
STATUTORY INSTRUMENTS

1986 No. 1925

The Insolvency Rules 1986

THE SECOND GROUP OF PARTS

PART 5

INDIVIDUAL VOLUNTARY ARRANGEMENTS

SECTION C: IMPLEMENTATION OF THE ARRANGEMENT

Resolutions to follow approval

5.20.—(1) If the voluntary arrangement is approved (with or without modifications), a resolution may be taken by the creditors, where two or more insolvency practitioners are appointed to act as supervisor, on the question whether acts to be done in connection with the arrangement may be done by any one of them, or must be done by both or all.

(2) If at the creditors' meeting a resolution is moved for the appointment of some person other than the nominee to be supervisor of the arrangement, there must be produced to the chairman, at or before the meeting—

- (a) that person's written consent to act (unless he is present and then and there signifies his consent), and
- (b) his written confirmation that he is qualified to act as an insolvency practitioner in relation to the debtor.

Hand-over of property, etc. to supervisor

5.21.—(1) Forthwith after the approval of the voluntary arrangement, the debtor in Case 2, and the official receiver or trustee in Case 1, shall do all that is required for putting the supervisor into possession of the assets included in the arrangement.

(2) On taking possession of the assets in Case 1, the supervisor shall discharge any balance due to the official receiver and (if other) the trustee by way of remuneration or on account of—

- (a) fees, costs, charges and expenses properly incurred and payable under the Act or the Rules, and
- (b) any advances made in respect of the insolvent estate, together with interest on such advances at the rate specified in section 17 of the Judgments Act 1838 at the date of the bankruptcy order.

(3) Alternatively in Case 1, the supervisor must, before taking possession, give the official receiver or the trustee a written undertaking to discharge any such balance out of the first realisation of assets.

(4) The official receiver and (if other) the trustee has in Case 1 a charge on the assets included in the voluntary arrangement in respect of any sums due as above until they have been discharged, subject only to the deduction from realisations by the supervisor of the proper costs and expenses of realisation.

Any sums due to the official receiver take priority over those due to a trustee.

(5) The supervisor shall from time to time out of the realisation of assets discharge all guarantees properly given by the official receiver or the trustee for the benefit of the estate, and shall pay all their expenses.

Report of creditors' meeting

5.22.—(1) A report of the creditors' meeting shall be prepared by the chairman of the meeting.

(2) The report shall—

- (a) state whether the proposal for a voluntary arrangement was approved or rejected and, if approved, with what (if any) modifications;
- (b) set out the resolutions which were taken at the meeting, and the decision on each one;
- (c) list the creditors (with their respective values) who were present or represented at the meeting, and how they voted on each resolution; and
- (d) include such further information (if any) as the chairman thinks it appropriate to make known to the court.

(3) A copy of the chairman's report shall, within 4 days of the meeting being held, be filed in court; and the court shall cause that copy to be endorsed with the date of filing.

(4) The persons to whom notice of the result is to be given, under section 259(1), are all those who were sent notice of the meeting under this Part of the Rules.

The notice shall be sent immediately after a copy of the chairman's report is filed in court under paragraph (3).

Register of voluntary arrangements

5.23.—(1) The Secretary of State shall maintain a register of individual voluntary arrangements, and shall enter in it all such matters as are reported to him in pursuance of this Part of the Rules.

(2) The register shall be open to public inspection.

Reports to Secretary of State

5.24.—(1) Immediately after the chairman of the creditors' meeting has filed in court a report that the meeting has approved the voluntary arrangement, he shall report to the Secretary of State the following details of the arrangement—

- (a) the name and address of the debtor;
- (b) the date on which the arrangement was approved by the creditors;
- (c) the name and address of the supervisor; and
- (d) the court in which the chairman's report has been filed.

(2) A person who is appointed to act as supervisor of an individual voluntary arrangement (whether in the first instance or by way of replacement of another person previously appointed) shall forthwith give written notice to the Secretary of State of his appointment.

If he vacates office as supervisor, he shall forthwith give written notice of that fact also to the Secretary of State.

Revocation or suspension of the arrangement

5.25.—(1) This Rule applies where the court makes an order of revocation or suspension under section 262.

- (2) The person who applied for the order shall serve sealed copies of it—
 - (a) in Case 1, on the debtor, the official receiver and the trustee;
 - (b) in Case 2, on the debtor; and
 - (c) in either case on the supervisor of the voluntary arrangement.
- (3) If the order includes a direction by the court under section 262(4)(b) for any further creditors' meeting to be summoned, notice shall also be given (by the person who applied for the order) to whoever is, in accordance with the direction, required to summon the meeting.
- (4) The debtor (in Case 2) and the official receiver or the trustee (in Case 1) shall—
 - (a) forthwith after receiving a copy of the court's order, give notice of it to all persons who were sent notice of the creditors' meeting which approved the voluntary arrangement or who, not having been sent that notice, appear to be affected by the order;
 - (b) within 7 days of their receiving a copy of the order (or within such longer period as the court may allow), give notice to the court whether it is intended to make a revised proposal to creditors, or to invite re-consideration of the original proposal.
- (5) The person on whose application the order of revocation or suspension was made shall, within 7 days after the making of the order, give written notice of it to the Secretary of State.

Supervisor's accounts and reports

- 5.26.**—(1) Where the voluntary arrangement authorises or requires the supervisor—
- (a) to carry on the debtor's business or to trade on his behalf or in his name, or
 - (b) to realise assets of the debtor or (in Case 1) belonging to the estate, or
 - (c) otherwise to administer or dispose of any funds of the debtor or the estate,
- he shall keep accounts and records of his acts and dealings in and in connection with the arrangement, including in particular records of all receipts and payments of money.
- (2) The supervisor shall, not less often than once in every 12 months beginning with the date of his appointment, prepare an abstract of such receipts and payments, and send copies of it, accompanied by his comments on the progress and efficacy of the arrangement, to—
- (a) the court,
 - (b) the debtor, and
 - (c) all those of the debtor's creditors who are bound by the arrangement.
- If in any period of 12 months he has made no payments and had no receipts, he shall at the end of that period send a statement to that effect to all who are specified in sub-paragraphs (a) to (c) above.
- (3) An abstract provided under paragraph (2) shall relate to a period beginning with the date of the supervisor's appointment or (as the case may be) the day following the end of the last period for which an abstract was prepared under this Rule; and copies of the abstract shall be sent out, as required by paragraph (2), within the 2 months following the end of the period to which the abstract relates.
- (4) If the supervisor is not authorised as mentioned in paragraph (1), he shall, not less often than once in every 12 months beginning with the date of his appointment, send to all those specified in paragraph (2)(a) to (c) a report on the progress and efficacy of the voluntary arrangement.
- (5) The court may, on application by the supervisor, vary the dates on which the obligation to send abstracts or reports arises.

Production of accounts and records to Secretary of State

5.27.—(1) The Secretary of State may at any time during the course of the voluntary arrangement or after its completion require the supervisor to produce for inspection—

- (a) his records and accounts in respect of the arrangement, and
- (b) copies of abstracts and reports prepared in compliance with Rule 5.26.

(2) The Secretary of State may require production either at the premises of the supervisor or elsewhere; and it is the duty of the supervisor to comply with any requirement imposed on him under this Rule.

(3) The Secretary of State may cause any accounts and records produced to him under this Rule to be audited; and the supervisor shall give to the Secretary of State such further information and assistance as he needs for the purposes of his audit.

Fees, costs, charges and expenses

5.28. The fees, costs, charges and expenses that may be incurred for any purposes of the voluntary arrangement are—

- (a) any disbursements made by the nominee prior to the approval of the arrangement, and any remuneration for his services as such agreed between himself and the debtor, the official receiver or the trustee;
- (b) any fees, costs, charges or expenses which—
 - (i) are sanctioned by the terms of the arrangement, or
 - (ii) would be payable, or correspond to those which would be payable, in the debtor's bankruptcy.

Completion of the arrangement

5.29.—(1) Not more than 28 days after the final completion of the voluntary arrangement, the supervisor shall send to all creditors of the debtor who are bound by the arrangement, and to the debtor, a notice that the arrangement has been fully implemented.

(2) With the notice there shall be sent to each of those persons a copy of a report by the supervisor summarising all receipts and payments made by him in pursuance of the arrangement, and explaining any difference in the actual implementation of it as compared with the proposal as approved by the creditors' meeting.

(3) The supervisor shall, within the 28 days mentioned above, send to the Secretary of State and to the court a copy of the notice under paragraph (1), together with a copy of the report under paragraph (2).

(4) The court may, on application by the supervisor, extend the period of 28 days under paragraphs (1) and (3).