
STATUTORY RULES OF NORTHERN IRELAND

1991 No. 364

The Insolvency Rules (Northern Ireland) 1991

PARTS 5 AND 6 INSOLVENCY OF INDIVIDUALS; BANKRUPTCY

PART 6

BANKRUPTCY

CHAPTER 2

BANKRUPTCY PETITION (OTHER THAN DEBTOR'S)

Proof of service of statutory demand

6.010-CP.—(1) Where under Article 242 the petition must have been preceded by a statutory demand, there must be filed in court, with the petition, an affidavit or affidavits proving service of the demand.

(2) Every affidavit must have exhibited to it a copy of the demand as served.

(3) Subject to paragraph (4), if the demand has been served personally on the debtor, the affidavit must be made by the person who effected that service.

(4) If service of the demand (however effected) has been acknowledged in writing either by the debtor himself, or by some person stating himself in the acknowledgement to be authorised to accept service on the debtor's behalf, the affidavit must be made either by the creditor or by a person acting on his behalf, and the acknowledgement of service must be exhibited to the affidavit.

(5) If neither paragraph (3) nor paragraph (4) applies and subject to paragraph (8), the affidavit or affidavits must be made by a person or persons having direct personal knowledge of the means adopted for serving the statutory demand, and must—

- (a) give particulars of the steps which have been taken with a view to serving the demand personally or refer to an accompanying affidavit containing such particulars, and
- (b) state the means whereby (those steps having been ineffective) it was sought to bring the demand to the debtor's attention, and
- (c) specify a date by which, to the best of the knowledge, information and belief of the person making the affidavit, the demand will have come to the debtor's attention.

(6) The steps of which particulars are given for the purposes of paragraph (5)(a) must be such as would have sufficed to justify an order for substituted service of a petition.

(7) If the affidavit specifies a date for the purposes of compliance with paragraph (5)(c), then unless the court otherwise orders, that date is deemed for the purposes of the Rules to have been the date on which the statutory demand was served on the debtor.

(8) Where the creditor has taken advantage of Rule 6.003(3) (newspaper advertisement), the affidavit must be made either by the creditor himself or by a person having direct personal knowledge of the circumstances; and there must be specified in the affidavit—

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- (a) the means of the creditor's knowledge or (as the case may be) belief required for the purposes of that Rule, and
- (b) the date or dates on which, and the newspaper in which, the statutory demand was advertised under that Rule;

and there shall be exhibited to the affidavit a copy of any advertisement of the statutory demand.

(9) The court may decline to file the petition if not satisfied that the creditor has discharged the obligation imposed on him by Rule 6.003(2).

[E.R.6.11]