

2024 No. 229

INSOLVENCY, ENGLAND AND WALES

WATER INDUSTRY, ENGLAND AND WALES

**The Water Industry (Special Administration) (England and
Wales) Rules 2024**

<i>Made</i>	- - - -	<i>26th February 2024</i>
<i>Laid before Parliament</i>		<i>27th February 2024</i>
<i>Coming into force</i>		<i>19th March 2024</i>

The Lord Chancellor, in the exercise of the powers conferred by section 411 of the Insolvency Act 1986^(a) as applied by regulation 49 of the Water Industry (Special Administration) Regulations 2024^(b) for the purpose of giving effect to provision made by or under sections 23 to 26 of the Water Industry Act 1991^(c), makes these Rules.

The only provision made by these Rules is provision applying rules made under section 411 of the Insolvency Act 1986, with modifications, for the purposes of provision made by or under sections 23 to 26 of the Water Industry Act 1991^(d).

The Secretary of State concurs in the making of these Rules.

The Chancellor of the High Court, by the authority of the Lady Chief Justice under section 411(7) of the Insolvency Act 1986, concurs in the making of these Rules in so far as they affect court procedure.

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- (a) 1986 c. 45. Section 411 was amended by section 15(1) of, and paragraph 188(2) of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4), sections 125 and 160 of the Banking Act 2009 (c. 1), section 2(1) of, and paragraph 22(2) of Schedule 3 to, the Corporate Insolvency and Governance Act 2020 (c. 12), S.I. 2002/1037, 2007/2194, 2009/805 and 1941, 2017/702 and 2019/146.
- (b) S.I. 2024/205.
- (c) 1991 c. 56.
- (d) The requirement under section 413(2) of the Insolvency Act 1986 to consult the Committee established under section 10 of the Insolvency Act 1976 (c. 60) does not apply in relation to Rules which contain a statement to this effect. Section 413(2) was amended by paragraph 78(2) of Schedule 25 to the Water Act 1989 (c. 15).

PART 1

INTRODUCTORY

Citation and commencement

1. These Rules may be cited as the Water Industry (Special Administration) (England and Wales) Rules 2024 and come into force 21 days after the day on which they are laid.

Extent and application

2.—(1) These Rules extend to England and Wales.

(2) These Rules apply to water industry companies in respect of which a court has made, or may make, a special administration order having effect at any time after these Rules come into force (including where such an order took effect before then).

Revocation

3. The Water Industry (Special Administration) Rules 2009(a) (“the 2009 Rules”) are revoked.

Interpretation

4.—(1) In these Rules—

“the 1986 Act” means the Insolvency Act 1986(b);

“the 1991 Act” means the Water Industry Act 1991(c);

“the 2016 Rules” mean the Insolvency (England and Wales) Rules 2016(d);

“Schedule B1” means Schedule B1(e) to the 1986 Act;

“special administration order” means an order of the kind described in section 23(1) of the 1991 Act;

“special administrator” means a person appointed by the court to manage the affairs, business and property of a water industry company under—

(a) section 23(1) of the 1991 Act; or

(b) paragraph 91 or 103 of Schedule B1; and

“water industry company” means a company of a kind mentioned in section 23(1) of the 1991 Act.

(2) In these Rules, a reference to the 1986 Act, or to a provision of the 1986 Act, is to that Act or provision as it is applied by, and has effect subject to, any modifications made by the Water Industry (Special Administration) Regulations 2024(f).

(3) In these Rules, unless the context demands otherwise, references to a rule, Chapter, Part, sub-division or Schedule, are to a rule, Chapter, Part or sub-division of, or Schedule to, the 2016 Rules, as modified or applied by these Rules.

Application of certain rules of the 2016 Rules with modifications

5.—(1) These Rules apply certain provisions of the 2016 Rules, with modifications in certain cases, as follows—

(a) S.I. 2009/2477.

(b) 1986 c. 45.

(c) 1991 c. 56.

(d) S.I. 2016/1024.

(e) Schedule B1 to the Insolvency Act 1986 was inserted by the Enterprise Act 2002 (c. 40), section 248(2) and Schedule 16.

(f) S.I. 2024/205.

- (a) rules listed in the Schedule to these Rules apply for the purposes of these Rules subject to the modifications set out in paragraph (2) and in Parts 2 to 9;
- (b) in Part 3 of the 2016 Rules—
 - (i) Chapter 5 applies with the insertion of rule 3.27A (see rule 41 of these Rules);
 - (ii) Chapter 7 (so far as it applies for the purposes of these Rules) applies with the insertion of rule 3.42A (see rule 47 of these Rules);
- (c) in Part 12 of the 2016 Rules, Chapter 3 applies with the insertion of rule 12.13A (see rule 64 of these Rules);
- (d) Schedules 3, 4, 5, 6 and 10 apply for the purposes of these Rules.

(2) Subject to the following provisions of these Rules and except where the context demands otherwise, where a rule of the 2016 Rules applies by virtue of these Rules, that rule has effect as if—

- (i) for “administration” in each place where it occurs, there were substituted “special administration”;
- (ii) for “administrator” in each place where it occurs, there were substituted “special administrator”;
- (iii) for “office-holder” in each place where it occurs, there were substituted “special administrator”;
- (iv) for “an”, in each place where it precedes “administration”, “administrator” or “office-holder”, there were substituted “a”.

PART 2

SCOPE, INTERPRETATION, TIME AND RULES ABOUT DOCUMENTS APPLICATION OF PART 1 OF THE 2016 RULES

Defined terms (rule 1.2)

6. Rule 1.2 has effect as if—

- (a) in paragraph (2)—
 - (i) the following definitions were omitted—
 - (aa) “Article 1.2 undertaking”;
 - (bb) “bankruptcy application”;
 - (cc) “bankruptcy file”;
 - (dd) “bankruptcy restrictions register”;
 - (ee) “centre of main interests”;
 - (ff) “COMI proceedings”;
 - (gg) “debt relief restrictions register”;
 - (hh) “establishment”;
 - (ii) “establishment proceedings”;
 - (jj) “individual insolvency register”;
 - (kk) “individual register”;
 - (ll) “IVA”;
 - (mm) “nominated person”;
 - (nn) “office-holder”;
 - (oo) “trustee”;
 - (ii) for the following definitions there were substituted as follows—

- (aa) for the definitions of “debt” and “small debt” there were substituted ““debt” and “small debt” are defined in rule 14.1(3) for the purposes of special administration;”;
 - (bb) for the definition of “the Gazette” there were substituted ““the Gazette” means the London Gazette;”;
 - (cc) for the definition of “insolvent estate” there were substituted ““insolvent estate” means, in relation to a special administration, the company’s assets;”;
 - (dd) for the definition of “prescribed order of priority” there were substituted ““prescribed order of priority” means the order of priority of payment of expenses set out in Chapter 10 of Part 3 for special administration proceedings;”;
 - (ee) for the definition of “prove” and “proof” there were substituted—
 - ““prove” and “proof” have the following meaning—
 - (a) a creditor who claims for a debt in writing is referred to as proving that debt;
 - (b) the document by which the creditor makes the claim is referred to as that creditor’s proof; and
 - (c) for the purpose of voting, or objecting to a deemed consent in a special administration, the requirements for a proof are satisfied by the convener or chair having been notified by the creditor in writing of a debt;”;
- (iii) at the appropriate places, the following definitions were inserted—
- ““the 1991 Act” means the Water Industry Act 1991;”;
 - ““purposes of special administration” is to be construed in accordance with section 23(2) to (2B) of the 1991 Act;”;
 - ““qualifying water supply licensee” is to be construed in accordance with section 23(6) of the 1991 Act(a);”;
 - ““relevant authority” means—
 - (a) in the case of a special administration order that relates to a company appointed under section 6(1) of the 1991 Act to be the relevant undertaker for an area that is wholly or mainly in Wales, the Welsh Ministers(b), and
 - (b) in any other case, the Secretary of State;”; - ““relevant undertaker” means a company holding an appointment under Chapter I of Part 2 of the 1991 Act;”;
 - ““Schedule B1” means Schedule B1(c) to the Act;”;
 - ““special administration order” means an order of the kind described in section 23(1) of the 1991 Act;”;
 - ““special administrator” means a person appointed by the court to manage the affairs, business and property of a water industry company under—
 - (a) section 23(1) of the 1991 Act; or
 - (b) paragraph 91 or 103 of Schedule B1;”;

(a) Section 23 was amended by section 101(1) of, and paragraphs 2 and 8 of Schedule 8 to, the Water Act 2003 (c. 37), sections 34 of, and paragraphs 3, 5, and 6 of Schedule 5 to, the Flood and Water Management Act 2010 (c. 29), sections 5 and 56 of, paragraphs 1 and 23 of Schedule 5 to, and paragraphs 2, 5 and 35 of Schedule 7 to, the Water Act 2014 (c. 21), section 7 of, and paragraph 11 of Schedule 9 to, the Corporate Insolvency and Governance Act 2020 (c. 12).

(b) The original Instruments of Appointment of water undertakers and sewerage undertakers, including maps of the areas of appointment and any amendments to them, are available to view online at: <https://www.ofwat.gov.uk/regulated-companies/ofwat-industry-overview/licences/#ioa>. They may also be inspected in person at: Ofwat, 7 Hill Street, Birmingham, B5 4UA, between the hours of 9.30am and 1pm, and 2pm and 4.30pm, Monday to Friday (except public and other holidays), at a cost (at the date on which these Rules are made) of £20 per inspection except where an appointment to inspect is made at least 24 hours in advance (by calling 0121 644 7600) in which case the inspection is free of charge.

(c) Schedule B1 to the Insolvency Act 1986 was inserted by the Enterprise Act 2002 (c. 40), section 248(2) and Schedule 16.

““water industry company” means a company of a kind mentioned in section 23(1) of the 1991 Act;”;

- (b) in paragraph (3) in the opening words and in sub-paragraph (a), there were omitted “, debtor or bankrupt”.

Information required to identify persons and proceedings etc. (rule 1.6)

7. Rule 1.6 has effect as if, in paragraph (2), in the table—

- (a) the first entry (bankrupt) were omitted;
- (b) in the second entry (company where it is the subject of the proceedings), in the second column, paragraphs (e), (f) and (g) were omitted;
- (c) the fourth entry (debtor) were omitted;
- (d) in the final entry (proceedings), paragraph (t) were omitted.

Variations from prescribed contents (rule 1.9)

8. Rule 1.9 has effect as if paragraph (2) were omitted.

Standard content of all notices (rule 1.11)

9. Rule 1.11 has effect as if, in paragraph (1)(b), there were omitted “(except for the official receiver)”.

Gazette notices relating to a company (rule 1.12)

10. Rule 1.12 has effect as if paragraph (2) were omitted.

The Gazette: evidence, variations and errors (rule 1.14)

11. Rule 1.14 has effect as if, in paragraphs (2) and (3), “or of the adjudicator” were omitted.

Registrar of companies: covering notices (rule 1.20)

12. Rule 1.20 has effect as if—

- (a) paragraph (1)(b) were omitted;
- (b) in paragraph (1A), sub-paragraphs (a), (c), (e), (f), (g), (l), (m), (n)(iii) and (iv) and (o) were omitted;
- (c) in paragraph (2), “or the directors (as the case may be)” were omitted.

Standard contents of all documents (rule 1.21)

13. Rule 1.21 has effect as if, in paragraph (1)(b)(ii), for “the Act” to “rule” there were substituted “the 1991 Act, the section of the Act, the paragraph of Schedule B1, the rule, the regulation of the Water Industry (Special Administration) Regulations 2024, or the rule of the Water Industry (Special Administration) (England and Wales) Rules 2024 (as applicable)”.

Standard contents of documents relating to the office of office-holders (rule 1.22)

14. Rule 1.22 has effect as if for paragraph (1)(b) there were substituted—

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

Standard contents of documents relating to other events (rule 1.27)

15. Rule 1.27 has effect as if, in sub-paragraph (a), for “the Act” to “rule” there were substituted “the 1991 Act, the section of the Act, the paragraph of Schedule B1, the rule, the regulation of the Water Industry (Special Administration) Regulations 2024, or the rule of the Water Industry (Special Administration) (England and Wales) Rules 2024 (as applicable)”.

Standard contents of notices to be delivered to persons other than the registrar of companies (rule 1.28)

16. Rule 1.28 has effect as if, in paragraph (1), for “Part A1 to 11 of the Act or the EU Regulation” there were substituted “Parts 1 and 6 and Schedule B1”.

Standard contents of all notices (rule 1.29)

17. Rule 1.29 has effect as if—

- (a) paragraph (c) were omitted;
- (b) in paragraph (d), for “the Act” to “rule” there were substituted “the 1991 Act, the section of the Act, the paragraph of Schedule B1, the rule, the regulation of the Water Industry (Special Administration) Regulations 2024, or the rule of the Water Industry (Special Administration) (England and Wales) Rules 2024 (as applicable)”.

Standard contents of notices relating to the office of office-holders (rule 1.30)

18. Rule 1.30 has effect as if for paragraph (b) there were substituted—

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

Standard contents and authentication of applications to the court under Parts A1 to 11 of the Act (rule 1.35)

19. Rule 1.35 has effect as if for that rule there were substituted—

“Standard contents and authentication of applications to the court within special administration

1.35.—(1) This rule applies to applications to the court except an application for a special administration order.

(2) The application must be in writing and state—

- (a) that the application is made under the Act, as applied and modified by the Water Industry (Special Administration) Regulations 2024, or these Rules as applied and modified by the Water Industry (Special Administration) (England and Wales) Rules 2024 (as applicable);
- (b) the provision of any enactment referred to in sub-paragraph (a) under which the application is made;
- (c) the names of the parties;
- (d) the name of the company in special administration to which the application relates;
- (e) the court (and where applicable, the division or district registry of that court) in which the application is made;
- (f) where the court has previously allocated a number to the special administration proceedings within which the application is made, that number;
- (g) the nature of the remedy or order applied for or the directions sought from the court;

- (h) the names and addresses of the persons (if any) on whom it is intended to serve the application or that no person is intended to be served;
- (i) where the Act or these Rules require that notice of the application is to be delivered to specified persons, the names and addresses of all those persons (so far as known to the applicant); and
- (j) the applicant's address for service.

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

Application of Chapter (rule 1.36)

20. Rule 1.36 has effect as if, in paragraph (1), for "under Parts 1 to 11 of the Act or the EU Regulation" there were substituted "within a special administration".

Delivery to the creditors and opting out (rule 1.37)

21. Rule 1.37 has effect as if—

- (a) in paragraph (2)(c), for "sections 246C(2) or 379C(2)" there were substituted "section 246C(2)";
- (b) in paragraph (4), there were omitted "or individual".

Creditor's election to opt out (rule 1.38)

22. Rule 1.38 has effect as if—

- (a) paragraph (A1) were omitted;
- (b) in paragraph (5)(b), "or individual" were omitted.

Office-holder to provide information to creditors on opting out (rule 1.39)

23. Rule 1.39 has effect as if—

- (a) paragraph (A1) were omitted;
- (b) in paragraph (2)(e), "or individual" were omitted.

Electronic delivery of documents (rule 1.45)

24. Rule 1.45 has effect as if, in paragraph (4), for "person who is the subject of the insolvency proceedings" there were substituted "company in special administration".

Use of website by office-holder to deliver a particular document (sections 246B and 379B) (rule 1.49)

25. Rule 1.49 has effect as if, in paragraph (1), for "sections 246B and 379B" there were substituted "section 246B".

Retention period for documents made available on websites (rule 1.51)

26. Rule 1.51 has effect as if, in paragraph (1), for "1.49" to the end there were substituted "1.49 or 1.50".

Proof of delivery of documents (rule 1.52)

27. Rule 1.52 has effect as if—

- (a) paragraph (3) were omitted;
- (b) in paragraph (4), from "other" to "adjudicator" were omitted.

Delivery of proofs and details of claims (rule 1.53)

28. Rule 1.53 has effect as if paragraph (2) were omitted.

Right to copies of documents (rule 1.54)

29. Rule 1.54 has effect as if “, in relation to proceedings under Parts A1 to 11 of the Act,” were omitted.

Charges for copies of documents provided by the office-holder (rule 1.55)

30. Rule 1.55 has effect as if for “, contributory” to the end, there were substituted “or contributory”.

Offence in relation to inspection of documents (rule 1.56)

31. Rule 1.56 has effect as if, in paragraph (2), “, the bankruptcy file” were omitted.

Right to list of creditors (rule 1.57)

32. Rule 1.57 has effect as if—

- (a) paragraph (1) were omitted;
- (b) paragraph (2)(b) were omitted.

Confidentiality of documents: grounds for refusing inspection (rule 1.58)

33. Rule 1.58 has effect as if paragraph (2) were omitted.

PART 3

ADMINISTRATION: APPLICATION OF PART 3 OF THE 2016 RULES

Proposed administrator’s statement and consent to act (rule 3.2)

34. Rule 3.2 has effect as if, in paragraph (1)(g), for “person by whom the appointment is made” to the end there were substituted “applicant”.

Administration application (paragraph 12 of Schedule B1)

35. Rule 3.3 has effect as if for that rule there were substituted—

“Special administration application (paragraph 12 of Schedule B1)

3.3.—(1) An application for an order for special administration (“the application”) under section 24 of the 1991 Act in relation to a company must—

- (a) be headed “Special administration application”;
- (b) identify, immediately below the heading, the company to which the application relates;
- (c) contain a statement identifying—
 - (i) whether the application is being made by the relevant authority or the Water Services Regulation Authority (“the applicant”); and
 - (ii) whether the company to which the application relates is a relevant undertaker or a qualifying water supply licensee;
- (d) include the applicant’s name and address for service; and

- (e) contain details of any issued and called-up capital, the number of shares into which the capital is divided, the nominal value of each share and the amount of capital paid up or treated as paid up.
- (2) If the applicant is the Water Services Regulation Authority, the application must state that it is made with the consent of the relevant authority.
- (3) If the application relates to a qualifying water supply licensee whose licence gives it a supplementary authorisation, the application must contain a statement that the Secretary of State or the Water Services Regulation Authority (as the case may be) has consulted the Welsh Ministers.
- (4) The application must—
 - (a) specify the name and address of the person, or of each person, proposed for appointment as special administrator;
 - (b) state that the applicant believes that, for the reasons set out in the witness statement supporting the application, one or more of the grounds for making a special administration order specified in section 24(2) of the 1991 Act is satisfied;
 - (d) contain a statement that the applicant requests the court—
 - (i) to make a special administration order in relation to the company;
 - (ii) to appoint the proposed person to be special administrator; and
 - (iii) to make such ancillary order as the applicant may request, and such other order as the court thinks appropriate.
- (5) The application must be authenticated by the applicant or the applicant’s solicitor and dated.”.

Witness statement in support of administration application (rule 3.6)

36. Rule 3.6 has effect as if—

- (a) for paragraphs (1) to (3) there were substituted—
 - “(1) A special administration application must be supported by a witness statement.
 - (2) The witness statement must state the nature of the authority of the person making it and the means of that person’s knowledge of the matters to which the witness statement relates.
 - (3) The witness statement must, to the best of the applicant’s knowledge or belief—
 - (a) state whether the company that is the subject of the application is a relevant undertaker, or a qualifying water supply licensee;
 - (b) state which of the grounds set out in section 24(2) of the 1991 Act the applicant believes are satisfied in relation to the company and the reasons for that belief;
 - (c) contain a statement of the company’s financial position, setting out the assets and liabilities of the company, including contingent and prospective liabilities;
 - (d) contain details of any security known or believed to be held by creditors of the company, and whether in any case the security is such as to confer power on the holder to appoint an administrative receiver;
 - (e) contain details of any notice served in accordance with section 26(1)(c) of the 1991 Act by any person intending to enforce a security over the company’s property;
 - (f) contain details of any step taken to enforce such a security;
 - (g) contain details of any insolvency proceedings in relation to the company, including any petition that has been presented for the winding up of the company;
 - (h) contain, where it is intended to appoint a number of persons as special administrators, a statement of the matters relating to the exercise of their functions set out in paragraph 100(2) of Schedule B1;

- (i) state any other matters which, in the applicant’s opinion, will assist the court in deciding whether to make an order for special administration.”;
- (b) paragraphs (4) and (5) were omitted.

Service of application (rule 3.8)

37. Rule 3.8 has effect as if—

- (a) paragraph (2) were omitted;
- (b) in paragraph (3)—
 - (i) in the opening words, the words in brackets after “following” were omitted;
 - (ii) for sub-paragraph (za) to the end, there were substituted—
 - “(a) the company;
 - (b) any person who has appointed, or is or may be entitled to appoint, an administrative receiver in relation to the company;
 - (c) if an administrative receiver has been appointed, the administrative receiver;
 - (d) if a petition is pending for the winding up of the company, the petitioner;
 - (e) the person, or each person, proposed for appointment as special administrator;
 - (f) the Environment Agency or Natural Resources Wales (as applicable);
 - (g) the Consumer Council for Water;
 - (h) the Chief Inspector of Drinking Water;
 - (i) if the applicant is the relevant authority, the Water Services Regulation Authority;
 - (j) if the applicant is the Water Services Regulation Authority, the relevant authority;
 - (k) if the company is a qualifying water supply licensee whose licence gives it a supplementary authorisation, the Welsh Ministers;
 - (l) any creditor who has served notice in accordance with section 26(1)(c) of the 1991 Act of the creditor’s intention to enforce the creditor’s security over property of the company.”.

The order (rule 3.13)

38. Rule 3.13 has effect as if, in paragraph (1), sub-paragraphs (h) and (i) were omitted.

Notice of administration order (rule 3.15)

39. Rule 3.15 has effect as if, after paragraph (2), there were inserted—

- “(2A) The applicant must as soon as reasonably practicable deliver a copy of the order—
 - (i) where the relevant authority was the applicant, to the Water Services Regulation Authority; or
 - (ii) where the Water Services Regulation Authority was the applicant, to the relevant authority.”.

Publication of administrator’s appointment (rule 3.27)

40. Rule 3.27 has effect as if, in paragraph (3)—

- (a) in sub-paragraph (d), “and” were omitted;
- (b) after sub-paragraph (e), there were inserted—
 - “(f) any person who has appointed, or is or may be entitled to appoint, an administrative receiver in relation to the company;
 - (g) the Environment Agency or Natural Resources Wales (as applicable);

- (h) the Consumer Council for Water;
- (i) the Chief Inspector of Drinking Water; and
- (j) any creditor who has served notice in accordance with section 26(1)(c) of the 1991 Act of the creditor's intention to enforce the creditor's security over property of the company.”.

Moratorium (rule 3.27A)

41. Chapter 5 of Part 3 has effect as if, after rule 3.27, there were inserted—

“Moratorium

3.27A. Where an application is made under paragraph 43 (moratorium on other legal process) of Schedule B1—

- (a) the applicant must, within two working days of making the application, serve notice of the application on—
 - (i) the relevant authority, and
 - (ii) the Water Services Regulation Authority; and
- (b) the relevant authority and the Water Services Regulation Authority may make representations concerning the application to the court by—
 - (i) filing written submissions to the court, and
 - (ii) appearing at any hearing concerning the application.”.

Statement of affairs: release from requirement and extension of time (rule 3.33)

42. Rule 3.33 has effect as if—

- (a) in paragraph (5), for “the administrator” there were substituted “the interested parties”;
- (b) in paragraph (6)—
 - (i) in the opening words, for “The administrator” there were substituted “An interested party”;
 - (ii) in sub-paragraph (a), for “the administrator” there were substituted “the interested party in question”;
- (c) for paragraph (7) there were substituted—

“(7) If a report is filed by an interested party, the interested party in question must deliver a copy of the report to the applicant and each other interested party, not later than five business days before the hearing.”;
- (d) in paragraph (8), for “the administrator” there were substituted “the interested parties”;
- (e) after paragraph (8), there were inserted—

“(9) For the purposes of this rule, each of the relevant authority, the Water Services Regulation Authority and the special administrator is an “interested party”, and “the interested parties” means each of them.”.

Administrator’s proposals: additional content (rule 3.35)

43. Rule 3.35 has effect as if—

- (a) in paragraph (1)—
 - (i) in the opening words, after “delivered to” there were inserted “the relevant authority, the Water Services Regulation Authority,”;
 - (ii) in sub-paragraph (b)(ii), “or appointment” were omitted;
 - (iii) in sub-paragraph (j)(ii)(cc)—

- (aa) “, before the proposals are approved,” were omitted; and
- (bb) for “rule 3.60(6)(b)” there were substituted “3.60(6)(a)(ii)”;
- (iv) sub-paragraph (k) were omitted;
- (v) in sub-paragraph (l)(ii), “, if the administrator’s proposals are approved,” were omitted;
- (vi) sub-paragraph (m) were omitted;
- (b) for paragraph (9) there were substituted—
 - “(9) The document containing the statement of proposals must include a statement that the basis of the special administrator’s remuneration is by reference to the time properly given by the special administrator and the special administrator’s staff in attending to matters arising in the special administration; and”;
- (c) paragraph (10)(b)(ii) were omitted.

Administrator’s proposals: statement of pre-administration costs (rule 3.36)

44. Rule 3.36 has effect as if, in paragraph (c), for “paragraph 3(1) of Schedule B1” to the end there were substituted “section 23 of the 1991 Act”.

Advertising administrator’s proposals and notices of extension of time for delivery of proposals (paragraph 49 of Schedule B1) (rule 3.37)

45. Rule 3.37 has effect as if for paragraph (2) there were substituted—

“(2) Where, on an application by the special administrator under paragraph 107 of Schedule B1, the court orders an extension of the period in paragraph 49(5) of Schedule B1 for delivering copies of the statement of proposals, the special administrator must as soon as reasonably practicable after the making of the order deliver a notice of the extension to—

- (a) the creditors of the company;
- (b) the members of the company of whose address the special administrator is aware;
- (c) the registrar of companies;
- (d) the relevant authority; and
- (e) the Water Services Regulation Authority.”.

Administrator’s proposals: revision (rule 3.42)

46. Rule 3.42 has effect as if for that rule there were substituted—

“Special administrator’s proposals: revision

3.42.—(1) Where paragraph 54(1) of Schedule B1 applies, the special administrator’s revised proposals must identify the proceedings and include—

- (a) any other trading names of the company;
- (b) details of the special administrator’s appointment, including—
 - (i) the date of the appointment, and
 - (ii) the person who made the application for the appointment;
- (c) details of the directors and secretary and details of any shareholdings in the company which they may have;
- (d) a summary of the original proposals and the reason or reasons for the revised proposals;
- (e) details of the revised proposals, including details of the special administrator’s assessment of the likely impact of the revised proposals upon creditors generally or upon each class of creditor;

- (f) where the revised proposals relate to the ending of the special administration by a creditors' voluntary winding up and the nomination of a person to be the liquidator of the company—
 - (i) details of the proposed liquidator,
 - (ii) where applicable, the declaration required by section 231 of the Act, and
 - (iii) a statement that the creditors may nominate a different person as liquidator in accordance with paragraph 83(7)(a) of Schedule B1 and rule 3.60(6)(a)(ii); and
 - (g) any other information that the special administrator thinks necessary.
- (2) In accordance with paragraph 54(2) of Schedule B1, the special administrator must send a copy of the revised proposals to the persons set out in that paragraph within 14 days of the date of the special administrator's revision of those proposals.
- (3) A notice under paragraph 54(4) of Schedule B1 must—
- (a) be advertised in such manner as the special administrator thinks fit as soon as reasonably practicable after the special administrator has sent the revised proposals to the creditors; and
 - (b) state that members may request in writing a copy of the revised proposals, and state the address to which to write.
- (4) As soon as reasonably practicable after sending the copy of the revised proposals, the special administrator must deliver a copy to the registrar of companies accompanied by a notice which must contain—
- (a) identification details for the proceedings; and
 - (b) the date of the revised proposals.”.

Creditors' decision for the nomination of alternative liquidator (rule 3.42A)

47. Chapter 7 of Part 3, so far as, by virtue of this Part, it applies for the purposes of these Rules, has effect as if, after rule 3.42, there were inserted—

“Creditors' decision for the nomination of alternative liquidator

3.42A.—(1) Where, under rule 3.35(1)(j)(ii) or rule 3.42(1)(f), the special administrator has proposed that the special administration will end by the company's entering creditors' voluntary liquidation, the special administrator must, in the circumstances detailed in paragraph (2), seek a decision from the company's creditors for the purpose of nominating a person other than the person named as the proposed liquidator in the special administrator's proposals or revised proposals.

(2) The special administrator must seek a decision from the company's creditors where such decision is requested by creditors of the company whose debts amount to at least 10 per cent of the total debts of the company.

(3) The request for a decision from the company's creditors for the purpose set out in paragraph (1) must be made within eight days of the date on which the special administrator's statement of proposals is delivered, or, where revised proposals have been sent out relating to the ending of the special administration by a creditors' voluntary liquidation, within eight days of the date on which the revised proposals are delivered.

(4) A request under this rule must include—

- (a) a statement of the requesting creditor's claim, together with—
 - (i) a list of the creditors concurring with the request, and of the amounts of the debts respectively owed to them in the special administration; and
 - (ii) from each creditor concurring, written confirmation of that creditor's concurrence; or

(b) a statement of the amount of the debt owed to the requesting creditor and that that alone is sufficient without other creditors.

(5) Where a decision has been requested under this rule, the expenses of the requisitioned decision must be paid either, if the creditors so decide, as an expense of the special administration, or otherwise by the requesting creditor.

(6) A decision requested under this rule must be reached within 21 days of the special administrator's receipt of the notice requesting the decision procedure.”.

Order of priority (rule 3.51)

48. Rule 3.51 has effect as if, in paragraph (2)—

(a) in sub-paragraph (c)—

(i) “where an administration order was made” were omitted;

(ii) for “costs of the applicant” there were substituted “costs of the applicant for the special administration order”;

(b) sub-paragraph (d) were omitted;

(c) for sub-paragraph (g), there were substituted—

“(g) any necessary disbursements by the special administrator in the course of the special administration (but not including any payment of corporation tax in circumstances referred to in sub-paragraph (j) below);”.

Pre-administration costs (rule 3.52)

49. Rule 3.52 has effect as if, for that rule, there were substituted—

“Pre-special administration costs (rule 3.52)

3.52.—(1) Where the special administrator has made a statement of pre-special administration costs under rule 3.35(10)(a), the special administrator must apply to the court for a determination as to whether, and to what extent, the unpaid pre-special administration costs are approved for payment.

(2) The special administrator must deliver at least 14 days' notice of an application under paragraph (1) to such of the company's creditors as the court may direct, and those creditors may nominate one or more of their number to appear or be represented at the application.

(3) The court may, if it appears to be a proper case, order the costs of the application, including the costs of any creditor appearing or being represented, to be paid as an expense of the special administration.”.

Administrator's application for order ending administration (paragraph 79 of Schedule B1) (rule 3.57)

50. Rule 3.57 has effect as if—

(a) for paragraphs (1) and (2) there were substituted—

“(1) An application to court under paragraph 79 of Schedule B1 for an order ending a special administration must—

(a) where the applicant is the special administrator, be accompanied by a progress report for the period since—

(i) the last progress report (if any), or

(ii) if there has been no previous progress report, the date on which the company entered special administration, and

(iii) a statement indicating what the special administrator thinks should be the next steps for the company;

- (b) where the applicant is the relevant authority or the Water Services Regulation Authority, be accompanied by—
 - (i) a witness statement explaining why the applicant believes that there is no longer a need to pursue the purpose of the special administration;
 - (ii) either—
 - (aa) a progress report, or
 - (bb) an explanation of why there is no progress report; and
 - (iii) a statement indicating what the applicant thinks should be the next steps for the company.
- (2) Where an application under this rule is to be made—
 - (a) the applicant must deliver notice to the other interested parties; and
 - (b) notice of the application must be delivered at least five business days before the application is made.”; and
- (b) after paragraph (2), there were inserted—
 - “(2A) The application under this rule must be accompanied by—
 - (a) a statement that notice has been delivered in accordance with paragraph (2); and
 - (b) a copy of any response to that notice.
 - (2B) In paragraph (2), each of the relevant authority, the Water Services Regulation Authority and the special administrator is an “interested party.”.

Notice by administrator of court order (rule 3.59)

51. Rule 3.59 has effect as if—

- (a) in sub-paragraph (b), “and” were omitted;
- (b) after sub-paragraph (b), there were inserted—
 - “(ba) the relevant authority and the Water Services Regulation Authority; and”.

Moving from administration to creditors’ voluntary winding up (paragraph 83 of Schedule B1) (rule 3.60)

52. Rule 3.60 has effect as if—

- (a) in paragraph (2)(b), there were omitted “the appointment or” and “, as the case may be”;
- (b) for paragraph (6) there were substituted—
 - “(6) For the purposes of paragraph 83(7)(a) of Schedule B1—
 - (a) a person is nominated by the creditors as liquidator by—
 - (i) their approval of the statement of the proposed liquidator in the special administrator’s proposals or revised proposals; or
 - (ii) their nomination of a different person, through a decision procedure under rules 3.35(1)(j)(ii)(cc) and 3.42A;
 - (b) the creditors’ approval is deemed to have been given under sub-paragraph (a)(i) where no decision procedure is sought under rules 3.35(1)(j)(ii)(cc) and 3.42A.”;
- (c) after paragraph (7), there were inserted—
 - “(8) The Water Services Regulation Authority must notify the relevant authority before consenting to the special administrator delivering to the registrar of companies a notice of moving from special administration to creditors’ voluntary liquidation.”.

Moving from administration to dissolution (paragraph 84 of Schedule B1) (rule 3.61)

53. Rule 3.61 has effect as if—

- (a) for paragraph (5) there were substituted—
 - “(5) Where the court makes an order under paragraph 84(7) of Schedule B1, it must—
 - (a) where the applicant is the special administrator, deliver a copy of the order to the relevant authority and the Water Services Regulation Authority;
 - (b) where the applicant is the relevant authority, deliver a copy of the order to the special administrator and the Water Services Regulation Authority; or
 - (c) where the applicant is the Water Services Regulation Authority, deliver a copy of the order to the special administrator and the relevant authority.”;
- (b) after paragraph (6), there were inserted—
 - “(7) The Water Services Regulation Authority must notify the relevant authority before consenting to the special administrator delivering to the registrar of companies a notice of moving from special administration to dissolution.”.

Notice of intention to resign (rule 3.63)

54. Rule 3.63 has effect as if—

- (a) in paragraph (2), for sub-paragraph (c) there were substituted—
 - “(c) the name of the person who made the application for a special administration order.”;
- (b) in paragraph (3)(b), from “where” to “order,” were omitted;
- (c) for paragraph (4) there were substituted—
 - “(4) The notice must be delivered—
 - (a) to any continuing special administrator of the company; and
 - (b) to the relevant authority and the Water Services Regulation Authority.”.

Notice of resignation (paragraph 87 of Schedule B1) (rule 3.64)

55. Rule 3.64 has effect as if—

- (a) for paragraph (1) there were substituted—
 - “(1) A resigning special administrator must, within five business days of delivering the notice under paragraph 87(2) of Schedule B1, deliver a copy of the notice to—
 - (i) the registrar of companies;
 - (ii) all persons to whom notice of intention to resign was delivered under rule 3.63(4);
 - (iii) if there is no continuing special administrator of the company, the company; and
 - (iv) the company’s creditors.”;
- (b) in paragraph (2)(c), for from “appointment” to the end, there were substituted “application for an order for special administration.”;
- (c) for paragraph (4), there were substituted—
 - “(4) Notice of resignation under paragraph 87(2) of Schedule B1 must be given by filing the notice with the court.”.

Application to court to remove administrator from office (rule 3.65)

56. Rule 3.65 has effect as if—

- (a) in paragraph (2), for sub-paragraphs (b) to (e), there were substituted—
 - “(b) to the person who made the application for the special administration order;
 - (c) to any continuing special administrator appointed to act jointly or concurrently;

- (d) to the company;
 - (e) to the Environment Agency or Natural Resources Wales (as applicable);
 - (f) to the Consumer Council for Water;
 - (g) to the Chief Inspector of Drinking Water;
 - (h) if the applicant for the special administration order was the relevant authority, to the Water Services Regulation Authority;
 - (i) if the applicant for the special administration order was the Water Services Regulation Authority, to the relevant authority.”;
- (b) after paragraph (2), there were inserted—
- “(2A) Where an application for an order under paragraph 88 of Schedule B1 is made, the special administrator, the relevant authority and the Water Services Regulation Authority each have a right to appear or be represented at any hearing of the application.”;
- (c) in paragraph (4)—
- (i) in sub-paragraph (b)(i), “and” were omitted;
 - (ii) in sub-paragraph (b)(ii), for “companies.” there were substituted “companies, and”;
 - (iii) after sub-paragraph (b)(ii), there were inserted—
 - “(iii) the creditors of the company.”.

Notice of vacation of office when administrator ceases to be qualified to act (rule 3.66)

- 57.** Rule 3.66 has effect as if for “the registrar of companies” there were substituted—
- “(a) the relevant authority;
 - (b) where the company is a qualifying water supply licensee whose licence gives it a supplementary authorisation, the Welsh Ministers;
 - (c) the Water Services Regulation Authority; and
 - (d) the registrar of companies.”.

Deceased administrator (rule 3.67)

- 58.** Rule 3.67 has effect as if for paragraph (4)(b) there were substituted—
- “(b) the name of the person who made the application for special administration;”.

Application to replace (rule 3.68)

- 59.** Rule 3.68 has effect as if, in paragraph (2), for sub-paragraphs (a) to (j) there were substituted—
- “(a) to the company;
 - (b) to any person who has appointed, or is or may be entitled to appoint, an administrative receiver in relation to the company;
 - (c) if an administrative receiver has been appointed, to the administrative receiver;
 - (d) to the person, or each person, proposed for appointment as special administrator;
 - (e) to the Environment Agency or Natural Resources Wales (as applicable);
 - (f) to the Consumer Council for Water;
 - (g) to the Chief Inspector of Drinking Water;
 - (h) if the applicant is the relevant authority, to the Water Services Regulation Authority;
 - (i) if the applicant is the Water Services Regulation Authority, to the relevant authority;

- (j) if the applicant is the special administrator, to the relevant authority and the Water Services Regulation Authority;
- (k) if the company is a qualifying water supply licensee whose licence gives it a supplementary authorisation, to the Welsh Ministers;
- (l) to any creditor who has served notice in accordance with section 26 of the 1991 Act of the creditor's intention to enforce the creditor's security over property of the company.”.

Appointment of replacement or additional administrator (rule 3.69)

60. Rule 3.69 has effect as if for that rule there were substituted—

“Appointment of replacement or additional special administrator

3.69. Where a replacement or additional special administrator is appointed to act—

- (a) rule 3.27 (publication of administrator's appointment), paragraphs (1), 2(a) and (b), (3) and (4), apply;
- (b) the replacement or additional special administrator must deliver notice of the appointment to the registrar of companies;
- (c) all documents must clearly identify the appointment as an appointment of a replacement special administrator or an additional special administrator.”.

PART 4

COURT PROCEDURE AND PRACTICE: APPLICATION OF PART 12 OF THE 2016 RULES

Court rules and practice to apply (rule 12.1)

61. Rule 12.1 has effect as if for paragraph (1) there were substituted—

“(1) The provisions of the CPR (including any Practice Directions) apply for the purposes of proceedings within special administration and the application for a special administration order with any necessary modifications, except so far as disapplied by or inconsistent with these Rules.”.

Preliminary (rule 12.6)

62. Rule 12.6 has effect as if for that rule there were substituted—

“Preliminary (rule 12.6)

12.6. This Chapter applies to applications to the court except an application for a special administration order.”.

Service or delivery of application (rule 12.9)

63. Rule 12.9 has effect as if paragraph (1)(b) were omitted.

Special administrator's solicitor (rule 12.13A)

64. Chapter 3 of Part 12 has effect as if, after rule 12.13, there were inserted—

“Special administrator’s solicitor

12.13A. If the attendance of the special administrator’s solicitor is required in special administration proceedings, the special administrator need not attend in person unless the court so directs.”.

Applications under section 176A(5) to disapply section 176A (rule 12.14)

65. Rule 12.14 has effect as if—

- (a) in paragraph (1), “liquidator,” and “or receiver” were omitted;
- (b) in paragraph (2), for sub-paragraph (a) there were substituted—
“that the company is in special administration.”.

Notice of an order under section 176A(5) (rule 12.16)

66. Rule 12.16 has effect as if—

- (a) in paragraphs (2), (3) and (5), “liquidator,” and “or receiver” were omitted;
- (b) in paragraph (4)(b), “liquidator,” and “, or receiver” were omitted.

Application of this sub-division and interpretation (rule 12.17)

67. Rule 12.17 has effect as if for that rule there were substituted—

“Application of this sub-division and interpretation

12.17.—(1) The rules in this sub-division apply to applications to the court for an order under section 236 (inquiry into company’s dealings).

(2) In this sub-division—

- “applicable section” means section 236; and
- “the insolvent” means the company.”.

Contents of application (rule 12.18)

68. Rule 12.18 has effect as if, in paragraph (1), “, 251N or 366” were omitted.

Procedure for examination (rule 12.20)

69. Rule 12.20 has effect as if, in paragraph (2)(b), “or 366” were omitted.

Costs of proceedings under sections 236, 251N and 366 (rule 12.22)

70. Rule 12.22 has effect as if—

- (i) in paragraph (2)(a), “or 367(1)” were omitted;
- (ii) in paragraph (2)(b), “or 367(2)” were omitted;
- (iii) in paragraph (3), for sub-paragraphs (a) and (b) there were substituted—
“as an expense of the special administration.”;
- (iv) paragraph (5) were omitted.

Evidence provided by the official receiver, an insolvency practitioner or a special manager (rule 12.29)

71. Rule 12.29 has effect as if—

- (a) paragraph (2) were omitted;

- (b) in paragraph (3), sub-paragraphs (b) to (g) were omitted.

General power of transfer (rule 12.30)

72. Rule 12.30 has effect as if—

- (a) in paragraph (4)—
 - (i) sub-paragraph (b) were omitted;
 - (ii) for sub-paragraph (c) there were substituted—
 - “(c) on the application of the relevant authority or, with the consent of the relevant authority, the Water Services Regulation Authority.”;
- (b) paragraphs (5), (6) and (7) were omitted.

Proceedings commenced in the wrong court (rule 12.31)

73. Rule 12.31 has effect as if, for that rule, there were substituted—

“Proceedings commenced in the wrong court

12.31. Where a special administration is commenced in a court other than the High Court, that court may order the transfer of the proceedings to the High Court.”.

Procedure following order for transfer (rule 12.33)

74. Rule 12.33 has effect as if for that rule there were substituted—

“Procedure following order for transfer

12.33.—(1) Where a court makes an order for the transfer of proceedings, it must as soon as reasonably practicable deliver to the transferee court a sealed copy of the order, and the file of the proceedings.

(2) A transferee court which receives such an order and the file in special administration proceedings must, as soon as reasonably practicable, deliver notice of the transfer to the transferor court.”.

The court file (rule 12.39)

75. Rule 12.39 has effect as if—

- (a) paragraph (2) were omitted;
- (b) for paragraph (3) there were substituted—
 - “(3) The following may inspect the court file, or obtain from the court a copy of the court file, or of any document in the court file—
 - (a) the special administrator;
 - (b) the relevant authority;
 - (c) a creditor who provides the court with a statement confirming that that person is a creditor of the company or the individual to whom the proceedings relate;
 - (d) the Water Services Regulation Authority;
 - (e) the Chief Inspector of Drinking Water;
 - (f) the Environment Agency or Natural Resources Wales (as appropriate); and
 - (g) the Consumer Council for Water.”;
- (c) for paragraph (4), there were substituted—

“(4) The same right to inspect and obtain copies is exercisable by an officer or former officer or member of the company in special administration.”;

(d) in paragraph (10), sub-paragraph (a) were omitted;

(e) in paragraph (12), for “Secretary of State or the official receiver”, there were substituted “relevant authority, the Water Services Regulation Authority or the special administrator”.

Requirement to assess costs by the detailed procedure (rule 12.42)

76. Rule 12.42 has effect as if paragraphs (2)(b) and (6) were omitted.

Procedure where detailed assessment is required (rule 12.43)

77. Rule 12.43 has effect as if paragraph (6) were omitted.

Awards of costs against an office-holder, the adjudicator or the official receiver (rule 12.47)

78. Rule 12.47 has effect as if for that rule there were substituted—

“Awards of costs against a special administrator

12.47. Where a special administrator is made a party to any proceedings on the application of another party to the proceedings, the special administrator is not to be personally liable for the costs unless the court otherwise directs.”.

Applications for costs (rule 12.48)

79. Rule 12.48 has effect as if—

(a) for paragraph (2) there were substituted—

“(2) The applicant must serve a sealed copy of the application on the special administrator.”;

(b) for paragraph (3) there were substituted “The special administrator may appear on the application.”;

(c) paragraph (4) were omitted.

Costs and expenses of petitioners and other specified persons (rule 12.49)

80. Rule 12.49 has effect as if for that rule there were substituted—

“Costs and expenses of petitioners and other specified persons

12.49.—(1) Except as directed by the court, no allowance as a witness in any examination or other proceedings before the court may be made to a relevant officer of the company to which the proceedings relate.

(2) A person making any application to court within the special administration is not to be regarded as a witness on the hearing of the application, but a costs officer may allow that person’s expenses of travelling and subsistence.”.

Orders enforcing compliance (rule 12.52)

81. Rule 12.52 has effect as if—

(a) in paragraph (1)—

(i) for “competent person” there were substituted “special administrator”;

(ii) sub-paragraphs (za), (b), (c) and (d) were omitted;

(b) paragraph (2) were omitted.

Warrants (general provisions) (rule 12.53)

82. Rule 12.53 has effect as if, in paragraph (2), for “sections 134(2), 236(5), 251N(5), 364(1), 365(3) and 366(3)” there were substituted “section 236(5)”.

Warrants under sections 236, 251N and 366 (rule 12.55)

83. Rule 12.55 has effect as if “251N (the equivalent in relation to debt relief orders) or 366 (the equivalent in bankruptcy),” were omitted.

Appeals and reviews of court orders in corporate insolvency (rule 12.59)

84. Rule 12.59 has effect as if—

- (a) in paragraph (1), for “Parts A1 to 7” to “Rules,” there were substituted “the special administration”;
- (b) in paragraph (2), for “Appeals” to “as follows” there were substituted “An appeal made in the exercise of the court’s jurisdiction in relation to special administration lies as follows”;
- (c) paragraph (3) were omitted.

Shorthand writers: nomination etc. (rule 12.65)

85. Rule 12.65 has effect as if—

- (i) in paragraph (2), “133,” and “, 251N, 290 or 366” were omitted;
- (ii) in paragraph (3), for “official receiver”, in each place, there were substituted “special administrator”.

PART 5

CLAIMS BY AND DISTRIBUTIONS TO CREDITORS IN ADMINISTRATION: APPLICATION OF PART 14 OF THE 2016 RULES

Application of Part 14 and interpretation (rule 14.1)

86. Rule 14.1 has effect as if—

- (a) for paragraph (1) there were substituted—
“(1) This Part applies to decision procedures.”;
- (b) for paragraph (2) there were substituted—
“(2) The definitions in this rule apply to decision procedures.”;
- (c) in paragraph (3)—
 - (i) the words “decision procedures in respect of a moratorium under Part A1 of the Act, winding up and” were omitted;
 - (ii) for ““relevant date” means” to “bankruptcy order” there were substituted ““relevant date” means the date on which the company entered special administration.”;
- (d) paragraph 3A were omitted;
- (e) in paragraph (4), for “about moratoriums” to “or administration” there were substituted “any liability in tort is a debt provable in the special administration”;
- (f) in paragraphs (5) and (6), the words from “about moratoriums” to “administration” were omitted.

Provable debts (rule 14.2)

87. Rule 14.2 has effect as if—

- (a) in paragraph (1), “or bankrupt” were omitted;
- (b) for paragraph (2) there were substituted—

“(2) An obligation arising under a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002 is not provable.”;
- (c) paragraph (3) were omitted;
- (d) in paragraph (4)—
 - (i) in the words before sub-paragraph (a), “sections 189(2) (winding up), section 328(4) (bankruptcy) and” were omitted;
 - (ii) in sub-paragraph (b), “and winding up,” “a bankruptcy,” and “or a winding up” were omitted.

Proving a debt (rule 14.3)

88. Rule 14.3 has effect as if—

- (a) for paragraph (1) there were substituted—

“(1) A creditor wishing to recover a debt must submit a proof to the special administrator unless this rule or an order of the court provides otherwise.”;
- (b) paragraph (2) were omitted.

Requirements for proof (rule 14.4)

89. Rule 14.4 has effect as if, in paragraph (1)(d), for “rules 14.24 and 14.25” there were substituted “rule 14.24”.

Costs of proving (rule 14.5)

90. Rule 14.5 has effect as if—

- (a) in paragraph (b), in each place, “or winding up” were omitted;
- (b) paragraph (c) were omitted.

Allowing inspection of proofs (rule 14.6)

91. Rule 14.6 has effect as if, in sub-paragraph (b), “or, in the case of a bankruptcy, the bankrupt” were omitted.

Appeal against decision on proof (rule 14.8)

92. Rule 14.8 has effect as if—

- (a) in paragraph (3), for “, any other creditor or, in a bankruptcy, the bankrupt,” there were substituted “or any other creditor”;
- (b) after paragraph (6), there were inserted—

“(6A) 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.”.

Office-holder not liable for costs under rule 14.8 (rule 14.9)

93. Rule 14.9 has effect as if—

- (a) paragraph (1) were omitted;
- (b) in paragraph (2), “other than the official receiver” were omitted.

Exclusion of proof by the court (rule 14.11)

94. Rule 14.11 has effect as if, in paragraphs (1)(b) and 3(b), for “, a contributory or a bankrupt” there were substituted “or a contributory”.

Administration and winding up by the court: debts of insolvent company to rank equally (rule 14.12)

95. Rule 14.12 has effect as if paragraph (1) were omitted.

Administration and winding up: division of unsold assets (rule 14.13)

96. Rule 14.13 has effect as if—

- (a) in paragraph (1), “in an administration or in a winding up of a company (other than a members’ voluntary winding up)” were omitted;
- (b) in paragraph (2), for “the required permission” there were substituted “the agreement of the creditors”;
- (c) paragraph (3) were omitted.

Moratorium, administration and winding up: estimate of value of debt (rule 14.14)

97. Rule 14.14 has effect as if, in paragraph (1), from “in respect of” to “a winding up” were omitted.

Secured creditor: value of security (rule 14.15)

98. Rule 14.15 has effect as if—

- (a) for paragraph (2) there were substituted—
 - “(2) Where a secured creditor has voted in respect of the unsecured balance of the debt—
 - (a) the secured creditor may re-value the security only with the agreement of the special administrator or the permission of the court; and
 - (b) where the revaluation was by agreement, the special administrator must deliver a notice of the revaluation to the creditors within five business days of the special administrator’s agreement.”;
- (b) paragraph (3) were omitted.

Secured creditor: surrender for non-disclosure (rule 14.16)

99. Rule 14.16 has effect as if paragraph (A1) were omitted.

Secured creditor: redemption by office-holder (rule 14.17)

100. Rule 14.17 has effect as if paragraph (A1) were omitted.

Secured creditor: test of security’s value (rule 14.18)

101. Rule 14.18 has effect as if paragraph (A1) were omitted.

Interest (rule 14.23)

102. Rule 14.23 has effect as if, in paragraph (4)—

- (a) after “notice was delivered” there were inserted “before the relevant date”;
- (b) the words after “date of the payment” to the end were omitted.

Administration: mutual dealings and set-off (rule 14.24)

103. Rule 14.24 has effect as if, in paragraph (6), for the definition of “mutual dealings” there were substituted—

““mutual dealings” means mutual credits, mutual debts or other mutual dealings between the company and a creditor proving or claiming to prove for a debt in the special administration, but does not include any of the following—

- (a) a debt arising out of an obligation incurred after the company entered special administration;
- (b) a debt arising out of an obligation incurred at a time when the creditor had notice that—
 - (i) a petition was pending for the winding up of the company in respect of which the court granted the special administration order;
 - (ii) an application for a special administration order was pending;
- (c) any debt which has been acquired by a creditor by assignment or otherwise, under an agreement between the creditor and another party where that agreement was entered into at a time—
 - (i) after the company entered special administration;
 - (ii) when the creditor had notice that a petition was pending for the winding up of the company in respect of which the court granted the special administration order;
 - (iii) when the creditor had notice that an application for a special administration order was pending.”.

Gazette notice of intended first dividend or distribution (rule 14.28)

104. Rule 14.28 has effect as if, in paragraph (1)—

- (a) after sub-paragraph (a), there were inserted “and”;
- (b) sub-paragraph (c), and the “and” preceding it, were omitted.

Individual notices to creditors etc. of intended dividend or distribution (rule 14.29)

105. Rule 14.29 has effect as if paragraph (1)(b), and the “and” preceding it, were omitted.

Contents of notice of intention to declare a dividend or make a distribution (rule 14.30)

106. Rule 14.30 has effect as if paragraph (f), and the “and” preceding it, were omitted.

Further contents of notice to creditors owed small debts etc. (rule 14.31)

107. Rule 14.31 has effect as if—

- (a) in paragraph (1), “or bankrupt” were omitted;
- (b) in paragraph (2)(a), “or the bankrupt (as the case may be)” were omitted.

Notice of declaration of a dividend (rule 14.35)

108. Rule 14.35 has effect as if, in paragraph (4), for “In an administration” to “or liquidator” there were substituted “Where the special administrator”.

Contents of last notice about dividend (administration, winding up and bankruptcy) (rule 14.37)

109. Rule 14.37 has effect as if paragraph (1) were omitted.

Sole or final dividend (rule 14.38)

110. Rule 14.38 has effect as if—

- (a) in paragraph (1)—
 - (i) in the words before sub-paragraph (a), “, in an administration or winding up,” were omitted;
 - (ii) sub-paragraphs (a), (b)(i) and (c) were omitted;
- (b) in paragraph (2), “and (c)” were omitted.

Administration and winding up: provisions as to dividends (rule 14.39)

111. Rule 14.39 has effect as if “an administration or winding up, in” were omitted.

Supplementary provisions as to dividends and distributions (rule 14.40)

112. Rule 14.40 has effect as if—

- (a) after paragraph (1)(a), “or” were inserted;
- (b) in paragraph (1)(b), “in an administration, a creditors’ voluntary winding up or a winding up by the court” were omitted;
- (c) paragraph (1)(c), and the “or” preceding it, were omitted.

Administration and winding up: non-payment of dividend (rule 14.45)

113. Rule 14.45 has effect as if for paragraph (1) there were substituted—

“(1) No action lies against the special administrator for payment of a dividend.”.

PART 6

DECISION-MAKING: APPLICATION OF PART 15 OF THE 2016 RULES

Application of Part (rule 15.1)

114. Rule 15.1 has effect as if for paragraph (a) there were substituted—

“(a) This Part applies where the special administrator seeks a decision from the creditors of the company in accordance with paragraph 62 of Schedule B1 (administrator’s general power to call a meeting or seek a decision) or rule 3.42A (creditors’ decision for nomination of alternative liquidator).”.

Interpretation (rule 15.2)

115. Rule 15.2 has effect as if—

- (a) in paragraph (1)—
 - (i) the definition of “creditor” were omitted;
 - (ii) in the definition of “physical meeting”, “or 379ZA(9)” were omitted;
- (b) in paragraph (3), for “Chapters 2 to 11” there were substituted “Chapters 2, 3 and 6 to 11”.

The prescribed decision procedures (rule 15.3)

116. Rule 15.3 has effect as if for “sections 246ZE and 379ZA” there were substituted “section 246ZE”.

Physical meetings (rule 15.6)

117. Rule 15.6 has effect as if—

- (a) in paragraph (1), “or, in the case of a decision procedure in respect of a moratorium under Part A1 of the Act, three days” were omitted;
- (b) in paragraph (2), for “sections 246ZE(7) or 379ZA(7)” there were substituted “section 246ZE(7)”;
- (c) in paragraph (8), “or 379ZA(7)” were omitted.

Deemed consent (sections 246ZF and 379ZB) (rule 15.7)

118. Rule 15.7 has effect as if—

- (a) in paragraph (1), for “sections 246ZF and 379ZB” there were substituted “section 246ZF”;
- (b) in paragraph (2), “or 379ZB (as applicable)” were omitted;
- (c) in paragraph (3), for “(as defined in sections 246ZF and 379ZB)” there were substituted “(as defined in section 246ZF)”.

Notices to creditors of decision procedure (rule 15.8)

119. Rule 15.8 has effect as if, in paragraph (3)—

- (a) in sub-paragraphs (f) and (g), “except in the case of a decision procedure in respect of a moratorium under Part A1 of the Act” were omitted;
- (b) sub-paragraphs (h), (i) and (j) were omitted;
- (c) in sub-paragraph (k), for “sections 246ZE(7) or 379ZA(7)” there were substituted “section 246ZE(7)”.

Voting in a decision procedure (rule 15.9)

120. Rule 15.9 has effect as if, in paragraph (2), the words from “in respect of” to “a bankruptcy” were omitted.

Notice of decision procedures or of seeking deemed consent: when and to whom delivered (rule 15.11)

121. Rule 15.11 has effect as if for the table in paragraph (1) there were substituted the following table—

<i>“Proceedings</i>	<i>Decisions</i>	<i>Persons to whom notice must be delivered</i>	<i>Minimum notice required</i>
Special administration	Decisions of creditors	The creditors who had claims against the company at the date when the company entered special administration (except for those who have subsequently been paid in full)	14 days”

Gazetting and advertisement of meeting (rule 15.13)

122. Rule 15.13 has effect as if, in paragraph (1), for “In an administration” to “where” there were substituted “Where”.

Notice to company officers, bankrupts etc. in respect of meetings (rule 15.14)

123. Rule 15.14 has effect as if—

- (a) in paragraph (1), for “In a decision procedure” to “by the court notice” there were substituted “Notice”;
- (b) paragraphs (2) and (3) were omitted.

Chair at meetings (rule 15.21)

124. Rule 15.21 has effect as if for that rule there were substituted—

“Chair at meetings

15.21. The chair of the meeting must be either the special administrator or an appointed person.”.

The chair – attendance, interventions and questions (rule 15.22)

125. Rule 15.22 has effect as if, in sub-paragraph (c)(ii), “bankrupt or” were omitted.

Adjournment by chair (rule 15.23)

126. Rule 15.23 has effect as if, in paragraph (1), “and to rule 15.23A or 15.24” were omitted.

Adjournment in absence of chair (Rule 15.25)

127. Rule 15.25 has effect as if, in paragraph (1), “in respect of” to “bankruptcy” were omitted.

Proofs in adjournment (rule 15.26)

128. Rule 15.26 has effect as if “in respect of a moratorium” to “or a bankruptcy” were omitted.

Creditors’ voting rights (rule 15.28)

129. Rule 15.28 has effect as if—

- (a) paragraph (A1) were omitted;
- (b) in paragraph (1)—
 - (i) for “In an administration” to “a creditor” there were substituted “A creditor”;
 - (ii) in sub-paragraph (a), “, subject to rule 15.29,” were omitted;
- (c) in paragraph (3)(a), “or bankrupt” were omitted;
- (d) paragraphs (5) and (6) were omitted.

Calculation of voting rights (rule 15.31)

130. Rule 15.31 has effect as if—

- (a) in paragraph (1), sub-paragraphs (za), (b), (c), (d) and (e) were omitted;
- (b) paragraphs (3) and (6) were omitted.

Calculation of voting rights: special cases (rule 15.32)

131. Rule 15.32 has effect as if paragraphs (A1), (B1), (2)(b) and (3) were omitted.

Requisite majorities (rule 15.34)

132. Rule 15.34 has effect as if for that rule there were substituted—

“Requisite majorities

15.34.—(1) A decision is made by creditors when a majority (in value) of those voting have voted in favour of the proposed decision, except where this rule provides otherwise.

(2) A decision is not made if those voting against it include more than half in value of the creditors to whom notice of the decision procedure was delivered who are not, to the best of the special administrator’s or chair’s belief, persons connected with the company.”.

Appeals against decisions under this Chapter (rule 15.35)

133. Rule 15.35 has effect as if—

- (a) in paragraph (1), for “by a creditor, by a contributory, or by the bankrupt or debtor (as applicable)” there were substituted “by a creditor or by a contributory”;
- (b) in paragraph (3)—
 - (i) for the words from the beginning to “that decision” there were substituted “If a decision”;
 - (ii) the words from “but, in a CVA or IVA” to the end were omitted;
- (c) paragraphs (2), (3A), (3B), (5) and (7) were omitted.

Record of a decision (Rule 15.40)

134. Rule 15.40 has effect as if paragraph (4)(c) were omitted.

Company meetings (rule 15.41)

135. Rule 15.41 has effect as if for paragraph (1) there were substituted—

“(1) Unless the Act or these Rules provide otherwise, a company meeting must be called and conducted, and records of the meeting must be kept, in accordance with the law of England and Wales, including any applicable provision in or made under the Companies Act.”.

Indication to excluded person (rule 15.45)

136. Rule 15.45 has effect as if, in paragraph (3)(b), for “convener” there were substituted “special administrator”.

Complaint (rule 15.46)

137. Rule 15.46 has effect as if, in paragraph (2)(b), for “convener” there were substituted “special administrator”.

PART 7

PROXIES AND CORPORATE REPRESENTATION: APPLICATION OF PART 16 OF THE 2016 RULES

Use of proxies by the chair (rule 16.5)

138. Rule 16.5 has effect as if, in paragraph (3), “in an administration, creditors’ voluntary winding up, winding up by the court or a bankruptcy” were omitted.

Right of inspection and retention of proxies (rule 16.6)

139. Rule 16.6 has effect as if—

- (a) in paragraph (3)(b), “, or a meeting of contributories” were omitted;
- (b) after paragraph (3)(b), there were inserted “or”;
- (c) paragraph (3)(d), and the “or” preceding it, were omitted.

Instrument conferring authorisation to represent corporation (rule 16.9)

140. Rule 16.9 has effect as if, in paragraph (1), “or contributories” were omitted.

PART 8

REPORTING BY, AND REMUNERATION OF, OFFICE-HOLDERS: APPLICATION OF PART 18 OF THE 2016 RULES

Reporting by the office-holder (rule 18.2)

141. Rule 18.2 has effect as if for that rule there were substituted—

“Reporting by the office-holder

18.2. The special administrator must prepare and deliver reports in accordance with this Chapter.”.

Contents of progress reports in administration, winding up and bankruptcy (rule 18.3)

142. Rule 18.3 has effect as if—

- (a) in paragraph (1)—
 - (i) in the opening words, “in an administration, winding up and bankruptcy” were omitted;
 - (ii) sub-paragraphs (b) and (f) were omitted;
 - (iii) in sub-paragraph (g), for “rules 18.10 to 18.13 as applicable” there were substituted “rule 18.10”;
- (b) paragraphs (5) and (6) were omitted.

Progress reports in administration: timing (rule 18.6)

143. Rule 18.6 has effect as if, in paragraph (4), “unless the report is a final progress report under rule 3.55” were omitted.

Administration, creditors' voluntary liquidation and compulsory winding up: reporting distribution of property to creditors under rule 14.13 (rule 18.10)

144. Rule 18.10 has effect as if—

- (a) in paragraph (1), “in an administration, creditors' voluntary liquidation or compulsory winding up” were omitted;
- (b) for paragraph (3) there were substituted—
 - “(3) Paragraph (2) applies to the following—
 - (a) rule 3.63 (administrator's intention to resign); and
 - (b) rule 18.3 (contents of progress report).”.

Remuneration principles (rule 18.16)

145. Rule 18.16 has effect as if for that rule there were substituted—

“Remuneration: principles

18.16.—(1) A special administrator is entitled to receive remuneration for services as special administrator.

(2) The basis of such remuneration is to be fixed by reference to the time properly spent by the special administrator and the special administrator's staff in attending to matters arising in the special administration.”.

Remuneration of joint office-holders (rule 18.17)

146. Rule 18.17 has effect as if paragraph (a) were omitted.

Remuneration: application to the court to fix the basis (rule 18.23)

147. Rule 18.23 has effect as if for that rule there were substituted—

“Remuneration: application to the court to fix the basis

18.23.—(1) The special administrator's remuneration must, on the special administrator's application, be fixed by the court.

(2) The special administrator must give at least 14 days' notice of the application made under paragraph (1) to the following, who may appear or be represented—

- (a) the relevant authority;
- (b) the Water Services Regulation Authority; and
- (c) the creditors of the company.

(3) In fixing the remuneration, the court must have regard to the following matters—

- (a) the complexity (or otherwise) of the case;
- (b) any respects in which, in connection with a company's affairs, there falls on the special administrator any responsibility of an exceptional kind or degree;
- (c) the effectiveness with which the special administrator appears to be carrying out, or to have carried out, the special administrator's duties; and
- (d) the value and nature of the property with which the special administrator has had to deal.”.

Remuneration: new administrator, liquidator or trustee (rule 18.31)

148. Rule 18.31 has effect as if for that rule there were substituted—

“Remuneration: new administrator, liquidator or trustee

18.31.—(1) If a new special administrator is appointed in place of a special administrator, any court order in effect under rule 18.23 (remuneration: application to the court to fix the basis) immediately before the former special administrator ceased to hold office continues to apply in respect of the remuneration of the new special administrator until a further court order is made in accordance with those provisions.

(2) Where a special administrator has ceased to act as such for any reason, the special administrator (or the special administrator’s estate, as the case may be) is to be entitled to any amounts outstanding on the basis of the services which that special administrator provided in accordance with Rule 18.23.”.

PART 9

**PERMISSION TO ACT AS DIRECTOR ETC. OF COMPANY WITH A
PROHIBITED NAME (SECTION 216): APPLICATION OF PART 22 OF THE
2016 RULES**

First excepted case (rule 22.4)

149. Rule 22.4 has effect as if—

- (a) paragraph (1)(b)(i) were omitted;
- (b) in paragraph (1)(b)(ii), “acting in relation to it as administrator, administrative receiver or supervisor of a CVA” were omitted;
- (c) for paragraph (3)(c) there were substituted—
 - “(c) where the company is in special administration, must contain—
 - (i) the date that the company entered special administration, and
 - (ii) a statement that the person was a director of the company on that date.”;
- (d) paragraph (3)(d) were omitted;
- (e) in sub-paragraph (4)(a), “, administrative receiver” to “other company)” were omitted.

Signed, by the authority of the Lord Chancellor

23rd February 2024

Mike Freer
Parliamentary Under Secretary of State
Ministry of Justice

I concur, on behalf of the Secretary of State

26th February 2024

Robbie Moore
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

I concur

SCHEDULE

Rule 5(1)(a)

Application of the 2016 Rules for the purposes of these Rules

<i>Rules</i>	<i>Description</i>
6	Introductory rules: punishment of offences
1.2 to 1.3	Interpretation
1.4 to 1.6, 1.8 to 1.9	Form and content of documents
1.10 to 1.12, 1.14	Standard contents of Gazette notices and the Gazette as evidence etc.
1.15 to 1.16, 1.18	Standard contents of notices advertised otherwise than in the Gazette
1.19 to 1.27	Standard contents of documents to be delivered to the registrar of companies
1.28 to 1.34	Standard contents of notices for delivery to other persons etc.
1.35	Applications to the court
1.36 to 1.53	Delivery of documents and opting out (sections 246C and 248A)
1.54 to 1.58	Inspection of documents, copies and provision of information
3.1 to 3.2	Interpretation
3.3, 3.6 to 3.9, 3.12 to 3.13, 3.15	Appointment of administrator by court
3.27	Notice of administrator's appointment
3.28 to 3.34	Statement of affairs
3.35 to 3.37, 3.42	Administrator's proposals
3.44 to 3.48	Limited disclosure of statements of affairs and proposals
3.49	Disposal of charged property
3.50 to 3.52	Expenses of the administration
3.53, 3.57, 3.59 to 3.61	Ending of administration
3.62 to 3.70	Replacing the administrator
12.1 to 12.2	Court procedure and practice: general
12.6 to 12.13	Making applications to court: general
12.14 to 12.26	Making applications to court: specific applications
12.27 to 12.29	Obtaining information and evidence

12.30 to 12.31, 12.33	Transfer of proceedings
12.39 to 12.40	The court file
12.41 to 12.43, 12.46 to 12.50	Costs
12.51 to 12.53, 12.55	Enforcement procedures
12.58 to 12.59, 12.61	Appeals
12.63 to 12.65	Court orders, formal defects and shorthand writers
14.1	Claims by and distributions to creditors: application and interpretation
14.2 to 14.24	Creditors' claims in administration
14.26, 14.28 to 14.35, 14.37 to 14.45	Distribution to creditors in administration
15.1	Decision making: application of Part
15.2 to 15.7	Decision procedures
15.8 to 15.15	Notices, voting and venues for decisions
15.20 to 15.22	Constitution of meetings
15.23, 15.25 to 15.27	Adjournment and suspension of meetings
15.28, 15.31 to 15.35	Creditors' voting rights and majorities
15.36 to 15.38	Exclusions from meetings
15.40	Records
15.41 to 15.46	Company meetings
16.1 to 16.7, 16.9	Proxies and corporate representation
18.2 to 18.3, 18.5 to 18.6, 18.10	Reporting by, and remuneration of, office-holders: progress reports
18.16 to 18.17, 18.23, 18.31	Remuneration and expenses in administration
22.4 to 22.5	Permission to act as director etc. of company with a prohibited name (section 216)

EXPLANATORY NOTE

(This note is not part of these Rules)

These Rules apply and modify insolvency provisions as they apply to the special administration procedure which relates to water industry companies. These Rules form part of the updated framework for the water industry special administration regime, specifically created for such companies. Similar regimes exist for other kinds of company that provide major infrastructure services, for example the special administration procedure that covers energy supply companies.

The original framework for the water industry special administration regime was set out in sections 23 to 26 and Schedule 3 to the Water Industry Act 1991 (c. 56) ("the 1991 Act"). The accompanying Water Industry (Special Administration) Rules 2009 (2009/2477) ("the 2009 Rules") set out a detailed procedure for the conduct of special administration proceedings under that regime. This original water industry special administration framework was based upon a modified version of the administration regime contained in Part 2 of the Insolvency Act 1986 (c. 45) ("the 1986 Act") and the accompanying Insolvency Rules 1986 (1986/1925) ("the 1986 Rules"), as they were both in force at the relevant time.

The administration regime in Part 2 of the 1986 Act was significantly updated by the Enterprise Act 2002 (c. 40) to take account of changes in modern day business practices. It underwent further updates pursuant to the Small Business, Enterprise and Employment Act 2015 (c. 26) and Deregulation Act 2015 (c. 20). The 1986 Rules were also updated and replaced by the Insolvency (England and Wales) Rules 2016 (2016/1024) (“the 2016 Rules”).

The Flood and Water Management Act 2010 (c. 29) (“the 2010 Act”) introduced special administration-related modernising changes to the 1991 Act. The parts of Schedule 5 to the 2010 Act which had not previously been commenced were brought into force by the Flood and Water Management Act 2010 (Commencement No. 10) Order 2024 (2024/35) and have the effect of updating the 1991 Act to, among other things, apply the modern version of administration contained in Schedule B1 to the 1986 Act in place of old Part 2 of the 1986 Act. The Water Industry (Special Administration) Regulations 2024 (2024/205) apply, disapply and modify provisions of Schedule B1, the rest of the 1986 Act and other enactments in relation to water industry special administration.

These Rules complete the update of the water industry special administration regime. They apply the 2016 Rules with specified modifications and replace the 2009 Rules, which are revoked. They set out a modernised and revised procedure for the conduct of special administration proceedings for water industry companies.

Part 1 contains introductory and revocation provisions and provisions on construction and interpretation.

Part 2 contains provisions on scope, interpretation, time and rules about documents.

Part 3 contains provisions relating to the appointment of the special administrator, to the statement of affairs and to the special administrator’s proposals. Part 3 also contains provisions on the extension and ending of a special administration and on replacing a special administrator when needed.

Part 4 contains provisions on court procedure and practice including provisions relating to costs, enforcement and appeals.

Part 5 contains provisions relating to claims by and distributions to creditors in special administration.

Part 6 contains provisions relating to decision-making including provisions relating to decision procedures, meetings and voting.

Part 7 contains provisions relating to proxies and corporate representation.

Part 8 contains provisions relating to the reporting by, and remuneration of, special administrators.

Part 9 contains provisions relating to permission to act as director etc. of a company with a prohibited name.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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