

Guidance Notes for the Applicant in filling out Form IAA: Insolvency Act Application Notice

- 1 An application notice in the Form IAA (with such changes as seem appropriate or necessary in each case) should be used in all insolvency applications **other than** an application for an administration order or winding up petition or bankruptcy petition: Insolvency (England and Wales) Rules 2016, SI 2016/1024 (“IR 2016”), r 1.35(a). Under the old Insolvency Rules 1986, SI 1986/1925, rules 7.1, 7.3, 12A.30 and Schedule 4, any application made to the court in insolvency proceedings (with a couple of exceptions) had to be made using the standard prescribed form: Form 7.1A. Under the Insolvency (England and Wales) Rules 2016 (in force from 6 April 2017), all prescribed forms as required under the former rules have been abolished (save as permitted under paragraph 15 of Schedule 2 to the IR 2016 or in relation to an interlocutory application within an existing application or petition to which paragraph 14 of Schedule 2 to IR 2016 relates). In their place IR 2016 set out prescribed information, which should be set out in the form and the order required, unless circumstances require a departure from those requirements or the departure (whether or not intentional) is immaterial: IR 2016, rr 1.8 and 1.9(1).
- 2 IR 2016, r 1.8(1) states that any title to a document required by a rule must appear at the beginning of the document. Although there is no strict requirement (under IR 2016 r 1.35 or elsewhere) that an application notice be headed “Application” or “Insolvency Act Application” it is advisable to include this.
- 3 If the proceedings have already been allocated a case number by the court or hearing centre, then insert this number at the top right corner (see IR 2016 r 1.6(1), Table (v), and r 1.35(2)(f)); otherwise leave blank. See also below (Note 17).
- 4 State the full name of the court (and where appropriate the division or district registry) or hearing centre where the application is made: see IR 2016, rule 1.6(1), Table (u), and r 1.35(2)(e). There are essentially four options: in the Business and Property Courts of England and Wales (i.e. in the High Court in London at the Rolls Building); in one of the B&PCs District Registries; in one of the remaining District Registries having Chancery jurisdiction that are not within the B&PCs; in the County Court. For headings of court documents in insolvency proceedings generally, see paragraphs 4.1 to 4.2 of the Civil Procedure Rules Practice Direction on Insolvency Proceedings (“PDIP”); but NB, this Practice Direction is currently out of date and until amended needs to be treated with caution; where it conflicts with the Insolvency (England and Wales) Rules 2016, the latter are to be followed. If proceedings are being issued through e-filing (as in the Rolls Building in London) the court will usually endorse the front of the application electronically (immediately below the stamp in the top right-hand corner) so sufficient space should be left to accommodate this; if it is being issued elsewhere, the endorsement will be entered by hand (usually in the box at the end: see below, Note 20).
- 5 Insert the full name of the debtor/bankrupt or the company in relation to which the proceedings are being brought: see paragraph 4.2 of the Civil Procedure Rules Practice Direction on Insolvency Proceedings and compare with IR 2016, r 1.6(1), Table (s) or (t), and r 1.35(2)(d), on which see further below (Note 9).
- 6 The names of the parties should be inserted in the heading of the application, although not every application will necessarily have a named respondent: see paragraph 4.2 of the Civil

Procedure Rules Practice Direction on Insolvency Proceedings and compare with IR 2016, r 1.35(2)(c); but see also below (Note 8).

- 7 The application notice must state the section of or the paragraph of the Schedule to the Insolvency Act 1986, or (as the case may be) the rule of IR 2016, under or pursuant to which the application is being brought: IR 2016, r 1.35(2)(a)–(b).
- 8 The application notice must identify, by name and address, the parties to the application: IR 2016, r 1.35(2)(c) — although not every application will necessarily have a named respondent. It is important to note the following details are required or desirable:
 - (a) If an applicant or respondent is an office-holder, the application notice must state the nature of the appointment held by the office-holder and their postal address and either an email address or a telephone number through which the office-holder may be contacted: IR 2016, r 1.6(1), and Table (o)–(r).
 - (b) If an applicant or respondent is the debtor/bankrupt, the application notice must state his or her full name and (subject to any order made under part 20 of IR 2016) residential address: IR 2016, r 1.6(1), Table (a)–(b) and (m)–(n).
 - (c) If an applicant or respondent is the company that is the subject of the proceedings, the following details must be included (see IR 2016, r 1.6(1), Table (c)–(g)):
 - (i) (where registered) its registered name and (if incorporated in England and Wales under the Companies Act 2006 or its predecessors) its registered number or (if incorporated outside the UK) the country or territory in which it was incorporated, the number, if any, under which it is registered and the number, if any, under which it is registered as an overseas company under Part 34 of the Companies Act 2006, or
 - (ii) (in the case of an unregistered company) the name of the company and the postal address of any principal place of business.
 - (d) If an applicant or respondent is any other company, insert the relevant details as set out in Note 10 above: IR 2016, r 1.6(1) and Table (h)–(l).
 - (e) It will usually be desirable to add brief details of the connection of the Applicant and the Respondent with the proceedings and/or with the debtor/bankrupt or insolvent company to which the proceedings relate and/or with the subject matter of the application, especially where this goes to the Applicant's right, capacity or standing to make the application.
- 9 It is necessary to identify (again) and provide full details for the debtor/bankrupt or company that is the subject of the proceedings, providing the full details referred to above (in Note 8(b) or (c)): IR 2016, rr 1.35(d) and 1.6(1), Table (s), (t). Where these details have already been provided (because the subject of the proceedings is a party: see Note 8 above), it will suffice simply to refer to that.
- 10 There is no longer a strict requirement under IR 2016 to state the level of judge in the application notice itself, but it is recommended that the Applicant do so. Other than in exceptional cases, this will be the Registrar (in the High Court in London) or the District Judge (in a District Registry or the County Court).
- 11 The rules stipulate that the application notice must identify the court or hearing centre: IR 2016, rr 1.35(2)(e) and 1.6(1), Table (u). Strictly speaking, as long as the court or hearing centre is identified in the heading of the application notice (see Note 2 above) there is no

absolute requirement to repeat it in this paragraph. However, IR 2016, r 1.8(2) requires the prescribed information to be given in the order set out in the relevant rule (in this case, r 1.35(2)), so that it would be wise to do so.

- 12 Where the proceedings are already before the court and the court has assigned a court number, it is advisable to repeat it in the body of the application, where indicated (in accordance with IR 2016, rr 1.35(2)(f) and 1.6(1), Table (v), when read in conjunction with r 1.8(2)).
- 13 Enter the relief or the directions that the Applicant seeks, together with a broad explanation as to the basis on which the Applicant claims to be entitled to such relief: IR 2016, r 1.35(2)(g).
- 14 It may be necessary to provide further information. Various rules under IR 2016 and some sections of or paragraphs of Schedules to the Insolvency Act 1986 as well as certain practice directions prescribe other matters that need to be set out. These should be inserted into the body of the application notice and, where the requirements are set out sequentially in a rule, they should be provided in that order where possible: IR 2016, r 1.8.
- 15 It is not always necessary to provide evidence in support of the application at the time of issuing, although some applications are required to be supported by evidence. Where such evidence is supplied it should be in form of a witness statement (unless the applicable rules, practice direction or an act provide otherwise: in some instances a report will suffice, in others an affidavit is required): IR 2016, r 12.28(1). Where evidence in support is not filed with the application notice, unless the Insolvency Act 1986 or IR 2016 provide otherwise, if the Applicant intends to rely on evidence at the first hearing that evidence must be filed (and where required, served) not less than 14 days before the date fixed for the hearing: IR 2016, r 12.28(2).
- 16 Provide the name and address of anyone on whom the application should be served: IR 2016, r 1.35(2)(h).
- 17 Provide the name and address of anyone to whom notice of the application should be given: IR 2016, r 1.35(2)(i).
- 18 Provide the Applicant's address for service: IR 2016, r 1.35(2)(j). This is the address that the court will treat as the Applicant's address for service and all other communications from the court until and unless the Applicant informs the court otherwise in writing. It is advisable, in addition, to provide a telephone number and email address at which the Applicant may be contacted by the court.
- 19 The application notice must be authenticated by or on behalf of the Applicant or the Applicant's solicitor: IR 2016, r 1.35(3); it is sufficiently authenticated if, in the case of a hard-copy document, it is signed (IR 2016, r 1.5(2)), or in the case of an electronic document it must identify the sender in a manner specified by the recipient or, absent such specification, state the identity of the sender and the recipient has no reason to doubt the truth of that statement (IR 2016, r 1.5(1)). If authenticated by the signature of an individual on behalf of a body or persons, the document must state the position of that individual in relation to the body: IR 2016, r 1.5(3)(a). If authenticated by the signature of an individual on behalf of a body corporate of which the individual is the sole member, the document must state this fact: IR 2016, r 1.5(3)(b).
- 20 It is advisable to include a box or space for the court's endorsement (there is no such requirement for an application notice under IR 2016, in contrast to winding-up petitions) but

the court will need to endorse the application notice with the details of the first hearing. Where the application is issued through e-filing (as in the Rolls Building) this will generally be done electronically on the face of the application notice (see above Note 4).

- 21 Although not a strict requirement under IR 2016, it is advisable to include a warning in the application notice to the effect that if the recipients of the application do not attend court, the court may make an order in their absence. It may be omitted where IR 2016 permit that the application need not be served on or notice delivered to any other person and it is not intended to serve it on or give notice of it to any other person.
- 22 Again, although there is no requirement under IR 2016 to include the court's address, by analogy with the Civil Procedure Rules it is strongly advisable to do so.