
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 356

Act of Sederunt (Sheriff Appeal Court Rules) 2015

PART 5

INCIDENTAL PROCEDURE: STANDARD PROCEDURES

CHAPTER 18

CAUTION AND SECURITY

Insolvency or death of cautioner or guarantor

18.8.—(1) This rule applies where caution has been found by bond of caution or security has been given by guarantee.

(2) Where one of the events specified in paragraph (3) occurs, the party entitled to benefit from the caution or guarantee may apply to the Court by motion for further caution to be found or further security to be given.

(3) The events are that the cautioner or guarantor—

- (a) becomes apparently insolvent within the meaning of section 7 of the Bankruptcy (Scotland) Act 1985⁽¹⁾;
- (b) calls a meeting of the cautioner or guarantor’s creditors to consider the state of that person’s affairs;
- (c) dies unrepresented;
- (d) is a company and—
 - (i) an administration, bank administration or building society special administration order has been made in respect of it;
 - (ii) a winding up, bank insolvency or building society insolvency order has been made in respect of it;
 - (iii) a resolution for its voluntary winding up has been passed;
 - (iv) a receiver of all or any part of its undertaking has been appointed;
 - (v) a voluntary arrangement within the meaning of section 1(1) of the Insolvency Act 1986⁽²⁾ has been approved under Part I of that Act.

(1) 1985 c. 66. Section 7 was last amended by the Policing and Crime Act 2009 (c. 26), Schedule 7, paragraph 47.

(2) 1986 c. 45. Section 1(1) was amended by the Enterprise Act 2002 (c. 40), Schedule 17, paragraph 10.