

SCHEDULE 3

Rule 4

Part 12A of the Insolvency Rules 1986

“PART 12A

PROVISIONS OF GENERAL EFFECT

CHAPTER 1

THE GIVING OF NOTICE AND THE SUPPLY OF DOCUMENTS – GENERAL

**12A.1 Application**

(1) Subject to paragraphs (2) and (3), this Chapter applies where a notice or other document is required to be given, delivered or sent under the Act or the Rules by any person, including an office-holder.

(2) This Chapter does not apply to the service of—

- (a) any petition or application to the court;
- (b) any evidence in support of that petition or application; or
- (c) any order of the court.

(3) This Chapter does not apply to the submission of documents to the registrar of companies.

**12A.2 Personal delivery of documents**

**12A.2** Personal delivery of a notice or other document is permissible in any case.

**12A.3 Postal delivery of documents**

**12A.3** Unless in any particular case some other form of delivery is required by the Act, the Rules or an order of the court, a notice or other document may be sent by post in accordance with the rules for postal service in CPR Part 6 and sending by such means has effect as specified in those rules.

**12A.4 Non-receipt of notice of meeting**

**12A.4** Where in accordance with the Act or the Rules, a meeting of creditors or other persons is summoned by notice, the meeting is presumed to have been duly summoned and held, notwithstanding that not all those to whom the notice is to be given have received it.

**12A.5 Notice etc. to solicitors**

**12A.5** Where under the Act or the Rules a notice or other document is required or authorised to be given, delivered or sent to a person, it may be given, delivered or sent instead to a solicitor authorised to accept delivery on that person’s behalf.

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## CHAPTER 2

### THE GIVING OF NOTICE AND THE SUPPLY OF DOCUMENTS BY OR TO OFFICE-HOLDERS ETC.

#### **12A.6 Application**

(1) Subject to paragraphs (2) to (4), this Chapter applies where a notice or other document is required to be given, delivered or sent under the Act or the Rules.

(2) This Chapter does not apply to the submission of documents to the registrar of companies.

(3) Rules 12A.10 to 12A.13 do not apply to—

- (a) the filing of any notice or other document with the court; or
- (b) the service of a statutory demand.

#### **12A.7 The form of notices and other documents**

**12A.7** Subject to any order of the court, any notice or other document required to be given, delivered or sent must be in writing and where electronic delivery is permitted a notice or other document in electronic form is treated as being in writing if a copy of it is capable of being produced in a legible form.

#### **12A.8 Proof of sending etc.**

(1) Where in any insolvency proceedings a notice or other document is required to be given, delivered or sent by the office-holder, the giving, delivering or sending of it may be proved by means of a certificate that the notice or other document was duly given, delivered or sent.

(2) In the case of the official receiver the certificate may be given by—

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

(3) In the case of a responsible insolvency practitioner the certificate may be given by—

- (a) the practitioner;
- (b) the practitioner's solicitor;
- (c) a partner or an employee of either of them.

(4) In the case of a notice or other document to be given, delivered or sent by a person other than the official receiver or a responsible insolvency practitioner, the giving, delivering or sending of it may be proved by means of a certificate by that person—

- (a) that the notice or document was given, delivered or sent by that person, or
- (b) that another person (named in the certificate) was instructed to give, deliver or send it.

(5) A certificate under this Rule may be endorsed on a copy or specimen of the notice or document to which it relates.

#### **12A.9 Authentication**

(1) A document or information given, delivered or sent in hard copy form is sufficiently authenticated if it is signed by the person sending or supplying it.

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(2) A document or information given, delivered or sent in electronic form is sufficiently authenticated—

- (a) if the identity of the sender is confirmed in a manner specified by the recipient, or
- (b) where no such manner has been specified by the recipient, if the communication contains or is accompanied by a statement of the identity of the sender and the recipient has no reason to doubt the truth of that statement.

#### **12A.10 Electronic delivery in insolvency proceedings – general**

(1) Unless in any particular case some other form of delivery is required by the Act or the Rules or an order of the court and subject to paragraph (3), a notice or other document may be given, delivered or sent by electronic means provided that the intended recipient of the notice or other document has—

- (a) consented (whether in the specific case or generally) to electronic delivery (and has not revoked that consent); and
- (b) provided an electronic address for delivery.

(2) In the absence of evidence to the contrary, a notice or other document is presumed to have been delivered where—

- (a) the sender can produce a copy of the electronic message which—
  - (i) contained the notice or other document, or to which the notice or other document was attached, and
  - (ii) shows the time and date the message was sent; and
- (b) that electronic message contains the address supplied under paragraph (1)(b).

(3) A message sent electronically is deemed to have been delivered to the recipient no later than 9.00am on the next business day after it was sent.

#### **12A.11 Electronic delivery by office-holders**

(1) Where an office-holder gives, sends or delivers a notice or other document to any person by electronic means, the notice or document must contain or be accompanied by a statement that the recipient may request a hard copy of the notice or document and specifying a telephone number, e-mail address and postal address which may be used to request a hard copy.

(2) Where a hard copy of the notice or other document is requested, it must be sent within 5 business days of receipt of the request by the office-holder.

(3) An office-holder must not require a person making a request under paragraph (2) to pay a fee for the supply of the document.

#### **12A.12 Use of websites by office-holder**

(1) This Rule applies for the purposes of sections 246B and 379B(1).

(2) An office-holder required to give, deliver or send a document to any person may (other than in a case where personal service is required) satisfy that requirement by sending that person a notice—

- (a) stating that the document is available for viewing and downloading on a website;
- (b) specifying the address of that website together with any password necessary to view and download the document from that site; and

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(1) Sections 246B and 379B were inserted by [S.I. 2010/18](#).

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- (c) containing a statement that the person to whom the notice is given, delivered or sent may request a hard copy of the document and specifying a telephone number, e-mail address and postal address which may be used to request a hard copy.
- (3) Where a notice to which this Rule applies is sent, the document to which it relates must—
  - (a) be available on the website for a period of not less than 3 months after the date on which the notice is sent; and
  - (b) must be in such a format as to enable it to be downloaded from the website within a reasonable time of an electronic request being made for it to be downloaded.
- (4) Where a hard copy of the document is requested it must be sent within 5 business days of the receipt of the request by the office-holder.
- (5) An office-holder must not require a person making a request under paragraph (4) to pay a fee for the supply of the document.
- (6) Where a document is given, delivered or sent to a person by means of a website in accordance with this Rule, it is deemed to have been delivered—
  - (a) when the document was first made available on the website, or
  - (b) if later, when the notice under paragraph (2) was delivered to that person.

#### **12A.13 Special provision on account of expense as to website use**

- (1) Where the court is satisfied that the expense of sending notices in accordance with Rule 12A.12 would, on account of the number of persons entitled to receive them, be disproportionate to the benefit of sending notices in accordance with that Rule, it may order that the requirement to give, deliver or send a relevant document to any person may (other than in a case where personal service is required) be satisfied by the office-holder sending each of those persons a notice—
  - (a) stating that all relevant documents will be made available for viewing and downloading on a website;
  - (b) specifying the address of that website together with any password necessary to view and download a relevant document from that site; and
  - (c) containing a statement that the person to whom the notice is given, delivered or sent may at any time request that hard copies of all, or specific, relevant documents are sent to that person, and specifying a telephone number, e-mail address and postal address which may be used to make that request.
- (2) A document to which this Rule relates must—
  - (a) be available on the website for a period of not less than 12 months from the date when it was first made available on the website or, if later, from the date upon which the notice was sent, and
  - (b) must be in such a format as to enable it to be downloaded from the website within a reasonable time of an electronic request being made for it to be downloaded.
- (3) Where hard copies of relevant documents have been requested, they must be sent by the office-holder—
  - (a) within 5 business days of the receipt by the office-holder of the request to be sent hard copies, in the case of relevant documents first appearing on the website before the request was received, or
  - (b) within 5 business days from the date a relevant document first appears on the website, in all other cases.

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(4) An office-holder must not require a person making a request under paragraph (3) to pay a fee for the supply of the document.

(5) Where a relevant document is given, delivered or sent to a person by means of a website in accordance with this Rule, it is deemed to have been delivered—

- (a) when the relevant document was first made available on the website, or
- (b) if later, when the notice under paragraph (1) was delivered to that person.

(6) In this Rule a relevant document means any document which the office-holder is first required to give, deliver or send to any person after the court has made an order under paragraph (1).

#### **12A.14 Electronic delivery of insolvency proceedings to courts**

(1) Except where paragraph (2) applies or the requirements of paragraph (3) are met, no petition, application, notice or other document may be delivered or made to a court by electronic means.

(2) This paragraph applies where electronic delivery of documents to a court is permitted by another Rule.

(3) The requirements of this paragraph are—

- (a) the court provides an electronic working scheme for the proceedings to which the document relates; and
- (b) the electronic communication is—
  - (i) delivered and authenticated in a form which complies with the requirements of the scheme;
  - (ii) sent to the electronic address provided by the court for electronic delivery of those proceedings; and
  - (iii) accompanied by any payment due to the court in respect of those proceedings made in a manner which complies with the requirements of the scheme.

(4) In this Rule “an electronic working scheme” means a scheme permitting insolvency proceedings to be delivered electronically to the court set out in a practice direction.

(5) Under paragraph (3) an electronic communication is to be treated as delivered to the court at the time it is recorded by the court as having been received.

#### **12A.15 Notice etc. to joint office-holders**

**12A.15** Where there are joint office-holders in insolvency proceedings, delivery of a document to one of them is to be treated as delivery to all of them.

### CHAPTER 3

#### SERVICE OF COURT DOCUMENTS

#### **12A.16 Application**

- (1) Subject to paragraph (2), this Chapter applies in relation to the service of—
- (a) petitions,
  - (b) applications,
  - (c) documents relating to petitions or applications, and
  - (d) court orders,

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which are required to be served by any provision of the Act or the Rules (“court documents”).

(2) Rules 12A.17 to 12A.19 do not apply to the service of—

- (a) a winding-up petition,
- (b) a bankruptcy petition,
- (c) any document relating to such a petition, or
- (d) an administration, winding-up or bankruptcy order.

(3) For the purpose of the application by this Chapter of CPR Part 6 to the service of documents in insolvency proceedings—

- (a) an application commencing insolvency proceedings (including a winding-up petition, a bankruptcy petition or an administration application), or
- (b) an application within insolvency proceedings against a respondent,

is to be treated as a claim form.

#### **12A.17 Application of CPR Part 6 to service of court documents within the jurisdiction**

**12A.17** Except where different provision is made in these Rules, CPR Part 6 applies in relation to the service of court documents within the jurisdiction with such modifications as the court may direct.

#### **12A.18 Service of orders staying proceedings**

(1) This Rule applies where the court makes an order staying any action, execution or other legal process against—

- (a) the property of a company; or
- (b) the property or person of an individual debtor or bankrupt.

(2) Service within the jurisdiction of such an order as is mentioned in paragraph (1) may be effected by sending a sealed copy of the order to the address for service of the claimant or other party having the carriage of the proceedings to be stayed.

#### **12A.19 Service on joint office-holders**

**12A.19** Where there are joint office-holders in insolvency proceedings, service on one of them is to be treated as service on all of them.

#### **12A.20 Application of CPR Part 6 to service of court documents outside the jurisdiction**

**12A.20** CPR Part 6 applies to the service of court documents outside the jurisdiction with such modifications as the court may direct.

### CHAPTER 4

### MEETINGS

#### **12A.21 Quorum at meeting of creditors or contributories**

(1) Any meeting of creditors or contributories in insolvency proceedings is competent to act if a quorum is present.

(2) Subject to the next paragraph, a quorum is—

- (a) in the case of a creditors’ meeting, at least one creditor entitled to vote;

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(b) in the case of a meeting of contributories, at least two contributories so entitled, or all the contributories, if their number does not exceed two.

(3) For the purposes of this Rule, the reference to the creditor or contributories necessary to constitute a quorum is to those persons present or represented by proxy by any person (including the chairman) and in the case of any proceedings under Parts 1 to 7 of the Act includes corporations duly represented.

(4) Where at any meeting of creditors or contributories—

(a) the provisions of this Rule as to a quorum being present are satisfied by the attendance of—

(i) the chairman alone, or

(ii) one other person in addition to the chairman, and

(b) the chairman is aware, by virtue of proofs and proxies received or otherwise, that one or more additional persons would, if attending, be entitled to vote,

the meeting must not commence until at least the expiry of 15 minutes after the time appointed for its commencement.

#### **12A.22 Remote attendance at meetings of creditors**

(1) This Rule applies to a request to the convener of a meeting under section 246A(9) or 379A(8) to specify a place for the meeting.

(2) The request must be accompanied by—

(a) in the case of a request by creditors, a list of the creditors making or concurring with the request and the amounts of their respective debts in the insolvency proceedings in question,

(b) in the case of a request by contributories, a list of the contributories making or concurring with the request and their respective values (being the amounts for which they may vote at the meeting),

(c) in the case of a request by members, a list of the members making or concurring with the request and their voting rights, and

(d) from each person concurring, written confirmation of that person's concurrence.

(3) The request must be made within 7 business days of the date on which the convener sent the notice of the meeting in question.

(4) Where the convener considers that the request has been properly made in accordance with the Act and this Rule, the convener must—

(a) give notice to all those previously given notice of the meeting—

(i) that it is to be held at a specified place, and

(ii) as to whether the date and time are to remain the same or not;

(b) set a venue (including specification of a place) for the meeting, the date of which must be not later than 28 days after the original date for the meeting; and

(c) give at least 14 days' notice of that venue to all those previously given notice of the meeting;

and the notices required by sub-paragraphs (a) and (c) may be given at the same or different times.

(5) Where—

(a) a request to which this Rule relates is made in respect of a final meeting under section 106, 146 or 331;

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- (b) an application is made under Rule 4.131 or 6.142 in respect of remuneration or expenses reported in the draft report for that meeting; and
- (c) the meeting cannot be held until the application (including any appeal) has been disposed of and any order of the court complied with,

paragraph (4)(a) does not apply and the duty to set a venue (including specification of a place) for the meeting applies in relation to the meeting when it is finally held.

(6) Where the convener has specified a place for the meeting in response to a request to which this Rule applies, the chairman of the meeting must attend the meeting by being present in person at that place.

(7) Rules 2.37(3), (4), (5) and (6), 4.61 and 6.87 (expenses of summoning meetings) do not apply to the summoning and holding of a meeting at a place specified in accordance with section 246A(9) or 379A(8).

### **12A.23 Action where person excluded**

- (1) In this Rule and Rules 12A.24 and 12A.25 an “excluded person” means a person who—
  - (a) has taken all steps necessary to attend a meeting under the arrangements put in place to do so by the convener of the meeting under section 246A(6) or 379A(5); and
  - (b) those arrangements do not permit that person to attend the whole or part of that meeting.

(2) Where the chairman becomes aware during the course of the meeting that there is an excluded person, the chairman may—

- (a) continue the meeting;
- (b) declare the meeting void and convene the meeting again;
- (c) declare the meeting valid up to the point where the person was excluded and adjourn the meeting.

(3) Where the chairman continues the meeting, the meeting is valid unless—

- (a) the chairman decides in consequence of a complaint under Rule 12A.25 to declare the meeting void and hold the meeting again; or
- (b) the court directs otherwise.

(4) Without prejudice to paragraph (2), where the chairman becomes aware during the course of the meeting that there is an excluded person, the chairman may, in the chairman’s discretion and without an adjournment, declare the meeting suspended for any period up to 1 hour.

### **12A.24 Indication to excluded person**

(1) A person who claims to be an excluded person may request an indication of what occurred during the period of that person’s claimed exclusion (an “indication”).

(2) A request under paragraph (1) must be made as soon as reasonably practicable and, in any event, no later than 4.00 p.m. on the business day following the day on which the exclusion is claimed to have occurred.

(3) A request under paragraph (1) must be made to—

- (a) the chairman, where it is made during the course of the business of the meeting; or
- (b) the office-holder where it is made after the conclusion of the business of the meeting.

(4) Where satisfied that the person making the request is an excluded person, the person to whom the request is made under paragraph (3) must give the indication as soon as reasonably



practicable and, in any event, no later than 4.00 p.m. on the business day following the day on which the request was made under paragraph (1).

(5) In this Rule and Rule 12A.25, “office-holder” has the meaning in Rule 13.9A.

### **12A.25 Complaint**

- (1) Any person who—
  - (a) is, or claims to be, an excluded person; or
  - (b) attends the meeting (in person or by proxy) and considers that they have been adversely affected by a person’s actual, apparent or claimed exclusion,(“the complainant”) may make a complaint.
- (2) The person to whom the complaint must be made (“the relevant person”) is—
  - (a) the chairman, where it is made during the course of the meeting; or
  - (b) the office-holder, where it is made after the meeting.
- (3) The relevant person must—
  - (a) consider whether there is an excluded person; and
  - (b) where satisfied that there is an excluded person, consider the complaint; and
  - (c) where satisfied that there has been prejudice, take such action as the relevant person considers fit to remedy the prejudice.
- (4) Paragraph (5) applies where—
  - (a) the relevant person is satisfied that the complainant is an excluded person;
  - (b) during the period of the person’s exclusion—
    - (i) a resolution was put to the meeting; and
    - (ii) voted on; and
  - (c) the excluded person asserts how the excluded person intended to vote on the resolution.
- (5) Subject to paragraph (6), where satisfied that the effect of the intended vote in paragraph (4), if cast, would have changed the result of the resolution, the relevant person must—
  - (a) count the intended vote as being cast in accordance with the complainant’s stated intention;
  - (b) amend the record of the result of the resolution; and
  - (c) where those entitled to attend the meeting have been notified of the result of the resolution, notify them of the change.
- (6) Where satisfied that more than one complainant in paragraph (4) is an excluded person, the relevant person must have regard to the combined effect of the intended votes.
- (7) The relevant person must notify the complainant in writing of any decision.
- (8) A complaint must be made as soon as reasonably practicable and, in any event, no later than 4 p.m. on the business day following—
  - (a) the day on which the person was, appeared or claimed to be excluded; or
  - (b) where an indication is sought under Rule 12A.24, the day on which the complainant received the indication.

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(9) A complainant who is not satisfied by the action of the relevant person may apply to the court for directions and any application must be made no more than 2 business days from the date of receiving the decision of the relevant person.

#### **12A.26 Remote attendance at meetings of creditors' committees and liquidation committees**

(1) This Rule applies to any meeting of a creditors' committee or a liquidation committee held under these Rules.

(2) Where the office-holder considers it appropriate, the meeting may be conducted and held in such a way that persons who are not present together at the same place may attend it.

(3) Where a meeting is conducted and held in the manner referred to in paragraph (2), a person attends the meeting if that person is able to exercise any rights which that person may have to speak and vote at the meeting.

(4) For the purposes of this Rule—

(a) a person is able to exercise the right to speak at a meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting; and

(b) a person is able to exercise the right to vote at a meeting when—

(i) that person is able to vote, during the meeting, on resolutions or determinations put to the vote at the meeting, and

(ii) that person's vote can be taken into account in determining whether or not such resolutions or determinations are passed at the same time as the votes of all the other persons attending the meeting.

(5) Where a meeting is to be conducted and held in the manner referred to in paragraph (2), the office-holder must make whatever arrangements the office-holder considers appropriate to—

(a) enable those attending the meeting to exercise their rights to speak or vote, and

(b) ensure the identification of those attending the meeting and the security of any electronic means used to enable attendance.

(6) Where in the reasonable opinion of the office-holder—

(a) a meeting will be attended by persons who will not be present together at the same place, and

(b) it is unnecessary or inexpedient to specify a place for the meeting,

any requirement under these Rules to specify a place for the meeting may be satisfied by specifying the arrangements the office-holder proposes to enable persons to exercise their rights to speak or vote.

(7) In making the arrangements referred to in paragraph (5) and in forming the opinion referred to in paragraph (6)(b), the office-holder must have regard to the legitimate interests of the committee members or their representatives attending the meeting in the efficient despatch of the business of the meeting.

(8) If—

(a) the notice of a meeting does not specify a place for the meeting,

(b) the office-holder is requested in accordance with Rule 12A.27 to specify a place for the meeting, and

(c) that request is made by at least one member of the committee,

the office-holder must specify a place for the meeting.

(9) In this Rule, “the committee” means the creditors’ committee or the liquidation committee.

**12A.27 Procedure for requests that a place for a meeting should be specified under Rule 12A.26**

(1) This Rule applies to a request to the office-holder of a meeting under Rule 12A.26 to specify a place for the meeting.

(2) The request must be made within 5 business days of the date on which the office-holder sent the notice of the meeting in question.

(3) Where the office-holder considers that the request has been properly made in accordance with this Rule, the office-holder must—

- (a) give notice to all those previously given notice of the meeting—
  - (i) that it is to be held at a specified place, and
  - (ii) as to whether the date and time are to remain the same or not;
- (b) set a venue (including specification of a place) for the meeting, the date of which must be not later than 7 business days after the original date for the meeting; and
- (c) give 5 business days’ notice of the venue to all those previously given notice of the meeting;

and the notices required by sub-paragraphs (a) and (c) may be given at the same or different times.

(4) Where the office-holder has specified a place for the meeting in response to a request to which this Rule applies, the chairman of the meeting must attend the meeting by being present in person at that place.

CHAPTER 5

EFFECT OF INSOLVENCY ON EXECUTION – SPECIFIC PROVISIONS FOR NOTICES TO ENFORCEMENT OFFICERS ETC

**12A.28 Execution overtaken by judgment debtor’s insolvency**

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

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

(2) Subject to paragraph (3) and Rule 12A.29, the notice must be delivered to the office of the enforcement officer or of the officer charged with the execution—

- (a) by hand, or

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- (b) by any other means of delivery which enables proof of receipt of the document at the relevant address.
- (3) Where the execution is in a county court and the officer in charge of it is a district judge in that court, then if—
  - (a) there is filed in that court in respect of the judgment debtor a winding-up or bankruptcy petition, or
  - (b) there is made by that court in respect of the judgment debtor a winding-up order or an order appointing a provisional liquidator, or a bankruptcy order or an order appointing an interim receiver,

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

#### **12A.29 Notice to enforcement officers**

- (1) This Rule applies in relation to any provision of the Act or the Rules which makes provision for the giving of notice to an enforcement officer.
- (2) Any such notice as is mentioned in paragraph (1) may be given by electronic means to any person who has been authorised to receive such notice on behalf of a specified enforcement officer or on behalf of enforcement officers generally.

### CHAPTER 6

#### FORMS

#### **12A.30 Forms for use in insolvency proceedings**

- (1) Subject to the next Rule, the forms contained in Schedule 4 to these Rules must continue to be used in insolvency proceedings as provided for in specific Rules.
- (2) The forms must be used with such variations, if any, as the circumstances may require.
- (3) The Secretary of State, the official receiver or an insolvency practitioner may incorporate a barcode or other reference or recognition mark into any form in Schedule 4 to these Rules a copy of which is received by any of them or is sent to any person by any of them.

#### **12A.31 Electronic submission of information instead of submission of forms to the Secretary of State, the Chief Land Registrar, office-holders, and of copies to the registrar of companies**

- (1) This Rule applies in any case where information in a prescribed form is required by the Rules to be sent by any person to the Secretary of State, the Chief Land Registrar, or an office-holder, or a copy of a prescribed form is to be sent to the registrar of companies.
- (2) A requirement of the kind mentioned in paragraph (1) is treated as having been satisfied where—
  - (a) the information is submitted electronically with the agreement of the person to whom the information is sent;
  - (b) the form in which the electronic submission is made satisfies the requirements of the person to whom the information is sent (which may include a requirement that the information supplied can be reproduced in the format of the prescribed form);
  - (c) that all the information required to be given in the prescribed form is provided in the electronic submission; and

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- (d) the person to whom the information is sent can provide in legible form the information so submitted.
- (3) Where information in a prescribed form is permitted to be sent electronically under paragraph (2), any requirement in the prescribed form that the prescribed form be accompanied by a signature is taken to be satisfied—
  - (a) if the identity of the person who is supplying the information in the prescribed form and whose signature is required is confirmed in a manner specified by the recipient, or
  - (b) where no such manner has been specified by the recipient, if the communication contains or is accompanied by a statement of the identity of the person who is providing the information in the prescribed form, and the recipient has no reason to doubt the truth of that statement.
- (4) Where information required in prescribed form has been supplied to a person, whether or not it has been supplied electronically in accordance with paragraph (2), and a copy of that information is required to be supplied to another person falling within paragraph (1), the requirements contained in paragraph (2) apply in respect of the supply of the copy to that other person, as they apply in respect of the original.

#### **12A.32 Electronic submission of information instead of submission of forms in all other cases**

- (1) Subject to paragraph (5), this Rule applies in any case where Rule 12A.31 does not apply, where information in a prescribed form is required by the Rules to be sent by any person.
- (2) A requirement of the kind mentioned in paragraph (1) is treated as having been satisfied where—
  - (a) the person to whom the information is sent has agreed—
    - (i) to receiving the information electronically and to the form in which it is to be sent; and
    - (ii) to the specified manner in which paragraph (3) is to be satisfied.
  - (b) all the information required to be given in the prescribed form is provided in the electronic submission; and
  - (c) the person to whom the information is sent can provide in legible form the information so submitted.
- (3) Any requirement in a prescribed form that it be accompanied by a signature is taken to be satisfied if the identity of the person who is supplying the information and whose signature is required, is confirmed in the specified manner.
- (4) Where information required in prescribed form has been supplied to a person, whether or not it has been supplied electronically in accordance with paragraph (2), and a copy of that information is required to be supplied to another person falling within paragraph (1), the requirements contained in paragraph (2) apply in respect of the supply of the copy to that other person, as they apply in respect of the original.
- (5) This Rule does not apply in respect of a statutory demand.

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## CHAPTER 7 GAZETTE NOTICES

### **12A.33 Contents of notices to be gazetted under the Act or Rules**

(1) Except when paragraph (3) applies, where under the Act or the Rules a notice is gazetted, in addition to any content specifically required by the Act or any other provision of the Rules, the content of such a notice must be as set out in this Chapter.

(2) All notices published must specify insofar as it is applicable in relation to the particular notice—

- (a) the name and postal address of the office-holder acting in the proceedings;
  - (b) the capacity in which the office-holder is acting and the date of appointment;
  - (c) either an e-mail address, or a telephone number, through which the office-holder may be contacted;
  - (d) the name of any person other than the office-holder (if any) who may be contacted regarding the proceedings;
  - (e) the number assigned to the office-holder by the Secretary of State; and
  - (f) the court name and any number assigned to the proceedings by the court.
- (3) This paragraph applies to notices under Rule 4.228(2) (first excepted case).

### **12A.34 Gazette notices relating to companies**

**12A.34** In addition to the information required by Rule 12A.33 a notice relating to a company must specify—

- (a) the registered name of the company;
- (b) its registered number;
- (c) its registered office, or if an unregistered company, the postal address of its principal place of business;
- (d) any principal trading address if this is different from its registered office;
- (e) any name under which it was registered in the 12 months prior to the date of the commencement of the proceedings which are the subject of the Gazette notice; and
- (f) any name or style (other than its registered name) under which—
  - (i) the company carried on business; and
  - (ii) any debt owed to a creditor was incurred.

### **12A.35 Gazette notices relating to bankrupts**

**12A.35** In addition to the information required by Rule 12A.33 a notice relating to a bankruptcy must state,—

- (a) the bankrupt's full name and residential address;
- (b) any other address at which the bankrupt has resided in the period of 12 months preceding the making of the bankruptcy order;
- (c) the bankrupt's date of birth;
- (d) the bankrupt's occupation;
- (e) any other name by which the bankrupt has been known;

- (f) any name or style (other than the bankrupt's own name) under which—
  - (i) the bankrupt carried on business; and
  - (ii) any debt owed to a creditor was incurred.

#### **12A.36 Omission of unobtainable information**

**12A.36** Information required under this Chapter to be included in a notice to be gazetted may be omitted if it is not reasonably practicable to obtain it.

#### **12A.37 The Gazette – general**

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

(2) In the case of an order of the court notice of which is required by the Act or the Rules to be gazetted, a copy of the Gazette containing the notice may in any proceedings be produced as conclusive evidence that the order was made on the date specified in the notice.

(3) Where an order of the court which is gazetted has been varied, and where any matter has been erroneously or inaccurately gazetted, the person whose responsibility it was to procure the requisite entry in the Gazette must as soon as is reasonably practicable cause the variation of the order to be gazetted or a further entry to be made in the Gazette for the purpose of correcting the error or inaccuracy.

### CHAPTER 8

#### NOTICES ADVERTISED OTHERWISE THAN IN THE GAZETTE

#### **12A.38 Notices otherwise advertised under the Act or Rules**

(1) Where under the Act or the Rules a notice may be advertised otherwise than in the Gazette, in addition to any content specifically required by the Act or any other provision of the Rules, the content of such a notice must be as set out in this Chapter.

(2) All notices published must specify insofar as it is applicable in relation to the particular notice—

- (a) the name and postal address of the office-holder acting in the proceedings to which the notice relates;
- (b) the capacity in which the office-holder is acting; and
- (c) either an e-mail address, or a telephone number, through which the office-holder may be contacted.

#### **12A.39 Non-Gazette notices relating to companies**

**12A.39** In addition to the information required by Rule 12A.38, a notice relating to a company must state—

- (a) the registered name of the company;
- (b) its registered number;
- (c) any name under which it was registered in the 12 months prior to the date of the commencement of the proceedings which are the subject of the notice; and
- (d) any name or style (other than its registered name) under which—
  - (i) the company carried on business; and
  - (ii) any debt owed to a creditor was incurred.

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#### **12A.40 Non-Gazette notices relating to bankrupts**

**12A.40** In addition to the information required by Rule 12A.38, a notice relating to bankruptcy must state—

- (a) the bankrupt's full name and address;
- (b) any other address at which the bankrupt has resided in the period of 12 months preceding the making of the bankruptcy order;
- (c) the bankrupt's date of birth;
- (d) the bankrupt's occupation;
- (e) any other name by which the bankrupt has been known;
- (f) any name or style (other than the bankrupt's own name) under which—
  - (i) the bankrupt carried on business; and
  - (ii) any debt owed to a creditor was incurred.

#### **12A.41 Non-Gazette notices – other provisions**

(1) The information required to be contained in a notice to which this Chapter applies must be included in the advertisement of that notice in a manner that is reasonably likely to ensure, in relation to the form of the advertising used, that a person reading, hearing or seeing the advertisement, will be able to read, hear or see that information.

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

### CHAPTER 9

#### NOTIFICATIONS TO THE REGISTRAR OF COMPANIES

#### **12A.42 Application of this Chapter**

**12A.42** This Chapter applies where under the Act or the Rules information is to be sent or delivered to the registrar of companies.

#### **12A.43 Information to be contained in all notifications to the registrar**

**12A.43** Where under the Act or the Rules a return, notice, or any other document or information is to be sent to the registrar of companies, that notification must specify—

- (a) the registered name of the company;
- (b) its registered number;
- (c) the nature of the notification;
- (d) the section of the Act or the Rule under which the notification is made;
- (e) the date of the notification;
- (f) the name and postal address of person making the notification;
- (g) the capacity in which that person is acting in respect of the company; and

the notification must be authenticated by the person making the notification.

#### **12A.44 Notifications relating to the office of office-holders**

**12A.44** In addition to the information required by Rule 12A.43, a notification relating to the office of the office-holder must also specify—



- (a) the name of the office-holder;
- (b) the nature of the appointment held by the office holder
- (c) the date of the event notified;
- (e) where the notification relates to an appointment, the person, body or court making the appointment;
- (f) where the notification relates to the termination of an appointment, the reason for that termination (for example, resignation); and
- (e) the postal address of office-holder.

#### **12A.45 Notifications relating to documents**

**12A.45** In addition to the information required by Rule 12A.43, a notification relating to a document (for example, a statement of affairs) must also specify—

- (a) the nature of the document; and
- (b) the date of the document; or
- (c) where the document relates to a period of time (for example a report) the period of time to which the document relates.

#### **12A.46 Notifications relating to court orders**

**12A.46** In addition to the information required by Rule 12A.43, a notification relating to a court order must also specify—

- (a) the nature of the court order; and
- (b) the date of the order.

#### **12A.47 Returns or reports of meetings**

(1) In addition to the information required by Rule 12A.43, the notification of a return or a report of a meeting must specify—

- (a) the purpose of the meeting including the section of the Act or Rule under which it was convened;
- (b) the venue fixed for the meeting;
- (c) whether a required quorum was present for the meeting to take place; and
- (d) if the meeting took place, the outcome of the meeting (including any resolutions passed at the meeting).

(2) Where the return relates to the meeting required by section 94 or 106 (final meetings prior to dissolution), it must also specify the dates of the opening and close of the winding up.

#### **12A.48 Notifications relating to other events**

**12A.48** In addition to the information required by Rule 12A.43, a notification relating to any other event (for example the coming in to force of a moratorium) must specify—

- (a) the nature of the event including the section of the Act or Rule under which it took place; and
- (b) the date the event occurred.

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#### **12A.49 Notifications of more than one nature**

**12A.49** A notification which includes a notification of more than one nature must satisfy the requirements applying in respect of each of those notifications.

#### **12A.50 Notifications made to other persons at the same time**

(1) Where under the Act or the Rules a notice or other document is to be sent to another person at the same time that it is to be sent to the registrar of companies, that requirement may be satisfied by sending to that other person a copy of the notification sent to the registrar.

(2) Paragraph (1) does not apply—

- (a) where a Form is prescribed for the notification to the other person; or
- (b) where the notification to the registrar of companies is incomplete.

### CHAPTER 10

#### INSPECTION OF DOCUMENTS AND THE PROVISION OF INFORMATION

#### **12A.51 Confidentiality of documents – grounds for refusing inspection**

(1) Where in insolvency proceedings the office-holder considers that a document forming part of the records of those proceedings—

- (a) should be treated as confidential, or
- (b) is of such a nature that its disclosure would be prejudicial to the conduct of the proceedings or might reasonably be expected to lead to violence against any person,

the office-holder may decline to allow it to be inspected by a person who would otherwise be entitled to inspect it.

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

(3) Where under this rule the office-holder determines to refuse inspection of a document, the person wishing to inspect it may apply to the court for that determination to be overruled and the court may either overrule it altogether or sustain it subject to such conditions (if any) as it thinks just.

#### **12A.52 Right to copy documents**

**12A.52** Where the Act or the Rules confer a right for any person to inspect documents, the right includes that of taking copies of those documents, on payment—

- (a) in the case of documents on the court's file of proceedings, of the fee chargeable under any order made under section 92 of the Courts Act 2003(2), and
- (b) in any other case, of the appropriate fee.

#### **12A.53 Charges for copy documents**

**12A.53** Except where prohibited by the Rules, a responsible insolvency practitioner or the official receiver is entitled to require the payment of the appropriate fee for the supply of documents requested by a creditor, member, contributory or member of a liquidation or creditors' committee.

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### **12A.54 Right to have list of creditors**

- (1) This Rule applies in the following proceedings—
  - (a) administration;
  - (b) winding up (other than a members' voluntary winding up); and
  - (c) bankruptcy.
- (2) A creditor or a member State liquidator has the right to require an office-holder to provide a list of the creditors and the amounts of their respective debts unless paragraph (5) applies.
- (3) The office-holder on being required to furnish the list under paragraph (2)—
  - (a) as soon as reasonably practicable must send it to the person requiring the list to be furnished; and
  - (b) may charge the appropriate fee for doing so.
- (4) The name and address of any creditor may be omitted from the list furnished under paragraph (3) where the office-holder is of the view that its disclosure would be prejudicial to the conduct of the proceedings or might reasonably be expected to lead to violence against any person provided that—
  - (a) the amount of the debt in question is shown in the list; and
  - (b) a statement is included in the list that the name and address of the creditor has been omitted in respect of that debt.
- (5) Paragraph (2) does not apply where a statement of affairs has been—
  - (a) delivered to the registrar of companies, in a winding up or an administration; or
  - (b) filed with the court, in bankruptcy proceedings.

## CHAPTER 11

### COMPUTATION OF TIME AND TIME LIMITS

#### **12A.55 Time limits**

- (1) The provisions of CPR rule 2.8 (time) apply, as regards computation of time, to anything required or authorised to be done by the Rules.
- (2) The provisions of CPR rule 3.1(2)(a) (the court's general powers of management) apply so as to enable the court to extend or shorten the time for compliance with anything required or authorised to be done by the Rules.

## CHAPTER 12

### SECURITY

#### **12A.56 Insolvency practitioners' security**

- (1) Wherever under the Rules any person has to appoint, or certify the appointment of, an insolvency practitioner to any office that person must, before making or certifying the appointment, be satisfied that the person appointed or to be appointed has security for the proper performance of that office.
- (2) It is the duty—
  - (a) of the creditors' committee in—
    - (i) an administration,

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- (ii) an administrative receivership,
  - (iii) a bankruptcy, and
  - (b) of the liquidation committee in a winding up,
- to review from time to time the adequacy of the responsible insolvency practitioner's security.
- (3) In any insolvency proceedings the cost of the responsible insolvency practitioner's security shall be defrayed as an expense of the proceedings.

## CHAPTER 13

### NOTICE OF ORDER UNDER SECTION 176A(5)

#### **12A.57 Notice of order under section 176A(5)**

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

(2) Where the court has made an order under section 176A(5), the liquidator, administrator or receiver must as soon as reasonably practicable, give notice to each creditor of whose address and claim the office-holder in question is aware.

(3) Paragraph (2) does not apply where the court directs otherwise.

(4) The court may direct that the requirement in paragraph (2) is complied with if a notice has been published by the liquidator, administrator or receiver which, in addition to containing the standard contents, states that the court has made an order disapplying the requirement to set aside the prescribed part. As soon as reasonably practicable the notice—

- (a) must be gazetted; and
- (b) may be advertised in such other manner as the liquidator, administrator, or receiver thinks fit.

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