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STATUTORY INSTRUMENTS

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**2016 No. 1024**

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

**PART 6**

**CREDITORS' VOLUNTARY WINDING UP**

**CHAPTER 3**

Nomination and appointment of liquidators and information to creditors

**Nomination of liquidator and information to creditors on conversion from members' voluntary winding up (section 96)**

**6.11.**—(1) This rule applies in respect of the conversion of a members' voluntary winding up to a creditors' voluntary winding up under section 96(1).

(2) The liquidator must seek a nomination from the creditors for a liquidator in the creditors' voluntary winding up by—

- (a) a decision procedure; or
- (b) the deemed consent procedure.

(3) The liquidator must deliver to the creditors a copy of the statement of affairs required by section 95(1A) and Chapter 2 of this Part together with a notice which complies with rules 15.7 or 15.8 so far as are relevant.

(4) The notice must also contain—

- (a) identification and contact details for the existing liquidator; and
- (b) a statement that if no person is nominated by the creditors then the existing liquidator will be the liquidator in the creditors' voluntary winding up.

(5) The decision date in the notice must be not later than 28 days from the date under section 95(1) that the liquidator formed the opinion that the company will be unable to pay its debts in full.

(6) Subject to paragraph (9), the creditors must be given at least 14 days' notice of the decision date.

(7) Paragraph (8) applies where—

- (a) the liquidator has sought a decision from creditors on the nomination of a liquidator by the deemed consent procedure; but
- (b) the level of objections to the proposed nomination have meant, under section 246ZF, that no nomination is deemed to have been made.

(8) Where this paragraph applies, the liquidator must seek a nomination from creditors by way of a decision procedure in accordance with this rule, the decision date to be as soon as reasonably practicable, but no more than 28 days from the date that the level of objections had the effect that no nomination was deemed to have been made.

(9) Where paragraph (8) applies, the creditors must be given at least seven days' notice of the decision date.

(10) Where the liquidator is required by rule 15.6 to summon a physical meeting as a result of requests from creditors received in response to a notice delivered under this rule, the physical meeting must be summoned to take place—

- (a) within 28 days of the date on which the threshold for requiring a physical meeting was met; and
- (b) with at least 14 days' notice.