

1970 No. 1868 (L.36)

BANKRUPTCY, ENGLAND

The Bankruptcy (Amendment) Rules 1970

<i>Made</i>	- - -	11th December 1970
<i>Laid before Parliament</i>		18th December 1970
<i>Coming into Operation—</i>		
<i>Rules 1 to 8 and 10 to 12</i>		11th January 1971
<i>Rule 9</i>		15th February 1971

The Lord Chancellor, in exercise of the powers conferred on him by section 132 of the Bankruptcy Act 1914(a) and with the concurrence of the Secretary of State for Trade and Industry, hereby makes the following Rules:—

1.—(1) These Rules may be cited as the Bankruptcy (Amendment) Rules 1970.

(2) Rules 1 to 8 and Rules 10 to 12 shall come into operation on 11th January 1971 and Rule 9 shall come into operation on 15th February 1971.

(3) In these Rules “the principal Rules” means the Bankruptcy Rules 1952(b), as amended (c), and unless the context otherwise requires, a rule or form referred to by number means a rule or form so numbered in those Rules.

(4) The Interpretation Act 1889(d) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

2. The following paragraphs shall be added to Rule 4 of the principal Rules:—

“(4) In these Rules “decimal currency” means the new currency provided for by the Decimal Currency Act 1967(e) and where it is necessary for the purposes of these Rules to calculate the amount in decimal currency corresponding to an amount in shillings and pence, the calculation shall be made in accordance with Schedule 1 to the Decimal Currency Act 1969(f).

(5) In these Rules the expressions “A3”, “A4” and “A5” followed by the letters “ISO” mean respectively the size of paper so referred to in the specifications of the International Standards Organisation.”

3. The following new rule shall be inserted immediately after Rule 13—

“13A. Where any proceeding or other document contains an amount expressed in shillings and pence, the equivalent of that sum in decimal currency must also be stated.”

(a) 1914 c. 59.

(b) S.I. 1952/2113 (1952 I, p. 213).

(c) The relevant amending instruments are S.I. 1963/2067, 1965/1571, 1967/371, 1968/1935 (1963 III, p. 4379; 1965 II, p. 4578; 1967 I, p. 1263; 1968 III, p. 5246).

(d) 1889 c. 63.

(e) 1967 c. 47.

(f) 1969 c. 19.

4. In Rule 112(1), for the words "10d per folio" there shall be substituted the words "5 s. (25p) per foolscap or A.4 ISO page".

5. In Rule 146(1), immediately after the figures "£7 10s.", there shall be inserted the figures "(£7.50)".

6. In Rule 244, immediately after the figures "£7 10s.", there shall be inserted the figures "(£7.50)".

7. In Rule 365, for the words "of 3d per folio" there shall be substituted the words "prescribed in Item No. 57 of Appendix II to these Rules".

8. In Rule 366 the words from "of 3d per folio" to the end of the Rule shall be omitted, and there shall be substituted the words "prescribed in Item No. 57 of Appendix II to these Rules".

9.—(1) In the forms in Appendix I to the principal Rules—

(a) for the expression "pounds, shillings and pence" wherever it appears, there shall be substituted the expression "pounds and pence";

(b) for the expression "£ s. d." or "£ : : " wherever it appears there shall be substituted the expression "£ ";

(c) for the expression "s. d." wherever it appears there shall be substituted the expression "p".

(2) In Form No. 60, for the words "a Shilling Bankruptcy stamp" there shall be substituted the words "an Insolvency Stamp for 13p." and for the figures "1s." there shall be substituted the figures "13p."

(3) In Form No. 90, for the words "five shillings", there shall be substituted "25 pence".

(4) In Form No. 111, for the words "ten shillings", there shall be substituted "50 pence".

(5) In Form No. 175, for the figures "2/6" and "5/-" there shall be substituted the figures "13p." and "25p." respectively.

10. In the heading to Appendix II to the principal Rules, immediately under the words "SCALE OF BANKRUPTCY COSTS" there shall be inserted the following note:— "*(In this Appendix decimal equivalents are shown in italics and brackets.)*".

11.—(1) For Parts I to IV of the scale of costs set out in Appendix II to the principal Rules, there shall be substituted the scale set out in Schedule 1 to these Rules.

(2) Paragraph 11 of Part V of Appendix II to the principal Rules shall be deleted.

12. For Appendix III to the principal Rules, there shall be substituted the Appendix set out in Schedule 2 to these Rules.

Dated 10th December 1970.

Hailsham of St. Marylebone, C.

I concur,

Dated 11th December 1970.

John Davies,
Secretary of State for
Trade and Industry.

SCHEDULE 1

PART I

Scale of Costs of Petitioning Debtor

<i>Item</i>	£	s.	d.	(£)
1. (a) Instructions for petition, search for prior petition drawing and copy petition and attesting same; attending Official Receiver with deposit, attending presentation of petition and hearing thereof when receiving order made; drawing and copy receiving order; attending Official Receiver giving him all necessary information; attending upon debtor's preliminary examination and upon public examination; drawing bill of costs and copy; attending lodging bill, obtaining appointment to tax and necessary notices thereof; attending taxation, vouching, completing and obtaining Taxing Officer's allocatur; letters messengers and telephone calls; where the assets are certified as not likely to exceed £300	10	0	0	(10-00)
(b) Where the assets are certified as likely to exceed £300...	15	0	0	(15-00)
	20	0	0	(20-00)
<i>Note:</i> The allowance for Item 1(a) or 1(b) is to be made in accordance with the certificate of the Official Receiver as to the value which the assets are likely to realise, and the certificate must be produced to the Taxing Officer. Where a composition is accepted and confirmed by the court the value of the assets shall be considered to be the amount required for the purposes of the composition.				
2. Drawing and copy order of adjudication upon application by debtor under Rule 217... ..	1	10	0	(1-50)
3. Where the solicitor practises at a distance from the court and employs an agent upon presentation and hearing of the petition; the following additional allowance may be made	2	5	0	(2-25)

Note to Item 3: Travelling expenses not exceeding this sum may otherwise be allowed.

General note to Part I:—

No charges other than those included in Part I of this Scale may be allowed unless the Taxing Officer considers that by reason of special circumstances additional items should be allowed.

Part II

*Debtor's costs where Bankruptcy Notice set aside
and on dismissal of Petition*

<i>Item</i>	£	s.	d.	(£)
4. Instructions for application to set aside bankruptcy notice and for affidavit of counterclaim, including perusal and consideration of the bankruptcy notice; drawing affidavit, copy and attending to file; drawing application for appointment to hear (when requisite) and attending obtaining directions thereon	5	0	0	(5.00)
	12	0	0	(12.00)
		to		to
5. (a) Attending court on hearing of application when order made setting aside bankruptcy notice; drawing and copy order and attending to pass	3	5	0	(3.25)
(b) Attending court when hearing of application adjourned; drawing and copy order and attending to pass	2	10	0	(2.50)
6. Instructions to show cause on hearing of petition including perusing and considering petition, and attending upon the debtor obtaining information; drawing and copy notice to show cause and attending to file; two fair copies notice and service thereof... ..	5	0	0	(5.00)
	12	0	0	(12.00)
		to		to
7. (a) Attending court on hearing of petition when petition dismissed	1	10	0	(1.50)
	12	0	0	(12.00)
		to		to
(b) Attending court when hearing of petition adjourned...	1	10	0	(1.50)
	12	0	0	(12.00)
		to		to
8. Drawing and copy order and attending to pass	15	0		(0.75)
9. Letters messengers and telephone calls not otherwise provided for				Discretionary Discretionary
10. In any special case, costs may, at the discretion of the Taxing Officer be allowed:— (a) in relation to items not mentioned in this Scale; or (b) of an amount higher than that prescribed by this Scale.				

General note to Part II:—

The debtor shall be allowed his travelling expenses and compensation for loss of time in accordance with the provisions of paragraph 16 of Part V of this Scale.

Part III

Scale of Costs of Petitioning Creditor

11. Instructions for bankruptcy notice, drawing same, engrossing and two fair copies; preparing request to issue; filing, sealing and issuing notice... ..	3	15	0	(3.75)
12. Drawing and engrossing affidavit of service of bankruptcy notice, marking exhibit, attending swearing and filing same... ..	2	3	0	(2.15)

<i>Item</i>	£	s.	d.	(£)
13. Instructions for bankruptcy petition including, where necessary, examining particulars of petitioning creditor's account	3	0	0	(3-00)
		to		to
	8	0	0	(8-00)
<i>Note:</i> Where the act of bankruptcy is other than non-compliance with a bankruptcy notice, items for work necessarily and properly done in proof thereof, may be allowed at the discretion of the Taxing Officer.				
14. Drawing bankruptcy petition, engrossing same, two copies and attesting signature of the petitioning creditor ...	3	0	0	(3-00)
15. Drawing and engrossing affidavit verifying petition, marking exhibit and attending petitioner to be sworn ...	1	10	0	(1-50)
16. Attending to search for prior petition and for compliance with bankruptcy notice; affidavit of search, including drawing, engrossing and attending swearing	2	10	0	(2-50)
17. Attending Official Receiver with deposit; attending presenting petition and drawing order for hearing same; attending to file all affidavits	4	10	0	(4-50)
<i>Note:</i> The deposit is to be charged in the petitioning creditor's bill of costs.				
18. Drawing and engrossing affidavit of service of petition, marking exhibit, attending swearing and filing same ...	2	3	0	(2-15)
19. Drawing and engrossing affidavit of petitioning creditor's debt and attending swearing and filing same	2	0	0	(2-00)
		to		to
	5	0	0	(5-00)
20. Attending hearing of petition when receiving order made; drawing receiving order, copy and attending to pass ...	4	0	0	(4-00)
21. Attending Official Receiver upon making of receiving order giving him all necessary information	1	10	0	(1-50)
		to		to
	3	0	0	(3-00)
22. Attending hearing of petition when adjournment ordered; drawing order of adjournment and copy to file ...	2	10	0	(2-50)
<i>Note:</i> More than one attendance on the hearing of a bankruptcy petition shall not be allowed unless certified by the court at the time.				
23. Drawing bill of costs and copy for taxation; attending lodging bill, obtaining appointment to tax and necessary notices thereof; attending taxation, vouching, completing and obtaining Taxing Officer's allocatur	5	0	0	(5-00)
24. Where the solicitor practises at a distance from the court and employs an agent upon presentation and hearing of the petition, the following additional allowance may be made	3	0	0	(3-00)
<i>Note:</i> Travelling expenses, not exceeding this sum, may otherwise be allowed.				
25. For service of a bankruptcy notice or petition, an allowance shall be made in accordance with the provisions of Part IV of this Scale.				
26. Letters messengers and telephone calls not otherwise provided for				Discretionary Discretionary

Item *General notes to Part III:—* £ s. d. (£)

1. No charges other than those included in Part III of this Scale may be allowed, unless the Taxing Officer considers that by reason of the petition being opposed or other circumstances, additional items should be allowed;

2. The petitioning creditor's solicitor may be allowed all proper charges at the rate specified in the scale—

(a) for work necessarily and usefully done between the presentation of the petition and the date of the receiving order in the interest of the creditors generally and for the protection or benefit of the estate; and

(b) in exceptional cases for special services rendered prior to the presentation of the petition in the interests of the creditors generally where the services have been of substantial advantage to the estate:

if the Official Receiver certifies that the work was necessary or useful, or, as the case may be that the special services were of substantial advantage. The Official Receiver's certificate may be endorsed at the foot of the bill of costs.

Part IV

Miscellaneous and General Costs Instructions

- | | | |
|--|-------------------------------|---------------------------------|
| <p>27. For application for appointment of special manager and drawing same; obtaining assents of creditors; attending Official Receiver to lodge papers and to make application</p> | <p>7 0 0</p> | <p>(7-00)</p> |
| <p><i>Note:</i> No costs shall be allowed in respect of an unsuccessful application unless the Official Receiver certifies that such costs should be allowed.</p> | | |
| <p>28. For application for appointment of interim receiver and drawing same; affidavit in support and attending to file; attending hearing of application when order made and drawing order; attending Official Receiver with order, paying deposit and giving him all necessary information</p> | <p>10 0 0</p> | <p>(10-00)</p> |
| <p><i>Note 1:</i> The costs of further affidavits in support may be allowed at the discretion of the Taxing Officer.
<i>Note 2:</i> The deposit is to be charged in the bill of costs.</p> | | |
| <p>29. For application for substituted service and drawing same; affidavit in support; attending making application when order made; attending drawing up order</p> | <p>5 0 0</p> | <p>(5-00)</p> |
| <p>30. For application to extend or abridge time and drawing same; attending making application when order made; attending drawing up order</p> | <p>2 10 0</p> | <p>(2-50)</p> |
| <p>31. For application to dispense with petitioning creditor's attendance on hearing and drawing same; attending making application when order made; attending drawing up order</p> | <p>2 10 0</p> | <p>(2-50)</p> |
| <p>32. For hearing of any matter not otherwise provided for ...</p> | <p>Discretionary</p> | <p><i>Discretionary</i></p> |
| <p><i>Note:</i> This item is intended to cover the doing of any work, not otherwise provided for, necessarily or properly done in preparing for the hearing of any matter.</p> | | |
| <p>33. For case for opinion of counsel</p> | <p>1 0 0
to
3 0 0</p> | <p>(1-00)
to
(3-00)</p> |

<i>Item</i>	<i>Attendances</i>	£ s. d.	(£)
34. Of petitioning creditor's solicitor at public examination, where the court certifies that the attendance is necessary		2 10 0	(2-50)
35. Of petitioning creditor's solicitor at first meeting of creditors		1 10 0	(1-50)
		to	to
		5 0 0	(5-00)
<i>Note:</i> This item may only be allowed if the Official Receiver certifies in writing that the attendance was necessary in the interest of the estate, and the amounts may not be exceeded except by special authority of the Official Receiver.			
36. At meeting of creditors (other than first meeting) when duly authorised and necessary		1 10 0	(1-50)
		to	to
		6 0 0	(6-00)
37. At meeting of committee of inspection when duly authorised and necessary		1 10 0	(1-50)
		to	to
		6 0 0	(6-00)
<i>Note to Items 36 and 37:</i> When such attendance is special and unusually long, these items may be increased at the discretion of the Taxing Officer.			
38. In chambers on hearing of application where not otherwise provided for		1 10 0	(1-50)
		to	to
		12 0 0	(12-00)
		per day	per day
39. (a) In court on hearing of any matter for each day on which matter is included in list of matters to be heard but on which hearing is not begun		1 10 0	(1-50)
		to	to
		8 0 0	(8-00)
(b) In court on hearing of any matter		3 0 0	(3-00)
		to	to
		15 0 0	(15-00)
		per day	per day
40. To lodge and to make application in chambers, where not otherwise provided for		1 10 0	(1-50)
41. To lodge and to make application for warrant, warrant of seizure or search warrant		1 10 0	(1-50)
<i>Note to Items 40 and 41:</i> These items include filing of affidavits or other documents in support of application.			
42. To instruct officer as to execution of warrant or warrant of seizure		15 0	(0-75)
43. On a deponent swearing or solicitor or clerk deposing to any affidavit not otherwise provided for		15 0	(0-75)
44. To file affidavit or other document, where not otherwise provided for		15 0	(0-75)
45. Any other attendance not otherwise provided for (or such greater sum as the Taxing Officer in his discretion shall allow)		15 0	(0-75)

<i>Item</i>	<i>Drawing documents</i>	£ s. d.	(£)
46. Commission or order for examination of witnesses abroad— per foolscap or A4. 150 page		10 0	(0-50)
47. Application to a Judge or Registrar, including copy ...		15 0	(0-75)
48. Order made in court or other special order— per foolscap or A4. 150 page		10 0	(0-50)
49. Order not otherwise provided for, including copy to file and attending to enter		15 0	(0-75)
50. Proposal for scheme of arrangement or composition— per foolscap or A4. 150 page		10 0	(0-50)
51. Consent to receiving order and attending obtaining the debtor's signature		2 0 0	(2-00)
52. Warrant, warrant of seizure or search warrant If warrant is more than one foolscap or A4. ISO page in length, for each additional page, (proportionately for less.)... ..		1 0 0 12 0	(1-00) (0-60)
53. Any affidavit, notice of motion, report, or other document not otherwise provided for— per foolscap or A4. ISO page		10 0	(0-50)
54. Any notice not otherwise provided for		2 6	(0-13)
55. Brief or case for opinion of counsel— per brief or A3. ISO page per foolscap or A4. ISO page (in each case, proportionately for less)		16 0 10 0	(0-80) (0-50)
<i>Perusal</i>			
56. Of any document not provided for or allowed under any other item	Discretionary		<i>Discretionary</i>
<i>Copies</i>			
57. Copy of document not otherwise provided for— Typed top copy:			
per quarto or A5. ISO page... ..		3 0	(0-15)
per foolscap or A4. ISO page		5 0	(0-25)
per draft page... ..		6 0	(0-30)
per brief or A3. ISO page (in each case proportionately for less)		8 0	(0-40)
58. Photographic, printed and carbon copies—			
per quarto or A5. ISO page... ..		1 6	(0-07)
per foolscap or A4. ISO page		2 0	(0-10)
per draft page... ..		3 0	(0-15)
per brief or A3. ISO page (for printed and carbon copies only—in each case proportionately for less)		4 0	(0-20)
<i>Service</i>			
59. Of bankruptcy notice or petition, or other document—			
(a) if required to be served personally, for each service...		10 0	(0-50)
(b) if service by post authorized, for each service ...		5 0	(0-25)
In addition to the amount allowed under paragraph (a) hereof, a mileage allowance in respect of each mile after the first two miles between the place at which service is effected and the nearest place of business of the solicitor effecting it		2 0	(0-10)

<i>Item</i>	£ s. d.	(£)
60. Where more than one attendance is necessary to effect service, or to ground an application for substituted service	Discretionary	<i>Discretionary</i>
<i>Letters</i>		
61. Letters—		
Circular	5 0	(0.25)
Short or similar	8 0	(0.40)
Other (or according to length and complexity)	15 0	(0.75)
62. Letters, messengers and telephone calls not provided for or allowed under any other item	Discretionary	<i>Discretionary</i>

SCHEDULE 2

APPENDIX III

SCALE OF ALLOWANCES TO AUCTIONEERS
AND BROKERS

The following charges shall be subject to reduction by agreement with the Official Receiver or the trustee, or to increase with the sanction of the committee of inspection and the Secretary of State for Trade and Industry.

Chattels

	£ s. d.	(£)
For inventory only, not exceeding one foolscap or A4. ISO page and one copy	1 10 0	(1.50)
For every additional page beyond one up to 4, and one copy...	1 0 0	(1.00)
For each page beyond 4, and one copy	15 0	(0.75)
For inventory and valuation:—		
On the first £300	5 per cent.	
On the next £200	2½ per cent.	
Above £500	1½ per cent.	

For sales by private contract based on the valuation, half the above charges for inventory and valuation.

For sales by auction, in addition to such out-of-pocket expenses as may be authorized at the time by the Official Receiver or trustee:—

On the first £100	7½ per cent.
On the next £400	5 per cent.
On the next £500	4 per cent.
Above £1,000	2½ per cent.

Where the sale is held on the auctioneers' premises, an inclusive charge to include all out-of-pocket expenses except costs of removal:—

On the first £1,000	12½ per cent.
Above £1,000	10 per cent.

Land

For valuation of property and reporting thereon, a fee to be fixed by agreement but not to exceed:—

	£ s. d.	(£)
On the first £1,000	1 1 0 per cent.	(1.05 per cent.)
On the next £9,000	0 10 6 per cent.	(0.52½ per cent.)
Above £10,000	0 5 0 per cent.	(0.25 per cent.)

For sales by auction, including prior valuations, for determining amount of reserve bids and for sales by private contract, including prior valuation:—

On the first £300	...	...	...	5 per cent.
On the next £1,700	...	...	...	2½ per cent.
Above up to £5,000	...	...	...	1½ per cent.
Above £5,000	...	...	...	1 per cent.

Costs of surveys, dilapidations and specifications in discretion of Taxing Officer

{ Not exceeding £5.5.0 (£5.25) per £100 on the amount of the settlement or on the estimated cost of complying with the schedule. Minimum fee £2.2.0 (£2.10).

The foregoing charges are to be in addition to such out-of-pocket expenses as may be authorized at the time by the Official Receiver or trustee.

General

Allowances for travelling by the auctioneer or broker shall be in the discretion of the Taxing Officer but shall not exceed the actual expenses incurred.

An auctioneer who uses his own car instead of travelling by rail or hired vehicle shall be entitled, if the Taxing Officer is satisfied that such use was reasonable, to an allowance not exceeding 10½d. (4½p.) per mile.

Fees for services not provided for in this Scale may be fixed by agreement with the trustee, with the consent of the committee of inspection and the Secretary of State for Trade and Industry.

Any fraction of a penny in the total amount of a charge allowed by this Scale shall be disregarded.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Bankruptcy Rules 1952 so as to make provision for the use of decimal currency. The decimal equivalent will have to be stated of all sums, other than whole £s, appearing in proceedings or other documents filed on or after 11th January 1971, and to avoid fractions of a new penny the "whole penny" conversion table in Schedule 1 to the Decimal Currency Act 1969 will have to be used. Minor and consequential amendments are made in Rules and forms and the appendices of fixed costs and auctioneers' charges are amended, amounts being expressed both in £ s. d. and in decimal equivalents or percentages.

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