
STATUTORY INSTRUMENTS

1986 No. 2000

INSOLVENCY

COMPANIES

The Companies (Unfair Prejudice Applications) Proceedings Rules 1986

<i>Made - - - -</i>	21st November 1986
<i>Laid before Parliament</i>	8th December 1986
<i>Coming into Force</i>	29th December 1986

The Lord Chancellor, in the exercise of his powers under section 411 of the Insolvency Act 1986(a), with the concurrence of the Secretary of State, and after consulting the committee existing for that purpose under section 413 of that Act, hereby makes the following Rules:—

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Companies (Unfair Prejudice Applications) Proceedings Rules 1986 and shall come into force on 29th December 1986.

(2) In these Rules “the Act” means the Companies Act 1985(b).

Preliminary

2.—(1) These Rules apply in relation to petitions presented to the court on or after 29th December 1986 under Part XVII of the Act (protection of company's members against unfair prejudice) by a member of a company under section 459(1), by a person treated as a member under section 459(2) or by the Secretary of State under section 460.

(2) Except so far as inconsistent with the Act and these Rules, the Rules of the Supreme Court and the practice of the High Court apply to proceedings under Part XVII of the Act in the High Court, and the Rules and practice of the County Court apply to such proceedings in a county court, with any necessary modifications.

Presentation of petition

3.—(1) The petition shall be in the form set out in the Schedule to these Rules, with such variations, if any, as the circumstances may require.

(2) The petition shall specify the grounds on which it is presented and the nature of the relief which is sought by the petitioner, and shall be delivered to the court for filing with sufficient copies for service under Rule 4.

(3) The court shall fix a hearing for a day (“the return day”) on which, unless the court otherwise directs, the petitioner and any respondent (including the company) shall attend before the registrar in chambers for directions to be given in relation to the procedure on the petition.

(a) 1986 c.45.

(b) 1985 c.6.

(4) On fixing the return day, the court shall return to the petitioner sealed copies of the petition for service, each endorsed with the return day and the time of hearing.

Service of petition

4.—(1) The petitioner shall, at least 14 days before the return day, serve a sealed copy of the petition on the company.

(2) In the case of a petition based upon section 459 of the Act, the petitioner shall also, at least 14 days before the return day, served a sealed copy of the petition on every respondent named in the petition.

Return of petition

5. On the return day, or at any time after it, the court shall give such directions as it thinks appropriate with respect to the following matters—

- (a) service of the petition on any person, whether in connection with the time, date and place of a further hearing, or for any other purpose;
- (b) whether particulars of claim and defence are to be delivered, and generally as to the procedure on the petition;
- (c) whether, and if so by what means, the petition is to be advertised;
- (d) the manner in which any evidence is to be adduced at any hearing before the judge and in particular (but without prejudice to the generality of the above) as to—
 - (i) the taking of evidence wholly or in part by affidavit or orally;
 - (ii) the cross-examination of any deponents to affidavits;
 - (iii) the matters to be dealt with in evidence;
- (e) any other matter affecting the procedure on the petition or in connection with the hearing and disposal of the petition.

Settlement and advertisement of the order

6.—(1) When an order has been made by the court under Part XVII of the Act, the petitioner and every other person who has appeared on the hearing of the petition shall, not later than the business day following that on which the order is made, leave at the court all the documents required for enabling the order to be completed forthwith.

(2) It is not necessary for the court to appoint a time, date and place for any person to attend to settle the order, unless in any particular case the special circumstances make an appointment necessary.

(3) If the court considers that the order should be advertised, it shall give directions as to the manner and time of advertisement.

Hailsham of St Marylebone, C.

Dated 20th November 1986.

I concur,

Michael Howard,
Parliamentary Under-Secretary of State,
Department of Trade and Industry.

Dated 21st November 1986.

SCHEDULE

Rule 3

Petition on Ground that Members Unfairly Prejudiced

- (a) Insert title of court To (a)
The petition of (b)
- (b) Insert full name(s) and address(es) of petitioner 1. (c)
(hereinafter called "the company" was incorporated on (d) under the Companies Act(s) 19
- (c) Insert full name of company 2. The registered office of the company is at (e)
- (d) Insert date 3. The nominal capital of the company is £
- (e) Insert address of registered office divided into shares of £ each. The amount of the capital paid up or credited as paid up is £
The petitioner(s) is/are the holders of shares of £ each.
- (f) Delete as applicable Such shares at the date of this petition (f) [are registered in the name(s) of the petitioner(s)] [have been transferred or transmitted to the petitioner(s) by operation of law].
4. The principal objects for which the company was established are as follows:
- and other objects stated in the memorandum of association of the company.
- (g) Set out the grounds on which the petition is presented 5. (g)
- In these circumstances your petitioner submits that the affairs of the company are being conducted in a manner which is unfairly prejudicial to the interests of (f) [some part of the members (including your petitioner)] [your petitioner] or
(f) [The act or omission] [the proposed act or omission] referred to in part 5 above (f) [is] [would be] unfairly prejudicial to the interests of (f) [some part of the members (including your petitioner)] [your petitioner].
- (h) Here set out the nature of relief sought The petitioner therefore prays as follows (h)

or

that such other order may be made as the court thinks fit.

Note

It is intended to serve this petition on:

Endorsement

This petition having been presented to the court on
let all parties attend before the

Registrar in Chambers on:

Date

Time

Place

for directions to be given

The Solicitor(s) for the petitioner is/are:

Name

Address

.....

Tel. No.

Reference

(j) Delete if
London Agents
not instructed

(j) Whose London Agents are:

Name

Address

.....

Tel. No.

Reference

EXPLANATORY NOTE

(This Note does not form part of the Rules.)

These Rules set out a new procedure governing petitions presented to the court in England and Wales under Part XVII of the Companies Act 1985 (which provides for applications to the court to grant relief against a company whose members are unfairly prejudiced). The Rules apply where the petition is presented on or after 29th December 1986. For petitions presented before that date the procedure under Part XVII will continue to be governed by the Companies (Winding-up) Rules 1949 (S.I. 1949/330).

The Rules contain a new form of petition in the Schedule. They also provide for a hearing before the registrar at an early stage in the proceedings. The registrar is given wide powers to direct that the petition proceed in the manner best suited to the particular petition, including powers to direct the service and advertisement of the petition and the manner in which any evidence is to be adduced at subsequent hearings.

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