

**49. Proof of service of statutory demand**

- (1) Where under section 6A of the Ordinance the petition must have been preceded by a statutory demand, there must be filed in court, with the petition, an affidavit proving service of the demand.
- (2) Every affidavit must have exhibited to it a copy of the demand as served.
- (3) Subject to subrule (4), if the statutory demand has been served personally on the debtor, the affidavit must be made by the person who effected that service. (*L.N. 150 of 2014*)
- (4) If service of the statutory demand (however effected) has been acknowledged in writing either by the debtor himself, or by some person stating himself in the acknowledgment to be authorized to accept service on the debtor's behalf, the affidavit must be made either by the creditor or by a person acting on his behalf, and the acknowledgment of service must be exhibited to the affidavit.
- (5) If neither subrule (3) nor (4) applies, the affidavit must be made by a person having direct personal knowledge of the means adopted for serving the statutory demand, and must — (*L.N. 150 of 2014*)
  - (a) give particulars of the steps which have been taken with a view to serving the demand personally;
  - (b) state the means whereby (those steps having been ineffective) it was sought to bring the demand to the debtor's attention; and
  - (c) specify a date by which, to the best of the knowledge, information and belief of the person making the affidavit, the demand will have come to the debtor's attention.
- (6) The steps of which particulars are given for the purposes of subrule (5)(a) must be such as would have sufficed to justify an order for substituted service of a petition. (*L.N. 150 of 2014*)
- (7) If the affidavit specifies a date for the purposes of compliance with subrule (5)(c), then unless the court otherwise orders, that date is deemed for the purposes of these rules to have been the date on which the statutory demand was served on the debtor. (*L.N. 150 of 2014*)
- (8) Where the creditor has taken advantage of rule 46(3), the affidavit must be made either by the creditor himself or by a person having direct personal knowledge of the circumstances; and there must be specified in the affidavit—
  - (a) the means of the creditor's knowledge or (as the case may be) belief required for the purposes of that rule; and
  - (b) the date or dates on which, and the newspaper in which, the statutory demand was advertised under that rule,and there shall be exhibited to the affidavit a copy of any advertisement of the demand.
- (9) The court may decline to file the petition if not satisfied that the creditor has discharged the obligation imposed on him by rule 46(2).

(*L.N. 77 of 1998*)