

STATUTORY INSTRUMENTS

1986 No. 2002**INSOLVENCY****COMPANIES****The Insurance Companies (Winding-up) (Amendment) Rules
1986**

<i>Made</i>	- - -	21st November 1986
<i>Laid before Parliament</i>		8th December 1986
<i>Coming into Force</i>		29th December 1986

The Lord Chancellor, in exercise of the powers conferred on him by section 59 of the Insurance Companies Act 1982(a) and section 411 of the Insolvency Act 1986(b), with the concurrence of the Secretary of State, and after consulting the committee existing for that purpose under section 413 of the Insolvency Act 1986, hereby makes the following Rules:—

Citation and commencement

1. These Rules may be cited as the Insurance Companies (Winding-up) (Amendment) Rules 1986 and shall come into force on 29th December 1986.

Interpretation

2. In these Rules, except where the context otherwise requires, references to numbered Rules, Schedules and Forms are references to the Rules, Schedules and Forms so numbered in the Insurance Companies (Winding-up) Rules 1985(c).

Application

3.— (1) These Rules apply to proceedings for the winding up of an insurance company which the courts in England and Wales have jurisdiction to wind up which commence on or after the date on which these Rules come into force.

(2) The Insurance Companies (Winding-up) Rules 1985 shall have effect in relation to such proceedings with the amendments set out below in these Rules.

(a) 1982 c. 50.
(b) 1986 c. 45.
(c) S.I. 1985/95.

*Amendment of Rule 2 (Interpretation)***4.—** (1) In Rule 2(1)—

- (a) the definition of “the Act of 1948” shall be omitted;
- (b) the following definitions shall be inserted after the definition of “the Act of 1982”—
 - “the Act of 1985” means the Companies Act 1985;
 - “the Act of 1986” means the Insolvency Act 1986;;
- (c) the following definition shall be inserted after the definition of “general business policy”—
 - “the general regulations” means the Insolvency Regulations 1986;;
- (d) for the definition of “the principal Rules” there shall be substituted—
 - “the principal Rules” means the Insolvency Rules 1986;’.

(2) In Rule 2(2)—

- (a) after the words “the principal Rules,” there shall be inserted “the general regulations”,
- (b) the words “the Act of 1948,” shall be omitted, and
- (c) after the words “the Act of 1982,” there shall be inserted “the Act of 1986”.

*Amendment of Rule 3 (Application)***5.** In Rule 3(2)—

- (a) after the words “the principal Rules” in the first place where they occur, there shall be inserted “and the general regulations”;
- (b) for the words “the Act of 1948” there shall be substituted “the Act of 1986”;
- (c) after the words “the principal Rules” in the second place where they occur, there shall be inserted “or the general regulations”.

*Amendment of Rule 4 (Appointment of Liquidator)***6.** For Rule 4 there shall be substituted the following—

“Where the court considers the appointment of a liquidator under—

- (a) section 139(4) of the Act of 1986 (court appointment of liquidator where conflict between creditors and contributories), or
- (b) section 140 of that Act (court appointment of liquidator following administration or voluntary arrangement),

the Policyholders Protection Board may appear on the application or (as the case may be) the petition, and make representations as to the person to be appointed.”

Amendment of Rule 5 (Separation of long term and other business in winding up)

7. In Rule 5(2) and (3) for the words “section 257 of the Act of 1948” there shall be substituted “section 148 of the Act of 1986”.

Amendment of Rule 14 (Special bank account)

8.— (1) In Rule 14(1) for the words “Rule 170 of the principal Rules” there shall be substituted “Regulation 6 of the general regulations”.

(2) In Rule 14(2) and (3) for the words “special bank account” there shall be substituted “local bank account”.

(3) In Rule 14(3) the words from “and, if it is for a sum greater” onwards shall be omitted.

Amendment of Rule 16 (Maintenance of accounting, valuation and other records)

9. In Rule 16(1) for the words “Rule 172 of the principal Rules” there shall be substituted “Regulation 9 of the general regulations”.

Amendment of Rule 17 (Additional powers in relation to the long term business)

10. In Rule 17(1) for the words “Rule 173 of the principal Rules” there shall be substituted “Regulation 18 of the general regulations”.

Amendment of Rule 18 (Accounts and audit)

11.— (1) In Rule 18(1) for the words “Rules 174 to 179 of the principal Rules” there shall be substituted “Regulations 9(2), 10, 12 and 13 of the general regulations”.

(2) In Rule 18(4) for the words “section 161 of the Act of 1948” there shall be substituted “section 389 of the Act of 1985”.

(3) In Rule 18(5) for the words “Rule 19 of the principal Rules” there shall be substituted “any order made under section 130 of the Supreme Court Act 1981 or under section 128 of the County Courts Act 1984”.

Deletion of Rule 19 (Special Manager)

12. Rule 19 shall be omitted.

Amendment of Rule 20 (Security by liquidator and special manager)

13. In Rule 20 for the words “Rule 59” there shall be substituted “Rule 4.207”.

Amendment of Rule 23 (Notice of valuation of policy)

14. In Rule 23(2) for the words “section 246 of the Act of 1948” there shall be substituted “section 168 of the Act of 1986”.

Amendment of Rule 24 (Dividends to creditors)

15. In Rule 24(2) for the words “Rule 119” there shall be substituted “Part 11”.

Amendment of Rule 25 (Meetings of creditors)

16.— (1) In Rule 25(1)—

- (a) for the words “Rules 127 to 156 of the principal Rules” there shall be substituted “Chapter 8 of Part 4 and Part 8 of the principal Rules (so far as relating to winding up by the court)”; and
- (b) for the words “section 246 of the Act of 1948” there shall be substituted “section 168 of the Act of 1986”.

(2) In Rule 25(2)—

- (a) in sub-paragraph (a) for the words “Rule 132(2)” there shall be substituted “Rule 4.61(3)”; and
- (b) in sub-paragraph (b) for the words “Rule 134” there shall be substituted “Rule 4.63”.

Amendment of Rule 26 (Remuneration of liquidator carrying on long term business)

17. For Rule 26 there shall be substituted the following—

“Remuneration of Liquidator carrying on long term business

26.— (1) So long as no stop order has been made in relation to a company carrying on long term business, the Liquidator is entitled to receive remuneration for his services as such in relation to the carrying on of that business as provided for in this Rule.

(2) The remuneration shall be fixed by the liquidation committee by reference to the time properly given by the Liquidator and his staff in attending to matters arising in the winding up.

(3) If there is no liquidation committee, or the committee does not make the requisite determination, the Liquidator’s remuneration may be fixed (in accordance with paragraph (2)) by a resolution of a meeting of creditors.

(4) If not fixed as above, the Liquidator’s remuneration shall be in accordance with the scale laid down for the Official Receiver by the general regulations.

(5) If the Liquidator’s remuneration has been fixed by the liquidation committee, and the Liquidator considers the amount to be insufficient, he may request that it be increased by resolution of the creditors.”

Amendment of Rule 27 (Apportionment of costs payable out of the assets)

18. In Rule 27(1) for the words “Rule 195(1)” there shall be substituted “Rule 4.218”.

Amendment of Rule 28 (Notice of stop order)

19. For paragraphs (5) and (6) of Rule 28 there shall be substituted—

“(5) The Liquidator shall forthwith on receipt of a sealed copy of the order—

- (a) cause notice of the order in Form No. 3 set out in Schedule 6 to be gazetted, and
- (b) advertise the making of the order in the newspaper in which the winding-up order was advertised by notice in Form No. 4 set out in Schedule 6.”

Amendment of Schedule 6 (Forms)

20.— (1) In Form No. 1 in Schedule 6—

- (a) for the words “o’clock in the noon” and “o’clock” there shall be substituted “hours”; and
- (b) for the words “Forms of general and special proxies are enclosed herewith” there shall be substituted “A proxy form is enclosed herewith.”

(2) In Form No. 4 in Schedule 6 for the words “Official Receiver” there shall be substituted “Liquidator.”

Dated 20th November 1986.

Hailsham of St Marylebone, C.

I concur,

Michael Howard,
Parliamentary Under-Secretary of State,
Department of Trade and Industry.

Dated 21st November 1986.

EXPLANATORY NOTE

(This Note does not form part of the Rules.)

These Rules make amendments to the Insurance Companies (Winding-up) Rules 1985 consequential upon the enactment of the Insolvency Act 1986, the Insolvency Rules 1986 (S.I. 1986/1925) and the Insolvency Regulations 1986 (S.I. 1986/1994).

More particularly the Rules:—

- (a) remove the requirement for cheques for payments out of a special bank account (now known as a local bank account) over a certain amount to be countersigned by a person nominated by the committee of inspection (now known as the liquidation committee) (Rule 8);
- (b) delete rule 19 of the 1985 Rules which made special provision for the special managers of insurance companies, such provision being no longer necessary in consequence of the removal of references to the official receiver in the special manager provisions of the Insolvency Rules 1986 (Rule 12);
- (c) reflect the provisions of the Insolvency Rules 1986 concerning the calculation of the Liquidator's remuneration on a time and rate basis (Rule 17); and
- (d) provide for the Liquidator, rather than the Official Receiver, to cause the notice of a stop order to be gazetted and advertised (Rule 19).

The Rules apply to the winding up of insurance companies which the courts in England and Wales have jurisdiction to wind up. They will come into force on 29th December 1986 and apply to winding-up proceedings commenced on or after that date.

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