



STATUTORY INSTRUMENTS.

**S.I. No. 120 of 2012**



RULES OF THE SUPERIOR COURTS (BANKRUPTCY) 2012

**(Prn. A12/0601)**

RULES OF THE SUPERIOR COURTS (BANKRUPTCY) 2012

We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, by virtue of the powers conferred upon us by The Courts of Justice Act 1924, section 36, and the Courts of Justice Act 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), the Courts (Supplemental Provisions) Act 1961, section 14, the European Communities (Rules of Court) Regulations 1972 (S.I. No. 320 of 1972), and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 28th day of November, 2011.

Susan Denham

Nicholas Kearns

Joseph Finnegan

Elizabeth Dunne

John Edwards

Paul McGarry

Gerard Meehan

Patrick Groarke

Patrick O'Connor

Mary Cummins

Noel Rubotham

Geraldine Manners

I concur in the making of the following Rules of Court.

Dated this 11th day of April, 2012.

ALAN SHATTER

Minister for Justice and Equality

*Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 13th April, 2012.*

S.I. No. 120 of 2012

RULES OF THE SUPERIOR COURTS (BANKRUPTCY) 2012

1.— (1) These Rules, which may be cited as the Rules of the Superior Courts (Bankruptcy) 2012, shall come into operation on the 20th day of April 2012.

(2) These Rules shall be construed together with the Rules of the Superior Courts.

(3) The Rules of the Superior Courts as amended by these Rules may be cited as the Rules of the Superior Courts 1986 to 2012.

2. The Rules of the Superior Courts are amended:

- (i) by the substitution for Order 76 of the Order set out in Schedule 1;
- (ii) by the substitution for the Forms numbered 9, 11, 13, 15, 19, 23, 26, 33 and 34 in Appendix O of the Forms bearing the like numbers set out in Schedule 2, and
- (iii) by the insertion in appropriate sequence in Appendix O of the Forms numbered 21A and 50 set out in Schedule 3.

**Schedule 1**

“ORDER 76: BANKRUPTCY

I. Preliminary

1. (1) In this Order and in the forms in Appendix O:—

“the Act” means the Bankruptcy Act 1988;

“the Bank” means the Central Bank of Ireland;

“centre of main interests” shall be construed in accordance with the Insolvency Regulation;

“committee of inspection” means the committee of inspection appointed for the purpose of winding up the estate of a bankrupt in accordance with section 110 of the Act where so appointed;

“the Court” means the Judge to whom causes and matters in Bankruptcy are for the time being assigned by the President of the High Court and includes any other Judge for the time being so assigned and acting in any such matters;

“Court file” means the file kept by the proper officer;

“debt proved” includes any debt which has been duly admitted without proof;

“document” includes a book, paper or writing of any kind, and any matter stored by way of microfilm or electronic or digital information systems and capable of being reproduced in a legible form;

“establishment” has the meaning assigned by Article 2(*h*) of the Insolvency Regulation;

“form” means the appropriate form in Appendix O or such other form as is from time to time prescribed or sanctioned by the Court in cases where no form has been prescribed;

“insolvency proceedings” means the collective proceedings set out in Article 1 of the Insolvency Regulation and

(*a*) in relation to the State, set out in Annex A to the Insolvency Regulation under the heading “Ireland”, and

(*b*) in relation to another Member State, set out in Annex A to the Insolvency Regulation under the heading relating to that Member State;

“the Insolvency Regulation” means Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ L160/1 of 30 June 2000);

“the Judge” means the Judge to whom causes and matters in Bankruptcy are for the time being assigned by the President of the High Court and includes any other Judge for the time being so assigned and acting in any such matters;

“liquidator in main proceedings” means a person performing, in relation to a debtor, functions described in Article 2(b) of the Insolvency Regulation in main proceedings opened in a Member State other than the State;

“main proceedings” means proceedings opened in accordance with Article 3(1) of the Insolvency Regulation and falling within the definition of insolvency proceedings in Article 2(a) of the Insolvency Regulation and

(a) in relation to the State, set out in Annex A to the Insolvency Regulation under the heading “Ireland”, and

(b) in relation to another Member State, set out in Annex A to the Insolvency Regulation under the heading relating to that Member State;

“Member State” means a member state of the European Union other than the Kingdom of Denmark;

“the Official Assignee” means the Official Assignee in Bankruptcy for the time being;

“proper office” means the Examiner’s Office;

“proper officer” means the Examiner or such other officer as may have been designated by the President of the High Court to exercise the powers and functions of the Examiner;

“the 2010 Regulations” means the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010);

“secondary proceedings” means proceedings opened in accordance with Articles 3(2) and 3(3) of the Insolvency Regulation and falling within the definition of insolvency proceedings in Article 2(c) of the Insolvency Regulation and

(a) in relation to the State, set out in Annex B to the Insolvency Regulation under the heading “Ireland”, and

(b) in relation to another Member State, set out in Annex B to the Insolvency Regulation under the heading relating to that Member State;

“the sitting for distribution” means the sitting of the Court held or to be held in pursuance of section 82(2) of the Act;

“the statutory sitting” means the sitting of the Court held or to be held in pursuance of section 17(3) of the Act;

“territorial proceedings” means proceedings opened in accordance with Article 3(2) and 3(4) of the Insolvency Regulation and falling within the definition of insolvency proceedings in Article 2(a) of the Insolvency Regulation and

- (a) in relation to the State, set out in Annex A to the Insolvency Regulation under the heading “Ireland”, and
- (b) in relation to another Member State, set out in Annex A to the Insolvency Regulation under the heading relating to that Member State;

“trustee” means the trustee appointed for the purpose of winding up the estate of a bankrupt in accordance with section 110 of the Act where so appointed;

(2) In rules 20-23 inclusive, 25, 29, 36, 38, 69, 102, 105, 123 to 125 inclusive, 136 to 138 inclusive and 155 a reference to a “creditor” shall, where relevant, include reference to a liquidator in main proceedings.

(3) In any case in which main proceedings or secondary proceedings have been opened in a Member State other than the State, the Official Assignee shall, where such document may be relevant to the main proceedings or secondary proceedings concerned, immediately send a copy of every petition, notice, report, affidavit or other document in the proceedings in the State in respect of the debtor to the liquidator in the main proceedings or secondary proceedings by electronic mail or facsimile where possible or otherwise by registered prepaid post, in accordance with and for the purposes of Article 31 of the Insolvency Regulation.

## II. Proceedings Generally

2. Proceedings in matters of bankruptcy or arrangement, proceedings under Part VI of the Act and proceedings under the Insolvency Regulation in matters of bankruptcy shall be entitled:

“THE HIGH COURT BANKRUPTCY”.

3. The prescribed forms shall be used in all such proceedings.

4. All such proceedings (except notices to creditors) shall be written or printed or partly written and partly printed on paper measuring 210 millimetres by 297 millimetres or thereabouts, with a binding margin 45 millimetres wide; but no objection shall be allowed to any proof of debt or proxy on account of its being written or printed on paper of any other size.

5. The proper officer shall cause to be opened in each matter a Court file on which all proceedings in the matter shall be placed and recorded so as to form a complete record of the matter and they shall not be removed from such file for any purpose without a special direction of the Court or the proper officer.

6. Every document or proceeding to be signed by the Court shall be first examined or signed by the proper officer.

7. All summonses, orders, warrants, certificates and other process issued by the Court shall be sealed and signed by the proper officer and shall be taken up from the proper officer.

8. In lieu of attaching a copy of Iris Oifigiúil to the proceedings in each bankruptcy or other matter, one copy of every Iris Oifigiúil shall be filed and preserved by the proper officer.

9. All notices and other proceedings for the delivery of which no special mode is prescribed may be sent by prepaid ordinary post to the last known address of the person to be served therewith.

### III. Bankruptcy Summons

10. A bankruptcy summons shall be in the Form No. 1 and shall:

- (a) require the debtor, within fourteen days after the service of the summons upon him, to pay the debt to the creditor or to secure the payment of the debt to the satisfaction of the creditor or to compound the debt to the satisfaction of the creditor, and
- (b) state that in the event of the debtor failing to pay the sum specified in the summons or to secure or compound for it to the satisfaction of the creditor such default shall be an act of bankruptcy.

11. (1) A creditor desirous that a bankruptcy summons may be granted shall, not earlier than four clear days after he shall have served a notice in the Form No. 4, file in the proper office a copy of such notice, together with an affidavit in the Form No. 5 of the truth of his debt made by himself or by any other person who can swear positively to the facts verifying the truth of his debt, and that no form of execution has issued in respect of such debt and remains to be proceeded upon, and shall lodge with the proper officer any bills, notes, guarantees, contracts, judgments or orders referred to in his affidavit together with the summons which it is proposed to issue.

(2) Where a debt of any part thereof is for money lent pursuant to a credit agreement to which either the Consumer Credit Act 1995 applies or the 2010 Regulations apply, or interest or charges in connection with such an agreement, the affidavit shall contain:

- (a) a statement of the date when a copy of the credit agreement was handed, delivered or sent to the borrower in accordance with section 30 of the Consumer Credit Act 1995 or, as the case may be, received by the borrower in accordance with Regulation 13(2) of the 2010 Regulations, and
- (b) particulars showing compliance of the credit agreement as to content with the requirements of Part III of the Consumer Credit Act 1995 or, as the case may be, Part 4 of the 2010 Regulations, which particulars shall be verified by the affidavit.

(3) A creditor who has complied with the requirements of sub-rules (1) and (2) shall apply ex parte to the Court for the grant of a Bankruptcy Summons at such time and place as shall have been fixed for the hearing of the application.

12. (1) A bankruptcy summons may be granted in accordance with section 8(2) of the Act to two or more creditors who are not partners, upon the affidavits of each of them.

(2) A bankruptcy summons may be granted to a partnership upon the affidavit of one of the partners.

(3) A bankruptcy summons may be granted to a company or other body corporate upon the affidavit of the secretary, director or other person duly authorised in that behalf.

(4) Detailed particulars of demand shall be endorsed upon or annexed to the bankruptcy summons. No objection shall be allowed to the particulars unless the Court considers that the debtor has been misled by them. An original and at least two copies of every bankruptcy summons and particulars shall be lodged with the proper officer at the time of issue, and shall be sealed.

13. (1) Every bankruptcy summons shall be endorsed with the name and registered place of business of the solicitor for the summoning creditor. If no solicitor is employed for the purpose, it shall bear an endorsement stating that it has been granted to the creditor in person, together with his residence and an address within the jurisdiction at which a notice to dismiss the summons or any other notice or proceeding in the matter may be served.

(2) There shall be endorsed on the summons in addition to an intimation of the consequences of neglect to comply with the requisition of the summons, a notice to the debtor that if he disputes the debt and desires to obtain the dismissal of the summons he must file an affidavit within fourteen days after service of the summons stating (a) that he is not so indebted or only so indebted to a less amount than €1,904.61 or (b) that before the service of the summons he had obtained the protection of the Court or (c) that he has secured or compounded the debt to the satisfaction of the creditor.

(3) Where the summoning creditor is ordinarily resident outside the jurisdiction or, being a company or other body corporate, has its registered office or principal place of business outside the jurisdiction, there shall be endorsed on the front of the bankruptcy summons an address within the jurisdiction at which payment can be made.

14. (1) A bankruptcy summons shall be personally served within twenty-eight days from the date of the summons by delivering to the debtor a sealed copy of the summons with endorsed or annexed particulars of demand together with a true copy of the affidavit filed in accordance with rule 11. If personal service within the time limit cannot be effected, the Court may grant extension of the time for such service. If the Court is satisfied by affidavit that the debtor is evading service or that from any other cause prompt personal service cannot be effected, it may order service to be effected in the manner permitted by Order 9, rule 2 as if the debtor were a defendant, or make such order for substituted or other service, or for the substitution for service of notice by letter, public advertisement (in the Form No. 8), or otherwise, as may be just.



(2) The person serving a bankruptcy summons shall, within three days at most after service, endorse on the summons the day and date of the service thereof, and every affidavit of service of such summons shall mention the date on which such endorsement was made. Such affidavit shall be in the Form No. 3.

15. The affidavit mentioned in sub-rule (2) of rule 13 shall be in the Form No. 6. Where a debtor files such affidavit, the time shall be fixed by the proper officer at which the application for the dismissal of the summons will be heard by the Court. Notice thereof in the Form No. 7 shall be given and the affidavit served by the debtor, not less than four days before the date so fixed, by service of the notice and the affidavit on the solicitor for the summoning creditor at his registered place of business or, if no solicitor is employed, by service on the summoning creditor at the address within the jurisdiction for the service of notices. In default of the debtor giving notice or in default of his appearance before the Court at the time fixed his application shall be dismissed.

#### IV. Security

16. (1) Where a person is required to give security, such security, unless otherwise specially directed by the Court, shall be in the form of a bond with one or more sureties.

(2) The bond shall be taken in such sum as the Court shall fix having regard to the amount in issue and the probable cost of the proceeding.

(3) Where a person is required to give security he may in lieu of entering into a bond lodge in Court to the credit of the matter such sum as the Court shall fix. Notice of such lodgment having been made shall be given forthwith to the person entitled to the security. Money so lodged shall be subject to the order of the Court and shall be drawn out by the draft of the Official Assignee, but every such draft shall be signed also by the Judge.

(4) The security of a guarantee association or society approved of by the Court may be given in lieu of a bond or a lodgment.

(5) In all cases where a person proposes to give a bond by way of security he shall serve two clear days previously on the solicitor for the person to be secured, or on such person when no solicitor has been employed, notice of the proposed sureties and of the time and place appointed for the execution of the bond according to the prescribed form.

(6) The sureties shall make an affidavit of their sufficiency according to the prescribed form unless the person to be secured shall dispense with such affidavit, and such sureties shall attend the Court to be cross-examined if required.

(7) The bond shall be executed and attested in the presence of the Official Assignee unless otherwise directed by the Court.

## V. Declaration of insolvency

17. Any debtor may file a declaration of his insolvency in the Form No. 9 and such declaration shall be signed by the debtor in the presence of a solicitor, who shall inform such debtor of the nature and effect thereof and shall subscribe his name as witness to the due execution thereof, and file an affidavit in the Form No. 10, verifying such declaration of insolvency.

18. A petition of bankruptcy filed by any debtor shall be deemed to include a declaration of insolvency, and no such declaration shall in such case be necessary.

## VI. Bankruptcy petition

## A. Bankruptcy Petition by a person other than the Debtor (including petition to open territorial proceedings under the Insolvency Regulation)

19. (1) A petition by a person other than the debtor shall be in the Form No. 11 and shall:

- (a) contain a statement showing the nature and amount of the debt and showing that the debt has not been paid, secured or compounded;
- (b) recite the specific act of bankruptcy on which the petition is founded;
- (c) contain an undertaking by the petitioner to advertise notice of the adjudication and statutory sitting in the manner directed by the Court, and to bear the expenses of such advertisement;
- (d) contain:
  - (i) statements that the Insolvency Regulation applies to the proceedings and that the debtor's centre of main interests is situated in the State and the facts and grounds supporting each statement; or
  - (ii) statements that the Insolvency Regulation applies to the proceedings, that the debtor's centre of main interests is situated in another specified Member State and that the debtor has an establishment within the State and the facts and grounds supporting each statement; or
  - (iii) a statement that the Insolvency Regulation does not apply to the proceedings, and in such case, shall contain a statement that the debtor is domiciled in the State or that, within a year before the date of the presentation of the petition, he has ordinarily resided or had a dwellinghouse or place of business in the State, or that he has carried on business in the State personally or by means of an agent or manager, or that he is or within the said period has been a member of a partnership which has carried on business in

the State by means of a partner, agent or manager and the facts and grounds supporting that statement;

- (e) where the Insolvency Regulation applies to the proceedings, contain a statement that, to the petitioner's knowledge, no insolvency proceedings have been opened in respect of the debtor in any Member State or Member States (other than the State), or that such insolvency proceedings have been opened and if so, whether those insolvency proceedings are main proceedings, secondary proceedings or territorial proceedings;
- (f) contain an indemnity on the part of the petitioner, indemnifying the Official Assignee as to the Official Assignee's costs, fees and expenses allowed by the Court up to and including the statutory sitting and as to such further costs, fees and expenses of the Official Assignee as the Court may upon the application of the Official Assignee direct, and
- (g) contain notice of the date for the hearing of the petition.

(2) Where main insolvency proceedings have been opened in respect of the debtor in another Member State, paragraphs (a) and (b) of sub-rule (1) shall not apply to a petition by the liquidator in the main proceedings for the opening of secondary proceedings in respect of the debtor in accordance with Article 29 of the Insolvency Regulation.

(3) Where insolvency proceedings have been opened in another Member State, the affidavit verifying the petition shall exhibit a certified copy of the original decision appointing the liquidator or any other certificate of the court having jurisdiction (as referred to in Article 19 of the Insolvency Regulation) and if such decision or certificate is not in one of the official languages of the State, a translation of that decision or certificate into the Irish or the English language certified by a person competent and qualified for the purpose.

(4) The petition shall be verified by affidavit, which may be endorsed on the petition, and which shall verify each fact relied on in support of the statement made for the purposes of sub-rule (1)(d).

19A. (1) This rule applies only where, in the petitioning creditor's belief, the centre of the debtor's main interests is situated within the territory of a Member State other than the State.

- (2) In a case to which this rule applies, the petition shall also:
  - (i) identify the place within the State where, in the petitioning creditor's belief, the debtor has an establishment and the facts and grounds supporting that statement;
  - (ii) where main proceedings have not been opened in another Member State, contain a statement as to which of the conditions referred to in Article 3(4)(a) or Article 3(4)(b) of the Insolvency Regulation is met and the facts and grounds supporting that statement.

(3) The affidavit verifying the petition shall verify each fact relied on in support of each statement made for the purposes of sub-rule (2).

20. (1) A petition by a person other than the debtor shall be signed by the petitioner or, if more than one, by all the petitioners, unless the petitioners are partners, in which case one partner may sign on behalf of himself and the other partners. Any petitioner may sign the petition by his attorney duly authorised by power of attorney in that behalf.

(2) A petition by a creditor limited company or body corporate shall be sealed with the seal of the company or body corporate and signed by two directors or by one director and the secretary. Such seal and signature shall in all cases be attested.

21. On the presentation of a petition by a creditor, the petitioning creditor shall file in the proper office an affidavit in the Form No. 12 proving his debt and the act of bankruptcy, provided that when a debt or any part thereof is in respect of money lent by a credit agreement to which either the Consumer Credit Act 1995 applies or the 2010 Regulations apply or interest or charges in connection therewith, the affidavit shall incorporate a statement showing in detail particulars showing compliance of the credit agreement as to content with the requirements of Part III of the Consumer Credit Act 1995 or, as the case may be, Part 4 of the 2010 Regulations, and provided also that where the act of bankruptcy relied on is non-compliance with a bankruptcy summons, it shall also incorporate a statement that the debt has not been secured or compounded.

22. Where a petitioning creditor is not known to the proper officer or a petition is not signed by a solicitor in addition to being signed by the petitioning creditor, it shall not be filed until the petitioner shall be identified to the satisfaction of the proper officer.

23. In all cases the petitioning creditor shall indemnify the Official Assignee against any costs, fees and expenses incurred by him and allowed by the Court up to and including the statutory sitting and against such further costs, fees and expenses as to the Court may, upon the application of the Official Assignee, on notice to the petitioning creditor, direct.

24. The proper officer shall appoint the time at which the petition is to be heard. Notice of the time so appointed shall be written on the petition and sealed copy thereof. A sealed copy of the petition shall be taken out by the petitioner or his solicitor and may be used as if it were an original.

25. Every petition by a person other than the debtor shall be served, not less than seven days before the hearing of the petition, by delivering to the debtor personally a copy of such petition and by showing to the debtor at the time of such service the sealed original, or shall be served in such substituted manner as the Court may direct. The petitioner shall file in the proper office an affidavit of service of the petition not later than two clear days before the hearing.

## B. Bankruptcy Petition by a Debtor

26. (1) A debtor's petition shall be in the Form No. 13 and shall:
- (a) contain an undertaking by the debtor to attend in person at the statutory sitting;
  - (b) contain an undertaking by the debtor to advertise notice of the adjudication and statutory sitting in the manner directed by the Court and to bear the expenses of such advertisement;
  - (c) contain an undertaking by the debtor to lodge such sums, if any, as the Court may from time to time direct to cover the costs, fees and expenses incurred or to be incurred by the Official Assignee;
  - (d) contain:
    - (i) statements that the Insolvency Regulation applies to the proceedings and that the debtor's centre of main interests is situated in the State and the facts and grounds supporting each statement; or
    - (ii) statements that the Insolvency Regulation applies to the proceedings, that the debtor's centre of main interests is situated in another specified Member State and that the debtor has an establishment within the State and the facts and grounds supporting each statement; or
    - (iii) a statement that the Insolvency Regulation does not apply to the proceedings, and in such case, shall contain a statement that the debtor is domiciled in the State or that, within a year before the date of the presentation of the petition, he has ordinarily resided or had a dwellinghouse or place of business in the State, or that he has carried on business in the State personally or by means of an agent or manager, or that he is or within the said period has been a member of a partnership which has carried on business in the State by means of a partner, agent or manager and the facts and grounds supporting that statement, and
  - (e) where the Insolvency Regulation applies to the proceedings, contain a statement that, to the debtor's knowledge, no insolvency proceedings have been opened in respect of the debtor in any Member State or Member States (other than the State), or that such insolvency proceedings have been opened and if so, whether those insolvency proceedings are main proceedings, secondary proceedings or territorial proceedings.
- (2) Where insolvency proceedings have been opened in another Member State, the affidavit verifying the petition shall exhibit a certified copy of the original decision appointing the liquidator or any other certificate of the court having jurisdiction (as referred to in Article 19 of the Insolvency Regulation)

and if such decision or certificate is not in one of the official languages of the State, a translation of that decision or certificate into the Irish or the English language certified by a person competent and qualified for the purpose.

(3) The petition shall be supported by an affidavit, which may be endorsed on the petition, which shall verify the petition and shall verify the facts supporting every statement made for the purposes of sub-rule (1)(d).

26A. (1) This rule applies only where the centre of the debtor's main interests is situated within the territory of a Member State other than the State.

(2) In a case to which this rule applies, the petition shall also:

- (i) identify the place within the State where the debtor has an establishment and the facts and grounds supporting that statement;
- (ii) where main proceedings have not been opened in another Member State, contain a statement as to which of the conditions referred to in Article 3(4)(a) or Article 3(4)(b) of the Insolvency Regulation is met and the facts and grounds supporting that statement.

(3) The affidavit verifying the petition shall verify the facts supporting every statement made for the purposes of sub-rule (2).

27. A petition of bankruptcy by a debtor shall be supported by the affidavit of the debtor setting forth the particulars of his assets and where the same are and the estimated value thereof, in order that it shall be made to appear to the satisfaction of the Court that his available estate is sufficient to produce the sum of €1,904.61 at the least, and if required he shall produce satisfactory evidence of the value of such assets.

### C. General

28. The petitioner shall swear to the best of his knowledge and belief that the allegations in the petition are true.

29. (1) Upon the presentation of a petition by a creditor or a debtor the petitioner shall deposit with the Official Assignee the sum of €650, and shall thereafter lodge such further sums, if any, as the Court may from time to time direct, to cover the costs, fees and expenses incurred or to be incurred by the Official Assignee, and no petition shall be received unless the receipt of the Official Assignee for the deposit payable on presentation of the petition is produced to the proper officer.

(2) The Official Assignee shall account for the money so deposited to the creditor or, as the case may be, to the debtor's estate, and any sum so paid by a petitioning creditor shall be repaid to such creditor (except and so far as such deposit may be required by reason of insufficiency of assets for the payment of the costs, fees and expenses incurred by the Official Assignee) out of the proceeds of the estate in the same priority as his costs.

30. Every petition of bankruptcy (together with, in the case of a creditor's petition, the original bankruptcy summons and the completed affidavit of service of the summons) shall be filed in the proper office.

31. The proper officer shall at the time of filing endorse on every petition and other document the date of the filing thereof and in cases of declarations of insolvency and petitions shall also endorse the hour of the day.

32. Upon the presentation of the petition the proper officer shall appoint the time for the hearing thereof and shall endorse on the petition the time appointed for such hearing and shall sign the same.

## VII. Adjudication in bankruptcy

33. Where two or more petitions are presented against the same debtor, or against debtors being members of the same partnership, the petition which was first presented shall be entitled to be first heard. Where such first petition shall not have been proceeded with to adjudication or where the debtor shows cause against the adjudication thereunder or where delay will be avoided, any other petition may be proceeded with. If the Court shall make adjudication upon such last mentioned petition, all other petitions shall stand dismissed with such costs (if any) as the Court may allow, and a note of such dismissal shall be endorsed by the proper officer on each such petition.

34. No order of adjudication shall be made against a firm in the firm's name, but it shall be made against the partners individually with the addition of the firm's name.

35. The debt of the petitioning creditor which has been proved for the adjudication shall in all cases be deemed to be a debt proved and admitted in the bankruptcy, unless the Court shall otherwise order.

35A. (1) Where, on the hearing of a petition for adjudication, the Court is satisfied that main insolvency proceedings have previously been opened in a Member State other than the State, the Court may make an order of adjudication opening secondary proceedings.

(2) An adjudication order or order of adjudication opening secondary proceedings shall contain the appropriate recital included in Form No. 15.

36. (1) The petitioning creditor or the Official Assignee may after adjudication make application to the Court, supported by affidavit, for the appointment of a receiver or manager in accordance with section 73 of the Act.

(2) Where cause is shown against the adjudication or where the funds realised by the receiver or manager are insufficient to discharge his costs, fees and expenses, the petitioning creditor shall pay such costs, fees and expenses to the receiver or manager as the Court may direct, and the Court shall decide any claim for damages arising out of his appointment, and may make such Order as it thinks fit.

37. (1) A receiver or manager of property or business of the debtor appointed by the Court shall submit his accounts (including a rental, if required) for examination to the Official Assignee, and for that purpose shall attend upon him at such reasonable times as he may require.

(2) The remuneration of a receiver or manager shall be under the direction of the Court, and no receiver or manager shall have any lien whatever for his remuneration on any money or property which may have come to his hands.

38. (1) Upon adjudication on the petition of a creditor, a copy of the order concerned, in the Form No. 15, shall be served on the bankrupt by the Bankruptcy Inspector or any of his assistants.

(2) An affidavit of service of the copy order shall be sworn forthwith by the Bankruptcy Inspector, or his assistant as the case may be, and filed in the proper office.

39. (1) A person adjudicated bankrupt intending to show cause against the validity of the adjudication in accordance with section 16 of the Act shall within three days from the date of service of the copy order of adjudication, or such extended time as the Court may allow not exceeding fourteen days from the date of such service, file in the proper office notice in writing of his intention together with an affidavit containing the particulars referred to in sub-rule (2).

(2) The notice shall state which of the requirements of section 11(1) of the Act are alleged by the person adjudicated not to have been complied with, and the affidavit shall set out in detail the grounds on which he claims the adjudication to be invalid. The notice shall be in the Form No. 16.

(3) Upon filing of the notice and affidavit the proper officer shall set the notice down for hearing before the Court, and shall endorse on the notice the time fixed for the hearing and shall date and sign it.

(4) A copy of the notice so endorsed shall, together with a copy of the affidavit, be served by the person showing cause upon the solicitor for the petitioning creditor, or upon the petitioning creditor if no solicitor is employed, and upon the Official Assignee.

40. After lodging such notice of his intention he shall, on application to the proper officer, and on payment for the same be furnished forthwith with copies of the proceedings on which the adjudication was founded.

41. If at the sitting of the Court to hear the cause against the validity of the adjudication the debtor shall not appear, or if having appeared he shall fail to show to the satisfaction of the Court that the requirements of section 11(1) of the Act or such of them as shall have been put in issue, have not been complied with, or unless the Court in accordance with section 16(2) of the Act shall adjourn the application the cause shown by the debtor shall be disallowed with such costs as the Court may order. If at such sitting any new evidence as to any of these matters shall be given, or any witness to any of such matters shall not be present for cross-examination (if required to attend) and further time shall



be desired, the Court may, if it think the application reasonable, grant such further time as it may think fit.

42. Immediately on the adjudication of a debtor on his own petition, or after the expiration of the time for showing cause against an adjudication on a creditor's petition or after the disallowance of any cause if cause had been shown, a summons to the bankrupt in the Form No. 14 shall issue, specifying the statutory sitting, and a sealed copy of such summons shall be served upon him personally, provided that the Court may in any case direct some other mode of service. It shall be the duty of the solicitor for the petitioner to cause service to be affected and an affidavit thereof to be made and filed forthwith.

43. From and after the statutory sitting the Official Assignee shall be at liberty to choose and appoint a solicitor to have carriage of the proceedings on his behalf and to advise him in the course of the proceedings.

44. After adjudication the petitioner or his solicitor shall at the request of the Official Assignee furnish to the Official Assignee all information which he may have relating to the trade dealings, affairs or property of the bankrupt, and produce to the Official Assignee any books of account and documents in his possession or control relating to the matters aforesaid.

#### VIII. Motions and practice

45. Every solicitor (not being a solicitor presenting a petition or a solicitor nominated by the Official Assignee to act on his behalf) nominated to act on behalf of any bankrupt or other person being a party to any motion or other proceeding in the bankruptcy, shall file in the proper office a notice of appointment or change of solicitor, as the case may be, in the Forms Nos. 17 and 18 respectively.

46. A short note or statement of every motion of course shall be delivered to the proper officer at least two clear days before it is moved, specifying the matter in which and the party on whose behalf it is made, the nature of the application and the name of the solicitor or party applying.

47. Motions on notice shall be grounded on affidavit or other document or evidence stated in the notice of motion unless the Court in any particular case otherwise directs and such motions and affidavits shall be filed in the proper office.

48. Where any person other than the applicant is affected by the motion, no order shall be made except with the consent of that person duly shown to the Court, or upon proof that notice of the intended motion and copies of the supporting affidavits have been duly served upon that person; provided that the Court, if satisfied that the delay caused by proceedings in the ordinary way would or might entail serious mischief, may make any order *ex parte* on such terms as to costs and otherwise, and subject to such undertaking (if any) as the Court thinks just, and any person affected by such order may move to set it aside.

49. (1) Two copies of the notice shall be filed in the proper office by the solicitor or person serving it, and the notice shall specify a date for hearing not less than two clear days after the date of service of the notice unless the Court otherwise directs; provided that, where the notice requires to be served personally, it shall be served not less than four clear days before the hearing of the motion.

(2) A copy of the notice shall be served forthwith upon the Official Assignee, together with copies of the affidavit or affidavits or other documents grounding the motion.

(3) Any further affidavit or affidavits in reply shall be filed in the proper office and copies thereof shall be served forthwith upon the Official Assignee.

#### IX. Proceedings by charge and discharge

50. An application to the Court to establish or set aside a disputed document, dealing or transaction relating to property of the bankrupt may, unless the Court otherwise directs, be made and dealt with by charge and discharge.

51. Every charge shall be filed in the proper office and notice of such lodgment and a copy of the charge shall be served upon the person to be made liable or affected thereby.

52. Any person served with such notice and copy of a charge shall have the period of twenty-one days and such further time (if any) as shall be allowed by the Court to file his discharge thereto, and in default of a discharge being filed within such period the charge shall be set down for hearing before the Court upon notice to such person. Verification by affidavit of a charge or discharge shall not be required.

53. When a discharge shall be filed, notice of the filing thereof and a copy of such discharge shall be forthwith served on the chargeant, and the chargeant and dischargeant shall during the period of ten days after such service, be at liberty to file such affidavits as they may wish, notice of such filing being at the same time served and they may within the same period of ten days serve notice of intention to adduce oral evidence either in addition to or in substitution for affidavits. The witnesses whom it is proposed to examine orally shall be named in the notice.

54. After the expiration of the said period of ten days either party may apply to the Court by motion on notice for directions as to any further or other evidence.

55. After the expiration of the said period of ten days the chargeant, or, if he shall fail to do so, the dischargeant, may set down the charge and discharge for hearing before the Court.

56. The chargeant and dischargeant may respectively by notice require the production at the hearing of the charge of any books, papers and writing, and no evidence shall be received on the hearing of a charge and discharge without

notice thereof to the opposite party, unless the Court shall in any case otherwise permit.

57. This Order shall not preclude the assignees from applying to the Court for the examination of any witness pending the hearing of the charge.

58. When a charge is filed to establish any deed or document relating to the property of a bankrupt or arranging debtor, or any dealing or transaction respecting such property, and the assignees propose to impeach or set aside such deed, document, dealing, or transaction as being fraudulent and void, or void against the assignees and creditors, on any ground whatsoever, it shall not be necessary to file any charge for such purpose but the case of the assignees may be set up by the discharge to the charge and shall be dealt with on the hearing thereof.

#### X. Sale of property

59. (1) In a sale in a bankruptcy or in a vesting arrangement by auction or by tender it shall be at the discretion of the Official Assignee as to whether or not a reserve price shall be fixed.

(2) The Official Assignee shall be at liberty to retain an auctioneer or valuer, independently of the auctioneer having carriage of the sale, to advise him as to value in a case where he proposes to fix a reserve price.

(3) The amount of a reserve price fixed by the Official Assignee shall not be disclosed until after the completion of bidding for the property save with the prior consent of the Official Assignee or by direction of the Court.

(4) In the case of a sale by auction, the auctioneer shall as soon as possible after the auction certify to the Official Assignee the result of the auction. Where the Official Assignee has not retained an auctioneer or valuer in pursuance of sub-rule (2) of this rule, the auctioneer shall give his opinion as to the value of the property.

60. When an Order has been made by the Court for the sale of any land or any policies of assurance, or where the Official Assignee otherwise requires, the solicitor having carriage of sale shall prepare and lodge with the Official Assignee a statement of title and conditions of sale. The Official Assignee shall settle the statement of title and conditions of sale and may direct such advertisements and give notice to such persons (if any) as he thinks necessary. He may also direct such searches and require the production of such evidence as he thinks necessary. The Official Assignee shall be at liberty in any case to direct that the statement of title and conditions of sale shall be settled by Counsel.

61. (1) An application for sale by a person claiming to be a mortgagee of, or to have any charge or lien upon, any property of a bankrupt or arranging debtor who vests his property may be made by notice of motion grounded on an affidavit or affidavits.

(2) The notice shall set forth particulars of the amount claimed for principal and interest and pray that the property be sold under the direction of the Court.

(3) The applicant shall state on affidavit whether he holds any other security for that amount whether from the debtor or any other person, and the particulars of the security.

(4) On every application under this rule the applicant shall satisfy the Court by evidence whether the property is or is not subject to any other incumbrances and shall show that searches have been made for incumbrances and that every other incumbrancer has had notice of the application and consents to the sale.

(5) Upon the hearing of the motion the Court shall proceed to enquire whether such person is such mortgagee, or has such charge or lien and for what consideration and under what circumstances, and if no sufficient objection shall appear to the title of such person to the sum claimed by him, the Court may declare the claim of such person to be proved and established subject to the taking of such accounts and making of such enquiries, if any, by the Official Assignee, as the Court may direct.

(6) The Court may order the property to be sold in such manner and subject to such conditions (if any) as it may deem fit.

(7) In cases in which no application is made by a mortgagee under this rule, the Court may order that any part of the bankrupt's or arranging debtor's estate and effects which is subject to any mortgage, charge or lien shall be sold subject to such mortgage, charge or lien, and the same shall be sold accordingly. No Order shall be made under this rule without notice to the person entitled to such mortgage, charge or lien.

(8) Every application under this rule shall be made on notice to the Official Assignee and the Court may adjourn the application to enable notice to be given to such other person or persons as it may direct.

#### XI. Discovery

62. Any party to any proceeding under this Order may with the leave of the Court deliver interrogatories to or obtain discovery of documents from any other party to such proceeding, and the provisions of Order 31 shall apply as far as practicable.

#### XII. Persons under Disability

63. The Court shall have power to appoint a next friend and also a guardian ad litem to any minor or other person under disability who is a party to any proceedings under this Order, and the provisions of Order 15 Part II shall apply as far as practicable.

## XIII. Sittings, Advertisements and Proof of Debts

64. (1) Notice of the statutory sitting shall be advertised by the petitioner not less than ten days previously in *Iris Oifigiúil* and in the newspaper or newspapers directed by the Court in pursuance of section 17(2) of the Act. The notice shall be in the Form No. 19.

(2) Notice of the filing of the documents referred to in section 82(1) of the Act and of the sitting for distribution shall be advertised by the Official Assignee in *Iris Oifigiúil* and in such newspaper or newspapers (if any) as he considers appropriate. The notice shall be in the Form No. 20.

(3) Every insertion of an advertisement of notice of a sitting of the Court shall be vouched with the proper officer by the person having the duty of inserting the advertisement at least two clear days before the sitting at the latest.

65. (1) The Official Assignee or a trustee may give notice, by advertisement in *Iris Oifigiúil* and otherwise as he shall think fit, of the fixing of a time within which proofs of debt shall be sent to him. Such advertisement shall be in the Form No. 21.

(2) In addition to advertisement, such notice shall be given by the Official Assignee or trustee to all the creditors entered in the bankrupt's statement of affairs or any other creditor of whom the Official Assignee or trustee is aware, who shall not already have lodged proofs or claims with him.

(3) In the case of any creditor mentioned in sub-rule (2) who has his habitual residence, domicile or registered office in a Member State other than the State, such notice, entitled as required by Article 42(1) of the Insolvency Regulation, shall be in the Form No. 21A and shall in particular include (i) the date by which proofs of debt are to be submitted, (ii) a statement that a proof submitted after that date shall not be allowed except by order of the Court, (iii) a statement that creditors whose claims are preferential or secured in rem need to lodge their claims, (iv) a statement of the name and address of the Official Assignee for the purpose of lodging claims and a summary or copy of the provisions of the First Schedule to the Act.

(4) The notice referred to in sub-rules (2) and (3) shall be given by prepaid ordinary post to the creditors at the address set forth in the statement or at such address as may be known to the Official Assignee or trustee (or in the case of the liquidator in main proceedings opened in a Member State other than the State, by the means specified in rule 1(3)) not later than ten days before the expiration of the time so fixed.

66. (1) Written confirmation of the decision of the Official Assignee or trustee in regard to a claim in accordance with paragraph 23(d) of the First Schedule to the Act shall be delivered by the means specified in rule 65(4) to the creditor at the address furnished in his proof of debt.

(2) The creditor may if aggrieved by the decision of the Official Assignee or trustee, within fourteen days from the date of posting, appeal to the Court by notice of motion to vary or reverse the same.

67. (1) If at the statutory sitting, an application is made for the appointment of a creditors' assignee, the Court may adjourn the sitting for such time as may enable the Official Assignee to ascertain the debts and liabilities of the bankrupt.

(2) When a sitting has been fixed for the choice and appointment of a creditors' assignee in place of a creditors' assignee who has died or been removed, notice of the sitting shall be given to all the creditors entered in the bankrupt's statement of affairs and any other creditors who have proved debts by transmitting a notice of the sitting by the means specified in rule 65(4) ten days prior to the sitting to the address of the creditor stated in the statement or in his proof.

68. An affidavit of debt, when required, shall be in the Form No. 12.

#### XIV. Authority to Vote

69. (1) The instrument appointing a proxy shall be in writing under the hand of the creditor, or if such creditor is a corporation or company under the hand of the secretary or other person duly authorised by the corporation or company and shall be in the Form No. 22 and (unless it is otherwise expressly stated therein) shall be deemed and allowed as an authority to the appointee of the creditor to act and vote for him and on his behalf at all sittings and meetings of creditors or adjournments thereof.

(2) The instrument shall be filed in the proper office at least two clear days before the sitting or meeting at which the proxy is to attend.

#### XV. Evidence

70. Any affidavit to be used in any matter of bankruptcy or arrangement or proceedings under Part VI of the Act may be sworn before the Official Assignee or the proper officer.

71. A subpoena for the attendance of a witness at any sitting or trial shall be issued by the proper officer at the instance of the assignees, a creditor, a debtor, or any party, with or without a clause requiring the production of books, deeds, papers and writings in his possession or control, and in such subpoena the name of only one witness shall be inserted. A subpoena may be issued in blank as to the name of the witness only.

72. A sealed copy of the subpoena shall be served personally on the witness within a reasonable time before the time of the return thereof, and service of the subpoena shall where required be proved by affidavit.

73. Wherever a witness has made an affidavit or deposition in support of any application or proceeding in the Court, any party to such application or proceeding may by notice require the attendance of such witness for cross-examination.

74. An order to read evidence taken in another proceeding in the High Court shall not be necessary, but such evidence, saving all just exceptions, may be used on ex parte applications by leave of the Judge to be obtained at the time of making any such application, and in any other case upon the party desiring to use such evidence giving two days previous notice to the other parties of his intention to read such evidence.

75. The Court may in any matter limit the number of witnesses to be allowed on taxation of costs. The Court may allow the expenses of witnesses even though such witnesses have not been examined.

76. (1) Any person wishing to require the attendance of the Official Assignee or any other officer serving in the office of the Official Assignee at any court or place to give evidence in their official capacity or to produce any records in their custody, shall first apply to the Judge for liberty to do so. Where the Judge permits the attendance of any such officer to give evidence or to produce records, that officer shall be entitled to require that the person desiring his attendance shall deposit with him a sufficient sum of money to answer his just fees, charges and expenses, in respect of such attendance, and undertake to pay any further just fees, charges and expenses which may not be fully answered by such deposit.

(2) A summons to a bankrupt or any other person under section 21 of the Act to attend before the Court shall be in the Form No. 39.

(3) A warrant for the arrest of an absconding bankrupt under section 23 of the Act and for his production before the Court shall be in the Form No. 40.

(4) A warrant for the arrest of a bankrupt or any other person under section 23(2) or (3) of the Act shall be in the Form No. 41.

(5) A warrant of committal under section 24 of the Act shall be in the Form No. 42, Form No. 43 or Form No. 44 as the case may be.

(6) A warrant to direct the production of a bankrupt or any other person before the Court under section 25 of the Act shall be in the Form No. 45.

(7) A warrant of seizure issued under section 27 of the Act shall be in the Form No. 46.

(8) A search warrant issued under section 28 of the Act shall be in the Form No. 47.

## XVI. Execution

77. Order 42 shall so far as practicable apply in bankruptcy and arrangement proceedings and in proceedings under Part VI of the Act save that—

- (a) execution orders and orders in aid of execution orders shall be issued and sealed by the proper officer,

- (b) praecipes shall be filed in the proper office,
- (c) orders when executed and returns and other documents relating to the same which are required to be filed shall be filed in the proper office.

#### XVII. Absconding Debtor

78. Where a debtor is arrested in pursuance of a warrant issued under section 9 of the Act he shall be brought before the next sitting of the Court and shall be safely kept until such sitting by being lodged in the prison specified in the warrant of arrest in the Form No. 38.

#### XVIII. Bankrupt's Remuneration and Superannuation

79. Where the Official Assignee intends to apply to the Court for an Order for the payment to the Official Assignee of all or part of the salary, income, emolument or pension of a bankrupt, notice shall be given to the bankrupt of such intention, and of the time and place fixed for the hearing of the application, and the bankrupt shall be at liberty to attend and show cause against an Order being made on the application.

#### XIX. The Bankrupt's Statement of Affairs

80. Unless the Court otherwise directs, the bankrupt shall, not later than two clear days before the day fixed for the statutory sitting, lodge with the Official Assignee his statement of affairs in the Form No. 23 verified on oath, complete, regularly paged, and signed by him on each page, with all the columns and blanks accurately filled up, and the Official Assignee shall examine same so as to ascertain whether it be so complete, and shall refuse to stamp same, and the bankrupt shall not file same, until presented to the Official Assignee complete, unless the Court shall otherwise direct.

81. The bankrupt shall, in addition to filing the statement of affairs in the Central Office, thereupon file in the proper office a duplicate of his said statement of affairs duly stamped by the Official Assignee. The proper officer shall thereupon transmit a true copy of the same to the Official Assignee. When the bankrupt shall be entitled to any lands or tenements in the occupation of tenants the statement of affairs (unless a receiver has been appointed over such lands and a rental lodged by him) shall contain a rental setting forth the denominations, head rent (if any), tenants' names and addresses, tenure, gale days, annual or other rents and the amount of rent due to the gale day next preceding the bankruptcy, or such rental in duplicate duly verified shall be filed at the same time as the statement of affairs. If a receiver has been appointed over the lands and a rental lodged by him the statement of affairs shall contain a reference to such rental and the proceedings wherein the same has been lodged.

#### XX. Creditors' Assignee

82. No creditors' assignee shall retain in his possession or custody any money whatsoever belonging to the estate of the bankrupt and if any such moneys should be paid to or be received by the creditors' assignee he shall, subject to



the Insolvency Regulation, forthwith pay or transmit the same to the Official Assignee in the matter, or lodge same in Court to the credit of the Official Assignee and the particular estate, and should he neglect to do so, he shall be charged by the Court with interest thereon at the rate of twenty per cent, per annum for such time as he shall have so retained the same.

#### XXI. Composition After Bankruptcy

83. The bankrupt shall be available to attend the meeting called under section 39 of the Act. The notice to be advertised and sent to creditors under section 39(2) shall be in the Form No. 24. The notice shall state that the bankrupt will be available to attend the meeting and that creditors are entitled to obtain from the bankrupt, free of charge, a copy of his statement of affairs. In addition to advertisement in accordance with section 39(2) of the Act the notice shall be advertised in such newspaper or newspapers as the proper officer may direct.

84. The offer of composition shall be endorsed upon the bankrupt's statement of affairs and a copy of the statement of affairs be furnished by the bankrupt free of charge to any creditor requesting the same.

85. The proper officer shall fix the date on which the meeting called under section 39 shall be held before the Judge. The proper officer shall fix such a date as would enable the Official Assignee prior to the meeting to fix a time for the sending to him of proofs of debt and to ascertain the bankrupt's liabilities, unless this has already been done.

86. An application to the Court for a discharge from bankruptcy following the approval of an offer of composition shall not be made until a report shall have been obtained by the bankrupt from the Official Assignee that all costs ordered by the Court and all preferential debts have been paid and that the composition agreed to be accepted has been paid to all the creditors entitled thereto, or has been lodged with the Official Assignee for such of the creditors as cannot be found or who may have declined to receive the same. The report shall be in the Form No. 25.

87. Where the composition offered shall not be accepted by the creditors, or when the Court shall have refused to discharge the adjudication and shall have ordered the bankruptcy to continue, or when the bankrupt shall have failed to pay the composition agreed upon, or the Court so directs, any debt proved and admitted at the meeting or by the Official Assignee may afterwards be expunged either wholly or in part upon such notice to the creditor as the Court directs.

#### XXII. Arrangements under the Control of the Court

88. (1) The petition of a debtor under section 87 of the Act with the affidavit verifying the same shall be presented to the proper officer and filed in the proper office. The petition shall be in the Form No. 26.

(1A) Sub-rules (1B) to (1F) inclusive shall apply to a petition referred to in sub-rule (1) which concerns a proposal for an arrangement which:

- (a) constitutes insolvency proceedings, and
- (b) will involve the vesting of all or part of the property of the debtor in the Official Assignee for realisation and distribution.

(1B) A petition referred to in sub-rule (1A) shall:

- (a) contain:
  - (i) statements that the Insolvency Regulation applies to the proceedings and that the debtor's centre of main interests is situated in the State and the facts and grounds supporting each statement; or
  - (ii) statements that the Insolvency Regulation applies to the proceedings, that the debtor's centre of main interests is situated in another specified Member State and that the debtor has an establishment within the State and the facts and grounds supporting each statement; or
  - (iii) a statement that the Insolvency Regulation does not apply to the proceedings and the facts and grounds supporting that statement, and in such case, shall contain a statement of the reasons why the debtor is entitled to apply for protection; and
- (b) where the Insolvency Regulation applies to the proceedings, contain a statement that, to the debtor's knowledge, no insolvency proceedings have been opened in respect of the debtor in any Member State or Member States (other than the State), or that such insolvency proceedings have been opened and if so, whether those insolvency proceedings are main proceedings, secondary proceedings or territorial proceedings.

(1C) Where insolvency proceedings have been opened in another Member State, the affidavit verifying the petition shall exhibit a certified copy of the original decision appointing the liquidator or any other certificate of the court having jurisdiction (as referred to in Article 19 of the Insolvency Regulation) and if such decision or certificate is not in one of the official languages of the State, a translation of that decision or certificate into the Irish or the English language certified by a person competent and qualified for the purpose.

(1D) Where the centre of the debtor's main interests is situated within the territory of a Member State other than the State, the petition shall also:

- (i) identify the place within the State where the debtor has an establishment and the facts and grounds supporting that statement, and
- (ii) where main proceedings have not been opened in another Member State, contain a statement as to which of the conditions referred to in Article 3(4)(a) or Article 3(4)(b) of the Insolvency

Regulation is met and the facts and grounds supporting that statement.

(1E) The affidavit verifying the petition shall verify the facts supporting every statement made for the purposes of sub-rules (1B) and (1D).

(2) The petition shall be supported by a further affidavit of the debtor, setting forth particulars of his assets of every kind and description and where same are, together with the estimated value of such assets and the amount of his liabilities, and whether any and which of his creditors have instituted any and what proceedings for the recovery of their debts, and whether his solicitor has received any and if so what sums on account of the costs of the proceedings.

(3) In the case of a vesting arrangement, the petitioner shall lodge with the Official Assignee the sum of €650, and in the case of any other arrangement under the control of the Court the sum of €130, and shall thereafter lodge such further sums, if any, as the Court may from time to time direct to cover the costs, fees and expenses incurred or to be incurred by the Official Assignee.

(4) Where a petition for arrangement is presented by debtors in partnership the further affidavit shall disclose the separate assets and separate liabilities of each partner distinguished from the partnership assets and liabilities.

(5) The proper officer shall at the time of filing, endorse on every document the date of filing, and in the case of a petition the hour of the day, and before filing shall see that each document is in the proper form.

89. (1) The proposal of the debtor, which shall be endorsed on the statement of affairs, shall be to pay a composition on all his unsecured debts and engagements or on such portion of his partly secured debts as is not covered by security or in such other form as may be acceptable to his creditors.

(2) (a) the composition may be expressed to be payable—

(i) in cash within one month from the date of the approval of the offer by the Court or such further time as the Court may allow, or

(ii) by bills or promissory notes, or

(iii) partly in cash to be paid within one month from the date of the approval of the offer by the Court or such further time as the Court may allow and partly by bills or promissory notes.

(b) The bills or promissory notes shall be secured to the satisfaction of the creditors, save that in no case shall any instalment be secured by a bill, note or other security signed by or enforceable against the debtor alone.

(c) The completed bills or promissory notes shall be lodged with the Official Assignee within one month from the date of the approval of the offer by the Court or such further time as the Court may allow.

(d) In all of the above cases the debtor shall lodge with the Official Assignee within one month from the date of the approval of the offer by the Court or such further time as the Court may allow such sum as may be necessary to pay the composition (so far as it is not payable by bills or promissory notes), the Official Assignee's expenses, fees, costs (if any) and such further sums as the Court may allow.

(3) By way of further alternative, composition may be made by means of a vesting arrangement. The Official Assignee may, as he thinks proper, consent or refuse to consent to the terms of the proposal. The proposal shall not be put before the Court except with such consent.

(4) The Official Assignee shall be at liberty, in the case of a vesting arrangement, to choose and appoint a solicitor to have carriage of the proceedings on his behalf and to advise him in the course of the proceedings.

90. (1) On the granting of an order for protection the Court shall direct that the preliminary meeting under section 90 of the Act be held at the office of the arranging debtor's solicitor or other fit place to consider the affairs of the debtor, at such time as would enable the Official Assignee to fix a time for the sending to him of proofs of debt and to ascertain the liabilities of the debtor. For this purpose the Official Assignee may communicate with any person whom he considers may be a creditor of the debtor or may be capable of furnishing information as to the debtor's liabilities.

(2) The debtor shall make himself personally available at such meeting and shall give four days' notice by prepaid post to each of his creditors and to the solicitor of any creditor who shall have taken proceedings against him.

(3) The notice of the preliminary meeting shall in addition to giving the time and place of the meeting state that the debtor will attend the meeting and that he can be fully examined as to his affairs and as to the proposal which he intends to submit to the meeting. Such notice shall be in the Form No. 27.

91. Notice of the private sitting directed under section 90 of the Act shall be sent by post to each of the creditors in the Form No. 28. The service of the notice shall be vouched before the proper officer at least two clear days before the sitting.

92. Ten days' notice of a special private sitting under section 95 of the Act shall, unless otherwise directed by the Court be sent by post to each of the creditors. Such notice shall be in the Form No. 29. The service of the notice shall be vouched before the proper officer at least two clear days before the sitting.

93. (1) The statement of assets and liabilities required to be presented by the arranging debtor pursuant to section 90(a) of the Act shall contain all of the information required to be included in the statement of affairs to be filed by him pursuant to section 91(a) of the Act.

(2) On the delivery of the memorandum referred to in section 90(c) of the Act to the Official Assignee, the arranging debtor shall forthwith file a true copy in the proper office and deliver a duplicate of same to the Central Office.

(3) The statement of affairs of an arranging debtor shall be in the Form No. 23.

94. After the granting of an order for protection the Court may, on the application of a creditor, or of the Official Assignee in the case of a vesting arrangement, supported by affidavit, appoint a receiver or manager of any property or business of the arranging debtor. Rule 37 shall apply, so far as practicable, to a person so appointed.

95. In the case of an arrangement other than a vesting arrangement, a proposal shall be considered to be carried into effect—

(a) in the case of a cash composition — as soon as the debtor has lodged with the Official Assignee the necessary amount to pay the expenses, Court fees, costs (if any) and such further sums as the Court may allow and the full amount of the composition, or

(b) in the case of a composition payable by bills or promissory notes — as soon as the debtor has lodged with the Official Assignee the completed bills, notes or other securities, the necessary amount to pay expenses, Court fees, costs (if any) and such further sums as the Court may allow, or

(c) in the case of a composition payable partly in cash and partly by bills or promissory notes — as soon as the debtor has lodged with the Official Assignee the completed bills, notes or other securities, the necessary amount to pay expenses, Court fees, costs (if any) and such further sums as the Court may allow and the cash composition.

96. An application by an arranging debtor to the Court for his certificate pursuant to section 98 of the Act shall not be made until a report shall have been obtained by the arranging debtor from the Official Assignee that the proposal has been carried into effect; provided that where the composition consists in vesting any property, the report may be varied accordingly. The report shall be in the Form No. 30.

97. (1) A request by a liquidator in main proceedings pursuant to Article 37 of the Insolvency Regulation for conversion of proceedings under this Part into winding-up proceedings shall be by way of application for the adjudication of the arranging debtor as a bankrupt. Such an application shall be by notice of motion in the proceedings under this Part by the liquidator in the main proceedings. The notice of motion shall be grounded upon an affidavit sworn by or on behalf of the liquidator in the main proceedings, which affidavit shall specify the reasons why it is alleged the conversion of the proceedings would be in the interests of the creditors in the main proceedings. A copy of the notice of motion and a copy of the grounding affidavit and any exhibits thereto shall be served upon the debtor and the Official Assignee not later than seven days before the

return date. On the return date, the Court may make such orders or give such directions for the conduct and hearing of the application as seem appropriate.

(2) Where the application is allowed, the debtor shall be deemed to have been adjudicated bankrupt and, unless the Court otherwise directs, any debt proved and admitted at the sitting before the Court or by the Official Assignee may afterwards be expunged, either wholly or in part by the Court upon such notice to the creditor as the Court may direct. Unless so expunged all debts proved and claims entered in the arrangement matter shall be deemed to have been proved and entered in the bankruptcy.

98. If the arranging debtor is adjudicated bankrupt under section 105 of the Act or if the Court directs, any debt proved and admitted at the sitting before the Court or by the Official Assignee may afterwards be expunged, either wholly or in part by the Court upon such notice to the creditor as the Court may direct. Unless so expunged all debts proved and claims entered in the arrangement matter shall be deemed to have been proved and entered in the bankruptcy.

99. When an arranging debtor has been adjudicated bankrupt under section 105 of the Act the Official Assignee shall be at liberty to choose and appoint a solicitor to have carriage of the proceedings on his behalf and to advise him in the course of the proceedings.

#### XXIII. Consent of Surety.

100. When the proposal of a bankrupt or an arranging debtor for the future payment or compromise of his debts involves any other person becoming surety for the payment or compromise, the consent and undertaking in writing of that person to the proposal shall be filed in the Form No. 31 at or before the statutory or private sitting, as the case may be. Such consent and undertaking shall be executed in the presence of the Official Assignee at his office, and the same shall not be filed until the surety shall be identified to the satisfaction of the Official Assignee.

#### XXIV. Winding up by a Trustee.

##### A. General

101. The provisions of the preceding rules of this Order, save rules 89 to 99 concerning arrangements under the control of the Court, shall apply, with any necessary modifications, in relation to the winding up of the property of a bankrupt by a trustee and a committee of inspection as they apply in relation to the administration of such property by the Official Assignee and “trustee” shall be substituted for “Official Assignee” in such provisions where appropriate.

##### B. Change from Official Assignee to Trustee.

102. (1) The Official Assignee or any creditor whose debt has been admitted may apply to the Court at the statutory sitting or any adjournment thereof for liberty to put a proposal to the creditors of the bankrupt at such sitting or any

adjournment of, that the estate of the bankrupt be wound up by a trustee and a committee of inspection.

(2) Such application shall be grounded upon affidavit setting forth the grounds upon which it is made, particulars of the person to be nominated to act as trustee, and exhibiting the consent of such person so to act.

103. Where a resolution to appoint a trustee and a committee of inspection is proposed at the statutory sitting in accordance with section 110 of the Act the Court shall adjourn the statutory sitting to enable the Official Assignee to fix a time for the sending to him of proofs of debt and to ascertain the bankrupt's liabilities, unless this has already been done.

104. (1) At the time of making an order that the property of a bankrupt be wound up by a trustee and a committee of inspection, or at any time thereafter upon the application of the Official Assignee or the trustee, the Court may order to be paid out of the bankrupt's estate to the Official Assignee such costs, fees and expenses incurred by the Official Assignee as the Court may allow.

(2) In addition to the matters provided for in section 112(3) (a) to (d) of the Act, the Court may require a trustee to give security in accordance with rule 17.

#### C. Proof of Debts

105. Where a trustee has been appointed by the creditors the proofs of debts that have been received by the Official Assignee shall be given over to the trustee, but the Official Assignee shall make and file a list of such proofs in the proceedings.

#### D. Regulations as Trustees

106. Notice of the appointment of a trustee shall be advertised by the trustee forthwith in *Iris Oifigiúil* and in at least one daily newspaper in circulation in the area where the bankrupt resides. Such notice shall be in the Form No. 32.

107. When a trustee desires to apply to the Court for directions in relation to any particular matter arising under the bankruptcy, he shall file his application in the proper office and the Court shall then hear the application or fix a day for its hearing and direct the trustee to apply by motion on notice to any other person.

108. Where the trustee is an auctioneer he shall not by himself or any partner act as such in the sale of any of the property vested in him, except with the consent of the committee of inspection and upon such terms as it may think fit.

109. The trustee shall, as soon as may be, take possession of the deeds, books and documents of the bankrupt, and all other property capable of manual delivery.

110. The trustee shall keep the following:

- (a) a book, to be entitled “the Record Book” in which he shall keep a record of all minutes, proceedings had, and resolutions passed at any meeting of the committee of inspection, of all proofs of debt received, of the proceedings had at any sitting of the Court at which he attends, and of all other matters in the bankruptcy necessary to give a correct view of the management of the bankrupt's property.
- (b) a file or files on which he shall place copies of orders made by the Court, the bankrupt's statement of affairs, all proofs of debt received, and any correspondence or other documents in the bankruptcy.
- (c) a book, to be entitled the “Estate Book” according to the form of any ordinary debtor and creditor account in which he shall enter from day to day the receipts and payments made by him.

111. The trustee shall submit the books and file (or files) referred to in the last preceding rule together with a copy of the Estate Book to the committee of inspection at each meeting of the committee and the committee of inspection, the proper officer, or any creditor may inspect the books and file (or files) at all reasonable times.

112. (1) The trustee shall submit the Estate Book together with a copy thereof to the committee of inspection every three months for auditing. The committee shall audit the Estate Book and may for that purpose call upon the Trustee to produce any records, vouchers or other documents. The committee shall certify in the Estate Book under their hands the day on which the said book was audited and shall in like manner certify the said copy.

(2) The trustee shall forthwith after the said audit shall have been held, transmit to the proper officer the copy so certified. The proper officer shall inquire into any misfeasance, neglect or omission which may appear from the said copy or from the certificate, and if not satisfied with the explanation given he shall report thereon to the Court. A copy of any such report of the proper officer shall be sent to the trustee together with a notice of the day appointed for the hearing before the Court seven days previously to such day.

113. The Court may, upon cause shown, remove any trustee.

114. If any vacancy should occur in the office of trustee by death, resignation or otherwise, the vacancy shall be filled by a resolution of at least three-fifths in number and value of the creditors voting at a general meeting of the creditors for the purpose of filling such vacancy. Such a meeting may be convened by the Court on the application of any creditor, or the Official Assignee, or any person prejudiced by the failure to fill such vacancy.

115. A trustee desirous of resigning or obtaining his release shall apply to the proper officer to fix the time and place upon which he may make application to the Court for such release, and upon such time being fixed he shall summon a meeting of the creditors to consider such application stating therein the time and place at which the application to the Court will be made. Notice of the meeting of creditors shall be given to the bankrupt. The creditors assembled at



the meeting may express their opinion as to the conduct of the trustee and they, or any of them, may appear before the Court, and oppose the application of the trustee.

116. Where a trustee shall resign or be removed from his office he shall within ten days thereafter lodge with the proper officer an account in writing verified upon oath showing what he has done while trustee and shall duly account for all moneys or property of the bankrupt.

117. Upon a trustee resigning, or being released or removed from his office, he shall deliver over upon oath to the new trustee (if any) or to the proper officer all books kept by him, and all other books, documents, papers, and accounts in his possession in any way relating to the office of trustee.

118. All unclaimed dividends and all money unclaimed, being part of a bankrupt's estate shall, after the expiration of the period of twelve months from the date of the order for payment of the dividend, or from the time at which any other money unclaimed shall have come to the hands of the trustee, immediately be accounted for and remitted to the Official Assignee by the trustee, and the Official Assignee shall thereupon pay such money into the Official Assignee — Unclaimed Dividend Account.

119. The proper officer shall take cognizance of the conduct of trustees and in the event of any trustee not faithfully performing his duties and not duly observing all the requirements imposed on him by statute rules or otherwise relative to the performance of his duties or in the event of any complaint being made to the proper officer by any creditor or the bankrupt in regard thereto, he shall inquire into the same, and if not satisfied with the explanation given he shall report thereon to the Court; and the Court after hearing the trustee may remove him from his office or make such order in the matter as the justice of the case may require.

120. If in any case the proper officer shall report to the Court under the last preceding rule, a copy of the report shall be sent to the trustee together with a notice of the day appointed for the hearing before the Court seven days previously to such day. The Court may order that the costs of a trustee in relation to such hearing be paid or borne as the Court shall direct.

#### E. The Committee of Inspection

121. The committee of inspection shall not be competent to act for any purpose under Part V of the Act unless there are present or represented a quorum of at least three of its members, or all of its members if their number does not exceed three. A resolution of the committee shall be passed unanimously or by a majority in number of the members present at the meeting.

122. A meeting of the committee of inspection may be summoned by the trustee or by any member of the committee, by the transmission to each member at such address as may be known to the trustee, not less than seven days before the meeting, of a notice specifying the time and place at which it is to be held and the purpose for which it is summoned. Where a meeting is summoned by a

member of the committee of inspection, that member shall transmit to the trustee notice of the meeting in like manner.

123. Any member of the committee of inspection may resign his office by notice in writing signed by him and delivered to the trustee. Any member of the committee may be removed by a resolution of at least three-fifths in number and value of the creditors voting at a meeting of the creditors convened for that purpose.

124. Where a creditor desires a meeting of creditors to be held to remove a member of the committee of inspection, he shall apply to a member of the committee of inspection to specially summon a meeting for that purpose and for the purpose of appointing another person to fill the office by sending a notice to each creditor seven days before the meeting is to be held; and where such member refuses to summon a meeting, the creditor may apply to the Court upon an affidavit stating specifically the facts which would appear to justify the removal of such member of the committee of inspection, and the Court may direct a meeting to be held before the proper officer accordingly whereof the notice aforesaid shall be given, or if it think fit may direct notice to be given to the member of the committee to show cause why the Court should not remove him.

125. On any vacancy occurring in the office of a member of the committee of inspection by removal, death, resignation or otherwise, the trustee shall convene a meeting of the creditors for the purpose of filling up such vacancy, by transmitting to each creditor at the address given by him in his proof, or at any other such address as may be known to the trustee, not less than seven days before the meeting, a notice specifying the time and place at which the meeting is to be held and the purpose for which it is summoned. The vacancy shall be filled on a resolution of at least three-fifths in number and value of the creditors voting at the meeting.

#### XXV. Estates of Persons Dying Insolvent

126. (1) A petition for the administration of the estate of a deceased person under section 115 of the Act shall be in the Form No. 33 and shall:

(a) contain:

- (i) statements that the Insolvency Regulation applies to the proceedings and that the deceased person's centre of main interests at the time of death was situated in the State and the facts and grounds supporting each statement; or
- (ii) statements that the Insolvency Regulation applies to the proceedings, that the deceased person's centre of main interests at the time of death was situated in another specified Member State and that the deceased person at the time of death had an establishment within the State and the facts and grounds supporting each statement; or

(iii) a statement that the Insolvency Regulation does not apply to the proceedings and the facts and grounds supporting that statement, and in such case, shall contain a statement that the deceased person was domiciled in the State or that, within a year before the date of the presentation of the petition, he or she ordinarily resided or had a dwellinghouse or place of business in the State, or carried on business in the State personally or by means of an agent or manager, or that was within that period a member of a partnership which carried on business in the State by means of a partner, agent or manager; and

(b) where the Insolvency Regulation applies to the proceedings, contain a statement that, to the petitioner's knowledge, no insolvency proceedings have been opened in respect of the deceased person in any Member State or Member States (other than the State), or that such insolvency proceedings have been opened and if so, whether those insolvency proceedings are main proceedings, secondary proceedings or territorial proceedings.

(2) Where insolvency proceedings have been opened in another Member State, the affidavit verifying the petition shall exhibit a certified copy of the original decision appointing the liquidator or any other certificate of the court having jurisdiction (as referred to in Article 19 of the Insolvency Regulation) and if such decision or certificate is not in one of the official languages of the State, a translation of that decision or certificate into the Irish or the English language certified by a person competent and qualified for the purpose.

(3) The petition shall be supported by an affidavit endorsed on the petition which shall verify the petition and shall set out and verify the facts supporting every statement made for the purposes of sub-rule (1).

(4) Where the centre of the deceased person's main interests was at the time of death situated within the territory of a Member State other than the State, the petition shall also:

- (i) identify the Member State within the territory of which the centre of the deceased person's main interests at the time of death was situated and the facts and grounds supporting that statement;
- (ii) identify the place within the State where the deceased person had an establishment at the time of death and the facts and grounds supporting that statement;
- (iii) where main proceedings have not been opened in another Member State, contain a statement as to which of the conditions referred to in Article 3(4)(a) or Article 3(4)(b) of the Insolvency Regulation is met and the facts and grounds supporting that statement.

(5) The petition referred to in sub-rule (1) shall be verified by affidavit. The affidavit shall set out and verify the facts supporting every statement made for the purposes of sub-rules (2) and (4).

(6) Upon the presentation of a petition referred to in sub-rule (1) the petitioner shall deposit with the Official Assignee the sum of €650, and shall thereafter lodge such further sums, if any, as the Court may from time to time direct, to cover the costs, fees and expenses incurred or to be incurred by the Official Assignee, and no petition shall be received unless the receipt of the Official Assignee for the deposit payable on presentation of the petition is produced to the proper officer.

(7) The Official Assignee shall account for the money so deposited to the petitioner, and any sum so paid by a petitioner shall be repaid to such petitioner (except and so far as such deposit may be required by reason of insufficiency of assets for the payment of the costs, fees and expenses incurred by the Official Assignee) out of the proceeds of the estate in the same priority as his costs.

127. A petition referred to in rule 126 shall be supported by the affidavit of the petitioner setting forth the grounds upon which it is alleged that the estate will be insufficient for the payment of the deceased's debts.

128. Upon the presentation of a petition by a creditor, the creditor shall file an affidavit in the Form No. 12 proving his debt, provided that when the debt of a petitioning creditor or any part thereof is in respect of money lent pursuant to a credit agreement to which either the Consumer Credit Act 1995 applies or the 2010 Regulations apply, or interest or charges in connection with such an agreement, the affidavit shall contain:

- (a) a statement of the date when a copy of the credit agreement was handed, delivered or sent to the borrower in accordance with section 30 of the Consumer Credit Act 1995 or, as the case may be, received by the borrower in accordance with Regulation 13(2) of the 2010 Regulations, on which a copy of the note or memorandum in writing of the contract made pursuant to section 11 of the Moneylenders Act 1933, was delivered or sent to the borrower and
- (b) particulars showing compliance of the credit agreement as to content with the requirements of Part III of the Consumer Credit Act 1995 or, as the case may be, Part 4 of the 2010 Regulations.

129. Upon the presentation of a petition by a personal representative, the personal representative shall produce to the proper officer the grant of probate or of letters of administration, as the case may be, together with the Inland Revenue Affidavit relating to the estate.

130. Where a petition has been presented by a creditor it shall be served on the personal representative of the deceased, or where there is no known personal representative, on such person and in such manner as the Court may think fit.

131. The provisions of these rules regarding a bankruptcy petition shall as far as applicable and with appropriate modifications, apply to a petition under section 115 of the Act.

132. The provisions of these rules relating to adjudication in Bankruptcy and the procedure to be followed thereafter shall, as far as applicable and with appropriate modifications, apply to an order made for the administration of an insolvent deceased's estate. Notice of the making of such order and of the statutory sitting shall be in the Form No. 34.

133. (1) When an administration order has been made the personal representative or such person as the Court may direct shall file in the proper office

(a) a statement of affairs relating to the deceased's estate in the form prescribed by these Rules for bankrupts with such variation as may be required, and

(b) an account of his dealings with the deceased's estate in such form and verified in such manner as the Official Assignee may require,

and shall thereupon lodge with the Official Assignee a duplicate of the said documents duly stamped by the proper officer with the date of filing.

(2) The personal representative shall also furnish to the Official Assignee such other particulars of the affairs of the deceased as he may from time to time require.

134. Where an order has been made in the Circuit Court under section 115(4) of the Act for the transfer to the Court of proceedings for the administration of the estate of a deceased debtor the person on whose application such order was made shall forthwith apply to the Court on notice to the Official Assignee for an administration order. The Official Assignee may at that hearing before the Court apply for such provision to be made by the applicant or from funds forming part of the estate for the costs, fees and expenses to be incurred by the Official Assignee.

## XXVI. Distribution of Estate

135. Notice of a sitting of the Court to distribute the proceeds of the sale of any land which is the subject of any mortgage, charge or lien shall be sent by post by the party having carriage of the sale at least ten days before the sitting to every incumbrancer and to the Official Assignee when he has not carriage of the sale.

136. An Account called the "Bankruptcy Dividend Account" shall be kept in the Bank in the name of the Official Assignee. After an Order has been made in any matter of bankruptcy or arrangement for payment of a dividend or cash composition, the Official Assignee shall transmit to the Bank an authority in the prescribed form, to transfer from the estate account (hereinafter mentioned) of such matter to the credit of the Bankruptcy Dividend Account the total amount of such dividend or cash composition, and to pay to the creditors, to

whom the dividend or cash composition is payable, the respective amounts to which the said creditors are entitled as specified in a schedule to be subjoined to the said authority, and to charge the amounts so paid to the Bankruptcy Dividend Account. The said authority shall be dated as of the date of the order for payment of the dividend or cash composition.

137. The Official Assignee shall transmit forthwith to each creditor by prepaid ordinary post a notification, in the prescribed form of the dividend or cash composition payable to him, and that payment will be made to him by the Bank upon presentation through a bank of such notification bearing at foot the acknowledgement of the receipt by the payee. Provided, however, that when the debt of any creditor has been admitted as a claim only, or subject to the production of a bill, note or other document, or when payment of a dividend or composition has been stayed, or when it is necessary that the creditor should produce to the Official Assignee a bill or note in order that the dividend or cash composition may be endorsed thereon, the Official Assignee shall defer transmitting the notification, and shall communicate to the creditor that the same will be transmitted to him only upon conversion of the claim into a proof, or upon the production to the Official Assignee of the bill, note or other document required to be produced, or upon removal of the stay.

138. A creditor who has produced the bills or notes upon which his proof is founded may be required by the Official Assignee to produce them again before receiving his dividend or cash composition, if the bankrupt or arranging debtor alone is liable thereon, but where some other person besides the bankrupt or arranging debtor is liable upon the bills or notes the creditor shall produce them to the Official Assignee before receiving the dividend or cash composition, and the Official Assignee on being satisfied that the bills or notes are those required to be produced shall endorse thereon the amount of the dividend or cash composition paid thereon, provided, however, that the Court may for sufficient reason dispense with the production to the Official Assignee of a bill, note or document in any matter.

139. The Bank shall transmit daily to the Official Assignee all paid drafts and all notifications upon the presentation of which creditors have received payment of dividend or cash composition.

140. At the expiration of one year from the date of every authority to the Bank for payment to creditors of dividend or cash composition, the authority shall lapse and become void, and the Bank shall forthwith transmit to the Official Assignee every such authority with the dates on which the several payments thereunder were made noted thereon.

141. (1) The Official Assignee shall, immediately after the expiration of one year from the date of the order for distribution of the estate or any part thereof cause a list of unpaid dividends or cash compositions, and of all other money unclaimed, to be prepared. The Official Assignee shall direct such notices to be served relative thereto as he may think fit, and when satisfied that the dividends, compositions or other sums in such list are properly transferable to the Official

Assignee — Unclaimed Dividend Account shall give directions for the immediate transfer of the same. A schedule of the unpaid dividends, compositions and other sums transferable to the said account shall in all cases be lodged with the proper officer with a certificate that the actual transfer has been made.

(2) Any sum drawn by the Official Assignee out of the said account in accordance with section 61(3)(k) of the Act shall thereupon be lodged by him to the credit of the relevant estate account.

142. (1) When, after an authority in the prescribed form for payment out of the Bankruptcy Dividend Account has been lodged in the Bank, any debt comprised therein shall be expunged or reduced or a stay shall be placed upon the payment of any dividend or composition specified in such authority, the Official Assignee shall thereupon issue to the Bank a direction cancelling the authority of the Bank to pay the amount of the dividend or composition upon the debt expunged or reduced or upon which the stay has been placed, and shall draw such amount from the Bankruptcy Dividend Account by a draft in favour of the account of the estate out of which such dividend or composition is payable, and the amount so drawn shall be brought to the credit of the said estate. After receipt of such direction as aforesaid the Bank shall not make payment of the amount therein specified on foot of the original authority.

(2) When, after any such authority as aforesaid has been lodged in the Bank, the right to receive payment of a sum therein specified has been transferred to or devolves upon a person (hereinafter called “the new payee”) other than the person named in the authority as the person entitled to receive payment of such sum, the Official Assignee shall thereupon issue to the Bank a fresh authority revoking the original authority in so far as it refers to such sum and authorising the Bank to make payment of the said sum to the new payee, and the Bank shall not, after receipt of such fresh authority, make payment of all or any part of the said sum to the person named in the original authority as entitled to receive payment thereof. The Official Assignee may, however, in any case require that application for payment be made to the Court.

143. Payment from the Bankruptcy Dividend Account to the Official Assignee — Unclaimed Dividend Account or to an estate account shall be made in the manner provided by rule 150 for payments out of an estate account.

## XXVII. Official Assignee

144. The Official Assignee shall not, directly or indirectly, carry on any trade or business, or hold or be engaged in any office or employment other than his office and employment as Official Assignee.

145. The Official Assignee shall on an adjudication deliver personally or transmit by post to the bankrupt a notice requiring him to furnish lists of his debtors and creditors and to make a full disclosure of his estate and effects. On being furnished with the list of the bankrupt’s creditors, the Official Assignee shall examine the same with the aid of the bankrupt’s books so as to be prepared to oppose improper proofs.

146. The Official Assignee, immediately on receiving the statement of affairs of the bankrupt, shall examine the same, and may communicate fully with the creditors' assignee (if any), with the petitioning creditor, with the solicitor for the assignees, and with the bankrupt, upon any part of the statement as he shall consider necessary.

147. In every adjudication against two or more partners, the Official Assignee shall keep in his books distinct accounts of the joint estate and of each separate estate.

148. All moneys ordered by the Court to be invested shall be invested in the name of the Official Assignee. No investment shall be sold or transferred, except pursuant to the Order of the Court.

149. The Official Assignee shall, in every matter of bankruptcy or arrangement or in proceedings under Part VI of the Act in which he receives money or other funds, cause an account to be opened in the books of the Bank to be headed:—

Record No.

The Estate of .....  
Bankrupt  
Arranging Debtor (as the case may be)  
Insolvent deceased

The Official Assignee shall forthwith lodge in the Bank to such account all moneys and other funds received by him in that matter.

150. No payment or transfer, shall be made by the Bank out of any such estate account, except upon a draft or authority in the prescribed form signed by the Official Assignee, or in his absence by the Deputy Official Assignee, and countersigned by such officer in the office of the Official Assignee as shall be appointed for that purpose by the Official Assignee.

151. In addition to the account to be opened for each such matter a general cash account to be called the "Bankruptcy General Account" shall be kept by the Bank in which the Official Assignee shall be credited with the lodgments to credit of the respective estate accounts under his charge, and shall be debited with the payments made by him out of the said respective estate accounts.

152. For the purpose of providing temporarily for payments for which no funds are immediately available in the particular estate against which they are chargeable, a standing imprest or advance of €6,500 shall be issued to the Official Assignee out of the Official Assignee — Unclaimed Dividend Account and shall be lodged to the credit of the Official Assignee in a separate account in the Bank, for which sum the Official Assignee shall be accountable to the Court. The Official Assignee may make such advances out of the said imprest as he shall deem advisable. The Official Assignee shall, in every case in which he shall so make advances be recouped the amount properly advanced out of the first moneys lodged to credit of the estate for which the advance is made



which are applicable to the recoupment; provided, however, that this rule shall not be construed as exonerating a petitioning creditor from indemnifying the Official Assignee in respect of costs, fees and expenses as provided by rule 30.

153. On or before the 31st January and the 31st July in every year the Official Assignee shall lodge with the proper officer a verified statement in the prescribed form, showing respectively to the 31st December and the 30th June then next preceding, the total amounts of his receipts and payments in respect of every matter of bankruptcy and arrangement on account of which money has been received or paid in the six months ending on the said last mentioned days, or upon which there remained any balance of money or any property undisposed of at the commencement of the said period of six months, and showing the balance (if any) in respect of each such matter at the close of the period to which the said statement relates. The proper officer shall transmit such statement to the Judge.

154. The accounts of the Official Assignee shall in all cases be vouched before the proper officer previous to the sitting for distribution.

155. (1) The proper officer may at such time or times as he deems fit and shall, when directed by the Court and in any event at least once within every period of two years, carry out an audit of the books of the Official Assignee. For the purposes of such audit, the proper officer shall be entitled to inspect the books, files and other records of the Official Assignee and to call upon the Official Assignee to produce such documents as may be required to vouch any transaction arising in the Official Assignee's books or otherwise involving the receipt or payment of money or other funds or the receipt or disposal of property by the Official Assignee, in respect of which the proper officer requires an explanation.

(2) Should any material discrepancy or delay in realisation appear for which a satisfactory explanation is not forthcoming, the proper officer shall forthwith report the matter to the Court.

(3) If any unnecessary delay shall take place in any proceedings in bankruptcy or arrangement the bankrupt or the arranging debtor or any creditor, assignee or trustee shall be at liberty to bring the matter before the Court.

(4) If it shall appear that the Official Assignee has neglected to account forthwith, the proper officer shall report such neglect to the Court.

#### XXVIII. Unclaimed Dividend Account.

156. The Official Assignee shall transfer all unclaimed dividends and all money unclaimed remaining in his hands to the Official Assignee — Unclaimed Dividend Account kept in books of the Bank in accordance with section 84 of the Act.

157. Any application for payment of an unclaimed dividend shall be made by lodging with the Official Assignee an affidavit setting forth full details of the applicant's entitlement to payment and, if found correct, the Official Assignee

shall make out a draft upon the Official Assignee — Unclaimed Dividend Account for the amount thereof.

158. No payment or transfer shall be made by the Bank out of the Official Assignee — Unclaimed Dividend Account except upon a draft or authority in the prescribed form signed by the Official Assignee or in his absence by the Deputy Official Assignee and countersigned by such officer in the Office of the Official Assignee as shall be appointed for that purpose by the Official Assignee.

#### XXIX. Records.

159. The following books according to the forms heretofore in use in the Court or as may be sanctioned by the Judge shall be kept by the proper officer:—

- (a) Indices of Bankruptcies, Arrangements and Insolvent Deceaseds,
- (b) Bankruptcy Petition Book,
- (c) Arrangement Petition Book,
- (d) Insolvent Deceaseds Petition Book,
- (e) Register of Bankruptcy Summonses,
- (f) Day List of all Sittings appointed before the Court,
- (g) Office Directions Book,
- (h) Registrar's Minute Book, and
- (i) such other books and records as shall from time to time be prescribed by the Judge.

160. (1) The following books according to the forms heretofore in use or as may be sanctioned by the Judge shall be kept by the Official Assignee:—

- (a) a debtors' book, containing a record of debts due to each estate and amounts recovered,
- (b) a creditors' book, containing a record of the claims on each estate,
- (c) a cash book, containing a record of all receipts and payments,
- (d) a ledger, containing a debtor and creditor account of each estate,
- (e) lists of all deeds, securities and valuables delivered to him, and
- (f) lists of all books and papers delivered to him.

(2) The Official Assignee shall maintain the register required by section 140A(1) of the Act in the form from time to time prescribed by the Judge.

## XXX. Discharge and Annulment.

161. (1) A person whose bankruptcy has been discharged by virtue of section 85(1) of the Act and who is entitled to have property returned to him in accordance with section 85(2) of the Act shall be at liberty to apply to the Court for an Order directing the Official Assignee to return the property to him.

(2) An application in pursuance of sub-rule (1) shall be grounded upon an affidavit of the bankrupt showing satisfactory evidence of the identity of the applicant. Notice of the application and a copy of such affidavit shall be served upon the Official Assignee not less than ten days prior to the hearing thereof.

(3) The Court shall, upon receipt of a report from the Official Assignee confirming that provision has been made for the payment of the expenses, fees, costs and preferential payments due in the bankruptcy, direct the return to the applicant of the property remaining after such provision.

162. Where at a sitting for distribution it shall appear to the Court that the requirements of section 85(3)(a)(i) of the Act have been fulfilled, the Court may order that the bankruptcy be discharged.

163. (1) An application by a bankrupt for an order discharging his bankruptcy on the ground set forth in section 85(3)(a)(ii) of the Act shall be grounded upon an affidavit of the bankrupt exhibiting a consent to such discharge, in the Form No. 35, from each of his creditors. Notice of the application and a copy of such affidavit shall be served upon the Official Assignee not less than ten days prior to the hearing thereof.

(2) The Court shall, upon receipt of a report from the Official Assignee confirming that provision has been made for payment of the expenses, fees, costs and preferential payments due in the bankruptcy, order that the bankruptcy be discharged.

(3) No application shall be made under this rule until the Official Assignee has ascertained the debts and liabilities of the bankrupt.

164. (1) An application by a bankrupt for an order discharging his bankruptcy in pursuance of section 85(4) of the Act shall be grounded upon an affidavit of the bankrupt setting forth the grounds upon which he claims to be entitled to a discharge. Notice of the application and a copy of such affidavit shall be served upon the Official Assignee not less than ten days prior to the hearing thereof.

(2) The Court, upon receipt of a report from the Official Assignee confirming that provision has been made for payment of the expenses, fees, costs and preferential payments due in the bankruptcy, may grant the application.

(3) Where the application is made on the ground that the bankruptcy has subsisted for twelve years,

- (a) the bankrupt shall in his affidavit disclose all his after-acquired property, and
- (b) the Official Assignee shall in his report confirm whether in his opinion all after-acquired property has been disclosed by the bankrupt and whether in his opinion it is reasonable and proper that the application be granted.

165. (1) An application for a certificate of discharge may be made by way of motion of course.

(2) A certificate of discharge shall be in the Form No. 48.

166. A certificate of annulment shall be in the Form No. 49.

#### XXXI. Costs

167. The costs of the petitioning creditor provided for by section 12 of the Act shall, when taxed and ascertained, be paid out of the first net proceeds of the estate of the bankrupt next in priority to the costs, fees and expenses of the Official Assignee, unless the Court otherwise orders.

#### XXXII. General

168. (1) Whenever an Order made on or before the 31st December 1988 directs the Examiner to take an account of the amount due in respect of a mortgage debt and such account has not been taken or completed by the Examiner, then all such orders shall be read as if the words "Official Assignee" were inserted for "Examiner", and the Official Assignee shall take (or complete the taking of) such account accordingly.

(2) Whenever an Order made on or before the 31st December 1988 directs an inquiry to be conducted in respect of the due priority of a mortgage debt by the Examiner and such inquiry has not been conducted or completed by the Examiner, then all such orders shall be read as if the words "Official Assignee" were inserted for "Examiner", and the Official Assignee shall conduct (or complete) such inquiry accordingly.

169. An application by the Official Assignee or a trustee, for the purposes of Article 19 of the Insolvency Regulation, for a certificate referred to in section 140C of the Act shall be made by the production by the Official Assignee or, as the case may be, the trustee, to the Master of a true copy of the order of the Court referred to in paragraph (a), (b) or (c) (as the case may be) of section 140C of the Act. The certificate shall be in the Form No. 50."

**Schedule 2**

No. 9

**DECLARATION OF INSOLVENCY**

**THE HIGH COURT**

**BANKRUPTCY**

I, ..... of ..... do hereby declare that I am unable to meet my engagements with my creditors.

My unencumbered assets are as follows: .....\*

My encumbered assets are as follows: .....\*

My unsecured liabilities are as follows: .....\*

My secured liabilities are as follows: .....\*

†My centre of main interests is situated within the territory of the State, namely at .....

†My centre of main interests is situated within the territory of the State of ..... namely at ....., and I have an establishment within the territory of the State, at .....

Dated  
(Signed)

Witness

Solicitor

Received the ..... day of ..... 20..... at the hour of ..... o'clock in the .....noon.

\*Set out in detail, specifying estimated value of each asset, amount of indebtedness secured upon the encumbered assets, and the assets upon which liabilities are secured, where appropriate.

†Delete whichever is inapplicable.

PETITION OF BANKRUPTCY BY A PERSON OTHER THAN THE  
DEBTOR

THE HIGH COURT

No.

The humble petition of ..... of .....shows as follows:-

[Note 1] 1. ....of..... (in this petition referred to as “the debtor”) is indebted to your petitioner in the sum of €.....in respect of (*state nature of debt*).

2. Your petitioner does not nor does any person or persons on his behalf hold any mortgage, charge, or lien on the debtor’s estate or any part thereof as security for said debt or any part thereof (*or your petitioner holds security for the payment of (or part of) the said sum but he will give up such security for the benefit of the creditors of the debtor in the event of the debtor’s being adjudged a bankrupt or your petitioner holds security for the payment of (or part of) the said sum and he estimates the value of such security at the sum of €.....*).

3. The said debtor has within three months before the presentation of this petition committed an act of bankruptcy as follows:- (*give details of the specific acts of bankruptcy alleged*) as your petitioner has been informed and believes.

[Note 2] 4. Council Regulation (EC) No 1346/2000 applies to the proceedings. The centre of main interests (as determined in accordance with Council Regulation (EC) No 1346/2000) of the said debtor is situated in the State because (*state facts and grounds relied on*).

[Note 2] 4. Council Regulation (EC) No 1346/2000 applies to the proceedings. The centre of main interests of the said debtor is situated within the territory of a Member State of the European Union in which Council Regulation (EC) No 1346/2000 applies (other than the State), namely at..... in..... because (*state facts and grounds relied on*) and the said debtor has an establishment within the State at..... because (*state facts and grounds relied on*).

[Note 2] [Note 3] 4. Council Regulation (EC) No 1346/2000 does not apply to the proceedings because (*state facts and grounds relied on*), and the debtor is domiciled in the State (*or specify which of the alternative requirements of Section 11(1)(d) of the Bankruptcy Act 1988 is fulfilled*).

[Note 4] 5. To your petitioner’s knowledge, no insolvency proceedings have been opened in respect of the said debtor in a Member State of the European Union to which Council Regulation (EC) No 1346/2000 applies.

5. Insolvency proceedings, which are

\*main proceedings, (in accordance with Article 3(1) of Council Regulation (EC) No 1346/2000)

\*secondary proceedings, (in accordance with Article 3(3) of Council Regulation (EC) No 1346/2000)

\*territorial proceedings, (in accordance with Article 3(4) of Council Regulation (EC) No 1346/2000)

have been opened in respect of the said debtor in a Member State of the European Union to which Council Regulation (EC) No 1346/2000 applies (other than the State), namely in....., by decision of ..... made on .....20....

\*Your petitioner

\*..... of .....

was appointed by the said decision to be liquidator (within the meaning of Article 2(b) of Council Regulation (EC) No 1346/2000) in those insolvency proceedings concerning the debtor.

\*6. (*Where territorial proceedings are sought and no main proceedings are open in another EU Member State*) In your petitioner's belief, the centre of the debtor's main interests is situated within the territory of a Member State other than the State, and main proceedings have not been opened in another Member State. The condition referred to in \*[Article 3(4)(a)] \*[Article 3(4)(b)] of the Insolvency Regulation is met because (*state facts and grounds relied on, e.g. main proceedings cannot be opened in respect of the debtor where the centre of the debtor's main interests is situated, because of the conditions laid down by the law of that State, or the opening of territorial insolvency proceedings is requested by a creditor who has his domicile, habitual residence or registered office in the State or whose claim arises from the operation of that establishment*).

Your petitioner therefore prays that on proof of the requisites in that behalf, on the hearing of this petition, the said debtor may be adjudged bankrupt

\*[Note 5] in main proceedings, (in accordance with Article 3(1) of Council Regulation (EC) No 1346/2000)

\*[Note 6] in secondary proceedings (in accordance with Article 3(3) of Council Regulation (EC) No 1346/2000)

\*[Note 7] in territorial proceedings (in accordance with Article 3(4) of Council Regulation (EC) No 1346/2000).

YOUR PETITIONER HEREBY UNDERTAKES to this Honourable Court that, in the event of the said debtor being so adjudged your petitioner will advertise notice of the adjudication and statutory sitting in the manner directed by this Honourable Court and bear the expenses of such advertisement. Your petitioner HEREBY INDEMNIFIES the Official Assignee as to the costs, fees and expenses incurred, or to be incurred, in the event of such adjudication by the Official Assignee as to the costs, fees and expenses incurred, or to be incurred, in

the event of such adjudication by the Official Assignee and allowed by the Court. Your petitioner FURTHER UNDERTAKES to lodge such sums as this Honourable Court may direct to cover such costs, fees and expenses.

Dated  
(Signed)

(Signed)

Witness

(Name, address and description of witness)

Received this ..... day of ..... 20..... at the hour of ..... o'clock in the .....noon.

**Notes:**

[Note 1] In the case of the petition of a liquidator in main proceedings which concerns or involves the opening of secondary insolvency proceedings in the State pursuant to Article 27 of the Insolvency Regulation, paragraphs 1-3 above are not required to be included. In the case of the petition of a person other than the liquidator in main proceedings (i.e. a person mentioned in Article 29(b) of the Insolvency Regulation) which concerns or involves the opening of secondary insolvency proceedings in the State pursuant to Article 27 of the Insolvency Regulation, paragraphs 1-3 above must be included. In such a case only, the appropriate alternative in the prayer for relief referring to secondary proceedings or, as the case may be, territorial insolvency proceedings, should be included.

[Note 2] One alternative version only of paragraph 4 must be included.

Under Council Regulation (EC) No 1346/2000—

the “centre of main interests” should correspond to the place where the debtor conducts the administration of his interests on a regular basis and is therefore ascertainable by third parties;

“establishment” means any place of operations where the debtor carries out a non-transitory economic activity with human means and goods.

[Note 3] Where this version of paragraph 4 is appropriate to the case, paragraph 5 should be deleted and the remaining paragraphs renumbered.

[Note 4] Where paragraph 5 is required, one alternative version only of that paragraph must be included.

[Note 5] To be completed only if Council Regulation (EC) No 1346/2000 applies and the debtor’s centre of main interests is situated in the State.

[Note 6] To be completed only if Council Regulation (EC) No 1346/2000 applies, insolvency proceedings in respect of the debtor have been opened in another Member State, and the debtor has an establishment in the State.

[Note 7] To be completed only if Council Regulation (EC) No 1346/2000 applies, insolvency proceedings in respect of the debtor have been opened in another Member State, and one of the conditions in Article 3(4) of the Council Regulation is satisfied.

\*Delete where inapplicable.



(The following affidavit must be filed to verify the petition, and may be endorsed on the petition).

THE HIGH COURT

BANKRUPTCY

I, the petitioner named in the within petition, make oath and say as follows:

1. The several allegations in the said petition are true.

\*2. (*Where insolvency proceedings are open in another EU Member State*) I beg to refer to a certified copy of the decision /a certificate of the ..... Court of ..... appointing \*me \* ..... of ..... as liquidator in respect of the debtor, upon which marked “A” I have signed my name prior to the swearing hereof. [I further beg to refer to a translation of that decision/certificate into the Irish/English language certified by a person competent and qualified for the purpose, upon which marked “B” I have signed my name prior to the swearing hereof.]

Sworn, &c.

\*Delete where inapplicable

PETITION BY A DEBTOR TO BE ADJUDICATED A BANKRUPT  
THE HIGH COURT  
BANKRUPTCY

No.

The humble petition of ..... of .....shows as follows:

1. Your petitioner is unable to meet his engagements with his creditors, as will appear from the affidavit of your petitioner filed herewith. Your petitioner believes that he can make it appear to the satisfaction of the Court that his available estate is sufficient to produce the sum of nineteen hundred and four euros and sixty-one cents at the least.

[Note 1] 2. Council Regulation (EC) No 1346/2000 applies to the proceedings. Your petitioner's centre of main interests (determined in accordance with Council Regulation (EC) No 1346/2000) is situated in the State because (*state facts and grounds relied on*).

2. Council Regulation (EC) No 1346/2000 applies to the proceedings. Your petitioner's centre of main interests is situated within the territory of a Member State of the European Union in which Council Regulation (EC) No 1346/2000 applies (other than the State), namely at ..... in ..... because (*state facts and grounds relied on*) and your petitioner has an establishment within the State at ..... because (*state facts and grounds relied on*).

2. Council Regulation (EC) No 1346/2000 does not apply to the proceedings because (*state facts and grounds relied on*), and your petitioner is domiciled in the State (*or specify which of the alternative requirements of Section 11(1)(d) of the Bankruptcy Act 1988 is fulfilled*).

[Note 2] 3. Insolvency proceedings, which are

\*main proceedings, (in accordance with Article 3(1) of Council Regulation (EC) No 1346/2000)

\*secondary proceedings, (in accordance with Article 3(3) of Council Regulation (EC) No 1346/2000)

\*territorial proceedings, (in accordance with Article 3(4) of Council Regulation (EC) No 1346/2000)

have been opened in respect of your petitioner in a Member State of the European Union to which Council Regulation (EC) No 1346/2000 applies (other than the State), namely in....., by decision of .....made on .....20.... of ..... was appointed by the said decision to be liquidator (within

the meaning of Article 2(b) of Council Regulation (EC) No 1346/2000) in those proceedings concerning your petitioner.

\*4. (*Where territorial proceedings are sought and no main proceedings are open in another EU Member State*) The centre of your petitioner’s main interests is situated within the territory of a Member State other than the State, and main proceedings have not been opened in another Member State. The condition referred to in \*[Article 3(4)(a)] \*[Article 3(4)(b)] of the Insolvency Regulation is met because (*state facts and grounds relied on, e.g. main proceedings cannot be opened in respect of the debtor where the centre of the debtor’s main interests is situated, because of the conditions laid down by the law of that State*).

Your petitioner therefore prays that your petitioner may be adjudged bankrupt

\*[Note 3] in main proceedings, (in accordance with Article 3(1) of Council Regulation (EC) No 1346/2000)

\*[Note 4] in secondary proceedings (in accordance with Article 3(3) of Council Regulation (EC) No 1346/2000)

\*[Note 5] in territorial proceedings (in accordance with Article 3(4) of Council Regulation (EC) No 1346/2000).

YOUR PETITIONER HEREBY UNDERTAKES to this Honourable Court that, in the event of his being so adjudged, your petitioner will attend in person at the statutory sitting, and will advertise notice of the adjudication and statutory sitting in the manner directed by this Honourable Court and bear the expenses of such advertisement. Your petitioner HEREBY INDEMNIFIES the Official Assignee as to the costs, fees and expenses incurred or to be incurred, in the event of such adjudication, by the Official Assignee and allowed by the Court. Your petitioner FURTHER UNDERTAKES to lodge such sums as this Honourable Court may direct to cover such costs, fees and expenses.

**Notes:**

[Note 1] One alternative version only of paragraph 2 must be included.

Under Council Regulation (EC) No 1346/2000—

the “centre of main interests” should correspond to the place where the debtor conducts the administration of his interests on a regular basis and is therefore ascertainable by third parties;

“establishment” means any place of operations where the debtor carries out a non-transitory economic activity with human means and goods.

[Note 2] Paragraph 3 must be included: (a) in any case in which main insolvency proceedings have been opened in another Member State and the debtor’s petition concerns or involves the opening of secondary insolvency proceedings (in accordance with Article 3(3) of Council Regulation (EC) No 1346/2000) in the State pursuant to Article 27 of the Insolvency Regulation (by virtue of Article 29(b) of the Insolvency Regulation), or (b) in any case in which territorial insolvency proceedings (in accordance with Article 3(4) of Council Regulation (EC) No 1346/2000) have been opened in another Member State. In such a case only, the appropriate alternative in the prayer for relief referring to secondary proceedings or, as the case may be, territorial insolvency proceedings, should be included.

[Note 3] To be completed only if Council Regulation (EC) No 1346/2000 applies and the petitioner's centre of main interests is situated in the State.

[Note 4] To be completed only if Council Regulation (EC) No 1346/2000 applies, insolvency proceedings in respect of the petitioner have been opened in another Member State, and the petitioner has an establishment in the State.

[Note 5] To be completed only if Council Regulation (EC) No 1346/2000 applies, insolvency proceedings in respect of the petitioner have been opened in another Member State, and one of the conditions in Article 3(4) of the Council Regulation is satisfied.

\*Delete where inapplicable

Dated  
(Signed)

(Signed)

Witness

(name, address and description of witness)

Received this ..... day of ..... 20..... at the hour of ..... o'clock in the .....noon.

(The following affidavit must be filed to verify the petition, and may be endorsed on the petition).

THE HIGH COURT

BANKRUPTCY

I,.....of....., the petitioner named in the within petition, make oath and say as follows:

1. The petition contains a full and fair description of me as to my name, trade or profession and last and usual place of abode.

\*2. (*Where insolvency proceedings are open in another EU Member State*) I beg to refer to a certified copy of the decision /a certificate of the ..... Court of ..... appointing ..... of ..... as liquidator in respect of me upon which marked "A" I have signed my name prior to the swearing hereof. [I further beg to refer to a translation of that decision/certificate into the Irish/English language certified by a person competent and qualified for the purpose, upon which marked "B" I have signed my name prior to the swearing hereof.]

3. The remaining allegations of fact in the said petition are true.

Sworn, &c.

\*Delete where inapplicable

No. 15

ORDER OF ADJUDICATION

THE HIGH COURT

BANKRUPTCY

No.

Before Mr. Justice

In the matter of a petition of bankruptcy by .....

\*[in the case of a petition by a person other than the debtor] against .....

Upon the hearing of the said petition this day, and proof satisfactory having been given:

\*[in the case of a creditor's petition for adjudication by a person other than the liquidator in main proceedings] that the requirements of section 11(1) of the Bankruptcy Act 1988 have been complied with

\*or [in the case of a debtor's petition for adjudication] that the petitioner is, unable to meet his engagements with his creditors and that his available estate is sufficient to realise at least €1,904.61

†And the Court being satisfied that the centre of main interests of the said ..... is situated in Ireland, IT IS ORDERED that the said ..... be and he is hereby adjudged bankrupt in main proceedings, in accordance with Article 3(1) of Council Regulation (EC) No 1346/2000

†And the Court being satisfied that proceedings have been opened in another Member State as proceedings to which Article 3(1) of Council Regulation (EC) No 1346/2000 refers, IT IS ORDERED that the said ..... be and he is hereby adjudged bankrupt in secondary proceedings, in accordance with Article 3(3) of Council Regulation (EC) No 1346/2000

†And the Court being satisfied that the centre of main interests of the said ..... is not situated in Ireland, but that an establishment of the said ..... is situated in Ireland, IT IS ORDERED that the said ..... be and he is hereby adjudged bankrupt in territorial proceedings, in accordance with Article 3(4) of Council Regulation (EC) No 1346/2000

†And the Court being satisfied that Council Regulation (EC) No 1346/2000 does not apply to these proceedings, IT IS ORDERED that the said ..... be and he is hereby adjudged bankrupt in

Given under the seal of the Court this..... day of ....., 20....

Judge

Solicitor for the petitioner

[address]

*[In the case of a petition by a person other than the debtor, the following notice is to be endorsed on the order]*

Notice: The time allowed for showing cause to the Court against the validity of this order of adjudication is three days from the service of this copy thereof upon the bankrupt, unless the Court shall think fit to extend such time in accordance with Section 16 of the Bankruptcy Act 1988.

†Only one alternative version must be used.

\*Delete where inapplicable

No. 19.

NOTICE OF ADJUDICATION AND OF STATUTORY SITTING  
THE HIGH COURT  
BANKRUPTCY

No.

In the matter of .....a Bankrupt

..... of ..... was on the ..... day of ..... 20...,  
adjudged Bankrupt

- \* in main proceedings, (in accordance with Article 3(1) of Council Regulation (EC) No 1346/2000).
- \* in secondary proceedings, (in accordance with Article 3(3) of Council Regulation (EC) No 1346/2000).
- \* in territorial proceedings, (in accordance with Article 3(4) of Council Regulation (EC) No 1346/2000).
- \* the Court having determined that Council Regulation (EC) No 1346/2000 does not apply to the proceedings.

The statutory sitting of the Court will be held at the Four Courts Dublin 7, on the ..... day of ..... 20..., at the hour of .....o'clock in the .....noon.

The Bankrupt is required to attend at this sitting and make full disclosure of his property to the Court. Creditors may at such sitting prove their debts and choose and appoint a creditors' assignee. All persons having in their possession or under their control any money or other property of the Bankrupt should pay or deliver the same, and all debts due to the Bankrupt should be paid to ..... Official Assignee, Phoenix House, 15/24 Phoenix Street North, Smithfield, Dublin 7, to whom creditors may forward their proofs of debt.

Dated  
(Signed) .....  
Examiner

Solicitor  
[address]

THE HIGH COURT  
BANKRUPTCY

Office Reference No: .....

**Statement of Affairs of**

..... (Name)

Category:

\*Bankruptcy

\*Arrangement

*\*Please Tick as appropriate*

Address: .....

A) The **date of Adjudication** (Bankruptcy) ..... /..... /.....

B) The date of the granting of an **order for Protection** (Arrangement) ..... /..... /.....

*\*Please Tick as appropriate*

**Previous Bankruptcies/Arrangements (if any)**

\*I was a bankrupt in the year .....

\*I presented a Petition for Arrangement in the year .....   
And effected an arrangement of ..... in the Euro Debts  
amounting to €.....

*\*Delete if not applicable*

**Signed:** .....



(Please note that all pages must be signed by person swearing this affidavit.)

### Summary of Statement of Affairs

(Please insert total sums in relation to each heading)

#### Part 1: Assets

<b>A</b>	<b>Moveable Property</b>	€	Page....
	i) Cash	€	Page....
	ii) Financial Institution	€	Page....
	iii) Investments	€	Page....
	iv) Debts due to you	€	Page....
	v) Other Assets	€	Page....
<b>B</b>	<b>Immoveable Property</b>	€	Page....

#### Part 2: Liabilities

<b>A</b>	i) Unsecured Debts	€	Page....
<b>B</b>	ii) Secured Debts	€	Page....

#### Part 3: General

	i) Income & Outgoings (per 4 week period)	€	Page....
	ii) Property in Expectancy	€	Page....
	iii) Accounts, Papers, Deeds, Etc. Yes/No	€	Page....

#### Part 4: Declaration

**Signed:** .....

**PART 1 — LIST OF ASSETS****A — MOVEABLE PROPERTY i.e. all assets other than land or buildings****i) Cash**

State amount of cash in your possession

Total amount of cash in Hand

€.....

**ii) Financial Institution Accounts**

Give details of any sums held by you in Financial Institution accounts, including account number and branch where account held (*overdrawn accounts should not be shown here but should be shown under unsecured liabilities at page 7 below*):-

No.	Name of Financial Institution	Branch	A/C Number	Balance (€)
B1				
B2				
B3				
B4				
B5				
B6				
B7				
B8				
B9				
B10				
B11				
B12				
B13				
B14				
B15				
B16				
	<b>Total amount in Financial Institution</b>			€

**Signed:** .....

**iii) Investments**

Give details of any investments you have, i.e. stocks, shares, bonds, savings certificates, endowment insurance, pension, life policies, etc.

No.	Type of Investment	Name and address of Company or Institution	Ref. No.	Current Estimated Value
I1				
I2				
I3				
I4				
I5				
I6				

Give details of any company (registered with Company's Registration Office) in which you have had a management role in the last five years

No.	Name and address of Company	% Shareholding	CRO. No.	Current Estimated Value of your interest allowing for dividend distributions, Directors Loans to and from company etc.
I7				
I8				
I9				

**iv) Debts due to you**

Give details of any debts owed to you, stating the name and address of the person or body by whom the debt is owed.

No.	Name and address of Debtor	Nature of Debt	Amount due (€)	Disputed Y/N
D1				
D2				
D3				
D4				
D5				
D6				
D7				
D8				
D9				

**Signed:** .....

**v) Other Assets (Other than land or Buildings)**

List any other property owned by you or in the course of purchase under credit, e.g. motor vehicles, goodwill of a business, electrical goods, jewellery, antiques, livestock, machinery.

No.	Full Description of Asset	State whether items subject to hire purchase or other credit agreement — YES/NO	Estimated Current Value
O1			
O2			
O3			
O4			
O5			
O6			
O7			
O8			
O9			
O10			
O11			
O12			
O13			
O14			
O15			
O16			
O17			
O18			
O19			
O20			
O21			
O22			
O23			
O24			
O25			

**Signed:** .....

<b>B — IMMOVEABLE PROPERTY (Land, houses, buildings etc.)</b>
---

List all the buildings/land in which you have an interest as owner or tenant.

No.	Type of Property and Folio Number	Address	Nature of Interest e.g. Tenant or Owner or Joint Owner	Estimated Current Value	Mortgage Amount owing	Estimated current value of your interest
L1						
L2						
L3						
L4						
L5						
L6						
L7						
L8						
L9						
L10						
L11						
L12						

**Signed:** .....

**PART 2 — LIST OF LIABILITIES****A — Unsecured Debts (specify unsecured debts due by you)**

**Unsecured Debts** {no mortgage (including judgement mortgage), charge or lien created in respect of liability e.g. personal bills, loans or overdrafts, creditor invoices and liabilities in respect of personal guarantees etc.}

No.	Name and address of Creditor	Email Address	Description of Debt	Account No. (if any)	Amount Due €	Accepted or Disputed
A1						
A2						
A3						
A4						
A5						
A6						
A7						
A8						
A9						
A10						
A11						
A12						
A13						
A14						
A15						
A16						
A17						
A18						
A19						
A20						
A21						
A22						
A23						
A24						
	<b>Total amount of unsecured debts</b>				€	

**Signed:** .....

**B — Secured Debts (Specify debts due by you which have been secured against assets.)**

**Secured Debts** {A secured creditor is a creditor who can repossess and sell your assets if you fall behind with your payments. For example a mortgage charge over your house, a hire purchase / lease agreement over your vehicle or a bill of sale over your non company business assets}

No.	Name and address of Financial Institution	Specify whether a mortgage / hire purchase / lease agreement and provide the account number	Amount Due €	Details of relevant property including the folio number
B1				
B2				
B3				
B4				
B5				
B6				
B7				
B8				
B9				
B10				
B11				
B12				
B13				
B14				
B15				
B16				
B17				
B18				
B19				
B20				
B21				
B22				
B23				
B24				
B25				
B26				
	<b>Total amount of secured debts</b>		€	

**Signed:** .....

<b>PART 3 — General</b>
-------------------------

**i) Income & Outgoings**

	Average Monthly (4 week) Amount €
Average four weekly take home pay net of taxation (including overtime, commission, bonus etc.)	
Other income e.g. pensions, income bonds, benefits etc. (please specify)	
Contributions from other household members (four weekly)	
<b>Total Income</b>	€
<b>Total Outgoings</b>	€

**ii) Property in Expectancy**

No.	Description of Property	Testator / Settlor Name and address	By Will / Intestate Succession or Trust
E1			
E2			
E3			
E4			
E5			
E6			
E7			

**iii) Accounts, Papers, Deeds, Electronic Records and other documents relating to my estate**

No.	Description	In whose possession and where to be found
1		
2		
3		
4		
5		
6		

**Signed:** .....



**Part 4**

**Declaration**

I, the said ..... make oath and say:

I have carefully read the foregoing statement of my affairs, on each page of which I have signed my name.

I say that the same contains a full and true account of all debts due by me; that the same are justly due by me, save as therein otherwise stated; and that I am not, to my knowledge, indebted to any person or persons except the creditors therein named.

I say that the said statement contains a full and true account of all debts due to me and that there are not to my knowledge or belief any debts due to me except the debts therein returned.

I say that the said statement contains a full and true account and description of all other property of any kind or description whatsoever of which I am possessed or to which I am entitled.

Sworn, etc

Signed .....  
Solicitor for the debtor

**Note**

*It is the duty of the bankrupt to prepare his statement of affairs in this form and to be accurate in making the statements for which the several columns are intended. Particular attention is required as to dates and amounts.*

PETITION FOR ARRANGEMENT  
THE HIGH COURT  
BANKRUPTCY

No.

The humble petition of ..... of ..... shows as follows:-

1. Your petitioner is unable to meet his engagements with his creditors, as will appear from the affidavit of your petitioner filed herewith.
2. Your petitioner desires to place the state of his affairs before his creditors with a view to making a proposal for the composition of his debts, under the control of the Court, and to subject himself to the jurisdiction of the Court, according to the provisions of the Bankruptcy Act 1988 in that behalf.
3. The true cause of such inability of your petitioner arises from [*state cause in detail*].

[Note 1] 4. Council Regulation (EC) No 1346/2000 applies to these proceedings. Your petitioner's centre of main interests (determined in accordance with Council Regulation (EC) No 1346/2000) is situated in the State because (*state facts and grounds relied on*).

[Note 1] 4. Council Regulation (EC) No 1346/2000 applies to these proceedings. Your petitioner's centre of main interests is situated within the territory of a Member State of the European Union in which Council Regulation (EC) No 1346/2000 applies (other than the State), namely at ..... in ..... because (*state facts and grounds relied on*) and your petitioner has an establishment within the State at..... because (*state facts and grounds relied on*).

[Note 1] [Note 2] 4. Council Regulation (EC) No 1346/2000 does not apply to any insolvency proceedings concerning your petitioner because (*specify reasons for non-application*).

[Note 3] 5. To your petitioner's knowledge, no insolvency proceedings (within the meaning of Article 2 of Council Regulation (EC) No 1346/2000) have been opened in respect of him in any Member State of the European Union to which Council Regulation (EC) No 1346/2000 applies (other than the State).

[Note 3] 5. Insolvency proceedings, which are

\*main proceedings, (in accordance with Article 3(1) of Council Regulation (EC) No 1346/2000)

\*secondary proceedings, (in accordance with Article 3(3) of Council Regulation (EC) No 1346/2000)

\*territorial proceedings, (in accordance with Article 3(4) of Council Regulation (EC) No 1346/2000)

have been opened in respect of your petitioner in a Member State of the European Union to which Council Regulation (EC) No 1346/2000 applies (other than the State), namely in.....

\*Your petitioner

\*..... of .....

was appointed by the said decision to be liquidator (within the meaning of Article 2(b) of Council Regulation (EC) No 1346/2000) in those insolvency proceedings concerning your petitioner.

\*6. (Where no main proceedings are open in another EU Member State and territorial proceedings in accordance with Article 3(4) of Council Regulation (EC) No 1346/2000 are sought) The centre of your petitioner’s main interests is situated within the territory of a Member State other than the State, and main proceedings have not been opened in another Member State. The condition referred to in \*[Article 3(4)(a)] \*[Article 3(4)(b)] of the Insolvency Regulation is met because (state facts and grounds relied on, e.g. main proceedings cannot be opened in respect of the debtor where the centre of the debtor’s main interests is situated, because of the conditions laid down by the law of that State).

Your petitioner therefore submits himself to the jurisdiction of the Court and humbly prays that his person and property may be protected from any action or other process until further order, and that such proposal as he may be able to make to his creditors for the future payment or compromise of his debts or engagements and which shall be agreed to by them, may be executed under the direction of the Court.

Signed by the Petitioner in the presence of.....

Received this.....day of ..... 20...., at the hour of .....o’clock in the .....noon.

**Notes:**

[Note 1] Paragraph 4 must be completed only in the case of the petition of a debtor under section 87 of the Bankruptcy Act 1988 which concerns a proposal for an arrangement which constitutes insolvency proceedings (within the meaning of Article 2 of the Insolvency Regulation) and which will involve the vesting of all or part of the property of the debtor in the Official Assignee for realisation and distribution. In such a case, only one alternative version of paragraph 4 must be used.

Under Council Regulation (EC) No 1346/2000—

the “centre of main interests” should correspond to the place where the debtor conducts the administration of his interests on a regular basis and is therefore ascertainable by third parties;

“establishment” means any place of operations where the debtor carries out a non-transitory economic activity with human means and goods.

[Note 2] Where this version of paragraph 4 is appropriate to the case, paragraph 5 should be deleted and the remaining paragraphs renumbered.

[Note 3] Where paragraph 5 is required, one alternative version only must be used.

\*Delete where inapplicable.

(The following affidavit must be filed to verify the petition, and may be endorsed on the petition).

THE HIGH COURT

BANKRUPTCY

In the matter of a petition for arrangement by.....

I, the said .....of..... make oath, and say as follows:

1. Each of the allegations of fact in the said petition is true.

\*2. (*Where insolvency proceedings are open in another EU Member State*) I beg to refer to a certified copy of the decision /a certificate of the.....Court of....., referred to in the said petition, appointing .....of..... as liquidator in the insolvency proceedings in the Member State of ..... upon which marked "A" I have signed my name prior to the swearing hereof. [I further beg to refer to a translation of that decision/certificate into the Irish/English language certified by a person competent and qualified for the purpose, upon which marked "B" I have signed my name prior to the swearing hereof.]

Sworn, &c.

\*Delete where inapplicable.

No. 33

PETITION FOR AN ORDER FOR THE ADMINISTRATION OF THE  
ESTATE OF AN INSOLVENT DECEASED

THE HIGH COURT

BANKRUPTCY

No.

In the matter of a petition for an order for the administration in bankruptcy of the estate of ....., deceased.

I, ..... of ..... hereby petition the Court for an order for the administration in bankruptcy of the estate of the late ..... who died on the ..... day of ..... 20....

[Note 1] 1. The estate of ..... (hereafter in this petition, “the deceased”) is justly and truly indebted to me in the sum of €..... (*state amount due and the consideration*).

2. I do not nor does any person on my behalf hold any mortgage, charge or lien on the deceased's estate or any part thereof as security for the debt or any part thereof (*or your petitioner holds security for the payment of (or part of) the said sum, but he will give up such security for the benefit of the creditors of the deceased in the event of an order being made for the administration of the deceased's estate in bankruptcy or your petitioner holds security for the payment of (or part of) the said sum and he estimates the value of such security at the sum of €..... or I am the Legal Personal Representative of the said deceased*).

3. The estate of the said deceased is according to my information and belief insufficient to pay his debts.

4. The will of the said deceased was on the .....day of .....20....., proved by..... *or* Letters of administration intestate [or with will annexed] of the estate of the deceased, were on the ..... day of ..... 20...., granted to ..... of.....

5. No proceedings have been commenced in the Circuit Court for the administration of the deceased's estate.

[Note 2] 6. (*Where centre of main interests in the State*) Council Regulation (EC) No 1346/2000 applies to these proceedings. The centre of main interests (determined in accordance with Council Regulation (EC) No 1346/2000) of the said deceased at the time of death was situated in the State because (*state facts and grounds relied on*).

[Note 2] 6. (*Where centre of main interests in another EU Member State*) Council Regulation (EC) No 1346/2000 applies to these proceedings. The centre of main

interests (determined in accordance with Council Regulation (EC) No 1346/2000) of the said deceased at the time of death was situated within the territory of a Member State of the European Union in which Council Regulation (EC) No 1346/2000 applies (other than the State), namely at.....in..... because (*state facts and grounds relied on*) and the said deceased had at that time an establishment within the State at..... because (*state facts and grounds relied on*).

[Note 3] 6. Council Regulation (EC) No 1346/2000 does not apply to the proceedings, and the deceased for the ..... months preceding his death resided or carried on business at ..... (*or specify how the requirements of Section 115 of the Bankruptcy Act 1988 are fulfilled*).

[Note 4] 7. (*Where insolvency proceedings are open in another EU Member State*) Insolvency proceedings, which are

\*main proceedings, (in accordance with Article 3(1) of Council Regulation (EC) No 1346/2000)

\*secondary proceedings, (in accordance with Article 3(3) of Council Regulation (EC) No 1346/2000)

\*territorial proceedings, (in accordance with Article 3(4) of Council Regulation (EC) No 1346/2000)

have been opened in respect of the said deceased in a Member State of the European Union to which Council Regulation (EC) No 1346/2000 applies (other than the State), namely in....., by decision of .....made on .....20.... \*[Your petitioner] \*[AB of.....] was appointed by the said decision to be liquidator (within the meaning of Article 2(b) of Council Regulation (EC) No 1346/2000) in those proceedings concerning the deceased.

7. (*Where no insolvency proceedings are open in another EU Member State*) To your petitioner's knowledge, no insolvency proceedings have been opened in respect of the said deceased in a Member State of the European Union to which Council Regulation (EC) No 1346/2000 applies.

\*8. (*Where territorial proceedings are sought and no main proceedings are open in another EU Member State*) In your petitioner's belief, the centre of main interests of the said deceased, at the time of death, was situated within the territory of a Member State other than the State, and main proceedings have not been opened in another Member State. The condition referred to in \*[Article 3(4)(a)] \*[Article 3(4)(b)] of the Insolvency Regulation is met because (*state facts and grounds relied on, e.g. main proceedings cannot be opened in respect of the deceased where the centre of the deceased's main interests was situated at the time of death, because of the conditions laid down by the law of that State, or the opening of territorial insolvency proceedings is requested by a creditor who has his domicile, habitual residence or registered office in the State or whose claim arises from the operation of that establishment*).

Your petitioner therefore prays that on proof of the requisites in that behalf, on the hearing of this petition, the estate of the said ..... may be administered in bankruptcy

\*[Note 5] in main proceedings, (in accordance with Article 3(1) of Council Regulation (EC) No 1346/2000)

\*[Note 6] in secondary proceedings (in accordance with Article 3(3) of Council Regulation (EC) No 1346/2000)

\*[Note 7] in territorial proceedings (in accordance with Article 3(4) of Council Regulation (EC) No 1346/2000).

YOUR PETITIONER HEREBY UNDERTAKES to this Honourable Court that in the event of an Order being made to administer the said estate in bankruptcy your petitioner will advertise notice of the adjudication and statutory sitting in the manner directed by this Honourable Court and bear the expenses of such advertisement. Your petitioner HEREBY INDEMNIFIES the Official Assignee as to the costs, fees and expenses incurred or to be incurred in such administration in bankruptcy by the Official Assignee and allowed by the Court. Your petitioner FURTHER UNDERTAKES to lodge such sums as this Honourable Court may direct to cover such costs, fees and expenses.

Dated this.....day of .....20.....

Signed by the petitioner (Signed) .....  
in my presence

Signature of witness .....  
Address .....  
Description .....

Indorsement

This petition having been presented to the Court on the.....day of .....20..., it is ordered that this petition be heard at the High Court, Bankruptcy, Four Courts, Dublin 7, on the .....day of .....20..., at the hour of ....o'clock in the .....noon.

If you, the said .....intend to show cause against the petition you must file in the Examiner's Office, Phoenix House, 15/24 Phoenix Street North, Smithfield, Dublin 7, a notice specifying the statements on the petition which you intend to dispute.

(Signed) .....  
Examiner

Notes:

[Note 1] In the case of the petition of a liquidator in main proceedings of the deceased debtor which concerns or involves the opening of secondary insolvency proceedings in the State pursuant to Article 27 of the Insolvency Regulation, paragraphs 1-3 above are not required to be included.

In the case of the petition of a person other than the liquidator in main proceedings of a deceased debtor (i.e. a person mentioned in Article 29(b) of the Insolvency Regulation) which concerns or involves the opening of secondary insolvency proceedings in the State pursuant to Article 27 of the Insolvency Regulation, paragraphs 1-3 above must be included. In such cases only, the appropriate alternative in the prayer for relief referring to secondary proceedings or, as the case may be, territorial insolvency proceedings, should be included.

Under Council Regulation (EC) No 1346/2000—

the “centre of main interests” should correspond to the place where the debtor conducts the administration of his interests on a regular basis and is therefore ascertainable by third parties;

“establishment” means any place of operations where the debtor carries out a non-transitory economic activity with human means and goods.

[Note 2] One alternative version only of paragraph 6 must be included.

[Note 3] Where this version of paragraph 6 is appropriate to the case, paragraphs 7 and 8 should be deleted and any remaining paragraphs renumbered.

[Note 4] Where paragraph 7 is required, one alternative version only must be included.

[Note 5] To be completed only if Council Regulation (EC) No 1346/2000 applies and the deceased’s centre of main interests was situated in the State.

[Note 6] To be completed only if Council Regulation (EC) No 1346/2000 applies, insolvency proceedings in respect of the deceased have been opened in another Member State, and the deceased had an establishment in the State.

[Note 7] To be completed only if Council Regulation (EC) No 1346/2000 applies, insolvency proceedings in respect of the deceased have been opened in another Member State, and one of the conditions in Article 3(4) of the Council Regulation is satisfied.

\*Delete where inapplicable

(The following affidavit must be filed to verify the petition, and may be endorsed on the petition).

## THE HIGH COURT

### BANKRUPTCY

I, the petitioner named in the within petition, make oath and say as follows:

1. Each of the allegations of fact in the said petition is true.

\*2. (*Where insolvency proceedings are open in another EU Member State*) I beg to refer to a certified copy of the decision /a certificate of the .....Court of.....appointing .....of..... as liquidator in insolvency proceedings in respect of the deceased, ....., upon which marked “A” I have signed my name prior to the swearing hereof. [I further beg to refer to a translation of that decision/certificate into the Irish/English language certified by a person competent and qualified for the purpose, upon which marked “B” I have signed my name prior to the swearing hereof.]

Sworn, &c.

\*Delete where inapplicable.



No.34

NOTICE OF ORDER FOR ADMINISTRATION OF ESTATE OF  
DECEASED INSOLVENT AND OF APPOINTMENT OF STATUTORY  
SITTING

THE HIGH COURT

BANKRUPTCY

No.

In the matter of    Insolvent Deceased

An order was made on the .....day of .....20....for the administration in bankruptcy of the estate of the above named deceased

- \* in main proceedings, (in accordance with Article 3(1) of Council Regulation (EC) No 1346/2000).
- \* in secondary proceedings, (in accordance with Article 3(3) of Council Regulation (EC) No 1346/2000).
- \* in territorial proceedings, (in accordance with Article 3(4) of Council Regulation (EC) No 1346/2000).
- \* the Court having determined that Council Regulation (EC) No 1346/2000 does not apply to the proceedings.

The statutory sitting of the Court will be held at the Four Courts Dublin 7, on the .....day of .....20...., at the hour of .....o'clock in the.....noon.

Creditors may at such sitting prove their debts and choose and appoint a creditors' assignee. All persons having in their possession or under their control any money or other property of the deceased's estate should pay or deliver the same, and all debts due to the deceased's estate should be paid to ..... Official Assignee, Phoenix House, 15/24 Phoenix Street North, Smithfield, Dublin 7, to whom creditors may forward their proofs of debt.

Dated  
(Signed).....  
Examiner

Solicitor  
[address]

\*Delete where inapplicable.

**Schedule 3**

No.21A

THE HIGH COURT

BANKRUPTCY

**Invitation to lodge a claim**

No.

**In the matter of .....a Bankrupt**

Покана за предявяване на вземане. Срокове, които трябва да се спазват  
 Convocatoria para la presentación de créditos. Plazos aplicables  
 Výzva k přihlášení pohledávky. Závazné lhůty  
 Opfordring til anmeldelse af fordringer. Vær opmærksom på fristerne  
 Aufforderung zur Anmeldung einer Forderung. Etwaige Fristen beachten!  
 Nõude esitamise kutse. Järgitavad tähtajad  
 Πρόσκληση για αναγγελία απαιτήσεως. Προσοχή στις προθεσμίες  
 Invitation to lodge a claim. Time limits to be observed  
 Invitation à produire une créance. Délais à respecter  
 Cuireadh chun éileamh a thaisceadh. Teorainn ama socraithe  
 Invito all'insinuazione di un credito. Termine da osservare  
 Uzaicinājums iesniegt prasījumu. Terminī, kas jāievēro  
 Kvietimas pateikti reikalavimą. Privalomieji terminai  
 Felhívás követelés bejelentésére. Betartandó határidők  
 Stedina għal preżentazzjoni ta' talba  
 Oproep tot indiening van schuldvorderingen. In acht te nemen termijnen  
 Wezwanie do zgłoszenia wierzytelności. Przestrzegać terminów  
 Aviso de reclamação de créditos. Prazos legais a observar  
 Invitație de înregistrare a cererii de admitere a creanței. Termenul limită  
 Výzva na přihlášení pohľadávky. Je potrebné dodržat stanovené termíny  
 Poziv k prijavi terjatve. Roki, ki jih je treba upoštevati!  
 Kehotus saatavan ilmoittamiseen. Noudatettavat määräajat  
 Anmodan att anmäla fordran. Tidsfrister att iaktta

To: .....

of .....

..... of ..... (“the bankrupt”) was on the ..... day of .....  
 20..., adjudged bankrupt by the High Court. \*The undersigned is the liquidator  
 in main proceedings of the bankrupt for the purposes of the Insolvency  
 Regulation.

You have been entered in the bankrupt's statement of affairs or have otherwise  
 come to my notice as a creditor of the bankrupt, who has not yet lodged a claim  
 or proof of debt with me.

Please take notice of the following:

1. Claims and proofs of debt in respect of the bankrupt, bearing the heading “Lodgement of claim” and record number ....., and including the documents and information set out in Article 41 of Council Regulation (EC) No 1346/2000 and in accordance with the requirements of the First Schedule to the Bankruptcy Act 1988 (the text of which is attached), must be submitted to me at the address below no later than the .....day of.....20..... If the claim or proof of debt is not in English or Irish, you must also provide a translation of same into English or Irish.
2. A proof submitted after that date shall not be allowed except by order of the High Court.
3. Creditors whose claims are preferential or secured in rem must lodge their claims with me within the period and in the form set out above.
4. Claims and proofs should be sent by registered post to: Official Assignee, Phoenix House, 15/24 Phoenix Street North, Smithfield, Dublin 7, Ireland (or as appropriate for trustee).

*[A copy of the provisions of the First Schedule to the Bankruptcy Act 1988 to be attached.]*

\*Delete where inapplicable.

No.50

CERTIFICATION OF OFFICIAL ASSIGNEE OR TRUSTEE AS  
LIQUIDATOR WITHIN THE MEANING OF COUNCIL REGULATION  
(EC) No 1346/2000

THE HIGH COURT

BANKRUPTCY

No.

I, ....., the Master of the High Court of Ireland hereby certify-

1. That the High Court made on the .....day of .....20....

\*an order that .....of .....be adjudicated bankrupt

\*an order approving a proposal for vesting the property of .....of  
....., a debtor in the Official Assignee under Part IV of the  
Bankruptcy Act 1988

\*an order for the administration under Part VI of the Bankruptcy Act 1988 of  
....., late of .....deceased.

2. By virtue of the said order of the High Court,

\*.....of Phoenix House, 15/24 Phoenix Street North, Smithfield, Dublin 7,  
Official Assignee,

\*.....of....., trustee,

is the liquidator (within the meaning of Article 2(b) of Council Regulation (EC)  
No.1346/2000 of 29 May 2000 on insolvency proceedings) of the assets of that  
person.

3. This certificate is issued in accordance with Article 19 of Council Regulation  
(EC) No.1346/2000 of 29 May 2000 on insolvency proceedings.

Dated the ..... day of ..... 20.....

(Signed) .....  
Master of the High Court.  
(Seal)

\*Delete where inapplicable.

EXPLANATORY NOTE

*(This does not form part of the Instrument and does not purport to be a legal interpretation.)*

These rules amend the Rules of the Superior Courts by substituting a new Order 76 for the existing Order 76, substituting certain Forms in Appendix O and inserting new forms in that Appendix, principally to facilitate the operation of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ L160/1 of 30 June 2000) and provide for a new form of statement of affairs.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
CONTAE MHAIGH EO,  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)  
nó trí aon díoltóir leabhar.

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