
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 3

ADMINISTRATION

CHAPTER 2

Appointment of administrator by Court

Witness statement in support of administration application

- 3.6.**—(1) If an administration application is to be made by—
- (a) the company, a witness statement must be made by one of the following stating that the person making the statement does so on behalf of the company—
 - (i) one of the directors,
 - (ii) the secretary of the company, or
 - (iii) the supervisor of a CVA;
 - (b) the company's directors, a witness statement must be made by one of the following stating that the person making it does so on behalf of the directors—
 - (i) one of the directors, or
 - (ii) the secretary of the company;
 - (c) a single creditor, a witness statement must be made by—
 - (i) that creditor, or
 - (ii) a person acting under that creditor's authority;
 - (d) two or more creditors, a witness statement must be made by a person acting under the authority of them all, whether or not one of their number.
- (2) In a case falling within paragraph (1)(c)(ii) or (d), the witness statement must state the nature of the authority of the person making it and the means of that person's knowledge of the matters to which the witness statement relates.
- (3) The witness statement must contain—
- (a) a statement of the company's financial position, specifying (to the best of the applicant's knowledge and belief) the company's assets and liabilities, including contingent and prospective liabilities;
 - (b) details of any security known or believed to be held by creditors of the company, and whether in any case the security is such as to confer power on the holder to appoint an administrative receiver or to appoint an administrator under paragraph 14 of Schedule B1;
 - (c) a statement that an administrative receiver has been appointed if that is the case;
 - (d) details of any insolvency proceedings in relation to the company, including any petition that has been presented for the winding up of the company so far as known to the applicant;

- (e) where it is intended to appoint a number of persons as administrators, a statement of the matters relating to the exercise of their functions set out in paragraph 100(2) of Schedule B1;
 - (f) the reasons for the statement that the proceedings will be [F1COMI 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
 - (g) any other matters which, in the applicant's opinion, will assist the court in deciding whether to make such an order.
- (4) Where the application is made by the holder of a qualifying floating charge under paragraph 35 or 37 of Schedule B1, the witness statement must give sufficient details to satisfy the court that the applicant is entitled to appoint an administrator under paragraph 14 of Schedule B1.
- (5) Where the application is made under paragraph 37 or 38 of Schedule B1 in relation to a company in liquidation, the witness statement must also contain—
- (a) details of the existing insolvency proceedings, the name and address of the liquidator, the date the liquidator was appointed and by whom;
 - (b) the reasons why it has subsequently been considered appropriate that an administration application should be made; and
 - (c) any other matters that would, in the applicant's opinion, assist the court in deciding whether to make provision in relation to matters arising in connection with the liquidation.

Textual Amendments

- F1** Words in rule 3.6(3)(f) substituted (31.12.2020) by [The Insolvency \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/146\)](#), reg. 1(3), **Sch. para. 55** (with regs. 4, 5); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C1** [Rules 3.6-3.9](#) applied (with modifications) (19.3.2024) by [The Water Industry \(Special Administration\) \(England and Wales\) Rules 2024 \(S.I. 2024/229\)](#), rules 1, 5, 36, 37, **Sch.** (with rule 2(2))

Changes to legislation:

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