

# EXPOSURE DRAFT



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

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I, Kelly O'Dwyer, Minister for Revenue and Financial Services, make the following rules.

Dated 2018

Kelly O'Dwyer [**DRAFT ONLY—NOT FOR SIGNATURE**]  
Minister for Revenue and Financial Services

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## 1 Name

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

## 2 Commencement

- (1) Each provision of these Rules 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 these Rules	The day after these Rules are registered.	

Note: This table relates only to the provisions of these Rules as originally made.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

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

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Amendments

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## Schedule 1—Amendments

### *Insolvency Practice Rules (Corporations) 2016*

#### **1 After subsection 75-95(1)**

Insert:

(1A) If:

- (a) a resolution relating to the appointment or removal of the external administrator of a company is proposed at a meeting; and
  - (b) a debt claimed by a creditor is owed to the creditor as assignee;
- the external administrator (if there is one) 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 relating to the appointment or removal of the external administrator of a company is passed at a meeting, 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:

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## **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.