
STATUTORY INSTRUMENTS

1986 No. 1915

The Insolvency (Scotland) Rules 1986

PART 4

WINDING UP BY THE COURT

CHAPTER 9

DISTRIBUTION OF COMPANY'S ASSETS BY LIQUIDATOR

Order of priority in distribution

4.66.—(1) The funds of the company's assets shall be distributed by the liquidator to meet the following expenses and debts in the order in which they are mentioned:-

- (a) the expenses of the liquidation;
- (b) any preferential debts within the meaning of section 386 (excluding any interest which has been accrued thereon to the date of commencement of the winding up within the meaning of section 129);
- (c) ordinary debts, that is to say a debt which is neither a secured debt nor a debt mentioned in any other sub-paragraph of this paragraph;
- (d) interest at the official rate on -
 - (i) the preferential debts, and
 - (ii) the ordinary debts,between the said date of commencement of the winding up and the date of payment of the debt; and
- (e) any postponed debt.

(2) In the above paragraph -

- (a) "postponed debt" means a creditor's right to any alienation which has been reduced or restored to the company's assets under section 242 or to the proceeds of sale of such an alienation; and
- (b) "official rate" shall be construed in accordance with subsection (4) of section 189 and, for the purposes of paragraph (a) of that subsection, as applied to Scotland by subsection (5), the rate specified in the Rules shall be 15 per centum per annum.

(3) The expenses of the liquidation mentioned in sub-paragraph (a) of paragraph (1) are payable in the order of priority mentioned in Rule 4.67.

(4) Subject to the provisions of section 175, any debt falling within any of sub-paragraphs (b) to (e) of paragraph (1) shall have the same priority as any other debt falling within the same sub-paragraph and, where the funds of the company's assets are inadequate to enable the debts mentioned in this sub-paragraph to be paid in full, they shall abate in equal proportions.

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(5) Any surplus remaining, after all expenses and debts mentioned in paragraph (1) have been paid in full, shall (unless the articles of the company otherwise provide) be distributed among the members according to their rights and interests in the company.

(6) Nothing in this Rule shall affect -

- (a) the right of a secured creditor which is preferable to the rights of the liquidator; or
- (b) any preference of the holder of a lien over a title deed or other document which has been delivered to the permanent trustee in accordance with a requirement under section 38(4) of the Bankruptcy Act, as applied by Rule 4.22.