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STATUTORY INSTRUMENTS

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**1986 No. 1925**

**The Insolvency Rules 1986**

THE SECOND GROUP OF PARTS

PART 6

BANKRUPTCY

CHAPTER 2

BANKRUPTCY PETITION (CREDITOR'S)

**Change of carriage of petition**

**6.31.**—(1) On the hearing of the petition, any person who claims to be a creditor of the debtor, and who has given notice under Rule 6.23 of his intention to appear at the hearing, may apply to the court for an order giving him carriage of the petition in place of the petitioning creditor, but without requiring any amendment of the petition.

(2) The court may, on such terms as it thinks just, make a change of carriage order if satisfied that—

- (a) the applicant is an unpaid and unsecured creditor of the debtor, and
- (b) the petitioning creditor either—
  - (i) intends by any means to secure the postponement, adjournment or withdrawal of the petition, or
  - (ii) does not intend to prosecute the petition, either diligently or at all.

(3) The court shall not make the order if satisfied that the petitioning creditor's debt has been paid, secured or compounded for by means of—

- (a) a disposition of property made by some person other than the debtor, or
- (b) a disposition of the debtor's own property made with the approval of, or ratified by, the court.

(4) A change of carriage order may be made whether or not the petitioning creditor appears at the hearing.

(5) If the order is made, the person given the carriage of the petition is entitled to rely on all evidence previously adduced in the proceedings (whether by affidavit or otherwise).