
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 10

BANKRUPTCY

CHAPTER 2

CREDITORS' BANKRUPTCY PETITIONS

Preliminary

Change of carriage of petition

10.29.—(1) On the hearing of the petition, a person who has delivered notice under rule 10.19 of intention to appear at the hearing, may apply to the court for an order giving that person carriage of the petition in place of the petitioner, but without requiring any amendment of the petition.

(2) The court may, on such terms as it thinks just, make a change of carriage order if satisfied that—

- (a) the applicant is an unpaid and unsecured creditor of the debtor or a member State liquidator appointed in main proceedings in relation to the debtor; and
- (b) the petitioner either—
 - (i) intends by any means to secure the postponement, adjournment, dismissal or withdrawal of the petition, or
 - (ii) does not intend to prosecute the petition, either diligently or at all.

(3) The court must not make such an order if satisfied that the petitioner's debt has been paid, secured or compounded by means of—

- (a) a disposition of property made by some person other than the debtor; or
- (b) a disposition of the debtor's own property made with the approval of, or ratified by, the court.

(4) A change of carriage order may be made whether or not the petitioner appears at the hearing.

(5) If the order is made, the person given the carriage of the petition is entitled to rely on all evidence previously provided in the proceedings.

(6) The change of carriage order will contain—

- (a) identification details for the proceedings;
- (b) the date of the hearing of the petition;
- (c) the name of the person who is willing to be given carriage of the petition ("the relevant person");
- (d) a statement that the relevant person is a creditor of the debtor or a member State liquidator appointed in main proceedings in relation to the debtor;

- (e) the name of the original petitioner;
- (f) a statement that the relevant person has applied for an order under this rule to have carriage of the petition in place of the original petitioner;
- (g) the order that the relevant person must within a period which is specified in the order serve upon the debtor and the original petitioner a sealed copy of the order;
- (h) the order that the further hearing of the petition be adjourned to the venue specified in the order;
- (i) the venue of the adjourned hearing;
- (j) the order that the question of the costs of the original petitioner be reserved until the final determination of the petition; and
- (k) the date of the order.