

# THE STATUTES OF THE REPUBLIC OF SINGAPORE

## BANKRUPTCY ACT

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# Bankruptcy Act

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An Act relating to the law of bankruptcy.

[3rd December 1888]

## PRELIMINARY

## Short title.

1. This Act may be cited as the Bankruptcy Act.

## Inter-pretation.

2. In this Act, unless there is something repugnant in the subject or context —

“available act of bankruptcy” means any act of bankruptcy available for a bankruptcy petition at the date of the presentation of the petition on which the receiving order is made;

“bankruptcy petition” includes a petition for a receiving order;

“consultative committee” means a committee appointed under section 25;

“court” means the court having jurisdiction in bankruptcy under this Act;

“debt provable in bankruptcy” or “provable debt” includes any debt or liability by this Act made provable in bankruptcy;

“deed of arrangement” includes any of the following instruments, whether under seal or not, made by, for, or in respect of the affairs of a debtor for the benefit of his creditors generally:

(a) an assignment of property;

(b) a deed or agreement for a composition, and in cases where creditors of a debtor obtain any control over the property or business —

(c) a deed of inspectorship entered into for the purpose of winding up or carrying on a business;

- (d) a letter of licence authorising the debtor or any other person to manage, carry on, realise or dispose of a business with a view to the payment of debts; and
- (e) any agreement or instrument entered into for the purpose of carrying on or winding up the debtor's business, or authorising the debtor or any other person to manage, carry on, realise or dispose of the debtor's business with a view to the payment of his debts;

“gazetted” means published in the *Gazette*;

“general rules” includes forms;

“goods” includes all chattels personal;

“liability” includes any compensation for work or labour done, any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement or undertaking, whether the breach does or does not occur or is or is not likely to occur or capable of occurring before the discharge of the debtor, and generally it includes any express or implied engagement, agreement or undertaking to pay, or capable of resulting in the payment of money or money's worth, whether the payment is as respects amount fixed or unliquidated or as respects time, present or future, certain or dependent on any one contingency or on two or more contingencies, or as to mode of valuation capable of being ascertained by fixed rules or as matter of opinion;

“ordinary resolution” means a resolution decided by a majority in value of the creditors present personally or by proxy at a meeting of creditors and voting on the resolution;

“property” includes money, goods, things in action, land and every description of property, whether real or personal and whether situate in Singapore or elsewhere; also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined;



“Registrar” means the Registrar of the Supreme Court and includes the Deputy Registrar;

“resolution” means ordinary resolution;

“secured creditor” means a person holding a mortgage, charge or lien on the property of the debtor or any part thereof as a security for a debt due to him from the debtor;

“Sheriff” includes any officer charged with the execution of a writ or other process of the High Court;

“special resolution” means a resolution decided by a majority in number and three-fourths in value of the creditors present personally or by proxy at a meeting of creditors and voting on the resolution.

## PART I

### PROCEEDINGS FROM ACT OF BANKRUPTCY TO DISCHARGE

#### *Acts of bankruptcy*

Acts of  
bankruptcy.

3.—(1) A debtor commits an act of bankruptcy in each of the following cases:

- (a) if in Singapore or elsewhere he makes a conveyance, transfer or assignment of his property to a trustee or trustees for the benefit of his creditors generally;
- (b) if in Singapore or elsewhere he makes a fraudulent conveyance, gift, delivery or transfer of his property or of any part thereof;
- (c) if in Singapore or elsewhere he makes any conveyance or transfer of his property or of any part thereof, or creates any charge thereon, which would under this or any other enactment for the time being in force be void as a fraudulent preference if he were adjudged bankrupt;
- (d) if with intent to defeat or delay his creditors he —
  - (i) departs out of Singapore or being out of Singapore remains out of Singapore;
  - (ii) departs from his dwelling-house or otherwise absents himself, or begins to keep house or closes his place of business; or
  - (iii) submits collusively or fraudulently to an adverse judgment or order for the payment of money;

- (e) if execution issued against him has been levied by seizure of his property under process in an action or in any civil proceeding in the High Court or a District Court where the judgment, including costs, amounts to the sum of \$500;
- (f) if he files in the court a declaration of his inability to pay his debts or presents a bankruptcy petition against himself;
- (g) if he gives notice to any of his creditors that he has suspended or that he is about to suspend payment of his debts;
- (h) if he makes to any two or more of his creditors, not being partners, an offer of composition with his creditors or a proposal for a scheme of arrangement of his affairs, and such offer or proposal is not followed by the registration within 14 days thereafter of a deed of arrangement with his creditors, in accordance with the rules for the time being in force for the registration of deeds of arrangement under this Act;
- (i) if a creditor has obtained a final judgment or final order against him for any amount and execution thereon not having been stayed has served on him in Singapore, or by leave of the court elsewhere, a bankruptcy notice under this Act requiring him to pay the judgment debt or sum ordered to be paid in accordance with the terms of the judgment or order, or to secure or compound for it to the satisfaction of the creditor or the court, and he does not within 7 days after service of the notice in case the service is effected in Singapore, and in case the service is effected elsewhere then within the time limited in that behalf by the order giving leave to effect the service, either comply with the requirements of the notice or satisfy the court that he has a counterclaim, set-off or cross demand which equals or exceeds the amount of the judgment debt or sum ordered to be paid and which he could not set up in the action or proceeding in which the judgment or order was obtained;

(j) if the Sheriff or the bailiff of a District Court makes a return that the debtor was possessed of no property liable to seizure; and for the purposes of this paragraph the date when the writ is lodged with the Sheriff or the bailiff of a District Court shall be deemed to be the date of the act of bankruptcy.

(2) A bankruptcy notice under this Act shall be in the prescribed form, shall state the consequences of non-compliance therewith, and shall be served as prescribed.

(3) In this section “debtor” shall be deemed to include any person, whether a citizen of Singapore or not —

- (a) who is domiciled in Singapore;
- (b) who within a year before the date of the presentation of the petition has ordinarily resided in or had a dwelling-house or place of business in Singapore; or
- (c) who though not himself personally within Singapore carries on business by an agent within Singapore.

#### *Receiving order*

Jurisdiction  
to make  
receiving  
order.

4. Subject to the conditions hereinafter specified, if a debtor has committed an act of bankruptcy the court may, on a bankruptcy petition being presented, either by a creditor or by the debtor, make an order, in this Act called a receiving order, for the protection of the estate.

Conditions  
on which  
creditor may  
petition.

5.—(1) A creditor shall not be entitled to present a bankruptcy petition against a debtor unless —

- (a) the debt owing by the debtor to the petitioning creditor, or if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors, amounts to \$500;
- (b) the debt is a liquidated sum payable either immediately or at some certain future time; and
- (c) the act of bankruptcy on which the petition is grounded has occurred within 6 months before the presentation of the petition.

(2) If the petitioning creditor is a secured creditor he must in his petition either state that he is willing to give up his security for the benefit of the creditors in the event of the debtor being adjudged bankrupt or give an estimate of the value of his security. In the latter case he may to the extent of the balance of the debt due to him, after deducting the value so estimated, be admitted as a petitioning creditor in the same manner as if he were an unsecured creditor.

6.—(1) A creditor's petition shall be verified by affidavit of the creditor or of some person on his behalf having knowledge of the facts, and shall be served as prescribed. Proceedings and order on creditor's petition.

(2) At the hearing the court shall require proof of —

- (a) the debt of the petitioning creditor;
- (b) the act of bankruptcy or, if more than one act of bankruptcy is alleged in the petition, some one of the alleged acts of bankruptcy; and
- (c) if the debtor does not appear, the service of the petition,

and, if satisfied with the proof, may make a receiving order in pursuance of the petition.

(3) If the court is not satisfied with the proof of the petitioning creditor's debt or of the act of bankruptcy or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, or that for other sufficient cause no order ought to be made, the court may dismiss the petition.

(4) When the act of bankruptcy relied on is non-compliance with a bankruptcy notice to pay, secure or compound for a judgment debt, the court may if it thinks fit stay or dismiss the petition on the ground that an appeal is pending from the judgment.

(5) Where the debtor appears on the petition and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the court, on such security, if any, being given as the court may require for payment to the petitioner of any debt which may be established against the debtor in due course of law and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

(6) Where proceedings are stayed the court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make a receiving order on the petition of some other creditor, and shall thereupon dismiss, on such terms as it thinks just, the petition in which proceedings have been stayed as aforesaid.

(7) A creditor's petition shall not after presentation be withdrawn without the leave of the court.

Debtor's  
petition  
and order  
thereon.

7.—(1) A debtor's petition shall allege that the debtor is unable to pay his debts, and the presentation thereof shall be deemed an act of bankruptcy without the previous filing by the debtor of any declaration of inability to pay his debts, and the court shall thereupon make a receiving order.

(2) A debtor's petition shall not after presentation be withdrawn without the leave of the court.

Effect of  
receiving  
order.

8.—(1) On the making of a receiving order the Official Assignee shall be thereby constituted receiver of the property of the debtor, and thereafter, except as directed by this Act, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the debtor in respect of the debt, or shall commence any action or other legal proceeding in respect of such debt unless with the leave of the court and on such terms as the court may impose.

(2) This section shall not affect the power of any secured creditor to realise or otherwise deal with his security in the same manner as he would have been entitled to realise or deal with it if this section had not been passed.

(3) On a receiving order being made against a debtor he shall, within 24 hours after the making of the order, file an affidavit in the office of the Official Assignee, containing a true and correct statement of the names and residences of all the partners, if any, in his business and of his principal assets and liabilities. Such statement shall for the purposes of this Act be deemed to be part of the debtor's statement of his affairs referred to in section 16.

(4) On such order being made against a debtor the Official Assignee shall forthwith take possession of all books of account and other papers and documents in the

possession, custody or control of the debtor relating to his property or affairs, and may take into his possession all or any deeds, books, documents and other property of the debtor.

9.—(1) On making a receiving order, the court, on application made by or on behalf of the petitioning creditor or any other person claiming to be a creditor, may detain the debtor if he is present, and if he is not present may order the debtor to be arrested and brought before the court by warrant addressed to any police officer or officer of the court, and unless the debtor, when so detained or brought before the court, gives security to the satisfaction of the court that he will not leave Singapore without the previous permission in writing of the Official Assignee or of the court, he may be committed to the civil prison and be there kept until the close of his public examination or until the court otherwise orders.

Court may detain or order arrest of debtor and commit him to prison unless he gives security not to leave Singapore.

(2) If a receiving order is made against a firm in the firm's name no warrant to arrest any alleged partner in the firm shall issue, except upon the application of the petitioning or some other creditor and upon evidence on oath as to the persons who at the date of the receiving order are partners in the firm.

(3) If any person arrested denies that he is a partner, the court shall order his release unless the petitioning or other creditor gives security, to the satisfaction of the court, to meet the probable damages if the person is found not to be a partner.

(4) The cost of maintaining any debtor in prison under this section shall be prepaid by the applicant from time to time to the gaol authority, according to the cost of rations for the time being.

10.—(1) The court may, if it thinks it advisable for the protection of the estate, at any time after the presentation of a bankruptcy petition and before a receiving order is made, appoint the Official Assignee to be interim receiver of the property of the debtor or of any part thereof, and direct him to take immediate possession thereof or of any part thereof, including all books of account and other papers and documents belonging to the debtor and relating to his business.

Discretionary powers as to appointment of receiver and stay of proceedings.

(2) The court may at any time after the presentation of a bankruptcy petition stay any action, execution or other legal process against the property or person of the debtor.

Service of order staying proceedings.

**11.** Where an order is made under section 10, staying any action or proceeding or staying proceedings generally, the order may be served by sending a copy thereof, under the seal of the court, by prepaid registered post letter to the address for service of the plaintiff or other party prosecuting such proceeding.

Power to appoint special manager.

**12.—(1)** The Official Assignee may, if satisfied that the nature of the debtor's estate or business or the interests of the creditors generally require the appointment of a special manager of the estate or business other than the Official Assignee, appoint a manager thereof accordingly to act until the first meeting of creditors, and with such powers, including any of the powers of a receiver, as are entrusted to him by the Official Assignee.

(2) The debtor may be appointed special manager.

(3) The special manager shall give security and account in such manner as the Official Assignee, subject to the control of the court, directs.

(4) The special manager shall receive such remuneration as the Official Assignee, within the prescribed limits and subject to such control as aforesaid, determines.

Advertisement of receiving order.

**13.** Notice of every receiving order, stating the name, address and description of the debtor, the date of the order and the date of the petition, shall be gazetted and advertised in a local paper as prescribed.

Power of court to rescind receiving order in certain cases.

**14.—(1)** If in any case where a receiving order has been made on a bankruptcy petition it appears to the court, upon an application by the Official Assignee or any creditor or other person interested, that a majority of the creditors in number and value are resident in Malaysia, and that from the situation of the property of the debtor or for other causes his estate and effects ought to be distributed among the creditors under the bankruptcy or insolvency laws of Malaysia, the court, after such inquiry as to it seems fit, may rescind the receiving order and stay all proceedings on or dismiss the petition upon such terms, if any, as it thinks fit.

(2) If the debtor has been adjudged bankrupt, in any such case the court shall also annul the adjudication after rescinding the receiving order.

*Proceedings consequent on receiving order*

15.—(1) As soon as possible after the making of a receiving order against a debtor a general meeting of his creditors, referred to in this Act as the first meeting of creditors, shall be held for the purpose of considering whether a proposal for a composition or scheme of arrangement shall be entertained, or whether it is expedient that the debtor be adjudged bankrupt, and generally as to the mode of dealing with the debtor's property.

First and other meetings of creditors.

(2) With respect to the summoning of and proceedings at the first and other meetings of creditors the rules in the First Schedule shall be observed.

16.—(1) Where a receiving order is made against a debtor he shall make out and submit to the Official Assignee a statement of and in relation to his affairs in the prescribed form, verified by affidavit, showing the particulars of the debtor's assets, debts and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, the cause of his insolvency, the date when he last balanced his accounts before becoming insolvent, the amount of his capital at the date of such balance, after providing for all his liabilities and making allowances for bad and doubtful debts, and such further and other information as is prescribed or as the Official Assignee requires.

Debtor's statement of affairs.

(2) The statement shall be so submitted within the following times:

- (a) if the order is made on the petition of the debtor, within 7 days from the date of the order;
- (b) if the order is made on the petition of a creditor, within 21 days from the date of the order,

but the Official Assignee may in either case for special reasons extend the time by order made under his hand, to be forthwith filed, recording the reasons therefor.

(3) If the debtor fails without reasonable excuse, proof whereof shall lie on him, to comply with the requirements of



this section he shall be guilty of a contempt of court and may be punished accordingly, and the court may on the application of the Official Assignee or of any creditor adjudge him bankrupt.

(4) Any person stating himself, in writing, to be a creditor of the bankrupt may personally or by agent inspect this statement at all reasonable times and take any copy thereof or extract therefrom, but any person untruthfully so stating himself to be a creditor shall be guilty of a contempt of court and shall be punishable accordingly on the application of the Official Assignee.

*Public examination of debtor*

Public  
examination  
of debtor.

17.—(1) Where the court makes a receiving order, it shall hold a public sitting on a day to be appointed by the court for the examination of the debtor, and the debtor shall attend thereat, and shall be examined as to his conduct, dealing and property.

(2) The examination shall be held as soon as possible after the expiration of the time for the submission of the debtor's statement of affairs and after the first meeting of creditors.

(3) The court may adjourn the examination from time to time.

(4) Any creditor who has tendered a proof, or his representative authorised in writing, may question the debtor concerning his affairs and the causes of his failure.

(5) The Official Assignee shall take part in the examination of the debtor, and for the purpose thereof may, if specially authorised by the Minister, employ a solicitor, with or without counsel, but no solicitor or counsel shall be allowed to take part in the examination on behalf of the debtor.

(6) The court may put such questions to the debtor as it thinks expedient.

(7) The debtor shall be examined upon oath, and it shall be his duty to answer all such questions as the court puts or allows to be put to him.

(8) Such notes of the examination as the court thinks proper shall be taken down in writing by the Registrar and shall be read over to and signed by the debtor, and may

thereafter be used in evidence against him, and shall be open to the inspection of any creditor at all reasonable times.

(9) When the court is of opinion that the affairs of the debtor have been sufficiently investigated, it shall, by order, declare that his examination is concluded, but that order shall not preclude the court from directing a further examination of the debtor as to his conduct, dealings and property whenever it sees fit to do so.

(10) The Registrar may, under the general or special directions of the court, hold the public examination of debtors but the examination may at any time be adjourned by him to be heard before the court.

#### *Composition or scheme of arrangement*

18.—(1) The creditors may, by special resolution at the first meeting or any adjournment thereof, resolve to entertain a proposal for a composition in satisfaction of the debts due to them from the debtor, or a proposal for a scheme of arrangement of the debtor's affairs.

Power for creditors to accept and court to approve composition or arrangement.

(2) The composition or scheme shall not be binding on the creditors unless it is confirmed at a subsequent meeting of the creditors by a resolution passed by a majority in number, representing three-fourths in value of all the creditors who have proved, and is approved by the court.

(3) Any creditor who has proved his debt may assent to or dissent from the composition or scheme by a letter addressed to the Official Assignee in the prescribed form, and attested by a witness, and sent or posted so as to be received by the Official Assignee not later than the day preceding such subsequent meeting, and a creditor so assenting or dissenting shall be taken as being present and voting at that meeting.

(4) The subsequent meeting shall be summoned by the Official Assignee by not less than 7 days' notice, and shall not be held until after the public examination of the debtor is concluded.

(5) The notice shall state generally the terms of the proposal and shall be accompanied by a report of the Official Assignee thereon.

(6) The debtor or the Official Assignee may, after the composition or scheme is accepted by the creditors, apply to the court to approve it, and notice of the time appointed for hearing the application shall be given as prescribed.

(7) The application referred to in subsection (6) shall be made and heard in open court.

(8) The court before approving a composition or scheme, shall hear a report of the Official Assignee as to the terms of the composition or scheme and as to the conduct of the debtor, and shall hear any objections which may be made by or on behalf of any creditor.

(9) If the court is of opinion that the terms of the composition or scheme are not reasonable or are not calculated to benefit the general body of creditors, and in any case in which the court is required under this Act to refuse a bankrupt his discharge, the court shall, or if any such facts are proved as would under this Act justify the court in refusing, qualifying or suspending the discharge, the court may, in its discretion, refuse to approve the composition or scheme.

(10) If the court approves the composition or scheme the approval may be testified by the seal of the court being attached to the instrument containing the terms of the composition or scheme, or by the terms being embodied in an order of the court.

(11) A composition or scheme accepted and approved in pursuance of this section shall be binding on all the creditors so far as relates to any debts due to them from the debtor and provable in bankruptcy.

(12) A certificate of the Official Assignee that a composition or scheme has been duly accepted and approved shall, in the absence of fraud, be conclusive as to its validity.

(13) The provisions of a composition or scheme under this section may be enforced by the court on application by any person interested, and any disobedience of an order of the court made on the application shall be deemed a contempt of court.

(14) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the court on satisfactory evidence that the composition or

scheme cannot, in consequence of legal difficulties or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the court was obtained by fraud, the court may, if it thinks fit, on application by any creditor, adjudge the debtor bankrupt and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done under or in pursuance of the composition or scheme.

(15) Where a debtor is adjudged bankrupt under subsection (14), any debt provable in other respects, which has been contracted before the date of the adjudication, shall be provable in the bankruptcy.

(16) If under or in pursuance of a composition or scheme a trustee or assignee is appointed to administer the debtor's property or manage his business or distribute a composition, sections 74, 78, 79, 80, 81, 82, 84, 85, 86 and 87 shall apply mutatis mutandis to such trustee or assignee as if he were an assignee in a bankruptcy, and as if "bankruptcy," "bankrupt" and "order of adjudication" included respectively a composition or scheme of arrangement, a compounding or arranging debtor and an order approving the composition or scheme.

(17) Part III shall, so far as the nature of the case and the terms of the composition or scheme admit, apply thereto, the same interpretation being given to "assignee," "bankruptcy," "bankrupt" and "order of adjudication" as in subsection (16).

(18) No composition or scheme shall be approved by the court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of a bankrupt.

(19) The acceptance by a creditor of a composition or scheme shall not release any person who under this Act would not be released by an order of discharge if the debtor had been adjudged bankrupt.

**19.** Notwithstanding the acceptance and approval of a composition or scheme, such composition or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under this Act, the debtor would not be

Effect of  
composition  
or scheme.

discharged by an order of discharge in bankruptcy unless the creditor assents to the composition or scheme.

No deed of arrangement valid except under section 18 or 26 unless registered.

**20.** No deed of arrangement, except a composition or scheme entered into under section 18 or 26, shall be valid unless the same has been registered at the office of the Registrar of Deeds within 14 clear days after the first execution thereof by the debtor or any creditor, and unless the same is registered in accordance with the rules for the time being in force for the registration of deeds of arrangements under this Act.

Penalty for collusive preference.

**21.—(1)** Every person who signs or on whose behalf is signed a deed of arrangement to which section 20 applies, who within two months before or at any period after signing the same, receives any secret or collusive preference, gratuity, security, payment or other consideration, all hereinafter included in the word “gratuity”, for concurring in or signing the deed of arrangement shall be guilty of an offence punishable as hereinafter mentioned.

(2) Every gratuity for concurring in or signing, or having concurred in or signed a deed of arrangement, shall be deemed to be secret and collusive if the same or any promise for the same is not disclosed on the face of the deed of arrangement or in a memorandum annexed to the deed at the time when the person who has received or is to receive such gratuity signs the deed of arrangement, which memorandum shall also be signed in acknowledgment of having seen the same by all the parties to the deed of arrangement before the registration thereof. A gratuity shall not be deemed to be secret or collusive if it is disclosed as before mentioned.

(3) Every person committing an offence under this section shall be liable to a fine not exceeding 5 times the amount or value of the gratuity received by or promised to him, and the court before which the person is tried may award a part of the fine, not exceeding one-half thereof, to the informer through whom the conviction has been obtained, provided that the informer is not the debtor.

Power of Minister to make rules.

**22.—(1)** The Minister may make rules for the registration of deeds of arrangement under this Act.

(2) Rules made under subsection (1) shall provide for —  
(a) the mode of registration;

- (b) the form of the registers to be kept for the purpose of registration of deeds of arrangement under this Act;
- (c) the inspection of the registers and deeds registered and the taking of copies and extracts of the same, and the custody of the registers and other documents connected with the business of registration;
- (d) the fees to be taken in respect of registration of deeds of arrangement and in respect of office copies or extracts and searches.

(3) All rules made under this section shall be presented to Parliament at its next sitting and shall then be published in the *Gazette*, and shall have the same force and effect as if enacted in this Act.

(4) Such rules shall not come into operation until a date to be fixed by the Minister for that purpose, which date shall be subsequent to the sitting of Parliament next ensuing that at which such rules are so presented.

(5) Any rule which is disapproved by a resolution of Parliament shall not come into operation, or if it has come into operation shall cease to have operation.

23. The court, upon being satisfied that the omission to register a deed of arrangement within the time required by this Act or the omission or mis-statement of the name, residence or description of any person was accidental or due to inadvertence or to some cause beyond the control of the debtor and not imputable to any negligence on his part, may, on the application of any party interested and on such terms and conditions as are just and expedient, extend the time for the registration or order the omission or mis-statement to be supplied or rectified by the insertion in the register of the true name, residence or description.

Rectification  
of registers.

#### *Adjudication of bankruptcy*

24.—(1) At the time of making a receiving order the court shall adjudge the debtor bankrupt unless the debtor can show to the satisfaction of the court that he is in a position to offer a composition or make a scheme of arrangement satisfactory to his creditors; provided that when a receiving order is made against a firm in the firm's

Adjudication  
of  
bankruptcy.

name the court shall not adjudge any person bankrupt as a member of the firm unless that person is proved to the satisfaction of the court to be a partner by his own admission or by evidence on oath.

(2) The court may at any time, on the application of the debtor himself, by petition in writing, unstamped, to be forthwith filed, adjudge him bankrupt and at the same time make a receiving order against him, and the application may be made without notice.

(3) Where a receiving order is made against a debtor, if the creditors at the first meeting or any adjournment thereof resolve by ordinary resolution that the debtor be adjudged bankrupt or pass no resolution, or if the creditors do not meet, or if a composition or scheme is not accepted or approved in pursuance of this Act within 14 days after the conclusion of the examination of the debtor or such further time as the court allows, the court shall adjudge the debtor bankrupt.

(4) When a debtor is adjudged bankrupt his property shall become divisible among his creditors and shall vest in the Official Assignee.

(5) Notice of every order adjudging a debtor bankrupt, stating the name, address and description of the bankrupt and the date of the adjudication, shall be gazetted and advertised in a local paper as prescribed, and the date of the order shall for the purposes of this Act be the date of the adjudication.

Consultative  
committee.

**25.—**(1) The creditors qualified to vote may, at their first meeting or any adjournment thereof, appoint by resolution from among the creditors qualified to vote, or the holders of general proxies or general powers of attorney from such creditors, a committee of one or more persons, not exceeding 3, for the purpose of advising the Official Assignee on matters relating to the administration of the property of the bankrupt.

(2) The Official Assignee may convene the committee at such times as he thinks necessary, and the Official Assignee shall convene the committee whenever requested in writing to do so by all or a majority of the members of the committee.

(3) Any member of the committee may resign his office by notice in writing, signed by him and delivered to the Official Assignee.

(4) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent for more than two months from Singapore his office shall thereupon become vacant.

(5) Any member of the committee may be removed by an ordinary resolution at any meeting of creditors, of which 7 days' notice has been given stating the object of the meeting.

(6) On a vacancy occurring in the office of a member of the committee the Official Assignee shall forthwith summon a meeting of creditors for the purpose of filling the vacancy, and the meeting may by resolution appoint another creditor or other person eligible as above to fill the vacancy.

**26.—**(1) Where a debtor is adjudged bankrupt, the creditors may, if they think fit, at any time after the adjudication, by special resolution, resolve to entertain a proposal for a composition in satisfaction of the debts due to them under the bankruptcy, or for a scheme of arrangement of the bankrupt's affairs, and thereupon the same proceedings shall be taken and the same consequences shall ensue as in the case of a composition or scheme entertained at the first meeting of creditors.

Power to accept composition or scheme after bankruptcy adjudication.

(2) If the court approves the composition or scheme, it may make an order annulling the bankruptcy and vesting the property of the bankrupt in him or in such other person as the court appoints, on such terms and subject to such conditions, if any, as the court declares.

(3) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the court that the composition or scheme cannot proceed without injustice or undue delay, or that the approval of the court was obtained by fraud, the court may, if it thinks fit, on application by any person interested, adjudge the debtor bankrupt and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done under or in pursuance of the composition or scheme.



(4) Where a debtor is adjudged bankrupt under subsection (3) all debts provable in other respects, which have been contracted before the date of the adjudication, shall be provable in the bankruptcy.

*Control over person and property of debtor*

Duties of debtor as to discovery and realisation of property.

27.—(1) Every debtor against whom a receiving order is made shall, unless prevented by sickness or other sufficient cause, attend the first meeting of his creditors and any subsequent meeting of his creditors which the Official Assignee requires him to attend, and shall submit to such examination and give such information as the meeting requires.

(2) He shall give such inventory of his property, such list of his creditors and debtors and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, wait at such times and places on the Official Assignee, execute such powers of attorney, conveyances, deeds and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors as are reasonably required by the Official Assignee, or are prescribed or directed by the court by any special order or orders made in reference to any particular case or made on the occasion of any special application by the Official Assignee or any creditor or person interested.

(3) He shall, if adjudged bankrupt, aid to the utmost of his power in the realisation of his property, and the distribution of the proceeds among his creditors, and amongst other things shall, if required by the Official Assignee to do so, answer all such questions and shall submit to such medical examination and do all such other things as are necessary for the purpose of effecting an insurance on his life.

(4) If a debtor wilfully fails to perform the duties imposed on him by this section or to deliver up possession of any part of his property which is divisible amongst his creditors under this Act, and which is for the time being in his possession or under his control, to the Official Assignee or to any person authorised by the court to take possession of it, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of court and may be punished accordingly.

**28.—**(1) The court may, by warrant addressed to any police officer or officer of the court, cause a debtor to be arrested, and any books, papers, money and goods in his possession to be seized, and him and them to be safely kept as prescribed until such time as the court orders if —

Arrest of debtor under certain circumstances.

- (a) after a bankruptcy notice has been issued under this Act, or after presentation of a bankruptcy petition by or against him, it appears to the court that there is probable reason for believing that he is in hiding or has absconded or is about to abscond, with a view to avoiding payment of the debt in respect of which the bankruptcy notice was issued, or of avoiding service of a bankruptcy petition, or of avoiding appearance to any such petition, or of avoiding examination in respect of his affairs, or of otherwise avoiding, delaying or embarrassing proceedings in bankruptcy against him;
- (b) after presentation of a bankruptcy petition by or against him it appears to the court that there is probable cause for believing that he is about to remove his goods, with a view to preventing or delaying possession being taken of them by the Official Assignee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods or any books, documents or writings which might be of use to his creditors in the course of his bankruptcy;
- (c) after service of a bankruptcy petition on him or after a receiving order is made against him he removes any goods in his possession above the value of \$25 without the leave of the Official Assignee;
- (d) without good cause shown he fails to attend any examination ordered by the court; or
- (e) after presentation of a bankruptcy petition by or against him the Official Assignee reports to the court, or the court is otherwise satisfied that there is probable reason for believing that the assets will not be sufficient to pay a dividend of 50% on the debts or that there is probable

reason for believing that the debtor has committed any offence punishable under this Act.

(2) No arrest upon a bankruptcy notice shall be valid and protected unless the debtor before or at the time of his arrest is served with that bankruptcy notice.

(3) No payment or composition made or security given after arrest made under this section shall be exempt from the provisions of this Act relating to fraudulent preferences.

Release of debtor on security.

**29.**—(1) When a debtor is arrested under section 28 he may be released by order of the court, either with or without giving security to the satisfaction of the court that he will not leave Singapore without the previous permission in writing of the Official Assignee or of the court, or that he will not remove any of his goods or conceal or destroy any of his goods or any books, documents or writings which might be of use to his creditors in the course of his bankruptcy.

Proceeds of security to fall into the estate of the debtor.

(2) The proceeds of the realisation of any security given under this section or under section 9 on breach by the debtor of any of the conditions of the security shall be deemed to be the property of the debtor, and when he is adjudged bankrupt shall vest in the Official Assignee.

Redirection of letters and telegrams.

**30.** Where a receiving order is made against a debtor the court, on the application of the Official Assignee, may order that for such time not exceeding 3 months as the court thinks fit, telegrams and post letters addressed to the debtor at any place or places mentioned in the order for redirection shall be redirected, sent or delivered by the Telecommunication Authority of Singapore to the Official Assignee or otherwise as the court directs, and the same shall be done accordingly.

Discovery of debtor's property.

**31.**—(1) The court may, on the application of the Official Assignee or of any creditor who has proved his debt at any time after a receiving order has been made against a debtor, summon before it the debtor, or his wife, or any person known or suspected to have in his possession any of the estate or effects belonging to the debtor, or supposed to be indebted to the debtor, or any person whom the court deems capable of giving information respecting the debtor, his dealings or property, and the court may require any such

person to produce any documents in his custody or power relating to the debtor, his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to the court at the time of its sitting and allowed by it, the court may by warrant cause him to be apprehended and brought up for examination.

(3) The court may examine on oath, either by word of mouth or by written interrogatories, any person so brought before it concerning the debtor, his dealings or property.

(4) If on the examination of any such person it appears to the court that he is indebted to the debtor, the court may, on the application of the Official Assignee, order him to pay to the Official Assignee, at such time and in such manner as to the court seems expedient, the amount in which he is indebted or any part thereof, either in full discharge of the whole amount in question or not as the court thinks fit, with or without costs of the examination.

(5) If on the examination of any such person it appears to the court that he has in his possession any property belonging to the debtor the court may, on the application of the Official Assignee, order him to deliver to the Official Assignee such property or any part thereof at such time and in such manner and on such terms as the court thinks just.

(6) The powers given to the court under this section may in all cases be exercised by the Registrar and any order made or act done by the Registrar shall be deemed the order or act of the court, but the examination may at any time be adjourned by him to be heard before the court.

**32.**—(1) The Official Assignee shall, as soon as possible after a receiving order has been made against a debtor, prepare and file in court a list of persons supposed to be indebted to the debtor, with the amounts in which they are supposed to be so indebted set opposite to their names respectively.

Official Assignee to settle list of debtors to the estate.

(2) Before finally settling the name and amount of the debt of any person on such list the Official Assignee shall give notice in writing to that person, stating that he has placed

such person upon the list of debtors to the estate in the amount in the notice specified, and that unless that person on or before a day in such notice specified gives to the Registrar notice in writing of his intention to dispute his indebtedness, he will be deemed to admit that the amount set opposite his name in the list is due and owing by him to the debtor and will be settled on the list accordingly.

(3) A person included in the list who does not give notice of his intention to dispute his indebtedness within the time limited in that behalf shall be settled upon that list, and execution may issue against him for the amount set opposite his name in the list in the same way as if judgment had been entered up against him for such amount in favour of the Official Assignee.

(4) A certificate by the Registrar that the person named therein has been settled upon such list as a debtor to the estate in the amount in the certificate specified shall be received as proof of the facts therein stated.

(5) A person settled upon such list in the manner aforesaid may apply to the court in a summary way for leave to dispute his indebtedness or the amount thereof, and the court may if it thinks fit make such order for determining the question as may seem expedient upon the terms of the persons giving security for costs and either paying into court or giving security for the whole or such part of the alleged debt as under the circumstances may seem reasonable, and may stay all further proceedings.

#### *Discharge of bankrupt*

Discharge  
of bankrupt.

**33.—**(1) A bankrupt may at any time after being adjudged bankrupt apply to the court for an order of discharge, and the court shall appoint a day for hearing the application, but subject to subsection (2) the application shall not be heard until the public examination of the bankrupt is concluded; such application shall be made and heard in open court.

(2) Where the debtor is resident out of Singapore and is unable for want of means or for any other reason which the court considers sufficient to return to Singapore, or where the debtor is a lunatic or suffers from any such mental or physical affliction or disability as in the opinion of the court makes him unfit to attend his public examination, the court

may make an order dispensing with such examination or directing that the debtor be examined on such terms, in such manner and at such place as the court considers expedient.

(3) On the hearing of the application the court shall take into consideration a report of the Official Assignee as to the bankrupt's conduct and affairs, including a report as to the bankrupt's conduct during the proceedings under his bankruptcy, and may either grant or refuse an absolute order of discharge, or suspend the operation of the order for a specified time, or grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt, or with respect to his after-acquired property.

(4) In all cases where it is proved to the satisfaction of the court that the bankrupt has committed any offence under this Act or under sections 421, 422, 423 and 424 of the Penal Code, the court shall either refuse the discharge or suspend the operation of the order until a dividend of not less than 50% has been paid to the creditors, and on proof of any of the facts mentioned in subsection (6) the court shall either —

Cap. 224.

- (a) refuse the order;
- (b) suspend the operation of the order for a specified time;
- (c) suspend the operation of the order until a dividend of not less than 50% has been paid to the creditors; or
- (d) grant an order of discharge subject to such conditions as aforesaid.

The powers of suspending and attaching conditions to a bankrupt's discharge may be exercised concurrently.

(5) If at any time after the expiration of two years from the date of any order made under this section the bankrupt satisfies the court that there is no reasonable probability of his being in a position to comply with the terms of that order, the court may modify the terms of the order or any subsequent order in such manner and upon such conditions as it thinks fit.

(6) The facts hereinbefore referred to are —

- (a) that the bankrupt has omitted to keep such books of account as would sufficiently disclose his

- business transactions and financial position within the 3 years immediately preceding his bankruptcy, or within such shorter period immediately preceding that event as the court considers reasonable in the circumstances;
- (b) that the bankrupt has continued to trade after knowing or having reason to believe himself to be insolvent;
  - (c) that the bankrupt has contracted any debt provable in the bankruptcy without having at the time of contracting it any reasonable ground of expectation, proof whereof shall lie on him, of being able to pay it;
  - (d) that the bankrupt has brought on or contributed to his bankruptcy by rash speculations or extravagance in living, or by recklessness, or want of reasonable care and attention to his business and affairs;
  - (e) that the bankrupt has delayed or put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action or other legal proceeding properly brought or instituted against him;
  - (f) that the bankrupt has within 3 months preceding the date of the receiving order, when unable to pay his debts as they become due, given an undue preference to any of his creditors;
  - (g) that the bankrupt has in Singapore or elsewhere on any previous occasion been adjudged bankrupt or made a composition or arrangement with his creditors;
  - (h) that the bankrupt has been guilty of any fraud or fraudulent breach of trust;
  - (i) that the bankrupt has within 3 months immediately preceding the date of the receiving order sent goods out of Singapore under circumstances which afford reasonable grounds for believing that the transaction was not a bona fide commercial transaction;
  - (j) that the bankrupt's assets are not of a value equal to 50% of the amount of his unsecured liabilities, unless he satisfies the court that the fact

that the assets are not of a value equal to 50% of his unsecured liabilities has arisen from circumstances for or in respect of which he cannot justly be held blamable.

(7) For the purposes of this section, the report of the Official Assignee shall be prima facie evidence of the statements therein contained.

(8) Notice of the appointment by the court of the day for hearing the application for discharge shall be published as prescribed and sent 14 days at least before the day so appointed to each creditor who has proved, and the court shall hear the Official Assignee, and may also hear any creditor. At the hearing the court may put such questions to the debtor and receive such evidence as it thinks fit.

(9) The court may, as one of the conditions referred to in this section, require the bankrupt to consent to judgment being entered against him by the Official Assignee for any balance, or part of the balance, of the debts provable under the bankruptcy which is not satisfied at the date of his discharge; but in such case execution shall not be issued on the judgment without leave of the court, which leave may be given on proof that the bankrupt has since his discharge acquired property or income available for payment of his debts.

(10) A discharged bankrupt shall, notwithstanding his discharge, give such assistance as the Official Assignee requires in the realisation and distribution of such of his property as is vested in the Official Assignee, and if he fails to do so he shall be guilty of a contempt of court; and the court may also, if it thinks fit, revoke his discharge, but without prejudice to the validity of any sale, disposition or payment duly made, or thing duly done subsequent to the discharge, but before its revocation.

(11) For the purposes of this section, the following presumptions shall be made:

- (a) if at any time after the expiration of 6 months from the date of the adjudication the Official Assignee reports to the court that the value of the assets which have been realised, together with the estimated value of the assets which are realisable, is insufficient to pay a dividend of



50% on the debts proved in the bankruptcy, it shall be presumed, until the contrary is proved, that the bankrupt has continued to trade after knowing or having reason to believe himself to be insolvent;

- (b) in determining whether a bankrupt was, or knew, or had reason to believe himself to be insolvent at any particular date, every debt owing to him by any person resident out of the jurisdiction, which debt had been at that date due for more than 12 months, shall be excluded from the computation of the value of the assets, and for the purpose of such computation shall be deemed not to be an asset;
- (c) a bankrupt shall be deemed to have continued to trade after knowing or having reason to believe himself to be insolvent if, having continued to trade after he was in fact insolvent, he —
  - (i) is unable to satisfy the court that he had reasonable ground for believing himself to be solvent; or
  - (ii) fails without reasonable excuse, proof whereof shall lie on him, to produce a proper balance-sheet for each of the 3 years immediately preceding the bankruptcy, every such balance-sheet being made within a reasonable time after the expiration of the year to which it relates, and showing the true state of his affairs at the end of that year;
- (d) any preference given by the bankrupt to any creditor within the 3 months immediately preceding the date of the receiving order shall, until the contrary is proved, be deemed to be undue.

Fraudulent settlements.

**34.** In either of the following cases:

- (a) in the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; or
- (b) in the case of any covenant or contract made in consideration of marriage for the future settle-

ment on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest, not being money or property of or in right of his wife,

if the settlor is adjudged bankrupt or compounds or arranges with his creditors, and it appears to the court that such settlement, covenant or contract was made in order to defeat or delay creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the court may refuse or suspend an order of discharge, or grant an order subject to conditions, or refuse to approve a composition or arrangement, as the case may be, in like manner as in cases where the debtor has been guilty of fraud.

35.—(1) An order of discharge shall not release the bankrupt from any debt due to the Government, or from any debt with which the bankrupt may be chargeable at the suit of the Government, or of any person for any offence against an Act relating to any branch of the public revenue, or at the suit of the Sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence.

Effect of  
order of  
discharge.

(2) A bankrupt may be discharged from such excepted debts by a certificate in writing of the Minister.

(3) An order of discharge shall not release the bankrupt from any debt or liability incurred by means of fraud or fraudulent breach of trust to which he was a party, or from any debt or liability whereof he has obtained forbearance by any fraud to which he was a party.

(4) An order of discharge shall not release any person who at the date of the receiving order was a partner or co-trustee with the bankrupt, or was jointly bound, or had made any joint contract with him or any person who was surety or in the nature of a surety for him.

(5) An order of discharge shall release the bankrupt from all other debts provable in bankruptcy.

(6) An order of discharge shall be conclusive evidence of the bankruptcy and of the validity of the proceedings therein, and in any proceedings that are instituted against a bankrupt who has obtained an order of discharge in respect

of any debt from which he is released by the order the bankrupt may plead that the cause of action occurred before his discharge.

## PART II

### DISQUALIFICATION AND DISABILITIES OF BANKRUPT

Disqualifica-  
tion of  
bankrupt.

**36.**—(1) Where a debtor is adjudged bankrupt he shall, subject to this Act, be disqualified for —

- (a) being nominated to or sitting or voting in Parliament or on any committee thereof; or
- (b) being appointed or acting as a Judge, Magistrate or Justice of the Peace.

(2) The disqualifications to which a bankrupt is subject under this section shall be removed and cease if and when —

- (a) the adjudication of bankruptcy against him is annulled; or
- (b) he obtains from the court his discharge with a certificate to the effect that his bankruptcy was caused by misfortune without any misconduct on his part.

(3) The court may grant or withhold such certificate as it thinks fit, but any refusal of such certificate shall be subject to appeal.

Vacating  
offices by  
bankruptcy.

**37.** If a person is adjudged bankrupt whilst holding the office of Member of Parliament, Judge, Magistrate or Justice of the Peace, his office shall thereupon become vacant.

### *Undischarged bankrupt*

Conse-  
quences  
of refusal  
of discharge.

**38.**—(1) Where a bankrupt has not obtained his discharge —

- (a) the bankrupt shall be incompetent to maintain any action (other than an action for damages in respect of an injury to his person) without the previous sanction of the Official Assignee;
- (b) the bankrupt shall once in every 6 months render to the Official Assignee an account of all moneys and property which have come to his hands for his own use during the preceding 6 months, and shall pay and make over to the Official Assignee

so much of the same moneys and property as have not been expended in the necessary expenses of maintenance of himself and his family;

- (c) the bankrupt shall not leave Singapore without the previous permission of the Official Assignee or of the court.

(2) A bankrupt who makes default in performing or observing the provisions of this section shall be deemed guilty of a contempt of court, and shall be punished accordingly on the application of the Official Assignee.

**39.**—(1) A list of undischarged bankrupts shall be kept by the Official Assignee, and shall be published in the *Gazette* at such times as the Minister directs, but not less than once in each year.

List of undischarged bankrupts to be kept.

(2) The Registrar shall keep a list of all receiving orders and adjudication orders made; and on that list every such order shall be forthwith entered under the headings of the letters of the alphabet and every order rescinding or annulling any such order shall be noted in the list against the order rescinded or annulled.

### PART III

#### ADMINISTRATION OF PROPERTY

##### *Proof of debts*

**40.**—(1) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise or breach of trust shall not be provable in bankruptcy.

Description of debts provable in bankruptcy.

(2) A person having notice of any act of bankruptcy available against the debtor shall not prove under the receiving order for any debt or liability contracted by the debtor subsequently to the date of his so having notice.

(3) Save as aforesaid all debts and liabilities present or future, certain or contingent, to which the debtor is subject at the date of the receiving order, or to which he may become subject before his discharge by reason of any obligation incurred before the date of the receiving order shall be deemed to be debts provable in bankruptcy.

(4) An estimate shall be made by the Official Assignee of the value of any debt or liability provable as aforesaid

which, by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value.

(5) Any person aggrieved by any such estimate may appeal to the court.

(6) If in the opinion of the court the value of the debt or liability is incapable of being fairly estimated the court may make an order to that effect, and thereupon the debt or liability shall for the purposes of this Act be deemed to be a debt not provable in bankruptcy.

(7) If in the opinion of the court the value of the debt or liability is capable of being fairly estimated, the court may assess the same and may give all necessary directions for this purpose, and the amount of the value when assessed shall be deemed to be a debt provable in bankruptcy.

Mutual  
credit and  
set-off.

**41.—**(1) Where there have been mutual credits, mutual debts, or other mutual dealings between a debtor against whom a receiving order is made under this Act and any other person proving or claiming to prove a debt under the order, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account and no more shall be claimed or paid on either side respectively.

(2) A person shall not be entitled under this section to claim the benefit of any set-off against the property of a debtor in any case where he had at the time of giving credit to the debtor notice of an act of bankruptcy committed by the debtor and available against him.

Rules as to  
proof of  
debts.

**42.** With respect to the mode of proving debts, the right of proof by secured and other creditors, the admission and rejection of proofs, and the other matters referred to in the Second Schedule, the rules in that Schedule shall be observed.

Priority  
of debts.

**43.—**(1) In the distribution of the property of a bankrupt there shall be paid in priority to all other debts —

(a) all local rates and property tax due from the bankrupt at the date of the receiving order and

having become due and payable within 12 months next before that time;

- (b) income tax assessed on the bankrupt up to 31st December next before the date of the receiving order and not exceeding in the whole one year's assessment;
- (c) all wages or salary of any clerk, servant, labourer or workman not exceeding \$1,000 for each whether payable for time or piece work or whether or not payable wholly or in part by way of commission in respect of services rendered to the bankrupt during the period of 5 months next before the date of the receiving order or the date of the termination of his service if the latter occurs within 12 months of and precedes the date of the receiving order:

Provided that, without prejudice to the conditions and restrictions imposed upon contracts of service by the Employment Act where any clerk, servant, labourer or workman has entered into a contract for the payment of his wages or any part thereof in a lump sum at the end of the year of hiring, the priority under this section shall extend to the whole of such sum, or a part thereof, as the court may decide to be due under the contract, proportionate to the time of service up to the date of the receiving order; Cap. 91.

- (d) all amounts due under the provisions of the Central Provident Fund Act in respect of contributions payable during the 12 months before the date of the receiving order by the bankrupt as the employer of any person; and Cap. 36.
- (e) subject to section 19 of the Workmen's Compensation Act, all amounts due to a workman or an insurer in respect of any compensation or liability for compensation under that Act which accrued before the date of the receiving order. Cap. 354.

(2) The foregoing debts shall rank equally between themselves, and shall be paid in full unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) In the case of partners the joint estate shall be applicable in the first instance in payment of their joint debts, and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts.

(4) If there is a surplus of the separate estates it shall be dealt with as part of the joint estate.

(5) If there is a surplus of the joint estate it shall be dealt with as part of the respective separate estates in proportion to the right and interest of each partner in the joint estate.

(6) Subject to this Act, all debts proved in the bankruptcy shall be paid *pari passu*.

(7) If there is any surplus after payment of the foregoing debts it shall be applied in payment of interest from the date of the receiving order at the rate of 4% per annum on all debts proved in the bankruptcy.

Interest  
on debts.

(8) Where a debt has been proved upon a debtor's estate and the debt includes interest or any pecuniary consideration in lieu of interest, the interest or consideration shall for the purposes of dividend be calculated at a rate not exceeding 4% per annum, without prejudice to the right of a creditor to receive out of the estate any higher rate of interest to which he may be entitled after all the debts proved in the estate have been paid in full.

U.K. 1890  
c. 39.

(9) Nothing in this section shall alter the effect of section 3 of the Partnership Act 1890.

(10) Where an interim receiver has been appointed before the making of the receiving order the date of the appointment shall for the purposes of this section be deemed to be the date of the receiving order.

Preferential  
claim in  
case of  
apprenticeship  
and in  
respect of  
passage  
money.

**44.**—(1) Where at the time of the presentation of the bankruptcy petition any person is apprenticed or is an articulated clerk to the bankrupt, the adjudication of bankruptcy shall, if either the bankrupt or apprentice or clerk gives notice in writing to the Official Assignee to that effect, be a complete discharge of the indenture of apprenticeship or articles of agreement.

(2) If any money has been paid by or on behalf of the apprentice or clerk to the bankrupt as a fee, the Official Assignee may, on the application of the apprentice or clerk

or of some person on his behalf, pay such sum as the Official Assignee, subject to an appeal to the court, thinks reasonable out of the bankrupt's property to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf and to the time during which he served with the bankrupt under the indenture or articles before the commencement of the bankruptcy and to the other circumstances of the case.

(3) Where it appears expedient to the Official Assignee he may, on the application of any apprentice or articulated clerk to the bankrupt, or of some person on his behalf, instead of acting under subsection (1) or (2), transfer the indenture of apprenticeship or articles of agreement to some other person.

(4) Where at the date of the receiving order any person is in the employment of the bankrupt who came to Singapore for the purpose of entering into such employment either —

- (a) under any contract to serve the bankrupt for a period of not less than one year, which period has not elapsed 3 months before the date of the order; or
- (b) under a contract either absolutely or conditionally that the person shall be provided with a passage to another country on the determination of his employment,

and that person has not obtained other employment and is desirous of leaving Singapore, the court may, if it seems just and expedient under all the circumstances of the case, direct the Official Assignee to provide for that person such passage as he is entitled to under the contract, or if he is not so entitled then a suitable passage to the country from where he came for the purpose of entering into such employment, or in either case any other not more costly passage which that person may desire.

**45.—**(1) Subject to the provisions of the Distress Act the landlord or other person to whom any rent is due from the bankrupt may, at any time either before or after the commencement of the bankruptcy, distrain upon the goods or effects of the bankrupt for the rent due to him from the bankrupt with this limitation, that if the distress for rent is levied after the commencement of the bankruptcy it shall be available only for 3 months' rent accrued due prior to the

Power of  
landlord to  
distrain for  
rent.  
Cap. 84.



date of the order of adjudication, but the landlord or other person to whom the rent is due from the bankrupt may prove under the bankruptcy for the surplus due for which the distress may not have been available.

(2) This section shall with the necessary modifications apply in the case of an order for the administration of the estate of a deceased person who died insolvent and for the purposes of this section "order of adjudication" shall be deemed to include an order for such administration.

*Property available for payment of debts*

Relation  
back of  
Official  
Assignee's  
title.

**46.—**(1) The bankruptcy of a debtor, whether the same takes place on the debtor's own petition or upon that of a creditor, shall be deemed to have relation back to and commence at the time of the act of bankruptcy being committed on which a receiving order is made against him, or if the bankrupt is proved to have committed more acts of bankruptcy than one to have relation back to and to commence at the time of the first of the acts of bankruptcy proved to have been committed by the bankrupt within 6 months next preceding the date of the presentation of the bankruptcy petition.

(2) No bankruptcy petition, receiving order or adjudication shall be rendered invalid by reason of any act of bankruptcy anterior to the debt of the petitioning creditor.

Description  
of bankrupt's  
property  
divisible  
amongst  
creditors.

**47.—**(1) The property of the bankrupt divisible among his creditors, and referred to in this Act as the property of the bankrupt —

(a) shall not comprise the following:

- (i) property held by the bankrupt on trust for any other person;
- (ii) the tools, if any, of his trade and the necessary wearing apparel and bedding and other like necessaries of himself, his wife and children to a value inclusive of tools and apparel and the other things aforesaid not exceeding \$500 in the whole;

(b) shall comprise the following:

- (i) all such property as belongs to or is vested in the bankrupt at the commencement

- of the bankruptcy or is acquired by or devolves on him before his discharge;
- (ii) the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or before his discharge; and
  - (iii) subject to section 4 (3) of the Bills of Sale Act, all goods being at the commencement of the bankruptcy in the possession, order or disposition of the bankrupt by the consent and permission of the true owner under such circumstances that he is the reputed owner thereof.

Cap. 24.

(2) Things in action, other than debts due or growing due to the bankrupt in the course of his trade or business, shall not be deemed goods within the meaning of this section.

*Effect of bankruptcy on antecedent transactions*

48.—(1) Where a second or subsequent receiving order is made against a bankrupt, or where an order is made for the administration in bankruptcy of the estate of a deceased bankrupt, then for the purposes of any proceedings consequent upon any such order, the Official Assignee shall be deemed to be a creditor in respect of any unsatisfied balance of the debts provable in the last preceding bankruptcy against the property of the bankrupt in the subsequent bankruptcy.

Provisions as to second bankruptcy.

(2) In the event of a second or subsequent receiving order made against a bankrupt being followed by an order adjudging him bankrupt, or in the event of an order being made for the administering in bankruptcy of the estate of a deceased bankrupt, any property acquired by him since he was last adjudged bankrupt, which at the date when the subsequent petition was presented had not been distributed amongst the creditors in the last preceding bankruptcy, shall (subject to any disposition thereof made by the Official Assignee in that bankruptcy without knowledge of the presentation of the subsequent petition) vest in the Official

Assignee on account of the subsequent bankruptcy or administration in bankruptcy, as the case may be.

(3) Where the Official Assignee in any bankruptcy receives notice of a subsequent petition in bankruptcy against the bankrupt or after his decease of a petition for the administration of his estate in bankruptcy, the Official Assignee shall hold any property then in his possession which has been acquired by the bankrupt since he was adjudged bankrupt until the subsequent petition has been disposed of, and, if on the subsequent petition an order of adjudication or an order for the administration of the estate in bankruptcy is made, he shall hold all the property or the proceeds thereof (after deducting his costs and expenses) to the account of the subsequent bankruptcy, or administration in bankruptcy, as the case may be.

Restriction  
of rights of  
creditor  
under  
execution or  
attachment.

**49.—**(1) Where a creditor has issued execution against the goods or lands of a debtor, or has attached any debt due, or property belonging to him, he shall not be entitled to retain the benefit of the execution or attachment against the Official Assignee unless he has completed the execution or attachment before the date of the receiving order and before notice of the presentation of any bankruptcy petition by or against the debtor, or of the commission of any available act of bankruptcy by the debtor.

(2) For the purposes of this Act —

- (a) an execution against goods or land is completed by seizure and sale, or in the case of an equitable interest in land by the appointment of a receiver;
- (b) an attachment of a debt is completed by receipt of the debt;
- (c) an attachment of property is completed by the sale of such property and the satisfaction out of the proceeds of the sale of the judgment in execution of which the attachment was made.

Duties of  
Sheriff as  
to property  
taken in  
execution.

**50.—**(1) Where any property of a debtor is taken in execution under a writ of seizure and sale and before the sale or realisation thereof, or the delivery to the execution creditor of any moneys seized or paid in order to avoid sale, notice is served on the Sheriff that a receiving order has been made against the debtor, the Sheriff shall deliver the

property or the possession thereof and any such moneys to the Official Assignee, but the costs of and incidental to the execution shall be a first charge on the property or moneys, and the Official Assignee may sell the property or an adequate part thereof for the purpose of satisfying the charge.

(2) Where a writ of seizure and sale has been issued in respect of a judgment for a sum exceeding \$500 the Sheriff shall hold all moneys coming to his hands under the writ of seizure and sale for 14 days from the receipt thereof, and if within that time notice is served on him of a bankruptcy petition having been presented against or by the debtor and a receiving order is made against the debtor thereon or on any other petition of which the Sheriff has notice, the Sheriff shall deduct the costs of and incidental to the execution and pay the balance to the Official Assignee, who shall be entitled to retain the same as against the execution creditor.

Duty of Sheriff as to money received by him on seizure or subsequently thereto.

(3) An execution levied by seizure and sale on property of a debtor is not invalid by reason of the seizure being an act of bankruptcy, and a person who purchases the property in good faith under a sale by the Sheriff or by the bailiff of a District Court shall in all cases acquire a good title to it against the Official Assignee.

Execution levied by seizure and sale not invalid by reason of seizure being an act of bankruptcy.

(4) Where the act of bankruptcy upon which a bankruptcy petition is founded is the seizure of any property under a judgment, and the debtor has had a receiving order made against him on the petition, then the costs of the judgment creditor incurred by him in obtaining the judgment during the 30 days next preceding the taking of the property in execution shall be payable out of the assets of the bankrupt in the same manner and in the same order of priority as the costs of the petitioning creditor.

**51.—**(1) Where any property of a debtor is taken in execution by a District Court bailiff under a writ of seizure and sale issued by a District Court and, before the sale or realisation or release thereof, notice is served on the bailiff that a receiving order has been made against the debtor, the bailiff shall, subject to section 45, deliver the property or the possession thereof to the Official Assignee, but the costs of and incidental to the execution shall be a first charge on the

Duties of District Court bailiff as to property taken in execution.

property, and the Official Assignee may sell the property or an adequate part thereof for the purpose of satisfying the charge.

As to money paid into a District Court under a writ of seizure and sale.

S 59/86.

(2) Where a writ of seizure and sale has been issued out of a District Court in respect of a judgment for a sum exceeding \$100 and the balance of the moneys coming to the hands of the District Court bailiff under the writ of seizure and sale, after deduction of the fees, commission and expenses of execution, has been paid by him into the District Court in accordance with the Subordinate Courts Rules, the balance shall remain in court for 14 days and if within that time notice is served on the Registrar of the District Court of a bankruptcy petition having been presented against or by the debtor, and a receiving order is made against the debtor thereon or on any other petition of which the Registrar has notice, the balance shall, subject to section 45, be paid out of court to the Official Assignee notwithstanding that the balance or part thereof may have been paid into court to the credit of the execution creditor or of any other person; and the Official Assignee shall be entitled to retain the same as against the execution creditor or the other person.

Avoidance of voluntary settlements.

**52.—**(1) Any settlement of property, not being a settlement made before and in consideration of marriage or a settlement made in favour of a purchaser or encumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife, shall, if the settlor becomes bankrupt within two years after the date of the settlement, be absolutely void against the Official Assignee, and shall, if the settlor becomes bankrupt at any subsequent time within 10 years after the date of the settlement, be void against the Official Assignee, unless the parties claiming under the settlement can prove that the settlor was at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement, and that the interest of the settlor in the property had passed to the trustee of the settlement on the execution thereof.

(2) Any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at

the date of his marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property of or in right of his wife, shall, on his becoming bankrupt before the property or money has been actually transferred or paid pursuant to the contract or covenant, be void against the Official Assignee.

(3) For the purposes of this section, “settlement” includes any conveyance or transfer of property, bill, bond, note, security for money or covenant for the payment of money and any gift of money.

(4) For the purposes of this section, a settlor who dies insolvent shall be deemed to have become bankrupt at the date of his death.

**53.**—(1) Every conveyance or transfer of property or charge thereon made, every payment made, every obligation incurred and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor or any person in trust for any creditor, with a view to giving the creditor or any surety or guarantor for the debt due to the creditor a preference over the other creditors, shall, if the person making, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within 3 months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the Official Assignee.

Avoidance of preferences in certain cases.

(2) This section shall not affect the rights of any person making title in good faith and for valuable consideration through or under a creditor of the bankrupt.

**54.** Subject to the foregoing provisions of this Act with respect to the effect of bankruptcy on an execution or attachment, and with respect to the avoidance of certain settlements and preferences, nothing in this Act shall invalidate in the case of a bankruptcy —

Protection of bona fide transactions without notice.

- (a) any payment by the bankrupt to any of his creditors;
- (b) any payment or delivery to the bankrupt;
- (c) any conveyance or assignment by the bankrupt for valuable consideration; or

(d) any contract, dealing or transaction by or with the bankrupt for valuable consideration, provided that both the following conditions are complied with:

- (i) the payment, delivery, conveyance, assignment, contract, dealing or transaction, as the case may be, takes place before the date of the receiving order; and
- (ii) the person other than the debtor to, by, or with whom the payment, delivery, conveyance, assignment, contract, dealing or transaction was made, executed or entered into has not, at the time of the payment, delivery, conveyance, assignment, contract, dealing or transaction, notice of any available act of bankruptcy committed by the bankrupt before that time.

*Realisation of property*

Possession  
of property  
by Official  
Assignee.

55.—(1) The Official Assignee shall forthwith after the adjudication take possession of the deeds, books and documents of the bankrupt and all other parts of his property capable of manual delivery.

(2) The Official Assignee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position as if he were a receiver of the property appointed by the court, and the court may on his application enforce the acquisition or retention accordingly.

(3) Where any part of the property of the bankrupt consists of stock, shares in ships, shares or any other property transferable in the books of any company, office or person, the Official Assignee may exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt.

(4) Where any part of the property of the bankrupt consists of things in action, those things shall be deemed to have been duly assigned to the Official Assignee.

(5) Any treasurer or other officer or any banker, attorney or agent of a bankrupt shall pay and deliver to the Official Assignee all moneys and securities in his possession or power as the officer, banker, attorney or agent which he

is not by law entitled to retain as against the bankrupt or the Official Assignee. If he does not, he shall be guilty of a contempt of court, and may be punished accordingly on the application of the Official Assignee.

**56.**—(1) Any person acting under warrant of the court may seize any part of the property of a bankrupt in the custody or possession of the bankrupt or of any other person, and with a view to the seizure may break open any house, building or room of the bankrupt where the bankrupt is supposed to be, or any building or receptacle of the bankrupt where any of his property is supposed to be. Seizure of property of bankrupt.

(2) Where the court is satisfied that there is reason to believe that property of the bankrupt is concealed in a house or place not belonging to him, the court may if it thinks fit grant a search warrant to any police officer or officer of the court, who may execute it, according to its tenor, in the same manner and subject to the same privileges in and subject to which a search warrant for property supposed to be stolen may be executed according to law.

**57.\***—(1) Where the bankrupt is an officer of the Singapore Armed Forces or a public officer or otherwise employed or engaged in the public service of the Government, the Official Assignee shall receive for distribution amongst the creditors so much of the bankrupt's pay or salary as the court, on the application of the Official Assignee, with the consent of the chief officer of the department under which the pay or salary is enjoyed, directs. Appropriation of portion of pay or salary to creditors.

(2) Before making any order under subsection (1) the court shall communicate with the chief officer of the department as to the amount, time and manner of the payment to the Official Assignee, and shall obtain the written consent of the chief officer to the terms of the payment.

(3) Where a bankrupt is in receipt of a salary or income other than as aforesaid, or is entitled to any half-pay or pension or compensation granted by the Government, the court, on the application of the Official Assignee, shall, subject to the provisions of any written law for the time being regulating the grant and payment of pensions, from

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\*See also section 13 of the Police Force Act (Cap.235).



time to time make such order as it thinks just for the payment of the salary, income, half-pay, pension or compensation or of any part thereof to the Official Assignee, to be applied by him in such manner as the court directs.

(4) Nothing in this section shall take away or abridge any power of the Government to dismiss a bankrupt or to declare the pension, half-pay or compensation of any bankrupt to be forfeited.

(5) In fixing the amount to be received by the Official Assignee under this section the court shall have regard to the scales of appropriation of salary in any general rule made for the purposes of this section by the Minister under section 125:

Provided that the court may in its discretion fix a larger or smaller amount than the amount provided in that scale.

Vesting and  
transfer of  
property.

**58.**—(1) The property of the bankrupt shall pass from Official Assignee to Official Assignee, and shall vest in the Official Assignee for the time being during his continuance in office, without any conveyance, assignment or transfer whatever.

(2) All dealings with property which has been or is vested under this Act in the Official Assignee for the time being, and all deeds, agreements, instruments, acts and things necessary or expedient for the purposes of those dealings, shall, if they were or are transacted, made, entered into, signed, perfected or done by an officer appointed for the time being under section 70 to act for or in the place of the Official Assignee or to be an Assistant Official Assignee, be deemed to have been and shall be of the same force and effect and as valid for all intents and purposes as they would have been or would be if transacted, made, entered into, signed, perfected or done by the Official Assignee personally.

Disclaimer  
of onerous  
property.

**59.**—(1) Where any part of the property of the bankrupt consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts or of any other property that is unsaleable or not readily saleable by reason of its binding the possessor

thereof to the performance of any onerous act or to the payment of any sum of money, the Official Assignee, notwithstanding that he has endeavoured to sell or has taken possession of the property or exercised any act of ownership in relation thereto, but subject to this section, may, by writing signed by him, at any time disclaim the property.

(2) The disclaimer shall operate to determine as from the date of disclaimer the rights, interests and liabilities of the bankrupt and his property in or in respect of the property disclaimed, and shall also discharge the Official Assignee from all personal liability in respect of the property disclaimed as from the date when the property vested in him, but shall not, except so far as is necessary for the purpose of releasing the bankrupt and his property and the Official Assignee from liability, affect the rights or liabilities of any other person.

(3) The Official Assignee shall not be entitled to disclaim a lease without the leave of the court, except in any cases which may be prescribed or where all persons interested in the property consent to the disclaimer, and the court may, before or on granting leave, require such notices to be given to persons interested and impose such terms as a condition of granting leave and make such orders with respect to fixtures, tenant's improvements and other matters arising out of the tenancy as the court thinks just.

(4) The Official Assignee shall not be entitled to disclaim any property, in pursuance of this section, in any case where an application in writing has been made to him by any person interested in the property, requiring him to decide whether he will disclaim or not, and he has for a period of 3 days after the receipt of the application, or such extended period as is allowed by the court, declined or neglected to give notice whether he disclaims the property or not; and in the case of a contract if the Official Assignee, after such application as aforesaid, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

(5) The court may, on the application of any person who is, as against the Official Assignee, entitled to the benefit or subject to the burden of a contract made with the bankrupt,

make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract or otherwise as to the court seems equitable; and any damages payable under the order to that person may be proved by him as a debt under the bankruptcy.

(6) The court may, on application by any person either claiming any interest in any disclaimed property or under any liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or delivery thereof to any person entitled thereto or to whom it seems just that the same should be delivered by way of compensation for such liability as aforesaid or a trustee for him and on such terms as the court thinks just; and on the vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf, without any conveyance or assignment for the purpose.

(7) Where the property disclaimed is of a leasehold nature the court shall not make a vesting order in favour of any person claiming under the bankrupt, whether as under-lessee or as mortgagee by demise, except upon the terms of making the person subject to the same liabilities and obligations as the bankrupt was subject to under the lease in respect of the property at the date when the bankruptcy petition was filed, and any mortgagee or under-lessee declining to accept a vesting order upon those terms shall be excluded from all interest in and security upon the property, and if there is no person claiming under the bankrupt who is willing to accept an order upon those terms, the court shall have power to vest the bankrupt's estate and interest in the property in any person liable, either personally or in a representative character, and either alone or jointly with the bankrupt, to perform the lessee's covenants in the lease, freed and discharged from all estates, encumbrances and interests created therein by the bankrupt.

(8) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the injury, and may accordingly prove the same as a debt under the bankruptcy.

- 60.** Subject to this Act, the Official Assignee may —
- (a) sell all or any part of the property of the bankrupt, including the goodwill of his business, if any, and the book debts due or growing due to him, by public auction or private contract, with power to transfer the whole thereof to any person or company or to sell the same in parcels;
  - (b) give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof;
  - (c) prove, rank, claim, and draw a dividend in respect of any debt due to the bankrupt;
  - (d) exercise any powers, the capacity to exercise which is vested in the Official Assignee under this Act, and execute any powers of attorney, deeds and other instruments for the purpose of carrying into effect the provisions of this Act;
  - (e) deal with any property to which the bankrupt is beneficially entitled as tenant in tail, or other owner of an estate of inheritance less than an estate in fee simple, in the same manner as the bankrupt might have dealt with it; and any such dealing with any property to which the bankrupt is before his discharge so entitled shall, although the bankrupt is dead at the time of that dealing, be as valid and have the same operation as though the bankrupt were then alive.

Powers of Official Assignee to deal with property.

- 61.** The Official Assignee, subject to any general or special orders of the court, may —

- (a) carry on the business of the bankrupt so far as is necessary for the beneficial winding up of the same;
- (b) bring, institute or defend any action or other legal proceeding relating to the property of the bankrupt;
- (c) employ, with the permission in writing of the Minister, a solicitor to take any proceedings or do any business;
- (d) accept, as the consideration for the sale of any property of the bankrupt, a sum of money

Powers exercisable by Official Assignee subject to orders of court.

payable at a future time, subject to such stipulations as to security and otherwise as he thinks fit;

- (e) mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts;
- (f) refer any dispute to arbitration, compromise all debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist, between the bankrupt and any person who may have incurred any liability to the bankrupt, on the receipt of such sums payable at such times, and generally on such terms as are agreed on;
- (g) make such compromise or other arrangement as is thought expedient with creditors or persons claiming to be creditors in respect of any debts provable under the bankruptcy;
- (h) make such compromise, or other arrangement, as is thought expedient, with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the Official Assignee by any person or by the Official Assignee on any person;
- (i) divide in its existing form, amongst the creditors according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

#### *Distribution of property*

Declaration  
and  
distribution  
of dividends.

**62.**—(1) Subject to the retention of such sums as are necessary for the costs of administration or otherwise, the Official Assignee shall, with all convenient speed, declare and distribute dividends amongst the creditors who have proved their debts.

(2) The first dividend, if any, shall be declared and distributed within 12 months after the adjudication, unless the Official Assignee satisfies the court that there is sufficient reason for postponing the declaration to a later date.

(3) Subsequent dividends shall, in the absence of sufficient reason to the contrary, be declared and distributed at intervals of not more than 12 months.

(4) Before declaring a dividend the Official Assignee shall cause notice of his intention to do so to be gazetted and shall also send reasonable notice thereof to each creditor mentioned in the bankrupt's statement who has not proved his debt.

(5) When the Official Assignee has declared a dividend he shall send to each creditor who has proved a notice showing the amount of the dividend, and when, and how it is payable, and a statement, in the prescribed form, as to the particulars of the estate.

(6) No dividend shall be paid to any creditor which does not amount to \$5.

**63.**—(1) Where one partner of a firm is adjudged bankrupt, a creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.

Joint and  
separate  
dividends.

(2) Where joint and separate properties are being administered, dividends of the joint and separate properties shall, subject to any order to the contrary that is made by the court on the application of the Official Assignee or any person interested, be declared together.

(3) The expenses of and incident to the dividends shall be fairly apportioned by the Official Assignee between the joint and separate properties, regard being had to the work done for and the benefit received by each property.

**64.**—(1) In the calculation and distribution of a dividend the Official Assignee shall make provision for debts provable in bankruptcy appearing from the bankrupt's statements or otherwise to be due to persons resident in places so distant from the place where the Official Assignee is acting that in the ordinary course of communication they have not had sufficient time to tender their proofs or to establish them if disputed, and also for debts provable in bankruptcy the subject of claims not yet determined.

Provision  
for creditors  
residing at a  
distance, etc.

(2) The Official Assignee shall also make provision for any disputed proofs or claims and for the expenses necessary for the administration of the estate or otherwise, and, subject to subsection (1), he shall distribute as dividend all moneys in hand.

Right of creditor who has not proved debt before declaration of a dividend.

**65.** Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid, out of any money for the time being in the hands of the Official Assignee, any dividend or dividends he has failed to receive before that money is applied to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

Final dividend.

**66.—(1)** When the Official Assignee has realised all the property of the bankrupt, or so much thereof as can, in his opinion, be realised without needlessly protracting the proceedings in bankruptcy, he shall declare a final dividend.

(2) Before so doing he shall give notice as prescribed to the persons whose claims to the creditors have been notified to him, but not established to his satisfaction, that if they do not establish their claims to the satisfaction of the court within a time limited by the notice he will proceed to make a final dividend without regard to their claims.

(3) After the expiration of the time so limited, or if the court, on application by any such claimant, grants him further time for establishing his claim, then on the expiration of such further time, the property of the bankrupt shall be divided among the creditors who have proved their debts without regard to the claims of any other persons.

No action for dividend.

**67.** No action for a dividend shall lie against the Official Assignee, but if he refuses to pay any dividend the court may if it thinks fit order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld, and the costs of the application.

Power to allow bankrupt to manage property.

**68.—(1)** The Official Assignee may appoint the bankrupt himself to superintend the management of the property of the bankrupt, or of any part thereof, or to carry on the trade (if any) of the bankrupt for the benefit of his creditors, and

in any other respect to aid in administering the property in such manner and on such terms as the Official Assignee directs.

(2) The Official Assignee may make such allowance as he thinks just to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his service if he is engaged in winding up his estate, but the court may reduce the allowance and limit the time for which it may be made.

Allowance to bankrupt for maintenance or service.

(3) Where the bankrupt has died the Official Assignee may make an allowance to members of the bankrupt's family for their support.

(4) The Official Assignee may also make an allowance to defray the funeral expenses of the bankrupt.

69. The bankrupt shall be entitled to any surplus remaining after payment in full of his creditors, with interest as by this Act provided, and of the costs, charges and expenses of the proceedings under the bankruptcy petition.

Right of bankrupt to surplus.

## PART IV

### OFFICIAL ASSIGNEE

#### *Appointment and removal*

70.—(1) The President may appoint such person as he thinks fit, by name of office, to be Official Assignee of debtors' estates, and may remove any person so appointed from such office.

Appointment of Official Assignee of debtors' estates.

(2) The Official Assignee shall act under the general authority and directions of the Minister, but shall also be an officer of the court.

(3) The President may appoint by name or office such other officers, either temporary or permanent, as he thinks necessary for carrying this Act into effect, and may assign to them such duties as he thinks fit, and may remove any of them from office.

#### *Duties*

71.—(1) The duties of the Official Assignee shall have relation both to the conduct of the debtor and to the administration of his estate.

Status of Official Assignee.



(2) The Official Assignee may administer oaths for the purposes of any matters or proceedings under this Act or for the purpose of taking affidavits.

(3) The Official Assignee and any person appointed by the President under section 70 (3) while the appointment subsists shall be deemed to be public servants within the meaning of the Penal Code.

Cap. 224.

Duties of  
Official  
Assignee  
as regards  
the debtor's  
conduct.

**72.** As regards the debtor, the Official Assignee shall —

- (a) investigate the conduct of the debtor, and report to the court stating whether there is reason to believe that the debtor has committed any act which constitutes an offence under this Act or under section 421, 422, 423 or 424 of the Penal Code, or which would justify the court in refusing, suspending or qualifying an order for his discharge;
- (b) make such other reports concerning the conduct of the debtor as the court directs or as are prescribed;
- (c) take such part as is directed by the court or prescribed in the public examination of the debtor;
- (d) take such part and give such assistance in relation to the prosecution of any fraudulent debtor or any other person charged with an offence under this Act, as the court directs or as is prescribed.

Duties of  
Official  
Assignee as  
to debtor's  
estate.

**73.—(1)** As regards the estate of a debtor, the Official Assignee shall —

- (a) act as the receiver of the debtor's estate, and act as manager thereof where a special manager has not been appointed;
- (b) raise money or make advances for the purposes of the estate, and authorise the special manager to raise money or make advances for the like purposes in any case where in the interests of the creditors it appears necessary to do so;
- (c) summon and preside at all meetings of creditors held under this Act;

- (d) issue forms of proxy for use at the meetings of creditors;
- (e) report to the creditors as to any proposal which the debtor makes with respect to the mode of liquidating his affairs;
- (f) advertise the receiving order, the date of the debtor's public examination and such other matters as it is necessary to advertise.

(2) For the purpose of his duties as receiver or manager the Official Assignee shall have the same powers as if he were a receiver and manager appointed by the court, but shall as far as practicable consult the wishes of the creditors with respect to the management of the debtor's property, and may for that purpose, if he thinks it advisable, summon meetings of the persons claiming to be creditors.

(3) The Official Assignee shall account to the court and pay over all moneys and deal with all securities in such manner as, subject to this Act, the court directs.

#### *Costs*

74.—(1) No payment shall be allowed in the accounts of the Official Assignee, or of any special manager, in respect of the performance by any other person of the ordinary duties which are required by this Act or any rules made thereunder to be performed by himself.

Allowance  
and taxation  
of costs.

(2) All bills and charges of solicitors, managers, accountants, auctioneers, brokers and other persons shall be taxed by the prescribed officer, and no payments in respect thereof shall be allowed in the accounts of the Official Assignee without leave of the court, given after such taxation has been made.

(3) Every such person shall on request by the Official Assignee, which request the Official Assignee shall make a sufficient time before declaring a dividend, deliver his bill of costs or charges to the prescribed officer for taxation, and if he fails to do so within 7 days after receipt of the request, or such further time as the court on application grants, the Official Assignee shall declare and distribute the dividend without regard to any claim by him, and thereupon any such claim shall be forfeited as well against the Official Assignee personally as against the estate.

*Receipts, payments, accounts and audit*

Bankruptcy  
Estates  
Account.

**75.**—(1) An account, to be called the Bankruptcy Estates Account, shall be kept by the Official Assignee with such bank as the Minister directs and, subject to the other provisions of this Act, all moneys received by the Official Assignee in respect of proceedings under this Act shall be paid to that account.

(2) All payments out of moneys standing to the credit of the Official Assignee in the Bankruptcy Estates Account shall be made by such bank in the prescribed manner.

Investment  
of surplus  
funds.

**76.**—(1) Whenever the cash balance standing to the credit of the Bankruptcy Estates Account is in excess of the amount which, in the opinion of the Official Assignee, is required for the time being to answer demands in respect of insolvent estates the Official Assignee shall notify the excess to the Accountant-General, and shall pay over the whole or any part of that excess as the Accountant-General may require to the Accountant-General, to such account as the Accountant-General may direct, and the Accountant-General may invest the sums paid over or any part thereof in trustee securities to be placed to the credit of the said account.

(2) When any part of the money so invested is in the opinion of the Official Assignee required to answer any demands in respect of insolvent estates, the Official Assignee shall notify to the Accountant-General the amount so required and the Accountant-General shall thereupon repay to the Official Assignee such sum as may be required to the credit of the Bankruptcy Estates Account and for that purpose he may direct the sale of such part of the said securities as may be necessary.

(3) The dividends on investments under this section shall be paid into the Consolidated Fund and regard shall be had to the amount thus derived in fixing the fees payable in respect of proceedings in bankruptcy.

Profit and  
loss on the  
sale of  
securities.

**77.** Any profits on the sale of any of the securities placed to the credit of the Bankruptcy Estates Account shall be credited to the Consolidated Fund and the Consolidated Fund shall be liable to make good any loss arising out of the sale of those securities.

78.—(1) The Official Assignee shall keep in the prescribed form an account of his receipts and payments as Official Assignee, and shall permit inspection thereof by the bankrupt or by any creditor who has proved his debt or by any other person interested, subject to payment of the prescribed fee.

Inspection and audit of Official Assignee's accounts.

(2) All such accounts shall be audited not less than once in each year by such officer as the Minister appoints in that behalf, and for the purposes of the audit the Official Assignee shall produce to the auditing officer such books and shall furnish him with such vouchers and information as he requires.

79. The Official Assignee shall, whenever required by any creditor to do so, and on payment by the creditor of the prescribed fee, furnish and transmit to the creditor a list of the creditors, showing in the list the amount of the debt due to each of the creditors.

Official Assignee to furnish list of creditors.

80. The Official Assignee shall keep as prescribed proper books, in which he shall cause to be made entries or minutes of proceedings at meetings and of such other matters as are prescribed, and any creditor of the bankrupt may, subject to the control of the court, personally or by his agent inspect any such books.

Books to be kept by Official Assignee.

81.—(1) The Official Assignee shall, on the demand of any officer authorised by the Minister in that behalf in writing, produce for the inspection of that officer all records and documents in his possession relating to any bankruptcy, and that officer may examine the same and report thereon to the Minister.

Official examination of Official Assignee's records.

(2) The President shall call the Official Assignee to account for any misfeasance, neglect or omission which is disclosed by any examination made under subsection (1), and may require the Official Assignee to make good any loss which the estate of any bankrupt has sustained by reason of the misfeasance, neglect or omission.

*Release*

82.—(1) When the Official Assignee has realised all the property of the bankrupt, or so much thereof as can in his opinion be realised without needlessly protracting the

Release of Official Assignee.

proceedings in bankruptcy, and distributed a final dividend, if any, or has ceased to act by reason of a composition having been approved, or has resigned or has vacated or been removed from his office, the court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the court, shall take into consideration the report and any objection which is urged by any creditor or person interested against the release of the Official Assignee, and shall either grant or withhold the release accordingly.

(2) Where the release of the Official Assignee is withheld the court may, on the application of any creditor or person interested, make such order as it thinks just, charging the Official Assignee with the consequences of any act or default he has done or made contrary to his duty.

(3) An order of the court releasing the Official Assignee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt or otherwise in relation to his conduct as Official Assignee, but the order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

### *Official name*

Official name  
of Official  
Assignee.

**83.** The Official Assignee may sue and be sued by the official name of "The Official Assignee of the Property of (*name of bankrupt*), a Bankrupt," or, in a case under section 124 by the official name of "The Official Assignee of the Property of (*name of deceased*), a Deceased Insolvent", and by that name may hold property of every description, make contracts, sue and be sued, enter into any engagements binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office.

### *Vacation of office on insolvency*

Office of  
Official  
Assignee  
vacated by  
insolvency.

**84.** If a receiving order is made against the Official Assignee he shall thereby vacate the office of Official Assignee.

*Control*

**85.**—(1) Subject to this Act, the Official Assignee shall, in the administration of the property of the bankrupt, have regard to any directions that are given by resolution of the creditors at any general meeting, and to any advice given by the consultative committee, but so that any directions so given by the creditors at any general meeting shall in case of conflict override any advice given by the consultative committee.

Discretionary powers of Official Assignee and control thereof.

(2) The Official Assignee may summon general meetings of the creditors for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the court directs, or whenever requested in writing to do so by one-fourth in value of the creditors or by the consultative committee.

(3) The Official Assignee may apply to the court as prescribed for directions in relation to any particular matter arising under the bankruptcy.

(4) Subject to this Act, the Official Assignee shall use his own discretion in the administration of the property of the bankrupt.

**86.** If the bankrupt or any of the creditors or any other person is aggrieved by any act or decision of the Official Assignee, he may apply to the court, and the court may confirm, reverse or modify the act or decision complained of and make such order in the premises as it thinks just.

Appeal to court against Official Assignee.

**87.**—(1) The court shall take cognizance of the conduct of the Official Assignee, and in the event of the Official Assignee not faithfully performing his duties and duly observing all the requirements imposed on him by any enactment, rules or otherwise with respect to the performance of his duties, or in the event of any complaint being made to the court by any creditor in regard thereto, the court shall inquire into the matter and take such action thereon as it considers expedient.

Control of court over Official Assignee.

(2) The court may at any time require the Official Assignee to answer any inquiry made by it in relation to any bankruptcy in which he is engaged, and may examine on oath him or any other person concerning the bankruptcy.

(3) The court may also direct a local investigation to be made of the books and vouchers of the Official Assignee.

(4) All sums required to discharge any liability which the Official Assignee may be personally liable to discharge shall be charged upon the Consolidated Fund except where the liability is one to which neither the Official Assignee as such nor any of his officers has in any way contributed and which neither he nor any of his officers could by the exercise of reasonable diligence have averted and in that case the Official Assignee shall not, nor shall the Consolidated Fund, be subject to any liability.

## PART V

### CONSTITUTION, PROCEDURE AND POWERS OF COURT

#### *Jurisdiction*

High Court to be the court having jurisdiction in bankruptcy.

**88.** The High Court shall be the court having jurisdiction in bankruptcy in Singapore under this Act.

Exercise in chambers of jurisdiction.

**89.** Subject to this Act and to general rules, any judge of the court exercising jurisdiction in bankruptcy may exercise in chambers the whole or any part of his jurisdiction.

Jurisdiction in bankruptcy of Registrar.

**90.**—(1) The Registrar shall have the powers and jurisdiction in this section mentioned, and any order made or act done by him in the exercise of the said powers and jurisdiction shall, subject to an appeal to the court, be deemed the order or act of the court.

(2) Subject to general rules limiting the powers conferred by this section, the Registrar may hear and determine any unopposed or *ex parte* application which is not required to be made in open court.

General power of bankruptcy court.

**91.**—(1) Subject to this Act, the court, under its jurisdiction in bankruptcy, shall have full power to decide all questions of priorities and all other questions whatsoever, whether of law or fact, which may arise in any case of bankruptcy coming within the cognizance of the court, or which the court deems it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

(2) Where default is made by a debtor or other person in obeying any order or direction given by the court, or given by the Official Assignee, or any other officer of the court, under any power conferred by this Act, the court may, on the application of the Official Assignee or other duly authorised person, or of its own motion, order such defaulting debtor or person to comply with the order or direction so given, and may also, if it thinks fit, make an immediate order for the committal of such defaulting debtor or other person.

(3) The power given by subsection (2) shall be deemed to be in addition to and not in substitution for any other right or remedy in respect of such default.

### *Appeals*

**92.**—(1) The court may review, rescind or vary any order made by it under its bankruptcy jurisdiction. Appeals in  
bankruptcy.

(2) Orders in bankruptcy matters shall, at the instance of any person aggrieved, be subject to appeal in the same way as orders of the High Court in other matters are for the time being appealable.

(3) For the purposes of this section the Official Assignee shall be deemed to be aggrieved by the refusal of any application made by him to the court.

### *Procedure*

**93.**—(1) Subject to this Act and to general rules, the costs of and incidental to any proceeding in court shall be in the discretion of the court. Discretionary  
powers of  
the court.

(2) The court may at any time adjourn any proceedings before it upon such terms, if any, as it thinks fit to impose.

(3) The court may at any time amend any written process or proceeding upon such terms, if any, as it thinks fit to impose.

(4) Where by this Act or by general rules the time for doing any act or thing is limited, the court may extend the time, either before or after the expiration thereof, upon such terms, if any, as the court thinks fit.

(5) Subject to general rules, the court may in any matter take the whole or any part of the evidence either viva voce



or by interrogatories or upon affidavit or by commission abroad.

(6) For the purpose of approving a composition or scheme by joint debtors the court may if it thinks fit, and on the report of the Official Assignee that it is expedient to do so, dispense with the public examination of one of such joint debtors if he is unavoidably prevented from attending the examination by illness or absence abroad.

Consolidation of petitions.

**94.** Where two or more bankruptcy petitions are presented against the same debtor or against joint debtors, the court may consolidate the proceedings or any of them on such terms as the court thinks fit.

Power to change carriage of proceedings.

**95.** Where the petitioner does not proceed with due diligence on his petition, the court may substitute as petitioner any other creditor to whom the debtor is indebted in the amount required by this Act in the case of the petitioning creditor, or may give the carriage of the proceedings to the Official Assignee, and thereafter the proceedings shall, unless the court otherwise orders, be continued as though no change had been made in the conduct of the proceedings.

Continuance of proceedings on death of debtor.

**96.** If a debtor by or against whom a bankruptcy petition has been presented dies, the proceedings in the matter shall, unless the court otherwise orders, be continued as if he were alive, and the court may dispense with service of the petition upon him.

Power to stay proceedings.

**97.** The court may at any time, for sufficient reason, make an order staying the proceedings under a bankruptcy petition, either altogether or for a limited time, on such terms and subject to conditions as the court thinks just.

Power to present petition against one partner.

**98.** Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm without including the others.

Power to dismiss petition against some respondents only.

**99.** Where there are more respondents than one to a petition the court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.

**100.**—(1) Where a member of a partnership is adjudged bankrupt, the court may authorise the Official Assignee to commence and prosecute any action or other legal proceeding in the names of the Official Assignee and of the bankrupt's partner. Actions by Official Assignee and bankrupt's partners.

(2) Any release by such partner of the debt or demand to which the action or proceeding relates shall be void; but notice of the application for authority to commence the action or proceeding shall be given to him and he may show cause against it, and on his application the court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action or proceeding, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the court directs.

**101.** Where a bankrupt is a contractor in respect of any contract jointly with any other person, that person may sue or be sued in respect of the contract without the joinder of the bankrupt. Actions on joint contracts.

**102.**—(1) Any two or more persons being partners or any person carrying on business under a partnership name may take proceedings or be proceeded against under this Act in the name of the firm. Proceedings in partnership name.

(2) In such case the court may, on application by any person interested, order the names of the persons who are partners in that firm or the name of that person to be disclosed in such manner and verified on oath or otherwise as the court directs.

**103.**—(1) The High Court and the officers thereof shall in all matters of bankruptcy and insolvency act in aid of and be auxiliary to the courts of Malaysia having jurisdiction in bankruptcy and insolvency so long as the law of Malaysia requires its courts to act in aid of and be auxiliary to the courts of Singapore. Action in aid of courts of Malaysia.

(2) An order of any such court of Malaysia, seeking aid with a request to the High Court, shall be deemed sufficient to enable the High Court to exercise in respect of the matters directed by the order such jurisdiction as either the court which made the request or the High Court could exercise in respect of similar matters within their several jurisdictions.

Reciprocal  
recognition  
of Official  
Assignees.

**104.**—(1) The Minister may, by notification in the *Gazette*, declare that the Government of Singapore has entered into an agreement with the government of Malaysia for the recognition by each Government of the Official Assignees in bankruptcy appointed by the other Government.

(2) From the date of that notification where any person has been adjudged a bankrupt by a court of Malaysia, such property of the bankrupt situate in Singapore as would, if he had been adjudged bankrupt in Singapore, vest in the Official Assignee of Singapore, shall vest in the Official Assignee appointed by the government of Malaysia, and all courts in Singapore shall recognise the title of such Official Assignee to such property:

Provided that this subsection shall not apply where a bankruptcy petition has been presented against the bankrupt in Singapore, until the petition has been dismissed or withdrawn or the receiving order has been rescinded or the adjudicating order has been annulled as the case may be.

(3) The production of an order of adjudication purporting to be certified, under the seal of the court in Malaysia making the order, by the registrar of that court, or of a copy of the official Gazette of Malaysia containing a notice of an order adjudging that person a bankrupt shall be conclusive proof in all courts in Singapore of the order having been duly made and of its date.

(4) The Official Assignee of Malaysia may sue and be sued in any court in Singapore by the official name of “the Official Assignee of the Property of (*name of bankrupt*), a Bankrupt under the Law of Malaysia”.

#### *Annulment of adjudication*

Power of  
court to  
annul  
adjudication  
in certain  
cases.

**105.**—(1) Where in the opinion of the court a debtor ought not to have been adjudged bankrupt, or where it is proved to the satisfaction of the court that the debts of the bankrupt are paid in full, or where it appears to the court that proceedings are pending in Malaysia for the distribution of the bankrupt’s estate and effects among his creditors under the bankruptcy or insolvency law of Malaysia and that the distribution ought to take place in Malaysia, the court may annul the adjudication.

(2) Where an adjudication is annulled under this section, all sales and dispositions of property, and payments duly made, and all acts theretofore done by the Official Assignee, or other person acting under his authority, or by the court, shall be valid, but the property of the debtor who was adjudged bankrupt shall vest in such person as the court appoints, or in default of any such appointment revert to the debtor for all his estate or interest therein on such terms and subject to such conditions, if any, as the court declares by order.

(3) Notice of the order annulling an adjudication shall be forthwith gazetted and published in at least one local paper.

(4) For the purposes of this section any debt disputed by a debtor shall be considered as paid in full if the debtor enters into a bond, in such sum and with such sureties as the court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into court.

(5) When the court annuls the adjudication under this section it shall also rescind the receiving order.

## PART VI

### SMALL BANKRUPTCIES

**106.** In this Part “wage-earner” means a person who is or has been employed on a salary or wage of an amount not exceeding \$500 per month and whose other income, if any, exclusive of any pension he may receive, does not exceed \$50 per month and does not arise from any trade or business in the management of which he takes any part. Inter-pretation.

**107.** In any case where a receiving order has been made and the Official Assignee reports to the court that the assets (after deducting any sums paid to secured creditors in respect of their securities) are unlikely to exceed \$5,000 in value the court may make an order that the debtor’s estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications: Summary administration in small cases.

(a) no appeal shall lie from any order of the court except by order of the court;

- (b) if during or at the conclusion of the public examination of the debtor it appears to the court that the debtor does not intend to propose a composition or scheme or that for any reason a composition or scheme ought not to be sanctioned the court may, without further process, adjudge the debtor bankrupt;
- (c) the estate where practicable shall be distributed in a single dividend;
- (d) such other modifications may be made in the provisions of this Act as may be prescribed by general rules, with the view of saving expense and simplifying procedure; but nothing in this section shall permit the modification of the provisions of this Act relating to the examination or discharge of the debtor.

Receiving  
orders in  
small cases.

**108.**—(1) If on examination of a judgment debtor in the High Court or in a District Court it appears to the Court —

- (a) that the debtor is a wage-earner;
- (b) that he is indebted to more than one creditor;
- (c) that none of his debts or other liabilities was contracted in any trade or business in the management of which the debtor took part; and
- (d) that his liabilities exceed the probable amount of his income during the ensuing 6 months,

the Court shall, unless cause to the contrary be shown, instead of making any order for the payment of the judgment debt or for the committal of the debtor, make a receiving order against the debtor under this section.

(2) A receiving order under this section shall have the same effect as a receiving order under section 8 and the debtor shall be deemed to have committed an act of bankruptcy on the date of the order.

(3) No appeal shall lie from a receiving order under this section but the debtor may at any time within one month of the date of the receiving order apply to the court to rescind the receiving order and where such application is granted the court may, if necessary, embody in the order for rescission a declaration that the debtor be not deemed to have committed an act of bankruptcy by reason of the receiving order.

**109.—(1)** In any case where a receiving order has been made and the Official Assignee reports to the court that the debtor is a wage-earner and that none of his debts appears to have been contracted in any trade or business in the management of which the debtor took part, the provisions of this Act shall be subject to the modifications specified in section 107 and also to the following modifications:

Public examination in small cases.

- (a) there shall be no public examination unless the court by order directs the debtor to attend for a public examination;
- (b) all other proceedings in court may be heard and determined by the Registrar in chambers, provided that the Registrar may in his discretion reserve any particular application for hearing by a judge; and
- (c) section 43 (7) shall not apply.

(2) The report furnished to the court under subsection (1) shall be prima facie evidence of the statements contained therein.

## PART VII

### FRAUDULENT DEBTORS AND CREDITORS

**110.** In paragraphs (a) to (p) of section 111 (1) and in sections 114 and 117, “court” means the court before which an accused person is tried.

Inter-pretation.

**111.—(1)** Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made under this Act shall in each of the cases following be punished with imprisonment which may extend to 2 years or with fine or with both:

Punishment of fraudulent debtors.

- (a) if he does not to the best of his knowledge and belief fully and truly discover to the Official Assignee all his property, and how, and to whom, and for what consideration, and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade, if any, or laid out in the ordinary expenses of his family, unless he satisfies the court that he had no intent to defraud;
- (b) if he does not deliver up to the Official Assignee or as he directs all such part of his property as is in

- his custody or under his control, and which he is required by law to deliver up, unless he satisfies the court that he had no intent to defraud;
- (c) if he does not deliver up to the Official Assignee or as he directs all books, documents, papers and writings in his custody or under his control relating to his property or affairs, unless he satisfies the court that he had no intent to defraud;
  - (d) if, after the presentation of a bankruptcy petition by or against him or within 12 months next before such presentation, he conceals any part of his property to the value of \$100 or upwards or conceals any debt due to or from him, unless he satisfies the court that he had no intent to defraud;
  - (e) if, after the presentation of a bankruptcy petition by or against him or within 12 months next before such presentation, he fraudulently removes any part of his property of the value of \$100 or upwards;
  - (f) if he makes any material omission in any statement relating to his affairs, unless he satisfies the court that he had no intent to defraud;
  - (g) if, knowing or believing or having reason to believe that a false debt has been proved by any person under the bankruptcy, he fails for the period of one month to inform the Official Assignee thereof;
  - (h) if, after the presentation of a bankruptcy petition by or against him, he prevents the production of any book, document, paper or writing affecting or relating to his property or affairs, unless he satisfies the court that he had no intent to conceal the state of his affairs or to defeat the law;
  - (i) if, after the presentation of a bankruptcy petition by or against him, or within 12 months next before such presentation, he conceals, destroys, mutilates or falsifies or is privy to the concealment, destruction, mutilation or falsification of any book or document affecting or relating to

his property or affairs, unless he satisfies the court that he had no intent to conceal the state of his affairs or to defeat the law;

- (j) if, after the presentation of a bankruptcy petition by or against him, or within 12 months next before such presentation, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless he satisfies the court that he had no intent to conceal the state of his affairs or to defeat the law;
- (k) if, after the presentation of a bankruptcy petition by or against him, or within 12 months next before such presentation he fraudulently parts with, alters or makes any omission in, or is privy to the fraudulently parting with, altering or making any omission in, any document affecting or relating to his property or affairs;
- (l) if, after the presentation of a bankruptcy petition by or against him, or at any meeting of his creditors within 12 months next before the presentation thereof, he attempts to account for any part of his property by fictitious losses or expenses;
- (m) if, being an undischarged bankrupt —
  - (i) either alone or jointly with any other person he obtains credit to the extent of \$100 or upwards from any person without informing that person that he is an undischarged bankrupt; or
  - (ii) he engages in any trade or business under a name other than that under which he was adjudicated bankrupt without disclosing to all persons with whom he enters into any business transaction the name under which he was adjudicated bankrupt;
- (n) if, within 12 months next before the presentation of a bankruptcy petition by or against him, he by any false representation or other fraud has obtained any property on credit and has not paid for the same;



- (o) if, within 12 months next before the presentation of a bankruptcy petition by or against him, he being a trader obtains, under the false pretence of carrying on business and dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless he satisfies the court that he had no intent to defraud;
- (p) if, within 12 months next before the presentation of a bankruptcy petition by or against him, he being a trader pawns, pledges or sends out of Singapore in unusual quantities or to unusual quarters, or disposes of otherwise than in the ordinary way of his trade any property which he has obtained on credit and has not paid for, unless he satisfies the court that he had no intent to defraud;
- (q) if he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to any agreement with reference to his affairs or his bankruptcy;
- (r) if, having been engaged in any trade or business and having outstanding at the date of the receiving order any debt contracted in the course and for the purposes of such trade or business, —
  - (i) he has, within two years prior to the presentation of the bankruptcy petition, materially contributed to or increased the extent of his insolvency by gambling or by rash and hazardous speculation, and such gambling or speculation is unconnected with his trade or business;
  - (ii) he has, between the date of the presentation of the petition and the date of the receiving order, lost any part of his estate by such gambling or rash and hazardous speculation; or
  - (iii) on being required by the Official Assignee at any time, or in the course of his public examination by the court, to account for the loss of any substantial part of his estate incurred within a period of a year next preceding the date of the

presentation of the bankruptcy petition, or between that date and the date of the receiving order, he fails to give a satisfactory explanation of the manner in which such loss was incurred.

(2) In determining for the purpose of subsection (1) (r) whether any speculation was rash and hazardous, the financial position of the accused person at the time when he entered into the speculation shall be taken into consideration.

(3) A person who has sent out of Singapore any property which he has obtained on credit and not paid for shall, until the contrary is proved, be deemed to have disposed of the same otherwise than in the ordinary way of his trade, if that property not having been paid or accounted for at the date of the receiving order by the person to whom that property was sent, such last-mentioned person cannot be found, or does not pay or account for the same within a reasonable time after being called upon to do so by the Official Assignee.

(4) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under subsection (1) (p), every person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged or disposed of in such circumstances shall be guilty of an offence and shall be liable on conviction to be punished in the same way as if he had received the property knowing it to have been obtained in circumstances amounting to an offence.

(5) A prosecution shall not be instituted against any person in respect of an offence punishable under subsection (1) (r) except by order of the court nor where the receiving order in the bankruptcy is made within two years of 1st July 1958.

112.—(1) Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made shall be punished with imprisonment which may extend to 2 years or with fine or with both if, having been engaged in any trade or business during any period in the two years immediately preceding the date of the presentation of the bankruptcy petition, he has not kept proper books of account throughout that period and throughout

Bankrupt failing to keep proper accounts.

any further period in which he was so engaged between the date of the presentation of the petition and the date of the receiving order, or has not preserved all books of account so kept:

Provided that a person who has not kept or has not preserved such books of account shall not be convicted of an offence under this section —

- (a) if his unsecured liabilities at the date of the receiving order did not exceed, in the case of a person who has not on any previous occasion been adjudged bankrupt or made a composition or arrangement with his creditors, \$4,000 or in any other case \$1,000; or
- (b) if he proves that in the circumstances in which he traded or carried on business the omission was honest and excusable.

(2) A prosecution shall not be instituted against any person under this section except by order of the court, nor where the receiving order in the bankruptcy is made at any time within two years of 1st July 1958.

(3) For the purposes of this section a person shall be deemed not to have kept proper books of account if he has not kept such books of account as are necessary to exhibit or explain his transaction and financial position in his trade or business, including a book or books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, statements of annual stock-takings, and (except in the case of goods sold by way of retail trade to the actual consumer) accounts of all goods sold and purchased showing the buyers and sellers thereof in sufficient detail to enable the goods and the buyers and sellers thereof to be identified.

Bankrupt  
incurring  
debt without  
reasonable  
ground of  
expectation  
of paying it.

113. Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made shall be punished with imprisonment which may extend to 2 years or with fine or with both —

- (a) if, within 6 months next before the presentation of a bankruptcy petition by or against him, he incurs any debt provable in bankruptcy without having any reasonable ground of expectation of being able to pay it;

- (b) if, having been engaged in carrying on any trade or business, he continues to trade or carry on business, by incurring any debt or indebtedness provable in bankruptcy within 12 months next before the date of a bankruptcy petition by or against him, he being insolvent at the date of incurring such debt or, in the case of indebtedness, at the date of the incurring of the first item of such indebtedness, without any reasonable ground of expectation of being able to pay it.

**114.** If after the presentation of a bankruptcy petition by or against him, or the service of a debtor's summons upon him, or within 4 months next before such presentation or service, any person against whom a receiving order is made under this Act, quits Singapore and takes with him or attempts or makes preparation to quit Singapore and to take with him any part of his property to the amount of \$50 or upwards which ought by law to be divided amongst his creditors, he shall, unless he satisfies the court that he had no intent to defraud, be punished with imprisonment, which may extend to 2 years or with fine or with both.

Penalty for absconding with property.

**115.—(1)** Any person against whom a receiving order is made under this Act who quits or before the making of the order has quitted Singapore, with intent to avoid service of any petition or other process in bankruptcy, or to avoid examination in respect of his affairs, or otherwise to defeat, embarrass or delay any proceedings against him in bankruptcy, shall be punished with imprisonment which may extend to one year or with fine not exceeding \$1,000 or with both.

Penalty for absconding in order to avoid service of bankruptcy process or embarrass bankruptcy proceedings.

(2) Any person who after the presentation of a bankruptcy petition by or against him, or the service of a debtor's summons upon him, or within 3 months next before such presentation or service, quits Singapore, shall until the contrary is proved be deemed to quit Singapore with such intent as in this section is mentioned.

**116.—(1)** Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made shall in each of the cases following be punished with

Penalty on fraudulently obtaining credit, etc.

imprisonment, which may extend to one year, or with fine or with both:

- (a) if in incurring any debt or liability he has obtained credit under false pretences or by means of any other fraud;
- (b) if he has, with intent to defraud his creditors or any of them, made or caused to be made any gift, delivery or transfer of or any charge on his property or caused or connived at the levying of any execution against his property;
- (c) if he has, with intent to defraud his creditors or any of them, concealed or removed any part of his property since or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him.

(2) A person who having an unsatisfied judgment for a sum exceeding \$500 entered up against him obtains credit shall, until the contrary is proved, be deemed to have obtained that credit under false pretences or by means of fraud.

Penalty on  
false claim,  
etc.

**117.**—(1) Any creditor in any bankruptcy, composition or arrangement with creditors who makes any claim, proof, declaration or statement of account which is untrue in any material particular shall, unless he satisfies the court that he had no intent to defraud, be punished with imprisonment which may extend to one year or with fine or with both.

(2) Any creditor who obtains or receives any money or property or security from any person as an inducement for forbearing to oppose, or for consenting to, the discharge of a bankrupt shall be punished with a fine, which may extend to 3 times the amount or value of such money, property or security.

(3) Any person who, knowing that a receiving order has been made against a debtor, removes, conceals, receives or otherwise deals with or disposes of any part of the property of the debtor, with intent to defeat the order, shall be punished with a fine which may extend to double the amount or value of the property or imprisonment which may extend to 3 years or with both.

(4) Fines imposed and levied under this section shall be deemed part of the property of the debtor and shall vest in the Official Assignee.

**118.** Where a debtor makes any composition or arrangement with his creditors he shall remain liable for the unpaid balance of any debt which he incurred or increased by any fraud, or whereof before the date of the arrangement or composition he obtained forbearance by any fraud, provided the defrauded creditor has not assented to the arrangement or composition otherwise than by proving his debt and accepting dividends.

Debts incurred by fraud.

**119.**—(1) Where it appears to the Official Assignee in the course of proceedings in bankruptcy that there is ground for believing that a debtor against whom a receiving order has been made or any other person has been guilty of an offence under this Act, or under section 421, 422, 423 or 424 of the Penal Code, the Official Assignee shall institute a prosecution against the debtor or other person, if he considers there is reasonable probability that the debtor or other person may be convicted.

Prosecution for offences.

Cap. 224.

(2) No prosecution for any offence under this Act shall be commenced by any other person other than by or on behalf of the Public Prosecutor except with the written consent of the Official Assignee or by order of a judge.

**120.** Where a debtor has been guilty of any offence he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge, or that a composition or scheme of arrangement has been accepted or approved.

Criminal liability after discharge or composition.

**121.** In a charge for an offence under this Act it shall be sufficient to set forth the substance of the offence charged in the words of this Act, specifying the offence or as near thereto as circumstances admit, without alleging or setting forth any debt, act of bankruptcy, adjudication, or any proceedings in, or order, warrant or document of any court acting under this Act.

Form of charge.

## PART VIII

### SUPPLEMENTAL PROVISIONS

#### *Application of Act*

**122.** A married woman shall be subject to this Act in all respects as if she were a feme sole.

Application to married women.

Exclusion of corporations and companies.

**123.** A receiving order shall not be made against any corporation or against any partnership, association or company registered under any Act dealing with companies.

Administration in bankruptcy of estate of person dying insolvent.

**124.—(1)** Unless the context otherwise requires, “creditor” in this section means one or more creditors qualified to present a bankruptcy petition as in this Act provided.

(2) Any creditor of a deceased debtor whose debt would have been sufficient to support a bankruptcy petition against the debtor had he been alive, may present to the court a petition in the prescribed form praying for an order for the administration of the estate of the deceased debtor according to the law of bankruptcy.

(3) The Official Assignee may, with the written authority of the Minister present to the court a petition praying for an order for the administration in bankruptcy of the estate of any deceased debtor. A petition by the Official Assignee shall be in the same form as a petition by a creditor, with such variations as the case may require, provided that it shall not be necessary to allege or prove that any debt is owing to the petitioner.

(4) Upon the prescribed notice being given to the legal representative, if any, of the deceased debtor the court may, in the prescribed manner, upon proof of the petitioner’s debt, unless the court is satisfied that there is a reasonable probability that the estate will be sufficient for the payment of the debts owing by the deceased, make an order for the administration in bankruptcy of the deceased debtor’s estate, or may, upon cause shown, dismiss the petition with or without costs.

(5) An order of administration under this section shall not be made until the expiration of two months from the date of the grant of probate or letters of administration, unless with the concurrence of the legal representative of the deceased debtor, or unless the petitioner proves to the satisfaction of the court that the debtor committed an act of bankruptcy within 3 months prior to his decease.

(6) A petition for administration under this section shall not be presented to the court after proceedings have been commenced for the administration of the deceased debtor’s estate; but the court may, in that case, on the application of

any creditor and on proof that the estate is insufficient to pay its debts in the prescribed manner, make an order for the administration of the estate of the deceased debtor in bankruptcy, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

(7) Upon an order being made for the administration of a deceased debtor's estate under this section, the property of the debtor shall vest in the Official Assignee as trustee thereof, and he shall forthwith proceed to realise and distribute the same in accordance with this Act.

(8) (a) Section 31 so far as it relates to persons other than the debtor, and, with the modifications hereinafter mentioned, all the provisions of Part III shall, so far as the same are applicable, apply to the case of an administration order under this section.

(b) Sections 49, 50, 51 and 52 shall apply in the case of an administration order under this section as if the administration order were a receiving order made under section 4.

(9) In the administration of the property of the deceased debtor under an order of administration, the Official Assignee shall have regard to any claims by the legal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate; such claims shall be deemed a preferential debt under the order and be payable in full out of the debtor's estate in priority to all other debts.

(10) If on the administration of a deceased debtor's estate any surplus remains in the hands of the Official Assignee after payment in full of all the debts due from the debtor, together with the costs of the administration and interest as provided by this Act in case of bankruptcy, the surplus shall be paid over to the legal representative of the deceased debtor's estate or dealt with in such other manner as is prescribed.

(11) Notice to the legal representative of a deceased debtor of the presentation by a creditor of a petition under this section shall, in the event of an order for administration being made thereon, be deemed to be equivalent to notice of an act of bankruptcy, and after the notice no payment or transfer of property made by the legal representative shall operate as a discharge to him as between himself and the Official Assignee.



(12) Subject to this section, nothing in this section shall invalidate any payment made or act or thing done in good faith by the legal representative before the date of the order for administration.

(13) General rules for carrying into effect the provisions of this section may be made in the same manner and to the like effect and extent as in bankruptcy.

### *General rules*

Power to make general rules.

**125.** The Minister may make general rules for carrying into effect the objects of this Act and such rules shall on publication in the *Gazette* be judicially noticed and shall have effect as if enacted by this Act.

### *Fees*

Fees.

**126.** The President may make rules prescribing the fees and percentages to be charged for or in respect of proceedings under this Act, and may direct by whom, and in what manner, the same are to be collected and accounted for, and to what account they shall be paid, and such rules shall be published in the *Gazette* and shall be presented to Parliament as soon as possible after publication.

### *Evidence*

*Gazette* to be evidence.

**127.**—(1) A copy of the *Gazette* containing any notice inserted therein in pursuance of this Act, or the rules made under this Act, shall be evidence of the facts stated in the notice.

(2) The production of a copy of the *Gazette* containing any notice of a receiving order, or of an order adjudging a debtor bankrupt, shall be conclusive proof in all legal proceedings of the order having been duly made and of its date.

Evidence of proceedings at meetings of creditors.

**128.**—(1) A minute of proceedings at a meeting of creditors under this Act, signed at the same or the next ensuing meeting by a person describing himself as or appearing to be chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(2) Until the contrary is proved, every meeting of creditors in respect of the proceedings whereof a minute has

been so signed shall be deemed to have been duly convened and held, and all resolutions passed or proceedings had thereat to have been duly passed or had.

**129.** Any petition or copy of a petition in bankruptcy, any order or certificate or copy of an order or certificate made by the court in bankruptcy, any instrument, affidavit or document or copy of an instrument, affidavit or document made or used in the course of any bankruptcy proceedings or other proceedings had under this Act, shall, if it appears to be sealed with the seal of the court or purports to be signed by any judge thereof, or is certified as a true copy by the Registrar be receivable in evidence in all legal proceedings whatever.

Evidence of proceedings in bankruptcy.

**130.** Subject to general rules, any affidavit may be used in a bankruptcy court if it is sworn —

Swearing of affidavits.

- (a) in Singapore before any person authorised to administer oaths in the High Court or any Magistrate;
- (b) in Malaysia before a judge, magistrate, justice of the peace or any person authorised to administer oaths under any written law for the time being in force in Malaysia;
- (c) in England before any person authorised to administer oaths in Her Majesty's High Court of Justice, or in the Court of Chancery of the County Palatine of Lancaster, or before any registrar of a bankruptcy court, or before any officer of a bankruptcy court authorised in writing in that behalf by the judge of the court;
- (d) in Scotland and in Northern Ireland before a judge, ordinary magistrate or justice of the peace; and
- (e) in any other place before a magistrate or justice of the peace or other person qualified to administer oaths in that place who is certified to be a magistrate or justice of the peace or person qualified as aforesaid by a consul or person performing consular functions on behalf of the Government or by a notary public.

**131.** In case of the death of the debtor or of his wife or of a witness whose evidence has been received by any court in

Death of witness.

any proceeding under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

### *Notices*

Service of notices.

**132.** All notices and other documents for the service of which no special mode is prescribed may be sent by prepaid registered post letter to the last known address of the person to be served therewith.

### *Formal defects*

Formal defect not to invalidate proceedings.

**133.** No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the court before which an objection is made to the proceeding is of opinion that substantial injustice has been caused by the defect or irregularity and that the injustice cannot be remedied by any order of that court.

### *Stamp duty*

Exemption of deeds, etc., from stamp duty.

**134.—(1)** For the purposes of this section, “bankruptcy” includes any proceeding before or after adjudication and whether an adjudication is made or not; and “bankrupt” includes any debtor proceeded against under this Act.

(2) Every deed, conveyance, assignment or other assurance relating solely to freehold or leasehold property or to any mortgage, charge or other encumbrance on, or any estate, right or interest in, any real or personal property which is part of the estate of any bankrupt, and which, after the execution of the deed, conveyance, assignment or other assurance, either at law or in equity, is or remains the estate of the bankrupt or of the Official Assignee, and every power of attorney, proxy paper, writ, order, certificate, affidavit, bond or other instrument or writing relating solely to the property of any bankrupt or to any proceeding under any bankruptcy shall be exempt from stamp duty except in respect of fees under this Act.

### *Corporations, firms and lunatics*

Acts of corporations, firms and lunatics.

**135.** For all or any of the purposes of this Act —

- (a) a corporation may act by any of its officers authorised in that behalf under the seal of the corporation;

- (b) a firm may act by any of its members;
- (c) a mentally disordered person or lunatic may act by his committee.

*Unclaimed funds or dividends*

**136.**—(1) Where any person other than the Official Assignee has under his control pursuant to or arising out of any composition or scheme of arrangement under this Act any money representing a dividend which has remained unclaimed for more than 6 months and where that person has under his control after the expiration of 6 months from the date of declaration of a dividend any other unclaimed or undistributed money arising from the property of the debtor, he shall forthwith pay the money to the Official Assignee whose receipt shall be an effectual discharge in respect thereof.

Unclaimed or undistributed money.

(2) The Official Assignee may at any time order that person to submit to him an account verified by affidavit of the sums received and paid by him in respect of any such composition or scheme and may direct and enforce an audit of the account.

(3) The Official Assignee may collect and get in all such unclaimed or undistributed money and at his instance the court may exercise all the powers conferred by this Act with respect to the discovery and realisation of the property of a debtor and the provisions of Part I with respect thereto shall with any necessary modifications apply to proceedings under this section.

(4) This section shall not deprive any claimant of any larger or other right or remedy to which he may be entitled against any person other than the Official Assignee.

(5) If any claim is made to any part of such money and such claim is established to the satisfaction of the Official Assignee the amount certified by the Official Assignee to be due to the claimant shall be paid to him, without interest, from the Bankruptcy Estates Account in the prescribed manner.

(6) All unclaimed dividends and moneys remaining unclaimed or undistributed after a final dividend has been declared shall stand at the credit of the Bankruptcy Estates Account for 7 years and if they remain unclaimed at the

expiration of that period they shall be credited to the Consolidated Fund.

(7) If any claim is made to any part of the unclaimed dividends or money so transferred to the Consolidated Fund and if such claim is established to the satisfaction of the Official Assignee, the amount certified by the Official Assignee to be due to the claimant shall be paid to him, without interest, from the Consolidated Fund.

### *Debtor's books*

Access to  
debtor's  
books.

**137.**—(1) No person shall as against the Official Assignee be entitled to withhold possession of the books of account or other papers or documents belonging to the debtor or to set up any lien thereon.

(2) Any creditor of the bankrupt may, subject to the control of the court, inspect at all reasonable times, personally or by agent, any such books, papers or documents in the possession of the Official Assignee.



## FIRST SCHEDULE

### RULES AS TO MEETINGS OF CREDITORS

1. The first meeting of creditors shall be summoned for a day not later than 8 weeks in the case of a debtor's petition, or 12 weeks in the case of a creditor's petition, after the date of the receiving order, unless the court, for any special reason, deems it expedient that the meeting be summoned for a later day.

2. The Official Assignee shall summon the meeting by giving not less than 7 day's notice of the time and place thereof in the prescribed manner.

3. The Official Assignee shall also, as soon as practicable, send to each creditor mentioned in the debtor's statement of affairs a notice of the time and place of the meeting, accompanied by a summary of the debtor's statement of affairs, including the cause of his failure and any observations thereon which the Official Assignee thinks fit to make; but the proceedings at the meeting shall not be invalidated by reason of any such notice or summary not having been sent or received before the meeting.

4. The meeting shall be held at such place as is, in the opinion of the Official Assignee, most convenient for the majority of the creditors.

5. The Official Assignee may at any time summon a meeting of creditors, and shall do so whenever so directed by the Court, or so

Section  
15 (2).

requested in writing by one-fourth in value of the creditors or by the consultative committee.

6. Meetings subsequent to the first meeting shall be summoned by sending not less than 3 days' notice of the time and place thereof to each creditor at the address given in his proof or, if he has not proved, at the address given in the debtor's statement of affairs, or at such other address as is known to the person summoning the meeting.

7. The Official Assignee, or in his absence some person nominated by him, shall be the chairman at every meeting; provided that if the court so directs, the chairman at any subsequent meeting shall be such person as the meeting by ordinary resolution appoints.

8. A person shall not be entitled to vote as a creditor at any meeting of creditors unless he has duly proved a debt provable in bankruptcy to be due to him from the debtor and the proof has been duly lodged before the time appointed for the meeting.

9. A creditor shall not vote at any such meeting in respect of any unliquidated or contingent debt or any debt the value of which is not ascertained.

10. For the purposes of voting a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to vote only in respect of the balance, if any, due to him after deducting the value of his security. If he votes in respect of his whole debt he shall be deemed to have surrendered his security unless the court, on application, is satisfied that the omission to value the security has arisen from inadvertence.

11. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the debtor and against whom a receiving order has not been made as a security in his hands and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

12. It shall be competent to the Official Assignee, within 28 days after a proof estimating the value of a security as aforesaid has been made use of in voting at any meeting, to require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated with an addition thereto of 20%: Provided that where a creditor has put a value on the security he may, at any time before he has been required to give up the security as aforesaid, correct the valuation by a new proof and deduct the new value from his debt, but in that case the addition of 20% shall not be made if the Official Assignee requires the security to be given up.

13. If a receiving order is made against one partner of a firm, any creditor to whom that partner is indebted jointly with the other partners of the firm or any of them may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to vote thereat.

14. The chairman of a meeting shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the court. If he is in doubt whether the proof of a creditor should be admitted or rejected, he shall mark the proof as objected to and shall allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

15. A creditor may vote either in person or by proxy.

16. Every instrument of proxy shall be in the prescribed form and shall be issued by the Official Assignee, and every insertion therein shall be in the handwriting of the person giving the proxy, or if that person is unable to write English then in the handwriting of the Official Assignee.

17. A creditor may give a general proxy to his manager or clerk or any other person in his regular employment. In that case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

18. A creditor may give a special proxy to any person to vote at any specified meeting or adjournment thereof for or against any specific resolution.

19. A proxy shall not be used unless it is deposited with the Official Assignee before the meeting at which it is to be used.

20. A creditor may appoint the Official Assignee to act in the manner prescribed as his general or special proxy.

21. The chairman of a meeting may with the consent of the meeting adjourn the meeting from time to time and from place to place.

22. A meeting shall not be competent to act for any purpose except the election of a chairman, the proving of debts and the adjournment of the meeting, unless there are present or represented thereat at least 3 creditors, or all the creditors if their number does not exceed 3.

23. If within half an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than 7 or more than 21 days.

24. The chairman of every meeting shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book kept for that purpose, and the minutes shall be signed by him.

25. No person acting under either a general or a special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer in a position to receive any remuneration out of the estate of the debtor otherwise than as a creditor rateably with the other creditors of the debtor.

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## SECOND SCHEDULE

Section 42.

## RULES AS TO PROOF OF DEBTS

*Proof in ordinary cases*

1. Every creditor shall prove his debt as soon as possible after the making of a receiving order.
2. A debt may be proved by delivering or sending through the post in a prepaid letter to the Official Assignee an affidavit verifying the debt.
3. The affidavit may be made by the creditor himself or by some person authorised by or on behalf of the creditor or his estate. If made by a person so authorised, it shall state his authority and means of knowledge.
4. The affidavit shall contain or refer to a statement of account showing the particulars of the debt and shall specify the vouchers, if any, by which the same can be substantiated. The Official Assignee may at any time call for the production of the vouchers.
5. The affidavit shall state whether the creditor is or is not a secured creditor.
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 at all reasonable times.
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% on the net amount of his claim, which he has agreed to allow for payment in cash.

*Proof by secured creditors*

9. If a secured creditor realises his security he may prove for the balance due to him after deducting the net amount realised.
10. If a secured creditor surrenders his security to the Official Assignee for the general benefit of the creditors he may prove for his whole debt.
11. If a secured creditor does not either realise or surrender his security he shall, before ranking for dividend, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.
- 12.—(1) Where a security is so valued the Official Assignee may at any time redeem it on payment to the creditor of the assessed value.  
(2) If the Official Assignee is dissatisfied with the value at which a security is assessed he may require that the property comprised in any security so valued be offered for sale at such times and on such terms and conditions as are agreed on between the creditor and the Official



Assignee, or as in default of agreement the court directs. If the sale is by public auction the creditor or the Official Assignee on behalf of the estate may bid or purchase:

Provided that the creditor may at any time by notice in writing require the Official Assignee to elect whether he will or will not exercise his power of redeeming the security or requiring it to be realised, and if the Official Assignee does not within 6 months after receiving the notice signify in writing to the creditor his election to exercise the power, he shall not be entitled to exercise it; and the equity of redemption or any other interest in the property comprised in the security, which is vested in the Official Assignee, shall vest in the creditor, and the amount of his debt shall be reduced by the amount at which the security has been valued.

13. Where a creditor has so valued his security he may at any time amend the valuation and proof on showing to the satisfaction of the Official Assignee or the court that the valuation and proof were made bona fide on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation; but every such amendment shall be made at the cost of the creditor and upon such terms as the court orders, unless the Official Assignee allows the amendment without application to the court.

14. Where a valuation has been amended in accordance with rule 13, the creditor shall forthwith repay any surplus dividend which he has received in excess of that to which he would have been entitled on the amended valuation, or, as the case may be, shall be entitled to be paid out of any money for the time being available for dividend any dividend or share of dividend which he has failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

15. If a creditor, after having valued his security, subsequently realises it, or if it is realised under rule 12, the net amount realised shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

16. If a secured creditor does not comply with these Rules he shall be excluded from all share in any dividend.

17. Subject to rule 12, a creditor shall in no case receive more than 100 cents in the dollar and interest as provided by this Act.

*Taking accounts of property mortgaged and sale thereof*

18. Upon application by motion of any person claiming to be a mortgagee of any part of the bankrupt's immovable property, whether the mortgage is of a legal or equitable nature, the court shall proceed to inquire whether the person is such mortgagee and for what consideration and under what circumstances; and if it is found that the person is such mortgagee, and if no sufficient objection appears to the title of the

person to the sum claimed by him under the mortgage, the court shall direct such accounts and inquiries to be taken as are necessary for ascertaining the principal, interest and costs due upon the mortgage and the rents and profits or dividends, interest or other proceeds received by the person or by any other person by his order or for his use, in case he has been in possession of the property over which the mortgage extends or any part thereof; and the court, if satisfied that there ought to be a sale, shall direct notice to be given, in such manner as it thinks fit, when and where and by whom and in what way the property or the interest therein so mortgaged is to be sold, and that the sale be made accordingly and that the Official Assignee, unless it is otherwise ordered, shall have the conduct of the sale; but it shall not be imperative on any such mortgagee to make such application. At any such sale the mortgagee may bid and purchase.

19. All proper parties shall join in the conveyance to the purchaser as the court directs.

20. The moneys arising from the sale shall be applied in the first place in payment of the costs, charges and expenses of the Official Assignee of and occasioned by the application to the court and of and attending the sale, and then in payment and satisfaction, so far as the same will extend, of what is found due to the mortgagee for principal, interest and costs; and the surplus of the said moneys, if any, shall then be paid to the Official Assignee; but if in case the moneys arising from the sale are insufficient to pay and satisfy what is so found due to the mortgagee, then he shall be entitled to prove as a creditor for the deficiency and receive dividends thereon rateably with the other creditors, but not so as to disturb any dividend then already declared.

21. For the better taking of such inquiries and accounts and making a title to the purchaser, all parties may be examined by the court upon interrogatories or otherwise as it thinks fit, and shall produce before the court upon oath all deeds, papers, books and writings in their respective custody or power relating to the estate or effects of the bankruptcy as the court directs.

#### *Proof in respect of distinct contracts*

22. If a debtor was at the date of the receiving order liable in respect of distinct contracts as a member of two or more distinct firms or as a sole contractor and also as member of a firm, the circumstance that the firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of the contracts against the properties respectively liable on the contracts.

#### *Periodical payments*

23. When any rent or other payment falls due at stated periods, and the receiving order is made at any time other than one of those periods, the person entitled to the rent or payment may prove for a proportionate part thereof up to the date of the order, as if the rent or payment grew due from day to day.

*Interest*

24. On any debt or sum certain payable at a certain time or otherwise, whereon interest is not reserved or agreed for and which is overdue at the date of the receiving order and provable in bankruptcy, the creditor may prove for interest at a rate not exceeding 6% per annum, to the date of the order from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and if payable otherwise then from the time when a demand in writing has been made, giving the debtor notice that interest will be claimed from the date of the demand until the time of payment.

*Debt payable at a future time*

25. A creditor may prove for a debt not payable when the debtor committed an act of bankruptcy as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of 6% per annum computed from the declaration of a dividend to the time when the debt would have become payable according to the terms on which it was contracted.

*Admission or rejection of proofs*

26. The Official Assignee shall examine every proof and the grounds of the debt, and in writing admit or reject it in whole or in part or require further evidence in support of it. If he rejects a proof he shall state in writing to the creditor the grounds of the rejection.

27. If the Official Assignee thinks that a proof has been improperly admitted the court may on his application, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

28. If a creditor is dissatisfied with the decision of the Official Assignee in respect of a proof, the court may on the application of the creditor reverse or vary the decision.

29. The court may also expunge or reduce a proof upon the application of a creditor if the Official Assignee declines to interfere in the matter, or in the case of a composition or scheme upon the application of the debtor.

30. For the purpose of any of his duties in relation to proofs the Official Assignee may administer oaths and take affidavits.