

1999 No. 359

INSOLVENCY

INDIVIDUALS

ENGLAND AND WALES

The Insolvency (Amendment) Rules 1999

Made - - - - 16th February 1999

Laid before Parliament 17th February 1999

Coming into force 22nd March 1999

The Lord Chancellor, in the exercise of his powers under section 412 of the Insolvency Act 1986(a), with the concurrence of the Secretary of State, and after consulting the committee existing for that purpose under section 413 of that Act, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Insolvency (Amendment) Rules 1999 and shall come into force on 22nd March 1999.

Interpretation

2. In these Rules references to “the principal Rules” are to the Insolvency Rules 1986(b) and a Rule referred to by number means the Rule so numbered in the principal Rules.

Application

3. The principal Rules shall have effect subject to the amendments set out in the Schedule to these Rules.

11th February 1999

Irvine of Lairg, C.

I concur, on behalf of the Secretary of State

16th February 1999

Kim Howells
Parliamentary Under-Secretary of State
for Competition and Consumer Affairs,
Department of Trade and Industry

(a) 1986 c. 45.

(b) S.I. 1986/1925, amended by S.I. 1987/1919, S.I. 1989/397, S.I. 1991/495, S.I. 1993/602 and S.I. 1995/586.

Amendment of Rule 5.23

1.—(1) In paragraph (1) of Rule 5.23 “, 5.25” shall be deleted and at the end of paragraph (1) there shall be added the words “and orders of suspension made under section 262 reported to him in pursuance of Rule 5.25”.

(2) After paragraph (1) in Rule 5.23 there shall be inserted the following paragraphs:—

“(1A) Where the Secretary of State has received notice of the making of a revocation order or that an arrangement has been fully implemented in pursuance of Rules 5.25 or 5.29 or has otherwise received written notice of the termination of an arrangement from the supervisor and—

- (a) the revocation order under section 262 was made prior to 22nd March 1999, or
- (b) the final completion or termination of the arrangement occurred more than two years prior to 22nd March 1999,

the Secretary of State shall delete from the register all matters entered in it relating to such arrangement.

(1B) Where the Secretary of State receives notice under Rule 5.25(5) of the making of a revocation order in respect of an individual voluntary arrangement of which entry is made in the register the Secretary of State shall delete from the register all matters entered in it relating to that arrangement.

(1C) Where the Secretary of State receives notice under Rule 5.29(3) of the full implementation or termination of an individual voluntary arrangement of which entry is made in the register the Secretary of State shall, on the expiry of two years after the final completion or termination of such individual voluntary arrangement, delete from the register all matters entered in it relating to that arrangement.”.

Amendment of Rule 5.25

2. At the end of paragraph (5) of Rule 5.25 there shall be added the words “and shall, in the case of an order of suspension, within 7 days of the expiry of any suspension order, give written notice of such expiry to the Secretary of State”.

Amendment of Rule 5.29

3.—(1) The title to Rule 5.29 shall be deleted and there shall be substituted the title “Completion or termination of the arrangement”.

(2) In paragraph (1) of Rule 5.29 after the words “final completion” there shall be inserted the words “or termination” and at the end of paragraph (1) there shall be added the words “or (as the case may be) terminated”.

(3) At the end of paragraph (2) of Rule 5.29 there shall be added the words “or (in the case of termination of the arrangement) explaining the reasons why the arrangement has not been implemented in accordance with the proposal as approved by the creditors’ meeting”.

(4) At the end of paragraph (3) of Rule 5.29 there shall be added the words “and he shall not vacate office until after such copies have been sent”.

Amendment of Rule 6.34

4. In paragraph (3) of Rule 6.34 after the words “paragraph (2)” there shall be inserted the words “and Rule 6.223(B)(1)”.

Amendment of Rule 6.46

5. In paragraph (3) of Rule 6.46 after the words “paragraph (2)” there shall be inserted the words “and Rule 6.223(B)(1)”.

Amendment of Rule 6.176

6. After paragraph (4) in Rule 6.176 there shall be inserted the following paragraph:—

“(5) If, on the hearing of an application pursuant to paragraph (4), the court makes an order suspending the bankrupt’s discharge, copies of such order shall be sent by the court to the official receiver, the trustee and the bankrupt.”.

Amendment of Rule 6.216

7. At the end of paragraph (7) of Rule 6.216 there shall be added the words “and shall send copies of the certificate to the official receiver and the trustee”.

Insertion of Chapter 22(A)

8. After Chapter 22 in Part 6 of the principal Rules there shall be inserted the following title and Chapter:—

“CHAPTER 22(A)—REGISTER OF BANKRUPTCY ORDERS

Register of Bankruptcy Orders

6.223(A)—(1) The Secretary of State shall maintain a register of bankruptcy orders (“the register”) which shall contain the specified bankruptcy information entered in it by the official receiver in pursuance of Rule 6.223(B), any information entered in it by the official receiver in pursuance of Rule 6.223(C) and the information set out in paragraphs (2) and (3).

(2) The Secretary of State shall cause to be entered in the register notice of the making of an annulment order under section 261(1)(a) or 282(1)(b) given to him in pursuance of Rule 6.213(2).

(3) The Secretary of State shall cause to be entered in the register such of the specified bankruptcy information and notice of the making of any annulment order under section 261(1)(a) or 282(1)(b) relating to any bankruptcy order where such bankruptcy order was made in the period of five years prior to 22nd March 1999 as is in the possession of the Secretary of State on that date but excluding information relating to—

- (a) any bankruptcy order which has been annulled under section 282(1)(a) or which has been rescinded under section 375,
- (b) any bankruptcy order which has been annulled under section 261(1)(a) or 282(1)(b) more than two years prior to 22nd March 1999, and
- (c) any bankruptcy order in respect of which an order made under Rule 6.34(3) or 6.46(3) is in force on that date and a copy of which has been delivered to the official receiver under Rule 6.34(4) or 6.46(4), provided that where after that date the order under Rule 6.34(3) or 6.46(3) expires, the Secretary of State shall enter in the register such of the specified bankruptcy information relating to the bankruptcy order previously the subject of the order under Rule 6.34(3) or 6.46(3) as is in his possession as at the date of expiry of such order, except where the official receiver receives a copy of any further order of the court under Rule 6.34(3) or 6.46(3) in respect of such bankruptcy order, in which event the Secretary of State shall not enter such specified bankruptcy information in the register until the expiry of such further order.

(4) Where a bankrupt in respect of whom specified bankruptcy information has been entered in the register is discharged from the bankruptcy or obtains an annulment order under section 261(1)(a) or 282(1)(b) in respect of the bankruptcy order, the Secretary of State shall, on the expiry of two years after the date of such discharge or annulment order (or where a certificate for the summary administration of the bankrupt’s estate has been issued under section 275(1), on the expiry of three years after the date on which the bankrupt is discharged from the bankruptcy) delete from the register the specified bankruptcy information and any other information entered in the register in respect of such bankruptcy order.

(5) If a bankruptcy order in respect of which specified bankruptcy information has been entered in the register is annulled by the court under section 282(1)(a), the Secretary of State

shall delete from the register the specified bankruptcy information and any other information entered in the register in respect of such bankruptcy order upon receiving notice of such annulment under Rule 6.213(2).

(6) If a bankruptcy order in respect of which specified bankruptcy information has been entered in the register is rescinded by the court under section 375 the Secretary of State shall delete from the register the specified bankruptcy information and any other information entered in the register in respect of such bankruptcy order upon receiving a copy of the order of the court rescinding the bankruptcy order.

(7) The register shall be open to public inspection.

Specified Bankruptcy Information

6.223(B)—(1) Following the receipt by the official receiver pursuant to Rule 6.34 or 6.46 of a copy of the bankruptcy order from the court, the official receiver shall cause to be entered in the register the information listed in paragraph (5)(a) and shall cause to be entered in the register the information listed in paragraph 5(b) upon receipt by him of such information.

(2) Following the receipt by the official receiver—

- (a) pursuant to Rule 6.50(3), of notice of the revocation of a certificate for summary administration,
- (b) pursuant to Rule 6.176(5), of a copy of an order suspending the bankrupt's discharge,
- (c) pursuant to Rule 6.215(6), of a copy of an order suspending the bankrupt's discharge,
- (d) pursuant to Rule 6.216(7), of a copy of a certificate certifying the discharge of an order under section 279(3), or
- (e) pursuant to Rule 6.219(3), of a copy of an order discharging the bankrupt absolutely or subject to conditions,

the official receiver shall cause the information listed in paragraph (5)(c) to be entered in the register.

(3) Where an order referred to in paragraph 2(d) is subsequently rescinded by the court the official receiver shall cause the specified bankruptcy information relating to such bankruptcy to be amended to record the fact that the bankrupt is not discharged and, where the information in respect of such bankruptcy has been deleted from the register pursuant to paragraph (4) of Rule 6.223(A), shall cause such information to be restored to the register.

(4) Where a bankrupt is discharged from bankruptcy under section 279(1)(b) the official receiver shall cause the fact and date of such discharge to be entered in the register.

(5) In this Chapter “specified bankruptcy information” means the following information—

- (a) (i) the matters listed in Rules 6.7 and 6.38 with respect to the debtor as stated in the bankruptcy petition;
- (ii) the bankruptcy order date, the court and court reference number;
- (b) (i) the name, gender, occupation (if any) and date of birth of the bankrupt;
- (ii) the bankrupt's last known address;
- (iii) where the bankrupt has been an undischarged bankrupt at any time in the period of 15 years ending with the date of the bankruptcy order in question, the date of the most recent of any previous bankruptcy orders (but excluding an order annulled under section 282(1)(a) or rescinded under section 375);
- (iv) any name by which the bankrupt is known other than his true name;
- (v) the name or names in which he carries on business if other than his true name and any address at which he carries on business;

- (vi) the contact address of the official receiver's office;
 - (vii) the name and address of the insolvency practitioner (where appointed);
 - (viii) the automatic discharge date under section 279(1)(b) or, where section 279(1)(a) applies, a statement that there is no automatic discharge date;
 - (ix) where a certificate for summary administration has been issued, a statement to that effect; and
- (c)
- (i) the revised automatic discharge date where— (aa) the court has revoked a certificate for the summary administration of a bankrupt's estate under section 275(3), (bb) the court has made an order under section 279(3) that the relevant period under that section shall cease to run for the period specified in the order, or (cc) the court has discharged an order under section 279(3) being satisfied that the relevant period should begin to run again;
 - (ii) a statement that discharge has been suspended where the court has made an order under section 279(3) that the relevant period under that section shall cease to run until the fulfilment of such conditions as may be specified in the order;
 - (iii) the fact that and date on which the bankrupt is discharged.

Notification of Changes

6.223(C)—(1) If the official receiver becomes aware that the information which has been entered in the register is inaccurate he shall rectify the information entered in the register.

(2) If the official receiver receives notice of the date of death of a bankrupt in respect of whom specified bankruptcy information has been entered in the register he shall cause such date to be entered in the register.”.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules further amend the Insolvency Rules 1986 (S.I. 1986/1925), which set out detailed procedures for the conduct of all company and individual insolvency proceedings in England and Wales under the Insolvency Act 1986 (c. 45) (“the Act”), with effect from 22nd March 1999.

These Rules provide for the maintenance by the Secretary of State of a register of bankruptcy orders which shall be open to public inspection.

These Rules require the official receiver to enter in the register the specified bankruptcy information (as defined in Rule 6.223(B)(5)) received by him relating to any bankruptcy order. Subject to the exceptions provided in Rule 6.223(A)(3)(a)–(c), the Secretary of State is also under an obligation to enter in the register such specified bankruptcy information relating to any bankruptcy order made in the period of five years prior to 22nd March 1999 as is in his possession on that date.

Provision is made for the deletion of information entered in the register in the following circumstances:

- (a) upon receipt by the Secretary of State of notice of an annulment order under section 282(1)(a) of the Act or of a copy of an order rescinding a bankruptcy order under section 375 of the Act;
- (b) upon the expiry of two years after the date on which a bankrupt is discharged or, where a certificate for the summary administration of the bankrupt’s estate is issued under section 275(1) of the Act, upon the expiry of three years after the bankrupt is discharged; and
- (c) upon the expiry of two years after the date of an annulment order under section 261(1)(a) or 282(1)(b) of the Act.

These Rules also amend Rule 5.23 to provide for the deletion from the register of individual voluntary arrangements of information entered in it relating to any individual voluntary arrangement in respect of which the Secretary of State has received notice of the making of a revocation order made prior to 22nd March 1999 or of the final completion or termination of an arrangement more than two years prior to 22nd March 1999. Provision is also made for the deletion of information entered in the register relating to any individual voluntary arrangement upon the expiry of two years following the final completion or termination of such arrangement and following receipt by the Secretary of State of notice of the making of a revocation order. Rule 5.29 is amended so as to apply in the event of the completion or termination of an arrangement.

A Regulatory Impact Assessment is available, copies of which have been placed in the libraries of both Houses of Parliament. Copies are also available from The Insolvency Service of the Department of Trade and Industry, PO Box 203, Room 5.1, 21 Bloomsbury Street, London WC1B 3QW.

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