
STATUTORY INSTRUMENTS

1986 No. 1915

The Insolvency (Scotland) Rules 1986

PART 4

WINDING UP BY THE COURT

CHAPTER 6

THE LIQUIDATOR

SECTION E: SUPPLEMENTARY PROVISIONS

Liquidator deceased

4.36.—(1) Subject to the following paragraph, where the liquidator has died, it is the duty of his executors or, where the deceased liquidator was a partner in a firm, of a partner in that firm to give notice of that fact to the court and to the registrar of companies, specifying the date of death. This does not apply if notice has been given under the following paragraph.

(2) Notice of the death may also be given by any person producing to the court and to the registrar of companies a copy of the death certificate.

Loss of qualification as insolvency practitioner

4.37.—(1) This Rule applies where the liquidator vacates office on ceasing to be qualified to act as an insolvency practitioner in relation to the company.

(2) He shall forthwith give notice of his doing so to the court and to the registrar of companies.

(3) Rule 4.25(2) and (3) apply as regards the liquidator obtaining his release, as if he had been removed by the court.

Power of court to set aside certain transactions

4.38.—(1) If in the course of the liquidation the liquidator enters into any transaction with a person who is an associate of his, the court may, on the application of any person interested, set the transaction aside and order the liquidator to compensate the company for any loss suffered in consequence of it.

(2) This does not apply if either -

(a) the transaction was entered into with the prior consent of the court, or

(b) it is shown to the court's satisfaction that the transaction was for value, and that it was entered into by the liquidator without knowing, or having any reason to suppose, that the person concerned was an associate.

(3) Nothing in this Rule is to be taken as prejudicing the operation of any rule of law with respect to a trustee's dealings with trust property, or the fiduciary obligations of any person.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Rule against solicitation

4.39.—(1) Where the court is satisfied that any improper solicitation has been used by or on behalf of the liquidator in obtaining proxies or procuring his appointment, it may order that no remuneration be allowed as an expense of the liquidation to any person by whom, or on whose behalf, the solicitation was exercised.

(2) An order of the court under this Rule overrides any resolution of the liquidation committee or the creditors, or any other provision of the Rules relating to the liquidator's remuneration.