STATUTORY INSTRUMENTS

2019 No. 754

INSOLVENCY, ENGLAND AND WALES

The Bankruptcy (Financial Services and Markets Act 2000) Rules 2001 and the Insurers (Winding Up) Rules 2001 (Amendment) Rules 2019

Made - - - -	*29th March 2019*
Laid before Parliament	*1st April 2019*
Coming into force - -	*23rd April 2019*

The Lord Chancellor, with the concurrence of the Secretary of State, makes the following Rules in exercise of the powers conferred by sections 411 and 412 of the Insolvency Act 1986(**a**) and section 379 of the Financial Services and Markets Act 2000(**b**).

The Lord Chancellor has consulted the Committee existing for the purposes of section 413 of the Insolvency Act 1986.

Citation and commencement

1.—(1) These Rules may be cited as the Bankruptcy (Financial Services and Markets Act 2000) Rules 2001 and the Insurers (Winding Up) Rules 2001 (Amendment) Rules 2019.

(2) These Rules come into force on the 23rd April 2019.

Amendment of the Bankruptcy (Financial Services and Markets Act 2000) Rules 2001

2.—(1) The Bankruptcy (Financial Services and Markets Act 2000) Rules 2001(**c**) are amended as follows.

(2) In rule 2 (interpretation) omit the definition of "the 1986 Rules".

(3) In rule 3 (modification of the 1986 Rules), and in the heading to that rule, for "1986 Rules" substitute "Insolvency (England and Wales) Rules 2016(**d**)".

(4) In rule 4 (Rule 6.1)—

(a) in paragraph (1) for "6.1(**e**) (form and content of statutory demand)" substitute "10.1 (the statutory demand (section 268))";

(b) after paragraph (5) insert—

"(6) A demand must include an explanation to the individual of the following matters—

(**a**) 1986 c. 45, to which there are amendments not relevant to these Rules.
(**b**) 2000 c. 8.
(**c**) S.I. 2001/3634.
(**d**) S.I. 2016/1024.
(**e**) Rule 6.1 of the Insolvency Rules 1986 was amended by S.I. 2010/686.

(a) the purpose of the demand and the fact that, if the individual does not comply with the demand, bankruptcy proceedings may be commenced against the individual;

(b) the time within which the demand must be complied with, if that consequence is to be avoided;

(c) the methods of compliance which are open to the individual; and

(d) the individual's right to apply to the court for the demand to be set aside.

(7) A demand must specify the name and address (and telephone number, if any) of one or more persons with whom the individual may, if the individual wishes, enter into communication with a view to establishing to the Authority's satisfaction that there is a reasonable prospect that the debt will be paid when it falls due or (as the case may be) that the debt will be secured or compounded."; and

(c) in the heading for "6.1" substitute "10.1".

(5) Omit rule 5 (Rule 6.2).

(6) In rule 6 (Rules 6.3, 6.5, 6.11 and 6.25)—

(a) for paragraph (1) substitute—

"(1) Rules 10.2 (service of statutory demand), 10.3 (proof of service of statutory demand), 10.5 (hearing of application to set aside), and 10.24 (decision on the hearing) apply as if—

(a) references to the debtor were references to an individual;

(b) references (other than in Rule 10.5(3) and (5)(c)) to the creditor were references to the Authority; and

(c) references to the creditor in Rule 10.5(3) and (5)(c) were references to the person to whom the debt is owed.".

(b) in paragraph (2) for "6.5(2)(**a**)" substitute "10.5(3)";

(c) in paragraph (3) for "6.5(5)" substitute "10.5(7)"; and

(d) in the heading for "6.3, 6.5, 6.11 and 6.25" substitute "10.2, 10.3, 10.5 and 10.24".

(7) For rule 7 (Rule 6.4)(**b**) substitute—

"**Rule 10.4**

7. Rule 10.4 (application to set aside statutory demand) applies as if—

(a) references to the debtor were references to an individual; and

(b) in paragraph (4)(b)—

(i) in paragraph (i) for "a Minister of the Crown or a Government Department" there were substituted "the Authority"; and

(ii) in paragraph (iii)(bb) for "creditor's" substitute "Authority's".".

(8) For rule 8 (Rule 6.9) substitute—

"**Rule 12.5**

8. Rule 12.5 (allocation of proceedings to the London Insolvency District) applies as if in paragraph (b) for "a Minister of the Crown or a Government Department" there were substituted "the Authority".".

(**a**) Rule 6.5 of the Insolvency Rules 1986 was amended by S.I. 2009/642 and 2010/686.

(**b**) The Insolvency (Amendment) Rules 2010 (S.I. 2010/686) amended the Insolvency Rules 1986 by substituting paragraphs (2) and (2A) of Rule 6.4 for paragraph (2) of that Rule and Rule 6.9A for Rule 6.9. Accordingly, the modifications made by rules 7 and 8 have to be read with Rules 6.4 and 6.9 of the Insolvency Rules 1986 as they had effect before those amendments.

Amendment of the Insurers (Winding Up) Rules 2001

3. In rule 23 (dividends to creditors) of the Insurers (Winding Up) Rules 2001(**a**) for paragraph (2) substitute—

"(2) Chapter 3 of Part 14 of the principal rules (distribution to creditors in winding up) applies as though—

(a) the assets of the company which are available for meeting the liabilities of the company attributable to its long-term business and those liabilities, and

(b) the assets of the company which are available for meeting the liabilities of the company attributable to its other business and those liabilities,

were the assets and liabilities of separate companies.".

David Gauke
28th March 2019 Lord Chancellor

I concur

Kelly Tolhurst
Minister for Small Business, Consumer and Corporate Responsibility
29th March 2019 Department for Business, Energy and Industrial Strategy

(**a**) S.I. 2001/3635, as amended by S.I 2018/208.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the following instruments in consequence of the enactment of the Insolvency (England and Wales) Rules 2016 (S.I. 2016/1024), which came into force on 6th April 2017—

— the Bankruptcy (Financial Services and Markets Act 2000) Rules 2001 (S.I. 2001/3634); and

— the Insurers (Winding Up) Rules 2001 (S.I. 2001/3635).

In the case of the Insurers (Winding Up) Rules 2001, these amendments are further to earlier amendments made to these Rules by SI 2017/369 and SI 2018/208.

The Insolvency (England and Wales) Rules 2016 revoked the Insolvency Rules 1986 (S.I. 1986/1925) and re-enacted provision made in those Rules to which reference is made in the instruments amended by these Rules.

An impact assessment has not been produced for this instrument as no significant impact on the costs of business or the voluntary sector is foreseen.

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