
STATUTORY INSTRUMENTS

2021 No. 1028

**The Insolvency (England and Wales)
(No.2) (Amendment) Rules 2021**

PART 3

Miscellaneous amendments of the Insolvency Rules

Amendment of Part 1 of the Insolvency Rules

7.—(1) Rule 1.20 (registrar of companies: covering notices) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This rule applies where—

- (a) the Act or these Rules require an office-holder to deliver any of the documents specified in paragraph (1A) to the registrar of companies, or
- (b) the directors are required to deliver a copy of a court order to the registrar of companies in accordance with sections A31(7) or A32(5).”.

(3) After paragraph (1) insert—

“(1A) The documents specified in this paragraph are—

- (a) a notice under section A38 bringing a moratorium under Part A1 of the Act to an end;
- (b) an account (including a final report) or a summary of receipts and payments;
- (c) an administrative receiver’s report under section 48(1);
- (d) a court order;
- (e) a declaration of solvency;
- (f) a direction of the Secretary of State under section 203 or 205;
- (g) a notice of disclaimer;
- (h) a statement of administrator’s proposals (including a statement of revised proposals);
- (i) a statement of affairs;
- (j) a statement of concurrence;
- (k) a notice of an administrator’s resignation under paragraph 87(2) of Schedule B1;
- (l) a notice of a liquidator’s death which the official receiver is required to deliver under rule 7.67(3)(b);
- (m) a notice that a liquidator has vacated office on loss of qualification to act which the official receiver is required to deliver under rule 7.68(4)(b);
- (n) any report including—
 - (i) a final report,

- (ii) a progress report (including a final progress report),
 - (iii) a report of a creditor's decision under paragraph 53(2) or 54(6) of Schedule B1, and
 - (iv) a report of a decision approving a CVA under section 4(6) and (6A) or paragraph 30(3) and (4) of Schedule A1 to the Act;
 - (o) a copy of the notice that a CVA has been fully implemented or terminated that the supervisor is required to deliver under rule 2.44(3)."
- (4) In paragraph (2), after "office-holder" insert "or the directors (as the case may be)".
- 8.** In rule 1.22 (standard contents of documents relating to the office of office-holders), for paragraph (1)(b) substitute—
- "(b) where the document relates to—
 - (i) an appointment, (other than an appointment to which sub-paragraph (b)(ii) refers), the person, body or court making the appointment; or
 - (ii) in the case of an appointment of a person as a monitor in respect of a moratorium for a company to which section A3 applies, the court with which the relevant documents, within the meaning given by section A6, were filed;"
- 9.** In rule 1.30 (standard contents of notices relating to the office of office-holders), for paragraph (b) substitute—
- "(b) where the document relates to—
 - (i) an appointment, (other than an appointment to which sub-paragraph (b)(ii) refers), the person, body or court making the appointment; or
 - (ii) in the case of an appointment of a person as a monitor in respect of a moratorium for a company to which section A3 applies, the court with which the relevant documents, within the meaning given by section A6, were filed."
- 10.** In rule 1.38 (creditor's election to opt-out), before paragraph (1) insert—
- "(A1) This rule does not apply in relation to a moratorium under Part A1 of the Act."
- 11.** In rule 1.39 (office-holder to provide information to creditors on opting-out), before paragraph (1) insert—
- "(A1) This rule does not apply in relation to a moratorium under Part A1 of the Act."
- 12.** In rule 1.57 (right to list of creditors), before paragraph (1)(a) insert—
- "(za) a moratorium under Part A1 of the Act;"

Amendment of Part 2 of the Insolvency Rules

- 13.**—(1) Rule 2.2 (proposal for a CVA: general principles and amendment) is amended as follows.
- (2) For paragraph (2) substitute—
- "(2) The proposal may be amended with the nominee's agreement in writing where—
 - (a) the nominee is not the liquidator or administrator of the company; and
 - (b) the nominee's report has not been filed with the court under section 2(2)."
- (3) Omit paragraphs (3) and (4).
- 14.** In rule 2.3 (proposal: contents), in the Table in paragraph (1), for the entry "address where moratorium proposed" substitute—

“Matters relating to a moratorium	(va) whether a moratorium is, or has been, in force for the company under Part A1 of the Act and, if so, the date that moratorium came into force and, (if applicable), the date it ended;”
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15.—(1) Rule 2.6 (statement of affairs (section 2(3))) is amended as follows.

(2) In paragraph (1), after “the following” insert “and, in addition, where paragraph (1B) applies, the information specified in that paragraph”.

(3) After paragraph (1) insert—

“(1A) Paragraph (1B) applies if a moratorium under Part A1 of the Act is, or has been, in force for the company at any time within the period of 12 weeks ending with the day on which the statement of affairs is made up.

(1B) Where this paragraph applies the statement of affairs must identify which of the debts owed by the company are—

(a) moratorium debts, and

(b) priority pre-moratorium debts,

within the meaning given by section 174A(1); and

(c) sub-paragraph(1)(c) has effect as if the reference to preferential creditors included references to moratorium debts and priority pre-moratorium debts within the meaning given by section 174A”.

16. In rule 2.26 (members’ consideration at a meeting), for paragraph (3) substitute—

“(3) The date of the meeting (except where the nominee is the administrator or liquidator of the company) must not be more than 28 days from the date on which the nominee’s report is filed with the court under rule 2.9.”.

17. For rule 2.27 (creditors’ consideration by a decision procedure) substitute—

“Creditors’ consideration by a decision procedure

2.27. Where the nominee is inviting the creditors to consider the proposal by a decision procedure, the decision date must be not less than 14 days from the date of delivery of the notice and not more than 28 days from the date the nominee’s report is filed with the court under rule 2.9.”.

Amendment of Part 3 of the Insolvency Rules

18. In rule 3.8 (service of application), before sub-paragraph (3)(a) insert—

“(za) if there is a moratorium in force for the company under Part A1 of the Act, the monitor;”.

19. In rule 3.12 (the hearing), after sub-paragraph (1)(c) insert—

“(ca) if there is a moratorium in force for the company under Part A1 of the Act, the monitor;”.

20. In rule 3.23 (notice of intention to appoint), in paragraph (1)—

(a) after sub-paragraph (e) insert—

“(ea) a statement as to whether there is a moratorium in force for the company under Part A1 of the Act;” and

(b) for sub-paragraph (f) substitute—

“(f) a statement that the company has not within the preceding 12 months been in administration;”.

21. In rule 3.25 (notice of appointment without prior notice of intention to appoint), in paragraph (2)—

(a) after sub-paragraph (e) insert—

“(ea) a statement as to whether there is a moratorium in force for the company under Part A1 of the Act;” and

(b) for sub-paragraph (f) substitute—

“(f) a statement that the company has not within the preceding 12 months been in administration;”.

22. In rule 3.27 (publication of administrator’s appointment), before sub-paragraph (3)(a) insert—

“(za) if there is a moratorium in force for the company under Part A1 of the Act, to the monitor;”.

23.—(1) Rule 3.30 (statement of affairs: content (paragraph 47 of Schedule B1)) is amended as follows.

(2) In paragraph (2), after “(in addition to the matters required by paragraph 47(2) of Schedule B1)” insert “the following, and, in addition, where paragraph (2B) applies, the information specified in that paragraph”.

(3) After paragraph (2) insert—

“(2A) Paragraph (2B) applies if a moratorium under Part A1 of the Act is, or has been, in force for the company at any time within the period of 12 weeks ending with the day on which it entered administration.

(2B) Where this paragraph applies the statement of affairs must identify which of the debts owed by the company are—

(a) moratorium debts, and

(b) priority pre-moratorium debts,

within the meaning given by section 174A; and

(c) sub-paragraph (2)(a)(iv) has effect as if the reference to preferential creditors included references to moratorium debts and priority pre-moratorium debts within the meaning given by section 174A.

(d) sub-paragraph (2)(b)(i), (ii) and (vii) has effect as if the reference to preferential debts included references to moratorium debts and priority pre-moratorium debts within the meaning given by section 174A.”.

24.—(1) Rule 3.35 (administrator’s proposals: additional content) is amended as follows.

(2) In paragraph (1)—

(a) after sub-paragraph (d) insert—

“(da) a statement as to whether a moratorium under Part A1 of the Act has been in force for the company at any time within the period of 2 years ending with the day on which it entered administration and, if so—

- (i) the date on which it came into force,
 - (ii) the date on which it ended, and
 - (iii) particulars of the purposes for which it was entered into and whether, and to what extent, those purposes were achieved;” and
- (b) in sub-paragraph (h)(i) after “financial position of the company” insert “(as to which see paragraph (1A))”.
- (3) After paragraph (1) insert—
 - “(1A) For the purposes of paragraph (1)(h)(i) if a moratorium has been in force at any time within the period of 12 weeks ending with the day on which the company entered administration then the details of the financial position of the company must identify which of the debts owed by the company are—
 - (a) moratorium debts, and
 - (b) priority pre-moratorium debts,within the meaning given by section 174A.”.
- 25. In rule 3.50 (expenses), after paragraph (4) insert—
 - “(5) The costs of an application by the administrator under rule 1A.27 are to be treated as an expense of the administration unless the court orders otherwise.”.
- 26. In rule 3.51 (order of priority), for paragraph (1) substitute—
 - “(1) Where paragraph 64A(2) or paragraph 99(1) of Schedule B1 applies, the items specified in paragraph 64A or paragraph 99 (as the case may be) are payable in priority to the expenses in this rule.”.
- 27. After rule 3.51 insert—

“Priority of moratorium debts in subsequent administration

3.51A. Where paragraph 64A(1) of Schedule B1 applies, the moratorium debts and priority pre-moratorium debts mentioned in paragraph 64A(2) of that Schedule are payable in the following order of priority—

- (a) amounts payable in respect of goods or services supplied during the moratorium under a contract where, but for section 233B(3) or (4)(3), the supplier would not have had to make that supply;
- (b) wages or salary arising under a contract of employment, so far as relating to a period of employment before or during the moratorium;
- (c) other debts or other liabilities apart from the monitor’s remuneration or expenses; and
- (d) the monitor’s remuneration or expenses.”.

Amendment of Part 6 of the Insolvency Rules

- 28.—(1) Rule 6.4 (additional requirements as to statement of affairs) is amended as follows.
- (2) In paragraph (1), after “must also contain” insert “the following, and, in addition, where paragraph (1B) applies, the information specified in that paragraph”.
- (3) After paragraph (1) insert—

(2) Section 64A was inserted by paragraph 31(3) of Schedule 3 to the Corporate Insolvency and Governance Act 2020 (c.12).
(3) Section 233B was inserted by section 14 of the Corporate Insolvency and Governance Act 2020 (c.12).

“(1A) Paragraph (1B) applies if a moratorium under Part A1 of the Act is, or has been, in force for the company at any time within the period of 12 weeks ending with the day on which the resolution for a voluntary winding up is passed.

(1B) Where this paragraph applies the statement of affairs must identify which of the debts owed by the company are—

- (a) moratorium debts, and
- (b) priority pre-moratorium debts,

within the meaning given by section 174A; and

- (c) sub-paragraph (1)(c)(iv) has effect as if the reference to preferential creditors included references to moratorium debts and priority pre-moratorium debts within the meaning given by section 174A.
- (d) sub-paragraph (1)(d)(i), (ii) and (vii) has effect as if the reference to preferential debts included references to moratorium debts and priority pre-moratorium debts within the meaning given by section 174A.”.

29. After rule 6.23 (advertisement of appointment) insert—

“Additional requirements as to advertisement where moratorium under Part A1 of the Act in force

6.23A.—(1) This rule applies in the case of a voluntary winding up where, immediately before the company goes into liquidation, a moratorium under Part A1 of the Act is in force for that company.

(2) Where this rule applies the liquidator must, in addition to delivering a notice of the appointment in accordance with section 109(1), deliver notice of the liquidator’s appointment to the monitor.

(3) Notice under this rule must be given within the period of 14 days beginning with the day on which the liquidator is appointed.”.

30. After rule 6.42 (general rule as to priority) insert—

“Priority of moratorium debts in subsequent winding up

6.42A. Where section 174A applies the moratorium debts and priority pre-moratorium debts mentioned in subsection (2)(b) of that section are payable in the following order of priority—

- (a) amounts payable in respect of goods or services supplied during the moratorium under a contract where, but for section 233B(3) or (4), the supplier would not have had to make that supply;
- (b) wages or salary arising under a contract of employment;
- (c) other debts or other liabilities apart from the monitor’s remuneration or expenses; and
- (d) the monitor’s remuneration or expenses.”.

31. In rule 6.44 (interpretation), in paragraph (1), in the definition of “the creditor” before (a) insert—

- “(za) a creditor in respect of a debt which is a moratorium debt or a priority pre-moratorium debt within the meaning given by section 174A;”.

32. In rule 6.46 (request for approval or authorisation), for paragraph (4)(c) substitute—

- “(c) notice to—
 - (i) each preferential creditor, and
 - (ii) each creditor of the kind described in rule 6.44(1)(za),that approval or authorisation of the specified amount will be taken to be given where a majority in value of those creditors referred to in sub-paragraphs (i) and (ii) who respond within the specified time limit are in favour of it; or”.

33.—(1) Rule 6.47 (grant of approval or authorisation) is amended as follows.

(2) For paragraph (3) substitute—

“(3) Paragraph (3A) applies where the liquidator requires the approval or authorisation of—

- (a) two or more—
 - (i) preferential creditors, or
 - (ii) creditors of the kind described in rule 6.44(1)(za); or
- (b) one or more preferential creditors together with one or more creditors of the kind described in rule 6.44(1)(za).”.

(3) After paragraph (3) insert—

“(3A) Where this paragraph applies approval or authorisation will be taken to be given where a majority in value of those creditors referred to in sub-paragraph (3)(a)(i) or (ii) or sub-paragraph (3)(b) (as the case may be) who respond within the specified time approve or authorise—

- (a) the specified amount; or
- (b) a different amount which the liquidator considers sufficient.”.

(4) For paragraph (4) substitute—

“(4) Where a majority in value of—

- (a) two or more—
 - (i) preferential creditors, or
 - (ii) creditors of the kind described in rule 6.44(1)(za); or
- (b) one or more preferential creditors together with one or more creditors of the kind described in rule 6.44(1)(za),

propose an amount other than that specified by the liquidator, they will be taken to have approved or authorised an amount equal to the lowest of the amounts so proposed.”.

Amendment of Part 7 of the Insolvency Rules

34.—(1) Rule 7.5 (contents of petition) is amended as follows.

(2) In paragraph (1), after “contain” insert “the following, and, in addition, where paragraph (1B) applies, the information specified in that paragraph”.

(3) After paragraph (1) insert—

“(1A) Paragraph (1B) applies if a moratorium under Part A1 is in force.

(1B) Where this paragraph applies the petition must contain—

- (a) a statement that a moratorium under Part A1 of the Act is in force for the company;
- (b) a statement as to which of the permitted exceptions to the restriction on winding up during a moratorium specified in section A20 applies; and

(c) the name and contact details of the monitor.”.

35. In rule 7.11 (persons entitled to request a copy of petition), for “or creditor” substitute “creditor, or, (if a moratorium under Part A1 of the Act is in force for the company), the monitor”.

36. In rule 7.22 (delivery and notice of the order), for paragraph (2)(b) substitute—

“(b) a copy of the order to—

(i) the registrar of companies (in compliance with section 130(1)); and

(ii) if a moratorium under Part A1 of the Act was in force for the company at the time the petition for the winding up of the company was presented, the monitor.”.

37. In rule 7.33 (application for appointment of provisional liquidator (section 135)), before paragraph (2)(d)(i) insert—

“(zi) a moratorium under Part A1 of the Act is in force for the company;”.

38. In rule 7.35 (order of appointment of provisional liquidator), after paragraph (4) insert—

“(4A) Where a moratorium under Part A1 of the Act is in force for the company the official receiver or other person appointed as provisional liquidator must as soon as reasonably practicable deliver a sealed copy of the order to the monitor.”.

39. In rule 7.39 (termination of appointment), for paragraph (4)(a) substitute—

“(a) must be delivered as soon as reasonably practicable to—

(i) the registrar of companies; and

(ii) if a moratorium under Part A1 of the Act is in force for the company, the monitor;”.

40.—(1) Rule 7.41 (statement of affairs) is amended as follows.

(2) In paragraph (1), after “contain” insert “the following, or, where paragraph (1B) applies, the information specified in that paragraph”.

(3) After paragraph (1) insert—

“(1A) Paragraph (1B) applies if a moratorium under Part A1 of the Act is or has been in force for the company at any time within the period of 12 weeks ending with the day on which the winding up petition is presented.

(1B) Where this paragraph applies the statement of affairs must contain—

(a) the matters specified in paragraph (1)(a) to (e) and (g); and

(b) the information specified in paragraph (1)(f) but with the modifications specified in paragraph (1C).

(1C) The modifications referred to in paragraph (1B)(b) are that—

(a) the summary of the liabilities of the company must, in addition, set out which of the debts owed by the company are—

(i) moratorium debts, and

(ii) priority pre-moratorium debts,

within the meaning given by section 174A, and

(b) sub-paragraph 1(e)(iv) has effect as if the reference to preferential creditors included references to moratorium debts and priority pre-moratorium debts within the meaning given by section 174A.

- (c) paragraph (1)(f)(i), (ii) and (vii) has effect as if the reference to preferential debts included references to moratorium debts and priority pre-moratorium debts within the meaning given by section 174A.”.

41.—(1) Rule 7.108 (general rule as to priority) is amended as follows.

(2) After paragraph (1) insert—

“(1A) The costs of an application by the liquidator under rule 1A.27 are to be treated as an expense of the winding up unless the court orders otherwise.”.

(3) In paragraph (4), after “as provided in” insert “paragraphs (5) and (6), rule 7.108A, and”.

(4) After paragraph (4) insert—

“(5) This paragraph applies where—

- (a) a moratorium has been in force for a company under Part A1 of the Act,
- (b) proceedings for the winding up of the company are begun before the end of the period of 12 weeks beginning with the day after the end of the moratorium, and
- (c) there are claims in respect of any prescribed fees or expenses of the official receiver which, in accordance with section 174A(2), fall to be paid in preference to all other claims.

(6) Where paragraph (5) applies, then, in consequence of those claims of the official receiver falling to be paid in preference to all other claims by virtue of section 174A(2), the order of priority referred to in paragraph (4) is modified as follows—

- (a) sub-paragraph (a)(ii) is omitted in relation to any expenses chargeable or incurred by the official receiver,
- (b) sub-paragraph (a)(iii) and (iv) are omitted, and
- (c) sub-paragraphs (b) to (d) are omitted in relation to any expenses incurred by, or fee payable to, the official receiver.”.

42. After rule 7.108 insert—

“Priority of moratorium debts in subsequent winding up

7.108A.—(1) Where section 174A applies the moratorium debts and priority pre-moratorium debts mentioned in subsection (2)(b) of that section are payable in the following order of priority—

- (a) amounts payable in respect of goods or services supplied during the moratorium under a contract where, but for section 233B(3) or (4), the supplier would not have had to make that supply,
- (b) wages or salary arising under contract of employment,
- (c) other debts or other liabilities apart from the monitor’s remuneration or expenses, and
- (d) the monitor’s remuneration or expenses.”.

43. In rule 7.111 (interpretation), in the definition of “the creditor” before (a) insert—

“(za) a creditor in respect of a debt which is a moratorium debt or a priority pre-moratorium debt within the meaning given by section 174A;”.

44. In rule 7.114 (request for approval or authorisation), for paragraph (4)(c) substitute—

“(c) notice to—

- (i) each preferential creditor, and

(ii) each creditor of the kind described in rule 7.111(za),
that approval or authorisation of the specified amount will be taken to be given where a majority in value of those creditors referred to in sub-paragraphs (i) and (ii) who respond within the specified time limit are in favour of it; or”.

45.—(1) Rule 7.115 (grant of approval or authorisation) is amended as follows.

(2) For paragraph (3) substitute—

“(3) Paragraph (3A) applies where the liquidator requires the approval or authorisation of—

(a) two or more—

(i) preferential creditors, or

(ii) creditors of the kind described in rule 7.111(za); or

(b) one or more preferential creditors together with one or more creditors of the kind described in rule 7.111(za).”.

(3) After paragraph (3) insert—

“(3A) Where this paragraph applies approval or authorisation will be taken to be given where a majority in value of those creditors referred to in sub-paragraphs (3)(a)(i) or (ii) or (3)(b) (as the case may be) who respond within the specified time limit approve or authorise—

(a) the specified amount; or

(b) a different amount which the liquidator considers sufficient.”.

(4) For paragraph (4) substitute—

“(4) Where a majority in value of—

(a) two or more—

(i) preferential creditors, or

(ii) creditors of the kind described in rule 7.111(za); or

(b) one or more preferential creditors together with one or more creditors of the kind described in rule 7.111(za),

propose an amount other than that specified by the liquidator, they will be taken to have approved or authorised an amount equal to the lowest of the amounts so proposed.”.

Amendment of Part 12 of the Insolvency Rules

46. In rule 12.9 (service or delivery of application), for paragraph (1) substitute—

“(1) The applicant must serve a sealed copy of the application, endorsed with the venue for the hearing on—

(a) the respondent named in the application; and

(b) where an application is made under Part A1 of the Act relating to a regulated company within the meaning given by section A49, the appropriate regulator (within the meaning given by that section),

unless the court directs or these Rules provide otherwise.”.

47. In rule 12.29 (evidence provided by the official receiver, an insolvency practitioner or a special manager), in paragraph (3)—

(a) in sub-paragraph (e) omit “and”;

(b) in sub-paragraph (f) after “special manager” insert “; and”; and

(c) after sub-paragraph (f) insert—

“(g) a monitor.”.

48. In rule 12.36 (power to make a block transfer order), in paragraph (2)—

(a) in sub-paragraph (c) omit “or”;

(b) in sub-paragraph (d) after “IVA” insert “; or”

(c) after sub-paragraph (d) insert—

“(e) a monitor in respect of a moratorium under Part A1 of the Act.”.

49.—(1) Rule 12.37 (application for a block transfer order) is amended as follows.

(2) In paragraph (2) before sub-paragraph (a) insert—

“(za) section A39 (moratorium under Part A1 of the Act);”.

(3) In paragraph (3) before sub-paragraph (a) insert—

“(za) section A39 (moratorium under Part A1 of the Act);”.

50.—(1) Rule 12.48 (application for costs) is amended as follows.

(2) In paragraph (2), for sub-paragraph (a) substitute—

“(a) in proceedings other than those relating to a debt relief order, on the office-holder and—

(i) in a winding up by the court or a bankruptcy, on the official receiver; or

(ii) in proceedings under Part A1 of the Act, on the company to which the moratorium relates; or”.

51.—(1) Rule 12.52 (orders enforcing compliance) is amended as follows.

(2) In paragraph (1), before sub-paragraph (a) insert—

“(za) section A36 (provision of information to monitor);”.

(3) In paragraph (2), before sub-paragraph (a) insert—

“(za) under section A36, the monitor;”.

Amendment of Part 14 of the Insolvency Rules

52. In the heading of Part 14, after “creditors in” insert “a moratorium,”.

53.—(1) Rule 14.1 (interpretation) is amended as follows.

(2) In paragraph (1), after “applies to” insert “decision procedures in respect of a moratorium under Part A1 of the Act,”.

(3) In paragraph (2), after “apply to” insert “decision procedures in respect of a moratorium under Part A1 of the Act,”.

(4) In paragraph (3)—

(a) in the definition of “debt” after “in relation to” insert “decision procedures in respect of a moratorium under Part A1 of the Act,”;

(b) in the definition of “relevant date” before paragraph (a) insert—

“(za) in the case of decision procedures in respect of a moratorium under Part A1 of the Act, the date of the decision procedure;”.

(5) After paragraph (3) insert—

“(3A) For the purpose of decision procedures in respect of a moratorium under Part A1 of the Act references in this Part to an “office-holder” are treated as references to the “convener”.”

(6) In paragraph (4) after—

(a) “Rules about” insert “moratoriums under Part A1 of the Act,”; and

(b) “provable in” insert “the moratorium”.

(7) In paragraph (5), after “Rules about” insert “moratoriums under Part A1 of the Act”.

(8) In paragraph (6), after “Rules about” insert “moratoriums under Part A1 of the Act”.

54. In the heading of Chapter 2 of Part 14, after “Creditor’s claims in” insert “a moratorium,”.

55.—(1) Rule 14.14 (administration and winding up: estimate of value of debt) is amended as follows.

(2) In the heading, for “Administration” substitute “Moratorium, administration”.

(3) In paragraph (1), before “an administration” insert “the case of a decision procedure in respect of a moratorium under Part A1 of the Act,”.

56. In rule 14.16 (secured creditor: surrender for non-disclosure), before paragraph (1) insert—

“(A1) This rule does not apply where a proof is submitted for the purpose of a decision procedure in respect of a moratorium under Part A1 of the Act.”.

57. In rule 14.17 (secured creditor: redemption by office-holder), before paragraph (1) insert—

“(A1) This rule does not apply where a proof is submitted for the purpose of a decision procedure in respect of a moratorium under Part A1 of the Act.”.

58. In rule 14.18 (secured creditor: test of security’s value), before paragraph (1) insert—

“(A1) This rule does not apply where a proof is submitted for the purpose of a decision procedure in respect of a moratorium under Part A1 of the Act.”.

59. In rule 14.23 (interest), in paragraph (4)(a), after “in respect of” insert “a decision procedure in respect of a moratorium under Part A1 of the Act,”.

60. After rule 14.23 insert—

“Moratoriums under Part A1 of the Act: mutual dealings and set off

14.23A.—(1) This rule applies for the purposes of a decision procedure in respect of a moratorium under Part A1 of the Act.

(2) An account must be taken of what is due from the company and the creditor to each other in respect of their mutual dealings and the sums due from the one must be set off against the sums due from the other.

(3) If there is a balance owed to the creditor then only that balance is provable for the purposes of the decision procedure.

(4) For the purpose of this rule, “mutual dealings” means mutual credits, mutual debts or other mutual dealings between the company and a creditor proving or claiming to prove for a debt in the decision procedure but—

(a) in the case of a decision under section A11, only includes those debts which are pre-moratorium debts within the meaning given by section A53, and

- (b) in the case of a decision which is required by virtue of an order under section A44(3), only includes those debts which are pre-moratorium debts (within the meaning given by section A53) unless the court orders otherwise.

(5) A sum must be treated as being due to or from the company for the purposes of paragraph (2) whether—

- (a) it is payable at present or in the future,
- (b) the obligation by virtue of which it is payable is certain or contingent, or
- (c) its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion.

(6) For the purposes of this rule—

- (a) rule 14.14 applies to an obligation which, by reason of its being subject to a contingency or for any other reason, does not bear a certain value, and
- (b) rules 14.21 to 14.23 apply to sums due to the company which—
 - (i) are payable in a currency other than sterling,
 - (ii) are of a periodical nature, or
 - (iii) bear interest.”.

61. In rule 14.28 (Gazette notice of intended first dividend or distribution), in paragraph (2), after “preferential creditors” insert “or creditors in respect of a debt which is a moratorium debt or priority pre-moratorium debt within the meaning given by section 174A”.

62.—(1) Rule 14.29 (individual notices to creditors etc. of intended dividend or distribution) is amended as follows.

(2) For paragraph (2) substitute—

“(2) Paragraph (2A) applies where the intended dividend is only for one or both of the following—

- (a) preferential creditors, or
- (b) creditors in respect of a debt which is a moratorium debt or a priority pre-moratorium debt within the meaning given by section 174A.”.

(3) After paragraph (2) insert—

“(2A) Where this paragraph applies the office-holder is only required to deliver the notice to those creditors referred to in sub-paragraph (2)(a) or (b) for whom the dividend is intended.”.

63.—(1) Rule 14.35 (Notice of declaration of a dividend) is amended as follows.

(2) In paragraph (1), after “paragraph (5)” insert “and (6)”.

(3) For paragraph (5) substitute—

“(5) Paragraph (6) applies where the office-holder declares a dividend which is only for one or both of the following—

- (a) preferential creditors, or
- (b) creditors in respect of a debt which is a moratorium debt or priority pre-moratorium debt within the meaning given by section 174A.”.

(4) After paragraph (5) insert—

“(6) Where this paragraph applies the notice under paragraph (1) need only be delivered to those creditors referred to in sub-paragraph (5)(a) or (b) (as the case may be) who have proved for their debts.”.

Amendment of Part 15 of the Insolvency Rules

64. In rule 15.2 (interpretation), in paragraph (1), at the appropriate place insert ““creditor”, in relation to a decision procedure under section A11 (extension by directors with creditor consent), means a creditor who is a pre-moratorium creditor within the meaning given by section A12;”

65. In rule 15.6 (physical meetings), in paragraph (1), after “business days” insert “or, in the case of a decision procedure in respect of a moratorium under Part A1 of the Act, three days”.

66. In rule 15.8 (notices to creditors of decision procedure), at the beginning of paragraph (3)(f) and paragraph (3)(g), insert “except in the case of a decision procedure in respect of a moratorium under Part A1 of the Act”.

67. In rule 15.9 (voting in a decision procedure), in paragraph (2), before “an administration” insert “a decision procedure in respect of a moratorium under Part A1 of the Act,”.

68. In rule 15.11 (notice of decision procedures or of seeking deemed consent: when and to whom delivered), in the table in paragraph (1), before the entry for “administration” insert—

“moratorium under decision of pre- in the case of 5 days”.
Part A1 of the Act moratorium creditors a decision under
under section A11 and section A11 the pre-
decision of creditors moratorium creditors,
required by virtue of or, where the decision
an order under section is required by virtue of
A44(3) an order under section
A44(3), the creditors

69. In rule 15.14 (notice to company officers, bankrupts etc. in respect of meetings), in paragraph (1), before “a proposal for a CVA” insert “a decision procedure in respect of a moratorium under Part A1 of the Act,”.

70. In rule 15.23 (adjournment by chair), in paragraph (1), after “rule” insert “15.23A or”.

71. After rule 15.23 insert—

“Adjournment of meeting in, or for the purposes of, a moratorium under Part A1 of the Act

15.23A.—(1) This rule applies where a meeting is for the purpose of a decision procedure in respect of a moratorium under Part A1 of the Act.

(2) Where this rule applies the chair may, (and must if it is so resolved), adjourn a meeting.

(3) A meeting may be adjourned under this rule on more than one occasion.

(4) An adjournment under this rule—

(a) must not be—

(i) for a period which is more than 14 days, or

(ii) to a date which is more than 14 days after the first day on which the meeting was held, and

- (b) where a meeting is for the purpose of seeking a decision of creditors to a revised end date for a moratorium under section A11, must be to a date which is before the end of the moratorium⁽⁴⁾.

(5) This rule is subject to any direction of the court.”.

72. In rule 15.25 (adjournment in absence of chair), in paragraph (1), before “an administration” insert “a decision procedure in respect of a moratorium under Part A1 of the Act,”.

73. In rule 15.26 (proofs in adjournment), before “in an administration”, insert “for the purpose of a decision procedure in respect of a moratorium under Part A1 of the Act or,”.

74. In rule 15.28 (creditors’ voting rights), before paragraph (1) insert—

“(A1) In a decision procedure in respect of a moratorium under Part A1 of the Act a creditor is entitled to vote only if the requirements in paragraph (1)(a) to (c) are satisfied in relation to that decision procedure.”.

75.—(1) Rule 15.31 (calculation of voting rights) is amended as follows.

(2) Before paragraph (1)(a) insert—

“(za) in a decision procedure in respect of a moratorium under Part A1 of the Act, as at the decision date;”.

(3) In paragraph (1)(d)—

(a) for sub-paragraph (iii) substitute—

“(iii) where (i) and (ii) do not apply, at the decision date;”; and

(b) omit sub-paragraph (iv).

(4) In paragraph (3), before “a proposed CVA” insert “a decision procedure in respect of a moratorium under Part A1 of the Act,”.

(5) For paragraph (6) substitute—

“(6) However, the value of the debt for voting purposes is its full value without deduction of the value of the security in the following cases—

(a) where, in respect of a moratorium under Part A1 of the Act, there is a decision of pre-moratorium creditors on whether to extend or further extend that moratorium under section A11; and

(b) where the administrator has made a statement under paragraph 52(1)(b) of Schedule B1 and the administrator has been requested to seek a decision under paragraph 52(2).”.

76. In rule 15.32 (calculation of voting rights: special cases), before paragraph (1) insert—

“(A1) In a decision procedure in respect of a moratorium under Part A1 of the Act, a creditor under a hire-purchase agreement is entitled to vote in respect of the debt due and payable by the company at the decision date.

(B1) In calculating the amount of any debt for the purpose of paragraph (A1) no account is to be taken of any amount attributable to the exercise of any right under the relevant agreement so far as the right has become exercisable solely by virtue of a moratorium for the company coming into force.”

77.—(1) Rule 15.34 (requisite majorities) is amended as follows.

(4) Section A9 makes provision specifying the time at which the moratorium comes to an end in cases where the moratorium has not previously been extended and section A11 makes provisions specifying the time at which the moratorium comes to an end in cases where the moratorium has previously been extended.

(2) After paragraph (1) insert—

“(1A) Subject to paragraphs (1B) and (1D), a decision in respect of a moratorium under Part A1 of the Act is made when a majority (in value) of those voting have voted in favour of the proposed decision.

(1B) A decision is not made if, of the total number of those creditors voting in respect of the proposed decision who are, to the best of the convener’s belief, unconnected with the company, a majority vote against it.

(1C) For the purpose of paragraph (1B) a creditor is unconnected unless the convener decides that the creditor is connected.

(1D) In the case of a decision which is required by virtue of an order under section A44(3) paragraphs (1A) and (1B) have effect subject to such modifications as may be set out in the court’s order.”.

(3) For paragraph (3) substitute—

“(3) In the case of a proposed CVA a decision approving a proposal or a modification is made when three-quarters or more (in value) of those responding vote in favour of it.”.

78.—(1) Rule 15.35 (appeals against decisions under this Chapter) is amended as follows.

(2) At the beginning of paragraph (3), for “If the” substitute “In respect of a decision, other than one which is taken, or required, under Part A1 of the Act (as to which see paragraphs (3A) and (3B) if that”.

(3) After paragraph (3) insert—

“(3A) Subject to paragraph (3B), on an appeal against a decision taken, or required, under Part A1 of the Act a court may—

- (a) reverse the decision;
- (b) vary the decision;
- (c) declare certain votes to be invalid; or
- (d) make such other order as it sees fit.

(3B) A court must not make an order of the kind referred to in paragraph (3A)(a) to (c) if—

- (a) it is satisfied that the circumstances which led to the appeal did not give rise to unfair prejudice or material irregularity, or
- (b) the decision was taken at a time when the moratorium was in force, and that moratorium has subsequently come to an end.”.

Amendment of Schedule 4 to the Insolvency Rules

79. In Schedule 4, in the table of requirements for service, before the entry for rule 3.8 insert—

“1A.28(a) and 1A.30 (& section A21)	Application for permission of the court under section A21 to take enforcement action or to bring legal proceedings against the company during a moratorium	Claim form	The applicant must serve the application.
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1A.28(b) and 1A.30 (& section A31)	Application for permission of the court under section A31 to dispose of charged property free from charge during a moratorium	Claim form	The applicant must serve the application.
1A.28(c) and 1A.30 (& section A32)	Application for permission of the court under section A32 to dispose of hire-purchase property during a moratorium	Claim form	The applicant must serve the application.
1A.28(d) and 1A.30 (& section A37)	Application by monitor for directions	Claim form	The applicant must serve the application.
1A.28(e) and 1A.30 (& section A39)	Replacement of monitor or appointment of additional monitor	Claim form	The applicant must serve the application.
1A.28(f) and 1A.30 (& section A42)	Challenge to monitor's actions	Claim form	The applicant must serve the application.
1A.28(g) and 1A.30 (& section A43)	Challenges to monitor remuneration in insolvency proceedings	Claim form	The applicant must serve the application.
1A.28(h) and 1A.30 (& section A44)	Challenge to directors' actions	Claim form	The applicant must serve the application.”.