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## SCOTTISH STATUTORY INSTRUMENTS

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# 2016 No. 141

## 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).

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#### **Commencement Information**

- I1** Art. 5 in force at 1.4.2016 for specified purposes, see [art. 1\(3\)](#)
- I2** [Art. 5](#) in force at 6.4.2019 in so far as not already in force, see [art. 1\(4\)](#)

#### **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).

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#### **Commencement Information**

- I3** Art. 6 in force at 1.4.2016 for specified purposes, see [art. 1\(3\)](#)
- I4** [Art. 6](#) in force at 6.4.2019 in so far as not already in force, see [art. 1\(4\)](#)

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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.

### 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<sup>(5)</sup>—
- (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.
- (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”.

#### Commencement Information

- I5** Art. 7 in force at 1.4.2016 for specified purposes, see [art. 1\(3\)](#)
- I6** [Art. 7](#) in force at 6.4.2019 in so far as not already in force, see [art. 1\(4\)](#)

### 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”.

#### Commencement Information

- I7** Art. 8 in force at 1.4.2016 for specified purposes, see [art. 1\(3\)](#)
- I8** [Art. 8](#) in force at 6.4.2019 in so far as not already in force, see [art. 1\(4\)](#)

### 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

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

<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](#).

- (c) in paragraph (b), for “by affidavit” substitute “contain a statutory declaration by some or all of the directors”.

**Commencement Information**

- I9** Art. 9 in force at 1.4.2016 for specified purposes, see [art. 1\(3\)](#)  
**I10** [Art. 9](#) in force at 6.4.2019 in so far as not already in force, see [art. 1\(4\)](#)

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

- 10.** In section 131(2A) of the Act (company’s statement of affairs)(**9**)—
- (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”.

**Commencement Information**

- I11** Art. 10 in force at 1.4.2016 for specified purposes, see [art. 1\(3\)](#)  
**I12** [Art. 10](#) in force at 6.4.2019 in so far as not already in force, see [art. 1\(4\)](#)

**Application for early dissolution of the company**

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

**Commencement Information**

- I13** Art. 11 in force at 1.4.2016 for specified purposes, see [art. 1\(3\)](#)  
**I14** [Art. 11](#) in force at 6.4.2019 in so far as not already in force, see [art. 1\(4\)](#)

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

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

**Changes to legislation:**

There are currently no known outstanding effects for the The Public Services Reform (Insolvency) (Scotland) Order 2016, Cross Heading: Winding up.