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STATUTORY INSTRUMENTS

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**1986 No. 1925**

**The Insolvency Rules 1986**

THE FIRST GROUP OF PARTS

PART 4

COMPANIES WINDING UP

CHAPTER 18

SPECIAL MANAGER

**Appointment and remuneration**

**4.206.**—(1) An application made by the liquidator under section 177 for the appointment of a person to be special manager shall be supported by a report setting out the reasons for the application. The report shall include the applicant's estimate of the value of the assets in respect of which the special manager is to be appointed.

(2) This Chapter applies also with respect to an application by the provisional liquidator, where one has been appointed, and references to the liquidator are to be read accordingly as including the provisional liquidator. (NO CVL APPLICATION)

(3) The court's order appointing the special manager shall specify the duration of his appointment, which may be for a period of time, or until the occurrence of a specified event. Alternatively, the order may specify that the duration of the appointment is to be subject to a further order of the court.

(4) The appointment of a special manager may be renewed by order of the court.

(5) The special manager's remuneration shall be fixed from time to time by the court.

(6) The acts of the special manager are valid notwithstanding any defect in his appointment or qualifications.

**Security**

**4.207.**—(1) The appointment of the special manager does not take effect until the person appointed has given (or, being allowed by the court to do so, undertaken to give) security to the person who applies for him to be appointed.

(2) It is not necessary that security shall be given for each separate company liquidation; but it may be given either specially for a particular liquidation, or generally for any liquidation in relation to which the special manager may be employed as such.

(3) The amount of the security shall be not less than the value of the assets in respect of which he is appointed, as estimated by the applicant in his report under Rule 4.206.

(4) When the special manager has given security to the person applying for his appointment, that person shall file in court a certificate as to the adequacy of the security.

(5) The cost of providing the security shall be paid in the first instance by the special manager; but—

- (a) where a winding-up order is not made, he is entitled to be reimbursed out of the property of the company, and the court may make an order on the company accordingly, and
- (b) where a winding-up order is made, he is entitled to be reimbursed out of the assets in the prescribed order of priority.

(NO CVL APPLICATION)

(6-CVL) The cost of providing the security shall be paid in the first instance by the special manager; but he is entitled to be reimbursed out of the assets, in the prescribed order of priority.

#### **Failure to give or keep up security**

**4.208.**—(1) If the special manager fails to give the required security within the time stated for that purpose by the order appointing him, or any extension of that time that may be allowed, the liquidator shall report the failure to the court, which may thereupon discharge the order appointing the special manager.

(2) If the special manager fails to keep up his security, the liquidator shall report his failure to the court, which may thereupon remove the special manager, and make such order as it thinks fit as to costs.

(3) If an order is made under this Rule removing the special manager, or discharging the order appointing him, the court shall give directions as to whether any, and if so what, steps should be taken for the appointment of another special manager in his place.

#### **Accounting**

**4.209.**—(1) The special manager shall produce accounts, containing details of his receipts and payments, for the approval of the liquidator.

(2) The accounts shall be in respect of 3-month periods for the duration of the special manager's appointment (or for a lesser period, if his appointment terminates less than 3 months from its date, or from the date to which the last accounts were made up).

(3) When the accounts have been approved, the special manager's receipts and payments shall be added to those of the liquidator.

#### **Termination of appointment**

**4.210.**—(1) The special manager's appointment terminates if the winding-up petition is dismissed or if, a provisional liquidator having been appointed, the latter is discharged without a winding-up order having been made. (NO CVL APPLICATION)

(2) If the liquidator is of opinion that the employment of the special manager is no longer necessary or profitable for the company, he shall apply to the court for directions, and the court may order the special manager's appointment to be terminated.

(3) The liquidator shall make the same application if a resolution of the creditors is passed, requesting that the appointment be terminated.