

---

STATUTORY INSTRUMENTS

---

**2016 No. 1024**

**The Insolvency (England and Wales) Rules 2016**

**PART 21**

**THE EC REGULATION**

**Confirmation of creditors' voluntary winding up: application**

**21.4.**—(1) This rule applies where—

- (a) a company has passed a resolution for voluntary winding up, and either—
  - (i) no declaration of solvency has been made in accordance with section 89, or
  - (ii) a declaration made under section 89—
    - (aa) has no effect by virtue of section 89(2), or
    - (bb) is treated as not having been made by virtue of section 96(1); or
- (b) a company has moved from administration to creditors' voluntary winding up in accordance with paragraph 83 of Schedule B1(2).

(2) The liquidator may apply to court for an order confirming the winding up as a creditors' voluntary winding up for the purposes of the EC Regulation.

(3) The application must be supported by a witness statement made by the liquidator which must contain—

- (a) identification details for the liquidator and the company;
- (b) the date on which the resolution for voluntary winding up was passed;
- (c) a statement that the application is accompanied by the documents required by paragraph (4);
- (d) a statement that the documents required by paragraph (4)(c) and (d) are true copies of the originals; and
- (e) a statement whether the proceedings will be main proceedings, secondary proceedings or territorial proceedings.

(4) The liquidator must file with the court—

- (a) two copies of the application;
- (b) evidence of having been appointed liquidator of the company;
- (c) a copy of—
  - (i) the resolution for voluntary winding up, or

---

(1) A new section 96 is substituted by paragraph 20 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

(2) Paragraph 83 subparagraphs (1)(b) and (2)(b) are amended by section 128(3) of the Small Business, Enterprise and Employment Act 2015 and subparagraphs (5)(b) and (8)(d) are amended by paragraph 10(31) and (32) of Schedule 9 to that Act.

- (ii) the notice of moving from administration to creditors' voluntary winding up sent by the administrator to the registrar of companies under paragraph 83(3) of Schedule B1; and
- (d) a copy of—
  - (i) the statement of affairs required by section 99(3) or under paragraph 47 of Schedule B1, or
  - (ii) the information included in the administrator's statement of proposals under rule 3.35(1)(h).

---

(3) Section 99 subsections (12) and (3) are substituted by new subsections (1) and (3) by paragraph 23 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).