

## SCHEDULE 1

### PART 6

#### AMENDMENTS TO PART 6 OF THE PRINCIPAL RULES

##### **Amendment to Rule 6.006**

55. In paragraph (2) of Rule 6.06 the words “or Article 238(1)(d) (by Law Society of Northern Ireland as attorney of a solicitor),” shall be omitted.

##### **Amendment to Rule 6.009**

56. For paragraph (2) there shall be substituted—

“(2) No petition shall be filed unless there is produced on presentation of the petition a receipt for the deposit payable or paragraph (2A) applies.

(2A) This paragraph applies in any case where the Department has given written notice to the court that the petitioner has made suitable alternative arrangements for the payment of the deposit to the official receiver and such notice has not been revoked in relation to the petitioner in accordance with paragraph (2B).

(2B) A notice of the kind referred to in paragraph (2A) may be revoked in relation to the petitioner in whose favour it is given by a further notice in writing to the court stating that the earlier notice is revoked in relation to the petitioner.”.

##### **Amendment to Rule 6.038**

57. In Rule 6.038—

(a) in paragraph (1) for “2 copies” there shall be substituted “one copy”; and

(b) for paragraph (8) there shall be substituted—

“(8) The copy of the statement of affairs shall be sent by the court to the official receiver.”.

##### **Revocation of Rules 6.046 to 6.048**

58. Rules 6.046 (certificate for summary administration), 6.047 (duty of official receiver in summary administration) and 6.048 (revocation of certificate for summary administration) are revoked.

##### **Amendment to Rule 6.055**

59. In paragraph (1) of Rule 6.055 for sub-paragraphs (a) to (e) there shall be substituted—

“(a) the interim receiver himself,

(b) the official receiver,

(c) the debtor, or

(d) any creditor.”.

##### **Amendment to Rule 6.081**

60. After Rule 6.081(5) there shall be inserted—

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

“(6) This Rule shall not apply to voluntary arrangements under Article 237A.”.

**Revocation of Rule 6.093**

61. Rule 6.093 is revoked.

**Substitution of Rule 6.095**

62. For Rule 6.095 there shall be substituted—

**“Supply of forms**

6.095. A form of proof shall be sent to any creditor of the bankrupt by the official receiver or trustee where the creditor so requests.

[E.R. 6.97]”

**Amendment to Rule 6.096**

63.—(1) For Rule 6.096(1) there shall be substituted—

“(1) Subject to Rule 6.094(4), the following matters shall be stated in a creditor’s proof of debt—

- (a) the creditor’s name and address, and, if a company, its company registration number;
- (b) the total amount of his claim (including any Value Added Tax) as at the date of the bankruptcy order;
- (c) whether or not that amount includes outstanding uncapitalised interest;
- (d) particulars of how and when the debt was incurred by the debtor;
- (e) particulars of any security held, the date when it was given and the value which the creditor puts upon it;
- (f) details of any reservation of title in respect of goods to which the debt refers; and
- (g) the name, and address and authority of the person signing the proof (if other than the creditor himself).”.

(2) In Rule 6.096(3) after “the trustee” there shall be inserted “the official receiver, acting as receiver and manager”.

**Amendment to Rule 6.097**

64. In Rule 6.097(1) after “the trustee” there shall be inserted “or the official receiver, acting as receiver and manager”.

**Amendment to Rule 6.108**

65. In paragraph (2) for the words “middle market rate at the Bank of England” there shall be substituted “middle exchange rate on the London Foreign Exchange Market at the close of business”.

**Amendment to Rule 6.118**

66. In Rule 6.118(1) “(2),” shall be omitted.

#### **Amendment to Rule 6.133**

67. In paragraph (1) of Rule 6.133 for the words “who have proved their debts” there shall be substituted “of which he is aware”.

#### **Amendment to Rule 6.134**

68. In Rule 6.134—

- (a) in paragraph (1) of Rule 6.134 for the words “who have proved their debts” there shall be substituted “of which he is aware” and
- (b) in paragraph (4) of Rule 6.134 for the words “official receiver” there shall be substituted “Department”.

#### **Insertion of new Rule 6.134A**

69. After Rule 6.134 there shall be inserted—

##### **“Rule as to reporting**

6.134A.—(1) The court may, on the trustee or official receiver’s application, relieve him of any duty imposed on him by Rules 6.133 or 6.134, or authorise him to carry out the duty in a way other than there required.

(2) In considering whether to act as above, the court shall have regard to the cost of carrying out the duty, to the amount of the funds available in the estate, and to the extent of the interest of creditors or any particular class of them.

[E.R. 6.137A]”

#### **Amendment to Rule 6.135**

70. For paragraph (6) there shall be substituted—

“(6) Where the trustee is not the official receiver and his remuneration is not fixed under paragraphs (2) to (5) of this Rule, the trustee shall be entitled to remuneration calculated in accordance with Rule 6.135A.”.

#### **Insertion of new Rule 6.135A**

71. After Rule 6.135 there shall be inserted—

##### **“Trustee’s remuneration where it is not fixed in accordance with Rule 6.135**

6.135A.—(1) This Rule applies where the trustee is not the official receiver and his remuneration is not fixed in accordance with Rule 6.135.

(2) Subject to paragraph (3), the trustee shall be entitled by way of remuneration for his services as such, to such sum as is arrived at by—

- (a) first applying the realisation scale set out in Schedule 4 to the monies received by him from the realisation of the assets of the bankrupt (including any Value Added Tax thereon but after deducting any sums paid to secured creditors in respect of their securities and any sums spent out of money received in carrying on the business of the bankrupt); and
- (b) then by adding to the sum arrived at under sub-paragraph (a) such sum as is arrived at by applying the distribution scale set out in Schedule 4 to the value of

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

assets distributed to creditors of the bankrupt (including sums paid in respect of preferential debts).

(3) That part of the trustee's remuneration calculated by reference to the realisation scale shall not exceed such sum as is arrived at by applying the realisation scale to such part of the bankrupt's assets as are required to pay the items referred to in paragraph (4).

(4) The items referred to in paragraph (3) are—

- (a) the bankruptcy debts (including any interest payable by virtue of Article 300(4)) to the extent required to be paid by these Rules (ignoring those debts paid otherwise than out of the proceeds of the realisation of the bankrupt's assets or which have been secured to the satisfaction of the court);
- (b) the expenses of the bankruptcy other than—
  - (i) fees or the remuneration of the official receiver; and
  - (ii) any sums spent out of money received in carrying on the business of the bankrupt;
- (c) fees payable by virtue of any order made under Article 361; and
- (d) the remuneration of the official receiver.

[E.R. 6.138A]"

#### **Amendment to Rule 6.136**

72. For paragraph (1) there shall be substituted—

“(1) Where the trustee (not being the official receiver) realises assets on behalf of a secured creditor, the trustee is entitled to such sum by way of remuneration as is arrived at by applying the realisation scale set out in Schedule 4 to the monies received by him in respect of the assets realised (including any Value Added Tax thereon).”

#### **Amendment to Rule 6.143**

73. Omit Rule 6. 143(2).

#### **Amendment to Rule 6.153**

74. In paragraph (4) of Rule 6.153 after the word “bankrupt” there shall be inserted “or a disqualified director,” and for the words “composition or arrangement with his creditors” there shall be substituted “bankruptcy restrictions order”.

#### **Amendment to Rule 6.155**

75. In paragraph (1)(a) of Rule 6.155 omit the words “or compounds or arranges with his creditors”.

#### **Insertion of new Chapter 16A of Part 6 of the principal Rules**

76. After Chapter 16 of Part 6 of the principal Rules there shall be inserted—

“CHAPTER 16A  
INCOME PAYMENTS AGREEMENTS

**Approval of income payments agreements**

6.190A.—(1) An income payments agreement can only be entered into prior to the discharge of the bankrupt.

(2) Where an income payments agreement is to be entered into between the official receiver or trustee and the bankrupt under Article 283A(1), the official receiver or trustee shall provide an income payments agreement to the bankrupt for his approval.

(3) Within 14 days or such longer period as may be specified by the official receiver or trustee (whichever is appropriate) from the date on which the income payments agreement was sent, the bankrupt shall—

- (a) if he decides to approve the draft income payments agreement, sign the agreement and return it to the official receiver or trustee (whichever is appropriate); or
- (b) if he decides not to approve the agreement, notify the official receiver or trustee (whichever is appropriate) in writing of his decision.

[E.R. 6.193A]

**Acceptance of income payments agreements**

6.190B.—(1) On receipt by the official receiver or trustee of the signed income payments agreement, the official receiver or trustee shall sign and date it.

(2) When the official receiver or the trustee signs and dates the income payments agreement, it shall come into force.

(3) The official receiver or trustee shall send a copy of the signed income payments agreement to the bankrupt.

(4) Where the agreement provides for payments by a third person to the official receiver or trustee who is not the official receiver in accordance with Article 283A(1)(b), a notice of the agreement shall be sent by the official receiver or trustee to that person.

(5) The notice shall contain—

- (a) the full name and address of the bankrupt;
- (b) a statement that an income payments agreement has been made, the date of it, and that it provides for the payment by the third person of sums owed to the bankrupt (or a part thereof) to be paid to the official receiver or trustee;
- (c) the full name and address of the third person;
- (d) a statement of the amount of money to be paid to the official receiver or trustee from the bankrupt’s income, the period over which the payments are to be made, and the intervals at which the sums are to be paid; and
- (e) the full name and address of the official receiver or trustee and the address or details of where the sums are to be paid.

(6) When making any payment to the official receiver or the trustee a person who has received notice of an income payments agreement with reference to income otherwise payable by him to the bankrupt may deduct the appropriate fee towards the clerical and administrative costs of compliance with the income payments agreement.

(7) He shall give to the bankrupt a written statement of any amount deducted by him under paragraph (6).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

[E.R. 6.193B]

### **Variation of income payments agreements**

6.190C.—(1) Where an application is made to court for variation of an income payments agreement, the application shall be accompanied by a copy of the agreement.

(2) Where the bankrupt applies to the court for variation of an income payments agreement under Article 283A(6)(b), he shall send a copy of the application and notice of the venue to the official receiver or trustee (whichever is appropriate) at least 28 days before the hearing date.

(3) When the official receiver or trustee applies to the court for variation of an income payments agreement under Article 283A(6)(b), he shall send a copy of the application and notice of the venue to the bankrupt at least 28 days before the hearing date.

(4) The court may order in Form 6.84 the variation of an income payments agreement under Article 283A.

[Form 6.84]

(5) Where the court orders an income payments agreement under Article 283A(1)(a) to be varied, so as to take the form of an agreement under Article 283A(1)(b) as an agreement providing that a third person is to make payments to the trustee or the official receiver, the official receiver or trustee shall send a notice in accordance with Rule 6.190B(4).

(6) When making any payment to the official receiver or the trustee a person who has received notice of an income payments agreement with reference to income otherwise payable by him to the bankrupt may deduct the appropriate fee towards the clerical and administrative costs of compliance with the income payments agreement.

(7) He shall give to the bankrupt a written statement of any amount deducted by him under paragraph (6).

[E.R. 6.193C]”

### **Amendment to Chapter 20 of Part 6 of the principal Rules**

77. After the heading “Chapter 20” in Part 6 of the principal Rules there shall be inserted—

“6.199A. In this Chapter a reference to a bankrupt includes a reference to a person in respect of whom a bankruptcy restrictions order is in force.

[E.R. 6.202A]”

### **Amendment to Rule 6.202**

78. In Rule 6.202(2)(a) after the words “income payments order” there shall be inserted “or an income payments agreement”.

### **Amendment to Rule 6.203**

79. In Rule 6.203 after paragraph (5) there shall be inserted—

“(6) In this Chapter, where the applicant is not the bankrupt all notices, documents and affidavits required to be given, sent or delivered to another party by the applicant shall also be given, sent or delivered to the bankrupt.”.

### **Revocation of Rule 6.210**

80. Rule 6.210 is revoked.

**Amendment to Rule 6.211**

81. In Rule 6.211—

- (a) in paragraph (1) the words “235 or” shall be omitted;
- (b) in paragraph (3) after “may” there shall be inserted “within 28 days of the order”; and
- (c) in paragraph (4) there shall be omitted the words from “The Department shall notify” to “has been paid.”.

**Amendment to Rule 6.212**

82. In Rule 6.212(1) the words “235 or” shall be omitted.

**Insertion of new Chapter 21A of Part 6 of the principal Rules**

83. After Chapter 21 of Part 6 of the principal Rules there shall be inserted—

“CHAPTER 21A

NOTICE UNDER ARTICLE 253(2)

**Notice under Article 253(2) that an investigation of the conduct and affairs of a bankrupt is unnecessary or concluded**

6.212A.—(1) Where the official receiver intends to file a notice that an investigation of the conduct and affairs of a bankrupt is unnecessary or concluded under Article 253(2), he shall give notice in writing to all creditors of which he is aware and any trustee of his intention to file such a notice.

(2) Where a creditor or a trustee receives written notice of the official receiver’s intention to file a notice under Article 253(2) and he has any objection to the official receiver filing such a notice, he may, within 28 days of the date of such written notice, inform the official receiver in writing of his objection and give reasons for that objection.

(3) The official receiver shall not file a notice under Article 253(2) until the period allowed for creditors or a trustee to object under paragraph (2) has expired.

(4) Where the official receiver receives no objection from either a creditor or a trustee he may file a notice under Article 253(2) by sending to the court two copies of Form 6.85.

[Form 6.85]

(5) The court shall endorse each copy with the date of filing and shall return one copy to the official receiver.

(6) The official receiver shall send a copy of the endorsed form to the bankrupt.

(7) Where the official receiver receives an objection under this Rule and he rejects that objection, he shall not file the notice under Article 253(2) until he has—

- (a) given notice of the rejection (and his reasons) to the complainant; and
- (b) the period of time for an appeal by the complainant under Rule 7.44(2) has expired,

or an appeal under that Rule has been determined by the court.

[E.R. 6.214A]”

**Substitution of Rule 6.213**

84. For Rule 6.213 there shall be substituted—

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**“Application for suspension of discharge**

6.213.—(1) This Rule applies where the official receiver or any trustee who is not the official receiver applies to the court for an order under Article 253(3) (suspension of automatic discharge), but not where the official receiver makes that application, pursuant to Rule 6.173(4), on the adjournment of the bankrupt’s public examination.

(2) The official receiver or any trustee who is not the official receiver shall, with his application, file evidence in support setting out the reasons why it appears to him that such an order should be made.

(3) The court shall fix a venue for the hearing of the application, and give notice of it to the official receiver, any trustee who is not the official receiver, and the bankrupt.

(4) Copies of the official receiver’s evidence in support under this Rule shall be sent by him to the bankrupt and any trustee who is not the official receiver, so as to reach them at least 21 days before the hearing date.

(5) Copies of the trustee’s evidence in support under this Rule shall be sent by him to the official receiver and the bankrupt, so as to reach them at least 21 days before the hearing date.

(6) The bankrupt may, not later than 7 days before the hearing date, file in court a notice specifying any statements in the official receiver’s or trustee’s evidence in support which he intends to deny or dispute.

(7) If the bankrupt files a notice under paragraph (6) of this Rule, he shall send copies of it, not less than 4 days before the hearing date, to the official receiver and any trustee who is not the official receiver.

(8) If the court makes an order suspending the bankrupt’s discharge, copies of the order shall be sent by the court to the official receiver, any trustee who is not the official receiver and the bankrupt.

[E.R. 6.215]”

**Substitution of Rule 6.214**

85. For Rule 6.214 there shall be substituted—

**“Lifting of suspension of discharge**

6.214.—(1) Where the court has made an order under Article 253(3) that the period specified in Article 253(1) shall cease to run, the bankrupt may apply to it for the order to be discharged.

(2) The court shall fix a venue for the hearing of the application; and the bankrupt shall, not less than 28 days before the hearing date, give notice of the venue to the official receiver and any trustee who is not the official receiver, accompanied in each case by a copy of the application.

(3) The official receiver and the trustee may appear and be heard on the bankrupt’s application; and, whether or not they appear, the official receiver and trustee may file in court evidence in support of any matters which either of them considers ought to be drawn to the court’s attention.

(4) If the court made an order under Article 253(3)(b), the court may request a report from the official receiver or the trustee as to whether the conditions specified in the order have or have not been fulfilled.



*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(5) If a report is filed under paragraph (3) or (4), copies of it shall be sent by the official receiver or trustee to the bankrupt and to either the official receiver or trustee (depending on which has filed the report), not later than 14 days before the hearing date.

(6) The bankrupt may, not later than 7 days before the hearing date, file in court a notice specifying any statements in the official receiver's or trustee's report which he intends to deny or dispute.

(7) If the bankrupt files a notice under paragraph (6), he shall send copies of it, not less than 4 days before the hearing date, to the official receiver and the trustee.

(8) If on the bankrupt's application the court discharges the order under Article 253(3) (being satisfied that the period specified in Article 253(1) should begin to run again), it shall issue to the bankrupt a certificate that it has done so, with effect from a specified date and shall send copies of the certificate to the official receiver and the trustee.

[E.R. 6.216]"

#### **Amendment to Rule 6.215**

86. In Rule 6.215—

- (a) for the heading to Rule 6.215 there shall be substituted, "Application by bankrupt solicitor for discharge";
- (b) in paragraph (1) for the words "the bankrupt" there shall be substituted, "a bankrupt who is a solicitor";
- (c) in paragraph (3)(c) the words, "where the bankruptcy order was made against a solicitor" shall be omitted.

#### **Amendment to Rule 6.216**

87. In Rule 6.216—

- (a) in paragraph (1) for the words "the bankrupt" there shall be substituted, "a bankrupt who is a solicitor";
- (b) in paragraph (5) the words, " , where the bankruptcy order was made against a solicitor," shall be omitted.

#### **Amendment to Rule 6.221**

88. In Rule 6.221 there shall be inserted after "1990" the words "or under Parts 2, 3 or 4 of the Proceeds of Crime Act 2002."

#### **Amendment to Rule 6.222**

89. In Rule 6.222—

- (a) in paragraph (1)(c) after the words "under Article 361" there shall be inserted the words "or 361A", and
- (b) in paragraph (1)(o) for the words "to the official receiver under general regulations" there shall be substituted "under Schedule 4".

#### **Insertion of new Rule 6.227A**

90. After Rule 6.227 there shall be inserted—

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**“Application for redirection order**

6.227A.—(1) This Rule applies where the official receiver or trustee in bankruptcy applies to the court under Article 342(1) (re-direction of bankrupt’s letters etc).

(2) The application shall be made without notice to the bankrupt or any other person, unless the court directs otherwise.

(3) The applicant shall with his application, where he is the official receiver, file a report, and where he is the trustee in bankruptcy, an affidavit, setting out the reasons why such an order is sought.

(4) The court shall fix a venue for the hearing of the application if the court thinks fit and give notice to the applicant.

(5) The court may make an order on such conditions as it thinks fit.

(6) The order shall identify the person on whom it is to be served, and need not be served on the bankrupt unless the court directs otherwise.

[E.R. 6.235A]”

**Substitution of Rule 6.229**

91. For Rule 6.229 there shall be substituted—

**“Bankrupt’s Home — Notification of property falling within Article 256A**

6.229.—(1) Where it appears to a trustee that Article 256A(1) applies, the trustee shall give notice in Form 6.86 as soon as reasonably practicable to—

[Form 6.86]

- (a) the bankrupt;
- (b) the bankrupt’s spouse or civil partner (in a case falling within Article 256A(1)(b)); and
- (c) a former spouse or former civil partner of the bankrupt (in a case falling within Article 256A(1)(c)).

(2) A notice under paragraph (1) shall contain—

- (a) the name of the bankrupt;
- (b) the address of the dwelling-house; and
- (c) if the dwelling-house is registered land, the folio number.

(3) A trustee shall not give notice under paragraph (1) any later than 14 days before the expiry of the three year period under Article 256A(2) or 256A(5).

[E.R. 6.237]

**Application in respect of the vesting of an interest in a dwelling-house (registered land)**

6.229A.—(1) Paragraph (2) shall apply where—

- (a) property comprised in the bankrupt’s estate consists of an interest in a dwelling-house which at the date of bankruptcy was the sole or principal residence of—
  - (i) the bankrupt;
  - (ii) the bankrupt’s spouse or civil partner; or
  - (iii) a former spouse or former civil partner of the bankrupt; and

- (b) title to the dwelling-house is registered; and
- (c) an entry has been made, or entries have been made, in the individual register or registers in which title to the dwelling-house is registered relating to the bankrupt's bankruptcy or the individual register or registers has or have been altered to reflect the vesting of the bankrupt's interest in a trustee in bankruptcy.

(2) Where an interest of a kind mentioned in paragraph (1) ceases to be comprised in the bankrupt's estate and vests in the bankrupt under either Article 256A(2) or 256A(4) of the Order, or under Article 17(7) of the Insolvency (Northern Ireland) Order 2005, the trustee shall, within 7 days of the date of the vesting, make such application or applications to the Registrar of Titles as shall be necessary to show on the appropriate register that the interest in the dwelling-house has vested in the bankrupt.

(3) An application under paragraph (2) shall be made in accordance with the Land Registration Act (Northern Ireland) 1970(1) and shall be accompanied by—

- (a) evidence of the trustee's appointment (where not previously provided to the Registrar of Titles); and
- (b) a certificate from the trustee stating that the interest has vested in the bankrupt under Article 256A(2) or 256A(4) of the Order or Article 17(7) of the Insolvency (Northern Ireland) Order 2005 (whichever is appropriate).

(4) As soon as reasonably practicable after making an application under paragraph (2) of this Rule, the trustee shall notify the bankrupt and if the dwelling-house was the sole or principal residence of his spouse or former spouse or civil partner or former civil partner, such person, that the application has been made.

(5) The trustee shall notify every person who (to his knowledge) either claims an interest in the dwelling-house, or is under any liability in respect of the dwelling-house that an application has been made.

[E.R. 6.237A]

### **Vesting of bankrupt's interest (unregistered land)**

6.229B.—(1) Where an interest in a dwelling-house which at the date of the bankruptcy was the sole or principal residence of—

- (a) the bankrupt;
- (b) the bankrupt's spouse or civil partner; or
- (c) a former spouse or former civil partner of the bankrupt,

ceases to be comprised in the bankrupt's estate and vests in the bankrupt under either Article 256A(2) or 256A(4) of the Order or Article 17(7) of the Insolvency (Northern Ireland) Order 2005 and title to the dwelling-house is unregistered land, the trustee shall issue the bankrupt with a certificate as to the vesting in Form 6.87 as soon as reasonably practicable.

[Form 6.87]

(2) A certificate issued under paragraph (1) shall be conclusive proof that the interest mentioned in paragraph (1) has vested in the bankrupt.

(3) The trustee shall lodge in the registry of deeds a certificate as required by section 3(4) of the Registration of Deeds Act (Northern Ireland) 1970.

(4) As soon as reasonably practicable after issuing the certificate under paragraph (1) the trustee shall, if the dwelling-house was the sole or principal residence of the bankrupt's

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

spouse or former spouse or civil partner or former civil partner, notify such person, that the certificate has been issued.

(5) The trustee shall notify every person who (to his knowledge) either claims an interest in the dwelling-house, or is under any liability in respect of the dwelling-house that a certificate has been issued.

[E.R. 6.237B]

6.229C. The court may substitute for the period of three years mentioned in Article 256A(2) such longer period as the court thinks just and reasonable in all the circumstances of the case.

[E.R. 6.237C]

### **Vesting of bankrupt's estate — substituted period**

6.229D. For the purposes of Article 256A(2) for the period of three years set out therein there shall be substituted, where the trustee in bankruptcy has sent notice to the bankrupt that he considers—

- (a) the continued vesting of the property in the bankrupt's estate to be of no benefit to creditors; or
- (b) the re-vesting to the bankrupt will facilitate a more efficient administration of the bankrupt's estate,

the period of one month from the date of that notice.

[E.R. 6.237CA]

### **Charging Order**

6.229E.—(1) This Rule applies where the trustee applies to the court under Article 286 for an order imposing a charge on property consisting of an interest in a dwelling-house.

(2) The respondents to the application shall be—

- (a) any spouse or former spouse or civil partner or former civil partner of the bankrupt having or claiming to have an interest in the property;

[Form 6.82]

- (b) any other person appearing to have an interest in the property; and
- (c) such other persons as the court may direct.

(3) The trustee shall make a report to the court, containing the following particulars—

- (a) the extent of the bankrupt's interest in the property which is the subject of the application;
- (b) the amount which, at the date of the application, remains owing to unsecured creditors of the bankrupt; and
- (c) an estimate of the cost of realising the interest.

(4) The terms of the charge to be imposed shall be agreed between the trustee and the bankrupt or, failing agreement, shall be settled by the court.

(5) The rate of interest applicable under Article 286(2) is the rate applicable to a money judgement of the High Court on the day on which the charge is imposed, and the rate so applicable shall be stated in the court's order imposing the charge.

(6) The court's order shall also—

- (a) describe the property to be charged;

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (b) state whether the title to the property is registered and, if it is, specify the folio number;
- (c) set out the extent of the bankrupt's interest in the property which has vested in the trustee;
- (d) indicate, by reference to any, or the total, amount which is payable otherwise than to the bankrupt out of the estate and of interest on that amount, how the amount of the charge to be imposed is to be ascertained;
- (e) set out the conditions (if any) imposed by the court under Article 286(4); and
- (f) identify the date any property charged under Article 286 shall cease to be comprised in the bankrupt's estate and shall, subject to the charge (and any prior charge), vest in the bankrupt.

(7) Unless the court is of the opinion that a different date is appropriate, the date referred to in paragraph (6)(f) shall be that of the registration of the order in the Land Registry or the Registry of Deeds, as the case may be.

(8) Where the court order is capable of giving rise to an application or applications under the Land Registration Act (Northern Ireland) 1970, the trustee shall, as soon as reasonably practicable after the making of the court order or at the appropriate time, make the appropriate application or applications to the Registrar of Titles.

(9) In paragraph (8) an "appropriate application" is an application under the Land Registration Act (Northern Ireland) 1970 for an entry in the register in respect of the charge imposed by the order; and such application under that Act as shall be necessary to have the registration of title in respect of the dwelling-house noted that the interest has vested in the bankrupt.

(10) In determining the value of the bankrupt's interest for the purposes of paragraph (6)(c), the court shall disregard that part of the value of the property in which the bankrupt's interest subsists which is equal to the value of—

- (a) any loans secured by mortgage or other charge against the property;
- (b) any other third party interest; and
- (c) the reasonable costs of sale.

[E.R. 6.237D]

### **Interpretation**

6.229F.—(1) In Rules 6.229 and 6.229A, "registered land" means any land title to which has been registered in accordance with the provisions of Part III of the Land Registration Act (Northern Ireland) 1970.

(2) In Rule 6.229A, "individual register" has the same meaning as in the Land Registration Rules 2003.

[E.R. 6.237E]"

### **Insertion of new Chapters 27, 28 and 29 of Part 6 of the principal Rules**

92. After Chapter 26 of Part 6 of the principal Rules there shall be inserted—

#### **"CHAPTER 27**

#### **BANKRUPTCY RESTRICTIONS ORDER**

6.233. In this and the following two Chapters, "the Department" includes the official receiver acting in accordance with paragraph 1(2)(b) of Schedule 2A to the Order.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

[E.R. 6.240]

### **Application for bankruptcy restrictions order**

6.234.—(1) Where the Department applies to the court for a bankruptcy restrictions order under paragraph 1 of Schedule 2A to the Order, the application shall be supported by a report by the Department.

(2) The report shall include—

- (a) a statement of the conduct by reference to which it is alleged that it is appropriate for a bankruptcy restrictions order to be made; and
- (b) the evidence on which the Department relies in support of the application.

(3) Any evidence in support of an application for a bankruptcy restrictions order provided by persons other than the Department shall be by way of affidavit.

(4) The hearing date shall be no earlier than 8 weeks from the date when the court fixes the venue for the hearing.

[E.R. 6.241]

### **Service on the respondent**

6.235.—(1) The Department shall not more than 14 days after the date on which the application is made at court serve notice of the application and the venue fixed by the court on the bankrupt.

(2) The notice served on the respondent shall be accompanied by a copy of the application, together with copies of the report by the Department, any other evidence filed with the court in support of the application, and an acknowledgement of service.

(3) The respondent shall not more than 14 days after the date on which the application is served on him file in court an acknowledgement of service of the application indicating whether or not he contests the application.

(4) Where the respondent has failed to file an acknowledgement of service and the time period for doing so has expired, the respondent may attend the hearing of the application but may not take part in the hearing unless the court gives permission.

[E.R. 6.242]

### **The bankrupt's evidence**

6.236.—(1) If the bankrupt wishes to oppose the application, he shall within 28 days from the date of service on him of the application and evidence of the Department, file in court any evidence which he wishes the court to take into consideration.

(2) If the bankrupt files evidence under paragraph (1) of this Rule, he shall, within 3 days of filing at the court, serve a copy of such evidence upon the Department .

(3) The Department shall, within 14 days from receiving the copy of the bankrupt's evidence, file in court any further evidence in reply it wishes the court to take into consideration and shall as soon as reasonably practicable serve a copy of that evidence upon the bankrupt.

[E.R. 6.243]

### **Making a bankruptcy restrictions order**

6.237.—(1) The court may make a bankruptcy restrictions order against the bankrupt, whether or not the latter appears, and whether or not he has filed evidence in accordance with Rule 6.236.

(2) Where the court makes a bankruptcy restrictions order, it shall send two sealed copies to the Department.

(3) As soon as reasonably practicable after receipt of the sealed copies of the order, the Department shall send a sealed copy of the order to the bankrupt.

[E.R. 6.244]

## CHAPTER 28

### INTERIM BANKRUPTCY RESTRICTIONS ORDER

### **Application for interim bankruptcy restrictions order**

6.238.—(1) Where the Department applies for an interim bankruptcy restrictions order under paragraph 5 of Schedule 2A to the Order, the court shall fix a venue for the hearing.

(2) Notice of an application for an interim bankruptcy restrictions order shall be given to the bankrupt at least 2 business days before the hearing date unless the court directs otherwise.

[E.R. 6.245]

### **The case against the respondent**

6.239.—(1) The Department shall file a report in court as evidence in support of any application for an interim bankruptcy restrictions order.

(2) The report shall include evidence of the bankrupt's conduct which is alleged to constitute the grounds for the making of an interim bankruptcy restrictions order and evidence of matters which relate to the public interest in making the order.

(3) Any evidence provided in support of an application for an interim bankruptcy restrictions order by persons other than the Department shall be by way of affidavit.

[E.R. 6.246]

### **Making an interim bankruptcy restrictions order**

6.240.—(1) The bankrupt may file in court any evidence which he wishes the court to take into consideration and may appear at the hearing for an interim bankruptcy restrictions order.

(2) The court may make an interim bankruptcy restrictions order against the bankrupt, whether or not the latter appears, and whether or not he has filed evidence in accordance with paragraph (1) of this Rule.

(3) Where the court makes an interim bankruptcy restrictions order, it shall, as soon as reasonably practicable, send two sealed copies to the Department.

(4) As soon as reasonably practicable after receipt of the sealed copies of the order, the Department shall send a sealed copy of the order to the bankrupt.

[E.R. 6.247]

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### **Application to set aside an interim bankruptcy restrictions order**

6.241.—(1) A bankrupt may apply to the court to set aside an interim bankruptcy restrictions order.

(2) An application by the bankrupt to set aside an interim bankruptcy restrictions order shall be supported by an affidavit stating the grounds on which the application is made.

(3) Where a bankrupt applies under paragraph (1) of this Rule, to set aside an interim bankruptcy restrictions order, he shall not less than 7 days before the hearing date send to the Department,—

- (a) notice of his application;
- (b) notice of the venue;
- (c) a copy of his application; and
- (d) a copy of the supporting affidavit.

(4) The Department may attend the hearing and call the attention of the court to any matters which seem to it to be relevant, and may itself give evidence or call witnesses.

(5) Where the court sets aside an interim bankruptcy restrictions order it shall, as soon as is reasonably practicable, send two sealed copies of the order to the Department.

(6) As soon as reasonably practicable after receipt of the sealed copies of the order, the Department shall send a sealed copy of the order to the bankrupt.

[E.R. 6.248]

## **CHAPTER 29**

### **BANKRUPTCY RESTRICTIONS UNDERTAKING**

#### **Acceptance of the bankruptcy restrictions undertaking**

6.242. A bankruptcy restrictions undertaking signed by the bankrupt shall be deemed to have been accepted by the Department for the purposes of paragraph 9 of Schedule 2A to the Order when the undertaking is signed on behalf of the Department.

[E.R. 6.249]

#### **Notification to the court**

6.243. As soon as a bankruptcy restrictions undertaking has been accepted by the Department—

- (a) one copy each shall be sent to the bankrupt and the official receiver; and
- (b) one copy shall be filed in court.

[E.R. 6.250]

#### **Application under paragraph 9(3) of Schedule 2A to the Order to annul a bankruptcy restrictions undertaking**

6.244.—(1) An application under paragraphs 9(3)(a) or (b) of Schedule 2A to the Order shall be supported by an affidavit stating the grounds on which it is made.

(2) The bankrupt shall give notice of the application and the venue, together with a copy of the affidavit supporting his application to the Department at least 28 days before the hearing date.



**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) The Department may attend the hearing and call the attention of the court to any matters which seem to it to be relevant, and may itself give evidence or call witnesses.

(4) The court shall send a sealed copy of any order annulling or varying the bankruptcy restrictions undertaking to the Department and the bankrupt.

[E.R. 6.251]”