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STATUTORY INSTRUMENTS

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**2016 No. 1024**

**The Insolvency (England and Wales) Rules 2016**

**PART 12**

**COURT PROCEDURE AND PRACTICE**

**CHAPTER 3**

**Making applications to court: general**

[Note: (1) a document required by the Act or these Rules must also contain the standard contents set out in Part 1 and an application to court must also contain the standard contents set out in rule 1.35; (2) Paragraphs 3 and 4 of Schedule 5 make provision in relation to the court's power to extend the time for doing anything required by these Rules; (3) the rules about the applications referred to in rule 12.6 are found in Chapter 2 of Part 3 (administration applications); Chapter 3 of Part 7 (petition for winding up order by creditor) and Chapter 4 of Part 7 (petition for winding up by contributory or office-holder) and Chapter 2 of Part 10 (creditor's bankruptcy petitions).]

**Preliminary**

**12.6.** This Chapter applies to an application made to the court except—

- (a) an administration application under Part 2 of the Act;
- (b) a petition for a winding-up order under Part 4 of the Act; and
- (c) a creditor's petition for a bankruptcy order under Part 9 of the Act.

**Filing of application**

[Note: see rule 1.46 for electronic delivery of documents to the court.]

**12.7.** An application filed with the court in hard-copy form must be accompanied by one copy and a number of additional copies equal to the number of persons who are to be served with the application.

**Fixing the venue**

**12.8.** When an application is filed the court must fix a venue for it 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 12.12 applies.

### **Service or delivery of application**

**12.9.**—(1) The applicant must serve a sealed copy of the application, endorsed with the venue for the hearing, on the respondent named in the application unless the court directs or these Rules provide otherwise.

(2) The court may also give one or more of the following directions—

- (a) that the application be served upon persons other than those specified by the relevant provision of the Act or these Rules;
- (b) that service upon, or the delivery of a notice to any person may be dispensed with;
- (c) that such persons be notified of the application and venue in such other a way as the court specifies; or
- (d) such other directions as the court sees fit.

(3) A sealed copy of the application must be served, or notice of the application and venue must be delivered, at least 14 days before the date fixed for its hearing unless—

- (a) the provision of the Act or these Rules under which the application is made makes different provision;
- (b) the case is urgent and the court acts under rule 12.10; or
- (c) the court extends or abridges the time limit.

### **Hearing in urgent case**

**12.10.**—(1) Where the case is urgent, the court may (without prejudice to its general power to extend or abridge time limits) hear the application immediately with or without notification to, or the attendance of, other parties.

(2) The application may be heard on terms providing for the filing or service of documents, notification, or the carrying out of other formalities as the court thinks just.

### **Directions**

**12.11.** 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; and
- (d) the manner in which any evidence is to be provided and in particular as to—
  - (i) the taking of evidence wholly or partly by witness statement or orally,
  - (ii) any report to be made by an office-holder, and
  - (iii) the cross-examination of the maker of a witness statement or of a report.

### **Hearing and determination without notice**

**12.12.**—(1) Where the Act and these Rules do not require service of a sealed copy of the application on, or notice of it to be delivered to, any person, the court may—

- (a) hear the application as soon as reasonably practicable;
- (b) fix a venue for the application to be heard, in which case rule 12.9 applies to the extent that it is relevant; or
- (c) determine the application without a hearing.

(2) However nothing in the Act or these Rules is to be taken as prohibiting the applicant from giving notice.

**Adjournment of the hearing of an application**

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

(2) The court may give directions as to the manner in which any evidence is to be provided 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 an office-holder.