STATUTORY INSTRUMENTS

2016 No. 187

INSOLVENCY, ENGLAND AND WALES

The Insolvency (Amendment) Rules 2016

Made - - - -	*15th February 2016*
Laid before Parliament	*22nd February 2016*
Coming into force - -	*6th April 2016*

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

The Lord Chancellor makes the following Rules in exercise of the powers conferred by section 412(**2**) of the Act 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 section 412(6) of the Act) in relation to those Rules which affect court procedure.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Insolvency (Amendment) Rules 2016.

(2) These Rules come into force on 6th April 2016.

(3) In these Rules "the 1986 Rules" means the Insolvency Rules 1986(**3**).

Amendments to the 1986 Rules

2. The 1986 Rules are amended as follows.

3. In Part 5 (individual voluntary arrangements)(**4**)—

(a) in Rule 5.3(2)(c)(iii) (contents of proposal) for "adjudged" substitute "made".

(b) in Rule 5.5(2) (statement of affairs) omit "272 (debtor's petition) or".

(c) in Rule 5.6(2)(b) (additional disclosure for assistance of nominee) for "adjudged" substitute "made".

(d) in Rule 5.7(1)(c) (application for interim order) for "petition" substitute "apply".

(**1**) 1986 c.45; section 413 was amended by the Constitutional Reform Act 2005 (c.4) Schedule 4, paragraphs 185 and 190 and S.I. 2006/1014; there are other amending instruments but none is relevant.

(**2**) Relevant amending instruments are the Tribunals, Courts and Enforcement Act 2007 (c.15) Schedule 20(1), paragraph 8, the Constitutional Reform Act 2005 (c.4) Schedule 4(1), paragraph 189(3) and S.I. 2002/1037.

(**3**) S.I. 1986/1925.

(**4**) Part 5 was substituted by S.I. 2002/2712; relevant amending instrument is S.I. 2010/686.

(e) in Rule 5.8 (court in which application to be made)—

(i) in paragraph (1) for "present his own petition in bankruptcy under Rule 6.40A" substitute "make an application in accordance with Rule 6.50A";

(ii) in paragraph (3) after "bankruptcy proceedings" insert "or, where the court does not have the conduct of the bankruptcy proceedings, to the court that the debtor would be entitled to make an application in accordance with Rule 6.50A and the application will be placed on the bankruptcy file".

(f) in Rule 5.14B (applications to the court)—

(i) in paragraph (1) for "present the debtor's petition in bankruptcy under Rule 6.40A" substitute "make an application in accordance with Rule 6.50A";

(ii) for paragraph (2) substitute—

"(2) Where the debtor is an undischarged bankrupt, the appropriate court is—

(a) the court having the conduct of the debtor's bankruptcy, if any, or,

(b) where the court does not have the conduct of the bankruptcy proceedings, to the court that the debtor would be entitled to make an application in accordance with Rule 6.50A

and any application must be filed with the court and placed on the bankruptcy file, if any."

4. In Part 5A (debt relief orders)(**5**)—

(a) in Rule 5A.7(6) (prescribed verification checks)—

(i) in sub-paragraph (b) omit "debtor's or";

(ii) after sub-paragraph (b) insert—

"(ba) whether the debtor has made a bankruptcy application prior to the determination date;";

(iii) in sub-paragraph (c)—

(aa) before "bankruptcy petition" insert "a bankruptcy application has been made or";

(bb) after "in relation to" insert "the application or";

(iv) in sub-paragraph (d) omit from "and whether the court" to "debt relief order".

(b) omit Rule 5A.22 (referral of debtor, by court, to intermediary under section 274A).

5. In Part 6 (bankruptcy)(**6**)—

(a) for Chapter 3 (bankruptcy petition (debtor's)) substitute the Chapter set out in Schedule 1 (amendments to Part 6 (bankruptcy) of the 1986 Rules);

(b) in Rule 6.51 (application for appointment of interim receiver)—

(i) omit paragraphs (1)(c) and (3);

(ii) in paragraph (4) omit the second sentence.

(c) in the heading before Rule 6.67 (preliminary) for "petition" substitute "application".

(d) for Rule 6.67 (preliminary) substitute—

(**5**) Part 5A was inserted by S.I. 2009/642.
(**6**) Part 6 was amended by S.I. 1987/1919, 1995/586, 1999/359, 2002/1307, 2003/1730, 2005/527, 2009/642, 2010/686, 2011/785 and 2014/817.

"**6.67.** The Rules in this Section apply in relation to further disclosure which is required of a bankrupt where the bankruptcy order was made on a bankruptcy application.".

(e) omit Rule 6.68 (contents of statement).

(f) in Rule 6.69(2) (requirement to submit accounts) for "presentation of the bankruptcy petition" substitute "making of the bankruptcy application".

(g) in Rule 6.72(1) (further disclosure) for "his statement of affairs" substitute "the bankruptcy application".

(h) in Rule 6.75(1) (report where statement of affairs lodged) omit "or 6.72".

(i) at the beginning of Rule 6.126A(7)(b) (resignation (application under Rule 6.142)) insert "in a bankruptcy based on a petition".

(j) in Rule 6.127 (action following acceptance of resignation)—

(i) at the beginning of paragraph (6) for "The" substitute "In a bankruptcy based on a petition the".

(ii) for paragraph (7) substitute—

"(7) The trustee's resignation is effective—

(a) in a bankruptcy based on a petition, as from the date on which the official receiver files the copy notice in court, that date to be endorsed on the copy notice;

(b) in a bankruptcy based on a debtor's application, as from the date on which the official receiver places the copy notice on the bankruptcy file.".

(k) for Rule 6.128(4) (permission to resign granted by the court) substitute—

"(4) In a bankruptcy based on a debtor's application the trustee must send notice of resignation to the official receiver.

(4A) In a bankruptcy based on a petition the trustee must send notice of resignation to the court and a copy of such notice to the official receiver.".

(l) for Rule 6.131 (procedure on removal) substitute—

"**6.131.**—(1) This Rule applies where the creditors have resolved that the trustee be removed.

(2) The Secretary of State must deliver to the official receiver a notice of reconciliation that the removed trustee has reconciled the trustee's account with the account held by the Secretary of State in respect of the bankruptcy.

(3) In a bankruptcy based on a petition, where the Secretary of State has delivered the notice of reconciliation to the official receiver—

(a) the official receiver must file the certificate of removal in court; and

(b) the resolution is effective from the date on which the certificate of removal is filed in court.

(4) In a bankruptcy based on a debtor's application, the resolution is effective from the date of the notice of reconciliation.

(5) The official receiver must deliver a copy of the certificate of removal to the removed trustee, and if a new trustee has been appointed, to the new trustee.".

(m) in Rule 6.133(2) (removal of trustee by Secretary of State) at the beginning of sub-paragraph (a) insert "where the bankruptcy is based on a petition,".

(n) in Rule 6.135 (release of resigning or removed trustee)—

(i) in paragraph (1A) for " on which the official receiver" to the end substitute—

"(a) in a bankruptcy based on a debtor's application, the chairman of the meeting delivers a certificate under paragraph (7) of that Rule to the official receiver, or

(b) in a bankruptcy based on a petition, the official receiver files a copy of the certificate under paragraph (7) of that Rule in court.";

(ii) at the end of paragraph (4) before the full stop insert "in a bankruptcy based on a petition".

(o) in Rule 6.136(3) (release of the official receiver) for "to the court that he has done so. The notice" substitute "of that date to the court in a bankruptcy based on a petition or to the official receiver in a bankruptcy based on the debtor's application. The notice to the court".

(p) in Rule 6.137 (final meeting of creditors) in paragraphs (4) and (5) after "to the court" in each paragraph insert "in a bankruptcy based on a petition or to the official receiver in a bankruptcy based on a debtor's application".

(q) in Rule 6.143 (trustee deceased)—

(i) at the beginning of paragraph (4) for "The" substitute "In a bankruptcy based on a petition, the";

(ii) after paragraph (4) insert—

"(4A) In a bankruptcy based on a debtor's application, the official receiver must place notice of the death on the bankruptcy file for the purpose of fixing the date of the deceased trustee's release in accordance with section 299(3)(a).".

(r) in Rule 6.144(2) (loss of qualification as insolvency practitioner) after "file in court" insert "in a bankruptcy based on a petition".

(s) in Rule 6.220 (certificate of discharge)—

(i) in paragraph (1) after the words "expiration of time or otherwise" insert "and the bankruptcy order was made otherwise than on a bankruptcy application,";

(ii) after paragraph (1) insert—

"(1A) On payment of the prescribed fee, a bankrupt may apply to the official receiver for a certificate of discharge where the bankruptcy order was made on a bankruptcy application.

(1B) Where it appears to the official receiver that the bankrupt is discharged, the official receiver must deliver a certificate of discharge, and the date from which it is effective, to the former bankrupt by electronic means.

(1C) The certificate of discharge delivered by the official receiver must—

(a) state the former bankrupt's full name;

(b) state the date of the bankruptcy order;

(c) certify that the former bankrupt was discharged from the bankruptcy;

(d) state the date of discharge from the bankruptcy;

(e) state the date of certification of discharge.".

(t) in Rule 6.224(1)(d)(ii) (general rule as to priority) omit the words after "sub-paragraph (i)" to the end of the subparagraph.

6. In Rule 6A.4 (entry of information onto the individual insolvency register – bankruptcy orders)(**7**)—

(**7**) Part 6A was inserted by S.I. 2003/1730.

(a) in paragraph (2) omit "or Rule 6.46".

(b) in paragraph (2)(a) omit "and 6.38".

(c) after paragraph (2) insert—

"(2A) Where the official receiver receives a copy of the bankruptcy order from the adjudicator pursuant to Rule 6.48, the official receiver must enter in the individual insolvency register—

(a) the information set out in Part 1 of Schedule 2A;

(b) the date of the making of the bankruptcy order; and

(c) the reference allocated to the bankruptcy application as stated on the order.".

(d) in paragraph 3(d) and (e) for "adjudged", in each place where it occurs, substitute "made".

7. In Part 7 (court procedure and practice)(**8**)—

(a) in Rule 7.9(1)(b) (use of reports)—

(i) at the end of sub-paragraph (ii) insert "or";

(ii) at the end of sub-paragraph (iii) omit ", or" and insert ".";

(iii) omit sub-paragraph (iv).

(b) in Rule 7.31A (court file)—

(i) at the beginning of paragraph (1) for "The" substitute "Save where a bankruptcy file has been opened under Rule 6.50, the";

(ii) after paragraph (2) insert—

"(2A) However, where a bankruptcy file has been opened under Rule 6.50, documents filed with the court under the Act or the Rules must be placed on the bankruptcy file.".

(c) (i) in Rule 7.37A (petitions presented by insolvents) for paragraph (1) substitute—

"(1) This Rule applies where a winding-up petition is presented by a company against itself and references in this rule to "the insolvent" are to be read as a reference to the company.";

(ii) in paragraph (2) for "in either of the cases" substitute "on a petition of a kind".

8. In Rule 12A.28(1) (execution overtaken by judgment debtor's insolvency)(**9**)—

(a) in sub-paragraph (c) for "adjudged" substitute "made".

(b) in sub-paragraph (d) before "bankruptcy petition" insert "bankruptcy application has been made or".

9. In Schedule 2 (alternative county court hearing centres)(**10**) for the reference to "Rules 5A.21(2) and 6.40(3)" substitute "Rules 5A.21(2) and 6.50A(4)".

10. After Schedule 2 (alternative county court hearing centres) insert the Schedules 2A, 2B and 2C set out in Schedule 2 (Schedules to be inserted after Schedule 2 to the 1986 Rules) to these Rules.

11. In Schedule 4 (forms)(**11**) omit—

(a) form numbers 6.14 and 6.26 to 6.30; and

(b) references to them—

(**8**) Relevant amending instrument is S.I. 2010/686.
(**9**) Part 12A was inserted by S.I. 2010/686.
(**10**) Relevant amending instruments are S.I. 2009/642 and 2014/817.
(**11**) There are amending instruments but none is relevant.