
STATUTORY INSTRUMENTS

1986 No. 1925

The Insolvency Rules 1986

THE FIRST GROUP OF PARTS

PART 2

ADMINISTRATION PROCEDURE

CHAPTER 2

STATEMENT OF AFFAIRS AND PROPOSALS TO CREDITORS

Notice requiring statement of affairs

2.11.—(1) If the administrator determines to require a statement of the company's affairs to be made out and submitted to him in accordance with section 22, he shall send notice to each of the persons whom he considers should be made responsible under that section, requiring them to prepare and submit the statement.

(2) The persons to whom the notice is sent are referred to in this Chapter as “the deponents”.

(3) The notice shall inform each of the deponents—

(a) of the names and addresses of all others (if any) to whom the same notice has been sent;

(b) of the time within which the statement must be delivered;

(c) of the effect of section 22(6) (penalty for non-compliance); and

(d) of the application to him, and to each of the other deponents, of section 235 (duty to provide information, and to attend on the administrator if required).

(4) The administrator shall, on request, furnish each deponent with instructions for the preparation of the statement and with the forms required for that purpose.

Verification and filing

2.12.—(1) The statement of affairs shall be in FORM 2.9, shall contain all the particulars required by that form and shall be verified by affidavit by the deponents (using the same form).

(2) The administrator may require any of the persons mentioned in section 22(3) to submit an affidavit of concurrence, stating that he concurs in the statement of affairs.

(3) An affidavit of concurrence may be qualified in respect of matters dealt with in the statement of affairs, where the maker of the affidavit is not in agreement with the deponents, or he considers the statement to be erroneous or misleading, or he is without the direct knowledge necessary for concurring with it.

(4) The statement of affairs shall be delivered to the administrator by the deponent making the affidavit of verification (or by one of them, if more than one), together with a copy of the verified statement.

(5) Every affidavit of concurrence shall be delivered by the person who makes it, together with a copy.

(6) The administrator shall file the verified copy of the statement, and the affidavits of concurrence (if any) in court.

Limited disclosure

2.13.—(1) Where the administrator thinks that it would prejudice the conduct of the administration for the whole or part of the statement of affairs to be disclosed, he may apply to the court for an order of limited disclosure in respect of the statement, or any specified part of it.

(2) The court may on the application order that the statement or, as the case may be, the specified part of it, be not filed in court, or that it is to be filed separately and not be open to inspection otherwise than with leave of the court.

(3) The court's order may include directions as to the delivery of documents to the registrar of companies and the disclosure of relevant information to other persons.

Release from duty to submit statement of affairs; extension of time

2.14.—(1) The power of the administrator under section 22(5) to give a release from the obligation imposed by that section, or to grant an extension of time, may be exercised at the administrator's own discretion, or at the request of any deponent.

(2) A deponent may, if he requests a release or extension of time and it is refused by the administrator, apply to the court for it.

(3) The court may, if it thinks that no sufficient cause is shown for the application, dismiss it; but it shall not do so unless the applicant has had an opportunity to attend the court for an ex parte hearing, of which he has been given at least 7 days' notice.

If the application is not dismissed under this paragraph, the court shall fix a venue for it to be heard, and give notice to the deponent accordingly.

(4) The deponent shall, at least 14 days before the hearing, send to the administrator a notice stating the venue and accompanied by a copy of the application, and of any evidence which he (the deponent) intends to adduce in support of it.

(5) The administrator may appear and be heard on the application; and, whether or not he appears, he may file a written report of any matters which he considers ought to be drawn to the court's attention.

If such a report is filed, a copy of it shall be sent by the administrator to the deponent, not later than 5 days before the hearing.

(6) Sealed copies of any order made on the application shall be sent by the court to the deponent and the administrator.

(7) On any application under this Rule the applicant's costs shall be paid in any event by him and, unless the court otherwise orders, no allowance towards them shall be made out of the assets.

Expenses of statement of affairs

2.15.—(1) A deponent making the statement of affairs and affidavit shall be allowed, and paid by the administrator out of his receipts, any expenses incurred by the deponent in so doing which the administrator considers reasonable.

(2) Any decision by the administrator under this Rule is subject to appeal to the court.

(3) Nothing in this Rule relieves a deponent from any obligation with respect to the preparation, verification and submission of the statement of affairs, or to the provision of information to the administrator.

Statement to be annexed to proposals

2.16. There shall be annexed to the administrator's proposals, when sent to the registrar of companies under section 23 and laid before the creditors' meeting to be summoned under that section, a statement by him showing—

- (a) details relating to his appointment as administrator, the purposes for which an administration order was applied for and made, and any subsequent variation of those purposes;
- (b) the names of the directors and secretary of the company;
- (c) an account of the circumstances giving rise to the application for an administration order;
- (d) if a statement of affairs has been submitted, a copy or summary of it, with the administrator's comments, if any;
- (e) if no statement of affairs has been submitted, details of the financial position of the company at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that of the administration order);
- (f) the manner in which the affairs of the company will be managed and its business financed, if the administrator's proposals are approved; and
- (g) such other information (if any) as the administrator thinks necessary to enable creditors to decide whether or not to vote for the adoption of the proposals.

Notice to members of proposals to creditors

2.17. The manner of publishing—

- (a) under section 23(2)(b), notice to members of the administrator's proposals to creditors, and
- (b) under section 25(3)(b), notice to members of substantial revisions of the proposals,

shall be by gazetting; and the notice shall also in either case be advertised once in the newspaper in which the administration order was advertised.