

2001 No. 768

INSOLVENCY, SCOTLAND

COMPANIES

**The Insolvent Companies (Reports on Conduct of Directors)
(Scotland) (Amendment) Rules 2001**

<i>Made</i> - - - -	<i>1st March 2001</i>
<i>Laid before Parliament</i>	<i>7th March 2001</i>
<i>Coming into force</i>	<i>2nd April 2001</i>

The Secretary of State, in exercise of the powers conferred upon him by section 411 of the Insolvency Act 1986(a) and section 21(2) of the Company Directors Disqualification Act 1986(b), and of all other powers enabling him in that behalf, hereby makes the following Rules:—

1.—(1) These Rules may be cited as the Insolvent Companies (Reports on Conduct of Directors) (Scotland) (Amendment) Rules 2001.

(2) These Rules shall come into force on 2nd April 2001.

(3) In these Rules “the 1996 Rules” means the Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 1996(c).

2.—(1) The 1996 Rules shall be amended in accordance with this rule.

(2) There shall be substituted for Form D1 in the Schedule to the 1996 Rules Form D1 in the Schedule to these Rules.

3.—(1) Where any of the events mentioned in sub-paragraphs (a), (b), (c) or (d) of rule 3(1) of the 1996 Rules occurred before the coming into force of these Rules this rule shall apply.

(2) Until 1st August 2001—

(a) The Form D1 (Scot) contained in the Schedule to the 1996 Rules, before the coming into force of these Rules, which was required to be used for the purpose of complying with the 1996 Rules, or

(b) the Form D1 (Scot) as set out in the Schedule to these Rules, and as substituted in the 1996 Rules, or a form which is substantially similar thereto, with such variations, if any, as the circumstances require,

(a) 1986 c. 45.

(b) 1986 c. 46; amended by the Insolvency Act 2000 (c. 39), in relation to these Rules the relevant amendments are, the substitution of section 6(3) by sections 6(3), 6(3A), 6(3B) and 6(3C). The amendment made to section 21(2) by the Companies Act 1989 (c. 40) is not relevant for the purposes of these Rules.

(c) S.I. 1996/1910.

may be used for the purpose of complying with rule 3 of the 1996 Rules; but after that date the form mentioned in sub-paragraph (b) of this paragraph shall be used for that purpose.

1st March 2001

Kim Howells,
Parliamentary Under-Secretary of State for
Consumers and Corporate Affairs,
Department for Trade and Industry

SCHEDULE
FORMS

Rule 2(2)

D1 (SCOT): FULL REPORT**REPORT UNDER SECTION 7(3) OF THE COMPANY DIRECTORS
DISQUALIFICATION ACT 1986.****PLEASE REFER TO THE GUIDANCE NOTES ISSUED BY THE INSOLVENCY SERVICE**

NAME OF COMPANY:

PLEASE PROVIDE THE FOLLOWING INFORMATION:

SECTION 1: OFFICE-HOLDER

1. NAME OF THE OFFICE-HOLDER(S):

2. NAME OF THE FIRM AND ADDRESS OF THE OFFICE-HOLDER(S):

3. ARE YOU REPORTING AS:

LIQUIDATOR IN A COMPULSORY LIQUIDATION

LIQUIDATOR IN A VOLUNTARY LIQUIDATION
(Please give date of resolution for voluntary winding up.)

ADMINISTRATIVE RECEIVER

ADMINISTRATOR?
(Tick as appropriate.)

4. DATE OF APPOINTMENT:

(If you are compulsory liquidator, date of interim appointment/winding-up order.)

5. NAME OF THE MEMBER OF YOUR STAFF WITH DAY TO DAY RESPONSIBILITY FOR
THE CASE:

TEL NO:

FAX NO:

POSITION:

D1 (SCOT) SECTION 2: COMPANY

6. NAME OF THE COMPANY: (Please include details of all registered names and trading styles of the company used in the last two years.)

7. COMPANY REGISTERED NUMBER:

8. CURRENT REGISTERED OFFICE ADDRESS:

9. ANY OTHER REGISTERED OFFICE IN THE SIX MONTHS PRIOR TO:—
YOUR APPOINTMENT AS ADMINISTRATIVE RECEIVER, THE DATE OF THE
ADMINISTRATION ORDER, OR THE DATE OF THE RESOLUTION(S) FOR VOLUNTARY
WINDING UP:

10. PRINCIPAL TRADING ADDRESS(ES):

11. NATURE OF THE COMPANY'S BUSINESS:

12. WHEN DID THE COMPANY COMMENCE TO TRADE?
(Please state month and year if commencement was within the last five years, or year only if before that.)

13. DETAILS OF ANY OTHER ADMINISTRATIVE RECEIVERSHIP, LIQUIDATION OR
ADMINISTRATION IN RELATION TO THE COMPANY:
(Stating type, name of office-holder(s), date of appointment and (if appropriate) date of
resolution(s) for voluntary winding up.)

D1 (SCOT) SECTION 3: COMPANY DIRECTORS**14. PLEASE COMPLETE A BOX, AS SET OUT BELOW, FOR:**

(A) Any person who appears to you to be or have been a director^(a) or shadow director of the company whose conduct, either considered in relation to this company alone or taken together with conduct as a director of any other company, makes him unfit to be concerned in the management of a company. Details of the conduct leading you to this view should be set out in the answer to question 16; and

(B) Any other person who appears to you to have been a director^(a) or shadow director of the company at the relevant date^(b) or at any time in the three years before that date.

ADDITIONAL COPIES OF THIS SECTION SHOULD BE USED AS APPROPRIATE.

a. FULL NAME: (Including other known names.)
b. CURRENT OR LAST KNOWN ADDRESS:
c. DATE OF BIRTH: (Important for identification purposes at Companies House.)
d. OCCUPATION, TRADE OR PROFESSION:
e. BRIEFLY, WHAT WERE THE DIRECTOR'S DUTIES IN THE COMPANY?
f. IS THIS A PERSON WHOSE CONDUCT MAKES IT APPEAR TO YOU THAT HE IS UNFIT (as described in paragraph 14(A) above)? YES <input type="checkbox"/> NO <input type="checkbox"/>
If yes, please answer both parts of question 16.
g. PERIOD AS DIRECTOR—FROM: TO:

a. FULL NAME: (Including other known names.)
b. CURRENT OR LAST KNOWN ADDRESS:
c. DATE OF BIRTH: (Important for identification purposes at Companies House.)
d. OCCUPATION, TRADE OR PROFESSION:
e. BRIEFLY, WHAT WERE THE DIRECTOR'S DUTIES IN THE COMPANY?
f. IS THIS A PERSON WHOSE CONDUCT MAKES IT APPEAR TO YOU THAT HE IS UNFIT (as described in paragraph 14(A) above)? YES <input type="checkbox"/> NO <input type="checkbox"/>
If yes, please answer both parts of question 16.
g. PERIOD AS DIRECTOR—FROM: TO:

Please note:

- (a) "DIRECTOR" includes any person occupying the position of director, by whatever name called; and
- (b) "THE RELEVANT DATE" has the same meaning as in rule 4(4) of the Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 1996.

D1 (SCOT) SECTION 4: CONNECTED COMPANIES

15. PLEASE GIVE DETAILS OF ANY OTHER COMPANY WITH WHICH THE DIRECTOR(S), IN RESPECT OF WHOM YOU HAVE ANSWERED YES AT QUESTION 14(f), MAY HAVE HAD AN INVOLVEMENT WHICH YOU CONSIDER MAY BE RELEVANT TO THE CONSIDERATION OF HIS OR THEIR CONDUCT:

COMPANY NAME	COMPANY REGISTERED NUMBER	INFORMATION WHICH MAY BE RELEVANT

D1 (SCOT) SECTION 5: UNFIT CONDUCT

16a. PLEASE GIVE DETAILS (ATTACHING ADDITIONAL PAGES IF NECESSARY) OF THE CONDUCT OF THE DIRECTOR(S) WHICH MAKES IT APPEAR TO YOU THAT THE CONDITIONS OF SECTION 6(1) OF THE COMPANY DIRECTORS DISQUALIFICATION ACT 1986 ARE SATISFIED. PARTICULAR REGARD SHOULD BE PAID TO THOSE MATTERS CONTAINED IN SCHEDULE 1 TO THAT ACT. PLEASE ALSO REFER TO THE GUIDANCE NOTES ISSUED BY THE INSOLVENCY SERVICE.

PLEASE USE THE FORMAT BELOW TO PROVIDE DETAILS OF THE CONDUCT OF EACH DIRECTOR WHICH MAKES IT APPEAR TO YOU THAT THE DIRECTOR IS UNFIT AS DESCRIBED IN PARAGRAPH 14(A) ABOVE. ALTERNATIVELY, IF YOU HAVE ALREADY PREPARED A REPORT WHICH DETAILS THIS, ATTACH A COPY AND SUMMARISE YOUR FINDINGS BELOW.

DETAILS OF UNFIT CONDUCT	NAME OF DIRECTOR(S) AND NATURE OF SUPPORTING EVIDENCE

b. ARE THERE ANY OTHER RELEVANT MATTERS? (e.g. Ill health, personal guarantees, trust deed for creditors, bankruptcy, etc.)

YES NO

If yes, please give brief details.

D1 (SCOT) SECTION 6: STATEMENT OF AFFAIRS, ACCOUNTS AND REPORT TO CREDITORS

STATEMENT OF AFFAIRS

17. PLEASE ATTACH A COPY OF THIS STATEMENT OF AFFAIRS TO THIS FORM.

If a copy is not attached, please state why not and attach details of the known assets and liabilities of the company.

18. IF THERE IS A MATERIAL DIFFERENCE BETWEEN THE STATEMENT OF AFFAIRS AND THE EXPECTED FINAL POSITION, PLEASE PROVIDE DETAILS OF THE AMOUNT AND THE REASON FOR ANY DISCREPANCY:

ACCOUNTS

19. PLEASE ATTACH TO THIS FORM A COPY OF THE LAST TWO SETS OF THE AUDITED ACCOUNTS OF THE COMPANY AND ANY DRAFT OR MANAGEMENT ACCOUNTS PREPARED AFTER THEN.

If none are attached, please state why not:
(e.g. None prepared, none in your possession, etc.)

REPORT TO CREDITORS

20. PLEASE ATTACH A COPY OF THE REPORT TO CREDITORS TO THIS FORM.

If you are not able to provide a copy of the report to creditors, please attach a report detailing the company's history.

D1 (SCOT) SECTION 7: OTHER PROCEEDINGS

21. PLEASE PROVIDE DETAILS OF ANY ACTION COMMENCED, OR LIKELY TO BE COMMENCED, BY YOU AGAINST OFFICERS OF THE COMPANY: (e.g. for recovery of assets, wrongful trading or to enforce co-operation.)

22. ARE THERE ANY OTHER CIVIL OR CRIMINAL PROCEEDINGS IN RELATION TO THE COMPANY TAKEN OR LIKELY TO BE TAKEN AGAINST ANY DIRECTOR? (e.g. By the Lord Advocate, the Procurator Fiscal Service, Inland Revenue, Customs and Excise, Department of Trade and Industry, etc.)

YES NO

If yes, please provide details of those proceedings and, where relevant, the name and telephone number of the officer/official dealing with the case.

THE DETAILS GIVEN IN THIS FORM ARE CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

PLEASE SIGN THE FORM:

DATE:

PLEASE ENSURE THAT COPIES OF THE FOLLOWING ARE ATTACHED:

- a) **Statement of affairs (or details of assets and liabilities);**
- b) **Last two sets of audited accounts and draft or management accounts subsequently prepared, if any;**
- c) **Report to creditors (or report detailing the company's history); and**
- d) **Questionnaire(s), if any, completed by director(s).**

NOW SEND THE COMPLETED FORM TOGETHER WITH ENCLOSURES TO:

THE INSOLVENCY SERVICE
DISQUALIFICATION UNIT
"J" FLOOR
B BLOCK
ARGYLE HOUSE
3 LADY LAWSON STREET
EDINBURGH EH3 9SA

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules substitute a new form D1 (Scot) in place of that contained in the Schedule to the Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 1996 (S.I. 1996/1910). This form is used for the purpose of complying with rule 3 of the Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 1996. The new form is substantially the same as the previous form, but contains minor further requirements for information to be provided by office-holders to the Disqualification Unit of the Insolvency Service. The new form may be obtained from the Insolvency Service, Disqualification Unit, "J" Floor, B Block, Argyle House, 3 Lady Lawson Street, Edinburgh EH3 9SA. Form D1 (Scot) contains further requirements to provide the date of any winding up resolutions made by a company and any registered offices of a company within the six months prior to the commencement of the relevant insolvency procedure. Where the insolvency procedure commenced before 2nd April 2001 the office-holder may use either the old form D1 (Scot) or the new amended form D1 (Scot) until 1st August 2001. After that date such an office-holder must use the new amended form.

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£2.50

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E 0296 03/01 ON (MFK)