S T A T U T O R Y I N S T R U M E N T S

1999 No. 1023

INSOLVENCY
COMPANIES

The Insolvent Companies (Disqualification of Unfit Directors) Proceedings (Amendment) Rules 1999

Made - - - -	*29th March 1999*
Laid before Parliament	*31st March 1999*
Coming into force	*26th April 1999*

The Lord Chancellor, in the exercise of his powers under section 411 of the Insolvency Act 1986**(a)** and section 21(2) of the Company Directors Disqualification Act 1986**(b)**, with the concurrence of the Secretary of State, and after consulting the committee existing for that purpose under section 413 of the Insolvency Act 1986, hereby makes the following Rules:–

Citation and commencement

1. These Rules may be cited as the Insolvent Companies (Disqualification of Unfit Directors) Proceedings (Amendment) Rules 1999 and shall come into force on 26th April 1999.

Intrepretation

2. In these Rules, references to "the principal Rules" are to the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987**(c)** and unless the context otherwise requires a rule (referred to by number) means the rule so numbered in the principal Rules.

Amendment of principal Rules

3. The principal Rules are amended as set out in the Schedule to these Rules.

25th March 1999 *Irvine of Lairg*, C.

I concur, on behalf of the Secretary of State

Kim Howells
Parliamentary Under Secretary of State for
Competitions and Consumer Affairs,
29th March 1999 Department of Trade and Industry

(a) 1986 c. 45.
(b) 1986 c. 46.
(c) S.I. 1987/2023.

SCHEDULE

Rule 3

General Amendments

1. In all places in which the following expressions occur:

for "applicant" substitute "claimant";

for "respondent" substitute "defendant"; and

for "summons" substitute "claim form".

Amendment of rule 1 (citation, commencement and interpretation)

2. In rule 1 of the principal Rules replace paragraph (2) by the following:

"(2) In these Rules–

(a) "the Companies Act" means the Companies Act 1985**(a)**,

(b) "the Company Directors Disqualification Act" means the Company Directors Disqualification Act 1986,

(c) "CPR" followed by a Part or rule by number means that Part or rule with that number in the Civil Procedure Rules 1998**(b)**,

(d) "practice direction" means a direction as to the practice and procedure of any court within the scope of the Civil Procedure Rules,

(e) "registrar" has the same meaning as in paragraphs (4) and (5) of rule 13.2 of the Insolvency Rules 1986**(c)**, and

(f) "file in court" means deliver to the court for filing.".

Amendment of rule 2 (Form of application)

3. Replace rule 2 of the principal Rules by the following:

"**Form and conduct of applications**

2.—(1) The Civil Procedure Rules 1998, and any relevant practice direction, apply in respect of any application to which these Rules apply, except where these Rules make provision to inconsistent effect.

(2) An application shall be made by claim form as provided by the relevant practice direction and the claimant must use the CPR Part 8 (alternative procedure for claims) procedure.

(3) CPR rule 8.1(3) (power of the court to order the claim to continue as if the claimant had not used the Part 8 procedure), CPR rule 8.2 (contents of the claim form) and CPR rule 8.7 (Part 20 claims) do not apply.

(4) Rule 7.47 (appeals and reviews of court orders) and rule 7.49 (procedure on appeal) of the Insolvency Rules 1986 apply."

Amendment of rule 5 (Service and acknowledgment)

4.—(1) In rule 5 of the principal Rules, replace paragraph (3) by the following:

"(3) The claim form served on the defendant shall be accompanied by an acknowledgment of service as provided for by practice direction and CPR rule 8.3(2) (dealing with the contents of an acknowledgment of service) does not apply.".

(2) In rule 5(4) of the principal Rules, delete "form of".

Amendment of rule 6 (Evidence)

5. In rule 6 of the principal Rules, add:

"(3) CPR rules 8.5 (filing and serving written evidence) and 8.6(1) (requirements where written evidence is to be relied on) do not apply.".

(a) 1985 c. 6.
(b) S.I. 1998/3132 (L. 17); amended by S.I. 1999/1008 (L. 8).
(c) S.I. 1986/1925: the only relevant amending instruments are S.I. 1987/1919 and S.I. 1999/1022.

Amendment of rule 7 (The hearing of the application)

6. In rule 7 of the principal Rules, replace paragraph (1) by the following:

"(1) When the claim form is issued, the court will fix a date for the first hearing of the claim which shall not be less than 8 weeks from the date of issue of the claim form.".

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987 ("the principal Rules") which provide procedures for applications by the Secretary of State or the official receiver for the disqualification of directors by courts in England and Wales under sections 7 and 8 of the Company Directors Disqualification Act 1986.

The amendments come into force on 26th April 1999 to coincide with the coming into force of the Civil Procedure Rules 1998 ("the CPR") which provide a new code of civil procedure for the civil courts which replaces the Rules of the Supreme Court 1965 and the County Court Rules 1981.

Although, by rule 2.1 of the CPR the new civil procedure does not apply to proceedings for which rules may be made under section 411 of the Insolvency Act 1986, the principal Rules themselves (as amended by these Rules), apply all the provisions of the CPR and any relevant practice direction, except where the principal Rules make provision to inconsistent effect. Provision is made for the application or disapplication of certain rules of the CPR and for the application of certain of the Insolvency Rules 1986.

Adaptations are also made to take account of changes embodied in the CPR in the expressions used in relation to civil procedure.

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