
STATUTORY INSTRUMENTS

1986 No. 1925

The Insolvency Rules 1986

THE SECOND GROUP OF PARTS

PART 6

BANKRUPTCY

CHAPTER 22

DISCHARGE

Application for suspension of discharge

6.215.—(1) The following applies where the official receiver applies to the court for an order under section 279(3) (suspension of automatic discharge), but not where he makes that application, pursuant to Rule 6.176(4), on the adjournment of the bankrupt's public examination.

(2) The official receiver shall with his application file a report setting out the reasons why it appears to him that such an order should be made.

(3) The court shall fix a venue for the hearing of the application, and give notice of it to the official receiver, the trustee and the bankrupt.

(4) Copies of the official receiver's report under this Rule shall be sent by him to the trustee and the bankrupt, so as to reach them at least 21 days before the date fixed for the hearing.

(5) The bankrupt may, not later than 7 days before the date of the hearing, file in court a notice specifying any statements in the official receiver's report which he intends to deny or dispute.

If he gives notice under this paragraph, he shall send copies of it, not less than 4 days before the date of the hearing, to the official receiver and the trustee.

(6) If on the hearing the court makes an order suspending the bankrupt's discharge, copies of the order shall be sent by the court to the official receiver, the trustee and the bankrupt.

Lifting of suspension of discharge

6.216.—(1) Where the court has made an order under section 279(3) that the relevant period (that is to say, the period after which the bankrupt may under that section have his discharge) shall cease to run, the bankrupt may apply to it for the order to be discharged.

(2) The court shall fix a venue for the hearing of the application; and the bankrupt shall, not less than 28 days before the date fixed for hearing, give notice of the venue to the official receiver and the trustee, accompanied in each case by a copy of the application.

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

(4) If the court's order under section 279(3) was for the relevant period to cease to run until the fulfilment of specified conditions, the court may request a report from the official receiver as to whether those conditions have or have not been fulfilled.

(5) If a report is filed under paragraph (3) or (4), copies of it shall be sent by the official receiver to the bankrupt and the trustee, not later than 14 days before the hearing.

(6) The bankrupt may, not later than 7 days before the date of the hearing, file in court a notice specifying any statements in the official receiver's report which he intends to deny or dispute.

If he gives notice under this paragraph, he shall send copies of it, not less than 4 days before the date of the hearing, to the official receiver and the trustee.

(7) If on the bankrupt's application the court discharges the order under section 279(3) (being satisfied that the relevant period should begin to run again), it shall issue to the bankrupt a certificate that it has done so, with effect from a specified date.

Application by bankrupt for discharge

6.217.—(1) If the bankrupt applies under section 280 for an order discharging him from bankruptcy, he shall give to the official receiver notice of the application, and deposit with him such sum as the latter may require to cover his costs of the application.

(2) The court, if satisfied that paragraph (1) has been complied with, shall 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 shall give notice accordingly—

(a) to the trustee, and

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

(4) Notices under paragraph (3) shall be given not later than 14 days before the date fixed for the hearing of the bankrupt's application.

Report of official receiver

6.218.—(1) Where the bankrupt makes an application under section 280, the official receiver shall, at least 21 days before the date fixed for the hearing of the application, file in court a report containing the following information with respect to the bankrupt—

(a) any failure by him to comply with his obligations under Parts VIII to XI of the Act;

(b) the circumstances surrounding the present bankruptcy, and those surrounding any previous bankruptcy of his;

(c) the extent to which, in the present and in any previous bankruptcy, his liabilities have exceeded his 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 the official receiver shall include in his report any other matters which in his opinion ought to be brought to the court's attention.

(2) The official receiver shall send 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 7 days before the date of the hearing, file in court a notice specifying any statements in the official receiver's report which he intends to deny or dispute.

If he gives notice under this paragraph, he shall send copies of it, not less than 4 days before the date of the hearing, to the official receiver and the trustee.

(4) 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 may allow.

Order of discharge on application

6.219.—(1) An order of the court under section 280(2)(b)(discharge absolutely) or (c) (discharge subject to conditions with respect to income or property) shall bear the date on which it is made, but does not take effect until such time as it is drawn up by the court.

(2) The order then has effect retrospectively to the date on which it was made.

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

Certificate of discharge

6.220.—(1) Where it appears to the court that a bankrupt is discharged, whether by expiration of time or otherwise, the court shall, on his application, issue to him a certificate of his discharge, and the date from which it is effective.

(2) The discharged bankrupt may require the Secretary of State to give notice of the discharge—

- (a) in the Gazette, or
- (b) in any newspaper in which the bankruptcy was advertised, or
- (c) in both.

(3) Any requirement by the former bankrupt under paragraph (2) shall be addressed to the Secretary of State in writing. The Secretary of State shall notify him forthwith as to the cost of the advertisement, and is under no obligation to advertise until that sum has been paid.

(4) Where the former bankrupt has died, or is a person incapable of managing his affairs (within the meaning of Chapter 7 in Part 7 of the Rules), the references to him in paragraphs (2) and (3) are to be read as referring to his personal representative or, as the case may be, a person appointed by the court to represent or act for him.

Deferment of issue of order pending appeal

6.221. An order made by the court on an application by the bankrupt for discharge under section 280 shall not be issued 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

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

Bankrupt's debts surviving discharge

6.223. Discharge does not release the bankrupt from any obligation arising under a confiscation order made under section 1 of the Drug Trafficking Offences Act 1986