

STATUTORY RULES.

1935. No. 12.

RULES UNDER THE BANKRUPTCY ACT 1924-1933.*

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Rules under the *Bankruptcy Act* 1924-1933.

Dated this *Twenty Seventh*
day of *November*, 1935.

(SGD.) ISAAC A. ISAACS

Governor-General.

By His Excellency's Command,

(Sgd)/Robert G. Menzies

Attorney-General.

AMENDMENTS OF THE BANKRUPTCY RULES.†

1. In these Rules, any reference to a Rule, Schedule or Form shall be read as a reference to a Rule, Schedule or Form, as the case may be, contained in the Bankruptcy Rules, as amended to the date of commencement of these Rules. Interpretation.

2. Rule 146 is amended by omitting from sub-rule (3.) the words "capital city situated in any District" and inserting in their stead the words "city in which the Court issuing the notice is situated". Service of bankruptcy notice.

3. Rule 161 is amended by inserting, after the word "Act," the words "the warrant of execution endorsed by the Sheriff or". Documents to be annexed to petition under s. 52 (e) of Act.

4. Rule 170 is amended by inserting in sub-rule (2.), after the word "shall", the words "unless otherwise directed by the Court,". Time of hearing.

5. After rule 386, the following rule is inserted:—
"386A. The Inspector-General may give special or general directions to any Official Receiver in any bankruptcy matter." Directions by Inspector-General.

6. Rule 387 is amended by adding at the end thereof the words "and of any direction given by the Inspector-General in pursuance of section thirteen of the Act". Judicial notice to be taken of Inspector-General's directions.

7. Rule 399 is repealed and the following rule inserted in its stead:—

"399. Any officer who has been given a direction by the Inspector-General in pursuance of section thirteen of the Act may, subject to the directions of the Inspector-General or of the Court, represent the Official Receiver in any proceedings in Court or in any administrative or other matter." Representation of Official Receiver in Court.

8. Form 6 in the First Schedule is amended by inserting, after paragraph 2, the following paragraph:—

"3. I identified the person I served as the said
by (the deponent should here state the source of his knowledge)."

Amendment of Form 6.

* Notified in the *Commonwealth Gazette* on

† Statutory Rules 1934, No. 77, as amended by Statutory Rules 1935, No. 34.

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9. Form 10 in the First Schedule is amended by inserting, after paragraph 2, the words “(*The deponent should here state the source of his knowledge.*)”.

Amendment of
Form 10.

10. Form 11 in the First Schedule is amended by inserting, after paragraph 4, the words “(*The deponent should here state the source of his knowledge.*)”.

Amendment of
Form 11.

11. Form 14 in the First Schedule is amended by omitting from the heading the words “NOTICE OF PETITION” and inserting in their stead the words “NOTICE OR PETITION”.

Amendment of
Form 14.

12. Form 29H in the First Schedule is amended by omitting from paragraph (d) in the eighth column the words “as per Sheet ‘F’” and inserting in their stead the words “as per Sheet ‘G’”.

Amendment of
Form 29H.

13. Forms 35 and 36 in the First Schedule are amended—

Amendment of
Forms 35 and
36.

(a) by omitting the words “of all the creditors who have proved their debts”; and

(b) by omitting the words “Creditors who prove their debts, and whose votes are admitted, and who do not vote on the debtor’s proposal, will be reckoned as voting *against* it.”.

14. Form 85 in the First Schedule is repealed and the following Form inserted in its stead:—

Repeal and
substitution of
Form 85.

“No. 85.

COMMONWEALTH OF AUSTRALIA.

The *Bankruptcy Act* 1924-1933.

ORDER ON APPLICATION TO APPROVE COMPOSITION OR SCHEME.
(Title.)

On the application of _____, and on reading the report of the Official Receiver filed on the _____ day of _____, and hearing the Official Receiver and _____, and the Court being satisfied that the creditors in the above matter have duly accepted a composition (*or scheme*) in the following terms, namely (*here insert terms if short; if not, insert, ‘in the terms contained in the paper writing marked A annexed hereto’*) *,
And being satisfied—

(a) That the said terms are reasonable and calculated to benefit the general body of creditors; and

(b) That no facts have been proved which would justify the Court in refusing, qualifying, or suspending an order of discharge; or

(c) That facts have been proved which would justify the Court in refusing, qualifying, or suspending an order of discharge, but that, having regard to the nature of such facts, and the composition (*or scheme*) providing reasonable security for payment of not less than _____ shillings in the pound on all the unsecured debts provable against the debtor’s estate,

the said composition (*or scheme*) is hereby approved; and it is ordered—

That the order of sequestration of the bankrupt’s estate made on the _____ day of _____, 19____, be and the same is hereby annulled.

(*If the composition or scheme is not approved, after * insert ‘and being satisfied—*

(a) That the said terms are not reasonable or calculated to benefit the general body of creditors;

(b) That the case is one in which the Court would be required to refuse his discharge; or

(c) That facts have been proved which would under the Act justify the Court in refusing, qualifying, or suspending the bankrupt’s discharge,

the Court doth refuse to approve the said composition (*or scheme*).’).

Dated this _____ day of _____, 19____.

By the Court,

Registrar.”.

15. Form 99 in the First Schedule is amended by omitting the word "to" (second occurring) and inserting in its stead the word "do". Amendment of Form 99.

16. Form 114 in the First Schedule is amended by inserting, after the word “first”, the words “(or final)”. Amendment of Form 114.

17. Form 116 in the First Schedule is amended by omitting the words “Dated this^(b) day of , 19 ” and inserting in their stead the following words:—

“The date of^(b) was .”

Dated this day of , 19 ”.

18. Form 118 in the First Schedule is amended by omitting the words “Dated this^(a) day of , 19 ” and inserting in their stead the following words:—

“ The date of^(a) was .
Dated this day of , 19 ”.

Amendment of
Form 118.

19. The Second Schedule is amended by omitting from Item 60 in the Scale of Solicitors' Costs the figures "56" and inserting in their stead the figures "55".

20. The Third Schedule is amended—

(a) by omitting from Item 15 in the Scale of Official Fees and Percentages the figures and word “12 or 14” and inserting in their stead the figures and word “12, 14, 28 or 31”;

(b) by adding at the end of paragraph (a) of Item 1 in Table B the words “by the Official Receiver”; and

(c) by omitting from paragraph (b) of Item 1 in Table B the words “not exceeding” and inserting in their stead the word “of”.

Amendment of
the Third
Schedule.