
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 3 **E+W**

ADMINISTRATION

CHAPTER 4 **E+W**

Appointment of administrator by company or directors

Notice of appointment without prior notice of intention to appoint **E+W**

3.25.—(1) Notice of an appointment under paragraph 22 of Schedule B1 (when notice of intention to appoint has not been given under paragraph 26) must be headed “Notice of appointment of an administrator by a company (where a notice of intention to appoint has not been given)” or “Notice of appointment of an administrator by the directors of a company (where a notice of intention to appoint has not been given)” and must identify the company immediately below the heading.

(2) The notice must state the following—

- (a) that the company has, or the directors have, as the case may be, appointed the person specified under sub-paragraph (b) as administrator of the company;
- (b) the name and address of the person appointed as administrator;
- (c) that a copy of the administrator's consent to act accompanies the notice;
- (d) that the company is or the directors are, as the case may be, entitled to make an appointment under paragraph 22 of Schedule B1;
- (e) that the appointment is in accordance with Schedule B1;
- [^{F1}(ea) a statement as to whether there is a moratorium in force for the company under Part A1 of the Act;]
- [^{F2}(f) a statement that the company has not within the preceding 12 months been in administration;]
- (g) that in relation to the company there is no—
 - (i) petition for winding up which has been presented but not yet disposed of,
 - (ii) administration application which has not yet been disposed of, or
 - (iii) administrative receiver in office;
- (h) whether the company is an Article 1.2 undertaking;
- (i) whether the proceedings flowing from the appointment will be [^{F3}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] and the reasons for so stating;
- (j) that the notice is accompanied by—
 - (i) a copy of the resolution of the company to appoint an administrator, or
 - (ii) a record of the decision of the directors to appoint an administrator; and

- (k) the date and time of the appointment.
- (3) Where two or more administrators are appointed the notice must also specify (as required by paragraph 100(2) of Schedule B1)—
 - (a) which functions (if any) are to be exercised by those persons acting jointly; and
 - (b) which functions (if any) are to be exercised by any or all of those persons.
- (4) The statutory declaration included in the notice in accordance with paragraphs 29(2) and 30 of Schedule B1 must—
 - (a) if the declaration is made on behalf of the person making the appointment, indicate the capacity in which the person making the declaration does so; and
 - (b) be made not more than five business days before the notice is filed with the court.

Textual Amendments

- F1** Rule 3.25(2)(ea) inserted (1.10.2021) by [The Insolvency \(England and Wales\) \(No.2\) \(Amendment\) Rules 2021 \(S.I. 2021/1028\)](#), rules 1, **21(a)** (with rules 4, 5)
- F2** Rule 3.25(2)(f) substituted (1.10.2021) by [The Insolvency \(England and Wales\) \(No.2\) \(Amendment\) Rules 2021 \(S.I. 2021/1028\)](#), rules 1, **21(b)** (with rules 4, 5)
- F3** Words in rule 3.25(2)(i) substituted (31.12.2020) by [The Insolvency \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/146\)](#), reg. 1(3), **Sch. para. 65** (with regs. 4, 5); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the The Insolvency (England and Wales) Rules 2016, Section 3.