
STATUTORY INSTRUMENTS

2007 No. 3141

The PPP Administration Order Rules 2007

PART 3

STATEMENT OF AFFAIRS AND PROPOSALS TO CREDITORS

Notice requiring statement of affairs

15.—(1) Where the special PPP administrator decides to require a statement of the PPP company's affairs to be made out and submitted to him in accordance with section 22 of the 1986 Act, he shall send notice in Form PPP10 to each of the persons whom he considers should be made responsible under that section, requiring them to prepare and submit the statement.

(2) The persons to whom the notice is sent are referred to in this Part as “the deponents”.

(3) The notice shall inform each of the deponents—

- (a) of the names and addresses of all others (if any) to whom the same notice has been sent;
- (b) of the time within which the statement must be delivered;
- (c) of the effect of section 22(6) (penalty for non-compliance) of the 1986 Act; and
- (d) of the application to him, and to each of the other deponents, of section 235 (duty to co-operate with office-holder) of the 1986 Act.

(4) The special PPP administrator shall, on request, furnish each deponent with copies of Form PPP11 for the preparation of the statement of affairs.

Verification and filing

16.—(1) The statement of affairs shall be in Form PPP11, shall contain all the particulars required by that form and shall be verified by affidavit by the deponents (using the same form).

(2) The special PPP administrator may require any of the persons mentioned in section 22(3) of the 1986 Act to submit to him an affidavit of concurrence in Form PPP12, stating that he concurs in the statement of affairs. Where the special PPP administrator does so, he shall inform the person making the statement of affairs of that fact.

(3) An affidavit of concurrence may be qualified in respect of matters dealt with in the statement of affairs, where the maker of the affidavit is not in agreement with the deponents, or he considers the statement to be erroneous or misleading, or he is without the direct knowledge necessary for concurring with it.

(4) The statement of affairs shall be delivered to the special PPP administrator by the deponent making the affidavit (or by one of them, if more than one), together with a copy.

(5) Every affidavit of concurrence shall be delivered to the special PPP administrator by the person who makes it, together with a copy.

(6) The special PPP administrator shall file the verified copy of the statement of affairs and the affidavits of concurrence (if any) in court as soon as is reasonably practicable.

Limited disclosure

17.—(1) Where the special PPP administrator thinks that it would prejudice the conduct of the PPP administration for the whole or part of the statement of affairs to be disclosed, he may apply to the court for an order of limited disclosure in respect of the statement, or any specified part of it.

(2) The court may on the application order that the statement or, as the case may be, the specified part of it, be not filed in court, or that it is to be filed separately and not be open to inspection otherwise than with the permission of the court.

(3) The court's order may include directions as to the delivery of documents to the registrar of companies and the disclosure of relevant information to other persons.

Release from duty to submit statement of affairs; extension of time

18.—(1) The power of the special PPP administrator under section 22(5) of the 1986 Act to give a release from the obligation imposed by that section, or to grant an extension of time, may be exercised at the special PPP administrator's own discretion, or at the request of any deponent.

(2) A deponent may, if he requests a release or extension of time and it is refused by the special PPP administrator, apply to the court for it.

(3) The court may, if it thinks that no sufficient cause is shown for the application, dismiss it; but it shall not do so unless the deponent has had an opportunity to attend the court for a hearing without notice being served on any other party, of which he has been given at least 7 days' notice.

(4) If the application is not dismissed under paragraph (3), the court shall fix a venue for it to be heard, and give notice to the deponent accordingly.

(5) The deponent shall, at least 14 days before the hearing, send to the special PPP administrator a notice stating the venue and accompanied by a copy of the application, and of any evidence which he (the deponent) intends to adduce in support of it.

(6) The special PPP administrator may appear and be heard on the application; and whether or not he appears, he may file a written report of any matters which he considers ought to be drawn to the attention of the court.

(7) If such a report is filed, a copy of it shall be sent by the special PPP administrator to the deponent, no later than five days before the hearing.

(8) Sealed copies of any order made on the application shall be sent by the court to the deponent and to the special PPP administrator.

(9) On any application under this rule, the applicant's costs shall be paid in any event by him and, unless the court otherwise orders, no allowance towards them shall be made out of the assets of the PPP company.

Expenses of statement of affairs

19.—(1) A deponent making the statement of affairs and an affidavit in support of it shall be allowed, and paid by the special PPP administrator out of his receipts, any expenses incurred by the deponent in so doing which the special PPP administrator considers reasonable.

(2) Any decision by the special PPP administrator under this rule is subject to appeal to the court.

(3) Nothing in this rule relieves a deponent of any obligation with respect to the preparation, verification and submission of the statement of affairs, or to the provision of information to the special PPP administrator.

Statement to be annexed to proposals

20.—(1) Subject to paragraph (5), a statement shall be annexed by the special PPP administrator to his proposals sent under section 23(1) of the 1986 Act in Form PPP13 to the relevant persons showing—

- (a) details relating to his appointment as special PPP administrator;
- (b) the names of the directors and secretary of the PPP company;
- (c) an account of the circumstances giving rise to the application for a PPP administration order;
- (d) if a statement of affairs has been submitted, a copy or summary of it, with the special PPP administrator's comments, if any;
- (e) if no statement of affairs has been submitted, details of the financial position of the PPP company at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that of the PPP administration order);
- (f) the manner in which the affairs and business of the PPP company—
 - (i) have since the date of the special PPP administrator's appointment, been managed and financed, and
 - (ii) will continue to be managed and financed; and
- (g) such other information (if any) as the special PPP administrator thinks necessary.

(2) Subject to paragraph (5), where the special PPP administrator has cause to amend or alter his proposals, he shall send in Form PPP14 details of these revisions and the reasons for them to the relevant persons.

(3) Where the Mayor or the special PPP administrator intends to apply to the court under section 18 of the 1986 Act for a PPP administration order to be discharged at a time before the special PPP administrator has sent a statement of his proposals to the relevant persons, he shall, at least 10 days before he makes such an application, send to the relevant persons (so far as he is aware of their addresses) and to the Mayor or the special PPP administrator (as appropriate) a report containing the information required by paragraph (1)(a) to (g) of this rule.

(4) In this rule, "the relevant persons" are the members of the company and the persons referred to in section 23(2A) of the 1986 Act.

(5) Where the special PPP administrator publishes a notice in accordance with section 23(2B)(b) of the 1986 Act stating an address to which members of the PPP company should write for copies of the relevant statement to be sent to them free of charge, the special PPP administrator is not required to send a copy of the relevant statement nor such further information as this rule requires to a member of the PPP company unless that member has written to request a copy.

Notice to members of proposals to creditors

21. For the purposes of section 23(2B)(b) of the 1986 Act, the notice shall be published once in the Gazette and once in the newspaper in which the making of the PPP administration order was advertised.