

# Use of Statutory Demand



**Where clients have unpaid invoices and other unpaid debts, what they seek is a swift and inexpensive process to enforce payment. A statutory demand can, in appropriate circumstances, offer the solution.**

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### **What is a Statutory Demand?**

A statutory demand is a document which gives a company/an individual 21 days warning to pay a debt. At the end of the 21 days the statutory demand can be followed up by a winding up petition against a company or a bankruptcy petition against an individual. In many cases following the issue of a statutory demand a petition is not issued as the claim is paid or settled. Statutory demands are successful because the average debtor is concerned by the consequences after the 21 day period.

A statutory demand is the first step to winding up/bankruptcy. They are prepared and served without court involvement and can be served as soon as the debt becomes payable and there is no requirement to obtain a judgment. If the debtor disputes the claim, they can apply for the demand to be set-aside. If the statutory demand is set-aside, this can result in an order for costs being made against the creditor but usually this is avoided if the demand is agreed to be set aside before proceedings are issued.

### **Why issue a Statutory Demand?**

- The procedure is simple and all you need to do is complete a short form.
- You do not need a legal representative.
- There are no court fees to issue a statutory demand.
- The service of the statutory demand is often sufficient to extract payment before any petition is required.

### **Statutory Demand against a Company**

A statutory demand is not an essential requirement before a winding up petition can be issued against a company; an undisputed debt often is sufficient. Costs will however be payable by the creditor if the winding up proceedings have to be withdrawn because the debtor is able to show at least an arguable defence to the claim. It may therefore be prudent to serve a statutory demand first and only issue the petition once the 21 days has expired.

# Let us Introduce Ourselves



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**Disclaimer:** This note does not contain a full statement of the law and it does not constitute legal advice. Please contact us if you have any questions about the information set out above.

## Requirement to be able to serve a Statutory Demand

- Debt exceeds £750 for a company (£5,000 if seeking bankruptcy against an individual).
- No grounds to dispute the debt or right to set-off.
- Proof of service on the debtor.
- Signed by the creditor or solicitor on its behalf.

## Statutory Demands and Covid-19

Currently, Statutory demands are registered until 31 December to protect companies from aggressive creditor enforcement action as a result of Covid related debts