

**2001 No. 3634**

**INSOLVENCY, ENGLAND AND WALES**  
**INDIVIDUALS**

**The Bankruptcy (Financial Services and Markets Act 2000)**  
**Rules 2001**

*Made - - - - - 9th November 2001*  
*Laid before Parliament 9th November 2001*  
*Coming into force - - 1st December 2001*

The Lord Chancellor, in the exercise of his powers under section 412 of the Insolvency Act 1986(a) with the concurrence of the Secretary of State, and after consulting the committee existing for that purpose under section 413 of that Act, hereby makes the following Rules:

**Citation and commencement**

1. These Rules may be cited as the Bankruptcy (Financial Services and Markets Act 2000) Rules 2001 and come into force on 1st December 2001.

**Interpretation**

2. In these Rules—
- “the Act” means the Financial Services and Markets Act 2000;
  - “the Authority” means the Financial Services Authority;
  - “debt” means the sum referred to in section 372(4)(a) of the Act;
  - “demand” means a demand made under section 372(4)(a) of the Act;
  - “individual” has the meaning given by section 372(7) of the Act;
  - “person” excludes a body of persons corporate or unincorporate;
  - “the 1986 Rules” means the Insolvency Rules 1986(b).

**Modification of the 1986 Rules**

3. The 1986 Rules apply in relation to a demand with the following modifications.

**Rule 6.1**

4.—(1) Rule 6.1 (form and content of statutory demand) is disapplied.

(2) A demand must be dated and signed by a member of the Authority’s staff authorised by it for that purpose.

(3) A demand must specify that it is made under section 372(4)(a) of the Act.

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(a) 1986 c. 45. Section 412 is applied by section 372 of the Financial Services and Markets Act 2000.

(b) S.I. 1986/1925; the only relevant amending instrument is S.I. 1987/1919.

(4) A demand must state the amount of the debt, to whom it is owed and the consideration for it or, if there is no consideration, the way in which it arises; but if the person to whom the debt is owed holds any security in respect of the debt of which the Authority is aware—

- (a) the demand must specify the nature of the security and the value which the Authority puts upon it as at the date of the demand; and
- (b) the amount of which payment is claimed by the demand must be the full amount of the debt less the amount specified as the value of the security.

(5) A demand must state the grounds on which it is alleged that the individual appears to have no reasonable prospect of paying the debt.

#### **Rule 6.2**

5.—(1) Rule 6.2 (information to be given in statutory demand) is disapplied—

(2) The demand must include an explanation to the individual of the following matters—

- (a) the purpose of the demand and the fact that, if the individual does not comply with the demand, bankruptcy proceedings may be commenced against him;
- (b) the time within which the demand must be complied with, if that consequence is to be avoided;
- (c) the methods of compliance which are open to the individual; and
- (d) the individual's right to apply to the court for the demand to be set aside.

(3) The demand must specify the name and address (and telephone number, if any) of one or more persons with whom the individual may, if he wishes, enter into communication with a view to establishing to the Authority's satisfaction that there is a reasonable prospect that the debt will be paid when it falls due or (as the case may be) that the debt will be scoured or compounded.

#### **Rules 6.3, 6.5, 6.11 and 6.25**

6.—(1) Rules 6.3 (requirements as to service), 6.5 (hearing of application to set aside), 6.11, (proof of service of statutory demand) and 6.25 (decision on the hearing) apply as if—

- (a) references to the debtor were references to an individual;
- (b) references (other than in rule 6.5(2) and (4)(c)) to the creditor were references to the Authority; and
- (c) references to the creditor in rule 6.5(2) and (4)(c) were references to the person to whom the debt is owed.

(2) Rule 6.5(2) applies as if the reference to the creditor also included a reference to the Authority.

(3) Rule 6.5(5) is disapplied and there is substituted the following—

“Where the person to whom the debt is owed holds some security in respect of his debt, and rule 4(4) of the Bankruptcy (Financial Services and Markets Act 2000) Rules 2001 is complied with in respect of it but the court is satisfied that the security is undervalued in the demand, the Authority may be required to amend the demand accordingly (but without prejudice to its right to present a bankruptcy by reference to the original demand).”

#### **Rule 6.4**

7. Rule 6.4 (application to set aside statutory demand) applies as if—

- (a) references to the debtor were references to an individual;
- (b) the words in paragraph (2), “the creditor issuing the statutory demand is a Minister of the Crown or a Government Department, and” were omitted; and
- (c) the reference to the creditor in paragraph (2)(b) was a reference to the Authority.

**Rule 6.9**

8. Rule 6.9 (court in which petition to be presented) applies as if, for paragraph (1)(a), there were substituted—

“(a) if in any demand on which the petition is based the Authority has indicated the intention to present a bankruptcy petition to that Court,”.

Dated 8th November 2001

*Irvine of Lairg, C*

I Concur,

Dated 9th November 2001

*Patricia Hewitt*  
Secretary of State  
Department of Trade and Industry

## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules modify the Insolvency Rules in relation to a demand made by the Financial Services Authority (under section 372(4)(a) of The Financial Services and Markets Act 2000) to an individual that he establish to the Authority's satisfaction that he has a reasonable prospect of being able to pay a regulated activity debt when it falls due.

The Rules make provision, amongst other things, as to the form and content of a demand, information to be given in a demand, requirements as to service and applications to set aside a demand.

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