

Insolvency Practice Rules (Corporations) Amendment (Restricting Related Creditor Voting Rights) Rules 2018

I, Stuart Robert, Assistant Treasurer, make the following rules.

Dated 30 November 2018

Stuart Robert

Assistant Treasurer

Contents

1 Name 1

2 Commencement 1

3 Authority 1

4 Schedules 1

Schedule 1—Amendments 2

Insolvency Practice Rules (Corporations) 2016 2

1 Name

 This instrument is the *Insolvency Practice Rules (Corporations) Amendment (Restricting Related Creditor Voting Rights) Rules 2018*.

2 Commencement

 (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The day after this instrument is registered. | 7 December 2018 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

 (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

 This instrument is made under the *Corporations Act 2001.*

4 Schedules

 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Insolvency Practice Rules (Corporations) 2016

1 After subsection 75‑95(1)

Insert:

 (1A) If:

 (a) a resolution is proposed at a meeting of creditors of a company; and

 (b) a debt claimed by a creditor of the company is owed to the creditor as assignee;

the external administrator of the company must ask the creditor to give evidence in writing in relation to the debt and the consideration given for the assignment of the debt.

2 Subsection 75‑95(2)

After “subsection (1)”, insert “or (1A)”.

3 At the end of section 75‑110

Add:

 (7) For the purposes of determining whether a resolution is passed at a meeting of creditors of a company, the value of a creditor of the company who:

 (a) is a related creditor (within the meaning of subsection 75‑41(4) of the Insolvency Practice Schedule (Corporations)), for the purposes of the vote, in relation to the company; and

 (b) has been assigned a debt; and

 (c) is present at the meeting personally, by telephone, by proxy or attorney; and

 (d) is voting on the resolution;

is to be worked out by taking the value of the assigned debt to be equal to the value of the consideration that the related creditor gave for the assignment of the debt.

4 At the end of the instrument

Add:

Part 5—Transitional matters

Division 110—Transitional matters relating to the Insolvency Practice Rules (Corporations) Amendment (Restricting Related Creditor Voting Rights) Rules 2018

110‑1 Meeting procedures in relation to creditors who have been assigned debts

 The amendments of sections 75‑95 and 75‑110 made by Schedule 1 to the *Insolvency Practice Rules (Corporations) Amendment (Restricting Related Creditor Voting Rights) Rules 2018* apply in relation to meetings convened on or after the commencement of that Schedule.