

SCHEDULE 2 CCR ORDER 39

ADMINISTRATION ORDERS

Rule 1 Exercise of powers by district judge

Any powers conferred on the court by Part VI of the Act, section 4 of the Attachment of Earnings Act 1971¹ or this order may be exercised by the district judge or, in the circumstances mentioned in this order, by the court officer.

Rule 2 Request and list of creditors

- (1) A debtor who desires to obtain an administration order under Part VI of the Act shall file a request in that behalf in the court for the district in which he resides or carries on business.
- (2) Where on his examination under CPR Part 71, or otherwise, a debtor furnishes to the court on oath a list of his creditors and the amounts which he owes to them respectively and sufficient particulars of his resources and needs, the court may proceed as if the debtor had filed a request under paragraph (1).
- (3) Where a debtor is ordered to furnish a list under section 4(1)(b) of the said Act of 1971, then, unless otherwise directed, the list shall be filed within 14 days after the making of the order.

Rule 3 Verification on oath

The statements in the request mentioned in rule 2(1) and the list mentioned in rule 2(3) shall be verified by the debtor on oath.

Rule 5 Orders made by the court officer

- (1) The question whether an administration order should be made, and the terms of such an order, may be decided by the court officer in accordance with the provisions of this rule.
- (2) On the filing of a request or list under rule 2, the court officer may, if he considers that the debtor's means are sufficient to discharge in full and within a reasonable period the total amount of the debts included in the list, determine the amount and frequency of the payments to be made under such an order ('the proposed rate') and–
 - (a) notify the debtor of the proposed rate requiring him to give written reasons for any objection he may have to the proposed rate within 14 days of service of notification upon him;
 - (b) send to each creditor mentioned in the list provided by the debtor a copy of the debtor's request or of the list together with the proposed rate;
 - (c) require any such creditor to give written reasons for any objection he may have to the making of an administration order within 14 days of service of the documents mentioned in sub-paragraph (b) upon him.

Objections under sub-paragraph (c) may be to the making of an order, to the proposed rate or to the inclusion of a particular debt in the order.

¹ 1971 c.32; section 4 was amended by the Insolvency Act 1976 (c.60), section 13(2); and by the County Courts Act 1984 (c.28), section 148(1), Schedule 2, Part V, paragraph 40.

- (3) Where no objection under paragraph (2)(a) or (c) is received within the time stated, the court officer may make an administration order providing for payment in full of the total amount of the debts included in the list.
- (4) Where the debtor or a creditor notifies the court of any objection within the time stated, the court officer shall fix a day for a hearing at which the district judge will decide whether an administration order should be made and the court officer shall give not less than 14 days' notice of the day so fixed to the debtor and to each creditor mentioned in the list provided by the debtor.
- (5) Where the court officer is unable to fix a rate under paragraph (2) (whether because he considers that the debtor's means are insufficient or otherwise), he shall refer the request to the district judge.
- (6) Where the district judge considers that he is able to do so without the attendance of the parties, he may fix the proposed rate providing for payment of the debts included in the list in full or to such extent and within such a period as appears practicable in the circumstances of the case.
- (7) Where the proposed rate is fixed under paragraph(6), paragraphs (2) to (4) shall apply with the necessary modifications as if the rate had been fixed by the court officer.
- (8) Where the district judge does not fix the proposed rate under paragraph (6), he shall direct the court officer to fix a day for a hearing at which the district judge will decide whether an administration order should be made and the court officer shall give not less than 14 days' notice of the day so fixed to the debtor and to each creditor mentioned in the list provided by the debtor.
- (9) Where an administration order is made under paragraph (3), the court officer may exercise the power of the court under section 5 of the Attachment of Earnings Act 1971 to make an attachment of earnings order to secure the payments required by the administration order.

Rule 6 Notice of objection by creditor

- (1) Any creditor to whom notice has been given under rule 5(8) and who objects to any debt included in the list furnished by the debtor shall, not less than 7 days before the day of hearing, give notice of his objection, stating the grounds thereof, to the court officer, to the debtor and to the creditor to whose debt he objects.
- (2) Except with the permission of the court, no creditor may object to a debt unless he has given notice of his objection under paragraph (1).

Rule 7 Procedure on day of hearing

On the day of the hearing –

- (a) any creditor, whether or not he is mentioned in the list furnished by the debtor, may attend and prove his debt or, subject to rule 6, object to any debt included in that list;
- (b) every debt included in that list shall be taken to be proved unless it is objected to by a creditor or disallowed by the court or required by the court to be supported by evidence;
- (c) any creditor whose debt is required by the court to be supported by evidence shall prove his debt;
- (d) the court may adjourn proof of any debt and, if it does so, may either adjourn consideration of the question whether an administration order should be made or proceed to determine the

question, in which case, if an administration order is made, the debt, when proved, shall be added to the debts scheduled to the order;

- (e) any creditor whose debt is admitted or proved, and, with the permission of the court, any creditor the proof of whose debt has been adjourned, shall be entitled to be heard and to adduce evidence on the question whether an administration order should be made and, if so, in what terms.

Rule 8 Direction for order to be subject to review

- (1) The court may, on making an administration order or at any subsequent time, direct that the order shall be subject to review at such time or at such intervals as the court may specify.
- (2) Where the court has directed that an administration order shall be subject to review, the court officer shall give to the debtor and to every creditor who appeared when the order was made not less than 7 days' notice of any day appointed for such a review.
- (3) Nothing in this rule shall require the court officer to fix a day for a review under rule 13A.

Rule 9 Service of order

Where an administration order is made, the court officer shall send a copy to –

- (a) the debtor;
- (b) every creditor whose name was included in the list furnished by the debtor;
- (c) any other creditor who has proved his debt; and
- (d) every other court in which, to the knowledge of the district judge, judgment has been obtained against the debtor or proceedings are pending in respect of any debt scheduled to the order.

Rule 10 Subsequent objection by creditor

- (1) After an administration order has been made, a creditor who has not received notice under rule 5 and who wishes to object to a debt scheduled to the order, or to the manner in which payment is directed to be made by instalments, shall give notice to the court officer of his objection and of the grounds thereof.
- (2) On receipt of such notice the court shall consider the objection and may –
- (a) allow it;
- (b) dismiss it; or
- (c) adjourn it for hearing on notice being given to such persons and on such terms as to security for costs or otherwise as the court thinks fit.
- (3) Without prejudice to the generality of paragraph(2), the court may dismiss an objection if it is not satisfied that the creditor gave notice of it within a reasonable time of his becoming aware of the administration order.

Rule 11 Subsequent proof by creditor

- (1) Any creditor whose debt is not scheduled to an administration order, and any person who after the date of the order became a creditor of the debtor, shall, if he wishes to prove his debt, send particulars of his claim to the court officer, who shall give notice of it to the debtor and to every creditor whose debt is so scheduled.
- (2) If neither the debtor nor any creditor gives notice to the court officer, within 7 days after receipt of notice under paragraph(1), that he objects to the claim, then, unless it is required by the court to be supported by evidence, the claim shall be taken to be proved.

- (3) If the debtor or a creditor gives notice of objection within the said period of 7 days or the court requires the claim to be supported by evidence, the court officer shall fix a day for consideration of the claim and give notice of it to the debtor, the creditor by whom the claim was made and the creditor, if any, making the objection, and on the hearing the court may either disallow the claim or allow it in whole or in part.
- (4) If a claim is taken to be proved under paragraph(2) or allowed under paragraph (3), the debt shall be added to the schedule to the order and a copy of the order shall then be sent to the creditor by whom the claim was made.

Rule 12 Permission to present bankruptcy petition

An application by a creditor under section 112(4) of the Act¹ for permission to present or join in a bankruptcy petition shall be made on notice to the debtor in accordance with CPR Part 23, but the court may, if it thinks fit, order that notice be given to any other creditor whose debt is scheduled to the administration order.

Rule 13 Conduct of order

- (1) The court manager or such other officer of the court as the court making an administration order shall from time to time appoint shall have the conduct of the order and shall take all proper steps to enforce the order (including exercising the power of the court under section 5 of the Attachment of Earnings Act 1971 to make an attachment of earnings order to secure payments required by the administration order) or to bring to the attention of the court any matter which may make it desirable to review the order.
- (2) Without prejudice to section 115 of the Act, any creditor whose debt is scheduled to the order may, with the permission of the court, take proceedings to enforce the order.
- (3) The debtor or, with the permission of the court, any such creditor may apply to the court to review the order.
- (4) When on a matter being brought to its attention under paragraph (1) the court so directs or the debtor or a creditor applies for the review of an administration order, rule 8(2) shall apply as if the order were subject to review under that rule.
- (5) Nothing in this rule shall require the court officer to fix a day for a review under rule 13A.

Rule 13A Review by court officer in default of payment

- (1) Where it appears that the debtor is failing to make payments in accordance with the order, the court officer shall (either of his own initiative or on the application of a creditor whose debt is scheduled to the administration order) send a notice to the debtor –
 - (a) informing him of the amounts which are outstanding; and
 - (b) requiring him (within 14 days of service of the notice upon him) to –
 - (i) make the payments as required by the order; or
 - (ii) explain his reasons for failing to make the payments; and
 - (iii) make a proposal for payment of the amounts outstanding; or
 - (iv) make a request to vary the order.
- (2) If the debtor does not comply with paragraph (1)(b) within the time stated, the court officer shall revoke the administration order.

¹ Section 112 was amended by the Insolvency Act 1985 (c.65), section 220(2).

- (3) The court officer shall refer a notice given by a debtor under paragraph (1)(b)(ii), (iii) or (iv) to the district judge who may—
 - (a) without requiring the attendance of the parties –
 - (i) revoke the administration order or vary it so as to provide for payment of the debts included in the order in full or to such extent and within such a period as appears practicable in the circumstances of the case; or
 - (ii) suspend the operation of the administration order for such time and on such terms as he thinks fit; or
 - (b) require the court officer to fix a day for the review of the administration order and to give to the debtor and to every creditor whose debt is scheduled to the administration order not less than 8 days' notice of the day so fixed.
- (4) Any party affected by an order made under paragraph(2) or (3)(a) may, within 14 days of service of the order on him and giving his reasons, apply on notice for the district judge to consider the matter afresh and the court officer shall fix a day for the hearing of the application before the district judge and give to the debtor and to every creditor whose debt is scheduled to the administration order not less than 8 days' notice of the day so fixed.
- (5) On hearing an application under paragraph (4), the district judge may confirm the order or set it aside and make such new order as he thinks fit and the order so made shall be entered in the records of the court.

Rule 14 Review of order

- (1) On the review of an administration order the court may –
 - (a) if satisfied that the debtor is unable from any cause to pay any instalment due under the order, suspend the operation of the order for such time and on such terms as it thinks fit;
 - (b) if satisfied that there has been a material change in any relevant circumstances since the order was made, vary any provision of the order made by virtue of section 112(6) of the Act;
 - (c) if satisfied that the debtor has failed without reasonable cause to comply with any provision of the order or that it is otherwise just and expedient to do so, revoke the order, either forthwith or on failure to comply with any condition specified by the court; or
 - (d) make an attachment of earnings order to secure the payments required by the administration order or vary or discharge any such attachment of earnings order already made.
- (2) The court officer shall send a copy of any order varying or revoking an administration order to the debtor, to every creditor whose debt is scheduled to the administration order and, if the administration order is revoked, to any other court to which a copy of the administration order was sent pursuant to rule 9.

Rule 16 Discharge of attachment of earnings order

On the revocation of an administration order any attachment of earnings order made to secure the payments required by the administration order shall be discharged.

Rule 17 Declaration of dividends

- (1) The officer having the conduct of an administration order shall from time to time declare dividends and distribute them among the creditors entitled to them.
- (2) When a dividend is declared, notice shall be sent by the officer to each of the creditors.

Rule 18 Creditors to rank equally

All creditors scheduled under section 113(d) of the Act¹ before an administration order is superseded under section 117(2) of the Act shall rank equally in proportion to the amount of their debts subject to the priority given by the said paragraph(d) to those scheduled as having been creditors before the date of the order, but no payment made to any creditor by way of dividend or otherwise shall be disturbed by reason of any subsequent proof by any creditor under the said paragraph (d).

Rule 19 Change of debtor's address

- (1) A debtor who changes his residence shall forthwith inform the court of his new address.
- (2) Where the debtor becomes resident in the district of another court, the court in which the administration order is being conducted may transfer the proceedings to that other court.

¹ Section 113 was amended by the Administration of Justice Act 1985 (c.61), section 67(2), Schedule 8, Part II.