

**Public examination of debtor**

**19. Public examination of bankrupt**

- (1) Where a bankruptcy order has been made, the Official Receiver or the trustee may at any time before the discharge of the bankrupt apply to the court for the public examination of the bankrupt. (*Amended 18 of 2005 s. 9*)
- (2) Unless the court otherwise orders, the trustee shall make an application under subsection (1) if notice requiring him to do so is given to him, in accordance with the rules, by one of the bankrupt's creditors with the concurrence of not less than one-fourth in value of such creditors (including the creditor giving notice). (*Amended 18 of 2005 s. 9; E.R. 1 of 2019*)
- (3) Where one of the bankrupt's creditors, without the requisite concurrence under subsection (2), so requests, the trustee shall make an application under subsection (1) but, notwithstanding subsection (4), the court may decline to direct that a public examination of the bankrupt be held. (*Amended 18 of 2005 s. 9*)
- (4) On an application under subsection (1), the court shall direct that a public examination of the bankrupt shall be held on a day appointed by the court; and the bankrupt shall attend on that day and be publicly examined as to his affairs, dealings and property.
- (4A) The trustee may, before or at any time after making an application under subsection (1), in writing request the creditor at whose instance the application is made to deposit with him within the specified time such sum or further sum as he considers necessary to pay his costs and expenses in holding the public examination. (*Added 18 of 2005 s. 9*)
- (4B) Notwithstanding anything in subsections (2) and (3), the trustee may refuse to make an application under subsection (1) or discontinue the public examination concerned if the creditor to whom a request is made under subsection (4A) fails to comply with the request. (*Added 18 of 2005 s. 9*)
- (5) The following may take part in the public examination of the bankrupt and may question him concerning his affairs, dealings and property and the causes of his failure—
  - (a) the Official Receiver and, in the case of a debtor adjudged bankrupt on a petition under section 3(1)(d), the Official Petitioner;
  - (b) the trustee; (*Amended 18 of 2005 s. 9*)
  - (c) any person who has been appointed as special manager of the bankrupt's estate or business;
  - (d) any creditor of the bankrupt who has tendered a proof in the bankruptcy.
- (6) The bankrupt may, but not at the expense of the estate, employ a solicitor with or without counsel, who may put to him such questions as the court may allow for the purpose of enabling him to explain or qualify any answer given by him, and may make representations on his behalf.
- (7) There shall be made in writing such record of the examination as the court thinks proper and the record shall be read over either to or by the bankrupt, signed by him, and verified by affidavit at a venue fixed by the court.
- (8) (*Repealed 18 of 2005 s. 9*)
- (9) It shall be the duty of a bankrupt examined under this section to answer all questions that the court may put or allow to be put to him.
- (10) Evidence given on oath under this section shall not be admissible in criminal proceedings other than for perjury by the person who gave it.

(*Replaced 76 of 1996 s. 13*)