
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 6

CREDITORS' VOLUNTARY WINDING UP

CHAPTER 7

Litigation expenses and property subject to a floating charge

Request for approval or authorisation

6.46.—(1) All requests made by the liquidator for approval or authorisation must include the following—

- (a) a statement describing the nature of the legal proceedings, including, where relevant, the statutory provision under which proceedings are or are to be brought and the grounds upon which the liquidator relies;
- (b) a statement specifying the amount or apportioned amount of litigation expenses for which approval or authorisation is sought (“the specified amount”);
- (c) notice that approval or authorisation or other reply to the request must be made in writing within 28 days from the date of its being received (“the specified time limit”); and
- (d) a statement explaining the consequences of a failure to reply within the specified time limit.

(2) Where anything in paragraph (1) requires the inclusion of any information, the disclosure of which could be seriously prejudicial to the winding up of the company, the liquidator may—

- (a) exclude such information from any of the above statements or notices if accompanied by a statement to that effect; or
- (b) include it on terms—
 - (i) that bind the creditor to keep the information confidential; and
 - (ii) that include an undertaking on the part of the liquidator to apply to the court for an order that so much of the information as may be kept in the files of the court is not to be open to public inspection.

(3) The creditor may within the specified time limit apply to the liquidator in writing for such further particulars as is reasonable and in such a case, the time limit specified in paragraph (1)(c) will apply from the date of the creditor’s receipt of the liquidator’s response to any such request.

(4) Where the liquidator requires the approval or authorisation of two or more creditors, the liquidator must deliver a request to each creditor, containing the matters listed in paragraph (1) and also giving—

- (a) the number of creditors concerned;
- (b) the total value of their claims, or if not known, as it is estimated to be by the liquidator immediately before delivering any such request; and

- (c) to each preferential creditor, notice that approval or authorisation of the specified amount will be taken to be given where a majority in value of those preferential creditors who respond within the specified time limit are in favour of it; or
- (d) where rule 6.45 applies, notice to the specified creditors that the amount of litigation expenses will be apportioned between them in accordance with that rule and notice of the value of the portion allocated to, and the identity of, the specified creditors affected by that apportionment.