
STATUTORY INSTRUMENTS

1986 No. 1915

The Insolvency (Scotland) Rules 1986

PART 2

ADMINISTRATION PROCEDURE

CHAPTER 5

THE ADMINISTRATOR

Remuneration

2.16.—(1) The administrator's remuneration shall be determined from time to time by the creditors' committee or, if there is no creditors' committee, by the court, and shall be paid out of the assets as an expense of the administration.

(2) The basis for determining the amount of the remuneration payable to the administrator may be a commission calculated by reference to the value of the company's property with which he has to deal, but there shall in any event be taken into account -

- (a) the work which, having regard to that value, was reasonably undertaken by him; and
- (b) the extent of his responsibilities in administering the company's assets.

(3) Rules 4.32 to 4.34 of Chapter 6 of Part 4 shall apply to an administration as they apply to a liquidation but as if for any reference to the liquidator or the liquidation committee there was substituted a reference to the administrator or the creditors committee.

Abstract of receipts and payments

2.17.—(1) The administrator shall -

- (a) within 2 months after the end of 6 months from the date of his appointment, and of every subsequent period of 6 months, and
- (b) within 2 months after he ceases to act as administrator,

send to the court, and to the registrar of companies, and to each member of the creditors' committee, the requisite accounts of the receipts and payments of the company.

(2) The court may, on the administrator's application, extend the period of 2 months mentioned in paragraph (1).

(3) The accounts are to be in the form of an abstract showing -

- (a) receipts and payments during the relevant period of 6 months, or
- (b) where the administrator has ceased to act, receipts and payments during the period from the end of the last 6 month period to the time when he so ceased (alternatively, if there has been no previous abstract, receipts and payments in the period since his appointment as administrator).

(4) If the administrator makes default in complying with this Rule, he is liable to a fine and, for continued contravention, to a daily default fine.

Resignation from office

2.18.—(1) The administrator may give notice of his resignation on grounds of ill health or because

- (a) he intends ceasing to be in practice as an insolvency practitioner, or
- (b) there is some conflict of interest or change of personal circumstances, which precludes or makes impracticable the further discharge by him of the duties of administrator.

(2) The administrator may, with the leave of the court, give notice of his resignation on grounds other than those specified in paragraph (1).

(3) The administrator must give to the persons specified below at least 7 days' notice of his intention to resign, or to apply for the court's leave to do so -

- (a) if there is a continuing administrator of the company, to him;
- (b) if there is no such administrator, to the creditors' committee; and
- (c) if there is no such administrator and no creditors' committee, to the company and its creditors.

Administrator deceased

2.19.—(1) Subject to the following paragraph, where the administrator has died, it is the duty of his executors or, where the deceased administrator was a partner in a firm, of a partner of that firm to give notice of that fact to the court, specifying the date of the 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 a copy of the death certificate.

Order filling vacancy

2.20. Where the court makes an order filling a vacancy in the office of administrator, the same provisions apply in respect of giving notice of, and advertising, the appointment as in the case of the original appointment of an administrator.