

SCHEDULE 1

PART 3

AMENDMENTS TO PART 3 OF THE PRINCIPAL RULES

Amendment to Rule 3.38

11. After Rule 3.38 there is inserted—

“CHAPTER 7

SECTION 176A: THE PRESCRIBED PART

Report to creditors

3.39.—(1) This Rule applies where—

- (a) a receiver (other than an administrative receiver) is appointed by the court or otherwise under a charge which as created was a floating charge; and
- (b) section 176A applies.

(2) Within 3 months (or such longer period as the court may allow) of the date of his appointment the receiver shall send to creditors, details of whose names and addresses are available to him, notice of his appointment and a report which will include the following matters—

- (a) to the best of the receiver’s knowledge and belief—
 - (i) an estimate of the value of the prescribed part (whether or not he proposes to make an application to the court under section 176A(5) or section 176A(3) applies); and
 - (ii) an estimate of the value of company’s net property;
- (b) whether, and if so, why, he proposes to make an application to court under section 176A(5); and
- (c) whether he proposes to present a petition for the winding up of the company.

(3) Nothing in this Rule is to be taken as requiring any such estimate to include any information, the disclosure of which could seriously prejudice the commercial interests of the company. If such information is excluded from the calculation the estimate shall be accompanied by a statement to that effect.

(4) Where the receiver thinks that it is impracticable to send the report required under paragraph (2) or where full details of the unsecured creditors of the company are not available to him, he may, instead of sending a report as required by this Rule, publish a notice to the same effect in such newspaper as he thinks most appropriate for ensuring that it comes to the notice of the company’s unsecured creditors.

Receiver to deal with prescribed part

3.40. Where Rule 3.39 applies—

- (a) the receiver may present a petition for the winding up of the company if the ground of the petition is that in section 122(1)(f);

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- (b) where a liquidator or administrator has been appointed to the company, the receiver shall deliver up the sums representing the prescribed part to him;
- (c) in any other case, the receiver shall apply to the court for directions as to the manner in which he is to discharge his duty under section 176A(2)(a) and shall act in accordance with such directions as are given by the court.”.