

SCHEDULE 2

Rule 6

APPLICATION OF PART 4 IN RELATION TO MEMBERS' VOLUNTARY WINDING UP

1. The following paragraphs describe the provisions of Part 4 which, subject to the modifications set out in those paragraphs and any other necessary modifications, apply to a members' voluntary winding up.

General

2. Any reference in any provision of Part 4, which is applied to a members' voluntary winding up, to any other Rule is a reference to that Rule as so applied.

Chapter 3 (Information)

Rule 4.11

3. This Rule shall apply.

Chapter 6 (The liquidator)

Rule 4.18

4.—(1) This Rule shall apply subject to the following modifications.

(2) For paragraph (1), there shall be substituted the following:-

“(1) This Rule applies where the liquidator is appointed by the court under section 108.”.

(3) Paragraphs 4 and 5 shall be deleted.

Rule 4.19

5.—(1) This Rule shall apply subject to the following modifications.

(2) For paragraphs (1) to (3) there shall be substituted the following:-

“(1) This Rule applies where the liquidator is appointed by a meeting of the company.

(2) Subject as follows, the chairman of the meeting shall certify the appointment, but not unless and until the person to be appointed has provided him with a written statement to the effect that he is an insolvency practitioner, duly qualified under the Act to be the liquidator and that he consents so to act. The liquidator's appointment is effective from the date of the certificate.

(3) The chairman shall forthwith send the certificate to the liquidator, who shall keep it in the sederunt book.”.

(3) Paragraphs 4(a), (5) and (6) shall be deleted.

Rules 4.20 to 4.22

6. These Rules shall apply.

Rule 4.26

7. This Rule shall apply except that in paragraph (1) for the reference to “creditors” there shall be substituted the words “the company”.

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Rule 4.27

8. This Rule shall apply.

Rule 4.28

9.—(1) This Rule shall apply subject to the following modifications.

(2) In paragraph (1) -

- (a) for the reference to section 172(6), there shall be substituted a reference to section 171(5), and
- (b) for the reference to a meeting of creditors, there shall be substituted a reference to a meeting of the company.

(3) In paragraph (2) -

- (a) for reference to section 174(4)(c) there shall be substituted a reference to section 173(2)(c), and
- (b) for the reference to Rule 4.29(4), there shall be substituted a reference to Rule 4.28A.

(4) After paragraph (4) there shall be inserted the following paragraphs:-

“(5) The notice of the liquidator's resignation required by section 171(5) shall be given by him to the registrar of companies forthwith after the meeting.

(6) Where a new liquidator is appointed in place of the one who has resigned, the former shall, in giving notice of his appointment, state that his predecessor has resigned and whether he has been released.”.

(5) After this Rule, there shall be inserted the following Rule:-

“Release of resigning or removed liquidator

4.28A.—(1) Where the liquidator resigns, he has his release from the date on which he gives notice of his resignation to the registrar of companies.

(2) Where the liquidator is removed by a meeting of the company, he shall forthwith give notice to the registrar of companies of his ceasing to act.

(3) Where the liquidator is removed by the court, he must apply to the Accountant of Court for his release.

(4) Where the Accountant of Court gives the release, he shall certify it accordingly, and send the certificate to the registrar of companies.

(5) A copy of the certificate shall be sent by the Accountant of Court to the former liquidator, whose release is effective from the date of the certificate.”.

Rule 4.36

10. This Rule shall apply, except that for any reference to the court, there shall be substituted a reference to the directors of the company or any one of them.

Rule 4.37

11.—(1) This Rule shall apply subject to the following modifications.

(2) In paragraph (2), the reference to the court shall be omitted.

(3) For paragraph (3), there shall be substituted the following:-

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“(3) Rule 4.28A applies as regards the liquidator obtaining his release, as if he had been removed by the court.”.

(4) At the end of this Rule, there shall be inserted the following:-

“Vacation of office on making of winding up order

4.37A. Where the liquidator vacates office in consequence of the court making a winding up order against the company, Rule 4.28A applies as regards the liquidator obtaining his release, as if he had been removed by the court.”.

Rule 4.38

12. This Rule shall apply.

Rule 4.39

13. This Rule shall apply.

Chapter 10 (Special manager)

14.—(1) This Chapter shall apply subject to the following modifications ..

(2) In Rule 4.70 for paragraph (5), there shall be substituted the following:-

“(5) The cost of finding caution shall be paid in the first instance by the special manager; but he is entitled to be reimbursed out of the assets as an expense of the liquidation.”.

(3) In Rule 4.71, paragraph (1) shall not apply.