

PRACTICE DIRECTION – ORDERS TO OBTAIN INFORMATION FROM JUDGMENT DEBTORS

THIS PRACTICE DIRECTION SUPPLEMENTS PART 71

Application notice – rule 71.2

- 1.1 An application by a judgment creditor under rule 71.2(1) must be made by filing an application notice in Practice Form N316 if the application is to question an individual judgment debtor, or N316A if the application is to question an officer of a company or other corporation.
- 1.2 The application notice must –
 - (1) state the name and address of the judgment debtor;
 - (2) identify the judgment or order which the judgment creditor is seeking to enforce;
 - (3) if the application is to enforce a judgment or order for the payment of money, state the amount presently owed by the judgment debtor under the judgment or order;
 - (4) if the judgment debtor is a company or other corporation, state –
 - (a) the name and address of the officer of that body whom the judgment creditor wishes to be ordered to attend court; and
 - (b) his position in the company;
 - (5) if the judgment creditor wishes the questioning to be conducted before a judge, state this and give his reasons;
 - (6) if the judgment creditor wishes the judgment debtor (or other person to be questioned) to be ordered to produce specific documents at court, identify those documents; and
 - (7) if the application is to enforce a judgment or order which is not for the payment of money, identify the matters about which the judgment creditor wishes the judgment debtor (or officer of the judgment debtor) to be questioned.
- 1.3 The court officer considering the application notice –
 - (1) may, in any appropriate case, refer it to a judge (rule 3.2); and
 - (2) will refer it to a judge for consideration, if the judgment creditor requests the judgment debtor (or officer of the judgment debtor) to be questioned before a judge.

Order to attend court – rule 71.2

- 2.1 The order will provide for the judgment debtor (or other person to be questioned) to attend the county court for the district in which he resides or carries on business, unless a judge decides otherwise.
- 2.2 The order will provide for questioning to take place before a judge only if the judge considering the request decides that there are compelling reasons to make such an order.

Service of order to attend court – rule 71.3

3. Service of an order to attend court for questioning must be carried out by the judgment creditor (or someone acting on his behalf), except that in county court proceedings if the judgment creditor is an individual litigant in person the order will be served by the court bailiff.

Attendance at court: normal procedure – rule 71.6

- 4.1 The court officer will ask a standard series of questions, as set out in the forms in Appendixes A and B to this practice direction. The form in Appendix A will be used if the person being questioned is the judgment debtor, and the form in Appendix B will be used if the person is an officer of a company or other corporation.
- 4.2 The judgment creditor or his representative may either –
 - (1) attend court and ask questions himself; or
 - (2) request the court officer to ask additional questions, by attaching a list of proposed additional questions to his application notice.
- 4.3 The court officer will –
 - (1) make a written record of the evidence given, unless the proceedings are tape recorded;
 - (2) at the end of the questioning, read the record of evidence to the person being questioned and ask him to sign it; and
 - (3) if the person refuses to sign it, note that refusal on the record of evidence.

Attendance at court: procedure where the order is to attend before a judge – rule 71.6

- 5.1 Where the hearing takes places before a judge, the questioning will be conducted by the judgment creditor or his representative, and the standard questions in the forms in Appendixes A and B will not be used.
- 5.2 The proceedings will be tape recorded and the court will not make a written record of the evidence.

Failure to comply with order: reference to judge – rule 71.8(1)

6. If a judge or court officer refers to a High Court judge or circuit judge the failure of a judgment debtor to comply with an order under rule 71.2, he shall certify in writing the respect in which the judgment debtor failed to comply with the order.

Suspended committal order – rule 71.8(2) and (4)(a)

- 7.1 A committal order will be suspended provided that the person attends court at a time and place specified in the order (rule 71.8(4)(a)(i)). The appointment specified will be –
 - (1) before a judge, if –
 - (a) the original order under rule 71.2 was to attend before a judge; or
 - (b) the judge making the suspended committal order so directs; and
 - (2) otherwise, before a court officer.
- 7.2 Rule 71.3 and paragraph 3 of this practice direction (service of order), and rule 71.5(1)(a) and (2) (affidavit of service), apply with the necessary changes to a suspended committal order as they do to an order to attend court.

Breach of terms on which committal order is suspended – rule 71.8(4)(b)

- 8.1 If –
 - (1) the judgment debtor fails to attend court at the time and place specified in the suspended committal order; and
 - (2) it appears to the judge or court officer that the judgment debtor has been duly served with the order,
 the judge or court officer will certify in writing the debtor's failure to attend.
- 8.2 If the judgment debtor fails to comply with any other term on which the committal order was suspended, the judge or court officer will certify in writing the non-compliance and set out details of it.
- 8.3 A warrant to bring the judgment debtor before a judge may be issued on the basis of a certificate under paragraph 8.1 or 8.2.
- 8.4 The hearing under rule 71.8(4)(b) may take place before a master or district judge.
- 8.5 At the hearing the judge will discharge the committal order unless he is satisfied beyond reasonable doubt that –
 - (1) the judgment debtor has failed to comply with –
 - (a) the original order to attend court; and
 - (b) the terms on which the committal order was suspended; and

(2) both orders have been duly served on the judgment debtor.

8.6 If the judge decides that the committal order should not be discharged, a warrant of committal shall be issued immediately.

Record of examination (Individual)

In the	
Claim No.	
Appn. No.	

Judgment Creditor:

Judgment Debtor:

1 Personal Information

Full Name

Your age?

Present address

National insurance no.

Are you married? single?
 separated? divorced?
 living with partner?

Phone numbers:

home

work

mobile

other

Do you intend moving to another address? Yes No
 If Yes, what will your new address be and when are you moving?

Date

Do you have any dependant children? Yes No
 If Yes, what are their names and ages?

Name	Age

Do you have other dependants living with you, eg. elderly relatives? Yes No
 If Yes, what are their names and ages and to what extent are they dependant?

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2 Employment Status

Are you employed?
Go to section 3 below

self employed?
Go to section 4 page 3

unemployed?
Go to section 5 page 5

retired?
Go to section 6 page 5

3 Employment Details

What is your occupation?

Where is your place of work if different?

What is the name and address of your employer and your employee number?

employee number

What is your gross pay *ie. before tax, national insurance deductions?* £ per

What is your average take home pay including overtime and commission? £ per

How often are you paid? weekly monthly other _____

On which day are you paid?

Is your pay paid in cash by cheque direct to bank or building society account?

If direct to bank or building society account what is the name and address of the branch and account number?

account number

Do you have any jobs other than your main job? Yes No
If Yes, ask for all the above details in relation to all other jobs and set out information below.

4 Self Employed

How long have you been self employed? What work do you do?

What is the name of your business?

Do you have business premises? eg. shop, yard, lockup Yes No If Yes, what is their address?

What is your annual turnover? £ What amount of profit did the business make over the last year? £

How much do you draw from the business? £ per What were your total drawings in last 12 months? £

Are you a sole trader? partner? If a partner, (a) How many partners are there?

How many employees do you have? (b) What is your share of the partnership? %

Do you complete Inland Revenue self assessment? Yes No

Do you have accounts? Yes No

Do you employ an accountant? Yes No If Yes, what is the accountant's name and address?

If you don't have an accountant are accounts audited by a third party? Yes No If Yes, give name and address and say when audit takes place?

Will you allow the creditor to approach your accountant or auditor or Inland Revenue to verify the information you have given in this section? Yes No

Are you working on any contracts at the moment? Yes No If Yes, give details below

Name and address of customer	Nature of work	Contract price £	Amount outstanding £	Date payment expected

Is any money still due to you for work already done?

- Yes
 No

If Yes, give details below

Name and address of customer	Nature of work	Contract price £	Amount outstanding £	Date payment expected

If money (see above) is overdue what steps are you taking to recover it?

Do you have contracts for work in the future?

- Yes
 No

If Yes, give details below

Name and address of customer	Nature of work	Expected price £

— [Go to Section 7 page 5] —

5 Unemployed

How long have you been unemployed?

What is your trade / training / profession?

What steps are you taking to obtain employment?

Do you have any outstanding job interviews?

- Yes
 No

If Yes, when?

What state benefits do you receive?
(Housing benefit, if any should be included section 8b on page 7)

Type of benefit	Amount	Frequency of payment	DSS/BA ref.

— [Go to Section 7 below] —

6 Retired

When did you retire?

By whom are your pension(s) paid, how much is paid and when?
(include both state and private pensions)

Pension from	Amount	Frequency of payment

— [Go to Section 7 below] —

7 Other Income

Is there anyone else in your household who is employed? *(Do not include tenants/lodgers. See section 8 on page 6)*

- Yes
 No

If Yes, how much do they contribute to the running of the home?

£ per

— [Go to Section 8 page 6] —

8 Residence

- Is your home
- your own property?
Go to 8a below
 - lodgings?
Go to 8b page 7
 - rented from a council or housing association?
Go to 8b page 7
 - rented unfurnished from a private landlord?
Go to 8b page 7
 - rented furnished from a private landlord?
Go to 8b page 7
 - other _____
(e.g. mobile home) Go to 8b page 7

8a Your own property

Are you the sole owner? Yes

No If No, name joint owner(s)

Do you own the freehold? When did you buy the property?

leasehold?

Is your home a house? bungalow? flat?

Is it detached? semi-detached? terraced?

How many of the following rooms does it have?

living rooms? kitchens?

bedrooms? bath/shower rooms?

How much Council Tax do you pay per year? £

What was the purchase price of property? £ What is its value now? £

Is your home mortgaged? Yes If Yes, what is the name and address of your mortgage lender?

No

How much are your mortgage payments per month? £ What type of mortgage do you have? eg. repayment, endowment etc.

How long is the mortgage for? years When did you take out the mortgage?

How much is currently owed under the mortgage? £ Is some or all of the interest paid by the Benefits Agency? Yes

No

If Yes, how much is paid each month? £

Do you let any part of your home?

- Yes
- No

If Yes, give names of the tenants/lodgers and details of rent received

Do you have any loans secured on your home? (e.g. further mortgage)

- Yes
- No

If Yes, give the same details as for the first mortgage

— [Go to Section 9 page 8] —

8b Rented property

Do you rent

- on your own? jointly?

What is the name and address of your landlord?

How long have you lived at the property?

____ months ____ years

Do you share parts of your home with someone unconnected with you?

- Yes
- No

Do you pay any additional service charges in connection with the premises?

- Yes
- No

If Yes, give details

£ _____ per _____

How much rent do you pay?

£ _____ per _____
 none

How much Council Tax do you pay a year?

£ _____
 none

Do you sub-let any part of your home?

- Yes
- No

If Yes, give names of tenants/lodgers and details of rent received.

Do you receive housing benefit?

- Yes
- No

If Yes, give details

£ _____ per _____
 paid to _____

— [Go to Section 9 page 8] —

9 Savings, Investments and other Assets

Do you own any property other than your home? Yes No

If Yes, give the address and value and details of any mortgages and lettings

Do you have any bank, building society or other accounts? Yes No

If Yes, give details below

Name & Address of Bank Building Society	Account No.	Type of Account	Balance	Sole or joint A/c	Name(s) of joint account holder(s)

Do you have any shares, investments (eg. ISAs, Tesses etc.), insurance/assurance policies or premium bonds? Yes No

If Yes, give details below

Are you making contributions to a pension scheme? Yes No

If Yes, give details

Do you have any of the following items and how long have you had them?

	Is it owned by you, on hire purchase		If not owned by you, give;		
	Age	credit sale or rented?	Name of Creditor	Amount still owed	Payments
<input type="checkbox"/> Microwave					
<input type="checkbox"/> Hi-fi / surround sound					
<input type="checkbox"/> Television (No.)					
<input type="checkbox"/> Video					
<input type="checkbox"/> Camcorder					
<input type="checkbox"/> Computer					
<input type="checkbox"/> Dishwasher					
<input type="checkbox"/> Camera					
<input type="checkbox"/> Dining Room suite					
<input type="checkbox"/> Caravan					
<input type="checkbox"/> Mobile telephone					
<input type="checkbox"/> Musical instruments..					
<input type="checkbox"/> Other items....					

Do you own a motor vehicle?

- Yes
 No

If Yes, give age, make, model value and registration number. State whether it is owned by you, or subject to a hire purchase/ rental agreement.

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Do you have any assets not previously mentioned?

- Yes
 No

If Yes, give details

Assets	Value

Does anyone owe you money, which is not a business debt or for work you have done?

- Yes
 No

If Yes, who owes you money and how much do they owe?

	Value

10

Other Debts or regular payments and court orders

Expenses

Do not include payments made by other members of your household out of their own income or priority debts listed opposite

Mortgage	£	per
Rent	£	per
Council tax	£	per
Gas	£	per
Electricity	£	per
Water charges	£	per
Housekeeping, food, school meals	£	per
Travelling expenses	£	per
Children's clothing	£	per
Maintenance/child support payments	£	per
Student loan repayments	£	per
Mail order payments	£	per
HP repayments	£	per
Digital/satellite TV subscriptions	£	per
Telephone	£	per
Mobile phone	£	per
Other expenses	£	per
<i>(not court orders, priority debts or credit debts listed left)</i>	£	per
Total Expenses	£	per

Priority Debts

This section is for arrears only. DO NOT include regular expenses listed left

	£	per	Total arrears outstanding
Rent arrears	£	per	£
Mortgage arrears	£	per	£
Council tax/Community charge arrears	£	per	£
Water charge arrears	£	per	£
Fuel arrears: Gas	£	per	£
Electricity	£	per	£
Other	£	per	£
Maintenance arrears	£	per	£
Income tax	£	per	£
VAT	£	per	£
National Insurance	£	per	£
Others <i>(give details below)</i>	£	per	£
	£	per	£
	£	per	£
	£	per	£
Total Priority Debts	£	per	£

Have any court orders been made against you? Yes No
 If Yes, give details below

Name of court and case number	Date of Judgment or order	Amount of Judgment or order	Instalments payable per month	Name of creditor	Total still owed	Are payments up to date? (yes/no)	If no, how much in arrears?
TOTALS							

Do you owe money on credit cards or any other loans (not mortgage or business)? Yes No
 If Yes, give details below

Name of Creditor	Total amount owing	Instalments payable per month	Are payments up to date? (yes/no)	If no, how much in arrears?
TOTALS				

Have any bankruptcy proceedings been issued against you? Yes No
 If Yes, what is the court name and case no.

Is the petition

- still pending? order made but discharged?
 order has been made but not discharged? other outcome? (give details below)

Has an Individual Voluntary Arrangement been made? Yes No
 If Yes, give the date

If No, is there a current proposal for one?

- Yes No

Give details of Trustee/ Insolvency Practitioner/ Administrator, supervisor

11 Offer of Payment

Can you make an offer of payment? Yes No

What is your offer of payment?

Pay in full by day of

Instalments of £ per to start on

Method of payment postal order cheque direct debit
 standing order payment book cash

I certify that this is a correct record of the answers I gave to the questions in this document.

Signed _____ Judgment Debtor
Print name _____
Date _____

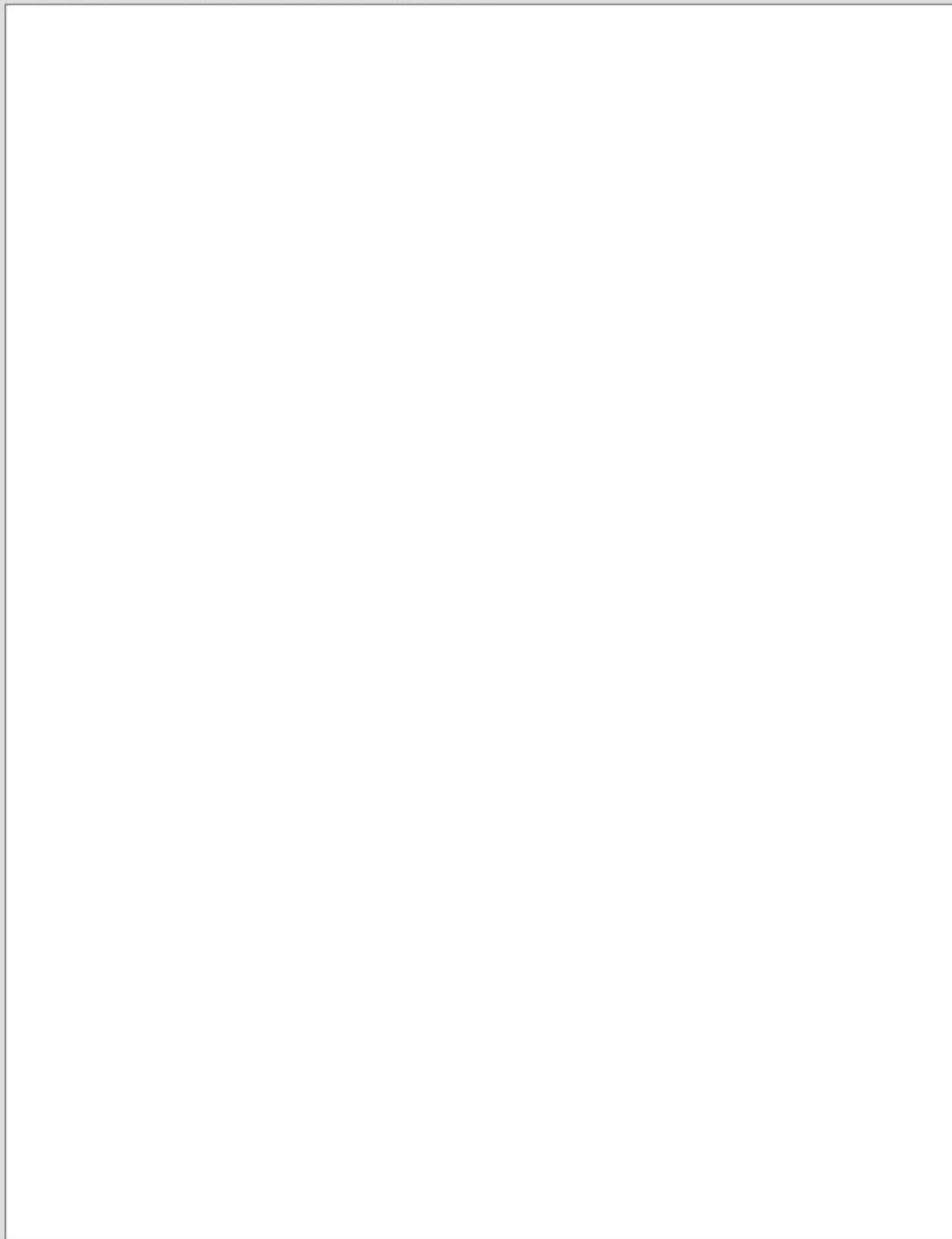
The judgment debtor refused to sign this record of evidence.

Signed _____ Court Officer
Print name _____
Date _____

The following costs of the examination have been allowed and added to the judgment debt £

12 Documents produced

The judgment debtor produced the following documents:



Record of examination (officer of company or corporation)

In the	
Case No.	
Appn. No.	

Judgment Creditor:

Judgment Debtor:

1 Personal Information

Full Name

Present Address

Your position in the company

Phone numbers:

Home

Mobile

Work

Other

2 Company Information

Name of company

Business address

Company registration no.

Telephone no.(s)

Is the company the sole occupier? Yes No

Registered office

Telephone no.(s)

Name and address of other company officers

Name and address of company solicitors

Name and address of company accountants

Where are the company trading records held?

Where are the company's statutory books held?

3 Current operational status

What is the nature of business?

Is the company still trading?

Yes No

If No, when did the company cease trading?

How were assets disposed of?

Have you any current contracts? Yes No

If Yes, what are they and what is their total value?

	Value
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Are there any staged payments? Yes No

Have you any future contracts? Yes No

If Yes, what is the date and amount of the next and future payments?

If Yes, what are they and what is their total value?

	Value
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4 Current financial status

Does the company hold any cash? Yes No

If Yes, say how much and where held e.g. named bank or other?

Does the company have any overdraft facilities? Yes No

If Yes, please provide details of overdraft facility

What is the name and address of the branch, account number and type?

type of account

account number

How much of the overdraft facility have you used? All Part

If Part, say how much?

Have you approached the bank to increase the limit? Yes No

If No, why not?

If Yes, what was the response?

Is your overdraft secured? Yes No

If Yes, how? fixed charge
 fixed and floating charge
 floating charge
 personal guarantee

What assets are affected by the charge?

What is the current turnover of the company?

5 Assets

What assets, excluding property, are owned outright by your company? - description, value and in the case of vehicles, registration numbers

What assets are subject to hire purchase?

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value

--	--	--	--

last payment date

--	--	--	--

What assets are subject to lease purchase?

--	--	--	--

value

--	--	--	--

last payment date

--	--	--	--

What assets are on lease?

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Are these debts due to your company?

Yes No

If Yes, give details

Name and address of debtor	Invoice no.	Total amount owing?	Are amounts owed disputed? Yes/No

Are any goods supplied to the debtor subject to a retention of title clause? Yes No

If Yes, describe the goods and enter the amount owed by the debtor

	amount owed
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Does your company own livestock? Yes No

Does your company have/own
 investments Yes No
 shares Yes No

Has the company sold any assets within the last 12 months? Yes No

If Yes, on what date

--	--	--	--

description of asset sold

--	--	--	--

buyers name and address

--	--	--	--

purchase price

--	--	--	--

6 Property

Does your company own any real property? Yes No

If Yes, please give address(es) and value

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Value

--	--	--

Are the premises mortgaged? Yes No | Yes No | Yes No

If Yes, give details of lender's name and address

--	--	--

amount borrowed

--	--	--

amount outstanding

--	--	--

date borrowed

--	--	--

purchase price

--	--	--

current value of property

--	--	--

details of any subsequent charges

--	--	--

Does your company rent any premises from a landlord? Yes No

If Yes, how much is paid for

rent?

council tax?

service charges etc.?

Is the rent in arrears? Yes No

If Yes, how much?

What action is being taken to recover the debt?

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7 Liabilities

Please list all Creditors

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amounts owed

--	--	--

What actions are the creditors taking to recover the debts?

--	--	--

Are the amounts disputed by the company?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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Are any of the debts secured?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, how?	<input type="checkbox"/> fixed charge
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Does the company have court order(s) against it?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> fixed and floating charge	<input type="checkbox"/> floating charge
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If Yes, please provide details of

personal guarantee

date of judgment

--	--	--

name of court

--	--	--

case number

--	--	--

name of creditor

--	--	--

total amount owing

--	--	--

amount now due

--	--	--

rate of payments being made

--	--	--

are payments in arrears?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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If Yes, by how much?

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Is the company able to pay its debts as they fall due?

Yes No

8

Other information

Are there any associated or subsidiary companies?

Yes No

If Yes, please provide names

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place of business

--	--	--

other trading addresses

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What accounting records are kept?

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Have accounts been submitted to Companies House?

Yes No

Do you or any other director/personnel hold a loan account with the company?

Yes No

If Yes, what is the current status?

overdrawn by
in credit by

Have any assets been transferred to you or any other director/personnel personally

Yes No

If Yes, please give description

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value

--	--	--

Other information

Have you or any other Yes No
member of the
company received
benefits other than by
way of salary?

If Yes, please give
details

Additional information

9**Offer of Payment**

Can the company make payment in full now? Yes No

If No, why?

When can the company make payment in full?

Have you any other proposal for payment?

10**Declaration**

I certify that this is a correct record of the answers I gave to the questions in this document.

Signed _____ Officer of Judgment Debtor Company/Corporation

Print name _____

Date _____

The officer of the judgment debtor company refused to sign this record of evidence.

Signed _____ Court Officer

Print name _____

Date _____

The following costs of the examination have been allowed and added to the judgment debt £

11

11 Documents produced

The officer produced the following documents:

