STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 10

BANKRUPTCY

CHAPTER 1

The statutory demand

Application to set aside statutory demand

10.4.—(1) The debtor may apply to the court for an order setting aside the statutory demand.

(2) The application must be made within 18 days from the date of the service of the statutory demand.

(3) The application must—

(a) identify the debtor;

(b) state that the application is for an order that the statutory demand be set aside;

(c) state the date of the statutory demand; and

(d) be dated and authenticated by the debtor, or by a person authorised to act on the debtor's behalf.

(4) The application must be made to the court or hearing centre—

(a) determined in accordance with rule 10.48; or

(b) to which rule 10.11(1) requires a petition to be presented if—

(i) the creditor serving the statutory demand is a Minister of the Crown or a government Department,

(ii) the debt in respect of which the statutory demand is made, or part of it equal to or exceeding the bankruptcy level (within the meaning of section 267), is the subject of a judgment or order of a court, and

(iii) the statutory demand—

(aa) specifies the date of the judgment or order and the court in which it was obtained, and

(bb) indicates the creditor's intention to present a bankruptcy petition against the debtor in the High Court or the County Court at Central London as the case may be.

(5) The time within which the debtor must comply with the statutory demand ceases to run on the date the application is filed with the court, subject to any order of the court under rule 10.5.

(6) The debtor's application must be accompanied by a copy of the statutory demand, where it is in the debtor's possession, and supported by a witness statement containing the following—

(a) the date on which the debtor became aware of the statutory demand;

(b) the grounds on which the debtor claims that it should be set aside; and

(c) any evidence in support of the application.