STATUTORY INSTRUMENTS

# 2016 No. 185 (S. 1)

# INSOLVENCY, SCOTLAND

## The Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 2016

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| *Made - - - -* | *7th February 2016* |
| *Laid before Parliament* | *22nd February 2016* |
| *Coming into force - -* | *6th April 2016* |

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**) and section 21(2) of the Company Directors Disqualification Act 1986(**2**).

### Citation, extent commencement and interpretation

**1.**—(1) These Rules may be cited as the Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 2016, and extend to Scotland only.

(2) These Rules come into force on 6th April 2016.

(3) In these Rules—

"by electronic means" means sent initially and received at its destination by means of electronic equipment for the processing (which expression includes digital compression) or storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means;

"the Act" means the Company Directors Disqualification Act 1986;

"the former Rules" means the Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 1996(**3**); and

"the portal" means a digital service provided by the Secretary of State for the functions of both the sending and acknowledgement of receipt, by electronic means, of reports, applications, information and notifications in accordance with these Rules.

### Revocation

**2.** Subject to rule 10 the following are revoked—

(**1**) 1986 c.45.
(**2**) 1986 c.46.
(**3**) S.I. 1996/1910, amended by S.I. 2001/768.

(a) the former Rules,

(b) the Insolvent Companies (Reports on Conduct of Directors) (Scotland) (Amendment) Rules 2001(**4**)

**Enforcement of section 7(4) of the Act**

**3.**—(1) This rule applies where, for the purpose of determining whether to exercise any function under section 7 of the Act (disqualification orders under section 6: applications and acceptance of undertakings)(**5**), the Secretary of State requires or has required a person to—

(a) furnish the Secretary of State with information under section 7(4)(a), or

(b) produce and permit inspection of books, papers and other records in accordance with section 7(4)(b).

(2) On the application of the Secretary of State the court may make an order directing compliance within such period as may be specified.

(3) The court's order may provide that all expenses of and incidental to the application are to be borne by the person to whom the order is directed.

**Conduct reports required to be sent under section 7A(4) of the Act**

**4.**—(1) This rule is subject to rule 7.

(2) A conduct report required to be sent under section 7A(4) of the Act(**6**) must be sent by the office-holder(**7**) to the Secretary of State by electronic means via the portal.

(3) The Secretary of State must as soon as reasonably practicable acknowledge receipt, by electronic means via the portal, of a conduct report sent in accordance with this rule.

**Applications for a longer period under section 7A(4)(b) of the Act**

**5.**—(1) This rule is subject to rule 7.

(2) This rule applies where the particular circumstances of a case may require a period longer than that provided for by section 7A(4)(a) of the Act for the sending of a conduct report to the Secretary of State.

(3) The office-holder may apply to the Secretary of State for a longer period in which to send the report.

(4) The application must be sent by electronic means via the portal before the expiry of the period specified in section 7A(4)(a) of the Act.

(5) The application must explain the particular circumstances for the making of the application.

(6) The Secretary of State must as soon as reasonably practicable acknowledge receipt, by electronic means via the portal, of an application sent in accordance with this rule.

(7) The Secretary of State must, as soon as is reasonably practicable, notify the office-holder, by electronic means via the portal,—

(a) of the outcome of the application; and

(**4**) S.I. 2001/768.
(**5**) 1986 c.46; section 7(4) was amended by the Deregulation Act 2015 (c.20), Schedule 6, paragraph 11(2) to 11(4); the heading to section 7 is amended by the Small Business, Enterprise and Employment Act 2015 (c.26), section 107(4).
(**6**) Section 7A is inserted by the Small Business, Enterprise and Employment Act 2015, section 107(2).
(**7**) "Office-holder" is defined in section 7A(9) of the Act.