

[附屬法例]

[Subsidiary]

## 債權證明規則

## PROOF OF DEBTS RULES

(第 6 章第 36 條)

(Cap. 6, section 36)

[1932 年 1 月 1 日]

[1 January 1932]

## 普通個案中的債權證明

## PROOF IN ORDINARY CASES

\*1. 每名債權人須於破產令作出後盡快證明其債權。

(1998 年第 85 號法律公告)

\*1. Every creditor shall prove his debt as soon as may be after the making of a bankruptcy order.

(L.N. 85 of 1998)

2. 任何債權均可藉著將一份以訂明格式作出的債權證明表連同該個案所需的訂明費用，交付或以郵寄方式送交破產管理署署長或(如已委出受託人)受託人，而予以證明。

(1992 年第 220 號法律公告)

2. A debt may be proved by delivering or sending through the post to the Official Receiver or, if a trustee has been appointed, to the trustee a proof of debt in the prescribed form which shall be accompanied by the prescribed fee as the case may require.

(L.N. 220 of 1992)

3. 債權證明可由債權人本人提出，或由獲得債權人授權或代表債權人而又知悉有關事實的人提出。

(1992 年第 220 號法律公告)

3. A proof of debt may be made by the creditor himself or by a person authorized by or on behalf of the creditor and having knowledge of the facts.

(L.N. 220 of 1992)

4. (1) 債權人或獲得債權人授權或代表債權人的人，須在債權證明表中聲明——

(a) 債權人的姓名或名稱以及地址；

\* (b) 在破產令的日期，其申索的總款額； (1998 年第 85 號法律公告)

(c) 該款額是否包括尚未支付且未化作本金的利息；

\* (d) 關於破產人如何及於何時招致該債項的詳情； (1998 年第 85 號法律公告)

(e) 債權人所持有的任何抵押品的詳情、獲給予該抵押品的日期及債權人所定出的該抵押品的價值；及

4. (1) The creditor or the person authorized by or on behalf of the creditor shall declare in the proof of debt—

(a) the creditor's name and address;

\* (b) the total amount of his claim as at the date of the bankruptcy order; (L.N. 85 of 1998)

(c) whether or not that amount includes outstanding uncapitalised interest;

\* (d) particulars of how and when the debt was incurred by the bankrupt; (L.N. 85 of 1998)

(e) particulars of any security held, the date when it was given and the value which the creditor puts upon it; and

\* 請參閱載於 1998 年第 85 號法律公告第 8 條的過渡性條文。該條轉錄於緊接第 27 條之後。

\* Please see the transitional provisions contained in s. 8 of L.N. 85 of 1998, which section is reproduced immediately after rule 27.

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- (f) 簽署該債權證明表的人(如非債權人本人)的姓名及權限,和該人獲悉有關事實的途徑。
- (2) 債權證明表內須指明任何可用作參考以證實債權的文件,而該等文件或其副本須連同債權證明表一併呈交。
- (3) 獲送交債權證明表的破產管理署署長或受託人,如認為有需要為證實債權證明表中所提出申索的全部或任何部分而要求出示任何尚未呈交的文件或要求出示其他證據,則可作出該項要求。

(1992 年第 220 號法律公告)

5. (1) 即使債權證明表已遞交,破產管理署署長或受託人(視屬何情況而定)如認為有需要,仍可要求以訂明格式作出的誓章核實任何債權申索。

(2) 該誓章可在破產管理署署長、助理破產管理署署長或獲授權監督或監理法定聲明的任何人面前宣誓作出。

(1992 年第 220 號法律公告)

5A. 如在任何時間發現任何有抵押債權人所作出或其他人代其作出的債權證明表漏述該人是有抵押債權人,則該名有抵押債權人須為債權人的一般利益而向破產管理署署長或(如已有受託人委出)受託人交出其抵押品,但如法院在接獲申請時信納該項漏述是出於無心的,則法院可容許將該債權證明表修訂,修訂須按法院認為公正的、有關任何攤還債款的退還或其他事宜的條款作出。

(1992 年第 220 號法律公告)

6. 除非法院另有特別命令,否則債權人須承擔證明其債權所涉及的費用。

\*7. 每名已遞交債權證明表的債權人,有權在大會舉行之前查閱其他債權人的債權證明表,亦有權在支付訂明費用後在一切合理時間進行該項查閱。

(1998 年第 85 號法律公告)

8. 債權人在證明其債權時,須從其債權額中扣除所有營業折扣,但不得強制他扣除他可能曾同意在現金付款時給予而款額不超過其申索淨額百分之五的任何折扣。

\* 請參閱載於 1998 年第 85 號法律公告第 8 條的過渡性條文。該條轉錄於緊接第 27 條之後。

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- (f) the name and the authority of the person signing the proof (if other than the creditor himself) and means of knowledge of the facts.
- (2) There shall be specified in the proof any documents by reference to which the debt can be substantiated and such documents or a copy of such documents shall be submitted together with the proof.
- (3) The Official Receiver or the trustee to whom the proof is sent may call for any document, which has not already been submitted, or other evidence to be produced to him, where he thinks it necessary for the purpose of substantiating the whole or any part of the claim made in the proof.

(L.N. 220 of 1992)

5. (1) The Official Receiver or the trustee, as the case may be, may, if he thinks it necessary, require a claim of debt to be verified by affidavit in the prescribed form notwithstanding that a proof of debt has already been lodged.

(2) The affidavit may be sworn before the Official Receiver, an assistant official receiver or any person authorized to administer oaths or take statutory declarations.

(L.N. 220 of 1992)

5A. If it is found at any time that the proof made by or on behalf of a secured creditor has omitted to state that he is a secured creditor, the secured creditor shall surrender his security to the Official Receiver or, where a trustee has been appointed, the trustee, for the general benefit of the creditors unless the court on application is satisfied that the omission has arisen from inadvertence in which case the court may allow the proof to be amended upon such terms as to the repayment of any dividends or otherwise as the court may consider just.

(L.N. 220 of 1992)

6. A creditor shall bear the cost of proving his debt unless the court otherwise specially orders.

\*7. Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors before the general meeting, and at all reasonable times on payment of the prescribed fee.

(L.N. 85 of 1998)

8. A creditor proving his debt shall deduct therefrom all trade discounts, but he shall not be compelled to deduct any discount, not exceeding 5 per cent on the net amount of his claim, which he may have agreed to allow for payment in cash.

\* Please see the transitional provisions contained in s. 8 of L.N. 85 of 1998, which section is reproduced immediately after rule 27.