
STATUTORY INSTRUMENTS

2021 No. 1178

The Payment and Electronic Money Institution
Insolvency (England and Wales) Rules 2021

PART 10

Court procedure and practice

CHAPTER 2

The Court

Shorthand writers — nomination, appointment, remuneration and costs

188.—(1) The judge or registrar may in writing nominate one or more persons to be official shorthand writers to the court.

(2) The court may, at any time in the course of the special administration appoint a shorthand writer to take down evidence of a person examined under section 236 of the IA 1986(1).

(3) The remuneration of a shorthand writer appointed under this rule must be paid by the party at whose instance the appointment was made, or out of the insolvent estate, or otherwise, as the court may direct.

(4) Any question arising as to the rates of remuneration payable under this rule must be determined by the court.

Court file

189.—(1) The court must open and maintain a file in any case where documents are filed with it under the Regulations or these Rules.

(2) Any documents which are filed with the court under the Regulations or these Rules must be placed on the file opened in accordance with paragraph (1).

(3) The following persons may inspect or obtain from the court a copy of, or a copy of any document or documents contained in, the file opened in accordance with paragraph (1)—

- (a) the administrator,
- (b) the Secretary of State,
- (c) the FCA,
- (d) any person who is a creditor of the institution if that person provides the court with a statement in writing confirming that that person is a creditor, and
- (e) any person who is a customer of the institution if that person provides the court with a statement in writing confirming that that person is a customer.

(1) Section 236 was amended by Banking Act 2009 (c. 1) and S.I. 2011/245. There are other amending instruments but none is relevant.

(4) The same right to inspect or obtain a copy of, or a copy of any document or documents contained in, the file opened in accordance with paragraph (1) is exercisable by—

- (a) an officer or former officer of the institution in special administration, or
- (b) a member of the institution or a contributory in the special administration.

(5) A person's right to inspect or obtain a copy of, or a copy of any document or documents contained in, the file opened in accordance with paragraph (1) may be exercised on that person's behalf by someone authorised to do so by that person.

(6) Any person who is not otherwise entitled to inspect or obtain a copy of, or a copy of any document or documents contained in, the file opened in accordance with paragraph (1) may do so if that person has the permission of the court.

(7) The court may direct that the file, a document (or part of it) or a copy of a document (or part of it) must not be made available under paragraph (3), (4) or (5) without the permission of the court.

(8) An application for a direction under paragraph (7) may be made by—

- (a) the administrator,
- (b) the FCA, or
- (c) any person appearing to the court to have an interest.

(9) Where any person wishes to exercise the right to inspect the file under paragraph (3), (4), (5) or (6), that person—

- (a) if the permission of the court is required, must file with the court an application notice in accordance with these Rules, or
- (b) if the permission of the court is not required, may inspect the file at any reasonable time.

(10) Where any person wishes to exercise the right to obtain a copy of, or a copy of any document or documents contained in, the file under paragraph (3), (4), (5) or (6), that person must pay any prescribed fee and—

- (a) if the permission of the court is required, file with the court an application notice in accordance with these Rules, or
- (b) if the permission of the court is not required, file with the court a written request for the document.

(11) An application for—

- (a) permission to inspect the file or obtain a copy of a document under paragraph (6), or
- (b) a direction under paragraph (7),

may be made without notice to any other party, but the court may direct that notice must be given to any person who would be affected by its decision.

(12) If for the purposes of powers conferred by the Regulations or these Rules, the Secretary of State makes a request to inspect or requests the transmission of the file of any insolvency proceedings, the court must comply with the request (unless the file is for the time being in use for the court's own purposes).

Office copies of documents

190.—(1) The court must provide an office copy of any document from the court file of the special administration to any person who under these Rules has the right to inspect the court file where that person has requested such a copy.

(2) A person's rights under this rule may be exercised on that person's behalf by that person's solicitor.

(3) An office copy provided by the court under this rule must be in such form as the registrar thinks appropriate, and must bear the court's seal.

Payments into court

191. CPR Part 37 (miscellaneous provisions about payments into court) applies to money lodged in court under these Rules.