
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 11

Formal defects

Power to cure defects in procedure

1.56.—(1) The court may, on the application of any person having an interest—

- (a) if there has been a failure to comply with any requirement of the Act or the Rules, make an order waiving any such failure and, so far as practicable, restoring any person prejudiced by the failure to the position that person would have been in but for the failure;
- (b) if for any reason anything required or authorised to be done in, or in connection with, the insolvency proceedings cannot be done, make such order as may be necessary to enable that thing to be done.

(2) The court, in an order under paragraph (1), may impose such conditions, including conditions as to expenses, as the court thinks fit and may in particular—

- (a) authorise or dispense with the performance of any act in the insolvency proceedings;
- (b) appoint as office-holder in the insolvency proceedings any person who would be eligible to act in that capacity, whether or not in place of an existing office-holder;
- (c) extend or waive any time limit specified in or under the Act or the Rules.

(3) An application under paragraph (1) which is made to the sheriff—

- (a) may at any time be remitted by the sheriff to the Court of Session;
- (b) must be so remitted if the Court of Session so directs on an application by any person,

if the sheriff or the Court of Session, as the case may be, considers that the remit is desirable because of the importance or complexity of the matters raised by the application.

Formal defects

1.57. No insolvency proceedings are invalidated by any formal defect or irregularity unless the court before which objection is made considers that substantial injustice has been caused by the defect or irregularity and that the injustice cannot be remedied by any order of the court.