

SCHEDULE 2

PROCEDURAL MATTERS IN ENGLAND AND WALES

PART 12

GENERAL

Notices

69.—(1) All notices required or authorised by or under these Regulations to be given must be in writing, unless it is otherwise provided, or the court allows the notice to be given in some other way.

(2) Where in proceedings under these Regulations a notice is required to be sent or given by any person, the sending or giving of it may be proved by means of a certificate by that person that he posted the notice, or instructed another person (naming him) to do so.

(3) A certificate under this paragraph may be endorsed on a copy or specimen of the notice to which it relates.

“Give notice” etc.

70.—(1) A reference in these Regulations to giving notice, or to delivering, sending or serving any document, means that the notice or document may be sent by post.

(2) Subject to paragraph 75, any form of post may be used.

(3) Personal service of a document is permissible in all cases.

(4) Notice of the venue fixed for an application may be given by service of the sealed copy of the application under paragraph 33(3).

Notice, etc. to solicitors

71. Where in proceedings under these Regulations a notice or other document is required or authorised to be given to a person, it may, if he has indicated that his solicitor is authorised to accept service on his behalf, be given instead to the solicitor.

Notice to joint British insolvency officeholders

72. Where two or more persons are acting jointly as the British insolvency officeholder in proceedings under British insolvency law, delivery of a document to one of them is to be treated as delivery to them all.

Forms for use in proceedings under these Regulations

73.—(1) The forms contained in Schedule 5 to these Regulations shall be used in, and in connection with, proceedings under these Regulations.

(2) The forms shall be used with such variations, if any, as the circumstances may require.

Time limits

74.—(1) The provisions of CPR Rule 2.8 (time) apply, as regards computation of time, to anything required or authorised to be done by these Regulations.

(2) The provisions of CPR rule 3.1(2)(a) (the court's general powers of management) apply so as to enable the court to extend or shorten the time for compliance with anything required or authorised to be done by these Regulations.

Service by post

75.—(1) For a document to be properly served by post, it must be contained in an envelope addressed to the person on whom service is to be effected, and pre-paid for first class post.

(2) A document to be served by post may be sent to the last known address of the person to be served.

(3) Where first class post is used, the document is treated as served on the second business day after the date of posting, unless the contrary is shown.

(4) The date of posting is presumed, unless the contrary is shown, to be the date shown in the post-mark on the envelope in which the document is contained.

General provisions as to service and notice

76. Subject to paragraphs 22, 75 and 77, CPR Part 6 (service of documents) applies as regards any matter relating to the service of documents and the giving of notice in proceedings under these Regulations.

Service outside the jurisdiction

77.—(1) Sections III and IV of CPR Part 6 (service out of the jurisdiction and service of process of foreign court) do not apply in proceedings under these Regulations.

(2) Where for the purposes of proceedings under these Regulations any process or order of the court, or other document, is required to be served on a person who is not in England and Wales, the court may order service to be effected within such time, on such person, at such place and in such manner as it thinks fit, and may also require such proof of service as it thinks fit.

(3) An application under this paragraph shall be supported by an affidavit stating—

- (a) the grounds on which the application is made; and
- (b) in what place or country the person to be served is, or probably may be found.

False claim of status as creditor

78.—(1) Rule 12.18 (false claim of status as creditor, etc) shall apply with any necessary modifications in any case where a person falsely claims the status of a creditor of a debtor, with the intention of obtaining a sight of documents whether on the court's file or in the hands of the foreign representative or other person, which he has not under these Regulations any right to inspect.

(2) Rule 21.21 and Schedule 5 of the Rules shall apply to an offence under Rule 12.18 as applied by sub-paragraph (1) as they apply to an offence under Rule 12.18.

The Gazette

79.—(1) A copy of the Gazette containing any notice required by these Regulations to be gazetted is evidence of any fact stated in the notice.

(2) In the case of an order of the court notice of which is required by these Regulations to be gazetted, a copy of the Gazette containing the notice may in any proceedings be produced as conclusive evidence that the order was made on the date specified in the notice.

Changes to legislation:

There are currently no known outstanding effects for the The Cross-Border Insolvency Regulations 2006, PART 12.