STATUTORY INSTRUMENTS

1967 No. 371 (L. 2)

BANKRUPTCY, ENGLAND

The Bankruptcy (Amendment) Rules 1967

Made - - - -	*9th March* 1967
Laid before Parliament	*16th March* 1967
Coming into Operation	*1st April* 1967

I, Gerald Baron Gardiner, Lord High Chancellor of Great Britain, with the concurrence of the President of the Board of Trade, in exercise of the powers conferred on me by section 132 of the Bankruptcy Act 1914(a), hereby make the following Rules:—

1.—(1) These Rules may be cited as the Bankruptcy (Amendment) Rules 1967 and shall, subject to the provisions of the next following paragraph, come into operation on 1st April 1967.

(2) Where, on the taxation of any bill of costs after the date of the coming into operation of these Rules, it appears to the Taxing Officer that all the work shown under any item in the bill was completed before that date, he shall allow costs in respect of that item in accordance with the Rules in force immediately before that date.

(3) In these Rules "the principal Rules" means the Bankruptcy Rules 1952(b) as amended(c) and, unless the context otherwise requires, a Rule referred to by number means a Rule so numbered in those Rules.

2. In Rule 92(1) the words "on the basis of a common fund in which the client and others are interested" shall be inserted after the words "solicitor and client".

3. In Rules 98(1) the words "and to sign allocaturs" shall be inserted after the word "expenses", and the words "and to sign allocaturs where the amount allowed does not exceed £200" shall be omitted.

4. In Rule 98(3) for the words "paragraph 16(1) of Part VII" there shall be substituted the words "paragraph 14(1) of Part V", and for the words "paragraph 16(2)" there shall be substituted the words "paragraph 14(2)".

5. The following proviso shall be substituted for the proviso to Rule 100(1):—

"Provided that, where the estimated assets of the debtor do not exceed the sum of £300 and costs are payable out of the estate, not more than three-fifths of the amounts stated in or applied by the scale of costs in Parts II, III, IV or V (paragraph 1) of Appendix II may be allowed in any proceedings under the Act in respect of solicitor's costs, disbursements being added".

6. Paragraph (2) of Rule 100 shall be omitted.

7. In Rule 112(1), for the figures "4d." there shall be substituted the figures "10d.".

(a) 1914 c. 59. (b) S.I. 1952/2113 (1952 I, p. 213).
(c) The relevant amending instruments are S.I. 1962/295, 1963/2067 (1962 I, p. 283; 1963 III, p. 4379).

8. In Rule 115(2), for the reference to the First Schedule to the Bankruptcy Fees Order 1952(a) there shall be substituted a reference to the Schedule to the Bankruptcy Fees Order 1965(b).

9. In Rule 181(4) for the words " any bankruptcy notice " there shall be substituted the words " the bankruptcy notice (if any) ".

10. The following amendments shall be made in Form 60 in Appendix I to the principal Rules :—

(1) For the words " (*c*) That I am in the employ of the under-mentioned creditor, and that I am duly authorized by to make this affidavit ", there shall be substituted the following :—

" That I am [in the employ] [a director] [the secretary] (*c*) of the under-mentioned creditor, and that I am duly authorized (*d*) by such creditor to make this affidavit ".

(2) The words " (*d*) That I am duly authorized, under the seal of the company hereinafter named, to make the proof of debt on its behalf " shall be omitted.

(3) In the side notes, the words from " If proof made " to " strike out (*c*) " shall be omitted, and the following shall be substituted :—

" (*c*) Strike out whichever are inapplicable. If proof made by creditor in person, strike out whole paragraph.

(*d*) Authorization on behalf of a company or other corporation *must* be under seal ".

11. For Appendix II to the Principal Rules there shall be substituted the Appendix set out in the Schedule to these Rules.

Dated 8th March 1967.

Gardiner, C.

I concur,

Dated 9th March 1967.

Douglas Jay,
President of the Board of Trade.

SCHEDULE

Rules 98(3), 100

APPENDIX II

SCALE OF BANKRUPTCY COSTS

Part I

Scale of Costs of Petitioning Debtor

Item No.		£	s.	d.
1.	(*a*) Instructions for petition, search for prior petition drawing and copy petition and attesting same; attending Official Receiver with deposit, attending presentation of petition and hearing thereof when receiving order made; drawing and copy receiving order; attending Official Receiver giving him all necessary information; attending upon debtor's preliminary examination and upon public examination; drawing bill of costs and copy; attending lodging bill, obtaining appointment to tax and necessary notices thereof; attending taxation, vouching, completing and obtaining Taxing Officer's allocatur; letters messengers and telephone calls; where the assets are certified as not likely to exceed £300	10	0	0

(a) S.I. 1952/2114 (1952 I, p. 395). (b) S.I. 1965/1622 (1965 II, p. 4651).

Item No.		£	s.	d.
	(*b*) Where the assets are certified as likely to exceed £300 ...	15	0	0
		to		
		20	0	0

Note: The allowance for Item 1(*a*) or 1(*b*) is to be made in accordance with the certificate of the Official Receiver as to the value which the assets are likely to realise, and the certificate must be produced to the Taxing Officer. Where a composition is accepted and confirmed by the court the value of the assets shall be considered to be the amount required for the purposes of the composition.

2.	Drawing and copy order of adjudication upon application by debtor under Rule 217	1	10	0
3.	Where the solicitor practises at a distance from the court and employs an agent upon presentation and hearing of the petition; the following additional allowance may be made	2	5	0

Note to Item 3: Travelling expenses not exceeding this sum may otherwise be allowed.

General note to Part I:—

No charges other than those included in Part I of this Scale may be allowed unless the Taxing Officer considers that by reason of special circumstances additional items should be allowed.

Part II

Debtor's costs where Bankruptcy Notice set aside and on dismissal of Petition

4.	Instructions for application to set aside bankruptcy notice and for affidavit of counterclaim, including perusal and consideration of the bankruptcy notice; drawing affidavit, copy and attending to file; drawing application for appointment to hear (when requisite) and attending obtaining directions thereon	5	0	0
		to		
		12	0	0
5.	(*a*) Attending court on hearing of application when order made setting aside bankruptcy notice; drawing and copy order and attending to pass	3	5	0
	(*b*) Attending court when hearing of application adjourned; drawing and copy order and attending to pass	2	10	0
6.	Instructions to show cause on hearing of petition including perusing and considering petition, and attending upon the debtor obtaining information; drawing and copy notice to show cause and attending to file; two fair copies notice and service thereof	5	0	0
		to		
		12	0	0
7.	(*a*) Attending court on hearing of petition when petition dismissed	1	10	0
		to		
		12	0	0
	(*b*) Attending court when hearing of petition adjourned ...	1	10	0
		to		
		12	0	0

Item No.		*£ s. d.*
8.	Drawing and copy order and attending to pass	15 0
9.	Letters messengers and telephone calls not otherwise provided for	Discretionary
10.	In any special case, costs may, at the discretion of the Taxing Officer be allowed:— (*a*) in relation to items not mentioned in this Scale; or (*b*) of an amount higher than that prescribed by this Scale.	

General note to Part II:—

The debtor shall be allowed his travelling expenses and compensation for loss of time in accordance with the provisions of paragraph 16 of Part V of this Scale.

Part III

Scale of Costs of Petitioning Creditor

11.	Instructions for bankruptcy notice, drawing same, engrossing and two fair copies; preparing request to issue; filing, sealing and issuing notice	3 15 0
12.	Drawing and engrossing affidavit of service of bankruptcy notice, marking exhibit, attending swearing and filing same	2 3 0
13.	Instructions for bankruptcy petition including, where necessary, examining particulars of petitioning creditor's account ...	3 0 0 to 8 0 0
	Note: Where the act of bankruptcy is other than non-compliance with a bankruptcy notice, items for work necessarily and properly done in proof thereof, may be allowed at the discretion of the Taxing Officer.	
14.	Drawing bankruptcy petition, engrossing same, two copies and attesting signature of the petitioning creditor	3 0 0
15.	Drawing and engrossing affidavit verifying petition, marking exhibit and attending petitioner to be sworn	1 10 0
16.	Attending to search for prior petition and for compliance with bankruptcy notice; affidavit of search, including drawing, engrossing and attending swearing	2 10 0
17.	Attending Official Receiver with deposit; attending presenting petition and drawing order for hearing same; attending to file all affidavits	4 10 0
	Note: The deposit is to be charged in the petitioning creditor's bill of costs.	
18.	Drawing and engrossing affidavit of service of petition, marking exhibit, attending swearing and filing same	2 3 0
19.	Drawing and engrossing affidavit of petitioning creditor's debt and attending swearing and filing same	2 0 0 to 5 0 0
20.	Attending hearing of petition when receiving order made; drawing receiving order, copy and attending to pass ...	4 0 0
21.	Attending Official Receiver upon making of receiving order giving him all necessary information	1 10 0 to 3 0 0

Item No.		£ s. d.
22.	Attending hearing of petition when adjournment ordered; drawing order of adjournment and copy to file	2 10 0
	Note: More than one attendance on the hearing of a bankruptcy petition shall not be allowed unless certified by the court at the time.	
23.	Drawing bill of costs and copy for taxation; attending lodging bill, obtaining appointment to tax and necessary notices thereof; attending taxation, vouching, completing and obtaining Taxing Officer's allocatur	5 0 0
24.	Where the solicitor practises at a distance from the court and employs an agent upon presentation and hearing of the petition, the following additional allowance may be made...	3 0 0
	Note: Travelling expenses, not exceeding this sum, may otherwise be allowed.	
25.	For service of a bankruptcy notice or petition, an allowance shall be made in accordance with the provisions of Part IV of this Scale.	
26.	Letters messengers and telephone calls not otherwise provided for	Discretionary

General notes to Part III:—

1. No charges other than those included in Part III of this Scale may be allowed, unless the Taxing Officer considers that by reason of the petition being opposed or other circumstances, additional items should be allowed;

2. The petitioning creditor's solicitor may be allowed all proper charges at the rate specified in the scale—

(*a*) for work necessarily and usefully done between the presentation of the petition and the date of the receiving order in the interest of the creditors generally and for the protection or benefit of the estate; and

(*b*) in exceptional cases for special services rendered prior to the presentation of the petition in the interests of the creditors generally where the services have been of substantial advantage to the estate;

if the Official Receiver certifies that the work was necessary or useful, or, as the case may be that the special services were of substantial advantage. The Official Receiver's certificate may be endorsed at the foot of the bill of costs.

Part IV

Miscellaneous and General Costs Instructions

27.	For application for appointment of special manager and drawing same; obtaining assents of creditors; attending Official Receiver to lodge papers and to make application	7 0 0
	Note: No costs shall be allowed in respect of an unsuccessful application unless the Official Receiver certifies that such costs should be allowed.	
28.	For application for appointment of interim receiver and drawing same; affidavit in support and attending to file; attending hearing of application when order made and drawing order; attending Official Receiver with order, paying deposit and giving him all necessary information	10 0 0
	Note 1: The costs of further affidavits in support may be allowed at the discretion of the Taxing Officer.	
	Note 2: The deposit is to be charged in the bill of costs.	

	£ s. d.
29. For application for substituted service and drawing same; affidavit in support; attending making application when order made; attending drawing up order	5 0 0
30. For application to extend or abridge time and drawing same; attending making application when order made; attending drawing up order	2 10 0
31. For application to dispense with petitioning creditor's attendance on hearing and drawing same; attending making application when order made; attending drawing up order	2 10 0
32. For hearing of any matter not otherwise provided for	Discretionary
Note: This item is intended to cover the doing of any work, not otherwise provided for, necessarily or properly done in preparing for the hearing of any matter.	
33. For case for opinion of counsel	1 0 0 to 3 0 0
Attendances	
34. Of petitioning creditor's solicitor at public examination, where the court certifies that the attendance is necessary	2 10 0
35. Of petitioning creditor's solicitor at first meeting of creditors ...	1 10 0 to 5 0 0
Note: This item may only be allowed if the Official Receiver certifies in writing that the attendance was necessary in the interest of the estate, and the amounts may not be exceeded except by special authority of the Official Receiver.	
36. At meeting of creditors (other than first meeting) when duly authorised and necessary	1 10 0 to 6 0 0
37. At meeting of committee of inspection when duly authorised and necessary	1 10 0 to 6 0 0
Note to Items 36 *and* 37: When such attendance is special and unusually long, these items may be increased at the discretion of the Taxing Officer.	
38. In chambers on hearing of application where not otherwise provided for	1 10 0 to 12 0 0 per day
39. (*a*) In court on hearing of any matter for each day on which matter is included in list of matters to be heard but on which hearing is not begun	1 10 0 to 8 0 0
(*b*) In court on hearing of any matter	3 0 0 to 15 0 0 per day
40. To lodge and to make application in chambers, where not otherwise provided for	1 10 0

Item No.		£	*s.*	*d.*
41.	To lodge and to make application for warrant, warrant of seizure or search warrant	1	10	0
	Note to Items 40 *and* 41: These items include filing of affidavits or other documents in support of application.			
42.	To instruct officer as to execution of warrant or warrant of seizure		15	0
43.	On a deponent swearing or solicitor or clerk deposing to any affidavit not otherwise provided for		15	0
44.	To file affidavit or other document, where not otherwise provided for		15	0
45.	Any other attendance not otherwise provided for (or such greater sum as the Taxing Officer in his discretion shall allow)		15	0
	Drawing documents			
46.	Commission or order for examination of witnesses abroad per folio		2	0
47.	Application to a Judge or Registrar, including copy		15	0
48.	Order made in court or other special order per folio		2	0
49.	Order not otherwise provided for, including copy to file and attending to enter		15	0
50.	Proposal for scheme of arrangement or composition, per folio		2	0
51.	Consent to receiving order and attending obtaining the debtor's signature	2	0	0
52.	Warrant, warrant of seizure or search warrant	1	0	0
	If warrant is more than four folios in length for each additional folio		3	0
53.	Any affidavit, notice of motion, report, or other document not otherwise provided for, per folio		2	0
54.	Any notice not otherwise provided for		2	6
55.	Brief or case for opinion of counsel, per folio		2	0
	Perusal			
56.	Of any document not provided for or allowed under any other item, per folio		1	0
	Copies			
57.	Copy of document—			
	(*a*) printed or carbon copy, per folio			5
	(*b*) photographic copy		Discretionary	
58.	Copy of document not otherwise provided for, per folio ...			10
	Service			
59.	Of bankruptcy notice or petition, or other document—			
	(*a*) if required to be served personally, for each service ...		10	0
	(*b*) if service by post authorized, for each service		5	0
	In addition to the amount allowed under paragraph (*a*) hereof, a mileage allowance in respect of each mile after the first two miles between the place at which service is effected and the nearest place of business of the solicitor effecting it		2	0

Item No.		£ s. d.
60.	Where more than one attendance is necessary to effect service, or to ground an application for substituted service	Discretionary
	Letters	
61.	Letters not included under any other item	7 0
	or, if long	10 0
	or, if similar	4 0
	or, if a circular letter	3 0
62.	Letters, messengers and telephone calls not provided for or allowed under any other item	Discretionary

Part V

General

1. Except as in this Scale provided all costs properly incurred under the provisions of the Act or these Rules shall be allowed under Appendix 2 to Order 62 of the Rules of the Supreme Court (Revision) 1965(**a**).

2. Where, in the course of a bankruptcy administration, business is transacted in a court other than the court having jurisdiction in the bankruptcy, the solicitor's remuneration therefor shall be in accordance with the scale in force for the time being in the court in which such business is transacted.

3. In respect of business connected with sales, purchases, leases, mortgages and other business as defined by paragraph 2(*c*) of the Solicitors' Remuneration Order 1883(**b**) (as amended)(**c**) a solicitor's remuneration shall be regulated by any general orders under the Solicitors Act 1957(**d**) for the time being in force; provided that, in respect of the sale of mortgaged property the remuneration of the trustee's solicitor shall be payable only out of the proceeds of the sale unless the committee of inspection, by resolution setting out special reasons, authorises the remuneration to be paid out of the general estate.

4. Where the proceedings are opposed and in other proper cases, the costs of the employment of counsel may, at the discretion of the Taxing Officer, be allowed.

5. Court fees and other proper disbursements shall be allowed in addition to the remuneration provided in this Scale.

6. Where the court so orders and certifies, an extra allowance for length of sitting or other special reasons may be allowed.

7. On taxation, no payment shall be allowed unless the requisite vouchers are produced.

8. Bills of costs shall be written lengthwise distinguishing in separate columns out-of-pocket expenses from charges for work done. Dates shall be given for each item, but they shall not be written in the margin which is to be left clear for use on taxation and for filing.

9. The charge allowed for drawing any affidavit or other document shall include any copy made for the use of the solicitor agent or for counsel to settle.

(**a**) S.I. 1965/1776 (1965 III, p. 4995). (**b**) Rev. XXI, p. 205.
(**c**) The relevant amending instrument is S.I. 1953/117 (1953 II, p. 1946). (**d**) 1957 c. 27.

10. Where the same solicitor is employed for two or more persons having the same interest, and separate papers are delivered to counsel or proceedings are taken by or for two or more such persons separately, the Taxing Officer shall consider on the taxation, whether between party and party or on the common fund basis, whether such separate papers or proceedings were necessary or proper, and if he is of opinion that any part of the costs occasioned thereby has been unnecessarily or improperly incurred, that part shall be disallowed.

11. A folio comprises 72 words, every figure being counted as one word.

12. In special cases where counsel are not instructed to appear in court and the solicitor acts as advocate, a charge by the solicitor for the preparation of minutes of fact or evidence for his own use may be allowed, and in addition such charge for his attendance as the Taxing Officer may think fit, having regard to the nature and importance of the case and the questions involved.

13. All fees, costs and allowances which are discretionary shall, unless otherwise provided, be allowed at the discretion of the Taxing Officer, who in the exercise of his discretion is to take into consideration other fees and allowances to counsel and the solicitor in respect of the work to which the allowance applies, the nature and importance of the matter, the amount involved, the interest of the parties, the estate of the bankrupt where the costs are to be paid out of such estate, the general conduct and costs of the proceedings and all other relevant circumstances.

14.—(1) Any person who is dissatisfied with the allowance or disallowance by the Taxing Officer of the whole or any part of any items, may, at any time within fourteen days after such allowance or disallowance has been made, or within such shorter period as the Taxing Officer may direct, bring before the Taxing Officer objections in writing to the allowance or disallowance, setting out in a concise form a list of the items or parts thereof objected to, and the grounds for the objections, and may thereupon apply to the Taxing Officer to review the taxation. A copy of such objections shall be served upon such persons as the Taxing Officer shall direct.

(2) Any person to whom a copy of the objections is delivered in accordance with the Taxing Officer's directions may within fourteen days after delivery of the copy to him or such shorter period as may be fixed by the Taxing Officer, deliver to the Taxing Officer answers in writing to the objections stating concisely the grounds on which he will oppose them. A copy of such answers shall be served upon such persons as the Taxing Officer shall direct. On the hearing of a review under this paragraph, any person to whom a copy of the objections was delivered shall be entitled to be heard in respect of any item to which the objections relate notwithstanding that he did not deliver written answers to such objections.

(3) Upon the application the Taxing Officer shall reconsider any allowances or disallowances objected to, and may, if he thinks fit, receive further evidence in respect thereof, and if so required by any person interested he shall state either in his certificate of taxation or allocatur or by reference to the objection, the grounds for his decision and any special facts or circumstances relating thereto. A request under this paragraph must be made within fourteen days after the review or such shorter period as may be fixed by the Taxing Officer.

15.—(1) Any person who is dissatisfied with the certificate or allocatur of the Taxing Officer as to any item or part of an item, or with the amount allowed in respect of any item which has been reconsidered may, within fourteen days after the date of the certificate or allocatur or such longer time as the court or Judge, or Taxing Officer at the time he signs his certificate or allocatur, may allow, apply to the Judge for an order to review the taxation of the item or part thereof, and the Judge may thereupon make such order as he thinks just. An application to the Judge under this paragraph may be made only if any person interested in the proceedings before the Taxing Officer requested such Taxing Officer to state the grounds for his decision in accordance with paragraph 14(3).

(2) The application shall be heard and determined by the Judge upon the evidence brought before the Taxing Officer and no further evidence shall be received unless the Judge otherwise directs.

(3) Subject to the provisions of Rule 114 relating to the review of county court taxation at the instance of the Board of Trade, the certificate or allocatur of the Taxing Officer shall be final and conclusive as to all matters which have not been objected to in manner aforesaid.

16. The allowances to witnesses in bankruptcy proceedings shall be in accordance with those ordinarily made in proceedings in the High Court. The petitioning creditor shall not be regarded as a witness on the hearing of the petition: he shall not be paid for loss of time, but may be allowed his expenses of travelling and subsistence.

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules amend the Bankruptcy Rules 1952 and substitute a new scale of costs which may be charged by solicitors in bankruptcy proceedings. Appendix II of the 1952 Rules, and Rule 100(2) which authorised a percentage increase in the scale prescribed, are both revoked, and an entirely new and simplified scale is substituted. Minor and consequential amendments are made in the Rules and Forms.