
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 11

**BANKRUPTCY AND DEBT RELIEF RESTRICTIONS ORDERS
AND UNDERTAKINGS AND THE INSOLVENCY REGISTERS**

CHAPTER 1

Interpretation

References to the Secretary of State

11.1. References to the Secretary of State in Chapters 2 and 3 include the official receiver acting on the direction of the Secretary of State in making an application for—

- (a) a bankruptcy restrictions order or an interim bankruptcy restrictions order in accordance with paragraph 1(2)(b) or 5(3)(b) respectively of Schedule 4A(1); or
- (b) a debt relief restrictions order or an interim debt relief restrictions order in accordance with paragraph 1(2)(b) or 5(3)(b) respectively of Schedule 4ZB(2).

CHAPTER 2

Bankruptcy and debt relief restrictions orders (Schedules 4ZB and 4A)

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

Application for a bankruptcy or debt relief restrictions order

11.2.—(1) An application by the Secretary of State to the court for a bankruptcy restrictions order under paragraph 1 of Schedule 4A, or for a debt relief restrictions order under paragraph 1 of Schedule 4ZB, must be supported by a report by the Secretary of State.

(2) The report must—

- (a) set out the conduct which the Secretary of State thinks justifies making a bankruptcy restrictions order or a debt relief restrictions order; and
- (b) contain the evidence on which the Secretary of State relies in support of the application.

(3) Any evidence in support of the application provided by a person other than the Secretary of State must be given in a witness statement.

(4) The date for the hearing must be at least eight weeks after the date when the court fixes the venue for the hearing.

(1) Schedule 4A was inserted by Schedule 20 to the Enterprise Act 2002 (c.40).

(2) Schedule 4ZB was inserted by Schedule 19 to the Tribunals, Courts and Enforcement Act 2007 (c.15).

Service of the application on the bankrupt or debtor

11.3.—(1) The Secretary of State must serve a notice of the application and the venue on the bankrupt or debtor not more than 14 days after the application is filed with the court.

(2) The notice must be accompanied by—

- (a) a copy of the application;
- (b) a copy of the Secretary of State’s report;
- (c) a copy of any other evidence filed in support of the application; and
- (d) a document for completion as an acknowledgement of service.

(3) The bankrupt or debtor must file the acknowledgement of service, indicating whether or not the application is contested, not more than 14 days after service of the application.

(4) A bankrupt or debtor who fails to file an acknowledgement of service within that time may attend the hearing of the application but may not take part in the hearing unless the court gives permission.

The bankrupt’s or debtor’s evidence opposing an application

11.4.—(1) A bankrupt or debtor who wishes to oppose the application must—

- (a) file with the court any evidence for the court to take into consideration within 28 days of service of the application; and
- (b) serve a copy of it on the Secretary of State within three business days of filing the evidence with the court.

(2) The Secretary of State must file with the court any evidence in reply within 14 days from receiving the copy of the bankrupt’s or debtor’s evidence, and must serve a copy of that evidence on the bankrupt or debtor as soon as reasonably practicable.

Making a bankruptcy or debt relief restrictions order

11.5.—(1) The court may make a bankruptcy restrictions order or a debt relief restrictions order whether or not the bankrupt or debtor appears or has filed evidence.

(2) Where the court makes such an order, it must deliver two sealed copies to the Secretary of State as soon as reasonably practicable.

(3) As soon as reasonably practicable after receiving the sealed copies, the Secretary of State must deliver one of them to the bankrupt or debtor.

CHAPTER 3

Interim bankruptcy and debt relief restrictions orders

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

Application for an interim bankruptcy or debt relief restrictions order

11.6.—(1) An application by the Secretary of State to the court for an interim bankruptcy restrictions order under paragraph 5 of Schedule 4A or an interim debt relief restrictions order under paragraph 5 of Schedule 4ZB, must be supported by a report by the Secretary of State.

(2) The report must—

- (a) set out the conduct which the Secretary of State thinks justifies making an interim bankruptcy restrictions order or an interim debt relief restrictions order; and

- (b) contain the evidence on which the Secretary of State relies in support of the application including evidence of why it would be in the public interest to make such an order.
- (3) Any evidence in support of the application provided by a person other than the Secretary of State must be given in a witness statement.
- (4) The Secretary of State must deliver a notice of the application to the bankrupt or debtor at least two business days before the date set for the hearing unless the court directs otherwise.
- (5) The notice must be accompanied by—
 - (a) a copy of the application;
 - (b) a copy of the Secretary of State’s report;
 - (c) a copy of any other evidence filed in support of the application; and
 - (d) a document for completion as an acknowledgement of service.
- (6) The bankrupt or debtor may file with the court evidence for the court to take into consideration and may appear at the hearing.

Making an interim bankruptcy or debt relief restrictions order

- 11.7.**—(1) The court may make an interim bankruptcy restrictions order or interim debt relief restrictions order whether or not the bankrupt or debtor appears or has filed evidence.
- (2) Where the court makes such an order, it must deliver two sealed copies of the order to the Secretary of State as soon as reasonably practicable.
 - (3) As soon as reasonably practicable after receiving the sealed copies, the Secretary of State must deliver one of them to the bankrupt or debtor.

Application to set aside an interim order

- 11.8.**—(1) A bankrupt subject to an interim bankruptcy restrictions order or a debtor subject to an interim debt relief restrictions order may apply to the court to set the order aside.
- (2) The application must be supported by a witness statement stating the grounds on which it is made.
 - (3) The bankrupt or debtor must deliver to the Secretary of State, not less than five business days before the hearing—
 - (a) a notice of the venue;
 - (b) a copy of the application; and
 - (c) a copy of the supporting witness statement.
 - (4) The Secretary of State may attend the hearing and call the attention of the court to any matter which seems to be relevant, and may give evidence or call witnesses.

Order setting aside an interim order

- 11.9.**—(1) Where the court sets aside an interim bankruptcy restrictions order or an interim debt relief restrictions order, it must deliver two sealed copies of the order to the Secretary of State as soon as reasonably practicable.
- (2) As soon as reasonably practicable after receiving the sealed copies, the Secretary of State must deliver one of them to the bankrupt or debtor.

CHAPTER 4

Bankruptcy restrictions and debt relief restrictions undertakings

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

Acceptance of a bankruptcy restrictions or a debt relief restrictions undertaking

11.10.—(1) A bankruptcy restrictions undertaking authenticated by the bankrupt is accepted by the Secretary of State for the purposes of paragraph 9 of Schedule 4A when the Secretary of State authenticates the undertaking.

(2) A debt relief restrictions undertaking authenticated by a person in relation to whom a debt relief order has been made is accepted by the Secretary of State for the purposes of paragraph 9 of Schedule 4ZB when the Secretary of State authenticates the undertaking.

Notification

11.11.—(1) The Secretary of State must, as soon as reasonably practicable after accepting a bankruptcy restrictions undertaking or a debt relief restrictions undertaking, deliver copies to the person who offered the undertaking and to the official receiver.

(2) In the case of a bankruptcy restrictions undertaking the Secretary of State must also file a copy with the court in the case of a creditor's bankruptcy petition or on the bankruptcy file in the case of a debtor's bankruptcy application.

Application to annul a bankruptcy restrictions or a debt relief restrictions undertaking

11.12.—(1) An application by a bankrupt or debtor to annul or vary an undertaking under paragraph 9(3)(a) or (b) of Schedule 4A or paragraph 9(3)(a) or (b) of Schedule 4ZB must be supported by a witness statement stating the grounds on which the application is made.

(2) The bankrupt or debtor must, at least 28 days before the date fixed for the hearing, deliver to the Secretary of State—

- (a) a notice of the venue;
- (b) a copy of the application; and
- (c) a copy of the supporting witness statement.

(3) The Secretary of State may attend the hearing and call the attention of the court to any matter which seems to be relevant, and may give evidence or call witnesses.

(4) Where the court annuls or varies a bankruptcy restrictions undertaking or debt relief restrictions undertaking, it must deliver two sealed copies of the order to the Secretary of State as soon as reasonably practicable.

(5) As soon as reasonably practicable after receiving the sealed copies, the Secretary of State must deliver one of them to the bankrupt or debtor.

CHAPTER 5

Insolvency Registers: General

Maintenance of the registers and inspection

11.13.—(1) The Secretary of State must maintain the individual insolvency register of matters relating to bankruptcies, debt relief orders and IVAs in accordance with Chapter 6.

(2) The Secretary of State must maintain the bankruptcy restrictions register and the debt relief restrictions register in accordance with Chapter 7.

(3) The registers must be available to be searched electronically by members of the public at any time unless there is malfunction or error in the electronic operation of the registers.

(4) Any person may request the official receiver to make a search of the registers on any business day between 9am and 5pm.

(5) An obligation under this Part to enter information on, or delete information from, a register, must be performed as soon as is reasonably practicable after it arises.

CHAPTER 6

Individual insolvency register

Entry of information on the individual insolvency register: IVAs

11.14.—(1) This rule applies where—

- (a) an IVA has been accepted by the debtor’s creditors; and
- (b) the Secretary of State receives any of the following—
 - (i) a report under rule 8.26 (report on approval of IVA), or
 - (ii) a notice under rules 8.27(5) (notice of revocation or suspension of IVA), 8.27(6) (notice of expiry of suspension) or 8.31 (notice that the IVA has been terminated or fully implemented).

(2) The Secretary of State must enter the following on the individual insolvency register—

- (a) the debtor’s identification details;
- (b) the debtor’s date of birth;
- (c) the date on which the IVA was approved by the creditors;
- (d) the debtor’s gender;
- (e) any name other than the name in which the debtor entered into IVA by which the debtor was or is known;
- (f) a statement as to whether the IVA has been—
 - (i) completed in accordance with its terms,
 - (ii) terminated, or
 - (iii) revoked; and
- (g) the name and address of the supervisor.

(3) This rule is subject to any court order for the non-disclosure of the debtor’s current address made under rule 20.2 (debtors at risk of violence: proposed IVA) or 20.3 (debtors at risk of violence: IVA).

Deletion of information from the individual insolvency register: IVAs

11.15. The Secretary of State must delete from the individual insolvency register all information concerning an IVA three months after receiving one of the following—

- (a) a notice under rule 8.27(5) of the making of a revocation order in relation to the IVA; or
- (b) a notice under rule 8.31(3) of the termination or full implementation of the IVA.

Entry of information on to the individual insolvency register: bankruptcy orders

11.16.—(1) Where the official receiver receives a copy of a bankruptcy order from the court under rule 10.32, or from the adjudicator under rule 10.45, the official receiver must cause the following to be entered on the individual insolvency register—

- (a) the matters listed in rules 10.8 or the information set out in Part 1 of Schedule 7, relating to the debtor as they are stated in the bankruptcy petition or bankruptcy application;
- (b) the date of the bankruptcy order; and
- (c) identification details for the proceedings.

(2) The official receiver must cause to be entered on to the individual insolvency register the following information —

- (a) the bankrupt's identification details and date of birth;
- (b) the bankrupt's gender and occupation (if any);
- (c) the date of a previous bankruptcy order or debt relief order (if any) made against the bankrupt in the period of six years before the latest bankruptcy order (if there is more than one such previous order only the latest and excluding any bankruptcy order that was annulled or any debt relief order that was revoked);
- (d) any name by which the bankrupt was known, not being the name in which the individual was made bankrupt;
- (e) the address of any business carried on by the bankrupt and the name in which that business was carried on if carried on in a name other than the name in which the individual was made bankrupt;
- (f) the name and address of any insolvency practitioner appointed to act as trustee in bankruptcy;
- (g) the address at which the official receiver may be contacted;
- (h) the automatic discharge date under section 279(3); and
- (i) where a bankruptcy order is annulled or rescinded by the court, the fact that such an order has been made, the date on which it is made and (if different) the date on which it has effect.

(3) Where the official receiver receives a copy of an order under rule 10.104(6) or 10.142(8) suspending the bankrupt's discharge the official receiver must cause to be entered on to the individual insolvency register—

- (a) the fact that such an order has been made; and
- (b) the period for which the discharge has been suspended or that the relevant period has ceased to run until the fulfilment of conditions specified in the order.

(4) Where the official receiver receives under rule 10.143(10) a copy of a certificate of the discharge of an order under section 279(3) the official receiver must cause the following to be entered on the individual insolvency register—

- (a) that the court has discharged the order made under section 279(3); and
- (b) the new date of discharge of the bankrupt.

(5) Where the order discharging the order under section 279(3) is subsequently rescinded by the court, the official receiver must cause the register to be amended accordingly.

(6) Where a bankrupt is discharged from bankruptcy under section 279(1), the official receiver must cause the fact and date of such discharge to be entered in the individual insolvency register.

(7) This rule is subject to any court order for the non-disclosure of the debtor's current address made under rule 20.5 (persons at risk of violence: bankruptcy application) or 20.6 (debtors at risk of violence: bankruptcy and debt relief proceedings).

Deletion of information from the individual insolvency register: bankruptcy orders

11.17. The Secretary of State must delete from the individual insolvency register all information concerning a bankruptcy where—

- (a) the bankruptcy order has been annulled under section 261(2)(a), 261(2)(b) or section 282(1)(b) and a period of three months has elapsed since a notice of the annulment was delivered to the official receiver;
- (b) the bankrupt has been discharged from the bankruptcy and a period of three months has elapsed from the date of discharge;
- (c) the bankruptcy order is annulled under section 282(1)(a) and 28 days have elapsed since a notice of the annulment was delivered to the official receiver under rule 10.137(3); or
- (d) an order has been made by the court under section 375 rescinding the bankruptcy order and 28 days have elapsed since receipt by the official receiver.

Entry of information on to the individual insolvency register: debt relief orders

11.18.—(1) The official receiver must cause to be entered on to the individual insolvency register after the making of a debt relief order the following information relating to the order or the debtor—

- (a) as they are stated in the debtor's application—
 - (i) the debtor's identification details and date of birth,
 - (ii) the debtor's gender and occupation (if any),
 - (iii) the name or names in which the debtor has carried on business, if other than the debtor's true name, and
 - (iv) the nature of the debtor's business and the address or addresses at which the debtor carries or has carried it on and whether alone or with others;
- (b) the date of the debt relief order;
- (c) the reference number of the order;
- (d) the date of the end of the moratorium period; and
- (e) the date of a previous bankruptcy order or a debt relief order (if any) made against the debtor in the period of six years before the latest debt relief order (if there is more than one such order only the latest and excluding any bankruptcy order that was annulled or debt relief order that was revoked).

(2) Except where information concerning a debt relief order has been deleted under rule 11.19, the official receiver must also cause to be entered on the register in relation to the order—

- (a) where the moratorium period is terminated early, the fact that such has happened, the date of early termination and whether the early termination is on revocation of the debt relief order or by virtue of any other enactment;
- (b) where the moratorium period is extended, the fact that such has happened, the date on which the extension was made, its duration and the date of the new anticipated end of the moratorium period; or
- (c) where the debtor is discharged from all qualifying debts, the date of such discharge.

(3) This rule is subject to any court order for the non-disclosure of the debtor's current address made under rule 20.4 (debtors at risk of violence: debt relief application) or 20.6 (debtors at risk of violence: bankruptcy and debt relief proceedings).

Deletion of information from the individual insolvency register: debt relief orders

11.19. The Secretary of State must delete from the individual insolvency register all information concerning a debt relief order where three months have elapsed from the date on which—

- (a) the debt relief order has been revoked; or
- (b) the debtor has been discharged from the qualifying debts.

CHAPTER 7

Bankruptcy and debt relief restrictions register

Bankruptcy restrictions and debt relief restrictions orders and undertakings: entry of information on the registers

11.20.—(1) Where any of the following orders are made against a bankrupt or a debtor the Secretary of State must enter on the bankruptcy restrictions register or debt relief restrictions register as appropriate the specified information—

- (a) an interim bankruptcy restrictions order;
 - (b) a bankruptcy restrictions order;
 - (c) an interim debt relief restrictions order; or
 - (d) a debt relief restrictions order.
- (2) The specified information is—
- (a) the bankrupt's or debtor's identification details;
 - (b) the bankrupt's or debtor's gender;
 - (c) the bankrupt's or debtor's occupation (if any);
 - (d) a statement that an interim bankruptcy restrictions order, a bankruptcy restrictions order, an interim debt relief restrictions order or a debt relief restrictions order has been made against the bankrupt or debtor;
 - (e) the date of the order;
 - (f) the court in which the order was made and the court or order reference number; and
 - (g) the duration of the order.

(3) Where a bankruptcy restrictions undertaking is given by a bankrupt or a debt relief restrictions undertaking is given by a debtor, the Secretary of State must enter on to the bankruptcy restrictions or debt relief restrictions register—

- (a) the bankrupt's or debtor's identification details;
- (b) the bankrupt's or debtor's gender;
- (c) the bankrupt's or debtor's occupation (if any);
- (d) a statement that a bankruptcy restrictions undertaking or debt relief restrictions undertaking has been given;
- (e) the date of the acceptance of the bankruptcy restrictions undertaking or debt relief restrictions undertaking by the Secretary of State; and
- (f) the duration of the bankruptcy restrictions undertaking or debt relief restrictions undertaking.

(4) This rule is subject to any court order for the non-disclosure of the debtor's current address made under rules 20.6 (debtors at risk of violence: bankruptcy and debt relief proceedings) or 20.7 (additional provisions in respect of order under rule 20.6(4)).

Deletion of information from the registers

11.21. The Secretary of State must delete from the bankruptcy restrictions register or debt relief restrictions register all information relating to an interim bankruptcy restrictions order, bankruptcy restrictions order, interim debt relief restrictions order, debt relief restrictions order, bankruptcy restrictions undertaking or debt relief restrictions undertaking after—

- (a) receipt of notice that the order or undertaking has ceased to have effect; or
- (b) the expiry of the order or undertaking.

CHAPTER 8

Rectification of registers and death of persons on register

Rectification of the registers

11.22. Where the Secretary of State becomes aware of an inaccuracy in information on the individual insolvency register, the bankruptcy restrictions register or the debt relief restrictions register, the Secretary of State must rectify the inaccuracy as soon as reasonably practicable.

Death of a person about whom information is held on a register

11.23. Where the Secretary of State receives notice of the date of the death of a person in relation to whom information is held on any of the registers, the Secretary of State must cause the fact and date of the person's death to be entered on to the register.