
STATUTORY INSTRUMENTS

2013 No. 3208

The Postal Administration Rules 2013

PART 3

Process of Postal Administration

Notification and advertisement of postal administrator's appointment

14.—(1) The notice of appointment to be given by the postal administrator as soon as reasonably practicable after appointment under paragraph 46(2)(b) shall be gazetted and may be advertised in such other manner as the postal administrator thinks fit.

(2) In addition to the standard contents, the notice under paragraph (1) of this Rule must state—

- (a) that a postal administrator has been appointed; and
- (b) the date of the appointment.

(3) The postal administrator shall, as soon as reasonably practicable after the date specified in paragraph 46(6), give notice of their appointment—

- (a) if the application for the postal administration order was made by the Secretary of State, to OFCOM;
- (b) if the application for the postal administration order was made by OFCOM, to the Secretary of State;
- (c) to any receiver or administrative receiver that has been appointed;
- (d) if there is pending a petition for the winding up of the company, to the petitioner (and also to the provisional liquidator, if any);
- (e) to any person who has applied to the court for an administration order under Schedule B1 to the 1986 Act, without the modifications made by Schedule 10 to the 2011 Act, in relation to the company;
- (f) to any enforcement officer who, to the postal administrator's knowledge, is charged with execution or other legal process against the company;
- (g) to any person who, to the postal administrator's knowledge, has distrained against the company or its property; and
- (h) any supervisor of a voluntary arrangement under Part I of the 1986 Act.

(4) Where, under a provision of Schedule B1 to the 1986 Act or the Rules, the postal administrator is required to send a notice of their appointment to any person other than the registrar of companies they shall do so in Form PA4.

Notice requiring statement of affairs

15.—(1) In this Part “relevant person” shall have the meaning given to it in paragraph 47(3).

(2) The postal administrator shall send notice in Form PA5 to each relevant person whom the postal administrator determines appropriate requiring them to prepare and submit a statement of the company's affairs.

(3) The notice shall inform each of the relevant persons—

- (a) of the names and addresses of all others (if any) to whom the same notice has been sent;
- (b) of the time within which the statement must be delivered;
- (c) of the effect of paragraph 48(4) (penalty for non-compliance); and
- (d) of the application to the relevant person, and to each other relevant person, of section 235 of the 1986 Act (duty to provide information, and to attend on the administrator, if required).

(4) The postal administrator shall furnish each relevant person to whom the postal administrator has sent notice in Form PA5 with the forms required for the preparation of the statement of affairs.

Verification and filing

16.—(1) The statement of the company's affairs shall be in Form PA6, contain all the particulars required by that form and be verified by a statement of truth by the relevant person.

(2) The postal administrator may require any relevant person to submit a statement of concurrence in Form PA7 stating that they concur in the statement of affairs. Where the postal administrator does so, the postal administrator shall inform the person making the statement of affairs of that fact.

(3) The statement of affairs shall be delivered by the relevant person making the statement of truth, together with a copy, to the postal administrator. The relevant person shall also deliver a copy of the statement of affairs to all those persons whom the postal administrator has required to make a statement of concurrence.

(4) A person required to submit a statement of concurrence shall do so before the end of the period of 5 business days (or such other period as the postal administrator may agree) beginning with the day on which the statement of affairs being concurred with is received by them.

(5) A statement of concurrence may be qualified in respect of matters dealt with in the statement of affairs, where the maker of the statement of concurrence is not in agreement with the relevant person, or the maker of the statement considers the statement of affairs to be erroneous or misleading, or the maker of the statement is without the direct knowledge necessary for concurring with it.

(6) Every statement of concurrence shall be verified by a statement of truth and be delivered to the postal administrator by the person who makes it, together with a copy of it.

(7) Subject to Rule 17, the postal administrator shall as soon as reasonably practicable send to the registrar of companies a copy of the statement of affairs and any statement of concurrence.

Limited disclosure

17.—(1) Where the postal administrator thinks that it would prejudice the conduct of the postal administration or might reasonably be expected to lead to violence against any person for the whole or part of the statement of the company's affairs to be disclosed, the postal administrator may apply to the court for an order of limited disclosure in respect of the statement, or any specified part of it.

(2) The court may, on such application, order that the statement or, as the case may be, the specified part of it, shall not be filed with the registrar of companies.

(3) The postal administrator shall as soon as reasonably practicable send to the registrar of companies a copy of the order and the statement of affairs (to the extent provided by the order) and any statement of concurrence.

(4) If a creditor seeks disclosure of a statement of affairs or a specified part of it in relation to which an order has been made under this Rule, they may apply to the court for an order that the

postal administrator disclose it or a specified part of it. The application shall be supported by written evidence in the form of a witness statement.

(5) The applicant shall give the postal administrator notice of their application at least 3 business days before the hearing.

(6) The court may make any order for disclosure subject to any conditions as to confidentiality, duration, the scope of the order in the event of any change of circumstances, or other matters as it sees just.

(7) If there is a material change in circumstances rendering the limit on disclosure or any part of it unnecessary, the postal administrator shall, as soon as reasonably practicable after the change, apply to the court for the order or any part of it to be rescinded.

(8) The postal administrator shall, as soon as reasonably practicable after the making of an order under paragraph (7) of this Rule, file with the registrar of companies a copy of the statement of affairs to the extent provided by the order.

(9) When the statement of affairs is filed in accordance with paragraph (8) of this Rule, the postal administrator shall, where the postal administrator has sent a statement of proposals under paragraph 49, provide the creditors with a copy of the statement of affairs as filed, or a summary thereof.

(10) The provisions of Part 31 of the CPR shall not apply to an application under this Rule.

Release from duty to submit statement of affairs; extension of time

18.—(1) The power of the postal administrator under paragraph 48(2) to give a release from the obligation imposed by paragraph 47(1), or to grant an extension of time, may be exercised at the postal administrator's own discretion, or at the request of any relevant person.

(2) A relevant person may, if they request a release or extension of time and it is refused by the postal administrator, apply to the court for it.

(3) The court may, if it thinks that no sufficient cause is shown for the application, dismiss it without a hearing but it shall not do so without giving the relevant person at least 5 business days' notice, upon receipt of which the relevant person may request the court to list the application for a without notice hearing. If the application is not dismissed the court shall fix a venue for it to be heard, and give notice to the relevant person accordingly.

(4) The relevant person shall, at least 14 days before the hearing, send to the postal administrator a notice stating the venue and accompanied by a copy of the application and of any evidence which the relevant person intends to adduce in support of it.

(5) The postal administrator may appear and be heard on the application and, whether or not they appear, they may file a written report of any matters which they consider ought to be drawn to the court's attention. If such a report is filed, a copy of it shall be sent by the postal administrator to the relevant person, not later than 5 business days before the hearing.

(6) Sealed copies of any order made on the application shall be sent by the court to the relevant person and the postal administrator.

(7) On any application under this Rule the relevant person's costs shall be paid in any event by the relevant person and, unless the court otherwise orders, no allowance towards them shall be made as an expense of the postal administration.

Expenses of statement of affairs

19.—(1) A relevant person making the statement of affairs of the company or statement of concurrence shall be allowed, and paid by the postal administrator as an expense of the postal administration, any expenses incurred by the relevant person in so doing which the postal administrator considers reasonable.

(2) Any decision by the postal administrator under this Rule is subject to appeal to the court.

(3) Nothing in this Rule relieves a relevant person from any obligation with respect to the preparation, verification and submission of the statement of affairs, or to the provision of information to the postal administrator.

Postal administrator's proposals

20.—(1) The postal administrator shall, under paragraph 49, make a statement which the postal administrator shall send to the registrar of companies.

(2) The statement shall include, in addition to those matters set out in paragraph 49—

- (a) details of the court where the proceedings are and the relevant court reference number;
- (b) the full name, registered address, registered number and any other trading names of the company;
- (c) details relating to their appointment as postal administrator, including the date of appointment and whether the postal administration application was made by OFCOM or the Secretary of State and, where there are joint postal administrators, details of the matters set out in section 72(5) of the 2011 Act;
- (d) the names of the directors and secretary of the company and details of any shareholdings in the company they may have;
- (e) an account of the circumstances giving rise to the appointment of the postal administrator;
- (f) if a statement of the company's affairs has been submitted, a copy or summary of it, with the postal administrator's comments, if any;
- (g) if an order limiting the disclosure of the statement of affairs (under Rule 17) has been made, a statement of that fact, as well as—
 - (i) details of who provided the statement of affairs;
 - (ii) the date of the order of limited disclosure; and
 - (iii) the details or a summary of the details that are not subject to that order;
- (h) if a full statement of affairs is not provided, the names, addresses and debts of the creditors including details of any security held;
- (i) if no statement of affairs has been submitted, details of the financial position of the company at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that on which the company entered postal administration), a list of the company's creditors including their names, addresses and details of their debts, including any security held, and an explanation as to why there is no statement of affairs;
- (j) except where the postal administrator proposes a voluntary arrangement in relation to the company and subject to paragraph (5) of this Rule—
 - (i) to the best of the postal administrator's knowledge and belief—
 - (aa) an estimate of the value of the prescribed part (whether or not they propose to make an application to court under section 176A(5) or section 176A(3) of the 1986 Act⁽¹⁾ applies); and
 - (bb) an estimate of the value of the company's net property; and
 - (ii) whether, and, if so, why, the postal administrator proposes to make an application to court under section 176A(5) of the 1986 Act;

(1) 1986 c. 45; section 176A inserted by the Enterprise Act 2002 c. 40, section 252.

- (k) a statement complying with paragraph (3) of this Rule of any pre-postal administration costs charged or incurred by the postal administrator or, to the postal administrator's knowledge, by any other person qualified to act as an insolvency practitioner.
 - (l) a statement (which must comply with paragraph (4) of this Rule where that paragraph applies) of how it is envisaged the purpose of the postal administration will be achieved and how it is proposed that the postal administration shall end;
 - (m) the manner in which the affairs and business of the company—
 - (i) have, since the date of the postal administrator's appointment, been managed and financed, including, where any assets have been disposed of, the reasons for such disposals and the terms upon which such disposals were made; and
 - (ii) will continue to be managed and financed; and
 - (n) such other information (if any) as the postal administrator thinks necessary to enable creditors to decide whether or not to vote for the adoption of the proposals.
- (3) A statement of pre-postal administration costs complies with this paragraph if it includes—
- (a) details of any agreement under which the fees were charged and expenses incurred, including the parties to the agreement and the date on which the agreement was made;
 - (b) details of the work done for which the fees were charged and expenses incurred;
 - (c) an explanation of why the work was done before the company entered postal administration and how it would further the achievement of the objective of the postal administration;
 - (d) a statement of the amount of the pre-postal administration costs, setting out separately—
 - (i) the fees charged by the postal administrator;
 - (ii) the expenses incurred by the postal administrator;
 - (iii) the fees charged (to the postal administrator's knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately); and
 - (iv) the expenses incurred (to the postal administrator's knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately);
 - (e) a statement of the amounts of pre-postal administration costs which have already been paid (set out separately as under sub-paragraph (d));
 - (f) the identity of the person who made the payment or, if more than one person made the payment, the identity of each such person and of the amounts paid by each such person set out separately as under sub-paragraph (d);
 - (g) a statement of the amounts of unpaid pre-postal administration costs (set out separately as under paragraph (d)); and
 - (h) a statement that the payment of unpaid pre-postal administration costs as an expense of the postal administration is subject to approval under Rule 38.
- (4) This paragraph applies where it is proposed that the postal administration will end by the company moving to a creditors' voluntary liquidation; and in that case, the statement required by paragraph (2)(l) of this Rule must include—
- (a) details of the proposed liquidator;
 - (b) where applicable, the declaration required by section 231 of the 1986 Act; and
 - (c) a statement that the creditors may nominate a different person as liquidator in accordance with paragraph 83(7)(a) and Rule 81(3).

(5) Nothing in paragraph (2)(j) of this Rule is to be taken as requiring any such estimate to include any information, the disclosure of which could seriously prejudice the commercial interests of the company. If such information is excluded from the calculation the estimate shall be accompanied by a statement to that effect.

(6) Where the court orders, upon an application by the postal administrator under paragraph 107, an extension of the period of time in paragraph 49(5), the postal administrator must as soon as reasonably practicable after the making of the order—

- (a) notify in Form PA8 every creditor of the company and every member of the company of whose address (in either case) the postal administrator is aware, and
- (b) send a copy of the notification to the registrar of companies.

(7) Where the postal administrator wishes to publish a notice under paragraph 49(6), the notice shall be advertised in such manner as the postal administrator thinks fit.

(8) In addition to the standard contents, the notice under paragraph (7) of this Rule must state—

- (a) that members can write for a copy of the statement of proposals for achieving the purpose of postal administration; and
- (b) the address to which to write.

(9) This notice must be published as soon as reasonably practicable after the postal administrator sends their statement of proposals to the company's creditors but no later than 8 weeks (or such other period as may be agreed by the creditors or as the court may order) from the date that the company entered postal administration.

Limited disclosure of paragraph 49 statement

21.—(1) Where the postal administrator thinks that it would prejudice the conduct of the postal administration or might reasonably be expected to lead to violence against any person for any of the matters specified in Rule 20(2)(h) and (i) to be disclosed, the postal administrator may apply to the court for an order of limited disclosure in respect of any specified part of the statement under paragraph 49.

(2) The court may, on such application, order that some or all of the specified part of the statement must not be sent to the registrar of companies or to creditors or members of the company as otherwise required by paragraph 49(4).

(3) The postal administrator must as soon as reasonably practicable send to the persons specified in paragraph 49(4) the statement under paragraph 49 (to the extent provided by the order) and an indication of the nature of the matter in relation to which the order was made.

(4) The postal administrator must also send a copy of the order to the registrar of companies.

(5) A creditor who seeks disclosure of a part of a statement under paragraph 49 in relation to which an order has been made under this Rule may apply to the court for an order that the postal administrator disclose it. The application must be supported by written evidence in the form of a witness statement.

(6) The applicant must give the postal administrator notice of the application at least 3 business days before the hearing.

(7) The court may make any order for disclosure subject to any conditions as to confidentiality, duration, the scope of the order in the event of any change of circumstances, or other matters as it sees just.

(8) If there is a material change in circumstances rendering the limit on disclosure or any part of it unnecessary, the postal administrator must, as soon as reasonably practicable after the change, apply to the court for the order or any part of it to be rescinded.

(9) The postal administrator must, as soon as reasonably practicable after the making of an order under paragraph (8) of this Rule, send to the persons specified in paragraph 49(4) a copy of the statement under paragraph 49 to the extent provided by the order.

(10) The provisions of CPR Part 31 do not apply to an application under this Rule.