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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No. 347**

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

**PART 4**

**CREDITORS' VOLUNTARY WINDING UP**

**CHAPTER 2**

Statement of affairs and other information

**Additional requirements as to statements of affairs**

**4.4.**—(1) A statement of affairs under section 95(1A) or 99(1) must also contain [<sup>F1</sup>the following and, in addition, when paragraph (1B) applies, the information specified in that paragraph]—

- (a) a list of the company's shareholders, with the following details about each one—
  - (i) name and postal address,
  - (ii) the type of shares held,
  - (iii) the nominal amount of the shares held,
  - (iv) the number of shares held,
  - (v) the amount per share called up, and
  - (vi) the total amount called up;
- (b) the total amount of shares called up held by all shareholders;
- (c) a summary of the assets of the company, setting out the book value and 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 for preferential creditors;
- (d) a summary of the liabilities of the company, setting out—
  - (i) the amount of preferential debts,
  - (ii) an estimate of the deficiency with respect to preferential debts or the surplus available after paying the preferential debts,
  - (iii) an estimate of the prescribed part, if applicable,
  - (iv) an estimate of the total assets available to pay debts secured by floating charges,
  - (v) the amount of debts secured by floating charges,
  - (vi) an estimate of the deficiency with respect to debts secured by floating charges or the surplus available after paying the debts secured by fixed security or floating charges,

- (vii) the amount of unsecured debts (excluding preferential debts),
- (viii) an estimate of the deficiency with respect to unsecured debts or the surplus available after paying unsecured debts,
- (ix) any issued and called-up capital, and
- (x) an estimate of the deficiency with respect to, or surplus available to, members of the company;
- (e) a list of the company's creditors with the following particulars required by paragraph (2) indicating—
  - (i) any creditors under hire-purchase or conditional sale agreements,
  - (ii) any creditors who are consumers claiming amounts paid in advance of the supply of goods or services, and
  - (iii) any creditors claiming retention of title over property in the company's possession.

[<sup>F2</sup>(1A) Paragraph (1B) applies if a moratorium under Part A1 of the Act is, or has been, in force for the company at any time within the period of 12 weeks ending with the day on which the resolution for a voluntary winding up is passed.

(1B) Where this paragraph applies—

- (a) the statement of affairs must identify which of the debts owed by the company are:
  - (i) moratorium debts; or
  - (ii) priority pre-moratorium debts

within the meaning given in section 174A.

- (b) paragraph (1)(c)(iv) has effect as if the reference to preferential creditors included references to moratorium debts and priority pre-moratorium debts within the meaning given by section 174A.
- (c) paragraph (1)(d)(i),(ii) and (vii) have effect as if the reference to preferential debts included references to moratorium debts and priority pre-moratorium debts within the meaning given by section 174A.]

(2) The particulars required by this paragraph relating to each creditor are as follows:—

- (i) the name and postal address,
- (ii) amount of the debt owed to the creditor, (as required by section 95(4) or 99(2)),
- (iii) details of any security held by the creditor,
- (iv) the date the security was given, and
- (v) the value of the security.

(3) Paragraph (4) applies where the particulars required by paragraph (2) relate to creditors who are either—

- (a) employees or former employees of the company; or
- (b) consumers claiming amounts paid in advance for the supply of goods or services.

(4) Where this paragraph applies—

- (a) the statement of affairs itself must state separately for each of paragraphs (3)(a) and (b) the number of such creditors and the total of the debts owed to them; and
- (b) the particulars required by paragraph (2) in respect of those creditors must be set out in separate schedules to the statement of affairs for each of paragraphs (3)(a) and (b).

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**Textual Amendments**

- F1** Words in rule 4.4(1) inserted (1.10.2021) by The Insolvency (Scotland) (Receivership and Winding up) (Amendment) Rules 2021 (S.I. 2021/1025), rules 1, **6(2)** (with rules 4, 5)
- F2** Rule 4.4(1A)(1B) inserted (1.10.2021) by The Insolvency (Scotland) (Receivership and Winding up) (Amendment) Rules 2021 (S.I. 2021/1025), rules 1, **6(3)** (with rules 4, 5)

**Changes to legislation:**

There are currently no known outstanding effects for the The Insolvency (Scotland) (Receivership and Winding up) Rules 2018, Section 4.