
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 20

Debtors and their families at risk of violence: orders not to disclose current address

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

Application of this Part and interpretation

20.1.—(1) The rules in this Part apply where disclosure or continuing disclosure of the current address or whereabouts of a debtor to other persons (whether to the public generally or to specific persons) might reasonably be expected to lead to violence against the debtor or against a person who normally resides with the debtor as a member of the debtor’s family.

(2) In this Part—

“current address” means the debtor’s residential address and any address at which the debtor currently carries on business; and

“family” in the expression “debtor’s family” has the same meaning in relation to a debtor other than a bankrupt as is provided by section 385(1) in respect of a bankrupt.

Proposed IVA (order for non-disclosure of current address)

20.2.—(1) This rule applies where a debtor intends to make a proposal for an IVA and has received notice of consent to act from the nominee.

(2) The debtor may make an application for an order as set out in paragraph (4) for the non-disclosure of the debtor’s current address.

(3) The application must be accompanied by a witness statement referring to this rule and containing sufficient evidence to satisfy the court that rule 20.1(1) applies.

(4) If the court is satisfied that the circumstances set out in rule 20.1(1) apply, the court may order that if the IVA is approved—

(a) the debtor’s current address must be omitted from—

(i) any part of the court file of the proceedings in relation to the debtor’s IVA which is open to inspection,

(ii) the debtor’s identification details required to be entered on the individual insolvency register under rule 11.14,

(iii) any notice or advertisement under rule 8.36 of an order under section 261(1) to annul the bankruptcy order where an IVA is approved; and

(1) Section 261 subsections (1)(a) and (3)(a) are amended by paragraph 68 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

(b) where there is a requirement in these Rules to identify the debtor, the debtor's identification details must not include details of the debtor's current address.

(5) Where the court makes such an order, it may further order that the details to be entered on the individual insolvency register must include instead such other details of the debtor's addresses or whereabouts as the court thinks just, including details of any address at which the debtor has previously resided or carried on business.

IVA (order for non-disclosure of current address)

20.3.—(1) This rule applies where a debtor has entered into an IVA.

(2) The following may make an application for an order as set out in paragraph (4) for the non-disclosure of the debtor's current address—

- (a) the debtor;
- (b) the supervisor;
- (c) the official receiver (whether acting as a supervisor or otherwise); and
- (d) the Secretary of State.

(3) The application must be accompanied by a witness statement referring to this rule and containing sufficient evidence to satisfy the court that rule 20.1(1) applies.

(4) If the court is satisfied that the circumstances set out in rule 20.1(1) apply, the court may order that—

- (a) the debtor's current address must be omitted from—
 - (i) any part of the court file of the proceedings in relation to the debtor which is open to inspection,
 - (ii) the debtor's identification details entered or required to be entered on the individual insolvency register under rule 11.14, and
 - (iii) any notice or advertisement under rule 8.35 of an order under section 261 to annul the bankruptcy order where an IVA is approved; and
- (b) where there is a requirement in these Rules to identify the debtor, the debtor's identification details must not include the debtor's current address.

(5) Where the court makes such an order, it may further order that the details to be entered on the individual insolvency register must include instead such other details of the debtor's addresses or whereabouts as the court thinks just, including details of any address at which the debtor has previously resided or carried on business.

Debt relief application (order for non-disclosure of current address)

20.4.—(1) This rule applies where a debtor intends to make a debt relief application and has been issued with a unique identifier for the application.

(2) The debtor may make an application for an order as set out in paragraph (4) for the non-disclosure of the debtor's current address.

(3) The application must be accompanied by a witness statement referring to this rule and containing sufficient evidence to satisfy the court that rule 20.1(1) applies.

(4) If the court is satisfied that the circumstances set out in rule 20.1(1) apply, the court may order that if a debt relief order is made—

- (a) the debtor's current address must be omitted from—
 - (i) any part of the court file of the proceedings in relation to the debtor which is open to inspection, and

- (ii) the debtor's identification details required to be entered on the individual insolvency register under rule 11.18; and
 - (b) where there is a requirement in these Rules to identify the debtor, the debtor's identification must not include the debtor's current address.
- (5) Where the court makes such an order, it may further order that the details to be entered on the individual insolvency register must include instead such other details of the debtor's addresses or whereabouts as the court thinks just, including details of any address at which the debtor has previously resided or carried on business.

Bankruptcy application (order for non-disclosure of current address)

20.5.—(1) This rule applies where a debtor intends to make a bankruptcy application and has been issued with a unique identifier for the application.

(2) The debtor may make an application for an order as set out in paragraph (4) for the non-disclosure of the debtor's current address.

(3) The application must be accompanied by a witness statement referring to this rule and containing sufficient evidence to satisfy the court that rule 20.1(1) applies.

(4) If the court is satisfied that the circumstances set out in rule 20.1(1) apply, the court may order that if a bankruptcy order is made—

- (a) the debtor's current address must be omitted from—
 - (i) any part of the bankruptcy file which is open to inspection,
 - (ii) the details in respect of the debtor to be entered on the individual insolvency register under rule 11.16,
 - (iii) the details in respect of the debtor to be entered in the bankruptcy order; and
- (b) where there is a requirement in these Rules to identify the debtor, the debtor's identification details must not include the debtor's current address.

(5) Where the court makes an order under paragraph (4), it may further order that such other details of the debtor's addresses or whereabouts as the court thinks just, including details of any address at which the debtor has previously resided or carried on business, are to be included in—

- (a) the details in respect of the debtor kept on or to be entered on the individual insolvency register under rule 11.16;
- (b) the details in respect of the debtor included on the bankruptcy file; or
- (c) the description of the debtor to be inserted in the bankruptcy order.

Bankruptcy and debt relief proceedings (order for non-disclosure of current address)

20.6.—(1) For the purposes of this rule, "debtor" means a person subject to a bankruptcy order, a debt relief order, a bankruptcy restrictions order, a debt relief restrictions order, a bankruptcy restrictions undertaking or a debt relief restrictions undertaking.

(2) The following may make an application for an order as set out in paragraph (4) for the non-disclosure of the debtor's current address—

- (a) the debtor;
- (b) the official receiver; or
- (c) in respect of a bankruptcy order, a bankruptcy restrictions order or a bankruptcy restrictions undertaking, the trustee or the Secretary of State.

(3) The application must be accompanied by a witness statement referring to this rule and containing sufficient evidence to satisfy the court that rule 20.1(1) applies.

(4) If the court is satisfied that the circumstances set out in rule 20.1(1) apply, the court may order that—

- (a) the debtor's current address must be omitted from—
 - (i) any part of the court file or bankruptcy file of the proceedings in relation to the debtor which is open to inspection,
 - (ii) the debtor's identification details entered or required to be entered on the individual insolvency register under rule 11.16 (bankruptcy orders), rule 11.18 (debt relief orders), or the bankruptcy restrictions register or the debt relief restrictions register under 11.20 (as the case may be), and
 - (iii) the details in respect of the debtor to be entered in the bankruptcy order or debt relief order;
- (b) the full title of the proceedings must be amended by the omission of the debtor's current address; and
- (c) where there is a requirement in these Rules to identify the debtor, the debtor's identification details must not include the debtor's current address.

(5) Where the court makes an order under paragraph (4), it may further order that such other details of the debtor's addresses or whereabouts as the court thinks just, including details of any address at which the debtor has previously resided or carried on business, are to be included in—

- (a) the full title of any proceedings;
- (b) the details in respect of the debtor kept on or to be entered on the relevant register; or
- (c) the description of the debtor to be inserted in the bankruptcy order or the debt relief order.

Additional provisions in respect of orders under rule 20.6(4)

20.7.—(1) This rule applies where the court is making an order under rule 20.6(4) in respect of a debtor who is subject to a bankruptcy order, a bankruptcy restrictions order or a bankruptcy restrictions undertaking.

- (2) The court may make either or both of the following further orders—
 - (a) that the details of the debtor required to be included in any notice to be gazetted or otherwise advertised must not include the debtor's current address; and
 - (b) that the details of the debtor required to be included in any such notice to be gazetted or otherwise advertised must instead of the debtor's current address include such other details of the debtor's addresses or whereabouts as the court thinks just, including details of any address at which the debtor has previously resided or carried on business.

(3) Where the court makes an order under rule 20.6(4) amending the full title of the proceedings by the omission of the debtor's current address from the description of the debtor, the official receiver—

- (a) must as soon as reasonably practicable deliver notice of it to the Chief Land Registrar, for corresponding amendment of the register; and
- (b) may cause notice of the order to be—
 - (i) gazetted, or
 - (ii) both gazetted and delivered in such other manner as the official receiver thinks fit.

(4) A notice of the amendment of the title of the proceedings which is published in accordance with paragraph (3)—

- (a) must omit the current address of the debtor;
- (b) must contain the amended title of the proceedings, and the date of the bankruptcy order;
and
- (c) must not include the description under which the proceedings were previously published.