
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 114

The Insolvency (Scotland) Amendment Rules 2014

Electronic submission and delivery

26.—(1) After Rule 3.9(1), insert—

“Electronic measures - application

3.9A.—(1) Subject to paragraph (2), this Rule and Rules 3.9B and 3.9C apply where a notice or other document is required to be given, delivered or sent under this Part or Part III of the Act(2).

(2) This Rule and Rules 3.9B and 3.9C do not apply to—

- (a) lodging any application or other document with the court;
- (b) service of any application, or other document lodged with the court;
- (c) service of any order of the court; or
- (d) submission of documents to the registrar of companies.

Electronic delivery

3.9B.—(1) Unless in any particular case some other form of delivery is required by the Act or the Rules or an order of the court, a notice or other document may be given, delivered or sent by electronic means provided that the intended recipient of the notice or other document has—

- (a) consented (whether in the specific case or generally) to electronic delivery (and has not revoked that consent); and
- (b) provided an electronic address for delivery.

(2) In the absence of evidence to the contrary, a notice or other document is presumed to have been delivered where—

- (a) the sender can produce a copy of the electronic message which—
 - (i) contained the notice or other document, or to which the notice or other document was attached; and
 - (ii) shows the time and date the message was sent; and
- (b) that electronic message contains the address supplied under paragraph (1)(b).

(3) A message sent electronically is deemed to have been delivered to the recipient no later than 9.00am on the next business day after it was sent.

Electronic delivery by receivers etc.

3.9C.—(1) Where an office-holder gives, sends or delivers a notice or other document to any person by electronic means, the notice or document must contain or be accompanied by a

(1) Rule 3.9 was amended by [S.I. 1999/1820](#).
(2) The 1986 Act.

statement that the recipient may request a hard copy of the notice or document and specifying a telephone number, e-mail address and postal address which may be used to request a hard copy.

(2) Where a hard copy of the notice or other document is requested, it must be sent within 5 business days of receipt of the request by the office-holder.

(3) An office-holder must not require a person making a request under paragraph (2) to pay a fee for the supply of the document.”

(2) Before Rule 4.76, insert—

“Electronic measures - application

4.75A.—(1) Subject to paragraph (2), this Rule and Rules 4.75B and 4.75C apply where a notice or other document is required to be given, delivered or sent under this Part or Parts IV or V of the Act(3) or Part VI of the Act so far as it applies where a company goes into liquidation.

(2) This Rule and Rules 4.75B and 4.75C do not apply to—

- (a) lodging any application, or other document with the court;
- (b) service of any application, or other document lodged with the court;
- (c) service of any order of the court;
- (d) submission of documents to the registrar of companies;
- (e) service of a statutory demand;
- (f) a notice or other document to be given, delivered or sent to or by a provisional liquidator appointed under section 135(4); or
- (g) a notice or other document to be given, delivered or sent under section 233(5).

(3) For the purposes of paragraph (1) a company goes into liquidation if it passes a resolution for voluntary winding up or a winding-up order is made by the court at a time when it has not already gone into liquidation by passing such a resolution.

(4) The reference to a resolution for voluntary winding up in paragraph (3) includes a reference to a resolution which is deemed to occur by virtue of—

- (a) paragraph 83(6)(b) of Schedule B1 to the Act(6); or
- (b) an order made following conversion of administration or a voluntary arrangement into winding up by virtue of Article 37 of the EC Regulation(7).

Electronic delivery

4.75B.—(1) Unless in any particular case some other form of delivery is required by the Act or the Rules or an order of the court, a notice or other document may be given, delivered or sent by electronic means provided that the intended recipient of the notice or other document has—

- (a) consented (whether in the specific case or generally) to electronic delivery (and has not revoked that consent); and
- (b) provided an electronic address for delivery.

(3) The 1986 Act.

(4) Section 135 (appointment and powers of provisional liquidator) of the 1986 Act.

(5) Section 233 (supplies of gas, water, electricity, etc) of the 1986 Act which was amended by the Water Act 1989 (c.15), section 190 and Schedule 25, paragraph 78, the Gas Act 1995 (c.45), Schedule 4, paragraph 14 and Schedule 6, paragraph 1, the Utilities Act 2000 (c.27), Schedule 6, Part III, paragraph 47 and Schedule 8, paragraph 1, the Insolvency Act 2000 (c.39), Schedule 1, paragraph 8, the Enterprise Act 2002 (c.40), Schedule 17, paragraph 22, the Communications Act 2003 (c.21), Schedule 17, paragraph 82 and S.I. 2004/1822.

(6) Paragraph 83(6)(b) of Schedule B1 (administration) to the 1986 Act which was inserted by the Enterprise Act 2002 (c.40), section 248(2).

(7) Council Regulation (EC) No. 1346/2000 of 29th May 2000 on insolvency proceedings (OJ L 160, 30.6.2000, p.19).

(2) In the absence of evidence to the contrary, a notice or other document is presumed to have been delivered where—

- (a) the sender can produce a copy of the electronic message which—
 - (i) contained the notice or other document, or to which the notice or other document was attached; and
 - (ii) shows the time and date the message was sent; and
- (b) that electronic message contains the address supplied under paragraph (1)(b).

(3) A message sent electronically is deemed to have been delivered to the recipient no later than 9.00am on the next business day after it was sent.

Electronic delivery by liquidators etc.

4.75C.—(1) Where an office-holder gives, sends or delivers a notice or other document to any person by electronic means, the notice or document must contain or be accompanied by a statement that the recipient may request a hard copy of the notice or document and specifying a telephone number, e-mail address and postal address which may be used to request a hard copy.

(2) Where a hard copy of the notice or other document is requested, it must be sent within 5 business days of receipt of the request by the office-holder.

(3) An office-holder must not require a person making a request under paragraph (2) to pay a fee for the supply of the document.”.

(3) In Rule 0.2(3) and (4) (interpretation)(**8**) for “and 2, or any other Rule applied by those parts” substitute “to 6, or any other Rule applied by any of those parts”.

(4) In Rule 7.21(1A) (giving of notices, etc.)(**9**) for “and 2” substitute “to 6”.

(5) In Rules 7.30A(1) (electronic submission instead of forms to Secretary of State, office-holders and of copies to the registrar of companies)(**10**) and 7.30B(1) (electronic submission instead of forms in all other cases)(**11**) for “Part 1 or 2” substitute “Parts 1 to 6”.

(6) After Rule 7.30B insert—

“Electronic submission: exceptions

7.30C.—(1) Rule 7.30A does not apply to a form to be sent—

- (a) under section 204(6)(**12**) and Rule 4.77 or section 205(6)(**13**) and Rule 4.77; or
- (b) to or by a provisional liquidator appointed under section 135(**14**).

(2) Rule 7.30B does not apply—

- (a) to a Form to be sent under Rule 4.80;
- (b) to a form to be sent to or by a provisional liquidator appointed under section 135; or
- (c) in respect of a statutory demand.”.

(7) After paragraph 32 of Schedule 1 (modifications of Part 4 in relation to creditors’ winding up) insert—

(**8**) Paragraphs (3) and (4) of rule 0.2 were inserted by [S.I. 2010/688](#).

(**9**) Rule 7.21 was amended by [S.I. 1987/1921](#) and [S.I. 2010/688](#).

(**10**) Rule 7.30A was inserted by [S.I. 2010/688](#).

(**11**) Rule 7.30B was inserted by [S.I. 2010/688](#).

(**12**) Section 204 (early dissolution (Scotland)) of the 1986 Act.

(**13**) Section 205 (dissolution otherwise than under ss 202-204) of the 1986 Act.

(**14**) Section 135 (appointment and powers of provisional liquidator) of the 1986 Act.

“Rule 4.75A

32A. After Rule 4.75A(2)(d) there shall be inserted the following—

“(da) a notice or other document to be given, delivered or sent under section 84(2A) or (2B)(b);”.”.

(8) After paragraph 14 of Schedule 2 (application of Part 4 in relation to members’ voluntary winding up) insert—

“Rules 4.75A to 4.75C

15. These Rules shall apply subject to the modification that after Rule 4.75A(2)(d) there shall be inserted the following—

“(da) a notice or other document to be given, delivered or sent under section 84(2A) or (2B)(b);”.”.