

SCHEDULE 1

PART 4

AMENDMENTS TO PART 4 OF THE PRINCIPAL RULES

Amendment to Rule 4.1

12. At end of paragraph (5) of Rule 4.1 there is inserted—

“(6) In a voluntary winding up which is commenced by the registration of a notice under paragraph 83(3) of Schedule B1 to the Act, the following provisions of this Part shall not apply—

Rules 4.34, 4.38, 4.49, 4.51, 4.53, 4.62, 4.101, 4.103, 4.106, 4.152, 4.153, 4.206-4.210.”.

Amendments to Rule 4.7

13. In Rule 4.7—

- (a) in paragraph (4)(b) for the words “if an administration order is in force in relation to the company” there are substituted “if the company is in administration” and after the words “one copy” there are inserted “of the administration order or notice of appointment”;
- (b) in paragraph (7)(b) for the words “the number of the petition on which the administration order was made and the date of that order” there are substituted “the court case number and the date that the company entered administration”;
- (c) in paragraph (7)(c)—
 - (i) for the words “section 18 requesting that the administration order be discharged” there are substituted “paragraph 79(2) of Schedule B1 to the Act requesting that the appointment of the administrator shall cease to have effect”;
 - (ii) the words “and that the court make any such order consequential upon that discharge as it thinks fit” are omitted; and
- (d) for paragraph (8) there is substituted—

“(8) Any petition filed in relation to a company in respect of which there is in force a voluntary arrangement under Part I of the Act or which is in administration shall be presented to the court to which the nominee’s report under section 2 was submitted or the court having jurisdiction for the administration.”.

Amendment to Rule 4.10

14. In paragraph (2) of Rule 4.10 for the words “an administration order is in force in relation to it” there are substituted “the company is in administration”.

Amendment to Rule 4.43

15. After Rule 4.43(1) there is inserted—

- “(1A) The official receiver shall also include in the report under paragraph (1)—
- (a) to the best of his knowledge and belief—

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- (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);
 - (ii) an estimate of the value of the company's net property; and
- (b) whether, and if so, why, he proposes to make an application to court under section 176A(5).

(1B) 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.”.

Amendment to Rule 4.49

16. After Rule 4.49 (which becomes paragraph (1) of Rule 4.49) there is inserted—

“(2) The report under paragraph (1) shall also include—

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

(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.”.

Amendments to Rule 4.49A

17. After the words “formerly its administrator” there are inserted the words “or a person is appointed as liquidator upon the registration of a notice under paragraph 83(3) of Schedule B1 to the Act” and for the words “Rule 2.16” there are substituted the words “Rule 2.33”.

Amendment to Rule 4.73

18. After paragraph (7) of Rule 4.73 there is inserted—

“(8) Where a winding up is immediately preceded by an administration, a creditor proving in the administration shall be deemed to have proved in the winding up.”.

Amendment to Rule 4.90

19. In Rule 4.90 for paragraph (3) there is substituted—

- “(3) Sums due from the company to another party shall not be taken into account under paragraph (2) if—
- (a) that other party had notice at the time they became due that a meeting of creditors had been summoned under section 98 or (as the case may be) a petition for the winding up of the company was pending;
 - (b) the liquidation was immediately preceded by an administration and the sums became due during the administration; or

- (c) the liquidation was immediately preceded by an administration and the other party had notice at the time that the sums became due that—
 - (i) an application for an administration order was pending; or
 - (ii) any person had given notice of intention to appoint an administrator.”.

Amendment to Rule 4.91

20. In paragraph (2) for the words “middle market rate at the Bank of England” there are substituted “middle exchange rate on the London Foreign Exchange Market at the close of business”.

Amendment to Rule 4.105

21. After the words “the court’s order” there are inserted the words “or a copy of the notice registered in accordance with paragraph 83(3) of Schedule B1 to the Act”.

Amendment to Rule 4.124

22. After Rule 4.124(2) there is inserted—

“(2A) The summary of receipts and payments referred to in paragraph (2) shall also include a statement as to the amount paid to unsecured creditors by virtue of the application of section 176A (prescribed part).”.

Amendment to Rule 4.125

23. After Rule 4.125(2) there is inserted—

“(2A) The liquidator’s report shall also contain a statement as to the amount paid to unsecured creditors by virtue of the application of section 176A (prescribed part).”.

Amendments to Rule 4.126

24. In Rule 4.126—

- (a) in paragraph (2) after “the account required under the section” insert “or paragraph (4) of this Rule”; and
- (b) after paragraph (3) there is inserted—

“(4) The account of the winding up required under section 106 shall also include a statement as to the amount paid to unsecured creditors by virtue of the application of section 176A (prescribed part).”.

Amendment to Rule 4.173

25. In paragraph (1)(a) of Rule 4.173 for the words “immediately upon the discharge of an administration order under Part II of the Act” there are substituted the words “by the court upon an application under paragraph 79 of Schedule B1 to the Act”.

Amendments to Rule 4.174

26. In Rule 4.174—

- (a) in paragraph (1) for the words “section 26” there are substituted the words “paragraph 57 of Schedule B1 to the Act”; and
- (b) in paragraph (2) for the words “section 26” there are substituted the words “paragraph 57 of Schedule B1 to the Act”.

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Amendment to Rule 4.175

27. In paragraph (1) of Rule 4.175 for the words “section 26” there are substituted the words “paragraph 57 of Schedule B1 to the Act”.