



## COMPANIES COURT Practice Note:

### Claims for an order restoring the name of a company to the Register (Section 1029 of the Companies Act 2006 (“the Act”))

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- (1) This Practice Note supersedes Companies Court – Practice Note 1 of 2003. With effect from 1 January 2013 claims for orders of this type issued in the High Court in London will be given a return date three months from the date of issue. This is designed to enable the claimant(s) to have sufficient opportunity to complete the requirements of the Registrar of Companies. In this way it is intended to prevent repeated adjournments pending completion of those requirements and to save the expense of unnecessary and repeated attendance at court by the parties. If the matter is not dealt with in advance of or at the first hearing the claimant(s) must apply in writing or in person at the hearing, for the application to be stood over to a later date giving reasons why a further hearing is required. The onus is on the claimant to ensure that this is received prior to the hearing. If an adjournment is granted, unless there is reason to the contrary, it will be for a further three months when attendance may be required. Normally no further adjournment will be granted and if a further adjournment is required, there will need to be attendance at the hearing and sufficient cause established from the evidence in support to be filed not less than 3 days before that hearing.
- (2) When the requirements of the Registrar of Companies have been met and the Treasury Solicitor is able to approve the application before the date for the first hearing, a consent order may be filed for approval by the court without attendance. If an undertaking is required to be given to the court it must be given by the solicitor (partner) for the claimant(s) in Form UI (attached) or by the claimant(s) in person in Form U2 (attached).
- (3) In such circumstances the papers which must be filed at court by the claimant(s) with the consent order are:
  - 3.1 a copy of the claim form;
  - 3.2 a copy of the witness statement in support ;

*the evidence in support of a claim form should include* if and to the extent known (stating the source of knowledge or identifying the reasons for any absence of knowledge as appropriate) details of:

    - a) the reason why the claimant has the right to make the application (see section 1029 of the Act);
    - b) the circumstances in which and the reason(s) why the company’s name was struck off the register;
    - c) the reason(s) for the application;

- d) any factors arising with regard to the time limits in s.1030 of the Act;
  - e) where the claimant is a director or member of the company, the financial position of the company at the time of its dissolution and (if different) its financial position at the time of its restoration;
  - f) what is intended for the company and its assets and liabilities when it is restored; and
  - g) any further matters relevant to the making of the application and to the future of the company if restored;
- 3.3 original evidence of service of the claim form on the company (where appropriate);
- 3.4 the Treasury Solicitor's letter dealing with bona vacantia assets on behalf of the Crown, or if appropriate the letter dealing with bona vacantia assets from the solicitor for the Duchy of Lancaster or for the Duke of Cornwall;
- 3.6 if the company was dissolved whilst in or following its liquidation, original evidence of service of the claim form on the Official Receiver or the former Liquidator if one was appointed;
- 3.7 the original signed copy of any undertaking required to be given to the court; and
- 3.8 four copies of the consent order, one of which should bear original signatures by or on behalf of each party consenting to the order.
4. In the normal course the above documents will be seen by the Registrar within three working days of delivery to the court. If the papers are in order, the Registrar will make the agreed order and the court will send two sealed copies of the order to the claimant and one to the Treasury Solicitor. The claimant should serve the office copy of the sealed order on the Registrar of Companies.
5. If the papers are not in order (or the court for some other reason requires), the hearing of the matter will take place on the listed date, or be listed for the parties to attend on the application of the claimant(s) at the earliest convenient date, and notice of this appointment will be given by the court to the parties.
6. Where the company was in liquidation at the date of dissolution and the liquidator has vacated office, unless the Third Parties (Rights Against Insurers) Act 1930 is relied on for the purposes of the proposed claim, the claim for restoration should include an application for the appointment of a liquidator pursuant to section 108 of the Insolvency Act 1986 and a letter from the proposed liquidator consenting to act. If the liquidator proposed is different from the liquidator who vacated office, evidence is required to explain why. The consent of the Registrar of Companies to the proposed appointment should not be sought.



