



**THE STATUTES OF THE REPUBLIC OF SINGAPORE**

**BANKRUPTCY ACT**

**(CHAPTER 20)**

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# Bankruptcy Act

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An Act relating to the law of bankruptcy and matters connected therewith.

[15th July 1995]

PART I

PRELIMINARY

**Short title**

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

**Interpretation**

- 2.—(1) In this Act, unless the context otherwise requires —

“administration date” means —

- (a) the date of submission by the bankrupt of the statement of the bankrupt’s affairs; or
- (b) where the bankrupt is directed by the Official Assignee under section 81(4)(c) to submit supplementary information, the date of submission of the supplementary information if later;

*[Act 21 of 2015 wef 01/08/2016]*

“bankrupt” means —

- (a) the individual debtor who has been adjudged bankrupt by a bankruptcy order; or

(b) where a bankruptcy order has been made against a firm, each of the partners in the firm;

“bankruptcy application” means an application to the court for a bankruptcy order;

“bankruptcy order” means an order adjudging a debtor bankrupt;

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

“creditor”, in relation to a debtor proposing a voluntary arrangement under Part V, means a creditor to whom the debtor owes a debt provable in bankruptcy;

“creditor’s bankruptcy application” means a bankruptcy application made under section 57 by a creditor or by 2 or more creditors jointly;

“creditors’ committee” means a committee appointed under section 80;

“debt provable in bankruptcy” or “provable debt” means any debt or liability that is made provable in bankruptcy under this Act;

“debtor” —

(a) in relation to a proposal for a voluntary arrangement under Part V, means the individual or the firm making or intending to make that proposal and includes each of the partners in such firm; and

(b) in relation to a bankruptcy application, means the individual debtor to whom, or a firm, or each of the partners in the firm, to which, the application relates;

“debtor’s bankruptcy application” means a bankruptcy application made under section 58 by a debtor against himself or by all or a majority of the partners of a firm against the firm;

“estate”, in relation to a bankrupt, is to be construed in accordance with section 78;

“family”, in relation to a bankrupt, means the persons (if any) who are living with and dependent on him;

“firm” means an unincorporated body of individuals carrying on business in partnership with a view to profit;

“gazetted” means published in the *Gazette*;

“goods” includes all chattels personal;

“income” includes all income, whether or not accruing in or derived from Singapore, and whether received in Singapore or elsewhere;

*[Act 21 of 2015 wef 01/08/2016]*

“judgment debt” means a debt which is payable by any person by virtue of a judgment or an order of court against him;

“liability” means a liability to pay money or money’s worth, irrespective of whether such liability is present or future, certain or contingent or of an amount that is fixed or liquidated or that is capable of being ascertained by fixed rules or as a matter of opinion, and includes any such liability arising —

(a) under any written law;

(b) under contract, tort or bailment;

(c) as a result of a breach of trust by the person liable; or

(d) out of an obligation to make restitution;

“limited liability partnership” has the same meaning given to it by section 4(1) of the Limited Liability Partnerships Act (Cap. 163A);

“monthly contribution” means —

(a) the amount, determined in accordance with section 86A, that a bankrupt is required, under section 108A, to pay to the Official Assignee on a monthly basis out of the bankrupt’s income; or

(b) if the amount referred to in paragraph (a) is varied by the court under section 86B(5)(a), 86C(1) or

86E(4)(a) or reduced by the Official Assignee under section 86D(1) or 86F(3), that amount as varied or reduced, as the case may be;

*[Act 21 of 2015 wef 01/08/2016]*

“nominee” means the person appointed by virtue of a debtor’s proposal for a voluntary arrangement under Part V to act as trustee or otherwise to supervise the implementation of the voluntary arrangement and includes —

- (a) any replacement of such person pursuant to a direction under section 49(3)(a) or an order under section 55(5); and
- (b) any person upon whom the functions of the nominee have been conferred by a creditors’ meeting pursuant to section 51(3);

“Official Assignee” includes a Deputy Official Assignee, a Senior Assistant Official Assignee and an Assistant Official Assignee;

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

“partnership debt” means a debt for which all the partners in a firm are jointly liable;

“preferential debt” means any debt which is to be paid in priority to all other unsecured debts and which is specified in section 90, and any reference to a preferential creditor shall be construed accordingly;

“property” includes money, goods, things in action, land and every description of property wherever situated and also obligations and every description of interest, whether present or future or vested or contingent, arising out of or incidental to, property;

“records” includes computer records and other documentary records;

“Registrar” means the Registrar of the Supreme Court and includes a Deputy Registrar or an Assistant Registrar of the Supreme Court;

“rules” means rules made under this Act;

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

*[Act 21 of 2015 wef 01/08/2016]*

“Sheriff” includes a bailiff and any officer charged with the execution of a writ or other process of the court;

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

“statutory demand” means a demand in the prescribed form which requires the person to whom it is addressed to pay, secure or compound to the reasonable satisfaction of the creditor making the demand, any debt owed by him to the creditor;

“supplementary information” means the supplementary information that a bankrupt is directed to submit under section 81(4)(c);

*[Act 21 of 2015 wef 01/08/2016]*

“target contribution” means —

(a) an amount equal to —

- (i) in any case where the bankruptcy is a repeat bankruptcy, 76 payments of monthly contributions determined in accordance with section 86A; or
- (ii) in any other case, 52 payments of monthly contributions determined in accordance with section 86A; or

- (b) if the amount referred to in paragraph (a) is varied by the court under section 86B(5)(a), 86C(1) or 86E(4)(a) or reduced by the Official Assignee under section 86D(1) or 86F(3), that amount as varied or reduced, as the case may be;

*[Act 21 of 2015 wef 01/08/2016]*

“transaction” includes any gift, agreement or arrangement, and any reference to entering into a transaction shall be construed accordingly;

“trustee”, in relation to a bankruptcy and a bankrupt, means the trustee of the bankrupt’s estate.

*[42/2005; 6/2009]*

(2) Any reference in this Act to the person or property of a debtor or bankrupt shall, in relation to a debtor which is a firm or to a firm against which a bankruptcy order has been made, as the case may be, be read as a reference to the person or property of each partner of the firm.

(3) In this Act, unless the context otherwise requires, a bankruptcy is a repeat bankruptcy if, before the making of the bankruptcy order in respect of which the bankrupt was adjudged bankrupt, the bankrupt has been previously discharged from bankruptcy under this Act or any previous written law relating to bankruptcy.

*[Act 21 of 2015 wef 01/08/2016]*

## PART II

### CONSTITUTION, PROCEDURE AND POWERS OF COURT

#### *Jurisdiction*

#### **High Court to be the court having jurisdiction in bankruptcy**

**3.** Subject to any other written law, the High Court shall be the court having jurisdiction in bankruptcy under this Act.

**Exercise of jurisdiction in chambers**

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

**Jurisdiction in bankruptcy of Registrar**

5. Subject to the rules, the Registrar shall have all the powers and jurisdiction of the court, and any order made or act done by him in the exercise of those powers and jurisdiction shall, subject to an appeal to a judge in chambers, be deemed to be the order or act of the court.

**General powers of bankruptcy court**

6.—(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 considers it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

(1A) The court may adjourn any case of bankruptcy coming within the cognizance of the court, or make such order or give such direction as it thinks fit for the just, expeditious and economical disposal of any such case, without requiring the parties to appear in person, by giving written notice of such adjournment, order or direction to all parties concerned.

*[Act 2 of 2012 wef 01/03/2012]*

(2) Where default is made by a debtor or bankrupt or any other person in obeying any order or direction given by the court or the Official Assignee or any other officer of the court under this Act, the court may, on the application of the Official Assignee or any other duly authorised person, or of its own motion, order such defaulting debtor, bankrupt 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, bankrupt 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.

### **Power to review orders**

7. The court may review, rescind or vary any order made by it under its bankruptcy jurisdiction.

### **Appeals in bankruptcy**

8.—(1) 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.

(2) 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.

### **Power of arrest and seizure**

9.—(1) Where the court is satisfied —

- (a) on an application of the Official Assignee; or
- (b) that there are reasonable grounds for believing,

that any person against whom a bankruptcy application has been made or a bankruptcy order made —

- (i) has absconded, or is about to abscond, with a view to avoiding or delaying the payment of any of his debts or his appearance to a bankruptcy application or to avoiding, delaying or disrupting any proceedings in bankruptcy against him or any examination of his affairs;
- (ii) is about to remove his goods with a view to preventing or delaying possession being taken of them by the Official Assignee;
- (iii) has concealed or destroyed, or is about to conceal or destroy, any of his goods or any books, papers or records which might be of use to his creditors in the course of his bankruptcy or in connection with the administration of his estate;

- (iv) has, without the leave of the Official Assignee, removed any goods in his possession which exceed \$200 in value; or
- (v) has failed, without reasonable excuse, to attend any examination ordered by the court,

the court may cause a warrant to be issued for his arrest or for the seizure of any books, papers, records, money or goods in his possession, and upon his arrest, may authorise him to be kept in custody, and anything seized under such a warrant to be held, in accordance with the rules, until such time as the court may order.

*[42/2005]*

*[Act 21 of 2015 wef 01/08/2016]*

(2) Where a person has been arrested under this section, the court may order his release, either with or without security to the satisfaction of the court that he will abide by such conditions as the court may think fit to impose.

(3) The proceeds of the realisation of any security given on breach by such person of any of the conditions of the security shall be deemed to be his property and shall vest in the Official Assignee where such person is an undischarged bankrupt or, where he is not such, in the event of his bankruptcy.

### **Criminal jurisdiction of District and Magistrate's Courts**

**10.** A District Court or a Magistrate's Court shall have jurisdiction to hear and determine all offences under this Act or the rules and, notwithstanding anything to the contrary in the Criminal Procedure Code (Cap. 68), shall have power to impose the full penalty or punishment in respect of any offence under this Act or the rules.

#### *Procedure*

### **Where no specific procedure provided**

**11.—**(1) In any matter of practice or procedure for which no specific provision has been made by this Act or the rules, the procedure and practice for the time being in use or in force in the Supreme Court shall, as nearly as may be, be followed and adopted.

(2) Where in respect of any matter of practice or procedure it is not possible to apply subsection (1), the court may make such orders and give such directions as are likely to secure substantial justice between the parties.

### **Power to adjourn proceedings**

**12.** The court may at any time adjourn any proceedings before it upon such terms, if any, as it may think fit.

### **Power to amend written process**

**13.** The court may at any time amend any written process or proceedings upon such terms, if any, as it may think fit.

### **Power to extend time**

**14.** Where by this Act or the 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 it may think fit.

### **Manner of taking evidence**

**15.** Subject to the rules, the court may in any matter take the whole or any part of any evidence either orally or by interrogatories or upon affidavit or by commission abroad.

[42/2005]

### **Costs to be in court's discretion**

**16.** Subject to this Act and the rules, the costs of and incidental to any proceedings in court shall be in the discretion of the court.

## **PART III**

### **OFFICIAL ASSIGNEE**

#### **Appointment of Official Assignee**

**17.—(1)** The Minister may appoint such person as he may think fit to be the Official Assignee of the estates of bankrupts and for the other purposes of this Act.

[6/2009]

(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 Minister may appoint such other officers, either temporary or permanent, as he may think necessary for carrying this Act into effect, and may assign to such officers such duties as he may think fit.

### **Official name of Official Assignee**

**18.** The Official Assignee shall have the following official names:

- (a) where he has been appointed as the interim receiver of a debtor's property under section 73, "The Official Assignee of the Property of (name of debtor), a Debtor";
- (b) where he is acting as the receiver and trustee of the estate of a bankrupt under Part VII, "The Official Assignee of the Estate of (name of bankrupt), a Bankrupt"; and
- (c) where he is acting as the trustee of the estate of a deceased debtor in bankruptcy under section 148, "The Official Assignee of the Estate of (name of deceased debtor), a Deceased Debtor",

and may, by such official name, sue and be sued, hold property of every description, enter into contracts or 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.

### **Delegation of powers and functions by Official Assignee**

**19.—**(1) Subject to this Act, the Official Assignee may, in relation to any particular matter or class of matters, by writing under his hand delegate to any person all or any of his powers or functions under this Act or the rules so that such power or function may be exercised by the delegate with respect to the matter or class of matters specified in the instrument of delegation.

(2) No delegation made under this section shall prevent the Official Assignee from exercising the power or function delegated.

(3) The Official Assignee may at any time revoke any delegation made by him under this section.

**Official Assignee deemed to be public servant**

**20.** The Official Assignee and any officer appointed by the Minister under section 17(3) shall be deemed to be public servants within the meaning of the Penal Code (Cap. 224).

**General duties of Official Assignee as regards bankrupt's conduct and affairs**

**21.—(1)** The Official Assignee shall have the following duties as regards a bankrupt:

- (a) to investigate the conduct and affairs of the bankrupt, and report to the court as to whether there is reason to believe that the bankrupt 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 otherwise justify the court in refusing, suspending or qualifying an order for his discharge;
- (b) to make such other reports concerning the conduct of the bankrupt as the court may direct or as are prescribed;
- (c) to take such part as may be directed by the court or as is prescribed, in any examination of the bankrupt and other persons; and
- (d) to take such part and give such assistance in relation to the prosecution of any fraudulent bankrupt or any other person charged with an offence under this Act, as the court may direct or as is prescribed.

(2) A report by the Official Assignee under subsection (1) shall in any proceedings be prima facie evidence of the facts stated in it.

(3) In this section, the conduct and affairs of a bankrupt shall include his conduct and affairs before the making of the bankruptcy order against him.

**General duties of Official Assignee as regards estate of bankrupt**

**22.—(1)** The Official Assignee shall have the following duties as regards the estate of a bankrupt administered by him:

- (a) to act as the receiver of the bankrupt's estate and where a special manager has not been appointed under section 113, as the manager thereof;
- (b) to raise money or make advances for the purposes of the estate, and to authorise the special manager (if any) 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) to summon and preside at all meetings of creditors held under this Act;
- (d) to issue forms of proxy for use at the meetings of creditors;
- (e) to report to the creditors as to any proposal which he makes with respect to the mode of liquidating the bankrupt's affairs; and
- (f) to advertise the bankruptcy order, the date of any public examination and such other matters as may be necessary to advertise.

(2) For the purpose of carrying out 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.

(3) The Official Assignee shall, as far as practicable, consult the creditors with respect to the management of the bankrupt's estate, and may for that purpose, if he thinks it advisable, summon meetings of the persons claiming to be creditors.

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

### **Discretion of Official Assignee in administration of estate of bankrupt**

**23.—**(1) Subject to this Act, the Official Assignee shall have discretion as to the administration of the property of the bankrupt.

(2) Subject to this Act, the Official Assignee shall, in the administration of the estate of a bankrupt, have regard to any

direction that is given by resolution of the creditors at any general meeting and to any advice given by the creditors' committee.

(3) Where any direction given to the Official Assignee by the creditors of a bankrupt at any general meeting is in conflict with any advice given to him by the creditors' committee, the direction given by the general meeting of creditors shall prevail.

### **Power to administer oaths**

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

### **Official Assignee's accounts**

**25.—(1)** The Official Assignee shall, for such period as may be prescribed, keep in such form and manner as he determines —

- (a) an account of his receipts and payments in respect of his administration of the estate of a bankrupt; and
- (b) an account of his receipts and payments in respect of his administration of a debt repayment scheme under Part VA.

[6/2009]

(1A) The Official Assignee shall, upon payment of the prescribed fee, permit —

- (a) the inspection of an account referred to in subsection (1)(a) by the bankrupt, any creditor who has proved his debt in the bankruptcy or any other interested person; and
- (b) the inspection of an account referred to in subsection (1)(b) by the debtor to whom the debt repayment scheme relates, any creditor who has proved his debt under the debt repayment scheme or any other interested person.

[6/2009]

(2) Every account referred to in subsection (1) shall be audited not less than once in each year by such officer as the Minister may appoint in that behalf.

(3) For the purposes of the audit under subsection (2), the Official Assignee shall produce to the auditing officer such books and shall furnish him with such vouchers and information as he may require.

### **Records to be kept by Official Assignee**

**26.**—(1) The Official Assignee shall, for such period as may be prescribed, keep records containing entries or minutes of proceedings at any meeting held under this Act and of such other matters as may be prescribed.

[6/2009]

(2) Any creditor of —

(a) a bankrupt; or

(b) a debtor referred to in Part VA,

may, upon payment of the prescribed fee and subject to the control of the court, personally or by his agent inspect any record kept by the Official Assignee under subsection (1) which pertains to that bankrupt or debtor (as the case may be).

[6/2009]

### **Bankruptcy Estates Account and Debt Repayment Schemes Account**

**27.**—(1) The Official Assignee shall keep with such bank as he may think fit —

(a) an account, to be called the Bankruptcy Estates Account, into which all moneys received by the Official Assignee under this Act (with the exception of Part VA) shall, subject to this Act, be paid; and

(b) an account, to be called the Debt Repayment Schemes Account, into which all moneys received by the Official Assignee under Part VA shall, subject to this Act, be paid.

[6/2009]

(2) All payments out of moneys standing to the credit of the Official Assignee in the Bankruptcy Estates Account or the Debt Repayment Schemes Account shall be made by such bank in such manner as the Official Assignee may think fit.

[6/2009]



### **Investment of surplus funds in Bankruptcy Estates Account and Debt Repayment Schemes Account**

**28.**—(1) Whenever the cash balance standing to the credit of the Bankruptcy Estates Account or the Debt Repayment Schemes Account is in excess of the amount which, in the opinion of the Official Assignee, is required for the time being to meet demands in respect of insolvent estates or debt repayment schemes administered under Part VA, as the case may be, the Official Assignee shall —

- (a) notify the excess to the Accountant-General; and
- (b) pay over the whole or any part of the excess as the Accountant-General may require to such account as the Accountant-General may direct.

[6/2009]

(2) The Accountant-General may invest the sums paid over under subsection (1)(b) or any part thereof in trustee securities to be placed to the credit of the account referred to in subsection (1)(b).

(3) Where, in the opinion of the Official Assignee, any part of the money paid over from the Bankruptcy Estates Account or the Debt Repayment Schemes Account under subsection (1)(b) and invested under subsection (2) is required to meet any demand in respect of insolvent estates or debt repayment schemes administered under Part VA, as the case may be, the Official Assignee shall notify the Accountant-General of the amount so required.

[6/2009]

(4) The Accountant-General shall repay the Official Assignee such sum as may be required under subsection (3) to the credit of the Bankruptcy Estates Account or the Debt Repayment Schemes Account, as the case may be, and for that purpose the Accountant-General may direct the sale of such part of the securities as may be necessary.

[6/2009]

(5) The income derived from any investment under subsection (2) shall form part of the Consolidated Fund and regard shall be had to the amount thus derived in fixing the fees payable in respect of

proceedings in bankruptcy and the administration of debt repayment schemes under Part VA.

[6/2009]

(6) Any profits on the sale of any of the securities placed to the credit of the Bankruptcy Estates Account or the Debt Repayment Schemes Account shall be credited to the Consolidated Fund and that Fund shall be liable to make good any loss arising out of the sale of those securities.

[6/2009]

### **Official Assignee to furnish list of creditors**

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

### **Control of court over Official Assignee**

**30.**—(1) The court shall take cognizance of the conduct of the Official Assignee in his administration of the estate of a bankrupt.

(2) If the Official Assignee does not faithfully perform his duties or duly observe all the requirements imposed on him by this Act, the rules or any other written law with respect to the performance of his duties, or if any complaint is made to the court by any creditor in regard thereto, the court shall inquire into the matter and take such action thereon as it may consider expedient.

(3) The court may —

- (a) at any time require the Official Assignee to answer any inquiry made by it in relation to his administration of the estate of a bankrupt; and
- (b) direct an investigation to be made of the books and vouchers of the Official Assignee or examine him on oath concerning his administration of the estate of a bankrupt.

**Review by court of Official Assignee's act, omission or decision**

**31.**—(1) If a bankrupt or any of his creditors or any other person is dissatisfied by any act, omission or decision of the Official Assignee in relation to the Official Assignee's administration of the bankrupt's estate, he may apply to the court to review such act, omission or decision.

(1A) The Official Assignee may apply to the court —

- (a) for directions in relation to any particular matter arising under the bankruptcy; or
- (b) to reverse or modify any previous act or decision of the Official Assignee.

*[Act 21 of 2015 wef 01/08/2016]*

(2) On hearing an application under subsection (1) or (1A), the court may —

- (a) confirm, reverse or modify any act or decision of the Official Assignee; or
- (b) give such directions to the Official Assignee or make such other order as it may think fit.

*[Act 21 of 2015 wef 01/08/2016]*

(3) This section applies despite the discharge of the bankrupt or the annulment of the bankruptcy order.

*[Act 21 of 2015 wef 01/08/2016]*

**Liability of Official Assignee, etc.**

**32.**—(1) All sums required to discharge any liability which the Official Assignee may be personally liable to discharge shall be charged upon the Consolidated Fund.

(2) Neither the Official Assignee nor any of his officers shall be liable for any act to which he has not in any way contributed or which he could not by the exercise of reasonable diligence have averted.

(3) No liability is to lie personally against the Official Assignee, or any of the Official Assignee's officers acting under the direction of the Official Assignee who, acting in good faith and with reasonable care, does or omits to do anything in the course of or in connection with —

- (a) the exercise or purported exercise of any power; or
- (b) the performance or purported performance of any function or duty,

under section 19, 24, 82A, 95A, 108, 113, 116, 123A, 125, 132A, 163 or 165(3).

*[Act 21 of 2015 wef 01/08/2016]*

(4) Any liability which apart from subsection (3) would lie against the Official Assignee, or any of the Official Assignee's officers, is to lie instead against the Government.

*[Act 21 of 2015 wef 01/08/2016]*

*[Act 21 of 2015 wef 01/08/2016]*

## PART IV

### TRUSTEE IN BANKRUPTCY

#### **Appointment of person other than Official Assignee as trustee in bankruptcy**

**33.—**(1) The court may, in the following circumstances, appoint a person other than the Official Assignee to be the trustee of the bankrupt's estate:

- (a) when making a bankruptcy order, and on the application of the creditor who applied for the bankruptcy order;
- (b) at any time after the making of a bankruptcy order which has not been discharged or annulled, and on the application of any creditor, the Official Assignee or any existing trustee of the bankrupt's estate.

*[Act 21 of 2015 wef 01/08/2016]*

(1A) A creditor applying for a bankruptcy order must apply to the court for the appointment of a person other than the Official Assignee to be the trustee of the bankrupt's estate, if —

- (a) the creditor is an institutional creditor or a subsidiary of an institutional creditor; or
- (b) the debt when incurred was payable to a person who is —
  - (i) an institutional creditor; or

(ii) a subsidiary of an institutional creditor.

*[Act 21 of 2015 wef 01/08/2016]*

(2) The official name of the trustee shall be —

- (a) “the Trustee of the estate of (name of bankrupt), a Bankrupt”; or
- (b) “the Trustee in Bankruptcy of (name of bankrupt), a Bankrupt”.

(3) In this section —

“annual sales turnover”, for a relevant period and in relation to an undertaking, means —

- (a) if the relevant period is a business year that equals 12 months, the sales turnover of that undertaking in that business year; or
- (b) if the relevant period is a business year that does not equal 12 months or is a business commencement period, the amount calculated using the formula  $(S \div B) \times 12$ , where —
  - (i) S is the sales turnover of that undertaking in that business year or business commencement period; and
  - (ii) B is the number of months in that business year or business commencement period;

“business commencement period” means the period between the date of commencement of the business operations of an undertaking and the date of the application for the bankruptcy order referred to in subsection (1A) (both dates inclusive);

“business year” means a period in respect of which an undertaking prepares or is required to prepare accounts;

“employee” means a person who has entered into or works under a contract of service with an employer;

“institutional creditor” means a creditor which is —

- (a) a bank licensed under the Banking Act (Cap. 19);

- (b) a finance company licensed under the Finance Companies Act (Cap. 108); or
- (c) an undertaking that —
  - (i) in the relevant period, has an annual sales turnover of more than \$100 million; and
  - (ii) at the date of the application for the bankruptcy order referred to in subsection (1A), has more than 200 employees;

“relevant period”, in relation to an undertaking, means —

- (a) the business year of the undertaking immediately preceding the date of the application for the bankruptcy order referred to in subsection (1A); or
- (b) if there is no such business year, the business commencement period;

“sales turnover”, in relation to an undertaking, means the aggregate of the following amounts, after deducting sales rebates, goods and services tax and other taxes directly related to the amounts:

- (a) the amounts derived by that undertaking from the sale of products and the provision of services falling within the ordinary activities of that undertaking;
- (b) any other amounts derived from the business operations of that undertaking, but excluding gains from the sale of fixed assets, donations, grants, subsidies, subscriptions, interest, dividends, goods purchased for resale and investment income;

“subsidiary” has the same meaning as in section 5 of the Companies Act (Cap. 50);

“undertaking” means any individual, or any body corporate, unincorporated body of persons or other entity, that is capable of carrying on commercial or economic activities relating to goods or services.

*[Act 21 of 2015 wef 01/08/2016]*

**Qualifications for appointment as trustee**

**34.** No person shall be appointed as a trustee in bankruptcy unless he satisfies the court that —

- (a) he is —
  - (i) registered as a public accountant under the Accountants Act (Cap. 2);
  - (ii) an advocate and solicitor; or
  - (iii) such other person as the Minister may, by order published in the *Gazette*, prescribe; and
- (b) he has not been convicted of an offence involving fraud or dishonesty punishable on conviction by imprisonment for 3 months or more,

and he has consented in writing to being appointed as a trustee.

**Person appointed as trustee to furnish security before acting**

**35.—(1)** A person appointed as a trustee under section 33 —

- (a) must not commence acting as such trustee until the person has given security in accordance with subsection (1A); and
- (b) where the trustee's security has been forfeited under section 39(8), must not continue acting as such trustee until the person has given fresh security in accordance with subsection (1A).

*[Act 21 of 2015 wef 01/08/2016]*

(1A) The trustee must give security in the prescribed manner and to the satisfaction of the Official Assignee that the trustee will faithfully perform the trustee's duties and duly observe all the requirements imposed on the trustee by this Act, the rules or any other written law with respect to the performance of the trustee's duties.

*[Act 21 of 2015 wef 01/08/2016]*

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

**General functions, duties and powers of trustee**

**36.—**(1) Subject to subsection (3) and section 39, a trustee shall —

- (a) have all the functions and duties of the Official Assignee in relation to the conduct of a bankrupt and the administration of his estate as provided in this Act; and
- (b) exercise all the powers of the Official Assignee.

(2) Any reference in this Act or the rules to the Official Assignee shall, unless the context otherwise requires, include a reference to a trustee.

(3) Sections 19, 24, 32(3) and (4), 82A, 95A, 108, 113, 116, 116B, 123A, 125, 132A and 165 shall not apply to a trustee and section 112(a), (c), (f), (h) and (i) shall not apply to a trustee except with the consent of the court, the creditors' committee or, if there is no creditors' committee, the Official Assignee.

[9/2003]

[Act 21 of 2015 wef 01/08/2016]

**Trustee to pay moneys received by him into prescribed bank account**

**37.—**(1) Every trustee shall, in the manner and at the times prescribed by the rules, pay all moneys received by him into such bank account as is prescribed by those rules or as may be specified by the court.

(2) Any trustee who pays any moneys received by him as trustee into any bank account other than the bank account prescribed or specified under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

**Remuneration of trustee**

**38.—**(1) A trustee shall be entitled to receive such salary or remuneration as is determined in the following manner:

- (a) by agreement between the trustee and the creditors' committee, if any;



- (b) failing any agreement with the creditors' committee or where there is no such committee, by a special resolution of the creditors whose debts have been admitted for the purpose of voting and who are present in person or by proxy and voting at a meeting to be convened by the trustee by a notice to each creditor in accordance with subsection (2); or
- (c) failing a determination in the manner referred to in paragraph (a) or (b), by the court.

(2) The trustee shall attach to every notice under subsection (1)(b) a statement of all receipts and expenditure by the trustee and the amount of remuneration sought by him.

### **Control of trustee by Official Assignee**

**39.**—(1) The Official Assignee shall take cognizance of the conduct of a trustee in the administration of the estate of a bankrupt.

(2) If the trustee does not faithfully perform his duties or duly observe all the requirements imposed on him by this Act, the rules or any other written law with respect to the performance of his duties, or if any complaint is made to the Official Assignee by any creditor or bankrupt in regard thereto, the Official Assignee shall inquire into the matter and take such action thereon as he may think expedient.

(3) The Official Assignee may —

- (a) at any time require a trustee to answer any inquiry in relation to his administration of the estate of a bankrupt; and
- (b) direct an investigation to be made of the books and vouchers of the trustee.

(4) It shall be the duty of the trustee —

- (a) to furnish the Official Assignee with such information;
- (b) to produce to the Official Assignee, and permit inspection by the Official Assignee of, such books, papers and other records; and
- (c) to give the Official Assignee such other assistance,

as the Official Assignee may reasonably require for the purpose of enabling him to carry out his functions in relation to the bankruptcy.

(5) The Official Assignee may, having regard to the results of any inquiry or investigation made under this section, apply to the court for the removal of the trustee.

(6) The Official Assignee may forfeit the security furnished by the trustee under section 35 if —

- (a) the trustee fails to comply with section 81(9) or 86A(1); or
- (b) the trustee fails to submit the report of the administration of the bankruptcy in accordance with section 86F.

*[Act 21 of 2015 wef 01/08/2016]*

(7) The Official Assignee must not forfeit any security until the trustee concerned has been notified in writing to appear before the Official Assignee to show cause why the security furnished by the trustee under section 35 should not be forfeited.

*[Act 21 of 2015 wef 01/08/2016]*

(8) If, after giving the trustee an opportunity to be heard, the Official Assignee is satisfied that the trustee had no reasonable excuse for the failure referred to in subsection (6)(a) or (b), the Official Assignee must forfeit all or part of the security furnished by the trustee under section 35.

*[Act 21 of 2015 wef 01/08/2016]*

(9) In determining whether to forfeit all or part of the security furnished by the trustee under section 35, the Official Assignee is to have regard to the circumstances surrounding the trustee's failure referred to in subsection (6)(a) or (b) and to any mitigating circumstances.

*[Act 21 of 2015 wef 01/08/2016]*

### **Review by court of trustee's act, omission or decision**

**40.**—(1) If the Official Assignee, a bankrupt, any of the bankrupt's creditors or any other person is dissatisfied by any act, omission or decision of a trustee in relation to the trustee's administration of the bankrupt's estate, he may apply to the court to review such act, omission or decision and on hearing such an application the court may —

- (a) confirm, reverse or modify any act or decision of the trustee; or
- (b) give such directions to the trustee or make such other order as it may think fit.

*[Act 21 of 2015 wef 01/08/2016]*

(2) A trustee may apply to the court for directions in relation to any particular matter arising under the bankruptcy.

### **Removal of trustee**

**41.—**(1) A trustee may be removed from office only by an order of the court or by a general meeting of the bankrupt's creditors summoned especially for that purpose in accordance with the rules.

(2) A trustee shall vacate his office if he ceases to be qualified to hold office as a trustee under section 34(a) or (b).

(3) Subject to subsection (3A), a trustee of a bankrupt's estate may resign from that office —

- (a) by giving 2 months' notice of the trustee's resignation to the court and the Official Assignee; and
- (b) by filing an application to the court for the appointment of the Official Assignee or another person to act as trustee of the bankrupt's estate.

*[Act 21 of 2015 wef 01/08/2016]*

(3A) A trustee of a bankrupt's estate cannot resign from that office unless the trustee —

- (a) has submitted to the Official Assignee a report on the work done in relation to the bankrupt's estate, containing such particulars as may be prescribed;
- (b) has nominated to act as trustee of the bankrupt's estate —
  - (i) another person who consents to act as trustee; or
  - (ii) the Official Assignee, if the Official Assignee consents in writing to the appointment; and

- (c) has given the bankrupt's creditors notice of the trustee's intention to resign and of the identity of the person nominated under paragraph (b).

*[Act 21 of 2015 wef 01/08/2016]*

(4) A trustee shall vacate his office if the bankruptcy order is annulled.

(5) A trustee of a bankrupt's estate must, not later than 2 months after vacating the trustee's office under subsection (2) or such further period as the Official Assignee may allow, submit to the Official Assignee a report, on the work done in relation to the bankrupt's estate, containing such particulars as may be prescribed.

*[Act 21 of 2015 wef 01/08/2016]*

(6) A trustee who, without reasonable excuse, fails to comply with subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

*[Act 21 of 2015 wef 01/08/2016]*

### **Vacancy in office of trustee**

**42.** Where the appointment of any person as trustee of a bankrupt's estate fails to take effect or where a vacancy arises in the office of a trustee whose appointment has taken effect, the Official Assignee —

- (a) shall act as the trustee of the bankrupt's estate until the vacancy is filled; and
- (b) may summon a general meeting of the bankrupt's creditors for the purpose of filling the vacancy.

### **Liability of trustee**

**43.—**(1) Where —

- (a) the trustee of a bankrupt's estate has misapplied or retained, or become accountable for, any money or other property comprised in the bankrupt's estate; or
- (b) the estate of a bankrupt has suffered any loss in consequence of any misfeasance or breach of fiduciary or other duty by a trustee of the estate in the carrying out of his functions,

the Official Assignee or any creditor of the bankrupt or the bankrupt himself may apply to the court for any order specified in subsection (2).

(2) Upon hearing an application made under subsection (1), the court may, for the benefit of the estate, order the trustee to —

- (a) repay, restore or account for any money or other property (together with interest at such rate as the court may think just); or
- (b) pay such sum by way of compensation in respect of the misfeasance or breach of fiduciary or other duty as the court may think just.

(3) Any order made by the court under subsection (2) shall be without prejudice to any liability on the part of the trustee arising apart from this section.

(4) Where a trustee seizes or disposes of any property which is not comprised in the bankrupt's estate and at the time of the seizure or disposal the trustee believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property, the trustee —

- (a) shall not be liable to any person (whether under this section or otherwise) in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by the negligence of the trustee; and
- (b) shall have a lien on the property or the proceeds of its sale for such of the expenses of the bankruptcy as were incurred in connection with the seizure or disposal.

**PART V****VOLUNTARY ARRANGEMENTS***Moratorium for insolvent debtor***This Part not applicable to undischarged bankrupts**

**44.** This Part shall not apply —

- (a) to any individual debtor who is an undischarged bankrupt;  
or
- (b) to any firm against which a bankruptcy order has been made and from which bankruptcy the partners in the firm have not been discharged.

**Interim order of court**

**45.—**(1) Subject to subsection (2), any insolvent debtor who intends to make a proposal to his creditors for a composition in satisfaction of his debts or a scheme of arrangement of his affairs (referred to hereinafter as a voluntary arrangement) may apply to the court for an interim order under this Part.

(2) No partner in an insolvent firm shall apply to the court for an interim order in respect of the firm unless all or a majority of the partners in the firm join or intend to join in the making of the proposal for a voluntary arrangement.

(3) An interim order shall have the effect that, during the period for which it is in force —

- (a) where the interim order is in respect of an individual debtor —
  - (i) no bankruptcy application may be made or proceeded with against the debtor; and
  - (ii) no other proceedings, execution or other legal process may be commenced or continued against the person or property of the debtor without the leave of the court; and

- (b) where the interim order is in respect of a firm —
- (i) no bankruptcy application may be made or proceeded with against the firm or, except with the leave of the court, any partner therein; and
  - (ii) no other proceedings, execution or other legal process may be commenced or continued against the firm or its property or against the person or property of any partner in the firm, without the leave of the court.

[42/2005]

(4) An interim order shall cease to have effect 42 days after the making thereof unless the court otherwise directs.

[37/99]

### **Nominee**

**46.**—(1) Every debtor making a proposal for the purpose of this Part shall in such proposal appoint a nominee to act in relation to the voluntary arrangement either as trustee or otherwise for the purpose of supervising its implementation.

- (2) No person shall be appointed as a nominee unless he is —
- (a) registered as a public accountant under the Accountants Act (Cap. 2);
  - (b) an advocate and solicitor; or
  - (c) such other person as the Minister may, by order published in the *Gazette*, prescribe.

(3) The Minister may make rules prescribing the scale of fees to be charged by nominees assisting debtors in respect of voluntary arrangements.

[37/99]

### **Effect of application**

**47.**—(1) At any time when an application under section 45 for an interim order is pending, the court may stay any action, execution or other legal process against the debtor in respect of whom the application has been made or the property of such debtor.

(2) Any court in which proceedings are pending against a debtor may, on being satisfied that an application under section 45 for an interim order has been made in respect of the debtor, stay the proceedings or allow them to continue on such terms as the court may think fit.

(3) Where the debtor in respect of whom an application under section 45 for an interim order is pending is a firm, the power of the court under subsections (1) and (2) shall apply to any action, execution or other legal process or proceedings against the person or property of any partner in the firm.

### **Conditions for making of interim order**

**48.**—(1) The court shall not make an interim order on an application under section 45 unless it is satisfied that —

- (a) the debtor intends to make a proposal for a voluntary arrangement;
- (b) no previous application for an interim order has been made by or in respect of the debtor during the period of 12 months immediately preceding the date of the application; and
- (c) the nominee appointed by the debtor's proposal is qualified and willing to act in relation to the proposal.

(2) The court may make an interim order if it thinks that it would be appropriate to do so for the purpose of facilitating the consideration and implementation of the debtor's proposal.

### **Nominee's report on debtor's proposal**

**49.**—(1) Where an interim order has been made, the nominee shall, before the order ceases to have effect, submit a report to the court stating —

- (a) whether, in his opinion, a meeting of the debtor's creditors should be summoned to consider the debtor's proposal; and
- (b) if in his opinion such a meeting should be summoned, the date on which, and the time and place at which, he proposes the meeting should be held.



(2) For the purpose of enabling the nominee to prepare his report, the debtor shall submit to the nominee —

- (a) a document setting out the terms of the voluntary arrangement which the debtor is proposing; and
- (b) where the debtor is an individual, a statement of his affairs containing —
  - (i) such particulars of his assets, creditors, debts and other liabilities as may be prescribed; and
  - (ii) such other information as may be prescribed; or
- (c) where the debtor is a firm, a statement of its affairs containing —
  - (i) such particulars of the assets, creditors, debts and other liabilities of the firm and of each partner therein, as may be prescribed; and
  - (ii) such other information as may be prescribed.

(3) Where the nominee has failed to submit the report required by this section within the time given, the court may, on an application made by the debtor, do one or both of the following:

- (a) direct that the nominee shall be replaced by another person qualified to act as a nominee;
- (b) direct that the interim order shall continue, or if it has ceased to have effect be renewed, for such further period as the court may think fit.

(4) The court may, on the application of the nominee, extend the period for which the interim order has effect so as to allow the nominee to have more time to prepare his report.

(5) If the court is satisfied on receiving the nominee's report that a meeting of the debtor's creditors should be summoned to consider the debtor's proposal, the court shall direct that the period for which the interim order has effect shall be extended for such further period as it may think fit, for the purpose of enabling the debtor's proposal to be considered by the debtor's creditors in accordance with the following provisions of this Part.

(6) The court may discharge the interim order if it is satisfied, on the application of the nominee —

- (a) that the debtor has failed to comply with subsection (2); or
- (b) that for any other reason it would be inappropriate for a meeting of the debtor's creditors to be summoned to consider the debtor's proposal.

### **Summoning of creditors' meeting**

**50.**—(1) Where a nominee has reported to the court under section 49 that a meeting of the debtor's creditors should be summoned, the nominee shall, unless the court otherwise directs, summon that meeting in accordance with his report.

(2) The nominee shall summon to the meeting every of the debtor's creditors of whose claim and address he is aware.

#### *Consideration and implementation of debtor's proposal*

### **Decision of creditors' meeting**

**51.**—(1) A creditors' meeting summoned under section 50 may, if the meeting thinks fit, by special resolution resolve to approve the proposed voluntary arrangement, whether with or without modification.

(2) The meeting shall not approve the proposed voluntary arrangement with any modification unless the debtor has consented to such modification.

(3) For the purpose of this section, a modification subject to which a proposed voluntary arrangement may be approved by a creditors' meeting may confer the functions proposed to be conferred on the nominee on another person qualified to act as a nominee.

(4) No modification under subsection (3) shall alter the proposal to such an extent that it ceases to be a proposal for a voluntary arrangement by the debtor.

(5) The meeting shall not approve any proposal or any modification thereto which affects the right of a secured creditor of the debtor to

enforce his security, except with the concurrence of the secured creditor concerned.

(6) The meeting shall not, without the concurrence of the preferential creditor concerned, approve any proposal or any modification thereto under which —

- (a) any debt of the debtor, not being a preferential debt, is to be paid in priority to any preferential debt of the debtor; or
- (b) any preferential debt of the debtor is to be paid in relation to any other preferential debt of the debtor other than in accordance with section 90.

(7) Every meeting shall be conducted in accordance with the prescribed rules.

(8) Any debtor who makes any false representation or commits any other fraud for the purpose of obtaining the approval of his creditors to a proposal for a voluntary arrangement shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

### **Report of decisions to court**

**52.**—(1) After the conclusion of the creditors' meeting summoned under section 50, the nominee shall report the result thereof to the court and shall serve a copy of the report on such persons as may be prescribed.

(2) Where the meeting has declined to approve the debtor's proposal, the court may discharge any interim order which is in force in relation to the debtor.

### **Effect of approval**

**53.**—(1) Where the creditors' meeting summoned under section 50 has approved the proposed voluntary arrangement, whether with or without modifications, the approved arrangement shall —

- (a) take effect as if made by the debtor at the meeting; and

(b) bind every person who had notice of and was entitled to vote at the meeting, whether or not he was present or represented thereat, as if he were a party to the arrangement.

(2) Subject to section 54, the interim order in force in relation to the debtor shall cease to have effect at the end of 28 days from the date the report was made to the court under section 52.

(3) Where proceedings on a bankruptcy application have been stayed by an interim order which ceases to have effect under subsection (2), that application shall, unless the court otherwise orders, be deemed to have been dismissed.

[42/2005]

### **Review of meeting's decision**

**54.**—(1) Any debtor, nominee or person entitled to vote at a creditors' meeting summoned under section 50 may apply to the court for a review of the decision of the meeting on the ground that —

- (a) the voluntary arrangement approved by the meeting unfairly prejudices the interests of the debtor or any of the debtor's creditors; or
- (b) there has been some material irregularity at or in relation to the meeting.

(2) Upon hearing an application under subsection (1), the court may, if it thinks fit, do one or both of the following:

- (a) revoke or suspend any approval given by the meeting;
- (b) direct any person to summon a further meeting of the debtor's creditors to consider any revised proposal the debtor may make or, in a case falling within subsection (1)(b), to reconsider the original proposal of the debtor.

(3) No application under this section shall be made after 28 days from the date the report was made to the court under section 52.

(4) Where at any time after giving a direction under subsection (2)(b) for the summoning of a meeting to consider a revised proposal the court is satisfied that the debtor does not intend to

submit such a proposal, the court shall revoke the direction and revoke or suspend any approval given at the previous meeting.

(5) Upon giving a direction under subsection (2)(b), the court may, if it thinks just, extend the validity of any interim order in relation to the debtor for such period as it may think fit.

(6) Upon giving a direction or revoking or suspending an approval under this section, the court may give such supplemental directions as it may think fit and, in particular, directions with respect to —

- (a) things done since the meeting under any voluntary arrangement approved by the meeting; and
- (b) such things done since the meeting as could not have been done if an interim order had been in force in relation to the debtor when they were done.

(7) Except in pursuance of this section, no approval given at a creditors' meeting summoned under section 50 shall be invalidated by reason only of any irregularity at or in relation to the meeting.

### **Implementation and supervision of approved voluntary arrangement**

**55.**—(1) Where a voluntary arrangement approved by a creditors' meeting summoned under section 50 has taken effect, the nominee shall supervise the implementation of the voluntary arrangement.

(2) If the debtor or any of his creditors is dissatisfied by any act, omission or decision of the nominee in his supervision of the implementation of the voluntary arrangement, the debtor or creditor may apply to the court to review that act, omission or decision.

(3) On hearing an application under subsection (2), the court may —

- (a) confirm, reverse or modify any act or decision of the nominee; or
- (b) give such directions to the nominee or make such order as it thinks fit.

(4) The nominee may apply to the court for directions in relation to any particular matter arising under the voluntary arrangement.

(5) The court may, whenever —

(a) it is expedient to appoint a person to carry out the functions of the nominee; and

(b) it is inexpedient, difficult or impracticable for such an appointment to be made without the assistance of the court,

make an order appointing a person who is qualified to act as a nominee, either in substitution for the existing nominee or to fill a vacancy.

### **Consequence of failure by debtor to comply with voluntary arrangement**

**56.** Where a debtor fails to comply with any of his obligations under a voluntary arrangement, the nominee or any creditor bound by the voluntary arrangement may make a bankruptcy application against the debtor in accordance with Part VI.

[42/2005]

## PART VA

### DEBT REPAYMENT SCHEME

#### *Division 1 — Preliminary*

### **Interpretation of this Part**

**56A.—(1)** In this Part, unless the context otherwise requires —

“Appeal Panel” means a panel established under section 56Q;

“applicant creditor”, in relation to a debtor under a debt repayment scheme, means the creditor who makes the relevant bankruptcy application against the debtor;

“debt” means any debt, or any liability to pay money, which is unsecured, present, certain, and of an amount that is fixed or liquidated;

“debtor” means the individual to whom a debt repayment scheme applies under this Part;

“effective date”, in relation to a debt repayment scheme, means the date on which the scheme commences under section 56E(1);

“relevant bankruptcy application”, in relation to a debtor under a debt repayment scheme, means the bankruptcy application adjourned by the court under section 65(7) or 67(3) which enabled the Official Assignee to determine the debtor’s suitability for the scheme and to implement the scheme;

“repayment period”, in relation to a debt repayment plan, means the period of time, beginning with the date on which the plan comes into effect under section 56D(8), that is allowed to a debtor under the plan to repay his debts included in the plan.

[6/2009]

(2) For the purposes of this Part —

- (a) any debt proved against a debtor under Division 2 before the effective date of a debt repayment scheme applicable to the debtor shall, upon the effective date, be deemed to have been proved under the scheme; and
- (b) any claim, proof, declaration or statement filed, made or submitted by or in respect of a debtor under Division 2 before the effective date of a debt repayment scheme applicable to the debtor shall, upon the effective date, be deemed to have been filed, made or submitted under the scheme.

[6/2009]

### *Division 2 — Proposal for debt repayment scheme*

#### **Referral by court**

**56B.**—(1) Upon the court adjourning a bankruptcy application made against a debtor and referring the matter to the Official Assignee under section 65(7) or 67(3), the Official Assignee shall take such steps as are necessary to —

- (a) review the suitability of the debtor for a debt repayment scheme; and

- (b) where the debtor is suitable, implement the debt repayment scheme in accordance with this Part.

[6/2009]

(2) The Official Assignee shall report to the court of the debtor's unsuitability for a debt repayment scheme if —

- (a) the aggregate of the debtor's debts exceeds \$100,000 or such other amount as the Minister may, by order published in the *Gazette*, specify;
- (b) the debtor does not meet any of the qualifying criteria specified in paragraph (b), (c), (d) or (e) of section 65(7) or 67(3), as the case may be;
- (c) the debtor, knowing or believing that a false or an inaccurate debt has been claimed by any person against him under this Division, fails to inform the Official Assignee;
- (d) the Official Assignee becomes aware of any circumstance referred to in section 56M(1)(a), (b), (c), (d), (h) or (i); or
- (e) the Official Assignee is satisfied that the debtor is not suitable for a debt repayment scheme for any other reason.

[6/2009]

(3) Subsection (2) shall cease to apply upon the commencement of a debt repayment scheme in respect of the debtor under section 56E(1).

[6/2009]

### **Debtor's statement of affairs and proposal for repayment of debts, and creditors' proofs of debts**

**56C.**—(1) After the court adjourns a bankruptcy application made against a debtor and refers the matter to the Official Assignee under section 65(7) or 67(3), the Official Assignee shall, by notice in writing to the debtor, require the debtor to submit in such form and manner, and within such time, as may be specified by the Official Assignee in the notice —

- (a) a statement of his affairs; and



- (b) a debt repayment plan, with a repayment period not exceeding 5 years, setting out the terms for the repayment of his debts,

and the debtor shall comply with the notice.

[6/2009]

(2) After receiving the debtor's statement of affairs under subsection (1), the Official Assignee shall send a notice to every creditor disclosed in the statement, requiring the creditor to file a proof of debt within such time as may be specified by the Official Assignee in the notice.

[6/2009]

(3) Section 56G shall apply to a proof of debt filed under this Division as if it is a proof of debt filed under a debt repayment scheme.

[6/2009]

### **Approval of debt repayment plan**

**56D.**—(1) Subject to subsection (7), the Official Assignee shall examine the statement of affairs and debt repayment plan submitted by a debtor under section 56C(1) and the proofs of debts filed against the debtor and may make such modifications to the plan as he considers appropriate before convening a meeting of creditors under subsection (2).

[6/2009]

(2) The Official Assignee shall convene and preside at a meeting of creditors to review the debt repayment plan.

[6/2009]

(3) Subject to subsection (7), the Official Assignee may, at or after the meeting of creditors, approve the debt repayment plan without any modification or subject to such, or such further, modifications as he considers appropriate.

[6/2009]

(4) The debtor or any creditor who has proved his debt against the debtor under this Division may, within such time and in such manner as may be prescribed, appeal to the Appeal Panel against the Official Assignee's approval of the debt repayment plan under subsection (3) on the ground that the approved plan unfairly prejudices his interests.

[6/2009]

- (5) The Appeal Panel may determine the appeal by —
- (a) confirming the Official Assignee's approval of the debt repayment plan; or
  - (b) subject to subsection (7), making such modifications to the plan as it considers appropriate,

and the decision of the Appeal Panel shall be final.

*[6/2009]*

(6) Subject to section 56I, the debt repayment plan approved by the Official Assignee or modified by the Appeal Panel under this section may require the debtor to make full repayment, or make such partial repayment as may be specified in the plan, of the debts included in the plan.

*[6/2009]*

(7) The repayment period under the debt repayment plan approved by the Official Assignee or modified by the Appeal Panel under this section shall not exceed 5 years.

*[6/2009]*

(8) The debt repayment plan shall come into effect on such date as may be specified by the Official Assignee in his approval of the plan under subsection (3) and shall be binding on —

- (a) the debtor; and
- (b) every creditor who has proved his debt against the debtor under this Division and whose debt is included in the plan.

*[6/2009]*

(9) An appeal under subsection (4) shall not suspend the commencement, operation or effect of a debt repayment scheme under this Part.

*[6/2009]*

*Division 3 — Commencement and administration of debt repayment scheme*

**Commencement and administration of debt repayment scheme**

**56E.**—(1) A debt repayment scheme shall commence in respect of a debtor on the date on which a debt repayment plan comes into effect under section 56D(8) in respect of that debtor.

[6/2009]

(2) The Official Assignee —

- (a) shall administer all debt repayment schemes under this Part; and
- (b) may charge such fees as may be prescribed in respect of such administration.

[6/2009]

(3) Upon the commencement of a debt repayment scheme in respect of a debtor, the Official Assignee shall pay out from the Bankruptcy Estates Account and into the Debt Repayment Schemes Account the balance of any deposit paid by the applicant creditor to the Official Assignee in respect of the relevant bankruptcy application made against the debtor, for the purpose of discharging the costs and expenses incurred by the Official Assignee in the administration of the scheme.

[6/2009]

**Moratorium under debt repayment scheme, etc.**

**56F.**—(1) Subject to subsection (2), during the period beginning with the effective date of a debt repayment scheme applicable to a debtor and ending with the date on which the scheme ceases under section 56K(1) —

- (a) no creditor to whom the debtor is indebted in respect of any debt provable under the scheme shall have any remedy against the person or property of the debtor in respect of that debt; and
- (b) no action or proceedings shall be proceeded with or commenced against the debtor in respect of that debt,

except by leave of the court and in accordance with such terms as the court may impose.

[6/2009]

(2) Subsection (1) shall not affect the right 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 that subsection had not been enacted.

[6/2009]

(3) Where the creditor of a debtor (to whom a debt repayment scheme applies) has issued execution against the goods or lands of the debtor, or has attached any debt due or property belonging to the debtor, the creditor shall not be entitled to retain the benefit of the execution or attachment against the debtor unless the creditor has completed the execution or attachment before the effective date of the scheme, except that —

- (a) a person who purchases in good faith under a sale by the Sheriff any goods of the debtor on which an execution has been levied shall in all cases acquire a good title to them against the debtor; and
- (b) the rights conferred by this subsection on the debtor may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court may think fit.

[6/2009]

(4) For the purposes of subsection (3) —

- (a) an execution against goods is completed by seizure and sale;
- (b) an attachment of a debt is completed by receipt of the debt; and
- (c) an execution against land or any interest therein is completed by registering under any written law relating to the registration of land a writ of seizure and sale attaching the interest of the debtor in the land described therein.

[6/2009]

**Proving of debts under debt repayment scheme**

**56G.**—(1) Subject to section 56I, the following debts shall be provable under a debt repayment scheme in respect of a debtor:

- (a) any debt to which the debtor is subject at the effective date of the scheme, and any interest on such debt which is payable by the debtor for any period before the effective date;
- (b) any debt to which the debtor becomes subject after the effective date of the scheme but before the cessation of the scheme by reason of any obligation incurred before the effective date, and any interest on such debt which is payable by the debtor for any period before the effective date;
- (c) any debt being the balance due from the debtor after the security in respect of a secured debt owing by the debtor at the effective date of the scheme is realised at any time before the cessation of the scheme.

[6/2009]

(2) A creditor shall file his proof of debt with the Official Assignee under this Part in such form and manner as may be prescribed.

[6/2009]

(3) The Official Assignee shall, in accordance with such rules as may be prescribed, admit or reject, in whole or in part, any proof of debt filed under this Part.

[6/2009]

(4) Any debtor or creditor who is dissatisfied with the Official Assignee's decision under subsection (3) may, within such time and in such manner as may be prescribed, appeal to the court against the decision.

[6/2009]

(5) The court may, on hearing an appeal under subsection (4), confirm, reverse or vary the decision of the Official Assignee.

[6/2009]

(6) An appeal under subsection (4) shall not suspend the commencement, operation or effect of a debt repayment scheme under this Part.

[6/2009]

### **Modification of debt repayment plan**

**56H.**—(1) Subject to subsection (6), the Official Assignee may at any time on or after the effective date of a debt repayment scheme, of his own volition or at the request of —

- (a) the debtor to whom the scheme applies;
- (b) a creditor who is bound by the debt repayment plan under the scheme; or
- (c) a creditor, not being a creditor referred to in paragraph (b), who proves his debt under the scheme,

modify the plan in such manner as he considers appropriate.

[6/2009]

(2) Before making any modification to the debt repayment plan, the Official Assignee shall, by notice in writing to the debtor and all the creditors who have proved their debts under the debt repayment scheme, convene and preside at a meeting of creditors.

[6/2009]

(3) Subject to subsection (6), the Official Assignee may, at or after the meeting of creditors, refuse to modify the debt repayment plan or may make such modifications to the plan as he considers appropriate.

[6/2009]

(4) The debtor or any creditor who has proved his debt under the debt repayment scheme may, within such time and in such manner as may be prescribed, appeal to the Appeal Panel against the Official Assignee's decision under subsection (3) on the ground that the decision unfairly prejudices his interests.

[6/2009]

(5) The Appeal Panel may determine the appeal by —

- (a) confirming the Official Assignee's decision; or

- (b) subject to subsection (6), making such or such further modifications to the debt repayment plan as it considers appropriate,

and the decision of the Appeal Panel shall be final.

[6/2009]

(6) Subject to such further restrictions on the extension of the repayment period of a debt repayment plan as may be prescribed, any extension under this section of the repayment period of the plan shall be subject to the repayment period not exceeding at any time —

- (a) where the plan includes a debt referred to in section 56G(1)(b) or (c), 7 years; or

- (b) in any other case, 5 years.

[6/2009]

(7) If a debt repayment plan is modified under this section, the modification shall take effect on such date as may be specified by the Official Assignee in his modification of the plan under subsection (3) and as from that date, the plan as modified shall be binding on —

- (a) the debtor;
- (b) every creditor who is bound by the plan before the modification; and
- (c) where the plan is modified to include the debt of a creditor referred to in subsection (1)(c), that creditor.

[6/2009]

(8) An appeal under subsection (4) shall not suspend the commencement, operation or effect of a debt repayment scheme under this Part.

[6/2009]

### **Priority of debts and interest on debts**

**56I.**—(1) The following shall be paid under a debt repayment plan applicable to a debtor in priority to all other debts proved under the debt repayment scheme (to which the plan relates) and included in the plan:

- (a) first, the costs and expenses incurred by the Official Assignee in the administration of the scheme;  
*[Act 21 of 2015 wef 01/08/2016]*
- (aa) second, the costs (whether taxed or agreed) of the applicant creditor in respect of the relevant bankruptcy application made against the debtor;  
*[Act 21 of 2015 wef 01/08/2016]*
- (b) third, subject to subsection (2), all wages or salary (whether or not earned wholly or in part by way of commission) including any amount payable by way of allowance or reimbursement under any contract of employment or award or agreement regulating the conditions of employment of any employee;  
*[Act 21 of 2015 wef 01/08/2016]*
- (c) fourth, subject to subsection (2), the amount due to an employee as a retrenchment benefit or an ex gratia payment under any contract of employment or award or agreement that regulates the conditions of employment, whether such amount becomes payable before, on or after the effective date of the scheme;  
*[Act 21 of 2015 wef 01/08/2016]*
- (d) fifth, all amounts due in respect of any work injury compensation under the Work Injury Compensation Act (Cap. 354) accrued before, on or after the effective date of the scheme;  
*[Act 21 of 2015 wef 01/08/2016]*
- (e) sixth, all amounts due in respect of contributions payable during a period of 12 consecutive months beginning not earlier than 12 months before, and ending not later than 12 months after, the effective date of the scheme, by the debtor as the employer of any person under any written law relating to employees' superannuation or provident funds or under any scheme of superannuation which is an approved scheme under the Income Tax Act (Cap. 134);  
*[Act 21 of 2015 wef 01/08/2016]*
- (f) seventh, all remuneration payable to any employee in respect of vacation leave or, in the case of his death, to any



other person in his right, accrued in respect of any period before, on or after the effective date of the scheme; and

*[Act 21 of 2015 wef 01/08/2016]*

- (g) eighth, the amount of all taxes assessed and any goods and services tax due under any written law on or before the effective date of the scheme.

*[6/2009]*

*[Act 21 of 2015 wef 01/08/2016]*

(2) The amount payable under subsection (1)(b) and (c) must not exceed such amount as the Minister may prescribe by order published in the *Gazette*.

*[Act 21 of 2015 wef 01/08/2016]*

(3) *[Deleted by Act 21 of 2015 wef 01/08/2016]*

(4) The debts in each class specified in subsection (1) shall rank in the order therein specified but debts of the same class shall rank equally between themselves, and shall be paid in full, unless the amount standing to the credit of the debtor in the Debt Repayment Schemes Account is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

*[6/2009]*

(5) Where any payment has been made to any employee of the debtor on account of wages, salary or vacation leave out of money advanced by a person for that purpose, the person by whom the money was advanced shall, under the debt repayment plan, have a right of priority in respect of the money so advanced and paid, up to the amount by which the sum in respect of which the employee would have been entitled to priority under this section has been diminished by reason of the payment, and shall have the same right of priority in respect of that amount as the employee would have had if the payment had not been made.

*[6/2009]*

(6) Subject to subsection (7), where a debt proved by a creditor under a debt repayment scheme includes interest, the interest shall be calculated —

- (a) at such rate to which the creditor is entitled under any written law or rule of law if that rate does not exceed the rate prescribed under paragraph (b); or

(b) in any other case, at such rate as may be prescribed unless the debt repayment plan under the scheme stipulates that the rate shall be the higher rate to which the creditor is entitled under any written law or rule of law.

[6/2009]

(7) For the purposes of paragraph (b) of subsection (6), a debtor shall not be required under a debt repayment plan to pay interest at a rate higher than the rate prescribed under that paragraph unless the Official Assignee is satisfied that the debtor has sufficient funds to pay in full all his debts proved under the scheme and included in the plan, interest on such debts at the higher rate, and the costs and expenses specified in subsection (1)(a) and (aa).

[6/2009]

[Act 21 of 2015 wef 01/08/2016]

(8) Interest on preferential debts shall rank equally with interest on debts other than preferential debts.

[6/2009]

(9) In this section —

“employee” means a person who has entered into or works under a contract of service with the debtor and includes a subcontractor of labour;

“ex gratia payment” means the amount payable to an employee on the termination of his service by his employer on the ground of redundancy or by reason of any re-organisation of the employer, profession, business, trade or work, and “the amount payable to an employee” for these purposes means the amount stipulated in any contract of employment, award or agreement, as the case may be;

“interest” includes any pecuniary consideration in lieu of interest and any penalty or late payment charge by whatever name called;

“preferential debt” means any debt specified in subsection (1);

“retrenchment benefit” means the amount payable to an employee on the termination of his service by his employer on the ground of redundancy or by reason of any re-organisation of the employer, profession, business, trade or

work, and “the amount payable to an employee” for these purposes means the amount stipulated in any contract of employment, award or agreement, as the case may be or, if no amount is stipulated therein, such amount as is stipulated by the Commissioner for Labour or by an Employment Claims Tribunal constituted under section 4 of the State Courts Act (Cap. 321);

*[Act 21 of 2016 wef 01/04/2017]*

“wages or salary” includes —

- (a) all arrears of money due to a subcontractor of labour;
- (b) any amount payable to an employee on account of wages or salary during a period of notice of termination of employment or in lieu of notice of such termination, as the case may be, whether such amount becomes payable before, on or after the effective date of the debt repayment scheme; and
- (c) any amount payable to an employee, on termination of his employment, as a gratuity under any contract of employment, or under any award or agreement that regulates the conditions of his employment, whether such amount becomes payable before, on or after the effective date of the debt repayment scheme.

*[6/2009]*

### **Payment and distribution of moneys under debt repayment scheme**

**56J.**—(1) A debtor to whom a debt repayment scheme applies shall make all payments under his debt repayment plan to the Official Assignee.

*[6/2009]*

(2) The Official Assignee may, from time to time, subject to the retention of such sums as may be necessary for the costs and expenses of the administration of the debt repayment scheme, and in accordance with section 56I, the debt repayment plan and such rules as may be prescribed, declare and distribute dividends amongst the creditors

who have proved their debts under the scheme and whose debts are included in the plan.

[6/2009]

(3) No action for a dividend shall lie against the Official Assignee.

[6/2009]

(4) If the Official Assignee refuses to pay any dividend, the court may, if it thinks fit, order the Official Assignee to pay the dividend, and also to pay out of the Consolidated Fund interest thereon for the period that it is withheld and the costs of the application to the court.

[6/2009]

#### *Division 4 — Cessation of debt repayment scheme*

### **Cessation of debt repayment scheme**

**56K.**—(1) A debt repayment scheme applicable to a debtor shall cease —

- (a) on the date a certificate of inapplicability of the scheme is issued under section 56L;
- (b) on the date a certificate of failure of the scheme is issued under section 56M(1);
- (c) on the date a certificate of completion of the scheme is issued under section 56N(1), notwithstanding any subsequent revocation of the certificate under section 56O(1);
- (d) upon the debtor being adjudged a bankrupt under this Act;  
or
- (e) upon the death of the debtor,

whichever first occurs.

[6/2009]

(2) Upon the cessation of a debt repayment scheme, the debt repayment plan under the scheme shall cease to have effect.

[6/2009]

### **Certificate of inapplicability of debt repayment scheme**

**56L.** The Official Assignee shall issue a certificate of inapplicability of a debt repayment scheme in respect of a debtor if —

- (a) the aggregate of the debts referred to in section 56G(1)(a) and proved under the scheme exceeds, at any time, \$100,000 or such other amount as may be specified by the Minister under section 56B(2)(a); or
- (b) the aggregate of the debts referred to in section 56G(1)(b) and (c) and proved under the scheme exceeds, at any time, \$50,000 or such other amount as the Minister may, by order published in the *Gazette*, specify.

[6/2009]

### **Certificate of failure of debt repayment scheme**

**56M.**—(1) The Official Assignee may issue a certificate of failure of a debt repayment scheme in respect of a debtor if —

- (a) the debtor submits a statement of affairs under section 56C, or furnishes any other information or document to the Official Assignee in relation to his property, debts or other financial affairs, which is false or misleading in any material particular, or contains any material omission;
- (b) the debtor fails to furnish any information or document relating to his property, debts or other financial affairs that the Official Assignee may require;
- (c) the debtor fails to disclose to the Official Assignee his property (or any part thereof) or the disposal of his property (or any part thereof);
- (d) the debtor attempts to account for any part of his property by fictitious losses or expenses;
- (e) the debtor fails to comply with any term of the debt repayment plan under the scheme;
- (f) the debtor fails without sufficient cause to attend any meeting of creditors convened under section 56H;
- (g) the debtor incurs a debt in excess of \$1,000 after the effective date of the scheme without disclosing the fact that he is subject to the scheme to the person to whom the debt is owed;

- (h) the debtor has entered into a transaction with any person at an undervalue at any time during the period commencing 5 years before the day on which the relevant bankruptcy application is made against the debtor and ending on the day immediately preceding the completion of the scheme;
- (i) the debtor has given an unfair preference (which is not a transaction at an undervalue) at any time to —
  - (i) his associate during the period commencing 2 years before the day on which the relevant bankruptcy application is made against the debtor and ending on the day immediately preceding the completion of the scheme; or
  - (ii) any other person during the period commencing 6 months before the day on which the relevant bankruptcy application is made against the debtor and ending on the day immediately preceding the completion of the scheme;
- (j) knowing or believing that a false or an inaccurate debt has been claimed by any person under the scheme, the debtor fails to inform the Official Assignee;
- (k) the debtor obtains the approval or modification of the debt repayment plan under the scheme by means of fraud, false representation or the concealment of any material fact; or
- (l) the debtor becomes a sole proprietor, a partner of a firm within the meaning of the Partnership Act (Cap. 391) or a partner in a limited liability partnership during the scheme without the consent of the Official Assignee.

[6/2009]

(2) Subsection (1)(c), in relation to the disposal of property, shall not apply to the payment of ordinary expenses of the debtor and his dependants.

[6/2009]

(3) For the purpose of subsection (1)(h), a debtor enters into a transaction with a person at an undervalue if the debtor —

- (a) makes a gift to that person or otherwise enters into a transaction with that person on terms that provide for the debtor to receive no consideration;
- (b) enters into a transaction with that person in consideration of marriage; or
- (c) enters into a transaction with that person for a consideration the value of which, in money or money's worth, is significantly less than the value, in money or money's worth, of the consideration provided by the debtor.

[6/2009]

(4) The Official Assignee shall not issue any certificate of failure of a debt repayment scheme under subsection (1) in respect of any transaction entered into by the debtor at an undervalue unless the debtor was insolvent at the time he entered into the transaction or became insolvent in consequence of the transaction.

[6/2009]

(5) Where a debtor enters into a transaction at an undervalue with a person who is an associate of his (otherwise than by reason only of being his employee), the requirements under subsection (4) shall be presumed to be satisfied unless the contrary is shown.

[6/2009]

(6) For the purpose of subsection (1)(i), a debtor gives an unfair preference to a person if —

- (a) that person is one of the debtor's creditors or a surety or guarantor for any of his debts; and
- (b) the debtor does anything or suffers anything to be done which has the effect of putting that person into a position which is better than the position he would have been in if that thing had not been done.

[6/2009]

(7) The Official Assignee shall not issue any certificate of failure of a debt repayment scheme under subsection (1) in respect of any unfair preference given by a debtor to any person unless the debtor —

- (a) was insolvent at the time he gave the preference or became insolvent in consequence of the preference; and

(b) was influenced in deciding to give the preference by a desire to produce in relation to that person the effect mentioned in subsection (6)(b).

[6/2009]

(8) A debtor who has given an unfair preference to a person who, at the time the unfair preference was given, was an associate of his (otherwise than by reason only of being his employee) shall be presumed, unless the contrary is shown, to have been influenced in deciding to give it by such a desire as is mentioned in subsection (7)(b).

[6/2009]

(9) The fact that something has been done pursuant to an order of a court does not, without more, prevent the doing or suffering of that thing from constituting the giving of an unfair preference.

[6/2009]

(10) For the purposes of this section, a debtor is insolvent if —

(a) he is unable to pay his debts as they fall due; or

(b) the value of his assets is less than the amount of his liabilities, taking into account his contingent and prospective liabilities.

[6/2009]

(11) Any question whether a person is an associate of another person shall be determined in accordance with section 101(2) to (10).

[6/2009]

### **Certificate of completion of debt repayment scheme**

**56N.**—(1) The Official Assignee shall issue a certificate of completion of a debt repayment scheme in respect of a debtor if the debtor repays, in accordance with this Part and the debt repayment plan under the scheme, his debts which have been proved under the scheme and included in the plan.

[6/2009]

(2) Subject to this Act and any other written law, the certificate of completion of the debt repayment scheme shall, upon being issued, release the debtor from all his debts provable under the scheme except a debt which —



- (a) the debtor had failed to disclose to the Official Assignee; and
- (b) in respect of which a proof of debt was not filed under the scheme.

[6/2009]

(3) Subsections (2) to (8) of section 127 shall apply to or in respect of the debtor as if a reference to discharge in those provisions is a reference to the certificate of completion of the debt repayment scheme and a reference to a bankrupt in those provisions is a reference to the debtor.

[6/2009]

### **Revocation of certificate of completion of debt repayment scheme**

**56O.**—(1) The Official Assignee may at any time, by notice in writing to a debtor, revoke a certificate of completion of a debt repayment scheme issued under section 56N(1) in respect of the debtor if he is satisfied that the debtor —

- (a) did not to the best of his knowledge or belief disclose to the Official Assignee all his property or the disposal of his property (or any part thereof); or
- (b) had obtained the approval or modification of the debt repayment plan under the scheme by means of fraud, false representation or the concealment of any material fact.

[6/2009]

(2) Subsection (1)(a), in relation to the disposal of property, shall not apply to the payment of ordinary expenses of the debtor and his dependants.

[6/2009]

(3) Upon the revocation of the certificate of completion of the debt repayment scheme, the debtor's release from his debts under section 56N(2) shall cease.

[6/2009]

*Division 5 — Miscellaneous***Duties of debtor**

**56P.** A debtor shall, in addition to any other duty specified in this Part in relation to a debt repayment scheme —

- (a) disclose to the Official Assignee —
  - (i) all his property; and
  - (ii) the disposal of any of his property during the period commencing 5 years before the day on which the relevant bankruptcy application is made against him and ending on the day immediately preceding the completion of the scheme;
- (b) furnish such information or document within such time and in such manner as the Official Assignee or the Appeal Panel may require in relation to the scheme;
- (c) attend any meeting of his creditors convened by the Official Assignee under section 56D or 56H, and such other meetings as may be required by the Official Assignee, unless prevented by any illness or other sufficient cause;
- (d) examine the correctness of all proofs of debts filed under the scheme and inform the Official Assignee if any person has, to his knowledge or belief, made a false or an inaccurate claim;
- (e) discharge his obligations under the debt repayment plan under the scheme;
- (f) before incurring any debt in excess of \$1,000 after the effective date of the scheme, disclose the fact that he is subject to the scheme to the person to whom the debt is to be owed;
- (g) keep the Official Assignee advised at all times of his place of residence and such other contact details as may be required by the Official Assignee; and

- (h) generally do all such acts and things in relation to the scheme as may be reasonably required by the Official Assignee or as may be prescribed.

[6/2009]

### **Appeal Panel and Appeal Panel Committee**

**56Q.**—(1) For the purpose of hearing appeals from the decisions of the Official Assignee under sections 56D and 56H, there shall be established an Appeal Panel consisting of such members as may be appointed by the Minister from time to time.

[6/2009]

(2) The appointment of the members of the Appeal Panel shall be for such period and on such terms as the Minister may determine.

[6/2009]

(3) The Minister may appoint from amongst the members of the Appeal Panel, for such period and on such terms as the Minister may determine —

(a) a Chairman of the Appeal Panel; and

(b) such number of Deputy Chairmen of the Appeal Panel as the Minister thinks fit.

[6/2009]

(4) There shall be paid to the Chairman, Deputy Chairmen and other members of the Appeal Panel such remuneration and allowances as the Minister may determine.

[6/2009]

(5) The Minister may at any time revoke any appointment under subsection (2) or (3).

[6/2009]

(6) Every member of the Appeal Panel shall be deemed to be a public servant within the meaning of the Penal Code (Cap. 224).

[6/2009]

(7) All the powers, functions and duties of the Appeal Panel may be exercised, discharged and performed by an Appeal Panel Committee consisting of such number of members of the Appeal Panel as may be prescribed, at least one of whom shall be the Chairman or a Deputy Chairman of the Appeal Panel.

[6/2009]

(8) Subject to subsection (7), the members of an Appeal Panel Committee shall be determined by the Minister.

[6/2009]

(9) Any act or decision of an Appeal Panel Committee shall be deemed to be an act or a decision of the Appeal Panel.

(10) An appeal under section 56D(4) or 56H(4) —

(a) shall be addressed to the Chairman of the Appeal Panel;

(b) shall provide adequate details of the grounds for the appeal;  
and

(c) shall be accompanied by the prescribed fee.

[6/2009]

### **Validity of things done under debt repayment scheme**

**56R.** The cessation of a debt repayment scheme or the revocation of a certificate of completion of the scheme shall be without prejudice to the validity of anything done under or in relation to the scheme.

[6/2009]

### **Offences**

**56S.—**(1) Any creditor who makes or submits any claim, proof, declaration or statement of account under a debt repayment scheme which is untrue in any material particular shall be guilty of an offence unless he satisfies the court that he had no intent to defraud.

[6/2009]

(2) Any person guilty of an offence under subsection (1) shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

[6/2009]

(3) Fines imposed under this section shall be paid into the Debt Repayment Scheme Assistance Fund maintained under section 164A.

[6/2009]

### **Rules for purposes of this Part**

**56T.—**(1) The Minister may make such rules as may be necessary or expedient for carrying out the purposes and provisions of this Part.

[6/2009]

(2) Without prejudice to the generality of subsection (1), the Minister may make rules for or with respect to —

- (a) the releasing of a debtor from any obligation under this Part;
- (b) the circumstances to be taken into account in the approval or modification of a debt repayment plan;
- (c) the circumstances in which a creditor may claim interest in his proof of debt notwithstanding the absence of any previous agreement or reservation as to interest, and the rate of interest that may be claimed in such circumstances;
- (d) the powers and procedures of the Appeal Panel;
- (e) the procedures of an Appeal Panel Committee;
- (f) the information and documents to be furnished by a debtor to the Official Assignee relating to his property, debts and other financial affairs;
- (g) the convening and conduct of, and the participation of a debtor and his creditors in and their respective obligations at, meetings held under this Part;
- (h) the inspection of documents submitted to the Official Assignee under this Part;
- (i) the sending of notices and other documents under this Part; and
- (j) all matters and things which are required or permitted to be prescribed under this Part.

[6/2009]

## PART VI

### PROCEEDINGS IN BANKRUPTCY

#### *Bankruptcy applications and bankruptcy orders*

#### **Persons who may make creditor's bankruptcy application**

**57.—**(1) Subject to this Part, a creditor's bankruptcy application may be made —

- (a) against an individual by —
- (i) one of the individual's creditors or jointly by more than one of them; or
  - (ii) the nominee supervising the implementation of, or any person (other than the individual) who is for the time being bound by, a voluntary arrangement proposed by the individual and approved under Part V; or
- (b) against a firm by —
- (i) one of the firm's creditors or jointly by more than one of them, if such creditor or creditors are entitled under paragraph (a)(i) to make a creditor's bankruptcy application against any one of the partners in the firm in respect of a partnership debt; or
  - (ii) the nominee supervising the implementation of, or any person (other than the partners in the firm) who is for the time being bound by, a voluntary arrangement proposed by the firm and approved under Part V.

[42/2005]

(2) A creditor who is entitled to make a bankruptcy application against a firm under subsection (1)(b) may make a bankruptcy application against any of the partners in the firm without including the others.

[42/2005]

(3) Every creditor's bankruptcy application shall be in the prescribed form and shall be supported by an affidavit of the creditor or of some person on his behalf having knowledge of the facts.

[42/2005]

(4) Every creditor's bankruptcy application shall be served in the manner prescribed.

[42/2005]

### **Persons who may make debtor's bankruptcy application**

**58.—**(1) Subject to this Part, a debtor's bankruptcy application may be made —

- (a) against an individual debtor by the debtor himself; or
- (b) against a firm by all the partners in the firm or by a majority of such partners who are residing in Singapore at the time of the making of the application.

[42/2005]

(2) A debtor's bankruptcy application shall be in the prescribed form and shall be supported by an affidavit to which is exhibited —

- (a) where the debtor is an individual, a statement of his affairs containing such particulars of his assets, creditors, debts and other liabilities as may be prescribed;
- (b) where the debtor is a firm, a statement of —
  - (i) the firm's affairs containing such particulars of its assets, creditors, debts and other liabilities as may be prescribed; and
  - (ii) the affairs of each of the partners in the firm by whom the application is made containing such particulars of his assets, creditors, debts and other liabilities as may be prescribed; and
- (c) a statement containing such other information as may be prescribed.

[42/2005]

### **Bankruptcy order**

**59.** Subject to this Part, the court may make a bankruptcy order on a bankruptcy application made under section 57 or 58.

[42/2005]

### **Conditions to be satisfied in respect of debtor**

**60.—**(1) No bankruptcy application shall be made to the court under section 57(1)(a) or 58(1)(a) against an individual debtor unless the debtor —

- (a) is domiciled in Singapore;
- (b) has property in Singapore; or
- (c) has, at any time within the period of one year immediately preceding the date of the making of the application —

- (i) been ordinarily resident or has had a place of residence in Singapore; or
- (ii) carried on business in Singapore.

[42/2005]

(2) No bankruptcy application shall be made to the court under section 57(1)(b) or 58(1)(b) against a firm unless —

- (a) at least one of the partners in the firm —
  - (i) is domiciled in Singapore;
  - (ii) has property in Singapore; or
  - (iii) has, at any time within the period of one year immediately preceding the date of the making of the application, been ordinarily resident or has had a place of residence in Singapore; or
- (b) the firm has, at any time within the period of one year immediately preceding the date of the making of the application, carried on business in Singapore.

[42/2005]

(3) The reference in subsection (1)(c)(ii) to an individual carrying on business in Singapore shall include —

- (a) the carrying on of business in Singapore by a firm in which the individual is a partner; and
- (b) the carrying on of business in Singapore by an agent or a manager for the individual or for such a firm.

### **Grounds of bankruptcy application**

**61.—**(1) Subject to section 63A, no bankruptcy application shall be made to the court in respect of any debt or debts unless at the time the application is made —

- (a) the amount of the debt, or the aggregate amount of the debts, is not less than \$15,000;
- (b) the debt or each of the debts is for a liquidated sum payable to the applicant creditor immediately;
- (c) the debtor is unable to pay the debt or each of the debts; and

[Act 21 of 2015 wef 01/08/2016]



- (d) where the debt or each of the debts is incurred outside Singapore, such debt is payable by the debtor to the applicant creditor by virtue of a judgment or an award which is enforceable by execution in Singapore.

[42/2005]

[Act 21 of 2015 wef 01/08/2016]

(2) The Minister may, by order published in the *Gazette*, amend subsection (1)(a) by substituting a different sum for the sum for the time being specified therein.

### **Presumption of inability to pay debts**

**62.** For the purposes of a creditor's bankruptcy application, a debtor shall, until he proves to the contrary, be presumed to be unable to pay any debt within the meaning of section 61(1)(c) if the debt is immediately payable and —

- (a) (i) the applicant creditor to whom the debt is owed has served on him in the prescribed manner, a statutory demand;
- (ii) at least 21 days have elapsed since the statutory demand was served; and
- (iii) the debtor has neither complied with it nor applied to the court to set it aside;
- (b) execution issued against him in respect of a judgment debt owed to the applicant creditor has been returned unsatisfied in whole or in part;
- (c) he has departed from or remained outside Singapore with the intention of defeating, delaying or obstructing a creditor in the recovery of the debt; or
- (d) the Official Assignee has —
- (i) issued a certificate of inapplicability of a debt repayment scheme under section 56L;
- (ii) issued a certificate of failure of a debt repayment scheme under section 56M(1); or

(iii) revoked a certificate of completion of a debt repayment scheme under section 56O(1),

in respect of the debtor within 90 days immediately preceding the date on which the bankruptcy application is made, and the applicant creditor had proved the debt under that debt repayment scheme.

*[42/2005; 6/2009]*

### **Where applicant for bankruptcy order is secured creditor**

**63.—**(1) Where the applicant for a bankruptcy order is a secured creditor of the debtor, he shall in his application —

- (a) state that he is willing, in the event of a bankruptcy order being made, to give up his security for the benefit of the other creditors of the bankrupt; or
- (b) give an estimate of the value of his security, in which 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 creditor in the same manner as if he were an unsecured creditor.

*[42/2005]*

(2) Where an applicant for a bankruptcy order who is a secured creditor of the debtor fails to disclose his security in the application, he shall be deemed to have given up his security for the benefit of the other creditors of the debtor and upon the making of a bankruptcy order —

- (a) he shall not be entitled to enforce his security against the estate of the bankrupt or to retain any proceeds from the realisation of such security; and
- (b) he shall execute such document of release as is required by the Official Assignee or account and pay over to the Official Assignee all proceeds from any realisation of his security.

*[42/2005]*

(3) Where any secured creditor fails to execute any document of release as is required by the Official Assignee under subsection (2)(b), the Official Assignee may execute the document on his behalf and the

execution of the document by the Official Assignee shall have the same effect as the execution thereof by the secured creditor.

(4) Any secured creditor who fails to account or pay over to the Official Assignee the proceeds from any realisation of his security under subsection (2)(b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 3 years or to both.

(5) Any fine imposed under subsection (4) shall be deemed part of the property of the bankrupt and shall vest in the Official Assignee for the purposes of this Act.

### **Expedited bankruptcy application**

**63A.** A creditor's bankruptcy application which relies on a statutory demand may be made before the end of the period of 21 days referred to in section 62(a), if —

- (a) there is a serious possibility that the debtor's property, or the value of all or any of the debtor's property, will be significantly diminished during that period; and
- (b) the application contains a statement to that effect.

*[Act 21 of 2015 wef 01/08/2016]*

### **Power of court to stay or dismiss proceedings on bankruptcy application**

**64.—**(1) The court may at any time, for sufficient reason, make an order staying the proceedings on a bankruptcy application, either altogether or for a limited time, on such terms and conditions as the court may think just.

*[42/2005]*

(2) Without prejudice to subsection (1), where it appears to the court that the person making a bankruptcy application has contravened any of the provisions of this Act or any rules in relation to proceedings on a bankruptcy application, the court may, in its discretion, dismiss the application in lieu of staying any proceedings thereon under that subsection.

*[42/2005]*

**Proceedings on creditor's bankruptcy application**

**65.—**(1) The court hearing a creditor's bankruptcy application shall not make a bankruptcy order thereon unless it is satisfied that —

- (a) the debt or any one of the debts in respect of which the application is made is a debt which, having been payable at the date of the application, has neither been paid nor secured or compounded for; and
- (b) where the debtor does not appear at the hearing, the application has been duly served on him.

*[42/2005]*

(1A) Where a creditor's bankruptcy application which relies on a statutory demand is made, pursuant to section 63A, before 21 days have elapsed since the statutory demand was served, the court hearing the application must not make a bankruptcy order until at least 21 days have elapsed since the statutory demand was served.

*[Act 21 of 2015 wef 01/08/2016]*

(2) The court may dismiss the application if —

- (a) it is not satisfied with the proof of the applicant creditor's debt or debts;
- (b) it is not satisfied with the proof of the service of the application on the debtor;
- (c) it is satisfied that the debtor is able to pay all his debts;
- (d) it is satisfied that the debtor has made an offer to secure or compound for the applicant creditor's debt the acceptance of which offer would have required the dismissal of the application and the offer has been unreasonably refused by the applicant creditor; or
- (e) it is satisfied that for other sufficient cause no order ought to be made thereon.

*[42/2005]*

(3) In determining for the purposes of subsection (2)(c) whether the debtor is able to pay all his debts, the court shall take into account his contingent and prospective liabilities.

(4) When a bankruptcy application has been made against a debtor on the ground that the debtor —

- (a) has failed to pay a judgment debt, and there is pending an appeal from or an application to set aside, the judgment or order by virtue of which the judgment debt is payable; or
- (b) has failed to comply with a statutory demand, and there is pending an application to set aside the statutory demand,

the court may, if it thinks fit, stay or dismiss the application.

[42/2005]

(5) Where the debtor appears at the hearing of the application and denies that he is —

- (a) indebted to the applicant; or
- (b) indebted to such an amount as would justify the applicant making a bankruptcy application against him,

the court may, on condition that the debtor furnishes such security as the court may order for payment to the applicant of —

- (i) any debt which may be established against the debtor in due course of law; and
- (ii) the costs of establishing the debt,

stay all proceedings on the application for such time as may be required for trial of the question relating to the debt.

[42/2005]

(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 bankruptcy order on the application of some other creditor, and shall thereupon dismiss, on such terms as it may think just, the application in which proceedings have been stayed.

[42/2005]

(7) If a bankruptcy order may be made on the bankruptcy application, the court shall, instead of making the order, adjourn the bankruptcy application for a period of 6 months or such other period as the court may direct and refer the matter to the Official Assignee for the purpose of enabling the Official Assignee to determine whether

the debtor is suitable for a debt repayment scheme under Part VA, if the following qualifying criteria are satisfied:

- (a) the debt or the aggregate of the debts in respect of which the bankruptcy application is made does not exceed \$100,000 or such other amount as the Minister may, by order published in the *Gazette*, specify;
- (b) the debtor is not an undischarged bankrupt, and has not been a bankrupt at any time within the period of 5 years immediately preceding the date on which the bankruptcy application is made, under this Act;
- (c) a voluntary arrangement under Part V in respect of the debtor is not in effect, and was not in effect at any time within the period of 5 years immediately preceding the date on which the bankruptcy application is made;
- (d) the debtor is not subject to any debt repayment scheme under Part VA, and has not been subject to any such debt repayment scheme at any time within the period of 5 years immediately preceding the date on which the bankruptcy application is made; and
- (e) the debtor is not a sole proprietor, a partner of a firm within the meaning of the Partnership Act (Cap. 391) or a partner in a limited liability partnership.

[6/2009]

(8) The court shall proceed to hear a bankruptcy application adjourned under subsection (7) if —

- (a) the Official Assignee reports to the court under section 56B(2) that the debtor is not suitable for a debt repayment scheme under Part VA; or
- (b) at the expiry of the period of adjournment, a debt repayment scheme has not commenced under Part VA in respect of the debtor.

[6/2009]

(9) If at any time during the period of adjournment of a bankruptcy application under subsection (7) a debt repayment scheme commences under Part VA in respect of the debtor, the bankruptcy

application shall be deemed to be withdrawn on the date of commencement of the debt repayment scheme.

[6/2009]

(10) The court may give such orders or directions as it thinks fit for the adjournment, hearing or disposal of a bankruptcy application referred to in subsection (7).

[6/2009]

(11) For the purpose of subsection (7)(d), a person in respect of whom the Official Assignee issues —

(a) a certificate of inapplicability of a debt repayment scheme under section 56L; or

(b) a certificate of completion of a debt repayment scheme under section 56N(1) —

(i) which states that all the debts (including interest on each of such debts at the rate to which a creditor is entitled under any written law or rule of law) of the person which have been proved under, and all the costs and expenses of, the debt repayment scheme have been paid in full; and

(ii) which has not been revoked under section 56O(1),

shall not be treated as having been subject to that debt repayment scheme.

[6/2009]

(12) In subsection (7)(a), “debt” has the same meaning as in section 56A(1).

[6/2009]

(13) Subsections (7) to (12) shall only apply to bankruptcy applications made on or after 18th May 2009.

[6/2009]

### **Proceedings on bankruptcy application by nominee or creditor bound by voluntary arrangement**

**66.** The court shall not make a bankruptcy order on a bankruptcy application made under section 57(1)(a)(ii) or (b)(ii) by the nominee or any creditor bound by a voluntary arrangement unless it is satisfied —

- (a) that the debtor has failed to comply with his obligations under the voluntary arrangement;
- (b) that information which was false or misleading in any material particular or which contained material omissions —
  - (i) was contained in any statement of affairs or other document supplied by the debtor under Part V to any person; or
  - (ii) was otherwise made available by the debtor to his creditors at or in connection with a meeting summoned under Part V; or
- (c) that the debtor has failed to do all such things as may for the purposes of the voluntary arrangement have been reasonably required of him by the nominee of the arrangement.

[42/2005]

### **Proceedings on debtor's bankruptcy application**

**67.—**(1) The court hearing a debtor's bankruptcy application shall not make a bankruptcy order thereon unless it is satisfied that the debtor is unable to pay his debts.

[42/2005]

(2) Where a debtor's bankruptcy application has been made against a firm by some, but not all, of the partners in the firm, the court shall not make a bankruptcy order thereon unless it is satisfied that notice of the application in the prescribed form has been served in the prescribed manner on each of the partners who did not join in the application.

[42/2005]

(3) If a bankruptcy order may be made on the bankruptcy application, the court shall, instead of making the order, adjourn the bankruptcy application for a period of 6 months or such other period as the court may direct and refer the matter to the Official Assignee for the purpose of enabling the Official Assignee to determine whether the debtor is suitable for a debt repayment scheme under Part VA, if the following qualifying criteria are satisfied:



- (a) the aggregate of the debts specified in the statement of affairs exhibited to the debtor's affidavit under section 58(2) does not exceed \$100,000 or such other amount as the Minister may specify under section 65(7)(a);
- (b) the debtor is not an undischarged bankrupt, and has not been a bankrupt at any time within the period of 5 years immediately preceding the date on which the bankruptcy application is made, under this Act;
- (c) a voluntary arrangement under Part V in respect of the debtor is not in effect, and was not in effect at any time within the period of 5 years immediately preceding the date on which the bankruptcy application is made;
- (d) the debtor is not subject to any debt repayment scheme under Part VA, and has not been subject to any such debt repayment scheme at any time within the period of 5 years immediately preceding the date on which the bankruptcy application is made; and
- (e) the debtor is not a sole proprietor, a partner of a firm within the meaning of the Partnership Act (Cap. 391) or a partner in a limited liability partnership.

[6/2009]

(4) The court shall proceed to hear a bankruptcy application adjourned under subsection (3) if —

- (a) the Official Assignee reports to the court under section 56B(2) that the debtor is not suitable for a debt repayment scheme under Part VA; or
- (b) at the expiry of the period of adjournment, a debt repayment scheme has not commenced under Part VA in respect of the debtor.

[6/2009]

(5) If at any time during the period of adjournment of a bankruptcy application under subsection (3) a debt repayment scheme commences under Part VA in respect of the debtor, the bankruptcy application shall be deemed to be withdrawn on the date of commencement of the debt repayment scheme.

[6/2009]

(6) The court may give such orders or directions as it thinks fit for the adjournment, hearing or disposal of a bankruptcy application referred to in subsection (3).

[6/2009]

(7) For the purpose of subsection (3)(d), a person in respect of whom the Official Assignee issues —

(a) a certificate of inapplicability of a debt repayment scheme under section 56L; or

(b) a certificate of completion of a debt repayment scheme under section 56N(1) —

(i) which states that all the debts (including interest on each of such debts at the rate to which a creditor is entitled under any written law or rule of law) of the person which have been proved under, and all the costs and expenses of, the debt repayment scheme have been paid in full; and

(ii) which has not been revoked under section 56O(1),

shall not be treated as having been subject to that debt repayment scheme.

[6/2009]

(8) In subsection (3)(a), “debt” has the same meaning as in section 56A(1).

[6/2009]

(9) Subsections (3) to (8) shall only apply to bankruptcy applications made on or after 18th May 2009.

[6/2009]

### **Consolidation of bankruptcy applications**

**68.** Where 2 or more bankruptcy applications are made against the same debtor, the court may consolidate the proceedings or any of them on such terms as the court thinks fit.

[42/2005]

### **Power to dismiss application against some respondents only**

**69.** Where there are 2 or more respondents to an application, the court may dismiss the application as to one or more of them, without

prejudice to the effect of the application as against the other or others of them.

[42/2005]

### **Power to change conduct of proceedings**

**70.** Where any applicant for a bankruptcy order does not proceed with due diligence on his application, the court may substitute as applicant —

(a) in the case of a creditor's bankruptcy application, any other creditor to whom the debtor is indebted in the amount required under section 61(1)(a); or

(b) in any other case, the Official Assignee,

and thereafter the proceedings shall, unless the court otherwise directs, be continued as though no change had been made in the conduct of the proceedings.

[42/2005]

### **Continuance of proceedings on death of debtor**

**71.** If a debtor by or against whom a bankruptcy application has been made dies, unless the court otherwise directs, the proceedings in the matter are to be continued as if the debtor were alive, and the court may —

(a) order that the application be served on the debtor's personal representative or such other person as the court thinks fit; or

(b) dispense with service of the application on the debtor.

[Act 21 of 2015 wef 01/08/2016]

### **Withdrawal of bankruptcy application**

**72.—(1)** Subject to subsection (2) and sections 65(9) and 67(5), a bankruptcy application shall not be withdrawn without the leave of the court.

(2) Subject to subsection (3), if no party to a bankruptcy application has, for more than one year (or such extended period as the court may allow under subsection (4)), taken any step or proceeding in the bankruptcy application that appears from records maintained by the court, the bankruptcy application shall be deemed to be withdrawn on

the date immediately following the expiry of that year (or extended period).

(3) Subsection (2) shall not apply where the bankruptcy application has been stayed, or where proceedings on the application have been stayed, by the court.

(4) The court may, on an application by any party made before the one year referred to in subsection (2) has elapsed, extend the time to such extent as it may think fit.

(5) Subsection (2) shall apply to any bankruptcy application, whether made before, on or after the date of commencement of section 13(b) of the Statutes (Miscellaneous Amendments) Act 2012, but where the last step or proceeding in the bankruptcy application took place before that date, the period of one year shall only begin on that date.

(6) Where a bankruptcy application is deemed to be withdrawn under subsection (2), the court may, on application, reinstate the bankruptcy application and allow the bankruptcy application to proceed on such terms as the court thinks just.

*[Act 2 of 2012 wef 01/03/2012]*

### *Protection of debtor's property*

#### **Appointment of interim receiver**

**73.—**(1) The court may, if it thinks it necessary or expedient for the protection of the debtor's property, at any time after the making of a bankruptcy application and before making a bankruptcy order, appoint the Official Assignee to be interim receiver of the debtor's property or any part thereof and direct him to take immediate possession of the same, including any books of accounts and other documents relating to the debtor's business.

*[42/2005]*

(2) Where the court has appointed an interim receiver under subsection (1), no person who is a creditor of the debtor in respect of a debt provable in bankruptcy shall —

- (a) have any remedy against the person or property of the debtor in respect of that debt; or

- (b) while the appointment of the interim receiver is in force, commence or continue any action or other legal proceedings against the debtor in respect of that debt,

*[Act 21 of 2015 wef 01/08/2016]*

except with the leave of the court and on such terms as the court may impose.

(3) Upon the appointment of an interim receiver under subsection (1), the debtor shall —

- (a) give to the interim receiver such inventory of his property and such other information; and

- (b) attend on the interim receiver at such times,

as the interim receiver may for the purpose of carrying out his functions under this section reasonably require.

(4) Upon the appointment of an interim receiver under this section, sections 83 and 84 shall apply, with the necessary modifications, and any reference in those sections to —

- (a) the making of a bankruptcy order shall be read as a reference to the appointment of an interim receiver under this section;

- (b) the Official Assignee shall be read as a reference to the interim receiver; and

- (c) the bankrupt or his estate shall be read (respectively) as a reference to the debtor or his property.

(5) The Official Assignee shall cease to be the interim receiver of a debtor's property if —

- (a) the bankruptcy application made against the debtor is dismissed or withdrawn;

- (b) a bankruptcy order is made on the application; or

- (c) the court by order terminates the appointment.

*[42/2005]*

**Power to stay proceedings against person or property of debtor**

**74.**—(1) Any court may by order, at any time after the making of a bankruptcy application, stay any action, execution or other legal process against the person or property of the debtor.

[42/2005]

(2) Where an order is made under subsection (1) staying any action or proceedings or staying proceedings generally, the order may be served by sending a copy thereof, under the seal of the court, by prepaid registered post to the address for service of the plaintiff or other party prosecuting such proceedings.

**PART VII****ADMINISTRATION IN BANKRUPTCY***Bankruptcy***Commencement and duration of bankruptcy**

**75.** The bankruptcy of any person who has been adjudged bankrupt by a bankruptcy order (whether made against him or against the firm in which he is a partner) shall —

- (a) commence on the day when the bankruptcy order is made; and
- (b) continue until he is discharged under Part VIII.

**Effect of bankruptcy order**

**76.**—(1) On the making of a bankruptcy order —

- (a) the property of the bankrupt shall —
  - (i) vest in the Official Assignee without any further conveyance, assignment or transfer; and
  - (ii) become divisible among his creditors;
- (b) the Official Assignee shall be constituted receiver of the bankrupt's property; and

(c) unless otherwise provided by this Act —

- (i) no creditor to whom the bankrupt is indebted in respect of any debt provable in bankruptcy shall have any remedy against the person or property of the bankrupt in respect of that debt; and
- (ii) no action or proceedings shall be proceeded with or commenced against the bankrupt in respect of that debt,

except by leave of the court and in accordance with such terms as the court may impose.

[6/2009]

(2) Where a bankruptcy order is made against a firm, the order shall operate as if it were a bankruptcy order made against each of the persons who, at the time of the order, is a partner in the firm.

(3) This section shall not affect the right 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 enacted.

(4) Despite subsection (3) and section 94, a secured creditor is not entitled to any interest in respect of the secured creditor's debt after the making of a bankruptcy order if the secured creditor does not realise the secured creditor's security within 12 months after the date of the bankruptcy order or such further period as the Official Assignee may determine.

[Act 21 of 2015 wef 01/08/2016]

### **Restrictions on dispositions of property by bankrupt**

77.—(1) Where a person is adjudged bankrupt, any disposition of property made by him during the period beginning with the day of the making of the bankruptcy application and ending with the making of the bankruptcy order shall be void except to the extent that such disposition has been made with the consent of, or been subsequently ratified by, the court.

[42/2005]

(2) For the purpose of this section, a disposition of property shall include any payment (whether in cash or otherwise) made to any

person by the bankrupt and accordingly, where any payment is void by virtue of this section, the person to whom the payment was made shall hold the sum paid for the bankrupt as part of his estate.

(3) Nothing in this section shall give a remedy against any person in respect of —

- (a) any property or payment which he received from the bankrupt before the commencement of the bankruptcy in good faith, for value and without notice that the bankruptcy application had been made; or
- (b) any interest in property which derives from an interest in respect of which there is, by virtue of this subsection, no remedy.

[42/2005]

(4) Where, after the commencement of his bankruptcy, the bankrupt has incurred a debt to a banker or any other person by reason of the making of a payment which is void under this section, that debt shall be deemed for the purposes of this Act to have been incurred before the commencement of the bankruptcy unless —

- (a) that banker or person had notice of the bankruptcy before the debt was incurred; or
- (b) it is not reasonably practicable for the amount of the payment to be recovered from the person to whom it was made.

(5) A disposition of property shall be void under this section notwithstanding that the property is not or, as the case may be, would not be comprised in the bankrupt's estate, but nothing in this section shall affect any disposition made by a person of property held by him on trust for any other person.

### **Description of bankrupt's property divisible amongst creditors**

**78.—**(1) The property of the bankrupt divisible among his creditors (referred to in this Act as the bankrupt's estate) shall comprise —

- (a) all such property as belongs to or is vested in the bankrupt at the commencement of his bankruptcy or is acquired by or devolves on him before his discharge; and



(b) 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.

(2) Subsection (1) shall not apply to —

(a) property held by the bankrupt on trust for any other person;

(b) such tools, books, vehicles and other items of equipment as are needed by the bankrupt for the bankrupt's personal use in the bankrupt's employment, business or vocation;

*[Act 21 of 2015 wef 01/08/2016]*

(c) such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the bankrupt and his family;

*[Act 21 of 2015 wef 01/08/2016]*

(d) property of the bankrupt which is excluded under any other written law;

*[Act 21 of 2015 wef 01/08/2016]*

(e) the remainder of the bankrupt's monthly income after deducting the bankrupt's monthly contribution; and

*[Act 21 of 2015 wef 01/08/2016]*

(f) any annual bonus or annual wage supplement paid as part of the bankrupt's income.

*[Act 21 of 2015 wef 01/08/2016]*

### *Inquiry into bankrupt's affairs, dealings and property*

#### **Meeting of creditors**

**79.**—(1) The Official Assignee may, at any time after the making of a bankruptcy order, summon a meeting of the bankrupt's creditors.

(2) Notwithstanding subsection (1), the Official Assignee shall summon a meeting of the bankrupt's creditors whenever directed by the court to do so or whenever requested in writing by one-fourth in value of the bankrupt's creditors to do so.

(3) Every meeting summoned under this section shall be conducted in accordance with the prescribed rules.

**Creditors' committee**

**80.**—(1) At any meeting convened by the Official Assignee under section 79(1), the creditors qualified to vote thereat, including the holders of general proxies or general powers of attorney from such creditors, may by ordinary resolution appoint from amongst themselves a committee (known as the “creditors’ committee”) of not more than 3 persons 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 creditors’ committee at such times as he may think necessary, but 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 creditors’ committee may resign his office by notice in writing, signed by him and delivered to the Official Assignee.

(4) If a member of the creditors’ committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from and not represented at 3 consecutive meetings of the committee, his office shall thereupon become vacant.

*[Act 21 of 2015 wef 01/08/2016]*

(5) Any member of the creditors’ 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 creditors’ committee, the Official Assignee shall forthwith summon a meeting of creditors for the purpose of filling the vacancy, and the meeting may by ordinary resolution appoint another creditor or eligible person to fill the vacancy.

<sup>1</sup>(7) In this section, “general powers of attorney” include lasting powers of attorney registered under the Mental Capacity Act 2008 (Act 22 of 2008).

*[22/2008]*

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<sup>1</sup>Subsection (7) of section 80, inserted by the Mental Capacity Act (Act 22 of 2008), came into operation when item (1) in the Third Schedule to the Mental Capacity Act 2008 was brought into operation on 1 March 2010.

**Bankrupt's statement of affairs**

**81.**—(1) Where a bankruptcy order has been made against an individual otherwise than on a debtor's bankruptcy application, the bankrupt shall submit a statement of his affairs to the Official Assignee within 21 days from the date of the bankruptcy order.

[42/2005]

(2) Where a bankruptcy order has been made against a firm —

(a) on a creditor's bankruptcy application, the bankrupts, being the partners in the firm at the time of the order, shall submit a joint statement of their partnership affairs, and each partner in the firm shall submit a statement of his separate affairs; or

(b) on a debtor's bankruptcy application, every person who at the time of the order is a partner in the firm but who did not join in the application shall submit a statement of his separate affairs,

to the Official Assignee within 21 days from the date of the bankruptcy order.

[42/2005]

(3) A statement of affairs referred to in subsection (1) or (2)(a) or (b) must be submitted in such form and manner as may be prescribed, and must contain —

(a) such particulars of all or any of the following matters as may be prescribed:

(i) the bankrupt's assets;

(ii) the bankrupt's creditors, debts and other liabilities;

(iii) the bankrupt's current income from any source;

(iv) the bankrupt's current employment status and employment history;

(v) the educational and vocational qualifications, age and work experience of the bankrupt;

(vi) the members of the bankrupt's family;

(vii) the monthly expenses necessary for the maintenance of the bankrupt and the bankrupt's family;

*[Act 21 of 2015 wef 01/08/2016]*

(b) in the case of a firm, such particulars of the firm's assets, creditors, debts and other liabilities as may be prescribed; and

(c) such other information as may be prescribed.

*[Act 21 of 2015 wef 01/08/2016]*

(4) The Official Assignee may, if he thinks fit —

(a) release the bankrupt from his duty under subsection (1) or (2), as the case may be;

*[Act 21 of 2015 wef 01/08/2016]*

(b) extend the period specified in subsection (1) or (2); or

*[Act 21 of 2015 wef 01/08/2016]*

(c) direct the bankrupt in writing to submit, within 21 days after the date of the direction, such supplementary information specified in the direction as the Official Assignee considers necessary to make the statement of the bankrupt's affairs complete.

*[Act 21 of 2015 wef 01/08/2016]*

(5) Where the Official Assignee has refused to exercise a power conferred by this section, the court, if it thinks fit, may exercise it.

(6) A bankrupt who —

(a) without reasonable excuse, fails to comply with the obligation imposed by subsection (1) or (2), or with a direction under subsection (4)(c);

*[Act 21 of 2015 wef 01/08/2016]*

(b) without reasonable excuse, submits a statement of affairs which does not comply with the prescribed requirements;

(c) submits a statement of affairs, or any supplementary information, which is false, and which he either knows or believes to be false or does not believe to be true; or

*[Act 21 of 2015 wef 01/08/2016]*

- (d) submits a statement of affairs, or any supplementary information, which is misleading in any material particular or contains any material omission,

*[Act 21 of 2015 wef 01/08/2016]*

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day during which the offence continues after conviction.

(7) Any person stating himself, in writing, to be a creditor of the bankrupt may personally or by agent inspect the statement of affairs filed by the bankrupt under this section at all reasonable times and upon payment of the prescribed fee take any copy thereof or extract therefrom.

(8) Any person untruthfully stating himself to be a creditor under subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months or to both.

(9) Where a trustee in bankruptcy is appointed under section 33 to administer a bankrupt's estate, the trustee must, not later than one month after receiving the statement of affairs or, where the bankrupt has been directed to submit any supplementary information under subsection (4)(c), not later than one month after receiving such supplementary information —

- (a) notify the Official Assignee of the administration date for the bankruptcy; and
- (b) submit a copy of the statement of affairs and supplementary information (if any) to the Official Assignee.

*[Act 21 of 2015 wef 01/08/2016]*

### **Bankrupt to submit accounts**

**82.—**(1) A bankrupt who has not obtained a discharge must, when directed by the Official Assignee, submit to the Official Assignee an account of —

- (a) all moneys and property which have come to the bankrupt's hands for the bankrupt's own use during such period as the Official Assignee may specify; and
- (b) the moneys and property which have been expended in the expenses necessary for the maintenance of the bankrupt and the bankrupt's family during the same period.

*[Act 21 of 2015 wef 01/08/2016]*

(2) A bankrupt who fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day during which the offence continues after conviction.

*[Act 21 of 2015 wef 01/08/2016]*

### **Powers of Official Assignee to examine persons, etc.**

**82A.**—(1) The Official Assignee or any officer authorised by the Official Assignee may at any time, before or after a bankrupt's discharge, by notice in writing —

- (a) summon any person listed in subsection (2) to appear before the Official Assignee, on such date and at such time as may be specified in the notice, to be examined on oath in relation to the bankrupt's affairs, dealings and property; and
  - (b) require that person to produce and surrender any book, document or copy of a book or document in that person's possession or control that relates to the bankrupt's affairs, dealings and property, and without payment, inspect, keep, copy, photograph or take extracts from the book, document or copy.
- (2) The persons referred to in subsection (1) are —
- (a) the bankrupt;
  - (b) the bankrupt's spouse;
  - (c) a person known or suspected by the Official Assignee to possess any of the bankrupt's property or any document relating to the bankrupt's affairs, dealings and property;

- (d) a person believed by the Official Assignee to owe the bankrupt money;
- (e) a person believed by the Official Assignee to be able to give information regarding —
  - (i) the bankrupt; or
  - (ii) the bankrupt's affairs, dealings and property; and
- (f) a trustee of a trust of which the bankrupt is a settlor or is or has been a trustee.

(3) The Official Assignee may apply to the court for a warrant to be issued for the arrest of a person summoned under subsection (1)(a), where —

- (a) the person without reasonable excuse fails to appear for the examination on the date and at the time specified in the notice; or
- (b) there are reasonable grounds for believing that the person has absconded, or is about to abscond, with a view to avoiding compliance with this section.

(4) The court may authorise any person arrested under subsection (3) to be kept in custody until that person is brought before the court or until such other time as the court may order.

(5) Where a person has been arrested under subsection (3), the court may order the person's release, either with or without security to the satisfaction of the court that the person will abide by such conditions as the court may think fit to impose.

(6) Any person who, without reasonable excuse, does any of the following shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,500 or to imprisonment for a term not exceeding one month or to both:

- (a) fails to appear before the Official Assignee as required by a notice under subsection (1)(a);
- (b) fails to answer any question relating to the bankrupt's affairs, dealings or property that is posed to that person in an examination under subsection (1)(a);

- (c) fails to produce or surrender any book, document or copy of a book or document, in that person's possession or control, as required by a notice under subsection (1)(b).

*[Act 21 of 2015 wef 01/08/2016]*

### **Examination of bankrupt and others**

**83.**—(1) Where a bankruptcy order has been made, the court may, upon an application made by the Official Assignee at any time (whether before or after the discharge of the bankrupt), or upon an application made by a creditor (who has tendered a proof) at any time before the discharge of the bankrupt —

- (a) summon the bankrupt to appear before it on an appointed day and examine him as to his affairs, dealings and property; and
- (b) summon any other person to appear before the court on the same or another appointed day and examine the person, if it appears to the court that the person would be able to give information concerning the bankrupt or the bankrupt's affairs, dealings or property.

*[Act 21 of 2015 wef 01/08/2016]*

*[Act 21 of 2015 wef 01/08/2016]*

(2) Every person summoned before the court under this section shall be examined on oath, whether orally or by interrogatories.

(3) Without prejudice to subsection (2), the court may at any time require any person mentioned in subsection (1)(b) to submit an affidavit to the court containing an account of his dealings with the bankrupt or to produce any documents in his possession or under his control relating to the bankrupt or the bankrupt's affairs, dealings or property.

(4) The court may adjourn any examination under this section from time to time.

(5) Any creditor who has tendered a proof or the representative of such creditor who has been authorised in writing, may question the bankrupt or such other person as may have been summoned by the court under subsection (1) concerning the bankrupt's affairs, dealings or property and the causes of the bankrupt's failure.



(6) The Official Assignee shall take part in the examination of the bankrupt, and may for the purpose thereof employ a solicitor, but no solicitor shall be allowed to take part in the examination on behalf of the bankrupt.

(7) The court may put such questions as it thinks expedient to the bankrupt or to such other person summoned by it.

(8) It shall be the duty of the bankrupt and any other person summoned by the court under this section to answer all such questions as the court puts or allows to be put to him.

(9) The court shall cause to be made such record of the examination as the court thinks proper and any record so made may thereafter be used in evidence against the person in the course of whose examination the record was made.

*[17/2005]*

(10) Any record made under subsection (9) shall, at all reasonable times and upon payment of the prescribed fee, be made available to any creditor for review at the court premises.

*[17/2005]*

(11) Where the court is of the opinion that the affairs of the bankrupt have been sufficiently investigated, it shall, by order, conclude the examination.

(12) The order under subsection (11) shall not preclude the court from directing a further examination of the bankrupt or any other person as to the bankrupt's affairs, dealings and property whenever it sees fit to do so, whether before or after the bankrupt has been discharged from bankruptcy.

*[Act 21 of 2015 wef 01/08/2016]*

(13) Where a bankrupt or any other person summoned by the court under this section without reasonable excuse fails at any time to attend before the court or where there are reasonable grounds for believing that the bankrupt or such other person has absconded, or is about to abscond, with a view to avoiding his appearance before the court under this section, the court may cause a warrant to be issued for his arrest and for the seizure of any books, papers, records, money or goods in his possession.

(14) The court may authorise —

(a) any person arrested under subsection (13) to be kept in custody; and

(b) anything seized from such person to be held,

until that person is brought before the court or until such other time as the court may order.

(15) [*Deleted by Act 19 of 2016 wef 01/10/2017*]

(16) The court may, if it thinks fit, order that any person who if within Singapore would be liable to be summoned to appear before it and examined under this section shall be examined in Singapore or elsewhere.

### **Power of court following examination of bankrupt and others**

**84.**—(1) If it appears to the court, on consideration of any evidence obtained under section 83 that any person has in his possession any property comprised in the bankrupt's estate, the court may, on the application of the Official Assignee, order that person to deliver the whole or any part of the property to the Official Assignee at such place and time and in such manner and on such terms as the court may think fit.

(2) If it appears to the court, on consideration of any evidence obtained under section 83 that any person is indebted to the bankrupt, the court may, on the application of the Official Assignee, order that person to pay to the Official Assignee, at such place and time and in such manner as the court may direct, the whole or part of the amount due, whether in full discharge of the debt or otherwise as the court thinks fit.

### **Unenforceability of liens on books, etc.**

**85.**—(1) Subject to this section, a lien or other right to retain possession of any of the books, papers or other records relating to the affairs or property of a bankrupt shall be unenforceable to the extent that its enforcement would deny possession of any books, papers or other records to the Official Assignee.

(2) Subsection (1) shall not apply to a lien on documents which give a title to property and are held as such.

### **Official Assignee to settle list of debtors to the estate**

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

(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 —

- (a) he has placed that person upon the list of debtors to the estate in the amount in the notice specified; and
- (b) unless that person on or before a day specified in such notice gives to the Registrar and the Official Assignee notice in writing of his intention to dispute his indebtedness, he shall be deemed to admit that the amount set out opposite his name in the list is due and owing by him to the bankrupt and shall be settled on the list accordingly.

(3) Any 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 be issued against him for the amount set out opposite his name in the list in the same way as if judgment had been entered 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 under this section may apply to the court in a summary way for leave to dispute his indebtedness or the amount thereof.

(6) The court may if it thinks fit make such order for determining the question as may seem expedient upon the terms of the person 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.

*Monthly contribution and target contribution*

**Determination of monthly contribution and target contribution**

**86A.**—(1) The Official Assignee must, not later than 2 months after the administration date of a bankruptcy —

- (a) determine the bankrupt's monthly contribution and target contribution in respect of the bankruptcy; and
- (b) serve a notice of the determination on —
  - (i) the bankrupt;
  - (ii) every creditor who has filed a proof of debt in respect of the bankruptcy; and
  - (iii) in a case where the determination is made before the expiry of the period referred to in section 88A(2), every creditor who is mentioned in the statement of the bankrupt's affairs but has not filed a proof of debt.

(2) For the purposes of determining the monthly contribution referred to in subsection (1)(a), the Official Assignee must take into account —

- (a) the current monthly income of the bankrupt;
- (b) the extent to which the current monthly income of the bankrupt's spouse may contribute to the maintenance of the bankrupt's family;
- (c) the monthly income that the bankrupt may reasonably be expected to earn over the duration of the bankruptcy, taking into account —
  - (i) the previous and current monthly income of the bankrupt;

- (ii) the educational and vocational qualifications, age and work experience of the bankrupt;
  - (iii) the range of monthly income earned by persons who are employed in occupations, positions or roles similar to that in which the bankrupt is, or can be expected to be, employed;
  - (iv) the effect which the bankruptcy may have on the bankrupt's earning capacity or other income;
  - (v) the prevailing economic conditions; and
  - (vi) the period of time during which the bankrupt is likely to be capable of earning a meaningful income; and
- (d) the reasonable expenses for the maintenance of the bankrupt and the bankrupt's family.

(3) Where the determination under subsection (1) is made by a trustee in bankruptcy appointed under section 33 to administer the bankruptcy, the trustee must also serve the notice of the determination, together with an explanation of the basis for making the determination, on the Official Assignee.

*[Act 21 of 2015 wef 01/08/2016]*

### **Review by court of determination of monthly contribution and target contribution**

**86B.**—(1) If a bankrupt or any creditor of the bankrupt is dissatisfied with the monthly contribution and target contribution determined under section 86A, the bankrupt or the creditor (as the case may be) may, within 21 days after the service of the notice of the determination, apply to the court to review the determination.

(2) The court may, in any particular case, extend the period for the making of the application under subsection (1), if the court is satisfied that it is just to do so.

(3) An application under subsection (1) must be served, within 3 days after the date on which the application is filed, on —

- (a) the Official Assignee, or the trustee in bankruptcy appointed under section 33, whose determination under section 86A is the subject of the application; and
- (b) the bankrupt, unless the application was made by the bankrupt.

(4) Upon being served with the application under subsection (3)(a), the Official Assignee or the trustee in bankruptcy (as the case may be) must forthwith give notice of the application to every person on whom the notice of the determination was served under section 86A(1)(b)(ii) and (iii) and (3) (except, where the application was made by a creditor, that creditor).

(5) On hearing an application under subsection (1), the court may —

- (a) confirm or vary the monthly contribution and target contribution in respect of which the application is brought; or
- (b) give such directions to the Official Assignee or trustee in bankruptcy (as the case may be), or make such order, as the court may think fit.

(6) Unless the court orders otherwise, a variation under subsection (5)(a) of the monthly contribution and target contribution takes effect on the date of the order.

(7) A variation of the monthly contribution and target contribution made under subsection (5)(a) does not affect any payment made by the bankrupt in respect of the monthly contribution or target contribution prior to the date of the variation.

(8) The Official Assignee or trustee in bankruptcy (as the case may be) must, within 14 days after the variation of the monthly contribution and target contribution under subsection (5)(a), serve a notice of the variation order on —

- (a) the bankrupt;
- (b) every creditor who has filed a proof of debt in respect of the bankruptcy; and
- (c) in a case where the variation is made before the expiry of the period referred to in section 88A(2), every creditor who

is mentioned in the statement of the bankrupt's affairs but who has not filed a proof of debt.

*[Act 21 of 2015 wef 01/08/2016]*

### **Power of court to vary monthly contribution and target contribution**

**86C.**—(1) Where the court is satisfied, on the application of the Official Assignee or the trustee in bankruptcy appointed under section 33, a bankrupt or any creditor of the bankrupt, that any of the conditions described in subsection (2) apply, the court may make such order as it thinks fit to vary the bankrupt's monthly contribution and target contribution.

(2) The conditions referred to in subsection (1) are as follows:

- (a) before the determination of the monthly contribution and target contribution under section 86A was made, the bankrupt concealed from, or failed to disclose to, the Official Assignee or trustee in bankruptcy (as the case may be) information which the bankrupt knows or ought reasonably to know would have a material impact on the determination;
- (b) information which would have a material impact on the determination of the bankrupt's monthly contribution and target contribution under section 86A —
  - (i) was not available to the bankrupt before the making of that determination; and
  - (ii) is now available;
- (c) it is otherwise just and equitable to vary the monthly contribution and target contribution determined under section 86A.

(3) An application under subsection (1) must be served, within 3 days after the date of filing, on —

- (a) the Official Assignee, or the trustee in bankruptcy appointed under section 33, whose determination under section 86A is the subject of the application, unless the

application was made by the Official Assignee or the trustee (as the case may be); and

(b) the bankrupt, unless the application was made by the bankrupt.

(4) Upon —

(a) the filing of an application under subsection (1) by the Official Assignee or trustee in bankruptcy (as the case may be); or

(b) being served with an application under subsection (3)(a), where the application is not filed by the Official Assignee or trustee in bankruptcy (as the case may be),

the Official Assignee or trustee in bankruptcy (as the case may be) must forthwith give notice of the application to every person on whom the notice of the determination was served under section 86A(1)(b)(ii) and (iii) and (3) (except, where the application was made by a creditor, that creditor).

(5) Unless the court orders otherwise, a variation under subsection (1) of the monthly contribution and target contribution takes effect on the date of the order.

(6) A variation of the monthly contribution and target contribution made under subsection (1) does not affect any payments made by the bankrupt in respect of the monthly contribution or target contribution prior to the date of the variation.

(7) The Official Assignee must, within 14 days after the variation of the monthly contribution and target contribution under subsection (1), serve a notice of the variation order on —

(a) the bankrupt;

(b) every creditor who has filed a proof of debt; and

(c) in a case where the variation is made before the expiry of the period referred to in section 88A(2), every creditor who is mentioned in the statement of the bankrupt's affairs but who has not filed a proof of debt.

*[Act 21 of 2015 wef 01/08/2016]*



**Power of Official Assignee to reduce monthly contribution and target contribution**

**86D.**—(1) The Official Assignee may, on the application of a bankrupt, issue a certificate reducing the bankrupt's monthly contribution and target contribution to such extent as the Official Assignee thinks fit, if the Official Assignee is satisfied that one or more of the conditions described in subsection (2) arose after the determination of the monthly contribution and target contribution.

(2) The conditions referred to in subsection (1) are as follows:

- (a) the reasonable expenses for the maintenance of the bankrupt's family have increased as a result of an increase in the number of the members of the bankrupt's family;
- (b) the contribution by the bankrupt's spouse to the maintenance of the bankrupt's family has been substantially reduced as a result of a substantial reduction in the monthly income earned by the bankrupt's spouse, and that reduction in income is not likely to be transient in nature;
- (c) the bankrupt is unable to pay the monthly contribution in full due to the personal circumstances of the bankrupt, including but not limited to a debilitating illness, which resulted in a substantial reduction in the bankrupt's income, and that reduction in income is not likely to be transient in nature.

(3) A certificate issued under subsection (1) takes effect on the date it is issued.

(4) A certificate issued under subsection (1) does not affect any payments made by the bankrupt in respect of the monthly contribution or target contribution prior to the date of issue of the certificate.

(5) The Official Assignee must, within 14 days after the issue of a certificate under subsection (1), serve a notice of the issue of the certificate on —

- (a) the bankrupt;

- (b) every creditor who has filed a proof of debt; and
- (c) in a case where the reduction is made before the expiry of the period referred to in section 88A(2), every creditor who is mentioned in the statement of the bankrupt's affairs but who has not filed a proof of debt.

(6) Where the bankruptcy is being administered by a trustee in bankruptcy, and the certificate under subsection (1) was issued by the trustee, the trustee must also serve the notice of the issue of the certificate, together with an explanation of the basis for issuing the certificate, on the Official Assignee.

*[Act 21 of 2015 wef 01/08/2016]*

### **Review by court of decision of Official Assignee under section 86D**

**86E.**—(1) Where a bankrupt or any creditor of the bankrupt is dissatisfied with the decision of the Official Assignee under section 86D(1), the bankrupt or the creditor (as the case may be) may, within 21 days after the service of the notice referred to in section 86D(5), apply to the court to review the decision.

(2) The court may, in any particular case, extend the period for the making of an application under subsection (1) if the court is satisfied that it is just to do so.

(3) An application under subsection (1) must be served, within 3 days after the date of filing, on the Official Assignee, who must forthwith —

- (a) serve a copy of the application on the bankrupt, unless the application was made by the bankrupt; and
- (b) give notice of the application to every creditor who was, under section 86D(5)(b) or (c), entitled to service of the notice referred to in section 86D(5) (except, where the application was made by a creditor, that creditor).

(4) On hearing an application under subsection (1), the court may —

- (a) confirm, vary or cancel the certificate under section 86D(1) in respect of which the application is brought; or

(b) give such directions to the Official Assignee, or make such order, as the court may think fit.

(5) Unless the court orders otherwise, a variation made under subsection (4)(a) of the certificate under section 86D(1) takes effect from the date of issue of the certificate.

(6) A variation of the certificate does not affect any payment made by the bankrupt, prior to the date of the variation, in respect of any reduced monthly contribution pursuant to the certificate.

(7) The Official Assignee must, within 14 days after a variation under subsection (4)(a) of the certificate under section 86D(1), serve a notice of the variation order on every person who was, under section 86D(5) or (6), entitled to service of the notice of the issue of the certificate.

*[Act 21 of 2015 wef 01/08/2016]*

### **Review by Official Assignee of administration by trustee in bankruptcy**

**86F.**—(1) A trustee in bankruptcy must, not later than one month after each relevant anniversary of the administration date for the bankruptcy, submit to the Official Assignee a report (in such form as may be prescribed) of the trustee's administration of the bankruptcy.

- (2) The report under subsection (1) is to contain particulars of —
- (a) the total amount of debts owed to creditors who have filed their proof of debt;
  - (b) the property of the bankrupt comprised in the bankruptcy estate and the status of the realisation of such property;
  - (c) the monthly contribution and target contribution for the bankruptcy;
  - (d) the payments that have been made by the bankrupt to the bankruptcy estate; and
  - (e) any other payments that have been made to the bankruptcy estate.

(3) Upon receipt of a report under subsection (1), if the Official Assignee is of the opinion that the monthly contribution and target

contribution determined by the trustee are excessive, the Official Assignee may issue a certificate reducing the monthly contribution and target contribution.

(4) In this section, “relevant anniversary”, in relation to the administration date for a bankruptcy, means —

- (a) in any case where the bankruptcy is a repeat bankruptcy, the seventh and every subsequent anniversary of the administration date; and
- (b) in any other case, the fifth and every subsequent anniversary of the administration date.

*[Act 21 of 2015 wef 01/08/2016]*

### *Proof of debts*

#### **Description of debts provable in bankruptcy**

**87.—**(1) Subject to this section and section 90, the following are provable in bankruptcy:

- (a) any debt or liability to which a bankrupt —
  - (i) is subject at the date of the bankruptcy order; or
  - (ii) may become subject before the bankrupt’s discharge by reason of any obligation incurred before the date of the bankruptcy order;
- (b) any interest payable by the bankrupt on any debt or liability referred to in paragraph (a) for any period before the date of the bankruptcy order.

*[Act 21 of 2015 wef 01/08/2016]*

(2) A person having notice of the making of a bankruptcy application shall not prove under the bankruptcy order made thereon for any debt or liability contracted by the bankrupt subsequently to the date of his so having notice.

*[42/2005]*

(3) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise, breach of trust, tort

or bailment, or an obligation to make restitution, are not provable in bankruptcy.

*[Act 21 of 2015 wef 01/08/2016]*

(3A) For the purposes of subsection (1), in determining whether any liability in tort is provable in bankruptcy, the bankrupt is deemed to be subject to that liability by reason of an obligation incurred at the time when the cause of action for that tort accrued.

*[Act 21 of 2015 wef 01/08/2016]*

(4) An estimate shall be made by the Official Assignee of the value of any debt or liability provable under this section 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.

(8) An amount payable under any order made by a court under any written law relating to the confiscation of the proceeds of crime shall be provable in bankruptcy.

### **Mutual credit and set-off**

**88.**—(1) Where there have been any mutual credits, mutual debts or other mutual dealings between a bankrupt and any creditor, the debts and liabilities to which each party is or may become subject as a result of such mutual credits, debts or dealings shall be set-off against each other and only the balance shall be a debt provable in bankruptcy.

(2) There shall be excluded from any set-off under subsection (1) any debt or liability of the bankrupt which —

- (a) is not a debt provable in bankruptcy; or
- (b) arises by reason of an obligation incurred at a time when the creditor had notice that a bankruptcy application relating to the bankrupt was pending.

[42/2005]

### **Creditors to file proof of debts within time limited**

**88A.**—(1) The Official Assignee must, not later than one month after the administration date for a bankruptcy, give notice, in such manner as may be prescribed, of the bankruptcy order and of the time within which creditors are required under subsection (2) to file their proof of debt, to —

- (a) every creditor mentioned in the statement of affairs or supplementary information (if any); and
- (b) every other person who, to the Official Assignee's knowledge, claims to be a creditor.

(2) Subject to subsections (3) and (4), a creditor cannot prove a debt in a bankruptcy unless the creditor files a proof in respect of the debt not later than 4 months after the administration date of the bankruptcy.

(3) The court may, on the application of a creditor made at any time, extend the period during which the creditor may prove a debt, if the court considers it just to do so.

(4) The Official Assignee may, on the application of a creditor made at any time, extend the period during which the creditor may prove a debt, if the Official Assignee is satisfied that —

- (a) the creditor did not know, and could not reasonably be expected to know, of the bankruptcy order before the expiry of the period referred to in subsection (2); or
- (b) the creditor could not reasonably be expected to prove the debt before the expiry of the period referred to in subsection (2).

[Act 21 of 2015 wef 01/08/2016]

## Rules as to proof of debts

**89.** With respect to the mode of proving debts, the right of proof by secured and other creditors, the admission and rejection of proofs and any other matters, the prescribed rules shall be observed.

## Priority of debts

**90.—(1)** Subject to this Act, in the distribution of the property of a bankrupt, there shall be paid in priority to all other debts —

(a) first, the costs and expenses of administration or otherwise incurred by the Official Assignee;

*[Act 21 of 2015 wef 01/08/2016]*

(aa) second, the costs of the applicant for the bankruptcy order (whether taxed or agreed) and the costs and expenses properly incurred by a nominee in respect of the administration of any voluntary arrangement under Part V;

*[Act 21 of 2015 wef 01/08/2016]*

(b) third, subject to subsection (2), all wages or salary (whether or not earned wholly or in part by way of commission) including any amount payable by way of allowance or reimbursement under any contract of employment or award or agreement regulating the conditions of employment of any employee;

*[Act 21 of 2015 wef 01/08/2016]*

(c) fourth, subject to subsection (2), the amount due to an employee as a retrenchment benefit or an ex gratia payment under any contract of employment or award or agreement that regulates the conditions of employment, whether such amount becomes payable before, on or after the date of the bankruptcy order;

*[Act 21 of 2015 wef 01/08/2016]*

(d) fifth, all amounts due in respect of any work injury compensation under the Work Injury Compensation Act (Cap. 354) accrued before, on or after the date of the bankruptcy order;

*[Act 21 of 2015 wef 01/08/2016]*

(e) sixth, all amounts due in respect of contributions payable, during a period of 12 consecutive months commencing not

earlier than 12 months before and ending not later than 12 months after the date of the bankruptcy order, by the bankrupt as the employer of any person under any written law relating to employees' superannuation or provident funds or under any scheme of superannuation which is an approved scheme under the Income Tax Act (Cap. 134);

*[Act 21 of 2015 wef 01/08/2016]*

- (f) seventh, all remuneration payable to any employee in respect of vacation leave, or in the case of his death, to any other person in his right, accrued in respect of any period before, on or after the date of the bankruptcy order;

*[Act 4 of 2015 wef 01/11/2015]*

*[Act 21 of 2015 wef 01/08/2016]*

- (g) eighth, the amount of all taxes assessed and any goods and services tax due under any written law before the date of the bankruptcy order or assessed at any time before the time fixed for the proving of debts has expired; and

*[42/2005,5/2008]*

*[Act 4 of 2015 wef 01/11/2015]*

*[Act 21 of 2015 wef 01/08/2016]*

- (h) ninth, all premiums (including interest and penalties for late payment) and other sums payable in respect of the bankrupt's insurance cover under the MediShield Life Scheme referred to in section 3 of the MediShield Life Scheme Act 2015 before the time fixed for the proving of debts has expired.

*[Act 4 of 2015 wef 01/11/2015]*

*[Act 21 of 2015 wef 01/08/2016]*

(2) The amount payable under subsection (1)(b) and (c) must not exceed such amount as the Minister may prescribe by order published in the *Gazette*.

*[Act 21 of 2015 wef 01/08/2016]*

(3) *[Deleted by Act 21 of 2015 wef 01/08/2016]*

(4) For the purposes of subsection (1)(b) and (c) —

“employee” means a person who has entered into or works under a contract of service with the bankrupt and includes a subcontractor of labour;



“wages or salary” includes —

- (a) all arrears of money due to a subcontractor of labour;
- (b) any amount payable to an employee on account of wages or salary during a period of notice of termination of employment or in lieu of notice of such termination, as the case may be, whether such amount becomes payable before, on or after the date of the bankruptcy order; and
- (c) any amount payable to an employee, on termination of his employment, as a gratuity under any contract of employment, or under any award or agreement that regulates the conditions of his employment, whether such amount becomes payable before, on or after the date of the bankruptcy order.

(5) For the purposes of subsection (1)(c) —

“ex gratia payment” means the amount payable to an employee on the bankruptcy of his employer or on the termination of his service by his employer on the ground of redundancy or by reason of any re-organisation of the employer, profession, business, trade or work, and “the amount payable to an employee” for these purposes means the amount stipulated in any contract of employment, award or agreement, as the case may be;

“retrenchment benefit” means the amount payable to an employee on the bankruptcy of his employer, on the termination of his service by his employer on the ground of redundancy or by reason of any re-organisation of the employer, profession, business, trade or work, and “the amount payable to an employee” for these purposes means the amount stipulated in any contract of employment, award or agreement, as the case may be, or if no amount is stipulated therein, such amount as is stipulated by the Commissioner for Labour or by an Employment Claims Tribunal constituted under section 4 of the State Courts Act (Cap. 321).

*[Act 21 of 2016 wef 01/04/2017]*

(6) The debts in each class specified in subsection (1) shall rank in the order therein specified but debts of the same class 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.

(7) Where any payment has been made to any employee of the bankrupt on account of wages, salary or vacation leave out of money advanced by a person for that purpose, the person by whom the money was advanced shall, in a bankruptcy, have a right of priority in respect of the money so advanced and paid, up to the amount by which the sum in respect of which the employee would have been entitled to priority in the bankruptcy has been diminished by reason of the payment, and shall have the same right of priority in respect of that amount as the employee would have had if the payment had not been made.

(8) Where any creditor has given any indemnity or made any payment of moneys by virtue of which any asset of the bankrupt has been recovered, protected or preserved, the court may make such order as it thinks just with respect to the distribution of such asset with a view to giving that creditor an advantage over other creditors in consideration of the risks run by him in so doing.

(9) Where an interim receiver has been appointed under section 73 before the making of the bankruptcy order, the date of the appointment shall, for the purposes of this section, be deemed to be the date of the bankruptcy order.

### **Payment of partnership debts**

**91.**—(1) 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.

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

(3) If there is 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.

**Right of landlord to distrain for rent**

**92.**—(1) The right of any landlord or other person to whom rent is payable to distrain upon the goods and effects of a bankrupt for rent due to him from the bankrupt shall, subject to subsection (5), be available against goods and effects comprised in the bankrupt's estate in respect only of 3 months' rent accrued due before the commencement of the bankruptcy.

(2) Where a landlord or other person to whom rent is payable has distrained for rent upon the goods and effects of an individual to whom a bankruptcy application relates and a bankruptcy order is subsequently made on that application, any amount recovered by way of that distress which —

- (a) is in excess of the amount which by virtue of subsection (1) would have been recoverable after the commencement of the bankruptcy; or
- (b) is in respect of rent for a period or part thereof after the distress was levied,

shall be held by the landlord or other person in trust for the bankrupt as part of his estate and the landlord or other person shall, upon being given notice by the Official Assignee to do so, make over to the Official Assignee the amount so held in trust by him for the bankrupt.

[42/2005]

(3) Where any person (whether or not a landlord or person entitled to rent) has distrained upon the goods or effects of an individual who is adjudged bankrupt before the end of the period of 3 months beginning with the distraint, so much of those goods or effects, or of the proceeds of their sale, as is not held by him in trust for the bankrupt under subsection (2) shall be charged for the benefit of the bankrupt's estate with the preferential debts of the bankrupt to the extent that the bankrupt's estate is for the time being insufficient for meeting those debts.

(4) Where by virtue of any charge under subsection (3) any person surrenders any goods or effects to the Official Assignee, that person shall rank, in respect of the amount of the proceeds of the sale of those goods or effects by the Official Assignee or, as the case may be, the amount of the payment, as a preferential creditor of the bankrupt,

except as against so much of the bankrupt's estate as is available for the payment of preferential creditors by virtue of the surrender or payment.

(5) A landlord or other person to whom rent is payable shall not be entitled at any time after the discharge of a bankrupt to distrain upon any goods or effects comprised in the bankrupt's estate.

(6) Any right to distrain against property comprised in a bankrupt's estate shall be exercisable notwithstanding that the property has vested in the Official Assignee.

(7) The provisions of this section are without prejudice to a landlord's right in a bankruptcy to prove for any debt due to him from the bankrupt in respect of rent.

### **Contracts to which bankrupt is party**

**93.**—(1) This section shall apply where a contract has been made with a person who is subsequently adjudged bankrupt.

(2) The court may, on the application of any other party to the contract, make an order discharging obligations under the contract on such terms as to payment by the applicant or the bankrupt of damages for non-performance or otherwise as appear to the court to be equitable.

(3) Any damages payable by the bankrupt by virtue of an order of the court under this section shall be a debt provable in bankruptcy.

(4) Where an undischarged bankrupt is a contractor in respect of any contract jointly with any person, that person may sue or be sued in respect of the contract without the joinder of the bankrupt.

### **Interest on debts**

**94.**—(1) Where interest on a debt was not previously reserved or agreed, interest is allowed on the debt at a rate not exceeding the prescribed rate of interest in the following circumstances:

- (a) in any case where the debt is due by virtue of a written instrument and payable at a certain time, interest is allowed for the period between that time and the date of the bankruptcy order;

- (b) in any other case, if a demand for payment was made in writing by or on behalf of the creditor before the making of the bankruptcy application, and notice was given that interest would be payable from the date of the demand to the date of the payment, interest is allowed for the period between the date of the demand and the date of the bankruptcy order.
- (2) For the purposes of distribution of dividend —
- (a) where a debt which has been proved in a bankruptcy includes interest, and the rate of such interest was previously agreed or reserved, the interest is calculated —
- (i) from the date the interest was payable to the date of the bankruptcy order; and
  - (ii) at the rate previously agreed or reserved, or at the prescribed rate of interest, whichever is the lower,
- without prejudice to the right of a creditor to receive out of the surplus of the estate, after all the debts proved in the bankruptcy have been paid in full, any higher interest in the manner provided for in section 121A; and
- (b) where a debt which has been proved in a bankruptcy includes interest, and the rate of such interest was not previously agreed or reserved, the interest is calculated —
- (i) from the date the interest was payable to the date of the bankruptcy order; and
  - (ii) at the prescribed rate of interest.
- (3) Interest on preferential debts rank equally with interest on other debts.
- (4) In this section, “interest” includes any pecuniary consideration in lieu of interest and any penalty or late payment charge by whatever name called.

*[Act 21 of 2015 wef 01/08/2016]*

*Composition or scheme of arrangement***Creditors may accept composition or scheme by special resolution**

**95.**—(1) Where a bankruptcy order has been made, the creditors who have proved their debts may, if they think fit —

- (a) at a general meeting of creditors; or
- (b) in writing,

by special resolution, resolve to accept 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.

[37/99]

(2) A meeting under subsection (1)(a) shall be summoned by the Official Assignee by not less than 21 days' notice.

[37/99]

(3) A special resolution in writing under subsection (1)(b) shall be sought by a notice from the Official Assignee giving the creditors 21 days to reply.

[37/99]

(4) Any notice under this section shall state generally the terms of the proposal and shall be accompanied by a report of the Official Assignee thereon.

[37/99]

(5) Where a special resolution is sought at a general meeting of creditors under subsection (1)(a), 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 3 days preceding the meeting, and a creditor so assenting or dissenting shall be taken as having been present and voting at that meeting.

[37/99]

(6) Where a special resolution is sought in writing under subsection (1)(b), any creditor who has proved his debt shall assent to or dissent from the composition or scheme by a letter addressed to the Official Assignee, and sent or posted so as to be received by the

Official Assignee not later than 21 days from the date of the Official Assignee's notice.

[37/99]

(7) The composition or scheme shall not be binding on the creditors unless the bankruptcy order to which it relates is discharged or annulled under section 95A.

[37/99]

[Act 21 of 2015 wef 01/08/2016]

(8) For the purposes of this section, "special resolution" means —

(a) in relation to a special resolution sought under subsection (1)(a), a resolution passed at a general meeting of creditors by a majority in number and at least three-fourths in value of the creditors who have proved their debts, taking those creditors who do not attend personally or by proxy at the meeting as having voted in favour of the resolution; and

(b) in relation to a special resolution sought under subsection (1)(b), a resolution approved in writing by a majority in number and at least three-fourths in value of the creditors who have proved their debts, taking those creditors who fail to assent to or dissent from the composition or scheme in writing as having assented to the resolution.

[37/99]

**Discharge or annulment of bankruptcy order by certificate of Official Assignee where composition or scheme accepted by creditors**

**95A.—**(1) Where a composition or scheme is accepted by the creditors by a special resolution under section 95, the Official Assignee may —

(a) discharge the bankrupt by issuing a certificate of discharge;  
or

- (b) if the composition or scheme is accepted by all creditors, annul the bankruptcy order by issuing a certificate of annulment.

*[Act 21 of 2015 wef 01/08/2016]*

(2) Notice of every discharge or annulment under subsection (1) shall be given to the Registrar and be published in the *Gazette* and advertised in any local newspaper.

*[37/99]*

*[Act 21 of 2015 wef 01/08/2016]*

(3) The Official Assignee shall, upon the application of a bankrupt or his creditor or any other interested person, issue to the applicant a copy of the certificate of discharge or certificate of annulment upon the payment of the prescribed fee.

*[37/99]*

*[Act 21 of 2015 wef 01/08/2016]*

(4) A certificate of discharge or certificate of annulment issued under subsection (1) shall be binding on all the creditors so far as it relates to any debts due to them from the bankrupt and provable in bankruptcy.

*[37/99]*

*[Act 21 of 2015 wef 01/08/2016]*

(5) *[Deleted by Act 19 of 2016 wef 01/10/2017]*

(6) The court may, on an application by the Official Assignee or any creditor, annul the composition or scheme by revoking the certificate of discharge or certificate of annulment (as the case may be), if —

(a) the bankrupt defaults in paying any instalment due under the composition or scheme; or

(b) the court is satisfied that —

(i) 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 bankrupt; or

(ii) the acceptance of the proposal by the creditors was obtained by fraud.

*[Act 21 of 2015 wef 01/08/2016]*



(6A) An annulment of the composition or scheme under subsection (6) does not affect the validity of any sale, disposition or payment duly made or thing duly done under or pursuant to the composition or scheme.

*[Act 21 of 2015 wef 01/08/2016]*

(7) Where the Official Assignee annuls a bankruptcy order under this section, any sale or other disposition of property, payment duly made or other things duly done by or under the authority of the Official Assignee or by the court shall be valid except that the property of the bankrupt shall revert to the bankrupt or, on an application by any person interested, vest in such person as the court may appoint and on such terms as the court may direct.

*[37/99]*

(8) The court may include in its order such supplemental provisions as may be authorised by the rules.

*[37/99]*

*[Act 21 of 2015 wef 01/08/2016]*

### **Effect of composition or scheme**

**96.** A composition or scheme accepted under section 95 shall not be binding on any creditor so far as regards a debt or liability from which, under this Act, the bankrupt would not be discharged by an order of discharge in bankruptcy unless the creditor assents to the composition or scheme.

*[37/99]*

### *Effect of bankruptcy on antecedent transactions*

### **Provisions as to second or subsequent bankruptcy, etc.**

**97.—(1)** Where a second or subsequent bankruptcy 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 second or subsequent bankruptcy or administration in bankruptcy (as the case may be).

*[Act 21 of 2015 wef 01/08/2016]*

(1A) For the purposes of subsection (1) —

- (a) any unsatisfied debts provable in the last preceding bankruptcy, which were under section 90(1) to be paid in priority to all other debts in that bankruptcy, continue to enjoy the same priority and the same rank in the order specified in section 90(1) in the second or subsequent bankruptcy or administration in bankruptcy; and
- (b) any unsatisfied debts of a class specified in section 90(1) in the last preceding bankruptcy rank equally with debts of the same class in the second or subsequent bankruptcy or administration in bankruptcy.

*[Act 21 of 2015 wef 01/08/2016]*

(2) Where a second or subsequent bankruptcy order is made against a bankrupt, or where an order is made for the administration 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 application was made 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 making of the subsequent application) vest in the Official Assignee on account of the subsequent bankruptcy or administration in bankruptcy, as the case may be.

*[42/2005]*

(3) Where the Official Assignee in any bankruptcy receives notice of a subsequent application in bankruptcy against the bankrupt or after his death of an application 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 application has been disposed of.

*[42/2005]*

(4) If on a subsequent application a bankruptcy order or an order for the administration of the estate in bankruptcy is made, the Official Assignee 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.

*[42/2005]*

(5) Where a second or subsequent bankruptcy order is made against a bankrupt —

- (a) section 108A(1) ceases to apply to the last preceding bankruptcy, with effect from the date of that order; and
- (b) section 125(2) does not apply to the last preceding bankruptcy for the duration of the second or subsequent bankruptcy.

*[Act 21 of 2015 wef 01/08/2016]*

*[Act 21 of 2015 wef 01/08/2016]*

### **Transactions at an undervalue**

**98.**—(1) Subject to this section and sections 100 and 102, where an individual is adjudged bankrupt and he has at the relevant time (as defined in section 100) entered into a transaction with any person at an undervalue, the Official Assignee may apply to the court for an order under this section.

(2) The court shall, on such an application, make such order as it thinks fit for restoring the position to what it would have been if that individual had not entered into that transaction.

(3) For the purposes of this section and sections 100 and 102, an individual enters into a transaction with a person at an undervalue if —

- (a) he makes a gift to that person or he otherwise enters into a transaction with that person on terms that provide for him to receive no consideration;
- (b) he enters into a transaction with that person in consideration of marriage; or
- (c) he enters into a transaction with that person for a consideration the value of which, in money or money's worth, is significantly less than the value, in money or money's worth, of the consideration provided by the individual.

### **Unfair preferences**

**99.**—(1) Subject to this section and sections 100 and 102, where an individual is adjudged bankrupt and he has, at the relevant time (as

defined in section 100), given an unfair preference to any person, the Official Assignee may apply to the court for an order under this section.

(2) The court shall, on such an application, make such order as it thinks fit for restoring the position to what it would have been if that individual had not given that unfair preference.

(3) For the purposes of this section and sections 100 and 102, an individual gives an unfair preference to a person if —

- (a) that person is one of the individual's creditors or a surety or guarantor for any of his debts or other liabilities; and
- (b) the individual does anything or suffers anything to be done which (in either case) has the effect of putting that person into a position which, in the event of the individual's bankruptcy, will be better than the position he would have been in if that thing had not been done.

(4) The court shall not make an order under this section in respect of an unfair preference given to any person unless the individual who gave the preference was influenced in deciding to give it by a desire to produce in relation to that person the effect mentioned in subsection (3)(b).

(5) An individual who has given an unfair preference to a person who, at the time the unfair preference was given, was an associate of his (otherwise than by reason only of being his employee) shall be presumed, unless the contrary is shown, to have been influenced in deciding to give it by such a desire as is mentioned in subsection (4).

(6) The fact that something has been done in pursuance of the order of a court does not, without more, prevent the doing or suffering of that thing from constituting the giving of an unfair preference.

### **Relevant time under sections 98 and 99**

**100.**—(1) Subject to this section, the time at which an individual enters into a transaction at an undervalue or gives an unfair preference shall be a relevant time if the transaction is entered into or the preference given —

- (a) in the case of a transaction at an undervalue —
  - (i) where the bankruptcy application on which the individual is adjudged bankrupt is based on a presumption referred to in section 62(d), within the period commencing 5 years before the day on which the relevant bankruptcy application is made and ending on the day of the making of the bankruptcy application on which the individual is adjudged bankrupt; or
  - (ii) in any other case, within the period of 5 years ending on the day of the making of the bankruptcy application on which the individual is adjudged bankrupt;
- (b) in the case of an unfair preference which is not a transaction at an undervalue and which is given to a person who is an associate of the individual (otherwise than by reason only of being his employee) —
  - (i) where the bankruptcy application on which the individual is adjudged bankrupt is based on a presumption referred to in section 62(d), within the period commencing 2 years before the day on which the relevant bankruptcy application is made and ending on the day of the making of the bankruptcy application on which the individual is adjudged bankrupt; or
  - (ii) in any other case, within the period of 2 years ending on the day of the making of the bankruptcy application on which the individual is adjudged bankrupt; or
- (c) in any other case of an unfair preference which is not a transaction at an undervalue —
  - (i) where the bankruptcy application on which the individual is adjudged bankrupt is based on a presumption referred to in section 62(d), within the period commencing 6 months before the day on

which the relevant bankruptcy application is made and ending on the day of the making of the bankruptcy application on which the individual is adjudged bankrupt; or

- (ii) in any other case, within the period of 6 months ending on the day of the making of the bankruptcy application on which the individual is adjudged bankrupt.

[42/2005; 6/2009]

(2) Where an individual enters into a transaction at an undervalue or gives an unfair preference at a time mentioned in subsection (1)(a), (b) or (c), that time is not a relevant time for the purposes of sections 98 and 99 unless the individual —

- (a) is insolvent at that time; or
- (b) becomes insolvent in consequence of the transaction or preference.

(3) Where a transaction is entered into at an undervalue by an individual with a person who is an associate of his (otherwise than by reason only of being his employee), the requirements under subsection (2) shall be presumed to be satisfied unless the contrary is shown.

(4) For the purposes of subsection (2), an individual shall be insolvent if —

- (a) he is unable to pay his debts as they fall due; or
- (b) the value of his assets is less than the amount of his liabilities, taking into account his contingent and prospective liabilities.

(5) In this section, “relevant bankruptcy application” means the bankruptcy application made against an individual that resulted in the debt repayment scheme referred to in section 62(d) in respect of that individual.

[6/2009]

**Meaning of “associate”**

**101.**—(1) For the purposes of sections 99, 100 and 102, any question whether a person is an associate of another person shall be determined in accordance with this section.

*[Act 21 of 2015 wef 01/08/2016]*

(2) A person is an associate of an individual if that person is the individual’s spouse, or is a relative, or the spouse of a relative of the individual or his spouse.

(3) A person is an associate of an individual with whom he is in partnership, and of the spouse or a relative of any individual with whom he is in partnership.

(4) A person is an associate of an individual whom he employs or by whom he is employed and for this purpose, any director or other officer of a company shall be treated as employed by that company.

(5) A person in his capacity as trustee of a trust is an associate of an individual if the beneficiaries of the trust include, or the terms of the trust confer a power that may be exercised for the benefit of, that individual or an associate of that individual.

(6) A company is an associate of an individual if that individual has control of it or if that individual and persons who are his associates together have control of it.

(7) For the purposes of this section, a person is a relative of an individual if he is that individual’s brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant, treating —

(a) any relationship of the half blood as a relationship of the whole blood and the step-child or adopted child of any person as his child; and

(b) an illegitimate child as the legitimate child of his mother and reputed father.

(8) References in this section to a spouse shall include a former spouse.

(9) For the purposes of this section, an individual shall be taken to have control of a company if —

- (a) the directors of the company or of another company which has control of it (or any of them) are accustomed to act in accordance with his directions or instructions; or
- (b) he is entitled to exercise, or control the exercise of, one-third or more of the voting power at any general meeting of the company or of another company which has control of it,

and where 2 or more persons together satisfy paragraph (a) or (b), they shall be taken to have control of the company.

(10) In this section, “company” includes any body corporate (whether incorporated in Singapore or elsewhere); and references to directors and other officers of a company and to voting power at any general meeting of a company shall have effect with any necessary modifications.

### **Orders under sections 98 and 99**

**102.**—(1) Without prejudice to the generality of sections 98(2) and 99(2), an order under either of those sections with respect to a transaction or preference entered into or given by an individual who is subsequently adjudged bankrupt may, subject to this section —

- (a) require any property transferred as part of the transaction, or in connection with the giving of the preference, to be vested in the Official Assignee;
- (b) require any property to be so vested if it represents in any person’s hands the application of the proceeds of sale of property so transferred or of money so transferred;
- (c) release or discharge (in whole or in part) any security given by the individual;
- (d) require any person to pay, in respect of benefits received by him from the individual, such sums to the Official Assignee as the court may direct;
- (e) provide for any surety or guarantor whose obligations to any person were released or discharged (in whole or in part) under the transaction or by the giving of the preference to be under such new or revived obligations to that person as the court thinks appropriate;



- (f) provide for security to be provided for the discharge of any obligation imposed by or arising under the order, for such an obligation to be charged on any property and for the security or charge to have the same priority as a security or charge released or discharged (in whole or in part) under the transaction or by the giving of the unfair preference; and
- (g) provide for the extent to which any person whose property is vested by the order in the Official Assignee, or on whom obligations are imposed by the order, is to be able to prove in the bankruptcy for debts or other liabilities which arose from, or were released or discharged (in whole or in part) under or by, the transaction or the giving of the unfair preference.

(2) An order under section 98 or 99 may affect the property of, or impose any obligation on, any person whether or not he is the person with whom the individual in question entered into the transaction or, as the case may be, the person to whom the unfair preference was given.

(3) An order under section 98 or 99 shall not —

- (a) prejudice any interest in property which was acquired from a person other than that individual and was acquired in good faith and for value, or prejudice any interest deriving from such an interest; or

*[Act 21 of 2015 wef 01/08/2016]*

- (b) require a person who received a benefit from the transaction or unfair preference in good faith and for value to pay a sum to the Official Assignee, except where he was a party to the transaction or the payment is to be in respect of an unfair preference given to that person at a time when he was a creditor of that individual.

*[Act 21 of 2015 wef 01/08/2016]*

(3A) For the purposes of subsection (3)(a) and (b), a person (called in this section the relevant person) who has acquired an interest in property from a person other than the individual in question, or who has received a benefit from the transaction or unfair preference, is presumed (unless the contrary is shown) to have acquired the interest

or received the benefit (as the case may be) otherwise than in good faith if, at the time of the acquisition or receipt —

- (a) the relevant person had notice of the relevant surrounding circumstances and of the relevant proceedings; or
- (b) the relevant person was an associate of, or was connected with —
  - (i) the individual in question; or
  - (ii) the person with whom the individual in question entered into the transaction, or to whom the individual gave the unfair preference, as the case may be.

*[Act 21 of 2015 wef 01/08/2016]*

(4) Any sums required to be paid to the Official Assignee in accordance with an order under section 98 or 99 shall be comprised in the bankrupt's estate.

(5) For the purposes of subsection (3A)(a), the relevant surrounding circumstances are —

- (a) the fact that the individual in question entered into the transaction at an undervalue; or
- (b) the circumstances which amounted to the giving of the unfair preference by the individual in question.

*[Act 21 of 2015 wef 01/08/2016]*

(6) For the purposes of subsection (3A)(a), the relevant person has notice of the relevant proceedings if the relevant person has notice of —

- (a) the making of the bankruptcy application on which the individual in question is adjudged bankrupt; or
- (b) the fact that the individual in question has been adjudged bankrupt.

*[Act 21 of 2015 wef 01/08/2016]*

(7) Despite section 101(1), for the purposes of subsection (3A)(b)(ii), a company is regarded as an associate of another company if —

- (a) the same person controls both companies;
- (b) a person controls one company and either an associate of that person controls, or that person and the associate control, the other company; or
- (c) each company is controlled by a group of 2 or more persons, and the groups —
  - (i) consist of the same persons; or
  - (ii) can be regarded as consisting of the same persons if (in one or more cases) a member of either group is replaced by an associate of that member.

*[Act 21 of 2015 wef 01/08/2016]*

(8) For the purposes of subsection (3A)(b), the relevant person is connected with a company if the relevant person —

- (a) is a director of the company; or
- (b) is an associate of —
  - (i) the company; or
  - (ii) a director of the company.

*[Act 21 of 2015 wef 01/08/2016]*

(9) In subsection (8), “director” has the same meaning as in section 4(1) of the Companies Act (Cap. 50).

*[Act 21 of 2015 wef 01/08/2016]*

### **Extortionate credit transactions**

**103.**—(1) This section shall apply where a person who is adjudged bankrupt is or has been a party to a transaction for or involving the provision to him of credit.

(2) The court may, on the application of the Official Assignee, make an order with respect to the transaction if the transaction is or was extortionate and was entered into within 3 years before the commencement of the bankruptcy.

(3) For the purposes of this section, a transaction shall be extortionate if, having regard to the risk accepted by the person providing the credit —

- (a) the terms of it are or were such as to require grossly exorbitant payments to be made (whether unconditionally or in certain contingencies) in respect of the provision of the credit; or
  - (b) it is harsh and unconscionable or substantially unfair,
- and it shall be presumed, unless the contrary is proved, that the transaction was extortionate.

(4) An order under this section may contain one or more of the following:

- (a) provision setting aside the whole or part of any obligation created by the transaction;
- (b) provision varying the terms of the transaction or varying the terms on which any security for the purposes of the transaction is held;
- (c) provision requiring any person who is or was party to the transaction to pay the Official Assignee any sums paid to that person;
- (d) provision requiring any person to surrender to the Official Assignee any property held by him as security for the purposes of the transaction;
- (e) provision directing accounts to be taken between any persons.

(5) Any sums or property required to be paid or surrendered to the Official Assignee in accordance with an order under this section shall be comprised in the bankrupt's estate.

### **Avoidance of general assignment of book debts**

**104.**—(1) This section shall apply where a person engaged in any business makes a general assignment to another person of his existing or future book debts, or any class of them, and is subsequently adjudged bankrupt.

(2) The assignment shall be void against the Official Assignee as regards book debts which were not paid before the making of the

bankruptcy application, unless the assignment has been registered under the Bills of Sale Act (Cap. 24).

[42/2005]

(3) For the purposes of this section —

“assignment” includes an assignment by way of security or charge on book debts;

“general assignment” does not include —

- (a) an assignment of book debts due at the date of the assignment from specified debtors or of debts becoming due under specified contracts; or
- (b) an assignment of book debts included either in a transfer of a business made in good faith and for value or in an assignment of assets for the benefit of creditors generally.

(4) For the purposes of registration under the Bills of Sale Act (Cap. 24), an assignment of book debts shall be treated as if it were a bill of sale given otherwise than by way of security for the payment of a sum of money.

(5) The provisions of the Bills of Sale Act with respect to the registration of bills of sale shall apply accordingly with such necessary modifications as may be made by rules under that Act.

### **Restriction of rights of creditor under execution or attachment**

**105.**—(1) Where the creditor of a bankrupt has issued execution against the goods or lands of the bankrupt or has attached any debt due or property belonging to him, the creditor 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 bankruptcy order, except that —

- (a) a person who purchases in good faith under a sale by the Sheriff any goods of a bankrupt on which an execution has been levied shall in all cases acquire a good title to them against the Official Assignee; and
- (b) the rights conferred by this subsection on the Official Assignee may be set aside by the court in favour of the

creditor to such extent and subject to such terms as the court may think fit.

- (2) For the purposes of this Act —
- (a) an execution against goods is completed by seizure and sale;
  - (b) an attachment of a debt is completed by receipt of the debt; and
  - (c) an execution against land or any interest therein is completed by registering under any written law relating to the registration of land a writ of seizure and sale attaching the interest of the bankrupt in the land described therein.

### **Duties of Sheriff as to property taken in execution**

**106.**—(1) Where any property of a debtor is taken in execution, then, if before the completion of the execution notice is given to the Sheriff that a bankruptcy 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.

(2) The costs of and incidental to the execution under subsection (1) shall be a first charge on the property or moneys, and the Official Assignee may sell the property or any adequate part thereof for the purpose of satisfying the charge.

(3) Where a writ of seizure and sale has been issued in respect of a judgment for a sum exceeding \$2,000, the Sheriff shall hold all moneys coming to his hands under the writ of seizure and sale for 14 days from the receipt thereof.

- (4) If within the time referred to in subsection (3) —
- (a) notice is served on the Sheriff of a bankruptcy application having been made against or by the debtor; and
  - (b) a bankruptcy order is made against the debtor thereon or on any other application 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.

[42/2005]

*Possession, control and realisation of bankrupt's property*

**Possession of property by Official Assignee**

**107.**—(1) The Official Assignee shall forthwith after the bankruptcy order take possession of —

(a) the deeds, books and documents which relate to the bankrupt's estate or affairs and which belong to him or are under his control; and

(b) 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 banker or agent of the bankrupt or any other person who holds any property to the account of, or for, the bankrupt shall pay and deliver to the Official Assignee all moneys and securities in his possession or under his control which he is not by law entitled to retain as against the bankrupt or the Official Assignee.

(6) Any person who fails to comply with subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

### **Seizure of bankrupt's property held by bankrupt or other person**

**108.**—(1) At any time after a bankruptcy order has been made, the Official Assignee or any person authorised by him may take an inventory of and seize any property comprised in the bankrupt's estate which is, or any books, papers or records relating to the bankrupt's estate or affairs which are, in the possession or under the control of the bankrupt or any other person who is required to deliver the property, books, papers or records to the Official Assignee.

(2) The Official Assignee or any person authorised by him may, for the purposes of taking an inventory of or seizing any property comprised in the bankrupt's estate or any books, papers or records relating to the bankrupt's estate or affairs, break open any premises where the bankrupt or anything that may be seized under subsection (1) is or is believed to be and any receptacle of the bankrupt which contains or is believed to contain anything that may be so seized.

(3) If, after a bankruptcy order has been made, the court is satisfied that any property comprised in the bankrupt's estate is, or any books, papers or records relating to the bankrupt's estate or affairs are, concealed in any premises not belonging to the bankrupt, the court may issue a warrant authorising any public officer to search those premises for the property, books, papers or records.

(4) A warrant under subsection (3) shall not be executed except in the prescribed manner and in accordance with its terms.

### **Payment of monthly contribution**

**108A.**—(1) Subject to subsection (2), a bankrupt who is not discharged must pay to the Official Assignee, on or before such day of each month as the Official Assignee may specify in writing, an amount not less than the bankrupt's monthly contribution.

(2) Where the target contribution for a bankruptcy has been paid in full, whether through payments by the bankrupt or otherwise, subsection (1) ceases to apply to the bankrupt.



(3) To avoid doubt, subsection (1) does not prevent any person other than the bankrupt from paying, to the Official Assignee, any amount towards the bankrupt's target contribution.

*[Act 21 of 2015 wef 01/08/2016]*

### **Appropriation of portion of pay or salary to creditors**

**109.**—(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, directs.

(2) Where a bankrupt is —

- (a) in receipt of a salary or income other than as mentioned in subsection (1); or
- (b) entitled to any half-pay, pension or compensation granted by the Government or any other employer,

the court shall, on the application of the Official Assignee, subject to any written law relating to pensions, make such order as it may think 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.

(3) Nothing in this section shall be deemed to abrogate the right of the Government to dismiss a bankrupt or to declare the half-pay, pension or compensation of any bankrupt to be forfeited.

(4) In fixing the amount to be received by the Official Assignee under this section, the court shall, without prejudice to subsection (5)(a) but subject to subsection (5)(b), have regard to the scale of appropriation of salary in any general rule made for the purposes of this section by the Minister under section 166.

*[Act 21 of 2015 wef 01/08/2016]*

(5) The court —

- (a) may, in its discretion, fix a larger or smaller amount than the amount provided in the scale; but

- (b) must not do any of the following:
- (i) order the payment, on a monthly basis out of the bankrupt's monthly income, of any amount which exceeds the bankrupt's monthly contribution;
  - (ii) order the payment of any amount which exceeds the difference between the bankrupt's target contribution and what has been paid towards the bankrupt's target contribution;
  - (iii) order the payment of any amount that is needed for the maintenance of the bankrupt and the bankrupt's family.

*[Act 21 of 2015 wef 01/08/2016]*

### **Disclaimer of onerous property**

**110.**—(1) Where any part of the property of the bankrupt consists of —

- (a) land of any tenure burdened with onerous covenants;
- (b) shares or stock in companies;
- (c) unprofitable contracts; or
- (d) 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 —

- (a) 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

- (b) discharge the Official Assignee from all personal liability in respect of the property disclaimed as from the date when the property vested in him.

(3) The disclaimer 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.

(4) The Official Assignee shall not be entitled to disclaim a lease without the leave of the court, except in any case which may be prescribed or where all persons interested in the property consent to the disclaimer.

(5) The court may, before or on granting leave —

- (a) require such notices to be given to persons interested and impose such terms as a condition of granting leave; and
- (b) make such orders with respect to fixtures, tenant's improvements and other matters arising out of the tenancy,

as the court thinks just.

(6) The Official Assignee shall not be entitled to disclaim any property, in pursuance of this section, in any case where —

- (a) 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
- (b) he has for a period of 21 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.

(7) 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.

(8) Any damages payable under the order made under subsection (7) to any person may be proved by him as a debt under the bankruptcy.

(9) The court may —

(a) on an 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;

(b) on hearing such persons as the court may think fit; and

(c) on such terms as the court may think just,

make an order for the vesting of the property in or delivery thereof to —

(i) any person entitled thereto;

(ii) any person to whom it seems just that the same should be delivered by way of compensation for such liability as aforesaid; or

(iii) a trustee for any person referred to in sub-paragraph (i) or (ii).

(10) On the vesting order being made under subsection (9), the property comprised therein shall vest accordingly in the person therein named in that behalf, without any conveyance or assignment for the purpose.

(11) 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 application was made.

*[42/2005]*

(12) 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.

(13) 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.

(14) Any person sustaining loss or damage by the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the loss or damage, and may accordingly prove the same as a debt under the bankruptcy.

### **Power of Official Assignee to deal with property**

**111.** Subject to this Act, the Official Assignee may —

- (a) sell all or any part of the property of a bankrupt, including the goodwill of his business, if any, and the book debts due or accruing due to him, by tender, public auction or private contract, with power to transfer the whole thereof to any person or to sell the same in parcels;
- (b) give receipts for any money received by him, being receipts which 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 power, the capacity to exercise which is vested in the Official Assignee under this Act, and execute any power of attorney, deeds and other instrument for the purpose of carrying into effect the provisions of this Act; and
- (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.

### **General powers of Official Assignee**

**112.** The Official Assignee may exercise any of the following powers:

- (a) carry on any business of the bankrupt so far as is necessary for winding it up beneficially;
- (b) bring, institute or defend any action or legal proceedings relating to the property of the bankrupt;
- (c) employ an advocate and 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 payable at a future time, subject to such stipulations as to security or 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, or 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; and

- (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.

### **Power to appoint special manager**

**113.**—(1) The Official Assignee may, if satisfied that the nature of the bankrupt'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, and with such powers, including any of the powers of a receiver, as are entrusted to him by the Official Assignee.

(2) The bankrupt may be appointed special manager.

(3) A special manager shall give such security and account in such manner as the Official Assignee may direct.

(4) The special manager shall receive such remuneration as the Official Assignee may determine.

### **Power to allow bankrupt to manage property**

**114.**—(1) The Official Assignee may appoint the bankrupt himself to superintend the management of his property or any part of the property, or to carry on his trade (if any) 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 may think 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.

(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.

**Re-direction of bankrupt's letters, etc.**

**115.**—(1) Where a bankruptcy order has been made, the Official Assignee may from time to time direct a postal licensee under the Postal Services Act (Cap. 237A) to re-direct and send or deliver to the Official Assignee or otherwise any postal article which would otherwise be sent or delivered by it to the bankrupt at such place or places as may be specified in the direction.

[42/99; 34/2007]

(2) A direction under this section shall have effect for such period, not exceeding 3 months, as may be specified in the direction.

**Power to impound passport, etc., of bankrupt**

**116.**—(1) The Official Assignee may, if he thinks it necessary for the purposes of ensuring that a bankrupt does not leave Singapore during the administration of his estate, issue a direction to the Controller of Immigration to request that the bankrupt be prevented from leaving Singapore.

(2) Subject to any order issued or made under any written law relating to banishment or immigration, the Controller of Immigration shall pursuant to the direction under subsection (1) take, or cause to be taken by any immigration officer, such measures as may be necessary to prevent the bankrupt named in the direction from leaving Singapore, including the detention of the bankrupt's passport, certificate of identity or travel document authorising the bankrupt to leave or enter Singapore.

(3) Where the Controller of Immigration has detained the passport, certificate of identity or other travel document of a bankrupt under subsection (2), the Controller shall forthwith forward the passport, certificate of identity or travel document to the Official Assignee.

(4) Notwithstanding subsections (1), (2) and (3), the Official Assignee may, if he thinks fit, detain any passport, certificate of identity or other travel document authorising the bankrupt to leave or enter Singapore.

(5) The Official Assignee may, if he thinks fit, retain or return to the bankrupt the passport, certificate of identity or travel document



forwarded to him by the Controller of Immigration under subsection (3) or detained by him under subsection (4).

### **Incurring expenses where property insufficient**

**116A.**—(1) Subject to this section and section 116B, the Official Assignee is not liable to incur any expense in relation to the realisation and distribution of a bankrupt's property unless there is sufficient available property in the bankrupt's estate.

(2) The court may, on the application of a creditor, direct the Official Assignee to incur a particular expense on condition that the creditor indemnifies the Official Assignee in respect of the recovery of the amount expended and, if the court so directs, gives such security to secure the amount of the indemnity as the court thinks reasonable.

(3) Nothing in this section relieves the Official Assignee of any obligation under section 86A, 86B, 86C, 86D, 86E or 86F.

(4) Nothing in this section relieves a trustee in bankruptcy of any obligation to submit or serve a document (including a report) to or on the Official Assignee under any provision of this Act by reason only that the trustee in bankruptcy would be required to incur expense in order to perform that obligation.

*[Act 21 of 2015 wef 01/08/2016]*

### **Official Assignee not to incur further expenses if majority in value of debts owed to institutional creditors**

**116B.**—(1) The Official Assignee is not liable to incur any expense in relation to the realisation and distribution of a bankrupt's property, other than expenses in relation to payments made towards the target contribution —

- (a) if, and only so long as, the relevant condition is met; and
- (b) if the Official Assignee has given to every creditor who has filed a proof of debt, a notice in writing in accordance with subsection (2).

(2) After the expiry of the time within which creditors are required under section 88A(2) to file their proof of debt, if the Official Assignee is satisfied that the relevant condition is met, the Official

Assignee may give to each of the bankrupt's creditors who has filed a proof of debt, a notice in writing —

- (a) informing the creditors that the Official Assignee is satisfied that the relevant condition is met;
- (b) informing the creditors that they may wish to consider making an application under section 33 for the appointment of a person other than the Official Assignee to act as the trustee of the bankrupt's estate; and
- (c) providing a summary of the administration of the bankrupt's estate that contains such particulars as may be prescribed.

(3) Nothing in this section relieves the Official Assignee of any obligation under section 86A, 86B, 86C, 86D, 86E, 86F or 88A.

(4) In this section —

“institutional creditor” has the same meaning as in section 33(3), except that the reference, in paragraph (c)(ii) of the definition of “institutional creditor” in section 33(3), to the date of the application for the bankruptcy order referred to in section 33(1A) is to be read as a reference to the date of the bankruptcy application on which the bankrupt was adjudged bankrupt;

“relevant condition” means a majority in value of the total debts of the bankrupt that have been proved (and are not withdrawn) are owed to one or more persons who are either an institutional creditor or a subsidiary of an institutional creditor.

*[Act 21 of 2015 wef 01/08/2016]*

### *Distribution of property*

#### **Distribution by means of dividend**

**117.**—(1) Whenever the Official Assignee has sufficient funds in hand for the purpose, he shall, subject to the retention of such sums as may be necessary for the expenses of the bankruptcy, declare and

distribute dividends among the creditors in respect of the debts which the creditors have respectively proved.

(2) The Official Assignee shall give notice of his intention to declare and distribute a dividend.

(3) Where the Official Assignee has declared a dividend, he shall give notice of the dividend and of how he proposes to distribute it.

(4) The notice given under subsection (3) shall contain the prescribed particulars of the bankrupt's estate.

(5) In the calculation and distribution of a dividend, the Official Assignee shall make provision —

(a) [*Deleted by Act 21 of 2015 wef 01/08/2016*]

(b) for any provable debt which is the subject of any claim which has not yet been determined; and

(c) for disputed proofs and claims.

(6) No dividend shall be paid to any creditor which does not amount to \$50.

[6/2009]

### **Claims by unsatisfied creditors**

**118.**—(1) A creditor who has not proved his debt before the declaration of any dividend shall not be entitled to disturb, by reason that he has not participated in it, the distribution of that dividend or any other dividend declared before his debt was proved.

(2) When a creditor has proved his debt, he shall be entitled to be paid out of any money for the time being available for the payment of any further dividend, any dividend or dividends which he has failed to receive.

(3) Any dividend or dividends payable under subsection (2) shall be paid before that money is applied to the payment of any such further dividend.

### **Final distribution**

**119.**—(1) When the Official Assignee has realised all the bankrupt's estate or so much of it as can, in the opinion of the Official Assignee,

be realised without needlessly protracting the proceedings in bankruptcy, he shall give notice in the prescribed manner of his intention to declare a final dividend.

(2) The notice under subsection (1) shall contain the prescribed particulars and shall require claims against the bankrupt's estate to be established by a date (referred to in this section as the final date) specified in the notice.

(3) The court may, on the application of any person, postpone the final date.

(4) After the final date, the Official Assignee shall —

- (a) defray any outstanding expenses of the bankruptcy out of the bankrupt's estate; and
- (b) if he intends to declare a final dividend, declare and distribute that dividend without regard to the claim of any person in respect of a debt not already proved in the bankruptcy.

### **Joint and separate dividends**

**120.**—(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.

(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 incidental 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.

### **No action for dividend**

**121.**—(1) No action for a dividend shall lie against the Official Assignee.

(2) If the Official Assignee refuses to pay any dividend, the court may, if it thinks fit, order the Official Assignee to pay the dividend, and also to pay out of the Consolidated Fund interest thereon for the period that it is withheld and the costs of the application to the court.

### **Payment of interest exceeding what is allowed under section 94 out of surplus**

**121A.**—(1) Where any amount remains after the debts and expenses of the bankruptcy have been paid (called in this section the surplus), the interest referred to in subsection (2) must be paid before the bankrupt is entitled under section 122 to any of the surplus.

(2) The surplus is to be paid towards interest in the following priority:

- (a) first, any higher rate of interest on a debt which any creditor may be entitled over and above the prescribed rate of interest referred to in section 94(1), from the date the interest was payable to the date of the bankruptcy order;
  - (b) second, interest on each debt proved in bankruptcy, from the date of the bankruptcy order to the date that debt was paid, calculated at such rate of interest as the creditor may be entitled under an agreement or, in the absence of any such agreement, at such rate as may be prescribed.
- (3) For the purposes of subsection (2) —
- (a) interest on preferential debts rank equally with interest on other debts;
  - (b) interest of the same class rank equally between themselves; and
  - (c) if the surplus is insufficient to pay all interest of the same class, the interest in that class is to abate in equal proportions between themselves.

*[Act 21 of 2015 wef 01/08/2016]*

### **Right of bankrupt to surplus**

**122.**—(1) 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 application.

[42/2005]

(2) Notwithstanding subsection (1), the court may make an order directing the Official Assignee not to pay the surplus or part thereof to the bankrupt if —

- (a) the Attorney-General applies for an order under this section; and
- (b) the court is satisfied that —
  - (i) proceedings under any written law dealing with confiscation of the proceeds of crime are pending; and
  - (ii) the property of the bankrupt may become subject to a confiscation order or be required to meet some other order made on those proceedings.

(3) The court may, on an application, vary or revoke an order made under subsection (2).

## PART VIII

### ANNULMENT AND DISCHARGE

#### **Court's power to annul bankruptcy order**

**123.**—(1) The court may annul a bankruptcy order if it appears to the court that —

- (a) on any ground existing at the time the order was made, the order ought not to have been made;
- (b) to the extent required by the rules, both the debts and the expenses of the bankruptcy have all, since the making of the order, either been paid or secured for to the satisfaction of the court;
- (c) proceedings are pending in Malaysia for the distribution of the bankrupt's estate and effects amongst the creditors under the bankruptcy law of Malaysia and that the distribution ought to take place there; or

- (d) a majority of the creditors in number and value are resident in Malaysia, and that from the situation of the property of the bankrupt or for other causes his estate and effects ought to be distributed among the creditors under the bankruptcy law of Malaysia.

[9/2003]

(1A) An application to annul a bankruptcy order under subsection (1)(a) must be made to the court within 12 months after the making of the bankruptcy order, unless the court gives leave for the application to be made later.

[Act 21 of 2015 wef 01/08/2016]

(2) The court may annul a bankruptcy order whether or not the bankrupt has been discharged from the bankruptcy.

(3) Where a court annuls a bankruptcy order under this section, any sale or other disposition of property, payment made or other things duly done by or under the authority of the Official Assignee or by the court shall be valid except that the property of the bankrupt shall vest in such person as the court may appoint or, in default of any such appointment, revert to the bankrupt on such terms as the court may direct.

(4) The court may include in its order such supplemental provisions as may be authorised by the rules.

### **Annulment of bankruptcy order by certificate of Official Assignee where debts and expenses fully paid**

**123A.**—(1) The Official Assignee may issue a certificate annulling a bankruptcy order if it appears to the Official Assignee that, to the extent required by the rules, the debts which have been proved and the expenses of the bankruptcy have all, since the making of the order, been paid.

[37/99]

(2) Notice of every certificate of annulment under subsection (1) shall be given to the Registrar and be published in the *Gazette* and advertised in any local newspaper.

[37/99]

(3) The Official Assignee shall, upon an application of a bankrupt or his creditor, issue to the applicant a copy of the certificate of annulment upon the payment of the prescribed fee.

[37/99]

[Act 21 of 2015 wef 01/08/2016]

(4) A certificate of annulment issued under subsection (1) shall be binding on all the creditors so far as it relates to any debts due to them from the bankrupt and provable in bankruptcy.

[37/99]

(5) Where the Official Assignee annuls a bankruptcy order under this section, any sale or other disposition of property, payment made or other things duly done by or under the authority of the Official Assignee or by the court shall be valid except that the property of the bankrupt shall revert to the bankrupt or, on an application by any person interested, vest in such person as the court may appoint and on such terms as the court may direct.

[37/99]

(6) The court may include in its order such supplemental provisions as may be authorised by the rules.

[37/99]

### **Discharge by court**

**124.**—(1) The Official Assignee, the bankrupt or any other person having an interest in the matter may, at any time after the making of a bankruptcy order, apply to the court for an order of discharge.

(2) Every such application shall be served on each creditor who has filed a proof of debt and on the Official Assignee if he is not the applicant, and the court shall hear the Official Assignee and any creditor before making an order of discharge.

(3) Subject to subsection (4), on an application under this section, the court may —

- (a) refuse to discharge the bankrupt from bankruptcy;
- (b) make an order discharging him absolutely; or
- (c) make an order discharging him subject to such conditions as it thinks fit to impose, including conditions with respect to —



- (i) any income which may be subsequently due to him;  
or
- (ii) any property devolving upon him, or acquired by him, after his discharge,

as may be specified in the order.

(4) Where the bankrupt has committed an offence under this Act or under section 421, 422, 423 or 424 of the Penal Code (Cap. 224) or upon proof of any of the facts mentioned in subsection (5), the court shall —

- (a) refuse to discharge the bankrupt from bankruptcy;
- (b) make an order discharging him subject to his paying a dividend to his creditors of not less than 25% or to the payment of any income which may be subsequently due to him or with respect to property devolving upon him, or acquired by him, after his discharge, as may be specified in the order, and to such other conditions as the court may think fit to impose; or
- (c) if it is satisfied that the bankrupt is unable to fulfil any condition specified in paragraph (b) and if it thinks fit, make an order discharging the bankrupt subject to such conditions as the court may think fit to impose.

(5) The facts referred to in subsection (4) are —

- (a) that the bankrupt has omitted to keep such books of accounts 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 may consider 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 proceedings properly brought or instituted against him;
- (f) that the bankrupt has, within 3 months immediately preceding the date of the bankruptcy order, when unable to pay his debts as they became 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 an 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 bankruptcy 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 20% 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 20% of his unsecured liabilities has arisen from circumstances for or in respect of which he cannot firstly be held blamable;
- (k) that the bankrupt has entered into a transaction with any person at an undervalue within the meaning of section 98;
- (l) that the bankrupt has given an unfair preference to any person within the meaning of section 99; and
- (m) that the bankrupt has made a general assignment to another person of his book debts within the meaning of section 104.

(6) The court may, at any time before an order of discharge takes effect, rescind or vary the order.

### **Discharge by certificate of Official Assignee**

**125.**—(1) The Official Assignee may, in his discretion and subject to section 126, issue a certificate discharging a bankrupt from bankruptcy.

(2) The Official Assignee must not issue a certificate discharging a bankrupt from bankruptcy under subsection (1) unless —

(a) in any case where the bankruptcy is not a repeat bankruptcy of the bankrupt —

(i) both of the following apply:

(A) the target contribution has been paid in full, or the Official Assignee is satisfied that the bankrupt is unable to pay the target contribution in full due to extenuating circumstances;

(B) either —

(BA) a period of 3 years has lapsed after the administration date of the bankruptcy, and no objection to the discharge is entered by the relevant threshold of creditors; or

(BB) a period of 5 years has lapsed after the administration date of the bankruptcy; or

(ii) a period of 7 years has lapsed after the administration date of the bankruptcy; or

(b) in any case where the bankruptcy is a repeat bankruptcy of the bankrupt —

(i) both of the following apply:

(A) the target contribution has been paid in full, or the Official Assignee is satisfied that the

bankrupt is unable to pay the target contribution in full due to extenuating circumstances;

(B) either —

(BA) a period of 5 years has lapsed after the administration date of the bankruptcy, and no objection to the discharge is entered by the relevant threshold of creditors; or

(BB) a period of 7 years has lapsed after the administration date of the bankruptcy; or

(ii) a period of 9 years has lapsed after the administration date of the bankruptcy.

*[Act 21 of 2015 wef 01/08/2016]*

(3) Notice of every discharge under subsection (1) shall be given to the Registrar and be published in the *Gazette* and advertised in any local newspaper.

(4) The Official Assignee —

(a) must, upon the application of a bankrupt, any creditor of the bankrupt or any other interested person, and upon the payment of the prescribed fee, issue to the applicant a copy of the certificate discharging the bankrupt from bankruptcy; but

(b) must not issue any copy of such certificate to any person except the bankrupt, where —

(i) the bankrupt's target contribution was paid in full before the bankrupt's discharge from bankruptcy; and

(ii) 5 years have lapsed after the date of discharge.

*[Act 21 of 2015 wef 01/08/2016]*

(5) For the purposes of calculating the periods of time referred to in subsection (2), there must be disregarded any period —

(a) during which the bankrupt was outside Singapore; and

- (b) for which the bankrupt did not obtain the Official Assignee's permission to leave, remain or reside outside Singapore.

*[Act 21 of 2015 wef 01/08/2016]*

(6) In this section —

“extenuating circumstances” means any of the following circumstances:

- (a) the death of the bankrupt;
- (b) any personal circumstances of the bankrupt (including, but not limited to, debilitating illness) that prevent the bankrupt from earning a meaningful salary for the remaining period of the bankruptcy before the expiry of —
  - (i) where the bankruptcy is not a repeat bankruptcy of the bankrupt, the period referred to in subsection (2)(a)(ii); or
  - (ii) where the bankruptcy is a repeat bankruptcy of the bankrupt, the period referred to in subsection (2)(b)(ii);

“relevant threshold of creditors” means not less than half in number or more than one-fourth in value or both of the creditors who have proved their debts.

*[Act 21 of 2015 wef 01/08/2016]*

### **Objection by creditor to discharge of bankrupt under section 125**

**126.**—(1) Before issuing a certificate of discharge under section 125 in respect of any bankruptcy administered by the Official Assignee, the Official Assignee shall serve on each creditor who has filed a proof of debt a notice of his intention to discharge the bankrupt, together with a statement of his reasons for wanting to do so.

*[Act 21 of 2015 wef 01/08/2016]*

(2) A creditor who has been served with a notice under subsection (1) and who wishes to enter an objection to the Official Assignee issuing a certificate discharging the bankrupt may, within 21

days from the date of the Official Assignee's notice, furnish the Official Assignee a statement of the grounds of his objection.

(3) A creditor who does not furnish to the Official Assignee a statement of the grounds of his objection in accordance with subsection (2) shall be deemed to have no objection to the discharge.

(4) A creditor who has furnished the Official Assignee with a statement of the grounds of his objection in accordance with subsection (2) may, within 21 days of being informed by the Official Assignee that his objection has been rejected, make an application to the court for an order prohibiting the Official Assignee from issuing a certificate of discharge.

(5) Every application under subsection (4) shall be served on the Official Assignee and on the bankrupt and the court shall hear the Official Assignee and the bankrupt before making an order on the application.

(5A) Before requesting the Official Assignee to issue a certificate of discharge under section 125, a trustee in bankruptcy administering a bankrupt's estate must serve, on each creditor who has filed a proof of debt, a notice of the trustee's intention to request the Official Assignee to discharge the bankrupt, together with a statement of the trustee's reasons why the bankrupt ought to be discharged.

*[Act 21 of 2015 wef 01/08/2016]*

(5B) A creditor who has been served with a notice under subsection (5A) and who wishes to enter an objection to the Official Assignee issuing a certificate discharging the bankrupt may, within 21 days after the date of the trustee's notice, furnish to the trustee a statement of the grounds of the creditor's objection.

*[Act 21 of 2015 wef 01/08/2016]*

(5C) A creditor who does not furnish to the trustee a statement of the grounds of the creditor's objection in accordance with subsection (5B) is deemed to have no objection to the discharge.

*[Act 21 of 2015 wef 01/08/2016]*

(5D) A creditor who has furnished the trustee with a statement of the grounds of the creditor's objection in accordance with subsection (5B) may, within 21 days after being informed by the trustee that the creditor's objection has been rejected, make an application to the court

for an order prohibiting the Official Assignee from issuing a certificate of discharge.

*[Act 21 of 2015 wef 01/08/2016]*

(5E) Every application under subsection (5D) must be served on the Official Assignee, the trustee and the bankrupt, and the court must hear the Official Assignee, the trustee and the bankrupt before making an order on the application.

*[Act 21 of 2015 wef 01/08/2016]*

(6) On an application made under subsection (4) or (5D), the court may, if it thinks it just and expedient —

- (a) dismiss the application;
- (b) subject to subsections (8) and (9), make an order that the bankrupt shall not be granted a certificate of discharge by the Official Assignee for a period not exceeding 2 years; or

*[Act 21 of 2015 wef 01/08/2016]*

- (c) make an order permitting the Official Assignee to issue a certificate discharging the bankrupt but subject to such conditions as the court may think fit to impose, including conditions with respect to —

- (i) any income which may be subsequently due to the bankrupt after his discharge; or
- (ii) any property devolving upon the bankrupt, or acquired by him, after his discharge,

as may be specified in the order.

*[Act 21 of 2015 wef 01/08/2016]*

(7) The court must, when making an order under subsection (6)(b) on an application under subsection (4), appoint a trustee in bankruptcy to administer the bankrupt's estate in place of the Official Assignee.

*[Act 21 of 2015 wef 01/08/2016]*

(8) Subject to subsection (9), an order made under subsection (6)(b) must not postpone the grant of the certificate of discharge beyond —

- (a) in any case where the bankruptcy is not a repeat bankruptcy of the bankrupt, 9 years after the administration date of the bankruptcy; or

- (b) in any case where the bankruptcy is a repeat bankruptcy of the bankrupt, 11 years after the administration date of the bankruptcy.

*[Act 21 of 2015 wef 01/08/2016]*

(9) When making an order under subsection (6)(b), the court may, in an exceptional case, postpone the grant of the certificate of discharge beyond the period referred to in subsection (8)(a) or (b), but not beyond the period referred to in subsection (6)(b), if the court, having regard to the conduct of the bankrupt, considers it just to do so.

*[Act 21 of 2015 wef 01/08/2016]*

(10) For the purposes of calculating the periods of time referred to in subsection (8), there must be disregarded any period —

- (a) during which the bankrupt was outside Singapore; and
- (b) for which the bankrupt did not obtain the Official Assignee's permission to leave, remain or reside outside Singapore.

*[Act 21 of 2015 wef 01/08/2016]*

### **Effect of discharge**

**127.**—(1) Subject to this section and any condition imposed by the court under section 124 or 126, where a bankrupt is discharged, the discharge shall release him from all his debts provable in the bankruptcy but shall have no effect —

- (a) on the functions (so far as they remain to be carried out) of the Official Assignee; or
- (b) on the operation, for the purposes of the carrying out of those functions, of the provisions of this Act.

(2) Discharge shall not release the bankrupt from —

- (a) any debt due to the Government;

*[Act 4 of 2015 wef 01/11/2015]*

- (b) any debt with which the bankrupt may be chargeable at the suit of —



- (i) the Government or any other person for any offence under any written law relating to any branch of the public revenue; or
- (ii) the Sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence; and  
*[Act 4 of 2015 wef 01/11/2015]*
- (c) a debt in respect of any premium (including interest and penalties for late payment) and other sums due under the MediShield Life Scheme Act 2015.  
*[Act 4 of 2015 wef 01/11/2015]*

(3) A bankrupt may be discharged from any debt referred to in subsection (2) only by a certificate in writing of the Minister.

(4) Discharge shall not affect the right of any secured creditor of the bankrupt to enforce his security for the payment of a debt from which the bankrupt is released.

(5) Discharge shall not release the bankrupt from —

- (a) any provable debt which he incurred in respect of, or forbearance in respect of which was secured by means of, any fraud or fraudulent breach of trust to which he was party; or
- (b) any liability in respect of a fine imposed for an offence.

(6) Discharge shall not, except to such extent and on such conditions as the court may direct, release the bankrupt from any debt which has been proved and which —

- (a) consists in a liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other duty, being damages in respect of personal injuries to any person;
- (b) arises under any order made in proceedings under the Women's Charter (Cap. 353) relating to family matters; or
- (c) arises under an order involving pecuniary liability made under any written law relating to the confiscation of the proceeds of crime.

(7) Discharge shall not release any person other than the bankrupt from any liability (whether as partner or co-trustee of the bankrupt or otherwise) from which the bankrupt is released by the discharge, or from any liability as surety for the bankrupt or as a person in the nature of such a surety.

(8) For the purpose of subsection (6), “personal injuries” includes death and any disease or other impairment of a person’s physical or mental condition.

### **Discharged bankrupt to give assistance**

**128.**—(1) A discharged bankrupt shall, notwithstanding his discharge, give assistance as the Official Assignee requires in the realisation and distribution of such of his property as is vested in the Official Assignee.

(2) If the discharged bankrupt fails to give assistance to the Official Assignee under subsection (1) —

- (a) he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000; and
- (b) the court may, 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.

## PART IX

### DUTIES, DISQUALIFICATION AND DISABILITIES OF BANKRUPT

#### **Duties of bankrupt**

**129.**—(1) A bankrupt shall, in addition to any other duty specified in this Act —

- (a) make discovery of and deliver all his property that is under his possession or control to the Official Assignee;
- (b) deliver to the Official Assignee all books, records, documents, writings and papers including (without restricting the generality of the foregoing), any

documents or deeds of title, insurance policies and tax records and returns and copies thereof in any way relating to his property or affairs;

- (c) at such time and place as may be fixed by the Official Assignee, attend before the Official Assignee and answer such questions as the Official Assignee may put to him with respect to his affairs, dealings and property and the causes of his failure;
  - (d) make or give all the assistance within his power to the Official Assignee in making an inventory of his assets;
  - (e) make disclosure to the Official Assignee of all property disposed of within such time preceding his bankruptcy as the Official Assignee may require, and how and to whom and for what consideration any part thereof was disposed of except such part as had been disposed of in the ordinary manner of trade or used for reasonable personal expenses;
  - (f) make disclosure to the Official Assignee of all property disposed of by gift or settlement without adequate valuable consideration within the 5 years immediately preceding his bankruptcy;
  - (g) attend any meeting of his creditors as may be convened by the Official Assignee under section 79, unless prevented by sickness or other sufficient cause and submit thereat to examination;
  - (h) when required, attend such other meetings of his creditors;
  - (i) aid the Official Assignee in the realisation of the bankrupt's property and the distribution of the proceeds among the bankrupt's creditors;
- [Act 21 of 2015 wef 01/08/2016]*
- (j) execute such powers of attorney, conveyances, deeds and instruments as may be required by the Official Assignee;
  - (k) examine the correctness of all proofs of claims filed, if required by the Official Assignee;

- (l) in case any person has to his knowledge filed a false claim, disclose the fact immediately to the Official Assignee;
- (la) disclose to the Official Assignee any matter in respect of which the bankrupt is or may become a defendant or respondent in proceedings (including criminal proceedings), to such extent as the Official Assignee may require;

*[Act 21 of 2015 wef 01/08/2016]*

- (m) generally do all such acts and things in relation to his property and the distribution of the proceeds among his creditors as may be reasonably required by the Official Assignee or prescribed by the rules or directed by the court by any order on any application by the Official Assignee or by any of his creditors; and
- (n) until he has been discharged from bankruptcy, keep the Official Assignee advised at all times of his place of residence or address.

*[6/2004]*

(2) Where a bankrupt has changed his residential address and has made a report of the change under section 8 of the National Registration Act (Cap. 201) —

- (a) he shall be deemed to have informed the Official Assignee of the change of his residential address in compliance with subsection (1)(n); and
- (b) the new residential address as reported by him under section 8 of the National Registration Act shall, unless he informs the Official Assignee in writing to the contrary, be deemed to be his last known address for the purpose of subsection (3).

*[6/2004]*

(3) Any notice or process given to or served upon the bankrupt at his last known address shall be deemed to have been duly given or served and shall be conclusive evidence of the fact of service.

*[6/2004]*

**Disqualification of bankrupt**

**130.**—(1) In addition to any disqualification under any other written law, a bankrupt shall be disqualified from being appointed or acting as a trustee or personal representative in respect of any trust, estate or settlement, except with leave of the court.

(2) Any disqualification to which a bankrupt is subject under this section shall cease when —

- (a) the bankruptcy order against him is annulled or rescinded;  
or
- (b) he is discharged under Part VIII.

(3) Any person who acts as a trustee or personal representative while he is disqualified by virtue of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

**Disabilities of bankrupt**

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

- (a) unless the bankrupt has obtained the previous sanction of the Official Assignee, the bankrupt is incompetent to commence, continue or defend —
  - (i) any action other than —
    - (A) an action for damages in respect of any injury to the bankrupt's person; or
    - (B) a matrimonial proceeding; or
  - (ii) any appeal arising from any action referred to in sub-paragraph (i); and

*[Act 21 of 2015 wef 01/08/2016]*

- (b) he shall not leave, remain or reside outside Singapore without the previous permission of the Official Assignee.

(1A) Despite subsection (1)(a), the bankrupt must notify the Official Assignee of any proceedings referred to in subsection (1)(a)(i)(A) or (B), or any appeal arising from any such proceedings, not later than 3

days before commencing, continuing or defending the proceedings or appeal, as the case may be.

*[Act 21 of 2015 wef 01/08/2016]*

(2) A bankrupt who fails to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

(3) In this section —

“action” and “proceedings” include arbitration;

“matrimonial proceeding” means —

- (a) a proceeding under Part VIII, IX or X of the Women’s Charter (Cap. 353); or
- (b) a proceeding referred to in section 35(2)(a), (b), (c), (d) or (e) or 35A of the Administration of Muslim Law Act (Cap. 3).

*[Act 21 of 2015 wef 01/08/2016]*

## PART X

### BANKRUPTCY OFFENCES

#### **Interpretation of this Part**

**132.** In this Part —

- (a) references to property comprised in the bankrupt’s estate or to property possession of which is required to be delivered up to the Official Assignee shall include references to any property mentioned in section 78(1);
- (b) “initial period” means the period between the making of the bankruptcy application by or against a debtor and the commencement of his bankruptcy;
- (c) a reference to a number of months or years before the making of a bankruptcy application shall be read as a reference to that period ending with the making of the bankruptcy application; and

- (d) “Official Assignee” includes a trustee in bankruptcy appointed under section 33.

[42/2005]

### **Powers of investigation**

**132A.**—(1) For the purpose of investigating any offence under this Act, the Official Assignee or any officer authorised by the Official Assignee (called in this section an authorised officer) may do all or any of the following:

- (a) require, by notice in writing, any person who appears to be acquainted with the facts and circumstances relating to the offence to attend before the Official Assignee or authorised officer (as the case may be) on such date and at such time as may be specified in the notice;
- (b) examine any person who appears to be acquainted with the facts and circumstances relating to the offence, and require that person to answer such questions relating to the offence as may be posed by the Official Assignee or authorised officer (as the case may be);
- (c) require any person to furnish any information, or produce any book, document or copy of a book or document, which may relate to the offence, that is in the possession of that person and, without payment, inspect, keep, copy, photograph or take extracts from any such book, document or copy.

(2) A statement made by any person examined under this section must —

- (a) be reduced to writing;
- (b) be read over to that person;
- (c) if that person does not understand English, be interpreted to that person in a language which that person understands; and
- (d) after correction, if necessary, be signed by that person.

(3) Any person who, without reasonable excuse, does any of the following shall be guilty of an offence and shall be liable on

conviction to a fine not exceeding \$1,500 or to imprisonment for a term not exceeding one month or to both:

- (a) fails to attend before the Official Assignee or an authorised officer as required by a notice under subsection (1)(a);
- (b) fails to furnish any information, or produce any book, document or copy of a book or document, in that person's possession as required under subsection (1)(c).

(4) Any person who, without reasonable excuse, fails to answer any question posed to that person as required under subsection (1)(b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$3,000 or to imprisonment for a term not exceeding 6 months or to both.

*[Act 21 of 2015 wef 01/08/2016]*

### **Defence of innocent intention**

**133.**—(1) In the case of an offence under any provision of this Part, other than sections 135(e), 137, 140(2), 142, 143 and 145, a person shall not be guilty of the offence if he proves that, at the time of the conduct constituting the offence, he had no intent to defraud or to conceal the state of his affairs.

*[Act 21 of 2015 wef 01/08/2016]*

(2) An individual who is a bankrupt is not guilty of any offence under section 135(a), (b) or (d), 136(a), (b), (c), (d) or (e), 139(a) or 141(1)(a), (b) or (c) if the individual proves that, at the time of the conduct constituting the offence, the individual did not know or have any reason to believe that the individual had been made a bankrupt.

*[Act 21 of 2015 wef 01/08/2016]*

### **Non-disclosure**

**134.**—(1) A bankrupt shall be guilty of an offence if —

- (a) he does not to the best of his knowledge and belief disclose to the Official Assignee all the property comprised in his estate; or
- (b) he does not inform the Official Assignee of any disposal of any property which, but for the disposal, would be



comprised in his estate, stating how, when, to whom and for what consideration the property was disposed of.

(2) Subsection (1)(b) shall not apply to any disposal of property in the ordinary course of a business carried on by the bankrupt or to any payment of the ordinary expenses of the bankrupt or his family.

### **Concealment of property**

**135.** A bankrupt shall be guilty of an offence if —

- (a) he does not deliver up possession to the Official Assignee, or as the Official Assignee may direct, of such part of the property comprised in his estate as is in his possession or under his control of which he is required by law to deliver up;
- (b) he conceals any debt due to or from him or conceals any property the value of which is not less than \$1,000 (or such higher amount as may be prescribed) and possession of which he is required to deliver up to the Official Assignee;  
*[Act 21 of 2015 wef 01/08/2016]*
- (c) in the 12 months before the making of the bankruptcy application by or against him, or in the initial period, he did anything which would have been an offence under paragraph (b) if the bankruptcy order against him had been made immediately before he did it;
- (d) he removes, or in the initial period removed, any property the value of which is or was not less than \$1,000 (or such higher amount as may be prescribed) and possession of which he is or would have been required to deliver up to the Official Assignee; or  
*[Act 21 of 2015 wef 01/08/2016]*
- (e) he without reasonable excuse fails, on being required to do so by the Official Assignee or the court —
  - (i) to account for the loss of any substantial part of his property incurred in the 12 months before the making of the bankruptcy application by or against him or in the initial period; or

- (ii) to give a satisfactory explanation of the manner in which such a loss was incurred.

[42/2005]

### **Concealment of books and papers; falsification, etc.**

**136.** A bankrupt shall be guilty of an offence if —

- (a) he does not deliver up possession to the Official Assignee, or as the Official Assignee may direct, of all books, papers and other records of which he has possession or control and which relate to his estate or affairs;
- (b) he prevents, or in the initial period prevented, the production of any books, papers or records relating to his estate or affairs;
- (c) he conceals, destroys, mutilates or falsifies, or causes or permits the concealment, destruction, mutilation or falsification of, any books, papers or other records relating to his estate or affairs;
- (d) he makes, or causes or permits the making of, any false entries in any book, document or record relating to his estate or affairs;
- (e) he disposes of, or alters or makes any omission in, or causes or permits the disposal, altering or making of any omission in, any book, document or record relating to his estate or affairs; or
- (f) in the 12 months before the making of the bankruptcy application by or against him, or in the initial period, he did anything which would have been an offence under paragraph (c), (d) or (e) if the bankruptcy order against him had been made before he did it.

[42/2005]

### **False statements**

**137.** A bankrupt shall be guilty of an offence if —

- (a) he makes any false statement or any material omission in any statement under this Act relating to his affairs;

- (b) knowing or believing that a false debt has been proved by any person under the bankruptcy, he fails to inform the Official Assignee as soon as practicable;
- (c) he attempts to account for any part of his property by fictitious losses or expenses;
- (d) at any meeting of his creditors in the 12 months before the making of the bankruptcy application by or against him or (whether or not at such a meeting) at any time in the initial period, he did anything which would have been an offence under paragraph (c) if the bankruptcy order against him had been made before he did it; or
- (e) he is, or at any time has been, guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors, or any of them, to an agreement with reference to his affairs or to his bankruptcy.

[42/2005]

### **Fraudulent disposal of property**

**138.—(1)** A bankrupt shall be guilty of an offence if —

- (a) he makes or causes to be made, or has during the period of 5 years prior to the date of the bankruptcy order against him made or caused to be made, any gift or transfer of, or any charge on, his property, with the intention of defrauding his creditors, or of depriving his creditors of the property in the event that a bankruptcy order is made against him; or

[Act 21 of 2015 wef 01/08/2016]

- (b) he conceals or removes, or has at any time before the commencement of the bankruptcy concealed or removed, any part of his property after, or within 2 months before, the date on which a judgment or an order for the payment of money has been obtained against him, being a judgment or an order which was not satisfied before the commencement of his bankruptcy.

(2) In this section, the reference to making a transfer of or a charge on any property includes a reference to causing or conniving at the levying of any execution against that property.

**Absconding with property**

**139.** A bankrupt shall be guilty of an offence if —

- (a) he leaves, or attempts or makes preparations to leave, Singapore with any property the value of which is not less than \$1,000 (or such higher amount as may be prescribed) and possession of which he is required to deliver up to the Official Assignee; or

*[Act 21 of 2015 wef 01/08/2016]*

- (b) in the 12 months before the making of the bankruptcy application by or against him, or in the initial period, he did anything which would have been an offence under paragraph (a) if the bankruptcy order against him had been made immediately before he did it.

*[42/2005]*

**Fraudulent dealing with property obtained on credit**

**140.—(1)** A bankrupt shall be guilty of an offence if, in the 12 months before the making of the bankruptcy application by or against him, or in the initial period, he disposed of any property which he had obtained on credit and, at the time he disposed of it, had not been paid for.

*[42/2005]*

(2) A person shall be guilty of an offence if, in the 12 months before the making of the bankruptcy application by or against a bankrupt, or in the initial period, he acquired or received property from the bankrupt knowing or believing —

- (a) that the bankrupt owed money in respect of the property; and
- (b) that the bankrupt did not intend, or was unlikely to be able, to pay the money so owed.

*[42/2005]*

(3) A person shall not be guilty of an offence under subsection (1) or (2) if the disposal, acquisition or receipt of the property was in the ordinary course of a business carried on by the bankrupt at the time of the disposal, acquisition or receipt.

(4) In determining for the purposes of this section whether any property is disposed of, acquired or received in the ordinary course of a business carried on by the bankrupt, regard may be had, in particular, to the price paid for the property.

(5) In this section, any reference to disposing of property shall be read as including a reference to pawning or pledging of such property, and any reference to acquiring or receiving property shall be read accordingly.

### **Obtaining credit, engaging in business, or standing as guarantor**

**141.**—(1) An individual shall be guilty of an offence if, being an undischarged bankrupt —

- (a) either alone or jointly with any other person, the individual obtains credit to the extent of not less than \$1,000 (or such higher amount as may be prescribed) from any person without informing that person, at the time the credit is obtained, that the individual is an undischarged bankrupt;
- (b) the individual engages in any trade or business under a name other than that under which the individual was adjudged bankrupt without disclosing to every person with whom the individual enters into any business transaction, at the time the transaction is entered into, the name under which the individual was adjudged bankrupt; or
- (c) the individual provides a guarantee, indemnity or security to the extent of not less than \$1,000 (or such higher amount as may be prescribed) in respect of any amount borrowed or charged or any credit obtained by another person, without informing the lender or creditor, at the time the guarantee, indemnity or security is provided, that the individual is an undischarged bankrupt.

*[Act 21 of 2015 wef 01/08/2016]*

(2) In this section, any reference to a bankrupt obtaining credit shall be read as including a reference to any case in which —

- (a) goods are bailed to him under a hire-purchase agreement; and
- (b) he is paid in advance (whether in money or otherwise) for the supply of goods or services.

*[Act 21 of 2015 wef 01/08/2016]*

### **Failure to keep proper accounts of business**

**142.**—(1) A bankrupt shall be guilty of an offence if, having been engaged in any business within 2 years before the making of the bankruptcy application by or against him, he has not —

- (a) kept proper accounting records throughout that period and throughout any part of the initial period in which he was so engaged; or
- (b) preserved all the accounting records which he has kept.

*[42/2005]*

(2) For the purposes of this section, a person shall be deemed not to have kept proper accounting records if he has not kept such records as are necessary to show or explain his transactions and financial position in his business, including —

- (a) records containing entries from day to day, in sufficient detail, of all cash paid and received;
- (b) where the business involved dealings in goods, statements of annual stock-takings; and
- (c) except in the case of goods sold by way of retail trade to the actual customer, records of all goods sold and purchased showing the buyers and sellers in sufficient detail to enable the goods and the buyers and sellers to be identified.

(3) A bankrupt shall not be guilty of an offence under subsection (1) —

- (a) if his unsecured liabilities at the commencement of the bankruptcy did not exceed \$10,000; or
- (b) if he proves that in the circumstances in which he carried on business the omission was honest and excusable.

**Gambling**

**143.**—(1) A bankrupt shall be guilty of an offence if he has —

- (a) in the 12 months before the making of the bankruptcy application by or against him, materially contributed to, or increased the extent of, his insolvency by gambling or by rash and hazardous speculations; or

*[Act 21 of 2015 wef 01/08/2016]*

- (b) in the initial period, lost any part of his property by gambling or by rash and hazardous speculations.

*[42/2005]*

(2) In determining for the purposes of this section whether any speculation was rash and hazardous, the financial position of the bankrupt at the time when he entered into it shall be taken into consideration.

**Bankrupt incurring debt without reasonable ground of expectation of being able to pay it**

**144.** A bankrupt shall be guilty of an offence if —

- (a) within 12 months before the making of a bankruptcy application by or against him, or during the initial period, he incurs any debt provable in bankruptcy; or

- (b) having been engaged in carrying on any trade or business, he continues to trade or carry on business by incurring any debt provable in bankruptcy within 12 months before the date of the making of a bankruptcy application by or against him, or during the initial period, he being insolvent on the date of incurring the debt,

without any reasonable ground of expectation of being able to pay it.

*[42/2005]*

**Making of false claims, etc.**

**145.**—(1) Any creditor in any bankruptcy, composition or arrangement with creditors shall be guilty of an offence if he makes any claim, proof, declaration or statement of account which is untrue in any material particular unless he satisfies the court that he had no intent to defraud.

(2) A creditor shall be guilty of an offence if he obtains or receives any money, property or security from any person as an inducement for forbearing to oppose, or for consenting to, the discharge of a bankrupt.

(3) A person shall be guilty of an offence if he, knowing that a bankruptcy 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.

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

### **Penalty**

**146.** A person guilty of any offence under this Part shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

### **Supplementary provisions**

**147.—**(1) It shall not be a defence in proceedings for an offence under this Act that anything relied on, in whole or in part, as constituting that offence was done outside Singapore.

(2) 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, demand, application or any proceedings in, or order, warrant or document of any court acting under this Act.

[42/2005]

(3) Where a bankrupt has been guilty of any offence under this Act, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that the bankruptcy order made against him has been annulled or rescinded.



## PART XI

## MISCELLANEOUS PROVISIONS

**Administration in bankruptcy of estate of person dying insolvent**

**148.**—(1) In this section, unless the context otherwise requires, “creditor” means one or more creditors qualified to make a bankruptcy application under this Act.

[42/2005]

(2) The Official Assignee or any creditor of a deceased debtor whose debt would have been sufficient to support a bankruptcy application against the debtor had he been alive, may make to the court an application for an order for the administration of the estate of the deceased debtor according to this Act.

[42/2005]

(3) Every application under this section shall be in the same form as a creditor’s bankruptcy application under section 57, with such variations as the case may require, except that in the case of an application by the Official Assignee, it shall not be necessary to allege or prove that any debt is owing to the applicant.

[42/2005]

(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 applicant’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 debtor, make an order for the administration in bankruptcy of the deceased debtor’s estate, or may, upon cause being shown, dismiss the application with or without costs.

[42/2005]

(5) An administration order under this section shall not be made until the expiration of 2 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.

(6) An application for administration under this section shall not be made to the court after proceedings have been commenced for the administration of the deceased debtor’s estate except that 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 application of a creditor.

*[42/2005]*

(7) Upon an administration order being made under this section, the property of the debtor shall vest in the Official Assignee as trustee thereof without any further conveyance, transfer or assignment, and he shall forthwith proceed to realise and distribute the same in accordance with this Act.

(8) Sections 82A, 83 and 84 so far as they relate to persons other than the debtor, and, with the modifications under this section, all the provisions of Part VII shall, so far as the same are applicable, apply to the case of an administration order under this section, and for the purposes of such application, unless the context otherwise requires, every reference to a bankrupt is to be read as a reference to the legal representative of the deceased debtor.

*[Act 21 of 2015 wef 01/08/2016]*

(9) Sections 98, 105 and 106 shall apply in the case of an administration order under this section as if the administration order were a bankruptcy order.

(10) In the administration of the property of the deceased debtor under an administration order, 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 and such claims shall be deemed to be preferential debts under the administration order and shall be payable in full out of the debtor's estate in priority to all other debts.

(11) 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 the case of a bankruptcy, the surplus shall, subject to section 122(2), be paid over to the legal representative of the deceased debtor's estate or dealt with in such other manner as is prescribed.

(12) Upon notice being given to the legal representative of a deceased debtor of the making by a creditor of an application under this section, and in the event of an administration order being made thereon, no payment or transfer of property made thereafter by the legal representative shall operate as a discharge to him as between himself and the Official Assignee.

[42/2005]

(13) 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 administration order.

### **Arbitration agreements to which bankrupt is a party**

**148A.**—(1) This section shall apply where a bankrupt had become party to a contract containing an arbitration agreement before the commencement of his bankruptcy.

[37/2001]

(2) If the Official Assignee adopts the contract, the arbitration agreement shall be enforceable by or against the Official Assignee in relation to matters arising from or connected with the contract.

[37/2001]

(3) If the Official Assignee does not adopt the contract and a matter to which the arbitration agreement applies requires to be determined in connection with or for the purposes of the bankruptcy proceedings —

(a) the Official Assignee; or

(b) any other party to the agreement,

may apply to the court which may, if it thinks fit in all the circumstances of the case, order that the matter be referred to arbitration in accordance with the arbitration agreement.

[37/2001]

(4) In this section, “court” means the court which has jurisdiction in the bankruptcy proceedings.

[37/2001]

### **Costs**

**149.**—(1) No payment shall, without the approval of the Official Assignee, be allowed in the accounts of any trustee in bankruptcy 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 the rules to be performed by himself.

(2) Unless agreed to by the Official Assignee, all bills and charges of solicitors, managers, accountants, auctioneers, brokers and other persons must be taxed by the court.

*[Act 21 of 2015 wef 01/08/2016]*

(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 for taxation by the court, 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.

*[Act 21 of 2015 wef 01/08/2016]*

### **Actions by Official Assignee and bankrupt's partners**

**150.**—(1) Where a partner in a firm 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.

(2) Any release by the bankrupt's partner of the debt or demand to which the action or proceeding relates shall be void.

(3) Notice of the application for authority to commence the action or proceeding shall be given to the bankrupt's partner 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.

### **Action in aid of courts of Malaysia and designated countries**

**151.**—(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 or any designated country having jurisdiction

in bankruptcy and insolvency so long as the law of Malaysia or the designated country requires its courts to act in aid of and be auxiliary to the courts of Singapore.

(2) An order of any such court of Malaysia or any designated country, 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.

(3) In this section, “designated country” means any country designated for the purposes of this section by the Minister by notification in the *Gazette*.

### **Reciprocal recognition of Official Assignees**

**152.**—(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 in 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.

(3) Subsection (2) shall not apply where a bankruptcy application has been made against the bankrupt in Singapore until the application has been dismissed or withdrawn or the bankruptcy order has been rescinded or annulled.

[42/2005]

(4) 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.

(5) 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”.

### **Evidence of proceedings at meetings of creditors**

**153.**—(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.

### **Evidence of proceedings in bankruptcy**

**154.** Any —

- (a) application or copy of an application in bankruptcy;
- (b) order or certificate or copy of an order or certificate made by the court in bankruptcy;
- (c) instrument, affidavit or document or copy of an instrument, an affidavit or a 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.

*[42/2005]*

### **Swearing of affidavits**

**155.** Subject to the rules, any affidavit may be used in a court if it is sworn —

- (a) in Singapore before any person authorised to administer oaths or any Magistrate;
- (b) in Malaysia or other Commonwealth country 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 or that Commonwealth country; and
- (c) 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.

### **Death of witness**

**156.** In case of the death of the debtor or bankrupt, as the case may be, or of his spouse, or of a witness whose evidence has been received by any court in any proceedings 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.

### **Service of summons, notice, etc.**

**157.—(1)** Every summons, notice or document required or authorised to be served on any person under any provision of this Act and, despite anything to the contrary in the Criminal Procedure Code (Cap. 68), every summons issued by a court for the attendance of any person accused of any offence under this Act, may be served on the person —

- (a) by delivering it to him;
- (b) by delivering it to any adult person residing at his usual or last known place of residence or employed at his last known place of business;
- (c) by leaving it at his usual or last known place of residence or business; or

- (d) by forwarding it by registered post in a cover addressed to him at his usual or last known place of residence or business or at any address furnished by him.

[37/99]

[Act 21 of 2015 wef 01/08/2016]

- (2) In proving service by registered post, it shall be sufficient to prove that the registered cover containing the summons, notice or document was duly addressed and posted.

[37/99]

### **Formal defect not to invalidate proceedings or acts**

**158.**—(1) No proceedings in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the court before which an objection is made to the proceedings is of the 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.

(2) The acts of a person as the trustee of a bankrupt's estate or as a special manager, and the acts of the creditors' committee appointed for any bankruptcy, shall be valid notwithstanding any defect in the appointment, election or qualifications of the trustee or manager or, as the case may be, of any member of the committee.

### **Exemption from stamp duty**

**159.** [Repealed by Act 38 of 2002]

### **Acts of corporations, firms and lunatics**

**160.** 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 person who lacks capacity may act by —
  - (i) a donee of a lasting power of attorney granted by the person with powers in relation to the person for the purposes of this Act; or



- (ii) a deputy appointed or deemed to be appointed for the person by the court under the Mental Capacity Act (Cap. 177A) with powers in relation to the person for the purposes of this Act.

*[Act 21 of 2015 wef 01/08/2016]*

**161.** *[Repealed by Act 21 of 2015 wef 01/08/2016]*

### **Exclusion of liability relating to computerised information service**

**162.** Where the Official Assignee provides a service to the public whereby computerised information of prescribed particulars of a bankrupt is supplied to the public on payment of a prescribed fee, neither the Government nor any of its employees involved in the supply of such information shall be liable for any loss or damage suffered by members of the public by reason of any errors or omissions of whatever nature appearing therein or howsoever caused if made in good faith and in the ordinary course of the discharge of the duties of such employees.

### **List of undischarged bankrupts, etc., to be kept**

**163.—**(1) The Official Assignee must maintain, in such form or manner as the Official Assignee thinks fit —

- (a) a list of undischarged bankrupts;
- (b) a list of discharged bankrupts;
- (c) a record of every bankruptcy order;
- (d) a record of every order rescinding a bankruptcy order;
- (e) a record of every order, and every certificate of the Official Assignee, discharging a bankruptcy order; and
- (f) a record of every order, and every certificate of the Official Assignee, annulling a bankruptcy order.

*[Act 21 of 2015 wef 01/08/2016]*

(1A) Subject to subsections (1B) and (1C), the Official Assignee may allow any person, on payment of the prescribed fee, to inspect or otherwise have access to the whole or any part of any list or record

referred to in subsection (1)(a) to (e) as the Official Assignee may determine.

*[Act 21 of 2015 wef 01/08/2016]*

(1B) Subject to section 123A(3), where a bankruptcy order has been annulled, no person may inspect or have access to any part of any record maintained by the Official Assignee which relates to the bankruptcy order or the annulment of the bankruptcy order.

*[Act 21 of 2015 wef 01/08/2016]*

(1C) Where an individual's target contribution was paid in full before the individual's discharge from bankruptcy, and 5 years have lapsed after the date of discharge, no person (except the individual) may inspect or otherwise have access to —

- (a) the part of the list referred to in subsection (1)(b) relating to the bankruptcy which the individual was discharged from; and
- (b) the part of any record referred to in subsection (1)(c) or (e) relating to the bankruptcy which the individual was discharged from.

*[Act 21 of 2015 wef 01/08/2016]*

(2) Where the question arises as to whether a person is an undischarged bankrupt, a certificate from the Official Assignee stating whether or not that person is an undischarged bankrupt shall be prima facie evidence of the facts stated therein.

*[6/2004]*

*[Act 21 of 2015 wef 01/08/2016]*

### **Unclaimed and undistributed moneys**

**164.**—(1) Where a trustee or nominee is in possession of or has under his control —

- (a) any unclaimed dividend or other moneys which have remained unclaimed for more than 6 months from the date when the dividend or other moneys became payable; or
- (b) after making final distribution, any unclaimed or undistributed moneys arising from the property of a bankrupt,

he shall forthwith pay those moneys to the Official Assignee to be placed to the credit of the Bankruptcy Estates Account.

(2) Upon payment under subsection (1), the Official Assignee shall issue to the trustee or nominee the prescribed certificate of receipt for the moneys so paid and that certificate shall be an effectual discharge to him in respect thereof.

(3) The Official Assignee shall from time to time pay out of the Bankruptcy Estates Account and into the Insolvency Assistance Fund maintained under section 165 so much of the sums standing to the credit of the Account as represents —

- (a) dividends or balances in the Account which do not exceed \$50;
- (b) dividends which were declared but have not been claimed for a period of 6 years; and
- (c) balances in the Account which have not been claimed for a period of 6 years from the date that —
  - (i) the bankruptcy order has been annulled by the court;
  - (ii) the bankrupt has been discharged from bankruptcy by the court;
  - (iii) the bankrupt has been discharged from bankruptcy by a certificate issued by the Official Assignee;
  - (iv) the bankruptcy application made against the debtor has been withdrawn by the applicant or dismissed by the court; or
  - (v) the moneys were paid into the Account under subsection (1).

[42/2005; 6/2009]

(4) The Official Assignee shall from time to time pay out of the Debt Repayment Schemes Account and into the Debt Repayment Scheme Assistance Fund maintained under section 164A so much of the sums standing to the credit of the Account as represents —

- (a) balances in the Account which do not exceed \$50; and

- (b) balances in the Account in respect of a debt repayment scheme which have remained unclaimed for a period of 6 years from the date on which the debt repayment scheme has ceased under section 56K(1).

[6/2009]

### **Debt Repayment Scheme Assistance Fund**

**164A.**—(1) The Official Assignee shall maintain and administer a fund to be known as the Debt Repayment Scheme Assistance Fund (referred to in this section as the Fund) in accordance with such rules as may be prescribed.

[6/2009]

(2) There shall be paid into the Fund —

- (a) all moneys referred to in section 164(4); and  
(b) all costs and fees recovered by the Official Assignee in any proceedings under Part VA in which moneys from the Fund were applied.

[6/2009]

(3) The Fund may be applied by the Official Assignee for such purposes as may be prescribed.

[6/2009]

(4) The Minister may from time to time pay such sums of moneys out of the Fund and into the Consolidated Fund as he may determine.

[6/2009]

(5) If any claimant makes any demand against the Official Assignee for any amount of unclaimed moneys paid into the Fund under subsection (2)(a), the Minister may direct that payment of that amount, free of interest, be made to the claimant out of the Consolidated Fund.

[6/2009]

### **Insolvency Assistance Fund**

**165.**—(1) The Official Assignee shall maintain and administer a fund to be known as the Insolvency Assistance Fund (referred to in this section as the Fund) in accordance with such rules as may be prescribed.

(2) There shall be paid into the Fund —

- (a) all unclaimed moneys referred to in section 164(3); and
- (b) all costs and fees recovered by the Official Assignee in any proceedings taken under this Act in which moneys from the Fund were applied.

(3) Subject to subsections (4) and (6), the Fund may be applied by the Official Assignee for all or any of the following purposes:

- (a) for the remuneration of special managers appointed under section 113;
- (b) for the payment of all costs, fees and allowances to solicitors and other persons in proceedings on behalf of a bankrupt's estate or to recover assets of the estate;
- (c) for the payment of such costs and fees in the administration of a bankrupt's estate as the Official Assignee may determine;
- (d) for such other purposes as may be prescribed.

(4) If any claimant makes any demand against the Official Assignee for any amount of unclaimed moneys paid into the Fund under subsection (2)(a), the Minister may direct that payment of that amount, free of interest, be made to the claimant out of the Consolidated Fund.

(5) No moneys from the Fund shall be applied for any proceedings where, in the opinion of the Official Assignee, there is no reasonable ground for taking, defending, continuing or being a party to the proceedings or where there are sufficient moneys for such purpose in the bankrupt's estate.

(6) The Minister may from time to time pay such sums of moneys in the Fund into the Consolidated Fund as he may determine.

### **Composition of offences**

**165A.**—(1) The Official Assignee may, in his discretion, compound any offence under this Act as may be prescribed as being an offence which may be compounded by collecting from the person reasonably

suspected of having committed the offence a sum not exceeding \$1,000.

[37/99]

(2) The Minister may make rules prescribing the offences which may be compounded.

[37/99]

## **Rules**

**166.** The Minister may make rules for the purposes of carrying into effect the objects of this Act and, without prejudice to the generality of this power, the rules may contain —

- (a) provisions with respect to meetings of creditors, the functions, membership and proceedings of a creditors' committee;
- (b) provisions with respect to the proof of debts, the manner and conditions of proving a debt and the manner and expenses of establishing the value of any debt or security;
- (c) provisions with respect to the scale of appropriation of salary under section 109;
- (d) provisions prescribing any fees payable under this Act and the rules; and
- (e) such incidental, supplemental and transitional provisions as may appear to the Minister to be necessary or expedient.

## **Transitional provisions**

**167.—**(1) In any written law or document in which a reference is made to the Bankruptcy Act (Cap. 20, 1985 Ed.) repealed by this Act, such reference shall be read as a reference to this Act.

(2) The transitional provisions and savings set out in the Schedule shall have effect.

## THE SCHEDULE

Section 167(2)

## TRANSITIONAL PROVISIONS AND SAVINGS

**Bankrupts under repealed Act to continue to be bankrupts under this Act**

1.—(1) A person who was a bankrupt on 15th July 1995 continues to be a bankrupt until he is discharged, or his bankruptcy is rescinded or annulled, under this Act; and the provisions of this Act shall apply to and in relation to that bankrupt as if he had become a bankrupt under this Act.

(2) All orders and applications made, notices and consents given, matters advertised, meetings held, resolutions passed, compositions, schemes of arrangement or deeds accepted or approved, debts proved and acts and things done before 15th July 1995 in relation to a bankrupt or the property of a bankrupt shall, in relation to the administration of the conduct and affairs of the bankrupt and his property under this Act, be deemed to have been made, given, advertised, held, passed, accepted or approved, proved or done under this Act.

**Uncompleted proceedings under repealed Act**

2.—(1) Where —

- (a) a bankruptcy notice under the repealed Act has been served on a debtor before 15th July 1995; and
- (b) the debtor has failed, whether before or after 15th July 1995, to comply with the notice,

a bankruptcy petition may be presented against the debtor under the repealed Act, and proceedings in relation to the petition may, subject to sub-paragraph (3), be taken and had under that Act as if this Act had not been enacted.

(2) Where a bankruptcy petition has been presented against a debtor under the repealed Act before 15th July 1995, but an adjudication order has not been made on the petition, and the petition has not been withdrawn or dismissed before that date, proceedings in relation to the petition may, subject to sub-paragraph (3), be continued, or taken and had, after that date under the repealed Act as if this Act had not been enacted.

(3) Where a person becomes a bankrupt on a petition to which sub-paragraph (1) or (2) applies, all subsequent proceedings in relation to the bankrupt or his estate shall be taken and had, and this Act shall apply as if he had become a bankrupt on a creditor's petition presented under this Act.

(4) Any proceedings (including the hearing of an appeal) in a court or before the Registrar under the repealed Act that had not been completed before 15th July 1995 may be continued and completed, and any right of appeal in relation to those

THE SCHEDULE — *continued*

proceedings may be exercised and the appeal heard and determined as if this Act had not been enacted.

(5) Any right of appeal from an order of a court having jurisdiction under the repealed Act, being an order made before 15th July 1995, may be exercised, and the appeal heard and determined, after that date, as if this Act had not been enacted.

(6) Any right of appeal to a court having jurisdiction in bankruptcy under the repealed Act from an act or decision of the Official Assignee, the Registrar or any other officer under the repealed Act done or made before 15th July 1995 and any right to apply to such a court to review such an act or decision may be exercised, and the appeal or application heard and determined, by the High Court.

(7) In relation to any such case as is mentioned in sub-paragraph (1), the references in any written law to a petition, order or other matter which is provided for under the repealed Act and corresponds to a petition, order or other matter provided for under the provisions of this Act shall continue on and after 15th July 1995 to give effect as references to the petition, order or matter provided for by the repealed Act; but otherwise those references shall have effect on and after that date as references to the petition, order or matter provided for by those provisions of this Act.

**Application of section 148 to existing estates of deceased debtors**

3.—(1) Where an order for the administration in bankruptcy of a deceased debtor's estate has been made under Part VIII of the repealed Act, but the administration of the estate has not been completed before 15th July 1995, the estate of the deceased debtor shall, subject to this paragraph, be administered and distributed as if an order for administration of the estate had been made under section 148 of this Act, and the provisions of that section shall apply in relation to the estate accordingly.

(2) All orders and applications made, notices and consents given, matters advertised, meetings held, resolutions passed, debts proved and acts and things done before 15th July 1995 in relation to the estate of a deceased debtor shall, in relation to the administration and distribution of the estate under section 148 of this Act, be deemed to have been made, given, advertised, held, passed, proved or done under that section.

**Offences committed before 15th July 1995**

4. Where a bankruptcy order is made under this Act on or after 15th July 1995 on a petition to which paragraph 2(1) or (2) applies, a person shall not be guilty of an offence under Part X of this Act in respect of anything done before that date; but shall be guilty of an offence under the repealed Act in respect of anything done before that date which would have been an offence under that Act if the making of



THE SCHEDULE — *continued*

the bankruptcy order had been the making of a receiving order or an adjudication order under that Act.

**Schedule to be without prejudice to section 166**

5.—(1) This Schedule shall be without prejudice to the power conferred by this Act under which rules under section 166 of this Act may make transitional provision in connection with the coming into force of those rules; and such provision may apply those rules in relation to a bankruptcy notwithstanding that it arose from a petition presented before either the coming into force of the rules or 15th July 1995.

(2) Rules made under section 166 of this Act may provide for such notices served before 15th July 1995 as may be prescribed to be treated for the purposes of this Act as statutory demands served under section 62(a)(i) of this Act.

**Transactions before 15th July 1995**

6.—(1) A transaction entered into before 15th July 1995 shall not be set aside under this Act except to the extent that it could have been set aside under the law in force immediately before that date.

(2) References in sub-paragraph (1) to setting aside a transaction shall include the making of any order which varies or reverses any effect of such a transaction.

**Computation of time**

7.—(1) Where any period of time specified in a provision of the repealed Act is current immediately before 15th July 1995, this Act shall have effect as if the corresponding provision had been in force when the period began to run; and (without prejudice to the foregoing) any period of time so specified and current shall be deemed for the purposes of this Act —

(a) to run from the date or event from which it was running immediately before that date; and

(b) to expire (subject to any provision of this Act for its extension) whenever it would have expired if this Act had not been enacted.

(2) Any rights, priorities, liabilities, reliefs, obligations, requirements, powers, duties or exemptions dependent on the beginning, duration or end of such a period as mentioned in sub-paragraph (1) shall be under this Act as they were or would have been under the repealed Act.

THE SCHEDULE — *continued***Punishment of offences committed before 15th July 1995**

8.—(1) Offences committed before 15th July 1995 under any provision of the repealed Act may, notwithstanding any repeal by this Act, be prosecuted and punished after that date as if this Act had not been enacted.

(2) Where an offence for the continuance of which a penalty was provided has been committed under any provision of the repealed Act, proceedings may be taken under this Act in respect of the continuance of the offence on and after 15th July 1995 in the like manner as if the offence had been committed under the corresponding provision of this Act.

**Schedule not to prejudice section 16 of Interpretation Act**

9. Nothing in this Schedule shall be taken as prejudicing section 16 of the Interpretation Act (Cap. 1) (effect of repeal).

**Meaning of “repealed Act”**

10. In this Schedule, “repealed Act” means the Bankruptcy Act (Cap. 20, 1985 Ed.) in force immediately before 15th July 1995.

## LEGISLATIVE HISTORY

### BANKRUPTCY ACT (CHAPTER 20)

This Legislative History is provided for the convenience of users of the Bankruptcy Act. It is not part of the Act.

#### **1. Act 15 of 1995 — Bankruptcy Act 1995**

Date of First Reading	:	25 July 1994 (Bill No. 16/94 published on 29 July 1994)
Date of Second Reading	:	25 August 1994
Referred to Select Committee	:	Parl 1 of 1995 presented to Parliament on 7 March 1995
Date of Third Reading	:	23 March 1995
Date of commencement	:	15 July 1995

#### **2. 1996 Revised Edition — Bankruptcy Act (Chapter 20)**

Date of operation	:	30 April 1996
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#### **3. G. N. No. S 380/1997 — Bankruptcy (Variation of Sum of Debts under Section 125(2)(b)) Rules 1997**

Date of commencement	:	15 September 1997
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#### **4. G. N. No. S 126/1999 — Bankruptcy (Variation of Sum of Debts under section 125(2)(b)) Rules 1999**

Date of commencement	:	1 May 1999
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#### **5. G. N. No. S 301/1999 — Bankruptcy (Variation of Minimum Amount of Debt for Petition for Bankruptcy) Order 1999**

Date of commencement	:	3 July 1999
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#### **6. Act 37 of 1999 — Bankruptcy (Amendment) Act 1999**

Date of First Reading	:	3 August 1999 (Bill No. 26/99 published on 4 August 1999)
Date of Second and Third Readings	:	18 August 1999
Date of commencement	:	15 September 1999

**7. Act 42 of 1999 — Postal Services Act 1999**

(Consequential amendments made to Act by)

Date of First Reading	:	11 October 1999 (Bill No. 34/99 published on 12 October 1999)
Date of Second and Third Readings	:	23 November 1999
Date of commencement	:	1 December 1999

**8. 2000 Revised Edition — Bankruptcy Act (Chapter 20)**

Date of operation	:	1 July 2000
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**9. Act 37 of 2001 — Arbitration Act 2001**

(Consequential amendments made to Act by)

Date of First Reading	:	25 September 2001 (Bill No. 37/2001 published on 26 September 2001)
Date of Second and Third Readings	:	5 October 2001
Date of commencement	:	1 March 2002

**10. Act 38 of 2002 — Stamp Duties (Amendment) Act 2002**

(Consequential amendments made to Act by)

Date of First Reading	:	31 October 2002 (Bill No. 40/2002 published on 1 November 2002)
Date of Second and Third Readings	:	25 November 2002
Date of commencement	:	1 January 2003

**11. Act 9 of 2003 — Statutes (Miscellaneous Amendments) Act 2003**

Date of First Reading	:	20 March 2003 (Bill No. 7/2003 published on 21 March 2003)
Date of Second and Third Readings	:	24 April 2003
Date of commencement	:	16 May 2003 (section 4 — Amendment of Bankruptcy Act)

**12. Act 6 of 2004 — Statutes (Miscellaneous Amendments) Act 2004**

Date of First Reading	:	5 January 2004 (Bill No. 4/2004 published on 6 January 2004)
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Date of Second and Third Readings : 6 February 2004  
 Date of commencement : 8 March 2004  
 (section 2 — Amendment of  
 Bankruptcy Act)

**13. Act 17 of 2005 — Statutes (Miscellaneous Amendments and Repeal) Act 2005**

Date of First Reading : 18 April 2005  
 (Bill No. 7/2005 published on  
 19 April 2005)  
 Date of Second and Third Readings : 16 May 2005  
 Date of commencement : 15 July 2005  
 (section 2 — Amendment of  
 Bankruptcy Act)

**14. Act 42 of 2005 — Statutes (Miscellaneous Amendments) (No. 2) Act 2005**

Date of First Reading : 17 October 2005  
 (Bill No. 30/2005 published on  
 18 October 2005)  
 Date of Second and Third Readings : 21 November 2005  
 Date of commencement : 1 January 2006  
 (item (6) of Fifth Schedule —  
 Amendment of Bankruptcy Act)

**15. Act 42 of 2005 — Statutes (Miscellaneous Amendments) (No. 2) Act 2005**

Date of First Reading : 17 October 2005  
 (Bill No. 30/2005 published on  
 18 October 2005)  
 Date of Second and Third Readings : 21 November 2005  
 Date of commencement : 1 April 2006  
 (item (3) of First Schedule —  
 Amendment of Bankruptcy Act)

**16. Act 34 of 2007 — Postal Services (Amendment) Act 2007**

(Consequential amendments made to Act by)

Date of First Reading : 21 May 2007  
 (Bill No. 22/2007 published on  
 22 May 2007)  
 Date of Second and Third Readings : 16 July 2007  
 Date of commencement : 24 August 2007

**17. Act 5 of 2008 — Workmen’s Compensation (Amendment) Act 2008**

(Consequential amendments made to Act by)

- Date of First Reading : 12 November 2007  
(Bill No. 50/2007 published on  
13 November 2007)
- Date of Second and Third Readings : 22 January 2008
- Date of commencement : 1 April 2008

**18. Act 6 of 2009 — Bankruptcy (Amendment) Act 2009**

- Date of First Reading : 17 November 2008  
(Bill No. 39/2008 published on  
18 November 2008)
- Date of Second and Third Readings : 19 January 2009
- Date of commencement : 18 May 2009

**19. 2009 Revised Edition — Bankruptcy Act**

- Date of operation : 31 October 2009

**20. Act 22 of 2008 — Mental Capacity Act 2008**

(Consequential amendments made to Act by)

- Date of First Reading : 21 July 2008  
(Bill No. 13/2008 published on  
21 July 2008)
- Date of Second and Third Readings : 15 September 2008
- Date of commencement : 1 March 2010

**21. Act 21 of 2008 — Mental Health (Care and Treatment) Act 2008**

(Consequential amendments made to Act by)

- Date of First Reading : 21 July 2008  
(Bill No. 11/2008 published on  
21 July 2008)
- Date of Second and Third Readings : 16 September 2008
- Date of commencement : 1 March 2010

**22. Act 2 of 2012 — Statutes (Miscellaneous Amendments) Act 2012**

- Date of First Reading : 21 November 2011  
(Bill No. 22/2011 published on  
21 November 2011)
- Date of Second and Third Readings : 18 January 2012

Date of commencement : 1 March 2012

**23. Act 4 of 2015 — MediShield Life Scheme Act 2015**

Date of First Reading : 19 January 2015 (Bill No. 3/2015 published on 19 January 2015)

Date of Second and Third Readings : 29 January 2015

Date of commencement : 1 November 2015

**24. Act 21 of 2015 — Bankruptcy (Amendment) Act 2015**

Date of First Reading : 11 May 2015 (Bill No. 18/2015 published on 11 May 2015)

Date of Second and Third Readings : 14 July 2015

Date of commencement : 1 August 2016

**25. Act 21 of 2016 — Employment Claims Act 2016**

Date of First Reading : 11 July 2016 (Bill No. 20/2016 published on 11 July 2016)

Date of Second and Third Readings : 16 August 2016

Date of commencement : 1 April 2017

**26. Act 19 of 2016 — Administration of Justice (Protection) Act 2016**

Date of First Reading : 11 July 2016 (Bill No. 23/2016 published on 11 July 2016)

Date of Second and Third Readings : 15 August 2016

Date of commencement : 1 October 2017

**COMPARATIVE TABLE**  
**BANKRUPTCY ACT**  
**(CHAPTER 20)**

The following provisions in the 1996 Revised Edition of the Bankruptcy Act were renumbered by the Law Revision Commissioners in the 2000 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Bankruptcy Act.

<b>2000 Ed.</b>	<b>1996 Ed.</b>
<b>9—(2) and (3)</b>	<b>9—(2)</b>
<b>22—(2) and (3)</b>	<b>22—(2)</b>
(4)	(3)
<b>25—(2) and (3)</b>	<b>25—(2)</b>
<b>26—(1) and (2)</b>	<b>26</b>
<b>28—(1) and (2)</b>	<b>28—(1)</b>
(3) and (4)	(2)
(5)	(3)
(6)	(4)
<b>30—(1) and (2)</b>	<b>30—(1)</b>
(3)	(2)
<b>31—(1) and (2)</b>	<b>31—(1)</b>
(3)	(2)
<b>36—(1) and (2)</b>	<b>36—(1)</b>
(3)	(2)
<b>39—(1) and (2)</b>	<b>39—(1)</b>
(3)	(2)
(4)	(3)
(5)	(4)
<b>51—(3) and (4)</b>	<b>51—(3)</b>
(5)	(4)
(6)	(5)



<b>2000 Ed.</b>	<b>1996 Ed.</b>
(7)	(6)
(8)	(7)
<b>54—(1) and (2)</b>	<b>54—(1)</b>
(3)	(2)
(4)	(3)
(5)	(4)
(6)	(5)
(7)	(6)
<b>55—(2) and (3)</b>	<b>55—(2)</b>
(4)	(3)
(5)	(4)
<b>81—(4) and (5)</b>	<b>81—(4)</b>
(6)	(5)
(7) and (8)	(6)
<b>83—(11) and (12)</b>	<b>83—(11)</b>
(13)	(12)
(14)	(13)
(15)	(14)
(16)	(15)
<b>86—(5) and (6)</b>	<b>86—(5)</b>
<b>95A—(7) and (8)</b>	<b>95A—(7)</b>
<b>97—(3) and (4)</b>	<b>97—(3)</b>
<b>101—(7) and (8)</b>	<b>101—(7)</b>
(9)	(8)
(10)	(9)
<b>102—(2) and (3)</b>	<b>102—(2)</b>
(4)	(3)
(5)	(4)

<b>2000 Ed.</b>	<b>1996 Ed.</b>
<b>104</b> —(4) and (5)	<b>104</b> —(4)
<b>106</b> —(1) and (2)	<b>106</b> —(1)
(3) and (4)	(2)
<b>110</b> —(2) and (3)	<b>110</b> —(2)
(4) and (5)	(3)
(6)	(4)
(7) and (8)	(5)
(9) and (10)	(6)
(11)	(7)
(12)	(8)
(13)	(9)
(14)	(10)
<b>118</b> —(1), (2) and (3)	<b>118</b>
<b>121</b> —(1) and (2)	<b>121</b>
<b>123</b> —(3) and (4)	<b>123</b> —(3)
<b>123A</b> —(5) and (6)	<b>123A</b> —(5)
<b>127</b> —(2) and (3)	<b>127</b> —(2)
(4)	(3)
(5)	(4)
(6)	(5)
(7)	(6)
(8)	(7)
<b>128</b> —(1) and (2)	<b>128</b>
<b>150</b> —(2) and (3)	<b>150</b> —(2)
<b>159</b> —(2) and (3)	<b>159</b> —(2)
<b>163</b> —(2) and (3)	<b>163</b> —(2)
<b>164</b> —(1) and (2)	<b>164</b> —(1)
(3)	(2)