EXPLANATORY MEMORANDUM TO

THE INSOLVENCY (ENGLAND AND WALES) (AMENDMENT) RULES 2026

2026 No. 561

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Insolvency Service, an Executive Agency of the Department for Business and Trade, and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Blair McDougall MP, Minister for Small Business and Economic Transformation at the Department for Business and Trade, confirms that this Explanatory Memorandum meets the required standard.

2.2 Claire Hardgrave, Director of Strategy, Policy and Analysis at the Insolvency Service, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Jennifer Morgan, Senior Policy Advisor of the Insolvency Service, telephone: 0300 304 6915 or email: Policy.Unit@insolvency.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes amendments to several provisions in the Insolvency (England and Wales) Rules 2016 ("the Rules") (SI 2016/1024). The changes update the Rules and clarify minor, technical points, providing certainty for users and for stakeholders in insolvency proceedings and taking account of current working practices, including wider use of electronic means of communication.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 The Rules came into force in April 2017 and set out the procedures for company and individual insolvency proceedings under the Insolvency Act 1986 ("the Act"). The Rules consolidated and modernised the preceding Insolvency Rules 1986, which had been extensively amended since coming into force. The Rules are used extensively by a range of stakeholders, mainly insolvency professionals, legal professionals and the judiciary.

5.2 The First Review of the Insolvency (England and Wales) Rules 2026[1] ("the First Review") was published in April 2022 and found that the Rules as a whole were operating correctly. Alongside that finding it highlighted some matters, raised by stakeholders, to be considered further as possible improvements to the Rules. This instrument implements some of those stakeholder suggestions as below.

5.3 The term "registrar" (previously used to refer to judges who hear insolvency matters) is removed as this title ceased to be used in 2018.

5.4 The use of fax as a means of delivering documents has also been removed, as it has been superseded by email and other electronic methods of communication, such as the High Court's electronic filing system. A further change is made to require just one copy of a document to be delivered where it is being sent electronically.

5.5 Technical amendments are made to clarify rules concerning the date and time where an administrator is appointed out of court, the information to be provided under some reporting provisions, and filing requirements where a trustee completes their administration of a bankruptcy.

5.6 The limit for determining whether a creditor's petition for bankruptcy in the London Insolvency District should be presented in the High Court or the County Court at Central London is increased to £500,000.

5.7 Lastly where creditors have fixed the basis for the insolvency officer's fees and a creditors' committee has subsequently been formed the Rules now require the committee to be consulted for permission to exceed the fee estimate.

What was the previous policy, how is this different?

5.8 This instrument does not change the policy intentions which underpin the Rules.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument is made under provisions contained in the Act: section 411 confers powers where rules relating to corporate insolvency are amended, and section 412 applies where amendments relate to personal insolvency. The Rules which are amended by this instrument were also made under sections 411 and 412 to the Act.

6.2 The changes to the Rules made by this instrument will make the rules clearer and more user-friendly, and also reflect changing working practices, including as a result of increased use of electronic means of communication.

Why was this approach taken to change the law?

6.3 An amending statutory instrument is the only possible approach to make the necessary changes to the Rules.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Rules are subject to a statutory 5-yearly review clause. As part of the First Review, in 2021 the Insolvency Service issued a Call for Evidence to gather views

[1] www.gov.uk/government/publications/first-review-of-the-insolvency-england-and-wales-rules-2016/first-review-of-the-insolvency-england-and-wales-rules-2016

from stakeholders across the insolvency landscape, including the main users of the rules - insolvency practitioners, legal professionals and the judiciary.

7.2 Stakeholder submissions were summarised in the First Review and, following publication, the suggestions to improve the Rules which were put forward by stakeholders during the Call for Evidence were subject to detailed analysis. The matters in this current instrument were confirmed as being helpful to the clarity and usability of the rules. They do not represent a change in policy, nor do they need further consultation before implementation. A further group of more substantive issues will be consulted on before changes are made: this consultation is scheduled to take place soon after this statutory instrument has been laid.

7.3 Whilst no additional consultation has been undertaken in respect of the amendments included in this instrument, the Insolvency Rules Committee has been consulted on the changes as required by the Act.

8. Applicable Guidance

8.1 Before the changes come into force, guidance on this instrument will be issued by the Insolvency Service via its publication *Dear IP*, which is also published online[2]. *Dear IP* is sent out to insolvency professionals and other stakeholders who sign up to the mailing list and is the Insolvency Service's publication for sharing news and guidance on compliance matters.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 The only measure expected to have an impact on business is the removal of the requirement to provide multiple, identical electronic copies. Analysis suggests that the saving would be less than £1m per annum and therefore significantly below the £10m p.a. de minimis threshold. The measure has therefore been classified as de minimis and no options assessment or impact assessment has been provided.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because any cost to business would be small, as set out in paragraph 9.1 above.

9.3 The legislation does impact small or micro business as many insolvency practitioners operate as small businesses. As set out in paragraph 9.1 above, any impact will be minimal but would also result in an administrative saving.

9.4 There is no, or no significant, impact on the public sector because any impact is expected to be minimal but also to reduce administrative burdens.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The changes in this instrument will be reviewed through feedback from stakeholders during ongoing, regular engagement. The instrument does not include a statutory review clause, however the Rules which it amends are subject to a provision requiring the Secretary of State to review them within 5 years of them coming into force (6

[2] www.gov.uk/guidance/dear-insolvency-practitioner

April 2017) and thereafter at periods of no more than 5 years. The next review is due to be published by 6 April 2027.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").