
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 10

BANKRUPTCY

CHAPTER 7

Special manager

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

Application for and order of appointment of special manager (section 370)

[Note: section 377 provides that the acts of the special manager are valid notwithstanding any defect in the special manager's appointment or qualifications.]

10.94.—(1) An application by the interim receiver or trustee under section 370(1) for the appointment of a special manager must be supported by a report setting out the reasons for the application. The report must include the applicant's estimate of the value of the bankrupt's estate, property or business in relation to which the special manager is to be appointed.

(2) The court's order appointing the special manager 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) the name and postal address of the proposed special manager;
- (e) an order that the proposed special manager is appointed as special manager;
- (f) details of the special manager's responsibility over the debtor's property or the bankrupt's estate;
- (g) the powers entrusted to the special manager under section 370(4);
- (h) the time allowed for the special manager to give the required security for the appointment;
- (i) the duration of the special manager's appointment, being one of the following—
 - (i) for a fixed period stated in the order,
 - (ii) until the occurrence of a specified event, or
 - (iii) until the court makes a further order;
- (j) an order that the special manager's remuneration will be fixed from time to time by the court; and
- (k) the date of the order.

- (3) The appointment of a special manager may be renewed by order of the court.

Security

10.95.—(1) The appointment of the special manager does not take effect until the person appointed has given (or, if the court allows, undertaken to give) security to the applicant for the appointment.

(2) A person appointed as special manager may give security either specifically for a particular bankruptcy, or generally for any bankruptcy in relation to which that person may be appointed as special manager.

(3) The amount of the security must be not less than the value of the bankrupt's estate, property or business in relation to which the special manager is appointed, as estimated in the applicant's report which accompanied the application for appointment.

(4) When the special manager has given security to the applicant, the applicant must file with the court a certificate as to the adequacy of the security.

(5) The cost of providing the security must be paid in the first instance by the special manager; but—

- (a) where a bankruptcy order is not made, the special manager is entitled to be reimbursed out of the property of the debtor, and the court may order accordingly; and
- (b) where a bankruptcy order is made, the special manager is entitled to be reimbursed out of the bankrupt's estate in the prescribed order of priority.

Failure to give or keep up security

10.96.—(1) If the special manager fails to give the required security within the time stated for that purpose by the order of appointment, or any extension of that time that may be allowed, the interim receiver or trustee (as the case may be) must report the failure to the court, which may discharge the order appointing the special manager.

(2) If the special manager fails to keep up the security, the interim receiver or trustee must report the failure to the court, which may remove the special manager, and make such order as it thinks just as to costs.

(3) If the court discharges the order appointing the special manager or makes an order removing the special manager, the court must give directions as to whether any, and if so what, steps should be taken for the appointment of another special manager.

Accounting

10.97.—(1) The special manager must produce accounts, containing details of the special manager's receipts and payments, for the approval of the trustee.

(2) The accounts must be for—

- (a) each three month period for the duration of the special manager's appointment; or
- (b) any shorter period ending with the termination of the special manager's appointment.

(3) When the accounts have been approved, the special manager's receipts and payments must be added to those of the trustee.

Termination of appointment

10.98.—(1) The special manager's appointment terminates if—

- (a) the bankruptcy petition is dismissed; or

- (b) in a case where an interim receiver was appointed under section 286(2), the appointment is discharged without a bankruptcy order having been made.
- (2) If the interim receiver or the trustee thinks that the appointment of the special manager is no longer necessary or beneficial to the bankrupt's estate, the interim receiver or the trustee must apply to the court for directions, and the court may order the special manager's appointment to be terminated.
- (3) The interim receiver or the trustee must make such an application if the creditors decide that the appointment should be terminated.

(2) Section 286(1) is amended and (2) is omitted by paragraph 13 of Schedule 6 to the Deregulation Act 2015 (c.20); (8) is amended by paragraph 17 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c.24); and subsection (3) is amended by paragraph 2 of Schedule 10 to the Small Business, Enterprise and Employment Act 2015 (c.26).