

SCHEDULE 1

PART 6

AMENDMENTS TO PART 6 OF THE PRINCIPAL RULES

Amendment to Rule 6.9

32. In paragraph (4A) of Rule 6.9 after the words “section 256” there is inserted “or section 256A or 263C”.

Amendment to Rule 6.40

33. In paragraph (3A) of Rule 6.40 after the words “section 256” there is inserted “or section 256A or 263C”.

Revocation of Rules 6.48 to 6.50

34. Rules 6.48 (certificate of summary administration), 6.49 (duty of official receiver in summary administration) and 6.50 (revocation of certificate of summary administration) are revoked.

Amendment to Rule 6.83

35. After Rule 6.83(3) there is inserted—

“(4) This Rule shall not apply to voluntary arrangements under section 263A.”.

Revocation of Rule 6.97

36. Rule 6.97(2)(c) is revoked.

Amendment to Rule 6.111

37. In paragraph (2) for the words “middle market rate at the Bank of England” there are substituted “middle exchange rate on the London Foreign Exchange Market at the close of business”.

Amendment to Rule 6.121

38. In Rule 6.121(1) “(3),” is omitted.

Insertion of new Chapter 16A of Part 6 of the principal Rules

39. After Chapter 16 of Part 6 of the principal Rules there is inserted—

“CHAPTER 16A

INCOME PAYMENTS AGREEMENTS

Approval of income payments agreements

6.193A.—(1) An income payments agreement can only be entered into prior to the discharge of the bankrupt.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) Where an income payments agreement is to be entered into between the official receiver or trustee and the bankrupt under section 310A(1), the official receiver or trustee shall provide an income payments agreement to the bankrupt for his approval.

(3) Within 14 days or such longer period as may be specified by the official receiver or trustee (whichever is appropriate) from the date on which the income payments agreement was sent, the bankrupt shall—

- (a) if he decides to approve the draft income payments agreement, sign the agreement and return it to the official receiver or trustee (whichever is appropriate); or
- (b) if he decides not to approve the agreement, notify the official receiver or trustee (whichever is appropriate) in writing of his decision.

Acceptance of income payments agreements

6.193B.—(1) On receipt by the official receiver or trustee of the signed income payments agreement, the official receiver or trustee shall sign and date it.

(2) When the official receiver or the trustee signs and dates the income payments agreement, it shall come into force. A copy shall be sent to the bankrupt.

(3) Where the agreement provides for payments by a third person to the official receiver or trustee who is not the official receiver in accordance with section 310A(1)(b), a notice of the agreement shall be sent by the official receiver or trustee to that person.

(4) The notice shall contain—

- (a) the full name and address of the bankrupt;
- (b) a statement that an income payments agreement has been made, the date of it, and that it provides for the payment by the third person of sums owed to the bankrupt (or a part thereof) to be paid to the official receiver or trustee;
- (c) the full name and address of the third person;
- (d) a statement of the amount of money to be paid to the official receiver or trustee from the bankrupt's income, the period over which the payments are to be made, and the intervals at which the sums are to be paid; and
- (e) the full name and address of the official receiver or trustee and the address or details of where the sums are to be paid.

(5) When making any payment to the official receiver or the trustee a person who has received notice of an income payments agreement with reference to income otherwise payable by him to the bankrupt may deduct the appropriate fee towards the clerical and administrative costs of compliance with the income payments agreement. He shall give to the bankrupt a written statement of any amount deducted by him under this paragraph.

Variation of income payments agreements

6.193C.—(1) Where an application is made to court for variation of an income payments agreement, the application shall be accompanied by a copy of the agreement.

(2) Where the bankrupt applies to the court for variation of an income payments agreement under section 310A(6)(b), he shall send a copy of the application and notice of the venue to the official receiver or trustee (whichever is appropriate) at least 28 days before the date fixed for the hearing.

(3) When the official receiver or trustee applies to the court for variation of an income payments agreement under section 310A(6)(b), he shall send a copy of the application and notice of the venue to the bankrupt at least 28 days before the date fixed for the hearing.

(4) The court may order in Form 6.81 the variation of an income payments agreement under section 310A.

(5) Where the court orders an income payments agreement under section 310A(1)(a) to be varied, so as to take the form of an agreement under section 310A(1)(b) as an agreement providing that a third person is to make payments to the trustee or the official receiver, the official receiver or trustee shall send a notice in accordance with Rule 6.193B(3).

(6) When making any payment to the official receiver or the trustee a person who has received notice of an income payments agreement with reference to income otherwise payable by him to the bankrupt may deduct the appropriate fee towards the clerical and administrative costs of compliance with the income payments agreement. He shall give to the bankrupt a written statement of any amount deducted by him under this paragraph.”.

Amendment to Chapter 20 of Part 6 of the principal Rules

40. After the heading “Chapter 20” in Part 6 of the principal Rules there is inserted—

“6.202A. In this Chapter a reference to a bankrupt includes a reference to a person in respect of whom a bankruptcy restrictions order is in force.”.

Amendment to Rule 6.205

41. In Rule 6.205(2)(a) after the words “income payments order” there is inserted “or an income payments agreement”.

Amendment to Rule 6.206

42. In Rule 6.206 after paragraph (5) there is inserted—

“(6) In this Chapter, where the applicant is not the bankrupt all notices, documents and affidavits required to be given, sent or delivered to another party by the applicant shall also be given, sent or delivered to the bankrupt.”.

Revocation of Rule 6.212A

43. Rule 6.212A is revoked.

Amendment to Rule 6.213

44. In Rule 6.213(1) the words “261 or” are omitted.

Amendment to Rule 6.214

45. In Rule 6.214(1) the words “261 or” are omitted.

Insertion of new Chapter 21A of Part 6 of the principal Rules

46. After Rule 6.214 there is inserted—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“CHAPTER 21A

NOTICE UNDER SECTION 279(2)

Notice under section 279(2) that an investigation of the conduct and affairs of a bankrupt is unnecessary or concluded

6.214A.—(1) Where the official receiver intends to file a notice that an investigation of the conduct and affairs of a bankrupt is unnecessary or concluded under section 279(2), he shall give notice in writing to all creditors of which he is aware and any trustee of his intention to file such a notice.

(2) Where a creditor or a trustee receives written notice of the official receiver’s intention to file a notice under section 279(2) and he has any objection to the official receiver filing such a notice, he may, within 28 days of the date of such written notice, inform the official receiver in writing of his objection and give reasons for that objection.

(3) The official receiver shall not file a notice under section 279(2) until the period allowed for creditors or a trustee to object under paragraph (2) has expired.

(4) Where the official receiver receives no objection from either a creditor or a trustee he may file a notice under section 279(2) in Form 6.82 with the court and send a copy to the bankrupt.

(5) Where the official receiver receives an objection under this Rule and he rejects that objection, he shall not file the notice under section 279(2) until he has—

(a) given notice of the rejection (and his reasons) to the complainant; and

(b) the period of time for an appeal by the complainant under Rule 7.50(2) has expired,

or an appeal under that Rule has been determined by the court.”.

Amendment to Rule 6.215

47. For Rule 6.215 there is substituted—

“Application for suspension of discharge

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

(2) The official receiver or any trustee who is not the official receiver shall, with his application, file evidence in support 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 who is not the official receiver, and the bankrupt.

(4) Copies of the official receiver’s report under this Rule shall be sent by him to the bankrupt and any trustee who is not the official receiver, so as to reach them at least 21 days before the date fixed for the hearing.

(5) Copies of the trustee’s evidence in support under this Rule shall be sent by him to the official receiver and the bankrupt, so as to reach them at least 21 days before the date fixed for 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 or trustee's evidence in support which he intends to deny or dispute.

(7) If the bankrupt files a notice under paragraph (6), he shall send copies of it, not less than 4 days before the date of the hearing, to the official receiver and any trustee who is not the official receiver.

(8) If the court makes an order suspending the bankrupt's discharge, copies of the order shall be sent by the court to the official receiver, any trustee who is not the official receiver and the bankrupt.”.

Amendment to Rule 6.216

48. For Rule 6.216 there is substituted—

“Lifting of suspension of discharge

6.216.—(1) Where the court has made an order under section 279(3) that the period specified in section 279(1) 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 the hearing, give notice of the venue to the official receiver and any trustee who is not the official receiver, 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 they appear, the official receiver and trustee may file in court evidence in support of any matters which either of them considers ought to be drawn to the court's attention.

(4) If the court made an order under section 279(3)(b), the court may request a report from the official receiver or the trustee as to whether the conditions specified in the order 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 or trustee to the bankrupt and to either the official receiver or trustee (depending on which has filed the report), 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 or trustee's report which he intends to deny or dispute.

If he files a 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 period specified in section 279(1) should begin to run again), it shall issue to the bankrupt a certificate that it has done so, with effect from a specified date and shall send copies of the certificate to the official receiver and the trustee.”.

Amendment to Rule 6.223

49. In Rule 6.223 there is inserted after “1988” the words “or under Parts 2, 3 or 4 of the Proceeds of Crime Act 2002(1).”.

(1) 2002 c. 29.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Revocation of Chapter 22A

50. Chapter 22A of the principal Rules is revoked.

Amendment to Rule 6.237

51. For Rule 6.237 there is substituted—

“Bankrupt’s Home—Notification of property falling within section 283A

6.237.—(1) Where it appears to a trustee that section 283A(1) applies, the trustee shall give notice in Form 6.83 as soon as reasonably practicable to—

- (a) the bankrupt;
- (b) the bankrupt’s spouse (in a case falling within section 283A(1)(b)); and
- (c) a former spouse of the bankrupt (in a case falling within section 283A(1)(c)).

(2) A notice under paragraph (1) shall contain—

- (a) the name of the bankrupt;
- (b) the address of the dwelling-house; and
- (c) if the dwelling-house is registered land, the title number.

(3) A trustee shall not give notice under paragraph (1) any later than 14 days before the expiry of the three year period under section 283A(2) or 283A(5).

Application in respect of the vesting of an interest in a dwelling-house (registered land)

6.237A.—(1) Paragraph (2) applies where—

- (a) property comprised in the bankrupt’s estate consists of an interest in a dwelling-house which at the date of bankruptcy was the sole or principal residence of—
 - (i) the bankrupt;
 - (ii) the bankrupt’s spouse; or
 - (iii) a former spouse of the bankrupt; and
- (b) the dwelling-house is registered land; and
- (c) an entry has been made, or entries have been made, in the individual register or registers of the dwelling-house relating to the bankrupt’s bankruptcy or the individual register or registers has or have been altered to reflect the vesting of the bankrupt’s interest in a trustee in bankruptcy.

(2) Where an interest of a kind mentioned in paragraph (1) ceases to be comprised in the bankrupt’s estate and vests in the bankrupt under either section 283A(2) or 283A(4) of the Act, or under section 261(8) of the Enterprise Act 2002(2), the trustee shall, within 7 days of the vesting, make such application or applications to the Chief Land Registrar as shall be necessary to show in the individual register or registers of the dwelling-house that the interest has vested in the bankrupt.

(3) An application under paragraph (2) shall be made in accordance with the Land Registration Act 2002(3) and shall be accompanied by—

(2) 2002 c. 40.
(3) 2002 c. 9.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) evidence of the trustee's appointment (where not previously provided to the Chief Land Registrar); and
- (b) a certificate from the trustee stating that the interest has vested in the bankrupt under section 283A(2) or 283A(4) of the Act or section 261(8) of the Enterprise Act 2002 (whichever is appropriate).

(4) As soon as reasonably practicable after making an application under paragraph (2), the trustee shall notify the bankrupt and if the dwelling-house was the sole or principal residence of his spouse or former spouse, such person, that the application has been made.

(5) The trustee shall notify every person who (to his knowledge) either claims an interest in the dwelling-house, or is under any liability in respect of the dwelling-house that an application has been made.

Vesting of bankrupt's interest (unregistered land)

6.237B.—(1) Where an interest in a dwelling-house which at the date of the bankruptcy was the sole or principal residence of—

- (a) the bankrupt;
- (b) the bankrupt's spouse; or
- (c) a former spouse of the bankrupt,

ceases to be comprised in the bankrupt's estate and vests in the bankrupt under either section 283A(2) or 283A(4) of the Act or section 261(8) of the Enterprise Act 2002 and the dwelling-house is unregistered land, the trustee shall issue the bankrupt with a certificate as to the vesting in Form 6.84 as soon as reasonably practicable.

(2) A certificate issued under paragraph (1) shall be conclusive proof that the interest mentioned in paragraph (1) has vested in the bankrupt.

(3) As soon as reasonably practicable after issuing the certificate under paragraph (1) the trustee shall, if the dwelling-house was the sole or principal residence of the bankrupt's spouse or former spouse, notify such person, that the application has been made.

(4) The trustee shall notify every person who (to his knowledge) either claims an interest in the dwelling-house, or is under any liability in respect of the dwelling-house that an application has been made.

6.237C. The court may substitute for the period of three years mentioned in section 283A(2) such longer period as the court thinks just and reasonable in all the circumstances of the case.

Charging Order

6.237D.—(1) This Rule applies where the trustee applies to the court under section 313 for an order imposing a charge on property consisting of an interest in a dwelling-house.

- (2) The respondents to the application shall be—
 - (a) any spouse or former spouse of the bankrupt having or claiming to have an interest in the property;
 - (b) any other person appearing to have an interest in the property; and
 - (c) such other persons as the court may direct.
- (3) The trustee shall make a report to the court, containing the following particulars—
 - (a) the extent of the bankrupt's interest in the property which is the subject of the application;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) the amount which, at the date of the application, remains owing to unsecured creditors of the bankrupt; and
 - (c) an estimate of the cost of realising the interest.
- (4) The terms of the charge to be imposed shall be agreed between the trustee and the bankrupt or, failing agreement, shall be settled by the court.
- (5) The rate of interest applicable under section 313(2) is the rate specified in section 17 of the Judgments Act 1838⁽⁴⁾ on the day on which the charge is imposed, and the rate so applicable shall be stated in the court’s order imposing the charge.
- (6) The court’s order shall also—
- (a) describe the property to be charged;
 - (b) state whether the title to the property is registered and, if it is, specify the title number;
 - (c) set out the extent of the bankrupt’s interest in the property which has vested in the trustee;
 - (d) indicate, by reference to any, or the total, amount which is payable otherwise than to the bankrupt out of the estate and of interest on that amount, how the amount of the charge to be imposed is to be ascertained;
 - (e) set out the conditions (if any) imposed by the court under section 3(1) of the Charging Orders Act 1979⁽⁵⁾; and
 - (f) identify the date any property charged under section 313 shall cease to be comprised in the bankrupt’s estate and shall, subject to the charge (and any prior charge), vest in the bankrupt.
- (7) Unless the court is of the opinion that a different date is appropriate, the date referred to in paragraph (6)(f) shall be that of the registration of the charge in accordance with section 3(2) of the Charging Orders Act 1979.
- (8) Where the court order is capable of giving rise to an application or applications under the Land Charges Act 1972⁽⁶⁾ or the Land Registration Act 2002, the trustee shall, as soon as reasonably practicable after the making of the court order or at the appropriate time, make the appropriate application or applications to the Chief Land Registrar.
- (9) In paragraph (8) an “appropriate application” is—
- (a) an application under section 6(1)(a) of the Land Charges Act 1972 (application for registration in the register of writs and orders affecting land); or
 - (b) an application under the Land Registration Act 2002 for an entry in the register in respect of the charge imposed by the order; and such application under that Act as shall be necessary to show in the individual register or registers of the dwelling-house that the interest has vested in the bankrupt.

Interpretation

6.237E.—(1) In Rules 6.237 and 6.237A, “registered land” has the same meaning as in section 132(1) of the Land Registration Act 2002.

(2) In Rules 6.237A and 6.237D, “individual register” has the same meaning as in the Land Registration Rules 2003⁽⁷⁾.

(4) 1838 c. 110.
(5) 1979 c. 53.
(6) 1972 c. 61.
(7) S.I. 2003/1417.

Insertion of new Chapters 28, 29 and 30 of Part 6 of the principal Rules

52. After Chapter 27 of Part 6 of the principal Rules there is inserted—

“CHAPTER 28

BANKRUPTCY RESTRICTIONS ORDER

6.240. In this and the following two Chapters, “Secretary of State” includes the official receiver acting in accordance with paragraph 1(2)(b) of Schedule 4A to the Act.

Application for bankruptcy restrictions order

6.241.—(1) Where the Secretary of State applies to the court for a bankruptcy restrictions order under paragraph 1 of Schedule 4A to the Act, the application shall be supported by a report by the Secretary of State.

(2) The report shall include—

(a) a statement of the conduct by reference to which it is alleged that it is appropriate for a bankruptcy restrictions order to be made; and

(b) the evidence on which the Secretary of State relies in support of the application.

(3) Any evidence in support of an application for a bankruptcy restrictions order provided by persons other than the Secretary of State shall be by way of affidavit.

(4) The date for the hearing shall be no earlier than 8 weeks from the date when the court fixes the venue for the hearing.

(5) For the purposes of hearing an application under this Rule by a registrar, Rule 7.6(1) shall not apply and the application shall be heard in public.

Service on the defendant

6.242.—(1) The Secretary of State shall serve notice of the application and the venue fixed by the court on the bankrupt not more than 14 days after the application is made at court.

(2) Service shall be accompanied by a copy of the application, together with copies of the report by the Secretary of State, any other evidence filed with the court in support of the application, and an acknowledgement of service.

(3) The defendant shall file in court an acknowledgement of service of the application indicating whether or not he contests the application not more than 14 days after service on him of the application.

(4) Where the defendant has failed to file an acknowledgement of service and the time period for doing so has expired, the defendant may attend the hearing of the application but may not take part in the hearing unless the court gives permission.

The bankrupt’s evidence

6.243.—(1) If the bankrupt wishes to oppose the application, he shall within 28 days of the service of the application and evidence of the Secretary of State, file in court any evidence which he wishes the court to take into consideration, and shall serve a copy of such evidence upon the Secretary of State within 3 days of filing it at court.

(2) The Secretary of State shall, within 14 days from receiving the copy of the bankrupt’s evidence, file in court any further evidence in reply he wishes the court to take into consideration and shall as soon as reasonably practicable serve a copy of that evidence upon the bankrupt.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Making a bankruptcy restrictions order

6.244.—(1) The court may make a bankruptcy restrictions order against the bankrupt, whether or not the latter appears, and whether or not he has filed evidence in accordance with Rule 6.243.

(2) Where the court makes a bankruptcy restrictions order, it shall send two sealed copies to the Secretary of State.

(3) As soon as reasonably practicable after receipt of the sealed copy of the order, the Secretary of State shall send a sealed copy of the order to the bankrupt.

CHAPTER 29

INTERIM BANKRUPTCY RESTRICTIONS ORDER

Application for interim bankruptcy restrictions order

6.245.—(1) Where the Secretary of State applies for an interim bankruptcy restrictions order under paragraph 5 of Schedule 4A to the Act, the court shall fix a venue for the hearing.

(2) Notice of an application for an interim bankruptcy restrictions order shall be given to the bankrupt at least 2 business days before the date set for the hearing unless the court directs otherwise.

(3) For the purposes of hearing an application under this Rule by a registrar, Rule 7.6(1) shall not apply and the application shall be heard in public.

The case against the defendant

6.246.—(1) The Secretary of State shall file a report in court as evidence in support of any application for an interim bankruptcy restrictions order.

(2) The report shall include evidence of the bankrupt's conduct which is alleged to constitute the grounds for the making of an interim bankruptcy restrictions order and evidence of matters which relate to the public interest in making the order.

(3) Any evidence by persons other than the Secretary of State in support of an application for an interim bankruptcy restrictions order shall be by way of affidavit.

Making an interim bankruptcy restrictions order

6.247.—(1) The bankrupt may file in court any evidence which he wishes the court to take into consideration and may appear at the hearing for an interim bankruptcy restrictions order.

(2) The court may make an interim bankruptcy restrictions order against the bankrupt, whether or not the latter appears, and whether or not he has filed evidence.

(3) Where the court makes an interim bankruptcy restrictions order, it shall send two sealed copies of the order shall be sent, as soon as reasonably practicable, to the Secretary of State.

(4) As soon as reasonably practicable after receipt of the sealed copies of the order, the Secretary of State shall send a copy of the order to the bankrupt.

Application to set aside an interim bankruptcy restrictions order

6.248.—(1) A bankrupt may apply to the court to set aside an interim bankruptcy restrictions order.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) An application by the bankrupt to set aside an interim bankruptcy restrictions order shall be supported by an affidavit stating the grounds on which the application is made.

(3) Where a bankrupt applies to set aside an interim bankruptcy restrictions order under paragraph (1), he shall send to the Secretary of State, not less than 7 days before the hearing—

- (a) notice of his application;
- (b) notice of the venue;
- (c) a copy of his application; and
- (d) a copy of the supporting affidavit.

(4) The Secretary of State may attend the hearing and call the attention of the court to any matters which seem to him to be relevant, and may himself give evidence or call witnesses.

(5) Where the court sets aside an interim bankruptcy restrictions order two sealed copies of the order shall be sent, as soon as reasonably practicable, to the Secretary of State by the court.

(6) As soon as reasonably practicable after receipt of the sealed copies of the order, the Secretary of State shall send a sealed copy of the order to the bankrupt.

CHAPTER 30

BANKRUPTCY RESTRICTIONS UNDERTAKING

Acceptance of the bankruptcy restrictions undertaking

6.249. A bankruptcy restrictions undertaking signed by the bankrupt shall be deemed to have been accepted by the Secretary of State for the purposes of paragraph 9 of Schedule 4A of the Act when the undertaking is signed by the Secretary of State.

Notification to the court

6.250. As soon as reasonably practicable after a bankruptcy restrictions undertaking has been accepted by the Secretary of State, a copy shall be sent to the bankrupt and filed in court and sent to the official receiver if he is not the applicant.

Application under paragraph 9(3) of Schedule 4A to the Act to annul a bankruptcy restrictions undertaking

6.251.—(1) An application under paragraphs 9(3)(a) or (b) of Schedule 4A to the Act shall be supported by an affidavit stating the grounds on which it is made.

(2) The bankrupt shall give notice of the application and the venue, together with a copy of the affidavit supporting his application to the Secretary of State at least 28 days before the date fixed for the hearing.

(3) The Secretary of State may attend the hearing and call the attention of the court to any matters which seem to him to be relevant, and may himself give evidence or call witnesses.

(4) The court shall send a sealed copy of any order annulling or varying the bankruptcy restrictions undertaking to the Secretary of State and the bankrupt.”.