## New Rule after Rule 6.235A

417. After Rule 6.235A insert—

### **“6.235B Persons at risk of violence**

(1) The provisions of this Rule apply 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) For the purposes of this Rule—

“current address” means, in relation to any debtor, the address of the debtor’s current place of residence and any address at which the debtor currently carries on business; and

“debtor” means a person who is subject to a bankruptcy order, a bankruptcy restrictions order or a bankruptcy restrictions undertaking.

(3) The court may, on the application of the debtor, the official receiver, the trustee or the Secretary of State, order that—

(a) details of the debtor’s current address be removed from any part of the court file of the proceedings in relation to the debtor which is open to inspection and be kept on a separate file not open to inspection;

(b) the details in respect of the debtor to be entered in the bankruptcy order must not include details of the debtor’s current address;

(c) the full title of the proceedings must be amended by the removal of the details of the debtor’s current address from the description of the debtor;

(d) the details of the debtor to be included in any notice gazetted or otherwise advertised must not include details of the debtor’s current address;

(e) the details in respect of the debtor to be entered onto the individual insolvency register under Rule 6A.4 or the bankruptcy restrictions register under Rule 6A.6 must not include details of the debtor’s current address; or

(f) the details of the debtor’s current address kept on the individual insolvency register or the bankruptcy restrictions register must be removed from such register.

(4) Where the court makes an order under paragraph (3)(b) to (f), it may further order that—

(a) the description of the debtor to be inserted in the bankruptcy order,

(b) the full title of the proceedings,

(c) the details of the debtor required to be included in any notice to be gazetted or otherwise advertised, or

(d) the details in respect of the debtor kept or to be entered on to the registers referred to in paragraph (3)(d) and (e),

as the case may be, must instead 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.

(5) Where the court makes an order under paragraph (3)(c)—

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- (a) the official receiver must as soon as reasonably practicable send notice of it to the Chief Land Registrar, for corresponding amendment of the register; and
- (b) if official receiver thinks fit, the official receiver may cause notice of the order to be—
  - (i) gazetted, or
  - (ii) both gazetted and given in such other manner as the official receiver thinks fit.
- (6) Any notice of the amendment of the title of the proceedings to be published in accordance with paragraph (5) must contain—
  - (a) the standard contents with the exception of the current address of the debtor,
  - (b) the amended title of the proceedings, and
  - (c) the date of the bankruptcy order,but must not include the description under which the proceedings were previously published.
- (7) In any case where an application is made in respect of a debtor under or by virtue of this Rule, the application must be accompanied by a witness statement referring to this Rule and containing sufficient evidence to satisfy the court that paragraph (1) of this Rule applies to or in respect of that debtor.”.

#### **Amendment to Rule 6.237A**

**418.**—(1) Rule 6.237A (application in respect of the vesting of an interest in a dwelling-house) is amended as follows.

- (2) In paragraph (2), for “7” substitute “5 business”.

#### **Amendment to Rule 6.238**

**419.**—(1) Rule 6.238 (interpretation of creditor and notice to member State liquidator) is amended as follows.

- (2) In paragraph (3), omit “, 6.99 (claim established by affidavit)”.

#### **Amendments to Rule 6.241**

**420.**—(1) Rule 6.241 (application for bankruptcy restrictions order) is amended as follows.

- (2) In paragraph (3), for “affidavit” substitute “a witness statement”.
- (3) Omit paragraph (5).

#### **Amendment to Rule 6.243**

**421.**—(1) Rule 6.243 (the bankrupt’s evidence) is amended as follows.

- (2) In paragraph (1), after “ 3” insert “business”.

#### **Amendment to Rule 6.245**

**422.**—(1) Rule 6.245 (application for interim bankruptcy restrictions order) is amended as follows.

- (2) Omit paragraph (3).

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#### **Amendment to Rule 6.246**

- 423.**—(1) Rule 6.246 (the case against the defendant) is amended as follows.  
(2) In paragraph (3), for “affidavit” substitute “a witness statement”.

#### **Amendments to Rule 6.248**

- 424.**—(1) Rule 6.248 (application to set aside an interim bankruptcy restrictions order) is amended as follows.  
(2) In paragraph (2), for “an affidavit” substitute “a witness statement”.  
(3) In paragraph (3)—  
(a) for “7” substitute “5 business”;  
(b) in sub-paragraph (d), for “affidavit” substitute “witness statement”.

#### **Amendments to Rule 6.251**

- 425.**—(1) Rule 6.251 (application under paragraph 9(3) of Schedule 4A to the Act(18) to annul a bankruptcy restrictions undertaking) is amended as follows.  
(2) In paragraph (1), for “an affidavit” substitute “a witness statement”.  
(3) In paragraph (2), for “affidavit” substitute “witness statement”.

#### **Amendments to Rule 6.253`**

- 426.**—(1) Rule 6.253 (application for debt relief restrictions order) is amended as follows.  
(2) In paragraph (3), for “an affidavit” substitute “a witness statement”.  
(3) Omit paragraph (5).

#### **Amendment to Rule 6.255**

- 427.**—(1) Rule 6.255 (the debtor’s evidence) is amended as follows.  
(2) In paragraph (1), after “ 3” insert “business”.

#### **Amendment to Rule 6.257**

- 428.**—(1) Rule 6.257 (application for interim debt relief restrictions order) is amended as follows.  
(2) Omit paragraph (3).

#### **Amendment to Rule 6.258**

- 429.**—(1) Rule 6.258 (the case against the debtor) is amended as follows.  
(2) In paragraph (3), for “an affidavit” substitute “a witness statement”.

#### **Amendments to Rule 6.260**

- 430.**—(1) Rule 6.260 (application to set aside an interim debt relief restrictions order) is amended as follows.  
(2) In paragraph (2), for “an affidavit” substitute “a witness statement”.  
(3) In paragraph (3)—

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(18) Schedule 4A was inserted by 2002 c. 40, s. 257(2) and Schedule 20.

- (a) for “7” substitute “5 business”;
- (b) in sub-paragraph (d), for “affidavit” substitute “witness statement”.

### **Amendments to Rule 6.263**

**431.**—(1) Rule 6.263 (application under paragraph 9(3)(a) of Schedule 4ZB to the Act<sup>(19)</sup> to annul a debt relief restrictions undertaking) is amended as follows.

- (2) In paragraph (1), for “an affidavit” substitute “a witness statement”.
- (3) In paragraph (2), for “affidavit” substitute “witness statement”.

### **Substitution of Rule 6A.2**

**432.** For Rule 6A.2 (entry of information onto the individual insolvency register – individual voluntary arrangements) substitute—

#### **“6A.2A Entry of information onto the individual insolvency register – individual voluntary arrangements**

- (1) This Rule applies where—
  - (a) a voluntary arrangement has been accepted by the debtor’s creditors; and
  - (b) the Secretary of State has received—
    - (i) information under Rule 5.29(1) sent pursuant to paragraph (3) of that Rule; and
    - (ii) notice under Rule 5.34, Rule 5.45 or Rule 5.50.
- (2) Subject to paragraph (3), the Secretary of State must enter onto the individual insolvency register—
  - (a) the name and address of the debtor;
  - (b) the date on which the arrangement was approved by the creditors;
  - (c) the debtor’s gender;
  - (d) the debtor’s date of birth;
  - (e) any name by which the debtor was or is known, not being the name in which the debtor has entered into the voluntary arrangement;
  - (f) as regards an arrangement other than under section 263A<sup>(20)</sup>, the name and address of the supervisor;
  - (g) as regards an arrangement under section 263A—
    - (i) that the official receiver is the supervisor; and
    - (ii) the address of the official receiver; and
  - (h) a statement whether the arrangement—
    - (i) was completed in accordance with its terms; or
    - (ii) failed.
- (3) Paragraph (4) applies where there is entered on the register information in respect of a voluntary arrangement—

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<sup>(19)</sup> Schedule 4ZB was inserted by 2007 c. 15, s. 108(2) and Schedule 19.

<sup>(20)</sup> Section 263A was inserted by 2002 c. 40, s. 264(1) and Schedule 22, paragraph 2.

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- (a) of which the Secretary of State had been notified prior to this Rule coming into force; and
  - (b) which has not been completed or terminated when this Rule comes into force.
- (4) The Secretary of State must maintain on the register the information that the Secretary of State was required to enter on to the individual insolvency register immediately prior to the coming into force of this Rule.
- (5) Paragraphs (2) and (4) are subject to Rules 5.67, 6A.3 and 6A.8.”.

### **Amendment to Rule 6A.3**

**433.**—(1) Rule 6A.3 (deletion of information from the individual insolvency register – individual voluntary arrangements) is amended as follows.

(2) At the end, after (not as part of) sub-paragraph (b), add “and in either case a period of 3 months has elapsed from the receipt of the notice”.

### **Amendments to Rule 6A.4**

**434.**—(1) Rule 6A.4 (entry of information onto the individual insolvency register – bankruptcy orders) is amended as follows.

(2) In paragraph (3)—

(a) in sub-paragraph (g) omit “and”;

(b) after sub-paragraph (h) add—

“; and

(i) where a bankruptcy order is 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) In paragraph (7), for “Rule 6A.5” substitute “Rules 6.235B, 6A.5 and 6A.8”.

### **Amendments to Rule 6A.5**

**435.**—(1) Rule 6A.5 (deletion of information from the individual insolvency register – bankruptcy orders) is amended as follows.

(2) At the end of sub-paragraph (a) add “and a period of 3 months has elapsed since notice of the annulment was given to the Secretary of State”.

(3) In sub-paragraph (c), for “he has received notice of the annulment” substitute “28 days have elapsed since notice of the annulment was given to the Secretary of State”.

(4) In sub-paragraph (d)—

(a) omit “and”, and

(b) at the end add “and 28 days have elapsed since receipt of the copy of the order”.

### **Amendment to Rule 6A.5A**

**436.**—(1) Rule 6A.5A (entry of information onto the individual insolvency register – debt relief orders) is amended as follows.

(2) In paragraph (1), for “Rule 6A.5B” substitute “Rules 5A.18, 6A.5B and 6A.8”.

### **Amendment to Rule 6A.6**

**437.**—(1) Rule 6A.6 (bankruptcy restrictions orders and undertakings – entry of information onto the bankruptcy restrictions register) is amended as follows.

(2) In paragraph (3), for “Rule 6A.7” substitute “Rules 6.235B, 6A.7 and 6A.8”.

### **Amendment to Rule 6A.7A**

**438.**—(1) Rule 6A.7A (debt relief restrictions orders and undertakings – entries of information onto the debt relief restrictions register) is amended as follows.

(2) In paragraph (1), for “Rule 6A.7B” substitute “Rules 5A.18, 6A.7B and 6A.8”.

### **Amendments to Rule 7.3**

**439.**—(1) Rule 7.3 (form and contents of application) is amended as follows.

(2) In paragraph (1)—

(a) for sub-paragraph (a) substitute—

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

(aa) the names of the parties;

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

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

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

(b) in sub-paragraph (b), for “relief” substitute “remedy”.

(3) Omit paragraph (2).

### **Amendments to Rule 7.3A**

**440.**—(1) Rule 7.3A (application under section 176A(5) to disapply section 176A) is amended as follows.

(2) In paragraph (1), for “an affidavit prepared and sworn” substitute “a witness statement”.

(3) In paragraph (2)—

(a) for “affidavit” substitute “witness statement”; and

(b) in sub-paragraph (d), for “insolvency practitioner” substitute “office-holder”.

### **Amendments to Rule 7.4**

**441.**—(1) Rule 7.4 (filing and service of application) is amended as follows.

(2) In paragraph (1), for “The application shall be filed in court” substitute “An application must be filed with the court”.

(3) For paragraph (2), substitute—

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

(a) it considers it is not appropriate to do so;

(b) the Rule under which the application is brought provides otherwise; or

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- (c) the case is one to which Rule 7.5A applies.”.
- (4) For paragraph (5), substitute—
  - “(5) An application must be served at least 14 days before the date fixed for its hearing unless—
    - (a) the provision of the Act or the Rules under which the application is made makes different provision; or
    - (b) the case is one of urgency, to which paragraph (6) applies.”.

#### **Amendment to Rule 7.4A**

- 442.—(1) Rule 7.4A (notice of application under section 176A(5)) is amended as follows.
- (2) For “insolvency practitioner who acts as such” substitute “office-holder who is acting”.

#### **Substitution of Rules 7.5, 7.6 and 7.7**

443. For Rules 7.5 (other hearings *ex parte*), 7.6 (hearing of application) and 7.7 (use of affidavit evidence) substitute—

##### **“7.5A Hearings without notice**

**7.5A** Where the relevant provisions of the Act or the Rules do not require service of the application on, or notice of it to be given to, any person—

- (a) the court may hear the application as soon as reasonably practicable without fixing a venue as required by Rule 7.4(2); or
- (b) it may fix a venue for the application to be heard in which case Rule 7.4 must apply to the extent that it is relevant;

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

##### **7.6A Hearing of application**

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

(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 precludes an application being made directly to the judge in a proper case.

#### **7.7A Witness statements – general**

(1) Subject to Rule 7.9, where evidence is required by the Act or the Rules as to any matter, such evidence may be provided in the form of a witness statement unless—

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

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

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

#### **Amendments to Rule 7.8**

**444.**—(1) Rule 7.8 (filing and service of affidavits) is amended as follows.

(2) In the heading, for “affidavits” substitute “witness statements”.

(3) In paragraph (1)—

(a) in each of sub-paragraphs (a) and (b)—

- (i) for “affidavit evidence” substitute “evidence in a witness statement”;
- (ii) for “the affidavit or affidavits (if more than one) in” substitute “the witness statement with the”; and
- (iii) omit “or copies”;

(b) in sub-paragraph (b), for “7” substitute “5 business”.

(4) Omit paragraph (2).

#### **Amendments to Rule 7.9**

**445.**—(1) Rule 7.9 (use of reports) is amended as follows.

(2) In paragraphs (1) and (2), for “an affidavit” wherever it appears substitute “a witness statement”.

(3) For paragraph (3) substitute—

“(3A) Where in insolvency proceedings a witness statement is made by an office-holder, the witness statement must state—

- (a) the capacity in which that office-holder is acting, and
- (b) the address at which that office-holder works.”.

#### **Amendments to Rule 7.10**

**446.**—(1) Rule 7.10 (adjournment of hearing; directions) is amended as follows.

(2) In paragraph (1), omit “(if any)”.

(3) In paragraph (2)—

- (a) in sub-paragraph (a), omit “, whether in connection with the venue of a resumed hearing or for any other purpose”;
- (b) in sub-paragraph (b), at the end add “including whether a hearing is necessary”; and

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- (c) omit sub-paragraph (c).
- (4) After paragraph (2) add—
  - “(3) The court may give directions as to the manner in which any evidence is to be adduced at a resumed hearing and in particular as to—
    - (a) the taking of evidence wholly or partly by witness statement or orally;
    - (b) the cross-examination of the maker of a witness statement; or
    - (c) any report to be made by an office-holder.”.

### **New Chapter in Part 7**

447. After Rule 7.10 insert—

“CHAPTER 1A  
BLOCK TRANSFER OF CASES WHERE  
INSOLVENCY PRACTITIONER HAS DIED ETC.

#### **7.10A Preliminary and interpretation**

- (1) The Rules in this Chapter relate to applications for a block transfer order.
- (2) In this Chapter—
  - “outgoing office-holder” has the meaning in Rule 7.10B(1),
  - “replacement office-holder” has the meaning in Rule 7.10B(1),
  - “block transfer order” has the meaning in Rule 7.10B(2),
  - “substantive application” is that part of the application in Rule 7.10C(1)(c) and (d).

#### **7.10B Power to make a block transfer order**

(1) This Rule applies where an individual who is acting as 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 of the Act),
- (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 of the Act), 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.

### **7.10C Application for a block transfer order**

(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 under paragraph (8);
  - (b) the transfer of the cases back to the court 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—
- (a) section 172(2) and Rule 7.10B(2) (winding up by the court);
  - (b) section 108 (voluntary liquidation);
  - (c) section 19, paragraph 88 of Schedule B1 to the Act and Rule 7.10B(2) (administration);
  - (d) section 298 and Rule 7.10B(2) (bankruptcy);
  - (e) section 7(5) and paragraph 39(6) of Schedule A1 to the Act (voluntary arrangement under Part 1 of the Act); and
  - (f) section 263(5) (voluntary arrangement under Part 8 of the Act).
- (3) The powers referred to in paragraph (1)(d) are—
- (a) section 168(3) and (5) and Rule 7.10B(2) (winding up by the court);
  - (b) section 108 (voluntary liquidation);
  - (c) section 13, paragraphs 63, 91 and 95 of Schedule B1 to the Act and Rule 7.10B(2) (administration);
  - (d) sections 298 and 303(2) and Rule 7.10B(2) (bankruptcy);
  - (e) section 7(5) and paragraph 39(6) of Schedule A1 to the Act (voluntary arrangement under Part 1 of the Act); and
  - (f) section 263(5) (voluntary arrangement 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

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- (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 a person permitted to apply to replace that office-holder under section 13 or paragraph 63, 91 or 95 of Schedule B1 to the Act is the applicant or is joined as applicant in respect of the replacement of that office-holder.
- (6) An applicant (other than the Secretary of State) must give notice of the application to the Secretary of State at least 5 business days before the hearing of the application.
- (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 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 having jurisdiction when the application is made,
  - (c) the case number (if any), and
  - (d) the capacity in which the outgoing office-holder was appointed.
- (9) The application must be supported by evidence—
  - (a) setting out the circumstances which gave rise to it being expedient to appoint a replacement office-holder; and
  - (b) exhibiting the written 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 a county court or more than one county court—
  - (a) the application may be made to a district judge of a convenient county court having insolvency jurisdiction; and
  - (b) this Rule applies with appropriate modifications.

#### **7.10D Action following application for a block transfer order**

- (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 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 lodged

with the court having jurisdiction over each case affected by such order for filing on the court file relating to that case.

(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 to the Act, 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) Any appointment made under this Rule must be notified—

- (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 7.10C(10) this Rule applies with appropriate modifications.”.

#### **Amendment to Rule 7.11**

**448.**—(1) Rule 7.11 (general power of transfer) is amended as follows.

(2) After paragraph (4) insert—

“(4A) Solely for the purposes of Rule 7.10D (action following application for a block transfer order)—

- (a) the registrar may transfer to or from the High Court; and
- (b) the district judge of the county court to which the application is made may transfer to or from that county court,

any case in the schedule under Rule 7.10C(8).”.

#### **Amendment to Rule 7.14**

**449.**—(1) Rule 7.14 (procedure following order for transfer) is amended as follows.

(2) Omit paragraph (4).

#### **Amendments to Rule 7.15**

**450.**—(1) Rule 7.15 (consequential transfer of other proceedings) is amended as follows.

(2) In paragraph (1)—

(a) for sub-paragraph (a), substitute—

“(a) the High Court has—

- (i) made a bankruptcy order;

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- (ii) made a winding-up order;
  - (iii) appointed a provisional liquidator; or
  - (iv) appointed an interim receiver; or”; and
- (b) omit sub-paragraph (b).
- (3) In paragraph (4)—
- (a) for “general or special” substitute “the”; and
  - (b) for “registrar of that court” substitute “district judge”.

#### **Amendments to Rule 7.16**

- 451.**—(1) Rule 7.16 (nomination and appointment of shorthand writers) is amended as follows.
- (2) In paragraph (1)—
- (a) after “the judge” insert “or registrar”;
  - (b) for “the registrar” substitute “a district judge”.
- (3) In paragraph (3), omit “; and that appointment shall be made, unless the court otherwise orders”.

#### **Amendment to Rule 7.19**

- 452.**—(1) Rule 7.19 (enforcement of court orders) is amended as follows.
- (2) After paragraph (2), add—
- “(3) Where a warrant for the arrest of a person is issued by the High Court, the warrant may be discharged by the county court where the person who is the subject of the warrant—
- (a) has been brought before a county court exercising insolvency jurisdiction; and
  - (b) has given to the county court an undertaking which is satisfactory to the county court to comply with the obligations that apply to that person under the Act or the Rules.”.

#### **Amendment to Rule 7.21**

- 453.**—(1) Rule 7.21 (warrants (general provisions)) is amended as follows.
- (2) In paragraph (2)(b), for “registrar” substitute “district judge”.

#### **Amendments to Rule 7.22**

- 454.**—(1) Rule 7.22 (warrants under ss 134, 364) is amended as follows.
- (2) After “a person” insert “(“the arrested person”); and
- (3) For paragraph (a) substitute—
- “(a) the officer apprehending the arrested person must give that 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”.

### **Amendments to Rule 7.23**

**455.**—(1) Rule 7.23 (warrants under ss 236, 366) is amended as follows.

(2) In paragraph (1), after “bankruptcy” insert “(“the arrested person”)”.

(3) In paragraph (2), after “warrant” insert “(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)”.

### **Amendment to Rule 7.24**

**456.**—(1) Rule 7.24 (execution of warrants outside court’s district) is amended as follows.

(2) In paragraph (2), for “registrar of any other” substitute “district judge of another”.

### **Substitution of Rules 7.26 to 7.31**

**457.** For Rules 7.26 to 7.31 (court records, returns and file) substitute—

#### **“Court file**

**7.31A.**—(1) The court must open and maintain a file in any case where documents are filed with it under the Act or the Rules.

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

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

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

(4) The same right to inspect or obtain a copy of, or a copy of any document or documents contained in, the file opened in accordance with paragraph (1) 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 with respect to a voluntary arrangement under Part 8 of the Act, by the debtor;
- (c) in bankruptcy proceedings, by—
  - (i) the bankrupt;
  - (ii) any person against whom a bankruptcy petition has been presented;
  - (iii) any person who has, in accordance with Chapter 1 of Part 6, been served with a statutory demand;
- (d) in proceedings relating to a debt relief order, by the debtor.

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

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

(7) 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.

(8) An application for a direction under paragraph (7) may be made by—

- (a) the official receiver;
- (b) the officer-holder in the proceedings; or
- (c) any person appearing to the court to have an interest.

(9) Where any person wishes to exercise the right to inspect the file under paragraph (3), (4), (5) or (6), that person—

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

(10) Where any person wishes to exercise the right to obtain a copy of a document under paragraph (3), (4), (5) or (6), that person must pay any prescribed fee and—

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

(11) An application for—

- (a) permission to inspect the file or obtain a copy of a document under paragraph (6); or
- (b) a direction under paragraph (7),

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

(12) If for the purposes of powers conferred by the Act or the Rules, the Secretary of State or the official receiver requests the transmission of the file of any insolvency proceedings, the court must comply with the request (unless the file is for the time being in use for the court's own purposes).”.

#### **Substitution of Rules 7.33 and 7.34**

**458.** For Rules 7.33 (application of the CPR) and 7.34 (requirement to assess costs by the detailed procedure) substitute—

#### **“7.33A Application of Chapter 6**

- (1) This chapter applies in relation to costs in connection with insolvency proceedings.
- (2) In this chapter a reference to costs includes charges and expenses.

### **7.34A Requirement to assess costs by the detailed procedure**

(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 such agreement as is mentioned in paragraph (1), the office-holder—

- (a) may serve notice requiring that person 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 provided that person undertakes in writing—

- (a) to repay as soon as reasonably practicable any money which may, when detailed assessment is made, prove to have been overpaid; and
- (b) to pay interest on any such sum as is mentioned in sub-paragraph (a) at the rate specified in section 17 of the Judgments Act 1838(21) 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 44.4 (basis of assessment); and
- (b) CPR rule 44.5 (factors to be taken into account when deciding the amount of costs)."

### **Amendments to Rule 7.35**

**459.**—(1) Rule 7.35 (procedure where detailed assessment required) is amended as follows.

(2) In paragraph (1)—

- (a) for “a responsible insolvency practitioner” substitute “the office-holder”; and
- (b) for “the insolvency practitioner” substitute “the office-holder”.

(3) In paragraphs (3), (4) and (5), for “insolvency practitioner” substitute “office-holder”.

### **Amendments to Rule 7.36**

**460.**—(1) Rule 7.36 (costs of officers charged with execution of writs or other process) is amended as follows.

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(21) 1838 c. 110.

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- (2) In paragraph (1), for “responsible insolvency practitioner” substitute “office-holder”.
- (3) In paragraph (3), for “insolvency practitioner” substitute “office-holder”.

#### **Substitution of Rule 7.37**

**461.** For Rule 7.37 (petitions presented by insolvents) substitute—

##### **“7.37A Petitions presented by insolvents**

(1) This Rule applies where—

- (a) a winding-up petition is presented by a company against itself;
- (b) a bankruptcy petition is presented by a debtor against that debtor,

and references in this Rule to “the insolvent” are to be read as a reference to the company or the debtor.

(2) A solicitor acting in either of the cases mentioned in paragraph (1) must in the solicitor’s bill of costs give credit for any sum or security received by the solicitor as a deposit from the insolvent 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 of a kind mentioned in paragraph (1) and prior to the presentation of that petition a petition had been presented by a creditor, no costs are allowed to the insolvent or that insolvent’s solicitor out of that insolvent’s estate unless the court considers that—

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

#### **Amendment to Rule 7.39**

**462.**—(1) Rule 7.39 (award of costs against official receiver or responsible insolvency practitioner) is amended as follows.

(2) For “the official receiver or a responsible insolvency practitioner” substitute “an office-holder or the official receiver where that official receiver is not acting as an office-holder”.

#### **Amendments to Rule 7.40**

**463.**—(1) Rule 7.40 (applications for costs) is amended as follows.

- (2) In paragraph (2), for “responsible insolvency practitioner” substitute “office-holder”.
- (3) In paragraph (3), for “insolvency practitioner” substitute “office-holder”.

#### **Amendments to Rule 7.44**

**464.**—(1) Rule 7.44 (appointment of another person to act) is amended as follows.

- (2) In paragraph (3)(d), for “responsible insolvency practitioner” substitute “office-holder”.
- (3) In paragraph (4), for “*ex parte*” substitute “without notice to any other party”.

#### **Substitution of Rule 7.45**

**465.** For Rule 7.45 (affidavit in support of application) substitute—

**“7.45A Witness statement in support of application**

**7.45A** An application under Rule 7.44(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.”.

**Amendments to Rule 7.47**

- 466.**—(1) Rule 7.47 (appeals and reviews of court orders (winding up)) is amended as follows.
- (2) In the heading, for “(winding up)” substitute “in corporate insolvency”.
- (3) In paragraph (1), for “under the Act to wind up companies” substitute “for the purposes of Parts 1 to 4 of the Act and Parts 1 to 4 of the Rules.”.
- (4) For paragraph (2) substitute—
- “(2) Appeals in civil matters in proceedings under Parts 1 to 4 of the Act and Parts 1 to 4 of the 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.”.
- (5) In paragraph (3), for “to wind up companies” substitute “for the purposes of Parts 1 to 4 of the Act and Parts 1 to 4 of the Rules”.
- (6) In paragraph (4), for “7” substitute “5 business”.

**Amendments to Rule 7.48**

- 467.**—(1) Rule 7.48 (appeals in bankruptcy) is amended as follows.
- (2) In the heading, after “bankruptcy” add “by the Secretary of State”.
- (3) Omit paragraph (2).

**Substitution of Rule 7.49**

**468.** For Rule 7.49 (procedure on appeal) substitute—

**“7.49A Procedure on appeal**

- (1) An appeal against a decision at first instance may only be brought with either the permission of the court which made the decision or the permission of the court which has jurisdiction to hear the appeal.
- (2) An appellant must file an appellant’s notice (within the meaning of CPR Part 52) within 21 days after the date of the decision of the court that the appellant wishes to appeal.
- (3) The procedure set out in CPR Part 52 applies to any appeal to which this Chapter applies.”.

**Substitution of Rule 7.51**

**469.** For Rule 7.51 (principal court rules and practice to apply) substitute—

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**“Principal court rules and practice to apply**

**7.51A.**—(1) The provisions of the CPR in the first column of the table in this Rule (including any related practice direction) apply to insolvency proceedings by virtue of the provisions of these Rules set out in the second column with any necessary modifications, except so far as inconsistent with these Rules.

<i>Provisions of CPR</i>	<i>Provisions of these Rules</i>
CPR Part 6 (except 6.30 to 6.51) (service of Chapter 3 of Part 12A documents)	
CPR Part 18 (further information)	Rules 7.60 and 9.2(3)(b)
CPR Part 31 (disclosure and inspection of documents)	Rules 7.60 and 9.2
CPR Part 37 (miscellaneous provisions about payments into court)	Rule 7.59
CPR Parts 44 and 47 (costs)	Chapter 6 of Part 7
CPR Part 52 (appeals)	Rule 7.49

(2) Subject to paragraph (3), the provisions of the CPR (including any related practice direction) not referred to in the table apply to proceedings under the Act and Rules with any necessary modifications, except so far as inconsistent with these Rules.

(3) 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 allocation questionnaires and track allocation do not apply.

(4) 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.”.

**Amendment to Rule 7.52**

**470.**—(1) Rule 7.52 (right of audience) is amended as follows.

(2) Omit paragraph (2).

**Amendments to Rule 7.56**

**471.**—(1) Rule 7.56 (restriction on concurrent proceedings and remedies) is amended as follows.

(2) For the heading substitute “Service of orders staying proceedings”.

(3) For “plaintiff” substitute “claimant”.

**Amendment to Rule 7.59**

**472.**—(1) Rule 7.59 (payment into court) is amended as follows.

(2) For “The CPR” to “security for costs” substitute “CPR Part 37 (miscellaneous provisions about payments into court)”.

**Amendments to Rule 7.62**

**473.**—(1) Rule 7.62 (application for confirmation) is amended as follows.

(2) In paragraph (1), after “section 89 has been made” insert “(or is deemed not to have been made in accordance with section 96)”.

(3) In paragraph (2), for “and verified by affidavit” substitute “supported by a witness statement”.

(4) At the end of paragraph (8) add—

“except that the material to be filed with the court under paragraph (3) must be a copy of the notice of moving from administration to creditors’ voluntary liquidation sent by the administrator for the purposes of paragraph 83(3) that has been registered by the registrar of companies, together with the statement of affairs required under paragraph 47 of Schedule B1 to the Act.”.

#### **Amendments to Rule 7.64**

**474.**—(1) Rule 7.64 (interpretation of creditor) is amended as follows.

(2) For paragraph (2), substitute—

“(2) The member State liquidator has the same right to inspect or obtain from the court a copy of, or a copy of any document or documents contained in, the court file relating to the insolvency proceedings that is opened and maintained by the court under Rule 7.31A(1) as a creditor has under Rule 7.31A(3) and may appear at any hearing relating to those proceedings.”.

(3) Omit paragraph (3).

(4) In paragraph (4), for “Paragraphs (2) and (3) are” substitute “Paragraph (2) is”.

#### **Amendments to Rule 8.5**

**475.**—(1) Rule 8.5 (right of inspection) is amended as follows.

(2) In paragraph (1), for “responsible insolvency practitioner” substitute “office-holder”.

(3) After paragraph (4) add—

“(5) This Rule is subject to Rule 12A.51 (confidentiality of documents – grounds for refusing inspection).”.

#### **Amendment to Rule 8.7**

**476.**—(1) Rule 8.7 (company representation) is amended as follows.

(2) In paragraph (1), omit “under section 323 of the Companies Act”.

#### **Amendment to Rule 9.1**

**477.**—(1) Rule 9.1 (preliminary) is amended as follows.

(2) For paragraph (1), substitute—

“(1) The Rules in this Part apply to applications to the court for an order under—

- (a) section 236 (inquiry into company’s dealings),
- (b) section 251N(22) (debt relief orders – inquiry into dealings and property of debtor), or
- (c) section 366 (inquiry into bankruptcy, with respect to the bankrupt’s dealings – including section 366 as it applies by virtue of section 368).”.

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(22) Section 251N was inserted by 2007 c. 15, s. 108(1) and Schedule 17.

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### **Amendments to Rule 9.2**

- 478.**—(1) Rule 9.2 (form and contents of application) is amended as follows.
- (2) In paragraph (1), for “, and be accompanied by a brief statement of” substitute “and specify”.
  - (3) For paragraph (2), substitute—
    - “(2) The application must specify the name of the respondent.”.
  - (4) In paragraph (3)(c)—
    - (a) for “affidavits” substitute “witness statements”; and
    - (b) for “which he is required to swear” substitute “be included”.
  - (5) In paragraph (4), for “*ex parte*” substitute “without notice to any other party”.

### **Amendment to Rule 9.3**

- 479.**—(1) Rule 9.3 (order for examination, etc.) is amended as follows.
- (2) In paragraph (3), for “affidavits” wherever it appears substitute “witness statements”.

### **Amendments to Rule 9.4**

- 480.**—(1) Rule 9.4 (procedure for examination) is amended as follows.
- (2) For paragraph (2), substitute—
    - “(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) In paragraph (3), for “on affidavit” substitute “in a witness statement”.
  - (4) Omit paragraph (4).

### **Amendment to Rule 9.5**

- 481.**—(1) Rule 9.5 (record of examination) is amended as follows.
- (2) For paragraphs (1) to (3) substitute—
    - “(1) Unless the court otherwise directs, the written record of questions put to the respondent and the respondent’s answers, and any witness statements submitted by the respondent in compliance with an order of the court under the applicable section, are not to be filed with the court.
    - (2) The documents set out in paragraph (3) are not open to inspection without an order of the court, by any person other than—
      - (a) the applicant for an order under the applicable section, or
      - (b) any person who could have applied for such an order in respect of the affairs of the same insolvent.
    - (3) The documents to which paragraph (2) applies are—
      - (a) the written record of the respondent’s examination;
      - (b) copies of questions put to the respondent or proposed to be put to the respondent and answers to questions given by the respondent;

- (c) any witness statement by the respondent; and
- (d) any document on the court file as shows the grounds for the application for an order.”.

#### **Amendment to Rule 10.2**

- 482.**—(1) Rule 10.2 (persons entitled to act on official receiver’s behalf) is amended as follows.
- (2) In paragraph (2), for “of the court” substitute “or district judge”.

#### **Amendments to Part 11**

**483.**—(1) Rules 11.1 to 11.12 (declaration and payment of dividend (winding up and bankruptcy)) are amended as follows.

- (2) For “responsible insolvency practitioner” or “insolvency practitioner” wherever either appears substitute “office-holder”.

#### **Amendment to Rule 11.1**

- 484.**—(1) Rule 11.1 (preliminary) is amended as follows.
- (2) In paragraph (2)(b) omit “, or who are identified in the insolvent’s statement of affairs”.

#### **Amendments to Rule 11.2**

- 485.**—(1) Rule 11.2 (notice of intended dividend) is amended as follows.
- (2) In paragraph (1B), after “notice” insert “which has been gazetted”.
- (3) After paragraph (1B) insert—
- “(1C) In addition to the standard contents, a notice under paragraph (1A) must—
  - (a) state that the office-holder intends to declare a first dividend; and
  - (b) specify the date by which and place at which proofs must be lodged.”.
- (4) In paragraph (3), for “4” substitute “2”.

#### **Amendment to Rule 11.3**

- 486.**—(1) Rule 11.3 (final admission/rejection of proofs) is amended as follows.
- (2) In paragraph (1), for “7” substitute “5 business”.

#### **Amendment to Rule 11.4**

- 487.**—(1) Rule 11.4 (postponement or cancellation of dividend) is amended as follows.
- (2) For “4” substitute “2”.

#### **Amendment to Rule 11.5**

- 488.**—(1) Rule 11.5 (decision to declare dividend) is amended as follows.
- (2) In paragraph (1), for “4-month” substitute “2-month”.

#### **Amendment to Rule 11.6**

- 489.**—(1) Rule 11.6 (notice of declaration) is amended as follows.

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(2) After paragraph (2) insert—

“(2A) Where, in a winding up other than a members’ voluntary winding up, the liquidator proposes to declare a dividend to unsecured creditors, the notice must also state the value of the prescribed part, except where the court has made an order under section 176A(5).”.

#### **Amendment to Rule 11.12**

**490.**—(1) Rule 11.12 (preferential creditors) is amended as follows.

(2) In paragraph (2)—

- (a) for “public advertisement” substitute “notice”;
- (b) for “given” where it appears second substitute “gazetted”.

#### **Amendment to Rule 12.1**

**491.**—(1) Rule 12.1 (power of Secretary of State to regulate certain matters) is amended as follows.

(2) In paragraph (1)(c), for “insolvency practitioner” substitute “office-holder”.

#### **Amendment to Rule 12.18**

**492.**—(1) Rule 12.18 (false claim of status as creditor etc) is amended as follows.

(2) In paragraph (1), for “a responsible insolvency practitioner” substitute “an office-holder”.

#### **Amendments to Rule 13.2**

**493.**—(1) Rule 13.2 (“the court”; “the registrar”) is amended as follows.

(2) In paragraph (1), after “judge” insert “, district judge”.

(3) In paragraph (2), after “registrar” insert “or district judge”.

(4) For paragraphs (3) to (5) substitute—

“(3A) “The registrar” means—

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

#### **Amendment to Rule 13.3**

**494.**—(1) Rule 13.3 (“give notice”, etc) is amended as follows.

(2) Omit paragraphs (1) to (3).

#### **Amendment to Rule 13.6**

**495.**—(1) Rule 13.6 (“venue”) is amended as follows.

(2) At the end add, “or to the time and date for a meeting which is held in accordance with section 246A or 379A(23) without any place being specified for it.”.

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(23) Sections 246A and 379A were inserted by [S.I. 2010/18](#).

### **Amendments to Rule 13.9**

- 496.**—(1) Rule 13.9 (“responsible insolvency practitioner”, etc) is amended as follows.
- (2) In paragraph (1)—
- (a) in each of sub-paragraphs (a) and (b), after “person” insert “(other than the official receiver)”;
  - (b) omit sub-paragraph (c).
- (3) Omit paragraph (2).

### **New Rule after Rule 13.9**

- 497.** After Rule 13.9 insert—

#### **“13.9A Office-holder**

**13.9A** “Office-holder” means in relation to insolvency proceedings any person who by virtue of any provision of the Act or the Rules holds an office in relation to those proceedings.”.

### **Amendments to Rule 13.12**

- 498.**—(1) Rule 13.12 (“debt”, “liability” (winding up)) is amended as follows.
- (2) For paragraph (1)(a) substitute—
- “(a) any debt or liability to which the company is subject—
    - (i) in the case of a winding up which was not immediately preceded by an administration, at the date on which the company went into liquidation;
    - (ii) in the case of a winding up which was immediately preceded by an administration, at the date on which the company entered administration.”.
- (3) For paragraph (2)(a) substitute—
- “(a) the cause of action has accrued—
    - (i) in the case of a winding up which was not immediately preceded by an administration, at the date on which the company went into liquidation;
    - (ii) in the case of a winding up which was immediately preceded by an administration, at the date on which the company entered administration.”.
- (4) In paragraph (5), for “references to winding up were a reference to administration” substitute—
- “(a) references to winding up were references to administration,
  - (b) references to administration were references to winding up,
  - (c) references to going into liquidation were references to entering administration, and
  - (d) references to entering administration were references to going into liquidation.”.

### **Amendments to Rule 13.13**

- 499.**—(1) Rule 13.13 (expressions used generally) is amended as follows.
- (2) In paragraph (1)—
- (a) for “Great Britain” substitute “England and Wales”;
  - (b) omit from “except” to the end.

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- (3) After paragraph (2), insert—
- “(2A) “Duly authorised representative” means, in relation to a corporation, a person who is authorised by or under the constitution of the corporation to act on behalf of the corporation; and like expressions are to be construed accordingly.”
- (4) In paragraph (4A), for “to advertise” substitute “advertised”.
- (5) After paragraph (4A) insert—
- “(4B) “Standard contents” means—
- (a) in relation to a notice to be gazetted, the contents specified in Rules 12A.33 to 12A.35; and
- (b) in relation to a notice to be advertised in any other way, the contents specified in Rules 12A.38 to 12A.40.”
- (6) In paragraphs (10), (12) and (14) omit “and Scotland”.
- (7) After paragraph (14) insert—
- “(14A) “Winding-up proceedings” means winding-up proceedings within the meaning of Article 2(c) of the EC Regulation as listed under the United Kingdom entry in Annex B of that Regulation, except for bankruptcy and sequestration proceedings.”
- (8) In paragraph (15), after “section 176A(2)(a)” add “and the Insolvency Act 1986 (Prescribed Part) Order 2003(24)”.
- (9) After paragraph (15) add—
- “(16) A “certificate of service” means a certificate of service verified by a statement of truth.
- (17) A “statement of truth” means a statement of truth in accordance with CPR Part 22.
- (18) A “witness statement” means a witness statement verified by a statement of truth in accordance with CPR Part 22.
- (19) A fee or remuneration is charged when the work to which it relates is done.”

#### **New Rule after Rule 13.14**

**500.** After Rule 13.14 add—

#### **“13.15 Application of Insolvency Act 1986 and Company Directors Disqualification Act 1986**

**13.15** For the purposes of these Rules, any reference in the Act or the Company Directors Disqualification Act 1986(25) to “leave” of the court is to be construed as meaning “permission” of the court.”

#### **Amendments to Schedule 2**

**501.**—(1) Schedule 2 (alternative courts for debtors’ petitions in bankruptcy) is amended as follows.

(2) In column 1 (*Debtor’s own county court*), omit “Bangor” and the corresponding entry in column 2 (*Nearest full-time court*) “Birkenhead or Chester”.

(3) In column 1 (*Debtor’s own county court*), omit “Bridgewater” and the corresponding entry in column 2 (*Nearest full-time court*) “Bristol”.

(24) S.I. 2003/2097.

(25) 1986 c. 46.

(4) In column 1 (*Debtor's own county court*), after “Bridgend” insert “Bury” and insert “Bolton” as a corresponding entry in column 2 (*Nearest full-time court*).

(5) In column 1 (*Debtor's own county court*), omit “Great Yarmouth” and the corresponding entry in column 2 (*Nearest full-time court*) “Norwich”.

(6) In column 1 (*Debtor's own county court*), after “Milton Keynes” insert “Mold” and insert “Wrexham” as a corresponding entry in column 2 (*Nearest full-time court*).

(7) In column 1 (*Debtor's own county court*), omit “Portmadoc” and the corresponding entry in column 2 (*Nearest full-time court*) “Birkenhead or Stoke or Chester”.

(8) In column 1 (*Debtor's own county court*), omit “Rochdale” and the corresponding entry in column 2 (*Nearest full-time court*) “Oldham or Manchester”.

(9) In column 1 (*Debtor's own county court*), omit “West Bromwich” and the corresponding entry in column 2 (*Nearest full-time court*) “Birmingham”.

(10) In column 1 (*Debtor's own county court*), omit “Workington” and the corresponding entry in column 2 (*Nearest full-time court*) “Preston or Blackpool”.

#### **Amendments to Schedule 4 – general amendments**

**502.**—(1) Schedule 4 (forms) is amended as follows.

(2) Omit—

(a) Forms 1.1 to 1.4, 1.11, 1.12, 1.14, 1.16, 1.18, 2.3B, 2.11B, 2.16B, 2.17B, 2.27B to 2.29B, 2.31B, 2.33B to 2.36B, 2.39B, 2.40B, 3.3 to 3.5, 3.7, 3.8, 3.10, 4.4, 4.5, 4.15A, 4.20, 4.26, 4.31, 4.33, 4.35, 4.38, 4.40, 4.43, 4.44, 4.46, 4.48 to 4.51, 4.68, 4.69, 4.71, 4.72, 5.5, 6.39, 6.53, 7.3 to 7.15, 7.17 to 7.19 and 12.1, and

(b) the references to them—

(i) in the Forms index, and

(ii) where they appear in marginal notes to the Rules.

(3) Where a form (other than a form referred to in paragraph 558 of this Schedule) refers to a Rule which is substituted by a new Rule set out in this Schedule, that form is amended by substituting the number of the new Rule for the number of the old Rule.

(4) In every form (other than the forms referred to in paragraph 558 of this Schedule), for “leave” wherever it appears substitute “permission”.

(5) Where a form (other than a form referred to in paragraph 558 of this Schedule) provides for insertion of the place where a meeting is to be held and the meeting is to be conducted and held in accordance with section 246A(3) and (7) or section 379A(2) and (6) without a place being specified for the meeting, the person completing the form must instead insert the arrangements the convener proposes to enable persons to exercise their rights to speak or vote.

(6) Where a form (other than a form referred to in paragraph 558 of this Schedule) provides for insertion of the place where a meeting was held and the meeting was conducted and held in accordance with section 246A(3) and (7) or section 379A(2) and (6) without a place being specified for the meeting, the person completing the form must instead insert a statement that the meeting was so held.

#### **Amendments to Schedule 4 – amendments to particular forms**

**503.**—(1) In each of Forms 4.15, 4.29, 4.30, 4.34, 4.39, 4.60, 4.61, 4.64, 4.66, 4.67, 5.7, 5.8, 6.22, 6.32, 6.42, 6.43, 6.45, 6.48, 6.54, 6.55, 6.57, 6.59, 6.60, 6.65, 6.66, 6.67, 6.68, 6.69, 6.70, 6.71, 6.72 and 6.73 omit—

(a) “Mr Registrar” or, as the case may be, “Mr Registrar/District Judge”, and

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- (b) “in chambers”.
- (2) When an order of court is set out on one of those forms or on Form 6.15A or 7.20A—
  - (a) the name of the judge or registrar making the order, and
  - (b) if the order was made in chambers, a statement to that effect,
 must be included on the form immediately after the title of the proceedings or, in the case of Form 7.20A, immediately after the word “Order” at the top of the final page of that form.

**504.**—(1) Form 1.6 is amended as follows.

- (2) For “The pages attached hereto” to “Date” substitute—

**Statement of truth**

I believe that the facts stated in this Statement of Affairs are true.

**Full name** .....

**Signed**.....

**Signed**.....

**Dated**.....

- (3) Omit notes (c) and (d).

**505.**—(1) Form 2.1B is amended as follows.

- (2) In note (k), after “main” insert “, secondary”.
- (3) In paragraphs 7 and 8, omit “\*affidavit”.
- (4) In paragraph 10, for “An affidavit” substitute “A”.

**506.**—(1) Form 2.4B is amended as follows.

- (2) In note (g), after “main” insert “, secondary”.

**507.**—(1) Form 2.5B is amended as follows.

- (2) In note (g), after “main” insert “, secondary”.

**508.**—(1) For 2.6B is amended as follows.

- (2) In note (f), after “main” insert “, secondary”.

**509.**—(1) Form 2.7B is amended as follows.

- (2) In note (f), after “main” insert “, secondary”.

**510.**—(1) Form 2.8B is amended as follows.

- (2) In note (d), after “main” insert “, secondary”.

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- 511.—(1) Form 2.9B is amended as follows.
- (2) In note (c), after “main” insert “, secondary”.

- 512.—(1) Form 2.10B is amended as follows.
- (2) In note (c), after “main” insert “, secondary”.

- 513.—(1) Forms 2.12B, 2.18B, 2.22B, 2.23B, 2.24B, 2.26B, 2.30B, 2.32B and 2.38B are each amended as follows.
- (2) Omit from “Contact details” to the end.

- 514.—(1) Form 2.25B is amended as follows.
- (2) At the end of the sentence “It must be accompanied by details in writing of your claim” add “unless those details have already been submitted for the purpose of a meeting of creditors”.

- 515.—(1) Form 3.2 is amended as follows.
- (2) For “Affidavit” to “and will necessitate its being re-sworn/re-affirmed.” substitute—

**Statement of truth**

I believe that the facts stated in this Statement of Affairs are true.

**Full name** .....

**Signed**.....

**Signed**.....

**Dated**.....

- 516.—(1) Form 3.6 is amended as follows.
- (2) Omit—
  - (a) “To the Registrar of Companies”;
  - (b) “\*Administrative Receivership only”;
  - (c) “\*To the company”;
  - (d) “\*To the members of the creditors’ committee”;
  - (e) “\*To the appointor of administrative receiver”;
  - (f) “Presenter’s name, address and reference (if any)”;
  - (g) the box headed “For Official Use”.

- 517.—(1) Form 4.1 is amended as follows.
- (2) At the end add—

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“

**NOTE: The company has the right to make an application to the court(\*) for an injunction restraining the creditor from presenting a winding-up petition or from advertising it.**

(\*) The court to which an application should be made is the court having jurisdiction to wind up the company under section 117 of the Insolvency Act 1986.

”

**518.**—(1) Form 4.2 is amended as follows.

(2) In paragraph (7), for “affidavit” substitute “statement of truth”.

(3) In note (k), for “swearing affidavit” substitute “making the statement of truth”.

(4) After paragraph (7) insert—

“

(7A) (j)[A statutory demand was served on the company on (l). More than 4 months have elapsed between the service of the statutory demand and the presentation of this petition for the reasons set out in the statement of truth of (k) filed in support hereof.]

”

(5) After note (l) insert—

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“

(II) Insert date of service

”

**519.**—(1) Form 4.8 is amended as follows.

(2) Omit “ex parte”.

(3) After “application” insert “without notice to any other party”.

**520.**—(1) Form 4.14 is amended as follows.

(2) In paragraph (7), for “affidavit” substitute “statement of truth”.

(3) In note (h), for “swearing affidavit” substitute “making the statement of truth”.

**521.**—(1) Form 4.17 is amended as follows.

(2) For “Affidavit” to “and will need to be re-sworn.” substitute—

“

**Statement of truth**

I believe that the facts stated in this Statement of Affairs are true.

**Full name** .....

**Signed**.....

**Dated**.....

”

**522.**—(1) Form 4.18 is amended as follows.

(2) For “Affidavit” to “and will need to be re-sworn.” substitute—

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“

**Statement of truth**

I believe that the facts stated in this Statement of Affairs are true.

**Full name** .....

**Signed**.....

**Dated**.....

”

**523.**—(1) Form 4.19 is amended as follows.

(2) For “Affidavit” to “and will need to be re-sworn.” substitute—

“

**Statement of truth**

I believe that the facts stated in this Statement of Affairs are true.

**Full name** .....

**Signed**.....

**Dated**.....

”

**524.**—(1) Forms 4.22 and 4.23 are amended as follows.

(2) In note (c)—

(a) for “which should not be more than four days” substitute “(12.00 hours on the business day”, and

(b) after “meeting” insert a closing bracket.

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- 525.—(1) Form 4.56 is amended as follows.
- (2) In the title, for “Affidavit” substitute “Witness Statement”
  - (3) For “make oath and say” substitute “state”.
  - (4) For “Sworn at” substitute—

“  
**Statement of truth**

I believe that the facts stated in this Witness Statement of are true.

**Full name** .....

**Signed**.....

**Dated**.....

”

- 526.—(1) Form 4.65 is amended as follows.
- (2) In the title, for “Affidavit of Verification of” substitute “Statement of Truth Verifying”.
  - (3) For “Make oath and say” substitute “state”.
  - (4) For “Sworn at” substitute—

“  
**Statement of truth**

I believe that the facts stated in this Statement of Truth are true.

**Full name** .....

**Signed**.....

**Dated**.....

”

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**527.**—(1) Form 4.70 is amended as follows.

(2) Omit “To the Registrar of Companies”.

**528.**—(1) Form 5.2 is amended as follows.

(2) In the paragraph commencing “It is ordered”, for—

(a) “during” where it appears first substitute “from the making of this order until the end of”;

(b) “with” substitute “on”.

**529.** Form 5.4 is amended as follows.

(1) In the second paragraph of the “**NOTICE TO DEBTOR**”, for “at HM Land Registry is cancelled” substitute—

“in the register of pending actions at the Land Charges Department of HM Land Registry and any entries in respect of the petition in any registered titles at HM Land Registry are cancelled. You should contact the Land Charges Department, Registration (Bankruptcy) Section, Plumer House, Tailyour Road, Crownhill, Plymouth PL6 5HY for the former, and Land Registry Bankruptcy Unit, Land Registry Nottingham Office, Chalfont Drive, Nottingham NG8 3RN for the latter. Further information is contained in Land Registry Public Guide PG010 which is available on their website [www.landregistry.gov.uk](http://www.landregistry.gov.uk).”.

**530.**—(1) Form 5.6 is amended as follows.

(2) Omit—

(a) from “The report” to “of 20.”, and

(b) note (k).

**531.**—(1) Form 5.7 is amended as follows.

(2) In paragraph 2 of the “**Notice to bankrupt**”, for “HM Land Registry is cancelled” substitute—

“in the register of pending actions at the Land Charges Department of HM Land Registry and any entries in respect of the petition in any registered titles at HM Land Registry are cancelled. You should contact the Land Charges Department, Registration (Bankruptcy) Section, Plumer House, Tailyour Road, Crownhill, Plymouth PL6 5HY for the former, and Land Registry Bankruptcy Unit, Land Registry Nottingham Office, Chalfont Drive, Nottingham NG8 3RN for the latter. Further information is contained in Land Registry Public Guides PG010 and PG011 which are available on their website [www.landregistry.gov.uk](http://www.landregistry.gov.uk).”.

**532.**—(1) Form 5.8 is amended as follows.

(2) In paragraph 2 of the “**Notice to bankrupt**”, for “HM Land Registry is cancelled” substitute—

“in the register of pending actions at the Land Charges Department of HM Land Registry and any entries in respect of the petition in any registered titles at HM Land Registry are cancelled. You should contact the Land Charges Department, Registration (Bankruptcy) Section, Plumer House, Tailyour Road, Crownhill, Plymouth PL6 5HY for the former, and Land Registry Bankruptcy Unit, Land Registry Nottingham Office, Chalfont Drive, Nottingham NG8 3RN for the latter. Further information is contained in Land Registry Public Guides PG010 and PG011 which are available on their website [www.landregistry.gov.uk](http://www.landregistry.gov.uk).”.

**533.**—(1) Form 6.1 is amended as follows.

(2) For “an affidavit” substitute “a witness statement”.

**534.**—(1) Form 6.2 is amended as follows.

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(2) For “an affidavit” substitute “a witness statement”.

**535.**—(1) Form 6.3 is amended as follows.

(2) For “an affidavit” substitute “a witness statement”.

**536.**—(1) Form 6.4 is amended as follows.

(2) For “Registrar” substitute “Registrar/District Judge”.

(3) For “affidavit” wherever it appears substitute “witness statement”.

(4) For “sworn” substitute “made”.

**537.**—(1) Form 6.5 is amended as follows.

(2) In the title, for “Affidavit” substitute “Witness Statement”.

(3) In note (a), for “oath” substitute “witness statement”.

(4) For “make oath and say” substitute “state”.

(5) For “Sworn at” substitute—

“

**Statement of truth**

I believe that the facts stated in this Witness Statement are true.

**Full name** .....

**Signed**.....

**Dated**.....

”

**538.**—(1) Form 6.6 is amended as follows.

(2) In paragraph 1, for “[the debtor’s centre of main interests has been][the debtor has an establishment] at” substitute “[the debtor’s centre of main interests is in England and Wales][the debtor has an establishment in England and Wales.]”.

**539.**—(1) Forms 6.7, 6.8, 6.9 and 6.10 are amended as follows.

(2) In paragraph 1 of each, for “[the debtor’s centre of main interests has been][the debtor has an establishment] at” substitute “[the debtor’s centre of main interests is in England and Wales][the debtor has an establishment in England and Wales.]”.

(3) For paragraph 2 of each, substitute—

“**2.** The debtor is (g)[not] resident in England and Wales. I present this petition to the High Court because (g)[Rule 6.9A[(1)[(a)][(c)]][(4)[(a)][(b)]][(5)[(a)][(b)]] applies] [the

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debtor carried on business][the debtor has not carried on business in England and Wales but has resided] in the London insolvency district (g)[for the greater part of][within] the 6 months immediately preceding the presentation of the petition].

**OR**

The debtor is (g)[not] resident in England and Wales. I am presenting this petition to this county court because (g)[Rule 6.9A(4)(b) applies][for the greater part of][within] the 6 months immediately preceding its presentation (g)[the debtor has carried on business outside the London insolvency district and the district of this county court is where the debtor’s [principal] place of business is situated][the debtor has neither carried on business in England and Wales nor resided in London insolvency district but has resided in the district of this county court].”.

**540.**—(1) Form 6.11 is amended as follows.

- (2) In the title, for “Affidavit” substitute “Certificate”.
- (3) In note (a), for “oath” substitute “statements in the Certificate”.
- (4) For “make oath and say” substitute “state”.
- (5) In paragraph 3, for “exhibited hereto” substitute “attached”.
- (6) For “Sworn at” substitute—

“

**Statement of truth**

I believe that the facts stated in this Certificate are true.

**Full name** .....

**Signed**.....

**Dated**.....

”

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**Statement of truth**

I believe that the facts stated in this Certificate are true.

**Full name** .....

**Signed**.....

**Dated**.....

- 541.—(1) Form 6.12 is amended as follows.
- (2) In the title, for “Affidavit” substitute “Certificate”.
  - (3) For “make oath and say” substitute “state”.
  - (4) In note (a), for “oath” substitute “certificate”.
  - (5) For “Sworn at” substitute—

**Statement of truth**

I believe that the facts stated in this Certificate are true.

**Full name** .....

**Signed**.....

**Dated**.....

- 542.—(1) Form 6.14 is amended as follows.

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- (2) For “Registrar” substitute “Registrar/District Judge”.
- (3) In the address of the Land Charges Department—
  - (a) omit “The Superintendent,”; and
  - (b) for “Burrington Way, PLYMOUTH PL5 3LP” substitute “Plumer House, Tailyour Road, Crownhill, Plymouth PL6 5HY”.

**543.**—(1) Form 6.22 is amended as follows.

(2) In the “**Notice to Debtor**” for “as an entry, both in the Land Charges Register and your registered titles, is cancelled” substitute—

“in the register of pending actions at the Land Charges Department of HM Land Registry and any entries in respect of the petition in any registered titles at HM Land Registry are cancelled. You should contact the Land Charges Department, Registration (Bankruptcy) Section, Plumer House, Tailyour Road, Crownhill, Plymouth PL6 5HY for the former, and Land Registry Bankruptcy Unit, Land Registry Nottingham Office, Chalfont Drive, Nottingham NG8 3RN for the latter. Further information is contained in Land Registry Public Guide PG010 which is available on their website [www.landregistry.gov.uk](http://www.landregistry.gov.uk).”.

**544.**—(1) Form 6.24A is amended as follows.

(2) For “an affidavit of truth of statements in the bankruptcy petition and exhibit thereto a sealed copy of the said amended petition” substitute “a sealed copy of the amended petition together with a statement of truth verifying the amended petition”.

**545.**—(1) Form 6.24B is amended as follows.

(2) Omit “whether by affidavit or otherwise”.

**546.**—(1) Form 6.25 is amended as follows.

(2) After “The court is satisfied that the EC Regulation does not apply in relation to these proceedings.” insert—

“And it is ordered that the costs of (e) ... of the above-mentioned petition be paid out of the bankrupt’s estate.”.

(3) In the “Important Notice to Bankrupt”, for “the bankrupt’s estate. You are required to attend upon the Official Receiver of the court at (e) ... immediately after you have received this order” substitute—

“your estate. You have certain duties to the official receiver as set out in section 291 of the Insolvency Act 1986. These include the duty to give the official receiver such inventory of the estate and such other information, and to attend on the official receiver at such times, as the official receiver may reasonably require”.

(4) For note (e) substitute—

“(e) Insert names of all parties to be awarded their costs.”.

**547.**—(1) Form 6.26 is amended as follows.

- (2) In the address of the Land Charges Department—
  - (a) omit “The Superintendent,”; and
  - (b) for “Burrington Way, PLYMOUTH PL5 3LP” substitute “Plumer House, Tailyour Road, Crownhill, Plymouth PL6 5HY”.

**548.**—(1) Form 6.27 is amended as follows.

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(2) In paragraph 1, for “[My centre of main interests has been][I have had an establishment at]” substitute “[My centre of main interests is in England and Wales][I have an establishment in England and Wales.]”.

(3) For paragraph 2 substitute—

“2. I am (f)[not] resident in England and Wales. I present this petition to the High Court because (f)[I carried on business][I have not carried on business in England and Wales but have resided] in the London insolvency district (f)[for the greater part of][within] the 6 months immediately preceding the presentation of the petition][in accordance with Rule 6.40A(3)].

**OR**

I am (f)[not] resident in England and Wales. I am presenting my petition to this county court because (f)[for the greater part of][within] the 6 months immediately preceding its presentation (f)[I have carried on business outside the London insolvency district] [and the district of this county court is where my [principal] place of business is situated][I have neither carried on business in England and Wales nor resided in London insolvency district[but have resided in the district of this county court][and it is expedient for me to do so because it is the nearest full time court to my [principal][place of business][residence].”.

**549.**—(1) Form 6.28 is amended as follows.

(2) For “AFFIDAVIT” to “and will need to be re-sworn.” substitute—

**Statement of truth**

I believe that the facts stated—

- (a) in this Statement of Affairs and any continuation sheets; and
  - (b) in the declaration in section 12 of this Statement of affairs,
- are true.

**Full name** .....

**Signed**.....

**Dated**.....

”

(3) Omit notes (a), (b) and (c) and the form of cover sheet for an exhibit.

**550.**—(1) Form 6.30 is amended as follows.

(2) In the “Important Notice to Bankrupt”, for “the bankrupt’s estate. You are required to attend upon the Official Receiver of the court at (h) ..... immediately after you have received this order” substitute—

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“your estate. You have certain duties to the official receiver as set out in section 291 of the Insolvency Act 1986. These include the duty to give the official receiver such inventory of the estate and such other information, and to attend on the official receiver at such times, as the official receiver may reasonably require”.

(3) Omit note (h).

**551.**—(1) Form 6.35 is amended as follows.

(2) In note (c)—

(a) for “, which should not be more than four days” substitute “(12.00 hours on the business day”, and

(b) after “meeting” insert a closing bracket.

**552.**—(1) Form 6.58 is amended as follows.

(2) In the title, for “Affidavit of Verification of” substitute “Statement of Truth Verifying”.

(3) For “make oath and say” substitute “state”.

(4) For “Sworn at” substitute—

“

**Statement of truth**

I believe that the facts stated in this Statement of Truth are true.

**Full name** .....

**Signed**.....

**Dated**.....

”

**553.**—(1) Form 6.59 is amended as follows.

(2) Omit “generally”.

**554.**—(1) Form 6.60 is amended as follows.

(2) Omit “generally” wherever it appears.

**555.**—(1) Form 6.69 is amended as follows.

(2) In note (b), for “Inland Revenue” substitute “HM Revenue and Customs”.

**556.**—(1) Form 6.71 is amended as follows.

(2) In paragraph 2 of the “**Notice to bankrupt**”, for “HM Land Registry is cancelled” substitute—

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“in the register of pending actions at the Land Charges Department of HM Land Registry and any entries in respect of the petition in any registered titles at HM Land Registry are cancelled. You should contact the Land Charges Department, Registration (Bankruptcy) Section, Plumer House, Tailyour Road, Crownhill, Plymouth PL6 5HY for the former, and Land Registry Bankruptcy Unit, Land Registry Nottingham Office, Chalfont Drive, Nottingham NG8 3RN for the latter. Further information is contained in Land Registry Public Guides PG010 and PG011 which are available on their website [www.landregistry.gov.uk](http://www.landregistry.gov.uk).”

**557.**—(1) Form 6.75 is amended as follows.

(2) In the Notice to Bankrupt, after “7” insert “business”.

**558.**—(1) Form 6.77 is amended as follows.

(2) In the Notice to Bankrupt, after the second “should” insert “, within 28 days.”

### Substitution of Forms

**559.** For each form listed in the first column in the table below substitute the new form listed on the same line in the second column and set out in Schedule 2 to these Rules.

<i>Old form</i>	<i>New form</i>
Form 4.53	Form 4.53A
Form 6.13	Form 6.13A
Form 6.15	Form 6.15A
Form 6.17	Form 6.17A
Form 6.18	Form 6.18A
Form 6.33	Form 6.33A
Form 6.61	Form 6.61A
Forms 7.1 and 7.2	Form 7.1A
Form 7.20	Form 7.20A

### Amendments to Schedule 5

**560.** Schedule 5 (punishment of offences under the Rules) is amended as follows.

(1) In column 2 (*General nature of offence*), for “notification as to progress of administration” substitute “a progress report”.

(2) In column 2 (*General nature of offence*), after “automatic end of administration” add “and progress report”.

(3) In column 2 (*General nature of offence*), before “administrator’s duties” insert “Failure to comply with”.

(4) In column 2 (*General nature of offence*), for “notification as to progress of receivership” substitute “requisite accounts of receipts and payments as receiver”.

(5) In column 4 (*Punishment*), for “One-fifth of the statutory maximum” wherever it appears substitute “Level 3 on the standard scale”.

(6) In column 5 (*Daily default fine (where applicable)*), for “One-fiftieth of the statutory maximum” wherever it appears substitute “One-tenth of level 3 on the standard scale”.

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