

COVID – 19 GUIDANCE MASTERS' COURTS

BANKRUPTCY AND COMPANIES

13 March 2023

The work of the **Bankruptcy and Companies Master** will continue in accordance with the arrangements and procedures set out below.

This guidance replaces the guidance for Bankruptcy and Companies Masters Courts that was published on 19 August 2022.

KEY CHANGES TO PREVIOUS GUIDANCE

- **Arrangements for listing Creditors' Winding up Petitions.**

NEW BUSINESS

APPLICATIONS

1. As far as it is reasonably practicable to do so, new applications will be allocated a return date upon filing and progressed within normal timescales.
2. Applications will, in general, be considered in the first instance on paper and standard directions given where appropriate. **Parties must not attend Court unless directed to do so.**
3. Parties should collaboratively (where possible) complete and file Form BANKCI1 (using the updated version) which is to be filed by secure email to bankruptcyoffice@courtsni.gov.uk at **least 5 days** before the court date. The subject line of the email should state "**Bankruptcy and Companies Master's Court [Administrative] for [insert date]**". The form should reflect any agreed directions, or submissions in relation to directions not agreed and, if relevant, confirming if and how service has been effected. Forms must be submitted in advance of all administrative reviews. Where no form is submitted, the court will make whatever order it sees fit. The current **Form BANKCI1** can be accessed [here](#).
4. When serving any application or other statutory process on a private individual, the moving party **must**, in the interests of justice, include a copy of this guidance along with advice to the individual as to how to access online the latest

notices and directions from the Office of the Lord Chief Justice in relation to the coronavirus pandemic.

PETITIONS

Creditors' Bankruptcy Petitions (Non- Crown)

5. New creditors' bankruptcy petitions which meet the criteria set out below may be presented from **Monday 5th September 2022**.

Criteria

- (i) The petition debt is grounded on a court judgment, decree or other *similar* court order (i.e., Certificate of Taxation, Tribunal Award). The relevant court order **MUST** accompany the petition for checking by court staff when the petition is presented; **AND**
- (ii) The petition is grounded on a statutory demand dated and served on or after **1st June 2022**. **For the sake of absolute clarity, the debt referred to in the demand must also be grounded on a judgment, decree or other similar court order.**

Petitions that do not comply with the above will not be accepted by the court office.

HEARINGS

6. The petitions will be heard remotely each Friday in 15-minute time slots. Only one petition will be heard in each time slot (unless connected petitions are involved). Where a practitioner presents multiple petitions, no more than three may be listed on the same date.

Creditors' Bankruptcy Petitions (Crown)

7. New Crown creditors' bankruptcy petitions may also be presented as and from **Monday 5th September 2022**, and they will be accepted on the same basis as prior to the pandemic. The petitions will be heard remotely each Monday and Wednesday in 15-minute time slots. Only one petition will be heard in each time slot (unless connected petitions are involved).

8. It is every petitioner's responsibility to supply to the parties the link for the hearing. The relevant Certificate of continuing debt under r. 6.022 of the Insolvency Rules (Northern Ireland) 1991 should be sent by secure email to bankruptcyoffice@courtsni.gov.uk on the morning of the hearing. The subject line of the email should read **"Bankruptcy and Companies Master's Court for [insert date]"**.

9. Other creditors intending to appear on the hearing of a Creditor's petition must give notice in accordance with r.6.020 of the Insolvency Rules (Northern Ireland) 1991 (see form 6.21) and should make a request by email to bankruptcyoffice@courtsni.gov.uk to be joined to the remote hearing.

10. A Form 6.20 (Notice of Intention to Oppose) should be filed by or on behalf of a debtor in advance of the remote hearing if the individual wishes to avoid a bankruptcy order being made against them. This should be sent by secure email to bankruptcyoffice@courtsni.gov.uk in advance of the hearing. The subject line of the email should read "**Bankruptcy and Companies Master's Court for [insert date]**".

11. In the event that a petition is incapable of being heard on the return date due to lack of service, the remote hearing may be vacated and any application for substituted service and/or a new venue dealt with administratively. It will be the solicitor's responsibility to email the Court to request this. The subject line of the email should read "**Bankruptcy and Companies Master's Court for [insert date]**". A stamped copy of the relevant Ordinary Application should be included with the email.

12. Final orders will only be made on foot of petitions where the Master is satisfied that it is right and just in all the circumstances to do so.

Debtors' petitions

13. These continue to be dealt with on the papers unless the court directs otherwise.

Directors' petitions

14. These continue to be dealt with on the papers unless the court directs otherwise.

Supervisors' and Administrators' petitions for winding up or bankruptcy.

15. The presentation of the petition must be accompanied by a completed HR1 form which should be emailed to bankruptcyoffice@courtsni.gov.uk. The subject line of the email should state "**Bankruptcy and Companies Master: request for hearing**". Upon receipt of the form and petition, the Master will allocate a date and time for a remote hearing in the case.

Ex parte petitions under the Administration of Insolvent Estates of Deceased persons Order (Northern Ireland) 1991

16. These continue to be dealt with on the papers.

Creditors' petitions under the Administration of Insolvent Estates of Deceased persons Order (Northern Ireland) 1991

17. See: Creditors' bankruptcy petitions above.

Creditors' winding up petitions.

18. New creditors' winding up petitions which meet the criteria set out below may be presented from **Monday 17th April 2023**.

Criteria

(i) The petition is in the new form contained within the provisions of The Insolvency (Amendment) Rules (Northern Ireland) 2023; **AND**

(ii) The subject debt, both at the formal demand and petition stage, arises from a court judgment, decree or other court similar court order (e.g., a Certificate of Taxation, Tribunal Award). The relevant court order **MUST** accompany the petition for checking by court staff when the petition is presented. This requirement, however, does not apply to HMRC petitions as the subject liability is determined in law by the relevant tax legislation (i.e. by operation of statute); **AND**

(iii) The petition is grounded on a formal demand made on or after the date of this Notice.

Petitions which do not comply with the above will not be accepted by the court office.

19. When serving any such demand, the moving party **must**, in the interests of justice, include a copy of this guidance along with advice to the company as to how to access online the latest notices and directions from the Office of the Lord Chief Justice in relation to the coronavirus pandemic.

Hearings

Creditors' Winding up Petitions (Non Crown)

20. The petitions will be heard remotely on **Thursday** mornings (during term time) in 15 minute time slots. Only one petition will be heard in each time slot. Where a practitioner presents multiple petitions, no more than three may be listed on the same date.

Creditors' Winding up Petitions (Crown)

21. For the time being petitions will be heard remotely on **Monday** mornings (during term time). A number of petitions will be listed in each time slot. Parties should

ensure that they join WebEx at the stated time on the invitation, so they are available when required.

22. It is each petitioner's responsibility to supply to the parties the link for the hearing.

23. The relevant Certificate of Compliance with the Rules should be sent by secure email to bankruptcyoffice@courtsni.gov.uk in accordance with the relevant timescale. The subject line of the email should read **"Bankruptcy and Companies Master's Court for [insert date]"**.

24. In the event that a petition is incapable of being heard on the return date due to lack of service and/or advertisement, or the company has entered into a moratorium, the remote hearing may be vacated and converted to an administrative hearing using the BANK CI 1 form. It will be the solicitor's responsibility to email the Court to request this. The subject line of the email should read **"Bankruptcy and Companies Master's Court for [insert date]"**.

25. Final orders will only be made on foot of petitions where the Master is satisfied that it is right and just in all the circumstances to do so.

CONTESTS

26. In the event that the parties cannot agree a position and there is a need for the matter to be resolved by the Court, the Master will (if circumstances and/or IT arrangements permit) facilitate a hearing via one of the following options:

- a. Remote Hearing (using Sightlink or WebEx)
- b. Live Hearing
- c. Hybrid Hearing (partly remote /partly live)

27. Where the Master determines that a contested application will be dealt with via a remote, live or hybrid hearing, the party who issued the application will be responsible for providing the Court with case management directions and a complete electronic trial bundle. [Practice Direction 2 /2022](#) (Submission and Format of E-Bundles) sets out the requirements for the submission of electronic bundles.

PUBLIC AND PRIVATE EXAMINATIONS

28. Public and Private Examinations will be listed either remotely or in person as the Master deems appropriate in all the circumstances.

COMPANIES' APPLICATIONS

29. Applications for **extension of time to register company charges** continue to be listed for paper determination by the Court. There will be **no appearances** by any party. The Court will order a hearing only where, on considering the application on paper, it considers it necessary to do so. The requirement to produce the original charge is waived in this period and evidence of solvency will be accepted by secure email to bankruptcyoffice@courtsni.gov.uk. The subject line of the email should state **"Bankruptcy and Companies Master's Court [Administrative] for [insert date]"**.

30. Applications for the **restoration of companies to the register** continue to be listed for a paper determination by the Court. There will be **no appearances**. Practitioners will, however, have to include evidence in the application of any prior insolvency of the Company for the purpose of the paper determination. The Court will order a hearing only where, on considering the application on paper, it considers it necessary to do so.

31. Applications for **rectification of the companies register** and to extend the term of an administration will, for the time being, continue to be listed for a paper determination by the Court. There will be **no appearances**. The Court will order a hearing only where, on considering the application on paper, it considers it necessary to do so.

GENERAL

Public Health Guidance

32. Guidance published by the Lady Chief Justices Office regarding remote, in person and hybrid attendance at court can be accessed [here](#). The Master will continue to decide whether participants in any case should attend a hearing remotely or in-person applying the "interests of justice" test in light of all the circumstances of the case.

Forms

33. Practitioners should, as far as possible, collaboratively complete and submit forms in accordance with the specified timelines. The form should also be used to vacate a matter which has been allocated a time slot for a remote hearing which subsequently is not required. In that event, the office should be notified as soon as possible. Practitioners should ensure that they are using the correct form for the business area and that they are using the most up to date version of the form.

Case Tracking

34. It is the solicitor's responsibility to track the progress of their case and view court orders via the ICOS Case Tracking Online (ICTO) system. However, it is clear that some practitioners are failing to do so. In some cases, it is also being assumed that no order was made if it is not reflected on ICOS on the same day as the case. It is important to note that due to pressure on staff and resources some orders may not necessarily show on the system on the date upon which they are made. It is therefore essential that parties continue to check for orders beyond that date. Special attention should also be paid to the terms of orders made as some contain a provision that the order is to be served by one party on another.

Final Orders

35. Final orders will only be made where the Master is satisfied that either the parties have agreed such an order, or that it is right and just in all the circumstances to do so. If the Master has any concerns whatsoever about prejudice and the fairness of the process she will simply adjourn the case. Solicitors should check ICOS for the status of their case or contact the Bankruptcy Office. bankruptcyoffice@courtsni.gov.uk

Affidavits

36. Sworn affidavits must be filed unless the Master directs otherwise.

Urgent Business

37. The Master will continue to expedite the listing of urgent business where genuine urgency is demonstrated.

Costs Sanctions

38. Practitioners are reminded of the court's power to impose procedural penalties and costs sanctions where appropriate. This can include, inter alia, failure to adhere to the rules of court, failure to adhere to previous directions from the Master and failure to adhere to the protocol for creditor's winding up and bankruptcy petitions contained in this guidance.