
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 12

COURT PROCEDURE AND PRACTICE

CHAPTER 4

Making applications to court: specific applications

Sub-division A: Applications in connection with section 176A (prescribed part)

Applications under section 176A(5) to disapply section 176A

12.14.—(1) An application under section 176A(5) must be accompanied by a witness statement of the liquidator, administrator or receiver.

(2) The witness statement must state—

- (a) the type of insolvency proceedings in which the application arises;
- (b) a summary of the financial position of the company;
- (c) the information substantiating the applicant's view that the cost of making a distribution to unsecured creditors would be disproportionate to the benefits; and
- (d) whether any other office-holder is acting in relation to the company and, if so, that office-holder's address.

Notice of application under section 176A(5)

12.15.—(1) An application under section 176A(5) may be made without the application being served upon, or notification to any other party.

(2) However the office-holder making the application must notify any other office-holder who is acting in relation to the company including any member State liquidator.

Notice of an order under section 176A(5)

12.16.—(1) Where the court makes an order under section 176A(5), the court must, as soon as reasonably practicable, deliver the sealed order to the applicant and a sealed copy to any other office-holder.

(2) The liquidator, administrator or receiver must, as soon as reasonably practicable, deliver notice of the order to each creditor unless the court directs otherwise.

(3) The court may direct that the requirement in paragraph (2) is complied with if a notice is published by the liquidator, administrator or receiver which states that the court has made an order disapplying the requirement to set aside the prescribed part.

(4) As soon as reasonably practicable the notice—

- (a) must be gazetted; and
 - (b) may be advertised in such other manner as the liquidator, administrator, or receiver thinks fit.
- (5) The liquidator, administrator or receiver must deliver a copy of the order to the registrar of companies as soon as reasonably practicable after the making of the order.