
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 347

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

PART 7

**WINDING UP - REPORTING, ACCOUNTS,
REMUNERATION, CLAIMS AND DISTRIBUTIONS**

CHAPTER 1

Reporting

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

Reports by interim liquidator in a winding up by the court

7.2.—(1) The interim liquidator must in accordance with this rule deliver a report on the winding up and the state of the company's affairs to the creditors and contributories at least once after the making of the winding-up order.

(2) The report must be delivered—

- (a) before the interim liquidator delivers a notice inviting proposals for a liquidator under rule 5.22 (choosing a person to be liquidator); or
- (b) with that notice.

(3) The report must contain—

- (a) identification details for the proceedings;
- (b) contact details for the interim liquidator;
- (c) a summary of the circumstances leading to the appointment of the interim liquidator;
- (d) if a statement of the company's affairs has been submitted—
 - (i) a copy or summary of it, except so far as an order under rule 5.16 (limited disclosure) limits disclosure of it;
 - (ii) details of who provided the statement of affairs; and
 - (iii) any comments which the interim liquidator may have upon the statement of affairs;
- (e) if an order under rule 5.16 has been made—
 - (i) a statement of that fact; and
 - (ii) the date of the order;
- (f) if no statement of affairs has been submitted—
 - (i) an explanation as to why there is no statement of affairs;

- (ii) a summary of the assets and liabilities of the company as known to the interim liquidator at the date of the report;
- (g) a full list of the company's creditors in accordance with paragraph (2) to (4) of rule 5.13 if either—
 - (i) no statement of affairs has been submitted, or
 - (ii) a statement of affairs has been submitted but it does not include such a list, or the interim liquidator believes the list included is less than full;
- (h) any estimates and statements required by rule 7.3; and
- (i) any other information of relevance to the creditors or contributories.

Reports by interim liquidator: estimate of prescribed part

7.3.—(1) The interim liquidator must include in a report under rule 7.2 estimates to the best of the interim liquidator's knowledge and belief of the value of—

- (a) the prescribed part (whether or not the liquidator might be required under section 176A^{M1} to make the prescribed part available for the satisfaction of unsecured debts); and
- (b) the company's net property (as defined by section 176A(6)).

(2) If the interim liquidator considers that it may be appropriate for the liquidator to make an application to court under section 176A(5) the report must say so and give the interim liquidator's reasons.

(3) The liquidator may exclude from an estimate under paragraph (1) information the disclosure of which could seriously prejudice the commercial interests of the company.

(4) If the exclusion of such information affects the calculation of the estimate, the report must say so.

Marginal Citations

M1 Section 176A was inserted by the Enterprise Act 2002 (c.40), section 252.

Progress reports: content

7.4.—(1) The liquidator's progress report in a winding up must contain—

- (a) identification details for the insolvency proceedings;
- (b) identification and contact details for the liquidator;
- (c) the date of appointment of the liquidator and any changes in the liquidator in accordance with paragraph (3);
- (d) details of progress during the period of the report, including a summary account of receipts and payments during the period of the report;
- (e) the information required—
 - (i) in the case of a members' voluntary winding up, by rule 7.5;
 - (ii) in the case of a creditors' voluntary winding up or a winding up by the court, by rule 7.6;
- (f) details of what assets remain to be realised;
- (g) where a distribution is to be made in accordance with Chapters 4 to 6 in respect of an accounting period, the scheme of division; and

(h) any other information of relevance to the creditors.

(2) The receipts and payments account in a final progress report must state the amount paid to unsecured creditors by virtue of the application of section 176A.

(3) A change in the liquidator is only required to be shown in the next report after the change.

(4) Where an administration has converted to a voluntary winding up, the first progress report by the liquidator must include a note of any information received from the former administrator under rule 3.60(5) of the CVA and Administration Rules (moving from administration to creditors' voluntary winding up - matters occurring after the administrator's final progress report).

Remuneration and outlays etc.: members' voluntary winding up

7.5.—(1) The information referred to in rule 7.4(1)(e)(i) is—

- (a) a statement of the nature and amounts of the liquidator's outlays during the period of the report; and
- (b) an estimate of the remuneration due to the liquidator during the period of report and the basis or bases set out in rule 7.10(2)(a) to (c) (determination of outlays and remuneration: members' voluntary winding up) on which the estimate is based.

(2) The progress report must also contain the information described in paragraph (1) for any previous period of report.

Remuneration and outlays etc.: creditors' voluntary winding up and winding up by the court

7.6.—(1) The information referred to in rule 7.4(1)(e)(ii) is—

- (a) in respect of any accounting period ending during, or coinciding with the end of, the period of the report after the end of which the liquidator has made or intends to make a submission under rule 7.11(2)(a) to (c) (determination of outlays and remuneration: creditors' voluntary winding up and winding up by the court), the information referred to there;
- (b) in respect of any accounting period ending during, or coinciding with the end of, the period of the report after the end of which the liquidator has not made and is not making a submission under rule 7.11(2)(a) to (c)—
 - (i) a statement of the nature and amounts of the liquidator's outlays during the accounting period; and
 - (ii) an estimate of the remuneration due to the liquidator during the accounting period and the basis or bases set out in rule 7.11(8)(a) to (c) on which the estimate is based.

(2) Where paragraph (1)(b) applies the progress report must also contain the information described in that paragraph for any previous accounting period ending before the period of report unless the liquidator has made a submission under rule 7.11(2)(a) to (c) in respect of that accounting period.

Progress reports in voluntary winding up: timing and delivery

7.7.—(1) This rule applies for the purposes of sections 92A^{M2} and 104A^{M3} and prescribes the periods for which reports must be made.

(2) The liquidator's progress reports in a voluntary winding up must cover the periods of—

- (a) 12 months starting on the date the liquidator is appointed; and
- (b) each subsequent period of 12 months.

(3) The periods for which progress reports are required under paragraph (2) are unaffected by any change in the liquidator.

(4) However where a liquidator ceases to act the succeeding liquidator must, as soon as reasonably practicable after being appointed, deliver a notice to the members (in a members' voluntary winding up) or to members and creditors (in a creditors' voluntary winding up) of any matters about which the succeeding liquidator thinks the members or creditors should be informed.

(5) A progress report is not required for any period which ends after a notice is delivered under rule 3.11 (delivery of draft final account to members in members' voluntary winding up) or after the date to which a final account is made up under section 106^{M4} and is delivered by the liquidator to members and creditors (creditors' voluntary winding up).

(6) The liquidator must deliver a copy of each progress report within 6 weeks after the end of the period covered by the report to—

- (a) AiB (who is a prescribed person for the purposes of sections 92A and 104A);
- (b) the members; and
- (c) in a creditors' voluntary liquidation, the creditors.

Marginal Citations

- M2** Section 92A was inserted by S.I. 2010/18 and prospectively amended by section 136(2) and paragraph 16 of schedule 9 of the Small Business, Enterprise and Employment Act 2015 (c.26) (“the 2015 Act”) and S.I. 2016/141, article 5.
- M3** Section 104A was inserted by S.I. 2010/18 and prospectively amended by section 136(3) and paragraph 27 of schedule 9 of the 2015 Act and S.I. 2016/141, article 6.
- M4** A new section 106 is substituted by paragraph 29 of schedule 9 of the 2015 Act. See also rule 4.30.

Progress reports in winding up by the court: timing and delivery

[Note: Where in this rule provision is applicable to the provisional liquidator the term provisional liquidator is used.]

7.8.—(1) Subject to paragraph (2), the liquidator's progress report in a winding up by the court must cover the periods of—

- (a) 12 months starting on the date on which the liquidator (including an interim liquidator) is appointed; and
- (b) each subsequent period of 12 months.

(2) Where a provisional liquidator is appointed under section 135, the liquidator's progress report must cover the periods of—

- (a) 12 months starting on the date on which the provisional liquidator is appointed; and
- (b) each subsequent period of 12 months.

(3) The periods for which progress reports are required under paragraphs (1) and (2) are unaffected by—

- (a) recall of the appointment of a provisional liquidator (prior to a winding up order being made);
- (b) termination of the appointment of a provisional liquidator and appointment of a liquidator (including an interim liquidator) on the making of a winding up order;
- (c) any change in the provisional liquidator or liquidator.

(4) Where a liquidator ceases to act the succeeding liquidator must as soon as reasonably practicable after being appointed, deliver a notice to the creditors of any matters about which the succeeding liquidator thinks the creditors should be informed.

(5) A progress report is not required for any period which ends after the date to which a final account or report is made up under section 146^{M5} and is delivered by the liquidator to the creditors.

(6) The liquidator must deliver a copy of each progress report within 6 weeks after the end of the period covered by the report (or after the date on which the liquidator is appointed, whichever is the later) to—

- (a) AiB;
- (b) the members; and
- (c) the creditors.

Marginal Citations

M5 A new section 146 is prospectively substituted by paragraph 38 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, CHAPTER 1.