

SCHEDULE 3

Regulation 17(8)

Co-ownership schemes: application of the Insolvency Rules 1986

PART 1

Application of Rules with modifications

1. In relation to the winding up of a relevant scheme by the High Court under the 1986 Act, Parts 4 and 7 to 13 of the Insolvency Rules 1986 ^{M1}, in so far as they apply to the winding up of an unregistered company, apply with—

- (a) the general modifications set out in paragraph 2;
- (b) any other modification specified in the Table in Part 2 of this Schedule; and
- (c) any other necessary modification.

Marginal Citations

M1 [S.I. 1986/1925](#) as modified by [S.I. 2011/2866](#) and 1991/2684, and as amended by [S.I. 1993/602](#), 1999/1022, 2004/584, 2005/527, 2006/1272, 2008/737, 2009/642, 2010/686 and 2012/2404. There are other modifications and amendments not relevant to these Regulations.

2. Unless the context otherwise requires and subject to any modification specified in the Table in Part 2 of this Schedule which has a contrary effect, the general modifications are that—

- (a) a reference to a company includes a reference to a relevant scheme;
- (b) a reference to a voluntary winding up or a resolution for voluntary winding up of a company is to be ignored;
- (c) in any provision relating to—
 - (i) the service on a company of a petition, demand or order, or the giving or sending by a company of any notice or other document,
 - (ii) the provision to a company of any explanation or other information, or
 - (iii) an application to the court by a company or by any person in relation to a company, a reference to the company is to be read as a reference to the operator or, in the case of a provision that has effect in relation to a company before the presentation of a winding-up petition, the operator of a relevant scheme in relation to which a written demand has been served under section 222(1)(a) (as applied by Schedule 2);
- (d) a reference to a creditor of a company is to be read as a reference to a creditor of the relevant scheme;
- (e) a reference to a contributory or to a meeting of contributories is to be ignored;
- (f) a reference to a member of a company or to a register of members is to be ignored;
- (g) a reference to the estate or to the property or assets of a company is to be read as a reference to the property subject to the relevant scheme;
- (h) a reference to a debt or liability of a company is to be read as a reference to a debt or liability of the relevant scheme; and
- (i) a reference to the registrar of companies is to be read as a reference to the FCA.

PART 2

Table of specific modifications of the Insolvency Rules 1986

Rule	Subject	Modification
Part 4 (companies winding up)		
Chapter 1 (the scheme of this Part of the Rules)		
4.2	Winding up by the court: the various forms of petition	Paragraph (2) is to be read as if— (a) the reference to the company included a reference to the operator of a relevant scheme; and (b) the words “the directors,” and “the official receiver,” were omitted.
Chapter 2 (the statutory demand)		
4.4	Preliminary	In paragraph (2) the reference to a company is to be read as a reference to the operator of a relevant scheme.
4.5	Form and content of statutory demand	In paragraph (2)(a) the reference to the company's liability is to be read as a reference to the liability of the relevant scheme in relation to which the statutory demand has been served.
4.6	Information to be given in statutory demand	In paragraph (1)(c) the reference to the company is to be read as a reference to the operator of the relevant scheme in relation to which the statutory demand has been served.
Chapter 3 (petition to winding-up order)		
4.6A	Injunction to restrain presentation or advertisement of petition	The first reference to a company is to be read as a reference to the operator of a relevant scheme.
4.7	Presentation and filing of petition	Paragraph (3) is to be read as if the words “who is a person other than the company” were omitted.
4.8	Service of petition	This Rule is to be read as if paragraph (2) required the petition is to be served at the registered office or principal place of business of the operator and of the depositary. Paragraphs (3) to (5) apply in relation to the operator and in relation to the depositary as they apply in relation to a company on which a petition is served.
4.9A	Proof of service	The certificate of service must specify (instead of the particulars in paragraph (2)(a) and (b)) the name of the relevant scheme and the name and registered office (or principal place of business) of the operator and of the depositary.

4.10	Other persons to receive copies of petition	This Rule is to be read as if there were substituted for paragraphs (1) to (4)— “(1) The petitioner must send a copy of the petition to the FCA.”.
4.12	Verification of petition	A statement of truth which is not contained in or endorsed upon the petition which it verifies must specify (instead of the particulars in paragraph (3A)(a)) the name of the relevant scheme and of the operator and the depositary.
4.13	Persons entitled to copy of petition	This Rule is to be read as if the word “director,” were omitted.
4.15	Permission for petitioner to withdraw	In paragraph (c) the reference to the company is to be read as a reference to the operator and the depositary.
4.18	Witness statement in opposition	In this Rule— (a) each reference to the company is to be read as a reference to the operator; and (b) paragraph (1) is to be read as if it required the operator to file a witness statement only with the depositary's consent.
Chapter 4 (petition by contributories)		
4.22	to Petition by contributories	These Rules do not apply.
4.24		
Chapter 5 (provisional liquidator)		
4.25	Appointment of provisional liquidator	Paragraph (1) is to be read as if it provided that an application for the appointment of a provisional liquidator may be made by the operator, the depositary, the FCA or a creditor.
4.28	Security	In paragraph (2)(a) the reference to the making of an order on the company is to be read as a reference to the making of an order on the operator and the depositary.
Chapter 6 (statement of affairs and other information)		
4.39	Submission of accounts	A reference to the accounts of the company is to be read as a reference to the accounts relating to the affairs of the relevant scheme.
Chapter 7 (information to creditors and contributories)		
4.43	Reports by official receiver	This Rule is to be read as if paragraphs (1A) and (1B) were omitted.
4.48	Winding up stayed	In paragraph (2) the reference to the company is to be read as a reference to the operator.
4.49B	Reports to creditors and members - winding up by the court	The progress report must include full details (instead of the details in paragraph (1)(b)) of the name of the relevant scheme and

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the name and registered office (or principal place of business) of the operator and of the depositary.

Paragraph (2) is to be read as if the words from “and, where the liquidator” to the end were omitted.

In paragraph (7) the reference to the members of the company is to be read as a reference to the operator and the depositary.

Chapter 8 (meetings of creditors and contributories)

- 4.58 Attendance at meetings of company's personnel A reference to the company's personnel is to be read as a reference to—
- (a) the operator and the depositary; and
 - (b) the directors and employees of the operator and the depositary.

Chapter 9 (proof of debts in a liquidation)

- 4.79 Liquidator to allow inspection of proofs The reference to any contributory of the company is to be read as a reference to the operator or the depositary.
- 4.83 Appeal against decision on proof In paragraphs (2) and (4A) a reference to a contributory is to be read as a reference to the operator or the depositary.
In paragraph (4A) the reference to the company is to be read as a reference to the operator for the benefit of the participants.
- 4.90 Mutual credits and set-off A reference to mutual credits, mutual debts or other mutual dealings between the company and any creditor is to be read as a reference to mutual credits etc. between the operator on behalf of the participants and a creditor, and a reference to any obligation to or from the company, or any sum due or owed to, or due from, the company is to be read accordingly.

Chapter 10 (secured creditors)

- 4.98 Test of security's value In paragraph (2) the reference to the liquidator on behalf of the company is to be read as a reference to the liquidator acting in the best interests of the relevant scheme.

Chapter 11 (the liquidator)

- 4.124 Release of official receiver This Rule is to be read as if paragraph (2A) were omitted.
- 4.125 Final meeting This Rule is to be read as if paragraph (2A) were omitted.
- 4.128 Other matters affecting remuneration Paragraph (3) is to be read as if for the words “act on behalf of the company” there were substituted “act in the liquidation”.

4.131	Creditors' claim that remuneration is or other expenses are excessive	Paragraph (4)(e) is to be read as if it required the amount to which it refers to be paid to the operator for the benefit the relevant scheme.
4.138	Liquidator's duties on vacating office	A reference to the company's books, papers and other records is to be read as a reference to all books, papers and other records affecting or relating to the affairs of, or the property subject to, the relevant scheme.
4.149	Power of court to set aside certain transactions	Paragraph (1) is to be read as if the court's power to order the liquidator to compensate the company for loss suffered in consequence of a transaction which is set aside included power to order the liquidator, by way of compensation for loss suffered in consequence of such a transaction, to contribute any sum to the property subject to the relevant scheme.
Chapter 12 (the liquidation committee)		
4.152	Membership of committee	Paragraph (1) is to be read as if the words "Subject to Rule 4.154 below," were omitted.
4.154	Committee established by contributories	This Rule does not apply.
4.171A	Composition of committee when creditors paid in full	This Rule is to be read as if— (a) at the end of paragraph (2) there were inserted "and the committee is abolished"; and (b) paragraphs (3) and (4) were omitted.
Chapter 14 (collection and distribution of company's assets by liquidator)		
4.181	Debts of insolvent company to rank equally	This Rule is to be read as if the references to preferential debts were omitted.
Chapter 15 (disclaimer)		
4.188	Communication of disclaimer to persons interested	In paragraph (2) the reference to a person who claims under the company as underlessee or mortgagee is to be read as a reference to a person claiming as underlessee or mortgagee under the leasehold title which is held by the depositary (or a person nominated by the depositary to hold the leasehold title).
Chapters 16, 17 and 18		
4.195 4.201	to Settlement of list of contributories	These Rules do not apply.
4.202 4.205	to Calls	These Rules do not apply.
4.206 4.210	to Special manager	These Rules do not apply.

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Chapter 19 (public examination of company officers and others)		
4.213	Order on request by creditors or contributories	In paragraph (2) the reference to the relationship which the proposed examinee has, or has had, to the company is to be read as a reference to that person's interest in the relevant scheme or dealings with the operator.
Chapter 20 (order of payment of costs, etc., out of assets)		
4.218	General rule as to priority	Paragraph (2) is to be read as if sub-paragraph (b) were omitted. Paragraph (3) is to be read as if the words "Subject as provided in Rules 4.218A to 4.218E," were omitted. In paragraphs (2) and (3) a reference to any legal action or proceedings or any arbitration or other dispute resolution procedure which the liquidator has power to bring or defend in the name of the company is to be read as a reference to such action, proceedings or procedure which the liquidator has power to bring or defend on behalf of the participants.
4.218A	to Litigation expenses and property	These Rules do not apply.
4.218E	subject to a floating charge	
4.220	Saving for powers of the court	In paragraph (2)—
		(a) the reference to proceedings by or against the company is to be read as a reference to proceedings brought by or against the operator for the resolution of any matter relating to the relevant scheme; and
		(b) the reference to the power of any court to order costs to be paid by the company is to be read as a reference to the power of any court to order costs to be paid out of the property subject to the relevant scheme.
Chapters 21, 22 and 23		
4.221	to Miscellaneous rules	These Rules do not apply.
4.225		
4.226	to Permission to act as director, etc., of	These Rules do not apply.
4.230	company with prohibited name	
4.231	EC Regulation – member state liquidator	This Rule does not apply.
Part 7 (court procedure and practice)		
7.1	Preliminary	The reference to a petition for a winding-up order under Part IV is to be read as a reference to a petition presented under regulation 17(9).

7.31A	Court file	In paragraph (4)(a)— (a) the reference to an officer or former officer of the company is to be read as a reference to the operator and the depositary; and (b) the reference to a member of the company is to be read as a reference to a participant.
7.41	Costs and expenses of witnesses	In paragraph (1) the reference to an officer of the insolvent company is to be read as a reference to— (a) the operator or any person who is employed by the operator; or (b) the depositary or any person who is employed by the depositary.
7.56	Service of orders staying proceedings	The reference to the property of a company is to be read as a reference to the property subject to a relevant scheme.
Part 8 (proxies and company representation)		
8.5	Right of inspection	In paragraph (3) the right of inspection exercisable in the case of an insolvent company by its directors is exercisable in the case of the relevant scheme by the operator or the depositary.
Part 11 (declaration and payment of dividend (winding up and bankruptcy))		
11.6	Notice of declaration	This Rule is to be read as if paragraph (2A) were omitted.
Part 12 (miscellaneous and general)		
12.18	False claim of status as creditor, etc.	In paragraph (1)— (a) each reference to the Rules is to be read as a reference to the Rules as modified by this Schedule; and (b) the reference to the members of a company is to be read, in relation to the winding up of a relevant scheme, as a reference to— (i) the operator or depositary of the relevant scheme; or (ii) the participants in it.
Part 12A (provisions of general effect)		
12A.18	Service of orders staying proceedings	In paragraph (1)(a) the reference to the property of a company is to be read as a reference to the property subject to a relevant scheme.
12A.30	Forms for use in insolvency proceedings	Any form prescribed for use by paragraph (1) which is used in proceedings for winding

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		up a relevant scheme is to be read with the modifications set out in this Schedule (so far as applicable for the form concerned). The requirement in paragraph (2) to use a form with such variations as the circumstances may require includes a requirement to use it with such variations as are necessary to take account of applicable modifications.
12A.34 and 12A.39	Notices relating to companies	Instead of the particulars given in each of these Rules a notice must specify the name of the relevant scheme and the name and registered office (or principal place of business) of the operator and of the depositary.
12A.43	Information to be contained in all notifications to the registrar	A notification must specify (instead of the particulars in paragraphs (a) and (b)) the name of the relevant scheme and the name of the operator and of the depositary.
12A.53	Charge for copy documents	The first reference to a member is to be read as a reference to a participant.

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