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STATUTORY INSTRUMENTS

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**2016 No. 900**

**The Postal Administration (Scotland) Rules 2016**

**PART 8**

**Replacing a Postal Administrator**

**Grounds for resignation**

**61.**—(1) The postal administrator may give notice of the postal administrator's resignation on grounds of ill health or because—

- (a) the postal administrator intends ceasing to be in practice as an insolvency practitioner; or
- (b) there is some conflict of interest, or change of personal circumstances, which precludes or makes impracticable the further discharge by the postal administrator of the duties of postal administrator.

(2) The postal administrator may, with the leave of the court, give notice of the postal administrator's resignation on grounds other than those specified in paragraph (1).

**Notice of intention to resign**

**62.** The postal administrator must give to the persons specified below at least 5 business days' notice in Form PA20(S) of the postal administrator's intention to resign, or to apply for the court's leave to do so—

- (a) the Secretary of State;
- (b) OFCOM;
- (c) if there is a continuing postal administrator of the company, to the continuing postal administrator; and
- (d) if there is no such postal administrator, to the company and its creditors.

**Notice of resignation**

**63.**—(1) The notice of resignation shall be in Form PA21(S), lodged in court and a copy sent to the registrar of companies.

(2) A copy of the notice of resignation shall be sent, not more than 5 business days after it has been lodged in court, to all those to whom notice of intention to resign was sent.

**Application to court to remove postal administrator from office**

**64.**—(1) An application to the court to remove a postal administrator from office shall be served upon—

- (a) the postal administrator;
- (b) the Secretary of State;

- (c) OFCOM;
  - (d) the joint postal administrator (if any); and
  - (e) where there is no joint postal administrator, the company and all the creditors, including any floating charge holders.
- (2) An applicant under this Rule shall, within 5 business days of the order being made, send a copy of the order to—
- (a) all those to whom notice of the application was sent; and
  - (b) the registrar of companies in Form PA22(S).

#### **Incapacity to act, through death or otherwise**

**65.**—(1) Subject to paragraph (2), where the postal administrator has died, it is the duty of the postal administrator’s executors to give notice of that fact to the court and to the registrar of companies, specifying the date of death. .

(2) If the deceased postal administrator was a partner in or an employee of a firm, notice may be given by a partner in the firm who is qualified to act as an insolvency practitioner, or is a member of any body recognised by the Secretary of State for the authorisation of insolvency practitioners.

(3) Notice of the death may also be given by any person.

(4) Where a postal administrator who has ceased to be qualified to act as an insolvency practitioner in relation to the company gives notice in accordance with paragraph 89(2) of Schedule B1 to the 1986 Act, the postal administrator shall also give notice to the registrar of companies.

#### **Application to replace**

**66.**—(1) Where an application is made to the court under paragraph 91 of Schedule B1 to the 1986 Act to appoint a replacement postal administrator, the application shall be accompanied by a Statement of the Proposed Postal Administrator in Form PA1(S).

(2) A copy of the application shall be served, in addition to those persons listed in section 70(2) of the 2011 Act (application for postal administration orders) and Rule 6, on the person who made the application for the postal administration order.

(3) Where the court makes an order filling a vacancy in the office of postal administrator, the same provisions shall apply, subject to such modification as may be necessary, in respect of giving notice of, and advertising, the appointment as in the case of the original appointment of a postal administrator.

#### **Notification and advertisement of appointment of replacement postal administrator**

**67.**—(1) This Rule applies where any person has appointed a postal administrator in accordance with these Rules and a replacement postal administrator is appointed.

(2) The replacement postal administrator shall send notice of the appointment in Form PA23(S) to the registrar of companies.

(3) The same provisions apply in respect of giving notice of, and advertising, the replacement appointment as in the case of an initial appointment, and all statements, consents and other documents as required shall also be required in this case.

(4) All forms and notices shall clearly identify that the appointment is of a replacement postal administrator.

### **Joint or concurrent appointments**

**68.**—(1) Where a person is appointed in accordance with paragraph 103 of Schedule B1 to the 1986 Act to act as postal administrator jointly or concurrently with the persons then acting, the same provisions shall apply, subject to this Rule and to such other modification as may be necessary, in respect of the making of this appointment as in the case of the original appointment of an administrator.

(2) The additional postal administrator shall send notice of the appointment in Form PA23(S) to the registrar of companies.

### **Hand-over of assets to successor postal administrator**

**69.**—(1) This Rule applies where a person appointed as postal administrator (“the succeeding postal administrator”) succeeds a previous postal administrator (“the former postal administrator”).

(2) When the succeeding postal administrator’s appointment takes effect, the former postal administrator shall forthwith do all that is required for putting the succeeding postal administrator into possession of the company’s assets.

(3) The former postal administrator shall give to the succeeding postal administrator all such information, relating to the affairs of the company and the course of the postal administration, as the succeeding postal administrator considers to be reasonably required for the effective discharge of the succeeding postal administrator’s duties as such and shall hand over all books, accounts, statements of affairs, statements of claim and other records and documents in the former postal administrator’s possession relating to the affairs of the company and its postal administration.