
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 10

BANKRUPTCY

CHAPTER 5

Disclosure of the bankrupt's affairs

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

Sub-division A: creditor's petition

Notice requiring statement of affairs (section 288)

10.55.—(1) Where, under section 288(1), the official receiver requires a bankrupt to provide the official receiver with a statement of affairs, the official receiver must deliver a notice to the bankrupt.

(2) The notice must be headed “Notice requiring statement of affairs” and must—

- (a) require the bankrupt to prepare and submit to the official receiver a statement of affairs;
- (b) inform the bankrupt of the date by which the statement must be delivered; and
- (c) state the effect of section 288(4) (penalty for non-compliance) and section 291 (duty to co-operate).

(3) The official receiver must deliver instructions for the preparation of the statement of affairs with the notice.

Statement of affairs

10.56.—(1) The statement of affairs must contain—

- (a) identification details for the proceedings;
- (b) identification details for the bankrupt;
- (c) the date of the bankruptcy order;
- (d) a list of the bankrupt's secured creditors giving in relation to each—
 - (i) the name and postal address,
 - (ii) the amount owed to the creditor, and
 - (iii) particulars of the property of the bankrupt which is claimed by the creditor to clear or reduce the creditor's debt and the value of that property;
- (e) a list of unsecured creditors giving in relation to each—

(1) Section 288 is amended by paragraph 18 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c.24) and by paragraph 15 of Schedule 6 to the Deregulation Act 2015 (c.20).

- (i) the name and postal address of the creditor,
 - (ii) the amount the creditor claims the bankrupt owes to that creditor, and
 - (iii) the amount the bankrupt thinks is owed by the bankrupt to that creditor;
- (f) a list of the bankrupt's total assets (which must include anything not previously mentioned in the statement of affairs which may be of value) divided into the following categories and giving the value of each asset listed—
- (i) cash at the bank or building society,
 - (ii) household furniture and belongings,
 - (iii) life policies,
 - (iv) money owed to the bankrupt,
 - (v) stock in trade,
 - (vi) motor vehicles, and
 - (vii) other property; and
- (g) the total value of the assets listed under paragraph (f).
- (2) The bankrupt must authenticate and date each page of the statement of affairs.
- (3) The statement of affairs must be verified by a statement of truth and delivered to the official receiver, together with one copy.
- (4) The official receiver must file the verified statement with the court.

Limited disclosure

10.57. Where the official receiver thinks that disclosure of the whole or part of the statement of affairs would be likely to prejudice the conduct of the bankruptcy or might reasonably be expected to lead to violence against any person, the official receiver may apply to the court for an order that the statement of affairs or any specified part of it either—

- (a) must not be filed with the court; or
- (b) must be filed separately and not open to inspection otherwise than with permission of the court.

Requirement to submit statement of affairs and extension of time (section 288(3))

10.58.—(1) The official receiver may exercise the power in section 288(3)(2) to require the bankrupt to submit a statement of affairs under section 288(3) and to grant an extension of time, either on the official receiver's own initiative, or at the bankrupt's request.

(2) A bankrupt required to submit a statement of affairs under paragraph (1) may apply to the court for a release or extension of time, if the official receiver has refused to release the bankrupt from that requirement or grant an extension.

(3) On receipt of an application, the court may, if it is satisfied that no sufficient cause is shown for it, dismiss it without giving notice to any party other than the applicant.

(4) Unless the application is dismissed, the court must fix a venue for it to be heard.

(5) The applicant must, at least 14 days before any hearing, deliver to the official receiver a notice stating the venue with a copy of the application and any evidence on which the applicant intends to rely.

(6) The official receiver may do either or both of the following—

(2) Section 288(3) is amended by paragraph 15(4) and (5) of Schedule 6 to the Deregulation Act 2015 (c.20).

(a) file a report of any matters which the official receiver thinks ought to be drawn to the court's attention; or

(b) appear and be heard on the application.

(7) If such a report is filed, the official receiver must deliver a copy of it to the bankrupt not later than five business days before the hearing.

(8) The court must deliver sealed copies of any order made on the application to the bankrupt and the official receiver.

(9) The bankrupt must pay the bankrupt's costs of the application in any event and, unless and to the extent the court orders otherwise, no allowance in respect of them will be made out of the bankrupt's estate.

Expenses of assisting bankrupt to prepare statement of affairs

10.59.—(1) If the bankrupt cannot personally prepare a proper statement of affairs, the official receiver may, at the expense of the bankrupt's estate, employ a person or firm to assist in the preparation of the statement.

(2) At the request of the bankrupt, made on the grounds that the bankrupt cannot personally prepare a proper statement, the official receiver may authorise an allowance payable out of the bankrupt's estate (in accordance with the prescribed order of priority) of all or part of the expenses to be incurred by the bankrupt in employing a person or firm to assist the bankrupt in preparing it.

(3) The bankrupt's request must be accompanied by an estimate of the expenses involved, and the official receiver must only authorise the employment of a named person or named firm approved by the official receiver.

(4) The official receiver may make the authorisation subject to such conditions (if any) as the official receiver thinks fit relating to the manner in which any person may obtain access to relevant documents and other records.

(5) Nothing in this rule relieves the bankrupt from any obligation relating to the preparation, verification and submission of a statement of affairs, or to the provision of information to the official receiver or the trustee.

Delivery of accounts to official receiver

10.60.—(1) The bankrupt must, at the request of the official receiver, deliver to the official receiver accounts relating to the bankrupt's affairs of such nature, as at such date and for such period as the official receiver may specify.

(2) The period specified may begin from a date up to three years before the date of the presentation of the bankruptcy petition.

(3) The court may, on the official receiver's application, require accounts for any earlier period.

(4) Rule 10.59 (expenses of assisting bankrupt to prepare statement of affairs) applies to accounts to be delivered under this rule as it applies to the statement of affairs.

(5) The accounts must, if the official receiver so requires, be verified by a statement of truth, and (whether or not so verified) delivered to the official receiver within 21 days of the request, or such longer period as the official receiver may allow.

Further disclosure

10.61.—(1) The official receiver may at any time require the bankrupt to deliver in writing further information amplifying, modifying or explaining any matter contained in the bankrupt's statement of affairs, or in accounts delivered under the Act or these Rules.

(2) The information must, if the official receiver directs, be verified by a statement of truth, and (whether or not verified) delivered to the official receiver within 21 days from the date of the requirement, or such longer period as the official receiver may allow.

Sub-division B: Bankruptcy application

Preliminary

10.62. The rules in this sub-division apply in relation to further disclosure which is required of a bankrupt where the bankruptcy order was made on a bankruptcy application.

Delivery of accounts to official receiver

10.63.—(1) The bankrupt must, at the request of the official receiver, deliver to the official receiver accounts relating to the bankrupt's affairs of such nature, as at such date and for such period as the official receiver may specify.

(2) The specified period may begin from a date up to three years preceding the date of the bankruptcy application.

(3) The accounts must, if the official receiver so requires, be verified by a statement of truth, and (whether or not so verified) be delivered to the official receiver within 21 days of the request or such longer period as the official receiver may allow.

(4) The court may, on the official receiver's application, require accounts in respect of any earlier period.

Expenses of preparing accounts

10.64.—(1) If the bankrupt cannot personally prepare adequate accounts under rule 10.63, the official receiver may, at the expense of the bankrupt's estate, employ a person or firm to assist in their preparation.

(2) At the request of the bankrupt, made on the grounds that the bankrupt cannot personally prepare the accounts, the official receiver may authorise an allowance payable out of the bankrupt's estate (in accordance with the prescribed order of priority) of all or part of the expenses to be incurred by the bankrupt in employing a person or firm to assist the bankrupt in their preparation.

(3) The bankrupt's request must be accompanied by an estimate of the expenses involved; and the official receiver must only authorise the employment of a named person or a named firm, being in either case approved by the official receiver.

(4) The official receiver may make the authorisation subject to such conditions (if any) as the official receiver thinks fit relating to the manner in which any person may obtain access to relevant documents and other records.

(5) Nothing in this rule relieves the bankrupt from any obligation relating to the preparation and delivery of accounts, or to the provision of information to the official receiver or the trustee.

Further disclosure

10.65.—(1) The official receiver may at any time require the bankrupt to deliver in writing further information amplifying, modifying or explaining any matter contained in the bankruptcy application, or in accounts delivered under the Act or these Rules.

(2) The information must, if the official receiver so directs, be verified by a statement of truth, and (whether or not so verified) delivered to the official receiver within 21 days from the date of the requirement, or such longer period as the official receiver may allow.

Sub-division C: Reports by the official receiver

Reports by the official receiver

10.66.—(1) The official receiver must deliver a report on the bankruptcy and the bankrupt's affairs to the creditors at least once after the making of the bankruptcy order.

(2) The report must contain—

- (a) identification details for the proceedings;
- (b) contact details for the official receiver;
- (c) a summary of the assets and liabilities of the bankrupt as known to the official receiver at the date of the report;
- (d) such comments on the summary and the bankrupt's affairs as the official receiver thinks fit; and
- (e) any other information of relevance to the creditors.

(3) The official receiver may apply to the court to be relieved of any duty imposed by this rule or to be authorised to carry out the duty in another way.

(4) On such an application the court must have regard to the cost of carrying out the duty, to the amount of the assets available, and to the extent of the interest of creditors or any particular class of them.

(5) If a bankruptcy order is annulled, any duty of the official receiver to deliver a report under this rule ceases.