



Family Law Amendment (Insolvency Law Reform) Rules 2017

We, Judges of the Family Court of Australia, make the following Rules of Court.

Dated 22 August 2017

D Bryant CJ
S Strickland J
A Ainslie-Wallace J
J Ryan J
P Murphy J
M Aldridge J
M Kent J
M Le Poer Trench J
G Watts J
R Benjamin J
P Cronin J
S Moncrieff J
M Cleary J
W Johnston J
I Loughnan J
C Forrest J
K Macmillan J
J Rees J
J Walters J
P Tree J
J Hogan J
D Berman J
S Johns J
G Foster J

C Thornton J
H Hannam J
R McClelland J
C Carew J
R O'Brien J
S Gill J

Judges of the Family Court
of Australia

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1 Name

These Rules are the *Family Law Amendment (Insolvency Law Reform) Rules 2017*.

2 Commencement

- (1) Each provision of these Rules specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of these Rules	1 September 2017.	1 September 2017

Note: This table relates only to the provisions of these Rules as originally made. It will not be amended to deal with any later amendments of these Rules.

- (2) Any information in column 3 of the table is not part of these Rules. Information may be inserted in this column, or information in it may be edited, in any published version of these Rules.

3 Authority

These Rules are made under the *Family Law Act 1975*.

4 Schedules

Each instrument that is specified in a Schedule to these Rules is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to these Rules has effect according to its terms.

Schedule 1—Amendments

Family Law Rules 2004

1 Rule 26.04 (paragraph (d) of the note)

Repeal the paragraph.

2 Rule 26.04 (paragraph (f) of the note)

Omit “estate;”, substitute “estate.”.

3 Rule 26.04 (paragraph (g) of the note)

Repeal the paragraph.

4 Rule 26.26

Repeal the rule, substitute:

26.26 Applications in relation to the appointment of a trustee

- (1) This rule applies to an application under section 90-20 of Schedule 2 to the Bankruptcy Act for either of the following orders:
 - (a) an order that a person cease to be the trustee of an estate;
 - (b) an order that another person be appointed as the trustee of an estate.
- (2) The application must be accompanied by an affidavit stating the grounds in support of the application.
- (3) At least 28 days before the date fixed for the hearing of the application, the applicant must serve the application and supporting affidavit on the trustee and any petitioning creditor.
- (4) At least 14 days before the date fixed for the hearing of the application, the applicant must serve the application and supporting affidavit on each person known to the applicant to be a creditor of the estate.
- (5) If the court makes the order sought, the applicant must, as soon as practicable, serve a copy of the order on the Official Receiver.

5 Subparagraph 26.27(1)(b)(ii)

Omit “the most recent of the accounts required under subsection 173(1) of the Bankruptcy Act”, substitute “the books referred to in section 70-10 of Schedule 2 to the Bankruptcy Act in relation to the estate”.

6 In the appropriate position in Chapter 27

Insert:

**Part 27.2—Transitional provisions relating to the Family
Law Amendment (Insolvency Law Reform)
Rules 2017**

27.03 Transitional—release of trustee

- (1) This rule applies if:
 - (a) an application referred to in paragraph 26.27(1)(b) is made after 1 September 2017 for the release of a trustee from the trusteeship of an estate; and
 - (b) because of item 143 of Schedule 1 to the *Insolvency Law Reform Act 2016*, the trustee is required to keep accounts and records (the **old accounts**) in relation to the estate in accordance with section 173 of the Bankruptcy Act (as that section was in force immediately before it was repealed by Schedule 1 to the *Insolvency Law Reform Act 2016*).
- (2) In addition to the books referred to in subparagraph 26.27(1)(b)(ii), a copy of the old accounts must accompany the application.