

SCHEDULE 1

Introductory Rule 2

REVOCATIONS

In this Schedule, “the 1986 rules” means the Insolvency (Scotland) Rules 1986.

<i>Name</i>	<i>Number</i>	<i>Extent of revocation</i>
The Insolvency (Scotland) Rules 1986	S.I. 1986/1915	Parts 1 and 2 in their entirety. Rules 0.1 to 0.3 and Part 7 (and schedules 3 to 5) insofar as they apply to CVAs and administration.
The Insolvency (Scotland) Amendment Rules 1987	S.I. 1987/1921	Insofar as they amend the 1986 Rules in relation to CVAs and administration.
The Insolvency (Scotland) Amendment Rules 2002	S.I. 2002/2709	The entire S.I.
The Enterprise Act 2002 (Consequential Amendments) (Prescribed Part) (Scotland) Order 2003	S.I. 2003/2108	Part 1 insofar as it amends the 1986 Rules in relation to CVAs and administration.
The Insolvency (Scotland) Regulations 2003	S.I. 2003/2109	Part 2 and Schedule 2 insofar as they amend the 1986 Rules in relation to CVAs and administration.
The Insolvency (Scotland) Amendment Rules 2003	S.I. 2003/2111	Insofar as they amend the 1986 Rules in relation to CVAs and administration.
The Insolvency (Scotland) Amendment Rules 2006	S.I. 2006/734	The entire S.I. except for rule 13.
The Insolvency (Scotland) Amendment Rules 2008	S.I. 2008/662	The entire S.I.
The Insolvency (Scotland) Amendment Rules 2009	S.I. 2009/662	The entire S.I.
The Insolvency (Scotland) Amendment (No. 2) Rules 2009	S.I. 2009/2375	The entire S.I.
The Insolvency (Scotland) Amendment Rules 2010	S.I. 2010/688	The entire S.I.
The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012	S.I. 2012/2404	In schedule 3, paragraph 4(2)-(4).
The Insolvency (Scotland) Amendment Rules 2014	S.S.I. 2014/114	Insofar as it amends the 1986 Rules in relation to administration.

Status: Point in time view as at 26/06/2020.

Changes to legislation: There are currently no known outstanding effects for the The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018. (See end of Document for details)

The Insolvency Amendment (EU S.I. 2017/702
2015/848) Regulations 2017

Part 5 insofar as it
amends the 1986 Rules
in relation to CVAs and
administration.

SCHEDULE 2

Introductory Rule 4

TRANSITIONAL AND SAVINGS PROVISIONS

General

1. In this Schedule—

“the 1986 Rules” means the Insolvency (Scotland) Rules 1986 as they had effect immediately before the commencement date and a reference to “1986 Rules” followed by a rule number is a reference to a rule in the 1986 Rules; and

“the commencement date” means the date these Rules come into force.

Requirement for office-holder to provide information to creditors on opting out

2.—(1) Rule 1.35, which requires an office-holder to provide information to a creditor on the right to elect to opt out under rule 1.34 in the first communication to the creditor, does not apply to—

- (a) an administrator; or
- (b) a supervisor of a CVA

who has delivered the first communication before the commencement date.

(2) An administrator or supervisor of a CVA may choose to deliver information on the right to opt out in which case the communication to the creditor must contain the information required by rule 1.35.

Electronic communication

3.—(1) Rule 1.41(4) does not apply where the relevant proceedings commenced before the commencement date.

(2) In this paragraph relevant proceedings are commenced on—

- (a) the delivery of a proposal for a voluntary arrangement to the intended nominee;
- (b) the appointment of an administrator under paragraph 14 or 22 of Schedule B1; or
- (c) the making of an administration order.

Statement of affairs

4.—(1) The provisions of these Rules relating to statements of affairs in an administration do not apply where relevant proceedings were commenced before the commencement date and the 1986 Rules relating to statements of affairs in an administration continue to apply.

(2) In this paragraph relevant proceedings are commenced on—

- (a) the appointment of an administrator under paragraph 14 or 22 of Schedule B1; or
- (b) the making of an administration order;

Savings in respect of meetings to be held on or after the commencement date and resolutions by correspondence

5.—(1) This paragraph applies where on or after the commencement date—

- (a) a creditors' meeting is to be held as a result of a notice issued before that date in relation to a meeting for which provision is made by the 1986 Rules or the 1986 Act;
- (b) a meeting is to be held as a result of a requisition by a creditor made before that date;
- (c) a meeting is to be held as a result of a statement made under paragraph 52(1)(b) of Schedule B1 and a request is made before that date which obliges the administrator to summon an initial creditors' meeting.

(2) Where paragraph (1) applies, Part 5 of these Rules does not apply and the 1986 Rules relating to the following continue to apply—

- (a) the requirement to hold the meeting;
- (b) notice and advertisement of the meeting;
- (c) governance of the meeting;
- (d) recording and taking minutes of the meeting;
- (e) the report or return of the meeting;
- (f) membership and formalities of establishment of creditor's committees where the resolution to form the committee is passed at the meeting;
- (g) the office-holder's resignation or removal at the meeting;
- (h) the office-holder's release;
- (i) fixing the office-holder's remuneration;
- (j) hand-over of assets to a supervisor of a voluntary arrangement where the proposal is approved at the meeting;
- (k) the notice of appointment of a supervisor of a voluntary arrangement where the appointment is made at the meeting;
- (l) claims that remuneration is or that other expenses are excessive; and
- (m) complaints about exclusion at the meeting.

(3) Where, before the commencement date, the administrator sought to obtain a resolution by correspondence under 1986 rule 2.28, the 1986 Rules relating to resolutions by correspondence continue to apply and paragraph (2) applies to any meeting that those rules require the office-holder to summon.

Progress reports and statements to the registrar of companies

6.—(1) Where an obligation to prepare a progress report arises before the commencement date but has not yet been fulfilled 1986 rule 2.38 continues to apply.

(2) Where, before the commencement date, a conversion notice under paragraph 83 of Schedule B1 was sent to the registrar of companies, 1986 rule 2.47 continues to apply.

Foreign currency

7. Where, before the commencement date, an amount stated in a foreign currency on a statement of claim or evidence of debt (according to the nature of the debt claimed) is converted into sterling by the administrator under 1986 rule 4.17(2), the administrator and any successor to the administrator must continue to use that exchange rate for subsequent conversions of that currency into sterling for the purpose of distributing any assets of the insolvent estate.

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Changes to legislation: There are currently no known outstanding effects for the The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018. (See end of Document for details)

CVA moratoria

8. Where, before the commencement date, the directors of a company submit to the nominee the documents required under paragraph 6(1) of Schedule A1, the 1986 Rules relating to moratoria continue to apply to that proposed voluntary arrangement.

Applications before the court

9. Where an application to court is lodged or a petition is presented under the Act or under the 1986 Rules before the commencement date and the application or petition has not been determined or withdrawn, the 1986 Rules continue to apply to that application or petition.

Forms

10. A form contained in Schedule 5 to the 1986 Rules may be used on or after the commencement date if—

- (a) the form is used to provide a statement of affairs pursuant to paragraph 4 of this Schedule;
- (b) the form relates to a meeting held under the 1986 Rules to which paragraph 5 of this Schedule applies;
- (c) the form is required because before the commencement date, the administrator sought to obtain the passing of a resolution by correspondence; or
- (d) the form relates to any application to the court made, or petition presented, before the commencement date.

Administrations commenced before 15th September 2003

11. The 1986 Rules continue to apply to administrations where the petition for an administration order was presented before 15th September 2003.

Savings in respect of special insolvency rules: limited liability partnerships

12. The 1986 Rules insofar as they apply to insolvency proceedings under the Limited Liability Partnerships Regulations 2001^{M1} continue to have effect for the purposes of the application of those Regulations.

Marginal Citations

M1 S.I. 2001/1090.

SCHEDULE 3

Introductory Rule 5

PUNISHMENT OF OFFENCES UNDER THESE RULES

<i>Rule creating offence</i>	<i>General nature of the offence</i>	<i>Mode of prosecution</i>	<i>Maximum Penalty</i>	<i>Daily default fine (if applicable)</i>
1.51(1)	Falsely claiming to be a person entitled to inspect	1. On indictment	2 years' imprisonment, or a fine, or both.	Not applicable.

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	a document with the intention of gaining sight of it.	2. Summary	12 months' imprisonment, or a fine not exceeding the statutory maximum, or both.	
3.55(7)	Former administrator failing to file a notice of automatic end of administration and progress report.	Summary	A fine not exceeding level 3 on the standard scale.	One tenth of level 3 on the standard scale.
3.70(2)	Failure to comply with administrator's duties on vacating office.	Summary	A fine not exceeding level 3 on the standard scale.	One tenth of level 3 on the standard scale.
3.93(3)	Administrator failing to deliver progress reports in accordance with rule 3.93(1).	Summary	A fine not exceeding level 3 on the standard scale.	One tenth of level 3 on the standard scale.
3.106(1)	Producing false evidence; failing to report false evidence	1. On indictment	2 years' imprisonment, or a fine, or both.	Not applicable
		2. Summary	12 months' imprisonment, or a fine not exceeding the statutory maximum, or both.	
3.107(7)	Failing to comply with an order requiring attendance for private examination	Summary	3 months' imprisonment, or a fine not exceeding level 5 on the standard scale, or both.	Not applicable

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SCHEDULE 4

Rule 1.54

INFORMATION TO BE INCLUDED IN THE SEDERUNT BOOK

PART 1

1. A decision of the Sheriff or the Court of Session under rule 1.56.

PART 3

2. Any statement of affairs delivered to the administrator in accordance with rule 3.29(4) subject to any order of the court made under rule 3.45 that the statement of affairs or a specified part must not be inserted in the sederunt book.

3. Any statement of concurrence delivered to the administrator in accordance with rule 3.31(1).

4. A copy of the notice of the result of the creditors' decision on a proposed revision to the administrator's proposals under rule 3.43.

5. A copy of the certified order delivered to the administrator in accordance with rule 3.49(4).

6. A record of every resolution passed at a creditors' committee meeting as recorded and authenticated in accordance with rule 3.85(3).

7. A copy of every resolution passed under rule 3.86, together with a note that agreement to the resolution of the creditors' committee was obtained.

8. Under rule 3.96:

- (a) the accounts submitted for audit;
- (b) the scheme of division; and
- (c) the final determination in relation to the administrator's outlays and remuneration.

9.—(1) Details of the administrator's decision to accept a claim (whether in whole or in part) under rule 3.108(1) including—

- (a) the amount of the claim accepted;
- (b) the category of debt, and the value of any security, as decided by the administrator.

(2) Details of the administrator's reasons for rejecting a claim (whether in whole or in part) under rule 3.108(3).

(3) Any decision of the court on an appeal under rule 3.108(5).

10. Details of—

- (a) any agreement reached under rule 3.117(2)(b)(i); or
- (b) any determination made under rule 3.117(2)(b)(ii).

PART 5

11. A record of a decision procedure made in accordance with rule 5.36(1).

12. A record of a deemed consent procedure made in accordance with rule 5.36(4).

PART 6

13. All proxies used for voting at a meeting, as soon as reasonably practicable after the meeting (where the chair is the office-holder), or as soon as reasonably practicable after their delivery to the office-holder in accordance with rule 6.6(2) (where the chair is not the office-holder).

Status:

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Changes to legislation:

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