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STATUTORY INSTRUMENTS

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**2016 No. 1024**

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

**PART 3**

**ADMINISTRATION**

**CHAPTER 3**

**Appointment of administrator by holder of floating charge**

**Appointment taking place out of court business hours: procedure**

**3.20.**—(1) When (but only when) the court is closed, the holder of a qualifying floating charge may file a notice of appointment with the court by—

- (a) faxing it to a designated telephone number; or
- (b) emailing it, or attaching it to an email, to a designated email address.

(2) The notice must specify the name of the court (and hearing centre if applicable) that has jurisdiction.

(3) The Lord Chancellor must designate the telephone number and email address.

(4) The Secretary of State must publish the designated telephone number and email address on the Insolvency Service webpages and deliver notice of them to any person requesting them from the Insolvency Service.

(5) The appointer must ensure that—

- (a) a fax transmission report giving the time and date of the fax transmission and the telephone number to which the notice was faxed and containing a copy of the first page (in part or in full) of the document faxed is created by the fax machine that is used to fax the notice; or
- (b) a hard copy of the email is created giving the time and date of the email and the address to which it was sent.

(6) The appointer must retain the fax transmission report or hard copy of the email.

(7) The appointer must deliver a notice to the administrator of the filing of the notice of appointment as soon as reasonably practicable.

(8) The copy of the faxed or emailed notice of appointment as received by the Courts Service must be delivered by the Lord Chancellor as soon as reasonably practicable to the court specified in the notice as the court having jurisdiction in the case, to be placed on the relevant court file.

(9) The appointer must take to the court on the next occasion that the court is open for business—

- (a) three copies of the faxed or emailed notice of appointment;
- (b) the fax transmission report or hard copy required by paragraph (5);
- (c) all supporting documents referred to in the notice in accordance with rule 3.21(1) which are in the appointer's possession; and

- (d) a statement providing reasons for the out-of-hours filing of the notice of appointment, including why it would have been damaging to the company or its creditors not to have so acted.
- (10) The copies of the notice must be sealed by the court and endorsed with—
  - (a) the date and time when, according to the appointer’s fax transmission report or hard copy of the email, the notice was faxed or sent; and
  - (b) the date when the notice and accompanying documents were delivered to the court.
- (11) The court must deliver two of the sealed copies of the notice of appointment to the appointer.
- (12) The appointer must, as soon as reasonably practicable, deliver one of the copies to the administrator.
- (13) The reference—
  - (a) to the Insolvency Service in paragraph (4) means the Secretary of State acting by means of the Insolvency Service; and
  - (b) to the Courts Service in paragraph (8) means the Lord Chancellor acting by means of Her Majesty’s Courts and Tribunals Service.