

# STATUTORY RULES.

1960. No. 72

## RULES UNDER THE BANKRUPTCY ACT 1924-1959.\*

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 1924-1959*.

Dated this 30<sup>th</sup>.

day of August, 1960.

DUNROSSIL

Governor-General.

By His Excellency's Command,

(sgd.) G. H. BARWICK

Attorney-General.

### AMENDMENTS OF THE BANKRUPTCY RULES.†

1. Rule 40 of the Bankruptcy Rules is amended—

Preparation of orders.

(a) by omitting from sub-rule (1.) the word "completed" and inserting in its stead the word "filed"; and

(b) by omitting from that sub-rule the word "complete" (wherever occurring) and inserting in its stead the word "file".

2. Rule 42 of the Bankruptcy Rules is repealed and the following rule inserted in its stead:—

"42. Each order of the Court and a warrant issued in pursuance of an order of the Court shall be signed by the Registrar and sealed with the seal of the Court unless the Court otherwise orders or the Act or these Rules otherwise provide."

Signature of orders.

3. After Rule 100 of the Bankruptcy Rules the following rules is inserted:—

"100A. Where an order is made committing a person to prison for contempt of Court, the warrant of committal shall be in accordance with Form 169."

Warrant of committal.

4.—(1.) Rule 153 of the Bankruptcy Rules is amended by omitting from sub-rule (1.) the words "Five pounds" and inserting in their stead the words "Ten pounds".

Deposit by petitioning creditor.

(2.) This rule shall come into operation on the twelfth day of September, 1960.

5. Rule 157 of the Bankruptcy Rules is repealed.

Proof of service of trustee's petition under deed of arrangement.

\* Notified in the *Commonwealth Gazette* on 30<sup>th</sup> August, 1960.  
† Statutory Rules 1934, No. 77, as amended by Statutory Rules 1935, Nos. 34 and 122; 1936, No. 101; 1937, No. 111; 1939, No. 41; 1940, No. 212; 1941, Nos. 12 and 55; 1942, No. 6; 1949, No. 100; 1953, Nos. 71, 79 and 101; 1954, No. 131; 1955, No. 17; 1956, No. 61; 1957, No. 47; and 1958, Nos. 64 and 73.

**6.** Rule 160 of the Bankruptcy Rules is repealed and the following rule inserted in its stead:—

“160. Where a petition is presented by a creditor alleging that a debtor has committed the act of bankruptcy referred to in paragraph (a) of section 52 of the Act, by making a conveyance or assignment of his property to a trustee for the benefit of his creditors generally, the petitioning creditor shall, within eight days after the filing of the petition, serve a sealed copy of the petition on the trustee under the conveyance or assignment.”

a Notice where petition is under s. 52 (a) of Act.

**7.** Rule 163 of the Bankruptcy Rules is repealed and the following rule inserted in its stead:—

“163. A creditor’s petition shall be personally served by delivering to the debtor a sealed copy of the filed petition together with a copy of each affidavit verifying the petition.”

Personal service.

**8.** Rule 166 of the Bankruptcy Rules is repealed and the following rule inserted in its stead:—

“166. Service of the petition shall be proved by affidavit to which shall be annexed a sealed copy of the petition and a copy of each affidavit served with the petition.”

Proof of service.

**9.** Rule 187 of the Bankruptcy Rules is amended by omitting sub-rules (3.) and (4.) and inserting in their stead the following sub-rule:—

Form and contents.

“(3.) Where the sequestration order is made on a creditor’s petition, the petitioning creditor shall cause the order to be drawn up and filed within seven days of the making thereof or within such further time as the Court directs.”

**10.** Rule 473 of the Bankruptcy Rules is repealed.

Description of Court on seal.

**11.** Rule 481 of the Bankruptcy Rules is repealed.

Names of Bankruptcy Districts.

**12.** The First Schedule to the Bankruptcy Rules is amended—

First Schedule.

(a) by omitting from Form 5 the words “or proceeding” (wherever occurring) and inserting in their stead the words “(or proceeding)”;

(b) by omitting from Form 25 the words “of this Court” and inserting in their stead the words “in this District”;

(c) by omitting from Form 25 the words “constituted receiver” and inserting in their stead the words “constituted official receiver”;

(d) by omitting from Form 25 the words—

“Note.—The above-named debtor is required immediately after the making of this order to attend the Official Receiver or his representative at

The Official Receiver’s offices are open from 10 a.m. to 1 p.m. and 2 p.m. to 4 p.m. daily except on Saturdays, Sundays, and Court Holidays.”;

(e) by omitting from Form 26 the words “of this Court” and inserting in their stead the words “in this District”;

(f) by omitting from Form 26 the words—

“Note.—The above-named debtor is required, immediately after the making of this order, to attend the Official Receiver or his representative at

The Official Receiver’s offices are open from 10 a.m. to 1 p.m. and 2 p.m. to 4 p.m. daily except on Saturdays, Sundays and Court Holidays.”;

(g) by omitting from Form 169 the words—

“To X.Y., officer of this Court, and to the Governor or keeper of the [here insert the prison].”;

and inserting in their stead the words—

“To [here insert name and designation of escort] and to the Governor or Keeper of the [here insert the name of the prison].”.

(h) by omitting from Form 169 the words “By the Court.”;

(i) by omitting from Form 178 the words “of this Court” and inserting in their stead the words “in this District”; and

(j) by omitting from Form 179 the words “of this Court” and inserting in their stead the words “in this District”.

13.—(1) The Third Schedule to the Bankruptcy Rules is repealed and the following Schedule inserted in its stead:—

THIRD SCHEDULE.

TABLE A.

Rule 66.

SCALE OF OFFICIAL FEES AND PERCENTAGES TO BE TAKEN IN THE REGISTRIES.

Item No.	Nature of Proceeding.	Amount.
		£ s. d.
1	On a petition .. .. .	5 0 0
2	On a deed of assignment under Part XI. of the Act or on a chairman’s certificate under section 161 (c) .. .. .	5 0 0
3	On a deed under Part XII. of the Act .. .. .	5 0 0
4	On a declaration by a debtor of inability to pay his debts .. .. . And, in addition, the cost of advertisement in the <i>Gazette</i>	1 0 0
5	On a notice of intention to oppose a petition or application .. .. .	1 0 0
6	On an order adjourning a petition .. .. .	1 0 0
7	On a voluntary application for discharge, including the cost of gazetting and the fee on the order granting or refusing the application .. .. . And, for each creditor notified .. .. .	4 0 0 0 1 6
8	On an application for search other than by a petitioning creditor, the debtor, the bankrupt or the trustee, for each name .. .. .	0 2 6
9	On an application to a Registrar exercising powers and functions delegated to him by the Court and for which a fee is not elsewhere prescribed in this scale .. .. .	1 0 0
10	On the issue of an order made by the Registrar in pursuance of powers and functions delegated to him by the Court, including the issue of copies of the order .. .. .	0 10 0
11	On an application (other than a petition or an application for discharge)— (a) for hearing before a Judge in Court .. .. . (b) for hearing before a Judge in Chambers .. .. .	4 0 0 1 0 0
12	On an order (other than an order adjourning a petition or granting or refusing an application for discharge)— (a) made by a Judge in Court .. .. . (b) made by a Judge in Chambers .. .. .	2 0 0 1 0 0
13	On a bill of costs or charges .. .. .	1 0 0

THIRD SCHEDULE—continued.

Item No.	Nature of Proceeding.	Amount.
		£ s. d.
14	On every estate sequestrated and on every estate in respect of which a composition or scheme of arrangement or deed of assignment has been entered into under Part XI. of the Act or in respect of which a deed of arrangement has been entered into under Part XII. of the Act, a percentage on— (a) in the case of a composition or scheme of arrangement to which section 161A of the Act applies—the amount received by the trustee or distributed by the debtor to the creditors; or (b) in any other case—the amount realized or brought to credit in the estate of the trustee after deduction of sums paid to secured creditors in respect of their securities and sums spent in carrying on the business of the bankrupt or debtor, at the following rates:— On the first £10,000 or part of £10,000 .. .. . On the next £10,000 or part of £10,000 .. .. . On all further sums .. .. .	1 5 0 per centum 1 0 0 per centum 0 10 0 per centum
15	On an application to a Registrar for a summons or subpoena ..	0 10 0
16	On the issue by the Registrar of a summons or subpoena, for each person required to attend .. .. .	0 5 0
17	On an allocatur or certificate by a Taxing Officer .. .. . And a percentage charge on the amount allowed by the allocatur or certificate (excluding the fee on the allocatur or certificate and the percentage charge) at the rate in the £ of .. .. .	0 10 0 0 9 9
18	For signing and sealing or signing or sealing a document, not being a copy of a bankruptcy notice, petition, order, subpoena or summons issued at the time the original is signed, in respect of which a fee is not elsewhere prescribed in this scale .. .. .	0 5 0
19	On a bond by or in respect of a trustee .. .. .	1 0 0
20	On an affidavit, other than a proof of debt, affidavit verifying trustees' accounts or affidavit sworn by a bankrupt in accordance with Form 72 in the First Schedule to these Rules .. .. .	0 3 0
21	For taking and transcribing notes of evidence taken at examinations held under the Act, including one copy for either the Official Receiver or trustee, per folio of 72 words .. .. .	0 0 9
22	For the supply of transcript of proceedings in Court or the transcript of evidence taken at examinations held under the Act, unless a re-type of the transcript is necessary— (a) for the first copy supplied, per folio of 72 words .. .. . (b) for the second copy supplied to the same party, per folio of 72 words .. .. . (c) for each additional copy supplied to the same party, per folio of 72 words .. .. .	0 0 9 0 0 9 0 0 3
23	For the supply of transcript of proceedings in Court or the transcript of evidence taken at examinations held under the Act when a re-type of the transcript is necessary, per folio of 72 words, per copy .. .. .	0 1 3
24	For a photographic copy of a document or record, per sheet .. .. .	0 2 6
25	For an office copy, sealed copy or certified copy, per folio of 72 words .. .. .	0 1 4
26	For examining a copy supplied by a party and for marking it as an office copy, sealed copy or certified copy, per folio of 72 words .. .. .	0 0 9
27	On a certificate issued by a Registrar relating to a matter under the Act, other than a certificate or allocatur for costs .. .. .	1 0 0
28	On an application to a Registrar to fix a fresh date for the hearing of a petition which has not been served, including the signing and sealing of necessary alterations .. .. .	0 10 0

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THIRD SCHEDULE—*continued.*

Item No.	Nature of Proceeding.	Amount.
		<i>£ s. d.</i>
29	On an application to extend the time for service of a bankruptcy notice, including the signing and sealing of the order extending	1 0 0
30	On issuing a bankruptcy notice, including copies for service ..	2 10 0

TABLE B.

Rule 66.

SCALE OF FEES AND PERCENTAGES TO BE TAKEN BY OFFICIAL RECEIVERS.

Item No.	Basis of Fee or Percentage.	Amount.
		<i>£ s. d.</i>
1	For the Official Receiver's officer executing attachment order and making inventory, per hour or part of hour .. .. .	1 0 0
2	For a room for a meeting or adjourned meeting of creditors convened by the Official Receiver as Interim Receiver, as Official Receiver or as trustee .. .. .	2 0 0
3	For official stationery, printing, books, postage, telegrams and local telephone calls—	
	(a) for every 20 creditors, or part of 20, in each estate ..	3 0 0
	(b) for every 20 debtors, or part of 20, in each estate ..	2 0 0
4	For notices to creditors of Court sittings, of meetings of creditors and of dividends payable, each notice .. .. .	0 2 0
5	On the amount realized or brought to credit by an Official Receiver, whether acting as an Interim Receiver, as Official Receiver or as trustee, after deducting sums paid to secured creditors in respect of their securities and sums spent in carrying on the business of the debtor or bankrupt, a fee in accordance with the following scale:—	
	(a) where the amount realized or brought to credit does not exceed £400 .. .. .	30 0 0
	(b) where that amount exceeds £400 but does not exceed £500 ..	35 0 0
	(c) where that amount exceeds £500 but does not exceed £10,000 .. .. .	35 0 0
	And for each £100, or fraction of £100, in excess of £500 .. .. .	7 10 0
	(d) where that amount exceeds £10,000 but does not exceed £20,000 .. .. .	747 10 0
	And for each £100, or fraction of £100, in excess of £10,000 .. .. .	3 10 0
	(e) where that amount exceeds £20,000 .. .. .	1,097 10 0
	And for each £100, or fraction of £100, in excess of £20,000 .. .. .	1 0 0

(2.) This rule shall come into operation on the twelfth day of September, 1960.

By Authority: A. J. ARTHUR, Commonwealth Government Printer, Canberra.