
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 347

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

PART 5

WINDING UP BY THE COURT

CHAPTER 2

The statutory demand (sections 123(1)(a) and 222(1)(a))

Interpretation

5.2. A demand served by a creditor on a company under section 123(1)(a) (registered companies) or 222(1)(a) (unregistered companies) is referred to in this Part as “a statutory demand”.

The statutory demand

5.3.—(1) A statutory demand must be headed either “Statutory Demand under section 123(1)(a) of the Insolvency Act 1986” or “Statutory Demand under section 222(1)(a) of the Insolvency Act 1986” (as applicable) and must contain—

- (a) identification details for the company;
- (b) the registered office of the company (if any);
- (c) the name and address of the creditor;
- (d) either a statement that the demand is made under section 123(1)(a) or a statement that it is made under section 222(1)(a);
- (e) the amount of the debt and the consideration for it (or, if there is no consideration, the way in which it arises);
- (f) if the demand is founded on a decree or order of a court, details of the decree or order;
- (g) if the creditor is entitled to the debt by way of assignation, details of the original creditor and any intermediate assignees;
- (h) a statement that the company must pay the debt claimed in the demand within 21 days of service of the demand on the company after which the creditor may present a winding up petition unless the company offers security for the debt and the creditor agrees to accept security or the company compounds the debt with the creditor’s agreement;
- (i) the name of an individual with whom an officer or representative of the company may communicate with a view to securing or compounding the debt to the creditor’s satisfaction;
- (j) the named individual’s address, electronic address and telephone number (if any);
- (k) a statement that if the company disputes the demand in whole or in part it should contact the individual mentioned in sub-paragraph (i) immediately.

(2) The following must be separately identified in the demand (if claimed) with the amount or rate of the charge and the grounds on which payment is claimed—

- (a) any charge by way of interest of which notice had not previously been delivered to the company as included in its liability; and
- (b) any other charge accruing from time to time.

(3) The amount claimed for such charges must be limited to that which has accrued due at the date of the demand.

(4) The demand must be dated, and authenticated either by the creditor, or a person authorised to make the demand on the creditor's behalf.

(5) A demand which is authenticated by a person other than the creditor must state that the person is authorised to make the demand on the creditor's behalf and state the person's relationship to the creditor.