
STATUTORY INSTRUMENTS

2002 No. 1307

The Insolvency (Amendment) Rules 2002

Amendments to the Insolvency Rules 1986 in relation to Bankruptcy

- 8.—**(1) After Rule 6.7(1)(e) (identification of debtor) insert—
- “**(f)** whether the debtor has his centre of main interests or an establishment in another member State.”
- (2) After Rule 6.14(4) (service of petition) insert—
- “**(5)** If to the petitioner’s knowledge, there is a member State liquidator appointed in main proceedings in relation to the bankrupt, a copy of the petition shall be sent by him to the member State liquidator.”.
- (3) In Rule 6.30(2)(c) (substitution of petitioner) after “owed to him by the debtor” insert—
- “(or in the case of the member State liquidator, owed to creditors in proceedings in relation to which he holds office).”.
- (4) For Rule 6.51(1) (application for appointment of interim receiver) substitute—
- “**(1)** An application to the court for the appointment of an interim receiver under section 286 may be made by—
- (a) a creditor;
 - (b) the debtor;
 - (c) an insolvency practitioner appointed under section 273(2);
 - (d) a temporary administrator, or
 - (e) a member State liquidator appointed in main proceedings.”.

(5) In Rule 6.93 (entitlement to vote at creditors' meeting)—

(a) in paragraph (1)(a) for “claimed to be due to him from the bankrupt” substitute—

“(i) claimed to be due to him from the bankrupt, or

(ii) in relation to a member State liquidator, is claimed to be due to creditors in proceedings in relation to which he holds office”, and

(b) after paragraph (5) insert—

“**(6)** No vote shall be cast by virtue of a debt more than once on any resolution put to the meeting.

(7) Where—

 - (a) a creditor is entitled to vote under this Rule and Rule 6.94 (admission of proof),
 - (b) has lodged his claim in one or more sets of other proceedings, and
 - (c) votes (either in person or by proxy) on a resolution put to the meeting, only the creditor’s vote shall be counted.

(8) Where—

 - (a) a creditor has lodged his claim in more than one set of other proceedings, and

(b) more than one member State liquidator seeks to vote by virtue of that claim, the entitlement to vote by virtue of that claim is exercisable by the member State liquidator in main proceedings, whether or not the creditor has lodged his claim in the main proceedings.

(9) For the purposes of paragraphs (7) and (8), “other proceedings” means main proceedings, secondary proceedings or territorial proceedings in another member State.”.

(6) In Rule 6.98(1) (contents of proof)—

(a) at the end of sub-paragraph (g) omit “and”; and

(b) after sub-paragraph (g) insert—

“(ga) details of any reservation of title in respect of goods to which the debt refers; and”.

(7) After Rule 6.116(2) (surrender of security for non-disclosure) insert—

“(3) Nothing in this Rule or the following two Rules may affect the rights in rem of creditors or third parties protected under Article 5 of the EC Regulation (third parties' rights in rem).”.

(8) After Rule 6.198(4) (power of court to order sale) insert—

“(5) Nothing in this Rule or the following Rule may affect the rights in rem of creditors or third parties protected under Article 5 of the EC Regulation (third parties' rights in rem).”.

(9) After Rule 6.237 (bankrupt’s dwelling-house and home) insert—

“CHAPTER 27

EC REGULATION—MEMBER STATE LIQUIDATOR

Interpretation of creditor and notice to member State liquidator

6.238.—(1) This Rule applies where a member State liquidator has been appointed in relation to the bankrupt.

(2) For the purposes of the Rules referred to in paragraph (3) a member State liquidator is deemed to be a creditor.

(3) The Rules referred to in paragraph (2) are Rules 6.73(1) (duty of official receiver), 6.75(1) (report of official receiver), 6.76(2) (report of official receiver), 6.79(2) (creditors' meeting), 6.81 (power to call creditors' meeting), 6.83 (requisitioned meetings), 6.93 (entitlement to vote), 6.94 (admission and rejection of proof), 6.96 (meaning of “prove”), 6.97 (supply of forms), 6.98 (contents of proof), 6.99 (claim established by affidavit), 6.100 (cost of proving), 6.101 (inspection of proofs), 6.104 (admission and rejection of proofs for dividend), 6.105(1) (appeal against decision on proof), 6.105(2), 6.106 (withdrawal or variation of proofs), 6.107(1) (expunging of proof), 6.108 (negotiable instruments, etc.), 6.109 (secured creditors), 6.110 (discounts), 6.111 (debts in foreign currency), 6.112 (payments of a periodical nature), 6.113 (interest), 6.114 (debt payable at future time), 6.126(1) (resignation of trustee), 6.136(1) (release of official receiver), 6.137(1) (final meeting), 6.142(1) (challenge to remuneration), 6.150(2) (creditors' committee), 6.160(3) (vacancy on creditors' committee), 6.172(3) (request for public examination), 6.212(1) (notice of annulment) and 6.217(3) (application by bankrupt for discharge).

(4) Paragraphs (2) and (3) are without prejudice to the generality of the right to participate referred to in paragraph 3 of Article 32 of the EC Regulation (exercise of creditor’s rights).

(5) Where the trustee is obliged to give notice to, or provide a copy of a document (including an order of court) to, the court or the official receiver, the trustee shall give notice or provide copies, as the case may be, to the member State liquidator.

(6) Paragraph (5) is without prejudice to the generality of the obligations imposed by Article 31 of the EC Regulation (duty to cooperate and communicate information).

Interpretation of creditor and notice to member State liquidator appointed in main proceedings

6.239.—(1) This Rule applies, in addition to Rule 6.238, where a member State liquidator has been appointed in main proceedings in relation to the bankrupt.

(2) For the purposes of the Rules referred to in paragraph (3) the member State liquidator is deemed to be a creditor.

(3) The Rules referred to in paragraph (2) are Rules 6.18(3) (hearing of petition), 6.23(1) (notice of intention to appear), 6.28(4) (extension of time), 6.30(2) (substitution of petitioner), 6.31(1) (change of carriage of petition) and 6.218(4) (report of official receiver).

(4) Paragraphs (2) and (3) are without prejudice to the generality of the right to participate referred to in paragraph 3 of Article 32 of the EC Regulation (exercise of creditor's rights).".