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STATUTORY INSTRUMENTS

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**2016 No. 1024**

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

**PART 7**

**WINDING UP BY THE COURT**

**CHAPTER 8**

**The liquidator**

**Choosing a person to be liquidator**

**7.52.**—(1) This rule applies where nominations are sought by the official receiver from the company's creditors and contributories under section 136 for the purpose of choosing a person to be liquidator of the company in place of the official receiver<sup>(1)</sup>.

(2) The official receiver must deliver to the creditors and contributories a notice inviting proposals for a liquidator.

(3) The notice must explain that the official receiver is not obliged to seek the creditors' views on any proposals that do not meet the requirements of paragraphs (4) and (5).

(4) A proposal must state the name and contact details of the proposed liquidator, and contain a statement that the proposed liquidator is qualified to act as an insolvency practitioner in relation to the company and has consented to act as liquidator of the company.

(5) A proposal must be received by the official receiver within five business days of the date of the notice under paragraph (2).

(6) Following the end of the period for inviting proposals under paragraph (2), where any proposals are received the official receiver must seek a decision on the nomination of a liquidator from the creditors (on any proposals received from creditors) and from the contributories (on any proposals received from contributories) by—

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

(7) Where a decision is sought under paragraph (6) following the official receiver's decision under section 136(5)(a) to seek a nomination, the decision date must be not more than four months from the date of the winding-up order.

(8) Where the official receiver is required under section 136(5)(c) to seek such a decision, the official receiver must send a notice to the creditors and contributories which complies with rule 15.7 or 15.8 so far as relevant.

(9) The notice must also—

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(1) Section 136(4) to (6) is amended by paragraph 31(1) to (4) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

- (a) identify any liquidator proposed to be nominated by a creditor (in the case of a notice to creditors) or by a contributory (in the case of a notice to contributories) in accordance with this rule; and
  - (b) contain a statement explaining the effect of section 137(2)(2) (duty of official receiver to consider referral of need for appointment of liquidator to the Secretary of State where no person is chosen to be liquidator).
- (10) The decision date in the notice must be no later than 21 days after the date for receiving proposals has passed.
- (11) The creditors and contributories must be given at least 14 days' notice of the decision date.
- (12) Where no proposal is received by the official receiver under paragraph (2), the official receiver has no obligation to seek a decision from creditors or contributories on a liquidator.
- (13) Nothing in this rule affects the official receiver's ability under section 137(1), at any time when liquidator of the company, to apply to the Secretary of State to appoint a liquidator in place of the official receiver.

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(2) Section 137(2) is amended by paragraph 32(2) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).