
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 8

INDIVIDUAL VOLUNTARY ARRANGEMENTS (IVA)

CHAPTER 6

Action following approval of an IVA

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

Hand-over of property, etc. to supervisor

8.25.—(1) As soon as reasonably practicable after the IVA is approved, the debtor or, where the debtor is an undischarged bankrupt, the official receiver or any trustee must do all that is required to put the supervisor in possession of the assets included in the IVA.

(2) Where the debtor is an undischarged bankrupt, the supervisor must—

- (a) before taking possession of the assets included in the IVA, deliver to the official receiver or any trustee an undertaking to discharge the balance due to the official receiver or trustee out of the first realisation of the assets; or
- (b) upon taking possession of the assets included in the IVA, discharge such balance.

(3) The balance is any balance due to the official receiver or any trustee—

- (a) by way of fees or expenses properly incurred and payable under the Act or these Rules; and
- (b) on account of any advances made in respect of the bankrupt's estate, together with interest on such advances at the rate specified in section 17 of the Judgments Act 1838(1) at the date of the bankruptcy order.

(4) Where the debtor is an undischarged bankrupt, the official receiver and any trustee have a charge on the assets included in the IVA in respect of any sums comprising such balance, subject only to the deduction by the supervisor from realisations of the proper costs and expenses of realisation.

(5) Any sums due to the official receiver take priority over those due to any trustee.

(6) The supervisor must from time to time out of the realisation of assets—

- (a) discharge all guarantees properly given by the official receiver or any trustee for the benefit of the bankrupt's estate; and
- (b) pay the expenses of the official receiver and any trustee.

(1) 1838 c.110. Section 17 is amended by the Statute Law Revision (No 2) Act 1888 (c.57), article 2 of S.I. 1993/564, article 3 of S.I. 1998/2940, Part 1 of the Schedule of the Civil Procedure Acts Repeal Act 1879 (c.59) and article 3(e) of S.I. 1998/3132.

Report to the Secretary of State of the approval of an IVA

8.26.—(1) After the creditors approve an IVA the nominee, appointed person or the chair must deliver a report containing the required information to the Secretary of State.

(2) The report must be delivered as soon as reasonably practicable, and in any event within 14 days after the report that the creditors have approved the IVA has been filed with the court under rule 8.24(3) or the notice that the creditors have approved the IVA has been sent to the creditors under rule 8.24(5) as the case may be.

(3) The required information is—

- (a) identification details for the debtor;
- (b) the debtor's gender;
- (c) the debtor's date of birth;
- (d) any name by which the debtor was or is known, not being the name in which the debtor has entered into the IVA;
- (e) the date on which the IVA was approved by the creditors; and
- (f) the name and address of the supervisor.

(4) A person who is appointed to act as a supervisor as a replacement of another person, or who vacates that office must deliver a notice of that fact to the Secretary of State as soon as reasonably practicable.

Revocation or suspension of an IVA (section 262)

8.27.—(1) This rule applies where the court makes an order of revocation or suspension under section 262.

(2) The applicant for the order must deliver a sealed copy of it to—

- (a) the debtor (if different from the applicant);
- (b) the supervisor; and
- (c) where the debtor is an undischarged bankrupt, the official receiver and any trustee (in either case, if different from the applicant).

(3) If the order includes a direction by the court under section 262(4)(b)(2) for a matter to be considered further by a decision procedure, the applicant for the order must deliver a notice that the order has been made to the person who is directed to take such action.

(4) The debtor, or the trustee (if the debtor is an undischarged bankrupt) must—

- (a) as soon as reasonably practicable deliver a notice that the order has been made to everyone to whom a notice to consider the matter by a decision procedure was delivered or who appears to be affected by the order; and
- (b) within five business days of delivery of a copy of the order (or within such longer period as the court may allow), deliver, if applicable, a notice to the court advising that it is intended to make a revised proposal to the creditors, or to invite re-consideration of the original proposal.

(5) The applicant for the order must, within five business days of the making of the order deliver a notice of the order to the Secretary of State.

(6) The applicant for the order must, within five business days of the expiry of any order of suspension, deliver a notice of the expiry to the Secretary of State.

(2) Section 262(4)(b) is substituted and subsections (1) to (5), (7) and (8) are amended by paragraph 69(7) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

Supervisor's accounts and reports

8.28.—(1) The supervisor must keep accounts and records where the IVA authorises or requires the supervisor—

- (a) to carry on the business of the debtor or trade on behalf of or in the name of the debtor;
- (b) to realise assets of the debtor or, where the debtor is an undischarged bankrupt, belonging to the bankrupt's estate; or
- (c) otherwise to administer or dispose of any funds of the debtor or the bankrupt's estate.

(2) The accounts and records which must be kept are of the supervisor's acts and dealings in, and in connection with, the IVA, including in particular records of all receipts and payments of money.

(3) The supervisor must preserve any such accounts and records which were kept by any other person who has acted as supervisor of the IVA and are in the supervisor's possession.

(4) The supervisor must deliver reports on the progress and prospects for the full implementation of the IVA to—

- (a) the debtor; and
- (b) the creditors bound by the IVA.

(5) The first report must cover the period of 12 months commencing on the date on which the IVA was approved and a further report must be made for each subsequent period of 12 months.

(6) Each report must be delivered within the period of two months after the end of the 12 month period.

(7) Such a report is not required if an obligation to deliver a report under rule 8.31(3) arises in the two months after the end of the period.

(8) Where the supervisor is authorised or required to do any of the things mentioned in paragraph (1), the report—

- (a) must include or be accompanied by a summary of receipts and payments which paragraph (2) requires to be recorded; or
- (b) where there have been no such receipts and payments, must say so.

Production of accounts and records to the Secretary of State

8.29.—(1) The Secretary of State may during the IVA or after its full implementation or termination require the supervisor to produce for inspection (either at the supervisor's premises or elsewhere)—

- (a) the supervisor's accounts and records in relation to the IVA; and
- (b) copies of reports and summaries prepared in compliance with rule 8.28.

(2) The Secretary of State may require any accounts and records produced under this rule to be audited and, if so, the supervisor must provide such further information and assistance as the Secretary of State requires for the purposes of the audit.

Fees and expenses

8.30. The fees and expenses that may be incurred for the purposes of the IVA are—

- (a) fees for the nominee's services agreed with the debtor, the official receiver or any trustee;
- (b) disbursements made by the nominee before the approval of the IVA; and
- (c) fees or expenses which—
 - (i) are sanctioned by the terms of the IVA, or

- (ii) where they are not sanctioned by the terms of the IVA, would be payable, or correspond to those which would be payable, in the debtor's bankruptcy.

Termination or full implementation of the IVA

8.31.—(1) Not more than 28 days after the full implementation or termination of the IVA the supervisor must deliver a notice that the IVA has been fully implemented or terminated to the debtor and the creditors bound by the IVA.

- (2) The notice must state the date the IVA took effect.
- (3) The notice must be accompanied by a copy of a report by the supervisor which—
 - (a) summarises all receipts and payments in relation to the IVA;
 - (b) explains any departure from the terms of the IVA as approved by the creditors; and
 - (c) if the IVA has terminated, sets out the reasons why.
- (4) The supervisor must within the 28 days mentioned above—
 - (a) deliver a copy of the notice and report to the Secretary of State; and
 - (b) if the creditors were invited to consider the proposal following a report under section 256(1)(aa), file a copy of the notice and report with the court.
- (5) The supervisor must not vacate office until the notice and report have been delivered to the Secretary of State.