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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 9**

**Enforcement procedures**

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

**Enforcement of court orders**

**12.51.**—(1) In any insolvency proceedings, orders of the court may be enforced in the same manner as a judgment to the same effect.

(2) Where an order in insolvency proceedings is made, or any process is issued, by the County Court, the order or process may be enforced, executed and dealt with by any hearing centre, as if it had been made or issued for the enforcement of a judgment or order to the same effect made by that hearing centre.

(3) Paragraph (2) applies whether or not the other hearing centre is one in which such insolvency proceedings may be commenced.

(4) Where a warrant for the arrest of a person is issued by the High Court, the warrant may be discharged by the County Court where the person who is the subject of the warrant—

- (a) has been brought before a hearing centre in which insolvency proceedings may be commenced; and
- (b) has given to the County Court a satisfactory undertaking to comply with the obligations that apply to that person under the Act or these Rules.

**Orders enforcing compliance**

**12.52.**—(1) The court may, on application by the competent person, make such orders as it thinks necessary for the enforcement of obligations falling on any person in accordance with—

- (a) paragraph 47 of Schedule B1 (duty to submit statement of affairs in administration);
- (b) section 47(duty to submit statement of affairs in administrative receivership);
- (c) section 131 (duty to submit statement of affairs in a winding up);
- (d) section 143(2) (liquidator to furnish information, books, papers, etc.); or
- (e) section 235 (duty of various persons to co-operate with office-holder).

(2) The competent person for this purpose is—

- (a) under paragraph 47 of Schedule B1, the administrator;
- (b) under section 47, the administrative receiver;

- (c) under section 131 or 143(2), the official receiver; and
  - (d) under section 235, the official receiver, the administrator, the administrative receiver, the liquidator or the provisional liquidator, as the case may be.
- (3) An order of the court under this rule may provide that all costs of and incidental to the application for it are to be borne by the person against whom the order is made.

#### **Warrants (general provisions)**

**12.53.**—(1) A warrant issued by the court under any provision of the Act must be addressed to such officer of the High Court or of the County Court as the warrant specifies, or to any constable.

(2) The persons referred to in sections 134(2), 236(5), 251N(5), 364(1)(1), 365(3) and 366(3) (court’s powers of enforcement) as the prescribed officer of the court are—

- (a) in the case of the High Court, the tipstaff and the tipstaff’s assistants of the court; and
  - (b) in the case of the County Court, a bailiff.
- (3) In this Chapter references to property include books, papers and other documents and records.

#### **Warrants under sections 134 and 364**

**12.54.** When a person (“the arrested person”) is arrested under a warrant issued by the court under section 134 (officer of company failing to attend for public examination), or section 364 (arrest of debtor or bankrupt)—

- (a) the arresting officer must give the arrested person into the custody of—
  - (i) the court in a case where the court is ready and able to deal with the arrested person, or
  - (ii) where the court is not ready and able, the governor of the prison named in the warrant (or where that prison is not able to accommodate the arrested person, the governor of such other prison with appropriate facilities which is able to accommodate the arrested person), who must keep the arrested person in custody until such time as the court orders otherwise and must produce that person before the court at its next sitting; and
- (b) any property in the arrested person’s possession which may be seized must, as directed by the warrant, be—
  - (i) delivered to whoever is specified in the warrant as authorised to receive it, or otherwise dealt with in accordance with the directions in the warrant, or
  - (ii) kept by the officer seizing it pending the receipt of written orders from the court as to its disposal.

#### **Warrants under sections 236, 251N and 366**

**12.55.**—(1) When a person is arrested under a warrant issued under section 236 (inquiry into insolvent company’s dealings), 251N (the equivalent in relation to debt relief orders) or 366 (the equivalent in bankruptcy), the arresting officer must as soon as reasonably practicable bring the arrested person before the court issuing the warrant in order that the arrested person may be examined.

(2) If the arrested person cannot immediately be brought up for examination, the officer must deliver that person into the custody of the governor of the prison named in the warrant (or where that prison is not able to accommodate the arrested person, the governor of such other prison with

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(1) Section 346(1)(a) and (2) is amended by paragraph 50 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c.24).

appropriate facilities which is able to accommodate the arrested person), who must keep the arrested person in custody and produce that person before the court as it may from time to time direct.

(3) After arresting the person named in the warrant, the officer must as soon as reasonably practicable report to the court the arrest or delivery into custody (as the case may be) and apply to the court to fix a venue for the arrested person's examination.

(4) The court must appoint the earliest practicable time for the examination, and must—

- (a) direct the governor of the prison to produce the arrested person for examination at the time and place appointed; and
- (b) as soon as reasonably practicable deliver notice of the venue to the applicant for the warrant.

(5) Where any property in the arrested person's possession is seized, the property must, as directed by the warrant, be—

- (a) delivered to whoever is specified in the warrant as authorised to receive it, or otherwise dealt with in accordance with the directions in the warrant; or
- (b) kept by the officer seizing it pending the receipt of written orders from the court as to its disposal.

### **Warrants under section 365**

**12.56.**—(1) A warrant issued under section 365(3) (search of premises not belonging to the bankrupt) must authorise any person executing it to seize any property of the bankrupt found as a result of the execution of the warrant.

(2) Any property seized under a warrant issued under section 365(2) or (3) must, as directed by the warrant, be—

- (a) delivered to whoever is specified in the warrant as authorised to receive it, or otherwise dealt with in accordance with the directions in the warrant; or
- (b) kept by the officer seizing it pending the receipt of written orders from the court as to its disposal.

### **Execution overtaken by judgment debtor's insolvency**

**12.57.**—(1) This rule applies where execution has been taken out against property of a judgment debtor, and notice is delivered to the enforcement officer or other officer charged with the execution—

- (a) under section 184(1) (that a winding-up order has been made against the debtor, or that a provisional liquidator has been appointed, or that a resolution for voluntary winding up has been passed);
- (b) under section 184(4) (that a winding-up petition has been presented, or a winding-up order made, or that a meeting has been called at which there is to be proposed a resolution for voluntary winding up, or that such a resolution has been passed);
- (c) under section 346(2) (that a judgment debtor has been made bankrupt); or
- (d) under section 346(3)(b) (that a bankruptcy petition has been presented or a bankruptcy application has been made in relation to the debtor).

(2) Subject to paragraph (3) and rule 1.47, the notice must be delivered to the office of the enforcement officer or of the officer charged with the execution—

- (a) by hand; or

- (b) by any other means of delivery which enables proof of receipt of the document at the relevant address.
  - (3) Where the execution is in the County Court then if—
    - (a) there is filed with the hearing centre in charge of such execution in relation to the judgment debtor a winding-up or bankruptcy petition; or
    - (b) there is made by the hearing centre in charge of such execution in relation to the judgment debtor a winding-up order or an order appointing a provisional liquidator, or a bankruptcy order or an order appointing an interim receiver;
- section 184 or 346 is deemed satisfied in relation to the requirement of a notice to be served on, or delivered to, the officer in charge of the execution.