EXPLANATORY MEMORANDUM TO

THE INSOLVENCY (AMENDMENT) (No. 2) RULES 2016

2016 No. 903

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy in conjunction with the Insolvency Service and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Insolvency (Amendment) (No. 2) Rules 2016 ("the Amendment Rules") alter the routes of appeal as concerns corporate insolvency court decisions. Those provisions are set out in the Insolvency Rules 1986 ("the 1986 Rules").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Civil appeals are being re-routed as a matter of policy. The Access to Justice Act 1999 (Destination of Appeals) Order 2016 has been approved in both Houses to commence on 3 October 2016. That instrument makes provision for the court to which an appeal will lie against a decision in civil proceedings. Appeals in insolvency cases are dealt with by insolvency legislation (the 1986 Rules and the Insolvency Act 1986).

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The amendments will allow for efficient allocation of work within the High Court, while also preserving insolvency expertise in the local Circuits.

7.2 Appeals in relation to a corporate matter will lie from a decision of a district judge in the South Eastern Circuit to a registrar in bankruptcy of the High Court, and from the registrar in bankruptcy to the Civil Division of the Court of Appeal. Appeals from a registrar in bankruptcy at first instance will lie to a judge of the High Court. Appeals from a decision of a district judge sitting in the County Court outside the South Eastern Circuit will continue to lie to a judge of the High Court in a Chancery District Registry. Appeals from a judge of the High Court will continue to lie to the Civil Division of the Court of Appeal.

Consolidation

7.3 The 1986 Rules are being consolidated into a new comprehensive and modernised set of Rules ("the Modernised Rules"), which enter into force in April 2017. The Amendment Rules are being brought in ahead of the Modernised Rules because of the efficiencies the changes will bring in the allocation of work within the High Court and to align with the commencement of the Access to Justice Act 1999 (Destination of Appeals) Order 2016.

8. Consultation outcome

8.1 A consultation on this change has not been carried out as it is a minor and technical change.

9. Guidance

9.1 None.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The Amendment Rules make no regulatory provision and there is therefore no duty on the Secretary of State under section 28 of the Small Business, Enterprise and Employment Act 2015 to review. However, the Amendment Rules will be consolidated in the Modernised Rules, entering into force in April 2017, which makes provision for review.

13. Contact

13.1 Sam Roberts at the Insolvency Service Telephone: 020 7291 6822 or email: sam.roberts@insolvency.gsi.gov.uk can answer any queries regarding the instrument.