

SCHEDULE 1

Amendments to the Insolvency Rules 1986

Amendments to Rule 2.33

- 48.**—(1) Rule 2.33 (administrator’s proposals) is amended as follows.
- (2) In paragraph (1), omit “attached to Form 2.17B”.
- (3) In paragraph (2)—
- (a) after sub-paragraph (k) insert—
- “(ka) a statement complying with paragraph (2B) of any pre-administration costs charged or incurred by the administrator or, to the administrator’s knowledge, by any other person qualified to act as an insolvency practitioner;”;
- (b) in sub-paragraph (m)—
- (i) at the beginning insert, “a statement (which must comply with paragraph (2C) where that paragraph applies) of”;
- (ii) omit the second sentence;
- (c) in sub-paragraph (p)(ii), after “main proceedings” insert “, secondary proceedings”.
- (4) After paragraph (2) insert—
- “(2A) In this Part—
- (a) “pre-administration costs” are—
- (i) fees charged, and
- (ii) expenses incurred,
- by the administrator, or another person qualified to act as an insolvency practitioner, before the company entered administration but with a view to its doing so; and
- (b) “unpaid pre-administration costs” are pre-administration costs which had not been paid when the company entered administration.
- (2B) A statement of pre-administration costs complies with this paragraph if it includes—
- (a) details of any agreement under which the fees were charged and expenses incurred, including the parties to the agreement and the date on which the agreement was made,
- (b) details of the work done for which the fees were charged and expenses incurred,
- (c) an explanation of why the work was done before the company entered administration and how it would further the achievement of an objective in sub-paragraph (1) of paragraph 3 in accordance with sub-paragraphs (2) to (4) of that paragraph,
- (d) a statement of the amount of the pre-administration costs, setting out separately—
- (i) the fees charged by the administrator,
- (ii) the expenses incurred by the administrator,
- (iii) the fees charged (to the administrator’s knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately), and

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- (iv) the expenses incurred (to the administrator’s knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately),
- (e) a statement of the amounts of pre-administration costs which have already been paid (set out separately as under sub-paragraph (d)),
- (f) the identity of the person who made the payment or, if more than one person made the payment, the identity of each such person and of the amounts paid by each such person set out separately as under sub-paragraph (d),
- (g) a statement of the amounts of unpaid pre-administration costs (set out separately as under sub-paragraph (d)), and
- (h) a statement that the payment of unpaid pre-administration costs as an expense of the administration is—
 - (i) subject to approval under Rule 2.67A, and
 - (ii) not part of the proposals subject to approval under paragraph 53.

(2C) This paragraph applies where it is proposed that the administration will end by the company moving to a creditors’ voluntary liquidation; and in that case, the statement required by paragraph (2)(m) must include—

- (a) details of the proposed liquidator;
- (b) where applicable, the declaration required by section 231; and
- (c) a statement that the creditors may, before the proposals are approved, nominate a different person as liquidator in accordance with paragraph 83(7)(a) and Rule 2.117A(2)(b).”.

(5) In paragraph (4), for the words from “shall notify” to the end substitute—
“must as soon as reasonably practicable after the making of the order—

- (a) notify in Form 2.18B every creditor of the company and every member of the company of whose address (in either case) the administrator is aware, and
- (b) send a copy of the notification to the registrar of companies.”.

(6) After paragraph (5) insert—

“(5A) Where proposals are deemed under paragraph (5) to have been approved, the administrator must, as soon as reasonably practicable after expiry of the period set out in Rule 2.37(1), give notice of the date on which they were deemed to have been approved to the registrar of companies, the court and the creditors; and a copy of the proposals must be attached to the notice given to the court and to creditors who have not previously received them.”.

(7) In paragraph (6), for “10” insert “7 business”.

(8) For paragraph (7A) substitute—

- “(7A) In addition to the standard contents, the notice under paragraph (7) must state—
- (a) that members can write for a copy of the statement of proposals for achieving the purpose of administration; and
 - (b) the address to which to write.”.