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STATUTORY INSTRUMENTS

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**2016 No. 1024**

**The Insolvency (England and Wales) Rules 2016**

**PART 10**

**BANKRUPTCY**

**CHAPTER 1**

**The statutory demand**

**The statutory demand (section 268)**

- 10.1.**—(1) A statutory demand under section 268 must contain—
- (a) the heading either “Statutory demand under section 268(1) (debt payable immediately of the Insolvency Act 1986” or “Statutory demand under section 268(2) (debt not immediately payable)”;
  - (b) identification details for the debtor;
  - (c) the name and address of the creditor;
  - (d) a statement of the amount of the debt, and the consideration for it (or, if there is no consideration, the way in which it arises);
  - (e) if the demand is made under section 268(1) and founded on a judgment or order of a court, the date of the judgment or order and the court in which it was obtained;
  - (f) if the demand is made under section 268(2), a statement of the grounds on which it is alleged that the debtor appears to have no reasonable prospect of paying the debt;
  - (g) if the creditor is entitled to the debt by way of assignment, details of the original creditor and any intermediary assignees;
  - (h) a statement that if the debtor does not comply with the demand bankruptcy proceedings may be commenced;
  - (i) the date by which the debtor must comply with the demand, if bankruptcy proceedings are to be avoided;
  - (j) a statement of the methods of compliance which are open to the debtor;
  - (k) a statement that the debtor has the right to apply to the court to have the demand set aside;
  - (l) a statement that rule 10.4(4) of the Insolvency (England and Wales) Rules 2016 states to which court such an application must be made; and name the court or hearing centre of the County Court to which, according to the present information, the debtor must make the application (i.e. the High Court, the County Court at Central London or a named hearing centre of the County Court as the case may be);
  - (m) a statement that any application to set aside the demand must be made within 18 days of service on the debtor; and

(n) a statement that if the debtor does not apply to set aside the demand within 18 days or otherwise deal with this demand within 21 days after its service the debtor could be made bankrupt and the debtor's property and goods taken away.

(2) Where the statutory demand is served by a Minister of the Crown or a Government Department the statutory demand must explain that the debtor may alternatively apply to set aside the demand to the High Court or the County Court at Central London (as the case may be) if the Minister or Department intends to present a bankruptcy petition to one of them.

(3) A demand must name one or more individuals with whom the debtor may communicate with a view to—

- (a) securing or compounding the debt to the satisfaction of the creditor; or
- (b) establishing to the creditor's satisfaction that there is a reasonable prospect that the debt will be paid when it falls due.

(4) The postal address, electronic address and telephone number (if any) of the named individual must be given.

(5) A demand must be dated and authenticated either by the creditor or by a person who is authorised to make the demand on the creditor's behalf

(6) A demand which is authenticated by a person other than the creditor must state that the person is authorised to make the demand on the creditor's behalf and state the person's relationship to the creditor.

(7) If the amount claimed in the demand includes—

- (a) any charge by way of interest of which notice had not previously been delivered to the debtor as a liability of the debtor's; or
- (b) any other charge accruing from time to time,

the amount or rate of the charge must be separately identified, and the grounds on which payment of it is claimed must be stated.

(8) The amount claimed for such charges must be limited to that which has accrued at the date of the demand.

(9) If the creditor holds any security in respect of the debt, the full amount of the debt must be specified, but—

- (a) the demand must specify the nature of the security, and the value which the creditor puts upon it at the date of the demand; and
- (b) the demand must claim payment of the full amount of the debt, less the specified value of the security.