

SCHEDULE 1

PART 6

AMENDMENTS TO PART 6 OF THE PRINCIPAL RULES

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.

[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]

Status: This is the original version (as it was originally made).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

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]

Status: This is the original version (as it was originally made).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

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]

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—

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- (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.

(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]”