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STATUTORY INSTRUMENTS

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**2016 No. 1024**

**The Insolvency (England and Wales) Rules 2016**

**PART 10**

**BANKRUPTCY**

**CHAPTER 10**

**Income payments orders**

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

**Interpretation**

**10.108.** In this Chapter the “permitted fee” means the amount which is prescribed for the purposes of section 7(4)(a) of the Attachment of Earnings Act 1971<sup>(1)</sup>.

**Application for income payments order (section 310)**

**10.109.**—(1) Where the trustee applies for an income payments order under section 310, the court must fix a venue for the hearing of the application.

(2) Notice of the application and the venue must be delivered by the trustee to the bankrupt at least 28 days before the day fixed for the hearing, together with a copy of the trustee’s application and a short statement of the grounds on which it is made.

(3) The notice must inform the bankrupt that—

- (a) the bankrupt is required to attend the hearing unless at least five business days before the date fixed for the hearing the bankrupt files with the court and delivers to the trustee, consent to an order being made in the terms of the application; and
- (b) if the bankrupt attends, the bankrupt will be given an opportunity to show cause why the order should not be made, or why a different order should be made to that applied for by the trustee.

(4) The notice must be authenticated and dated by the trustee.

**Order for income payments order**

**10.110.** An order under section 310 must have the title “Income Payments Order” and must contain—

- (a) identification details for the proceedings;
- (b) identification and contact details for the trustee;
- (c) a statement that the bankrupt has or has not consented to the order (as the case may be);

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(1) 1971 c.32. Figure substituted by S.I. 1991/356.

- (d) the order that it appears to the court that the sum which is specified in the order should be paid to the trustee in accordance with the payments schedule detailed in the order until the date specified in the order;
- (e) the order that the bankrupt must pay to the trustee the sum referred to in paragraph (e) in accordance with the payments schedule out of the bankrupt's income, the first of such instalments to be made on or before the date specified in the order; and
- (f) the date of the order.

#### **Action to follow making of order**

**10.111.**—(1) Where the court makes an income payments order, the trustee must deliver a sealed copy of the order to the bankrupt as soon as reasonably practicable after it is made.

(2) If the order is made under section 310(3)(b), a sealed copy of the order must also be delivered by the trustee to the person to whom the order is directed.

#### **Variation of order**

**10.112.**—(1) If an income payments order is made under section 310(3)(a), and the bankrupt does not comply with it, the trustee may apply to the court for the order to be varied, so as to take effect under section 310(3)(b) as an order to the payer of the relevant income.

(2) The trustee's application under this rule may be made without notice to any other party.

(3) The order must contain—

- (a) identification details for the proceedings;
- (b) identification and contact details for the trustee who made the application;
- (c) the name and address of the payer;
- (d) a statement that the applicant is the trustee of the bankrupt;
- (e) the date of the income payments order;
- (f) a statement that it appears to the court that the bankrupt has failed to comply with the income payments order;
- (g) the order that the income payments order be varied to the effect that the payer specified in this order do take payment in accordance with the payments schedule detailed in this order out of the bankrupt's income and that the first instalment must be paid on the date specified in the order; and that the payer must deliver the sums deducted to the trustee; and
- (h) the date of the order.

(4) The court must deliver sealed copies of any order made on the application to the trustee and the bankrupt as soon as reasonably practicable after the order is made.

(5) In the case of an order varying or discharging an income payments order made under section 310(3)(b), the court must deliver an additional sealed copy of the order to the trustee, for delivery as soon as reasonably practicable to the payer of the relevant income.

#### **Order to payer of income: administration**

**10.113.**—(1) Where a person receives notice of an income payments order under section 310(3)(b), with reference to income otherwise payable by that person to the bankrupt, that person ("the payer") must make the necessary arrangements for compliance with the order as soon as reasonably practicable.

(2) When making any payment to the trustee, the payer may deduct the permitted fee towards the clerical and administrative costs of compliance with the income payments order.

(3) The payer must give to the bankrupt a statement of any amount deducted by the payer under paragraph (2).

(4) Where a payer receives notice of an income payments order imposing on the payer a requirement under section 310(3)(b), and either—

(a) the payer is then no longer liable to make to the bankrupt any payment of income; or

(b) having made payments in compliance with the order, the payer ceases to be so liable; the payer must as soon as reasonably practicable deliver notice of that fact to the trustee.

### **Review of order**

**10.114.**—(1) Where an income payments order is in force, either the trustee or the bankrupt may apply to the court for the order to be varied or discharged.

(2) If the application is made by the trustee, rule 10.109 applies (with any necessary modification) as in the case of an application for an income payments order.

(3) If the application is made by the bankrupt, it must be accompanied by a short statement of the grounds on which it is made.

(4) On receipt of an application, the court may, if it is satisfied that no sufficient cause is shown for it, dismiss it without giving notice to any party other than the applicant.

(5) Unless the application is dismissed, the court must fix a venue for it to be heard.

(6) The applicant must, at least 28 days before any hearing, deliver to the trustee or the bankrupt (whichever of them is not the applicant) a notice stating the venue with—

(a) a copy of the application; and

(b) where the applicant is the bankrupt, a copy of the statement of the grounds for the application referred to in paragraph (3).

(7) The trustee may do either or both of the following—

(a) file a report of any matters which the trustee thinks ought to be drawn to the court's attention; or

(b) appear and be heard on the application.

(8) The trustee must file a copy of a report under paragraph (7)(a) with the court not less than five business days before the date fixed for the hearing and must deliver a copy of it to the bankrupt.

(9) The court order must contain—

(a) identification details for the proceedings;

(b) the name and title of the judge making the order;

(c) the name and postal address of the applicant;

(d) an order that the income payments order specified is varied as specified;

(e) the date of the income payments order referred to in paragraph (d);

(f) details of how the income payments order is varied by this order; and

(g) the date of the order.

(10) Sealed copies of any order made on the application must be delivered by the court to the trustee, the bankrupt and the payer (if other than the bankrupt) as soon as reasonably practicable after the order is made.