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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the Insolvency Rules 1986 (S.I. 1986/1925) (“the principal Rules”). The amendments may be divided into those which provide for the introduction of debt relief orders, debt relief restrictions orders and debt relief restrictions undertakings and those which make changes to the rules on the publication or advertisement of notices.

Currently notices are required to be published in the London Gazette or in a newspaper. The amended Rules continue to require publication in the London Gazette but allow a discretion to be exercised as to whether any further publication is required and the methods which may be utilised to do so. The amendments apply, therefore to every aspect of company or individual insolvency which requires publication of notices.

Rule 3 makes the advertising changes subject to transitional provisions applying the new rules essentially to winding ups, company voluntary arrangements, administrations, receiverships and bankruptcies which commence on or after 6th April 2009. Special provision is made in the case of statutory demands. In addition to the amendments made by Rules 5 to 31, 33 to 46, 62, 71, 73 and 76, Rule 78 makes amendments by way of Schedule 2 to these Rules reflecting the advertising changes in relation to Forms in Schedule 4 to the principal Rules.

With regard to debt relief orders, section 108(1) of, together with Schedule 17 to, the Tribunals, Courts and Enforcement Act 2007 (c.15) introduces a new Part 7A into the Insolvency Act 1986. Part 7A makes provision for debt relief orders. Applications for debt relief orders are made to the official receiver through an approved intermediary. A debt relief order is made in respect of qualifying debts. A debt relief order which is made in respect of qualifying debts imposes a moratorium on action in respect of the debts to which the order applies. At the end of the period of the moratorium, if the debt relief order has not been revoked, the debtor is discharged from his qualifying debts.

Section 108(2) of, and Schedules 18 and 19 to, the Tribunals, Courts and Enforcement Act 2007 insert two new Schedules, Schedule 4ZA and Schedule 4ZB, into the Insolvency Act 1986. Schedule 4ZA sets out certain conditions with which an applicant for a debt relief order must comply in order to be eligible for a debt relief order. Schedule 4ZB introduces debt relief restrictions orders and undertakings. Schedule 20 to the 2007 Act makes amendments to the Insolvency Act 1986 consequential to the introduction of debt relief orders and debt relief restriction orders and undertakings.

The Rules relating to debt relief orders are made under section 412 of the Insolvency Act 1986 as amended by the Constitutional Reform Act 2005 (c.4) and further amended by the Tribunals, Courts and Enforcement Act 2007 so as to permit the power in that section to be exercised in relation to new Part 7A of the 1986 Act.

Rule 32 of these Rules inserts new Part 5A into the principal Rules by way of Schedule 1 to these Rules. Part 5A sets out the matters which Part 7A either permits or requires to be prescribed by rules for the purpose of an application for, and the making of debt relief orders.

Rule 47 of these Rules inserts new Rules 6.252 to 6.263 into Part 6 of the principal Rules. The new Rules introduce debt relief restrictions orders and undertakings which correspond in almost every way to the bankruptcy restrictions orders and undertakings which are already provided for in Part 6.

Rules 48 to 52 amend the existing Rules concerning the individual insolvency register. The new Rules provide for the existing individual insolvency register to incorporate the registration of debt relief orders. They amend the principal Rules so as to make provision for the new debt relief

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restrictions register. Provision is made for the insertion of new Rules 6A.5A and 6A.5B and new Rules 6A.7A and 6A.7B which make specific provision for the making of entries in, and deletion of information from the individual insolvency register and the debt relief restrictions register.

Rules 53 to 61, 63 to 70, 72, 74 and 75 make amendments respectively to Part 7 (court procedure and practice), Part 9 (examination of persons), Part 10 (official receivers), Part 12 (miscellaneous and general) and Part 13 (interpretation and application) of the principal Rules consequential upon the introduction of new Part 7A into the Insolvency Act 1986 and new Part 5A into the principal Rules.

Rule 77 makes an amendment to the heading of Schedule 2 to the principal Rules, which lists alternative courts for the purposes of individual insolvency proceedings.

Schedule 1 to these Rules contains new Part 5A (debt relief orders) inserted by these Rules into the principal Rules.

The remaining rules in these Rules give effect to changes in advertising.

Rule 78, by way of Schedule 2 to these Rules, makes amendments to forms in Schedule 4 to the principal Rules, consequential upon the advertising changes

An Impact Assessment was prepared for the debt relief provisions of the Tribunal, Courts and Enforcement Act 2007. It may be consulted on the website [www.dca.gov.uk/consult/debt/debt.htm](http://www.dca.gov.uk/consult/debt/debt.htm) and [www.insolvency.gov.uk.htm](http://www.insolvency.gov.uk.htm).

An Impact Assessment has also been prepared for these Rules, copies of which are available from the Insolvency Service Policy Unit at [Policy.Unit@insolvency.gsi.gov.uk](mailto:Policy.Unit@insolvency.gsi.gov.uk).