

2010 No. 688 (S. 2)

INSOLVENCY, SCOTLAND

COMPANIES

The Insolvency (Scotland) Amendment Rules 2010

<i>Made</i> - - - -	<i>9th March 2010</i>
<i>Laid before Parliament</i>	<i>10th March 2010</i>
<i>Coming into force</i> - -	<i>6th April 2010</i>

The Secretary of State makes the following Rules in exercise of the powers conferred by section 411 of the Insolvency Act 1986(a).

Citation, commencement and interpretation

1. These Rules may be cited as the Insolvency (Scotland) Amendment Rules 2010 and come into force on 6th April 2010.
2. In these Rules “the principal Rules” means the Insolvency (Scotland) Rules 1986(b).

Amendments to the principal Rules

3. The principal Rules are amended in the manner provided for in Schedule 1 to these Rules.

Transitional provisions – general

4.—(1) The amendments to the principal Rules by these Rules apply as provided by paragraphs (2) and (3), except where Rules 5 and 6 provide differently.

(2) They apply where a person agrees to act as nominee in respect of a proposal for a company voluntary arrangement on or after 6th April 2010.

(3) They apply where a company enters administration on or after 6th April 2010, except where—

- (a) it enters administration by virtue of an administration order under paragraph 10 of Schedule B1 to the Insolvency Act 1986(c) on an application made before 6th April 2010;
- (b) the administration is immediately preceded by a voluntary liquidation in respect of which the resolution to wind up was passed before 6th April 2010; or
- (c) the administration is immediately preceded by a liquidation on the making of a winding-up order on a petition which was presented before 6th April 2010.

(a) 1986 c.45. Section 411 was relevantly amended by S.I. 2002/1037.

(b) S.I. 1986/1915, relevant amending instruments are S.I. 1987/1921, S.I. 2002/2709, S.I. 2003/2108, S.I. 2003/2109, S.I. 2003/2111, S.I. 2006/734 and S.I. 2009/662.

(c) Schedule B1 was inserted by the Enterprise Act 2002 (c.40), s.248(2) and Schedule 16.

Revocations and amendments relating to new provisions in the Act

5. The amendments made by the following paragraphs of Schedule 1 to these Rules apply on and after 6th April 2010 in all cases, namely paragraphs 2, 3, 4, 22, 27 (in so far as that paragraph inserts new Rules 1.16C to 1.16E), 68 (in so far as that paragraph inserts new Rules 2.25B to 2.25E), 70 (in so far as that paragraph inserts a new Rule 2.26B), 83, 85, 92, 94 and 114.

Amendments relating to preparation of proposals for voluntary arrangements

6. The amendments made by paragraphs 5, 11 and 15 of Schedule 1 to these Rules apply where a copy of the proposal for a company voluntary arrangement is delivered to the intended nominee on or after 6th April 2010.

Ian Lucas
Minister for Business and Regulatory Reform
Department for Business, Innovation and Skills

9th March 2010

AMENDMENTS TO THE PRINCIPAL RULES

1. In Rule 0.2(1) before “territorial proceedings” insert—

““Standard content” means—

- (a) in relation to a notice to be published or advertised in the Edinburgh Gazette, the contents specified in Rule 7.21A; and
- (b) in relation to a notice to be advertised in any other way, the contents specified in Rule 7.21B;”.

2. Insert after Rule 0.2(2)—

“(3) A document or information given, delivered or sent in hard copy form under any Rule in Parts 1 and 2, or any other Rule applied by those parts, is sufficiently authenticated if it is signed by the person sending or supplying it.

(4) A document or information given, delivered or sent in electronic form under any Rule in Parts 1 and 2, or any other Rule applied by those parts, is sufficiently authenticated—

- (a) if the identity of the sender is confirmed in a manner specified by the recipient, or
- (b) where no such manner has been specified by the recipient, if the communication contains or is accompanied by a statement of the identity of the sender and the recipient has no reason to doubt the truth of that statement.”

3. After Rule 1.1 insert—

“CHAPTER 1A

THE GIVING OF NOTICE AND THE SUPPLY OF DOCUMENTS

1.1A Application

(1) Subject to paragraph (2), this Chapter applies where a notice or other document is required to be given, delivered or sent under this Part of these Rules.

(2) This Chapter does not apply to—

- (a) the lodging of any application, or other document, with the court;
- (b) the service of any application, or other document, lodged with the court;
- (c) the service of any order of the court; or
- (d) the submission of documents to the registrar of companies.

1.1B Electronic delivery

(1) Unless in any particular case some other form of delivery is required by the Act or these Rules or any order of the court, a notice or other document may be given, delivered or sent by electronic means provided that the intended recipient of the notice or other document has—

- (a) consented (whether in the specific case or generally) to electronic delivery (and has not revoked that consent); and
- (b) provided an electronic address for delivery.

(2) Where a nominee or supervisor gives, sends or delivers a notice or other document to any person by electronic means, it must contain or be accompanied by a statement that the recipient may request a hard copy of the notice or document, and specify a telephone number, e-mail address and postal address that may be used to make such a request.

(3) Where a hard copy of the notice or other document is requested it must be sent within 5 business days of receipt of the request by the nominee or supervisor, who may not make a charge for sending it in that form.

(4) In the absence of evidence to the contrary, a notice or other document shall be presumed to have been delivered where—

- (a) the sender can produce a copy of the electronic message which –
 - (i) contained the notice or other document, or to which the notice or other document was attached; and
 - (ii) shows the time and date the message was sent; and
- (b) that electronic message was sent to the address supplied under paragraph (1)(b).

(5) A message sent electronically is deemed to have been delivered to the recipient no later than 9.00 am on the next business day after it was sent.

1.1C Use of websites by nominee or supervisor

(1) This Rule applies for the purpose of section 246B(a).

(2) A nominee or supervisor required to give, deliver or send a document to any person may (other than in a case where personal service is required) satisfy that requirement by sending that person a notice—

- (a) stating that the document is available for viewing and downloading on a website;
- (b) specifying the address of that website together with any password necessary to view and download the document from that website; and
- (c) containing a statement that the recipient of the notice may request a hard copy of the document, and specifying a telephone number, e-mail address and postal address which may be used to make such a request.

(3) Where a notice to which this Rule applies is sent, the document to which it relates must—

- (a) be available on the website for a period of not less than 3 months after the date on which the notice is sent; and
- (b) be in such a format as to enable it to be downloaded from the website within a reasonable time of an electronic request being made for it to be downloaded.

(4) Where a hard copy of the document is requested it must be sent within 5 business days of the receipt of the request by the nominee or supervisor, who may not make a charge for sending it in that form.

(5) Where a document is given, delivered or sent to a person by means of a website in accordance with this Rule, it is deemed to have been delivered—

- (a) when the document was first made available on the website, or
- (b) if later, when the notice under paragraph (2) was delivered to that person.

1.1D Special provision on account of expense as to website use

(1) Where the court is satisfied that the expense of sending notices in accordance with Rule 1.1C would, on account of the number of persons entitled to receive them, be disproportionate to the benefit of sending notices in accordance with that Rule, it may order that the requirement to give, deliver or send a relevant document to any person may (other than in a case where personal service is required) be satisfied by the nominee or supervisor sending each of those persons a notice—

- (a) stating that all relevant documents will be made available for viewing and downloading on a website;

(a) Section 246B was inserted by regulation 3(1) of S.I. 2010/18.

- (b) specifying the address of that website together with any password necessary to view and download a relevant document from that site; and
 - (c) containing a statement that the person to whom the notice is given, delivered or sent may at any time request that hard copies of all, or specific, relevant documents are sent to that person, and specifying a telephone number, e-mail address and postal address which may be used to make that request.
- (2) A document to which this Rule relates must—
- (a) be available on the website for a period of not less than 12 months from the date when it was first made available on the website or, if later, from the date upon which the notice was sent, and
 - (b) be in such a format as to enable it to be downloaded from the website within a reasonable time of an electronic request being made for it to be downloaded.
- (3) Where hard copies of relevant documents have been requested, they must be sent by the nominee or supervisor—
- (a) within 5 business days of the receipt by the nominee or supervisor of the request to be sent hard copies, in the case of relevant documents first appearing on the website before the request was received, or
 - (b) within 5 business days from the date a relevant document first appears on the website, in all other cases.
- (4) A nominee or supervisor must not require a person making a request under paragraph (3) to pay a fee for the supply of the document.
- (5) Where a relevant document is given, delivered or sent to a person by means of a website in accordance with this Rule, it is deemed to have been delivered—
- (a) when the relevant document was first made available on the website, or
 - (b) if later, when the notice under paragraph (1) was delivered to that person.
- (6) In this Rule a relevant document means any document which the nominee or supervisor is first required to give, deliver or send to any person after the court has made an order under paragraph (1).”.

4. Omit Rule 1.2.

5. In Rule 1.3(2)—

- (a) omit “and” after paragraph (o); and
- (b) after paragraph (p) insert—
 - “; and
 - (q) such other matters (if any) as the directors consider appropriate for ensuring that members and creditors are enabled to reach an informed decision on the proposal.”

6. In Rule 1.3(3) for “former’s” substitute “nominee’s”.

7. For Rule 1.5(1) substitute—

“(1) The directors shall, at the same time as the proposal is delivered to the nominee, deliver to the nominee a statement of the company’s affairs.”.

8. In Rule 1.5(4)—

- (a) for “their” substitute “the relevant director’s”; and
- (b) for “two or more directors of the company or by the company secretary and at least one director (other than the secretary himself)” substitute “one director”.

9. In Rule 1.6(3) for “him access to the company’s accounts and records”, substitute “the nominee such access to the company’s accounts and records as the nominee may require”.

10. In paragraphs (1) and (2) of Rule 1.8 for “7” substitute “5 business”.
11. In Rule 1.9(1) omit “less than 14, nor”.
12. In Rule 1.9(2) after “lodged” insert “and shall state the effect of Rule 1.16A(2) to (4),”.
13. In Rule 1.9(2)—
 - (a) omit “and” after paragraph (b); and
 - (b) after paragraph (c) insert—
 - “;and
 - (d) forms of proxy.”.
14. After Rule 1.9(2) insert—
 - “(3) Notices calling the meetings shall be sent by the nominee at least 14 days before the day fixed for them to be held—
 - (a) in the case of the creditors’ meeting, to all the creditors specified in the statement of affairs, and any other creditors of the company of whose address the nominee is aware; and
 - (b) in the case of the meeting of members of the company, to all persons who are, to the best of the nominee’s belief, members of it.”.
15. In Rule 1.10—
 - (a) in paragraph (a), after “in administration” insert “or liquidation”; and
 - (b) omit paragraph (b).
16. For Rule 1.11(1) substitute—
 - “(1) Notices calling meetings under section 3(2) shall be sent by the responsible insolvency practitioner at least 14 days before the day fixed for them to be held—
 - (a) in the case of the creditors’ meeting, to all the creditors specified in the statement of affairs, and any other creditors of the company of whose address the responsible insolvency practitioner is aware; and
 - (b) in the case of the meeting of members of the company, to all persons who are, to the best of the responsible insolvency practitioner’s belief, members of it.”.
17. In Rule 1.11(2)—
 - (a) delete “and” after paragraph (a); and
 - (b) after paragraph (b), insert—
 - “(c) a statement of the effect of Rule 1.16A(2) to (4); and
 - (d) forms of proxy.”.
18. Omit Rule 1.13.
19. In Rule 1.14(1) for “person summoning the meetings (“the convenor”) shall” substitute “nominee must”.
20. In Rule 1.14(3) for “7” substitute “5 business”.
21. After Rule 1.14(3) insert—
 - “(4) Meetings shall, in all cases, be summoned for commencement between 10.00 and 16.00 hours on a business day.”
22. After Rule 1.14 insert—

“1.14ZA Remote Attendance at Meetings

(1) This Rule applies to a request to the nominee of a meeting under section 246A(9)(a) to specify a place for the meeting.

(2) The request must be accompanied by—

- (a) in the case of a request by creditors, a list of the creditors making (or concurring with) the request and the amounts of those creditors’ respective debts in the insolvency proceedings in question,
- (b) in the case of a request by members, a list of the members making (or concurring with) the request and those members’ voting rights, and
- (c) from each person concurring, written confirmation of that person’s concurrence.

(3) The request must be made within 7 business days of the date on which the nominee sent the notice of the meeting in question.

(4) Where the nominee considers that the request has been properly made in accordance with the Act and these Rules, the nominee must—

- (a) give notice (to all those previously given notice of the meeting)—
 - (i) that the meeting is to be held at a specified place, and
 - (ii) whether the date and time of the meeting are to remain the same or not;
- (b) specify a time, date and place for the meeting, the date of which must not be more than 28 days after the original date for the meeting; and
- (c) give at least 14 days notice of the time, date and place of the meeting (to all those previously given notice of the meeting),

and the notices required by subparagraphs (a) and (c) may be given at the same or different times.

(5) Where the nominee has specified a place for the meeting in response to a request to which this Rule applies, the chairman of the meeting must attend the meeting by being present in person at that place.”.

23. After Rule 1.14A insert—

“1.14AA Chairman of meeting as proxy holder

At any meeting, the chairman shall not, by virtue of any proxy held by him, vote to increase or reduce the amount of the remuneration or expenses of the nominee or the supervisor of the proposed arrangement, unless the proxy specifically directs him to vote in that way.”.

24. At the end of Rule 1.15A(3) insert—

“(4) A creditor is entitled to vote at any meeting if the creditor, either at the meeting or before it, has submitted the creditor’s claim to the responsible insolvency practitioner and the creditor’s claim has been accepted in whole or in part.”.

25. After Rule 1.15A insert—

“1.15AA Entitlement to vote (members)

(1) Members of a company at their meeting shall vote according to the rights attaching to their shares in accordance with the company’s articles of association.

(2) Reference in this Rule to a person’s shares include any other interests which that person may have as a member of the company.”.

26. After Rule 1.16(5) insert—

(a) Section 246A was inserted by regulation 3(1) of S.I. 2010/18.

“(6) During a meeting, the chairman may, in the chairman’s discretion and without an adjournment, declare the meeting suspended for any period up to one hour.”.

27. After Rule 1.16 insert—

“1.16A Requisite Majorities at Creditors’ Meetings

(1) Subject to paragraph (2), a resolution is passed at a creditors’ meeting when a majority (in value) of those present and voting in person or by proxy have voted in favour of it.

(2) A resolution to approve the proposal or a modification is passed when a majority of three quarters or more (in value) of those present and voting in person or by proxy have voted in favour of it.

(3) There is to be left out of account a creditor’s vote in respect of any claim or part of a claim—

- (a) where written notice of the claim was not given, either at the meeting or before it, to the chairman or nominee;
- (b) where the claim or part is secured;
- (c) where the claim is in respect of a debt wholly or partly on, or secured by, a current bill of exchange or promissory note, unless the creditor is willing—
 - (i) to treat the liability to the creditor on the bill or note of every person who is liable on it antecedently to the company, and who has not been made bankrupt or had their estate sequestrated (or in the case of a company, which has not gone into liquidation), as a security in the creditor’s hands; and
 - (ii) to estimate the value of the security and (for the purpose of entitlement to vote, but not of any distribution under the arrangement) to deduct it from the creditor’s claim.

(4) Any resolution is invalid if those voting against it include more than half in value of the creditors—

- (a) to whom notice of the meeting was sent;
- (b) whose votes are not to be left out of account under paragraph (3); and
- (c) who are not, to the best of the chairman’s belief, persons connected with the company.

(5) It is for the chairman of the meeting to decide whether under this Rule—

- (a) a vote is to be left out of account in accordance with paragraph (3), and
- (b) a person is a connected person for the purpose of paragraph (4)(c),

and in relation to the second of these two cases the chairman is entitled to rely on the information provided by the company’s statement of affairs or otherwise in accordance with this Part of the Rules.

(6) If the chairman uses a proxy contrary to Rule 1.14AA the chairman’s vote with that proxy does not count towards any majority under this Rule.

(7) The chairman’s decision on any matter under the Rule is subject to appeal to the court by any creditor and paragraphs (5) to (7) of Rule 1.15B apply as regards such an appeal.

1.16B Requisite Majorities at Company Meetings

(1) Subject as follows and to any express provision made in the articles of association of the company, at a meeting of the members of the company any resolution is to be regarded as passed if voted for by more than one-half in value of the members present in person or by proxy and voting on the resolution.

(2) The value of members is determined by reference to the number of votes conferred on each member by the company’s articles.

(3) If the chairman uses a proxy contrary to Rule 1.14AA, the chairman’s vote with that proxy does not count towards any majority under this Rule.

1.16C Action where person excluded

- (1) In this Rule and Rules 1.16D and 1.16E an “excluded person” means a person who—
 - (a) has taken all steps necessary to attend a meeting under the arrangements put in place to do so by the convener of the meeting under section 246A(6); and
 - (b) those arrangements do not permit that person to attend the whole or part of that meeting.
- (2) Where the chairman becomes aware during the course of the meeting that there is an excluded person, the chairman may—
 - (a) continue the meeting;
 - (b) declare the meeting void and convene the meeting again; or
 - (c) declare the meeting valid up to the point where the person was excluded and adjourn the meeting.
- (3) Where the chairman continues the meeting, the meeting is valid unless—
 - (a) the chairman decides in consequence of a complaint under Rule 1.16E to declare the meeting void and hold the meeting again; or
 - (b) the court directs otherwise.
- (4) Without prejudice to paragraph (2), where the chairman becomes aware during the course of the meeting of an excluded person, the chairman may, in the chairman’s discretion and without an adjournment, declare the meeting suspended for any period up to one hour.

1.16D Indication to excluded person

- (1) A person who claims to be an excluded person may request an indication of what occurred during the period of that person’s claimed exclusion (the “indication”).
- (2) A request under paragraph (1) must be made as soon as reasonably practicable, and, in any event, no later than 4 p.m. on the business day following the day on which the exclusion is claimed to have occurred.
- (3) A request under paragraph (1) must be made to—
 - (a) the chairman, where it is made during the course of the business of the meeting; or
 - (b) the nominee or supervisor where it is made after the conclusion of the business of the meeting.
- (4) Where satisfied that the person making the request is an excluded person, the person to whom the request is made must give the indication as soon as reasonably practicable and, in any event, no later than 4. p.m. on the day following the request in paragraph (1).

1.16E Complaint

- (1) Any person who—
 - (a) is, or claims to be, an excluded person; or
 - (b) attends the meeting (in person or by proxy) and considers that they have been adversely affected by a person’s actual, apparent or claimed exclusion,(“the complainant”) may make a complaint.
- (2) The person to whom the complaint must be made (“the relevant person”) is—
 - (a) the chairman, where it is made during the course of the meeting; or
 - (b) the nominee or supervisor, where it is made after the meeting.
- (3) The relevant person must—
 - (a) consider whether there is an excluded person;
 - (b) where satisfied that there is an excluded person, consider the complaint; and
 - (c) where satisfied that there has been prejudice, take such action as the relevant person considers fit to remedy the prejudice.

- (4) Paragraph (5) applies where—
 - (a) the relevant person is satisfied that the complainant is an excluded person;
 - (b) during the period of the person’s exclusion—
 - (i) a resolution was put to the meeting; and
 - (ii) voted on; and
 - (c) the excluded person asserts how the excluded person intended to vote on the resolution.
- (5) Subject to paragraph (6), where satisfied that the effect of the intended vote in paragraph (4), if cast, would have changed the result of the resolution, the relevant person must—
 - (a) count the intended vote as being cast in accordance with the complainant’s stated intention;
 - (b) amend the record of the result of the resolution; and
 - (c) where those entitled to attend the meeting have been notified of the result of the resolution, notify them of the change.
- (6) Where satisfied that more than one complainant in paragraph (4) is an excluded person, the relevant person must have regard to the combined effect of the intended votes.
- (7) A complaint must be made as soon as reasonably practicable and, in any event, by 4 p.m. on the business day following—
 - (a) the day on which the person was excluded; or
 - (b) where an indication is requested under Rule 1.16D, the day on which the complainant received the indication.
- (8) The relevant person must notify the complainant in writing of any decision.
- (9) A complainant who is not satisfied by the action of the relevant person may apply to the court for a direction to be given to the relevant person as to the action to be taken in respect of the complaint, and any application must be made no more than 2 business days from the date of receiving the decision of the relevant person.”.

28. In Rule 1.17(3) before “days” insert “business”.

29. In Rule 1.17(4) for “immediately” substitute “as soon as reasonably practicable”.

30. In Rule 1.18(1) for “may”, where it first occurs, substitute “must”.

31. In Rule 1.18A(5) for “7” substitute “5 business”.

32. In paragraphs (4)(b) and (5) of Rule 1.20 for “7” substitute “5 business”.

33. For Rule 1.21 substitute—

“1.21 Supervisor’s accounts

- (1) This Rule applies where the voluntary arrangement authorises or requires the supervisor—
 - (a) to carry on the business of the company or trade on its behalf or in its name;
 - (b) to realise assets of the company; or
 - (c) otherwise to administer or dispose of any of its funds.
- (2) The supervisor must keep accounts and records of the supervisor’s acts and dealings in, and in connection with, the arrangement, including in particular records of all receipts and payments of money.
- (3) The supervisor must preserve any accounts and records in paragraph (2) which—
 - (a) were kept by any other person who has acted as supervisor of the arrangement; and
 - (b) are in the supervisor’s possession.

1.21A Supervisor's reports

(1) Subject to paragraph (2), the supervisor must, in respect of each period of 12 months ending with the anniversary of the commencement of the arrangement, send within 2 months of the end of that period a report on the progress and prospects for the full implementation of the voluntary arrangement to—

- (a) the registrar of companies;
- (b) the company;
- (c) all of the company's creditors who are bound by the voluntary arrangement of whose address the supervisor is aware;
- (d) subject to paragraph (4) below, the members of the company; and
- (e) if the company is not in liquidation, the company's auditors (if any) for the time being.

(2) The supervisor is not required to send a report under paragraph (1), if an obligation to send a final report under Rule 1.23 arises in the period of 2 months mentioned in paragraph (1).

(3) Where the supervisor is authorised or required to do any of the things mentioned in Rule 1.21 (1)(a) to (c), the report required to be sent pursuant to paragraph (1), must include or be accompanied by—

- (a) an abstract of receipts and payments required to be recorded by virtue of Rule 1.21(2); or
- (b) where there have been no such receipts and payments, a statement to that effect.

(4) The court may, on application by the supervisor, dispense with the sending under this Rule of abstracts or reports to members of the company, either altogether or on the basis that the availability of the abstract or report to members is to be advertised by the supervisor in a specified manner.”.

34. In Rule 1.27(1)—

- (a) for “no later than 7 days after” substitute “at the same time as”; and
- (b) omit “or such longer time as he may allow”.

35. In Rule 1.27(4)—

- (a) for “their” substitute “the relevant director's”; and
- (b) for “two or more directors of the company, or by the company secretary and at least one director (other than the secretary himself)” substitute “one director”.

36. After Rule 1.30(2) insert—

“(2A) In addition to the standard content, notices published under paragraph (2) must state—

- (a) the nature of the business of the company;
- (b) that a moratorium under section 1A(a) has come into force; and
- (c) the date upon which the moratorium came into force.”.

37. In Rule 1.30(3) for “he” substitute “and address the nominee”.

38. In Rule 1.31(2) for “certified copy interlocutor” substitute “copy”.

39. After Rule 1.32(1) insert—

“(1A) In addition to the standard content, notices published under paragraph (2) must state—

(a) Section 1A was inserted by the Insolvency Act 2000 (c.39) s.1 and Schedule 1 paragraph 2.

- (a) the nature of the business of the company;
 - (b) that a moratorium under section 1A has come to an end; and
 - (c) the date upon which the moratorium came to an end.”.
- 40.** In Rule 1.32(2) for “he” substitute “and address the nominee”.
- 41.** In Rule 1.35(d) for “he” substitute “and address the nominee”.
- 42.** In paragraphs (1) and (2) of Rule 1.36 for “7” substitute “5 business”.
- 43.** In Rule 1.36(3) for “his consent to act” substitute “that the replacement nominee—
- (a) consents to act; and
 - (b) is qualified to act as an insolvency practitioner in relation to the company or is an authorised person in relation to the company.
- 44.** In Rule 1.38 for “7” substitute “5 business”.
- 45.** In Rule 1.39 omit paragraph (1).
- 46.** For Rule 1.39(2) substitute—
- “(2) Subject to the provisions in this section of this Chapter, Rules 1.14, 1.14ZA, 1.14A, 1.14AA, 1.15, 1.15AA, 1.16A(3) to (7) and 1.16B to 1.16E shall apply with regard to meetings summoned pursuant to paragraph 29(1) of Schedule A1 to the Act as they apply to meetings of the company and creditors which are summoned under section 3 of the Act.”
- 47.** In Rule 1.40(2) for “he” substitute “the nominee”.
- 48.** For Rule 1.40(4) substitute—
- “(4) Each notice sent under this Rule must—
- (a) in addition to the standard content, specify—
 - (i) the court in which the documents relating to the obtaining of the moratorium were lodged; and
 - (ii) the court reference; and
 - (b) state the effect of Rule 1.43.
- (4A) With each notice there must be sent—
- (a) a copy of the directors’ proposal;
 - (b) a copy of the statement of the company’s affairs or, if the nominee thinks fit, a summary of it (the summary to include a list of creditors and the amount of their debts);
 - (c) the nominee’s comments on the proposal; and
 - (d) forms of proxy.”.
- 49.** In Rule 1.43 for paragraphs (1) and (2) substitute—
- “(1) Subject as follows, a resolution is passed at a creditors’ meeting when a majority (in value) of those present and voting in person or by proxy have voted in favour of it.
- (2) A resolution to approve the proposal or a modification is passed when a majority of three quarters or more (in value) of those present and voting in person or by proxy have voted in favour of it.”.
- 50.** After Rule 1.44(1) insert—
- “(1A) During a meeting, the chairman may, in the chairman’s discretion and without an adjournment, declare the meeting suspended for any period up to one hour.”.
- 51.** For Rule 1.46(1) substitute—

“(1) Where a member State liquidator proposes to apply to the court for conversion of a voluntary arrangement into winding-up proceedings, an affidavit complying with Rule 1.47 must be prepared and filed in court in support of the application.

(1A) In this Rule, and in Rules 1.47 and 1.48, “conversion into winding-up proceedings” means an order under Article 37 of the EC Regulation (conversion of earlier proceedings) that the voluntary arrangement is converted into—

- (a) administration proceedings whose purposes are limited to the winding up of the company through administration and are to exclude the purpose contained in paragraph 3(1)(a) of Schedule B1 to the Act^(a);
- (b) a creditors’ voluntary winding up; or
- (c) a winding up by the court.”.

52. In Rule 1.47(1)(b)—

- (a) for “deponent’s belief” substitute “belief of the person making the statement”; and
- (b) for “a winding up” substitute “winding-up proceedings”.

53. For Rule 1.47(1)(c) substitute—

“(c) the opinion of the person making the statement as to whether the company ought to enter voluntary winding up or be wound up by the court; and”.

54. In paragraphs (1), (2) and (4) of Rule 1.48 for “winding up” substitute “winding-up proceedings”.

55. After Rule 1.49, insert—

“CHAPTER 10

1.50 Omission of Information from Statement of Affairs

The court, on the application of the nominee, the directors or any person appearing to it to have an interest, may direct that specified information may be omitted from any statement of affairs required to be sent to the creditors where the disclosure of such information would be likely to prejudice the conduct of the voluntary arrangement or might reasonably be expected to lead to violence against any person.”.

56. In Rule 2.1(1)(d) after the entry “—Chapter 5: Process of administration;” insert—

“—Chapter 5A: The Giving of Notice and Supply of Documents;”.

57. After Rule 2.19(1) insert—

“(1A) In addition to the standard content, notices published under paragraph (1) must state—

- (a) that an administrator has been appointed,
- (b) the date of the appointment; and
- (c) the nature of the business of the company.”.

58. In Rule 2.22(1) after “administration” insert “or might be reasonably expected to lead to violence against any person”.

59. In Rule 2.23(3) for “out of the assets” substitute “as an expense of the administration”.

60. In Rule 2.24(1)—

- (a) for “the company’s affairs” substitute “affairs of the company”; and
- (b) for “out of his receipts” substitute “as an expense of the administration”.

(a) Schedule B1 was inserted by the Enterprise Act 2002 (c.40), s.248(2) and Schedule 16.

61. After paragraph 2.25(1)(j) insert—

“(ka) a statement complying with paragraph (1B) of any pre-administration costs charged or incurred by the administrator or, to the administrator’s knowledge, by any other person qualified to act as an insolvency practitioner;”.

62. For Rule 2.25(1)(l) substitute—

“(l) a statement (which must comply with paragraph (1C) where that paragraph applies) of how it is envisaged the purpose of the administration will be achieved and how it is proposed that the administration shall end;”.

63. Omit paragraph 2.25(1)(m).

64. After Rule 2.25(1) insert—

“(1A) In this Part—

(a) “pre-administration costs” are—

- (i) fees charged, and
- (ii) expenses incurred,

by the administrator, or another person qualified to act as an insolvency practitioner, before the company entered administration but with a view to its doing so; and

(b) “unpaid pre-administration costs” are pre-administration costs which had not been paid when the company entered administration.

(1B) A statement of pre-administration costs complies with this paragraph if it includes—

- (a) details of any agreement under which the fees were charged and expenses incurred, including the parties to the agreement and the date on which the agreement was made,
- (b) details of the work done for which the fees were charged and expenses incurred,
- (c) an explanation of why the work was done before the company entered administration and how it would further the achievement of an objective in sub-paragraph (1) of paragraph 3 in accordance with sub-paragraphs (2) to (4) of that paragraph,
- (d) a statement of the amount of the pre-administration costs, setting out separately—
 - (i) the fees charged by the administrator,
 - (ii) the expenses incurred by the administrator,
 - (iii) the fees charged (to the administrator’s knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately), and
 - (iv) the expenses incurred (to the administrator’s knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately),
- (e) a statement of the amounts of unpaid pre-administration costs (set out separately as under sub-paragraph (d)),
- (f) the identity of the person who made the payment or, if more than one person made the payment, the identity of each such person and of the amounts paid by each such person set out separately as under sub-paragraph (d)),
- (g) a statement of the amounts of unpaid pre-administration costs (set out separately as under sub-paragraph (d)), and
- (h) a statement that the payment of unpaid pre-administration costs as an expense of the administration is—
 - (i) subject to approval under Rule 2.39C, and
 - (ii) not part of the proposals subject to approval under paragraph 53.

(1C) This paragraph applies where it is proposed that the administration will end by the company moving to a creditors' voluntary liquidation; and in that case, the statement required by Rule 2.25(1)(l) must include—

- (a) details of the proposed liquidator;
- (b) where applicable, the declaration required by section 231 (appointment to office of two or more persons); and
- (c) a statement that the creditors may, before the proposals are approved, nominate a different person as liquidator in accordance with paragraph 83(7)(a) and Rule 2.47.”.

65. After Rule 2.25(3) insert—

“(3A) Where proposals are deemed under paragraph (3) to have been approved, the administrator must, as soon as reasonably practicable after the expiry of the period set out in Rule 2.31, give notice of the date on which they were deemed to have been approved to the registrar of companies, the court and the creditors in the form required by Rule 7.30 and Schedule 5; and a copy of the proposals must be attached to the notice given to the court and to creditors who have not previously received them.”.

66. In Rule 2.25(5) for “10” substitute “7 business”.

67. For Rule 2.25(6A) substitute—

“(6A) A notice published under Rule 2.25(6) must include the standard content and must state—

- (a) that members can write to request that a copy of the statement of proposals be provided free of charge; and
- (b) the address to which to write.”

68. After Rule 2.25 insert—

“2.25A Limited disclosure of paragraph 49 statement

(1) Where the administrator thinks that it would prejudice the conduct of the administration or might reasonably be expected to lead to violence against any person for any of the matters specified in Rule 2.25(1)(h) and (i) to be disclosed, the administrator may apply to the court for an order of limited disclosure in respect of any specified part of the statement under paragraph 49 containing such matter.

(2) The court may, on such application, order that some or all of the specified part of the statement must not be sent to the registrar of companies or to creditors or members of the company as otherwise required by paragraph 49(4).

(3) The administrator must as soon as reasonably practicable send to the persons specified in paragraph 49(4) the statement under paragraph 49 (to the extent provided by the order) and an indication of the nature of the matter in relation to which the order was made.

(4) The administrator must also send a copy of the order to the registrar of companies.

(5) A creditor who seeks disclosure of a part of a statement under paragraph 49 in relation to which an order has been made under this Rule may apply to the court for an order that the administrator disclose it. The application must be supported by written evidence in the form of an affidavit.

(6) The court may make any order for disclosure subject to any conditions as to confidentiality, duration and scope of the order in the event of any change of circumstances, or other matters as it sees just.

(7) If there is a material change in circumstances rendering the limit on disclosure or any part of it unnecessary, the administrator must, as soon as reasonably practicable after the change, apply to the court for the order or any part of it to be discharged or varied.

(8) The administrator must, as soon as reasonably practicable after the making of an order under paragraph (7), send to the persons specified in paragraph 49(4) a copy of the statement under paragraph 49 to the extent provided by the order.

CHAPTER 5A

THE GIVING OF NOTICE AND SUPPLY OF DOCUMENTS

2.25B Application

(1) Subject to paragraph (2), this Chapter applies where a notice or other document is required to be given, delivered or sent under this Part of these Rules.

(2) This Chapter does not apply to—

- (a) the lodging of any application, or other document, with the court;
- (b) the service of any application, or other document, lodged with the court;
- (c) the service of any order of the court; or
- (d) the submission of documents to the registrar of companies.

2.25C Electronic delivery

(1) Unless in any particular case some other form of delivery is required by the Act or these Rules or any order of the court, a notice or other document may be given, delivered or sent by electronic means provided that the intended recipient of the notice or other document has—

- (a) consented (whether in the specific case or generally) to electronic delivery (and has not revoked that consent); and
- (b) provided an electronic address for delivery.

(2) Where an administrator gives, sends or delivers a notice or other document to any person by electronic means, it must contain or be accompanied by a statement that the recipient may request a hard copy of the notice or document, and specify a telephone number, e-mail address and postal address which may be used to make such a request.

(3) Where a hard copy of the notice or other document is requested it must be sent within 5 business days of receipt of the request by the administrator, who may not make a charge for sending it in that form.

(4) In the absence of evidence to the contrary, a notice or other document shall be presumed to have been delivered where—

- (a) the sender can produce a copy of the electronic message which—
 - (i) contained the notice or other document, or to which the notice or other document was attached; and
 - (ii) shows the time and date the message was sent; and
- (b) that electronic message was sent to the address supplied under paragraph (1)(b).

(5) A message delivered electronically shall be deemed to have been delivered to the recipient at 9.00 am on the next business day after it was sent.

2.25D Use of websites by administrator

(1) This Rule applies for the purpose of section 246B(a).

(2) An administrator required to give, deliver or send a document to any person may (other than in a case where personal service is required) satisfy that requirement by sending that person a notice—

- (a) stating that the document is available for viewing and downloading on a website;

(a) Section 246B was inserted by regulation 3(1) of S.I. 2010/18.

- (b) specifying the address of that website together with any password necessary to view and download the document from that website; and
 - (c) containing a statement that the recipient of the notice may request a hard copy of the document, and specifying a telephone number, e-mail address and postal address which may be used to make such a request.
- (3) Where a notice to which this Rule applies is sent, the document to which it relates must—
- (a) be available on the website for a period of not less than 3 months after the date on which the notice is sent; and
 - (b) be in such a format as to enable it to be downloaded from the website within a reasonable time of an electronic request being made for it to be downloaded.
- (4) Where a hard copy of the document is requested it must be sent within 5 business days of the receipt of the request by the administrator, who may not make a charge for sending it in that form.
- (5) Where a document is given, delivered or sent to a person by means of a website in accordance with this Rule, it is deemed to have been delivered—
- (a) when the document was first made available on the website, or
 - (b) if later, when the notice under paragraph (2) was delivered to that person.

2.25E Special provision on account of expense as to website use

- (1) Where the court is satisfied that the expense of sending notices in accordance with Rule 2.25D would, on account of the number of persons entitled to receive them, be disproportionate to the benefit of sending notices in accordance with that Rule, it may order that the requirement to give, deliver or send a relevant document to any person may (other than in a case where personal service is required) be satisfied by the administrator sending each of those persons a notice—
- (a) stating that all relevant documents will be made available for viewing and downloading on a website;
 - (b) specifying the address of that website together with any password necessary to view and download the document from that site; and
 - (c) containing a statement that the person to whom the notice is given, delivered or sent may at any time request that hard copies of all, or specific, relevant documents are sent to that person, and specifying a telephone number, e-mail address and postal address which may be used to make that request.
- (2) A document to which this Rule relates must—
- (a) be available on the website for a period of not less than 12 months from the date when it was first made available on the website or, if later, from the date upon which the notice was sent, and
 - (b) be in such a format as to enable it to be downloaded from the website within a reasonable time of an electronic request being made for it to be downloaded.
- (3) Where hard copies of relevant documents have been requested, they must be sent by the administrator—
- (a) within 5 business days of the receipt by the administrator of the request to be sent hard copies, in the case of relevant documents first appearing on the website before the request was received, or
 - (b) within 5 business days from the date a relevant document first appears on the website, in all other cases.
- (4) An administrator must not require a person making a request under paragraph (3) to pay a fee for the supply of the document.
- (5) Where a relevant document is given, delivered or sent to a person by means of a website in accordance with this Rule, it is deemed to have been delivered—

- (a) when the relevant document was first made available on the website, or
- (b) if later, when the notice under paragraph (1) was delivered to that person.

(6) In this Rule a relevant document means any document which the administrator is first required to give, deliver or send to any person after the court has made an order under paragraph (1).”.

69. In Rule 2.26A—

- (a) for paragraphs (1) and (2) substitute—

“(1) The administrator shall publish notice of all meetings of the company’s creditors or members in the Edinburgh Gazette and in such other manner as the administrator thinks fit to ensure the meeting comes to the notice of any persons who are entitled to attend.”; and

- (b) in paragraph (3) for “paragraphs (1) and (2)” substitute “paragraph (1)”.

70. After Rule 2.26A insert—

“2.26B Remote Attendance at Meetings

(1) This Rule applies to a request to the administrator under section 246A(9)(a) to specify a place for the meeting.

- (2) The request must be accompanied by—

- (a) in the case of a request by creditors, a list of the creditors making (or concurring with) the request and the amounts of those creditors’ respective debts in the insolvency proceedings in question,
- (b) in the case of a request by members, a list of the members making (or concurring with) the request and those members’ voting rights, and
- (c) from each person concurring, written confirmation of that person’s concurrence.

(3) The request must be made within 7 business days of the date on which the administrator sent the notice of the meeting in question.

(4) Where the administrator considers that the request has been properly made in accordance with the Act and these Rules, the administrator must –

- (a) give notice (to all those previously given notice of the meeting)—
 - (i) that the meeting is to be held at a specified place, and
 - (ii) whether the date and time of the meeting are to remain the same or not;
- (b) specify a time, date and place for the meeting, the date of which must not be more than 28 days after the original date for the meeting; and
- (c) give at least 14 days’ notice of the time, date and place of the meeting to all those previously given notice of the meeting,

and the notices required by subparagraphs (a) and (c) may be given at the same or different times.

(5) Where the administrator has specified a place for the meeting in response to a request to which this Rule applies, the chairman of the meeting must attend the meeting by being present in person at that place.

(6) Rule 7.6 (4), (5), (6) and (7) (expenses of summoning meetings) as applied by Rule 2.26, do not apply to the summoning and holding of a meeting at a place specified in accordance with section 246A(9).

2.26C Entitlement to Vote and Draw Dividend

- (1) A creditor, in order to obtain an adjudication as to entitlement—

- (a) to vote at any meeting of the creditors in the administration; or

(a) Section 246A was inserted by regulation 3(1) of S.I. 2010/18.

- (b) to a dividend (so far as funds are available) out of the assets of the company in respect of any accounting period,

must submit a claim to the administrator.

(2) A creditor's claim must be submitted—

- (a) at or before the meeting; or, as the case may be,
- (b) not later than 8 weeks before the end of the accounting period.

(3) A creditor's claim must—

- (a) be made out by, or under the direction of, the creditor;
- (b) have attached an account or voucher (according to the nature of the debt claimed) which constitutes *prima facie* evidence of the debt; and
- (c) state the following matters—
 - (i) the creditor's name and address;
 - (ii) if the creditor is a company, its registered number;
 - (iii) the total amount of the creditor's claim (including value added tax) as at the date on which the company entered administration, (or if the company was in liquidation when it entered administration, the date on which it went into liquidation) less any payments that have been made to the creditor after that date in respect of that claim;
 - (iv) whether or not the claim includes outstanding uncapitalised interest;
 - (v) particulars of how and when the debt was incurred by the company;
 - (vi) particulars of any security held, the date on which it was given and the value which the creditor puts on it;
 - (vii) details of any reservation of title in respect of goods to which the debt refers; and
 - (viii) the name, address and authority of the person making out the proof, if other than the creditor.

(4) The administrator may dispense with any requirement in paragraph (3)(b) in respect of any debt or any class of debt.

(5) A claim submitted by a creditor, which has been accepted in whole or in part by the administrator for the purpose of voting at a meeting, or of drawing a dividend in respect of any accounting period, shall be deemed to have been resubmitted for the purpose of obtaining an adjudication as to the creditor's entitlement both to vote at any subsequent meeting and (so far as funds are available) to a dividend in respect of an accounting period or, as the case may be, any subsequent accounting period.

(6) A creditor who has submitted a claim, may at any time submit a further claim specifying a different amount for that creditor's claim, provided that a secured creditor shall not be entitled to produce a further claim specifying a different value for the security at any time after the administrator has required the creditor to discharge, convey or assign the security.

(7) Where an administration is immediately preceded by a winding up, a creditor who has proved a debt in the winding up is deemed to have proved it in the administration.”.

71. In Rule 2.27(2) omit the words “once only and”.

72. In Rule 2.27 omit paragraph (4).

73. After Rule 2.27 insert—

“2.27A Suspension and Adjournment

(1) This Rule applies to all meetings of creditors, and Rule 7.8 does not apply.

(2) If within 30 minutes from the time fixed for the commencement of the meeting those persons attending the meeting do not constitute a quorum, the chairman may adjourn the meeting to such time and place as the chairman may appoint.

(3) Once only in the course of the meeting the chairman may, without an adjournment, declare the meeting suspended for any period up to one hour.

(4) In the course of any meeting, the chairman may, in the chairman's discretion, and shall, if the meeting so resolves, adjourn it to such date, time and place as seems to the chairman to be appropriate in the circumstances.

(5) An adjournment under paragraph (4) must not be for a period of more than 14 days, subject to a direction from the court.

(6) If there are subsequent further adjournments, the final adjournment must not be to a day later than 14 days after the date on which the meeting was originally held.

(7) Where a meeting is adjourned under this Rule, proxies may be used if lodged at or before the adjourned meeting.

(8) Where a meeting is adjourned under this Rule, any proxies given for the original meeting may be used at the adjourned meeting.”.

74. In Rule 2.28(6) for “4.15 as applied by this Part” substitute “2.26C, except where the statement of claim and account or voucher have already been submitted by the creditor to the administrator”.

75. For Rule 2.29 substitute—

“2.29 Applicable Law (Company Meetings)

Subject to anything to the contrary in the Act and these Rules, a meeting of the members of the company must be summoned and conducted—

- (a) in the case of a company incorporated in a part of the United Kingdom in accordance with the law of that part including any applicable provision in or made under the Companies Act 2006;
- (b) in the case of a company incorporated in an EEA state other than the United Kingdom, in accordance with the law of that state applicable to meetings of the company; or
- (c) in any other case, in accordance with the law of Scotland, including any provision in or made under the Companies Act 2006 applicable to the company as an overseas company.”.

76. In Rule 2.31 for “12” substitute “8 business”.

77. In Rule 2.32(1) for “does” substitute “and (b) do”.

78. After Rule 2.32 insert—

“2.32A Notice of meetings by advertisement only

(1) The court may order that notice of any meeting be given by advertisement and not by individual notice to the persons concerned.

(2) In considering whether to act under this Rule, the court must have regard to the cost of advertisement, the amount of assets available and the extent of the interest of creditors, members or any particular class of either.”.

79. After Rule 2.34(1)(h)(iii) insert—

“; and

- (iv) where applicable, the declaration required by section 231.”.

80. In Rule 2.34(2) after “5” insert “business”.

81. In Rule 2.35(1)(a) after “notice of the meeting” insert “and to the registrar of companies;”.

82. In Rule 2.35(1)(b) omit “to the registrar of companies and”.

83. After Rule 2.35 insert—

“2.35A Action where person excluded

- (1) In this Rule and Rules 2.35B and 2.35C an “excluded person” means a person who—
- (a) has taken all steps necessary to attend a meeting under the arrangements put in place to do so by the convener of the meeting under section 246A(6); and
 - (b) those arrangements do not permit that person to attend the whole or part of that meeting.
- (2) Where the chairman becomes aware during the course of the meeting that there is an excluded person, the chairman may—
- (a) continue the meeting;
 - (b) declare the meeting void and convene the meeting again;
 - (c) declare the meeting valid up to the point where the person was excluded and adjourn the meeting.
- (3) Where the chairman continues the meeting, the meeting is valid unless—
- (a) the chairman decides in consequence of a complaint under Rule 2.35C to declare the meeting void and hold the meeting again; or
 - (b) the court directs otherwise.
- (4) Without prejudice to paragraph (2), where the chairman becomes aware during the course of the meeting of an excluded person, the chairman may, in the chairman’s discretion and without an adjournment, declare the meeting suspended for any period up to one hour.

2.35B Indication to excluded person

- (1) A person who claims to be an excluded person may request an indication of what occurred during the period of that person’s claimed exclusion (the “indication”).
- (2) A request under paragraph (1) must be made as soon as reasonably practicable, and, in any event, no later than 4 p.m. on the business day following the day on which the exclusion is claimed to have occurred.
- (3) A request under paragraph (1) must be made to—
- (a) the chairman, where it is made during the course of the business of the meeting; or
 - (b) the administrator where it is made after the conclusion of the business of the meeting.
- (4) Where satisfied that the person making the request is an excluded person, the person to whom the request is made must give the indication as soon as reasonably practicable and, in any event, no later than 4. p.m. on the day following the request in paragraph (1).

2.35C Complaint

- (1) Any person who—
- (a) is, or claims to be, an excluded person; or
 - (b) attends the meeting (in person or by proxy) and considers that they have been adversely affected by a person’s actual, apparent or claimed exclusion,
- (“the complainant”) may make a complaint.
- (2) The person to whom the complaint must be made (“the relevant person”) is—
- (a) the chairman, where it is made during the course of the meeting; or
 - (b) the administrator, where it is made after the meeting.
- (3) The relevant person must—
- (a) consider whether there is an excluded person;
 - (b) where satisfied that there is an excluded person, consider the complaint; and

- (c) where satisfied that there has been prejudice, take such action as the relevant person considers fit to remedy the prejudice.
- (4) Paragraph (5) applies where—
- (a) the relevant person is satisfied that the complainant is an excluded person;
 - (b) during the period of the person’s exclusion—
 - (i) a resolution was put to the meeting; and
 - (ii) voted on; and
 - (c) the excluded person asserts how the excluded person intended to vote on the resolution.
- (5) Subject to paragraph (6), where satisfied that the effect of the intended vote in paragraph (4), if cast, would have changed the result of the resolution, the relevant person must—
- (a) count the intended vote as being cast in accordance with the complainant’s stated intention;
 - (b) amend the record of the result of the resolution; and
 - (c) where those entitled to attend the meeting have been notified of the result of the resolution, notify them of the change.
- (6) Where satisfied that more than one complainant in paragraph (4) is an excluded person, the relevant person must have regard to the combined effect of the intended votes.
- (7) A complaint must be made as soon as reasonably practicable and, in any event, by 4 p.m. on the business day following—
- (a) the day on which the person was excluded; or
 - (b) where an indication is requested under Rule 2.35B, the day on which the complainant received the indication.
- (8) The relevant person must notify the complainant in writing of any decision.
- (9) A complainant who is not satisfied by the action of the relevant person may apply to the court for a direction to be given to the relevant person as to the action to be taken in respect of the complaint, and any application must be made no more than 2 business days from the date of receiving the decision of the relevant person.”.

84. For Rule 2.36 substitute—

“2.36 Constitution of committee

- (1) Where it is resolved by the creditors’ meeting to establish a creditors’ committee under paragraph 57, the committee shall consist of at least 3 and not more than 5 creditors of the company elected at the meeting.
- (2) A person claiming to be a creditor is entitled to be a member of the committee provided that—
 - (a) that person’s claim has neither been wholly disallowed for voting purposes, nor wholly rejected for the purpose of distribution or dividend; and
 - (b) the claim mentioned in sub-paragraph (a) is not fully secured.
- (3) A body corporate or a partnership may be a member of the committee, but it cannot act as such otherwise than by a representative appointed under Rule 2.36H.

2.36A Functions of the committee

In addition to any functions conferred on the creditors’ committee by any provisions of the Act, the creditors’ committee shall assist the administrator in discharging the administrator’s functions and shall act in relation to the administrator in such manner as may be agreed from time to time.

2.36B Formalities of establishment

(1) The creditors' committee shall not come into being, and accordingly cannot act, until the administrator has issued a certificate of its due constitution.

(2) If the chairman of the meeting which resolves to establish the committee is not the administrator, the chairman shall, as soon as reasonably practicable, give notice of the resolution to the administrator (or, as the case may be, the person appointed as administrator by the same meeting), and inform the administrator of the names and addresses of the persons elected to be members of the committee.

(3) No person may act as a member of the committee unless and until that person has agreed to do so and, unless the relevant proxy or authorisation contains a statement to the contrary, such agreement may be given on behalf of the member by that member's proxy-holder who is present at the meeting at which the committee is established or, in the case of a body corporate or partnership, by its duly appointed representative.

(4) The administrator's certificate of the committee's due constitution shall not be issued before the minimum number of members set out in Rule 2.36(1) elected to be members of the committee have agreed to act, but shall be issued as soon as reasonably practicable thereafter.

(5) As and when the others elected to be members of the committee (if any) agree to act, the administrator shall issue an amended certificate.

(6) The certificate (and any amended certificate) shall be sent by the administrator to the registrar of companies.

(7) If after the first establishment of the committee there is any change in its membership, the administrator shall, as soon as reasonably practicable report the change to the registrar of companies.

2.36C Meetings of the committee

(1) Subject as follows, meetings of the creditors' committee shall be held when and where determined by the administrator.

(2) The administrator shall call a first meeting of the committee to take place within 6 weeks of the committee's establishment.

(3) After the calling of the first meeting, the administrator must call a meeting—

- (a) if so requested by a member of the committee or a member's representative (the meeting then to be held within 21 days of the request being received by the administrator), and
- (b) for a specified date, if the committee has previously resolved that a meeting be held on that date.

(4) Subject to paragraph (5) the administrator shall give 5 business days written notice of the time and place of any meeting to every member of the committee (or a member's representative, if designated for that purpose), unless in any case the requirement of the notice has been waived by or on behalf of any member. Waiver may be signified either at or before the meeting.

(5) Where the administrator has determined that a meeting should be conducted and held in the manner referred to in Rule 2.36D, the notice period mentioned in paragraph (4) is 7 business days.

2.36D Remote attendance at meetings of creditors' committees

(1) This Rule applies to any meeting of a creditors' committee held under this Part.

(2) Where the administrator considers it appropriate, the meeting may be conducted and held in such a way that persons who are not present together at the same place may attend it.

(3) Where a meeting is conducted and held in the manner referred to in paragraph (2), a person attends the meeting if that person is able to exercise any rights which that person may have to speak and vote at the meeting.

(4) For the purposes of this Rule—

- (a) a person is able to exercise the right to speak at a meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting; and
- (b) a person is able to exercise the right to vote at a meeting when—
 - (i) that person is able to vote, during the meeting, on resolutions or determinations put to the vote at the meeting, and
 - (ii) that person's vote can be taken into account in determining whether or not such resolutions or determinations are passed at the same time as the votes of all the other persons attending the meeting.

(5) Where a meeting is to be conducted and held in the manner referred to in paragraph (2), the administrator must make whatever arrangements the administrator considers appropriate to—

- (a) enable those attending the meeting to exercise their rights to speak or vote, and
- (b) ensure the identification of those attending the meeting and the security of any electronic means used to enable attendance.

(6) Where in the reasonable opinion of the administrator—

- (a) a meeting will be attended by persons who will not be present together at the same place, and
- (b) it is unnecessary or inexpedient to specify a place for the meeting,

any requirement under these Rules to specify a place for the meeting may be satisfied by specifying the arrangements the administrator proposes to enable persons to exercise their rights to speak or vote.

(7) In making the arrangements referred to in paragraph (5) and in forming the opinion referred to in paragraph (6)(b), the administrator must have regard to the legitimate interests of the committee members or their representatives attending the meeting in the efficient despatch of the business of the meeting.

(8) If—

- (a) the notice of a meeting does not specify a place for the meeting,
- (b) the administrator is requested in accordance with Rule 2.36E to specify a place for the meeting, and
- (c) that request is made by at least one member of the committee,

the administrator must specify a place for the meeting.

2.36E Procedure for requests that a place for a meeting should be specified under Rule 2.36D

(1) This Rule applies to a request to the administrator of a meeting under Rule 2.36D to specify a place for the meeting.

(2) The request must be made within 5 business days of the date on which the administrator sent the notice of the meeting in question.

(3) Where the administrator considers that the request has been properly made in accordance with this Rule, the administrator must—

- (a) give notice to all those previously given notice of the meeting—
 - (i) that it is to be held at a specified place, and
 - (ii) whether the date and time are to remain the same or not;
- (b) specify a time, date and place for the meeting, the date of which must be not later than 7 business days after the original date for the meeting; and
- (c) give 5 business days' notice of the time, date and place to all those previously given notice of the meeting,

and the notices required by sub-paragraphs (a) and (c) may be given at the same or different times.

(4) Where the administrator has specified a place for the meeting in response to a request to which this Rule applies, the chairman of the meeting must attend the meeting by being present in person at that place.

2.36F The chairman at meetings

(1) The chairman at any meeting of the creditors' committee must be the administrator, or a person appointed by the administrator in writing to act.

(2) A person so appointed must be either—

- (a) a person who is qualified to act as an insolvency practitioner in relation to the company, or
- (b) an employee of the administrator or the administrator's firm who is experienced in insolvency matters.

2.36G Quorum

A meeting of the committee is duly constituted if due notice of it has been given to all the members, and at least 2 members are present or represented.

2.36H Committee members' representatives

(1) A member of the creditors' committee may, in relation to the business of the committee, be represented by another person duly authorised by the creditor for that purpose.

(2) A person acting as a committee member's representative must hold a mandate entitling that person so to act (either generally or specially) and authenticated by or on behalf of the committee member, and for this purpose any proxy in relation to any meeting of creditors of the company shall, unless it contains a statement to the contrary, be treated as such a mandate to act generally authenticated by or on behalf of the committee member.

(3) The chairman at any meeting of the committee may call on a person claiming to act as a committee member's representative to produce a mandate and may exclude that person if it appears that the mandate is deficient.

(4) No member may be represented by—

- (a) another member of the committee;
- (b) a person who is at the same time representing another committee member;
- (c) a body corporate;
- (d) a partnership;
- (e) a person whose estate is currently sequestered;
- (f) an undischarged bankrupt;
- (g) a person who is subject to a bankruptcy restrictions order, bankruptcy restrictions undertaking or interim bankruptcy restrictions order; or
- (h) a disqualified director.

(5) Where a member's representative authenticates any document on the member's behalf, the fact that the representative so authenticates must be stated below the representative's signature.

2.36I Resignation

A member of the creditors' committee may resign by notice in writing delivered to the administrator.

2.36J Termination of membership

Membership of the creditors' committee of any person is automatically terminated if—

- (a) the member's estate is sequestrated or the member becomes bankrupt or grants a trust deed for the benefit of, or makes a composition with, creditors,
- (b) at 3 consecutive meetings of the committee the member is neither present nor represented (unless at the third of those meetings it is resolved that this Rule is not to apply in the member's case), or
- (c) the member ceases to be a creditor and a period of 3 months has elapsed from the date that that member ceased to be a creditor, or the member is found never to have been a creditor.

2.36K Removal

A member of the creditors' committee may be removed by resolution at a meeting of creditors. At least 14 days notice must be given of the intention to move such a resolution.

2.36L Vacancies

(1) The following applies if there is a vacancy among the members of the creditors' committee.

(2) The vacancy need not be filled if the administrator and a majority of the remaining members so agree, provided that the total number of members does not fall below 3.

(3) The administrator may appoint any creditor, who is qualified under the Rules to be a member of the committee, to fill the vacancy, if a majority of the other members agree to the appointment, and the creditor concerned consents to act.

(4) Alternatively, a meeting of creditors may resolve that a creditor be appointed (with that creditor's consent) to fill the vacancy.

(5) Where the vacancy is filled by an appointment made by a creditors' meeting at which the administrator is not present, the chairman of the meeting must report to the administrator the appointment which has been made.

2.36M Voting rights and resolutions

(1) At any meeting of the creditors' committee, each member of it (whether present in person or by a member's representative) has one vote; and a resolution is passed when a majority of the members present or represented have voted in favour of it.

(2) Every resolution passed must be recorded in writing and authenticated by the chairman, either separately or as part of the minutes of the meeting, and the record must be kept as part of the sederunt book.

2.36N Resolutions otherwise than at a meeting

(1) In accordance with this Rule, the administrator may seek to obtain the agreement of members of the creditors' committee to a resolution by sending to every member (or a member's representative designated for the purpose) a copy of the proposed resolution.

(2) Where the administrator makes use of the procedure allowed by this Rule, the administrator shall send out to members of the committee or their representatives (as the case may be) a statement incorporating a copy of any proposed resolution on which a decision is sought, which shall be set out in such a way that agreement with or dissent from each separate resolution may be indicated by the recipient on the copy so sent.

(3) Any member of the committee may, within 7 business days from the date of the administrator sending out a resolution, require the administrator to summon a meeting of the committee to consider the matters raised by the resolution.

(4) In the absence of such a requirement, the resolution is deemed to have been passed by the committee if and when the administrator is notified in writing by a majority of the members that they concur with it.

(5) A copy of every resolution passed under this Rule, and a note that the committee's concurrence was obtained, shall be kept in the sederunt book.

2.36O Expenses of members, etc.

(1) The administrator shall defray any reasonable travelling expenses directly incurred by members of the creditors' committee or their representatives in respect of their attendance at the committee's meetings, or otherwise on the committee's business, as an expense of the administration.

(2) Paragraph (1) does not apply to any meeting of the committee held within 6 weeks of a previous meeting, unless the meeting in question is summoned at the instance of the administrator.

2.36P Formal defects

The acts of the creditors' committee established for any administration are valid notwithstanding any defect in the appointment, election or qualifications of any member of the committee or any committee member's representative or in the formalities of its establishment.

2.36Q Information from administrator

(1) Where the creditors' committee resolves to require the attendance of the administrator under paragraph 57(3), the notice to the administrator shall be in writing and authenticated by the majority of the members of the committee for the time being or their representatives.

(2) The meeting at which the administrator's attendance is required shall be fixed by the committee for a business day, and shall be held at such time and place as the administrator determines.

(3) Where the administrator so attends, the members of the committee may elect any one of their number to be chairman of the meeting, in place of the administrator or any nominee of the administrator.

2.36R Members' dealings with the company

(1) This Rule applies to—

- (a) any member of a creditors' committee;
- (b) any committee member's representative;
- (c) any person who is an associate of—
 - (i) a member of the committee, or
 - (ii) a committee member's representative; and
- (d) any person who has been a member of the committee at any time in the last 12 months or who is an associate of such a member.

(2) A person to whom this Rule applies may deal with the company provided that any transactions in the course of such dealings are in good faith and for value.”.

85. For Rule 2.38(2) substitute—

“(2) For the purposes of this Part, including Rules contained elsewhere in these Rules but applied by this Part, “accounting period” in relation to an administration shall be construed as follows:

- (a) the first accounting period is the period of 6 months beginning with the date on which the company entered administration; and
- (b) any subsequent accounting period is the period of 6 months beginning with the end of the last accounting period.”.

86. In Rule 2.39A(1)—

- (a) after “remuneration” insert “or outlays”; and
- (b) for “its” substitute “their”.

87. In Rule 2.39A(5)—

- (a) for “has” substitute “and outlays have”; and

- (b) for “be reduced on the grounds that it is, in all the circumstances, excessive” substitute “or outlays be reduced on the grounds that they are, in all the circumstances, excessive”.

88. In Rule 2.39B(3)(a)(viii) after “Rule 2.39” insert “and unpaid pre-administration costs approved under Rule 2.39C”.

89. After Rule 2.39B insert—

“2.39C Pre-administration costs

(1) Where the administrator has made a statement of pre-administration costs under Rule 2.25(1)(ka), the creditors’ committee may determine whether and to what extent the unpaid pre-administration costs set out in the statement are approved for payment.

(2) But paragraph (3) applies if—

- (a) there is no creditors’ committee,
- (b) there is, but it does not make the necessary determination, or
- (c) it does do so, but the administrator or other insolvency practitioner who has charged fees or incurred expenses as pre-administration costs considers the amount determined to be insufficient.

(3) When this paragraph applies, determination of whether and to what extent the unpaid pre-administration costs are approved for payment shall be—

- (a) by resolution of a meeting of creditors other than in a case falling in sub-paragraph (b), or
- (b) in a case where the administrator has made a statement under paragraph 52(1)(b)—
 - (i) by the approval of each secured creditor of the company, or
 - (ii) if the administrator has made, or intends to make, a distribution to preferential creditors, by the approval of each secured creditor of the company and preferential creditors whose debts amount to more than 50% of the preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval.

(4) The administrator must call a meeting of the creditors’ committee or of creditors if so requested for the purposes of paragraphs (1) to (3) by another insolvency practitioner who has charged fees or incurred expenses as pre-administration costs; and the administrator must give notice of the meeting within 28 days of receipt of the request.

(5) If—

- (a) there is no determination under paragraph (1) or (3), or
- (b) there is such a determination but the administrator or other insolvency practitioner who has charged fees or incurred expenses as pre-administration costs considers the amount determined to be insufficient,

the administrator (where the fees were charged or expenses incurred by the administrator) or other insolvency practitioner (where the fees were charged or expenses incurred by that practitioner) may apply to the court for a determination of whether and to what extent the unpaid pre-administration costs are approved for payment.

(6) Paragraphs (2) to (4) of Rule 2.39A apply to an application under paragraph (5) of this Rule as they do to an application under paragraph (1) of that Rule (references to the administrator being read as references to the insolvency practitioner who has charged fees or incurred expenses as pre-administration costs).

(7) Where the administrator fails to call a meeting of the creditors’ committee or of creditors in accordance with paragraph (4), the other insolvency practitioner may apply to the court for an order requiring the administrator to do so.”

90. After Rule 2.41(5)(b) insert—

“; and

- (c) in Rule 4.66(1)(d) the reference to “date of commencement of the administration” shall be construed as a reference to the date of commencement of winding up.”.

91. After Rule 2.41A insert—

“2.41B New administrator appointed

(1) If a new administrator is appointed in place of another, the former administrator must, as soon as reasonably practicable, transmit to the new administrator all the creditors’ claims which the former administrator has received, together with an itemised list of them.

(2) The new administrator must authenticate the list by way of receipt for the creditors’ claims and return it to the former administrator.

(3) From then on, all creditors’ claims must be sent to and retained by the new administrator.”.

92. In Rule 2.43(2) after “and to all” insert “other”.

93. At the end of the heading to Rule 2.45 insert the words “ – other than by a creditors’ voluntary liquidation under paragraph 83 or by dissolution under paragraph 84.”

94. In Rule 2.45(2) for “those” substitute “other”.

95. In Rule 2.46(3) for “7” substitute “5 business”.

96. For Rule 2.47 substitute—

“2.47 Moving from administration to creditors’ voluntary liquidation

(1) A notice pursuant to paragraph 83(3) shall be in the form required by Rule 7.30 and Schedule 5.

(2) As soon as reasonably practicable after the day on which the registrar registers that notice, the person who has ceased to be the administrator (whether or not that person becomes the liquidator) must send a final progress report (which must include details of the assets to be dealt with in the liquidation) to the registrar and to all other persons who received notice of the administrator’s appointment.

(3) For the purposes of paragraph 83(7)(a) a person is nominated by the creditors as liquidator by—

- (a) the creditors’ approval of the statement of the proposed liquidator in the administrator’s proposals or revised proposals, or
- (b) the nomination by the creditors of a different person before the creditors’ approval of the administrator’s proposals or revised proposals.

(4) Where the creditors nominate a different person, the nomination must, where applicable, include the declaration required by section 231 (appointment to office of two or more persons).”.

97. In Rule 2.48(2) for “those” substitute “other persons”.

98. In Rule 2.50(1) for “7” substitute “5 business”.

99. In Rule 2.51(2) for “those” substitute “other persons”.

100. In Rule 2.52(1) omit “or, where the deceased administrator was a partner in a firm, of a partner of that firm”.

101. In Rule 2.52 insert after paragraph (1)—

“(1A) If the deceased administrator was a partner in or an employee of a firm, notice may be given by a partner in the firm who is qualified to act as an insolvency practitioner, or is a member of any body recognised by the Secretary of State for the authorisation of insolvency practitioners.”

102. For Rule 2.57(1) substitute—

“(1) Where a member State liquidator proposes to apply to the court for the conversion into winding-up proceedings of an administration, an affidavit complying with Rule 2.58 must be prepared and lodged in court in support of the application.

(1A) In this Rule, and in Rules 2.58 and 2.59, “conversion into winding-up proceedings” means an order under Article 37 of the EC Regulation (conversion of earlier proceedings) that—

- (a) the purposes of the administration are to be limited to the winding up of the company through administration and are to exclude the purpose contained in sub-paragraph (a) of paragraph 3(1);
- (b) the administration is converted into a creditors’ voluntary winding up; or
- (c) the administration is converted into a winding up by the court.”.

103. In Rule 2.58(1)(b) for “a winding up” substitute “winding-up proceedings”.

104. In Rule 2.59(1) and (2) for “winding up” substitute “winding-up proceedings”.

105. In Rule 7.3(2) for sub-paragraph (a) substitute—

“(a) any meeting of the company or of its creditors under paragraph 52, 56 or 62 of Schedule B1 to the Act;”.

106. In Rule 7.9(4)(a) omit “supervisor”.

107. In Rule 7.9(4)(b) omit “voluntary arrangement;”.

108. In Rule 7.9 omit sub-sub-paragraph (4)(c)(i).

109. In Rule 7.11 omit paragraph (2).

110. In Rule 7.12 omit paragraph (2).

111. After Rule 7.13B(2) insert—

“(3) In an administration, paragraph (2) does not apply and the court may direct that the requirement of paragraph (1)(c) of this Rule be met by the publication of a notice containing the standard content and stating that the Court has made an order disapplying the requirement to set aside the prescribed part.

(4) The notice referred to in paragraph (3) must be published as soon as reasonably practicable in the Edinburgh Gazette and may be advertised in such other manner as the administrator thinks fit.”.

112. After Rule 7.21(1) insert—

“(1A) In Parts 1 and 2 where electronic delivery is permitted a notice or other document in electronic form is treated as being in writing if a copy of it is capable of being produced in a legible form.”.

113. After Rule 7.21 insert—

“7.21A Contents of notices in Parts 1 and 2 to be published in the Edinburgh Gazette under the Act or Rules

(1) Where under Parts I and II of the Act or Parts 1 and 2 of the Rules a notice must be published or advertised in the Edinburgh Gazette, in addition to any content specifically required by the Act or any other provision of the Rules, the content of such a notice must be as set out in this Rule.

(2) All notices published must specify insofar as it is applicable in relation to the particular notice—

- (a) the name and postal address of the office-holder acting in the proceedings to which the notice relates;
- (b) the capacity in which the office holder is acting and the date of appointment;

- (c) either an e-mail address, or a telephone number, through which the office holder may be contacted;
- (d) the name of any person other than the office-holder (if any) who may be contacted regarding the proceedings;
- (e) the number assigned to the office-holder by the Secretary of State; and
- (f) the court name and any number assigned to the proceedings by the court.

(3) All notices published must specify as regards the company to which the notice relates—

- (a) the registered name of the company;
- (b) its registered number;
- (c) its registered office, or if an unregistered company, the postal address of its principal place of business;
- (d) any principal trading address if this is different from its registered office;
- (e) any name under which it was registered in the 12 months prior to the date of the commencement of the proceedings which are the subject of the notice in the Edinburgh Gazette; and
- (f) any name or style (other than its registered name) under which—
 - (i) the company carried on business; and
 - (ii) any debt owed to a creditor was incurred.

7.21B Notices otherwise advertised under the Act or Rules

(1) Where under Parts I and II of the Act or Parts 1 and 2 of the Rules a notice may be advertised otherwise than in the Edinburgh Gazette, in addition to any content specifically required by the Act or any other provision of the Rules, the content of such a notice must be as set out in this Rule.

(2) All notices published must specify insofar as it is applicable in relation to the particular notice—

- (a) the name and postal address of the office-holder acting in the proceedings to which the notice relates; and
- (b) either an e-mail address, or a telephone number, through which the office holder may be contacted.

(3) All notices published must specify as regards the company to which the notice relates—

- (a) the registered name of the company;
- (b) its registered number;
- (c) any name under which it was registered in the 12 months prior to the date of the commencement of the proceedings which are the subject of the Edinburgh Gazette notice; and
- (d) any name or style (other than its registered name) under which—
 - (i) the company carried on business; and
 - (ii) any debt owed to a creditor was incurred.

7.21C Notices otherwise advertised – other additional provision

The information required to be contained in a notice to which Rule 7.21B applies must be included in the advertisement of that notice in a manner that is reasonably likely to ensure, in relation to the form of the advertising used, that a person reading, hearing or seeing the advertisement, will be able to read, hear or see that information.

7.21D Omission of unobtainable information

Information required by Rules 7.21A and 7.21B to be included in a notice may be omitted if it is not reasonably practicable to obtain it.”

114. After Rule 7.30, insert—

“7.30A Electronic submission of information instead of submission of forms to the Secretary of State, office-holders, and of copies to the registrar of companies

(1) This Rule applies in any case where information in a prescribed form is required by Part 1 or 2 of these Rules to be sent by any person to the Secretary of State, or an office-holder, or a copy of a prescribed form is to be sent to the registrar of companies.

(2) A requirement of the kind mentioned in paragraph (1) is treated as having been satisfied where—

- (a) the information is submitted electronically with the agreement of the person to whom the information is sent;
- (b) the form in which the electronic submission is made satisfies the requirements of the person to whom the information is sent (which may include a requirement that the information supplied can be reproduced in the format of the prescribed form);
- (c) that all the information required to be given in the prescribed form is provided in the electronic submission; and
- (d) the person to whom the information is sent can produce in legible form the information so submitted.

(3) Where information in a prescribed form is permitted to be sent electronically under paragraph (2), any requirement in the prescribed form that the prescribed form be accompanied by a signature is taken to be satisfied—

- (a) if the identity of the person who is supplying the information in the prescribed form and whose signature is required is confirmed in a manner specified by the recipient; or
- (b) where no such manner has been specified by the recipient, if the communication contains or is accompanied by a statement of the identity of the person who is providing the information in the prescribed form, and the recipient has no reason to doubt the truth of that statement.

(4) Where information required in prescribed form has been supplied to a person, whether or not it has been supplied electronically in accordance with paragraph (2), and a copy of that information is required to be supplied to another person falling within paragraph (1), the requirements contained in paragraph (2) apply in respect of the supply of the copy to that other person as they apply in respect of the original.

7.30B Electronic submission of information instead of submission of forms in all other cases

(1) This Rule applies in any case where Rule 7.30A does not apply, where information in a prescribed form is required by Part 1 or 2 of these Rules to be sent by any person.

(2) A requirement of the kind mentioned in paragraph (1) is treated as having been satisfied where—

- (a) the person to whom the information is sent has agreed—
 - (i) to receiving the information electronically and to the form in which it is to be sent; and
 - (ii) to the specified manner in which paragraph (3) is to be satisfied.
- (b) all the information required to be given in the prescribed form is provided in the electronic submission; and
- (c) the person to whom the information is sent can produce in legible form the information so sent.

(3) Any requirement in a prescribed form that it be accompanied by a signature is taken to be satisfied if the identity of the person who is supplying the information and whose signature is required, is confirmed in the specified manner.

(4) Where information required in prescribed form has been supplied to a person, whether or not it has been supplied electronically in accordance with paragraph (2), and a copy of that information is required to be supplied to another person falling within paragraph (1), the requirements contained in paragraph (2) apply in respect of the supply of the copy to that other person, as they apply in respect of the original.”.

115. For Rule 7.35 substitute—

“7.35 Information about time spent on a case - administration and company voluntary arrangements

(1) Subject as set out in this Rule, a person (“the relevant person”) who has acted or is acting as—

- (a) a nominee in respect of a proposed voluntary arrangements;
- (b) a supervisor in respect of a voluntary arrangement; or
- (c) an administrator,

must, on request in writing by any person mentioned in paragraph (2), supply free of charge to that person a statement of the kind described in paragraph (3).

(2) The persons referred to in paragraph (1) are—

- (a) any director of the company, or
- (b) where the proposed voluntary arrangement has been approved, or where the company is in administration, any creditor or member of the company.

(3) The statement referred to in paragraph (1)—

- (a) must comprise the following details—
 - (i) the total number of hours spent on all or any of the proposal, the voluntary arrangement and administration by the relevant person, and any staff assigned to the case during that period;
 - (ii) for each grade of individual so engaged, the average hourly rate at which any work carried out by individuals in that grade is charged; and
 - (iii) the number of hours spent by each grade of staff during the period covered by the statement; and
- (b) must cover the period beginning with the date of the appointment of the relevant person as nominee, supervisor or administrator (whichever is the earlier), as the case may be, and ending—
 - (i) with the date next before the date of making the request on which the relevant person has completed any period as nominee, supervisor or administrator, which is a multiple of 6 months, or
 - (ii) where the relevant person has ceased to act in any capacity in relation to the proposal, the voluntary arrangement or administration, the date upon which the person so ceased.

(4) No request pursuant to this Rule may be made where more than 2 years has elapsed since the relevant person ceased to act in any capacity in relation to the proposal, any voluntary arrangement arising out of the approval of the proposal or administration.

(5) Any statement required to be provided to any person under this Rule must be supplied within 28 days of the date of the receipt of the request by the person required to supply it.”.

116. In Form 2.25B (Scot) (Notice of move from administration to creditors’ voluntary liquidation) in Schedule 5 omit “I / we attach a copy of the final progress report.”.

117. The Form contained in Schedule 2 to these Rules is inserted in Schedule 5 to the principal Rules between Form 2.16B (Scot) (Statement of administrator’s proposals) and Form 2.17B (Scot) (Statement of administrator’s revised proposals).

118. In Form 2.30B (Scot) (Notice of vacation of office by administrator) in Schedule 5 after “to the Registrar of Companies at:” insert “4th Floor, Edinburgh Quay 2, 139 Fountainbridge, Edinburgh, EH3 9FF.”.

SCHEDULE 2

Paragraph 117, Schedule 1

FORM FOR INSERTION INTO SCHEDULE 5 TO THE PRINCIPAL RULES

Rule 2.25

Form 2.16BZ (Scot)

The Insolvency Act 1986

Notice of deemed approval of proposals

Name of Company	Company number
In the <div style="text-align: center;">[full name of court]</div>	Court case number

(a) Insert name(s) and address(es) of administrator(s) I/We (a) _____

 Having been appointed administrator(s) of (b) _____

(b) Insert name and address of registered office of company _____

(c) Insert date of appointment on (c) _____ by (d) _____

(d) Insert name of applicant/appointer hereby give notice that:
 having made a statement under paragraph 52(1) of Schedule B1 and no meeting having been requisitioned under paragraph 49 of that Schedule,
 the proposals sent by me on (e) _____
 were deemed to have been approved on (e) _____

(e) Insert date

Signed _____
 Joint/Administrator(s)

Presenter's details: You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.	
	Tel
	DX

Companies House Barcode.	When completed and signed please send it to the Registrar of Companies at: Companies House, 4th Floor, Edinburgh Quay 2, 139 Fountainbridge, Edinburgh, EH3 9FF, LP 4 – Edinburgh 2
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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make amendments to Parts 1, 2 and 7 of, and Schedule 5 to, the Insolvency (Scotland) Rules 1986 (“the principal Rules”). Those Rules set out detailed procedures for the conduct of company insolvency proceedings in Scotland. Part 1 deals with company voluntary arrangements (“CVAs”), Part 2 with administration procedure, Part 7 with provisions of general application and Schedule 5 with forms. The amendments made by these Rules to Part 7 apply only to CVAs or administration procedure.

Schedule 1 (introduced by Rule 3) contains 118 paragraphs of detailed amendments to the principal Rules. Apart from minor drafting and technical changes to the principal Rules, the following are the principal substantive changes made by these amendments:

- Notices published in the Edinburgh Gazette and elsewhere will require to contain standard content (as defined in the new definition inserted into Rule 0.2(1) (paragraphs 1 and 113 of Schedule 1));
- Provision is made to allow for electronic delivery of notices and other documents between those involved in a CVA or administration, and for nominees, supervisors and administrators to make documents available to interested parties via a website in prescribed circumstances (paragraph 3 as regards CVAs, and new Rules 2.25B to 2.25E inserted by paragraph 68 as regards administrations);
- Rules are made in relation to authentication of both hard copy and electronic documents (paragraph 2);
- Provision is made in relation to meetings to be held under section 246A of the Insolvency Act 1986. That section allows the convener of a meeting to hold it in such a way that those attending may do so using any form of technology which permits them to be heard and to vote at the meeting rather than attend in person or by proxy. Provision is made in relation to individuals who have taken all steps necessary to attend a meeting using the arrangements put in place but are unable to do so (new Rules 1.16C – 1.16E inserted by paragraph 27 as regards CVAs and paragraph 83 as regards administrations). In addition, creditors may request that a place be set for a meeting to be held under section 246A of the Insolvency Act 1986 (paragraph 22 as regards CVAs and new Rule 2.26B inserted by paragraph 70 as regards administrations);
- The Rules for the constitution, establishment and meetings of the creditors’ committee in an administration are set out in full in new Rules 2.36 – 2.36R (inserted by paragraph 84) which include, at new Rules 2.36D and 2.36E, provision relating to meetings that allow a person to be heard and vote at the meeting though not physically present;
- Provision is made to enable administrators to recover pre-administration costs (that is, the costs incurred by the administrator or another person qualified to act as an insolvency practitioner before the company entered administration but with a view to its doing so) subject to the approval of creditors (paragraphs 64 and 89);
- The court is given power to direct that information be omitted from certain statements to be sent to creditors where disclosure of the information might reasonably be expected to lead to violence against any person (paragraph 55 as regards CVAs and paragraph 58 and new Rule 2.25A inserted by paragraph 68 as regards administrations);
- A procedure by which a creditor may obtain an adjudication as to entitlement to vote at any meeting of creditors in an administration and a dividend is set out by new Rule 2.26C (paragraph 71); and
- Provision is made to enable the electronic submission of information instead of in a prescribed form to the Secretary of State, office holders and the registrar of companies (new Rule 7.30A) and in all other cases (new Rule 7.30B)(paragraph 114).

The Amendments come into force on 6th April 2010. However, Rules 4 to 6 of these Rules contain transitional provisions.

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