

With the **Insolvency Rules 2016** (“**2016 Rules**”) taking effect from **6 April 2016**, we highlight some of the changes to be aware of.

References to the 1986 rules

Take care when using standard documents and/or precedents as references to the 1986 rules should be replaced with the equivalent provisions of the 2016 Rules.

“Customary communications” by email

Creditors will be deemed to consent to email communications (but can opt out) where they have “customarily communicated” with the person who is the subject of the insolvency proceedings via email (see Rule 1.45(4)). What constitutes “customary communication” has yet to be confirmed, so take care when relying on this.

Prescribed forms

With the abolition of prescribed forms, take special care to ensure you include the prescribed contents under the 2016 Rules to avoid procedurally invalid appointments.

Winding up

Some of the contents of the statement of truth in connection with a winding up petition have been moved to the witness statement (see Rule 7.5).

Proving for small debts

Where a debt is evidenced as being £1,000 or less in the debtor’s records of account and/or statement of affairs, an officeholder may treat that amount as proved for paying a dividend, although notice must be given to the creditor so they have the opportunity to prove for another sum (see Rules 14.1 and 14.3).

Practice Direction and Civil Procedure Rules

Given the Practice Direction on Insolvency Proceedings and Civil Procedure Rules have not yet been updated in line with the 2016 Rules, take care when reviewing references to the 1986 Rules.

Deemed consent

Subject to exceptions, many creditor decisions may now be taken under the “deemed consent” procedure. See Rules 15.12 et seq and our separate summary on this.

Notice of Intended Distribution

Even where creditors have opted out of receiving communications (see Rules 1.37-1.39), they must be sent a copy of any notice of intended distribution or pursuant to a court order.

Watch out!
Insolvency
Rules 2016

Restructuring & Insolvency **contacts**



Jeff Drew

Partner, London
+44 (0)20 3116 2900
jdrew@reedsmit.com



Charlotte Møller

Partner, London
+44 (0)20 3116 3472
cmoller@reedsmit.com



Diane Roberts

Partner, London
+44 (0)20 3116 2879
diane.roberts@reedsmit.com



Elizabeth McGovern

Partner, London
+44 (0)20 3116 3151
emcgovern@reedsmit.com



Monika Lorenzo-Perez

Associate, London
+44 (0)20 3116 3428
mlorenzo-perez@reedsmit.com



Anthony Riddle

Associate, London
+44 (0)20 3116 3578
ariddle@reedsmit.com



Helena Clarke

Associate, London
+44 (0)20 3116 3747
hclarke@reedsmit.com



Estelle Macleod

Associate, London
+44 (0)20 3116 2985
emacleod@reedsmit.com



Colin Cochrane

Associate, London
+44 (0)20 3116 3924
ccochrane@reedsmit.com



Becky Thorp

Associate, London
+44 (0)20 3116 3676
rthorp@reedsmit.com

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