
STATUTORY INSTRUMENTS

1986 No. 1915

The Insolvency (Scotland) Rules 1986

PART 2

ADMINISTRATION PROCEDURE

CHAPTER 1

APPLICATION FOR, AND MAKING OF, THE ORDER

Independent report on company's affairs

2.1.—(1) Where it is proposed to apply to the court by way of petition for an administration order to be made under section 8 in relation to a company, there may be prepared in support of the petition a report by an independent person to the effect that the appointment of an administrator for the company is expedient.

(2) The report may be by the person proposed as administrator, or by any other person having adequate knowledge of the company's affairs, not being a director, secretary, manager, member or employee of the company.

(3) The report shall specify which of the purposes specified in section 8(3) may, in the opinion of the person preparing it, be achieved for the company by the making of an administration order in relation to it.

Notice of petition

2.2.—(1) Under section 9(2)(a), notice of the petition shall forthwith be given by the petitioner to the person who has appointed, or is or may be entitled to appoint, an administrative receiver, and to the following persons:-

- (a) an administrative receiver, if appointed;
- (b) if a petition for the winding up of the company has been presented but no order for winding up has yet been made, the petitioner under that petition;
- (c) a provisional liquidator, if appointed;
- (d) the person proposed in the petition to be the administrator;
- (e) the registrar of companies;
- (f) the Keeper of the Register of Inhibitions and Adjudications for recording in that register; and
- (g) the company, if the petition for the making of an administration order is presented by the directors or by a creditor or creditors of the company.

(2) Notice of the petition shall also be given to the persons upon whom the court orders that the petition be served.

Notice and advertisement of administration order

2.3.—(1) If the court makes an administration order, it shall forthwith give notice of the order to the person appointed as administrator.

(2) Under section 21(1)(a) the administrator shall forthwith after the order is made, advertise the making of the order once in the Edinburgh Gazette and once in a newspaper circulating in the area where the company has its principal place of business or in such newspaper as he thinks most appropriate for ensuring that the order comes to the notice of the company's creditors.

(3) Under section 21(2), the administrator shall send a notice with a copy of the court's order certified by the clerk of court to the registrar of companies, and in addition shall send a copy of the order to the following persons:-

- (a) any person who has appointed an administrative receiver, or has power to do so;
- (b) an administrative receiver, if appointed;
- (c) a petitioner in a petition for the winding up of the company, if that petition is pending;
- (d) any provisional liquidator of the company, if appointed; and
- (e) the Keeper of the Register of Inhibitions and Adjudications for recording in that register.

(4) If the court dismisses the petition under section 9(4) or discharges the administration order under section 18(3) or 24(5), the petitioner or, as the case may be, the administrator shall -

- (a) forthwith send a copy of the court's order dismissing the petition or effecting the discharge to the Keeper of the Register of Inhibitions and Adjudications for recording in that register; and
- (b) within 14 days after the date of making of the order, send a notice with a copy, certified by the clerk of court, of the court's order dismissing the petition or effecting the discharge to the registrar of companies.

(5) Paragraph (4) is without prejudice to any order of the court as to the persons by and to whom, and how, notice of any order made by the court under section 9(4), 18 or 24 is to be given and to section 18(4) or 24(6) (notice by administrator of court's order discharging administration order).