

1973 No. 715 (L.9)

BANKRUPTCY, ENGLAND

The Bankruptcy (Amendment) Rules 1973

<i>Made</i> - - - -	<i>9th April 1973</i>
<i>Laid before Parliament</i>	<i>18th April 1973</i>
<i>Coming into Operation</i>	<i>14th May 1973</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 132 of the Bankruptcy Act 1914(a), as extended by paragraph 13 of Schedule 1 to the Criminal Justice Act 1972(b), and with the concurrence of the Secretary of State for Trade and Industry, hereby makes the following Rules:—

- 1.—(1) These Rules may be cited as the Bankruptcy (Amendment) Rules 1973 and shall come into operation on 14th May 1973.
- (2) The Interpretation Act 1889(c) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.
- (3) The amendments set out in these Rules shall be made to the Bankruptcy Rules 1952(d), as amended (e).
2. In Rule 4(1), for the definition of “Creditor” there shall be substituted the following definition:—
“ “Creditor” includes a corporation, a firm of creditors in partnership and, in relation to criminal bankruptcy proceedings, the Official Petitioner;”.
3. In Rule 98(1), for the words from “the total amount” to the end of the paragraph there shall be substituted the words “he has been so authorised by direction of the Lord Chancellor.”
4. In Rule 143, for the words “or Form 11” there shall be substituted the words “, Form 11 or Form 11A”.
5. After Rule 145 there shall be inserted the following rule:—
“*Criminal bankruptcy petitions out of time*
145A.—Rules 31 and 32 shall apply to an application made by the Official Petitioner to the court to present a criminal bankruptcy petition out of time,

(a) 1914 c. 59.

(b) 1972 c. 71.

(c) 1889 c. 63.

(d) S.I. 1952/2113 (1952 I, p. 213).

(e) The relevant amending instruments are S.I. 1963/2067, 1967/371 (1963 III, p. 4379; 1967 I, p. 1263).

save that any such application made not later than six months after the date upon which the relevant criminal bankruptcy order was made may be made *ex parte*, and paragraph (2) of Rule 32 shall not apply to the order made on that *ex parte* application."

6. After Rule 191 there shall be inserted the following rule:—

"Adjournment other than sine die

191A. In the exercise of its discretion to adjourn the public examination under section 15(3) of the Act, the court may have regard to the fact that criminal proceedings have been, or are likely to be, instituted in respect of any matter arising out of or connected with the bankruptcy proceedings."

7. In Rule 256(2) and in the marginal notes to Forms 170 and 171 in Appendix 1, for the word "Registrar" there shall be substituted the words "Chief Clerk of the court".

8. After Form 11 in Appendix 1 there shall be inserted new Form 11A as set out in the Schedule to these Rules.

Dated 27th March 1973.

Hailsham of St. Marylebone, C.

I concur,
Dated 9th April 1973.

Peter Walker,
Secretary of State for
Trade and Industry.

SCHEDULE

No. 11A (Rules 143 & 144)

CRIMINAL BANKRUPTCY PETITION

In the High Court of Justice

In Bankruptcy

(Title)

I, the Official Petitioner, [*or*, I, *C.D.*, of _____]
 [*or*, we, *C.D.*, of _____ and *E.F.* of _____],
 hereby petition the Court that a receiving order may be made in respect of the estate
 of *A.B.* (*a*) _____ of (*b*) _____
 and lately residing at [*or* carrying on business at (*c*) _____]
 and say,

a) Insert
name of
debtor.
b) Insert
present
address and
description
of debtor.
c) Insert
address or
addresses at
which the
debtor has
lately resided
or carried on
business.

1. That a criminal bankruptcy order was made against the said *A.B.* at the
 Crown Court on the _____ day of _____ 19____, and
 that an office copy of the said order is annexed to this petition.

2. That the said order remains in force.

Or,

That the said order was amended by the Court of Appeal on the
 day of _____ 19____; that an office copy of the order of the Court
 of Appeal is annexed to this petition; and that the said order as amended by the
 Court of Appeal remains in force.

3. That according to the said criminal bankruptcy order the said *A.B.* is indebted to
 [*insert the names of the persons specified in the order as having suffered loss or damage*]
 in the aggregate sum of £ _____ [*set out the amount of the loss or damage suffered*
as specified in the criminal bankruptcy order].

Dated this _____ day of _____ 19____.

(Signed) Official Petitioner
C.D.
E.F.
 (*as the case may be*)

[Signed by the petitioner (*other than*
the Official Petitioner) in my presence.]

Signature of witness.

Address.

Description.

NOTE.—If there be more than one petitioner, and they do not sign together, the
 signature of each must be separately attested, *e.g.*, “Signed by the petitioner *E.F.* in
 my presence.” If the petition be signed by a firm, the partner signing should add also
 his own signature, *e.g.*, “*A.S. & Co.* by *J.S.*, a partner in the said firm.”

Indorsement

This petition having been presented to the Court on the _____ day of
 19____, it is ordered that this petition shall be heard at _____
 on the _____ day of _____ 19____, at _____ o'clock in
 the _____ noon.

And you, the said *A.B.* are to take notice that if you intend to show cause against
 the petition you must file with the Registrar of this Court a notice specifying the
 statements which you intend to deny or dispute, and send by post a copy of the notice
 to the petitioner and his solicitor, if known, not later than three days before the day
 fixed for the hearing.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Bankruptcy Rules 1952. They—

- (i) make certain amendments which are required as a result of the coming into force on 1st April 1973 of sections 7 to 10 of the Criminal Justice Act 1972 and Schedule 1 to that Act. These provisions introduce the concept of criminal bankruptcy into the penal system and establish the office of the Official Petitioner. The consequential minor amendments to the Bankruptcy Rules provide that the Official Petitioner be deemed a creditor for the purpose of bringing criminal bankruptcy proceedings, etc. (*Rule 2*); specify the way in which certain applications to the court by the Official Petitioner shall be made (*Rule 5*); prescribe the form of a criminal bankruptcy petition (*Rule 8*); and make a further minor consequential amendment (*Rule 4*);
- (ii) remove the financial limit on the jurisdiction of the Principal Clerk to tax bills in bankruptcy matters and substitute a power vested in the Lord Chancellor to fix the limit by administrative direction (*Rule 3*);
- (iii) provide that the court may, in the exercise of its discretion to adjourn a public examination, take into account any criminal proceedings arising out of or in connection with the bankruptcy proceedings (*Rule 6*); and
- (iv) transfer the county court Registrar's administrative function of examining and certifying lists of proofs to the Chief Clerk of the court (*Rule 7*).

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