

1977 No. 1395

COMPANIES

**The Companies (Winding-up) (Amendment No. 2)
Rules 1977**

<i>Made - - - -</i>	<i>5th August 1977</i>
<i>Laid before Parliament</i>	<i>19th August 1977</i>
<i>Coming into Operation</i>	<i>1st October 1977</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 365(1) of the Companies Act 1948(a), with the concurrence of the Secretary of State for Trade, and after consulting the committee appointed under section 10 of the Insolvency Act 1976(b), hereby makes the following Rules:—

1. These Rules may be cited as the Companies (Winding-up) (Amendment No. 2) Rules 1977 and shall come into operation on 1st October 1977.

2. The amendments set out in these Rules shall be made to the Companies (Winding-up) Rules 1949(c), as amended(d).

3. At the end of rule 6(1) there shall be added the following sub-paragraph:—

“(p) Applications under section 9 of the Insolvency Act 1976.”

4. In rule 68(1) after sub-paragraph (d) there shall be inserted the following words:—

“or under section 9 of the Insolvency Act 1976”.

5. For rule 70 there shall be substituted the following rule:—

Hearing of application. “70.—(1) Where any application under section 188 of the Act or under section 9 of the Insolvency Act 1976 is made or heard after a public examination under section 270 of the Act has been held before the Registrar or any of the persons mentioned in sub-section (9) of the said section 270, then such application shall be heard and determined by such Registrar or other person unless—

(a) the Judge shall otherwise direct, or

(b) in the case of an application by the Secretary of State under the said section 9 the public examination was directed to be held by a Court other than the High Court.

(a) 1948 c. 38.

(b) 1976 c. 60.

(c) S.I. 1949/330 (1949 I, p. 789).

(d) There are no relevant amendments.

The Judge shall personally hear all other applications under the said section 188 or the said section 9:

Provided that in the High Court the Judge may direct that such applications or any of them shall be heard and determined by the Registrar.

(2) Where any order has been made under the said section 188, any application for leave arising out of such order shall be made to the Court having jurisdiction to wind up the company as respects which leave is sought.

(3) An application for leave arising out of an order made under the said section 9 shall be made to the Court by which the order was made."

6. For rule 92 there shall be substituted the following rule:—

"92.—(1) A debt may be proved in a winding-up by the Court by Mode of delivering or sending through the post in a pre-paid letter to the Official Receiver or, if a Liquidator has been appointed, to the Liquidator—

(a) in any case in which the Official Receiver or Liquidator so requires, an affidavit verifying the debt; and

(b) in any other case, an unsworn claim to the debt.

(2) In any other winding-up the Liquidator may require a debt to be proved by delivering or sending to him through the post in a pre-paid letter either an unsworn claim to the debt or an affidavit verifying the debt, as he may direct."

7. In rules 93, 94 and 95 for the words "An affidavit proving a" there shall be substituted the words "A proof of".

8. In rule 179 for the words "the last audit of" there shall be substituted the words "he last filed".

9. In the Appendix after Form 59 there shall be inserted new Form 59A as set out in the Schedule to these Rules.

Dated 27th July 1977.

Elwyn-Jones, C.

I concur,
Dated 5th August 1977.

Edmund Dell,
Secretary of State
for Trade.

SCHEDULE

Rule 9

No. 59A (Rule 94)

PROOF OF DEBT (UNSWORN) GENERAL FORM

(Title)

Date of Winding-up Order

Name of Creditor	
Address of Creditor	
Total Amount of Claim as at Date of Winding-up Order	£
Particulars of how Debt(s) arose and Date(s) incurred (use space overleaf if necessary)	
Particulars of any Security held	
Value of Security	£

Please attach any documentary evidence of claim.

Signature of creditor or person signing on his behalf _____

N.B.—Bills or other negotiable securities must be produced before the proof can be admitted.

Name in block letters _____

Position with or relationship to creditor _____

Admitted to vote for

Admitted to rank for dividend for

£

£

the day of 19 .

this day of 19 .

Official Receiver

Liquidator

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Companies (Winding-up) Rules 1949—

- (i) by applying them to applications made under section 9 of the Insolvency Act 1976 for the disqualification of directors of insolvent companies (rules 3, 4 and 5);
- (ii) by making provision for unsworn proofs of debt in a winding-up by the court (rules 6, 7 and 9); and
- (iii) in consequence of the coming into force of section 2 of the Insolvency Act 1976, whereunder not all filed accounts need be subject to audit (rule 8).

SI 1977/1395
ISBN 0-11-071395-8



780110 713953