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## STATUTORY INSTRUMENTS

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# 1986 No. 1925

## The Insolvency Rules 1986

### THE FIRST GROUP OF PARTS

#### PART 3

##### ADMINISTRATIVE RECEIVERSHIP

###### CHAPTER 2

###### STATEMENT OF AFFAIRS AND REPORT TO CREDITORS

###### **Notice requiring statement of affairs**

- 3.3.—(1) If the administrative receiver determines to require a statement of the company's affairs to be made out and submitted to him in accordance with section 47, 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 47(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 administrative receiver if required).
- (4) The administrative receiver 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**

- 3.4.—(1) The statement of affairs shall be in Form 3.2, shall contain all the particulars required by that form and shall be verified by affidavit by the deponents (using the same form).
- (2) The administrative receiver may require any of the persons mentioned in section 47(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 receiver 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 administrative receiver shall retain the verified copy of the statement and the affidavits of concurrence (if any) as part of the records of the receivership.

### **Limited disclosure**

**3.5.—(1)** Where the administrative receiver thinks that it would prejudice the conduct of the receivership 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 a 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 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**

**3.6.—(1)** The power of the administrative receiver under section 47(5) to give a release from the obligation imposed by that section, or to grant an extension of time, may be exercised at the receiver'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 receiver, 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 receiver 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 receiver 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 receiver 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 receiver.

(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 under the administrative receiver's control.

### **Expenses of statement of affairs**

**3.7.—(1)** A deponent making the statement of affairs and affidavit shall be allowed, and paid by the administrative receiver out of his receipts, any expenses incurred by the deponent in so doing which the receiver thinks reasonable.

(2) Any decision by the receiver 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 receiver.

## Report to creditors

**3.8.—(1)** If under section 48(2) the administrative receiver determines not to send a copy of his report to creditors, but to publish notice under paragraph (b) of that subsection, the notice shall be published in the newspaper in which the receiver's appointment was advertised.

(2) If he proposes to apply to the court to dispense with the holding of the meeting of unsecured creditors (otherwise required by section 48(2)), he shall in his report to creditors or (as the case may be) in the notice published as above, state the venue fixed by the court for the hearing of the application.

(3) Subject to any order of the court under Rule 3.5, the copy of the receiver's report which under section 48(1) is to be sent to the registrar of companies shall have attached to it a copy of any statement of affairs under section 47, and copies of any affidavits of concurrence.

(4) If the statement of affairs or affidavits of concurrence, if any, have not been submitted to the receiver by the time he sends a copy of his report to the registrar of companies, he shall send a copy of the statement and any affidavits of concurrence as soon thereafter as he receives them.