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STATUTORY INSTRUMENTS

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**2018 No. 1082**

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

**PART 3**

**ADMINISTRATION**

**CHAPTER 8**

Limited disclosure of statements of affairs and proposals

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

**Application of Chapter**

**3.44.** This Chapter applies to the disclosure of information which would be likely to prejudice the conduct of the administration or might reasonably be expected to lead to violence against any person.

**Orders limiting disclosure of statement of affairs etc.**

**3.45.—(1)** If the administrator thinks that the circumstances in rule 3.44 apply in relation to the disclosure of—

- (a) the whole or part of the statement of affairs;
- (b) any of the matters specified in rule 3.35(1)(h) and (i); or
- (c) a statement of concurrence,

the administrator may apply to the court for an order in relation to the particular document or a specified part of it.

(2) The court may order that the whole of or a specified part of a document referred to in paragraph (1)(a) to (c) must not be delivered to the registrar of companies or, in the case of the statement of proposals, to creditors or members of the company.

(3) The administrator must as soon as reasonably practicable deliver to the registrar of companies—

- (a) a copy of the order;
- (b) the statement of affairs, the statement of proposals and any statement of concurrence to the extent provided by the order; and
- (c) if the order relates to the statement of proposals, an indication of the nature of the matter in relation to which the order was made.

(4) If the order relates to the statement of proposals, the administrator must as soon as reasonably practicable also deliver to the creditors and members of the company—

- (a) the statement of proposals to the extent provided by the order; and

- (b) an indication of the nature of the matter in relation to which the order was made.

**Order for disclosure by administrator**

**3.46.**—(1) A creditor may apply to the court for an order that the administrator disclose any of the following in relation to which an order has been made under rule 3.45(2)—

- (a) a statement of affairs;
- (b) a specified part of it;
- (c) a part of a statement of proposals; or
- (d) a statement of concurrence.

(2) The application must be supported by written evidence in the form of an affidavit.

(3) The applicant must deliver to the administrator notice of the application at least three business days before the hearing.

(4) In an order for disclosure, the court may include conditions as to confidentiality, duration, the scope of the order in the event of any change of circumstances or such other matters as it thinks just.

**Discharge or variation of order for limited disclosure**

**3.47.**—(1) If there is a material change in circumstances rendering an order for limited disclosure under rule 3.45(2) wholly or partially unnecessary, the administrator must, as soon as reasonably practicable after the change, apply to the court for the order to be discharged or varied.

(2) If the court makes such an order, the administrator must as soon as reasonably practicable deliver to the registrar of companies—

- (a) a copy of the order; and
- (b) the statement of affairs, the statement of proposals and any statement of concurrence to the extent provided by the order.

(3) If the order relates to the statement of proposals, the administrator must as soon as reasonably practicable also deliver to the creditors and members the statement of proposals to the extent allowed by the order.

**Publication etc. of statement of affairs or statements of proposals**

**3.48.**—(1) If, after the administrator has sent a statement of proposals under paragraph 49(4) of Schedule B1, a statement of affairs is delivered to the registrar of companies in accordance with rule 3.47(2) as the result of the discharge or variation of an order, the administrator must deliver to the creditors a copy or summary of the statement of affairs as delivered to the registrar of companies.

(2) The administrator is taken to comply with the requirements for delivery to members of the company in rule 3.45(4) or 3.47(3) if the administrator publishes the required notice.

(3) The required notice must—

- (a) be advertised in such manner as the administrator thinks fit;
- (b) state that members can request in writing—
  - (i) a copy of the statement of proposals to the extent provided by the order, and
  - (ii) an indication of the nature of the matter in relation to which the order was made;
- (c) state the address to which such a written request is to be made; and
- (d) be published as soon as reasonably practicable after the administrator has delivered the statement of proposals to the extent provided by the order to the company's creditors.