

31 July 2020

The Hon Peter Quinlan  
Chief Justice of Western Australia  
Chief Justice's Chambers  
Supreme Court of Western Australia  
Barrack Street  
PERTH WA 6000

By email: [Chief.Justice.Chambers@justice.wa.gov.au](mailto:Chief.Justice.Chambers@justice.wa.gov.au)

Dear Chief Justice

**AMENDMENT OF *SUPREME COURT (CORPORATIONS) (WA) RULES 2004 (WA)***

The *Insolvency Law Reform Act 2016* (Cth) was passed by the Commonwealth Parliament on 22 February 2016. The relevant provisions were initially set to commence on 1 March 2017. However, their commencement was deferred until 1 September 2017 by the *Corporations and Other Legislation Amendment (Insolvency Law Reform) Regulation 2016* (Cth).

The Law Society considers that amendments should be made to the *Supreme Court (Corporations) (WA) Rules 2004 (WA)* to reflect changes to the *Corporations Act 2001* (Cth) made by the *Insolvency Law Reform Act 2016* (Cth).

In particular, amendments should be made to the rules that deal with remuneration of external administrators, except for receivers and special managers. At present, there is some doubt as to the procedure to be followed by those external administrators. For example, the provisions of the *Corporations Act 2001* (Cth) referred to in rules 9.2, 9.2A, 9.3, 9.4 and 9.4A have been repealed.

The *Corporations Act 2001* (Cth) as it stood prior to the amendments made by the *Insolvency Law Reform Act 2016* (Cth) continues to apply in some respects to external administrations that commenced prior to 1 September 2017: see Part 10.25 of the *Corporations Act 2001* (Cth). However, this could be dealt with by appropriate transitional provisions.

It is noted that, for example, the *Federal Court (Corporations) Rules 2000* (Cth) and the *Supreme Court (Corporations) Rules 1999* (NSW) have been updated to reflect the changes made by the *Insolvency Law Reform Act 2016* (Cth), and the amendments made to those rules may provide guidance for appropriate amendments to the *Supreme Court (Corporations) (WA) Rules 2004 (WA)*. The relevant amendment rules are the *Federal Court (Corporations) Amendment (Insolvency Law Reform) Rules 2017* (Cth) and the *Supreme Court (Corporations) Amendment Rules 2019* (NSW) (copies **enclosed** for ease of reference).

If you wish to discuss the above or if you have any queries please contact Mary Woodford, General Manager Advocacy on (08) 9324 8646 or [mwoodford@lawsocietywa.asn.au](mailto:mwoodford@lawsocietywa.asn.au)

Yours sincerely



Nicholas van Hattem  
**President**