
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 347

**The Insolvency (Scotland) (Receivership
and Winding up) Rules 2018**

PART 12

**PERMISSION TO ACT AS DIRECTOR ETC. OF
COMPANY WITH A PROHIBITED NAME (SECTION 216)**

Statement as to the effect of the notice under rule 12.4(2)

12.5. The statement as to the effect of the notice under rule 12.4(2) must be as set out below—

“Section 216(3) of the Insolvency Act 1986 lists the activities that a director of a company that has gone into insolvent liquidation may not undertake unless the court gives permission or there is an exception in the Insolvency Rules made under the Insolvency Act 1986. (This includes the exceptions in Part 12 of the Insolvency (Scotland) (Receivership and Winding up) Rules 2018.) These activities are—

- (a) acting as a director of another company that is known by a name which is either the same as a name used by the company in insolvent liquidation in the 12 months before it entered liquidation or is so similar as to suggest an association with that company;
- (b) directly or indirectly being concerned or taking part in the promotion, formation or management of any such company; or
- (c) directly or indirectly being concerned in the carrying on of a business otherwise than through a company under a name of the kind mentioned in (a) above.

This notice is given under rule 12.4 of the Insolvency (Scotland) (Receivership and Winding up) Rules 2018 where the business of a company which is in, or may go into, insolvent liquidation is, or is to be, carried on otherwise than by the company in liquidation with the involvement of a director of that company and under the same or a similar name to that of that company.

The purpose of giving this notice is to permit the director to act in these circumstances where the company enters (or has entered) insolvent liquidation without the director committing a criminal offence and in the case of the carrying on of the business through another company, being personally liable for that company’s debts.

Notice may be given where the person giving the notice is already the director of a company which proposes to adopt a prohibited name.”