
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 347

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

PART 3

MEMBERS' VOLUNTARY WINDING UP

CHAPTER 1

Statutory declaration of solvency (section 89)

[Note: a document required by the Act or these Rules must also contain the standard contents required as set out in Part 1.]

Statutory declaration of solvency: requirements additional to those in section 89

[Note: the “official rate” referred to in paragraph (1)(b) is defined in section 251 as the rate referred to in section 189(4). Also see section 189(5) and rule 7.26.]

3.1.—(1) The statutory declaration of solvency required by section 89 must identify the company and state—

- (a) the name and a postal address for each director making the declaration (which may be the director’s service address provided for by section 163 of the Companies Act);
- (b) either—
 - (i) that all of the directors; or
 - (ii) that a majority of the directors,
have made a full inquiry into the company’s affairs and that, having done so, they have formed the opinion that the company will be able to pay its debts in full together with interest at the official rate within a specified period (which must not exceed 12 months) from the commencement of the winding up; and
- (c) that the declaration is accompanied by a statement of the company’s assets and liabilities as at a date which is stated (being the latest practicable date before the making of the declaration as required by section 89(2)(b)).

(2) The statement of the company’s assets and liabilities must contain—

- (a) the date of the statement;
- (b) a statement that the statement shows the assets of the company at estimated realisable values and liabilities of the company expected to rank as at the date referred to in subparagraph (1)(c);
- (c) a summary of the assets of the company, setting out the estimated realisable value of—
 - (i) any assets specifically secured,
 - (ii) any assets subject to a floating charge,

- (iii) any assets not secured; and
- (iv) the total value of all the assets available to preferential creditors;
- (d) the value of each of the following secured liabilities of the company expected to rank for payment—
 - (i) liabilities secured on specific assets, and
 - (ii) liabilities secured by floating charges;
- (e) a summary of the unsecured liabilities of the company expected to rank for payment;
- (f) the estimated expenses of the liquidation;
- (g) the estimated amount of interest accruing until payment of debts in full; and
- (h) the estimated value of any surplus after paying debts in full together with interest at the official rate.