
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 347

**The Insolvency (Scotland) (Receivership
and Winding up) Rules 2018**

PART 1

SCOPE, INTERPRETATION, TIME AND RULES ABOUT DOCUMENTS

CHAPTER 4

Form and content of documents

Requirement for writing and form of documents

- 1.5.**—(1) A notice or statement must be in writing unless the Act or these Rules provide otherwise.
- (2) A document in electronic form must be capable of being—
- (a) read by the recipient in electronic form; and
 - (b) reproduced by the recipient in hard-copy form.

Authentication

- 1.6.**—(1) A document in electronic form is authenticated—
- (a) if the identity of the sender is confirmed in a manner specified by the recipient; or
 - (b) where the recipient has not so specified, if the communication contains or is accompanied by a statement of the identity of the sender and the recipient has no reason to doubt the truth of that statement.
- (2) A document in hard copy form is authenticated if it is signed.
- (3) If a document is authenticated by the signature of an individual on behalf of—
- (a) a body of persons, the document must also state the position of that individual in relation to the body;
 - (b) a body corporate of which the individual is the sole member, the document must also state that fact.

Information required to identify persons and insolvency proceedings etc.

1.7.—(1) Where the Act or these Rules require a document to identify, or to contain identification details in respect of, a person or insolvency proceedings, or to provide contact details for an office-holder, the information set out in the table must be given.

(2) Where a requirement relates to a proposed office-holder, the information set out in the table in respect of an office-holder must be given with any necessary adaptations.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Insolvency (Scotland) (Receivership and Winding up) Rules 2018, CHAPTER 4. (See end of Document for details)

Company where it is the subject of the insolvency proceedings	<p>In the case of a registered company—</p> <ul style="list-style-type: none"> (a) (a) the registered name; (b) for a company incorporated in Scotland under the Companies Act or a previous Companies Act, its registered number; (c) for a company incorporated outside the United Kingdom— <ul style="list-style-type: none"> (i) (i) the country or territory in which it is incorporated, (ii) the number, if any, under which it is registered, and (iii) the number, if any, under which it is registered as an overseas company under Part 34 of the Companies Act. <p>In the case of an unregistered company—</p> <ul style="list-style-type: none"> (d) (d) its name; and (e) the postal address of any principal place of business.
Company other than one which is the subject of the insolvency proceedings	<p>In the case of a registered company—</p> <ul style="list-style-type: none"> (f) (f) the registered name; (g) for a company incorporated in any part of the United Kingdom under the Companies Act or a previous Companies Act, its registered number; (h) for a company incorporated outside the United Kingdom— <ul style="list-style-type: none"> (i) (i) the country or territory in which it is incorporated, (ii) the number, if any, under which it is registered; and (iii) the number, if any, under which it is registered as an overseas company under Part 34 of the Companies Act; <p>In the case of an unregistered company—</p> <ul style="list-style-type: none"> (i) (i) its name, and (j) the postal address of any principal place of business.
Office-holder	<ul style="list-style-type: none"> (k) (k) the name of the office-holder; and (l) the nature of the appointment held by the office-holder.

Contact details for an office-holder	(m) (m) a postal address for the office-holder; and
	(n) either an email address, or a telephone number, through which the office-holder may be contacted.
Insolvency proceedings	(o) (o) information identifying the company to which the insolvency proceedings relate;
	(p) if the insolvency proceedings are, or are to be, conducted in a court—
	(i) the full name of the court and, if applicable,
	(ii) any number assigned to those insolvency proceedings by the court.

[^{F1}Reasons for stating whether proceedings are or will be COMI proceedings, establishment proceedings etc.]

1.8. Where these Rules require reasons to be given for a statement that proceedings are or will be [^{F2}COMI proceedings, establishment proceedings or proceedings to which the EU Regulation as it has effect in the law of the United Kingdom does not apply], the reasons must include [^{F3}as applicable]—

- (a) the company's centre of main interests;
- (b) the place of the company's registered office within the meaning of Article 3(1) of the EU Regulation and where appropriate an explanation why this is not the same as the centre of main interests;
- [^{F4}(ba) the place where there is an establishment within the jurisdiction; or]
- (c) a statement that there is no registered office if that be the case in [^{F5}proceedings to which the EU Regulation as it has effect in the law of the United Kingdom does not apply].

Textual Amendments

- F1** Rule 1.8 heading substituted (31.12.2020) by S.I. 2019/146, Sch. para. 137C(2) (as inserted by [The Insolvency \(Amendment\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1459\)](#), reg. 1(2), **Sch. para. 6**; 2020 c. 1, Sch. 5 para. 1(1))
- F2** Words in rule 1.8 substituted (31.12.2020) by S.I. 2019/146, Sch. para. 137C(3) (as inserted by [The Insolvency \(Amendment\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1459\)](#), reg. 1(2), **Sch. para. 6**; 2020 c. 1, Sch. 5 para. 1(1))
- F3** Words in rule 1.8 inserted (31.12.2020) by S.I. 2019/146, Sch. para. 137C(3) (as inserted by [The Insolvency \(Amendment\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1459\)](#), reg. 1(2), **Sch. para. 6**; 2020 c. 1, Sch. 5 para. 1(1))
- F4** Rule 1.8(ba) inserted by S.I. 2019/146, Sch. para. 137C(4) (as inserted by [The Insolvency \(Amendment\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1459\)](#), reg. 1(2), **Sch. para. 6**; 2020 c. 1, Sch. 5 para. 1(1))
- F5** Rule 1.8(c) substituted (31.12.2020) by S.I. 2019/146, Sch. para. 137C(5) (as inserted by [The Insolvency \(Amendment\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1459\)](#), reg. 1(2), **Sch. para. 6**; 2020 c. 1, Sch. 5 para. 1(1))

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Prescribed format of documents

1.9.—(1) Where a rule sets out the required contents of a document any title required by the rule must appear at the beginning of the document.

(2) Any other contents required by the rule (or rules where more than one apply to a particular document) must be provided in the order listed in the rule (or rules) or in another order which the maker of the document considers would be convenient for the intended recipient.

Variations from prescribed contents

1.10.—(1) Where a rule sets out the required contents of a document, the document may depart from the required contents if—

- (a) the circumstances require such a departure (including where the requirement is not applicable in the particular case); or
- (b) the departure (whether or not intentional) is immaterial.

(2) However this rule does not apply to the required content of a statutory demand on a company set out in rule 5.3.

Status:

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Changes to legislation:

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