

## SCHEDULE 2

Introductory Rule 4

### TRANSITIONAL AND SAVINGS PROVISIONS

#### **General**

**1.** In this Schedule—

“the 1986 Rules” means the Insolvency (Scotland) Rules 1986 as they had effect immediately before the commencement date and a reference to “1986 Rules” followed by a rule number is a reference to a rule in the 1986 Rules; and

“the commencement date” means the date these Rules come into force.

#### **Requirement for office-holder to provide information to creditors on opting out**

**2.—(1)** Rule 1.35, which requires an office-holder to provide information to a creditor on the right to elect to opt out under rule 1.34 in the first communication to the creditor, does not apply to—

- (a) an administrator; or
- (b) a supervisor of a CVA

who has delivered the first communication before the commencement date.

(2) An administrator or supervisor of a CVA may choose to deliver information on the right to opt out in which case the communication to the creditor must contain the information required by rule 1.35.

#### **Electronic communication**

**3.—(1)** Rule 1.41(4) does not apply where the relevant proceedings commenced before the commencement date.

(2) In this paragraph relevant proceedings are commenced on—

- (a) the delivery of a proposal for a voluntary arrangement to the intended nominee;
- (b) the appointment of an administrator under paragraph 14 or 22 of Schedule B1; or
- (c) the making of an administration order.

#### **Statement of affairs**

**4.—(1)** The provisions of these Rules relating to statements of affairs in an administration do not apply where relevant proceedings were commenced before the commencement date and the 1986 Rules relating to statements of affairs in an administration continue to apply.

(2) In this paragraph relevant proceedings are commenced on—

- (a) the appointment of an administrator under paragraph 14 or 22 of Schedule B1; or
- (b) the making of an administration order;

#### **Savings in respect of meetings to be held on or after the commencement date and resolutions by correspondence**

**5.—(1)** This paragraph applies where on or after the commencement date—

- (a) a creditors’ meeting is to be held as a result of a notice issued before that date in relation to a meeting for which provision is made by the 1986 Rules or the 1986 Act;
- (b) a meeting is to be held as a result of a requisition by a creditor made before that date;

*Status: This is the original version (as it was originally made).*

(c) a meeting is to be held as a result of a statement made under paragraph 52(1)(b) of Schedule B1 and a request is made before that date which obliges the administrator to summon an initial creditors' meeting.

(2) Where paragraph (1) applies, Part 5 of these Rules does not apply and the 1986 Rules relating to the following continue to apply—

- (a) the requirement to hold the meeting;
- (b) notice and advertisement of the meeting;
- (c) governance of the meeting;
- (d) recording and taking minutes of the meeting;
- (e) the report or return of the meeting;
- (f) membership and formalities of establishment of creditor's committees where the resolution to form the committee is passed at the meeting;
- (g) the office-holder's resignation or removal at the meeting;
- (h) the office-holder's release;
- (i) fixing the office-holder's remuneration;
- (j) hand-over of assets to a supervisor of a voluntary arrangement where the proposal is approved at the meeting;
- (k) the notice of appointment of a supervisor of a voluntary arrangement where the appointment is made at the meeting;
- (l) claims that remuneration is or that other expenses are excessive; and
- (m) complaints about exclusion at the meeting.

(3) Where, before the commencement date, the administrator sought to obtain a resolution by correspondence under 1986 rule 2.28, the 1986 Rules relating to resolutions by correspondence continue to apply and paragraph (2) applies to any meeting that those rules require the office-holder to summon.

### **Progress reports and statements to the registrar of companies**

6.—(1) Where an obligation to prepare a progress report arises before the commencement date but has not yet been fulfilled 1986 rule 2.38 continues to apply.

(2) Where, before the commencement date, a conversion notice under paragraph 83 of Schedule B1 was sent to the registrar of companies, 1986 rule 2.47 continues to apply.

### **Foreign currency**

7. Where, before the commencement date, an amount stated in a foreign currency on a statement of claim or evidence of debt (according to the nature of the debt claimed) is converted into sterling by the administrator under 1986 rule 4.17(2), the administrator and any successor to the administrator must continue to use that exchange rate for subsequent conversions of that currency into sterling for the purpose of distributing any assets of the insolvent estate.

### **CVA moratoria**

8. Where, before the commencement date, the directors of a company submit to the nominee the documents required under paragraph 6(1) of Schedule A1, the 1986 Rules relating to moratoria continue to apply to that proposed voluntary arrangement.

### **Applications before the court**

**9.** Where an application to court is lodged or a petition is presented under the Act or under the 1986 Rules before the commencement date and the application or petition has not been determined or withdrawn, the 1986 Rules continue to apply to that application or petition.

### **Forms**

**10.** A form contained in Schedule 5 to the 1986 Rules may be used on or after the commencement date if—

- (a) the form is used to provide a statement of affairs pursuant to paragraph 4 of this Schedule;
- (b) the form relates to a meeting held under the 1986 Rules to which paragraph 5 of this Schedule applies;
- (c) the form is required because before the commencement date, the administrator sought to obtain the passing of a resolution by correspondence; or
- (d) the form relates to any application to the court made, or petition presented, before the commencement date.

### **Administrations commenced before 15th September 2003**

**11.** The 1986 Rules continue to apply to administrations where the petition for an administration order was presented before 15th September 2003.

### **Savings in respect of special insolvency rules: limited liability partnerships**

**12.** The 1986 Rules insofar as they apply to insolvency proceedings under the Limited Liability Partnerships Regulations 2001<sup>(1)</sup> continue to have effect for the purposes of the application of those Regulations.

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(1) [S.I. 2001/1090](#).