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STATUTORY INSTRUMENTS

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**2016 No. 1024**

**The Insolvency (England and Wales) Rules 2016**

**PART 9**

**DEBT RELIEF ORDERS**

**CHAPTER 6**

Applications to the court

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

**Notice of application to court under section 251M**

**9.21.**—(1) This rule applies to applications to the court under section 251M.

(2) Where the application is made by a person who is dissatisfied by an act, omission or decision of the official receiver in connection with a debt relief order or an application for a debt relief order the applicant must deliver a notice—

- (a) if the applicant is the debtor, to the official receiver and any creditor specified in the debt relief order or in the application for the debt relief order; or
- (b) if the applicant is a person other than the debtor, to the official receiver and the debtor.

(3) Where the application is made by the official receiver for directions or an order in relation to a matter arising in connection with a debt relief order or an application for such an order, the official receiver must deliver notice to—

- (a) the debtor; and
- (b) any person appearing to the official receiver to have an interest in the application.

**Court in which applications under sections 251M or 251N are to be made**

**9.22.**—(1) An application to the court under section 251M or 251N must be made to—

- (a) the County Court at Central London, where the proceedings are allocated to the London Insolvency District under rule 12.5(a)(i) to (iv);
- (b) the High Court, where the proceedings are allocated to the London Insolvency District under rule 12.5(a)(v);
- (c) the debtor's own hearing centre as determined under paragraph (3) (subject to paragraph (4)), in any other case where the debtor is resident in England and Wales.

(2) The application may be filed either with the debtor's own hearing centre or with the High Court if—

- (a) the debtor is not resident in England and Wales but was resident or carried on business in England and Wales within the six months immediately before the application is filed with the court; and

- (b) the proceedings are not allocated to the London Insolvency District.
- (3) In this rule the debtor’s own hearing centre is—
  - (a) where the debtor has carried on business in England and Wales within the six months immediately before the application is filed with the court, the hearing centre which serves the insolvency district where for the longest period during those six months—
    - (i) the debtor carried on business, or
    - (ii) the principal place of business was located, if business was carried on in more than one insolvency district; or
  - (b) where the debtor has not carried on business in England and Wales within the six months immediately before the application is filed with the court, the hearing centre which serves the insolvency district where the debtor resided for the longest period during those six months.
- (4) Where, for whatever reason, it is not possible for the application to be filed with the debtor’s own hearing centre, the applicant may, with a view to expediting the application, file the application—
  - (a) where paragraph (3)(a) applies, with—
    - (i) the hearing centre for the insolvency district in which the debtor resides, or
    - (ii) the hearing centre specified in Schedule 6 as the nearest full-time hearing centre to the hearing centre specified in paragraph (3)(a), or paragraph (i) as the case may be; or
  - (b) where paragraph (3)(b) applies, with the hearing centre specified in Schedule 6 as being the nearest full-time hearing centre to that specified in paragraph (3)(b).
- (5) The application must contain sufficient information to establish that it is brought in the appropriate court, and where the application is made to the County Court, the appropriate hearing centre.

**Creditor’s bankruptcy petition: creditor consents to making application for a debt relief order**

**9.23.**—(1) This rule applies where before the determination of an application for a debt relief order, a creditor’s petition for bankruptcy has been presented against a debtor and the proceedings in relation to the petition remain before the court.

- (2) In this rule “the debt” means the debt to which the creditor’s bankruptcy petition relates.
- (3) If, on the hearing of the petition, the petitioner consents to the debtor making an application for a debt relief order in relation to the debt the court must—
  - (a) refer the debtor to an approved intermediary for the purpose of making an application for a debt relief order in relation to the debtor and the debt noting the consent of the creditor on the order for referral; and
  - (b) stay the proceedings on the petition in relation to the debt on such terms and conditions as it thinks just.
- (4) The debtor must deliver to the approved intermediary as soon as reasonably practicable after the making of the order of referral—
  - (a) a sealed copy of the order; and
  - (b) copies of the petition and the creditor’s statutory demand (if there was one).
- (5) The approved intermediary must, on receipt of the order and the copies, as soon as reasonably practicable after the application for a debt relief order has been made, deliver them to the official receiver endorsed with the name of the debtor and the number of the application to which they relate.

(6) If, following the reference by the court, a debt relief order is made in relation to the debt, the petition must be dismissed in relation to it unless the court otherwise directs.

### **Extension of moratorium period**

**9.24.** Where the moratorium period applicable to a debt relief order is extended—

- (a) notice of the extension, and the period of extension must be delivered—
  - (i) where extended by the court, to the official receiver, who must deliver a copy to the debtor and to the creditors specified in the debt relief order,
  - (ii) where extended by the official receiver, to the debtor and to the creditors specified in the debt relief order; and
- (b) the official receiver must cause to be entered in the individual insolvency register—
  - (i) that such an extension has been made in relation to the debtor,
  - (ii) the date on which the extension was made,
  - (iii) its duration, and
  - (iv) the date of the anticipated end of the moratorium period.