Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Insolvency (England and Wales) and Insolvency (Scotland) (Miscellaneous and Consequential Amendments) Rules 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

This Statutory Instrument has been printed in part to correct errors in S.I. 2016/1024 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2017 No. 1115

INSOLVENCY

COMPANIES

INDIVIDUALS

The Insolvency (England and Wales) and Insolvency (Scotland) (Miscellaneous and Consequential Amendments) Rules 2017

Made - - - -	*15th November 2017*
Laid before Parliament	*16th November 2017*
Coming into force - -	*8th December 2017*

The Lord Chancellor has consulted the committee existing for the purposes of section 413 of the Insolvency Act 1986(**1**) ("the Act").

The Lord Chancellor, with the concurrence of the Secretary of State and with the concurrence of the Chancellor of the High Court (nominated by the Lord Chief Justice under sections 411(7) and 412(6) of the Act) in relation to those rules which affect court procedure, in exercise of the powers conferred by sections 411 and 412 of the Act(**2**), makes the Rules in Part 1.

The Secretary of State, in exercise of the powers conferred on him by Introductory Rule 5(1) of the Insolvency (England and Wales) Rules 2016(**3**) and sections 411 and 412 of, and paragraphs 27 of Schedule 8 and 30 of Schedule 9 to, the Act, makes the Rules in Part 2.

The Secretary of State, in exercise of the powers conferred by section 411 of the Act, makes the Rules in Part 3.

The Secretary of State, with the concurrence of the Lord Chancellor, in exercise of the powers conferred by section 14 of the Insolvency Act 2000(**4**) makes the Rules in Part 4.

(**1**) 1986 c. 45.
(**2**) Sections 411 and 412 confer on the Lord Chancellor the power to make rules in relation to insolvency in England and Wales with the concurrence of the Secretary of State and the Lord Chief Justice (in the case of rules that affect court procedure). Relevant amendments to sections 411 and 412 are made by regulations 2 and 3 of S.I. 2002/1037; paragraphs 185, 188 and 189 of Schedule 4 to the Constitutional Reform Act 2005 (c.4); paragraphs 1 and 8 of Schedule 20 to the Tribunals, Courts and Enforcement Act 2007 (c.15); paragraph 44 of Schedule 4 to S.I. 2007/2194; and paragraph 79 of Schedule 1 to S.I. 2009/1941.
(**3**) S.I. 2016/1024.
(**4**) 2000 c. 39.

The Secretary of State being designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to insolvency(**5**) in exercise of the powers conferred upon him by that section, makes the Rules in Part 5.

Citation, commencement and extent

1.—(1) These Rules may be cited as the Insolvency (England and Wales) and Insolvency (Scotland) (Miscellaneous and Consequential Amendments) Rules 2017 and come into force on 8th December 2017.

(2) Parts 1-2 and 4-5 of these Rules extend to England and Wales only.

(3) Part 3 of these Rules extends to Scotland only.

Commencement Information
I1 Rule 1 in force at 8.12.2017, see **rule 1(1)**

PART 1

Amendments to the Insolvency (England and Wales) Rules 2016

2. The Insolvency (England and Wales) Rules 2016 are amended as follows.

Commencement Information
I2 Rule 2 in force at 8.12.2017, see **rule 1(1)**

Notice of members' meeting and attendance of officers

3. In rule 2.30(1) for "2.25(2)" substitute "2.25(3)".

Commencement Information
I3 Rule 3 in force at 8.12.2017, see **rule 1(1)**

Advertising administrator's proposals and notices of extension of time for delivery of proposals (paragraph 49 of Schedule B1)

4. In rule 3.37(4) for "(1)(b)" substitute "(2)(b)".

Commencement Information
I4 Rule 4 in force at 8.12.2017, see **rule 1(1)**

(**5**) 1997 c. 68. The Secretary of State was designated by S.I. 2001/3495. Section 57(1) of the Scotland Act 1998 (1998 c. 46) provides that despite the transfer to the Scottish Ministers of functions in relation to observing and implementing obligations under EU law, any function of a Minister of the Crown shall continue to be exercisable by the Minister as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972

Moving from administration to dissolution (paragraph 84 of Schedule B1)

5. In rule 3.61(3) after "paragraph 84(5)(b)" insert "but excluding opted-out creditors".

Commencement Information
I5 Rule 5 in force at 8.12.2017, see **rule 1(1)**

Information to creditors and contributories

6. In rule 6.15(1)(b), before "a report" insert "be accompanied by".

Commencement Information
I6 Rule 6 in force at 8.12.2017, see **rule 1(1)**

The statutory demand (section 268)

7. After rule 10.1(9) insert—

"(10) When the statutory demand is to be served out of the jurisdiction, the time limits of 18 days and 21 days referred to in sub-paragraphs 10.1(1)(m) and (n) above must be amended as follows—

(a) for any reference to 18 days there must be substituted the number of days which is the appropriate number of days set out in the table accompanying the Practice Direction supplementing Section IV of CPR Part 6 plus 4 days; and

(b) for any reference to 21 days there must be substituted the number of days which is the appropriate number of days set out in the table accompanying the Practice Direction supplementing Section IV of CPR Part 6 plus 7 days."

Commencement Information
I7 Rule 7 in force at 8.12.2017, see **rule 1(1)**

Proof of service of statutory demand

8. After rule 10.9(3) insert—

"(4) The court may decline to file the petition if not satisfied that the creditor has discharged the obligation imposed by rule 10.2."

Commencement Information
I8 Rule 8 in force at 8.12.2017, see **rule 1(1)**

General rule as to priority

9.—(1) Rule 10.149 is amended as follows.

(2) For sub-paragraph (d) substitute—

"(d) the fee payable under any order made under section 415 for the performance by the official receiver of the general duties of the official receiver and any repayable sum deposited under any such order as security for the fee;"

(3) Omit sub-paragraph (e).

Commencement Information
I9 Rule 9 in force at 8.12.2017, see **rule 1(1)**

Blank proxy

10. For rule 16.3(4) substitute—

"(4) When it is delivered, a blank proxy must not have inserted into it the name or description of any person as proxy-holder or as a nominee for the office-holder, or instructions as to how a person appointed as proxy-holder is to act."

Commencement Information
I10 Rule 10 in force at 8.12.2017, see **rule 1(1)**

Establishment of committees

11.—(1) Rule 17.5 is amended as follows.

(2) In paragraph (1) after "decision procedure" insert "or convener of the deemed consent process".

(3) For paragraph (5) substitute—

"(5) The committee is not established (and accordingly cannot act) until the office-holder has sent a notice of its membership in order to comply with paragraph (9) or (10)."

Commencement Information
I11 Rule 11 in force at 8.12.2017, see **rule 1(1)**

Group coordination proceedings (Section 2 of Chapter 5 of the EU Regulation)

12. In rule 21.12(2)(**6**) after "in this rule includes" insert "as the context requires".

Commencement Information
I12 Rule 12 in force at 8.12.2017, see **rule 1(1)**

Schedule 2 (Transitional and savings provisions)

13.—(1) Schedule 2 is amended as follows.

(2) In paragraph 7(5) after "ceased to act" insert ", or an administrator has sent a progress report to creditors in support of a request for their consent to an extension of the administration,".

(**6**) Inserted by S.I. 2017/702.

(3) In paragraph 14(3) after "rescind" insert ", vary", and for "14(2)(a)" substitute "14(2)".

(4) In the title of paragraph 21 for "fee" substitute "fees and expenses".

(5) For the introductory words to paragraph 21(1) substitute—

"(1) Rules 18.4(1)(e), 18.16(4) to (10), and 18.30 do not apply in a case where before 1st October 2015—"

(6) For the title of paragraph 22 substitute—

"Transitional provision for companies entering administration before 6th April 2010 and moving to voluntary liquidation between 6th April 2010 and 8th December 2017 inclusive of those dates"

(7) For paragraph 22 substitute—

"**22.** Where—

(a) a company goes into administration before 6th April 2010; and

(b) the company goes into voluntary liquidation under paragraph 83 of Schedule B1 between 6th April 2010 and 8th December 2017 inclusive of those dates;

the 1986 Rules as amended by the Insolvency (Amendment) Rules 2010(**12**) apply to the extent necessary to give effect to section 104A of the Act notwithstanding that by virtue of paragraph 1(6)(a) or (b) of Schedule 4 to the Insolvency (Amendment) Rules 2010 those amendments to the Insolvency Rules 1986 would otherwise not apply."

Commencement Information

I13 Rule 13 in force at 8.12.2017, see **rule 1(1)**

Schedule 4 (Service of documents)

14. In Schedule 4 for paragraph 6(3) substitute—

"(3) Where the court has directed that service be effected in a particular manner, the certificate must be accompanied by a sealed copy of the order directing such manner of service."

Commencement Information

I14 Rule 14 in force at 8.12.2017, see **rule 1(1)**

PART 2

Amendments to the Insolvency Regulations 1994

15. The Insolvency Regulations 1994(**7**) are amended as follows.

Commencement Information

I15 Rule 15 in force at 8.12.2017, see **rule 1(1)**

(**12**) S.I. 2010/686.

(**7**) S.I. 1994/2507 as amended by S.I. 2017/369.