

BANKRUPTCY ACT
(CHAPTER 20, SECTION 166)

BANKRUPTCY RULES

History	G.N. NO. S 269/95	->	1996 REVISED EDITION	->	R1 2002 REVISED EDITION
----------------	-----------------------------	----	----------------------------	----	----------------------------------

[15th July 1995]

Arrangement of Provisions

PART I

PRELIMINARY

1 Citation

2 Definitions

PART II

COURT PROCEDURE

COURT AND CHAMBERS

3 Hearing of applications

4 Adjournment from Registrar to Judge

5 Adjournment from chambers to court and vice versa

PROCEEDINGS

6 Title of proceedings

7 Court records

8 Notices to be in writing

9 Proof of posting of notice by Official Assignee

10 Filing, gazetting, etc.

APPLICATIONS AND PRACTICE

11 Applications to be made by summons-in-chambers

12 Service of application

13 Length of notice

14 Notice not served on all proper parties

15 Adjournment

16 Personal service

AFFIDAVITS

17 Use of affidavit evidence

18 Filing and service of affidavits

19 Affidavit filed out of time

20 Scandalous matter

SECURITY IN COURT

21 Form of security

WITNESSES AND DEPOSITIONS

22 Subpoena

23 Service of subpoena

24 Costs of witnesses

25 Order for examination

26 Letters of request

27 Production of documents

28 Disobedience to order

WARRANTS, ARRESTS AND COMMITMENTS

29 Address of warrants

30 Warrant under section 9 of Act

- [31 Warrant under section 83 \(13\) of Act](#)
- [32 Warrant under section 108 \(3\) of Act](#)
- [33 Application to commit](#)
- [34 Notice and hearing of application](#)
- [35 Suspension of issue of committal order](#)

SERVICE AND EXECUTION OF PROCESS

- [36 Service on solicitor](#)
- [37 Time of service](#)
- [38 Service out of jurisdiction](#)
- [39 Officers to effect service](#)
- [40 Service by post](#)
- [41 Enforcement of orders](#)

APPEALS

- [42 Procedure on appeal](#)

PART III

OFFICIAL ASSIGNEE

- [43 Subsistence allowance to bankrupt and his family](#)
- [44 Use of proxies by Official Assignee](#)
- [45 Removal of special manager](#)
- [46 Mode of application to court](#)

REPORT OF OFFICIAL ASSIGNEE

- [47 Evidence on application by Official Assignee](#)
- [48 Official Assignee's reports to be prima facie evidence](#)
- [49 Application for directions](#)
- [50 No expenses to be incurred where no available assets](#)
- [51 Trading account of bankrupt](#)
- [52 Liability for costs, expenses and damages](#)

PART IV

TRUSTEE IN BANKRUPTCY

53 Application for appointment of trustee

54 Provisions as to security

55 Report of trustee

56 Payment by trustee to Bankruptcy Estates Account

57 Trustee to notify Official Assignee of constitution of creditors' committee

58 Factors to be considered in determining trustee's remuneration

59 Notice for removal of trustee by creditors' meeting

60 Removal of trustee by court

61 Service of order

62 Costs of application

63 Resignation of trustee

64 Trustee's duty upon vacating office

65 Discharge of security

66 Powers of court

PART V

VOLUNTARY ARRANGEMENTS

PROPOSAL FOR VOLUNTARY ARRANGEMENT

67 Preparation of proposal

68 Contents of proposal

69 Amendment of proposal

70 Notice of proposal

INTERIM ORDER

71 Application for interim order

72 Persons who may appear at hearing of application for interim order

73 Court to fix date for consideration of nominee's report

74 Action to follow making of order

PREPARATION OF NOMINEE'S REPORT

75 Debtor to furnish nominee with statement of affairs

76 Additional disclosure for assistance of nominee

77 Access to accounts and reports

78 Nominee's report on proposal

79 Replacement of nominee

ACTION ON PROPOSAL

80 Consideration of nominee's report

81 Summoning of creditors' meeting

82 Nominee to be chairman of meeting

83 Chairman of meeting as proxy-holder

84 Entitlement to vote

85 Requisite majorities

86 Adjournments

87 Debtor to put nominee in possession of assets

88 Chairman to prepare report

89 Notice of results of creditors' meeting

PROCEDURE FOR REVIEW OF MEETING'S DECISION

90 Application for review

91 Nominee's accounts and reports

92 Fees, costs, charges and expenses of voluntary arrangement

COMPLETION OF ARRANGEMENT

93 Nominee to send notice

PART VI

PROCEEDINGS IN BANKRUPTCY

STATUTORY DEMAND

94 Form and contents of statutory demand

95 Information to be given in statutory demand

96 Requirements as to service

97 Application to set aside statutory demand

98 Hearing of application to set aside statutory demand

CREDITOR'S PETITION

99 Form of creditor's petition

100 Identification of debtor

101 Identification of debt

102 Petition based on statutory demand

103 Petition presented under section 62 (b) of Act

104 Grounds of petition

105 Deposit payable to Official Assignee

106 Verification of petition

107 Date and time of hearing

108 Proof of service of statutory demand

SERVICE OF CREDITOR'S PETITION

109 Personal service

110 Substituted service

111

112 Service on nominee

113 Death of debtor before service

114 Proof of service of petition

HEARING OF CREDITOR'S PETITION

115 Hearing of petition

116 Parties who may be heard

117 Where there are several respondents

118 Petition by moneylender

119 Petition opposed by debtor

120 Non-appearance of creditor or lack of prosecution of petition

121 Postponement of hearing of petition where it has not been served

122 Adjournment of hearing of petition for other reasons

123 Substitution of petitioner

124 Petition to be amended

125 Deposit payable upon substitution of petitioning creditor

126 Decision on hearing of petition

127 Dismissal of petition

ACTIONS TO FOLLOW UPON MAKING OF BANKRUPTCY

ORDER ON CREDITOR'S PETITION

128 Settlement and contents of bankruptcy order

129 Service of bankruptcy order

130 Gazetting of order

131 Advertisement of order

132 Stay of bankruptcy order

133 Amendment of title of proceedings

DEBTOR'S PETITION

134 Form of petition

135 Admission of insolvency

136 Verification of petition

137 Statement of affairs

[138 Procedure for presentation and filing of debtor's petition](#)

[139 Service of petition on nominee supervising voluntary arrangement and partners of debtor](#)

[140 Hearing of petition](#)

[141 Settlement and contents of bankruptcy order](#)

[*ACTIONS TO FOLLOW UPON MAKING OF BANKRUPTCY*](#)

[*ORDER ON DEBTOR'S PETITION*](#)

[142 Service of bankruptcy order](#)

[143 Gazetting of order](#)

[144 Advertisement of order](#)

[145 Stay of bankruptcy order](#)

[146 Amendment of title of proceedings](#)

[*INTERIM RECEIVER*](#)

[147 Appointment of interim receiver](#)

[148 Deposit](#)

[149 Repayment of deposit](#)

[150 Damages on dismissal of petition](#)

[**PART VII**](#)

[**BANKRUPTCY ADMINISTRATION**](#)

[*CREDITORS' MEETING*](#)

[151 Meetings summoned by Official Assignee or trustee](#)

[152 Meetings summoned by court](#)

[153 Creditors' committee](#)

[154 Non-receipt of notice by creditor](#)

[155 Chairman of meeting](#)

[156 Costs of creditors' meeting](#)

[157 Quorum](#)

[158 Adjournment](#)

[159 Proxies](#)

[160 Where creditor is blind or incapable of writing](#)

[161 Use of proxies](#)

[162 Retention of proxies](#)

[163 Proxy-holder with financial interest](#)

[164 Entitlement to vote](#)

[165 Admission and rejection of proofs](#)

[166 Record of proceedings](#)

[STATEMENTS OF AFFAIRS](#)

[167 Submission and filing](#)

[168 Extension of time to file statement of affairs, etc.](#)

[EXAMINATION OF BANKRUPT AND OTHERS](#)

[169 Examination under section 83 \(1\) of Act](#)

[170 Notice to parties](#)

[171 General proxy-holders may question bankrupt, etc.](#)

[172 Costs of examination](#)

[SETTLEMENT OF LIST OF DEBTORS TO ESTATE](#)

[173 Settled list of debtors to estate](#)

[PROCEDURE FOR PROVING DEBTS](#)

[174 Manner and contents of proof](#)

[175 Workmen's wages](#)

[176 Statement of accounts](#)

[177 Cost of proving](#)

[178 Time for lodging proofs](#)

[179 Inspection of proofs](#)

QUANTIFICATION OF CLAIM

180 Discounts

181 Debt in foreign currency

182 Periodical payments

183 Proofs in respect of distinct contracts

184 Claim for interest where not previously agreed

185 Rate of interest payable

186 Debt payable at a future time

SECURED CREDITORS

187 Secured creditors

188 Surrender for non-disclosure

189 Valuation of security

190 Amendment of valuation

191 Realisation of security

192 Failure to comply

193 Maximum amount receivable by creditor

TAKING ACCOUNTS OF PROPERTY MORTGAGED AND SALE THEREOF

194 Person claiming to be mortgagee

195 Application of proceeds of sale

196 Interrogatories, etc.

ADMISSION AND REJECTION OF PROOFS

197 Adjudication and notice to creditor

198 Appeal against decision on proof

199 Withdrawal or variation of proof

200 Expunging of proof by Official Assignee or trustee

[201 Expunging of proof by court](#)

[202 Official Assignee may administer oaths](#)

[*APPROVAL OF COMPOSITION OR SCHEME*](#)

[203 Acceptance of composition or scheme by joint and separate creditors](#)

[204 Voting on composition or scheme by firm and by individual partners](#)

[205 Forms in respect of proposal and terms of resolution](#)

[206 Notice to Official Assignee or trustee](#)

[207 Notice to creditors](#)

[208 Official Assignee's or trustee's report and appearance](#)

[209 Restriction on approval of composition or scheme](#)

[210 Bankrupt's costs](#)

[211 Appeal](#)

[212 Notice to be gazetted](#)

[213 Fee on application](#)

[214 Correction of errors and omissions](#)

[215 Proceedings upon approval](#)

[216 Effect of annulment of composition or scheme](#)

[217 Provision for disputed claims](#)

[218 Proofs of debts in composition or scheme](#)

[*APPROPRIATION OF PAY, SALARY, PENSIONS, ETC.*](#)

[219 Application for appropriation order](#)

[220 Notice of order made under section 109 of Act](#)

[221 Review of order](#)

[*DISCLAIMER OF LEASE*](#)

[222 Disclaimer of lease without leave](#)

DISPUTED TITLE TO PROPERTY

223 Claims to property in hands of Official Assignee or trustee to be determined summarily

224 Summons to be issued by Registrar

SPECIAL MANAGER

225 Remuneration of special manager

226 Accounts

SECURITY BY SPECIAL MANAGER

227 Mode of giving security

228 Removal of special manager

DISTRIBUTION OF DIVIDENDS

229 Notice of intended dividend

230 Appeal after notification of intended dividend

231 Declaration of dividend

232 Production of bills of exchange, etc.

233 Dividend sent by post

234 Separate firms

PART VIII

ANNULMENT AND DISCHARGE

235 Application for discharge made by persons other than Official Assignee

236 Application for discharge by Official Assignee

237 Notice of hearing

238 Costs of application

239 Annulment of orders and discharges by court to be gazetted by Registrar

[240 Deferment of issue of order pending appeal](#)

[241 Appeal](#)

[242 Accounts of after-acquired property](#)

[243 Application for modification of order](#)

[244 Discharge by certificate of Official Assignee](#)

PART IX

COSTS AND TAXATION

[245 Award of costs](#)

[246 Filing of orders](#)

[247 Taxation of costs](#)

[248 Neglect or delay in taxation](#)

[249 Scales of costs and charges](#)

[250 Solicitor's costs in case of debtor's petition](#)

[251 Costs paid otherwise than out of estate](#)

[252 Filing of bills and issue of allocatur](#)

[253 Where allocatur is lost, etc.](#)

[254 Certificate of employment of solicitor by trustee](#)

[255 Sheriff's costs](#)

[256 Taxation of Sheriff's costs after deduction](#)

[257 Lodgment of bills](#)

[258 Notice of appointment to tax](#)

[259 Application for costs](#)

[260 Review of taxation](#)

[261 Disallowance of costs of unnecessary petition](#)

[262 Apportionment of costs in case of partnership](#)

PART IXA

ELECTRONIC FILING SYSTEM

[262A Electronic filing system](#)

[262B Duty of person carrying out electronic filing](#)

[262C Receipt of submission](#)

PART X

MISCELLANEOUS PROVISIONS

ADMINISTRATION OF ESTATES OF DECEASED INSOLVENT

[263 Form of petition](#)

[264 Deposit by petitioner](#)

[265 Service of petition](#)

[266 Proof of service and hearing of petition](#)

[267 Notification of administration order in Gazette](#)

[268 Duties of executor, etc.](#)

[269 Executor de son tort](#)

PERSONS OF UNSOUND MIND

[270 Appointment of representative](#)

[271 Application by bankrupt for leave to act as director, etc.](#)

[272 Publications of notifications](#)

REGISTERS

[273 Registers to be kept by Registrar](#)

[274 Inspection of registers](#)

ACCOUNTS AND AUDIT

[275 Advances to Official Assignee](#)

[276 Expenses of sale](#)

[277 Disposal of bankrupt's books and papers](#)

[278 Non-compliance with Rule](#)

THE SCHEDULE

Actual Provisions

BANKRUPTCY ACT (CHAPTER 20, SECTION 166)

BANKRUPTCY RULES

[15th July 1995]

PART I

PRELIMINARY

Citation

1. These Rules may be cited as the Bankruptcy Rules.

Definitions

2. —(1) In these Rules, unless the context otherwise requires —

"associate" means an associate as defined in section 101 of the Act;

"Bankruptcy Estates Account" means the Bankruptcy Estates Account kept by the Official Assignee under section 27 of the Act;

"court" includes the Registrar when exercising the powers of the court under the Act or these Rules;

"creditor" includes a corporation and a firm of creditors in partnership;

"creditor's petition" includes a petition presented by a creditor or the nominee of a voluntary arrangement under section 56 of the Act;

"estate" , in relation to the Official Assignee or a trustee, means the estate of a bankrupt which is being or which has been administered by him;

"Form" means a form set out in the Schedule, and a form referred to by a number means the form so numbered in the Schedule;

"scheme" means a scheme of arrangement under the Act;

"sealed" means sealed with the seal of the court;

"sign" , in relation to the signing of any document by the Registrar, includes the affixing of a facsimile signature;

"trustee" means a trustee of a bankrupt's estate other than the Official Assignee.

(2) For the purposes of these Rules, any reference to the Official Assignee shall not include a reference to a trustee and any reference to a trustee shall not include a reference to the Official Assignee.

PART II

COURT PROCEDURE

Court and chambers

Hearing of applications

3. —(1) Unless the Chief Justice has given a general or special direction to the contrary, every application before the Registrar shall, and every application before the Judge may, be heard in chambers.

(2) Unless the Chief Justice has given a general or special direction to the contrary, the jurisdiction of the court to hear and determine any matter or application may be exercised by the Registrar.

Adjournment from Registrar to Judge

4. Any matter pending before the Registrar which under the Act or these Rules the Registrar has jurisdiction to determine shall, if the Judge, either specially or by any general direction applicable to the particular case, so directs, be adjourned to be heard before the Judge.

Adjournment from chambers to court and vice versa

5. —(1) Subject to the provisions of the Act and these Rules, any matter may at any time, if the Judge, or, as the case may be, the Registrar, thinks fit, be adjourned from chambers into court or from court into chambers.

(2) If all parties require any matter to be adjourned from chambers into court, it shall be so adjourned.

Proceedings

Title of proceedings

6. —(1) Every proceeding in court under the Act shall be dated and shall be intitled “In Bankruptcy”, and all applications and orders made on such applications shall be intitled *ex parte* the applicant.

(2) The first proceeding in every matter shall have a distinctive number assigned to it by the Registrar, and all subsequent proceedings in the same matter shall bear the same number.

Court records

7. —(1) All proceedings of the court shall be kept and remain of record in the court.

(2) The Registrar may, in his discretion, maintain all the information referred to in paragraph (1) in such form, medium or mode as he thinks fit.

(3) The Official Assignee or the trustee, as the case may be, the debtor, and any creditor who has tendered his proof or whose proof has been admitted, or any person acting on behalf of the Official Assignee or the trustee or the debtor or creditor, and, by special direction of the Judge or Registrar, any other person, may at all reasonable times inspect the record of proceedings.

Notices to be in writing

8. All notices required to be given by the Act or these Rules shall be in writing, unless these Rules otherwise provide or the court otherwise orders.

Proof of posting of notice by Official Assignee

9. Where, by any provision of the Act or these Rules, any notice is required to be sent by the Official Assignee, the sending of the notice may be proved by a certificate by the Official Assignee who sent it or his clerk that the notice was duly posted.

Filing, gazetting, etc.

10. —(1) The Registrar shall file a copy of every issue of the *Gazette* which contains an advertisement relating to any matter under the Act.

(2) A copy of each local newspaper in which any advertisement relating to any matter under the Act is inserted shall be left by the person inserting the advertisement with the Registrar, who shall file the copy.

(3) The Registrar shall file with the proceedings in any matter a memorandum referring to and giving the date of any advertisement in the *Gazette* and local newspaper relating to that matter.

(4) The memorandum by the Registrar shall be prima facie evidence that the advertisement to which it refers was duly inserted in the issue of the *Gazette* or local newspaper mentioned in the memorandum.

Applications and practice

Applications to be made by summons-in-chambers

11. Except as otherwise provided by the Act or these Rules or unless the Chief Justice otherwise directs, every application to the court shall be made by summons-in-chambers supported by affidavit.

Service of application

12. —(1) Where any party other than the applicant is affected by an application, no order shall be made except with the consent of that party, or upon proof that the application and a copy of the affidavit in support thereof have been duly served upon him.

(2) Where the court is satisfied that serious mischief may result from delay caused by proceeding in the ordinary way, the court may make an order ex parte upon such terms as to costs and otherwise, and subject to such undertaking, if any, as the court thinks just.

(3) Any party affected by an order made ex parte may apply to set it aside.

Length of notice

13. Unless the court gives leave to the contrary, an application shall be served on every party affected thereby not less than 7 days before the date of the hearing of the application.

Notice not served on all proper parties

14. If, on the hearing of an application, the court is of opinion that any person to whom notice has not been given ought to have notice, the court may either dismiss the

application, or adjourn the hearing upon such terms as it thinks fit, in order that notice may be given.

Adjournment

15. The hearing of an application may be adjourned upon such terms, if any, as the court thinks fit.

Personal service

16. —(1) Where personal service of any application or order of the court is required, it shall be effected by delivering to each party to be served a copy of the application or, as the case may be, a sealed copy of the order.

(2) The person effecting personal service shall file in the court within 3 days of service, or such further time as may be allowed by the Registrar, a copy of the document and an affidavit of service.

Affidavits

Use of affidavit evidence

17. —(1) In any proceedings, evidence may be given by affidavit unless by any provision of these Rules it is otherwise provided or the court otherwise directs.

(2) Any affidavit may be sworn by the applicant or by the respondent or by some other person possessing direct knowledge of the subject-matter of the application.

(3) The court may, on the application of any party, order the attendance for cross-examination of the person making an affidavit.

(4) Where, after such an order has been made, the person in question does not attend, his affidavit shall not be used in evidence without the leave of the court.

Filing and service of affidavits

18. —(1) Unless the provisions of the Act or these Rules under which an application is made provide otherwise, or the court otherwise allows —

(a) if the applicant intends to rely at the first hearing of the application on affidavit evidence, he shall —

(i) file his affidavit or affidavits (if more than one) in court; and

(ii) serve a copy of his affidavit or of each of his affidavits on the respondent, not less than 5 days before the date fixed for the hearing; and

(b) where a respondent to an application intends to oppose the application and to rely for that purpose on affidavit evidence, he shall —

(i) file his affidavit or affidavits (if more than one) in court; and

(ii) serve a copy of his affidavit or of each of his affidavits on the applicant, not less than 3 days before the date fixed for the hearing of the application.

(2) Any affidavit filed in the Registry shall on no account be delivered out to any person other than the Official Assignee except by order of the court.

Affidavit filed out of time

19. —(1) An affidavit filed out of time may not be used except by leave of the court.

(2) Unless the court otherwise directs, an order made *ex parte* upon evidence supported by affidavit shall not be effective unless the affidavit was made before the order was applied for and was produced or filed at the time of making the application.

Scandalous matter

20. The court may order to be struck out from an affidavit any matter which is

scandalous, and may order the costs of any application to strike out such matter to be paid as between solicitor and client.

Security in court

Form of security

21. —(1) Where security has to be given to the court (otherwise than in relation to costs), it may be given by a banker's guarantee or the payment of moneys into court.

(2) The rules for the time being in force in the High Court relating to payment into and out of court of moneys lodged in court by way of security for costs shall apply to moneys lodged in court under these Rules.

Witnesses and depositions

Subpoena

22. —(1) The court shall, at the instance of the Official Assignee, trustee, creditor or debtor or the applicant or respondent in any matter, issue a subpoena for the attendance of a witness.

(2) The subpoena may require the witness to produce documents in his possession or control.

(3) The names of not more than 3 witnesses may be inserted in the subpoena.

Service of subpoena

23. —(1) A sealed copy of the subpoena shall be served personally on the witness by an officer of the court or by the person at whose instance the subpoena is issued or his solicitor, or by some person in their employment.

(2) Service of the subpoena shall be effected within a reasonable time before the day fixed for the attendance.

(3) Service of the subpoena may, where required, be proved by affidavit.

Costs of witnesses

24. —(1) The allowances to witnesses in bankruptcy proceedings shall be in accordance with those for the time being ordinarily made in other proceedings in the High Court.

(2) The allowance may be made whether or not the witness has been called or examined.

(3) A witness, other than the debtor, who is required to attend for the production of a document or for the purpose of an examination shall be entitled to the same conduct moneys and witness allowance as on attendance at a trial in court.

(4) The court may in any matter limit the number of witnesses to be allowed on taxation.

Order for examination

25. —(1) The court may at any time in any matter make an order for the examination upon oath of any person at any place.

(2) The examination may be ordered to take place before the court, or an officer of the court, or such other person as the court may direct.

(3) The deposition shall be taken down in writing and, with the leave of the court, may be used in evidence on such terms, if any, as the court may direct.

Letters of request

26. An order for a letter of request to examine witnesses, and the letter of request, shall

follow the forms for the time being in use in the High Court, with such variations as circumstances may require.

Production of documents

27. The court may at any stage of any proceedings order the attendance of any person for the purpose of producing any documents named in the order.

Disobedience to order

28. Any person wilfully disobeying any subpoena or order requiring his attendance for the purpose of being examined or of producing any document shall be deemed guilty of contempt of court and may be dealt with accordingly.

Warrants, arrests and commitments

Address of warrants

29. A warrant of seizure, a search warrant or any other warrant issued under the provisions of the Act shall be addressed to such officer of the High Court, or to the Commissioner of Police, as the court may direct.

Warrant under section 9 of Act

30. When a person is arrested under a warrant issued by the court under section 9 of the Act, the officer arresting him shall —

- (a) give him into the custody of the Director of Prisons, who shall keep him in custody until such time as the court otherwise orders and shall produce him before the court as the court may, from time to time, direct; and
- (b) lodge with the Official Assignee any books, papers, records, moneys or goods in the arrested person's possession which have been seized.

Warrant under section 83 (13) of Act

31. —(1) When a person is arrested under a warrant issued under section 83 (13) of the Act, the officer arresting him shall forthwith bring him before the court issuing the warrant in order that he may be examined, and if he cannot immediately be brought up for examination, the officer shall deliver him into the custody of the Director of Prisons, who shall receive him and keep him in custody and shall produce him before the court as the court may, from time to time, direct.

(2) After arresting the person named in the warrant, the officer shall immediately report to the court the arrest or delivery into custody, as the case may be, and apply to the court to appoint a time for the examination of that person and thereupon the court shall —

- (a) appoint the earliest practicable day for the examination; and
- (b) direct the Director of Prisons to produce that person for examination at the place and time appointed.

(3) Notice of the place and time appointed shall immediately be given by the Registrar to the officer who applied for the examination or warrant.

(4) Any property in the arrested person's possession which may be seized shall be —

- (a) lodged with, or otherwise dealt with as directed by, whoever is specified in the warrant as authorised to receive it; or
- (b) kept by the officer seizing it pending the receipt of written orders from the court as to its disposal,
as may be directed by the court.

Warrant under section 108 (3) of Act

32. —(1) A warrant issued under section 108 (3) of the Act shall authorise any officer executing it to seize any property, books, papers or records of the bankrupt found as a result of the execution of the warrant.

(2) Any property seized under the warrant shall be —

(a) lodged with, or otherwise dealt with as directed by, whoever is specified in the warrant as authorised to receive it; or

(b) kept by the officer seizing it pending the receipt of written orders from the court as to its disposal,

as may be directed by the warrant.

Application to commit

33. Subject to rule 47, an application to the court to commit any person for contempt of court shall be supported by affidavit.

Notice and hearing of application

34. —(1) Upon the filing of an application to commit, the Registrar shall fix a time and place for the hearing of the application and, subject to paragraph (2), notice thereof shall be personally served on the person sought to be committed not less than 3 days before the day fixed for the hearing.

(2) The court may, if it thinks fit, allow substituted service or service at shorter notice of a notice under this rule.

Suspension of issue of committal order

35. Where an order of committal is made against a debtor, bankrupt or any other person for disobeying an order of the court, or an order or direction of the Official Assignee or the trustee, the court may direct that the order of committal shall not be issued if the previous order is complied with within a specified time.

Service and execution of process

Service on solicitor

36. —(1) A solicitor serving any process or other document shall endorse thereon his name or that of his firm and the address at which he will accept service of documents on behalf of the party he represents.

(2) Any process or other written communication which does not require personal service shall be deemed to be sufficiently served upon a party represented by a solicitor if left at the solicitor's address for service.

Time of service

37. Service effected after 4 o'clock in the afternoon on any week day except Saturday shall, for the purpose of computing time, be deemed to have been effected on the following day, and service effected after one o'clock in the afternoon on a Saturday shall be deemed to have been effected on the following Monday.

Service out of jurisdiction

38. Where the debtor is not in Singapore, the court may order service on him of the petition, the bankruptcy order or any other order made against him, or of any summons issued for his attendance, to be effected within such time and in such manner as the court thinks fit.

Officers to effect service

39. Service of documents which by the Act or these Rules are required to be served by an officer of the court, or which the court in any particular proceedings orders so to be served, and execution of warrants and other process shall be effected by such officer as the court may direct.

Service by post

40. Notice of any order or other proceedings which is to be served by post shall be sent by registered letter.

Enforcement of orders

41. An order of the court may be enforced in the same manner as a judgment of the court to the same effect.

Appeals

Procedure on appeal

42. The provision and procedure for the time being in force respecting appeals from the High Court in its ordinary civil jurisdiction shall apply to appeals in bankruptcy with the following modifications:

- (a) the Official Assignee shall not be required to give security for costs; and
- (b) no appeal shall operate as a stay of proceedings under the judgment or order appealed from unless the court otherwise orders.

PART III

OFFICIAL ASSIGNEE

Subsistence allowance to bankrupt and his family

43. —(1) Subject to any direction of the court, the Official Assignee, while in possession of the property of the bankrupt, may make him such allowance out of the property for the support of the bankrupt and his family as the Official Assignee thinks fit.

(2) In fixing the amount of the allowance, any assistance rendered by the bankrupt in the management of his business or affairs may be taken into account.

Use of proxies by Official Assignee

44. Where the Official Assignee holds any proxy and cannot conveniently attend any meeting of creditors at which the proxy might be used, the Official Assignee may in writing depute a person in his employment or under his official control, or some public officer, to attend the meeting and use the proxy on his behalf in such manner as the Official Assignee may direct.

Removal of special manager

45. —(1) Where a special manager has been appointed, the Official Assignee may at any time remove him if his employment seems unnecessary or unprofitable to the estate.

(2) The Official Assignee shall remove a special manager if so required by a special resolution of the creditors.

Mode of application to court

46. Applications by the Official Assignee to the court may be made personally and without notice, filing of any application or document or other formality, except that the court may order the application to be renewed in a formal manner and direct that such notice as it thinks fit shall be given to persons likely to be affected by the application.

Report of Official Assignee

Evidence on application by Official Assignee

47. —(1) Where, for the purposes of an application to the court by the Official Assignee

-
- (a) for directions;
 - (b) for leave to disclaim a lease;
 - (c) for an extension of time to apply for leave to disclaim a lease; or
 - (d) to commit a bankrupt,

evidence has to be given by the Official Assignee in support of the application.

(2) The evidence may, instead of being given by affidavit, be given by the Official Assignee's report to the court, which shall be prima facie evidence of the matters contained therein.

Official Assignee's reports to be prima facie evidence

48. Where application is made to the court —

- (a) to approve a composition or scheme;
- (b) to annul a bankruptcy order;
- (c) for the discharge of a bankrupt under section 124 of the Act;
- (d) to grant the bankrupt leave to act as director or take part in the management of a company under section 148 of the Companies Act (Cap. 50);
- (e) to appoint a representative of a bankrupt who is of unsound mind; or
- (f) to prohibit the Official Assignee from issuing a certificate to discharge a bankrupt under section 125 of the Act,

any report filed in respect of the application by the Official Assignee shall be prima facie evidence of the matters contained therein.

Application for directions

49. The Official Assignee may apply to the court for directions in any case of doubt or difficulty, or on any matter not provided for by the Act or these Rules.

No expenses to be incurred where no available assets

50. Where a bankrupt has no available assets, the Official Assignee shall not be required to incur any expense in relation to the estate unless the Minister otherwise directs.

Trading account of bankrupt

51. The bankrupt shall, on the request of the Official Assignee, furnish the Official Assignee with the bankrupt's trading and profit and loss accounts and a cash and goods account for such period not exceeding 2 years immediately preceding the date of the bankruptcy order as the Official Assignee shall direct, except that the court may order the accounts to be furnished for a longer period.

Liability for costs, expenses and damages

52. Subject to rule 245 (3), in every case in which proceedings are taken against the Official Assignee in respect of anything done or any default made by him when acting or

in the bona fide and reasonable belief that he is acting in pursuance of the Act or in execution of the powers given to him by the Act, the costs, damages and expenses which the Official Assignee may have to pay or to which he may be put under such proceedings shall, unless the court orders that the Official Assignee should be personally liable for them, be paid out of the estate of the debtor.

PART IV

TRUSTEE IN BANKRUPTCY

Application for appointment of trustee

53. —(1) An application under section 33 of the Act for the appointment of a trustee may be included in the bankruptcy petition or made by summons-in-chambers supported by affidavit.

(2) The court shall not make an order appointing a person as a trustee unless the person has filed —

- (a) an affidavit stating his qualification for appointment as trustee; and
- (b) his consent in writing to be appointed as trustee.

Provisions as to security

54. Where a trustee has been appointed, the following provisions as to security shall have effect:

- (a) the security shall be given by the trustee in such manner as the Official Assignee may, from time to time, direct;
- (b) the Official Assignee shall fix the amount and nature of the security to be given by the trustee, and may from time to time, as he thinks fit, increase or diminish the amount of security which the trustee may have given; and
- (c) the cost of furnishing the required security shall be borne by the trustee personally.

Report of trustee

55. Unless otherwise directed by the Official Assignee, a trustee shall at the end of every 6 months submit a written report to the Official Assignee and the creditors' committee (if any) stating —

- (a) all the receipts and payments for the period;
- (b) details of all the assets realised and all the assets remaining unrealised during the period and the reasons for which the assets remaining unrealised have not been realised;
- (c) the progress of the administration of the estate and all matters arising therefrom to which he considers that the Official Assignee's attention should be drawn; and
- (d) such other information as the Official Assignee may require.

Payment by trustee to Bankruptcy Estates Account

56. —(1) Except as otherwise provided by these Rules or directed by the court, every trustee shall pay into the Bankruptcy Estates Account without deduction all moneys received by him from the bankrupt's assets or coming into his possession as trustee.

(2) A trustee may keep with such bank as the Official Assignee may approve a separate account for the purpose of making such payments as may be necessary in the course of

the administration of the estate, except that the balance standing in such account shall not exceed \$2,000 at any time, unless the prior permission of the Official Assignee has been obtained therefor.

(3) Where the cash balance standing to the credit of the bank account kept by a trustee under paragraph (2) exceeds \$2,000 or the amount which the Official Assignee may have permitted, the excess shall be remitted to the Bankruptcy Estates Account at the end of every week.

(4) Every remittance under paragraph (1) or (3) shall be made by cheque crossed "Official Assignee, credit of Bankruptcy Estates Account" and shall be accompanied by a statement of account.

(5) Section 28 of the Act shall apply to moneys paid into the Bankruptcy Estates Account by a trustee as it applies to moneys paid into that account by the Official Assignee under section 27 of the Act.

(6) All necessary disbursements made by a trustee on account of the estate shall, upon an application made by him to the Official Assignee, be repaid to him out of any moneys standing to the credit of the estate in the Bankruptcy Estates Account.

(7) For the purpose of declaring a dividend, a trustee may apply to the Official Assignee for funds available for the purpose standing to the credit of the estate in the Bankruptcy Estates Account.

(8) The application referred to in paragraph (7) shall be supported by a certified list of creditors showing the amount of their proofs and the moneys they are due to receive by way of dividend.

(9) The Official Assignee shall in no case be held liable for any payments made on the requisition of a trustee.

(10) Where the court orders a trustee to pay all moneys received by him from the bankrupt's assets or coming into his possession as trustee into a bank account other than the Bankruptcy Estates Account, any interest earned in respect of such moneys shall, unless the court otherwise directs, at such time as may be determined by the Official Assignee be remitted by the trustee to the Bankruptcy Estates Account.

Trustee to notify Official Assignee of constitution of creditors' committee

57. Where, at a meeting of creditors summoned by a trustee under section 79 of the Act, a creditors' committee is appointed under section 80 of the Act, the trustee shall notify the Official Assignee of the constitution of the creditors' committee and any subsequent change thereof.

Factors to be considered in determining trustee's remuneration

58. In determining a trustee's remuneration under section 38 of the Act, the following factors shall be considered:

- (a) the complexity of the case;
- (b) whether in the administration of the estate the trustee was required to assume responsibility of an exceptional kind or degree;
- (c) the effectiveness with which the trustee appears to have carried out his duties as trustee; and
- (d) the value and nature of the assets in the estate with which the trustee has to deal.

Notice for removal of trustee by creditors' meeting

59. —(1) Where a meeting of the creditors is summoned for the purpose of removing a trustee, the notice summoning the meeting shall indicate the purpose of the meeting.

(2) The Official Assignee shall be served with a copy of the notice.

(3) Where at the meeting it is decided by special resolution that —

(a) the trustee be removed; or

(b) a new trustee be appointed,

the chairman shall, within 3 days, serve the Official Assignee with a notice of the resolution.

Removal of trustee by court

60. —(1) The Official Assignee or any creditor may make an application to the court for the removal of the trustee.

(2) The application shall be supported by an affidavit stating —

(a) the grounds of the application; and

(b) any evidence which the applicant intends to adduce in support of the application.

(3) The application shall be served on the trustee, the Official Assignee (if he is not the applicant) and all creditors who have proved their debts at least 14 days before the date of the hearing.

(4) On hearing an application for the removal of the trustee, the court may, if it thinks fit —

(a) dismiss the application;

(b) order that the trustee be removed; or

(c) make such other order as it thinks fit.

(5) Where the court orders a trustee to be removed, the court may include in the order —

(a) such other orders as it thinks fit in connection with the removal; and

(b) an order for the appointment of a new trustee.

Service of order

61. Where a trustee is ordered to be removed by the court, the applicant for the order (if he is not the Official Assignee) shall serve a copy of the order on the Official Assignee and on the trustee, within 3 days of the making of the order.

Costs of application

62. Unless otherwise ordered by the court, the costs of and incidental to an application for the removal of a trustee shall not be borne by the estate.

Resignation of trustee

63. —(1) Where a trustee has served a notice of resignation under section 41 (3) of the Act, he shall, within 14 days thereof, call a meeting of creditors.

(2) The notice of the meeting shall be served on the Official Assignee.

(3) The notice of the meeting shall state the reasons for the trustee's resignation and shall be accompanied by a report of the trustee's administration of the estate including —

(a) an account of all moneys and properties in the estate; and

(b) a summary of his receipts and payments.

(4) Upon the resignation taking effect, section 42 of the Act shall apply.

Trustee's duty upon vacating office

64. Where for any reason a trustee ceases to hold office, he shall deliver up to the Official Assignee or the person succeeding him as trustee —

(a) the assets of the estate (after deduction of any expenses properly incurred and distributions made);

(b) all the records relating to the estate and his administration thereof, including any correspondence, proofs and other related papers pertaining to the estate; and

(c) the bankrupt's books, papers and other records.

Discharge of security

65. The trustee's security shall not be discharged until the Official Assignee is satisfied that the trustee has faithfully performed his duties in the course of his trusteeship to the date of cessation of his office.

Powers of court

66. —(1) The court may, on the application of the Official Assignee, make such orders as it thinks necessary for the enforcement of the duties of the trustee under the Act and these Rules.

(2) The court may order that the costs of and incidental to the Official Assignee's application be borne by the trustee.

PART V

VOLUNTARY ARRANGEMENTS

Proposal for voluntary arrangement

Preparation of proposal

67. —(1) The debtor shall prepare for the intended nominee a proposal on which to make his report to the court under section 49 of the Act.

(2) Where the debtor is a firm, the proposal shall be prepared jointly by all or a majority of the partners in the firm.

Contents of proposal

68. —(1) The proposal shall contain a short explanation as to why, in the debtor's opinion —

- (a) a voluntary arrangement is desirable; and
- (b) the debtor's creditors may be expected to concur with the proposed arrangement.

(2) The proposal shall state —

- (a) the following matters, so far as within the debtor's immediate knowledge:
 - (i) his assets, with an estimate of their respective values;
 - (ii) the extent (if any) to which the assets are charged in favour of creditors; and
 - (iii) the extent (if any) to which particular assets are to be excluded from the voluntary arrangements;
- (b) particulars of any property, other than assets of the debtor himself, which is proposed to be included in the arrangement, the source of such property and the terms on which it is to be made available for inclusion;
- (c) the nature and amount of the debtor's liabilities (so far as within his immediate knowledge), the manner in which they are proposed to be met, modified, postponed or otherwise dealt with by means of the arrangement and, in particular —
 - (i) how it is proposed to deal with preferential creditors and creditors who are, or who claim to be, secured;

- (ii) how associates of the debtor (being creditors of his) are proposed to be treated under the arrangement; and
 - (iii) whether there are, to the debtor's knowledge, any circumstances giving rise to the possibility, in the event that he should be adjudged bankrupt, of claims under section 98, 99 or 103 of the Act and, where any such circumstances are present, whether, and if so how, it is proposed under the voluntary arrangement to make provision for wholly or partly indemnifying the insolvent estate in respect of such claims;
 - (d) whether any, and if so what, guarantees have been given of the debtor's debts by other persons, specifying which (if any) of the guarantors are associates of his;
 - (e) the proposed duration of the voluntary arrangement;
 - (f) the proposed dates of distributions to creditors, with estimates of their amounts;
 - (g) the amount proposed to be paid to the nominee (as such) by way of remuneration and expenses;
 - (h) the manner in which it is proposed that the nominee should be remunerated for his supervision of the arrangement, and his expenses defrayed;
 - (i) whether, for the purposes of the arrangement, any guarantee is to be offered by any person other than the debtor, and whether (if so) any security is to be given or sought;
 - (j) the manner in which funds held for the purposes of the arrangement are to be banked, invested or otherwise dealt with pending distribution to creditors;
 - (k) the manner in which funds held for the purpose of payment to creditors, and not so paid on the termination of the arrangement, are to be dealt with;
 - (l) if the debtor has any business, the manner in which it is proposed to be conducted during the course of the arrangement;
 - (m) details of any further credit facilities intended to be arranged for the debtor, and how the debts so arising are to be paid; and
 - (n) the functions which are to be undertaken by the nominee when supervising the implementation of the arrangement under section 55 of the Act.
- (3) Where the debtor is a firm, any reference in paragraphs (1) and (2) to the assets, associates, business, debts, debtors, liabilities or property of the debtor shall be read as a reference to the assets, associates, business, debts, debtors, liabilities or property of the firm and of each partner therein.

Amendment of proposal

69. The debtor's proposal may, with the approval in writing of the nominee, be amended at any time up to the delivery of the nominee's report to the court under section 49 of the Act.

Notice of proposal

70. —(1) The debtor shall give to the intended nominee written notice of his proposal.
(2) The notice, accompanied by a copy of the proposal, shall be delivered either to the nominee himself, or to a person authorised to take delivery of documents on his behalf.
(3) If the intended nominee agrees to act, he shall endorse on a copy of the notice that —
(a) it was received by him on a specified date; and
(b) that he agrees to act,
and return that copy of the notice forthwith to the debtor at an address specified by the debtor in the notice for that purpose.

Interim order

Application for interim order

71. —(1) An application to the court for an interim order under Part V of the Act shall be by way of originating summons entitled “In the Matter of Part V of the Bankruptcy Act (Cap. 20)” and shall be accompanied by an affidavit stating —

- (a) the reasons for the making of the application;
 - (b) particulars of any execution or other legal process which, to the debtor’s knowledge, has been commenced against him;
 - (c) that the debtor is able to petition for his own bankruptcy;
 - (d) that no previous application for an interim order has been made by or in respect of the debtor in the period of 12 months ending with the date of the affidavit; and
 - (e) the name of the person to be appointed as the nominee under the proposal and that he is a person who is qualified and willing to act as a nominee in relation to the proposal.
- (2) A copy of the notice to the intended nominee under rule 70, duly endorsed by him under paragraph (3) of that rule, shall be exhibited to the affidavit.
- (3) Where the debtor is a firm, the affidavit supporting the application for an interim order may be made by one of the partners in the firm who joined in the preparation of the proposal.
- (4) Upon receiving the application and affidavit, the court shall fix a date for the hearing of the application.

Persons who may appear at hearing of application for interim order

72. —(1) The applicant for an interim order shall give at least 2 clear days’ notice of the hearing —

- (a) to any creditor who has presented a bankruptcy petition against him; and
 - (b) to the nominee who has agreed to act in relation to the applicant’s proposal.
- (2) Any of the persons who have been given notice under paragraph (1) may appear or be represented at the hearing of the application and the court, in deciding whether to make an interim order on the application, shall take into account any representations made by or on behalf of any of such person.

Court to fix date for consideration of nominee’s report

73. —(1) If the court makes an interim order, the court shall fix a date for the consideration of the nominee’s report.

- (2) Subject to paragraph (3), the date for the consideration of the nominee’s report shall be not later than that on which the interim order ceases to have effect under section 45 (4) of the Act.
- (3) If an extension of time is granted under section 49 (4) of the Act for filing the nominee’s report, the court shall, unless there appear to be good reasons against it, correspondingly extend the period for which the interim order has effect.

Action to follow making of order

74. Where an interim order is made, the applicant for the order shall —

- (a) serve a sealed copy of the order on the nominee; and
- (b) give notice of the making of the order to any person who was given notice of the hearing under rule 72 but who was not present or represented at the hearing.

Preparation of nominee’s report

Debtor to furnish nominee with statement of affairs

75. —(1) For the purpose of enabling the nominee to consider the debtor's proposal and prepare his report on it, the debtor shall submit a statement of his affairs to the nominee within 7 days after his proposal is delivered to the nominee, or within such longer time as the nominee may allow.

(2) Where the debtor is a firm —

(a) the partners therein shall jointly submit to the nominee a statement of their partnership affairs; and

(b) each of the partners therein shall submit to the nominee a statement of his separate affairs,

within 7 days after the firm's proposal is delivered to the nominee, or within such longer time as the nominee may allow.

(3) The statement shall include the following particulars:

(a) a list of the debtor's assets, divided into such categories as are appropriate for each identification, with estimated values assigned to each category;

(b) in the case of any property on which a claim against the debtor is wholly or partly secured, particulars of the claim and its amount, and of how and when the security was created;

(c) the names and addresses of the debtor's preferential creditors with the amounts of their respective claims;

(d) the names and addresses of the debtor's unsecured creditors, with the amounts of their respective claims;

(e) particulars of any debts owed by the debtor to persons who are associates of his or any debts owed by such persons to the debtor; and

(f) such other particulars (if any) as the nominee may in writing require to be furnished for the purposes of making his report to the court on the debtor's proposal.

(4) The statement of affairs shall be made up to —

(a) a date not more than 2 weeks before the date of the notice to the nominee under rule 70; or

(b) such earlier date (not being more than 2 months before the date of the notice to the nominee under rule 70) as the nominee may allow, except that the nominee shall in such a case give his reasons for granting the allowance in his report to the court on the debtor's proposal.

(5) The statement shall be verified —

(a) by the debtor; or

(b) where the debtor is a firm, by each partner in the firm who joined in the preparation of the proposal for the voluntary arrangement.

Additional disclosure for assistance of nominee

76. If it appears to the nominee that he cannot properly prepare his report on the basis of information in the debtor's proposal and statement of affairs, he may call on the debtor to provide him with —

(a) further and better particulars as to the circumstances in which, and the reasons why, the debtor is insolvent or, as the case may be, threatened with insolvency;

(b) particulars of any previous proposals which have been made by the debtor under Part V of the Act;

- (c) any further information with respect to the debtor's affairs which the nominee thinks necessary for the purposes of his report;
- (d) information whether the debtor has at any time been involved in the affairs of any company (whether or not incorporated in Singapore) which has become insolvent; or
- (e) particulars as to the circumstances in which the debtor has at any time been adjudged bankrupt, or entered into an arrangement with his creditors.

Access to accounts and reports

77. For the purpose of enabling the nominee to consider the debtor's proposal and prepare his report on it, the debtor shall give the nominee access to the debtor's accounts and records.

Nominee's report on proposal

78. —(1) The nominee shall file his report in court not less than 2 days before the interim order ceases to have effect and shall exhibit —

- (a) a copy of the debtor's proposal (with amendments, if any, made under rule 69); and
- (b) a copy or summary of any statement of affairs provided by the debtor.

(2) In his report, the nominee shall inform the court his opinion as to whether a meeting of the debtor's creditors should be summoned under section 50 of the Act and the reasons therefor.

(3) The nominee shall send a copy of —

- (a) the debtor's proposal;
- (b) the nominee's report and his comments accompanying it (if any); and
- (c) a summary of the debtor's statement of affairs,

to any person who has presented a bankruptcy petition against the debtor.

Replacement of nominee

79. Where the debtor intends to apply to the court under section 49 (3) of the Act for the nominee to be replaced, he shall serve the application on the nominee at least 2 days before the hearing.

Action on proposal

Consideration of nominee's report

80. —(1) At the hearing by the court to consider the nominee's report, any of the persons who have been given notice under rule 72 (1) may appear or be represented.

(2) The debtor shall —

- (a) serve a sealed copy of any order made by the court at the hearing on the nominee; and
- (b) give notice of the making of the order to any person who was given notice of the hearing pursuant to rule 72 but who was not present or represented at the hearing.

Summoning of creditors' meeting

81. —(1) If in his report the nominee states that in his opinion a meeting of creditors should be summoned to consider the debtor's proposal, the date on which the meeting is to be held shall be not less than 14, nor more than 28, days from the date on which the nominee's report is filed in court under rule 78.

(2) Notices calling the meeting shall be sent by the nominee, at least 14 days before the day fixed for it to be held, to all the creditors specified in the debtor's statement of affairs, and every other creditor of whom the nominee is otherwise aware.

(3) With every notice summoning the meeting, there shall be sent out forms of proxy.

- (4) Each notice sent under this rule shall —
- (a) specify the court to which the nominee's report on the debtor's proposal has been delivered;
 - (b) state the effect of rule 85 (1), (3), (4) and (5); and
 - (c) be accompanied by —
 - (i) a copy of the proposal;
 - (ii) a copy of the statement of affairs or, if the nominee thinks fit, a summary of the statement of affairs, which summary shall include a list of the creditors and the amounts of their debts; and
 - (iii) the nominee's comments on the proposal.

Nominee to be chairman of meeting

82. The nominee shall be the chairman of the creditors' meeting.

Chairman of meeting as proxy-holder

83. The chairman shall not, by virtue of any proxy held by him, vote to increase or reduce the amount of the remuneration or expenses of the nominee or the expenses relating to the supervision of the proposed arrangement, unless the proxy specifically directs him to vote in that way.

Entitlement to vote

84. —(1) Every creditor who has been given notice of the creditors' meeting shall be entitled to vote at the meeting or any adjournment of it.

(2) Votes shall be calculated according to the amount of the debt as at the date of the meeting.

(3) A creditor shall not vote in respect of —

(a) a debt for an unliquidated amount; or

(b) any debt the value of which is not ascertained,

unless the chairman agrees to put upon the debt an estimated minimum value for the purpose of entitlement to vote.

(4) The chairman shall have the power to admit or reject a creditor's claim for the purpose of his entitlement to vote, and such power shall be exercisable with respect to the whole or any part of the claim.

(5) The chairman's decision on entitlement to vote shall be subject to appeal to the court by any creditor or by the debtor.

(6) If the chairman is in doubt whether a claim should be admitted or rejected, he shall mark it as objected to and allow the creditor to vote, subject to his vote being subsequently declared invalid if the objection to the claim is sustained.

(7) If on an appeal the chairman's decision is reversed or varied by the court or a creditor's vote is declared invalid, the court may —

(a) order another meeting to be summoned; or

(b) make such other order as it thinks just.

(8) The court shall not make any order referred to in paragraph 7 (a) or (b) unless the court considers that the matter is such as to give rise to unfair prejudice or a material irregularity.

(9) An application to the court by way of appeal under paragraph (5) against the chairman's decision shall not be made after the end of the period of 28 days beginning with the day on which the nominee's report is made to the court under section 52 of the Act.

(10) The chairman shall not be personally liable for any costs incurred by any person in respect of an appeal under paragraph (5)

Requisite majorities

85. —(1) At the creditors' meeting, the creditors may by special resolution approve any proposal or modification thereof.

(2) Any other resolution proposed at the meeting shall be approved by ordinary resolution.

(3) In the following cases, there shall be left out of account a creditor's vote in respect of any claim or part of a claim:

(a) where written notice of the claim was not given, either at the meeting or before it, to the chairman;

(b) where the claim or part thereof is secured;

(c) where the claim is in respect of a debt wholly or partly on, or secured by, a current bill of exchange or promissory note, unless the creditor is willing —

(i) to treat the liability to him on the bill or note of every person who is liable on it antecedently to the debtor, and against whom a bankruptcy order has not been made (or, in the case of a company, which has not gone into liquidation), as a security in his hands; and

(ii) to estimate the value of the security and (for the purpose of entitlement to vote, but not of any distribution under the arrangement) to deduct it from his claim.

(4) The decision whether a vote is to be left out of account under paragraph (3) shall lie with the chairman.

(5) If the chairman uses a proxy contrary to rule 83, his vote with that proxy shall not count towards any majority under this rule.

(6) Paragraphs (5) to (10) of rule 84 shall apply, with the necessary modifications, to the decision of the chairman under this rule as they apply to a decision of the chairman on entitlement to vote under that rule.

Adjournments

86. —(1) The chairman of the creditors' meeting —

(a) may, if the requisite majority for the approval of the voluntary arrangement (with or without modifications) has not been obtained or if for any other reason he thinks it fit to do so; and

(b) shall, if it is so resolved by the meeting,

adjourn the meeting from time to time, except that such adjournment shall not be more than 14 days from the date of the first meeting.

(2) If the meeting is adjourned, notice of the fact shall be given by the chairman to the court.

(3) If, upon the expiry of 14 days from the date of the first meeting, the proposal is not agreed to by the meeting, it shall be deemed to be rejected.

Debtor to put nominee in possession of assets

87. The debtor shall, after the approval of the voluntary arrangement, do all that is required for putting the nominee in possession of the assets included in the arrangement.

Chairman to prepare report

88. —(1) Upon conclusion of the creditors' meeting, the chairman shall prepare a report and file a copy thereof in court within 4 days from the date of the meeting being held and the court shall cause that copy to be endorsed with the date of filing.

- (2) The report shall —
- (a) state whether the proposal for the voluntary arrangement was approved or rejected and, if approved, with what modifications (if any);
 - (b) set out the resolutions which were taken at the meeting, and the decision on each one of such resolutions;
 - (c) list the creditors (with their respective values) who were present or represented at the meeting, and how they voted on each resolution; and
 - (d) include such further information (if any) as the chairman thinks it appropriate to make known to the court.

Notice of results of creditors' meeting

- 89.** —(1) The notice of the results of the creditors' meeting shall be given to all the creditors who have been given notice of the meeting under rule 81 (2), including those of such creditors who did not attend the meeting.
- (2) The notice shall be sent immediately after a copy of the chairman's report is filed in court under rule 88 (1).

Procedure for review of meeting's decision

Application for review

- 90.** —(1) The person who makes an application for the court to review a decision of the creditor's meeting under section 54 of the Act shall —
- (a) at least 3 days before the date of the hearing of the application, serve a copy of the application; and
 - (b) serve sealed copies of any order made by the court on the application, on the debtor and the nominee supervising the implementation of the voluntary arrangement.
- (2) If the order includes a direction by the court under section 54 (2) (b) of the Act for any further creditors' meeting to be summoned, a copy of the order shall also be given by the applicant to whoever is, in accordance with the direction of the court, required to summon the meeting.
- (3) The debtor shall —
- (a) upon receiving a copy of the court's order, give notice of it to all persons who were sent notice of the creditors' meeting or who attended the meeting which approved the voluntary arrangement and such other persons as the court directs; and
 - (b) within 7 days of service of the order (or within such longer period as the court may allow), give notice to the court whether he intends to make a revised proposal to the creditors, or to invite re-consideration of the original proposal.

Nominee's accounts and reports

- 91.** —(1) Where the voluntary arrangement authorises or requires the nominee —
- (a) to carry on the debtor's business or to trade on his behalf or in his name;
 - (b) to realise any assets of the debtor; or
 - (c) otherwise to administer or dispose of any funds of the debtor,
- the nominee shall keep accounts and records of his acts and dealings in and in connection with the arrangement, including in particular records of all receipts and payments of moneys.

- (2) The nominee shall, at least once in every 12 months beginning with the date of his appointment, prepare a summary of such receipts and payments, and send copies of the summary, accompanied by his comments on the progress and efficacy of the arrangement, to —
- (a) the court;
 - (b) the debtor; and
 - (c) all those of the debtor's creditors who are bound by the arrangement.
- (3) If in any period of 12 months the nominee has made no payments and had no receipts, he shall at the end of that period send a statement to that effect to —
- (a) the court;
 - (b) the debtor; and
 - (c) all those of the debtor's creditors who are bound by the arrangement.
- (4) A summary provided under paragraph (2) shall relate to a period beginning with —
- (a) the date of the implementation of the arrangement by the nominee; or
 - (b) the day following the end of the last period for which a summary was prepared under this rule,
- as the case may be, and copies of the summary shall be sent out, as required by paragraph (2), within the 2 months following the end of the period to which the summary relates.
- (5) If the nominee is not authorised as mentioned in paragraph (1), he shall, not less often than once in every 12 months beginning with the date of his appointment, send a report on the progress and efficacy of the voluntary arrangement to —
- (a) the court;
 - (b) the debtor; and
 - (c) all those of the debtor's creditors who are bound by the arrangement.
- (6) The court may, on application by the nominee, vary the dates on which his obligation under this rule to send summaries or reports arises.

Fees, costs, charges and expenses of voluntary arrangement

- 92.** The fees, costs, charges and expenses that may be incurred in connection with the voluntary arrangement are —
- (a) any disbursements made by the nominee prior to the approval of the arrangement;
 - (b) any remuneration for the services of the nominee as are agreed between himself and the debtor; and
 - (c) any fees, costs, charges or expenses which —
 - (i) are sanctioned by the terms of the arrangement; or
 - (ii) would be payable, or correspond to those which would be payable, in the debtor's bankruptcy.

Completion of arrangement

Nominee to send notice

- 93.** —(1) The nominee shall, within 28 days after the final completion of the voluntary arrangement, file with the court and send to all creditors of the debtor who are bound by the arrangement, and to the debtor, a notice that the arrangement has been fully implemented.
- (2) The notice shall enclose a report by the nominee summarising all receipts and payments made by him in pursuance of the arrangement, and explaining any difference in

the actual implementation of it as compared with the proposal as approved by the creditors' meeting.

(3) The court may, on application by the nominee, extend the period of 28 days under paragraph (1).

PART VI

PROCEEDINGS IN BANKRUPTCY

Statutory demand

Form and contents of statutory demand

94. —(1) A statutory demand shall be in Form 1 and shall be dated and signed by the creditor himself or by a person authorised to make the demand on the creditor's behalf.

(2) The statutory demand shall state the actual amount of the debt that has accrued as of the date of the demand.

(3) If the amount claimed in the statutory demand includes interest, penalties, charges or any pecuniary consideration in lieu of interest, it shall separately identify the actual amount that has accrued as at the date of the demand and the rate at which and the period for which it was calculated.

(4) The statutory demand shall state the consideration for the debt or, if there is no consideration, the way in which the debt arises and —

(a) if the debt is founded on a judgment or an order of a court, it must give details of the judgment or order, including the action under which the judgment or order was obtained and the date of the judgment or order; and

(b) if the debt is founded on grounds other than a judgment or an order of a court, it must give such details as would enable the debtor to identify the debt.

(5) If the creditor holds any property of the debtor or any security for the debt, there shall be specified in the demand —

(a) the full amount of the debt; and

(b) the nature and value of the security or the assets.

(6) The debt of which payment is claimed shall be the full amount of the debt less the amount specified as the value of the security or assets.

Information to be given in statutory demand

95. —(1) The statutory demand must include an explanation to the debtor of the following matters:

(a) the purpose of the demand, and the fact that if the debtor does not comply with the demand, bankruptcy proceedings may be commenced against him;

(b) the time within which the demand must be complied with if that consequence is to be avoided;

(c) the methods of compliance available to the debtor; and

(d) the debtor's right to apply to the court to set aside the statutory demand.

(2) The statutory demand shall specify one or more named individuals with whom the debtor may, if he wishes, enter into communication for purposes of securing or compounding for the debt to the satisfaction of the creditor, and the address and telephone number (if any) of any individual so named in the demand must be given.

(3) The debtor shall not be under any obligation to make inquiries in respect of the statutory demand except for the purposes given in paragraph (2).

Requirements as to service

96. —(1) The creditor shall take all reasonable steps to bring the statutory demand to the debtor's attention.

(2) The creditor shall make reasonable attempts to effect personal service of the statutory demand.

(3) Where the creditor is not able to effect personal service, the demand may be served by such other means as would be most effective in bringing the demand to the notice of the debtor.

(4) Substituted service under paragraph (3) may be effected in the following manner:

(a) by posting the statutory demand at the door or some other conspicuous part of the last known place of residence or business of the debtor or both;

(b) by forwarding the statutory demand to the debtor by prepaid registered post to the last known place of residence, business or employment of the debtor;

(c) where the creditor is unable to effect substituted service in accordance with subparagraph (a) or (b) by reason that he has no knowledge of the last known place of residence, business or employment of the debtor, by advertisement of the statutory demand in one or more local newspapers, in which case the time limited for compliance with the demand shall run from the date of the publication of the advertisement; or

(d) such other mode which the court would have ordered in an application for substituted service of a petition in the circumstances.

(5) Where a statutory demand is to be served out of jurisdiction, the period to be stipulated in the statutory demand for compliance and setting aside of the demand shall not be less than 21 days from the date on which the demand is served or deemed in accordance with these Rules to be served on the debtor.

(6) A creditor shall not resort to substituted service of a statutory demand on a debtor unless —

(a) the creditor has taken all such steps which would suffice to justify the court making an order for substituted service of a bankruptcy petition; and

(b) the mode of substituted service would have been such that the court would have ordered in the circumstances.

(7) Where the statutory demand is made against a firm, personal service of the statutory demand shall be deemed to have been effected on all the partners in the firm if it is served at the principal place of business of the firm in Singapore on any one of the partners, or on any person having at the time of service control or management of the business of the firm thereat.

(8) If the creditor is unable to serve the statutory demand on the firm as required under paragraph (7), he may resort to substituted service in accordance with paragraphs (3) to (6) as if the statutory demand is against each of the partners in the firm.

Application to set aside statutory demand

97. —(1) Subject to paragraph (2), the debtor who has been served with a statutory demand may —

(a) within 14 days; or
(b) where the demand was served outside jurisdiction, within 21 days, from the date on which the demand is served or deemed in accordance with these Rules to be served on him, apply to court by way of originating summons for an order setting aside the statutory demand.

(2) No appearance need be entered to an originating summons under this rule.

(3) The court may, upon the application of the debtor, allow the debtor an extension of time to make his application to set aside the statutory demand.

(4) Unless the court otherwise orders, the time limited for the debtor to comply with the statutory demand shall cease to run as from the date on which the application is filed in court.

(5) The application shall be supported by an affidavit —

(a) specifying the date on which the statutory demand came into the debtor's hands;

(b) stating the grounds on which the statutory demand should be set aside; and

(c) exhibiting a copy of the statutory demand.

(6) The application and the affidavit in support shall be filed at the same time and shall be served on the creditor within 3 days from the date of filing.

Hearing of application to set aside statutory demand

98. —(1) On the hearing of the application, the court may either summarily determine the application or adjourn it, giving such directions as it thinks appropriate.

(2) The court shall set aside the statutory demand if —

(a) the debtor appears to have a valid counterclaim, set-off or cross demand which is equivalent to or exceeds the amount of the debt or debts specified in the statutory demand;

(b) the debt is disputed on grounds which appear to the court to be substantial;

(c) it appears that the creditor holds assets of the debtor or security in respect of the debt claimed by the demand, and either rule 94 (5) has not been complied with, or the court is satisfied that the value of the assets or security is equivalent to or exceeds the full amount of the debt;

(d) rule 94 has not been complied with; or

(e) the court is satisfied, on other grounds, that the demand ought to be set aside.

(3) If the court dismisses the application, it shall make an order authorising the creditor to present a bankruptcy petition either on or after the date specified in the order.

Creditor's petition

Form of creditor's petition

99. Every creditor's petition shall be in Form 2 or 3 and shall be dated and signed —

(a) by the creditor himself; or

(b) on the creditor's behalf by a person who is authorised by the creditor and who has the requisite knowledge of the matters referred to in the petition, and shall be witnessed.

Identification of debtor

100. —(1) A creditor's petition shall state the following particulars of the debtor:

- (a) his name;
 - (b) the number of his identity card or passport;
 - (c) his place of residence;
 - (d) his occupation, if any; and
 - (e) any name other than the one specified under sub-paragraph (a) which, to the petitioner's personal knowledge, the debtor has used.
- (2) Where the petition is presented against a firm, it shall state —
- (a) the name of the firm;
 - (b) the number of the certificate of the registration of the firm under the Business Registration Act (Cap. 32);
 - (c) the place of business of the firm; and
 - (d) the particulars as specified in paragraph (1) of all the partners in the firm.
- (3) The full title of the proceedings shall be determined by the particulars of the debtor specified in paragraph (1) (a), (b) and (e).
- (4) Where the petition is presented against a firm, the full title of the proceedings shall be determined by the name of the firm as well as the particulars specified in paragraph (1) (a), (b) and (e) of all the partners in the firm.

Identification of debt

101. —(1) A creditor's petition shall state the following matters with respect to the debt:

- (a) the actual amount of the debt that has accrued as of the date of the petition;
 - (b) if the amount claimed in the petition includes interest, penalties, charges or any pecuniary consideration in lieu of interest, it must separately identify the amount claimed and the rate at which and the period for which it was calculated;
 - (c) when the debt was incurred or became due; and
 - (d) the consideration for the debt or, if there is no consideration, the way in which the debt arises and —
 - (i) if the debt is founded on a judgment or an order of a court, it must give details of the judgment or order, including the action under which the judgment or order was obtained and the date of the judgment or order; or
 - (ii) if the debt is founded on grounds other than a judgment or an order of a court, it must give such details as would enable the debtor to identify the debt.
- (2) If the creditor holds any property of the debtor or any security for the debt, he must account for such assets or security in the petition and, in particular, provide the following information:
- (a) a description of the assets or security held; and
 - (b) the value of the assets or security as at the date of the petition,
- and the amount claimed in the petition shall take into account such assets or security.

Petition based on statutory demand

102. —(1) Where the creditor's petition is based on a statutory demand, it shall state the date and manner of service of the statutory demand and that to the best of the creditor's knowledge and belief, the demand has neither been complied with nor set aside and that no application to set it aside is pending.

- (2) The petition shall not be presented if the statutory demand was served more than 4 months before the date of presentation of the petition.

Petition presented under section 62 (b) of Act

103. —(1) Where the creditor's petition is presented under section 62 (b) of the Act, it shall give details of the following matters:

- (a) the judgment or order from which the judgment debt arises;
- (b) the court which issued the execution against the debtor;
- (c) the mode of execution; and
- (d) the extent, if any, to which the judgment debt has been satisfied as a result of the execution.

(2) The petition shall not be presented if more than 4 months have elapsed since the date on which the execution was completed.

Grounds of petition

104. In addition to the other matters which are required by these Rules to be stated in a creditor's petition, a petitioning creditor shall explain in his petition how the conditions and grounds specified in sections 60 and 61, respectively, of the Act for the presentation of a bankruptcy petition have been satisfied.

Deposit payable to Official Assignee

105. —(1) The petitioner shall file 2 copies of the creditor's petition in court, inclusive of the copy to be served on the Official Assignee, together with the deposit payable to the Official Assignee of such sums as are prescribed by the Bankruptcy (Fees) Rules (R 3).

(2) Upon the filing of 2 copies of the creditor's petition under paragraph (1), the petition shall be deemed to have been served on the Official Assignee.

(3) Where a creditor's petition has been filed under paragraph (1), the Official Assignee may, from time to time, require the petitioner to deposit with the Official Assignee such further sums as may be required by the Official Assignee, whether before or after the making of the bankruptcy order, to cover the fees and expenses incurred by the Official Assignee in connection with the petition.

Verification of petition

106. —(1) A creditor's petition shall be verified by an affidavit in Form 4 which shall be sworn and filed within 4 days after the presentation of the petition.

(2) The affidavit shall be made by the petitioner or by the person who signs the petition on the petitioner's behalf.

(3) Where the deponent is not the petitioner himself, he shall in the affidavit identify himself and state —

- (a) the capacity in which he makes the affidavit; and
- (b) the means of his knowledge of the matters deposed to in the affidavit, and exhibit to the affidavit the document by virtue of which he is authorised by the petitioner to act on the petitioner's behalf.

Date and time of hearing

107. The Registrar shall appoint a date and time for the hearing of the creditor's petition, and notice thereof shall be endorsed on the petition and sealed copies thereof.

Proof of service of statutory demand

108. —(1) Where a creditor's petition is based on non-compliance with a statutory demand, an affidavit proving service of the statutory demand shall be filed in support of the petition.

(2) The affidavit shall state the mode, date and time of the service and shall exhibit a copy of the statutory demand and any acknowledgment of service.

- (3) Where the statutory demand has been served other than by personal service, the affidavit shall —
- (a) give particulars of the steps taken to effect personal service and the reasons for which they have been ineffective;
 - (b) state the means whereby (attempts at personal service having been unsuccessful) it was sought to bring the demand to the debtor's attention and explain why such means would have best ensured that the demand would be brought to the debtor's attention;
 - (c) exhibit evidence of such alternative mode or modes of service; and
 - (d) specify a date by which to the best of the knowledge, information and belief of the person making the affidavit, the demand would have come to the debtor's attention.
- (4) The steps of which particulars are given for the purposes of paragraph (3) (a) must be such as would have sufficed to justify an order for substituted service of a bankruptcy petition being made by the court.
- (5) If the affidavit specifies a date for the purposes of compliance with paragraph (3) (d), then unless the court otherwise orders, that date shall be deemed for the purposes of these Rules to have been the date on which the statutory demand was served on the debtor.
- (6) The court shall dismiss the petition if it is not satisfied that the creditor has discharged the obligations imposed on him by rule 96.

Service of creditor's petition

Personal service

109. —(1) Subject to rule 110, a creditor's petition shall be served personally on the debtor by an officer of the court, or by the petitioning creditor or his solicitor, or by a person in their employment, and service shall be effected by delivering a sealed copy of the petition to the debtor.

(2) Where the petition is against a firm, personal service of the petition shall be deemed to have been effected on all the partners in the firm if it is served at the principal place of business of the firm in Singapore on any one of the partners, or on any person having at the time of service control or management of the business of the firm thereat.

Substituted service

110. —(1) If the court is satisfied by affidavit or other evidence on oath that prompt personal service cannot be effected because the debtor is keeping out of the way to avoid service of a creditor's petition, or for any other cause, the court may order substituted service to be effected in such manner as it thinks fit.

(2) If the debtor is not in Singapore, the court may order service to be made within such time and in such manner and form as it thinks fit.

(3) Where an order for substituted service has been carried out, the petition shall be deemed to have been duly served on the debtor.

111. (*Deleted by S 304/99*).

Service on nominee

112. If a bankruptcy petition is being presented against a debtor because the debtor has failed to comply with any of his obligations under a voluntary arrangement under Part V of the Act, and the petitioner is not himself the nominee who was supervising the arrangement, he shall serve a copy of the petition on the nominee.

Death of debtor before service

113. If the debtor dies before service on him of a creditor's petition, the court may order service to be effected on his personal representatives or on such other persons as it thinks fit.

Proof of service of petition

114. —(1) Service of a creditor's petition shall be proved by affidavit.

(2) The affidavit shall have exhibited to it —

(a) a sealed copy of the petition with an endorsement thereon as to the date and time of the service; and

(b) if substituted service has been ordered, a sealed copy of the order for substituted service and any evidence of the service.

Hearing of creditor's petition

Hearing of petition

115. —(1) Subject to paragraph (2), a creditor's petition shall not be heard until the expiration of 7 clear days, or such longer time as the court may direct, from the service thereof.

(2) The court may, on such terms as it thinks fit, hear the petition at an earlier date where —

(a) it is satisfied that the debtor has absconded;

(b) it is satisfied that it is a proper case for an expedited hearing; or

(c) the debtor consents to a hearing within the 7 days.

Parties who may be heard

116. —(1) Any of the following persons may appear and be heard:

(a) the petitioning creditor;

(b) the debtor;

(c) where there has been a voluntary arrangement under Part V of the Act, the nominee who was supervising the arrangement;

(d) any creditor who has given notice to the court of his intention to appear at the hearing of the petition; and

(e) the Official Assignee.

(2) The notice given by a creditor under paragraph (1) (d) shall be in Form 5 and shall specify —

(a) the name, address and telephone number of the person giving it;

(b) whether his intention is to support or oppose the petition; and

(c) the amount and nature of his debt.

(3) The notice shall be filed at least one day before the hearing.

(4) Any creditor failing to comply with this rule shall not appear at the hearing except by leave of the court.

Where there are several respondents

117. Where service has not been effected upon all the respondents to a creditor's petition, it may be heard separately or collectively as regards any respondents who have been served, and may subsequently be heard separately or collectively as regards any other respondents after service has been effected upon them.

Petition by moneylender

118. A petitioning creditor who is a licensed moneylender shall, at the hearing of the petition, prove his debt by an affidavit incorporating a statement setting out in detail the particulars required by any written law for the time being in force relating to moneylenders.

Petition opposed by debtor

119. Where the debtor intends to oppose a creditor's petition presented against him, he shall not later than 3 days before the hearing —

- (a) file in court a notice specifying the grounds upon which he will object to the making of a bankruptcy order; and
- (b) serve a copy of the notice on the petitioning creditor and the Official Assignee.

Non-appearance of creditor or lack of prosecution of petition

120. —(1) If the petitioning creditor fails to appear on the hearing of the petition or fails to prosecute the petition diligently, the petition may be dismissed and no subsequent petition against the same debtor, either alone or jointly with any other person, shall be presented by the same creditor in respect of the same debt without the leave of the court.

(2) Without prejudice to paragraph (1), where the petition has been dismissed without a hearing by reason of the failure of the petitioning creditor to attend the hearing, the petition shall not be restored to the list.

Postponement of hearing of petition where it has not been served

121. —(1) The petitioning creditor may apply to the court for extension of time for the hearing of a petition if the petition has not been served.

- (2) The application shall state the reasons why the petition has not been served.
- (3) The costs of the application, if any, shall not be borne by the debtor.
- (4) The petition shall be amended before service to reflect the new hearing date.
- (5) The court shall not extend time for more than 14 days from the day fixed for the hearing unless it is shown to the satisfaction of the court that no prejudice will result from a longer extension.

Adjournment of hearing of petition for other reasons

122. —(1) After the expiration of one month from the day appointed for the first hearing of a creditor's petition (after the petition has been duly served), no further adjournment of the hearing shall be allowed except on the following grounds:

- (a) where the debtor appears to show cause against the petition or dispute any matter relevant to the bankruptcy proceedings;
- (b) where the debtor appears and satisfies the court that he is able to pay his debt in full or in part within a reasonable period; or
- (c) where the court is satisfied that there are sufficient reasons for granting the adjournment.

(2) In every such case, unless an order for adjournment is made, the court shall either make a bankruptcy order or dismiss the petition.

(3) If the court adjourns the hearing of the petition, the petitioning creditor shall forthwith send a notice of the adjournment in Form 6 to the debtor, unless the debtor was present during the hearing.

(4) The costs of any adjournment of the hearing of the petition shall not be borne by the debtor if the adjournment was necessitated by any act or omission of the petitioning creditor.

Substitution of petitioner

123. —(1) This rule shall apply where a petitioning creditor —

- (a) fails to appear in support of his petition on the day fixed for the hearing thereof;
- (b) appears but does not apply for an order in terms of the prayer in his petition; or
- (c) does not diligently prosecute the petition.

(2) The court may, on such terms as it thinks just, order that there be substituted as petitioner any creditor who —

(a) has given notice of his intention to appear and support the petition under rule 116 and so appears;

(b) is desirous of prosecuting the petition; and

(c) was in such a position in relation to the debtor at the date on which the petition was presented as would have enabled him on that date to present a bankruptcy petition against the debtor.

(3) An order of court under paragraph (2) shall be in Form 7.

(4) Where the court has ordered the substitution of the petitioning creditor, the original petitioning creditor shall not be entitled to the costs of the bankruptcy proceedings unless the court otherwise orders.

Petition to be amended

124. Where the court orders substitution of the petitioning creditor, the creditor's petition shall be amended accordingly and shall be verified, refiled and re-served on the debtor and the Official Assignee.

Deposit payable upon substitution of petitioning creditor

125. —(1) The new petitioning creditor shall file 2 copies of the amended petition in court, inclusive of the copy to be served on the Official Assignee, together with the deposit payable to the Official Assignee of such sums as are prescribed by the Bankruptcy (Fees) Rules (R 3).

(2) Upon the filing of 2 copies of the amended petition under paragraph (1), the amended petition shall be deemed to have been served on the Official Assignee.

(3) Where an amended petition has been filed under paragraph (1), the Official Assignee may, from time to time, require the new petitioning creditor to deposit with the Official Assignee such further sums as may be required by the Official Assignee, whether before or after the making of the bankruptcy order, to cover the fees and expenses incurred by the Official Assignee in connection with the petition.

Decision on hearing of petition

126. On the hearing of a creditor's petition, the court may make a bankruptcy order if it is satisfied that the statements in the petition are true, and the debt on which it has been founded has not been paid, secured or compounded for.

Dismissal of petition

127. The court shall dismiss a creditor's petition where —

(a) the petitioning creditor is not entitled to present the bankruptcy petition by virtue of section 60, 61 or 62 of the Act;

(b) the statutory demand upon which the petition is based is such that the court would have set it aside had the debtor made an application under rule 97; or

(c) in a case where the petition is based on a statutory demand, the petitioning creditor has not discharged the obligations imposed on him by rule 96.

Actions to follow upon making of bankruptcy order on creditor's petition

Settlement and contents of bankruptcy order

128. —(1) A bankruptcy order made on a creditor's petition shall be settled by the court.

(2) The bankruptcy order shall be in Form 8 and shall —

(a) state the date of the presentation of the petition on which the order is made;

(b) state the date of the making of the order; and

(c) contain a notice requiring the bankrupt forthwith after the service of the order on him to attend on the Official Assignee or the trustee, as the case may be, at the time and place stated in the order.

(3) Where the debtor is represented by a solicitor, the bankruptcy order shall be endorsed with the name, address and telephone number of the solicitor and the file reference of the solicitor's firm.

Service of bankruptcy order

129. —(1) The petitioning creditor shall serve not less than 2 sealed copies of the bankruptcy order on the Official Assignee.

(2) If a trustee has been appointed, the petitioning creditor shall serve not less than 2 sealed copies of the bankruptcy order on the trustee and one sealed copy on the Official Assignee.

(3) The Official Assignee or the trustee, as the case may be, shall serve a sealed copy of the bankruptcy order on the bankrupt.

Gazetting of order

130. —(1) When a bankruptcy order is made, the Registrar shall cause a notification of the order to be published in the *Gazette*.

(2) Where a trustee has been appointed, the notification in the *Gazette* shall indicate the name and address of the trustee.

Advertisement of order

131. —(1) Upon the making of the bankruptcy order, the Official Assignee shall cause the order to be advertised in such local newspaper as he thinks fit.

(2) Where a trustee has been appointed, the advertisement shall indicate the name and address of the trustee.

Stay of bankruptcy order

132. —(1) The court may, on the application of the bankrupt or a creditor, grant a stay of the bankruptcy order.

(2) Where an order is made under paragraph (1), the applicant shall serve a copy of it on the Official Assignee and, where a trustee has been appointed, on the trustee.

Amendment of title of proceedings

133. —(1) At any time after the making of a bankruptcy order, the Official Assignee or the trustee, as the case may be, may apply to the court for an order amending the title of the proceedings.

(2) The petitioning creditor shall apply to the court for an order amending the title of the proceedings at his own cost if so directed by the Official Assignee or the trustee.

Debtor's petition

Form of petition

134. —(1) A debtor's petition shall be in Form 9 and shall state —

- (a) his name as it appears in his identity card or passport;
- (b) the number of his identity card or passport;
- (c) any other name or names by which he is or was known or by which he carries or has carried on any business;
- (d) his residential address;
- (e) his occupation and monthly income; and
- (f) the nature of his business and the address at which he carries on such business, and whether he carries on the business alone or with others.

(2) Where a debtor's petition is presented by a firm in the firm's name, it shall state —

- (a) the name, the number of the identity card or passport, the residential address, the occupation and the monthly income, of each of the partners in the firm;
- (b) whether all the partners concur in the presentation of the petition;
- (c) the names of the partners who do not concur in the presentation of the petition;
- (d) the nature of the business of the firm;
- (e) the number of the certificate of the registration of the firm under the Business Registration Act (Cap. 32); and
- (f) where any of the partners in the firm carries on any business separately, the nature of such business and the address at which it is carried on, and whether he carries on the business alone or with others.

(3) Where the petition is presented by an individual debtor, the full title of the proceedings shall be determined by the particulars of the debtor specified in paragraph

(1) (a), (b) and (c).

(4) Where the petition is presented by a firm in the firm's name, the full title of the proceedings shall include the name of the firm as well as the names and numbers of the identity cards or passports, of all the partners in the firm.

(5) The petitioning debtor shall explain in his petition how the conditions and grounds specified in sections 60 and 61, respectively, of the Act for the presentation of a bankruptcy petition have been satisfied.

Admission of insolvency

135. —(1) A debtor's petition shall contain the statement that the petitioner is unable to pay his debts, an explanation as to the cause of his insolvency, and a prayer that a bankruptcy order be made against him.

(2) If, at any time prior to the presentation of the petition, the petitioning debtor had been adjudged bankrupt, or has made a composition with his creditors in satisfaction of his debts or a scheme of arrangement of his affairs, or has entered into any voluntary arrangement, particulars of these matters shall be given in the petition.

(3) If, at the date of the presentation of the petition, there is in force a voluntary arrangement under Part V of the Act, the particulars required under paragraph (2) shall contain a statement to this effect and the name and address of the nominee supervising the arrangement.

Verification of petition

136. A debtor's petition shall be verified by affidavit in Form 10.

Statement of affairs

137. —(1) A debtor's petition shall be filed in court together with a statement of affairs in Form 11.

(2) The statement of affairs shall be verified by affidavit in Form 12.

Procedure for presentation and filing of debtor's petition

138. —(1) The petitioner shall file 2 copies each of the debtor's petition and the statement of affairs in court, inclusive of the copies to be served on the Official Assignee, together with the deposit payable to the Official Assignee of such sums as are prescribed by the Bankruptcy (Fees) Rules (R 3).

(2) Upon the filing of 2 copies each of the debtor's petition and statement of affairs under paragraph (1), the petition and statement of affairs shall be deemed to have been served on the Official Assignee.

(3) Where a debtor's petition and statement of affairs have been filed under paragraph (1), the Official Assignee may, from time to time, require the petitioner to deposit with the Official Assignee such further sums as may be required by the Official Assignee, whether before or after the making of the bankruptcy order, to cover the fees and expenses incurred by the Official Assignee in connection with the petition.

(4) Where the petitioner is a wage-earner, the deposit payable under paragraph (1) may be reduced or waived at the discretion of the Official Assignee.

Service of petition on nominee supervising voluntary arrangement and partners of debtor

139. —(1) Where the debtor's petition is presented by the debtor at a time when a voluntary arrangement under Part V of the Act is in force between himself and his creditors, he shall serve a copy of the petition and statement of affairs on the nominee supervising the arrangement.

(2) Where the debtor's petition is presented against a firm by some of the partners in the firm, a copy of the petition and the statement of affairs shall be served on those partners who did not consent to or participate in the presentation of the petition.

Hearing of petition

140. The court shall not hear the debtor's petition unless it is satisfied that the petition and statement of affairs have been duly served on the parties referred to in rule 139, and any of such parties may appear at the hearing and be heard.

Settlement and contents of bankruptcy order

141. —(1) A bankruptcy order made on a debtor's petition shall be settled by the Registrar.

(2) The bankruptcy order shall be in Form 13 and shall —

(a) state the date of the presentation of the debtor's petition;

(b) state the date of the making of the order; and

(c) contain a notice requiring the bankrupt forthwith to attend on the Official Assignee or the trustee, as the case may be, at the time and place stated in the order.

(3) Where the bankrupt is represented by a solicitor, the order shall be endorsed with the name, address and telephone number of the solicitor and the file reference of the solicitor's firm.

Actions to follow upon making of bankruptcy order on debtor's petition

Service of bankruptcy order

142. The debtor shall serve a sealed copy of the bankruptcy order on the Official Assignee and, where a trustee has been appointed, on the trustee.

Gazetting of order

143. —(1) When a bankruptcy order is made on a debtor's petition, the Registrar shall cause a notification of the order to be published in the *Gazette*.

(2) Where a trustee has been appointed, the notification in the *Gazette* shall indicate the name and address of the trustee.

Advertisement of order

144. —(1) Upon the making of a bankruptcy order on a debtor's petition, the Official Assignee shall cause the order to be advertised in such local newspaper as he thinks fit.

(2) Where a trustee has been appointed, the advertisement shall indicate the name and address of the trustee.

Stay of bankruptcy order

145. —(1) The court may, on the application of the bankrupt or a creditor, grant a stay of the bankruptcy order.

(2) Where an order is made under paragraph (1), the applicant shall serve a copy of the order on the Official Assignee and, where a trustee has been appointed, on the trustee.

Amendment of title of proceedings

146. At any time after the making of a bankruptcy order on a debtor's petition, the Official Assignee or the trustee, as the case may be, may apply to the court for an order amending the title of the proceedings

Interim receiver

Appointment of interim receiver

147. —(1) After the presentation of a bankruptcy petition (whether a creditor's or debtor's petition), the debtor or any of his creditors may apply for the appointment of the Official Assignee as interim receiver of the debtor's property or any part thereof.

(2) An application under this rule shall be in Form 14 and the order appointing the Official Assignee to be interim receiver of the debtor's property shall be in Form 15.

Deposit

148. —(1) Before an order under rule 147 is made, the applicant shall deposit with the Official Assignee the sum prescribed in the Bankruptcy (Fees) Rules (R 3) and such further sum as the Official Assignee requires for the fees and expenses which may be incurred by him.

(2) If the deposit for the expenses which may be incurred by the Official Assignee is insufficient, the person on whose application the order has been made shall, from time to time, deposit with the Official Assignee such additional sum as the Official Assignee may require and, if such sum required is not deposited within 24 hours after the making of the request or within such other period as the Official Assignee may allow, the order appointing the interim receiver may be discharged by the court on the application of the Official Assignee.

Repayment of deposit

149. Where the Official Assignee has been appointed as an interim receiver of a debtor's property under section 73 of the Act and the debtor is subsequently adjudged bankrupt —

(a) the costs and expenses incurred by the Official Assignee as such interim receiver shall be deemed to be part of the costs and expenses incurred by the Official Assignee within the meaning of section 90 (1) (a) of the Act and shall be paid according to the priority specified in respect thereof by the Act; and

(b) the Official Assignee may, out of such moneys received by him, repay to the person who applied for the appointment of the interim receiver any deposit paid by such person under rule 148.

Damages on dismissal of petition

150. Where a petition is dismissed after an order has been made appointing an interim receiver, application may be made to the court within 21 days from the date of the dismissal for an adjudication upon any claim for damages resulting from the appointment of the receiver, and thereupon the court shall make such order as it thinks fit.

PART VII

BANKRUPTCY ADMINISTRATION

Creditors' meeting

Meetings summoned by Official Assignee or trustee

151. —(1) When a meeting is summoned by the Official Assignee or the trustee, as the case may be, under section 79 of the Act, he shall fix the date and time and send a notice to each creditor at the address given in the creditor's proof or, if the creditor has not proved, at the address given in the bankrupt's statement of affairs, or at such last known address as notified to the Official Assignee or the trustee.

(2) Notice of any meeting summoned by the Official Assignee or the trustee shall be given to the creditors not less than 3 days before the day appointed for the meeting unless the Act or these Rules otherwise provide.

(3) The notice of meeting to creditors shall be in Form 16.

(4) Proxy forms shall be sent together with every notice summoning a creditors' meeting.

Meetings summoned by court

152. —(1) Where the court orders a meeting of creditors to be summoned —

(a) the meeting shall be summoned as the court directs; and

(b) the Registrar shall transmit a sealed copy of the order to the Official Assignee or the trustee, as the case may be, who shall, not less than 3 days before the meeting, send a copy of the order to each creditor at —

(i) the address given in the creditor's proof; or

(ii) if the creditor has not proved, the address given by the bankrupt in his statement of affairs or such last known address as notified to the Official Assignee or the trustee.

(2) An order of the court under paragraph (1) shall be in Form 17.

Creditors' committee

153. In the bankruptcy of a partnership, each set of separate creditors may appoint its own creditors' committee and a committee appointed by the joint creditors shall be

deemed to have been appointed also by any set of separate creditors who do not appoint a separate committee.

Non-receipt of notice by creditor

154. The proceedings at a meeting of creditors shall, unless the court otherwise orders, be valid, notwithstanding that some creditors have not received the notice summoning the meeting.

Chairman of meeting

155. The Official Assignee or a person nominated by him or the trustee shall be the chairman at every meeting, except that the court may direct that the chairman at any subsequent meeting shall be such person as the meeting by ordinary resolution appoints.

Costs of creditors' meeting

156. —(1) Subject to paragraph (3), the costs of summoning and holding a meeting of creditors at the instance of any person other than the Official Assignee or the trustee shall be paid by that person, who shall deposit security for the payment with the Official Assignee or the trustee, as the case may be.

(2) The sum to be deposited shall be such amount as the Official Assignee or the trustee determines to be appropriate and the Official Assignee or the trustee shall not be required to act without the deposit having been made.

(3) The costs of summoning and holding the meeting shall be payable out of the estate as an expense of the bankruptcy if the creditors at the meeting so resolve or the court so directs.

Quorum

157. A creditors' meeting shall not be competent to act for any purpose, except —

- (a) the election of a chairman;
- (b) the admission by the chairman of creditors' proofs, for the purpose of their entitlement to vote; and
- (c) the adjournment of the meeting,

unless there are present in person or by proxy at least 3 creditors, or all the creditors if their number does not exceed 3, being in either case persons entitled to vote.

Adjournment

158. —(1) The chairman at any meeting may, in his discretion, and shall if the meeting so resolves, adjourn it to such time and place as seems to him to be appropriate in the circumstances.

(2) If within half an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the chairman may adjourn the meeting.

Proxies

159. —(1) A creditor may vote either in person or by proxy.

(2) A person below 21 years of age shall not be appointed as a proxy.

(3) No form of proxy shall be used at any meeting except that which is sent out with the notice summoning the meeting.

(4) A proxy given by a creditor shall be sufficiently executed if it is signed by a person in the creditor's employment having a general authority to sign for him, or by the creditor's authorised agent if the creditor is resident abroad.

(5) The creditor's authority shall be in writing and, if required, shall be produced to the Official Assignee or the trustee, as the case may be.

(6) A creditor may give a general proxy in Form 18 to his manager or clerk or any other person in his regular employment, in which case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

(7) A creditor may give a special proxy in Form 19 to any person to vote at any specified meeting or adjournment thereof for or against any specific resolution.

(8) A creditor may appoint the Official Assignee or the trustee, as the case may be, to act as his general or special proxy.

Where creditor is blind or incapable of writing

160. The proxy of a creditor who is blind or incapable of writing may be accepted if —

(a) the creditor has placed his mark upon or signed it in the presence of a witness;

(b) the witness has added his own signature, description and residence to the creditor's mark or signature; and

(c) all insertions in the proxy are in the handwriting of the witness, and he has certified at the foot of the proxy that all the insertions were made by him at the creditor's request and in his presence before he attached his mark or signature.

Use of proxies

161. —(1) A proxy shall not be used unless it is deposited with the Official Assignee or the trustee, as the case may be, before the meeting at which it is to be used.

(2) A proxy shall be lodged with the Official Assignee or the trustee not later than 4 o'clock on the day before the meeting or adjourned meeting, at which it is to be used.

(3) A proxy given for a particular meeting may be used at any adjournment of that meeting.

Retention of proxies

162. Proxies used for voting at any meeting shall be retained by the chairman of the meeting.

Proxy-holder with financial interest

163. No person acting under either a general or a special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer in a position to receive any remuneration out of the estate of the bankrupt otherwise than as a creditor rateably with the other creditors of the bankrupt.

Entitlement to vote

164. —(1) A person shall not be entitled to vote as a creditor at any meeting of creditors unless —

(a) he has duly proved his debt under rule 165; and

(b) the proof has been duly lodged before the time appointed for the meeting under rule 178.

(2) A creditor shall not vote in respect of a debt for an unliquidated amount, or any debt the value of which is not ascertained, except where the chairman agrees to put upon the debt an estimated minimum value for the purpose of entitlement to vote and admits his proof for that purpose.

(3) For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to vote only in respect of the balance, if any, due to him after deducting the value of his security.

(4) If the creditor votes in respect of his whole debt, he shall be deemed to have surrendered his security unless the court, on application, is satisfied that the omission to value the security has arisen from inadvertence.

(5) A creditor shall not vote in respect of a debt on, or secured by, a current bill of exchange or promissory note, unless he is willing —

(a) to treat the liability to him on the bill or note of every person who is liable on it antecedently to the bankrupt, and against whom a bankruptcy order has not been made (or, in the case of a company, which has not gone into liquidation), as a security in his hands; and

(b) to estimate the value of the security and (for the purpose of entitlement to vote, but not for dividend) to deduct it from his proof.

(6) If a bankruptcy order is made against one partner of a firm, any creditor to whom that partner is indebted jointly with the other partners in the firm or any of them may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to vote.

Admission and rejection of proofs

165. —(1) The chairman of a meeting shall have the power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the court.

(2) The application to the court by way of an appeal shall be filed within 14 days of the admission or rejection of the proof.

(3) If the chairman is in doubt whether the proof of a creditor should be admitted or rejected, he shall mark the proof as objected to and shall allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

(4) If on an appeal the chairman's decision is reversed or varied, or a creditor's vote is declared invalid, the court may order that another meeting be summoned, or make such other order as it thinks just.

(5) The chairman shall not be personally liable for costs incurred by any person in respect of an application to the court under this rule.

Record of proceedings

166. —(1) The chairman at any creditors' meeting shall cause minutes of the proceedings at the meeting, signed by him, to be retained by him as part of the records of the bankruptcy.

(2) He shall also cause to be made up and kept a list of all the creditors who attended the meeting.

(3) The minutes of the meeting shall include a record of every resolution passed including the particulars of all such resolutions.

Statements of affairs

Submission and filing

167. —(1) The bankrupt shall submit to the Official Assignee or the trustee, as the case may be, 2 copies of his statement of affairs in Form 11.

(2) The statement of affairs shall be verified by affidavit in Form 12.

(3) The Official Assignee or the trustee shall file in court one copy of the statement of affairs.

(4) Where a trustee has been appointed, the trustee shall serve a copy of the statement of affairs on the Official Assignee.

Extension of time to file statement of affairs, etc.

168. —(1) Where the bankrupt requests to be released from his duty to file a statement of affairs or for an extension of time to file the statement of affairs and his request is refused by the Official Assignee or the trustee, as the case may be, he may, within 14 days of the refusal, apply to the court for the release or extension of time.

(2) A request for a release or an extension of time under paragraph (1) shall be made within 21 days from the date of the bankruptcy order.

(3) Where the bankrupt's request for a release or an extension of time under paragraph (1) has been refused by the Official Assignee or the trustee and the bankrupt applies to the court for the release or extension of time, the bankrupt shall, at least 14 days before the hearing of the application, serve on the Official Assignee or the trustee a copy of the application and of any evidence which he intends to adduce in support of it.

(4) The bankrupt shall serve on the Official Assignee or the trustee a sealed copy of any order made by the court on the application.

(5) On any application under this rule, the bankrupt's costs shall be paid in any event by him and, unless the court otherwise orders, no allowance towards such costs shall be made out of the estate.

Examination of bankrupt and others

Examination under section 83 (1) of Act

169. An application to the court under section 83 (1) of the Act shall be in Form 20 and an order made upon such an application shall be in Form 21.

Notice to parties

170. —(1) On the court making an order appointing a date and time for an examination, the applicant for the order shall send a copy of the order and the summons to all parties to the proceedings at least 7 days before the date fixed for the examination.

(2) Parties to the proceedings shall be —

(a) the Official Assignee or the trustee, as the case may be;

(b) the bankrupt;

(c) the creditors of the bankrupt who have tendered their proofs; and

(d) any other person or persons summoned under section 83 of the Act.

General proxy-holders may question bankrupt, etc.

171. For the purposes of section 83 (5) of the Act (which permits a creditor or his representative to question the bankrupt or such other person summoned by the court), the holder of a general proxy or of a power of attorney from a creditor shall be deemed to be the creditor's representative authorised in writing.

Costs of examination

172. —(1) A creditor who applies for an order under section 83 of the Act shall bear the expenses of the examination unless the court orders otherwise.

(2) In no case shall the costs and expenses of an examination fall on the Official Assignee or the trustee personally.

Settlement of list of debtors to estate

Settled list of debtors to estate

173. The notice required under section 86 (2) of the Act to be given by the Official Assignee or, where a trustee has been appointed, by the trustee, to persons supposed to be indebted to the estate shall be in Form 22.

Procedure for proving debts

Manner and contents of proof

174. —(1) Every creditor must prove his debt within 3 months after the making of a bankruptcy order by lodging with the Official Assignee or the trustee, as the case may be, a proof of debt.

(2) A proof of debt required to be lodged with the Official Assignee under paragraph (1) may be filed electronically.

(3) Every proof of debt —

(a) shall be in Form 23 or where it is filed electronically, in such electronic form as may be required by the Official Assignee; and

(b) shall state the following matters:

(i) the creditor's name and address;

(ii) the total amount of his claim as at the date of the bankruptcy order;

(iii) whether the amount claimed includes interest as defined under section 94 (3) of the Act and if so, a separate identification of the actual amount that has accrued as at the date of the bankruptcy order and the rate at which and the period for which it was calculated;

(iv) whether or not the claim includes goods and services tax and, if so, the amount of such tax;

(v) particulars of how and when the debt was incurred by the bankrupt;

(vi) particulars of any security held, the date when it was given and the value which the creditor puts upon it; and

(vii) the name, address and authority of the person submitting the proof (if such person is not the creditor himself).

(4) The documents substantiating the claim specified in the proof of debt shall accompany the proof of debt.

(5) If the proof of debt is filed electronically, the documents substantiating the claim specified in the proof of debt must be sent to the Official Assignee within 14 days from the date of submission of the proof of debt.

(6) Unless the Official Assignee or the trustee, as the case may be, allows otherwise or the court otherwise orders, a bill of exchange, promissory note, or other negotiable instrument or security or a copy thereof (certified by the creditor or his authorised representative to be a true copy) in respect of which a creditor seeks to prove shall be produced to the Official Assignee or the trustee before the proof is admitted, either for voting or for dividend.

(7) The Official Assignee or the trustee may at any time call for further evidence of the claim to be furnished.

Workmen's wages

175. —(1) Where it appears from the bankrupt's statement of affairs that there are numerous claims for wages by persons employed by him, a combined proof for all such claims made by the bankrupt, or his foreman or some other person on behalf of all such creditors, shall have the same effect as if separate proofs have been made by each of such creditors.

(2) A schedule setting out the names of the creditors, and the amounts severally due to them —

(a) shall accompany the proof; or

(b) where the proof is submitted to the Official Assignee electronically, must be sent to the Official Assignee not more than 14 days after the submission of the proof.

Statement of accounts

176. A licensed moneylender filing a proof of debt under rule 174 in respect of a loan made by him shall, within 14 days from the date of filing thereof, file a statement of accounts in the form specified in the First Schedule to the Moneylenders Act (Cap. 188).

Cost of proving

177. A creditor shall bear the cost of proving his debt unless the court otherwise orders.

Time for lodging proofs

178. A proof intended to be used at a meeting of creditors shall be lodged with the Official Assignee or the trustee, as the case may be, not less than 24 hours before the time fixed for the meeting.

Inspection of proofs

179. The Official Assignee or the trustee, as the case may be, shall upon payment of the prescribed fee, allow proofs lodged with him to be inspected by, or provide details of the proofs lodged with him to, any of the following persons:

(a) any creditor who has submitted his proof of debt (unless his proof has been wholly rejected for purposes of dividend or otherwise);

(b) the bankrupt; and

(c) any person acting on behalf of any creditor or the bankrupt.

Quantification of claim

Discounts

180. A creditor proving his debt shall deduct from his 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

181. —(1) For the purpose of proving a debt incurred or payable in a currency other than Singapore dollars, the amount of the debt shall be converted into Singapore dollars at the rate prevailing on the date of the bankruptcy order as derived under paragraph (2) or (3).

(2) The rate shall be the average of the buying and selling rates as published in a local newspaper on the date in question.

(3) In the absence of any published rate referred to paragraph (2), it shall be such rate as may be determined by the Official Assignee or the trustee, as the case may be.

Periodical payments

182. When any rent or other payment falls due at stated periods, and the bankruptcy order

is made at any time other than one of those periods, the person entitled to the rent or payment may prove for a proportionate part thereof up to the date of the order, as if the rent or payment grew due from day to day.

Proofs in respect of distinct contracts

183. If a bankrupt was at the date of the bankruptcy order liable in respect of distinct contracts as a member of 2 or more distinct firms or as a sole contractor and also as member of a firm, the circumstance that —

(a) the firms are in whole or in part composed of the same individuals; or

(b) the sole contractor is also one of the joint contractors,

shall not prevent proof in respect of the contracts against the properties respectively liable on the contracts.

Claim for interest where not previously agreed

184. In the following circumstances, the creditor's claim may include interest at a rate not exceeding 8% per annum on the debt for periods before the bankruptcy order, although not previously reserved or agreed:

(a) 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;

or

(b) 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 which case interest may be claimed under this rule for the period from the date of the demand to that of the bankruptcy order.

Rate of interest payable

185. The rate of interest under section 94 (1) of the Act shall be 8% per annum.

Debt payable at a future time

186. A creditor may prove for a debt not payable at the date of commencement of the bankruptcy as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of 8% per annum from the date of declaration of a dividend to the date when the debt would have become payable according to the terms on which it was contracted.

Secured creditors

Secured creditors

187. —(1) If a secured creditor realises his security, he may prove for the balance due to him after deducting the net amount realised.

(2) If a secured creditor surrenders his security to the Official Assignee or the trustee, as the case may be, for the general benefit of the creditors, he may prove for his whole debt.

Surrender for non-disclosure

188. —(1) If a secured creditor omits to disclose his security in his proof of debt, he shall surrender his security for the general benefit of creditors, unless the court, on application by him, relieves him from the effect of this rule on the ground that the omission was inadvertent or the result of an honest mistake.

(2) If the court grants relief to the creditor, the court may direct that the creditor's proof of debt be amended on such terms as the court thinks just.

Valuation of security

189. —(1) If a secured creditor does not either realise or surrender his security, he shall, before ranking for dividend, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed. (2) If the Official Assignee or the trustee is dissatisfied with the value at which a security is assessed, he may require that the property comprised in any security so valued be offered for sale and on such terms and conditions as are agreed on between the creditor and the Official Assignee or the trustee, as the case may be, and, in default of agreement, as the court may direct.

Amendment of valuation

190. —(1) Where a creditor has so valued his security, he may at any time amend the valuation and proof on showing to the satisfaction of the Official Assignee or the trustee, as the case may be, or the court that the valuation and proof were made bona fide on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation

(2) Every amendment under paragraph (1) shall be made at the cost of the creditor and upon such terms as the court orders, unless the Official Assignee or the trustee allows the amendment without application to the court.

(3) Where a valuation has been amended in accordance with paragraph (1), the creditor shall immediately repay any surplus dividend which he has received in excess of that to which he would have been entitled on the amended valuation or, as the case may be, shall be entitled to be paid out of any moneys for the time being available for dividend any dividend or share of dividend which he has failed to receive by reason of the inaccuracy of the original valuation, before those moneys is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

Realisation of security

191. If a creditor, after having valued his security, subsequently realises it, or if it is realised under rule 189, the net amount realised shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

Failure to comply

192. If a secured creditor contravenes any of these Rules, he shall be excluded from all share in any dividend.

Maximum amount receivable by creditor

193. Subject to rule 189, a creditor shall in no case receive more than 100 cents in the dollar and interest as provided by the Act.

Taking accounts of property mortgaged and sale thereof

Person claiming to be mortgagee

194. —(1) Upon an application made to the court by any person claiming to be a mortgagee of any part of the bankrupt's immovable property, whether the mortgage is of a legal or equitable nature, the court shall proceed to inquire whether the person is such mortgagee and for what consideration and under what circumstances.

(2) If it is found that the person is such mortgagee, and if no sufficient objection appears to the title of the person to the sum claimed by him under the mortgage, the court shall direct such accounts and inquiries to be taken as are necessary for ascertaining the principal, interest and costs due upon the mortgage and the rents and profits or dividends, interest or other proceeds received by the person or by any other person by his order or for his use, in case he has been in possession of the property over which the mortgage extends or any part thereof.

(3) The court, if satisfied that there ought to be a sale, shall direct notice to be given, in such manner as it thinks fit, as to when and where and by whom and in what way the property or the interest therein so mortgaged is to be sold, and that the sale be made accordingly and that the Official Assignee or the trustee, as the case may be, unless it is otherwise ordered, shall have the conduct of the sale.

(4) It shall not be imperative on any such mortgagee referred to paragraph (1) or (2) to make such application under paragraph (1).

(5) At any sale under this rule, the mortgagee may bid and purchase.

(6) All proper parties shall join in the conveyance to the purchaser as the court directs.

Application of proceeds of sale

195. —(1) The moneys arising from a sale under rule 194 shall be applied —

(a) firstly in payment of the costs, charges and expenses of the Official Assignee or the trustee of and occasioned by the application to the court and of and attending the sale; and

(b) secondly in payment and satisfaction, so far as the same will extend, of what is found due to the mortgagee for principal, interest and costs, and the surplus of the said moneys, if any, shall be paid to the Official Assignee or the trustee, as the case may be.

(2) Where the moneys arising from the sale are insufficient to pay and satisfy what is so found due to the mortgagee, he shall be entitled to prove as a creditor for the deficiency and receive dividends thereon rateably with the other creditors, but not so as to disturb any dividend then already declared.

Interrogatories, etc.

196. For the better taking of such inquiries and accounts and making a title to the purchaser, all parties —

(a) may be examined by the court upon interrogatories or otherwise as it thinks fit; and

(b) shall produce before the court upon oath all deeds, papers, books and writings in their respective custody or power relating to the estate or effects of the bankruptcy as the court directs.

Admission and rejection of proofs

Adjudication and notice to creditor

197. —(1) The Official Assignee or the trustee, as the case may be, shall examine every proof and the grounds of the debt, and in writing admit or reject it in whole or in part or require further evidence in support of it.

(2) Where a creditor's proof has been admitted, the notice of dividend shall be sufficient notification to the creditor of the admission.

(3) Where a creditor's proof has been rejected wholly or in part, notice of the decision shall be sent to the creditor stating the grounds of the rejection.

(4) The notice of rejection of a proof of debt shall be in Form 25.

Appeal against decision on proof

198. —(1) If a creditor is dissatisfied with the decision of the Official Assignee or the trustee, as the case may be, in rejecting his proof, the court may, on the application of the creditor, reverse or vary the decision of the Official Assignee or the trustee.

(2) The application must be made within 21 days from the day of the rejection of the proof under rule 197.

(3) A copy of the application shall be served personally on the Official Assignee or the trustee, as the case may be.

(4) The Official Assignee or the trustee shall, within 7 days after receipt of a copy of the application, file the proof with the Registrar, together with a memorandum stating the reasons for his decision.

(5) After the application has been heard by the court, the proof, unless wholly disallowed, shall be returned to the Official Assignee or the trustee.

(6) The Official Assignee or the trustee shall not be personally liable for any costs incurred in relation to an application against his decision rejecting a proof wholly or in part under this rule.

Withdrawal or variation of proof

199. A creditor's proof may at any time, by agreement between himself and the Official Assignee or the trustee, as the case may be, be withdrawn or varied as to the amount claimed.

Expunging of proof by Official Assignee or trustee

200. —(1) If it appears to the Official Assignee or the trustee, as the case may be, that a proof has been wrongly admitted, he may, by notice to the creditor who filed the proof, expunge the proof or vary its amount.

(2) If the creditor is dissatisfied with the decision of the Official Assignee or the trustee under paragraph (1), he may, within 21 days from the date of the notice, apply to the court to reverse or vary the decision of the Official Assignee or the trustee.

(3) A copy of the application shall be served personally on the Official Assignee or the trustee, as the case may be.

(4) The Official Assignee or the trustee shall not be personally liable for any costs incurred under this rule.

Expunging of proof by court

201. —(1) The court may expunge a proof or reduce the amount claimed —

(a) on the application of a creditor, if the Official Assignee or the trustee, as the case may be, declines to interfere in the matter; or

(b) on the application of the bankrupt, in the case of a composition or scheme.

(2) Notice of the application shall be sent by the applicant to the Official Assignee or the trustee, as the case may be, and to the creditor who lodged the proof, if such creditor is not the applicant.

(3) Subject to paragraph (4), the costs of the application shall be borne by the applicant unless the court otherwise orders.

(4) The Official Assignee or the trustee shall not be personally liable for any costs incurred under this rule.

Official Assignee may administer oaths

202. For the purpose of any of his duties in relation to proofs, the Official Assignee may administer oaths and take affidavits.

Approval of composition or scheme

Acceptance of composition or scheme by joint and separate creditors

203. —(1) The joint creditors and each set of separate creditors may severally accept compositions or schemes.

(2) So far as circumstances will allow, a proposal accepted by joint creditors may be approved notwithstanding that any proposal made by one or more of the debtors to his or their separate creditors may not be accepted.

Voting on composition or scheme by firm and by individual partners

204. —(1) Where proposals for compositions or schemes are made by a firm, and by the partners therein individually —

(a) the proposal made to the joint creditors shall be considered and voted upon by them apart from all separate creditors; and

(b) the proposal made to each set of separate creditors shall be considered and voted upon by that set of separate creditors apart from all other creditors.

(2) The proposals may vary in character and amount.

Forms in respect of proposal and terms of resolution

205. —(1) Every proposal for —

(a) a composition shall be in Form 26; and

(b) a scheme shall be in Form 27.

(2) The letter referred to in section 95 (5) and (6) of the Act by which a creditor assents to or dissents from a composition or scheme shall be in Form 28.

(3) Every resolution for a composition or scheme or instrument embodying the terms of a proposed composition or scheme shall, in addition to the other particulars required to be stated, specify the manner, if any, in which the payments of the composition or scheme are to be secured.

Notice to Official Assignee or trustee

206. —(1) A bankrupt who applies to the court to approve a composition or scheme shall, not less than 14 days before the day appointed for the hearing of the application, serve a copy of the application on the Official Assignee or the trustee, as the case may be.

(2) An application under this rule shall be in Form 29.

Notice to creditors

207. Not less than 7 days before the day appointed for the hearing of an application to approve a composition or scheme, the applicant shall send notice of the application in Form 30 to every creditor who has proved his debt.

Official Assignee's or trustee's report and appearance

208. —(1) The Official Assignee or the trustee, as the case may be, shall file his report not less than 3 days before the day appointed for the hearing.

(2) The Official Assignee or the trustee shall be entitled to be heard on the application.

Restriction on approval of composition or scheme

209. —(1) The court shall not make an order approving the composition or scheme unless it is satisfied that section 95 (1) of the Act has been complied with.

(2) An order approving a composition or scheme shall be in Form 31.

Bankrupt's costs

210. If the court refuses to approve the composition or scheme, no costs incurred by the bankrupt in respect of the application shall be allowed out of the estate.

Appeal

211. An appeal from an order approving or refusing to approve a composition or scheme shall lie at the instance of the Official Assignee or the trustee, as the case may be.

Notice to be gazetted

212. Upon the making of an order approving a composition or scheme, the Registrar shall forthwith cause a notification thereof to be published in the *Gazette*.

Fee on application

213. The fee payable on an application to approve a composition or scheme may be allowed and paid out of the estate of the bankrupt where there are funds available for the purpose in the hands of the Official Assignee or the trustee, as the case may be.

Correction of errors and omissions

214. At the time a composition or scheme is approved, the court may correct any accidental error or omission but no alteration in the substance of the composition or scheme shall be made.

Proceedings upon approval

215. When a composition or scheme is approved, the Official Assignee or the trustee, as the case may be, shall, on payment of all proper costs, charges and expenses of and incidental to, the proceedings, and all fees and percentages payable to the Official Assignee or the trustee, put the bankrupt, or the person or persons to whom under the composition or scheme the property of the bankrupt is to be assigned, into possession of the bankrupt's property.

Effect of annulment of composition or scheme

216. Upon the annulment of a composition or scheme, the bankruptcy order shall be reinstated.

Provision for disputed claims

217. —(1) Where under a composition or scheme provision is made for the payment of any moneys to the creditors and any claim in respect of which a proof has been lodged is disputed, the court may, if it thinks fit, direct that the amount which would be payable if the claim were established shall be secured in such manner as the court may direct.

(2) On the determination of the dispute, the sum so secured shall be paid as the court may direct.

Proofs of debts in composition or scheme

218. —(1) A person claiming to be a creditor under a composition or scheme who has not proved his debt before the approval of the composition or scheme shall lodge his proof with the Official Assignee or the trustee, as the case may be.

(2) The Official Assignee or the trustee shall admit or reject the proof in accordance with these Rules.

(3) No creditor shall be entitled to enforce payment of any sum payable under a composition or scheme unless he has proved his debt and his proof has been admitted.

Appropriation of pay, salary, pensions, etc.

Application for appropriation order

219. —(1) When the Official Assignee or the trustee, as the case may be, intends to apply to the court for an appropriation order under section 109 of the Act, he shall give to the bankrupt notice of his intention to do so in Form 32.

(2) The notice shall specify the date and time fixed for the hearing of the application and shall state that the bankrupt is at liberty to show cause against the order being made.

Notice of order made under section 109 of Act

220. —(1) Subject to the direction of the court, an order under section 109 (1) of the Act shall be in Form 33 and an order under section 109 (2) shall be in Form 34.

(2) Where an order is made under section 109 (2) of the Act, the Registrar shall give a sealed copy of the order to the Official Assignee or the trustee, as the case may be, who shall communicate the order to the employer or other person under whom the salary, income, half-pay, pension or compensation is enjoyed.

Review of order

221. Where an order has been made for payment to the Official Assignee or the trustee by a bankrupt or his employer of a portion of the bankrupt's pay, salary or other income, the bankrupt may, upon any diminution in the amount of that income, apply to the court to rescind or vary the order.

Disclaimer of lease

Disclaimer of lease without leave

222. —(1) A lease may be disclaimed without the leave of the court where the bankrupt has not sub-let the demised premises or assigned the lease or created a mortgage or charge upon the lease, and —

(a) the rent of the property leased is less than \$500 per month; or

(b) the Official Assignee or the trustee serves the lessor with notice in Form 35 of his intention to disclaim, and the lessor does not within 3 days after the receipt of such notice give notice to the Official Assignee or the trustee, as the case may be, requiring the matter to be brought before the court.

(2) Except as provided by this rule and by section 110 of the Act, the disclaimer of a lease without the leave of the court shall be void.

(3) Where in pursuance of notice by the Official Assignee or the trustee of his intention to disclaim a lease, the lessor, sub-lessee or mortgagee requires the Official Assignee or the trustee to apply to the court for leave to disclaim, the costs of the lessor, sub-lessee or mortgagee shall not be allowed out of the estate of the bankrupt unless the court is satisfied that the application was necessary in order to do justice between the parties.

(4) A disclaimer made without the leave of the court under this rule shall not be void or otherwise affected by reason only that notice of intention to disclaim required by this rule has not been given to some person who claims to be interested in the demised property.

(5) Where any person claims to be interested in any property of the bankrupt burdened with onerous covenants, he shall, at the request of the Official Assignee or the trustee, furnish a statement of the interest so claimed by him.

(6) A notice of disclaimer of a lease shall be in Form 36.

Disputed title to property

Claims to property in hands of Official Assignee or trustee to be determined summarily

223. —(1) When any property seized or otherwise taken in possession of by the Official Assignee or the trustee under the Act or these Rules is claimed by any person other than the bankrupt, such claim may be determined by the court in a summary manner upon a summons to decide the title to the property.

(2) The court may, on the hearing of the summons, make such order for the trial and determination of the rights of the parties as it shall think expedient and for the custody or sale in the meanwhile of the property in dispute and the costs thereof which shall be borne by the person making the application.

Summons to be issued by Registrar

224. —(1) The Registrar may issue the summons to decide the title to the property without application to a judge.

(2) Upon the issue of the summons, any proceedings which may have been begun against the Official Assignee or the trustee in respect of any property in dispute as aforesaid shall be stayed and shall not be proceeded with without the leave of the court.

Special manager

Remuneration of special manager

225. Where a special manager is appointed, he shall be paid such remuneration as may, from time to time, be fixed by the Official Assignee.

Accounts

226. The special manager shall submit his accounts, verified by affidavit, to the Official Assignee and, when the accounts are approved by the Official Assignee, the totals of the receipts and payments shall be added to the Official Assignee's accounts.

Security by special manager

Mode of giving security

227. —(1) A special manager shall give security to such persons and in such manner as the Official Assignee may, from time to time, direct.

(2) The security given under paragraph (1) shall be in each separate matter but it may be given either specially in a particular matter or generally, to be available for any matter in which the person giving security may be appointed special manager.

(3) The Official Assignee shall fix the amount and nature of the security and may from time to time, as he thinks fit, direct the amount to be increased or diminished.

Removal of special manager

228. Where a special manager has been appointed, the Official Assignee may at any time remove him if his employment seems unnecessary or unprofitable to the estate, and shall remove him if so required by a special resolution of the creditors.

Distribution of dividends

Notice of intended dividend

229. —(1) Before declaring a dividend, the Official Assignee or the trustee, as the case may be, shall —

(a) cause a notice of his intention to do so to be published in a local newspaper; and
(b) send such notice to the last known address of every creditor mentioned in the bankrupt's statement of affairs who has not proved his debts.

(2) The notice shall be in Form 37 and shall specify the latest date up to which proofs may be lodged, which shall not be less than 14 days from the date of the notice.

Appeal after notification of intended dividend

230. —(1) Where a creditor, after the latest date for lodging proofs mentioned in the notice of intention to declare a dividend, appeals against the decision of the Official Assignee or the trustee rejecting a proof —

(a) the appeal shall be commenced and notice thereof given to the Official Assignee or the trustee within 7 days from the date of the notice of rejection against which the appeal is made; and

(b) the Official Assignee or the trustee shall make provision for the dividend payable upon the proof in the event the proof is admitted.

(2) If no appeal has been commenced within the prescribed time, the Official Assignee or the trustee shall exclude the proof which has been rejected from participation in the dividend.

Declaration of dividend

231. —(1) After the expiration of the time fixed by these Rules for appealing against the decision of the Official Assignee or the trustee, the Official Assignee or the trustee, as the case may be, shall proceed to declare a dividend, and send a notice of dividend specifying the percentage of dividend payable and the amount of dividend payable to him.

(2) If after the payment of dividend, any creditor's proof which has been admitted is withdrawn or expunged or the amount of it is realised, the creditor shall repay to the Official Assignee or the trustee for the credit of the insolvent estate any amount overpaid by way of dividend.

(3) If it becomes necessary, in the opinion of the Official Assignee or the trustee to postpone the declaration of the dividend, the Official Assignee or the trustee may postpone the declaration of dividend as he thinks fit.

Production of bills of exchange, etc.

232. Subject to section 70 of the Bills of Exchange Act (Cap. 23), a bill of exchange, promissory note, or other negotiable instrument or security upon which proof has been made shall, unless the court on special grounds dispenses with its production, be exhibited to the Official Assignee or the trustee, as the case may be, before payment of any dividend thereon, and the amount of dividend paid shall be endorsed on the instrument.

Dividend sent by post

233. A dividend may, at the request and risk of the creditor, be transmitted to him by post.

Separate firms

234. —(1) If any 2 or more of the members of a partnership constitute a separate and

independent firm, the creditors of such firm shall be deemed to be a separate set of creditors and subject to the same rules as the separate creditors of any individual member of the partnership.

(2) Where any surplus remains after the administration of the assets of the separate firm, the surplus shall be carried over to the separate estates of the partners in that firm according to their respective rights therein.

PART VIII

ANNULMENT AND DISCHARGE

Application for discharge made by persons other than Official Assignee

235.—(1) A bankrupt, a trustee or any other person having an interest in the matter intending to apply for the discharge of the bankrupt under section 124 of the Act shall support his application with an affidavit.

(2) The affidavit shall state the following:

- (a) whether the bankrupt has filed his statement of affairs;
- (b) the number of creditors and whether they have proved their debts or not;
- (c) whether the bankrupt has disclosed all his assets to the Official Assignee or the trustee, as the case may be, and whether such assets have been realised;
- (d) whether dividend has been declared and if so, the amount thereof; and
- (e) the grounds of the application.

Application for discharge by Official Assignee

236. Where the Official Assignee applies for the discharge of a bankrupt under section 124 of the Act, he shall support his application with a report.

Notice of hearing

237.—(1) When a day has been appointed for the hearing of an application under rule 235 or 236, the Registrar shall, not less than 21 days before the day so appointed, give notice of the time and place to the applicant and, in any case, to the Official Assignee.

(2) Notice of the time and place appointed for the hearing shall be sent by the applicant to each creditor not less than 14 days before the day so appointed.

Costs of application

238. The costs of the application under section 124 of the Act by any person other than the Official Assignee or the trustee shall not be allowed out of the estate of the bankrupt.

Annulment of orders and discharges by court to be gazetted by Registrar

239. Where a bankruptcy order which has been published in the *Gazette* is annulled or discharged by the court, the Registrar shall as soon as is practicable cause a notification of the annulment or discharge to be published in the *Gazette*.

Deferment of issue of order pending appeal

240.—(1) The order on an application for discharge shall not be extracted or notification thereof published in the *Gazette* until the time allowed for appealing has expired or, if an appeal is entered, until the appeal has been determined.

(2) When the time for appealing has expired or, as the case may be, when the appeal has been decided, the Registrar shall, as soon as is practicable, cause a notification of the making of the order to be published in the *Gazette*.

Appeal

241. An appeal shall lie at the instance of the Official Assignee or the trustee, as the case may be, from any order of the court made upon an application for the discharge of a bankrupt or upon an application for the annulment of a bankruptcy order on the ground that the debts of the debtor have been paid in full.

Accounts of after-acquired property

242. —(1) Where a bankrupt is discharged conditionally upon payments being made out of his future earnings or after-acquired property, he shall, until the condition is satisfied, give the Official Assignee or the trustee, as the case may be, such information as the Official Assignee or the trustee may, from time to time, require with respect to his earnings and after-acquired property and income, and not less than once a year file in court a statement, verified by affidavit, showing particulars of any property or income acquired by him after his discharge.

(2) The Official Assignee or the trustee may require the bankrupt to attend before the court to be examined on oath as to his statement or as to his earnings, income, after-acquired property or dealings.

(3) Where a bankrupt neglects to file a verified statement or to attend before the court for examination when required to do so, or fails properly to answer any proper questions put to him, the court may, on the application of the Official Assignee or the trustee, rescind the order of discharge.

Application for modification of order

243. Where after the expiration of 2 years from the date of the order made on application for discharge, a bankrupt applies to the court to modify the terms of the order on the ground that there is no reasonable probability of his being in a position to comply with its terms, he shall give 14 days' notice of the day fixed for the hearing of the application to the Official Assignee or the trustee, as the case may be, and to all creditors who have proved.

Discharge by certificate of Official Assignee

244. Before issuing a certificate of discharge under section 125 of the Act, the Official Assignee shall, where there are funds available in the estate of the bankrupt, reserve a reasonable sum for the costs of the petitioning creditor and declare dividends to the creditors who have proved their debts to the satisfaction of the Official Assignee without the necessity of advertising for further claims.

PART IX

COSTS AND TAXATION

Award of costs

245. —(1) When awarding costs, the court may direct that the costs of any matter or

application shall be taxed on the standard basis or on the indemnity basis, or it may fix a sum to be paid in lieu of taxed costs.

(2) Unless the court otherwise directs, the costs of an opposed application shall follow the event and shall be taxed on the standard basis.

(3) Where an action is brought against the Official Assignee or the trustee as representing the estate of the debtor, or where the Official Assignee or the trustee is made party to any proceedings on the application of any other party to the proceedings, he shall not be personally liable for costs.

Filing of orders

246. Every order for payment of moneys or costs shall be sealed, signed by the Registrar and forthwith filed with the proceedings.

Taxation of costs

247. Except where a fixed sum has been awarded as costs, costs directed by any order to be paid or taxed shall be taxed on production of an office copy of the order and the allocatur duly stamped shall be signed and dated by the Registrar.

Neglect or delay in taxation

248. —(1) If a person whose costs, charges or expenses are to be taxed refuses or neglects when directed to do so to bring them in for taxation or to produce them for taxation, the Registrar may allow such sum as he thinks appropriate for such person's costs or may assess them at a nominal figure.

(2) A solicitor who delays or impedes a taxation shall, unless the Registrar otherwise directs, forfeit the fees to which he would otherwise be entitled for drawing his bill of costs and for attending the taxation.

Scales of costs and charges

249. The scales of costs and allowances and the directions contained in the Bankruptcy (Costs) Rules (R 2) shall apply to the taxation and allowance of costs and charges in proceedings under the Act and these Rules.

Solicitor's costs in case of debtor's petition

250. The solicitor in the matter of a bankruptcy petition presented by the debtor against himself shall, in his bill of costs, give credit for any sum or security received from the debtor as a deposit on account of the costs and expenses to be incurred in relation to the filing and prosecution of the petition, and the amount of any such deposit shall be noted by the Registrar on the allocatur issued for the costs.

Costs paid otherwise than out of estate

251. Where a bill of costs is taxed under a special order of the court which directs that the costs are to be paid otherwise than out of the estate of the bankrupt, the Registrar shall note upon the allocatur by whom, or the manner in which, the costs are to be paid.

Filing of bills and issue of allocatur

252. Upon completion of the taxation of any costs, charges or expenses, the Registrar shall forthwith file the bill with the proceedings and issue to the person presenting the bill for taxation his allocatur or certificate of taxation.

Where allocatur is lost, etc.

253. Where it is proved to the satisfaction of the Registrar that an allocatur or certificate of taxation has been lost or destroyed, he may issue a duplicate thereof.

Certificate of employment of solicitor by trustee

254. Before taxing the costs or charges of any solicitor employed by a trustee, the Registrar shall require a copy of the authority sanctioning the employment of a solicitor.

Sheriff's costs

255. —(1) Where under section 106 (1) of the Act, the Sheriff is required to deliver property or the possession thereof to the Official Assignee or the trustee, as the case may be, the Sheriff shall, without delay, bring in his bill of costs to be taxed by the Registrar.
(2) Unless the bill referred to in paragraph (1) is brought in for taxation within one month from the date of delivery or within such longer period as the Official Assignee may allow, the Official Assignee or the trustee may decline to pay it.

Taxation of Sheriff's costs after deduction

256. —(1) If the Official Assignee or the trustee, as the case may be, in writing requires any costs which the Sheriff has deducted under section 106 (4) of the Act to be taxed, the Sheriff shall, within 14 days from the date of the request, bring in the costs for taxation.
(2) The costs shall be taxed by the Registrar and any amount disallowed on taxation shall forthwith be paid over by the Sheriff to the Official Assignee or the trustee.

Lodgment of bills

257. —(1) Bills of costs which are to be taxed shall be lodged for perusal with the Official Assignee or the trustee, as the case may be.
(2) The party whose costs or charges are to be taxed shall, on recovering the bill of costs from the Official Assignee or the trustee, lodge it with the Registrar.

Notice of appointment to tax

258. Upon receiving an appointment to tax a bill of costs, the person whose costs or charges are to be taxed shall give not less than 7 days' notice of appointment to the Official Assignee or the trustee, as the case may be.

Application for costs

259. Where a party to, or person affected by, any proceeding desires to apply for an order that he be allowed his costs, or any part of his costs, incidental to the proceeding, and the application is not made at the time of the proceeding —
(a) he shall serve notice of his intended application on the Official Assignee or the trustee, as the case may be;
(b) the Official Assignee or the trustee may appear at the hearing of the application and object thereto; and
(c) no costs of or incidental to the application shall be allowed to the applicant unless the court is satisfied that the application could not have been made at the time of the proceeding.

Review of taxation

260. —(1) Where any costs, charges, fees or disbursements which are chargeable against the bankrupt's estate have been taxed, the Official Assignee or the trustee, as the case may be, may require the taxation to be reviewed by a Judge.
(2) Where the Official Assignee or the trustee requires a taxation to be reviewed, he shall give notice to the person whose bill has been taxed of the time appointed for the review.
(3) If, upon the review of the taxation, the amount previously allowed on the bill is reduced, the amount disallowed shall, if the bill has been paid, be repaid to the Official Assignee or the trustee or other person entitled thereto.

(4) The person whose bill is reviewed shall be allowed such costs of and incidental to his appearance on the review as the Judge thinks proper, and such costs shall be paid out of the estate.

Disallowance of costs of unnecessary petition

261. Where a creditor's petition has been presented against the debtor and before it is heard the debtor files a petition on which a bankruptcy order is made, no costs shall be allowed to the debtor or his solicitor out of the estate, unless the court considers that the estate has benefited by the debtor's conduct, or that in the special circumstances costs should be allowed.

Apportionment of costs in case of partnership

262. In the case of a bankruptcy petition against a partnership, costs payable out of the estate incurred up to and inclusive of the bankruptcy order shall be apportioned between the joint and separate estates of the partners in such proportions as the Official Assignee or the trustee may determine.

PART IXA

ELECTRONIC FILING SYSTEM

Electronic filing system

262A. There shall be established an electronic filing system for the purposes of carrying out transactions with the Official Assignee under these Rules.

Duty of person carrying out electronic filing

262B. Any person who wishes to file, serve, deliver or otherwise convey an application or a request or document by means of the electronic filing system shall do so in accordance with these Rules and any practice directions issued by the Official Assignee.

Receipt of submission

262C. —(1) Any application, request or document transmitted by means of the electronic filing system is considered to have been submitted to and received by the Official Assignee if the last byte of the transmission containing the document is received by the server designated by the Official Assignee for the receipt of such transmissions.

(2) Any person who files with or sends to the Official Assignee any application, request or document by means of the electronic filing system may produce a record of transmission issued through the electronic filing system together with a copy of the notification of acceptance of the transmission by the Official Assignee as evidence of —

(a) the filing or sending of the application, request or document; and

(b) the date and time the filing or sending took place.

PART X

MISCELLANEOUS PROVISIONS

Administration of estates of deceased insolvent

Form of petition

263. A petition under section 148 of the Act shall be in Form 39 and shall be verified by affidavit in Form 40.

Deposit by petitioner

264. —(1) The petitioner shall file 2 copies of the petition in court, inclusive of the copy to be served on the Official Assignee, together with the deposit payable to the Official Assignee of such sums as are prescribed by the Bankruptcy (Fees) Rules (R 3).

(2) Upon the filing of 2 copies of the petition under paragraph (1), the petition shall be deemed to have been served on the Official Assignee.

(3) Where a petition under section 148 of the Act has been filed, the Official Assignee may, from time to time, require the petitioner to deposit with the Official Assignee such further sums as may be required by the Official Assignee, whether before or after the making of the administration order, to cover the fees and expenses incurred by the Official Assignee in connection with the petition.

Service of petition

265. The petition shall be served —

(a) unless the court otherwise directs, on each executor who has proved the will of the deceased debtor or, as the case may be, on each person who has taken out letters of administration of the estate of the deceased debtor; and

(b) on such other person, if any, as the court may direct.

Proof of service and hearing of petition

266. The provisions of the Act and these Rules regarding the proof of service and the hearing of a petition shall apply to a petition under section 148 of the Act as they apply to an ordinary creditor's petition.

Notification of administration order in *Gazette*

267. Rule 130 shall apply, with the necessary modifications, to an administration order as it applies to a bankruptcy order.

Duties of executor, etc.

268. —(1) When an administration order has been made, the legal personal representative of the debtor shall immediately —

(a) lodge with the Official Assignee an account in duplicate of his dealings with and administration of the deceased's estate; and

(b) furnish in duplicate a list of the creditors, a statement of the assets and liabilities and such other particulars of the affairs of the deceased as may be required by the Official Assignee.

(2) Every account, list or statement to be made under this rule shall as far as practicable be made and verified in accordance with the practice for the time being of the High Court in suits for the administration of the estates of deceased persons.

(3) The expense of preparing, making, verifying, and lodging any account, list or statement under this rule shall be taxed and allowed out of the estate upon production of the necessary allocatur.

Executor de son tort

269. Where an administration order has been made and it appears to the court on the report of the Official Assignee that no legal personal representative exists, the account, list and statement referred to in rule 268 shall be made, verified and lodged by such person as, in the opinion of the court on such report, has taken upon himself the administration of, or otherwise intermeddled with, the property of the deceased or any part thereof.

Persons of unsound mind

Appointment of representative

270. —(1) Where it appears to the court that any debtor, creditor or other person who may be affected by any proceedings under the Act or these Rules is a person of unsound mind not so found by inquisition (referred to in this rule as the person of unsound mind), the court may appoint such person as it thinks fit to appear for, represent or act for and in the name of the person of unsound mind, either generally, or for the purpose of any particular application or proceeding or in the exercise of any particular rights and powers which the person of unsound mind might have exercised if he had been of sound mind.

(2) The court may make the appointment —

(a) of its own motion; or

(b) upon application made by any person who has been duly appointed by any court to manage the affairs or property of, or to represent the person of unsound mind, or by any relative or friend of the person of unsound mind who appears to the court to be a proper person to make the application or by the Official Assignee or the trustee, as the case may be.

(3) The application may be made ex parte and without notice, but the court may —

(a) require such notice of the application as it thinks necessary to be given to the Official Assignee or the trustee, the petitioning creditor, the person alleged to be a person of unsound mind, or any other person; and

(b) may adjourn the hearing of the application to enable the notice to be given.

(4) The application shall be supported by an affidavit of a registered medical practitioner as to the medical condition of the person of unsound mind except that an application made by the Official Assignee may be supported by a report made by him.

(5) Any notice served on or given to a person appointed under this rule shall have the same effect as if the notice had been served on or given to the person of unsound mind.

Application by bankrupt for leave to act as director, etc.

271. —(1) Where a bankrupt intends to apply for leave to act as director or take part in the management of a company under section 148 of the Companies Act (Cap. 50), he shall serve upon the Official Assignee a copy each of the application and the affidavit in support thereof not less than 28 days before the date of the hearing.

(2) The Official Assignee shall make a report to the court not less than 7 days before the day fixed for the hearing.

Publications of notifications

272. —(1) All notices requiring publication in the *Gazette* shall be so published at the expense of the estate.

(2) An order or notice which has been amended or altered after publication in the *Gazette*, or which has been wrongly or inaccurately published, shall be re-published in the *Gazette* with the appropriate amendments at the expense of the estate or otherwise, as the court may direct

Registers

Registers to be kept by Registrar

273. The Registrar shall keep —

- (a) a register of voluntary arrangements;
 - (b) a register of bankruptcy petitions;
 - (c) a register of bankruptcy orders;
 - (d) a register of administration orders;
 - (e) a register of certificates of discharge, annulment orders and orders of discharge; and
 - (f) a register of all bills of costs taxed by him under the Act or these Rules,
- in such form, medium or mode as he thinks fit and shall make entries in the registers as soon as is practicable after the step in the proceeding to which they relate.

Inspection of registers

274. —(1) The registers kept by the Registrar shall, on payment of the appropriate fee specified in the Bankruptcy (Fees) Rules (R 3), be open to the public for inspection, except that the Registrar may refuse to allow a person to search any of the registers if he is not satisfied as to the propriety of the object for which the search is required.

(2) If the Registrar refuses to allow a search, the applicant may apply ex parte to a Judge in chambers who may allow or refuse the search on such terms, if any, as he thinks fit.

(3) The decision of the Judge shall be final.

Accounts and audit

Advances to Official Assignee

275. —(1) The Accountant-General may, on the application of the Official Assignee, make to him advances out of the Bankruptcy Estates Account to meet current expenses.

(2) The Official Assignee shall pay all moneys advanced to him under this rule to an account at some bank approved by the Minister.

(3) The account shall be kept in the name of the Official Assignee and entitled the “General Purposes Account” from which the Official Assignee shall make all payments necessary to be made on account of the various estates under his control, debiting each estate with the amount paid on its account.

Expenses of sale

276. When property forming part of a bankrupt’s estate is sold by the Official Assignee or the trustee, as the case may be, through an auctioneer or other agent, the gross proceeds of the sale shall be paid over by the auctioneer or agent, and the charges and

expenses connected with the sale shall afterwards be paid to the auctioneer or agent on production of the necessary allocatur.

Disposal of bankrupt's books and papers

277. The court may, on the application of the Official Assignee or the trustee, as the case may be, direct that the bankrupt's books of account and other documents given up by him be destroyed or otherwise dealt with in such manner as the court thinks fit.

Non-compliance with Rule

278. Non-compliance with any of these Rules or with any rule of practice shall not render any proceeding void unless the court so directs, but such proceeding may be set aside wholly or in part, amended or otherwise dealt with in such manner and upon such terms as the court thinks fit.