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STATUTORY INSTRUMENTS

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**1986 No. 1925**

**The Insolvency Rules 1986**

THE SECOND GROUP OF PARTS

PART 6

BANKRUPTCY

CHAPTER 5

DISCLOSURE BY BANKRUPT WITH RESPECT TO THE STATE OF HIS AFFAIRS

*SECTION A: CREDITOR'S PETITION*

**Preliminary**

**6.58.** The Rules in this Section apply with respect to the statement of affairs required by section 288(1) to be submitted by the bankrupt, following a bankruptcy order made on a creditor's petition, and the further and other disclosure which is required of him in that case.

**The statement of affairs**

**6.59.** The bankrupt's statement of affairs shall be in Form 6.33, and contain all the particulars required by that form.

**Verification and filing**

**6.60.—(1)** The bankrupt shall be furnished by the official receiver with instructions for the preparation of his statement of affairs, and the forms required for that purpose.

(2) The statement of affairs shall be verified by affidavit and delivered to the official receiver, together with one copy.

(3) The official receiver shall file the verified statement in court.

(4) The affidavit may be sworn before an official receiver or a deputy official receiver, or before an officer of the Department or the court duly authorised in that behalf.

**Limited disclosure**

**6.61.—(1)** Where the official receiver thinks that it would prejudice the conduct of the bankruptcy for the whole or part of the statement of affairs to be disclosed, he may apply to the court for an order of limited disclosure in respect of the statement, or any specified part of it.

(2) The court may on the application order that the statement or, as the case may be, the specified part of it be not filed in court, or that it is to be filed separately and not be open to inspection otherwise than with leave of the court.

### **Release from duty to submit statement of affairs; extension of time**

**6.62.**—(1) The power of the official receiver under section 288(3) to release the bankrupt from his duty to submit a statement of affairs, or to grant an extension of time, may be exercised at the official receiver's own discretion, or at the bankrupt's request.

(2) The bankrupt may, if he request a release or extension of time and it is refused by the official receiver, apply to the court for it.

(3) The court may, if it thinks that no sufficient cause is shown for the application, dismiss it; but it shall not do so unless the bankrupt has had an opportunity to attend the court for an ex parte hearing, of which he has been given at least 7 days' notice.

If the application is not dismissed under this paragraph, the court shall fix a venue for it to be heard, and give notice to the bankrupt accordingly.

(4) The bankrupt shall, at least 14 days before the hearing, send to the official receiver a notice stating the venue and accompanied by a copy of the application, and of any evidence which he (the bankrupt) intends to adduce in support of it.

(5) The official receiver may appear and be heard on the application; and, whether or not he appears, he may file a written report of any matters which he considers ought to be drawn to the court's attention.

If such a report is filed, a copy of it shall be sent by the official receiver to the bankrupt, not later than 5 days before the hearing.

(6) Sealed copies of any order made on the application shall be sent by the court to the bankrupt and the official receiver.

(7) On any application under this Rule the bankrupt's costs shall be paid in any event by him and, unless the court otherwise orders, no allowance towards them shall be made out of the estate.

### **Expenses of statement of affairs**

**6.63.**—(1) If the bankrupt cannot himself prepare a proper statement of affairs, the official receiver may, at the expense of the estate, employ some person or persons to assist in the preparation of the statement.

(2) At the request of the bankrupt, made on the grounds that he cannot himself prepare a proper statement, the official receiver may authorise an allowance payable out of the estate (in accordance with the prescribed order of priority) towards expenses to be incurred by the bankrupt in employing some person or persons to assist him in preparing it.

(3) Any such request by the bankrupt shall be accompanied by an estimate of the expenses involved; and the official receiver shall only authorise the employment of a named person or a named firm, being in either case approved by him.

(4) An authorisation given by the official receiver under this Rule shall be subject to such conditions (if any) as he thinks fit to impose with respect to the manner in which any person may obtain access to relevant books and papers.

(5) Nothing in this Rule relieves the bankrupt from any obligation with respect to the preparation, verification and submission of his statement of affairs, or to the provision of information to the official receiver or the trustee.

### **Requirement to submit accounts**

**6.64.**—(1) The bankrupt shall, at the request of the official receiver, furnish him with accounts relating to his affairs of such nature, as at such date and for such period as he may specify.

(2) The period specified may begin from a date up to 3 years preceding the date of the presentation of the bankruptcy petition.

(3) The court may, on the official receiver's application, require accounts in respect of any earlier period.

(4) Rule 6.63 applies (with the necessary modifications) in relation to accounts to be furnished under this Rule as it applies in relation to the statement of affairs.

### **Submission and filing of accounts**

**6.65.**—(1) The accounts to be furnished under Rule 6.64 shall, if the official receiver so requires, be verified by affidavit, and (whether or not so verified) delivered to him within 21 days of the request under Rule 6.64(1), or such longer period as he may allow.

(2) Two copies of the accounts and (where required) the affidavit shall be delivered by the bankrupt to the official receiver, who shall file one copy in court (with the affidavit, if any).

### **Further disclosure**

**6.66.**—(1) The official receiver may at any time require the bankrupt to submit (in writing) further information amplifying, modifying or explaining any matter contained in his statement of affairs, or in accounts submitted in pursuance of the Act or the Rules.

(2) The information shall, if the official receiver so directs, be verified by affidavit, and (whether or not so verified) delivered to him within 21 days of the requirement under this Rule, or such longer period as he may allow.

(3) Two copies of the documents containing the information and (where verification is directed) the affidavit shall be delivered by the bankrupt to the official receiver, who shall file one copy in court (with the affidavit, if any).

## *SECTION B: DEBTOR'S PETITION*

### **Preliminary**

**6.67.** The Rules in this Section apply with respect to the statement of affairs required in the case of a person petitioning for a bankruptcy order to be made against him, and the further disclosure which is required of him in that case.

### **Contents of statement**

**6.68.** The statement of affairs required by Rule 6.41 to accompany the debtor's petition shall be in Form 6.28, and contain all the particulars required by that form.

### **Requirement to submit accounts**

**6.69.**—(1) The bankrupt shall, at the request of the official receiver, furnish him with accounts relating to his affairs of such nature, as at such date and for such period as he may specify.

(2) The period specified may begin from a date up to 3 years preceding the date of the presentation of the bankruptcy petition.

(3) The court may, on the official receiver's application, require accounts in respect of any earlier period.

### **Submission and filing of accounts**

**6.70.**—(1) The accounts to be furnished under Rule 6.69 shall, if the official receiver so requires, be verified by affidavit, and (whether or not so verified) delivered to him within 21 days of the request under Rule 6.69, or such longer period as he may allow.

(2) Two copies of the accounts and (where required) the affidavit shall be delivered by the bankrupt to the official receiver, who shall file one copy in court (with the affidavit, if any).

### **Expenses of preparing accounts**

**6.71.**—(1) If the bankrupt cannot himself prepare proper accounts under Rule 6.69, the official receiver may, at the expense of the estate, employ some person or persons to assist in their preparation.

(2) At the request of the bankrupt, made on the grounds that he cannot himself prepare the accounts, the official receiver may authorise an allowance payable out of the estate (in accordance with the prescribed order of priority) towards expenses to be incurred by the bankrupt in employing some person or persons to assist him in their preparation.

(3) Any such request by the bankrupt shall be accompanied by an estimate of the expenses involved; and the official receiver shall only authorise the employment of a named person or a named firm, being in either case approved by him.

(4) An authorisation given by the official receiver under this Rule shall be subject to such conditions (if any) as he thinks fit to impose with respect to the manner in which any person may obtain access to relevant books and papers.

(5) Nothing in this Rule relieves the bankrupt from any obligation with respect to the preparation and submission of accounts, or to the provision of information to the official receiver or the trustee.

### **Further disclosure**

**6.72.**—(1) The official receiver may at any time require the bankrupt to submit (in writing) further information amplifying, modifying or explaining any matter contained in his statement of affairs, or in accounts submitted in pursuance of the Act or the Rules.

(2) The information shall, if the official receiver so directs, be verified by affidavit, and (whether or not so verified) delivered to him within 21 days from the date of the requirement under paragraph (1), or such longer period as he may allow.

(3) Two copies of the documents containing the information and (where verification is directed) the affidavit shall be delivered by the bankrupt to the official receiver, who shall file one copy in court, with the affidavit (if any).