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STATUTORY INSTRUMENTS

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**2016 No. 1024**

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

**PART 19**

**Disclaimer in winding up and bankruptcy**

**Application for exercise of court's powers under section 181 (winding up) or section 320 (bankruptcy)**

**19.11.**—(1) This rule applies to an application under section 181 (winding up) or section 320 (bankruptcy) for a court order to vest or deliver disclaimed property.

(2) The application must be made within three months of the applicant becoming aware of the disclaimer, or of the applicant receiving a copy of the office-holder's notice of disclaimer delivered under rule 19.3 to 19.6, whichever is the earlier.

(3) The applicant must file with the application a witness statement stating—

(a) whether the application is made under—

- (i) section 181(2)(a) (claim of interest in the property),
- (ii) section 181(2)(b) (liability not discharged),
- (iii) section 320(2)(a) (claim of interest in the property),
- (iv) section 320(2)(b) (liability not discharged), or
- (v) section 320(2)(c) (occupation of a dwelling-house);

(b) the date on which the applicant received a copy of the office-holder's notice of disclaimer, or otherwise became aware of the disclaimer; and

(c) the grounds of the application and the order sought.

(4) The court must fix a venue for hearing the application.

(5) The applicant must, not later than five business days before the date fixed, deliver to the office-holder notice of the venue, accompanied by copies of the application and the filed witness statement.

(6) On hearing the application, the court may give directions as to any other persons to whom notice of the application and the grounds on which it is made should be delivered.

(7) The court must deliver sealed copies of any order made on the application to the applicant and the office-holder.

(8) If the property disclaimed is of a leasehold nature, or in a bankruptcy is property in a dwelling house, and section 179 (winding up), 317 or 318 (bankruptcy) applies to suspend the effect of the disclaimer, the court's order must include a direction giving effect to the disclaimer.

(9) However, paragraph (8) does not apply if, before the order is drawn up, other applications under section 181 (winding up) or section 320 (bankruptcy) are pending in relation to the same property.