

---

STATUTORY INSTRUMENTS

---

**2018 No. 1082**

**The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018**

**PART 4**

**BLOCK TRANSFER OF PROCEEDINGS**

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

**Power to make a block transfer order**

**4.1.**—(1) Part 4 applies where it is expedient to transfer some or all of the cases in which an outgoing office-holder (“the outgoing office-holder”) holds office to one or more office-holders (“the replacement office-holder”) in a single transaction where the outgoing office-holder—

- (a) dies;
- (b) retires from practice; or
- (c) is otherwise unable or unwilling to continue in office.

(2) In a case to which this Part applies the Court of Session has the power to make an order (“a block transfer order”) appointing a replacement office-holder in the place of the outgoing office-holder to be—

- (a) administrator in any administration; <sup>F1</sup>...
- (b) supervisor of a CVA [<sup>F2</sup>or]

[<sup>F3</sup>(c) a monitor in respect of a moratorium under Part A1 of the Act.]

(3) The replacement office-holder must be qualified to act as an insolvency practitioner in relation to the company.

**Textual Amendments**

- F1** Word in rule 4.1(2)(a) omitted (1.10.2021) by virtue of *The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) (Amendment) Rules 2021* (S.I. 2021/1026), rules 1, **28(2)(a)** (with rules 4, 5)
- F2** Word in rule 4.1(2)(b) inserted (1.10.2021) by *The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) (Amendment) Rules 2021* (S.I. 2021/1026), rules 1, **28(2)(b)** (with rules 4, 5)
- F3** Rule 4.1(2)(c) inserted (1.10.2021) by *The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) (Amendment) Rules 2021* (S.I. 2021/1026), rules 1, **28(2)(c)** (with rules 4, 5)

**Application for a block transfer order**

**4.2.**—(1) An application for a block transfer order may be made to the Court of Session for—

- (a) the removal of the outgoing office-holder by the exercise of any of the powers in paragraph (2);
  - (b) the appointment of a replacement office-holder by the exercise of any of the powers in paragraph (3); or
  - (c) such other order or direction as may be necessary or expedient in connection with the matters referred to in sub-paragraphs (a) and (b).
- (2) The powers referred to in paragraph (1)(a) are those in—
- [<sup>F4</sup>(za) section A39 (moratorium under Part A1 of the Act);]
- (a) section 7(5) <sup>F5</sup>... ; and
  - (b) paragraph 88 of Schedule B1 and rule 4.1(2).
- (3) The powers referred to in paragraph (1)(b) are those in —
- [<sup>F6</sup>(za) section A39 (moratorium under Part A1 of the Act);]
- (a) section 7(5) <sup>F7</sup>... ; and
  - (b) paragraphs 63, 91 and 95 of Schedule B1 and rule 4.12(2).
- (4) Subject to paragraph (5), the application may be made by any of the following—
- (a) the outgoing office-holder (if able and willing to do so);
  - (b) any person who holds office jointly with the outgoing office-holder;
  - (c) any person who is proposed to be appointed as the replacement office-holder;
  - (d) any creditor in a case subject to the application;
  - (e) the recognised professional body which was the source of the outgoing office-holder's authorisation (immediately before the application is made); or
  - (f) the Secretary of State.
- (5) Where one or more of the outgoing office-holders in the schedule required by paragraph (8) is an administrator, an application may not be made unless the applicant is a person permitted to apply to replace the outgoing office-holder under section 13 or paragraph 63, 91 or 95 of Schedule B1 or such a person is joined as applicant in relation to the replacement of the outgoing office-holder.
- (6) An applicant (other than the Secretary of State) must deliver a notice of the intended application to the Secretary of State on or before the date the application is made.
- (7) The application must be served on—
- (a) the outgoing office-holder (if not the applicant or deceased);
  - (b) any person who holds office jointly with the outgoing office-holder; and
  - (c) such other person as the Court of Session directs.
- (8) The application must contain a schedule setting out—
- (a) identification details for the insolvency proceedings; and
  - (b) the capacity in which the outgoing office-holder was appointed.
- (9) The application must be supported by evidence—
- (a) setting out the circumstances as a result of which it is expedient to appoint a replacement office-holder; and
  - (b) exhibiting the consent to act of each person who is proposed to be appointed as replacement office-holder.

#### Textual Amendments

- F4** Rule 4.2(2)(za) inserted (1.10.2021) by *The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) (Amendment) Rules 2021* (S.I. 2021/1026), rules 1, **29(2)** (with rules 4, 5)
- F5** Words in rule 4.2(2)(a) omitted (1.10.2021) by virtue of *The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) (Amendment) Rules 2021* (S.I. 2021/1026), rule 1, **Sch. 2 para. 3 Table** (with rules 4, 5)
- F6** Rule 4.2(3)(za) inserted (1.10.2021) by *The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) (Amendment) Rules 2021* (S.I. 2021/1026), rules 1, **29(3)** (with rules 4, 5)
- F7** Words in rule 4.2(3)(a) omitted (1.10.2021) by virtue of *The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) (Amendment) Rules 2021* (S.I. 2021/1026), rule 1, **Sch. 2 para. 3 Table** (with rules 4, 5)

#### Action following application for a block transfer order

**4.3.—(1)** In cases relating to the appointment of a supervisor of a CVA, in deciding to what extent (if any) the costs of making an application under rule 4.2 should be paid as an expense of the CVA proceedings to which the application relates, the factors to which the Court of Session must have regard include—

- (a) the reasons for the making of the application;
- (b) the number of cases to which the application relates;
- (c) the value of the assets comprised in those cases; and
- (d) the nature and extent of the costs involved.

(2) Where an application relates to the appointment of an administrator and is made by a person under section 13 or paragraph 63, 91 or 95 of Schedule B1, the costs of making that application are to be paid as an expense of the administration to which the application relates unless the Court of Session directs otherwise.

(3) Notice of any appointment made under rule 4.2 must be delivered by the replacement office-holder—

- (a) to the Secretary of State as soon as reasonably practicable; and
- (b) to—
  - (i) the creditors in the first progress report following such appointment,
  - (ii) such other persons as the Court of Session may direct, in such manner as the court may direct.

**Changes to legislation:**

There are currently no known outstanding effects for the The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018, PART 4.