



BELIZE

**BANKRUPTCY ACT
CHAPTER 244**

REVISED EDITION 2000
SHOWING THE LAW AS AT 31ST DECEMBER, 2000

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Laws of Belize, Revised Edition 1980 - 1990.

This edition contains a consolidation of the following laws-	Page
ARRANGEMENT OF SECTIONS	3
BANKRUPTCY ACT	13
Amendments in force as at 31st December, 2000.	



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CHAPTER 244

BANKRUPTCY

[1st August, 1902]

Ch. 202,
R.L., 1958.
CAP. 201,
R. E. 1980-1990.
40 of 1963.
1 of 1969.
12 of 1998.

PART I

Preliminary

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

Short title.

2. In this Act, unless the context otherwise requires:-

Interpretation.

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

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

“court” means the Supreme Court;

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

“gazetted” means published in the *Gazette*;

“general rules” includes forms;

“goods” includes all chattels personal;

12 of 1998.

“Minister” means the Attorney General;

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

“person” includes a body of persons, corporate or unincorporate;

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

“Registrar” means the Registrar General;

“Registry” means the office of the Registrar General in his capacity as Registrar of the Supreme Court;

“resolution” means ordinary resolution;

“secured creditor” means a person holding a mortgage, charge or lien on the property of the debtor, or any part thereof, which by the law of Belize is valid against creditors as a security for a debt due to him from the debtor, and includes a judgment creditor;

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

“trustee” means the trustee in bankruptcy of a debtor’s estate.

PART II

Proceedings from Act of Bankruptcy to Discharge

Acts of Bankruptcy

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

Acts of
bankruptcy.

- (a) if in Belize or elsewhere he makes a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally;
- (b) if in Belize or elsewhere he makes a fraudulent conveyance, gift, delivery, or transfer of his property or of any part thereof;
- (c) if in Belize or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would under this or any other legislation be void as a fraudulent preference if he were adjudged bankrupt;
- (d) if with intent to defeat or delay his creditors, he does any of the following things, namely, departs out of Belize, or, being out of Belize, remains out of Belize, or departs from his dwelling-house, or otherwise absents himself or begins to keep house;
- (e) if execution against him has been levied by seizure of his goods under process in an action in any court and the goods have been either sold or held by the bailiff for twenty-one days:

Provided that when an interpleader summons has been taken out in regard to the goods seized, the time elapsing

between the date at which such summons is taken out and the date at which the bailiff is ordered to withdraw or any interpleader issue ordered thereon is finally disposed of shall not be taken into account in calculating such period of twenty-one days;

- (f) if he files in the court a declaration of his inability to pay his debts or presents a bankruptcy petition against himself;
- (g) if a creditor has obtained a final judgment against him for any amount, and, execution thereon not having been stayed, has served on him in Belize, or by leave of the court elsewhere, a bankruptcy notice under this Act requiring him to pay the judgment debt in accordance with the terms of the judgment or to secure or compound for it to the satisfaction of the creditor or the court, and he does not within fifteen days after service of the notice in case the service is effected in Belize, or in case the service is effected elsewhere, within the time limited in that behalf by the order giving leave to effect the service, either comply with the requirements of the notice, or satisfy the court that he has a counter-claim, set-off or cross demands which equals or exceeds the amount of the judgment debt, and which he could not set up in the action in which the judgment was obtained and any person who is for the time being entitled to enforce a final judgment shall be deemed a creditor who has obtained a final judgment within the meaning of this section;
- (h) if the debtor gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts.

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

Receiving Order

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

Jurisdiction to make receiving order.

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

Condition on which creditor may petition.

- (a) the debt owing by the debtor to the petitioning creditor, or if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors amounts to two hundred and fifty dollars; and
- (b) the debt is a liquidated sum, payable either immediately or at some certain future time; and
- (c) the act of bankruptcy on which the petition is grounded has occurred within three months before the presentation of the petition; and
- (d) the debtor is domiciled in Belize or, within a year before the date of the presentation of the petition, has ordinarily resided or had a dwelling-house or place of business in Belize.

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

Proceeding and order on creditor's petition.

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

(2) At the hearing, the court shall require proof of the debt of the petitioning creditor, of the service of the petition and of the act of bankruptcy, or if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy and, if satisfied with the proof, may make a receiving order in pursuance of the petition.

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

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

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

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

(7) A creditor’s petition shall not, after presentment, be withdrawn without the leave of the court.

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

Debtor’s petition and order thereon.

(2) A debtor’s petition shall not, after presentment, be withdrawn without the leave of the court.

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

Effect of receiving order.

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

9. The court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of a bankruptcy petition and before a receiving order is made, appoint the Official Receiver to be interim receiver of the property of the debtor, or of any part thereof, and direct him to take immediate possession thereof or of any part thereof.

Power to appoint interim receiver.

10.-(1) The court may at any time after the presentation of a bankruptcy petition stay any action, execution, or other legal process against the property or person of the debtor, and any court in which proceedings are pending against a debtor, may, on proof that a bankruptcy petition has been presented by or against the debtor, either stay the proceedings or allow them to continue on such terms as

Power to stay pending proceedings.

it may think just.

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

Power to appoint special manager.

11.-(1) The Official Receiver may, on the application of any creditor or creditors, and if satisfied that the nature of the debtor's estate or business or the interests of the creditors generally require the appointment of a special manager of the estate or business other than the Official Receiver, appoint a manager thereof accordingly to act until a trustee is appointed, and with such powers (including any of the powers of a receiver) as may be entrusted to him by the Official Receiver. ,

(2) The special manager shall give security and account in such manner as the Official Receiver may direct.

(3) The special manager shall receive such remuneration as the creditors may by resolution at an ordinary meeting determine, or, in default of any such resolution, as may be prescribed.

Advertisement of receiving order.

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

Proceedings Consequent on Order

First and other meetings of creditors.

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

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

14.-(1) Where a receiving order is made against a debtor, he shall make out and submit to the Official Receiver a statement of and in relation to his affairs in the prescribed form, verified by affidavit, and showing the particulars of the debtor's assets, debts and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the Official Receiver may require. Debtor's statement of accounts.

(2) The statement shall be so submitted within the following times, namely-

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

but the court may, in either case, for special reasons, extend the time.

(3) Where the debtor fails without reasonable excuse to comply with the requirements of this section, the court may, on the application of the Official Receiver, or of any creditor, adjudge him bankrupt.

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

Public Examination of Debtor

Public examination
of debtor.

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

(2) The examination shall be held as soon as conveniently may be after the expiration of the time for the submission of the debtor's statement of affairs.

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

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

(5) The Official Receiver shall take part in the examination of the debtor and for the purpose thereof, if specially authorised by the court, may employ an attorney-at-law.

(6) If a trustee is appointed before the conclusion of the examination, he may take part therein.

(7) The court may put such questions to the debtor as it may think expedient.

(8) The debtor shall be examined on oath, and it shall be his duty to answer all such questions as the court may put or allow to be put to him.

(9) Such notes of the examination as the court thinks proper shall be taken down in writing, and shall be read over to or by the debtor and shall be signed by the debtor, and may thereafter be used in evidence against him, and they shall also be open to the inspection of any creditor at all reasonable

times.

(10) When the court is of the opinion that the affairs of the debtor have been sufficiently investigated, it shall, by order, declare that his examination is concluded, but such order shall not be made until after the day appointed for the first meeting of creditors.

(11) Where the debtor is a person of unsound mind or suffers from any such mental or physical affliction or disability as in the opinion of the court makes him unfit to attend his public examination, the court may make an order dispensing with such examination or directing that the debtor be examined on such terms, in such manner, and at such place as to the court seems expedient.

Composition or Scheme of Arrangement

16.-(1) Where a debtor intends to make a proposal for a composition in satisfaction of his debts, or a proposal for a scheme of arrangement of his affairs, he shall, within four days of submitting his statement of affairs or within such time thereafter as the Official Receiver may fix, lodge with the Official Receiver a proposal in writing, signed by him, embodying the terms of the composition or scheme which he is desirous of submitting for the consideration of his creditors, and setting out particulars of any sureties or securities proposed.

Composition or
scheme of
arrangement .

(2) In such case, the Official Receiver shall hold a meeting of creditors, before the public examination of the debtor is concluded, and send to each creditor, before the meeting, a copy of the debtor's proposal with a report thereon, and if at that meeting a majority in number and three-fourths in value of all the creditors who have proved resolve to accept the proposal, the same shall be deemed to be duly accepted by the creditors, and when approved by the court shall be binding on all the creditors.

(3) The debtor may at the meeting amend the terms of his proposal, if the amendment is, in the opinion of the Official Receiver, calculated to benefit the general body of creditors.

(4) Any creditor who has proved his debt may assent to or dissent from the proposal by a letter, in the prescribed form, addressed to the Official Receiver, so as to be received by him not later than the day preceding the meeting, and any such assent or dissent shall have effect as if the creditor had been present and had voted at the meeting.

(5) The debtor or the Official Receiver may, after the proposal is accepted by the creditors, apply to the court to approve it, and notice of the time appointed for hearing the application shall be given to each creditor who has proved.

(6) The application shall not be heard until after the conclusion of the public examination of the debtor.

(7) Any creditor who has proved his debt may be heard by the court in opposition to the application, notwithstanding that he may at a meeting of creditors have voted for the acceptance of the proposal.

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

(9) Where the court is of the opinion that the terms of the proposal are not reasonable, or are not calculated to benefit the general body of creditors, or in any case in which the court is required where the debtor is adjudged bankrupt to refuse his discharge, the court shall refuse to approve the proposal.

(10) Where any facts are proved on proof of which the court would be required either to refuse, suspend or attach conditions to the debtor's discharge were he adjudged bankrupt, the court shall refuse to approve the proposal unless it provides reasonable security for payment of not less than forty *per centum* on all the unsecured debts provable against the debtor's estate.

(11) In any other case, the court may either approve or refuse to approve the proposal.

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

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

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

(15) Where default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the court, on satisfactory evidence, that the composition or scheme cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the court was obtained by fraud, the court may, if it thinks fit, on application by the Official Receiver or the trustee, or by any creditor, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made, or thing duly done, under or in pursuance of the composition or scheme.

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

(17) Where under or in pursuance of a composition or scheme, a trustee is appointed to administer the debtor's property or manage his business,

or to distribute the composition, section 25 and Part V shall apply as if the trustee were a trustee in a bankruptcy, and as if the terms “bankruptcy”, “bankrupt” and “order of adjudication” included respectively a composition or scheme of arrangement, a compounding or arranging debtor, and an order approving the composition or scheme.

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

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

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

(21) A composition or scheme accepted and approved in pursuance of this section shall be binding on all the creditors so far as relates to any debts due to them from the debtor and provable in bankruptcy, but shall not release the debtor from any liability, under a judgment against him in an action for seduction, or under an affiliation order, or under a judgment against him as a co-respondent in a matrimonial cause, except to such an extent and under such conditions as the court expressly orders in respect of such liability.

Effect of
composition or
scheme.

17. Notwithstanding the acceptance and approval of a composition or scheme, such composition or scheme shall not be binding on any creditor so far as regards a debt or liability from which under this Act, the debtor would not be discharged by an order of discharge in bankruptcy, unless the creditor assents to the composition or scheme.

Adjudication of Bankruptcy

18.-(1) Where a receiving order is made against a debtor, then, if-

- (a) the creditors at the first meeting or any adjournment thereof by ordinary resolution resolve that the debtor be adjudged bankrupt, or pass no resolution; or
- (b) the creditors do not meet; or
- (c) a composition or scheme is not accepted or approved in pursuance of this Act within fourteen days after the conclusion of the examination of the debtor or such further time as the court may allow, the court shall adjudge the debtor bankrupt, and thereupon the property of the bankrupt shall become divisible among his creditors and shall vest in a trustee.

Adjudication of bankrupt where composition is not accepted or approved.

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

19.-(1) Where a debtor is adjudged bankrupt or the creditors have resolved that he be adjudged bankrupt, the creditors may, by ordinary resolution, appoint some fit person, whether a creditor or not, to fill the office of trustee of the property of the bankrupt, or they may resolve to leave his appointment to the committee of inspection mentioned in section 20.

Appointment of trustee.

(2) A person shall be deemed not fit to act as trustee of the property of a bankrupt where he has been previously removed from the office of trustee of a bankrupt's property for misconduct or neglect of duty.

(3) The person so appointed shall give security in a manner prescribed

to the satisfaction of the court, and the court, if satisfied with the security, shall certify that his appointment has been duly made unless it is of the opinion that the appointment has not been made in good faith by a majority in value of the creditors voting, or that the person appointed is not fit to act as trustee, or that his connection with or relation to the bankrupt or his estate or any particular creditor makes it difficult for him to act with impartiality in the interests of the creditors generally.

(4) The appointment of a trustee shall take effect as from the date of the certificate.

(5) The Official Receiver shall not, except as by this Act provided, be a trustee of the bankrupt's property.

(6) Where a trustee is not appointed by the creditors within four weeks from the date of the adjudication, or in the event of negotiations for a composition or scheme being pending at the expiration of those four weeks, then within seven days from the close of those negotiations by the refusal of the creditors to accept or of the court to approve, the composition or scheme, the Official Receiver shall report the matter to the court, and the court shall thereupon appoint some fit person to be trustee of the bankrupt's property and shall certify the appointment.

(7) The creditors or the committee of inspection (if so authorised by resolution of the creditors) may, at any subsequent time, if they think fit, appoint a trustee, and on the appointment being made and certified, the person appointed shall become trustee in the place of the person appointed by the court.

(8) When a debtor is adjudged bankrupt after the first meeting of creditors has been held, and a trustee has not been appointed prior to the adjudication, the Official Receiver shall forthwith summon a meeting of creditors for the purpose of appointing a trustee.

20.-(1) The creditors qualified to vote may, at their first or any subsequent meeting, by resolution, appoint from among the creditors, or the holders of general proxies for general powers of attorney from such creditors, a committee of inspection for the purpose of superintending the administration of the bankrupt's property by the trustee.

Committee of inspection.

(2) The committee of inspection shall consist of not more than five nor less than three persons, but a creditor who is appointed a member of a committee of inspection shall not be qualified to act until he has proved his debt and the proof has been admitted.

(3) The committee of inspection shall meet at such times as they shall from time to time appoint and, failing such appointment, at least once a month, and the trustee or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(4) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present at the meeting.

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

(6) Where a member of the committee becomes bankrupt or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee, his office shall thereupon become vacant.

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

(8) On a vacancy occurring in the office of a member of the committee, the trustee shall forthwith summon a meeting of creditors for the purpose of filling the vacancy, and the meeting may, by resolution, appoint

another creditor or other person eligible as above to fill the vacancy.

(9) The continuing members of the committee, provided there be not less than two such continuing members, may act, notwithstanding any vacancy within their body, and where the number of the members of the committee of inspection is for the time being less than five, the creditors may increase that number so that it does not exceed five.

(10) Where there be no committee of inspection, any act or thing or any direction or permission by this Act authorised or required to be done or given by the committee, may be done or given by the court on the application of the trustee.

Power to accept composition or scheme after bankruptcy adjudication.

21.-(1) Where a debtor is adjudged bankrupt, the creditors may, if they think fit, at any time after the adjudication, resolve to entertain a proposal for a composition in satisfaction of the debts due to them under the bankruptcy or for a scheme of arrangement of the bankrupt's affairs, and such resolution shall be the like resolution as is required for accepting a like proposal made by a debtor before an adjudication of bankruptcy, and thereupon the same proceedings shall be taken and the same consequences shall ensue as in the case of a composition or scheme accepted before the adjudication.

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

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

pursuance of the composition or scheme.

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

Control Over Person and Property of Debtor

22.-(1) Every debtor, against whom a receiving order is made shall, unless prevented by sickness or other sufficient cause, attend the first meeting of his creditors and shall submit to such examination and give such information as the meeting may require.

Duties of debtor as to discovery and realisation of property.

- (2) Every such debtor shall-
- (a) give such inventory of his property;
 - (b) give such list of his creditors and debtors, and of the debts due to and from them respectively;
 - (c) submit to such examination in respect of his property or his creditors;
 - (d) attend such other meetings of his creditors;
 - (e) wait at such times on the Official Receiver, special manager or trustee;
 - (f) execute such powers of attorney, conveyances, deeds and instruments;
 - (g) generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the Official Receiver, special

manager or trustee, or may be prescribed by general rules, or be directed by the court, by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the Official Receiver, special manager, trustee or any creditor or person interested.

(3) Every such debtor shall, if adjudged bankrupt, aid to the utmost of his power in the realisation of his property and the distribution of the proceeds among the creditors.

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

Arrest of debtor under certain circumstances.

23.-(1) The court may, by warrant addressed to any constable or prescribed officer of the court, cause a debtor to be arrested, and any books, papers, money, and goods in his possession to be seized, and him and them to be safely kept as prescribed until such time as the court may order under the following circumstances-

- (a) where, after a bankruptcy notice has been issued under this Act, or after presentation of a bankruptcy petition by or against him, it appears to the court that there is probable reason for believing that he has absconded or is about to abscond with a view of avoiding-
- (i) payment of the debt in respect of which the bankruptcy notice was issued; or
 - (ii) service of a bankruptcy petition; or

- (iii) appearance to any such petition; or
- (iv) examination in respect of his affairs;

or of otherwise avoiding, delaying, or embarrassing proceedings in bankruptcy against him;

- (b) where, after presentation of a bankruptcy petition, by or against him, it appears to the court that there is probable cause for believing that he is about to remove his goods with a view of preventing or delaying possession being taken of them by the Official Receiver or trustee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods, or any books, documents or writings, which might be of use to his creditors in the course of his bankruptcy;
- (c) where, after service of a bankruptcy petition on him or after a receiving order is made against him, he removes any goods in his possession above the value of twenty-five dollars without the leave of the Official Receiver or trustee;
- (d) where, without good cause shown, he fails to attend any examination ordered by the court.

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

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

Re-direction of debtor's letters.

24. Where a receiving order is made against a debtor, the court, on the application of the Official Receiver or trustee, may from time to time order that for such time, not exceeding three months as the court thinks fit, post letters addressed to the debtor at any place or places mentioned in the order for re-direction shall be re-directed, sent or delivered by the postmaster or the officers acting under him, to the Official Receiver or the trustee or otherwise as the court directs, and the same shall be done accordingly.

Enquiry as to debtor's conduct, dealings and property.

25.-(1) The court may, on the application of the Official Receiver or trustee, at any time after a receiving order has been made against a debtor, summon before it the debtor or his wife or any person known or suspected to have in his possession any of the estate or effects belonging to the debtor, or supposed to be indebted to the debtor, or any person whom the court may think capable of giving information respecting the debtor, his dealings or property, and the court may require any such person to produce any document in his custody or power relating to the debtor, his dealings or property.

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

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

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

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

(6) The court may, if it thinks fit, order that any person who, if in Belize, would be liable to be brought before it under this section, shall be examined in any place out of Belize.

Discharge of Bankrupt

26.-(1) A bankrupt may, at any time after being adjudged bankrupt, apply to the court for an order of discharge, and the court shall appoint a day for hearing the application, but the application shall not be heard until the public examination of the bankrupt is concluded.

Discharge of
bankrupt.

(2) The application shall be heard in open court.

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

(4) The court shall refuse the discharge in all cases where the bankrupt has been convicted of any offence under this Act or under the Debtors Act, or any other offence connected with his bankruptcy, unless for special reasons the court otherwise determines, and shall, on proof of any of the facts mentioned in subsection (6), either-

CAP. 168.

- (a) refuse the discharge; or
- (b) suspend the discharge for a period of not less than two years; or
- (c) suspend the discharge until a dividend of not less than fifty *per centum* has been paid to the creditors; or
- (d) require the bankrupt as a condition of his discharge to consent to judgment being entered against him by the Official Receiver or trustee for any balance or part of any balance of the debts provable under the bankruptcy which is not satisfied at the date of the discharge, such balance or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the bankrupt in such manner and subject to such conditions as the court may direct, but execution shall not be issued on the judgment without leave of the court, which leave may be given on proof that the bankrupt has since his discharge acquired property or income available towards payment of his debts.

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

(6) The facts referred to in subsection (4) are-

- (a) that the bankrupt's assets are not of a value equal to fifty *per centum* on the amount of his unsecured liabilities, unless he satisfies the court that the fact that the assets are not of a value equal to fifty *per centum* on the amount of his unsecured liabilities has arisen from circumstances for which he cannot

justly be held responsible;

- (b) that the bankrupt has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his bankruptcy;
- (c) that the bankrupt has continued to trade after knowing himself to be insolvent;
- (d) that the bankrupt has contracted any debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation (proof whereof shall lie on him) of being able to pay it;
- (e) that the bankrupt has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;
- (f) that the bankrupt has brought on, or contributed to, his bankruptcy by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs;
- (g) that the bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against him;
- (h) that the bankrupt has within three months preceding the date of the receiving order incurred unjustifiable expense by bringing a frivolous or vexatious action;
- (i) that the bankrupt has within three months preceding the date of the receiving order, when unable to pay his debts as they

become due, given an undue preference to any of his creditors;

- (j) that the bankrupt has within three months preceding the date of the receiving order incurred liabilities with a view of making his assets equal to fifty *per centum* of the amount of his unsecured liabilities;
- (k) that the bankrupt has on any previous occasion been adjudged bankrupt, or made a composition or arrangement with his creditors;
- (l) that the bankrupt has been guilty of any fraud or fraudulent breach of trust.

(7) For the purposes of this section, a bankrupt's assets shall be deemed of a value equal to fifty *per centum* of the amount of his unsecured liabilities when the court is satisfied that the property of the bankrupt has realised, or is likely to realise, or with due care in realisation might have realised, an amount equal to fifty *per centum* of his unsecured liabilities, and a report by the Official Receiver or the trustee shall be *prima facie* evidence of the amount of such liabilities.

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

(9) Notice of the appointment by the court of the day for hearing the application for discharge shall be published in the prescribed manner, and sent fourteen days at least before the day so appointed to each creditor who has proved, and the court may hear the Official Receiver and the trustee, and may also hear any creditor.

(10) At the hearing, the court may put such questions to the debtor and receive such evidence as it may think fit.

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

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

27. In either of the following cases, that is to say-

Fraudulent
settlement.

- (a) in the case of a settlement made before and in consideration of marriage, where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; or
- (b) in the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest (not being money or property of or in right of his wife),

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

Effect of order of discharge.

40 of 1963.

28.-(1) An order of discharge shall not release the bankrupt-

- (a) from any debt on a recognisance nor from any debt with which the bankrupt may be chargeable at the suit of the Government or of any person for any offence against a statute relating to any branch of the public revenue, and he shall not be discharged from such excepted debts unless the Minister certify in writing his consent to his being released therefrom; or
- (b) from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party, nor from any debt or liability whereof he has obtained forbearance by any fraud to which he was a party.

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

(3) An order of discharge shall be conclusive evidence of the bankruptcy and of the validity of the proceedings therein, and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

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

(5) An order of discharge shall not release the bankrupt from any liability under a judgment against him in an action for seduction, or under an affiliation order, or under a judgment against him as a co-respondent in a matrimonial cause, except to such an extent and under such conditions as the court expressly orders in respect of such liability.

29. Where an undischarged bankrupt who has been adjudged bankrupt under this Act obtains credit to the extent of one hundred dollars or upwards from any person without informing such person that he is an undischarged bankrupt, he commits a misdemeanour, and may be dealt with and punished as if he had been guilty of an offence under the Debtors Act, and that Act shall apply to proceedings under this section. Undischarged bankrupt obtaining credit to the extent of \$100 to be guilty of misdemeanour. CAP. 168.
- 30.-(1) Notwithstanding anything contained in this Act or any other law, but subject to the provisions of this section, a bankrupt is automatically discharged from bankruptcy after the expiration of five years beginning with the commencement of the bankruptcy. Automatic discharge of bankrupt. 12 of 1998.
- (2) A bankrupt may at any time after the expiration of five years from the commencement of bankruptcy, apply to the Supreme Court for a certificate of discharge and the Court shall, if satisfied that the relevant period has elapsed, issue to him a certificate of discharge, and the date from which such discharge shall be effective shall be the date of the issue of such certificate. 12 of 1998.
- (3) An application for an order of discharge under this section may be made *ex parte* to a Judge in Chambers supported by affidavit showing that the requisite period of five years has elapsed since the commencement of the bankruptcy. 12 of 1998.
- (4) An order of discharge under this section shall not release the bankrupt from any debts proved in bankruptcy, but the bankrupt shall not be liable to be adjudged bankrupt again in respect of the same debts. 12 of 1998.
- (5) Every certificate of discharge under this section shall be published in the *Gazette*. 12 of 1998.
- (6) On obtaining his certificate of discharge, the bankrupt shall cease to be subject to the various disqualifications and disabilities which he is under as an undischarged bankrupt. 12 of 1998.

PART III

Disqualification of Bankrupt

Disqualification of bankrupt. 31.-(1) Where a debtor is adjudged bankrupt he shall, subject to this Act, be disqualified from-

- (a) being appointed to, or sitting or voting in, the National Assembly or any committee thereof as an elected or nominated member;
- (b) being appointed or acting as a justice of the peace.

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

- (a) the adjudication of bankruptcy against him is annulled; or
- (b) he obtains from the court his discharge with a certificate to the effect that his bankruptcy was caused by misfortune without any misconduct on his part, and the court may grant or withhold such certificate as it thinks fit.

(3) No disqualification arising by virtue of this section shall exceed a period of five years from the date of any discharge granted under and by virtue of this Act.

Power for court to annul adjudication in certain cases.

32.-(1) When in the opinion of the court a debtor ought not to have been adjudged bankrupt, or where it is proved to the satisfaction of the court that the debts of the bankrupt are paid in full, the court may on the application of any person interested, by order, annul the adjudication.

(2) When an adjudication is annulled under this section, all sale and dispositions of property and payments duly made and all acts theretofore done,

by the Official Receiver, trustee or other person acting under their authority, or by the court, shall be valid, but the property of the debtor who was adjudged bankrupt shall vest in such person as the court may appoint, or in default of any such appointment, revert to the debtor for all his estate or interest therein in such terms and subject to such conditions, if any, as the court may declare by order.

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

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

Meaning of
payment of
debts in full.

PART IV

Administration of Property

Proof of Debts

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

Description of
debts provable
in bankruptcy.

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

(3) Except as aforesaid, all debts and liabilities, present or future, certain or contingent, to which the debtor is subject at the date of the receiving order, or to which he may become subject before his discharge by reason of

any obligation incurred before the date of the receiving order, shall be deemed to be debts provable in bankruptcy.

(4) An estimate shall be made by the trustee of the value of any debt or liability provable as aforesaid, which by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value.

(5) Any person aggrieved by any estimate made by the trustee under subsection (4) may appeal to the court.

(6) Where, 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) Where, in the opinion of the court, the value of the debt or liability is capable of being fairly estimated, the court may direct the value to be assessed before the court itself, without the intervention of a jury, 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) For the purposes of this Act, “liability” shall include-

- (a) any compensation for work or labour done;
- (b) any obligation or possibility of an obligation to pay money or money’s worth on the breach of any express or implied covenant, contract, agreement, or undertaking, whether the breach does or does not occur, or is or is not likely to occur, or capable of occurring before the discharge of the debtor; and
- (c) generally it shall include any express or implied engagement, agreement or undertaking, to pay, or capable of resulting in

the payment of money, or money's worth, whether the payment is, as respects amount fixed or unliquidated, as respects time, present or future, certain or dependent on any one contingency, or on two or more contingencies, as to mode of valuation, capable of being ascertained by fixed rules, or a matter of opinion.

35. Where there have been mutual credits, mutual debts or other mutual dealings between a debtor against whom a receiving order is made under this Act, and any other person proving or claiming to prove a debt under such receiving order, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively, but a person shall not be entitled under this section to claim the benefit of any set-off against the property of a debtor in any case where he had at the time of giving credit to the debtor, notice of an act of bankruptcy committed by the debtor and available against him. Mutual credit and set-off.
36. With respect to the mode of proving debts, the right of proof by secured and other creditors, the admission and rejection of proofs and the other matters referred to in the Second Schedule, the rules in that Schedule shall be observed. Rules as to proof of debts. Second Schedule.
- 37.-(1) In the distribution of the property of a bankrupt and in the distribution of the assets of any company being wound-up under the provisions of any law in force in Belize relating to companies, there shall be paid in priority to all other debts- Priority of debts.
- (a) all local rates, land and property or other tax due from the bankrupt or the company at the date of the receiving order or, as the case may be, the commencement of the winding-up and having become due and payable within twelve months next before such time;

- (b) all wages or salary of any clerk or servant in respect of services rendered to the bankrupt or the company during four months before the date of the receiving order, or, as the case may be, the commencement of the winding-up not exceeding two hundred and fifty dollars;
- (c) all wages of any labourer or workman, not exceeding one hundred and twenty-five dollars, whether payable for time or piece work, in respect of services rendered to the bankrupt or the company during six months before the date of the receiving order, or, as the case may be, the commencement of the winding-up:

Provided that where any labourer has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the term of hiring, he shall have priority in respect of the whole of such sum or part thereof as the court may decide to be due under the contract proportionate to the time of service up to the date of the receiving order, or, as the case may be, the commencement of the winding-up.

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

(3) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the foregoing debts shall be discharged forthwith, so far as the property of the debtor, or the assets of the company, as the case may be, is or are sufficient to meet them.

(4) In the event of a landlord or other person distraining or having distrained on any goods or effects of a bankrupt or a company being wound-up within three months next before the date of the receiving order or the winding-

up order respectively, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof:

Provided that in respect of any money paid under any such charge, the landlord or other person shall have the same rights or priority as the person to whom such payment is made.

(5) This section shall apply in the case of a deceased person who dies insolvent, as if he were a bankrupt, and as if the date of his death were substituted for the date of the receiving order.

(6) 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.

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

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

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

(10) Where there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date of the receiving order or, as the case may be, the commencement of the winding-up, at the rate of six *per centum per annum* on all debts proved in the bankruptcy, or the winding-up.

38.-(1) The landlord or other person to whom any rent is due from the bankrupt may at any time, either before or after the commencement of the bankruptcy, distrain upon the goods or effects of the bankrupt for the rent due to him from

Power of
landlord to
distrain for rent.

the bankrupt, with this limitation, that if such distress for rent be levied after the commencement of the bankruptcy, it shall be available only for six months' rent accrued due prior to the date of the order of adjudication, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the surplus due for which the distress may not have been available.

(2) For the purposes of this section, the term "order of adjudication" shall be deemed to include an order for the administration of the estate of a deceased person who dies insolvent.

Property Available for Payment of Debts

Relation back of trustee's title.

39. The bankruptcy of a debtor, whether it takes place on the debtor's own petition or upon that of a creditor or creditors, shall be deemed to have relation back to, and to commence at the time of the act of bankruptcy being committed on which a receiving order is made against him or, if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to, and to commence at the time of the first of the acts of bankruptcy proved to have been committed by the bankrupt within three months next preceding the date of the presentation of the bankruptcy petition, but no bankruptcy petition, receiving order, or adjudication shall be rendered invalid by reason of any act of bankruptcy anterior to the debt of the petitioning creditor.

Description of bankrupt's property divisible amongst creditors.

40.-(1) The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars-

- (a) property held by the bankrupt in trust for any other person;
- (b) the tools (if any) of his trade, and the necessary wearing apparel and bedding of himself, his wife and children, to a value, inclusive of tools and apparel and bedding, not exceeding one hundred dollars in the whole.

(2) The property of the bankrupt shall comprise the following particulars-

- (a) all such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy, or may be acquired by or devolve on him before his discharge;
- (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;
- (c) all goods, being at the commencement of the bankruptcy in the possession, order, or disposition of the bankrupt, in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof:

Provided that things in action other than debts due or growing due to the bankrupt in the course of his trade or business, shall not be deemed goods within the meaning of this section.

Effect of Bankruptcy on Antecedent Transactions

41.-(1) Where a creditor has issued execution against the goods of a debtor or has attached any debt due to him, he shall not be entitled to retain the benefit of the execution or attachment against the trustee in bankruptcy of the debtor, unless he has completed the execution or attachment before the date of the receiving order, and before notice of the presentation of any bankruptcy petition by or against the debtor, or of the commission of any available act of bankruptcy by the debtor.

Restriction of rights of creditors under execution or attachment.

(2) For the purposes of this Act, an execution against goods is

completed by seizure and sale, and an attachment of a debt by receipt of the debt.

Duties of Marshal
as to goods taken
in execution.

42.-(1) Where any goods of a debtor are taken in execution, and before the sale thereof, or the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the Marshal that a receiving order has been made against the debtor, the Marshal shall, on request, deliver the goods and any money seized or received in part satisfaction of the execution, to the Official Receiver or trustee but the costs of the execution shall be a first charge on the goods or money so delivered, and the Official Receiver or trustee may sell the goods, or an adequate part thereof, for the purpose of satisfying the charge.

(2) Where under an execution in respect of a judgment for a sum exceeding one hundred dollars, the goods of a debtor are sold or money is paid in order to avoid sale, the Marshal shall deduct his costs of the execution from the proceeds of sale or the money paid and retain the balance for fourteen days, and if within that time notice is served on him of a bankruptcy petition having been presented against or by the debtor, and a receiving order is made against the debtor thereon, or on any other petition of which the Marshal has notice, the Marshal shall pay the balance to the Official Receiver or, as the case may be, to the trustee, who shall be entitled to retain the same as against the execution creditor.

(3) An execution levied by seizure and sale on the goods of a debtor is not invalid by reason only of its being an act of bankruptcy, and a person who purchases the goods in good faith under a sale by the Marshal shall in all cases acquire a good title to them against the trustee in bankruptcy.

Avoidance of
voluntary
settlements.

43.-(1) Any settlement of property, not being a settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife, shall-

- (a) if the settlor becomes bankrupt within two years after the date of the settlement, be void against the trustee in bankruptcy; and
- (b) if the settlor becomes bankrupt at any subsequent time within ten years after the date of the settlement, be void against the trustee in bankruptcy,

unless the parties claiming under the settlement can prove that-

- (i) the settlor was at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; and
- (ii) the interest of the settlor in such property had passed to the trustee of such settlement on the execution thereof.

(2) Any covenant or contract made in consideration of marriage, for the future settlement on or for the settlor’s wife or children, of any money or property, wherein he had not at the date of his marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property of or in right for his wife, shall, on his becoming bankrupt before the property or money has been actually transferred or paid, pursuant to the contract or covenant be void against the Trustee in Bankruptcy.

(3) “Settlement” shall for the purposes of this section, include any conveyance of transfer of property.

44.-(1) Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, or any person in trust for any creditor, with a view of giving such creditor a preference over the other creditors shall, if the person making, taking, paying or suffering the same is adjudged

Avoidance of preferences in certain cases.

bankrupt on a bankruptcy petition, presented within three months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in bankruptcy.

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

Protection of *bona fide* transactions without notice.

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

- (a) any payment by the bankrupt to any of his creditors;
- (b) any payment or delivery to the bankrupt;
- (c) any conveyance or assignment by the bankrupt for valuable consideration;
- (d) any contract, dealing, or transaction by or with the bankrupt for valuable consideration:

Provided that both the following conditions are complied with, namely-

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

delivery, conveyance, assignment, contract, dealing or transaction, notice of any available act of bankruptcy committed by the bankrupt before that time.

Realisation of Property

46.-(1) The trustee shall as soon as may be, take possession of the deeds, books, and documents of the bankrupt, and all other parts of his property capable of manual delivery.

Possession of property by trustee.

(2) The trustee 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 such 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, officer or person, the trustee 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, such things shall be deemed to have been duly assigned to the trustee.

(5) Any treasurer, or other officer, or any banker, attorney or agent of a bankrupt, shall pay and deliver to the trustee all money and securities in his possession or power, as such officer, banker, attorney or agent which he is not by law entitled to retain as against the bankrupt or the trustee.

(6) Such a person who does not pay and deliver all money and securities as aforesaid commits a contempt of court, and may be punished accordingly on the application of the trustee.

Seizure of
property of
bankrupt.

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

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

Appropriation of
portion of pay or
salary to creditors.

48.-(1) Where a bankrupt is an officer or clerk or otherwise employed or engaged in the public service of the Government, the trustee shall receive for distribution amongst the creditors so much of the bankrupt's pay or salary as the court, on the application of the trustee, with the consent of the Attorney General, may direct.

(2) Before making any order under this subsection, the court shall communicate with the Attorney General as to the amount, time, and manner of the payment to the trustee, and shall obtain the written consent of the Attorney General to the terms of such payment.

(3) Where a bankrupt is in receipt of a salary or income other than as mentioned in subsection (1), or is entitled to any half-pay, or pension, the court, on the application of the trustee, shall from time to time make such order as it thinks just for the payment of the salary, income, half-pay or pension or of any part thereof, to the trustee to be applied by him in such manner as the court may direct.

49.-(1) Until a trustee is appointed, the Official Receiver shall be the trustee for the purposes of this Act, and immediately on a debtor being adjudged bankrupt, the property of the bankrupt shall vest in the trustee.

Vesting and transfer of property.

(2) On the appointment of a trustee, the property shall forthwith pass to and vest in the trustee appointed.

(3) The property of the bankrupt shall pass from trustee to trustee, including under that term the Official Receiver when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment, or transfer whatever.

(4) The certificate of appointment of a trustee shall for all purposes of any law requiring registration or the recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property and may be registered or recorded accordingly.

50.-(1) Where any part of the property of the bankrupt consists of land of any tenure burdened with onerous covenants, of shares or stocks in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding, the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the trustee, 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 within twelve months (or within such further time as may be allowed by the court) after the first appointment of a trustee, disclaim the property:

Disclaimer of onerous property.

Provided that where any such property shall not have come to the knowledge of the trustee within one month after such appointment, he may disclaim such property at any time within twelve months (or within such further time as may be allowed by the court) after he first became aware thereof.

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

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

(4) The trustee shall not be entitled to disclaim any property in pursuance of this section in any case where an application in writing has been made to the trustee by any person interested in the property requiring him to decide whether he will disclaim or not, and the trustee has for a period of twenty-eight days after the receipt of the application, or such extended period as may be 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 trustee, after such an application, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

(5) The court may, on the application of any person who is, as against the trustee, 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 may seem equitable, and any damages payable under the order to any such person may be proved by him as a debt under the bankruptcy.

(6) The court may on application by any person either claiming any interest in any disclaimed property or under any liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or delivery thereof to any person entitled thereto, or to whom it may seem just that it should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the court thinks just.

(7) On any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose.

(8) 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 that person-

- (a) subject to the same liabilities and obligations as the bankrupt was subject to under the lease in respect of the property at the date when the bankruptcy petition was filed; or
- (b) if the court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date,

and in either event (if the case so requires) as if the lease had comprised only the property comprised in the vesting order.

(9) Any mortgagee or under-lessee declining to accept a vesting order upon such terms as specified in subsection (8) shall be excluded from all interest in and security upon the property.

(10) Where there is no person claiming under the bankrupt who is willing to accept an order upon such terms as specified in subsection (8), 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.

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

Powers of trustee to deal with property.

51. Subject to this Act, the trustee may do all or any of the following things-

- (a) sell all or any part of the property of the bankrupt (including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt) by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell it in parcels;
- (b) give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof;
- (c) prove, rank, claim and draw a dividend in respect of any debt due to the bankrupt;
- (d) exercise any powers the capacity to exercise which is vested in the trustee under this Act, and execute any powers of attorney, deeds and other instruments for the purpose of carrying into effect the provisions of this Act.

Powers exercisable by trustee with permission of committee of inspection.

52.-(1) The trustee may, with the permission of the committee of inspection, do all or any of the following things-

- (a) carry on the business of the bankrupt, so far as may be

necessary for the beneficial winding-up of it;

- (b) bring, institute, or defend any action or other legal proceeding relating to the property of the bankrupt;
- (c) employ an attorney or other agent to take any proceedings or do any business which may be sanctioned by the committee of inspection;
- (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 and otherwise as the committee think fit;
- (e) mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts;
- (f) refer any dispute to arbitration, compromise all debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt, on the receipt of such sums payable at such times, and generally on such terms as may be agreed on;
- (g) make such compromise or other arrangement as may be 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 trustee by any person, or by the trustee on any person;
- (h) make such compromise or other arrangement as may be thought expedient with creditors or persons claiming to be creditors in respect of any debts provable under the

bankruptcy;

- (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.

(2) The permission given for the purposes of this section shall not be a general permission to do all or any of the above-mentioned things, but shall only be a permission to do the particular thing or things for which permission is sought in the specified case or cases.

Power to allow bankrupt to manage property.

53. The trustee, with the permission of the committee of inspection, may appoint the bankrupt himself to superintend the management of the property of the bankrupt or of any part thereof, or to carry on the trade (if any) of the bankrupt for the benefit of his creditors, and in any other respect to aid in administering the property in such manner, and on such terms, as the trustee may direct.

Allowance to bankrupt for maintenance or service.

54. The trustee may from time to time, with the permission of the committee of inspection, 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 services if he is engaged in winding up his estate, but any such allowance may be reduced by the court.

Distribution of Property

Declaration and distribution of dividends.

55.-(1) Subject to the retention of such sums as may be necessary for the costs of administration, or otherwise, the trustee shall with all convenient speed declare and distribute dividends amongst the creditors who have proved their debts.

(2) The first dividend, if any, shall be declared and distributed within four months after the conclusion of the first meeting of creditors, unless the

trustee satisfies the committee of inspection that there is sufficient reason for postponing the declaration to a later date.

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

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

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

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

Joint and separate dividends.

(2) Where joint and separate properties are being administered, dividends of the joint and separate properties shall, subject to any order to the contrary that may be made by the court on the application of any person interested, be declared together, and the expenses of and incident to such dividends shall be fairly apportioned by the trustee between the joint and separate properties, regard being had to the work done for and the benefit received by each property.

57.-(1) In the calculation and distribution of a dividend, the trustee shall make provision for debts provable in bankruptcy appearing from the bankrupt's statements, or otherwise, to be due to persons resident in places so distant from the place where the trustee is acting that in the ordinary course of

Provision for creditors residing at a distance, etc.

communication they have not had sufficient time to tender their proofs, or to establish them if disputed, and also for debts provable in bankruptcy, the subject of claims not yet determined.

(2) The trustee shall also make provision for any disputed proofs or claims, and for the expenses necessary for the administration of the estate or otherwise.

(3) Subject to this section, the trustee shall distribute as dividend all money in hand.

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

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

Final dividend.

59.-(1) When the trustee has realised all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of inspection, be realised without needlessly protracting the trusteeship, he shall declare a final dividend, but before doing so he shall give notice in the manner prescribed to the persons whose claims to be creditors have been notified to him, but not established to his satisfaction, that if they do not establish their claims to the satisfaction of the court within a time limited by the notice, he will proceed to make a final dividend without regard to their claims.

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

60. No action for a dividend shall lie against the trustee, but if the trustee refuses to pay any dividend the court may, if it thinks fit, order him to pay it, and also to pay out of his own money interest thereon for the time it is withheld, and the costs of the application. No action for dividend.
61. The bankrupt shall be entitled to any surplus remaining after payment in full of his creditors, with interest, as by this Act provided, and of the costs, charges and expenses of the proceedings under the bankruptcy petition. Right of bankrupt to surplus.

PART V

Official Receivers

- 62.-(1) The Attorney General may, from time to time, appoint such person as he may think fit to be the Official Receiver of debtors' estates, and may remove any person so appointed from such office. Appointment by the Attorney General of Official Receiver of debtors' estates.
- (2) The Official Receiver of debtors' estates shall be an officer of the court.
- (3) The court may, on the application of the Official Receiver, at any time appoint some fit person or persons, to be the deputy or deputies of the Official Receiver, under such conditions as to remuneration and otherwise as may be prescribed.
- 63.-(1) The duties of the Official Receiver shall have relation both to the conduct of the debtor and to the administration of his estate. Status of Official Receiver.
- (2) The Official Receiver may, for the purpose of affidavits verifying proofs, petitions or other proceedings under this Act, administer oaths.
- (3) All expressions referring to the trustee under a bankruptcy shall, unless the context otherwise requires, or this Act otherwise provides, include the Official Receiver when acting as trustee.

(4) The trustee shall supply the Official Receiver with such information, and give him such access to, and facilities for, inspecting the bankrupt's books and documents and generally shall give him such aid, as may be requisite for enabling the Official Receiver to perform his duties under this Act.

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

64. As regards the debtor, it shall be the duty of the Official Receiver-

- (a) to investigate the conduct of the debtor and to report to the court, stating whether there is reason to believe that the debtor has committed any act which constitutes an offence under the Debtor's Act or under this Act or which would justify the court in refusing, suspending or qualifying an order for his discharge;
- (b) to make such other reports concerning the conduct of the debtor as the court may direct;
- (c) to take such part as may be directed by the court in the public examination of the debtor;
- (d) to take such part and give such assistance, in relation to the prosecution of any fraudulent debtor, as the court may direct.

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Duties of Official Receiver as to debtor's estate.

65.-(1) As regards the estate of a debtor, it shall be the duty of the Official Receiver-

- (a) pending the appointment of a trustee, to act as interim receiver of the debtor's estate, and where a special manager is not appointed, as manager thereof;
- (b) to authorise the special manager to raise money or make advances for the purposes of the estate in any case where, in the interests of the creditors, it appears necessary to do so;

- (c) to summon and preside at the first meeting of creditors;
- (d) to issue forms of proxy for use at the meetings of creditors;
- (e) to report to the creditors as to any proposal which the debtor may have made with respect to the mode of liquidating his affairs;
- (f) to advertise the receiving order, the date of the creditor's first meeting and of the debtor's public examination and such other matters as it may be necessary to advertise;
- (g) to act as trustee during any vacancy in the office of trustee.

(2) For the purpose of his duties as interim receiver or manager, the Official Receiver shall have the same powers if he were a receiver and manager appointed by the court, but shall as far as practicable consult the wishes of the creditors with respect to the management of the debtor's property, and may for that purpose, if he thinks it advisable, summon meetings of the persons claiming to be creditors, and shall not, unless the court otherwise orders, incur any expense beyond such as is requisite for the protection of the debtor's property or the disposing of perishable goods:

Provided that when the debtor cannot himself prepare a proper statement of affairs, the Official Receiver may, subject to any prescribed conditions, and at the expense of the estate, employ some person or persons to assist in the preparation of the statement of affairs.

(3) The Official Receiver shall account to the court and pay over all money and deal with all securities in such manner as the court from time to time may direct.

(4) The Official Receiver shall not, during his continuance in office, either directly or indirectly, by himself, his clerk, or partner, act as attorney in

any proceeding in bankruptcy or in any prosecution of a debtor by order of the court, and if he does so act he shall be liable to be dismissed from office.

PART V

Trustees in Bankruptcy

Official Name

Official name of trustee. 66. The trustee may sue and be sued by the official name of “the trustee of the property of _____, a bankrupt” (*inserting the name of the bankrupt*), and by that name may hold property of every description, make contracts, sue and be sued, enter into any engagements binding on himself and his successors in office and do all other acts necessary or expedient to be done in the execution of his office.

Appointment and Removal

Power to appoint joint or successive trustees. 67.-(1) The creditors may, if they think fit, appoint more persons than one to the office of trustee, and when more persons than one are appointed they shall declare whether any act required or authorised to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are in this Act included under the term “trustee” and shall be joint tenants of the property of the bankrupt.

(2) The creditors may also appoint persons to act as trustees in succession in the event of one or more of the persons first named declining to accept the office of trustee or failing to give security, or not being approved of by the court.

Proceedings in case of vacancy in office of trustee. 68.-(1) If a vacancy occurs in the office of a trustee, the creditors in general meeting may appoint a person to fill the vacancy, and thereupon the same proceedings shall be taken as in the case of a first appointment.

(2) The Official Receiver shall, on the requisition of any creditor, summon a meeting for the purpose of filling any such vacancy.

(3) During any vacancy in the office of trustee, the Official Receiver shall act as trustee.

Voting Powers of Trustee

69. The vote of the trustee, or of his partner, clerk or attorney, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the trustee.

Limitation of voting powers of trustee.

Control over Trustee

70.-(1) Subject to this Act, the trustee shall, in the administration of the property of the bankrupt and in the distribution thereof amongst his creditors, have regard to any directions that may be given by resolution of the creditors at any general meeting, or by the committee of inspection, and any direction so given by the creditors at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

Discretionary powers of trustee and control thereof.

(2) The trustee may from time to time summon general meetings of the creditors for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors by resolution, either at the meeting appointing the trustee or otherwise may direct.

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

(4) Subject to this Act, the trustee shall use his own discretion in the management of the estate and its distribution among the creditors.

71. If the bankrupt or any of his creditors, or any other person, is aggrieved by any act or decision of the trustee, he may apply to the court, and the court may

Appeal to court against trustee.

confirm, reverse or modify the act or decision complained of, and make such order in the premises as it thinks fit.

Remuneration of Trustee

Remunerations of trustee.

72.-(1) Where the creditors appoint any person to be trustee of a debtor's estate, his remuneration (if any) shall be fixed by an ordinary resolution of the creditors or if the creditors so resolve by the committee of inspection, and shall be in the nature of a commission or percentage, of which one part shall be payable on the amount realised by the trustee, after deducting any sums paid to secured creditors out of the proceeds of their securities, and the other part on the amount distributed in dividend.

(2) If one-fourth in number or value of the creditors dissent from the resolution, or the bankrupt satisfies the court that the remuneration is unnecessarily large, the court shall fix the amount of the remuneration.

(3) The resolution shall express what expenses the remuneration is to cover, and no liability shall attach to the bankrupt's estate, or to the creditors, in respect of any expenses which the remuneration is expressed to cover.

(4) Where a trustee acts without remuneration, he shall be allowed out of the bankrupt's estate such proper expenses incurred by him in or about the proceedings of the bankruptcy as the creditors may, with the sanction of the court, approve.

(5) A trustee shall not, under any circumstances whatever, make any arrangement for or accept from the bankrupt, or any attorney, auctioneer, or any other person that may be employed about a bankruptcy, any gift, remuneration or pecuniary or other consideration or benefit whatever beyond the remuneration fixed by the creditors and payable out of the estate, nor shall he make any arrangement for giving up, or give up, any part of his remuneration, either as receiver, manager or trustee to the bankrupt, or any attorney or other person that may be employed about a bankruptcy.

Costs

73.-(1) Where a trustee or manager receives remuneration for his services as such, no payment shall be allowed in his accounts in respect of the performance by any other person of the ordinary duties which are required to be performed by himself.

Allowance and
taxation of costs.

(2) Where the trustee is an attorney, he may contract that the remuneration for his services as trustee shall include all professional services.

(3) All bills and charges of attorneys, managers, accountants, auctioneers, brokers and other persons, not being trustees, shall be taxed by the Registrar, and no payments in respect thereof shall be allowed in the trustee's accounts without proof of such taxation having been made.

(4) The Registrar shall satisfy himself before passing such bills and charges that the employment of such attorneys and other persons, in respect of the particular matters out of which such charges arise, has been duly sanctioned.

(5) The sanction required under subsection (4) for the employment of attorneys and other persons must be a sanction obtained before the employment, except in cases of urgency, and in such cases it must be shown that no undue delay took place in obtaining the sanction.

(6) Every such person shall, on request by the trustee (which request the trustee shall make a sufficient time before declaring a dividend) deliver his bill of costs or charges to the Registrar for taxation, and if he fails to do so within seven days after the receipt of the request, or such further time as the court, on application, may grant, the trustee 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 trustee personally as against the estate.

- Books to be kept by trustee. 74. The trustee shall keep, in the manner prescribed, proper books, in which he shall from time to time cause to be made entries or minutes of proceedings at meetings and of such other matters as may be prescribed and any creditor of the bankrupt may, subject to the control of the court, personally or by his agent inspect any such books.
- Trustees to pay money into Treasury. 75.-(1) Every trustee shall, except as in subsection (2) provided, pay into the Treasury to a deposit account all moneys received by him as such trustee, and the Accountant General is hereby authorised to receive them and grant receipts therefor.
- (2) All moneys so paid into the Treasury shall be repayable to the trustee as he may require them, subject to his giving proper receipts.
- (3) If a trustee at any time retains for more than ten days a sum exceeding two hundred and fifty dollars, or such other amount as the court in any particular case may authorise him to retain, then, unless, he explains the retention to the satisfaction of the court, he shall pay interest on the amount so retained in excess at the rate of twenty *per centum per annum*, and shall have no claim for remuneration and may be removed from his office.
- Audit of trustee's accounts. 76.-(1) Every trustee shall, at such times as may be prescribed, but not less than twice in each year during his tenure of office, file in the Registry an account of his receipts and payments as such trustee.
- (2) The account shall be in the prescribed form and shall be verified by a statutory declaration in the prescribed form.
- (3) The Registrar shall audit the account, and the trustee shall furnish the Registrar with such vouchers and information as the Registrar may require, and the Registrar may at any time require the production of and inspect any books or accounts kept by the trustee.
- (4) Such account shall be open to the inspection of any creditor, or

of the bankrupt or of any person interested.

Vacation of Office by Trustee

77.-(1) When the trustee has realised all the property of the bankrupt, or so much thereof as can, in his opinion, be realised, without needlessly protracting the trusteeship, and distributed a final dividend, if any, or has ceased to act by reason of a composition having been approved, or has resigned, or has been removed from his office, the Registrar shall on his application prepare a report on his accounts, which shall be submitted to the court, and the court shall take into consideration the report and any objection, which may be urged by any creditor or person interested against his release, and shall either grant or withhold the release accordingly.

Release of trustee.

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

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

(4) Where the trustee has not previously resigned or been removed, his release shall operate as a removal of him from his office, and thereupon the Official Receiver shall be the trustee.

78. If a receiving order is made against a trustee, he shall thereby vacate his office of trustee.

Office of trustee vacated by insolvency.

Removal of trustee. 79.-(1) The creditors may, by resolution, at a meeting specially called for that purpose, of which seven days' notice has been given, remove a trustee appointed by them, and may, at the same or any subsequent meeting, appoint another person to fill the vacancy as provided in this Act in case of a vacancy in the office of trustee.

- (2) If the court is of the opinion-
- (a) that a trustee appointed by the creditors is guilty of misconduct, or fails to perform his duties under this Act; or
 - (b) that he is by reason of unsoundness of mind, or continued sickness or absence, incapable of performing his duties; or
 - (c) that his connection with or relation to the bankrupt or his estate, or any particular creditor, might make it difficult for him to act with impartiality in the interest of the creditors generally, or

where in any other matter he has been removed from office on the ground of misconduct, the court may remove him from his office.

PART VII

Procedure and Powers of Court

Jurisdiction

Exercise of jurisdiction in chambers. 80. Subject to this Act and to general rules, the court may exercise in chambers the whole or any part of its jurisdiction.

General powers of the court. 81.-(1) Subject to this Act, the court shall have full power to decide all questions of priorities, and all other questions whatever, whether of law or of fact, which may arise in any case of bankruptcy coming within the cognizance of the court,

or which the court may think it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

(2) Where in any proceeding in bankruptcy there arises any question of fact which either of the parties desires to be tried before a jury instead of by the court itself, or which the court thinks ought to be tried by jury, the court may, if it thinks fit, direct the trial to be had by a jury, and the trial may be had accordingly in the same manner as if it were the trial of an issue of fact in an action.

(3) Where default is made by a trustee, debtor or other person in obeying any order or direction given by the court, the court may, on the application of the Official Receiver, order such defaulting trustee, debtor or person to comply with the order or direction so given.

(4) The court may also, if it thinks fit, upon any such application, make an immediate order for the committal of such defaulting trustee, debtor or other person:

Provided that the power given by this subsection shall be deemed to be in addition to and not in substitution for any other right or remedy in respect of such default.

(5) Where under section 4 of the Debtor's Act application is made by a judgment creditor, the court may, if it thinks fit, decline to commit, and *in lieu* thereof, with the consent of the judgment creditor, and on payment by him of the prescribed fee, make a receiving order against the debtor. CAP. 168.

(6) In any such case, the judgment debtor shall be deemed to have committed an act of bankruptcy at the time the order is made.

Review and Appeals

Reviews and
appeals in
bankruptcy.

82.-(1) The court may review, rescind or vary any order made by it under its bankruptcy jurisdiction.

(2) Orders in bankruptcy matters shall, at the instance of any person aggrieved, be subject to appeal in the same manner as other orders of the court.

(3) The appeal shall be brought within twenty days from the time when the decision appealed against is pronounced or made.

Procedure

Discretionary
powers of the
court.

83.-(1) Subject to this Act and to general rules, the costs of and incidental to any proceeding in court under this Act shall be in the discretion of the court:

Provided that where any issue is tried by a jury, the costs shall follow the event, unless upon application made at the trial, for good cause shown, the court otherwise orders.

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

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

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

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

upon affidavit, or by commission abroad.

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

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

85. Where a receiving order has been made on a bankruptcy petition against or by one member of a partnership and any other bankruptcy petition is presented against or by a member of the same partnership, the same trustee or receiver shall, unless the court otherwise directs, be appointed in respect of the property of the last mentioned member of the partnership as may have been appointed in respect of the property of the first mentioned member of the partnership, and the court may give such directions for consolidating the proceeding under the petition as it thinks fit. Property of partners to be vested in same trustee.

86. Where the petitioner does not proceed with due diligence in his petition, the court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of the petitioning creditor. Power to change carriage of proceedings.

87. If a debtor by or against whom a bankruptcy petition has been presented dies, the proceedings in the matter shall, unless the court otherwise orders, be continued as if he were alive. Continuance of proceedings on death of debtor.

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

- Power to present petition against one partner. 89. Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition, against all the partners of a firm may present a petition against any one or more partners of the firm without including the others.
- Power to dismiss petition against some respondents only. 90. Where there are more respondents than one to a petition, the court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.
- Actions by trustee and bankrupt's partners. 91. Where a member of a partnership is adjudged bankrupt, the court may authorise the trustee to commence and prosecute any action in the names of the trustee and of the bankrupt's partner, and any release by such partner of the debt or demand to which the action relates shall be void, but notice of the application for authority to commence the action shall be given to him, and he may show cause against it, and on his application the court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the court directs.
- Actions on joint contracts. 92. Where a bankrupt is a contractor in respect of any contract jointly with any person or persons, such person or persons may sue or be sued in respect of the contract without the joinder of the bankrupt.
- Proceedings in partnership name. 93. Any two or more persons, being partners, or any person carrying on business under a partnership name, may take proceedings, or be proceeded against under this Act in the name of the firms, but in such case the court may, on application by any person interested, order the names of the persons who are partners in such firm or the name of such person to be disclosed in such manner, and verified on oath, or otherwise as the court may direct.

PART VIII

Small Bankruptcies

- Summary administration in 94. When a petition is presented by or against a debtor, if the court is

satisfied by affidavit or otherwise, or the Official Receiver reports to the court that the property of the debtor is not likely to exceed in value one thousand five hundred dollars, the court may make an order that the debtor's estate be administered in a summary manner, and thereupon this Act shall be subject to the following modifications-

- (a) if the debtor is adjudged bankrupt, the Official Receiver shall be the trustee in the bankruptcy;
- (b) there shall be no committee of inspection, but the Official Receiver may do, with the permission of the court, all things which may be done by the trustee with the permission of the committee of inspection;
- (c) such other modifications may be made in this Act as may be prescribed by general rules with the view of saving expense and simplifying procedure, but nothing in this section shall permit the modification of the provisions of this Act relating to the examination or discharge of the debtor:

Provided that the creditors may at any time by special resolution resolve that some person other than the Official Receiver be appointed trustee in the bankruptcy, and thereupon the bankruptcy shall proceed as if an order for summary administration had not been made.

PART IX

Miscellaneous

95. A receiving order shall not be made against any corporation, or against any partnership or association, or company registered under any law in force in Belize relating to companies.

Exclusion of partnership and companies, etc.

Administration in
bankruptcy of
estate of person
dying insolvent.

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

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

(3) A petition for administration under this section shall not be presented to the court after proceedings have been commenced for the administration of the deceased debtor's estate, but the court may in such case, if it is satisfied that the estate is insufficient to pay its debts, make an order in the prescribed manner, for the administration of the estate of the deceased debtor, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

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

(5) With the modifications hereinafter mentioned, all the provisions of Part IV (relating to the administration of the property of a bankrupt) shall, so far as they are applicable, apply to the case of an administration order under this section in like manner as to an order of adjudication under this Act.

(6) In the administration of the property of the deceased debtor under an order of administration, the Official Receiver shall have regard to any claim by the legal personal 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 a preferential debt under the order and be payable in full, out of the debtor's estate, in priority to all other debts.

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

(8) Notice to the legal personal representative of a deceased debtor of the presentation by a creditor of a petition under this section shall, in the event of an order for administration being made thereon, be deemed to be equivalent to notice of an act of bankruptcy, and after such notice no payment or transfer of property made by the legal personal representative shall operate as a discharge to him as between himself and the Official Receiver, but except as aforesaid nothing in this section shall invalidate any payment made or any act or thing done in good faith by the legal personal representative before the date of the order for administration,

(9) In cases of administration in bankruptcy, in pursuance of this section, of estates of persons dying insolvent, the creditors shall have the same powers as to appointment of trustees and committees of inspection as they have in other cases where the estate of a debtor is being administered or dealt with in bankruptcy and the provisions of this Act relating to trustees and committees of inspection shall apply to trustees and committees of inspection appointed under the power conferred by this section.

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

Power to make
general rules.

CAP. 91.

97. For the purpose of carrying into effect the objects of this Act, general rules may be made by the same authority and in the same manner as Rules of Court may be made under the Supreme Court of Judicature Act and such rules may provide for all of any of the following matters-

- (a) for regulating sittings of the court and a judge thereof in chambers;
- (b) for regulating the practice and procedure of the court;
- (c) generally for regulating any matters relating to the practice and procedure of the court or the duties of the officers thereof or to the costs and fees upon and percentages to be charged for or in respect of proceedings therein:

Provided that no rules shall extend the jurisdiction of the court.

Evidence of
proceedings of
meetings of
creditors.

98.-(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.

Death of debtor or
witness.

99. In case of the death of the debtor or his wife or of a witness whose evidence has been received by the court in any proceeding under this Act, the deposition of the person so deceased purporting to be sealed with the seal of the court, or a copy thereof purporting to be so sealed, shall be admitted as

evidence of the matters therein deposed to.

100. A statement or admission made by any person in any compulsory examination or deposition before any court on the hearing of any matter in bankruptcy shall not be admissible as evidence against that person in any proceeding in respect of any of the crimes specified in sections 146, 162 and 167 of the Criminal Code.

Statement or admission not admissible as evidence in certain criminal proceedings.
CAP. 101.

101. A certificate of the Registrar that a person has been appointed trustee under this Act shall be conclusive evidence of his appointment.

Certificate of appointment of trustee.

102.-(1) No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the court is of the opinion that substantial injustice has been caused by the defect or irregularity.

Formal defects not to invalidate proceedings.

(2) No defect or irregularity in the appointment or election of a receiver, trustee, or member of a committee of inspection shall vitiate any act done by him in good faith.

103.-(1) A copy of the *Gazette* containing any notice inserted therein in pursuance of this Act shall be evidence of the facts stated in the notice.

Gazette to be evidence.

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

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

Evidence of proceedings in bankruptcy.

- Swearing of affidavits. 105. Subject to rules, any affidavit to be used in any bankruptcy proceeding may be sworn before any person authorised to administer oaths in the Supreme Court, or before a justice of the peace or, in the case of a person who is out of Belize, before a magistrate or justice of the peace or other person qualified to administer oaths in the country where he resides (he being certified to be a magistrate or justice of the peace, or so qualified, by a diplomatic or consular representative for Belize or by a notary public).
- Computation of time. 106.-(1) Where by this Act any limiting time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time it shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of that limited time as so computed, unless the last day is a Sunday, or any public or bank holiday, or a day on which the offices of the court are closed, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, which shall not be one of the days in this section specified.
- (2) Where by this Act any act or proceeding is directed to be done or taken on a certain day, then if that day happens to be one of the days in this section specified, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, which shall not be one of the days in this section specified.
- Service of notices, etc. 107. All notices and other documents for the service of which no special mode is directed may be sent by prepaid post letter to the last known address of the person to be served therewith.
- Sales under execution to be public. 108. Where the Marshal sells the goods of a debtor under an execution for a sum exceeding one hundred dollars (including legal incidental expenses) the sale shall, unless the court from which the process issued otherwise orders, be made by public auction, and not by bill of sale or private contract, and shall be publicly advertised in the prescribed manner by the Marshal on and during

three days next preceding the day of sale.

109. For all or any of the purposes of this Act, a corporation may act by any of its officers authorised in that behalf under the seal of the corporation, a firm may act by any of its members, and a person of unsound mind may act by his committee or *curator bonis*.

Acts of corporations, partners, etc.

110. Save as provided in this Act, the provisions of this Act relating to the remedies against the property of a debtor, the priorities of debts, the effect of a composition or scheme of arrangement, and the effect of a discharge, shall bind the Government.

Certain provisions to bind the Government.

111.-(1) Where the trustee under any bankruptcy, composition or scheme pursuant to this Act, has under his control any unclaimed dividend which has remained unclaimed for more than six months, or where, after making a final dividend, he has in his hands or under his control any unclaimed or undistributed moneys arising from the property of the debtor, he shall forthwith pay the same to “the Bankruptcy Estates Account” at the Treasury.

Unclaimed and undistributed dividends or funds under this Act.

(2) The Accountant General shall furnish him with a certificate of receipt of the money so paid, which shall be an effectual discharge to him in respect thereof.

(3) This section shall not, except as expressly declared herein, deprive any person of any larger or other right or remedy to which he may be entitled against such trustee or other person.

(4) Any person claiming to be entitled to any money paid in to the Bankruptcy Estates Account pursuant to this section may apply to the Accountant General for payment to him of it, and the Accountant General, if satisfied that the person claiming is entitled, shall make an order for the payment to such person of the sum due.

(5) Any person dissatisfied with the decision of the Accountant General in respect of his claim may appeal to the Supreme Court.

(6) The Accountant General may at any time open the account at the Treasury referred to in this Act as “the Bankruptcy Estates Account”.

The court to act in aid of and auxiliary to certain courts in United Kingdom.

112. The court and its officers shall act in aid of and be auxiliary to any court in the United Kingdom having jurisdiction in Bankruptcy, and shall give effect to the title of every receiver, trustee or assignee, in any proceeding in any such court to any property of a person subject to such jurisdiction which is situate within Belize, and any execution, attachment or other process in Belize against the property of such a person which has not been completed before the date on which the title of such receiver, trustee or assignee takes effect shall be void as against such receiver, trustee or assignee.

PART X

Offences

Penalty for certain offences committed by a person against whom a receiving order is made.

113. Any person against whom a receiving order in bankruptcy has been made shall be guilty of a misdemeanor and shall be liable, on conviction, to imprisonment for any term not exceeding two years, where-

- (1) he does not to the best of his knowledge and belief fully and truly discover to the trustee administering his estate for the benefit of his creditors all his property, real and personal, and how, and to whom, and for what consideration, and when, he disposed of any part of his property except such part as has been disposed of in the ordinary way of his trade (if any) or laid out in the ordinary expense of his family, unless the jury is satisfied that he had no intent to defraud; .
- (2) he does not deliver up to such trustee or as he directs all such part of his real and personal property as is in his custody or

under his control, and which he is required by law to deliver up, unless the jury is satisfied that he had no intent to defraud;

- (3) he does not deliver up to such trustee or as he directs all books, documents, papers and writings, in his custody or under his control, relating to his property or affairs, unless the jury is satisfied that he had no intent to defraud;
- (4) after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he conceals or removes any part of his property to the value of fifty dollars or upwards, or conceals any debt due to or from him, unless the jury is satisfied that he had no intent to defraud;
- (5) he makes any material omission in any statement required under this Act, relating to his affairs, unless the jury is satisfied that he had no intent to defraud;
- (6) knowing or believing that a false debt has been proved by any person under the bankruptcy proceedings, he fails for the period of a month to inform the trustee thereof, unless the jury is satisfied that he had no intent to defraud;
- (7) after the presentation of a bankruptcy petition by or against him, he prevents the production of any book, document, paper or writing, affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law;
- (8) after the presentation of a bankruptcy petition by or against him or within six months next before such presentation, he conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation or falsification of any book or document affecting or relating to his property or affairs, unless the jury is

satisfied that he had no intent to conceal the state of his affairs or to defeat the law;

- (9) after the presentation of a bankruptcy petition by or against him or within a period of six months next before such presentation he makes, or is privy to the making of any false entry in any book or documents affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law;
- (10) after the presentation of a bankruptcy petition by or against him or within six months next before such presentation, he parts with, alters or makes any omission in, or is privy to the parting with, altering, or making any omission in, any document affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to defraud;
- (11) after the presentation of a bankruptcy petition by or against him or at any meeting of his creditors within six months next before such presentation he attempts to account for any part of his property by fictitious losses or expenses;
- (12) within six months next before the presentation of a bankruptcy petition by or against him he by any false representation or other fraud obtains any property on credit, and has not paid for the same;
- (13) within six months next before the presentation of a bankruptcy petition by or against him he obtains under the false pretence of carrying on business and dealing in the ordinary way of his business any property on credit, and has not paid for the same, unless the jury is satisfied that he had no intent to defraud;

- (14) within six months next before the presentation of a bankruptcy petition by or against him he pawns, pledges, or disposes of otherwise than in the ordinary way of his business any property which he has obtained on credit and has not paid for, unless the jury is satisfied that he had no intent to defraud;
- (15) he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors, or any of them, to any agreement with reference to his affairs, or his bankruptcy;
- (16) after the presentation of a bankruptcy petition by or against him or within a period of six months next before such presentation he quits Belize and takes with him, or attempts or makes preparation for quitting Belize and for taking with him, any part of his property to the amount of one hundred dollars or upwards, which would by law be divisible amongst his creditors under the bankruptcy, unless the jury is satisfied that he had no intent to defraud.

114. Any creditor in any bankruptcy or liquidation by arrangement or composition with creditors in pursuance of this Act who wilfully and with intent to defraud makes any false claim or any proof, declaration, or statement of account which is untrue in any material particular, shall be guilty of a misdemeanour punishable with imprisonment not exceeding one year.

Penalty for any false claim, etc., by a creditor in bankruptcy.

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

Liability of debtor for unpaid balance of debt in certain cases.

116.-(1) Where there is in the opinion of the court ground to believe that a bankrupt or any other person has been guilty of an offence which is by law made a misdemeanour in cases of bankruptcy, the court may commit the bankrupt

Misdemeanours.

or such other person for trial.

(2) For the purpose of committing the bankrupt or such other person for trial, the court shall have all the powers of a magistrate as to taking depositions, binding over witnesses to appear, admitting the accused to bail, or otherwise.

Director of Public Prosecutions to prosecute where the Court orders prosecution.
1 of 1969.

117. Where the court orders a prosecution of any person for any offence under this Act or for any offence arising out of or connected with any bankruptcy proceedings, it shall be the duty of the Director of Public Prosecutions to institute and carry on the prosecution.

Protection of liability.

118. Notwithstanding any provisions of this Act or any other law to the contrary, no action, prosecution, suit or proceedings whatsoever shall lie against the Official Receiver, trustee, the Accountant General, the Registrar or any other person in respect of any act or omission made *bona fide* in the exercise of his duties and functions under this Act.

FIRST SCHEDULE

[Section 13]

Meeting of Creditors

1. The first meeting of creditors shall be summoned for a day not later than one month after the date of the receiving order, unless the court for any special reason deem it expedient that the meeting be summoned for a later day.

2. The Official Receiver shall summon the meeting by giving not less than fifteen days' notice of the time and place thereof in the *Gazette* and in a local paper.

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

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

5. The Official Receiver or the trustee may at any time summon a meeting of creditors and shall do so whenever so directed by the court, or so requested in writing by one-sixth in value of the creditors:

Provided that the creditors so requesting shall deposit with the trustee or the Official Receiver, as the case may be, a sum sufficient to pay the costs of summoning the meeting, such sum to be repaid to them out of the estate if the creditors or the court so direct.

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

7. The Official Receiver, or some person nominated by him, shall be the Chairman at the first meeting. The Chairman at subsequent meetings shall be such person as the meeting by resolution appoint.

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

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

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

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

12. It shall be competent to the trustee or to the Official Receiver within twenty-eight days after a proof estimating the value of a security as aforesaid has been made use of in voting at any meeting, to require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated, with an addition thereto of twenty *per centum*:

Provided that where a creditor has put a value on such security, he may at any time before he has been required to give up such security as aforesaid, correct such valuation by a new proof, and deduct such new value from his debt, but in that case such addition of twenty *per centum* shall not be made if the trustee requires the security to be given up.

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

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

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

16. Every instrument of proxy shall be in the prescribed form, and shall be issued by the Official Receiver, or, after the appointment of a trustee, by the trustee, and every insertion therein shall be in the handwriting of the person giving the proxy, or of any manager or clerk or other person in his regular employment or of any justice of the peace.

17. General and special forms of proxy shall be sent to the creditors, together with a notice summoning a meeting of creditors, and neither the name nor the description of the Official Receiver, or of any other person, shall be printed or inserted in the body of any instrument of proxy before it is so sent.

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

19. A creditor may give a special proxy to any person to vote at any specified meeting or adjournment thereof on all or any of the following matters:

- (a) for or against any specific proposal for a composition or scheme of arrangement;
- (b) for or against the appointment of any specified person as trustee at a specified rate of remuneration, or as member of the committee of inspection, or for or against the continuance in office of any specified person as trustee or member of a

committee of inspection;

- (c) on all questions relating to any matter, other than those above referred to, arising at any specified meeting or adjournment thereof.

20. A proxy shall not be used unless it is deposited with the Official Receiver or trustee before the meeting at which it is to be used.

21. Where it appears to the satisfaction of the court that any solicitation has been used by or on behalf of a trustee or receiver in obtaining proxies or in procuring the trusteeship, or receivership except by the direction of a meeting of creditors, the court shall have power, if it thinks fit, to order that no remuneration shall be allowed to the person by whom or on whose behalf such solicitation may have been exercised, notwithstanding any resolution of the committee of inspection or of the creditors to the contrary.

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

23. The Chairman of a meeting may, with the consent of the meeting, adjourn the meeting from time to time and from place to place.

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

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

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

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

Provided that where any person holds special proxies to vote for the appointment of himself as trustee, he may use the said proxies and vote accordingly.

SECOND SCHEDULE

[Section 36]

Proof of Debts

Proof in Ordinary Cases

1. Every creditor shall prove his debt as soon as may be after the making of a receiving order.
2. A debt may be proved by delivering or sending through the post in a prepaid letter to the Official Receiver, or, if a trustee has been appointed, to the trustee, an affidavit verifying the debt.
3. The affidavit may be made by the creditor himself or by some person authorised by or on behalf of the creditor. If made by a person so authorised, it shall state his authority and means of knowledge.

4. The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The Official Receiver or trustee may at any time call for the production of the vouchers.
5. The affidavit shall state whether the creditor is or is not a secured creditor.
6. A creditor shall bear the cost of proving his debt, unless the court otherwise specially orders.
7. Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors before the first meeting and at all reasonable times.
8. A creditor proving his debt shall deduct therefrom all trade discounts, but he shall not be compelled to deduct any discount, not exceeding six *per centum* on the net amount of his claim, which he may have agreed to allow for payment in cash.

Proof by Secured Creditors

9. If a secured creditor realises his security, he may prove for the balance due to him, after deducting the net amount realised.
10. If a secured creditor surrenders his security to the Official Receiver or trustee for the general benefit of the creditors, he may prove for his whole debt.
11. If a secured creditor does not either realise or surrender his security, he shall, before ranking for dividend, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

12. (a) Where a security is so valued, the trustee may at any time redeem it on payment to the creditor of the assessed value.

(b) If the trustee is dissatisfied with the value at which a security is assessed, he may require that the property comprised in any security so valued be offered for sale at such times and on such terms and conditions as may be agreed on between the creditor and the trustee, or as, in default of such agreement, the court may direct. If the sale be by public auction, the creditor, or the trustee on behalf of the estate, may bid or purchase:

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

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

14. Where a valuation has been amended in accordance with the foregoing rule, the creditor shall forthwith repay any surplus dividend which he may have received in excess of that to which he would have been entitled on the amended valuation, or as the case may be, shall be entitled to be paid out of any money for the time being available for dividend, any dividend or share of dividend which he may have failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future

dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

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

16. If a secured creditor does not comply with the foregoing rules, he shall be excluded from all share in any dividend.

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

Proof in Respect of Distinct Contracts

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

Periodical Payments

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

Interest

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

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

Debt Payable at a Future Time

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

Admission or Rejection of Proof

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

24. If the trustee thinks that a proof has been improperly admitted, the court may, on the application of the trustee, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

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

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

27. For the purpose of any of his duties in relation to proofs, the trustee may administer oaths and take affidavits.

28. The Official Receiver, before the appointment of a trustee, shall have all the powers of a trustee with respect to the examination, admission and rejection of proofs, and any act or decision of his in relation thereto shall be subject to the like appeal.