

---

STATUTORY INSTRUMENTS

---

**2018 No. 1082**

The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018

PART 3

ADMINISTRATION

CHAPTER 15

Claims by and distributions to Creditors

**Liabilities and rights of obligants**

**3.110.**—(1) Where a creditor has an obligant bound to the creditor along with the company for the whole or part of the debt, the obligant is not freed or discharged from liability for the debt by reason of the dissolution of the company or the creditor’s voting or drawing a dividend or assenting to or not opposing—

- (a) the dissolution of the company; or
- (b) any composition with creditors.

(2) Paragraph (3) applies where—

- (a) a creditor has had a claim accepted in whole or in part; and
- (b) the obligant holds a security over any part of the company’s assets.

(3) The obligant must account to the administrator so as to put the company’s assets in the same position as if the obligant had paid the debt to the creditor and thereafter had had the obligant’s claim accepted in whole or in part in the administration after deduction of the value of the security.

(4) The obligant may require and obtain at the obligant’s own expense from the creditor an assignation of the debt on payment of the amount of the debt, and on that being done may in respect of the debt submit a claim, and vote and draw a dividend, if otherwise legally entitled to do so.

(5) Paragraph (4) is without prejudice to any right, under any rule of law, of an obligant who has paid the debt.

(6) In this rule an “obligant” includes a cautioner.