
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 7

WINDING UP BY THE COURT

CHAPTER 12

Special manager

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Application of this Chapter and interpretation

7.92. This Chapter applies to applications for the appointment of a special manager by a liquidator and by a provisional liquidator (where one has been appointed), and so references to the liquidator are to be read as including a provisional liquidator.

Appointment and remuneration of special manager (section 177)

7.93.—(1) An application made by the liquidator under section 177 for the appointment of a special manager must be supported by a report setting out the reasons for the application.

(2) The report must include the applicant's estimate of the value of the business or property in relation to which the special manager is to be appointed.

(3) The court's order appointing the special manager must have the title "Order of appointment of special manager" and must contain—

- (a) identification details for the proceedings;
- (b) the name and address of the person who made the application;
- (c) the name and title of the judge making the order;
- (d) the name and address of the proposed special manager;
- (e) the order that the proposed special manager is appointed as special manager of the company;
- (f) details of the special manager's responsibility over the company's business or property;
- (g) the powers to be entrusted to the special manager under section 177(4);
- (h) the time allowed for the special manager to give the required security for the appointment;
- (i) the duration of the special manager's appointment being one of the following—
 - (i) for a fixed period stated in the order,
 - (ii) until the occurrence of a specified event, or
 - (iii) until the court makes a further order;

- (j) an order that the special manager's remuneration will be fixed from time to time by the court; and
 - (k) the date of the order.
- (4) The appointment of a special manager may be renewed by order of the court.
- (5) The special manager's remuneration will be fixed from time to time by the court.
- (6) The acts of the special manager are valid notwithstanding any defect in the special manager's appointment or qualifications.

Security

7.94.—(1) The appointment of the special manager does not take effect until the person appointed has given (or, if the court allows, undertaken to give) security to the applicant for the appointment.

(2) A person appointed as a special manager may give security either specifically for a particular winding up, or generally for any winding up in relation to which that person may be employed as special manager.

(3) The amount of the security must be not less than the value of the business or property in relation to which the special manager is appointed, as estimated in the applicant's report which accompanied the application for appointment.

(4) When the special manager has given security to the applicant that person must file with the court a certificate as to the adequacy of the security.

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

- (a) where a winding-up order is not made, the special manager is entitled to be reimbursed out of the property of the company, and the court may order accordingly; and
- (b) where a winding-up order is made, the special manager is entitled to be reimbursed as an expense of the winding up in the prescribed order of priority.

Failure to give or keep up security

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

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

(3) If the court discharges the order appointing the special manager or makes an order removing the special manager, the court must give directions as to whether any, and if so what, steps should be taken for the appointment of another special manager.

Accounting

7.96.—(1) The special manager must produce accounts, containing details of the special manager's receipts and payments, for the approval of the liquidator.

(2) The accounts must be for—

- (a) each three month period for the duration of the special manager's appointment; or
- (b) any shorter period ending with the termination of the special manager's appointment.

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

Termination of appointment

7.97.—(1) The special manager’s appointment terminates—

(a) if the winding-up petition is dismissed; or

(b) in a case where a provisional liquidator was appointed under section 135, if the appointment is discharged without a winding-up order having been made.

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

(3) The liquidator must make the same application if the creditors decide that the appointment should be terminated.