
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 10

BANKRUPTCY

CHAPTER 21

Miscellaneous rules in bankruptcy

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Amendment of title of proceedings

10.165.—(1) At any time after the making of a bankruptcy order, the official receiver may amend the title of the proceedings.

(2) An official receiver who amends the title of proceedings must as soon as reasonably practicable—

- (a) where the bankruptcy is on the petition of a creditor, file a notice of the amendment with the court;
- (b) where the bankruptcy is on the application of a debtor, file a notice of the amendment on the bankruptcy file; and
- (c) make an application to the Chief Land Registrar to amend the register of writs and orders.

(3) If the official receiver thinks fit to gazette the amendment then it must be gazetted as soon as reasonably practicable, and may be advertised in such other manner as the official receiver thinks fit.

(4) The notice must—

- (a) state that the title of the proceedings has been amended; and
- (b) specify the amendment.

Application for redirection order

10.166.—(1) This rule applies where the official receiver or trustee other than the official receiver makes an application to the court under section 371(1) (re-direction of bankrupt's letters etc.).

(2) The application must be made without notice to the bankrupt or any other person, unless the court directs otherwise.

(3) Where the applicant is the official receiver the applicant must file with the court with the application a report setting out the reasons why the order is sought.

(4) Where the applicant is the trustee the applicant must file with the court a witness statement setting out the reasons why the order is sought.

(5) The court must fix a venue for the hearing of the application if the court thinks just and deliver notice to the applicant.

(6) The court may make an order on such conditions as it thinks just.

(7) The order must identify the person on whom it is to be served, and need not be served on the bankrupt unless the court so directs.

Bankrupt's home: property falling within section 283A

10.167.—(1) Where it appears to a trustee that section 283A(1)(1) applies, the trustee must deliver notice as soon as reasonably practicable to—

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

(2) Such a notice must contain—

- (a) the name of the bankrupt;
- (b) the address of the dwelling-house;
- (c) if the dwelling-house is registered land, the title number; and
- (d) the date by which the trustee must have delivered the notice.

(3) A trustee must not deliver such a notice any later than 14 days before the third anniversary of the bankruptcy order or, 14 days before the third anniversary of when the official receiver or trustee became aware of the property.

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

10.168.—(1) This rule applies where—

- (a) the bankrupt's estate includes 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 civil partner, or
 - (iii) a former spouse or former civil partner of the bankrupt; and
- (b) the dwelling-house is registered land; and
- (c) an entry has been made relating to the bankruptcy in the individual register of the dwelling-house or the register has been altered to reflect the vesting of the bankrupt's interest in a trustee in bankruptcy.

(2) Where such an interest 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 must, within five business days of the vesting, make such application to the Chief Land Registrar as is necessary to show in the individual register of the dwelling-house that the interest has vested in the bankrupt.

(3) The trustee's application must be made in accordance with the Land Registration Act 2002 and must be accompanied by—

- (a) evidence of the trustee's appointment (where not previously provided to the Chief Land Registrar); and

(1) Section 283A was inserted by section 261(1) of the Enterprise Act 2002 (c.40) and has been amended by paragraph 113 of Schedule 27 to the Civil Partnership Act 2004 (c.33).

(2) 2002 c.40. There are amendments to this Act but they are not relevant to this instrument.

- (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 such an application, the trustee must deliver notice of the application—
 - (a) to the bankrupt; and
 - (b) to the bankrupt’s spouse, former spouse, civil partner or former civil partner if the dwelling-house was the sole or principal residence of that person.
- (5) The trustee must deliver notice of the application to every person who (to the trustee’s knowledge) claims an interest in, or is under any liability in relation to, the dwelling-house.

Vesting of bankrupt’s interest (unregistered land)

10.169.—(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 civil partner; or
- (c) a former spouse or former civil partner 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 must as soon as reasonably practicable deliver to the bankrupt a certificate as to the vesting.

(2) Such a certificate is conclusive proof that the interest mentioned in paragraph (1) has vested in the bankrupt.

(3) As soon as reasonably practicable after delivering the certificate, the trustee must deliver a copy of the certificate to the bankrupt’s spouse, former spouse, civil partner or former civil partner if the dwelling-house was the sole or principal residence of that person.

(4) The trustee must deliver a copy of the certificate to every person who (to the trustee’s knowledge) claims an interest in, or is under any liability relating to, the dwelling-house.

Vesting of bankrupt’s estate: substituted period

[Note: section 283A(6)(b) gives the court the power to impose a longer period than the three years mentioned in section 283A(2) in such circumstances as the court thinks appropriate.]

10.170.—(1) For the purposes of section 283A(2) the period of one month is substituted for the period of three years set out in that section where the trustee has delivered notice to the bankrupt that the trustee considers—

- (a) the continued vesting of the property in the bankrupt’s estate to be of no benefit to creditors; or
- (b) the re-vesting to the bankrupt will make dealing with the bankrupt’s estate more efficient.

(2) The one month period starts from the date of the notice.

Charging order

10.171.—(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 must be—

- (a) any spouse or former spouse or civil partner or former civil partner 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 must make a report to the court, containing the following particulars—
- (a) the extent of the bankrupt’s interest in the property;
 - (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 must be agreed between the trustee and the bankrupt or in the absence of an agreement must 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(3) on the day on which the charge is imposed, and the rate must be stated in the court’s order imposing the charge.
- (6) The court’s order must 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 bankrupt’s 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(4); and
 - (f) identify the date any property charged under section 313 will cease to be comprised in the bankrupt’s estate and will, subject to the charge (and any prior charge), vest in the bankrupt.
- (7) The date referred to in paragraph (6)(f) must be that of the registration of the charge in accordance with section 3(2) of the Charging Orders Act 1979 unless the court is of the opinion that a different date is appropriate.
- (8) Where the court order is capable of giving rise to an application under the Land Charges Act 1972 or the Land Registration Act 2002(5) the trustee must, as soon as reasonably practicable after the making of the court order or at the appropriate time, make the appropriate application to the Chief Land Registrar.
- (9) The appropriate application is—
- (a) an application under section 6(1)(a) of the Land Charges Act 1972(6) (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 relation to the charge imposed by the order; and such application under that Act as is necessary to show in the individual register or registers of the dwelling-house that the interest has vested in the bankrupt.

(3) Section 17 is amended by the Statute Law Revision (No 2) Act 1888 (c.57), article 2 of S.I. 1993/564, article 3 of S.I. 1998/2940, Part 1 of the Schedule to the Civil Procedure Acts Repeal Act 1879 (c.59) and article 3(c) of S.I. 1998/3132.

(4) 1979 c.53.

(5) 2002 c.9.

(6) 1972 c.61.

(10) In determining the value of the bankrupt's interest for the purposes of paragraph (6)(c), the court must disregard that part of the value of the property in which the bankrupt's interest subsists which is equal to the value of—

- (a) any loans secured by mortgage or other charge against the property;
- (b) any other third party interest; and
- (c) the reasonable costs of sale.