
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 347

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

PART 1

SCOPE, INTERPRETATION, TIME AND RULES ABOUT DOCUMENTS

CHAPTER 10

Inspection of documents, copies and provision of information

Right to copies of documents

1.49. Where the Act, in relation to proceedings under Parts 3 to 5 of the Act, or these Rules give a person the right to inspect documents, that person has a right to be supplied on request with copies of those documents on payment of the standard fee for copies.

Charges for copies of documents provided by the office-holder

1.50. Except where prohibited by these Rules, an office-holder is entitled to require the payment of the standard fee for copies of documents requested by a creditor, member, contributory or member of a liquidation or creditors' committee.

Offence in relation to inspection of documents

1.51.—(1) It is an offence for a person who does not have a right under these Rules to inspect a relevant document falsely to claim to be a creditor, a member of a company or a contributory of a company with the intention of gaining sight of the document.

(2) A relevant document is one which is on the court file or held by the office-holder or any other person and which a creditor, a member of a company or a contributory of a company has the right to inspect under these Rules.

Right to list of creditors

1.52.—(1) This rule applies to—

- (a) creditors' voluntary winding up; and
- (b) winding up by the court.

(2) A creditor has the right to require the office-holder to provide a list of the names and addresses of the creditors and the amounts of their respective debts.

(3) The office-holder on being required to provide such a list—

- (a) must deliver it to the person requiring the list as soon as reasonably practicable; and
- (b) may charge the standard fee for copies for a hard copy.

(4) The office-holder may omit the name and address of a creditor if the office-holder thinks its disclosure would be prejudicial to the conduct of the insolvency proceedings or might reasonably be expected to lead to violence against any person.

(5) In such a case the list must include—

- (a) the amount of that creditor's debt; and
- (b) a statement that the name and address of the creditor has been omitted for that debt.

Confidentiality of documents: grounds for refusing inspection

1.53.—(1) Where an office-holder considers that a document forming part of the records of the insolvency proceedings—

- (a) should be treated as confidential; or
- (b) is of such a nature that its disclosure would be prejudicial to the conduct of the insolvency proceedings or might reasonably be expected to lead to violence against any person;

the office-holder may decline to allow it to be inspected by a person who would otherwise be entitled to inspect it.

(2) The persons to whom the office-holder may refuse inspection include members of a liquidation committee or a creditors' committee.

(3) Where the office-holder refuses inspection of a document, the person wishing to inspect it may apply to the court which may reconsider the office-holder's decision.

(4) The court's decision may be subject to such conditions (if any) as it thinks just.

Sederunt book

1.54.—(1) The office-holder must maintain a sederunt book during the office-holder's term of office for the purpose of providing an accurate record of the insolvency proceedings.

(2) The office-holder must include in the sederunt book—

- (a) the information listed in schedule 4; and
- (b) a copy of anything else required to be recorded in it by any provision of the Act or these Rules.

(3) The office-holder must make the sederunt book available for inspection at all reasonable hours by any interested person.

(4) Any entry in the sederunt book is sufficient evidence of the facts stated in it, except where it is relied upon by the office-holder in the office-holder's own interest.

(5) The office-holder must retain, or make arrangements for retention of, the sederunt book for the period specified in regulation 13(5) of the Insolvency Practitioners Regulations 2005(1).

(6) Where the sederunt book is maintained in electronic form it must be capable of reproduction in hard copy form.

Transfer and disposal of company's books, papers and other records

1.55.—(1) Where insolvency proceedings have terminated and other insolvency proceedings under Parts 2 to 5 of the Act have commenced in relation to the same company, the office-holder appointed in the original proceedings, must, before the expiry of the earlier of—

(1) *S.I. 2005/524.* Such records must be preserved until the later of the sixth anniversary of the date of the grant of the insolvency practitioner's release or discharge, or of the date on which any security or caution maintained expires or otherwise ceases to have effect.

(a) the period of 30 days beginning with the date the office-holder in the subsequent insolvency proceedings makes a request to the original office-holder to do so; or

(b) the period of 6 months after the relevant date,

deliver to the office-holder appointed in the subsequent proceedings the books, papers and other records of the company.

(2) In the case of receivership, where—

(a) the original proceedings have terminated; and

(b) no subsequent proceedings have commenced within the period of 6 months after the relevant date in relation to the original proceedings,

the receiver may dispose of the books, papers and records of the company after the expiry of the period of 6 months referred to in sub-paragraph (b), but only in accordance with paragraph (3).

(3) Directions to that effect may be given by—

(a) the members of the company by extraordinary resolution; or

(b) the court.

(4) Where a company is being wound up, the liquidator must dispose of the books, papers and records of the company either in accordance with—

(a) in the case of a winding up by the court, directions of the liquidation committee, or, if there is no such committee, directions of the court;

(b) in the case of a members' voluntary winding up, directions of the members by extraordinary resolution; and

(c) in the case of a creditors' voluntary winding up, directions of the liquidation committee, or, if there is no such committee, of the creditors given at or before the end of the period within which a creditor may object to release of the liquidator following a final account under section 106 (see rule 4.30(2)(c) and (d)),

or, if, by the date which is 12 months after the dissolution of the company, no such directions have been given, after that date in such a way as the liquidator deems appropriate.

(5) In this Rule, "the relevant date" means—

(a) in the case of a receivership, the date on which the receiver resigns and the receivership terminates without a further receiver being appointed; and

(b) in the case of a winding up, the date of dissolution of the company.