



Jersey

# **BANKRUPTCY (DÉSASTRE) RULES 2006**

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Jersey

## BANKRUPTCY (DÉSASTRE) RULES 2006

### Arrangement

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Jersey

## **BANKRUPTCY (DÉSASTRE) RULES 2006**

**THE SUPERIOR NUMBER OF THE ROYAL COURT**, in pursuance of Article 13 of the Royal Court (Jersey) Law 1948<sup>1</sup> and of Article 2 of the Bankruptcy (Désastre) (Jersey) Law 1990<sup>2</sup>, and of all other powers enabling it in this behalf, has made the following Rules –

Commencement [[see endnotes](#)]

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### **1 Interpretation**

- (1) In these Rules –
  - “claim” means a claim made pursuant to Rule 3;
  - “Law” means the Bankruptcy (Désastre) (Jersey) Law 1990<sup>3</sup>.
- (2) A word or expression used in these Rules and defined in the Law has the same meaning in these Rules as it has in the Law.

### **2 Application for declaration**

- (1) Except by leave of the court, an application for a declaration in pursuance of Article 3 of the Law cannot be made unless the applicant has given the Viscount not less than 48 hours notice of the applicant’s intention to make the application.
- (2) An application for a declaration is to be made by means of a *demande* to which there is appended –
  - (a) a statement in the appropriate form specified in the Schedule; and
  - (b) an affidavit.
- (3) The affidavit must –
  - (a) verify the contents of the statement;
  - (b) where the application is made by a debtor, state that the debtor is insolvent but has realisable assets;
  - (c) where the application is made by a creditor, state that the creditor has a claim against the debtor, that to the best of the creditor’s

knowledge and belief the debtor is insolvent but has realisable assets, and specify the grounds on which the creditor believes the debtor to be insolvent; and

- (d) provide details of any notice of the application given to the Viscount pursuant to paragraph (1).
- (4) This Rule does not apply where the application is made by the Commission in accordance with Article 3(1)(c) of the Law.

### **3 Filing of claims**

- (1) Following a declaration the Viscount –
  - (a) must, with the least possible delay, cause a notice to be published in the Jersey Gazette; and
  - (b) may cause a notice to be published in any other way the Viscount thinks fit.
- (2) The notice must –
  - (a) require each creditor to file with the Viscount a statement that contains full particulars of the creditor's claim; and
  - (b) specify the date by which claims are to be filed, being a date that is not less than 40 and not more than 60 days after the date of the declaration.
- (3) A creditor who believes that an amount due to the creditor ranks for payment in priority to any other debt must so claim.
- (4) A creditor who believes he or she has a surety ("caution"), guarantee, hypothec, security interest or other charge affecting the property of the debtor must so claim.
- (5) Except as provided by Rule 10, a creditor who does not submit a claim within the time fixed by the Viscount in pursuance of these Rules forfeits his or her right to participate in the distribution of the assets of the debtor under Article 33 of the Law.
- (6) A person who is deemed under Article 15(4) of the Law (which allows the Viscount to disclaim certain property) to be a creditor must, within 28 days of the notice of the disclaimer being served in accordance with Rule 8(2), file with the Viscount a claim in a manner determined by the Viscount.

### **4 Evidence of claims**

Any evidence that is required to be given in accordance with Article 31 of the Law in support of a claim must be given at the time and in the form (whether upon oath or otherwise) determined by the Viscount.

### **5 Inspection of claims**

- (1) The Viscount must, as soon as practicable after the date specified pursuant to Rule 3(2)(b), fix a period of time during which, and place where, the claims may be inspected.

- (2) The Viscount must cause notice of the period and place –
  - (a) to be published in the Jersey Gazette; and
  - (b) to be given to the debtor.
- (3) The Viscount may cause notice of the period and place to be published in any other way the Viscount thinks fit.

## **6 Opposition to claims**

- (1) This Rule applies if the debtor, a creditor or any other interested person wishes to oppose the admission of a claim.
- (2) The person must, within one month from the expiration of the period of time fixed pursuant to Rule 5(1), lodge with the Viscount a statement in writing setting out the grounds on which the admission of the claim is opposed.

## **7 Viscount's decisions**

- (1) This Rule applies where the Viscount rejects in whole or in part –
  - (a) a claim; or
  - (b) a statement of opposition lodged during the time fixed pursuant to Rule 6(2).
- (2) The Viscount must give notice of his or her decision to –
  - (a) the person whose claim or any part of it has been rejected; or
  - (b) the person whose opposition to the admission of a claim or any part of it has been rejected,as the case may be.
- (3) The notice must –
  - (a) specify the reason for the decision; and
  - (b) inform the person to whom it relates of his or her right, under Article 31(7) of the Law to request the Viscount to apply to the court to review the Viscount's decision.
- (4) A request under Article 31(7) of the Law must be made within 21 days of the date of notice being given in accordance with paragraph (3).

## **8 Disclaimed onerous property**

- (1) This Rule applies where the Viscount disclaims onerous property under Article 15 of the Law.
- (2) The Viscount must forthwith serve notice of the disclaimer on –
  - (a) each person who appears to the Viscount to have an interest in the disclaimed property; and

- (b) each person who appears to the Viscount to be under a liability in respect of the disclaimed property, not being a liability discharged by the disclaimer.
- (3) The notice must –
  - (a) contain sufficient details of the property to enable it to be easily identified; and
  - (b) inform the person upon whom it is served of the reason for the disclaimer and of the person's rights under the Law as a result of the disclaimer.
- (4) Those rights are –
  - (a) under Article 15(4) of the Law, to be treated as a creditor of the debtor, and to prove for any loss or damage incurred as a result of the disclaimer; and
  - (b) under Article 16 of the Law, to apply to the court for an order under that Article.
- (5) An application under Article 16 of the Law must be made within 3 months of receipt by the applicant of the notice of the disclaimer.

## **9 Service of notices**

A notice that is required to be served on a person under these Rules –

- (a) must be in writing; and
- (b) may be sent by post to the person's usual or last known place of abode or place of business, or, in the case of a company, to its registered office or last known place of business.

## **10 Power to extend and abridge time**

- (1) Despite any other provision of these Rules, the Viscount may, on such terms as the Viscount thinks fit, extend or abridge the period within which a person is required or authorized to do an act in pursuance of these Rules.
- (2) The Viscount may grant an extension although the application for the extension was not made until the expiration of the prescribed period, or any extension of that period.

## **11 Citation**

These Rules may be cited as the Bankruptcy (Désastre) Rules 2006.

**SCHEDULE**

(Rule 2)

**PART 1**

STATEMENT REGARDING APPLICATION FOR A DECLARATION IN PURSUANCE OF ARTICLE 3 OF THE BANKRUPTCY (DÉSASTRE) (JERSEY) LAW 1990

**Where the applicant is a debtor**

Full Name .....

Address .....  
.....  
.....  
.....

Estimated liabilities to creditors      £ .....

Estimated value of assets –              £ .....

    (a) immovable property      £ .....

    (b) movable property          £ .....

Documents provided in support of application

.....  
.....  
.....  
.....

**PART 2**

STATEMENT REGARDING APPLICATION FOR A DECLARATION IN PURSUANCE OF ARTICLE 3 OF THE BANKRUPTCY (DÉSASTRE) (JERSEY) LAW 1990

**Where the applicant is a creditor**

Full Name .....

Address .....  
.....  
.....  
.....

Name of Debtor .....

Address of Debtor .....  
.....  
.....  
.....

Amount of claim against the debtor £ .....

Location and nature of assets (so far as is known)

- (a) immovable property .....  
.....  
.....
- (b) movable property .....  
.....  
.....

Documents provided in support of application

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**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Bankruptcy (Désastre) Rules 2006	R&O.61/2006	1 August 2006

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>
11	Spent, omitted
12(1)	11
12(2)	Spent, omitted

**Table of Endnote References**

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<sup>1</sup>	<i>chapter 07.770</i>
<sup>2</sup>	<i>chapter 04.160</i>
<sup>3</sup>	<i>chapter 04.160</i>