

This Statutory Instrument has been printed to correct errors in SI 2010/686 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2010 No. 734

INSOLVENCY

The Insolvency (Amendment) (No. 2) Rules 2010

<i>Made</i>	- - - -	<i>10th March 2010</i>
<i>Laid before Parliament</i>		<i>12th March 2010</i>
<i>Coming into force</i>	- -	<i>6th April 2010</i>

The Lord Chancellor has consulted the committee existing for the purposes of section 413 of the Insolvency Act 1986(a) (“the Act”).

The Lord Chancellor makes the following Rules—

in exercise of the powers conferred by sections 411 and 412(b) of the Act,

with the concurrence of the Secretary of State, and

with the concurrence of the Chancellor of the High Court (by authority of the Lord Chief Justice under sections 411(7) and 412(6)(c) of the Act) in relation to those Rules which affect court procedure.

Citation and commencement

1. These Rules may be cited as the Insolvency (Amendment) (No. 2) Rules 2010 and come into force on 6th April 2010.

Amendment of Insolvency (Amendment) Rules 2010

2. The Insolvency (Amendment) Rules 2010(d) are amended as provided in Rules 3 to 12 below.

3. In Rule 3, for “paragraph 558” substitute “paragraph 559”.

4. In paragraph 190(2) of Schedule 1, for “creditors’ committee” substitute “liquidation committee”.

5. In paragraph 204(3) of Schedule 1, for “paragraph (1)” substitute “paragraph (1A)”.

(a) 1986 c. 45.

(b) Sections 411 and 412 were amended by the Insolvency Act 1986 (Amendment) Regulations 2002 (S.I. 2002/1037).

(c) Subsections (7) of section 411 and (6) of section 412 were inserted by 2005 c. 4, s. 15(1) and Schedule 4, paragraphs 185, 188(1) and (3) and 189(1) and (3).

(d) S.I. 2010/686.

6. In paragraph 502 of Schedule 1, in each of sub-paragraphs (3) to (6), for “paragraph 558” substitute “paragraph 559”.

7. In paragraph 529 of Schedule 1—

- (a) number the unnumbered first sub-paragraph as (1);
- (b) renumber the second sub-paragraph (numbered (1)) as (2).

8. In sub-paragraph (2) of each of paragraphs 531, 532 and 556 of Schedule 1, at the beginning of the words in quotation marks “HM Land Registry is cancelled” insert “at”.

9. Omit paragraph 538 of Schedule 1.

10. In the heading of Schedule 2, for the reference to paragraph 558 of Schedule 1 substitute a reference to paragraph 559.

11. For paragraph 2(1)(b) of Schedule 4 substitute—

“(b) the amendments in the following paragraphs of Schedule 1 to these Rules: 1, 21(3), 22, 35, 36(2) to (4), 37, 40(3), 42, 43(4), 45(4), 66(5) and (6), 95, 97(2), 99(3), 106, 108(3), 109, 113, 114, 116(2) and (3)(a), 117, 142(2), 143, 146(2) to (5), (7) and (8)(a), 149(3), 150(2), (3)(a) and (4), 154 to 156, 161, 162(2) to (6) and (8), 165(2) and (3)(a) and (c), 166, 168(2), 169, 170(2) and (3), 171, 173, 210(2)(a) and (c), 211(2)(a) and (c), 222(4)(a) and (c), 226(2)(a) and (c), 248(2) and (3)(b), 250, 254(3), 255(4) and (5), 256, 260, 266(2)(a) and (b), (3) and (4), 282, 291(2), (3) and (4)(a), 296, 297, 300, 301(2) and (3), 302(2), 303, 304(3) and (4), 307(2) and (3), 308, 309, 310(2), 314, 315(3), 317(3), 320, 326, 328, 330(2)(a) and (c), 331 to 335, 337, 365(a) and (c), 383, 384(2), (3)(a) and (4), 385, 391(2), 393(2) and (3)(b), 395, 397(2)(a) and (c), 398(2) and (3), 399, 401(2) and (3)(a), 402(2), 403, 404(3)(b), 406, 416, 419, 420, 422, 423, 424(2) and (3)(b), 425, 426, 428, 429, 430(2) and (3)(b), 431, 440(2) and (3)(a), 441, 443 to 445, 451, 453, 456, 464(3), 465, 473(3), 478, 479, 480(3), 482, 493, 495, 499(9), 502(3) to (6), 503, 504, 505(3) and (4), 513 to 516, 518(2) and (3), 519 to 523, 525, 526, 529, 531 to 537, 540 to 545, 547, 549, 552, 555, 556, 559 (so far as it relates to Forms 6.13, 6.17, 6.18, 7.1 and 7.2 and new Forms 6.13A, 6.17A, 6.18A and 7.1A) and 560(5) and (6);”.

12. For paragraph 2(3)(a) of Schedule 5 substitute—

“(a) the amendments in the following paragraphs of Schedule 1 to these Rules: 1, 440(2) and (3)(a), 441, 443 to 445, 451, 453, 456, 464(3), 465, 473(3), 478, 479, 480(3), 482, 493, 495, 499(9), 502(3) to (6), 559 (so far as it relates to Forms 7.1 and 7.2 and new Form 7.1A) and 560(5) and (6);”.

Additional transitional provision

13. Where a company goes into voluntary liquidation under paragraph 83 of Schedule B1 to the Act(a) in a case in which article 12(1) and (2) of the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010(b) causes section 104A of the Act(c) and the amendments to section 105 of the Act(d) to apply, the amendments to the Insolvency Rules 1986(e) made by the Insolvency (Amendment) Rules 2010 apply to the extent necessary to give effect to section 104A and the amendments to section 105 notwithstanding that by virtue of paragraph 1(6)(a) or (b) of Schedule 4 to the Insolvency (Amendment) Rules 2010 those amendments to the Insolvency Rules 1986 would otherwise not apply.

9th March 2010 *Jack Straw*
Lord Chancellor and Secretary of State for Justice

I concur, by the authority of the Lord Chief Justice
10th March 2010 *The Rt Hon Sir Andrew Morritt*
The Chancellor of the High Court

I concur, on behalf of the Secretary of State
10th March 2010 *Ian Lucas*
Minister for Business and Regulatory Reform
Department for Business, Innovation and Skills

(a) Schedule B1 was inserted by 2002 c. 40, s. 248(2) and Schedule 16.
(b) S.I. 2010/18.
(c) Section 104A was inserted by S.I. 2010/18, article 6(3).
(d) Section 105 was amended by S.I. 2010/18, article 6(4).
(e) S.I. 1986/1925; relevant amending instruments are S.I. 1987/1919, 1993/602, 1999/359, 1022, 2001/763, 2002/1307, 2712, 2003/1730, 2004/584, 1070, 2005/527, 2006/1674, 2009/642, 2472, 2010/686.

EXPLANATORY NOTE

(This note is not part of the Rules)

Rules 3, 6 and 10 to 12 correct an error in cross-references in the Insolvency (Amendment) Rules 2010. Every reference to paragraphs in Schedule 1 numbered from 529 onwards is numbered one lower than it should be (so that, for example, paragraph 529 is incorrectly referred to as 528). These Rules substitute correct references for the incorrect ones. (Rules 11 and 12 substitute complete sub-paragraphs for ease of reference: only the numbers from 529 onwards in Rule 11 and numbers 559 and 560 in Rule 12 are changed.)

The second paragraph of the Explanatory Note to the Insolvency (Amendment) Rules 2010 contained the same error. It should have read:

Rule 2 introduces Schedule 1, which contains 560 paragraphs of amendments:

paragraph 1 contains amendments which apply throughout the 1986 Rules, other than in Schedule 4 (forms);

paragraphs 2 to 500 contain specific amendments to particular Rules and insert some new Rules: the amendments in paragraphs 111 (Rule 3.1) and 137 (Rule 3.39) apply also in Scotland to the extent provided by Rule 0.3(2) of the 1986 Rules;

paragraph 501 contains amendments to the list of courts in which bankruptcy petitions may be presented;

paragraph 502 deletes a large number of forms and contains amendments which apply throughout the remaining forms;

paragraphs 503 to 558 contain specific amendments to particular forms;

paragraph 559 provides for the replacement of ten forms with nine new ones, as set out in Schedule 2;

paragraph 560 amends Schedule 5 to the 1986 Rules (punishment of offences).

Paragraph 529 itself contained a numbering error, corrected by Rule 7.

Rule 4 replaces an incorrect reference to the “creditors’ committee” with a reference to the “liquidation committee” in an amendment to Rule 4.71 of the Insolvency Rules 1986 (which is about liquidation).

Rule 5 corrects a cross-reference within the amendments to Rule 4.108 of the Insolvency Rules 1986.

Rule 8 rectifies an omission from words which are to be substituted by other words in amendments to three forms prescribed by the Insolvency Rules 1986.

Rule 9 removes paragraph 538 from Schedule 1 to the Insolvency (Amendment) Rules 2010. (It does not make sense and was included in error.)

Rule 13 makes an additional transitional provision for the Insolvency (Amendment) Rules 2010, to remove an inconsistency between paragraph 1(6) of Schedule 4 to those Rules and article 12(1) and (2) of the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010. Where a company enters administration before 6 April 2010 and is converted (under paragraph 83 of Schedule B1 of the Insolvency Act 1986) into a creditors’ voluntary liquidation on or after that date, the amendments to the Insolvency Rules 1986 providing for progress reports in creditors’ voluntary liquidations and removing the requirement to hold annual meetings in those liquidations will apply so as to give effect to the provisions in the the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010 for progress reports and the abolition of annual meetings.

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