
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 10

BANKRUPTCY

CHAPTER 12

Applications for production of documents by Her Majesty's Revenue and Customs (section 369)

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

Application for order

10.118.—(1) An application by the official receiver or the trustee for an order under section 369(1) (order for production of documents) must specify (with such details as will enable the order, if made, to be most easily complied with) the documents the production of which is sought, naming the official to whom the order is to be addressed.

(2) The court must fix a venue for the hearing of the application.

(3) The applicant must deliver notice of the venue, accompanied by a copy of the application to the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners") at least 28 days before the hearing.

(4) The notice must require the Commissioners, not later than five business days before the date fixed for the hearing of the application, to inform the court whether they consent or object to the making of an order.

(5) If the Commissioners consent to the making of an order, the statement must include the name of the official to whom the order should be addressed, if other than the one named in the application.

(6) If the Commissioners object to the making of an order, they must file with the court a statement of their grounds of objection not less than five business days before the hearing of the application and must ensure that an official of theirs attends the hearing.

(7) The Commissioners must deliver a copy of the statement of objections to the applicant as soon as reasonably practicable.

Making and service of the order

10.119.—(1) The court may make the order applied for, with any modifications which appear appropriate, having regard to any representations made on behalf of the Commissioners.

(2) The order—

(a) may be addressed to an official of Her Majesty's Revenue and Customs other than the one named in the application;

(1) Section 7 of the Commissioners for Revenue and Customs Act 2005 (c.11) vests functions conferred by enactments on an Inland Revenue Official (or relating to such functions) in an officer of Revenue and Customs.

- (b) must specify a time, not less than 28 days after service on the official to whom the order is addressed, within which compliance is required; and
- (c) may include requirements as to the manner in which documents to which the order relates are to be produced.

(3) A sealed copy of the order must be served by the applicant on the official to whom it is addressed.

(4) If the official is unable to comply with the order because the relevant documents are not in the possession of the official, and the official has been unable to obtain possession of them, the official must file with the court a statement as to the reasons for the official's non-compliance.

(5) The official must deliver a copy of the statement referred to in paragraph (4) to the applicant as soon as reasonably practicable.

Custody of documents

10.120. When, in compliance with an order under section 369, original documents are produced, any person who, by order of the court under section 369(2), has possession or custody of those documents is responsible to the court for their safe keeping as, and return when, directed.