
STATUTORY INSTRUMENTS

1986 No. 1925

The Insolvency Rules 1986

THE SECOND GROUP OF PARTS

PART 6

BANKRUPTCY

CHAPTER 8

PROOF OF BANKRUPTCY DEBTS

SECTION B: QUANTIFICATION OF CLAIM

Negotiable instruments, etc

6.108. Unless the trustee allows, a proof in respect of money owed on a bill of exchange, promissory note, cheque or other negotiable instrument or security cannot be admitted unless there is produced the instrument or security itself or a copy of it, certified by the creditor or his authorised representative to be a true copy.

Secured creditors

6.109.—(1) If a secured creditor realises his security, he may prove for the balance of his debt, after deducting the amount realised.

(2) If a secured creditor voluntarily surrenders his security for the general benefit of creditors, he may prove for his whole debt, as if it were unsecured.

Discounts

6.110. There shall in every case be deducted from the claim all trade and other discounts which would have been available to the bankrupt but for his bankruptcy, except any discount for immediate, early or cash settlement.

Debt in foreign currency

6.111.—(1) For the purpose of proving a debt incurred or payable in a currency other than sterling, the amount of the debt shall be converted into sterling at the official exchange rate prevailing on the date of the bankruptcy order.

(2) “The official exchange rate” is the middle market rate at the Bank of England, as published for the date in question. In the absence of any such published rate, it is such rate as the court determines.

Payments of a periodical nature

6.112.—(1) In the case of rent and other payments of a periodical nature, the creditor may prove for any amounts due and unpaid up to the date of the bankruptcy order.

(2) Where at that date any payment was accruing due, the creditor may prove for so much as would have fallen due at that date, if accruing from day to day.

Interest

6.113.—(1) In the following circumstances the creditor's claim may include interest on the debt for periods before the bankruptcy order, although not previously reserved or agreed.

(2) If the debt is due by virtue of a written instrument and payable at a certain time, interest may be claimed for the period from that time to the date of the bankruptcy order.

(3) If the debt is due otherwise, interest may only be claimed if, before the presentation of the bankruptcy petition, a demand for payment was made in writing by or on behalf of the creditor, and notice given that interest would be payable from the date of the demand to the date of payment.

In that case interest may be claimed under this Rule for the period from the date of the demand to that of the bankruptcy order.

(4) The rate of interest to be claimed under this Rule is the rate specified in section 17 of the Judgments Act 1838 on the date of the bankruptcy order; except that, where the case falls within paragraph (3), the rate is that specified in the notice there referred to, not exceeding the rate under the Judgments Act as mentioned above.

Debt payable at future time

6.114. A creditor may prove for a debt of which payment was not yet due at the date of the bankruptcy order, but subject to Rule 11.13 in Part 11 of the Rules (adjustment of dividend where payment made before time).