
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 8

INDIVIDUAL VOLUNTARY ARRANGEMENTS (IVA)

CHAPTER 4

Cases where no interim order is to be obtained

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

Nominee's report (section 256A)

8.19.—(1) The nominee's report under section 256A(3) must explain whether or not the nominee considers that the proposal has a reasonable prospect of being approved and implemented and whether or not creditors should be invited to consider the proposal.

[^{F1}(1A) The nominee must examine whether there is jurisdiction to open the proceedings and must specify in the nominee's report whether the proceedings will be [^{F2}COMI proceedings, establishment proceedings or proceedings to which the EU Regulation as it has effect in the law of the United Kingdom does not apply] with the reasons for so stating.]

(2) The report must contain sufficient information to enable a person to identify (in accordance with rule 8.20) the appropriate court or hearing centre in which to file an application relating to the proposal or the IVA.

(3) The nominee must also deliver a copy of the report to the debtor.

(4) Where the nominee gives an opinion in the affirmative on the matters referred to in section 256A(3)(a) and (b), the copy of the report delivered by the nominee to each of the creditors must be accompanied by—

- (a) a statement that an application for an interim order under section 253 ^{MI} is not being made;
- (b) a copy of the proposal (as amended, if applicable, under rule 8.2(2));
- (c) a copy of any statement of affairs or a summary of such a statement; and
- (d) a copy of the notice of the nominee's consent to act.

(5) In such a case the nominee must also deliver those documents within 14 days (or such longer period as the court may allow) of receipt of the document and statement referred to in section 256A(2) to—

- (a) the official receiver and any trustee, where the debtor is an undischarged bankrupt; and
- (b) any person who has presented a bankruptcy petition against the debtor.

(6) Where the nominee gives an opinion in the negative on the matters referred to in section 256A(3)(a) and (b) the nominee must within 14 days (or such longer period as the court may allow) of receipt of the document and statement referred to in section 256A(2) —

- (a) deliver a copy of the report to the creditors; and
- (b) give the reasons for that opinion to the debtor.

Textual Amendments

- F1** Rule 8.19(1A) inserted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), reg. 1, **Sch. para. 41(2)** (with reg. 3)
 - F2** Words in rule 8.19(1A) substituted (31.12.2020) by [The Insolvency \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/146\)](#), reg. 1(3), **Sch. para. 85** (with regs. 4, 5); 2020 c. 1, Sch. 5 para. 1(1)
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Marginal Citations

- M1** Section 253 is amended by paragraph 2 of Schedule 19 to the [Enterprise and Regulatory Reform Act 2013 \(c.24\)](#).

Court or hearing centre to which applications must be made where no interim order

- 8.20.**—(1) This rule applies where the nominee has made a report under section 256A(3).
- (2) Any application relating to a proposal or an IVA must be made—
- (a) to the court or hearing centre, if any, which has the conduct of the bankruptcy, where the debtor is an undischarged bankrupt; or
 - (b) to the court or hearing centre determined in accordance with rule 10.48.
- (3) The application must contain sufficient information to establish that it is made to the appropriate court or hearing centre.
- (4) The applicant must file with the court (in addition to the documents in support of the application) such other documents required by this Part as the applicant considers may assist the court in determining the application.

Replacement of the nominee (section 256A(4))

- 8.21.**—(1) A debtor who intends to apply under section 256A(4)(a) or (b) for the nominee to be replaced must deliver a notice of the intention to make the application to the nominee at least five business days before filing the application with the court.
- (2) A nominee who intends to apply under section 256A(4)(b) to be replaced must deliver a notice of the intention to make such an application to the debtor at least five business days before filing the application with the court.
- (3) The court must not appoint a replacement nominee unless the replacement nominee has filed with the court a statement confirming—
- (a) that person is qualified to act as an insolvency practitioner (or is an authorised person) in relation to the debtor; and
 - (b) that person's consent to act.

Changes to legislation:

There are currently no known outstanding effects for the The Insolvency (England and Wales) Rules 2016, CHAPTER 4.