

BERMUDA STATUTORY INSTRUMENT

BR 32/1990

BANKRUPTCY FEES ORDER 1990

*[made under section 121(1) of the Bankruptcy Act 1989 [title 8 item 49] and
brought into operation on 11 May 1990]*

ARRANGEMENT OF PARAGRAPHS

- 1 Citation
- 2 Interpretation
- 3 Fees and percentages
- 4 Manner fees to be taken
- 5 Question arising as to payment
- 6 Revocation

SCHEDULE

The Chief Justice, after consultation with the Minister of finance, in exercise of the powers conferred upon him by section 121(1) of the Bankruptcy Act 1989 [title 8 item 49] hereby makes the following Order:

Citation

- 1 This Order may be cited as the Bankruptcy Fees Order 1990.

Interpretation

- 2 In this Order, unless the context otherwise requires —
 - (a) a rule or form referred to by number means the rule or form so numbered in the Bankruptcy Rules 1990 [title 8 item 49(a)];

BANKRUPTCY FEES ORDER 1990

- (b) Table A and Table B means respectively Table A and Table B in the Schedule to this Order;
- (c) a fee referred to by number means the fee so numbered in the Schedule to this Order.

Fees and percentages

- 3 (1) The fees and percentages to be charged for and in respect of proceedings in bankruptcy are those set out in Tables A and B.
- (2) Where any matter or thing not provided for under this Order is required to be done the fees or percentages to be charged for the doing of such matter or thing shall be those charged for such matter or thing by the rules in force in the Supreme Court.

Manner fees to be taken

- 4 (1) Fees numbered 3, 4, 5, 6, 8, 9, 10 and 11 in Table B shall be taken by adhesive stamps and other fees shall be taken in cash.
- (2) An adhesive stamp denoting payment of a fee shall be an adhesive stamp on which the word "Bankruptcy" or "Insolvency" has been printed.
- (3) When a fee is paid to an officer of the Court, the person paying the fee shall inform the officer that the fee relates to a proceeding in bankruptcy.

Question arising as to payment

- 5 If any question arises with regard to the payment of any fee, the Registrar or the Official Receiver may report the matter to the Chief Justice and obtain his directions thereon.

Revocation

- 6 Any fees Order that is in force before the coming into operation of this Order is revoked save as to any fee or percentage due or payable before the coming into operation of this Order.

SCHEDULE Sections 3, 4

TABLE A

No. of Fee	Description of Proceeding	Amount
		\$
1	On filing a declaration by a debtor of inability to pay his debts	15.00

2	On issuing a bankruptcy notice	25.00
3	On presenting a bankruptcy petition —	
	(a) if presented by a debtor or, under section 118 of the Act, by the personal representative of a deceased debtor	25.00
	(b) if presented by a creditor	50.00
	Where on the presentation of a petition by a debtor the Official Receiver gives a certificate that there is reasonable ground for believing that the assets are sufficient to meet the expenses of administration, this fee shall not be charged.	
4	On sealing a receiving order under section 100 of the Act	50.00
5	On sealing an order dismissing a petition or granting leave to withdraw a petition	15.00
6	On sealing an order adjourning a petition	15.00
7	On sealing a vesting order under section 56 of the Act	15.00
8	On an application for annulment of adjudication or rescission of a receiving order on the ground that the debts have been paid in full	50.00
	One fee only shall be charged when annulment and rescission are the subject of one application.	
9	On an application for an order of discharge in respect of each debtor covered by the application	50.00
	This fee is payable on an application to review an order of discharge or to review the refusal of an order of discharge.	
10	On an application for leave to act as director or take part in the management of a company	150.00

BANKRUPTCY FEES ORDER 1990

11	On an application for search other than by petitioner, trustee, bankrupt, or any officer of the Court	5.00
12	On an application to the Court, except by the Official Receiver when applying only in his capacity of Official Receiver and not as trustee	50.00
13	On an application to the Court to approve a composition, a fee computed at the following rate on the gross amount of the composition—	
	(a) does not exceed \$25,000	25.00
	(b) exceeds \$25,000 but does not exceed \$50,000	50.00
	(c) exceeds \$50,000 but does not exceed \$200,000	100.00
	(d) exceeds \$200,000	250.00
15	On setting down a motion for hearing before a Judge sitting in bankruptcy	50.00
	This fee does not relate to the hearing of an application to which anyone of Fees Nos. 8, 9, 10, 13 and 14 of Table A relates.	
16	(a) On filing an order	15.00
	This fee is not payable —	
	(i) on an order made on the application of an Official Receiver when applying only in his capacity of Official Receiver and not as trustee;	
	(ii) on an order made on an application to which any one of Fees Nos. 8, 9, 10, 13 and 14 of Table A relates; or	
	(iii) on an order to which any one of Fees Nos. 4, 5, 6 and 7 of Table A relates.	

	(b) On application for judgment summonses under section 100 of the Act	50.00
17	On the issue of a subpoena	15.00
18	On the issue of a summons under section 29 of the Act	50.00
19	On the certification of a list of proofs under rule 229 —	
	(a) for the first 50 proofs in each bankruptcy	15.00
	(b) for every additional 50 proofs (or fraction of 50)	5.00
	This fee is not payable for certifying lists in respect of separate estates in the same bankruptcy.	
	On each subsequent certification of a list of proofs	15.00
20	On the taxation of a bill [sic] costs if contested —	
	(a) On a bill of costs	15.00
	(b) On a bill of costs where taxation is non-contentious	15.00
	(c) On a bill of costs where taxation is contentious	25.00
	(d) On review of a bill of costs by a Judge	100.00
21	For a photographic copy of all or part of any document, whether or not issued as an office copy, for each photographic sheet	50 [sic]
22	For a typewritten copy of any document, per page	7.50
23	For examining a plain copy and marking the same as an office copy, for each sheet	10.00

BANKRUPTCY FEES ORDER 1990

24	On filing a bond	25.00
25	For taking an affidavit or an affirmation or a declaration, except for proofs of debt and except a declaration by a shorthand writer under rule 56 (Forms 72 and 73)	
	(a) for each person making the same	5.00
	(b) in addition, for each exhibit or schedule therein referred to and required to be marked	5.00
26	For every receiving order made on a debtor's petition, where the fee on the petition has been dispensed with in pursuance of the Official Receiver's certificate as to sufficiency of assets	15.00
27	For every order of administration made on transfer of proceedings under section 118(3) of the Act	15.00
28	On a request for service of —	
	(i) a bankruptcy notice, bankruptcy petition or subpoena, or an order not serviceable by post	15.00
	(ii) an order serviceable by post	5.00
29	For issuing an order of commitment under the Debtors Act 1973 [<i>title 8 item 47</i>] or a search warrant or a warrant of seizure, apprehension or committal under the Act	15.00

TABLE B

No. of Fee	Description of Proceeding	Amount
		\$
1	On an application for an order of discharge	50.00

	This fee is payable on an application to review an order of discharge or to review the refusal or an order of discharge	
2	On an application to the Official Receiver to appoint a special manager or to carry on the business of a debtor	50.00
3	In respect of each item of business contained in an application by a trustee to Court or to the Official Receiver acting as a committee of inspection under section 24(17) of the Act or rule 298	50.00
4	On an application to the Minister of Finance under section 132 of the Act for payment out of the Consolidated Fund	50.00
5	On filing a bond	25.00
6	On an application for search other than by petitioner, trustee, bankrupt or any officer of the court	5.00
7	For taking an affidavit or an affirmation or declaration, except for proofs of debt —	
	(a) for each person making the same	5.00
	(b) in addition, for each exhibit or schedule therein referred to and required to be marked	1.00
8	On the insertion in the Gazette of a notice authorized by the Act or the Rules made thereunder	30.00 plus cost of adver- tising
9	On —	

BANKRUPTCY FEES ORDER 1990

(a) the amount brought to credit by the Official Receiver whether acting as interim receiver or trustee, after deducting any sum paid to secured creditors in respect of their securities and any sums spent out of the money received by a special manager in carrying on the business of the debtor, and

(b) the amount brought to credit by the Official Receiver when acting as trustee to administer a debtor's property under a composition or scheme, after deducting any sums paid to secured creditors in respect of their securities and any sums spent in carrying on the business of the debtor, a fee of

50.00
to
75.00
per ½
hour

10 On the amount distributed to creditors by the Official Receiver when acting as trustee or trustee under a composition — half of the fee prescribed for that amount under Fee No. 9 of Table B.

11 For all official stationery, printing, postage and telephones including notices to creditors of meetings and sitting of the Court and room hire —

(a) for a number of creditors not exceeding 25 100.00

(b) for every additional 10 creditors or part thereof 50.00

This fee does not include the charge which may be made by the Official Receiver or trustee on calling a meeting at the request of creditors, for which provision is made in rule 219.

12	Where the Official Receiver supervises a special manager or the carrying on of a debtor's business and the estimated assets exceed \$500, a fee of	50.00 to 75.00 per ½ hour
13	For reasonable expenses of the Official Receiver	50.00 to 75.00 per ½ hour
14	At the due date for trustees (including the Official Receiver when he is trustee) sending accounts of their receipts and payments as trustee to the Court under section 91 of the Act, a fee of	50.00 to 75.00 per ½ hour

Provided that where a fee has been taken under Table A on an application to approve a composition or scheme of arrangement, seven-eighths of the amount paid under Fee No. 13 or 14 of Table A shall be deducted from this fee.

15	Where the Official Receiver acts as interim receiver pending the appointment of a trustee and the receiving order is rescinded on the ground that it ought not to have been made or where the Official Receiver acts both as interim receiver and as trustee and the order of adjudication is annulled on the ground that it ought not to have been made, such amount as the Court may consider reasonable to be paid by the petitioning creditor or by the debtor as the Court may direct, in respect of the services of the Official Receiver as interim receiver or trustee.	
----	---	--

BANKRUPTCY FEES ORDER 1990

- 16 Where the Official Receiver acts as interim receiver pending the appointment of a trustee and the receiving order is rescinded on the ground that it has been proved to the satisfaction of the Court that the debts of the debtor will be paid in full —
- (a) where the amount required to pay the debts and the costs, fees and expenses of the proceedings as reported by the Official Receiver is distributed by him and is, or could be, provided from money or property belonging to the debtor, or by the sale or charge of his property, the fees prescribed in Fees Nos. 9, 10 and 14 of Table B;
 - (b) where the amount required to pay the debts and the costs, fees and expenses of the proceedings as reported by the Official Receiver is paid by a third party to the Official Receiver for distribution to the creditors and the Official Receiver so distributes it, the fees prescribed in Fees Nos. 10 and 14 of Table B;
 - (c) where the money belonging to the debtor or the sum which is, or could be, realised by the sale or charge of his property is insufficient to pay the amount required to pay the debts and the costs, fees and expenses of the proceedings as reported by the Official Receiver and the amount, or balance, required is paid by a third party to the Official Receiver for distribution to the creditors and is so distributed, then the fees prescribed in (a) and (b) above shall each apply to the extent to which they are appropriate;
 - (d) where the amount required to pay the debts as reported by the Official Receiver is distributed to unsecured creditors outside the proceedings with money provided by a third party, the fee prescribed in Fee No. 14 and half the fee prescribed in Fee No. 10 of Table B.

- 17 Where the Official Receiver performs any duty not provided for in this Table, such amount as the Court, on the application of the Official Receiver, may consider reasonable.