
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 347

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

PART 5

WINDING UP BY THE COURT

CHAPTER 6

The liquidator

Choosing a person to be liquidator

5.22.—(1) This rule applies where nominations are sought by the interim liquidator from the company's creditors and contributories under section 138(3) for the purpose of choosing a person to be liquidator of the company in place of the interim liquidator^{M1}.

(2) The interim liquidator must deliver to the creditors and contributories a notice inviting proposals for a liquidator.

(3) The notice inviting proposals for a liquidator must explain that the liquidator is not obliged to seek the creditors' or contributories' views on any proposals that do not meet the requirements of paragraphs (4) and (5).

(4) A proposal must state the name and contact details of the proposed liquidator, and contain a statement that the proposed liquidator is qualified to act as an insolvency practitioner in relation to the company and has consented to act as liquidator of the company.

(5) A proposal must be received by the interim liquidator within 5 business days of the date of the notice under paragraph (2).

(6) Following the end of the period for inviting proposals under paragraph (2), where any proposals are received the interim liquidator must seek a decision on the proposals for nomination of a liquidator from the creditors (on any proposals received from creditors) and from the contributories (on any proposals received from contributories) by—

- (a) a decision procedure; or
- (b) the deemed consent procedure.

(7) Where a decision is sought under paragraph (6), the decision date must be not more than 60 days from the date of the winding-up order.

(8) The notice to be issued under rule 8.7 (deemed consent) (where the interim liquidator seeks a decision under paragraph (6) by the deemed consent procedure) or rule 8.8 (notices to creditors of decision procedure) (where the interim liquidator seeks a decision under paragraph (6) by a decision procedure) must also—

- (a) identify any liquidator proposed to be nominated by a creditor (in the case of a notice to creditors) or by a contributory (in the case of a notice to contributories) in accordance with this rule; and

- (b) contain a statement explaining the effect of section 138(5) (duty of interim liquidator to report to court where no person is appointed or nominated to be liquidator).
- (9) The decision date in the notice referred to in paragraph (8) must be no later than 21 days after the date for receiving proposals has passed.
- (10) The creditors and contributories must be given at least 14 days' notice of the decision date.

Marginal Citations

M1 Section 138(3) to (5) is prospectively amended by paragraph 33(1) to (4) 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 5.