
STATUTORY INSTRUMENTS

2021 No. 1025

INSOLVENCY, SCOTLAND

**The Insolvency (Scotland) (Receivership
and Winding up) (Amendment) Rules 2021**

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| <i>Made</i> | - - - - | <i>8th September 2021</i> |
| <i>Laid before Parliament</i> | | <i>9th September 2021</i> |
| <i>Coming into force</i> | - - | <i>1st October 2021</i> |

The Secretary of State makes the following Rules in exercise of the powers conferred by section 411(1)(b) of the Insolvency Act 1986(1).

PART 1

Introductory provision

Citation, commencement and interpretation

1. These Rules may be cited as the Insolvency (Scotland) (Receivership and Winding up) (Amendment) Rules 2021 and come into force on 1st October 2021.

2. In these Rules the “Insolvency Rules” means the Insolvency (Scotland) (Receivership and Winding up) Rules 2018(2).

Extent

3. These Rules extend to Scotland only.

Saving provisions

4.—(1) This rule applies where before 1 October 2021—

- (a) a moratorium under Part A1 of the Insolvency Act 1986 has come into force; or
- (b) in the case of a moratorium for a company to which either section A4 or A5 of the Insolvency Act 1986(3) applies, an application has been made to the court.

(1) 1986 c. 45.

(2) S.S.I. 2018/347; those Rules have been amended but the amendments are not relevant for the purposes of these Rules.

(3) Sections A4 and A5 were inserted by section 1 of the Corporate Insolvency and Governance Act 2020.

(2) Where this rule applies—

- (a) the amendments made by Part 2 of these Rules do not apply; and
- (b) Part 4 of Schedule 4 to the Corporate Insolvency and Governance Act 2020⁽⁴⁾ continues to have effect

in relation to that moratorium.

5. Nothing in Part 2 of these Rules affects the operation of the Insolvency Rules in relation to a moratorium under Schedule A1 to the Insolvency Act 1986 which has come into force before 1st October 2021.

PART 2

Miscellaneous amendments of the Insolvency Rules

Amendment of Part 4 of the Insolvency Rules

6.—(1) Rule 4.4 (additional requirements as to statement of affairs) is amended as follows.

(2) In paragraph (1), after “must also contain” insert “the following and, in addition, when paragraph (1B) applies, the information specified in that paragraph”.

(3) After paragraph (1) insert—

“(1A) Paragraph (1B) applies if a moratorium under Part A1 of the Act is, or has been, in force for the company at any time within the period of 12 weeks ending with the day on which the resolution for a voluntary winding up is passed.

(1B) Where this paragraph applies—

(a) the statement of affairs must identify which of the debts owed by the company are:

- (i) moratorium debts; or
- (ii) priority pre-moratorium debts

within the meaning given in section 174A⁽⁵⁾.

(b) paragraph (1)(c)(iv) has effect as if the reference to preferential creditors included references to moratorium debts and priority pre-moratorium debts within the meaning given by section 174A.

(c) paragraph (1)(d)(i),(ii) and (vii) have effect as if the reference to preferential debts included references to moratorium debts and priority pre-moratorium debts within the meaning given by section 174A.”.

7.—(1) Rule 4.20 (appointment by creditors or by the company) is amended as follows.

(2) After paragraph (9) insert—

“(10) In the case of a voluntary winding up where, immediately before the company goes into liquidation, a moratorium under Part A1 of the Act is in force for that company, the liquidator must deliver notice of their appointment to the monitor⁽⁶⁾ and such notice must be given within the period of 14 days beginning with the day on which liquidator is appointed.”.

8.—(1) Rule 4.22 (appointment by the court (section 100(3) or 108)) is amended as follows—

⁽⁴⁾ 2020 c. 12; Schedule 4 has been amended but those amendments are not relevant for the purposes of these Rules.

⁽⁵⁾ Section 174A was inserted by paragraph 13 of Schedule 3 to the Corporate Insolvency and Governance Act 2020.

⁽⁶⁾ “Monitor” in relation to a moratorium has the meaning given in section A54.