

Bankruptcy (Amendment) Rules 2005

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BANKRUPTCY ACT
(CHAPTER 20)

BANKRUPTCY (AMENDMENT) RULES 2005

In exercise of the powers conferred by section 166 of the Bankruptcy Act, the Minister for Law hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Bankruptcy (Amendment) Rules 2005 and shall come into operation on the date of commencement of item (3) in the First Schedule to the Statutes (Miscellaneous Amendments) (No. 2) Act 2005 (Act 42 of 2005).

Amendment of rule 2

2. Rule 2(1) of the Bankruptcy Rules (R 1) is amended by deleting the definition of “creditor’s petition” and substituting the following definition:

“ “creditor’s bankruptcy application” includes a bankruptcy application made under section 56 of the Act by a creditor or the nominee of a voluntary arrangement;”.

Amendment of rule 6

3. Rule 6 of the Bankruptcy Rules is amended by deleting paragraph (1) and substituting the following paragraph:

“(1) Every proceeding in court under the Act shall be dated and shall be intitled in the matter of the person against whom the application is made and in the matter of the Act.”.

Deletion and substitution of rule 11 and new rule 11A

4. Rule 11 of the Bankruptcy Rules is deleted and the following rules substituted therefor:

“Manner of making applications

11.—(1) A bankruptcy application shall, in accordance with rule 99 or 134, be made by originating summons supported by an affidavit.

(2) Every interlocutory application in the course of a bankruptcy application

shall be made by summons.

Duration and renewal of originating summons for purpose of service

11A.—(1) Subject to the other provisions of these Rules, for the purposes of service, an originating summons is valid in the first instance —

- (a) for 12 months beginning with the date of its issue, where leave to serve the originating summons out of the jurisdiction is required; and
- (b) in any other case, for 6 months beginning with the date of its issue.

(2) Subject to paragraph (3), where an originating summons has not been served on the party against whom the application is made, the court may by order extend the validity of the originating summons from time to time for such period, not exceeding 6 months at any one time, beginning with the day next following that on which it would otherwise expire, as may be specified in the order, if any application for extension is made to the court before that day.

(3) Where the court is satisfied on an application under paragraph (2) that, despite the making of reasonable efforts, it may not be possible to serve an originating summons within 6 months, the court may, if it thinks fit, extend the validity of the originating summons for such period, not exceeding 12 months at any one time, as the court may specify.

(4) Before an originating summons, the validity of which has been extended under this rule, is served, it must be marked with an official stamp in Form 1A showing the period from which the validity of the originating summons has been so extended.

(5) A note of the renewal must be entered in the cause book.”.

Amendment of rule 17

5. Rule 17 of the Bankruptcy Rules is amended by deleting paragraph (2) and substituting the following paragraph:

“(2) An affidavit may be sworn by any party to the proceedings, or by some other person possessing direct knowledge of the subject-matter of the application.”.

Amendment of rule 18

6. Rule 18 of the Bankruptcy Rules is amended by deleting paragraph (1) and substituting the following paragraph:

“(1) Unless the provisions of the Act or these Rules under which an application is made provide otherwise, or the court otherwise allows, if any party to an application intends to rely on affidavit evidence at the hearing, he shall —

- (a) file his affidavit or affidavits (if more than one) in court; and
- (b) serve a copy of his affidavit or of each of his affidavits on the other party to the application and any other person who may appear and be heard, not less than 5 days before the date fixed for the hearing.”.

Amendment of rule 22

7. Rule 22 of the Bankruptcy Rules is amended by deleting paragraph (1) and substituting the following paragraph:

“(1) The court shall, at the instance of the Official Assignee, trustee, creditor or debtor or any party to the proceedings, issue a subpoena for the attendance of a witness.”.

Deletion and substitution of rule 38

8. Rule 38 of the Bankruptcy Rules is deleted and the following rule substituted therefor:

“Service out of jurisdiction

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

Amendment of rule 53

9. Rule 53 of the Bankruptcy Rules is amended by deleting paragraph (1) and substituting the following paragraph:

“(1) An application under section 33 of the Act for the appointment of a trustee may be included in the bankruptcy application or made by summons supported by an affidavit.”.

Amendment of rule 71

10. Rule 71(1) of the Bankruptcy Rules is amended by deleting sub-paragraph (c) and substituting the following sub-paragraph:

“(c) that the debtor is able to apply for his own bankruptcy;”.