
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 347

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

PART 2

RECEIVERSHIP

CHAPTER 4

Statement of Affairs

Statement of affairs: contents and delivery (section 66(2))^{M1}

2.8.—(1) The statement of affairs must be headed “Statement of affairs” and must state that it is a statement of the affairs of the company on a specified date, being the date of the receiver’s appointment.

(2) The statement of affairs must contain, in addition to the matters required by section 66(2)—

- (a) a summary of the assets of the company, setting out the book value and the estimated realisable value of—
 - (i) any assets specifically secured;
 - (ii) any assets subject to a floating charge;
 - (iii) any assets not secured;
 - (iv) the total assets available for preferential creditors;
- (b) a summary of the liabilities of the company, setting out—
 - (i) the amount of preferential debts;
 - (ii) an estimate of the deficiency with respect to preferential debts or the surplus available after paying the preferential debts;
 - (iii) an estimate of the prescribed part, if applicable;
 - (iv) an estimate of the total assets available to pay debts secured by floating charges;
 - (v) the amount of debts secured by floating charges;
 - (vi) an estimate of the deficiency with respect to debts secured by floating charges or the surplus available after paying the debts secured by floating charges;
 - (vii) the amount of unsecured debts (excluding preferential debts and any deficiency with respect to debts secured by floating charges);
 - (viii) an estimate of the deficiency with respect to unsecured debts or the surplus available after paying unsecured debts (excluding preferential debts and any deficiency with respect to debts secured by fixed securities and floating charges);
 - (ix) any issued and called-up capital;

- (x) an estimate of the deficiency with respect to, or surplus available to, members of the company;
- (c) a list of the company's creditors (as required by section 66(2)) with the further particulars required by paragraph (3) indicating—
 - (i) any creditors under hire-purchase or conditional sale agreements;
 - (ii) any creditors who are consumers claiming amounts paid in advance for the supply of goods or services; and
 - (iii) any creditors claiming retention of title over property in the company's possession.
- (3) The particulars required by this paragraph are as follows and must be given in this order—
 - (a) the name and postal address;
 - (b) the amount of the debt owed to the creditor;
 - (c) details of any security held by the creditor;
 - (d) the date the security was given; and
 - (e) the value of the security.
- (4) Paragraph (5) applies where the particulars required by paragraph (3) relate to creditors who are either—
 - (a) employees or former employees of the company; or
 - (b) consumers claiming amounts paid in advance for the supply of goods or services.
- (5) Where this paragraph applies—
 - (a) the statement of affairs must state separately for each of paragraph (4)(a) and (b) the number of such creditors and the total of the debts owed to them; and
 - (b) the particulars required by paragraph (3) must be set out in separate schedules to the statement of affairs for each of paragraph (4)(a) and (b).
- (6) The statutory declaration required by section 66(2)^{M2} must be a statutory declaration that the information provided in the statement of affairs is, to the best of the nominated person's knowledge and belief, accurate and complete.
- (7) The nominated person who makes the statutory declaration required by section 66(2) and paragraph (6) (or one of them, if more than one) must deliver the statement of affairs to the receiver.

Marginal Citations

- M1** Section 66(2) is prospectively amended by S.S.I. 2016/141, **article 4**. Rule 2.8 is included in the Rules by virtue of article 2 of S.S.I. 2017/209 - see **section 70** and 71 of the Act.
- M2** Section 66(2) is prospectively amended to require a statutory declaration by S.S.I. 2016/141, **article 4**.

Changes to legislation:

There are currently no known outstanding effects for the The Insolvency (Scotland) (Receivership and Winding up) Rules 2018, Section 2.