
STATUTORY INSTRUMENTS

1986 No. 304 (S. 23)

COMPANIES

**The Administrative Receivers (Value Added Tax Certificates)
(Scotland) Rules 1986**

Made - - - - - 20th February 1986

Laid before Parliament 6th March 1986

Coming into Operation 1st April 1986

The Secretary of State, in the exercise of the powers conferred on him by section 106 of, and paragraph 23(d) of Schedule 5 to, the Insolvency Act 1985(a), and of all other powers enabling him in that behalf, hereby makes the following Rules:-

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Administrative Receivers (Value Added Tax Certificates) (Scotland) Rules 1986 and shall come into operation on 1st April 1986.

(2) In these Rules references to “the 1983 Act” are to the Value Added Tax Act 1983(b), and the expression “administrative receiver” has the same meaning as in Part II of the Insolvency Act 1985.

Application of these Rules

2. These Rules apply to a company for the purposes of section 22 of the 1983 Act where a person is appointed to act as its administrative receiver under section 467 of the Companies Act 1985(c) (power to appoint receivers under the law of Scotland).

Issue of certificate of insolvency

3. In accordance with this Rule, it is the duty of the administrative receiver to issue a certificate in the terms of paragraph (b) of section 22(3) of the 1983 Act (which specifies the circumstances in which a company is deemed insolvent for the purposes of the section) forthwith upon his forming the opinion described in that paragraph.

Form of certificate

4.—(1) There shall be specified in the certificate -
(a) the name of the company and its registered number;

(a) 1985 c.65.

(b) 1983 c.55; section 22 was substituted by section 32 of the Finance Act 1985 (c.54).

(c) 1985 c.6.

(b) the full name of the administrative receiver and the date of his appointment as such; and

(c) the date on which the certificate is issued.

(2) The certificate shall be intitled "CERTIFICATE OF INSOLVENCY FOR THE PURPOSES OF SECTION 22(3)(b) OF THE VALUE ADDED TAX ACT 1983".

Notification to creditors

5.—(1) Notice of the issue of the certificate shall be given by the administrative receiver, within 3 months of his appointment or within 2 months of issuing the certificate whichever is the later, to all of the company's unsecured creditors of whose address he is then aware and who have, to his knowledge, made supplies to the company, with a charge to value added tax, at any time before his appointment.

(2) Thereafter, he shall give the notice to any such creditor of whose address and supplies to the company he becomes aware.

(3) He is not under obligation to provide any creditor with a copy of the certificate.

Preservation of certificate with company's records

6. The certificate shall be retained with the company's accounting records, and section 222 of the Companies Act 1985 (where and for how long records are to be kept) applies to the certificate as it applies to those records.

Michael Howard,
Parliamentary Under Secretary of State,
Department of Trade and Industry.

20th February 1986.

EXPLANATORY NOTE

(This Note does not form part of the Rules.)

These Rules make provision in relation to Scotland for the administrative receiver of a company to issue certificates under section 22 of the Value Added Tax Act 1983. That section enables an unpaid creditor of a company who has accounted for value added tax charged on the debt claimed from the company to claim a refund of the tax paid following the issue of a certificate by the administrative receiver that the assets of the company, in his opinion, would be insufficient to cover the payment of any dividend in respect of debts which are neither secured nor preferred.

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