
 STATUTORY INSTRUMENTS

1986 No. 952

INSOLVENCY PRACTITIONERS

The Insolvency Practitioners Tribunal (Conduct of Investigations) Rules 1986

<i>Made</i> - - - -	5th June 1986
<i>Laid before Parliament</i>	10th June 1986
<i>Coming into Force</i>	1st July 1986

The Secretary of State in the exercise of his powers under paragraph 4(4) of Schedule 1 to the Insolvency Act 1985(a), after consulting the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(b), hereby makes the following Rules.

Citation commencement and interpretation

1.— (1) These Rules may be cited as the Insolvency Practitioners Tribunal (Conduct of Investigations) Rules 1986 and shall come into force on 1st July 1986.

(2) In these Rules:

- (a) references to “the Act” are references to the Insolvency Act 1985;
- (b) “the applicant” means an applicant for authorisation under section 5 of the Act or, where it is proposed to withdraw an authorisation granted under that section, the holder of the authorisation;
- (c) “Treasury Solicitor” means the Solicitor for the affairs of Her Majesty’s Treasury as provided in the Treasury Solicitor Act 1876(c); and
- (d) “a Scottish case” means any case where at the time of the reference of the case to the Tribunal the applicant is either habitually resident in or has his principal place of business in Scotland.

Reference to the tribunal

2.— (1) On referring a case to the tribunal under section 8(2) of the Act the relevant authority shall—

- (a) send to the tribunal a copy of the written notice served by it on the applicant in pursuance of section 6(2) of the Act, together with a copy

(a) 1985 c.65.

(b) 1971 c.62.

(c) 39 and 40 Vict c.18.

of the notification by the applicant that he wishes the case to be referred to the tribunal, and

- (b) give notice to the applicant of the date on which the case has been referred by it to the tribunal and of the address to which any statement notice or other document required by these Rules to be given or sent to the tribunal is to be given or sent.

(2) Within 21 days of referring the case to the tribunal the relevant authority shall send to the tribunal such further information and copies of such other documents and records as it considers would be of assistance to the tribunal, and shall, at the same time, send to the applicant such further information and copies of such other documents and records; or, if there is no such information or copies, the relevant authority shall within the said period notify the tribunal and the applicant to that effect.

Statement of the applicant

3.— (1) Within 21 days after the relevant authority has sent to the applicant the material mentioned in Rule 2(2) or, as the case may be, after it has sent to him the notification mentioned in that Rule, the applicant shall send to the tribunal a statement of his grounds for requiring the case to be investigated by the tribunal specifying—

- (a) which matters of fact (if any) contained in the written notice served on him under section 6(2) of the Act he disputes,
- (b) any other matters which he considers should be drawn to the attention of the tribunal, and
- (c) the names and addresses of any witnesses whose evidence he wishes the tribunal to hear.

(2) The applicant shall, on sending the statement referred to in paragraph (1) of this Rule to the tribunal, send a copy to the relevant authority.

Appointment of solicitors and counsel to the tribunal

4. At any time after the case has been referred to it the tribunal may appoint the Treasury Solicitor and Counsel, or, in Scottish cases, may request the Treasury Solicitor to appoint a solicitor and may appoint Counsel, to exercise the functions of:—

- (a) assisting the tribunal in seeking and presenting evidence in accordance with the requirements of the tribunal; and
- (b) representing the public interest in relation to the matters before the tribunal.

Investigation by the tribunal

5. After the receipt of the statement referred to in Rule 3 or, if no such statement is received, after the expiry of the period referred to in that Rule the tribunal shall investigate the case and make a report by carrying out such inquiries as it thinks appropriate for that purpose into and concerning the information, documents, records and matters placed before it under the

provisions of Rules 2 and 3 above; and in carrying out such inquiries the requirements set out in the following Rules shall apply.

Methods of inquiry by the tribunal

6.— (1) As soon as practicable after the tribunal has considered the subject matter of the investigation it shall notify the relevant authority and the applicant of the manner in which it proposes to conduct its inquiries and in particular whether oral evidence is to be taken.

(2) The tribunal shall give the relevant authority and the applicant a reasonable opportunity of making representations on the manner in which it proposes to conduct its inquiries and such representations may be made orally or in writing at the option of the relevant authority or the applicant as the case may be.

(3) After considering any representations that may be made under paragraph (2) above the tribunal shall notify the relevant authority and the applicant whether and, if so, in what respects, it has decided to alter the manner in which it proposes to carry out its inquiries.

(4) If at any subsequent stage in the investigation the tribunal proposes to make any material change in the manner in which its inquiries are to be carried out it shall notify the relevant authority and the applicant and the provisions of paragraphs (2) and (3) above shall apply accordingly.

Taking of evidence

7. When in the carrying out of its inquiries the tribunal:—

(a) wishes to examine a witness orally:—

(i) it shall give notice to the applicant and the relevant authority of the time and place at which the examination will be held, and

(ii) the applicant and the relevant authority shall be entitled to be present at the examination by the tribunal of any witness and to put such additional questions to him as may appear to the tribunal to be relevant to the subject matter of the investigation; or

(b) takes into consideration documentary evidence or evidence in the form of computer or other non documentary records not placed before the tribunal under the provisions of Rules 2 and 3 above, the tribunal shall give the applicant and the relevant authority an opportunity of inspecting that evidence and taking copies or an appropriate record thereof.

Final representations

8. After the tribunal has completed the taking of such evidence as it considers necessary for the purpose of the investigation it shall give the applicant and the relevant authority a reasonable opportunity of making representations on the evidence and on the subject matter of the investigation generally. Such representations may be made orally or in writing at the option of the applicant or, as the case may be, of the relevant authority.

Representation at a hearing

- 9.** At the hearing of oral representations or the taking of oral evidence—
- (a) the applicant may be represented by Counsel or solicitor, or by any other person allowed by the tribunal to appear on his behalf; and
 - (b) the relevant authority may be represented by Counsel or solicitor or by any officer of the relevant authority.

Service of written representations

10. Where the relevant authority or the applicant makes any written representations to the tribunal in the course of its investigation the relevant authority or, as the case may be, the applicant shall send a copy of such representations to the other.

Hearings in public or in private

11.— (1) The tribunal shall conduct its investigation in private and, save to the extent that these Rules provide for the hearing of oral representations or for the taking of oral evidence and the applicant requests that any such hearing be in public, no person other than those specified in Rule 9 above or having the leave of the tribunal shall be entitled to be present at any such hearing.

(2) Nothing in this Rule shall prevent a member of the Council on Tribunals or of its Scottish Committee from attending in his capacity as such a member any such hearing.

Notices

12. Any notice or other document required by these Rules to be given or sent may be given or sent by first class post.

Time limits

13. The tribunal may in any investigation permit the relevant authority or the applicant to send any document or perform any act after the time prescribed in the Rules for so sending or performing and such permission may be granted after any such time has expired.

Powers of chairman

- 14.** Anything required or authorised to be done by the tribunal in the course of an investigation may be done by the chairman except—
- (a) the settling of the manner in which the tribunal is to conduct its investigation,
 - (b) the hearing or consideration of any representations made by the relevant authority or the applicant, and
 - (c) the taking of evidence, whether orally or in the form of documents or non-documentary records.

Period within which report to be made

15.— (1) The tribunal shall make its report on the case to the relevant authority no later than four months after the date on which the case is referred to it under section 8(2) of the Act unless the relevant authority, on the application of the tribunal, permits the report to be made within such further period as the relevant authority may notify in writing to the tribunal.

(2) The relevant authority may only permit the report to be made within the further period referred to in paragraph (1) above where it appears to that authority that, through exceptional circumstances, the tribunal will be unable to make its report within the period of four months referred to in paragraph (1) above.

Scottish Cases

16. Any hearing or oral representations under Rule 6(2) or 8 or any examination of a witness under Rule 7(a) in a Scottish case shall be made or held in Scotland unless the applicant consents to any such hearing or examination taking place elsewhere.

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

5th June 1986.

EXPLANATORY NOTE

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

These Rules set out the procedure under which the Insolvency Practitioners Tribunal established under section 8 of the Act is to conduct the investigation of a case referred to it under that section.

The Rules provide for:—

- (a) the manner in which information and documents are to be made available by the relevant authority and the applicant for the purposes of the investigation;
- (b) the appointment of solicitors and counsel to the tribunal;
- (c) the manner in which the tribunal is to take oral evidence and to hear oral representations;
- (d) the powers of the chairman of the tribunal; and
- (e) the period within which the tribunal must make its report.

SI 1986/952
ISBN 0-11-066952-5



780110 669526