
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 18

REPORTING AND REMUNERATION OF OFFICE-HOLDERS

CHAPTER 2

Progress reports

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

Reporting by the office-holder

18.2. The office-holder in an administration, winding up or bankruptcy must prepare and deliver reports in accordance with this Chapter.

Contents of progress reports in administration, winding up and bankruptcy

[Note: see rule 3.53 for provisions about the contents of a final progress report in an administration.]

18.3.—(1) The office-holder's progress report in an administration, winding up and bankruptcy must contain the following—

- (a) identification details for the proceedings;
- (b) identification details for the bankrupt;
- (c) identification and contact details for the office-holder;
- (d) the date of appointment of the office-holder and any changes in the office-holder in accordance with paragraphs (3) and (4);
- (e) details of progress during the period of the report, including a summary account of receipts and payments during the period of the report;
- (f) the information relating to remuneration and expenses required by rule 18.4;
- (g) the information relating to distributions required by rules 18.10 to 18.13 as applicable;
- (h) details of what remains to be done; and
- (i) any other information of relevance to the creditors.

(2) The receipts and payments account in a final progress report must state the amount paid to unsecured creditors by virtue of the application of section 176A.

(3) A change in the office-holder is only required to be shown in the next report after the change.

(4) However if the current office-holder is seeking the repayment of pre-administration expenses from a former office-holder the change in office-holder must continue to be shown until the next report after the claim is settled.

(5) Where the period of an administrator's appointment is extended the next progress report after the date the extension is granted must contain details of the extension.

(6) Where an administration has converted to a voluntary winding up the first progress report by the liquidator must include a note of any information received by the liquidator from the former administrator under rule 3.60(5) (matters occurring after the date of the administrator's final progress report).

Information about remuneration

18.4.—(1) The information relating to remuneration and expenses referred to in rule 18.3(1)(f) is as follows—

- (a) the basis fixed for the remuneration of the office-holder under rules 18.16 and 18.18 to 18.21 as applicable, (or, if not fixed at the date of the report, the steps taken during the period of the report to fix it);
- (b) if the basis of remuneration has been fixed, a statement of—
 - (i) the remuneration charged by the office-holder during the period of the report, and
 - (ii) where the report is the first to be made after the basis has been fixed, the remuneration charged by the office-holder during the periods covered by the previous reports, together with a description of the things done by the office-holder during those periods in respect of which the remuneration was charged;
- (c) where the basis of the remuneration is fixed as a set amount under rule 18.16(2)(c), it may be shown as that amount without any apportionment to the period of the report;
- (d) a statement of the expenses incurred by the office-holder during the period of the report;
- (e) a statement setting out whether at the date of the report—
 - (i) in a case other than a members' voluntary winding up, the remuneration expected to be charged by the office-holder is likely to exceed the fees estimate or any approval given under rule 18.16(4),
 - (ii) the expenses incurred or expected to be incurred are likely to exceed, or have exceeded, the details given to the creditors prior to the determination of the basis of remuneration, and
 - (iii) the reasons for that excess; and
- (f) a statement of the rights of creditors and, in a members' voluntary winding up, of members—
 - (i) to request information about remuneration or expenses under rule 18.9, and
 - (ii) to challenge the office-holder's remuneration and expenses under rule 18.34.

(2) The information about remuneration and expenses is required irrespective of whether payment was made in respect of them during the period of the report.

Information about pre-administration costs

18.5.—(1) Where the administrator has made a statement of pre-administration costs under rule 3.35(10)(a)—

- (a) if they are approved under rule 3.52, the first progress report after the approval must include a statement setting out the date of the approval and the amounts approved;
- (b) while any of the costs remain unapproved each successive report must include a statement of any steps taken to get approval.

(2) However if either the administrator has decided not to seek approval, or another insolvency practitioner entitled to seek approval has told the administrator of that practitioner's decision not to seek approval then—

- (a) the next report after that must include a statement of whichever is the case; and
- (b) no statement under paragraph (1)(b) is required in subsequent reports.

Progress reports in administration: timing

18.6.—(1) The administrator's progress report in an administration must cover the periods of—

- (a) six months starting on the date the company entered administration; and
- (b) each subsequent period of six months.

(2) The periods for which progress reports are required under paragraph (1) are unaffected by any change in the administrator.

(3) However where an administrator ceases to act the succeeding administrator must, as soon as reasonably practicable after being appointed, deliver a notice to the creditors of any matters about which the succeeding administrator thinks the creditors should be informed.

(4) The administrator must deliver a copy of a report to the registrar of companies and the creditors within one month of the end of the period covered by the report unless the report is a final progress report under rule 3.55.

(5) An administrator who makes default in delivering a progress report within the time limit in paragraph (4) is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

Progress reports in voluntary winding up: timing

18.7.—(1) This rule applies for the purposes of sections 92A and 104A(1) and prescribes the periods for which reports must be made.

(2) The liquidator's progress reports in a voluntary winding up must cover the periods of—

- (a) 12 months starting on the date the liquidator is appointed; and
- (b) each subsequent period of 12 months.

(3) The periods for which progress reports are required under paragraph (2) are unaffected by any change in the liquidator.

(4) However where a liquidator ceases to act the succeeding liquidator must, as soon as reasonably practicable after being appointed, deliver a notice to the members (in a members' voluntary winding up) or to members and creditors (in a creditors' voluntary winding up) of any matters about which the succeeding liquidator thinks the members or creditors should be informed.

(5) A progress report is not required for any period which ends after the date to which a final account is made up under section 94 or 106(2) and is delivered by the liquidator to members (members' voluntary winding up) or to members and creditors (creditors' voluntary winding up).

(6) The liquidator must send a copy of each progress report within two months after the end of the period covered by the report to—

- (a) the registrar of companies (who is a prescribed person for the purposes of sections 92A and 104A);

(1) Section 92A is amended by section 136(2) and paragraph 16 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26) and section 104A is amended by section 136(3) and paragraph 27 of that Schedule.

(2) A new section 94 is substituted by paragraph 18 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 and a new section 106 is substituted by paragraph 29 of that Schedule.

- (b) the members; and
- (c) in a creditors' voluntary liquidation, the creditors.

Progress reports in winding up by the court and bankruptcy: timing

18.8.—(1) The liquidator or trustee's progress report in a winding up by the court or bankruptcy must cover the periods of —

- (a) 12 months starting on the date a person other than the official receiver is appointed liquidator or trustee; and
- (b) each subsequent period of 12 months.

(2) The periods for which progress reports are required under paragraph (1) are unaffected by any change in the liquidator or trustee unless at any time the official receiver becomes liquidator or trustee in succession to another person in which case—

- (a) the current reporting period under paragraph (1) ends; and
- (b) if a person other than the official receiver is subsequently appointed as liquidator or trustee a new period begins under paragraph (1)(a).

(3) Where a liquidator or trustee ceases to act the succeeding liquidator or trustee must as soon as reasonably practicable after being appointed, deliver a notice to the creditors of any matters about which the succeeding liquidator or trustee thinks the creditors should be informed.

(4) A progress report is not required for any period which ends after the date to which a final account or report is made up under section 146 (winding up by the court) or section 331 (bankruptcy)(3) and is delivered by the liquidator or the trustee to the creditors.

(5) In a winding up by the court, the liquidator must deliver a copy of the progress report to the registrar of companies, the members of the company and the creditors within two months of the end of the period covered by the report.

(6) In a bankruptcy, the trustee must deliver a copy of the progress report to the creditors within two months of the end of the period covered by the report.

Creditors' and members' requests for further information in administration, winding up and bankruptcy

18.9.—(1) The following may make a written request to the office-holder for further information about remuneration or expenses (other than pre-administration costs in an administration) set out in a progress report under rule 18.4(1)(b), (c) or (d) or a final report under rule 18.14—

- (a) a secured creditor;
- (b) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question);
- (c) members of the company in a members' voluntary winding up with at least 5% of the total voting rights of all the members having the right to vote at general meetings of the company;
- (d) any unsecured creditor with the permission of the court; or
- (e) any member of the company in a members' voluntary winding up with the permission of the court.

(3) A new section 146 is substituted by paragraph 38 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26) and section 331 is amended by paragraph 83 of that Schedule.

(2) A request, or an application to the court for permission, by such a person or persons must be made or filed with the court (as applicable) within 21 days of receipt of the report by the person, or by the last of them in the case of an application by more than one member or creditor.

(3) The office-holder must, within 14 days of receipt of such a request respond to the person or persons who requested the information by—

- (a) providing all of the information requested;
- (b) providing some of the information requested; or
- (c) declining to provide the information requested.

(4) The office-holder may respond by providing only some of the information requested or decline to provide the information if—

- (a) the time or cost of preparation of the information would be excessive; or
- (b) disclosure of the information would be prejudicial to the conduct of the proceedings;
- (c) disclosure of the information might reasonably be expected to lead to violence against any person; or
- (d) the office-holder is subject to an obligation of confidentiality in relation to the information.

(5) An office-holder who does not provide all the information or declines to provide the information must inform the person or persons who requested the information of the reasons for so doing.

(6) A creditor, and a member of the company in a members' voluntary winding up, who need not be the same as the creditor or members who requested the information, may apply to the court within 21 days of—

- (a) the office-holder giving reasons for not providing all of the information requested; or
- (b) the expiry of the 14 days within which an office-holder must respond to a request.

(7) The court may make such order as it thinks just on an application under paragraph (6).

Administration, creditors' voluntary liquidation and compulsory winding up: reporting distribution of property to creditors under rule 14.13

18.10.—(1) This rule applies where in an administration, creditors' voluntary liquidation or compulsory winding up there has been a distribution of property to creditors under rule 14.13.

(2) In any account or summary of receipts and payments which is required to be included in an account or report prepared under a rule listed in paragraph (3) the office-holder must—

- (a) state the estimated value of the property divided among the creditors of the company during the period to which the account or summary relates; and
- (b) provide details of the basis of the valuation as a note to the account or summary of receipts and payments.

(3) Paragraph (2) applies to the following—

- (a) rule 3.63 (administrator's intention to resign);
- (b) rule 6.25 (liquidator's resignation and replacement);
- (c) rule 7.61 (liquidator's resignation);
- (d) rule 18.3 (contents of progress report); and
- (e) rule 18.14 (contents of final account (winding up) and final report (bankruptcy)).

Voluntary winding up: reporting arrangement under section 110

18.11.—(1) This rule applies where in a voluntary winding up there has been an arrangement under section 110 and a distribution to members has taken place under section 110(2) or (4).

(2) In any account or summary of receipts and payments which is required to be included in an account or report prepared under a section or rule listed in paragraph (3) the liquidator must—

- (a) state the estimated value during the period to which the account or report relates of—
 - (i) the property transferred to the transferee,
 - (ii) the property received from the transferee, and
 - (iii) the property distributed to members under section 110(2) or (4); and
 - (b) provide details of the basis of the valuation as a note to the account or summary of receipts and payments.
- (3) Paragraph (2) applies to the following—
- (a) section 92A and rule 18.7 (members' voluntary winding up: progress report to company at year's end);
 - (b) section 94 and rule 18.14 (members' voluntary winding up: final account prior to dissolution);
 - (c) section 104A (creditors' voluntary winding up: progress report to company and creditors at year's end);
 - (d) section 106 and rules 6.28 and 18.14 (creditors' voluntary winding up: final account prior to dissolution).

Members' voluntary winding up: reporting distribution to members other than under section 110

18.12.—(1) This rule applies where in a members' voluntary winding up there has been a distribution of property to members in its existing form other than under an arrangement under section 110.

(2) In any account or summary of receipts and payments which is required to be included in an account or report prepared under a section or rule listed in paragraph (3) the liquidator must—

- (a) state the estimated value of the property distributed to the members of the company during the period to which the account or report relates; and
- (b) provide details of the basis of the valuation as a note to the account or summary of receipts and payments.

- (3) Paragraph (2) applies to the following—
- (a) section 92A (progress report);
 - (b) section 94 (final account prior to dissolution);
 - (c) rule 5.6 (liquidator's resignation).

Bankruptcy proceedings: reporting distribution of property to creditors under section 326

18.13.—(1) This rule applies in bankruptcy where there has been a distribution of property to creditors under section 326.

(2) In an account or report which the trustee is required to prepare under a section or rule listed in paragraph (3) the trustee must—

- (a) state the estimated value of the property distributed among the creditors during the period to which the account or report relates; and

- (b) provide details of the basis of the valuation in a note to the account or report.
- (3) Paragraph (2) applies to the following—
 - (a) section 331 (final report to creditors in bankruptcy);
 - (b) rule 10.77 (consideration of appointment of replacement trustee); and
 - (c) Chapters 2 and 3 of this Part.