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## STATUTORY INSTRUMENTS

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# 1986 No. 1925

## The Insolvency Rules 1986

### THE FIRST GROUP OF PARTS

#### PART 4

#### COMPANIES WINDING UP

#### CHAPTER 10

#### SECURED CREDITORS

##### **Value of security**

**4.95.**—(1) A secured creditor may, with the agreement of the liquidator or the leave of the court, at any time alter the value which he has, in his proof of debt, put upon his security.

(2) However, if a secured creditor—

- (a) being the petitioner, has in the petition put a value on his security, or
- (b) has voted in respect of the unsecured balance of his debt,

he may re-value his security only with leave of the court. (NO CVL APPLICATION)

##### **Surrender for non-disclosure**

**4.96.**—(1) If a secured creditor omits to disclose his security in his proof of debt, he shall surrender his security for the general benefit of creditors, unless the court, on application by him, relieves him for the effect of this Rule on the ground that the omission was inadvertent or the result of honest mistake.

(2) If the court grants that relief, it may require or allow the creditor's proof of debt to be amended, on such terms as may be just.

##### **Redemption by liquidator**

**4.97.**—(1) The liquidator may at any time give notice to a creditor whose debt is secured that he proposes, at the expiration of 28 days from the date of the notice, to redeem the security at the value put upon it in the creditor's proof.

(2) The creditor then has 21 days (or such longer period as the liquidator may allow) in which, if he so wishes, to exercise his right to revalue his security (with the leave of the court, where Rule 4.95(2) applies).

If the creditor re-values his security, the liquidator may only redeem at the new value.

(3) If the liquidator redeems the security, the cost of transferring it is payable out of the assets.

(4) A secured creditor may at any time, by a notice in writing, call on the liquidator to elect whether he will or will not exercise his power to redeem the security at the value then placed on it; and the liquidator then has 6 months in which to exercise the power or determine not to exercise it.

### **Test of security's value**

**4.98.**—(1) Subject as follows, the liquidator, if he is dissatisfied with the value which a secured creditor puts on his security (whether in his proof or by way of re-valuation under Rule 4.97), may require any property comprised in the security to be offered for sale.

(2) The terms of sale shall be such as may be agreed, or as the court may direct; and if the sale is by auction, the liquidator on behalf of the company, and the creditor on his own behalf, may appear and bid.

### **Realisation of security by creditor**

**4.99.** If a creditor who has valued his security subsequently realises it (whether or not at the instance of the liquidator)—

- (a) the net amount realised shall be substituted for the value previously put by the creditor on the security, and
- (b) that amount shall be treated in all respects as an amended valuation made by him.