

1986 No. 611

COMPANIES

**The Insolvent Companies (Reports on Conduct of Directors)
Rules 1986**

<i>Made</i>	- - -	<i>25th March 1986</i>
<i>Laid before Parliament</i>		<i>7th April 1986</i>
<i>Coming into Force</i>	-	<i>28th April 1986</i>

The Lord Chancellor, in the exercise of his powers under section 106 of the Insolvency Act 1985(a), with the concurrence of the Secretary of State, and after consulting the committee existing for that purpose under section 226 of the Insolvency Act 1985, hereby makes the following Rules:—

Citation, Commencement and Interpretation

1.— (1) These Rules may be cited as the Insolvent Companies (Reports on Conduct of Directors) Rules 1986 and shall come into force on 28th April 1986.

(2) In these Rules references to “the Act” are references to the Insolvency Act 1985.

Reports required under section 12(5) of the Act

2.— (1) This Rule applies to any report made to the Secretary of State under section 12(5) of the Act by:—

- (a) the liquidator of a company registered in England and Wales which passes a resolution for voluntary winding up on or after 28th April 1986; or
- (b) an administrative receiver of a company appointed otherwise than under section 467 of the Companies Act 1985(b) (power to appoint receivers under the law of Scotland) on or after 28th April 1986.

(2) Such a report shall be made in the Form D1 or Form D2, set out in the Schedule hereto, as the case may be, and in the manner and to the extent provided in the applicable form.

(3) The obligation on the liquidator to make a report as provided in this Rule under section 12(5) of the Act applies only where—

(a) 1985 c. 65.
(b) 1985 c. 6.

- (a) it is a creditors' voluntary winding up (there having been no declaration of solvency by the directors under section 577 of the Companies Act 1985) or
- (b) the liquidation began as a members' voluntary winding up and at any time thereafter the liquidator—
 - (i) forms the opinion that the company will not be able to pay its debts in full within the period stated in the directors' declaration under section 577, and
 - (ii) also forms the opinion that, at the time when the company went into liquidation, its assets were insufficient for the payment of its debts and other liabilities and the expenses of the winding up.

Interim return by liquidator or administrative receiver

3.— (1) This Rule applies, where Rule 2 applies, to—

- (a) the liquidator, in the case of a company in creditors' voluntary winding up, there having been no declaration of solvency by the directors under section 577 of the Companies Act 1985;
- (b) the liquidator, in the case of a company in voluntary winding up, if and when he forms the opinion that, at the time when the company went into liquidation, its assets were insufficient for the payment of its debts and other liabilities and the expenses of the winding up; and
- (c) the administrative receiver of a company;

and each is here referred to as "the office-holder".

(2) Subject as follows, the office-holder shall, not later than 6 months from the relevant date (defined in paragraph (4) below), furnish to the Secretary of State an interim return with respect to every person who—

- (a) was, on the date when the company went into liquidation or (as the case may be) the administrative receiver was appointed, a director or shadow director of the company, or
- (b) had been a director or shadow director of the company at any time in the 3 years immediately preceding that date.

(3) The interim return shall be made in the Form D3, D4 or D5 set out in the Schedule hereto, as the case may be, and in the manner and to the extent provided in the applicable form.

(4) For the purposes of this Rule, "the relevant date" means—

- (a) in the case specified in paragraph (1)(a), the date of the liquidator's appointment,
- (b) in the case specified in paragraph (1)(b), the date on which the liquidator forms the opinion there mentioned, and
- (c) in the case of the administrative receiver, the date of his appointment.

(5) An interim return need not be provided under this Rule if the office-holder has, since the relevant date, made reports to the Secretary of State under section 12(5) of the Act with respect to all the persons falling within paragraph (2) and (apart from this paragraph) required to be the subject of an interim return.

(6) If a liquidator or administrative receiver without reasonable excuse fails to comply with this Rule, he is liable to a fine not exceeding £400 and, for continued contravention, to a daily default fine not exceeding £40.

Enforcement of section 12(6)

4.— (1) This Rule applies where under section 12(6) of the Act (power to call on liquidators, former liquidators and others to provide information) the Secretary of State or the official receiver requires a person—

- (a) to furnish him with information with respect to a person's conduct as director or shadow director of a company, and
- (b) to produce and permit inspection of relevant books, papers and other records.

(2) On the application of the Secretary of State or (as the case may be) the official receiver, the court may make an order directing compliance within such period as may be specified.

(3) The court's order may provide that all costs of and incidental to the application shall be borne by the person to whom the order is directed.

Hailsham of St. Marylebone, C.

Dated 21st March 1986.

I concur,

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

Dated 25th March 1986.

Companies in Voluntary Liquidation

Report on Conduct of Directors under
Section 12(5) of the Insolvency Act 1985**D1****Before completing this form
read the DTI Guidance Notes**

	Official Use
Company registered number _____	
Name of Company _____	
Registered office address _____ _____	
Nature of Business _____	
Trading Names _____	
Principal place of business _____ _____	
Date of winding-up _____	
Name of Liquidator _____	
Office holder number _____	
Liquidator's address _____ _____ _____	
Period covered by report From: _____ To: _____	

1. I am the liquidator of the company and it appears to me that the persons listed in the schedule were either directors or shadow directors of the company and **were the only** such directors of the company during the period covered by this report
2. It further appears to me that the conduct of each of the persons in respect of whom I have marked Y in column 5 in the schedule as directors of the company, either considered in relation to this company alone or taken together with his conduct as a director of any other company, makes him unfit to be concerned in the management of a company. Details of his conduct are provided in Part D1(B) of the report.

Schedule

1 Full name and other known names	2 Last known address	3 Mark X if shadow Director	4 Period as Director From To	5 If you have attached supplementary details please mark with a Y

Liquidator's Signature _____

Date _____

Remember to attach forms D1(A) and D1(B)

Part A

Further Details of the Company

D1(A)**Name of Company**

3	Date of incorporation		
4	Period of trading	From	To
5	Estimated distribution(s) (pence in £) to creditors		
	● preferential:		
	● unsecured:		
6	Summary of statement of affairs	£	
	Gross assets:		_____
	Gross liabilities to creditors:		_____
	Estimated total deficiency as regards creditors:		_____
	Called-up capital:		_____
7	Approximate number and value of unsecured creditors distinguishing between	No.	£
	Trade and expense:	_____	_____
	Depositor or consumer pre paid:	_____	_____
	Connected companies:	_____	_____
	Other:	_____	_____

8 Details of connected companies with
which the company has had any dealings

The above is correct to the best of my knowledge,
information and belief

Liquidator's signature _____

Date _____

A separate "part B" is to be completed for each Director to be reported upon.

D 1 (B)

Part B

Name of Company

Fuller Details of the Individual Director
Subject to this Report

9 Full name of the Director:

10 Date of birth:

11 Occupation, trade or profession:

12 Position(s) held within Company:

13 Give details on such additional pages as necessary of the conduct of the director which makes it appear to you that the conditions of section 12(1) are satisfied.
You should have particular regard to schedule 2 of the Act.

14 List the remuneration and other benefits during each of the 3 years to the date of winding-up.

Period ended	Remuneration received £	Remuneration voted £	Cash Expenses £	Benefits in Kind £

15(a) Other companies of which the Director is or was during the 3 years to the date of your appointment also a Director or shadow director.

Name of Company	Reg. No.	Are you also the Liquidator or Administrative Receiver of that Company (Y/N)	Mark X here if you are to submit a conduct report in respect of the Company or enter date of report if already submitted

15(b) Give details of any other companies not listed at Q8 or 15(a) above with which the director may have had an association which you feel may be relevant to the consideration of his conduct.

16 Give brief details of any civil or criminal proceedings in relation to the company taken or likely to be taken against the Director.

17 Are there any other matter(s) which you consider the Secretary of State should take into consideration.

The details given in Part D1(B) (comprising _____pages) are correct to the best of my knowledge, information and belief.

Liquidator's Signature _____

Date _____

Report on Conduct of Directors by an
Administrative Receiver
under Section 12(5) of the Insolvency Act 1985

D2

**Before completing this form
read the DTI Guidance Notes**

	Official Use
Company registered number _____	
Name of Company _____	
Registered office address _____ _____	
Nature of Business _____	
Trading Names _____	
Principal place of business _____ _____	
Date of appointment of Administrative Receiver _____	
Name of Administrative Receiver _____	
Office holder number _____	
Administrative Receiver's address _____ _____	
Period covered by report From: _____ To: _____	

1. I am the administrative receiver of the company and it appears to me that the persons listed in the schedule were either directors or shadow directors of the company and **were the only** such directors of the company during the period covered by this report
2. It further appears to me that the conduct of each of the persons in respect of whom I have marked Y in column 5 in the schedule as directors of the company, either considered in relation to this company alone or taken together with his conduct as a director of any other company, makes him unfit to be concerned in the management of a company. Details of his conduct are provided in Part D2(B) of the report.

Schedule

1 Full name and other known names	2 Last known address	3 Mark X if shadow Director	4 Period as Director From _____ To _____	5 If you have attached supplementary details please mark with a Y

Administrative Receiver's Signature _____

Date _____

Remember to attach forms D2(A) and D2(B)

Part A

Further Details of the Company

D2(A)

Name of Company

3	Date of incorporation:		
4	Period of trading:	From	To
5	Estimated assets available for:		
	● Preferential creditors:		
	● Unsecured creditors:		
6	Summary of statement of affairs		
	Gross assets:	£	
	Gross liabilities to creditors:		
	Estimated total deficiency as regards creditors:		
	Called-up capital:		
7	Approximate number and value of unsecured creditors distinguishing between:		
	Trade and expense:	No	£
	Depositor or consumer pre-paid:		
	Connected companies:		
	Other:		

8 Details of connected companies with which the company has had any dealings

The above information is correct to the best of my knowledge, information and belief.

Administrative Receiver's Signature _____

Date _____

A separate "Part B" is to be completed for each Director to be reported upon

D2(B)

Part B

Name of Company

Fuller Detail of the Individual Director
Subject to this Report

9 Full name of the Director:

10 Date of birth:

11 Occupation, trade or profession:

12 Position(s) held within Company:

13 Give details on such additional pages as necessary of the conduct of the director which makes it appear to you that the conditions of section 12(1) are satisfied.
You should have particular regard to schedule 2 of the Act.

14 List the remuneration and other benefits during each of the 3 years to the date of your appointment.

Period ended	Remuneration received £	Remuneration voted £	Cash Expenses £	Benefits in Kind £
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

15(a) Other companies of which the Director is or was during the 3 years to the date of winding-up also a Director or shadow director.

Name of Company	Reg. No.	Are you also the Liquidator or Administrative Receiver of that Company (Y/N)	Mark X here if you are to submit a conduct report in respect of the Company or enter date of report if already submitted

15(b) Give details of any other companies not listed at Q8 or 15(a) above with which the director may have had an association which you feel may be relevant to the consideration of his conduct.

16 Give brief details of any civil or criminal proceedings taken in relation to the company or likely to be taken against the Director.

17 Are there any other matter(s) which you consider the Secretary of State should take into consideration.

The details given in part D2(B) (comprising _____ pages) are correct to the best of my knowledge, information and belief.

Administrative Receiver's Signature _____

Date _____

Companies in Creditors' Voluntary Liquidation

Interim Return of Directors under
Rule 3 of the Insolvent Companies
(Report on Conduct of Directors) Rules 1986

D3

**Before completing this form
read the DTI Guidance Notes**

	Official Use
Company registered number _____	
Name of Company _____	
Registered office address _____ _____	
Nature of Business _____	
Trading Names _____	
Principal place of business _____	
Date of winding-up _____	
Name of Liquidator _____	
Office holder number _____	
Liquidator's address _____ _____ _____	

- Mark with an X the statement which applies
- 1.(i) I have not submitted a report in this case because
- a the company has sufficient assets to pay its debts and other liabilities and the expenses of any winding-up
 - b as at the date of this return I have not become aware of any matters which would require me to make a report under section 12(5) of the Act
 - c sufficient information is not yet to hand (see below)
- (ii) I have not submitted a report on all of the directors in this case because
- d as at the date of this return I have not become aware of any matters which would require me to make a report under section 12(5) of the Act on the remaining directors
 - e sufficient information is not yet to hand.
- If you have marked box c or box e please indicate the likely date when the report, if any, will be submitted
- _____ month _____ year

2. The persons listed in the schedule were to the best of my knowledge and belief *all* the persons who were directors or shadow directors of the company during the three years prior to the winding-up.

Schedule

Full name and other known names	Last known address	Mark X if shadow Director	Period as Director From To

Liquidator's Signature _____

Date _____

Companies in Members' Voluntary Liquidation
but Insolvent

Interim Return of Directors under
Rule 3 of the Insolvent Companies
(Report on Conduct of Directors) Rules 1986

D4

**Before completing this form
read the DTI Guidance Notes**

<p>Company registered number _____</p> <p style="padding-left: 40px;">Name of Company _____</p> <p style="padding-left: 40px;">Registered office address _____</p> <p style="padding-left: 40px;">_____</p> <p style="padding-left: 40px;">Nature of Business _____</p> <p style="padding-left: 40px;">Trading Names _____</p> <p style="padding-left: 40px;">Principal place of business _____</p> <p style="padding-left: 40px;">_____</p> <p style="padding-left: 40px;">Date of winding-up _____</p> <p style="padding-left: 40px;">Name of Liquidator _____</p> <p style="padding-left: 40px;">Office holder number _____</p> <p style="padding-left: 40px;">Liquidator's address _____</p> <p style="padding-left: 40px;">_____</p> <p style="padding-left: 40px;">_____</p>	<p>Official Use</p>
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- 1.(i) I have not submitted a report in this case because
- Mark with an X the statement which applies
- a as at the date of this return I have not become aware of any matters which would require me to make a report under section 12(5) of the Act
- b sufficient information is not yet to hand (see below)
- (ii) I have not submitted a report on all of the directors in this case because
- c as at the date of this return I have not become aware of any matters which would require me to make a report under section 12(5) of the Act on the remaining directors
- d sufficient information is not yet to hand.
- If you have marked box b or box d please indicate the likely date when the report, if any, will be submitted

_____ month _____ year

2. The persons listed in the schedule were to the best of my knowledge and belief *all* the persons who were directors or shadow directors of the company during the three years prior to the winding-up.

Schedule

Full name and other known names	Last known address	Mark X if shadow Director	Period as Director From _____ To _____

Liquidator's Signature _____

Date _____

Interim Return of Directors by an
Administrative Receiver under
Rule 3 of the Insolvent Companies
(Report on Conduct of Directors) Rules 1986

D5

**Before completing this form
read the DTI Guidance Notes**

Company registered number _____ Name of Company _____ Registered office address _____ _____ Nature of Business _____ Trading Names _____ Principal place of business _____ _____ Date of appointment of Administrative Receiver _____ Name of Administrative Receiver _____ Office holder number _____ Administrative Receiver's address _____ _____ _____	Official Use
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- Mark with an X the statement which applies
- 1.(i) I have not submitted a report in this case because
- a the company has sufficient assets to pay its debts and other liabilities and the expenses of any winding-up
 - b as at the date of this return I have not become aware of any matters which would require me to make a report under section 12(5) of the Act
 - c sufficient information is not yet to hand (see below)
- (ii) I have not submitted a report on all of the directors in this case because
- d as at the date of this return I have not become aware of any matters which would require me to make a report under section 12(5) of the Act on the remaining directors
 - e sufficient information is not yet to hand.
- If you have marked box c or box e please indicate the likely date when the report, if any, will be submitted

_____ _____
month year

2. The persons listed in the schedule were to the best of my knowledge and belief *all* the persons who were directors or shadow directors of the company during the three years prior to the winding-up.

Schedule

Full name and other known names	Last known address	Mark X if shadow Director	Period as Director From _____ To _____

Administrative Receiver's Signature _____

Date _____

EXPLANATORY NOTE

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

These Rules make provision in relation to England and Wales for the manner in which a voluntary liquidator or administrative receiver of a company appointed after 28th April 1986 shall make to the Secretary of State the report required by section 12(5) of the Insolvency Act 1985 as to the conduct of persons who have been directors or shadow directors of insolvent companies which makes such directors appear to the voluntary liquidator or administrative receiver to be unfit to be concerned in the management of a company.

Rule 2 provides that reports under section 12(5) shall be made in the forms set out in the Schedule and Rule 3 provides for interim returns to be made where reports on all the Directors have not already been made.

Rule 4 enables the Secretary of State to apply to the court to enforce compliance by the voluntary liquidator or administrative receiver with a requirement by the Secretary of State under section 12(6) of the Insolvency Act 1985 to furnish information and books, papers and other records relevant to the conduct of a person as a director.

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