
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 347

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

PART 11

THE EU REGULATION

Confirmation of creditors' voluntary winding up: application

11.4.—(1) This rule applies where—

- (a) a company has passed a resolution for voluntary winding up, and either—
 - (i) no declaration of solvency has been made in accordance with section 89, or
 - (ii) a declaration made under section 89—
 - (aa) has no effect by virtue of section 89(2), or
 - (bb) is treated as not having been made by virtue of section 96 ^{M1}; or
- (b) a company has moved from administration to creditors' voluntary winding up in accordance with paragraph 83 of schedule B1 ^{M2}.

(2) The liquidator may apply to court for an order confirming the winding up as a creditors' voluntary winding up for the purposes of the EU Regulation.

(3) The application must be supported by a statement containing a statutory declaration made by the liquidator which must contain—

- (a) identification details for the liquidator and the company;
- (b) the date on which the resolution for voluntary winding up was passed;
- (c) a statement that the application is accompanied by the documents required by paragraph (4);
- (d) a statement that the documents required by paragraph (4)(c) and (d) are true copies of the originals; and
- [^{F1}(e) a statement whether the proceedings will be 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 and the reasons for so stating.]

(4) The liquidator must lodge with the court—

- (a) 2 copies of the application;
- (b) evidence of having been appointed liquidator of the company;
- (c) a copy of—
 - (i) the resolution for voluntary winding up, or

- (ii) the notice of moving from administration to creditors' voluntary winding up sent by the administrator to the registrar of companies under paragraph 83(3) of schedule B1; and
- (d) a copy of—
 - (i) the statement of affairs required by section 99^{M3} or under paragraph 47 of schedule B1, or
 - (ii) the information included in the administrator's statement of proposals under paragraph 49 of schedule B1.

Textual Amendments

- F1** Rule 11.4(3)(e) substituted (31.12.2020) by [S.I. 2019/146](#), **Sch. para. 137M** (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)**)

Marginal Citations

- M1** A new section 96 is prospectively substituted by paragraph 20 of schedule 9 of the 2015 Act.
- M2** [Paragraph 83](#) sub-paragraphs (1)(b) and (2)(b) are prospectively amended by section 128(3) of the 2015 Act and sub-paragraphs (5)(b) and (8)(d) amended by paragraph 10(31) and (32) of schedule 9 of that Act.
- M3** [Section 99](#) subsections (1) and (3) are prospectively substituted by new subsections (1) and (3) by paragraph 23 of schedule 9 of the 2015 Act.

Changes to legislation:

There are currently no known outstanding effects for the The Insolvency (Scotland) (Receivership and Winding up) Rules 2018, Section 11.