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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2016 No.**

**The Public Services Reform (Insolvency) (Scotland) Order 2016**

*Winding up*

**Members' voluntary winding up: progress report to company**

- 5.—(1) In section 92A of the Act (progress report to company (England and Wales))(1)—
- (a) in subsection (1) repeal “where the company is registered in England and Wales”; and
  - (b) in the section title repeal “(England and Wales)”.
- (2) Repeal section 93 of the Act (general company meeting at each year's end (Scotland))(2).
- (3) In Schedule 10 of the Act (punishment of offences), repeal the entry relating to section 93(3).

**Creditors' voluntary winding up: progress report to company and creditors**

- 6.—(1) In section 104A of the Act (progress report to company and creditors (England and Wales))(3)—
- (a) in subsection (1), for “Where the company in registered in England and Wales the” substitute “The”; and
  - (b) in the section title repeal “(England and Wales)”.
- (2) Repeal section 105 of the Act (meetings of company and creditors at each year's end (Scotland))(4).
- (3) In Schedule 10 of the Act, repeal the entry relating to section 105(3).

**Consequential amendments and repeals**

- 7.—(1) In the 2015 Act, repeal paragraphs 17 and 28 of Schedule 9.
- (2) In the Limited Liability Partnerships (Scotland) Regulations 2001(5)—
- (a) in Schedule 2 (provisions of the Act which apply to limited liability partnerships as they apply to companies)—
    - (i) for “93” substitute “92A”; and
    - (ii) for “105” substitute “104A”; and
  - (b) in Schedule 3 (modifications to provisions of the Act) omit the entries for sections 93 and 105.

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(1) Section 92A was inserted by article 6(1) of [S.I. 2010/18](#), amended by section 136(2) of the 2015 Act and is prospectively amended by paragraph 16 of Schedule 9 of the 2015 Act.

(2) Section 93 was amended by article 6(2) of [S.I. 2010/18](#) and is prospectively amended by paragraph 17 of Schedule 9 of the 2015 Act.

(3) Section 104A was inserted by article 6(3) of [S.I. 2010/18](#), amended by section 136(3) of the 2015 Act and is prospectively amended by paragraph 27 of Schedule 9 of the 2015 Act.

(4) Section 105 was amended by article 6(4) of [S.I. 2010/18](#) and is prospectively amended by paragraph 28 of Schedule 9 of the 2015 Act.

(5) [S.S.I. 2001/128](#).

- (3) In the Limited Liability Partnerships Regulations 2001<sup>(6)</sup>—
- (a) in Schedule 3 (modifications to provisions of the Act) omit the entries for sections 93 and 105; and
  - (b) in Schedule 4 (provisions of the Act not applied in Scotland because they are applied by the Limited Liability Partnerships (Scotland) Regulations 2001)—
    - (i) for “93” substitute “92A”; and
    - (ii) for “105” substitute “104A”.

**Members’ voluntary winding up: verification of statement as to company’s affairs**

**8.** In section 95(4A) of the Act (liquidator’s verification of statement as to company’s affairs)<sup>(7)</sup>—

- (a) repeal “be verified by the liquidator”;
- (b) in paragraph (a), after “Wales,” insert “be verified by the liquidator”; and
- (c) in paragraph (b), for “by affidavit” substitute “contain a statutory declaration by the liquidator”.

**Creditors’ voluntary winding up: verification of statement of affairs**

**9.** In section 99(2A) of the Act (directors’ verification of statement as to company’s affairs)<sup>(8)</sup>—

- (a) repeal “be verified by some or all of the directors”;
- (b) in paragraph (a), after “Wales,” insert “be verified by some or all of the directors”; and
- (c) in paragraph (b), for “by affidavit” substitute “contain a statutory declaration by some or all of the directors”.

**Court winding up: verification of statement of affairs on investigation**

**10.** In section 131(2A) of the Act (company’s statement of affairs)<sup>(9)</sup>—

- (a) repeal “be verified by the persons required to submit it”;
- (b) in paragraph (a), after “Wales,” insert “be verified by the persons required to submit it”; and
- (c) in paragraph (b), for “by affidavit” substitute “contain a statutory declaration by the persons required to submit it”.

**Application for early dissolution of the company**

**11.** In section 204(2) of the Act (early dissolution: Scotland)<sup>(10)</sup> for “he may apply” substitute “the liquidator may at any time apply”.

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<sup>(6)</sup> [S.I. 2001/1090](#).

<sup>(7)</sup> Section 95(4A) was inserted by article 5(2)(b) of [S.I. 2010/18](#).

<sup>(8)</sup> Section 99(2A) was inserted by article 5(3)(b) of [S.I. 2010/18](#).

<sup>(9)</sup> Section 131(2A) was inserted by article 5(4)(b) of [S.I. 2010/18](#).

<sup>(10)</sup> Section 204(2) is prospectively amended by paragraph 50 of Schedule 9 of the 2015 Act.