

Statutory Demand Bankruptcy - Individual



This document is used in relation to individuals and non-incorporated firms. On service of the document they have only 21 days to respond prior to the creditor presenting a bankruptcy petition (without prior judgment) subject to the value of the debt being £750 or more and undisputed.

a) You must serve the document at the debtor's premises by handing it to him or any one over the age of 16 on his premises on any day other than a Sunday.

Keep a note of the day, date and time you effect service and if possible the name of the person you handed it to if not the debtor.

or For debtors out of your area:

If you have a representative available, they can serve the document for you or you could contact a process server in the debtor's area and ask them to serve it on your behalf and provide you with a copy of the affidavit that they will swear having served the document on the debtor.

b) Swear an affidavit at your local county court or a solicitors offices (cost of affidavit - free at county court; solicitors approximately £5 - £10).

Please Note: Only necessary if after expiry date you wish to start insolvency proceedings.

Personal service requires that you or your representative/agent hand the demand to any person on the debtor's premises over the age of 16 years on any day other than a Sunday. In this instance the demand **MUST** be handed to the debtor **NOT** posted. Should you ultimately file a bankruptcy petition the court will direct the Official Receiver to investigate the debtor's affairs and seize the debtor's assets and sell them for the creditors benefit. It is recommended that you use a solicitor to file the petition. However, by using a 'Statutory Demand' it may well transpire that payment is received without the necessity of issuing such proceedings.

The powers of the Official Receiver under the Insolvency Act have been increased. For example, in appropriate circumstances, he has the power to apply to the court for permission to sell the debtor's house and to use the proceeds to pay creditors. The Act says that, although in considering such an application, the court must have regard to the needs of the debtor's family "the needs of the creditor override all other considerations".