
STATUTORY INSTRUMENTS

2013 No. 3208

The Postal Administration Rules 2013

PART 11

COURT PROCEDURE AND PRACTICE

CHAPTER 1

Applications

Preliminary

95. This Chapter applies to any application made to the court in postal administration proceedings under the Rules, except an application for a postal administration order.

Form and contents of application

96.—(1) Each application shall be in writing and shall state—

- (a) the names of the parties;
- (b) the name of company which is the subject of the postal administration proceedings to which the application relates;
- (c) the court (and where applicable, the division or district registry of that court) in which the application is made;
- (d) where the court has previously allocated a number to the postal administration proceedings within which the application is made, that number;
- (e) the nature of the remedy or order applied for or the directions sought from the court;
- (f) the names and addresses of the persons (if any) on whom it is intended to serve the application or that no person is intended to be served;
- (g) where the 1986 Act or Rules require that notice of the application is to be given to specified persons, the names and addresses of all those persons (so far as known to the applicant); and
- (h) the applicant's address for service.

(2) The application must be authenticated by the applicant if they are acting in person or, when they are not so acting, by or on behalf of their solicitor.

Application under section 176A(5) of the 1986 Act to disapply section 176A of the 1986 Act

97.—(1) An application under section 176A(5) of the 1986 Act shall be accompanied by a witness statement by the postal administrator.

(2) The witness statement shall state—

- (a) that the application arises in the course of a postal administration under the 2011 Act;
- (b) a summary of the financial position of the company;

- (c) the information substantiating the postal administrator's view that the cost of making a distribution to unsecured creditors would be disproportionate to the benefits; and
- (d) whether any other postal administrator is acting in relation to the company and if so their address.

Filing and service of application

98.—(1) An application must be filed with the court, accompanied by one copy and a number of additional copies equal to the number of persons who are to be served with the application.

(2) Where an application is filed with the court in accordance with paragraph (1) of this Rule, the court must fix a venue for the application to be heard unless—

- (a) it considers it is not appropriate to do so;
- (b) the Rule under which the application is brought provides otherwise; or
- (c) the case is one to which Rule 100 applies.

(3) Unless the court otherwise directs, the applicant shall serve a sealed copy of the application, endorsed with the venue for the hearing, on the respondent named in the application (or on each respondent if more than one).

(4) The court may give any of the following directions—

- (a) that the application be served upon persons other than those specified by the relevant provision of the 1986 Act or the Rules;
- (b) that the giving of notice to any person may be dispensed with;
- (c) that notice be given in some way other than that specified in paragraph (3) of this Rule.

(5) An application must be served at least 14 days before the date fixed for its hearing unless—

- (a) the provision of the 1986 Act or the Rules under which the application is made makes different provision; or
- (b) the case is one of urgency, to which paragraph (6) of this Rule applies.

(6) Where the case is one of urgency, the court may (without prejudice to its general power to extend or abridge time limits)—

- (a) hear the application immediately, either with or without notice to, or the attendance of, other parties, or
- (b) authorise a shorter period of service than that provided for by paragraph (5) of this Rule;

and any such application may be heard on terms providing for the filing or service of documents, or the carrying out of other formalities, as the court thinks just.

Notice of application under section 176A(5) of the 1986 Act

99. An application under section 176A(5) of the 1986 Act may be made without the application being served upon or notice being given to any other party.

Hearings without notice

100. Where the relevant provisions of the 1986 Act or the Rules do not require service of the application on, or notice of it to be given to, any person—

- (a) the court may hear the application as soon as reasonably practicable without fixing a venue as required by Rule 98(2); or
- (b) it may fix a venue for the application to be heard in which case Rule 98 will apply to the extent that it is relevant;

but nothing in those provisions is to be taken as prohibiting the applicant from giving such notice if the applicant wishes to do so.

Hearing of application

101.—(1) Unless the court otherwise directs, the hearing of an application must be in open court.

(2) In a county court, the jurisdiction of the court to hear and determine an application may be exercised by the district judge (to whom any application must be made in the first instance) unless—

- (a) a direction to the contrary has been given, or
- (b) it is not within the district judge’s power to make the order required.

(3) In the High Court the jurisdiction of the court to hear and determine an application may be exercised by the registrar (to whom the application must be made in the first instance) unless—

- (a) a direction to the contrary has been given, or
- (b) it is not within the registrar’s power to make the order required.

(4) Where the application is made to the district judge in the county court or to the registrar in the High Court, the district judge or the registrar may refer to the judge any matter which the district judge or the registrar thinks should properly be decided by the judge, and the judge may either dispose of the matter or refer it back to the district judge or the registrar with such directions as that judge thinks just.

(5) Nothing in this Rule precludes an application being made directly to the judge in a proper case.

Witness statements—general

102.—(1) Subject to Rule 104, where evidence is required by the 1986 Act or the Rules as to any matter, such evidence may be provided in the form of a witness statement unless—

- (a) in any specific case a Rule or the 1986 Act makes different provision; or
- (b) the court otherwise directs.

(2) The court may, on the application of any party to the matter in question order the attendance for cross-examination of the person making the witness statement.

(3) Where, after such an order has been made, the person in question does not attend, that person’s witness statement must not be used in evidence without the permission of the court.

Filing and service of witness statements

103. Unless the provision of the 1986 Act or the Rules under which the application is made provides otherwise, or the court otherwise allows—

- (a) if the applicant intends to rely at the first hearing on evidence in a witness statement, the applicant shall file the witness statement with the court and serve a copy on the respondent, not less than 14 days before the date fixed for the hearing, and
- (b) where a respondent to an application intends to oppose it and to rely for that purpose on evidence in a witness statement, the respondent shall file the witness statement with the court and serve a copy on the applicant, not less than 5 business days before the date fixed for the hearing.

Use of reports

104.—(1) A report may be filed in court by the postal administrator instead of a witness statement, unless the application involves other parties or the court otherwise orders.

(2) In any case where a report is filed instead of a witness statement, the report shall be treated for the purposes of Rule 103 and any hearing before the court as if it were a witness statement.

(3) Where the witness statement is made by the postal administrator, the witness statement must state the address at which the postal administrator works.

Adjournment of hearing; directions

105.—(1) The court may adjourn the hearing of an application on such terms as it thinks just.

(2) The court may at any time give such directions as it thinks just as to—

- (a) service or notice of the application on or to any person;
- (b) whether particulars of claim and defence are to be delivered and generally as to the procedure on the application including whether a hearing is necessary;
- (c) the matters to be dealt with in evidence.

(3) The court may give directions as to the manner in which any evidence is to be adduced at a resumed hearing and in particular as to—

- (a) the taking of evidence wholly or partly by witness statement or orally;
- (b) the cross-examination of the maker of a witness statement; or
- (c) any report to be made by the postal administrator.

General power of transfer

106.—(1) Where postal administration proceedings are pending in the High Court, the court may order them to be transferred to a specified county court.

(2) Where postal administration proceedings are pending in a county court, the court may order them to be transferred either to the High Court or to another county court.

(3) In any case where proceedings are transferred to a county court, the transfer must be to a court which has jurisdiction to wind up companies.

(4) A transfer of proceedings under this Rule may be ordered—

- (a) by the court of its own motion, or
- (b) on the application of the postal administrator, or
- (c) on the application of a person appearing to the court to have an interest in the proceedings.

Proceedings commenced in wrong court

107. Where postal administration proceedings are commenced in a court which is, in relation to those proceedings, the wrong court, that court may—

- (a) order the transfer of the proceedings to the court in which they ought to have been commenced;
- (b) order that the proceedings be continued in the court in which they have been commenced; or
- (c) order the proceedings to be struck out.

Applications for transfer

108.—(1) An application by the postal administrator for proceedings to be transferred shall be made with a report by the postal administrator—

- (a) setting out the reasons for the transfer, and

(b) including a statement that the applicant for the postal administration order consents to the transfer, or that the applicant has been given at least 14 days' notice of the postal administrator's application.

(2) If the court is satisfied from the postal administrator's report that the proceedings can be conducted more conveniently in another court, the proceedings shall be transferred to that court.

Procedure following order for transfer

109.—(1) Subject as follows, the court making an order under Rule 106 shall as soon as reasonably practicable send to the transferee court a sealed copy of the order, and the file of the proceedings.

(2) On receipt of these, the transferee court shall as soon as reasonably practicable send notice of the transfer to the transferor court.