

CORPORATE INSOLVENCY PRACTICE

Litigation, Procedure
and Precedents

3rd Edition

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Contents

<i>Foreword to the Third Edition</i>	xvii
<i>Table of Cases</i>	xix
<i>Table of Statutes</i>	xxv
<i>Table of Statutory Instruments</i>	xxxiii
<i>Table of Practice Directions and Practice Notes</i>	xlvii
<i>Table of International Material</i>	ii
<i>Table of Forms and Guides</i>	liii
1 STATUTORY DEMAND	1
Statutory form	1
Service	3
Evidence	3
Notes	4
<i>Key statutory provisions</i>	4
Sections 123 and 221 of the Insolvency Act 1986	4
Rules 1.6 and 7.3 of the Insolvency (England and Wales) Rules 2016	5
<i>Precedent</i>	
1.1 Creditor's statutory demand	8
2 CREDITOR'S WINDING-UP PETITION AGAINST A UK-REGISTERED COMPANY	13
Objective	13
Petition	14
Evidence	16
Court Fees	18
Service	18
Advertisement (notice of the petition)	19
Certificate of compliance	20
The hearing	21
<i>Key statutory provisions</i>	21
Sections 122 to 125 and 221 of the Insolvency Act 1986	21
Rules 7.4 to 7.15 of, and paragraphs 2 and 6 of Schedule 4 to, the Insolvency (England and Wales) Rules 2016	25
Paragraphs 9.1 to 9.9 of Part Two of the CPR Practice Direction – Insolvency Proceedings	31
<i>Precedents</i>	
2.1 Creditor's winding-up petition	34
2.2 Statement of truth verifying the winding-up petition	38
2.3 Advertisement of a winding-up petition	40
2.4 Certificate of compliance	41
2.5 List of persons attending	42
3 RESPONDING TO A CREDITOR'S PETITION: NOTICE TO APPEAR AT THE HEARING OF A PETITION	43
Objective	43
Notice of intention to appear	43

Service	44
Company's evidence	44
Other parties	46
Key statutory provisions	46
Rules 7.14 to 7.18 of the Insolvency (England and Wales) Rules 2016	46
Precedents	
3.1 Supporting creditor's notice of intention to appear	49
3.2 Supporting creditor's application to be substituted as petitioner	50
3.3 Order that a supporting creditor be substituted as petitioner	52
4 RESPONDING TO A STATUTORY DEMAND: APPLICATION TO RESTRAIN THE PRESENTATION OF A PETITION	55
Objective	55
Warning letter	56
Application	56
Court fees	58
Service	58
Evidence	58
Key statutory provisions	60
Rules 7.24 and 7.25 of the Insolvency (England and Wales) Rules 2016	60
Paragraph 3.2 of Part One of the CPR Practice Direction – Insolvency Proceedings	60
Precedents	
4.1 Application for an order restraining the presentation of a winding-up petition	61
4.2 Witness statement in support of an application for an order restraining the presentation of a winding-up petition	64
4.3 Draft minute of an order made without notice restraining the presentation of a winding-up petition	66
5 RESPONDING TO A PETITION: APPLICATION TO RESTRAIN THE ADVERTISEMENT OF A PETITION	69
Objective	69
Warning letter	70
Application	70
Court fees	72
Service	72
Without notice	73
Evidence	73
Key statutory provisions	75
Rules 7.24 and 7.25 of the Insolvency (England and Wales) Rules 2016	75
Precedents	
5.1 Application for an order to restrain advertisement	76
5.2 Witness statement in support of an application for an order to restrain advertisement	79
5.3 Draft minute of an order made without notice restraining the advertisement of a winding-up petition	81
5.4 Draft minute of an order made on notice restraining the advertisement of a winding-up petition	83
6 RESPONDING TO A PETITION: APPLICATION FOR A VALIDATION ORDER	85
Objective	85
Application	86

Court fees	86
Evidence	86
Service	86
Key statutory provisions	88
Sections 127 to 129 of the Insolvency Act 1986	89
Practice Direction – Order under section 127 of the Insolvency Act 1986	89
Paragraph 9.11 of Part Two of the CPR Practice Direction – Insolvency Proceedings	90
Precedents	91
6.1 Application for a validation order	93
6.2 Draft validation order	96
6.3 Director's witness statement in support of an application for a validation order	98
6.4 Accountant's witness statement in support of an application for a validation order	101
7 APPLICATION TO RESCIND A WINDING-UP ORDER	103
Objective	103
Application	103
Service	103
Court fees	105
Evidence	106
Key statutory provisions	106
Rule 12.59 of, and Schedule 5 to, the Insolvency (England and Wales) Rules 2016	108
Paragraph 9.10 of Part Two of the CPR Practice Direction – Insolvency Proceedings	109
Precedents	
7.1 Application to extend time and rescind the winding up order	110
7.2 Witness statement in support of an application to extend time and rescind the winding up	113
8 WINDING-UP PETITION ON JUST AND EQUITABLE GROUNDS	115
Objective	115
Petition	116
Evidence	118
Court fees	119
Service	119
Advertisement	120
The hearing	121
Key statutory provisions	121
Sections 122(1)(g) and 124 to 125 of the Insolvency Act 1986	121
Rules 7.25, 7.26, 7.28, 7.29 and 7.31 of the Insolvency (England and Wales) Rules 2016	122
Paragraph 22 of Part Seven of the CPR Practice Direction – Insolvency Proceedings	125
Precedent	
8.1 Winding-up petition on just and equitable grounds	126

9 PERMISSION TO ACT AS A DIRECTOR OF A COMPANY WITH A PROHIBITED NAME	131
Objective	132
Application	132
Court fees	132
Evidence	133
Service	134
The first hearing	134
<i>Key statutory provisions</i>	134
Sections 216 and 217 of the Insolvency Act 1986	
Rules 1.6, 1.35 and 22.1 to 22.7 of the Insolvency (England and Wales) Rules 2016	135
<i>Precedents</i>	
9.1 Application for permission to act as a director of a company with a prohibited name	141
9.2 Draft order giving permission to act as a director of a company with a prohibited name	144
9.3 Witness statement in support of an application for permission to act as a director of a company with a prohibited name	145
10 APPLICATION FOR AN ADMINISTRATION ORDER	147
Objective	147
Application	148
Court fees	150
Consent of the proposed administrator	150
The witness statement	150
Service on interested parties	151
The first hearing	152
<i>Key statutory provisions</i>	153
Paragraphs 2, 3, 10 to 15 and 37 to 40 of Schedule B1 to the Insolvency Act 1986	153
Rules 1.6 and 3.3 to 3.15 of, and paragraphs 3 and 6 of Schedule 4 to, the Insolvency (England and Wales) Rules 2016	157
<i>Precedents</i>	
10.1 Administration application notice	165
10.2 Statement of proposed administrator	169
10.3 Witness statement in support of an administration order and to dismiss a winding-up petition	171
10.4 Administration order (dismissing an existing winding-up petition)	175
11 APPLICATION FOR DIRECTIONS BY AN ADMINISTRATOR	177
Objective	177
Application	177
Court fees	177
Evidence	178
Service	178
The first hearing	178
<i>Key statutory provisions</i>	179
Paragraph 63 of Schedule B1 to the Insolvency Act 1986	179
Rules 1.6 and 1.35 of the Insolvency (England and Wales) Rules 2016	179

<i>Precedents</i>	
11.1 Application by the administrator for directions	182
11.2 Witness statement in support of an application for directions	185
11.3 Directions	187
12 APPLICATION BY AN ADMINISTRATOR TO SELL PROPERTY SUBJECT TO SECURITY	189
Objective	189
Application	190
Court fees	190
Evidence	190
Service	191
Order	191
<i>Key statutory provisions</i>	192
Paragraphs 70 to 73 and 111 of Schedule B1 to the Insolvency Act 1986	192
Rules 1.6, 1.35 and 3.49 of the Insolvency (England and Wales) Rules 2016	194
<i>Precedents</i>	
12.1 Application by the administrator for an order permitting the administrator to sell company's property subject to a security	197
12.2 Witness statement in support of an application for order to sell company's property subject to a security	200
12.3 Order permitting the administrator to sell company's property subject to a security	202
13 APPLICATION BY A CREDITOR OR MEMBER ALLEGING UNFAIR HARM BY AN ADMINISTRATOR	205
Objective	205
Application	206
Court fees	206
Evidence	207
Service	207
The first hearing	207
Order	208
<i>Key statutory provisions</i>	208
Paragraph 74 of Schedule B1 to the Insolvency Act 1986	208
Rules 1.6 and 1.35 of the Insolvency (England and Wales) Rules 2016	209
<i>Precedents</i>	
13.1 Application by a creditor complaining that the administrator has unfairly harmed him	212
13.2 Witness statement in support of an application by a creditor complaining that the administrator has unfairly harmed him	215
13.3 Order on an application by a creditor complaining that the administrator has unfairly harmed him	217
14 APPLICATION BY AN ADMINISTRATOR TO END THE ADMINISTRATION	219
Objective	219
Application	220
Progress report	220
Court fees	220
Evidence	220

Notice to the creditors	221
Notice to the court	221
Service	222
The first hearing	222
<i>Key statutory provisions</i>	222
Paragraph 79 of Schedule B1 to the Insolvency Act 1986	
Rules 1.6, 1.35, 3.57, 3.59, 7.26 and 7.27 of the Insolvency (England and Wales) Rules 2016	223
<i>Precedents</i>	
14.1 Application by the administrator to discharge the administration order	227
14.2 Witness statement in support of an application by the administrator to discharge the administration order	230
14.3 Order discharging the administration order	232
15 APPLICATION BY A SECURED CREDITOR TO ENFORCE HIS SECURITY/BRING PROCEEDINGS DURING AN ADMINISTRATION	233
Objective	233
Application	234
Court fees	234
Evidence	234
Service	235
<i>Key statutory provisions</i>	235
Paragraph 43 of Schedule B1 to the Insolvency Act 1986	235
Rules 1.6 and 1.35 of the Insolvency (England and Wales) Rules 2016	236
<i>Precedents</i>	
15.1 Application for leave to enforce despite the moratorium under an administration	239
15.2 Witness statement in support of an application for leave to enforce despite the moratorium under the administration	242
15.3 Order granting leave to enforce despite the moratorium under an administration	244
16 APPLICATION FOR LEAVE TO ENFORCE SECURITY OR SEEK POSSESSION DESPITE A MORATORIUM ON A PARTNERSHIP VOLUNTARY ARRANGEMENT	245
Objective	245
Application	245
Court fees	245
Evidence	246
Service	246
<i>Key statutory provisions</i>	247
Paragraphs 12 and 20 of Schedule A1 to the Insolvency Act 1986	247
Rules 1.6, 1.35 and 2.20 of the Insolvency (England and Wales) Rules 2016	249
<i>Precedents</i>	
16.1 Application for leave to enforce despite the moratorium under the partnership voluntary arrangement	251
16.2 Witness statement in support of an application for leave to enforce despite the moratorium under the partnership voluntary arrangement	254
16.3 Order granting leave to enforce despite the moratorium under the partnership voluntary arrangement	256

17 APPLICATION TO APPEAL DECISIONS MADE BY THE CHAIRMAN ON A MEETING FOR A COMPANY VOLUNTARY ARRANGEMENT	
Objective	257
Application	257
Court fees	257
Service	257
Evidence	258
<i>Key statutory provisions</i>	258
Rules 1.6, 1.35 and 15.33 to 15.35 of the Insolvency (England and Wales) Rules 2016	259
<i>Precedents</i>	
17.1 Application to appeal against a decision by the chairman on a meeting for a company voluntary arrangement	263
17.2 Witness statement in support of an appeal against a decision by the chairman on a meeting for a company voluntary arrangement	266
17.3 Order on an application to appeal against a decision by the chairman on a meeting for a company voluntary arrangement	268
18 APPLICATION TO CHALLENGE AN ACT OR DECISION OF THE SUPERVISOR IN A COMPANY VOLUNTARY ARRANGEMENT	269
Background	269
Application	269
Court fees	269
Evidence	270
Service	270
The respondent's evidence	271
<i>Key statutory provisions</i>	271
Section 7 of the Insolvency Act 1986	271
Rules 1.6 and 1.35 of the Insolvency (England and Wales) Rules 2016	272
<i>Precedents</i>	
18.1 Application to challenge a decision by a supervisor of a company voluntary arrangement	275
18.2 Witness statement in support of an application to challenge a decision by a supervisor of a company voluntary arrangement	278
18.3 Order on an application to challenge a decision by a supervisor of a company voluntary arrangement	280
19 APPLICATION BY AN ADMINISTRATIVE RECEIVER FOR AN INDEMNITY BY REASON OF THE INVALIDITY OF HIS APPOINTMENT	281
Objective	281
Application	281
Court fees	281
Evidence	282
Service	282
<i>Key statutory provisions</i>	283
Section 34 of the Insolvency Act 1986	283
Rules 1.6 and 1.35 of the Insolvency (England and Wales) Rules 2016	283
<i>Precedents</i>	
19.1 Application by a receiver for an order that his appointer indemnify him against liability by reason of the invalidity of his appointment	286

19.2	Witness statement in support of an application by an administrative receiver for an order that his appointer indemnify him against liability by reason of the invalidity of his appointment	289
19.3	Order that his appointer indemnify him against liability by reason of the invalidity of his appointment	291
20	APPLICATION TO REMOVE AN ADMINISTRATIVE RECEIVER FROM OFFICE	293
	Objective	293
	Application	293
	Court fees	294
	Evidence	294
	Service	295
	Notice	295
	<i>Key statutory provisions</i>	295
	Section 45 of the Insolvency Act 1986	
	Rules 1.6, 1.35 and 4.18 to 4.21 of the Insolvency (England and Wales) Rules 2016	295
	<i>Precedents</i>	
	20.1 Application to remove an administrative receiver from office	299
	20.2 Witness statement in support of an application to remove an administrative receiver from office	302
	20.3 Order to remove an administrative receiver from office	304
21	APPLICATION FOR A DECLARATION THAT A TRANSACTION IS INVALIDATED BY VIRTUE OF SECTION 127 OF THE INSOLVENCY ACT 1986	305
	Objective	305
	Application	305
	Court fees	306
	Service	306
	Evidence	306
	The first hearing	307
	<i>Key statutory provisions</i>	307
	Sections 127 to 129 of the Insolvency Act 1986	307
	<i>Precedents</i>	
	21.1 Application for a declaration of invalidity of a transfer pursuant to section 127 of the Insolvency Act 1986	309
	21.2 Witness statement in support of an application for a declaration of invalidity of a transfer pursuant to section 127 of the Insolvency Act 1986	312
	21.3 Declaration of invalidity under section 127 of the Insolvency Act 1986	314
22	APPLICATION TO SET ASIDE A TRANSFER AT AN UNDERVALUE	315
	Objective	315
	Application	315
	Court fees	316
	Evidence	316
	Service	317
	The first hearing	317

	<i>Key statutory provisions</i>	
	Sections 238, 240, 241 and 435 of the Insolvency Act 1986	318
	Rules 1.6 and 1.35 of the Insolvency (England and Wales) Rules 2016	323
	<i>Precedents</i>	
	22.1 Application for a declaration that a payment is a transaction at an undervalue pursuant to section 238 of the Insolvency Act 1986	325
	22.2 Witness statement to set aside a transaction at an undervalue pursuant to section 238 of the Insolvency Act 1986	328
	22.3 Declaration that a payment is a transaction at an undervalue pursuant to section 238 of the Insolvency Act 1986	331
23	APPLICATION TO SET ASIDE A PREFERENCE	333
	Objective	333
	Application	333
	Court fees	334
	Evidence	334
	Service	335
	The first hearing	335
	<i>Key statutory provisions</i>	336
	Sections 239, 240, 241 and 435 of the Insolvency Act 1986	336
	Rules 1.6 and 1.35 of the Insolvency (England and Wales) Rules 2016	341
	<i>Precedents</i>	
	23.1 Application for a declaration that a payment is a preference pursuant to section 239 of the Insolvency Act 1986	343
	23.2 Witness statement to set aside a preference pursuant to section 239 of the Insolvency Act 1986	346
	23.3 Declaration of a preference pursuant to section 239 of the Insolvency Act 1986	349
24	APPLICATION FOR A DECLARATION THAT THE DIRECTOR HAS BEEN ENGAGED IN FRAUDULENT TRADING	351
	Objective	351
	Application	351
	Court fees	352
	Service	352
	The first hearing	353
	Evidence	353
	<i>Key statutory provisions</i>	354
	Sections 213, 215, 246ZA and 246ZC of the Insolvency Act 1986	354
	Rules 1.6 and 1.35 of the Insolvency (England and Wales) Rules 2016	355
	<i>Precedents</i>	
	24.1 Application for a declaration that a director has been engaged in fraudulent trading pursuant to section 216 of the Insolvency Act 1986	358
	24.2 Witness statement for a declaration of fraudulent trading pursuant to section 213 of the Insolvency Act 1986	361
	24.3 Declaration that a director has been engaged in fraudulent trading pursuant to section 213 of the Insolvency Act 1986	363
25	APPLICATION FOR A DECLARATION THAT THE DIRECTOR HAS BEEN ENGAGED IN WRONGFUL TRADING	365
	Objective	365
	Application	366

Court fees	366
Service	367
The first hearing	367
Evidence	368
<i>Key statutory provisions</i>	368
Sections 214, 215, 246ZB and 246ZC of the Insolvency Act 1986	368
Rules 1.6 and 1.35 of the Insolvency (England and Wales) Rules 2016	371
<i>Precedents</i>	
25.1 Application for a declaration that a director has been engaged in wrongful trading pursuant to section 214 of the Insolvency Act 1986	373
25.2 Witness statement for a declaration of wrongful trading pursuant to section 214 of the Insolvency Act 1986	376
25.3 Declaration that a director has been engaged in wrongful trading pursuant to section 214 of the Insolvency Act 1986	378
26 APPLICATION TO SET ASIDE A TRANSACTION DEFRAUDING CREDITORS	379
Objective	379
Claim	379
Court fees	380
Evidence	380
The first hearing	381
Service	382
<i>Key statutory provisions</i>	382
Sections 423 to 425 of the Insolvency Act 1986	382
Rules 1.6 and 1.35 of the Insolvency (England and Wales) Rules 2016	384
<i>Precedents</i>	
26.1 Claim for a declaration that a payment is a transaction defrauding creditors pursuant to section 423 of the Insolvency Act 1986	387
26.2 Particular of claim in support of a claim to set aside a fraudulent transaction pursuant to section 423 of the Insolvency Act 1986	393
26.3 Witness statement to set aside a fraudulent transaction pursuant to section 423 of the Insolvency Act 1986	395
26.4 Declaration that a payment is a transaction defrauding creditors pursuant to section 423 of the Insolvency Act 1986	398
27 APPLICATION UNDER THE SUMMARY PROCEDURE	401
Objective	401
Application	402
Court fees	402
Service	402
The first hearing	403
Evidence	403
<i>Key statutory provisions</i>	404
Section 212 of the Insolvency Act 1986	404
Rules 1.6 and 1.35 of the Insolvency (England and Wales) Rules 2016	405
<i>Precedents</i>	
27.1 Application for a declaration that there has been a breach of duty using the summary remedy under section 212 of the Insolvency Act 1986	407

27.2 Witness statement in support of an application for a declaration that there has been a breach of duty using the summary remedy under section 212 of the Insolvency Act 1986	410
27.3 Declaration that there has been a breach of duty using the summary remedy under section 212 of the Insolvency Act 1986	413
28 PRIVATE EXAMINATIONS	415
Objective	415
Application	416
Court fees	416
Service	417
Witness statement/grounds	417
First hearing	417
Return date	418
Warrant for arrest	418
<i>Key statutory provisions</i>	418
Sections 235 to 237 of the Insolvency Act 1986	418
Rules 1.6, 1.35 and 12.17 to 12.20 of the Insolvency (England and Wales) Rules 2016	420
<i>Precedents</i>	
28.1 Letter requesting documents before an application is made for a private examination	424
28.2 Application for a private examination	427
28.3 Witness statement in support of an application for a private examination	430
28.4 Order for private examination	432
28.5 Warrant for the arrest of the examinee on his failure to attend a private examination	433
29 APPEAL FROM AN ORDER OF AN INSOLVENCY AND COMPANIES COURT JUDGE	435
Objective	435
Appeal notice	435
Court fees	436
Service	436
Respondent's notice	436
Appeal bundle	436
Time limits	436
<i>Key statutory provisions</i>	436
Rules 12.58, 12.59 and 12.61 of, and Schedule 10 to, the Insolvency (England and Wales) Rules 2016	436
Paragraphs 17.1 to 19.3 of Part Four of the CPR Practice Direction – Insolvency Proceedings	441
30 TOOLKIT	445
Issuing proceedings in the Royal Courts of Justice	445
Courts electronic filing – CE-File	445
County court or High Court?	446
Insolvency and Companies Court Judge or High Court Judge?	447
Urgent applications	447
Evidence	447
Bundles	448
Time estimates	449

That practice applied equally where there was said to be a cross-claim which exceeded the petition debt.⁴

By contrast, the mere fact a company is able to pay its debts is no defence to a winding-up petition – although, this may add weight.⁵

WARNING LETTER

Before an application is made for an injunction, a warning letter should be sent to the other side inviting them to give an undertaking not to present a winding-up petition based upon it.

This should be sent in an open letter:

- setting out why the debt is disputed;
- stating that the threat of winding-up proceedings is inappropriate;
- requiring solicitor's undertaking not to present and advertise the petition;
- requiring a solicitor's undertaking to give 3 days' notice prior to presenting the petition;
- giving a costs warning.

The need for the costs warning arises because a wasted costs order may be made against a solicitor who presents a petition knowing it is bona fide contested and fails to advise his client that the petition is an abuse of process.⁶

APPLICATION

If the letter fails to produce a reply or the requisite undertaking, then the company should apply on notice by application against the creditor to a High Court judge to restrain presentation of the winding-up petition. The application can be made without notice if urgent. The application needs to be made to the court which has jurisdiction to wind up the company.⁷ The application needs to be authenticated⁸ by the applicant or its solicitor⁹ and state:¹⁰

⁴ *Global Acquirers Ltd v Laycatelcom LDA* [2014] 7 WLUK 59.

⁵ *Coilcolour v Camtrex* [2015] EWHC 3202 (Ch).

⁶ *Philex v Golban* [1994] BCC 390.

⁷ Rule 7.24(1) of the Insolvency (England and Wales) Rules 2016.

⁸ Authentication is by signature if in hard copy: rule 1.5(2) of the Insolvency (England and Wales) Rules 2016. Electronic documents are sufficiently authenticated if the recipient is satisfied with the identity of the sender: rule 1.5(1). Where the document is authenticated by an individual on behalf of a body corporate, it should state the capacity in which he signs and (if applicable) also state if he is the company's sole member: rule 1.5(3).

⁹ Rule 1.35(3) of the Insolvency (England and Wales) Rules 2016.

¹⁰ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

- that the application is made under rule 7.24 of the Insolvency (England and Wales) Rules 2016;¹¹
- the name of the court in which the application is made;¹²
- the case number;¹³
- the names of the parties;¹⁴
- the name of the company;¹⁵
- the company's registered address;
- if the company is incorporated in England and Wales:
 - the company's registered number;¹⁶
- if the company is incorporated outside the United Kingdom:¹⁷
 - the country in which it is incorporated;
 - the company's registered number in that country;
 - its overseas registered company number under Part 34 of the Companies Act 2006;
- if the company is unincorporated in England and Wales:
 - the company's postal address;¹⁸
 - the name of the office-holder;¹⁹
 - the nature of the office-holder's appointment, e.g. liquidator, administrator;²⁰
 - the nature of the remedy the court is being asked to grant²¹ – here, that the respondent be restrained from presenting a winding-up petition against the company and an order for costs;
 - the names and addresses of the persons on whom the application will be served or on whom notice of the application will be given;²²
 - the address for service of the applicant.²³

¹¹ Rule 1.35(2)(a) of the Insolvency (England and Wales) Rules 2016 provides that it should specify whether the application is either under the Rules or under the Act, and under (b) the applicable section.

¹² Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

¹³ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

¹⁴ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

¹⁵ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

¹⁶ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

¹⁷ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

¹⁸ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

¹⁹ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

²⁰ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

²¹ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

²² Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

²³ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

COURT FEES

Where there are no existing court proceedings, a court fee of £318 is payable.²⁴

SERVICE

Copies of the application and evidence will need to be filed at court²⁵ and, unless the court otherwise directs,²⁶ sealed copies endorsed with the hearing's venue²⁷ served on the respondent as soon as practicable after it is filed and in any event, unless it is necessary to apply without notice or on short notice, at least 3 days before the hearing date.²⁸ Service needs to comply with Part 6 of the CPR.²⁹ Delivery may be proved by certificate in the appropriate form;³⁰ the certificate needs to identify the document served, identify the company in the manner specified under rule 1.6 of the Insolvency (England and Wales) Rules 2016 (e.g. for a company registered in England and Wales, by name, registered office and registered number), the court, the case number and the date of the application.³¹

EVIDENCE

The application should be supported by a witness statement. This will need to address:

- that the application is made under rule 7.24 of the Insolvency (England and Wales) Rules 2016;³²
- the name of the court in which the application is made;³³
- the case number;³⁴
- the names of the parties;³⁵
- the name of the company;³⁶
- the company's registered address;

²⁴ Civil Court Fees Guidance EX50 (May 2025).

²⁵ Applications may be lodged either as hard copy or, where permissible, electronically under rule 1.46 of the Insolvency (England and Wales) Rules 2016. Where they are filed in hard copy, the original must be accompanied by one copy plus a further copy for each party to be served (thus a minimum of three copies): rule 12.7.

²⁶ For example, under rule 12.9(2) or rule 12.10 of the Insolvency (England and Wales) Rules 2016.

²⁷ Rule 12.9 of the Insolvency (England and Wales) Rules 2016.

²⁸ Rule 23.7 of the Civil Procedure Rules 1998 (SI 1998/3132) (CPR).

²⁹ Paragraph 1 of Schedule 4 to the Insolvency (England and Wales) Rules 2016.

³⁰ Rule 1.52 of the Insolvency (England and Wales) Rules 2016.

³¹ Paragraph 6(2) of Schedule 4 to the Insolvency (England and Wales) Rules 2016.

³² Rule 1.35(2)(a) of the Insolvency (England and Wales) Rules 2016 provides that it should specify whether the application is either under the Rules or under the Act, and under (b) the applicable section.

³³ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

³⁴ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

³⁵ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

³⁶ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

- if the company is incorporated in England and Wales:
 - the company's registered number;³⁷
- if the company is incorporated outside the United Kingdom:³⁸
 - the country in which it is incorporated;
 - the company's registered number in that country;
 - its overseas registered company number under Part 34 of the Companies Act 2006;
- if the company is unincorporated in England and Wales:
 - the company's postal address;³⁹
- the name of the office-holder (if any);⁴⁰
- the nature of the office-holder's appointment, e.g. liquidator, administrator;⁴¹
- the nature of the remedy the court is being asked to grant⁴² – here, that the respondent be restrained from presenting a winding-up petition against the company and an order for costs;
- the relationship between creditor and debtor;
- details of why the debt is disputed or of any set-off or cross-claim;
- details of any litigation on the debt;
- particulars of any evidence of the solvency of the company.

The witness statement should exhibit:

- the demand;
- the evidence showing the dispute or set-off;
- any letter or correspondence informing the creditor that the debt is disputed;
- any correspondence on the threatened petition;
- documentary evidence of the solvency of the company, e.g. management accounts, letter from auditors, bank statement showing credit balances.

Care should be taken to ensure that the evidence filed is sufficient to establish the defence, set-off or cross-claim is genuine, serious and of substance.⁴³

³⁷ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

³⁸ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

³⁹ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

⁴⁰ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

⁴¹ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

⁴² Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

⁴³ *Orion Media Marketing Ltd v Media Brook* [2002] 1 BCLC 184, Laddie J.

KEY STATUTORY PROVISIONS

Rules 7.24 and 7.25 of the Insolvency (England and Wales) Rules 2016

Injunction to restrain presentation or notice of petition

- 7.24—(1) An application by a company for an injunction restraining a creditor from presenting a petition for the winding up of the company must be made to a court having jurisdiction to wind up the company.
- (2) An application by a company for an injunction restraining a creditor from giving notice of a petition for the winding up of a company must be made to the court or hearing centre in which the petition is pending.

Interpretation and application of rules in Chapter

7.25.—...

- (2) The following rules apply to petitions under this Chapter presented by a relevant office-holder—

- rule 7.23 (petition dismissed); and
rule 7.24 (injunction to restrain presentation or notice of petition).

Paragraph 3.2 of Part One of the CPR Practice Direction – Insolvency Proceedings

3.2 The following applications relating to insolvent companies should always be listed before a Judge:

- (3) applications for an injunction pursuant to the Court's inherent jurisdiction (e.g. to restrain the presentation or advertisement of a winding up petition) or pursuant to section 37 of the Senior Courts Act 1981 or section 38 of the County Courts Act 1984 but not applications for any order to be made pursuant to the Act or the Rules;

4.1 APPLICATION FOR AN ORDER RESTRAINING THE PRESENTATION OF A WINDING-UP PETITION

Form IAA
Rule 1.35

Insolvency Act Application Notice

See Form IAA-N for guidance notes on how to complete this Form IAA

Insert case number if the court has assigned one

CASE NO: CR-2025-666

For court use

Delete/complete as necessary:

- (a) High Court, London [a]
(b) High Court B&PCs DR [b]
(c) Non-B&PCs DR [c]
(d) County court [d]

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)

Insert name of debtor/bankrupt or company

IN THE MATTER OF BUSTCO LIMITED
AND IN THE MATTER OF THE INSOLVENCY ACT 1986

BETWEEN:

Insert name(s) of applicant(s)

BUSTCO LIMITED

Applicant

AND

Insert name(s) of respondent(s)

ANGRY PLC

Respondent

Delete/complete as applicable

This Application is made under rule 7.24 of the Insolvency (England and Wales) Rules 2016.

Insert required details (name, address, etc) of applicant(s)

The Applicant is:

BUSTCO LIMITED

Insert required details (name, address, etc) of respondent(s)

The Respondent is:

ANGRY PLC, 1 UNPAIDBILL STREET, LONDON

Insert required details of the debtor or company that is the subject of the proceedings

The Application concerns BUSTCO LIMITED

Identify level of judge and court or hearing centre (as per heading)

This Application is made to the Insolvency and Companies Court Judge in the Companies Court, Rolls Building, London

Delete as applicable and if YES, insert the number assigned by the court

Is this Application within existing insolvency proceedings? YES/NO
{The Court reference number for the proceedings to which this Application relates is:—}

The Applicant(s) seeks/seek the following relief [OR Order OR directions]:

1. The Respondent be restrained, whether by itself, or by its employees or agents or otherwise howsoever, from presenting any Petition to this Honourable Court or any Court for the winding up of the above-named Applicant, Bustco Limited based on the debt of £2,045,687.50 claimed in the Statutory Demand dated 24th December 2025 and served on the Applicant on 25th December 2025.
2. And/or such other Order as to this Honourable Court may seem fit.
3. The costs of this Application be paid by the Respondent to the Applicant.

Provide details of basis for application or identify the witness statement made in support

The matters on which the Applicant relies are set out in the Witness Statement of IAN FLAKEY dated 1st April 2026, a true copy of which is served herewith.

Insert names, addresses of those on whom the application is to be served (if any)

The names and addresses of the persons on whom it is intended to serve this Application are:

ANGRY PLC, 1 UNPAIDBILL STREET, LONDON
[OR: It is not intended to serve any person with this Application.]

Insert names, addresses of those to whom notice of the application is to be given (if any)

~~The names and addresses of the persons to whom it is intended to deliver notice of this Application are:~~
~~[-]~~
[OR: It is not intended to serve any person with this Application.]

This is the address that the court will use for all communications to the applicant until notified otherwise in writing

The address for service of the Applicant is:

WINGITT & FUDGE
1 LAW STREET
LONDON
Tel: 0207 999 9999
Email: Law@wingitt&fudge.com

If the application is authenticated by the sole member of a body, this fact and the body in question must be identified

Dated 20..
Signed
[Solicitor for] The Applicant
Name
[Position Held]

For court use
(Where the application is issued by e-filing, the endorsement will normally be on the front of the application, beneath the seal)

Endorsement by the Court
This Application was issued by the Court on and will be heard at:

Place

Date

Time

Insert address of court in which application is to be issued

This Application was issued at [the Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL]

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www.pbookshop.com

4.2

WITNESS STATEMENT IN SUPPORT OF AN APPLICATION FOR AN ORDER RESTRAINING THE PRESENTATION OF A WINDING-UP PETITION

Applicant: I Flakey: 1st: IF1: [] 20[]

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (CHD)

NO: [] OF 20[]

IN THE MATTER OF BUSTCO LIMITED, REGISTERED NUMBER 66666
AND IN THE MATTER OF THE INSOLVENCY ACT 1986

BETWEEN:

BUSTCO LIMITED

Applicant

and

ANGRY PLC

Respondent

1ST WITNESS STATEMENT OF IAN FLAKEY

I, IAN FLAKEY, of Geranium Cottage, London, Company Director, STATE as follows:

1. I am the managing director of the Applicant Company and I am duly authorised to make this Witness Statement on its behalf.
2. I make this Witness Statement in support of the Company's Application to restrain the presentation of a Winding-up Petition against it.
3. I have prepared an initial draft of this Witness Statement which has been finalised with the assistance of my Solicitor based on a telephone call between us.
4. The matters set out in this Witness Statement are true and within my own knowledge except where otherwise indicated, in which case I have explained the source of my information or belief.
5. There is now produced and shown to me a bundle consisting of true copies of the documents I will refer to in my Witness Statements marked 'IF1'.
6. On 25th December 2025, my Company was served at its registered office with a Statutory Demand by Angry plc claiming £2,045,687.50 based on an invoice for goods they say were sold and delivered to my Company. I refer to page [] of 'IF1' which is a true copy of the Statutory Demand.
7. The Applicant Company made no such order and was never delivered any such goods. I refer to page [] of 'IF1' which is a true copy of the Applicant's records for purchases and deliveries for the periods alluded to by Angry plc.

8. On 26th December 2025, my Solicitors, Silk & Co, wrote to Angry plc explaining the basis on which the alleged debt is disputed and inviting them to give appropriate undertakings not to present a Petition against my Company. They warned that any Petition would be an abuse of process as the debt was disputed. I refer to page [] of 'IF1' which is a true copy of my Solicitor's letter.
9. On 27th December 2025, Gustav Grim of Angry plc telephoned me and said "You're a bunch of crooks. Your Solicitors don't scare me. If you don't pay me immediately, I'm going to wind your Company up". I refer to page [] of 'IF1' which is a true copy of my note of this conversation.
10. Bustco Limited is a profitable Company and is able to pay its debts as they fall due. I refer to page [] of 'IF1' which is a true copy of a letter from my Company's accountant, Derek Devious, setting out the Company's latest accounts and confirming the Company's solvency.
11. Bustco Limited operates in a small marketplace in which having a reputation for financial stability is of crucial importance. Presentation of a Winding-up Petition would cause irreparable damage to our reputation and our ability to trade. I fear that unless restrained by this Honourable Court, Angry plc intends to present a Winding-up Petition against my Company.

STATEMENT OF TRUTH

I believe that the facts stated in this Witness Statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a Statement of Truth without an honest belief in its truth.

Signed []

Full name [IAN FLAKEY]

Dated [] 20[]

4.3 DRAFT MINUTE OF AN ORDER MADE WITHOUT NOTICE⁴⁴ RESTRAINING THE PRESENTATION OF A WINDING-UP PETITION

Injunction

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)

NO: [] OF 20[]

IN THE MATTER OF BUSTCO LIMITED, REGISTERED NUMBER 66666
AND IN THE MATTER OF THE INSOLVENCY ACT 1986

BEFORE THE HONOURABLE MR JUSTICE []
DATED: [] 20[]

BETWEEN:

BUSTCO LIMITED

Applicant

and

ANGRY PLC

Respondent

Name, address and reference of the Respondent:
Angry plc of 1 Unpaidbill Street, London

PENAL NOTICE

IF YOU ANGRY PLC DISOBEY THIS ORDER YOU MAY BE HELD IN CONTEMPT OF COURT AND YOU MAY BE FINED OR HAVE YOUR ASSETS SEIZED.

ANY PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE RESPONDENT TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.

ORDER

UPON HEARING Counsel for the Applicant without notice on [] 20[]

UPON READING the Witness Statement of Ian Flakey dated [] 20[]

AND UPON the Judge accepting the Undertakings in the Schedule at the end of this Order

⁴⁴ The application should only be made on a without notice basis in cases of great urgency. The court will usually only grant a temporary injunction until an *inter partes* hearing can be heard, however, and the applicant will be required to make full and frank disclosure in his evidence. This precedent may be conveniently adjusted for an *inter partes* hearing. In such cases, the requirements for undertakings will be less stringent.

IT IS ORDERED:

1. That the Respondent be restrained until [date of new hearing] or further Order of this Honourable Court, whether by itself, or by its employees or agents or otherwise howsoever, from presenting any Petition to this Honourable Court or any Court for the winding up of the above-named Applicant, Bustco Limited, based on the debt of £2,045,687.50 claimed in the Statutory Demand dated 24th December 2025 and served on the Applicant on 25th December 2025.
2. That the Respondent may apply on giving 24 hours' notice in writing to the Applicant's legal representatives to vary or discharge this Order.
3. Costs reserved.

COMMUNICATIONS WITH THE COURT

All communications to the Court about this Order should be sent to:

The Senior Associate, Fifth Floor, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL, quoting the case number. The telephone number is 0207 947 6733.

The office is open between 10 am and 4.30 pm Monday to Friday.

SCHEDULE 1

Undertakings given to the Court by the Applicant:

1. If the Court later finds that this Order has caused loss to the Respondent and decides that the Respondent should be compensated for that loss, the Applicant will comply with any Order the Court may make; and
2. The Applicant will cause a Witness Statement to be filed confirming the substance of what was said to the Court by the Applicant's Counsel; and
3. As soon as practicable the Applicant will serve on the Respondent an Application for a return date together with a copy of the Witness Statements and exhibits containing the evidence relied on by the Applicant.
4. Anyone notified of this Order will be given a copy of it by the Applicant's legal representatives.

SERVICE OF THIS ORDER

The Court has provided a sealed copy of this Order to the serving party:

SILK & CO
2 LAW STREET
LONDON

of solvency.⁷ On a without notice application to restrain advertisement a company was additionally required to put in evidence of solvency, if only to answer the question whether it could pay the petition debt if obliged to do so.

The application needs to be made promptly, given that the petitioner must advertise the petition, unless the court otherwise directs, not less than 7 business days after the date of service but not less than 7 business days before the day fixed for the hearing.⁸

WARNING LETTER

Before an application is made for an injunction, a warning letter should be sent to the other side inviting them to give an undertaking not to advertise and proceed further on their winding-up petition. This should be sent in an open letter:

- setting out why the debt is disputed;
- stating that winding-up proceedings are inappropriate;
- requiring a solicitor's undertaking not to proceed further and advertise the petition;
- requiring a solicitor's undertaking to take steps to withdraw the petition;
- giving a costs warning;
- stating that if the solicitor is not prepared to give the undertaking it will be the company's intention to apply for an injunction in those terms;
- requiring, if those circumstances apply, a solicitor's undertaking not to proceed further and advertise the petition until that hearing takes place.

The need for the costs warning arises because a wasted costs order may be made against a solicitor who presents a petition knowing it is bona fide contested and fails to advise his client that the petition is an abuse of process.⁹

APPLICATION

If the warning letter fails to produce a reply or the requisite undertaking, then the company applies on notice by application against the creditor to the judge to restrain advertisement of the winding-up petition. The application needs to be made to the court in which the petition is pending.¹⁰

⁷ *Re Company (No 007923 of 1994)* [1995] 1 WLR 953.

⁸ Rule 4.11(1) of the Insolvency (England and Wales) Rules 2016.

⁹ *Philex v Golban* [1994] BCC 390.

¹⁰ Rule 7.24(2) of the Insolvency (England and Wales) Rules 2016.

The application can be made without notice if urgent. It needs to be made to the court which has jurisdiction to wind up the company.¹¹ It needs to be authenticated¹² by the applicant or its solicitor¹³ and state:¹⁴

- that the application is made under rule 7.24 of the Insolvency (England and Wales) Rules 2016;¹⁵
- the name of the court in which the application is made;¹⁶
- the case number;¹⁷
- the names of the parties;¹⁸
- the name of the company;¹⁹
- the company's registered address;
- if the company is incorporated in England and Wales:
 - the company's registered number;²⁰
- if the company is incorporated outside the United Kingdom:²¹
 - the country in which it is incorporated;
 - the company's registered number in that country;
 - its overseas registered company number under Part 34 of the Companies Act 2006;
- if the company is unincorporated in England and Wales:
 - the company's postal address;²²
- the name of the office-holder;²³
- the nature of the office-holder's appointment, e.g. liquidator, administrator;²⁴

¹¹ Rule 7.24(1) of the Insolvency (England and Wales) Rules 2016.

¹² Authentication is by signature if in hard copy: rule 1.5(2) of the Insolvency (England and Wales) Rules 2016. Electronic documents are sufficiently authenticated if the recipient is satisfied with the identity of the sender: rule 1.5(1). Where the document is authenticated by an individual on behalf of a body corporate, it should state the capacity in which he signs and (if applicable) also state if he is the company's sole member: rule 1.5(3).

¹³ Rule 1.35(3) of the Insolvency (England and Wales) Rules 2016.

¹⁴ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

¹⁵ Rule 1.35(2)(a) of the Insolvency (England and Wales) Rules 2016 provides that it should specify whether the application is either under the Rules or under the Act, and under (b) the applicable section.

¹⁶ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

¹⁷ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

¹⁸ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

¹⁹ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

²⁰ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

²¹ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

²² Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

²³ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

²⁴ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

- the nature of the remedy the court is being asked to grant²⁵ – here, that the respondent be restrained from advertising the winding-up petition against the company and an order for costs;
- the names and addresses of the persons on whom the application will be served or on whom notice of the application will be given;²⁶
- the address for service of the applicant.²⁷

COURT FEES

Where the application is made for determination by the court in existing proceedings, a court fee of £112 is payable.²⁸ Where the application is made by consent, a court fee of £30 is payable.²⁹

SERVICE

Copies of the application and evidence will need to be filed at court³⁰ and, unless the court otherwise directs,³¹ sealed copies endorsed with the hearing's venue³² served on the respondent as soon as practicable after it is filed and in any event, unless it is necessary to apply without notice or on short notice, at least 3 days before the hearing date.³³ Service needs to comply with Part 6 of the CPR.³⁴ Delivery may be provided by certificate in appropriate form;³⁵ the certificate needs to identify the document served, identify the company in the manner specified under rule 1.6 of the Insolvency (England and Wales) Rules 2016 (e.g. for a company registered in England and Wales, by name, registered office and registered number), the court, the case number and the date of the application.³⁶

²⁵ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

²⁶ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

²⁷ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

²⁸ Civil Court Fees Guidance EX50 (May 2025).

²⁹ Civil Court Fees Guidance EX50 (May 2025).

³⁰ Applications may be lodged either as hard copy or, where permissible, electronically under rule 1.46 of the Insolvency (England and Wales) Rules 2016. Where they are filed in hard copy, the original must be accompanied by one copy plus a further copy for each party to be served (thus a minimum of three copies): rule 12.7 of the Insolvency (England and Wales) Rules 2016.

³¹ For example, under rule 12.9(2) or rule 12.10 of the Insolvency (England and Wales) Rules 2016.

³² Rule 12.9 of the Insolvency (England and Wales) Rules 2016.

³³ Rule 23.7 of the CPR.

³⁴ Paragraph 1 of Schedule 4 to the Insolvency (England and Wales) Rules 2016.

³⁵ Rule 1.52 of the Insolvency (England and Wales) Rules 2016.

³⁶ Paragraph 6(2) of Schedule 4 to the Insolvency (England and Wales) Rules 2016.

WITHOUT NOTICE

Given that advertisement may take place any time after the 7th day after service, an undertaking should immediately be sought not to advertise the petition until the application is heard. If the petitioner fails to give this undertaking, the application should be made without notice.

EVIDENCE

The application should be supported by a witness statement. This will need to address:

- that the application is made under rule 7.24 of the Insolvency (England and Wales) Rules 2016;³⁷
- the name of the court in which the application is made;³⁸
- the case number;³⁹
- the names of the parties;⁴⁰
- the name of the company;⁴¹
- the company's registered address;
- if the company is incorporated in England and Wales:
 - the company's registered number;⁴²
- if the company is incorporated outside the United Kingdom:⁴³
 - the country in which it is incorporated;
 - the company's registered number in that country;
 - its overseas registered company number under Part 34 of the Companies Act 2006;
- if the company is unincorporated in England and Wales:
 - the company's postal address;⁴⁴

³⁷ Rule 1.35(2)(a) of the Insolvency (England and Wales) Rules 2016 provides that it should specify whether the application is either under the Rules or under the Act, and under (b) the applicable section.

³⁸ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

³⁹ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

⁴⁰ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

⁴¹ Rule 1.35(2) of the Insolvency (England and Wales) Rules 2016.

⁴² Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

⁴³ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.

⁴⁴ Rule 1.6 of the Insolvency (England and Wales) Rules 2016.