
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Insolvency (Scotland) Rules 1986 (S.I. 1986/1915) (“the Insolvency Rules”). The Rules restate provision in the Insolvency Rules in relation to receivership and the process of liquidation to remove the application of provisions of the Bankruptcy (Scotland) Act 1985. They also restate other Rules in relation to liquidation and administration for that purpose.

Insofar as the Rules restate the law on reserved matters by virtue of paragraph 7 of Schedule 4 to the Scotland Act 1998 (c.46) the law as restated remains reserved law.

The Rules also update and amend the Insolvency Rules in relation to receivership and the process of liquidation by new provision in relation to—

- block transfer orders for removal and appointment of liquidators (Rule 11)
- the remuneration of the liquidator (Rule 12)
- the liquidation committee (Rules 13 to 17)
- limited disclosure of statement of affairs in receivership (Rules 24 and 25)
- electronic submission and delivery of forms, notices and other documents (Rule 26)
- standard content of notices in Edinburgh Gazette or otherwise advertised (Rule 27)

Rule 26 on electronic submission and delivery of documents makes provision in relation to receivership and the process of liquidation equivalent to that made for company voluntary arrangements and administration by the Insolvency (Scotland) Amendment Rules 2010 (S.I. 2010/688). See also the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010 (S.I. 2010/18) and the Explanatory Document published to accompany a draft of that Order (available here: <http://www.legislation.gov.uk/ukdsi/2009/9780111479391/memorandum/contents>). The provision for electronic submission and delivery in these Rules is subject to contrary provision in the Insolvency Act 1986, for example, sections 95(2) and 98(1) (sending of notices by post) and section 436B(2) (provisions of the 1986 Act to which section 436B(1) does not apply).

Rule 28 provides for the forms 4.9 (Scot) and 4.24 (Scot) in the Schedule to these Rules to be substituted for those forms as set out in Schedule 5 to the Insolvency Rules.

Subject to Rule 29 (saving), the Rules apply from 30th May 2014.

A Business and Regulatory Impact Assessment has been prepared for these Regulations. Copies can be obtained from the Accountant in Bankruptcy’s website: <http://www.aib.gov.uk>.