
STATUTORY INSTRUMENTS

1986 No. 1925

The Insolvency Rules 1986

THE SECOND GROUP OF PARTS

PART 6

BANKRUPTCY

CHAPTER 10

THE TRUSTEE IN BANKRUPTCY

SECTION E: SUPPLEMENTARY PROVISIONS

Trustee deceased

6.143.—(1) Subject as follows, where the trustee (other than the official receiver) has died, it is the duty of his personal representatives to give notice of the fact to the official receiver, specifying the date of the death.

This does not apply if notice has been given under any of the following paragraphs of this Rule.

(2) If the deceased trustee was a partner in a firm, notice may be given to the official receiver by a partner in the firm who is qualified to act as an insolvency practitioner, or is a member of any body recognised by the Secretary of State for the authorisation of insolvency practitioners.

(3) Notice of the death may be given by any person producing to the official receiver the relevant death certificate or a copy of it.

(4) The official receiver shall give notice to the court, for the purpose of fixing the date of the deceased trustee's release in accordance with section 299(3)(a).

Loss of qualification as insolvency practitioner

6.144.—(1) This Rule applies where the trustee vacates office, under section 298(6), on his ceasing to be qualified to act as an insolvency practitioner in relation to the bankrupt.

(2) The trustee vacating office shall forthwith give notice of his doing so to the official receiver, who shall give notice to the Secretary of State.

The official receiver shall file in court a copy of his notice under this paragraph.

(3) Rule 6.135 applies as regards the trustee obtaining his release, as if he had been removed by the court.

Notice to official receiver of intention to vacate office

6.145.—(1) Where the trustee intends to vacate office, whether by resignation or otherwise, and there remain in the estate any unrealised assets, he shall give notice of his intention to the official receiver, informing him of the nature, value and whereabouts of the assets in question.

(2) Where there is to be a creditors' meeting to receive the trustee's resignation, or otherwise in respect of his vacation of office, the notice to the official receiver must be given at least 21 days before the meeting.

Trustee's duties on vacating office

6.146.—(1) Where the trustee ceases to be in office as such, in consequence of removal, resignation or cesser of qualification as an insolvency practitioner, he is under obligation forthwith to deliver up to the person succeeding him as trustee the assets of the estate (after deduction of any expenses properly incurred, and distributions made, by him) and further to deliver up to that person—

- (a) the records of the bankruptcy, including correspondence, proofs and other related papers appertaining to the bankruptcy while it was within his responsibility, and
- (b) the bankrupt's books, papers and other records.

(2) When the administration of the bankrupt's estate is for practical purposes complete, the trustee shall forthwith file in court all proofs remaining with him in the proceedings.

Power of court to set aside certain transactions

6.147.—(1) If in the administration of the estate the trustee enters into any transaction with a person who is an associate of his, the court may, on the application of any person interested, set the transaction aside and order the trustee to compensate the estate for any loss suffered in consequence of it.

(2) This does not apply if either—

- (a) the transaction was entered into with the prior consent of the court, or
- (b) it is shown to the court's satisfaction that the transaction was for value, and that it was entered into by the trustee without knowing, or having any reason to suppose, that the person concerned was an associate.

(3) Nothing in this Rule is to be taken as prejudicing the operation of any rule of law or equity with respect to a trustee's dealings with trust property, or the fiduciary obligations of any person.

Rule against solicitation

6.148.—(1) Where the court is satisfied that any improper solicitation has been used by or on behalf of the trustee in obtaining proxies or procuring his appointment, it may order that no remuneration out of the estate be allowed to any person by whom, or on whose behalf, the solicitation was exercised.

(2) An order of the court under this Rule overrides any resolution of the creditors' committee or the creditors, or any other provision of the Rules relating to the trustee's remuneration.

Enforcement of trustee's obligations to official receiver

6.149.—(1) The court may, on the application of the official receiver, make such orders as it thinks necessary for enforcement of the duties of the trustee under section 305(3) (information and assistance to be given; production and inspection of books and records relating to the bankruptcy).

(2) An order of the court under this Rule may provide that all costs of and incidental to the official receiver's application shall be borne by the trustee.