



## New advertising regime for insolvency

As many of you will no doubt be aware from a recent R3 Technical Bulletin, a new advertising regime for insolvency was introduced on 6 April 2009. The aim is to achieve better-targeted publicity in insolvency proceedings and in particular, to remove unnecessary advertising costs, resulting in increased returns for creditors.

Broadly, the changes are as follows:-

- Insolvency office-holders (and others upon whom the duty to advertise currently falls) will continue to be required to gazette key insolvency events, consultation carried out by the Insolvency Service having shown that the Gazette continues to be relied on as a key source of insolvency information by financial institutions, credit reference agencies, HMRC etc.
- However, insolvency office holders will now have discretion as to whether any additional publicity is warranted  
The Insolvency Service has stated that it does not expect this discretion to be used routinely in “run of the mill” cases but in cases where clear benefits or a business need can be identified. For example, the discretion might be exercised in cases where the office holder cannot determine to his/her satisfaction the full extent of a company’s or debtor’s assets and liabilities and it is considered that some form of advertising might redress this.
- The new provisions give insolvency office holders flexibility to decide the most efficient and effective form for any additional publicity so that this can be placed to best serve the intended purpose and to reach the target audience. Advertising in addition to notice in the Gazette will no longer have to be by newspaper advertisement, so other forms of media advertising, including internet, radio, print media or even television advertising, will in future be an option, if deemed most appropriate to meet the purpose of the advert (given the cost and likely effect).
- Three additional insolvency events now have to be gazetted:-
  1. Dismissal of a winding up petition
  2. The appointment of a provisional liquidator
  3. The termination of the appointment of a provisional liquidator.
- Rule 7.32, which formerly required routine filing of all advertisements in insolvency proceedings in Court, has now been repealed.

As a result of the changes to the advertising regime, some consequential changes have been made to some of the prescribed forms as follows:-

- Form 4.7 (certificate that relevant provisions of Rules have been complied with)
- Form 4.71 (Return of final meeting in an MVL)
- Form 4.72 (Return of final meeting in a CVL)
- Form 5.7 (order of annulment under section 261IA)
- Form 5.8 (order of annulment under section 263D IA)
- Form 6.12 (affidavit of substituted service of statutory demand)
- Form 6.15 (order for substituted service of bankruptcy petition)
- Form 6.71 (order of annulment under section 282 IA)
- Form 6.76 (order granting absolute/suspended discharge under section 280(2)(b) or (c) IA)
- Form 6.77 (certificate of discharge).

The detailed changes are contained in the Legislative Reform (Insolvency) (Advertising Requirements) Order 2009 (SI 2009/864) and the Insolvency (Amendment) Rules 2009 (SI 2009/642). However, so that you can avoid having to plough through these documents, we have produced a table summarising your new gazetting/additional advertising requirements as insolvency office holders, which we hope will be of assistance to you.

x – not required

√ - mandatory

? – discretionary

	Gazette	Other advertising (in such manner as office holder thinks fit)
<b>Administration</b>		
Notice of appointment (Rule 2.27(1))	√	?
Undertaking to provide proposals to members (Rule 2.33(7)/(7A))	X	√
Notice of initial creditors' meeting (Rule 2.34)	√	?
Undertaking to provide revision to proposals to members (Rule 2.45(4))	X	√
Notice inviting creditors to prove debts in advance of dividend (Rule 2.95(3))	√	?
Undertaking to provide creditors with notice terminating administration where purpose sufficiently achieved (Rule 2.113(6))	√	?
<b>CVL</b>		
Notice of creditors' meeting (section 98(2A) IA)	√	?
Notice of appointment (Rule 4.106(1))	√	?
Notice of meeting of creditors/contributories called pursuant to general power (Rule 4.54(6))	√	?
Notice inviting creditors to prove debts in advance of dividend (Rule 11.2(1A))	√	?

<b>MVL</b>		
Notice of creditors' meeting to convert to CVL (section 95(2A) IA)	√	?
Notice of appointment (Rule 4.106(1))	√	?
Notice of intention to make distribution to creditors (Rule 4.182A(1))	√	?
Notice of meeting of creditors/contributories called pursuant to general power (Rule 4.54(6))	√	?
Notice inviting creditors to prove debts in advance of dividend (Rule 11.2(1A))	√	?
<b>CVA</b>		
Notice of beginning of CVA moratorium (Rule 1.40(2))	√	?
Notice of end of CVA moratorium (Rule 1.42(2))	√	?
<b>Administrative receivership</b>		
Notice of appointment (Rule 3.2(4))	√	?
Notice regarding availability of report to creditors (Rule 3.8(1))	√	?
Notice of creditors' meeting pursuant to section 48(2) IA	√	?
<b>Receivership (non-AR)</b>		
Notice of appointment/prescribed part (Rule 3.39(4))	√	?
<b>Provisional liquidation</b>		
Notice of appointment (Rule 4.25(3))	√	?
Notice of termination of appointment (Rule 4.31(3))	√	?
<b>Compulsory liquidation</b>		
Notice of meeting of creditors/contributories pursuant to general power (Rule 4.54(6))	√	?
Notice inviting creditors to prove their debts in advance of dividend (Rule 11.2(1A))	√	?
<b>Liquidations (all), administrative receivership and administration</b>		
Notice of Court order disapplying prescribed part pursuant to section 176A(5) IA (Rule 12.22)	√	?
<b>Bankruptcy</b>		
Notice of creditors' meeting to appoint trustee (Rule 6.79(5))	√	?
Notice of creditors' meeting pursuant to	√	?

general power (Rule 6.81(4))		
Notice of appointment (Rule 6.124(1))	√	?
Notice inviting creditors to prove debts in advance of dividend (Rule 11.2(1A))	√	?

Finally, you should be aware of a further minor change to the Insolvency Rules 1986 (“the Rules”) that was made on 6 April 2000. The change is to the effect that wherever the word “forthwith” appears in the Rules, that word is to be substituted with the words “as soon as reasonably practicable”.

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