STATUTORY INSTRUMENTS

2007 No. 1906

INSOLVENCY

COMPANIES

The Insolvent Companies (Disqualification of Unfit Directors) Proceedings (Amendment) Rules 2007

Made - - - -	*5th July 2007*
Laid before Parliament	*6th July 2007*
Coming into force - -	*6th August 2007*

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

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 of the Chancellor of the High Court (by the authority of the Lord Chief Justice under section 411(7) of the Insolvency Act 1986) in relation to those rules that affect court procedure, makes the following Rules:

Citation, commencement, interpretation and saving provision

1.—(1) These Rules may be cited as the Insolvent Companies (Disqualification of Unfit Directors) Proceedings (Amendment) Rules 2007 and shall come into force on 6th August 2007 ("the commencement date").

(2) In these Rules "the principal Rules" means the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987(**c**).

(3) The principal Rules without the amendments made by these Rules shall continue to apply to any application made in accordance with the principal Rules before the commencement date.

Amendment to Rule 1 of the principal Rules

2.—(1) Rule 1 of the principal Rules is amended as follows.

(2) For Rule 1(3) substitute—

"(3) These Rules apply to an application made under the Company Directors Disqualification Act on or after 6th August 2007—

(a) for leave to commence proceedings for a disqualification order after the end of the period mentioned in section 7(2) of that Act;

(**a**) 1986 c.45.
(**b**) 1986 c.46.
(**c**) S.I. 1987/2023 as amended by S.I. 1999/1023, S.I. 2001/765 and S.I. 2003/1367.

(b) to enforce any duty arising under section 7(4) of that Act;

(c) for a disqualification order where made—

(i) by the Secretary of State or the official receiver under section 7(1) of that Act (disqualification of unfit directors of insolvent companies);

(ii) by the Secretary of State under section 8 of that Act (disqualification after investigation of company); or

(iii) by the Office of Fair Trading or a specified regulator under section 9A of that Act (competition disqualification order);

(d) under section 8A of that Act (variation etc. of disqualification undertaking); or—

(e) for leave to act under—

(i) section 1A(1) or 9B(4) of that Act (and section 17 of that Act as it applies for the purposes of either of those sections); or

(ii) sections 1 and 17 as they apply for the purposes of section 6, 7(1), 8, 9A or 10 of that Act.".

Amendment to Rule 2 of the principal Rules

3.—(1) Rule 2 of the principal Rules is amended as follows.

(2) For Rule 2(2) substitute—

"(2) Subject to paragraph (5), an application shall be made either—

(a) by claim form as provided by the relevant practice direction and the claimant must use the CPR Part 8 (alternative procedure for claims) procedure, or

(b) by application notice as provided for by the relevant practice direction.".

(3) After Rule 2(4) insert—

"(5) The Insolvency Rules 1986 shall apply to an application to enforce any duty arising under section 7(4) of the Company Directors Disqualification Act made against a person who at the date of the application is acting as liquidator, administrator or administrative receiver.".

Insertion of new Rule 2A

4. After Rule 2 insert—

"Application of Rules 3 to 8

2A. Rules 3 to 8 only apply to the types of application referred to in Rule 1(3)(c).".

Jack Straw
1st July 2007 Lord Chancellor

I concur, by the authority of the Lord Chief Justice

Andrew Morritt
4th July 2007 The Chancellor of the High Court

I concur, on behalf of the Secretary of State

Stephen Timms
Minister of State for Competitiveness and Consumer Affairs
Department for Business, Enterprise and Regulatory Reform

5th July 2007

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") (S.I.1987/2023).

Rule 1 of the principal Rules is amended to extend the scope of the application of the Rules (which in their unamended form only apply to applications for disqualification orders) to other applications made to court under the Company Directors Disqualification Act 1986 (c.46). These include applications to enforce duties imposed on liquidators and other insolvency office-holders to provide information to the Secretary of State or the official receiver and applications by disqualified persons for leave to act notwithstanding disqualification in connection with the management, formation or promotion of a company (See new Rule 1(3)(a), (b), (d) and (e) inserted by Rule 2(2) of these Rules).

Rule 2 of the principal Rules is amended to clarify when the use of a CPR claim form is required (See Rule 3(2)). Rule 2 of the principal Rules is further amended to provide that the Insolvency Rules 1986 (S.I. 1986/1925) rather than the principal Rules apply to certain applications made in the course of insolvency proceedings (See Rule 3(3) of these Rules).

Rule 2A is inserted into the principal Rules to provide that Rules 3 to 8 of the principal Rules only apply to the types of applications referred to in new Rule 1(3)(c) (See Rule 4 of these Rules).

No regulatory impact assessment has been prepared for this Order, as it will not impose any significant costs on business.

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