
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 7

WINDING UP BY THE COURT

CHAPTER 8

The liquidator

Removal of liquidator by the court (section 172(2))

7.65.—(1) This rule applies where an application is made to the court under section 172(2)(1) for the removal of the liquidator, or for an order directing the liquidator to initiate a decision procedure of creditors for the purpose of removing the liquidator.

(2) On receipt of an application, the court may, if it is satisfied that no sufficient cause is shown for it, dismiss it without giving notice to any party other than the applicant.

(3) Unless the application is dismissed, the court must fix a venue for it to be heard.

(4) The applicant must, at least 14 days before any hearing, deliver to the liquidator and the official receiver a notice stating the venue with a copy of the application and of any evidence on which the applicant intends to rely.

(5) A respondent may apply for security for costs of the application and the court may make such an order if it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order.

(6) The liquidator and the official receiver may do either or both of the following—

- (a) file a report of any matters which the liquidator or the official receiver thinks ought to be drawn to the court's attention; or
- (b) appear and be heard on the application.

(7) On a successful application the court's order must contain—

- (a) the name of the court (and hearing centre if applicable) in which the order is made;
- (b) the name and title of the judge making the order;
- (c) the name and postal address of the applicant;
- (d) the capacity in which the applicant made the application;
- (e) identification and contact details for the liquidator;
- (f) identification details for the company;
- (g) an order either—
 - (i) that that the liquidator is removed from office; or

(1) Section 172(2) is amended by paragraph 43(2) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

- (ii) that the liquidator must initiate a decision procedure of the company's creditors (specifying which procedure is to be used) on or before the date specified in the order for the purpose of considering the liquidator's removal from office; and
 - (h) the date the order is made.
- (8) The costs of the application are not payable as an expense of the winding up unless the court orders otherwise.
- (9) Where the court removes the liquidator—
 - (a) it must deliver the sealed order of removal to the former liquidator and a copy of the order to the official receiver; and
 - (b) the former liquidator must deliver a copy of the order to the registrar of companies as soon as reasonably practicable.
- (10) If the court appoints a new liquidator, rule 7.56 applies.