

190. Statement of company's affairs to be submitted to provisional liquidator or liquidator

- (1) Where the court has made a winding-up order or appointed a provisional liquidator before the making of a winding-up order, there must, unless the court thinks fit to order otherwise and so orders, be made and submitted to the provisional liquidator or liquidator a statement as to the affairs of the company (*statement of affairs*) in the prescribed form, verified by affidavit, and showing the particulars of its assets, debts, and liabilities, the names, addresses, and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the provisional liquidator or liquidator may require. (*Amended 6 of 1984 s. 137; 46 of 2000 s. 20; 14 of 2016 s. 30*)
- (2) The statement of affairs must be made, submitted and verified by one or more of the persons who are at the relevant date the directors and by the person who is at that date the company secretary of the company, or by such of the persons hereinafter in this subsection mentioned as the provisional liquidator or liquidator, subject to the direction of the court, may require to make, submit and verify the statement, that is to say, persons— (*Amended 6 of 1984 s. 137; 46 of 2000 s. 20; 28 of 2012 ss. 912 & 920; 14 of 2016 s. 30*)
 - (a) who are or have been directors or officers of the company;
 - (b) who have taken part in the formation of the company at any time within 1 year before the relevant date;
 - (c) who are in the employment of the company, or have been in the employment of the company within the said year, and are in the opinion of the provisional liquidator or liquidator capable of giving the information required; (*Amended 46 of 2000 s. 20*)
 - (d) who are or have been within the said year officers of or in the employment of a company, which is, or within the said year was, an officer of the company to which the statement relates.
- (2A) The provisional liquidator or liquidator may, subject to the direction of the court, require any of the persons mentioned in subsection (2)(a), (b), (c) and (d) who has not made, submitted and verified the statement of affairs to make and submit to the provisional liquidator or liquidator a supplementary affidavit stating that the person concurs in the statement. (*Added 14 of 2016 s. 30*)
- (2B) A supplementary affidavit made under subsection (2A) may be qualified in respect of matters dealt with in the statement of affairs, where the maker of the affidavit—
 - (a) is not in agreement with the maker of the statement;
 - (b) considers the statement to be erroneous or misleading; or
 - (c) is without the direct knowledge necessary for concurring in the statement. (*Added 14 of 2016 s. 30*)
- (3) The statement of affairs and supplementary affidavit must be submitted to the provisional liquidator or liquidator within 28 days from the relevant date, or within such extended time as the provisional liquidator or liquidator or the court may for special reasons appoint. (*Amended 46 of 2000 s. 20; 14 of 2016 s. 30*)
- (4) (*Repealed 14 of 2016 s. 30*)
- (5) If any person, without reasonable excuse, makes default in complying with the requirements of this section, he shall be liable to a fine and, for continued default, to a daily default fine. (*Amended 6 of 1984 s. 137; 7 of 1990 s. 2*)
- (5A) A statement of affairs required by this section may be used in evidence against the person making the statement. (*Added 72 of 1994 s. 9. Amended 14 of 2016 s. 30*)

- (5B) A supplementary affidavit required by this section may be used in evidence against the person making the affidavit. *(Added 14 of 2016 s. 30)*
- (6) A person claiming in writing to be a creditor or contributory of a company is entitled, on payment of the prescribed fee—
- (a) to inspect at all reasonable times, either personally or through an agent, the statement of affairs of the company, or a supplementary affidavit in relation to that statement, that is submitted under this section; and
 - (b) to obtain a copy of or extract from the statement or affidavit. *(Replaced 14 of 2016 s. 30)*
- (7) A person untruthfully claiming to be a creditor or contributory under subsection (6) is guilty of a contempt of court and is, on the application of the liquidator or Official Receiver, punishable accordingly. *(Replaced 14 of 2016 s. 30)*
- (8) In this section, the expression ***the relevant date*** (有關日期) means in a case where a provisional liquidator is appointed before the making of a winding-up order, the date of his appointment, and, in a case where no such appointment is made, the date of the winding-up order. *(Amended 14 of 2016 s. 30)*
- (9) In subsections (3), (5A) and (6), a reference to statement of affairs includes the affidavit verifying the statement as required by subsection (1). *(Added 14 of 2016 s. 30)*
- [cf. 1929 c. 23 s. 181 U.K.]*