
STATUTORY INSTRUMENTS

2021 No. 1178

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

PART 10

Court procedure and practice

CHAPTER 5

Applications to court – general

Application of Chapter

201. This Chapter applies to any application made to the court under the Regulations or these Rules except an application for a special administration order under regulation 8.

Form and contents of application

202.—(1) Each application must be in writing and must state—

- (a) that the application is made under the Regulations or these Rules,
- (b) the names of the parties,
- (c) the name of the institution which is in special administration,
- (d) that the proceedings are being held in the court and the court reference number,
- (e) where the court has previously allocated a number to the insolvency proceedings within which the application is made, that number,
- (f) the nature of the remedy or order applied for or the directions sought from the court,
- (g) the names and addresses of the persons on whom it is intended to serve the application or that no person is intended to be served,
- (h) where the Regulations or Rules require that notice of the application is to be given to specified persons, the names and addresses of all those persons (so far as known to the applicant), and
- (i) the applicant's address for service.

(2) The application must be authenticated by the applicant if the applicant is acting in person or, when the applicant is not so acting, by or on behalf of the applicant's solicitor.

Filing and service of application

203.—(1) An application must be filed with the court accompanied by one copy and a number of additional copies equal to the number of persons who are to be served with the application.

(2) Where an application is filed with the court in accordance with paragraph (1), the court must fix a venue for the application to be heard unless—

- (a) it considers it is not appropriate to do so,
 - (b) the rule or regulation under which the application is brought provides otherwise, or
 - (c) the case is one to which rule 205 applies.
- (3) Unless the court otherwise directs, the applicant must serve a sealed copy of the application, endorsed with the venue for the hearing, on the respondent named in the application (or on each respondent, if more than one).
- (4) The court may give any of the following directions—
- (a) that the application be served upon persons other than those specified by the relevant provision of the Regulations or Rules,
 - (b) that the giving of notice to any person may be dispensed with, or
 - (c) that the notice may be given in some way other than that specified in paragraph (3).
- (5) An application must be served at least fourteen days before the date fixed for its hearing unless—
- (a) the provision of the Regulations or these Rules under which the application is made makes different provision, or
 - (b) the case is one of urgency, to which paragraph (6) applies.
- (6) Where the case is one of urgency, the court may (without prejudice to its general power to extend or abridge time limits)—
- (a) hear the application immediately, either with or without notice to, or the attendance of, other parties, or
 - (b) authorise a shorter period of service than that provided for by paragraph (5),
- and any such application may be heard on terms providing for the filing or service of documents, or the carrying out of other formalities, as the court thinks just.

Directions

204. The court may at any time give such directions as it thinks just as to—

- (a) service or notice of the application on or to any person,
- (b) whether particulars of claim and defence are to be delivered and generally as to the procedure on the application including whether a hearing is necessary, and
- (c) the matters to be dealt with in evidence.

Hearings without notice

205. Where the relevant provisions of the Regulations or these Rules do not require service of the application on, or notice of it to be given to, any person—

- (a) the court may hear the application as soon as is reasonably practicable without fixing a venue as required by rule 203(2), or
- (b) it may fix a venue for the application to be heard in which case rule 203 will apply to the extent that it is relevant,

but nothing in those provisions is to be taken as prohibiting the applicant from giving such notice if the applicant wishes to do so.

Hearing of application

206.—(1) Unless the court otherwise directs, the hearing of an application must be in open court.

(2) In the court, the jurisdiction of the court to hear and determine an application may be exercised by the registrar (to whom the application must be made in the first instance) unless—

- (a) a direction to the contrary has been given, or
- (b) it is not within the registrar's power to make the order required.

(3) Where the application is made to the registrar in the court, the registrar may refer to the judge any matter which the registrar thinks should properly be decided by the judge, and the judge may either dispose of the matter or refer it back to the registrar with such directions as that judge thinks just.

(4) Nothing in this rule precludes an application being made directly to the judge in a proper case.

Adjournment of the hearing of an application

207.—(1) The court may adjourn the hearing of an application on such terms as it thinks just.

(2) The court may give directions as to the manner in which any evidence is to be provided at a resumed hearing and in particular as to—

- (a) the taking of evidence wholly or partly by witness statement or orally,
- (b) the cross-examination of the maker of a witness statement, or
- (c) any report to be made by the administrator.