



THE INSOLVENCY RULES 1970, AMENDMENT NO. 2

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 29th day of June 1992

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 13 of the Insolvency Act 1967, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least two of the other members of the Rules Committee (of whom at least one was a Judge of the High Court), hereby makes the following rules.

ANALYSIS

1. Title and commencement

2. Evidence in relation to creditor's
petition
3. Revocation

RULES

1. Title and commencement—(1) These rules may be cited as the Insolvency Rules 1970, Amendment No. 2, and shall be read together with and deemed part of the Insolvency Rules 1970* (hereinafter referred to as the principal rules).

(2) These rules shall come into force on the 3rd day of August 1992.

2. Evidence in relation to creditor's petition—The principal rules are hereby amended by inserting, after rule 34, the following rule:

“34A. (1) Subject to any direction of the Court, evidence proving, in relation to any creditor's petition,—

“(a) A debt; or

“(b) An act of bankruptcy; or

“(c) Any other material statements upon the hearing of a creditor's petition,—

may be given by an affidavit sworn by or on behalf of the petitioning creditor and so sworn not earlier than the third day before the date of the hearing of the petition.

“(2) Notwithstanding subclause (1) of this rule, in the case of any creditor's petition, a certificate by the solicitor for the petitioning creditor that, after having made due inquiries, the solicitor is satisfied that any debt remains unpaid may be accepted by the Court as sufficient prima facie evidence that the debt remains unpaid.”

3. Revocation—Rule 61 of the principal rules is hereby revoked.

BOB MacFARLANE,
Acting for Clerk of the Executive Council.

*S.R. 1970/245
Amendment No. 1: S.R. 1985/327

EXPLANATORY NOTE

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on 3 August 1992, amend the Insolvency Rules 1970. The amendments—

- (a) Provide that, subject to any direction of the Court, evidence proving, in relation to a creditor's petition,—
 - (i) A debt; or
 - (ii) An act of bankruptcy; or
 - (iii) Any other material statement,—

may be given by an affidavit sworn by or on behalf of the petitioning creditor:
- (b) Provide that, in relation to a creditor's petition, a debt may be proved by a certificate from the solicitor for the petitioning creditor:
- (c) Revoke rule 61, which implies that a personal appearance is required on a creditor's petition unless such an appearance is dispensed with by the Court.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 2 July 1992.

These rules are administered in the Department of Justice.