
STATUTORY INSTRUMENTS

2007 No. 3141

The PPP Administration Order Rules 2007

PART 2

PPP ADMINISTRATION PROCEDURE

Affidavit to support petition

4. Where it is proposed to apply to the court by petition for a PPP administration order to be made in relation to a PPP company, an affidavit complying with rule 5 below must be prepared and sworn by or with the authority of the Mayor (or Transport for London if it acts as his agent) with a view to its being filed in court in support of the petition.

Contents of affidavit

5.—(1) The affidavit shall state that the company is a PPP company within the meaning of Part 4 of the 1999 Act.

(2) The affidavit shall state one or both of the following—

- (a) the deponent's belief that the PPP company is, or is likely to become, unable to pay its debts and the grounds for that belief;
- (b) that the Secretary of State has certified that it would be appropriate for him to petition for the winding up of the PPP company under section 124A (petition for winding up on grounds of public interest) of the 1986 Act⁽¹⁾ and that in his view it would be just and equitable, as mentioned in that section, for the company to be wound up.

(3) There shall, in the affidavit, be provided a statement of the PPP company's financial position, specifying (to the best of the deponent's knowledge and belief) the assets and liabilities of the company, including contingent and prospective liabilities.

(4) Details shall be given of any security known or believed to be held by creditors of the PPP company, and whether in any case the security is such as to confer power on the holder to appoint an administrative receiver. If an administrative receiver has been appointed, that fact shall be stated.

(5) So far as within the immediate knowledge of the deponent, the affidavit shall contain details of—

- (a) any petition which has been presented for the winding up of the PPP company;
- (b) any application for the permission of the court to pass a resolution for the voluntary winding up of the PPP company;
- (c) any application for an administration order under Part 2 of the 1986 Act in relation to the PPP company;

⁽¹⁾ Section 124A was inserted by the Companies Act 1989 (c.40), section 60(3). Section 124A was amended by the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27), section 25(1) and Schedule 2, and by S.I. 2001/3649, article 305.

- (d) any notice served in accordance with section 223(7) of the 1999 Act by any person intending to enforce any security over a PPP company's property; and
- (e) any step taken to enforce any such security.

(6) If there are other matters which, in the opinion of the person intending to present the petition for a PPP administration order, will assist the court in deciding whether to make such an order, those matters shall also be stated in the affidavit.

Form of petition

6.—(1) The petition shall be in Form PPP1 and shall state by whom it is presented and the address for service.

(2) The petition shall specify the name and address of the person proposed to be appointed as special PPP administrator; and it shall be stated that, to the best of the petitioner's knowledge and belief, the person proposed to be appointed as special PPP administrator is qualified to act as an insolvency practitioner in relation to the PPP company.

(3) There shall be exhibited to the affidavit in support of the petition—

- (a) a copy of the petition;
- (b) the written consent, in Form PPP2, of the proposed special PPP administrator accepting the appointment.

Filing of petition

7.—(1) The petition and affidavit shall be filed in court, with a sufficient number of copies for service and use as provided by rules 8 and 10.

(2) Each of the copies delivered shall have applied to it the seal of the court and be issued to the petitioner; and on each copy there shall be endorsed the date and time of filing.

(3) The court shall fix a venue for the hearing of the petition and this also shall be endorsed on each copy of the petition issued under paragraph (2).

(4) After the petition is filed, it is the duty of the petitioner to notify the court in writing of any insolvency proceedings affecting the PPP company, as soon as he becomes aware of them.

Service of petition

8.—(1) In this rule and rules 9, 10 and 11, references to the petition are to a copy of the petition issued by the court under rule 7(2) together with the affidavit in support of it and the documents (other than the copy of the petition) exhibited to the affidavit.

(2) The petition shall be served—

- (a) on any person who has appointed or is or may be entitled to appoint an administrative receiver of the PPP company;
- (b) on any person who has applied to the court for an administration order under Part 2 of the 1986 Act in relation to the PPP company;
- (c) if an administrative receiver has been appointed, on him;
- (d) if there is pending a petition for the winding up of the PPP company, on the petitioner (and also on the provisional liquidator, if any);
- (e) on the person proposed for appointment as special PPP administrator;
- (f) on the PPP company;
- (g) on the Secretary of State.

Notice to enforcement officer, etc

9.—(1) The petitioner shall forthwith after filing the petition give notice of its presentation to—

- (a) any enforcement officer or other officer who to his knowledge is charged with an execution or other legal process against the PPP company or its property; and
- (b) any person who to his knowledge has distrained against the PPP company or its property.

(2) In the application of paragraph (1) in a case where the PPP company is a foreign company, within the meaning of paragraph 12(2) of Part 2 of Schedule 14 to the 1999 Act, the reference to property shall be taken as a reference to property situated within Great Britain.

Manner in which service of petition is to be effected

10.—(1) Service of the petition in accordance with rule 8 shall be effected by the petitioner, or his solicitor, or by a person instructed by him or his solicitor, not less than two days before the date fixed for the hearing.

(2) Service shall be effected as follows—

- (a) on the PPP company (subject to paragraph (3)), by delivering the documents to its registered office; and
- (b) on any other person (subject to paragraph (4)), by delivering the documents to his proper address,

or, in either case, in such manner as the court may direct.

(3) If delivery to the PPP company's registered office is not practicable or if the PPP company is an unregistered company, service may be effected by delivery to the company's last known principal place of business in England and Wales.

(4) Subject to paragraph (5), for the purposes of paragraph (2)(b), a person's proper address is any which he has previously notified as his address for service; but if he has not notified any such address, service may be effected by delivery to his usual or last known address.

(5) In the case of a person who—

- (a) is an authorised deposit taker or a former authorised institution;
- (b) has appointed, or is or may be entitled to appoint, an administrative receiver of the PPP company; and
- (c) has not notified an address for service,

the proper address is the address of an office of that person where, to the knowledge of the petitioner, the PPP company maintains a bank account or, where no such office is known to the petitioner, the registered office of that person, or, if there is no such office, his usual or last known address.

(6) For the purposes of paragraph (5)—

“authorised deposit taker” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000(2) to accept deposits; and

“former authorised institution” means an institution which continues to have a liability in respect of a deposit which was held in accordance with the Banking Act 1979(3) or the Banking Act 1987(4), but is not an authorised deposit taker.

(7) References in paragraph (6) to deposits and their acceptance must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;

(2) 2000 c.8.
(3) 1979 c.37.
(4) 1987 c.22.

- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.

Proof of service

11.—(1) Service of the petition shall be verified by affidavit in Form PPP3, specifying the date on which, and the manner in which, service was effected.

(2) The affidavit, with a sealed copy of the petition exhibited to it, shall be filed in court forthwith after service, and in any event not less than one day before the hearing of the petition.

The hearing

12.—(1) At the hearing of the petition, any of the following may appear or be represented—

- (a) the Mayor;
- (b) Transport for London;
- (c) any person who has appointed, or is or may be entitled to appoint, an administrative receiver of the PPP company;
- (d) any person who has applied to the court for an administration order under Part 2 of the 1986 Act in relation to the PPP company;
- (e) if an administrative receiver has been appointed, that administrative receiver;
- (f) any person who has presented a petition for the winding up of the PPP company (and the provisional liquidator, if any);
- (g) the person proposed for appointment as special PPP administrator;
- (h) the PPP company; and
- (i) with the permission of the court, any other person who appears to have an interest justifying his appearance.

(2) If the court makes a PPP administration order, it shall be in Form PPP4.

(3) If the court makes a PPP administration order, the costs of the petitioner, and of any person appearing whose costs are allowed by the court, are payable as an expense of the administration.

Notice and advertisement of PPP administration order

13.—(1) If the court makes a PPP administration order, it shall forthwith give notice to the person appointed as special PPP administrator in Form PPP5.

(2) After the order is made, the special PPP administrator shall forthwith advertise its making once in the Gazette, and once in such newspaper as he thinks most appropriate for ensuring that the order comes to the notice of the PPP company's creditors in Form PPP6.

(3) Subject to paragraph (5), the special PPP administrator shall also forthwith give notice in Form PPP7 of the making of the order—

- (a) to the Mayor;
- (b) to Transport for London;
- (c) to any person who has appointed, or is or may be entitled to appoint, an administrative receiver of the PPP company;
- (d) if an administrative receiver has been appointed, to him;
- (e) if there is pending a petition for the winding up of the PPP company, to the petitioner (and to the provisional liquidator, if any);

- (f) to any person who has applied to the court for an administration order under Part 2 of the 1986 Act in relation to the PPP company;
- (g) to the registrar of companies; and
- (h) to the Secretary of State.

(4) The court shall send two sealed copies of the order to the special PPP administrator, who shall send one of those copies accompanied by Form PPP8 to the registrar of companies in accordance with section 21(2) of the 1986 Act.

(5) If under section 9(4) of the 1986 Act the court makes any other order, it shall give directions as to the persons to whom, and how, notice of it is to be given.

Discharge of PPP administration order

14. Where the PPP administration order is discharged, the special PPP administrator shall send an office copy of the order effecting the discharge to the registrar of companies in accordance with section 18(4) of the 1986 Act accompanied by Form PPP9.