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STATUTORY INSTRUMENTS

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**2016 No. 1024**

**The Insolvency (England and Wales) Rules 2016**

**PART 10** **E+W**

**BANKRUPTCY**

**CHAPTER 20** **E+W**

**Criminal bankruptcy**

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

**[<sup>F1</sup>Application** **E+W**

**10.153A.** The rules in this chapter apply to proceedings arising out of criminal bankruptcy orders.]

**Textual Amendments**

**F1** [Rule 10.153A](#) inserted (6.4.2017) by [The Insolvency \(England and Wales\) \(Amendment\) Rules 2017 \(S.I. 2017/366\)](#), rules 1, **32**

**Contents of petition** **E+W**

**10.154.** The petition must contain—

- (a) identification details for the debtor;
- (b) the name and postal address of the petitioner if other than the Official Petitioner;
- (c) the occupation (if any) of the debtor;
- (d) any other address at which the debtor has resided at or after the time the petition debt was incurred;
- (e) any other name by which the debtor is or has been known;
- (f) the trading name, business address and nature of the business of any business carried on by the debtor;
- (g) details of any other businesses which have been carried on by the debtor at or after the time the petition debt was incurred;
- (h) a statement that the petitioner requests that court make a bankruptcy order against the debtor;
- (i) a statement that a criminal bankruptcy order was made against the debtor at the court specified in this petition and that an office copy of the order accompanies the petition;
- (j) the name of the court that made the criminal bankruptcy order;

- (k) a statement that the criminal bankruptcy order—
  - (i) remains in force, or
  - (ii) was amended by the Court of Appeal on the date specified in this petition, that an office copy of the order of the Court of Appeal accompanies the petition and that the order as amended by the Court of Appeal remains in force;
- (l) a statement that according to the criminal bankruptcy order the debtor is indebted to the persons specified in this petition as having suffered loss or damage in the aggregate sum of the amount of loss or damage suffered specified in this petition;
- (m) the names and addresses of the persons referred to in paragraph (k); and
- (n) the amount of loss or damage suffered referred to in paragraph (k).

**Status and functions of Official Petitioner E+W**

**10.155.**—(1) The Official Petitioner is to be treated for all purposes of the Act and these Rules as a creditor of the bankrupt.

(2) The Official Petitioner may attend or be represented at any meeting of creditors, and is to be given any notice under the Act or these Rules which is required or authorised to be delivered to creditors; and the requirements of these Rules as to the delivery and use of proxies do not apply to the Official Petitioner.

**Interim receivership E+W**

**10.156.** The rules in Chapter 4 of this Part about the appointment of an interim receiver apply in criminal bankruptcy only in so far as they provide for the appointment of the official receiver as interim receiver.

**Proof of bankruptcy debts and notice of order E+W**

**10.157.**—(1) The making of a bankruptcy order on a criminal bankruptcy petition does not affect the right of creditors to prove for their debts arising otherwise than in consequence of the criminal proceedings.

(2) A person specified in a criminal bankruptcy order as having suffered loss or damage must be treated as a creditor of the bankrupt; and a copy of the order is sufficient evidence of that person's claim, subject to its being shown by any party to the bankruptcy proceedings that the loss or damage actually suffered was more or (as the case may be) less than the amount specified in the order.

(3) The requirements of these Rules about proofs do not apply to the Official Petitioner.

(4) In criminal bankruptcy, notice of the making of the bankruptcy order and blank proofs must be delivered by the official receiver to every creditor who is known to the official receiver within 12 weeks from the making of the bankruptcy order.

**Rules not applying in criminal bankruptcy E+W**

**10.158.** The following rules do not apply in criminal bankruptcy—

- <sup>F2</sup>(a) .....
- (b) Chapter 6 of this Part, except rules 10.86 (release of official receiver) and 10.91 (power of court to set aside transactions);
- (c) rule 15.21(a) and (b) (chair at meetings); and
- (d) Part 17 (creditors' and liquidation committees).

### Textual Amendments

- F2** Rule 10.158(a) omitted (6.4.2017) by virtue of [The Insolvency \(England and Wales\) \(Amendment\) Rules 2017 \(S.I. 2017/366\)](#), rules 1, **33**

### Annulment of criminal bankruptcy order **E+W**

**10.159.** Chapter 16 of this Part (annulment of bankruptcy order) applies to an application to the court under section 282(2) <sup>M1</sup> as it applies to an application under section 282(1), with any necessary modifications.

### Marginal Citations

- M1** Section 282(2) is amended by paragraph 13 of Schedule 19 to the [Enterprise and Regulatory Reform Act 2013 \(c.24\)](#).

### Application by bankrupt for discharge **E+W**

**10.160.**—(1) A bankrupt who applies under section 280 for an order of discharge must deliver notice of the application to the official receiver, and deposit with the official receiver such sum as the official receiver may require for the purpose of covering the costs of the application.

(2) The court, if satisfied that the bankrupt has complied with paragraph (1), must fix a venue for the hearing of the application, and give at least 42 days' notice of it to the official receiver and the bankrupt.

(3) The official receiver must deliver notice of the application and venue to—

- (a) the trustee; and
- (b) every creditor who, to the official receiver's knowledge, has a claim outstanding against the bankrupt's estate which has not been satisfied.

(4) These notices must be delivered not later than 14 days before the date fixed for the hearing of the bankrupt's application.

### Report of official receiver **E+W**

**10.161.**—(1) Where the bankrupt makes an application under section 280, the official receiver must, at least 21 days before the date fixed for the hearing of the application, file with the court a report containing—

- (a) particulars of any failure by the bankrupt to comply with the bankrupt's obligations under Parts 8 to 11 of the Act;
- (b) the circumstances surrounding the present bankruptcy, and those surrounding any previous bankruptcy of the bankrupt;
- (c) the extent to which, in the present and in any previous bankruptcy, the bankrupt's liabilities have exceeded the bankrupt's assets; and
- (d) particulars of any distribution which has been, or is expected to be, made to creditors in the present bankruptcy or, if such is the case, that there has been and is to be no distribution; and
- (e) any other matters which in the official receiver's opinion ought to be brought to the court's attention.

(2) The official receiver must deliver a copy of the report to the bankrupt and the trustee, so as to reach them at least 14 days before the date of the hearing of the application under section 280.

(3) The bankrupt may, not later than five business days before the date of the hearing, file with the court a notice specifying any statements in the official receiver's report which the bankrupt intends to deny or dispute.

(4) Such a notice must be authenticated and dated by the bankrupt and must contain the bankrupt's name and postal address.

(5) The bankrupt must deliver copies of such a notice to the official receiver and the trustee not less than three business days before the date of the hearing.

(6) The official receiver, the trustee and any creditor may appear on the hearing of the bankrupt's application, and may make representations and put to the bankrupt such questions as the court allows.

### **Order of discharge** E+W

**10.162.**—(1) An order of the court under section 280(2)(b) (discharge absolutely) or (c) (discharge subject to conditions relating to income or property) must contain—

- (a) the name of the court;
- (b) identification details for the bankrupt;
- (c) the date of the bankruptcy order;
- (d) the date of the report of the official receiver in the matter;
- (e) the statement that the court has taken into consideration the report of the official receiver specified in the order as to the bankrupt's conduct and affairs, including the bankrupt's conduct during the bankruptcy;
- (f) an order—
  - (i) that the bankrupt be discharged absolutely, or
  - (ii) that the bankrupt be discharged but that the bankrupt's discharge be suspended until the conditions specified in the order are fulfilled;
- (g) the date on which the order is made;
- (h) the date on which the order takes effect; and
- (i) any conditions required to be fulfilled for discharge.

(2) Copies of any order made on an application by the bankrupt for discharge under section 280 must be delivered by the court to the bankrupt, the trustee and the official receiver.

(3) The order must contain a notice to the bankrupt stating that should the bankrupt require notice of the order to be gazetted and to be advertised in the same manner as the bankruptcy order was advertised, then the bankrupt must within 28 days deliver a notice of that requirement to the official receiver

### **Deferment of issue of order pending appeal** E+W

**10.163.** An order made by the court on an application by the bankrupt for discharge under section 280 must not be drawn up or gazetted until the time allowed for appealing has expired or, if an appeal is entered, until the appeal has been determined.

### **Costs under this Chapter** E+W

**10.164.** In no case do any costs or expenses arising under this Chapter fall on the official receiver personally.

**Changes to legislation:**

There are currently no known outstanding effects for the The Insolvency (England and Wales) Rules 2016, CHAPTER 20.