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STATUTORY INSTRUMENTS

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**2016 No. 1024**

**The Insolvency (England and Wales) Rules 2016**

**PART 10**

**BANKRUPTCY**

**CHAPTER 16**

**Annulment of bankruptcy order**

**Matters to be proved under section 282(1)(b)**

**10.138.**—(1) This rule applies in relation to the matters which—

- (a) must, in an application under section 282(1)(b), be proved to the satisfaction of the court; and
- (b) may be taken into account by the court on hearing such an application.

(2) Subject to the following paragraph, all bankruptcy debts which have been proved must have been—

- (a) paid in full; or
- (b) secured in full to the satisfaction of the court.

(3) If a debt is disputed, or a creditor who has proved can no longer be traced, the bankrupt must have given such security (in the form of money paid into court, or a bond entered into with approved sureties) as the court considers adequate to satisfy any sum that may subsequently be proved to be due to the creditor concerned and (if the court thinks just) costs.

(4) Where such security has been given in the case of an untraced creditor, the court may direct that particulars of the alleged debt, and the security, be advertised in such manner as it thinks just.

(5) If the court directs such advertisement and no claim on the security is made within 12 months from the date of the advertisement (or the first advertisement, if more than one), the court must, on application, order the security to be released.

(6) In determining whether to annul a bankruptcy order under section 282(1)(b), the court may, if it thinks just and without prejudice to the generality of its discretion under section 282(1), take into account whether any sums have been paid or payment of any sums has been secured in respect of post-commencement interest on the bankruptcy debts which have been proved.

(7) For the purposes of paragraphs (2) and (6), security includes an undertaking given by a solicitor and accepted by the court.

(8) For the purposes of paragraph (6), “post-commencement interest” means interest on the bankruptcy debts at the rate specified in section 328(5) in relation to periods during which those debts have been outstanding since the commencement of the bankruptcy.