
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 1

SCOPE, INTERPRETATION, TIME AND RULES ABOUT DOCUMENTS

CHAPTER 2

Interpretation

[Note: the terms which are defined in rule 1.2 include some terms defined by the Act for limited purposes which are applied generally by these Rules. Such terms have the meaning given by the Act for those limited purposes.]

Defined terms

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

(2) In these Rules—

“the Act” means the Insolvency Act 1986, and—

- (a) a reference to a numbered section without mention of another Act is to that section of the Act; and
- (b) a reference to Schedule A1, B1, 4ZA, 4ZB or 4A is to that Schedule to the Act;

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

“Article 1.2 undertaking” means one of the following within the meaning of Article 1.2 of Council Regulation (EC) No. 1346/2000⁽¹⁾ (“the EC Regulation”)—

- (a) an insurance undertaking;
- (b) a credit institution;
- (c) an investment undertaking which provides services involving the holding of funds or securities for third parties;
- (d) a collective investment undertaking;

[Note: “associate” is defined by section 435];

“attendance” and “attend”—

- (a) a person attends a meeting who is present, or attends remotely in accordance with section 246A⁽²⁾ or rule 15.6, or who participates in a virtual meeting; and whether

⁽¹⁾ Council Regulation (EC) No. 1346/2000 (OJ L160, 30.6.2000 p1) as last amended by Council Implementing Regulation EU No. 663/2014 (OJEU L179, 19.6.2014 p4).

⁽²⁾ Section 246A(1), 8 and 9(c) is inserted by S.I. 2010/18 and amended by paragraph 54 of Schedule 9 of the Small Business, Enterprise and Employment Act 2015 (c.26).

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

“authenticate” means to authenticate in accordance with rule 1.5;

“authorised deposit-taker” means a person with permission under Part 4A of the Financial Services and Markets Act 2000(3) to accept deposits; this definition must be read with—

(a) section 22 of that Act(4) and any relevant order under that section; and

(b) Schedule 2 to that Act;

[Note: “bankrupt’s estate” is defined in section 283];

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

“bankruptcy file” means the file opened by the adjudicator in accordance with rule 10.47;

“bankruptcy restrictions register” means the register referred to in rule 11.13(2) of matters relating to bankruptcy restrictions orders, interim bankruptcy restrictions orders and bankruptcy restrictions undertakings;

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

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

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

“Companies Act” means the Companies Act 2006(5);

[Note: the term “connected” used of a person in relation to a company is defined in section 249 of the Act];

“consumer” means an individual acting for purposes that are wholly or mainly outside that individual’s trade, business, craft or profession;

[Note: “contributory” is defined by section 79];

“convener” means an office-holder or other person who seeks a decision in accordance with Part 15 of these Rules;

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

“CPR” means the Civil Procedure Rules 1998(6);

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

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

“debt” is defined in rule 14.1(3) for the purposes of administration and winding up and “small debt” is also defined in rule 14.1(3) for administration, winding up and bankruptcy [Note: debt

(3) 2000 c.8. Part 4A was inserted before Part 4 by section 11(2) of the Financial Services Act 2012 (c.21).

(4) Section 22 is amended by Part 2 section 7 of the Financial Services Act 2012 (c.21).

(5) 2006 c.46; relevant amendments are noted where reference is made to specific provisions which have been amended.

(6) S.I. 1998/3132; relevant amendments are noted where reference is made to specific provisions which have been amended.

is defined in section 385(1) for the purposes of these Rules as they relate to Parts 7A to 10 of the Act (insolvency of individuals; bankruptcy)];

“debt relief restrictions register” means the register referred to in rule 11.13(2) of matters relating to debt relief restrictions orders and debt relief restrictions undertakings;

“decision date” and “decision procedure” are to be interpreted in accordance with rule 15.2 and Part 15;

“decision procedure” means a decision procedure prescribed by rule 15.3;

[Note: “deemed consent procedure” is defined in section 246ZF for corporate insolvency and 379ZB for individual insolvency; rule 15.7 makes further provision about deemed consent];

“deliver” and “delivery” are to be interpreted in accordance with Chapter 9 of Part 1;

“deliver to the creditors” and similar expressions in these Rules and the Act are to be interpreted in accordance with rule 1.37;

[Note: “distress” is defined in section 436 as including the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (c.15), and references to levying distress, seizing goods and related expressions are to be construed accordingly];

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

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

“enforcement agent” means a person authorised by section 63(2) of the Tribunals, Courts and Enforcement Act 2007 (7) to act as an enforcement agent;

“enforcement officer” means an individual who is authorised to act as an enforcement officer under the Courts Act 2003(8);

“fees estimate” means a written estimate that specifies—

- (a) details of the work the insolvency practitioner (“the IP”) and the IP’s staff propose to undertake;
- (b) the hourly rate or rates the IP and the IP’s staff propose to charge for each part of that work;
- (c) the time the IP anticipates each part of that work will take;
- (d) whether the IP anticipates it will be necessary to seek approval or further approval under Chapter 4 of Part 18; and
- (e) the reasons it will be necessary to seek such approval under these Rules;

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

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

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

“to gazette” means to advertise once in the Gazette;

“general regulations” means regulations made by the Secretary of State under introductory rule 5;

(7) 2007 c.15.

(8) 2003 c.39.

“hearing centre” means a hearing centre of the County Court;

[Note: “hire-purchase agreement” is defined by section 436(1) as having the same meaning as in the Consumer Credit Act 1974⁽⁹⁾ for the purposes of the Act and by paragraph 1 of Schedule A1 (company voluntary arrangement) for the purposes of that Schedule and by paragraph 111(1) of Schedule B1 (administration) for the purposes of that Schedule];

“identification details” and similar references to information identifying persons, proceedings, etc. are to be interpreted in accordance with rule 1.6;

“individual insolvency register” means the register referred to in rule 11.13(1) of matters relating to bankruptcies, debt relief orders and IVAs;

“individual register” has the meaning given by rule 217(1) of the Land Registration Rules 2003⁽¹⁰⁾;

“insolvent estate” means—

- (a) in relation to a company insolvency, the company’s assets;
- (b) in relation to a bankruptcy, a petition or an application for bankruptcy, the bankrupt’s estate (as defined in section 283);
- (c) or otherwise the debtor’s property;

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

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

“judge” includes a registrar in bankruptcy of the High Court unless the context otherwise requires;

“London Insolvency District” has the meaning given by section 374 of the Act and the London Insolvency District (County Court at Central London) Order 2014⁽¹¹⁾;

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

- (a) in relation to England and Wales, are set out in Annex A to the EC Regulation under the heading “United Kingdom”; and
- (b) in relation to another member State, are set out in Annex A to the EC Regulation under the heading relating to that member State⁽¹²⁾;

“meeting” in relation to a person’s creditors or contributories means either a “physical meeting” or a “virtual meeting” as defined in rule 15.2, unless the contrary intention is given;

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

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

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

(9) 1974 c.39.

(10) S.I. 2003/1417 to which there are amendments not relevant to this instrument.

(11) S.I. 2014/818.

(12) Where these Rules require reasons for a statement that proceedings are ‘main proceedings’ etc. the information required is set out in rule 1.7.

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

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

“permission” of the court is to be read as including “leave of the court” in the Act and in the Company Directors’ Disqualification Act 1986⁽¹³⁾;

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

“physical meeting” means a meeting as described in section 246ZE(9) or 379ZA(9)⁽¹⁴⁾;

“Practice Direction” means a direction as to the practice and procedure of a court within the scope of the CPR;

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

- (a) Chapter 10 of Part 3 for administration proceedings;
- (b) Chapter 6 of Part 6 for creditors’ voluntary winding up proceedings;
- (c) Chapter 14 of Part 7 for winding up by the court proceedings; and
- (d) Chapter 18 of Part 10 for bankruptcy proceedings;

“prescribed part” has the same meaning as in section 176A(2)(a) and the Insolvency Act 1986 (Prescribed Part) Order 2003⁽¹⁵⁾;

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

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

“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 an administration, an administrative receivership, a creditors’ voluntary winding up, a CVA or an IVA, the requirements for a proof are satisfied by the convener or chair having been notified by the creditor in writing of a debt;

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

“qualified to act as an insolvency practitioner” in relation to a company, debtor or bankrupt has the meaning given by section 390 of the Act;

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

“registered land” has the meaning given by section 132(1) of the Land Registration Act 2002⁽¹⁶⁾;

“registrar” means a registrar in bankruptcy of the High Court and unless the context requires otherwise includes a District Judge—

- (a) in a District Registry of the High Court; and
- (b) in a hearing centre with relevant insolvency jurisdiction;

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

⁽¹³⁾ 1986 c.46.

⁽¹⁴⁾ Section 246ZE is inserted by section 122 of the Small Business, Enterprise and Employment Act 2015 (c.26) and section 378ZA is inserted by section 123 of the same Act.

⁽¹⁵⁾ S.I. 2003/2097.

⁽¹⁶⁾ 2002 c.9.

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

- (a) in relation to England and Wales, are set out in Annex B to the EC Regulation under the heading “United Kingdom”; and
- (b) in relation to another member State, are set out in Annex B to the EC Regulation under the heading relating to that member State⁽¹⁷⁾;

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

“solicitor” means a solicitor of the Senior Courts and, in relation to England and Wales, includes any other person who, for the purpose of the Legal Services Act 2007⁽¹⁸⁾ is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act);

“standard contents” means—

- (a) for a Gazette notice, the standard contents set out in Chapter 4 of this Part;
- (b) for a notice to be advertised other than in the Gazette, the standard contents set out in Chapter 5 of Part 1;
- (c) for a document to be delivered to the registrar of companies, the standard contents set out in Chapter 6 of Part 1;
- (d) for notices to be delivered to other persons, the standard contents set out in Chapter 7 of Part 1;
- (e) for applications to the court the standard contents set out in Chapter 8 of Part 1;

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

“statement of proposals” means a statement made by an administrator under paragraph 49 of Schedule B1⁽¹⁹⁾ setting out proposals for achieving the purpose of an administration;

“statement of truth” means a statement of truth made in accordance with Part 22 of the CPR⁽²⁰⁾;

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

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

- (a) in relation to England and Wales, are set out in Annex A to the EC Regulation under the heading “United Kingdom”; and
- (b) in relation to another member State, are set out in Annex A to the EC Regulation under the heading relating to that member State⁽²¹⁾;

“trustee” has the same meaning throughout these Rules as they relate to the insolvency of individuals as it has for bankruptcy in section 385(1)⁽²²⁾;

(17) Where these Rules require reasons for a statement that proceedings are ‘secondary proceedings’ etc. the information required is set out in rule 1.7.

(18) 2007 c.29.

(19) Schedule B1 was inserted by section 248 of the Enterprise Act 2002 (c.40); paragraph 49 is amended by paragraph 10 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

(20) Relevant amendments are made by rule 4(2)(a) and (b) of S.I. 2004/3419.

(21) Where these Rules require reasons for a statement that proceedings are ‘territorial proceedings’ etc. the information required is set out in rule 1.7.

(22) Section 385(1) is amended by paragraph 55 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c.24) and by section 123(4) of the Small Business, Enterprise and Employment Act 2015 (c.26).

“venue” in relation to any proceedings, attendance before the court, decision procedure or meeting means the time, date and place or platform for the proceedings, attendance, decision procedure or meeting;

“virtual meeting” has the meaning given by rule 15.2(2);

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

“witness statement” means a witness statement verified by a statement of truth made in accordance with Part 32 of the CPR;

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

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

- (3) An appointed person in relation to a company, debtor or bankrupt must be—
- (a) qualified to act as an insolvency practitioner in relation to that company, debtor or bankrupt; or
 - (b) a person experienced in insolvency matters who is—
 - (i) a member or employee of the office-holder’s firm, or
 - (ii) an employee of the office-holder.
- (4) A fee or remuneration is charged when the work to which it relates is done.

Calculation of time periods

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