

P.  
Amby 24-60, 52-75.

## CHAPTER 6. No. 6.

### BANKRUPTCY.

#### AN ORDINANCE RELATING TO BANKRUPTCY.

Ordinances  
Ch. 6. No. 6-  
1940.  
No. 35-1945.

[1st January, 1918.]

Commence-  
ment.

1. This Ordinance may be cited as the Bankruptcy Ordinance. Short title.

2. In this Ordinance—

Interpre-  
tation.

“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;

“Court” means the Supreme Court exercising jurisdiction in bankruptcy under this Ordinance;

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

“goods” includes all chattels personal;

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

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

“property” includes money, goods, things in action, land, and every description of property, whether real or personal; 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;

“ Receiver ” means the Official Receiver appointed under this Ordinance;

“ Registrar ” means Registrar of the Supreme Court;

“ rules ” includes forms;

“ resolution ” means ordinary resolution;

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

“ 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 I.

### PROCEEDINGS FROM ACT OF BANKRUPTCY TO DISCHARGE.

#### *Acts of bankruptcy.*

Acts of  
bankruptcy.

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

Assignment  
for benefit of  
creditors  
generally.

(a) if in the Colony or elsewhere he makes a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally;

Fraudulent  
assignment.

(b) if in the Colony or elsewhere he makes a fraudulent conveyance, gift, delivery, or transfer of his property, or of any part thereof;

Fraudulent  
preference.

(c) if in the Colony 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 enactment be void as a fraudulent preference if he were adjudged bankrupt;

Absconding,  
etc.

(d) if with intent to defeat or delay his creditors he departs out of the Colony, or being out of the Colony remains out of the Colony, 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 any civil proceeding in the Supreme Court, and the goods have either been sold or held by the Marshal for twenty-one days: Executions.

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 proceedings on such summons are finally disposed of, settled, or abandoned, 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: Declaration of inability to pay.

(g) if a creditor has obtained a final judgment or final order against him for any amount, and, execution thereof not having been stayed, has served on him in the Colony, or, by leave of the Court, elsewhere, a bankruptcy notice under this Ordinance, and he does not, within seven days after service of the notice, in case the service is effected in the Colony, and in case the service is effected elsewhere, then within the time limited in that behalf by the order giving leave to effect the service, either comply with the requirements of the notice or satisfy the Court that he has a counterclaim, set off, or cross demand which equals or exceeds the amount of the judgment debt or sum ordered to be paid, and which he could not set up in the action in which the judgment was obtained, or the proceedings in which the order was obtained: Non-compliance with bankruptcy notice.

For the purposes of this paragraph and of section 4, any person who is, for the time being, entitled to enforce a final judgment or final order, shall be deemed a creditor who has obtained a final judgment or final order;

(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. Suspension of payment.

(2) In this Ordinance, the expression "a debtor" includes any person, whether a British subject or not, who at

the time when any act of bankruptcy was done or suffered by him—

(a) was personally present in the Colony; or

(b) ordinarily resided or had a place of residence in the Colony; or

(c) was carrying on business in the Colony, personally, or by means of an agent or manager; or

(d) was a member of a firm or partnership which carried on business in the Colony.

Bankruptcy notices.

4. A bankruptcy notice under this Ordinance shall be in the prescribed form, and shall require the debtor to pay the judgment debt or sum ordered to be paid in accordance with the terms of the judgment or order, or to secure or compound for it to the satisfaction of the creditor or the Court, and shall state the consequences of non-compliance with the notice, and shall be served in the prescribed manner: Provided that a bankruptcy notice—

(a) may specify an agent to act on behalf of the creditor in respect of any payment or other thing required by the notice to be made to, or done to the satisfaction of, the creditor;

(b) shall not be invalidated by reason only that the sum specified in the notice as the amount due exceeds the amount actually due, unless the debtor within the time allowed for payment gives notice to the creditor that he disputes the validity of the notice on the ground of such misstatement; but, if the debtor does not give such notice, he shall be deemed to have complied with the bankruptcy notice if within the time allowed he takes such steps as would have constituted a compliance with the notice had the actual amount due been correctly specified therein.

*Receiving order.*

Jurisdiction to make receiving order.

5. 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 Ordinance called a receiving order, for the protection of the estate.

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

Conditions 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 the debts owing to the several petitioning creditors, amounts to two hundred and forty 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 the Colony, 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 the Colony, or has carried on business in the Colony, personally or by means of an agent or manager, or is or within the said period has been a member of a firm or partnership of persons which has carried on business in the Colony by means of a partner or partners, or an agent or manager;

nor, where a deed of arrangement has been executed, shall a creditor be entitled to present a bankruptcy petition founded on the execution of the deed, or on any other act committed by the debtor in the course or for the purpose of the proceedings preliminary to the execution of the deed, in cases where he is prohibited from so doing by the law for the time being in force relating to deeds of arrangement.

(2) If the petitioning creditor is a secured creditor, he must in his petition either state that he is willing to give up his security for the benefit of the creditors in the event of the debtor being adjudged bankrupt, or give an estimate of the value of his security. In the latter case, he may 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.

Petition by secured creditor.

7. (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 served in the prescribed manner.

Proceedings and order on creditor's petition.

Proof of facts.

(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.

Court may dismiss.

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

If act of bankruptcy is non-compliance with bankruptcy notice.

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

Where debtor denies debt, proceedings may be stayed.

(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.

If proceedings stayed

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

No withdrawal without leave.

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

Debtor's petition and order thereon.

8. (1) A debtor's petition shall allege that the debtor is unable to pay his debts, and the presentation thereof shall

be deemed an act of bankruptcy without the previous filing by the debtor of any declaration of inability to pay his debts, and the Court shall thereupon make a receiving order.

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

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

Effect of receiving order.

(2) But 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.

Secured creditor.

10. 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 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.

Discretionary powers as to appointment of interim receiver.

11. (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 it may think just.

Power to stay proceedings.

(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, or delivering the same at, the address for service of the plaintiff or other party prosecuting such proceeding.

Service of order.

Power to  
appoint  
special  
manager.

**12.** (1) The 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 Receiver appoint a manager thereof accordingly to act until a trustee is appointed, and with such powers (including the powers of the Receiver) as may be entrusted to him by the Receiver.

(2) The special manager shall give security and account in such manner as the Court may from time to time direct; and shall receive such remuneration as the creditors may, by resolution at an ordinary meeting, determine, or, in default of such resolution, as the Court shall order.

Advertise-  
ment of  
receiving  
order.

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

*Proceedings consequent on order.*

First and  
other  
meetings of  
creditors.

**14.** (1) As soon as may be after the making of a receiving order against a debtor, a general meeting of his creditors (in this Ordinance 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 accepted, 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 1st Schedule. First Schedule hereto shall be observed.

Debtor's  
statement of  
affairs.

**15.** (1) Where a receiving order is made against a debtor, he shall make out and submit to the 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 Receiver may require.

(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 three days from the date of the order;

(b) If the order is made on the petition of a creditor, within seven days from the date of the order;

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

(3) If the debtor fails, without reasonable excuse, to comply with the requirements of this section, the Court may, on the application of the 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 the statement at all reasonable times, and take any copy thereof or extract therefrom, but any person untruthfully so stating himself to be a creditor shall be guilty of a contempt of court, and shall be punishable accordingly on the application of the trustee or Receiver.

*Public examination of debtor.*

16. (1) Where the Court makes a receiving order, it shall, save as in this Ordinance provided, 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.

Public  
examination  
of debtor.

(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 Receiver shall take part in the examination of the debtor, and for the purpose thereof, if specially authorised by the Court, may employ a solicitor with or without counsel.

(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 upon oath, and it shall be his duty to answer all such questions as the Court may put or allow to be put to him. Such notes of the examination as the Court thinks proper shall be taken down in writing, and shall be read over either to or by the debtor and signed by him, and may thereafter, save as in this Ordinance provided, be used in evidence against him. They shall also be open to the inspection of any creditor at all reasonable times.

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

(10) Where the debtor 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.*

Compositions  
and schemes  
of arrange-  
ment.

17. (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 Receiver may fix, lodge with the 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.

Meeting of  
creditors  
to approve.

(2) In such case the 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, it 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 Receiver, calculated to benefit the general body of creditors.

Amendment of terms.

(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 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.

Assent or dissent.

(5) The debtor or the 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.

Application for approval of Court.

(6) The application shall not be heard until after the conclusion of the public examination of the debtor. Any creditor who has proved 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.

Hearing of application.

(7) 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 Receiver that it is expedient so to do, dispense with the public examination of one of the joint debtors if he is unavoidably prevented from attending the examination by illness or absence from the Colony.

Public examination of joint debtors.

(8) The Court shall, before approving the proposal, hear a report of the 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.

Report of Receiver.

(9) If the Court is of 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.

When Court must refuse to approve.

*Idem.*

(10) If 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 \$1.80 in respect of every \$4.80 on all unsecured debts provable against the debtor's estate.

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

Testifying approval.

(12) If 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.

Effect of composition.

(13) 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, except to such an extent and under such conditions as the Court expressly orders in respect of such liability.

Certificate of Receiver.

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

Enforcement of provisions.

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

Default in instalment.

(16) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court, on satisfactory evidence, that the composition or scheme cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or the debtor, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by the 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. When a debtor is adjudged a bankrupt under this subsection, any debt provable in other respects, which has been contracted before the adjudication, shall be provable in the bankruptcy.

(17) If, 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 26 and Part V of this Ordinance 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.

Application of Ordinance, and meaning of terms.

(18) Part III. of this Ordinance 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 the last preceding subsection.

(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.

Payment in priority of preferred creditors.

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

Release of debt by acceptance.

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

Effect of composition or scheme.

*Adjudication of bankruptcy and appointment of trustee.*

19. (1) Where a receiving order is made against a debtor, then, if the creditors at the first meeting or any adjournment

Adjudication where composition not accepted or approved

thereof by ordinary resolution resolve that the debtor be adjudged bankrupt, or pass no resolution, or if the creditors do not meet, or if a composition or scheme is not accepted or approved in pursuance of this Ordinance 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.

(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 newspaper in the prescribed manner, and the date of the order shall, for the purposes of this Ordinance, be the date of the adjudication.

Appointment  
of trustee.

20. (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 hereinafter mentioned.

Where  
person not  
fit to act.

(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.

Security.

(3) The person so appointed shall give security in such manner and to such amount as the creditors, by resolution, shall determine. The appointment of the trustee shall be reported to the Court, and the Court, if satisfied with the security, shall certify that his appointment has been duly made, unless the appointment is objected to on the ground that it 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.

Notice of  
objection to  
appointment.

(4) Notice of any such objection shall be given to the Registrar, the Receiver, and the person whose appointment

is objected to, together with a statement of the nature of such objection, and the Court shall decide on its validity.

(5) A certificate of the Court shall be conclusive evidence that the person therein named is duly appointed trustee, and such appointment shall take effect as from the date of the certificate. Evidence of appointment.

(6) The Receiver shall not, save as by this Ordinance provided, be trustee of the bankrupt's property. Receiver not to be trustee.

(7) If a trustee is not appointed by the creditors within four weeks from the date of the adjudication, or, in the event of there being negotiations for a composition or scheme 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 Receiver shall report the matter to the Court, and thereupon the Court shall appoint some fit person to be trustee of the bankrupt's property. If trustee not appointed.

(8) Provided that 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 approved by the Court, the person appointed shall become trustee in the place of the person appointed by the Court.

(9) 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 Receiver shall forthwith summon a meeting of creditors for the purpose of appointing a trustee. Meeting to appoint trustee.

21. (1) The creditors qualified to vote may, at their first or any subsequent meeting, by resolution, appoint 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, possessing one or other of the following qualifications— Qualifications of committee.

(a) that of being a creditor or the holder of a general proxy or general power of attorney from a creditor;

Provided that no creditor and no holder of a general proxy or general power of attorney from a creditor shall be qualified to act as a member of the committee of inspection until the creditor has proved his debt and the proof has been admitted; or

(b) that of being a person to whom a creditor intends to give a general proxy or general power of attorney: Provided that no such person shall be qualified to act as a member of the committee of inspection until he holds such a proxy or power of attorney, and until the creditor has proved his debt and the proof has been admitted.

Meetings of committee.

(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.

Quorum.

(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.

Resignation.

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

Vacation of office.

(6) If 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.

Removal.

(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.

Filling a vacancy.

(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.

Continuing members may act.

(9) The continuing members of the committee, provided there be not less than two such continuing members, may act notwithstanding any vacancy in their

body; and where the number of members of the committee is for the time being less than five, the creditors may increase that number so that it do not exceed five.

(10) If there be no committee of inspection, any act or thing or any direction or permission by this Ordinance 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.

If no committee,  
Court to act.

22. (1) Where a debtor is adjudged bankrupt, the creditors may, if they think fit, at any time after the adjudication, by a majority in number and three-fourths in value of all the creditors who have proved, resolve to entertain a proposal for a composition in satisfaction of the debts due to them under the bankruptcy, or for a scheme of arrangement of the bankrupt's affairs; and thereupon the same proceedings shall be taken and the same consequences shall ensue as in the case of a composition or scheme accepted before adjudication.

Power to accept composition or scheme after adjudication.

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

Approval of Court.

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

Defaults, etc.

*Control over person and property of debtor.*

Duties of the debtor as to discovery and realisation of property.

23. (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.

To discover property.

(2) He shall give such inventory of his property, such list of his creditors and debtors, and of the debts to and from them respectively, submit to such examination in respect of his property or his creditors, attend such other meetings of his creditors, wait at such times on the Receiver, special manager, or trustee, execute such powers of attorney, conveyances, deeds, and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the Receiver, special manager, or trustee, or as may be prescribed, 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 Receiver, special manager, trustee, or any creditor or person interested.

To aid in realisation.

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

Failure to perform duties.

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

Arrest of debtor under certain circumstances.

24. (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:—

After issue of bankruptcy notice.

(a) If, after a bankruptcy notice has been issued

under this Ordinance, or after the 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 payment of the debt in respect of which the bankruptcy notice was issued, or of avoiding service of a bankruptcy petition, or of avoiding appearance to any such petition, or of avoiding examination in respect of his affairs, or of otherwise avoiding, delaying, or embarrassing proceedings in bankruptcy against him;

(b) If, 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 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;

After presentation of petition.

(c) If, 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-four dollars, without leave of the Receiver or trustee;

After service of petition.

(d) If, without good cause shown, he fails to attend any examination ordered by the Court:

Failure to attend examination.

Provided that 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.

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

Payment after arrest may be fraudulent preference.

25. Where a receiving order is made against a debtor, the Court, on the application of the Receiver or trustee, may from time to time order that for such time, not

Re-direction of debtor's letters.

exceeding three months, as the Court thinks fit, post letters, telegrams and other postal packets, 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 General, or the officers acting under him, to the 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.

26. (1) The Court may, on the application of the 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 deem capable of giving information respecting the debtor, his dealings or property, and the Court may require any such person to produce any documents in his custody or power, relating to the debtor, his dealings or property.

In case of  
refusal.

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

Examina-  
tion

(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.

Order to  
pay.

(4) If any person on examination before the Court admits that he is indebted to the debtor, the Court may, on the application of the Receiver or trustee, order him to pay to the 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.

Order to  
deliver  
property.

(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

Receiver or trustee, order him to deliver to the 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 the Colony, would be liable to be brought before it under this section, shall be examined in any place out of the Colony. Examination out of the Colony.

### *Discharge of bankrupt.*

27. (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. The application shall, except when the Court in accordance with rules under this Ordinance otherwise directs, be heard in open Court. Discharge of bankrupt.

(2) On the hearing of the application the Court shall take into consideration a report of the 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: Powers of Court.

Provided that where the bankrupt has committed any misdemeanor under this Ordinance, or any enactment repealed by this Ordinance, or any other misdemeanor connected with his bankruptcy, or any felony connected with his bankruptcy, or where in any case any of the facts hereinafter mentioned are proved, the Court shall either— When Court must refuse discharge.

(a) refuse the discharge; or

(b) suspend the discharge for such period as the Court thinks proper; or

(c) suspend the discharge until a dividend of not less than fifty cents in the dollar 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 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 toward payment of his debts:

Provided that if at any time after the expiration of two years from the date of an order made under this section the bankrupt satisfies the Court that there is no reasonable probability of his being in a position to comply with the terms of 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.

Facts to be proved.

(3) The facts hereinbefore referred to are:—

(a) That the bankrupt's assets are not of a value equal to fifty cents in the dollar 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 cents in the dollar 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 satisfactorily to account 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 brought on or contributed to his bankruptcy by incurring unjustifiable expense in bringing any 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 became 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 cents in the dollar on 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.

(4) With a view to removing any statutory disqualification on account of bankruptcy which is removed if the bankrupt obtains from the Court his discharge with a certificate to the effect that the bankruptcy was caused by misfortune without any misconduct on his part, the Court may, if it thinks fit, grant such a certificate, but a refusal to grant such a certificate shall be subject to appeal.

Certificate that bankruptcy was caused by misfortune.

(5) For the purposes of this section, a bankrupt's assets shall be deemed of a value equal to fifty cents in the dollar on 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 the realisation might have realised, an amount equal to fifty

When assets are 50%.

cents in the dollar on his unsecured liabilities, and a report by the Receiver or the trustee shall be *primâ facie* evidence of the amount of such liabilities.

Report of Receiver.

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

Notice of application for discharge.

(7) 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 Receiver and the trustee and may also hear any creditor. At the hearing the Court may put such questions to the debtor and receive such evidence as it may think fit.

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

Duties of discharged bankrupt.

(9) 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.

Fraudulent settlements.

28. In either of the following cases, that is to say—

(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),

if the settlor is adjudged bankrupt or compounds or

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

29. (1) An order of discharge shall not release the bankrupt—

Effect of  
order of  
discharge.

(a) from any debt on a recognisance, nor from any debt with which the bankrupt may be chargeable at the suit of the Crown or of any person for any offence against an enactment relating to any branch of the public revenue, or at the suit of any public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence; and he shall not be discharged from such excepted debts unless the Governor certifies in writing his consent to his being discharged 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; or

(c) from any liability under a judgment against him in an action for seduction, or under an affiliation order, except to such an extent and under such conditions as the Court expressly orders in respect of such liability.

(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.

Order is  
conclusive  
evidence.

No release  
of other  
persons.

(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.

Annulling  
adjudication  
and the effect  
thereof.

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

(2) Where an adjudication is annulled under this section, all sales and dispositions of property and payments duly made, and all acts theretofore done, by the 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 on 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 newspaper.

Meaning of  
payment of  
debt in full.

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

## PART II.

### DISQUALIFICATIONS OF BANKRUPT.

Disqualifica-  
tions of  
bankrupt.

31. (1) When a debtor is adjudged a bankrupt he shall, subject to the provisions of this Ordinance, be disqualified for—

(a) being nominated to, or sitting or voting in, the

Executive or Legislative Council, or on any committee thereof;

(b) being appointed or acting as a Justice of the Peace;

(c) being nominated or elected to or holding or exercising the office of Mayor, Alderman, Councillor, or Auditor of a municipality, or town assessor, or member of the Board of Education, or member of any Sanitary Authority, or member of any Water Authority or Sewerage Board, or member of the Central Road Board or of a Local Road Board, or of any office, board, or public body which may hereafter be established in lieu of any of the said offices, boards, or public bodies.

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

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

32. If a person is adjudged bankrupt whilst holding any of the offices enumerated in the last preceding section his office shall thereupon become vacant. Vacating of office.

### PART III.

#### ADMINISTRATION OF PROPERTY.

##### *Proof of debts.*

33. (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.

Creditor with notice of act of 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.

What may be proved.

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

Estimate of uncertain debts.

(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.

Appeal from estimate.

(5) Any person aggrieved by any estimate made by the trustee as aforesaid may appeal to the Court.

If not capable of being fairly estimated.

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

Estimation before Court.

(7) If, in the opinion of the Court, the value of the debt or liability is capable of being fairly estimated, the Court may assess or direct the value to be assessed in such manner as it shall think fit, 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.

Meaning of "liability."

(8) "Liability" shall, for the purposes of this Ordinance, 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;

(c) generally, 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 as matter of opinion.

**34.** Proof of a debt, if otherwise provable, shall not be rejected because it is founded in felony, unless it is shown that the creditor seeking to prove has omitted to perform some duty in connection with the prosecution of the felon.

Debts  
founded  
in felony.

**35.** Where there have been mutual credits, mutual debts, or other mutual dealings between a debtor against whom a receiving order shall be made under this Ordinance and any other person proving or claiming to prove a debt under the receiving order, an account shall be taken of what is due from 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 such 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 to this Ordinance, the rules in that Schedule shall be observed.

Rules as to  
proof as  
debts.  
2nd Schedule.

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

Priority of  
debts.

(a) all local rates due from the bankrupt at the date of the receiving order, and all assessed taxes, land tax, house tax, and all other taxes and sums whatsoever assessed on the bankrupt;

Rates and  
taxes.

Wages or salary.

(b) all wages or salary of any clerk or servant in respect of services rendered to the bankrupt during four months before the date of the receiving order, not exceeding two hundred and forty dollars; such wages or salary shall retain their priority whether or not earned wholly or in part by way of commission; and

Labourers' wages.

(c) all wages of any labourer or workman not exceeding one hundred and twenty dollars, whether payable for time or piece work, in respect of services rendered to the bankrupt during two months before the date of the receiving order: Provided that where any labourer in husbandry has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the year of hiring, the priority under this section shall extend to the whole of such sum, or a part thereof, as the Court may decide to be due under the contract, proportionate to the time of service up to the date of the receiving order.

Foregoing debts to rank equally *inter se*.

(2) The foregoing debts shall rank equally between themselves, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves, save and except the debts payable under subsection (1) (a) of this section, which shall in all cases be paid in full.

To be paid forthwith.

(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 is sufficient to meet them.

First charge on distress.

(4) In the event of a landlord or other person distraining or having distrained on any goods or effects of a bankrupt within three months next before the date of the receiving order, 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 of priority as the person to whom such payment is made.

Application to insolvent estates.

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

Application of joint and separate estate in partnership bankruptcies.

(7) Subject to the provisions of this Ordinance, all debts proved in bankruptcy shall be paid *pari passu*.

All other debts *pari passu*.

(8) If there is any surplus after payment of the foregoing debts which shall have been proved, it shall be applied in payment of interest from the date of the receiving order at the rate of four per centum per annum on all debts proved in the bankruptcy.

Surplus.

(9) Nothing in this Ordinance shall alter the effect of section 5 of the Partnership Ordinance, or shall prejudice the provisions of the Friendly Societies Ordinance, or the provisions of any enactment relating to deeds of arrangement respecting the payment of expenses incurred by the trustee under a deed of arrangement which has been avoided by the bankruptcy of the debtor.

38. (1) Where at the time of the presentation of the bankruptcy petition any person is apprenticed or is an articled clerk to the bankrupt, the adjudication of bankruptcy shall, if either the bankrupt or apprentice or clerk gives notice in writing to the trustee to that effect, be a complete discharge of the contract of apprenticeship or articles of agreement; and if any money has been paid by or on behalf of the apprentice or clerk to the bankrupt as a fee, the trustee may, on the application of the apprentice or clerk, or of some person on his behalf, pay such sum as the trustee, subject to an appeal to the Court, thinks reasonable, out of the bankrupt's property, to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the contract or articles before the commencement of the bankruptcy, and to the other circumstances of the case.

Preferential claim in case of apprenticeship.

Alternative  
power of  
trustee.

(2) Where it appears expedient to a trustee, he may, on the application of any apprentice or articed clerk to the bankrupt, or any person acting on behalf of such apprentice or articed clerk, instead of acting under the preceding provisions of this section, transfer the contract of apprenticeship or articles of agreement to some other person.

Power for  
landlord to  
distrain for  
rent.

39. (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 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, and shall not be available for rent payable in respect of any period subsequent to the date when the distress was levied, 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.

Limit on  
amount of  
rent execu-  
tion creditor  
must pay  
landlord.

(2) Where any goods of a debtor have been taken in execution, the limit on the amount of rent which the party at whose suit the execution is sued out is liable to pay to the landlord under section 14 of the Landlord and Tenant Ordinance shall, unless notice of claim for rent due has been served on the Marshal by or on behalf of the landlord before the commencement of the debtor's bankruptcy, be six months' rent, instead of one year's rent, and the rights of the landlord under the said section shall not extend to any claim for rent payable in respect of any period subsequent to the date of such notice, unless such notice was served as aforesaid before the commencement of the debtor's bankruptcy.

Liability  
of Marshal.

(3) Nothing in the last preceding subsection shall be construed as imposing any liability on the Marshal, or on the person at whose suit the execution was sued out, to account for any sum actually paid to the landlord by him before notice was served on him that a receiving order had been made against the debtor, but the landlord shall be liable to pay to the trustee in the bankruptcy any sum he may have received from such Marshal as aforesaid in excess of the amount which he was entitled to be paid, without

prejudice, however, to the right of the landlord to prove for the amount of such excess.

(4) 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 debtor whose debts do not exceed two hundred and forty dollars, or of a deceased person who dies insolvent. "Order of adjudication."

**40.** (1) Where a married woman has been adjudged bankrupt, her husband shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by him to his wife for the purposes of her trade or business until all claims of the other creditors of his wife for valuable consideration in money or money's worth have been satisfied. Postponement of husband's and wife's claims.

(2) Where the husband of a married woman has been adjudged bankrupt, any money or other estate of such woman lent or entrusted by her to her husband for the purpose of any trade or business carried on by him or otherwise, shall be treated as assets of his estate, and the wife shall not be entitled to claim any dividend as a creditor in respect of any such money or other estate until all claims of the other creditors of her husband for valuable consideration in money or money's worth have been satisfied.

*Property available for payment of debts.*

**41.** (1) 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. Relation back of trustee's title.

Where receiving order made in lieu of committal.

(2) Where a receiving order is made against a judgment debtor in pursuance of section 98, the bankruptcy of the debtor shall be deemed to have relation back to, and to commence at, the time of the order, or if the bankrupt is proved to have committed any previous act of bankruptcy, then 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 debtor within three months next preceding the date of the order.

Description of bankrupt's property divisible amongst creditors.

42. The property of the bankrupt divisible amongst his creditors, and in this Ordinance referred to as the property of the bankrupt, shall not comprise the following particulars:—

Trust property.

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

Tools of trade, etc.

(ii) 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 ninety-six dollars in the whole;

but it shall comprise the following particulars:—

Property vested or acquired.

(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; and

Powers.

(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; and

Reputed ownership.

(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.

Provisions as to second bankruptcy.

43. (1) Where a second or subsequent receiving order is made against a bankrupt, or where an order is made for the

administration in bankruptcy of the estate of a deceased bankrupt, then for the purposes of any proceedings consequent upon any such order, the trustee in the last preceding bankruptcy shall be deemed to be a creditor in respect of any unsatisfied balance of the debts provable against the property of the bankrupt in that bankruptcy.

(2) In the event of a second or subsequent receiving order made against a bankrupt being followed by an order adjudging him bankrupt, or in the event of an order being made for the administration in bankruptcy of the estate of a deceased bankrupt, any property acquired by him since he was last adjudged bankrupt, which at the date when the subsequent petition was presented had not been distributed amongst the creditors in such last preceding bankruptcy, shall (subject to any disposition thereof made by the Receiver or trustee in that bankruptcy, without knowledge of the presentation of the subsequent petition, and subject to the provisions of section 51) vest in the trustee in the subsequent bankruptcy or administration in bankruptcy as the case may be.

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

*Effect of bankruptcy on antecedent and other transactions.*

44. (1) Where a creditor has issued execution against the goods or lands 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

Restriction  
of creditor's  
rights under  
execution or  
attachment.

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.

What is meant by completion.

(2) For the purposes of this Ordinance, an execution against goods is completed by seizure and sale; an attachment of a debt is completed by receipt of the debt; and an execution against land is completed from the date of the order for sale, or, in the case of an equitable interest, by the appointment of a receiver.

Execution not invalid because it is an act of bankruptcy.

(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.

Duties of Marshal as to goods taken in execution.

**45.** (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 Receiver, but the costs of the execution shall be a first charge on the goods or money so delivered, and the 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 ninety-six 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 by or against 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 Receiver, or, as the case may be, to the trustee, who shall be entitled to retain it as against the execution creditor.

Avoidance of certain settlements.

**46.** (1) Any settlement of property, not being a settlement made before and in consideration of marriage, or made in

favour of a purchaser or encumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife, shall, if the settlor becomes bankrupt within two years after the date of such settlement, be void against the trustee in the bankruptcy, and shall, if the settlor becomes bankrupt at any subsequent time within ten years after the date of the settlement, be void against the trustee in the bankruptcy, unless the parties claiming under the settlement can prove that the settlor was, at the time of making the settlement, able to pay all his debts without the aid of the property comprised in the settlement, and that the interest of the settlor in such property had passed to the trustee of such settlement on the execution thereof.

(2) Any covenant or contract made by any person (hereinafter called the settlor) in consideration of his or her marriage, either for the future payment of money for the benefit of the settlor's wife or husband or children, or for the future settlement on or for the settlor's wife or husband or children of property wherein the settlor had not at the date of the marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property in right of the settlor's wife or husband, shall, if the settlor is adjudged bankrupt and the covenant or contract has not been executed at the date of the commencement of his bankruptcy, be void against the trustee in the bankruptcy, except so far as it enables the persons entitled under the covenant or contract to claim for dividend in the settlor's bankruptcy under or in respect of the covenant or contract, but any such claim to dividend shall be postponed until all claims of the other creditors for valuable consideration in money or money's worth have been satisfied.

Covenants  
in marriage  
settlements  
to settle  
after-  
acquired  
property.

(3) Any payment of money (not being payment of premiums on a policy of life assurance) or any transfer of property made by the settlor in pursuance of such a covenant or contract as aforesaid shall be void against the trustee in the settlor's bankruptcy, unless the persons to whom the payment or transfer was made prove either—

Transfers  
and pay-  
ments under  
such  
covenants.

(a) that the payment or transfer was made more than two years before the date of the commencement of the bankruptcy; or

(b) that at the date of the payment or transfer the settlor was able to pay all his debts without the aid of the money so paid or the property so transferred; or

(c) that the payment or transfer was made in pursuance of a covenant or contract to pay or transfer money or property expected to come to the settlor from or on the death of a particular person named in the covenant or contract and was made within three months after the money or property came into the possession or under the control of the settlor;

but, in the event of any such payment or transfer being declared void, the persons to whom it was made shall be entitled to claim for dividend under or in respect of the covenant or contract in like manner as if it had not been executed at the commencement of the bankruptcy.

“Settlement.”

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

Avoidance of general assignments of book debts unless registered.

47. (1) Where a person engaged in any trade or business makes an assignment to any other person of his existing or future book debts or any class thereof, and is subsequently adjudicated bankrupt, the assignment shall be void against the trustee as regards any book debts which have not been paid at the commencement of the bankruptcy, unless the assignment has been registered as if the assignment were a bill of sale given otherwise than by way of security for the payment of a sum of money, and the provisions of the Bills of Sale Ordinance with respect to the registration of bills of sale shall apply accordingly, subject to such necessary modifications as may be made by rules under that Ordinance:

Provided that nothing in this section shall have effect so as to render void any assignment of book debts due at the date of the assignment from specified debtors, or of debts growing due under specified contracts, or any assignment of book debts included in a transfer of a business made *bonâ fide* and for value, or in any assignment of assets for the benefit of creditors generally.

“Assignments.”

(2) For the purposes of this section, “assignment” includes assignment by way of security and other charges on book debts.

48. (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 of any person in trust for any creditor, with a view of giving such creditor, or any surety or guarantor for the debt due to such creditor, a preference over the other creditors, shall, if the person making, taking, paying, or suffering the same is adjudged bankrupt on a 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 the bankruptcy.

Avoidance of fraudulent preferences.

(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.

Transferees from a creditor.

(3) Where a receiving order is made against a judgment debtor in pursuance of section 98, this section shall apply as if the debtor had been adjudged bankrupt on a bankruptcy petition presented at the date of the receiving order.

Receiving order in lieu of committal.

49. (1) Subject to the foregoing provisions of this Ordinance with respect to the effect of bankruptcy on an execution or attachment, and with respect to the avoidance of certain settlements, assignments, and preferences, nothing in this Ordinance shall invalidate in the case of a bankruptcy—

Protection of *bonâ fide* transactions without notice.

(a) any payment by the bankrupt to any of his creditors;

(b) any payment or delivery to the bankrupt;

(c) any conveyance or assignment by the bankrupt for valuable consideration;

(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) that the payment, delivery, conveyance, assignment, contract, dealing, or transactions, as the case

may be, takes place before the date of the receiving order; and

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

Recovery of property transferred without knowledge of receiving order.

(2) Where any money or property of a bankrupt has, on or after the date of the receiving order but before notice thereof has been gazetted in the prescribed manner, been paid or transferred by a person having possession of it to some other person, and the payment or transfer is under the provisions of this Ordinance void as against the trustee in the bankruptcy, then, if the person by whom the payment or transfer was made proves that when it was made he had not had notice of the receiving order, any right of recovery which the trustee may have against him in respect of the money or property shall not be enforced by any legal proceedings except where and in so far as the Court is satisfied that it is not reasonably practicable for the trustee to recover in respect of the money or property or of some part thereof from the person to whom it was paid or transferred.

Validity of certain payments to bankrupt and assignee.

50. A payment of money or delivery of property to a person subsequently adjudged bankrupt, or to a person claiming by assignment from him, shall, notwithstanding anything in this Ordinance, be a good discharge to the person paying the money or delivering the property, if the payment or delivery is made before the actual date on which the receiving order is made and without notice of the presentation of a bankruptcy petition, and is either pursuant to the ordinary course of business or otherwise *bonâ fide*.

Dealings with undischarged bankrupt.

51. (1) All transactions by a bankrupt with any person dealing with him *bonâ fide* and for value, in respect of property, whether real or personal, acquired by the bankrupt after the adjudication, shall, if completed before any intervention by the trustee, be valid against the trustee, and any estate or interest in such property which by virtue

of this Ordinance is vested in the trustee shall determine and pass in such manner and to such extent as may be required for giving effect to any such transaction.

This subsection shall apply to transactions with respect to real property completed before the commencement of this Ordinance in any case where there has not been any intervention by the trustee before that date. Real property.

For the purposes of this subsection, the receipt of any money, security, or negotiable instrument from, or by the order or direction of, a bankrupt by his banker, and any payment and any delivery of any security or negotiable instrument made to, or by the order or direction of, a bankrupt by his banker, shall be deemed to be a transaction by the bankrupt with such banker dealing with him for value. For the protection of bankers.

(2) Where a banker has ascertained that a person having an account with him is an undischarged bankrupt, then, unless the banker is satisfied that the account is on behalf of some other person, it shall be his duty forthwith to inform the trustee in the bankruptcy of the existence of the account, and thereafter he shall not make any payments out of the account except under an order of the Court or in accordance with instructions from the trustee in the bankruptcy, unless by the expiration of one month from the date of giving the information no instructions have been received from the trustee. Duties of bankers.

*Realisation of property.*

52. (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 the Receiver, and the Court may, on his application, enforce such acquisition or retention accordingly. Position of trustee.

(3) Where any part of the property of the bankrupt consists of stock, shares in ships, shares, or any other property transferable in the books of any company, office, Shares.

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.

Things in  
action.

(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.

Property  
acquired  
after adju-  
dication.

(5) Subject to the provisions of this Ordinance with respect to property acquired by a bankrupt after adjudication, 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. If he does not, he shall be guilty of a contempt of court and may be punished accordingly on the application of the trustee.

(6) Notwithstanding anything contained in the Post Office Savings Bank Ordinance, the Postmaster General shall, on application of the trustee or Receiver, disclose what deposits of money, if any, of the debtor are remaining to his credit in the Savings Bank, and shall pay the same to the Receiver or trustee.

Seizure of  
property of  
bankrupt.

**53.** Any person acting under warrant of the Court may seize any part of the property of a bankrupt, or of a debtor against whom a receiving order has been made, in the custody or possession of the bankrupt or the debtor or of any other person, and with a view to such seizure may break open any house, building, or room of the bankrupt or the debtor, where the bankrupt or the debtor is supposed to be, or any building or receptacle of the bankrupt or the debtor where any of his property is supposed to be; and where the Court is satisfied that there is reason to believe that property of a bankrupt, or of a debtor against whom a receiving order has been made, is concealed in a house or place not belonging to him, the Court may, if it thinks fit, grant a search warrant to any constable or officer of the Court, who may execute it according to its tenor.

Appropriation of  
portion of pay  
or salary to  
creditors.

**54.** (1) Where a bankrupt is an officer of the Army or Navy or Air Force, or an officer or clerk or otherwise employed or engaged in the public service of the Colony, 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 Governor, may direct. Before making any order under this subsection, the Court shall communicate with the Governor as to the amount, time, and manner of payment to the trustee, and shall obtain the written consent of the Governor to the terms of such payment.

(2) Where a bankrupt is in receipt of a salary or income other than as aforesaid, or is entitled to any half-pay, or pension, or to any compensation granted by the Government, 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, pension, or compensation, or of any part thereof, to the trustee, to be applied by him in such manner as the Court may direct.

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

55. Where a married woman who has been adjudged bankrupt has property the income of which is subject to a restraint on anticipation, the Court shall have power, on the application of the trustee, to order that, during such time as the Court may order, the whole or some part of such income be paid to the trustee for distribution amongst the creditors, and in the exercise of such power the Court shall have regard to the means of subsistence available for such woman and her children.

Appropriation of income of property restrained from anticipation.

56. (1) Until a trustee is appointed, the Receiver shall be the trustee for the purposes of this Ordinance, 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.

Vesting in trustee.

(3) The property of the bankrupt shall pass from trustee to trustee, including under that term the Receiver when he fills the office of trustee, and shall vest in the trustee

Passing from trustee to trustee.

for the time being during his continuance in office without any conveyance, assignment, or transfer whatever.

Certificate of appointment.

(4) The certificate of appointment of a trustee shall take effect as a conveyance or assignment of the property of the bankrupt; and where any part of the property of a bankrupt consists of land, or any interest in land, the trustee may register a duplicate copy of the certificate of appointment, certified by the Registrar, and, in the case of land registered under the Real Property Ordinance, cause a note thereof to be endorsed on the Crown grant or certificate of title and the duplicate thereof.

Disclaimer of onerous property.

57. (1) Where any part of the property of the bankrupt consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the 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 the provisions of this section, may, by writing signed by him, at any time within twelve months after the first appointment of a trustee, or such extended period as may be allowed by the Court, disclaim the property: Provided that where any such property has not come to the knowledge of the trustee within one month after such appointment, he may disclaim such property at any time within twelve months after he first became aware thereof, or such extended period as may be allowed by the Court.

Effect of disclaimer.

(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.

Disclaimer of leases.

(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, 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 application as aforesaid, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

Abandonment of right of disclaimer.

(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.

Rescission of contract.

(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 Ordinance 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 the same should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just; and on 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:

Vesting orders.

Provided that 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; and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and, if there is no person claiming under the bankrupt who is willing to accept an order upon such terms, the Court shall have power to vest the bankrupt's estate and interest in the property in any person liable either personally or in a representative character, and either alone or jointly with the bankrupt to perform the lessee's covenants in the lease, freed and discharged from all estates, encumbrances, and interests created therein by the bankrupt.

Disclaimer  
by Receiver  
as interim  
trustee.

(7) Where, on the release, removal, resignation, or death of a trustee in bankruptcy, the Receiver is acting as trustee, he may disclaim any property which might be disclaimed by a trustee under the foregoing provisions, notwithstanding that the time prescribed by this section for such disclaimer has expired, but such power of disclaimer shall be exerciseable only within twelve months after the Receiver has become trustee in the circumstances aforesaid, or has become aware of the existence of such property, whichever period may last expire.

Proof of  
damages.

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

Powers of  
trustee to  
deal with  
property.

58. Subject to the provisions of this Ordinance, 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 the same in parcels;

(b) give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof;

(c) prove, rank, claim, and draw a dividend in respect of any debt due to the bankrupt;

(d) exercise any powers, the capacity to exercise which is vested in the trustee under this Ordinance, and execute any powers of attorney, deeds, and other instruments for the purpose of carrying into effect the provisions of this Ordinance;

(e) deal with any property to which the bankrupt is beneficially entitled as tenant in tail in the same manner as the bankrupt might have dealt with it.

59. 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 the same;

(b) bring, institute, or defend any action, suit, or other legal proceeding relating to the property of the bankrupt;

(c) employ a solicitor 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 any debts, claims, and liabilities, whether present or future, certain or contingent, liquidated or unliquidated,

Powers  
exercisable  
by trustee  
with permis-  
sion of com-  
mittee of  
inspection.

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 creditors, or persons claiming to be creditors, in respect of any debts provable under the bankruptcy;

(h) 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;

(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.

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.

**60.** 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 services.

**61.** 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.

Right of trustee to inspect goods pawned or held as security.

**62.** Where any goods of a debtor against whom a receiving order has been made are held by any person by way of pledge, pawn, or other security, it shall be lawful for the

Receiver or trustee, after giving notice in writing of his intention to do so, to inspect the goods, and, where such notice has been given, such person as aforesaid shall not be entitled to realise his security until he has given the trustee a reasonable opportunity of inspecting the goods and of exercising his right of redemption if he thinks fit to do so.

63. Where the property of a bankrupt comprises the copyright in any work or any interest in such copyright, and he is liable to pay to the author of the work royalties or a share of the profits in respect thereof, the trustee shall not be entitled to sell, or authorise the sale of, any copies of the work, or to perform or authorise the performance of the work, except on the terms of paying to the author such sums by way of royalty or share of the profits as would have been payable by the bankrupt, nor shall he, without the consent of the author or of the Court, be entitled to assign the right or transfer the interest or to grant any interest in the right by licence, except upon terms which will secure to the author payments by way of royalty or share of the profits at a rate not less than that which the bankrupt was liable to pay.

Limitation of trustee's powers in relation to copyright.

64. Where the Receiver or trustee has seized or disposed of any goods, chattels, property, or other effects in the possession or on the premises of a debtor against whom a receiving order has been made, without notice of any claim by any person in respect of the same, and it is thereafter made to appear that the said goods, chattels, property, or other effects were not, at the date of the receiving order, the property of the debtor, the Receiver or trustee shall not be personally liable for any loss or damage arising from such seizure or disposal sustained by any person claiming such property, nor for the costs of any proceedings taken to establish a claim thereto, unless the Court is of opinion that the Receiver or trustee has been guilty of negligence in respect of the same.

Protection of Receiver and trustee from personal liability in certain cases.

#### *Distribution of property.*

65. (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

Declaration and distribution of dividends.

distribute dividends amongst the creditors who have proved their debts.

First dividend.

(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.

Subsequent dividends.

(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.

Notice of intention to declare.

(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.

Notice of dividend.

(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.

Joint and separate dividends.

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

(2) Where joint and separate properties are being administered, dividends of the joint and separate properties shall, subject to any order to the contrary that may be made by the Court on the application of any person interested, be declared together; and the expenses of and incidental 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.

Provision for distant creditors' disputed or undetermined claims.

**67.** (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 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) He 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 the foregoing provisions, he shall distribute as dividend all money in hand.

68. 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.

Rights of creditor who has not proved before declaration of dividend.

69. (1) Where a debt has been proved, and the 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 five 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.

Interest on debts.

(2) In dealing with the proof of the debt, the following rules shall be observed:—

(a) any account settled between the debtor and the creditor within three years preceding the date of the receiving order may be examined, and, if it appears that the settlement of the account forms substantially one transaction with any debt alleged to be due out of the debtor's estate (whether in the form of renewal of a loan or capitalisation of interest or ascertainment of loans or otherwise), the account may be re-opened and the whole transaction treated as one;

(b) any payments made by the debtor to the creditor before the receiving order, whether by way of bonus or otherwise, and any sums received by the creditor before the receiving order from the realisation of any security for the debt, shall, notwithstanding any agreement to the contrary, be appropriated to principal and interest in the proportion that the principal bears to the sum payable as interest at the agreed rate;

(c) where the debt due is secured and the security is realised after the receiving order, or the value thereof is assessed in the proof, the amount realised or assessed shall be appropriated to the satisfaction of principal and interest in the proportion that the principal bears to the sum payable as interest at the agreed rate.

Final  
dividend.

**70.** (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 the committee of inspection, be realised without needlessly protracting the trusteeship, he shall declare a final dividend, but before so doing he shall give notice, in the prescribed manner, 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 grants him further time for establishing his claim, then on the expiration of such further time, the property of the bankrupt shall be divided among the creditors who have proved their debts, without regard to the claims of any other persons.

No action for  
dividend.

**71.** 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 that it is withheld, and the costs of the application.

Bankrupt's  
right to  
surplus.

**72.** The bankrupt shall be entitled to any surplus remaining after payment in full of his creditors, with interest, as by this Ordinance provided, and of the costs, charges,

and expenses of the proceedings under the bankruptcy petition.

#### PART IV.

##### RECEIVER IN BANKRUPTCY.

73. (1) The Governor may appoint such person as he shall think fit to be Official Receiver of debtors' estates, and may remove any person so appointed from such office. Such Receiver shall be an officer of the Court in its jurisdiction in bankruptcy, and judicial notice shall be taken of any appointment by the Governor of a Receiver under this section. Official Receiver.

(2) The Governor may appoint a fit and proper person to discharge the duties of the Receiver in case of his death, removal, or absence.

(3) Such acting Receiver shall, during his tenure of office, have all the status, rights, and powers, and be subject to all the liabilities, of the Receiver, and all the estates, rights, and powers vested in the Receiver shall, during his tenure of office and without any conveyance or transfer, vest in such acting Receiver.

74. (1) The duties of the Receiver shall have relation both to the conduct of the debtor and to the administration of his estate. Status of Receiver.

(2) The Receiver may, for the purpose of affidavits verifying proofs, petitions, or other proceedings under this Ordinance, administer oaths.

(3) All provisions in this or any other Ordinance referring to the trustee in a bankruptcy shall, unless the context otherwise requires, or the Ordinance otherwise provides, include the Receiver when acting as trustee.

(4) The trustee shall supply the 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 Receiver to perform his duties under this Ordinance.

Duties of  
Receiver as  
to debtor's  
conduct.

75. As regards the debtor, it shall be the duty of the 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 a felony or misdemeanor under this Ordinance or any enactment repealed by this Ordinance, 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 or as may be required by the Attorney General.

Duties of  
Receiver as  
to debtor's  
estate.

76. (1) As regards the estate of the debtor, it shall be the duty of the 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 so to do;

(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 creditors' 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 an interim receiver or manager, the Receiver shall have the same powers as if he were a receiver and manager appointed by the Court, but he 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 order, 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 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 Receiver shall account to the Court and pay over all moneys and deal with all securities in such manner as the Court may from time to time direct.

## PART V.

### TRUSTEE IN BANKRUPTCY.

#### *Official name.*

77. The official name of a trustee in bankruptcy shall be "the trustee of the property of C. D., a bankrupt," (inserting the name of the bankrupt), and by that name the trustee 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.

Official name  
of trustee.

#### *Appointment.*

78. (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 Ordinance included under the term "trustee," and shall be joint tenants of the property of the bankrupt.

Power to  
appoint joint  
or successive  
trustees.

(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 of the appointment of any such person not being approved of by the Court.

Proceedings  
on vacancy  
in office of  
trustee.

79. (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 Receiver shall, on the acquisition of any creditor, summon a meeting for the purpose of filling any such vacancy.

(3) If the creditors do not, within three weeks after the occurrence of a vacancy, appoint a person to fill the vacancy, the Receiver shall report the matter to the Court, and the Court may appoint a trustee; but in such case the creditors or committee of inspection shall have the same power of appointing a trustee in the place of the person so appointed by the Court as in the case of a first appointment.

(4) During any vacancy in the office of trustee the Receiver shall act as trustee.

*Control over trustee.*

Discretion-  
ary powers  
of trustee  
and control  
thereof.

80. (1) Subject to the provisions of this Ordinance, 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 directions 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.

Summoning  
general  
meetings.

(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, and it shall be lawful for any creditor, with the

concurrence of one-sixth in value of the creditors (including himself), at any time to request the trustee or Receiver to call a meeting of the creditors, and the trustee or Receiver shall call such meeting accordingly within fourteen days: Provided that the person at whose instance the meeting is summoned shall deposit with the trustee or Receiver, as the case may be, a sum sufficient to pay the costs of summoning the meeting, such sum to be repaid to him out of the estate if the creditors or the Court so direct.

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

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

81. If the bankrupt or any of the 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 confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks just. Appeal to Court against trustee.

82. (1) The Court shall take cognisance of the conduct of trustees, and in the event of any trustee not faithfully performing his duties and duly observing all the requirements imposed on him by Ordinance, rules, or otherwise, with respect to the performance of his duties, or in the event of any complaint being made to the Court by any creditor in regard thereto, the Court shall enquire into the matter and make such order as it shall think fit. Control of Court over trustees.

(2) The Court may at any time require any trustee to answer any enquiry made by the Court in relation to any bankruptcy in which the trustee is engaged, and may, if the Court thinks fit, require the trustee or any other person to appear before the Court and be examined on oath concerning the bankruptcy.

(3) The Court may also direct investigation to be made of the books and vouchers of the trustee.

*Remuneration and costs.*

Remunera-  
tion of  
trustee.

**83.** (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 dividends.

(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 may be allowed on taxation.

(5) A trustee shall not, under any circumstances whatever, make any arrangement for or accept from the bankrupt, or any solicitor, 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 solicitor or other person that may be employed about a bankruptcy.

Allowance  
and taxation  
of costs.

**84.** (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 by Ordinance or rules to be performed by himself.

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

(3) All bills and charges of solicitors, managers, accountants, auctioneers, brokers, and other persons, not being trustees, shall be taxed by the prescribed officer, and no payments in respect thereof shall be allowed in the trustee's accounts without proof of such taxation having been made. The prescribed officer shall satisfy himself before passing such bills and charges that the employment of such solicitors and other persons, in respect of the particular matters out of which such charges arise, has been duly sanctioned. The sanction must be 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.

(4) 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 prescribed officer for taxation, and if he fails to do so within ten 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.

*Receipts, payments, accounts, audit.*

85. (1) The trustee or Receiver shall, whenever required by any creditor so to do, and on payment of the prescribed fee, furnish and transmit to such creditor, personally or by post, a list of the creditors, showing in such list the amount of the debt due to each of such creditors.

Trustee to  
furnish list  
of creditors.

(2) It shall be lawful for any creditor, with the concurrence of one-sixth of the creditors (including himself), at any time to call upon the trustee or Receiver to furnish and transmit to the creditors a statement of the accounts up to the date of such notice, and the trustee shall, upon receipt of such notice, furnish and transmit such statement of the accounts:

Trustee to  
furnish  
statement of  
accounts.

Provided that the person at whose instance the accounts are furnished shall deposit with the trustee or Receiver, as the case may be, a sum sufficient to pay the costs of furnishing and transmitting the accounts, which sum shall be repaid to him out of the estate if the creditors or the Court so direct.

Books to be kept by trustee.

**86.** The trustee shall keep, in 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.

Annual statement of proceedings.

**87.** (1) Every trustee in a bankruptcy shall from time to time, as may be prescribed, and not less than once in every year during the continuance of the bankruptcy, transmit to the Registrar a statement showing the proceedings in the bankruptcy up to the date of the statement, containing the prescribed particulars, and made out in the prescribed form.

(2) The Court shall cause the statements so transmitted to be examined and shall call the trustee to account for any misfeasance, neglect, or omission which may appear on the said statements or in his accounts or otherwise, and may require the trustee to make good any loss which the estate of the bankrupt may have sustained by the misfeasance, neglect, or omission.

Trustee not to pay into private account.

**88.** No trustee in a bankruptcy or under any composition or scheme of arrangement shall pay any sums received by him as trustee to his private banking account.

Payment of money into bank.

**89.** (1) The trustee shall open an account with such bank as the creditors shall direct at their first meeting in his official name (as follows:—"A. B. trustee of the property of C. D. a bankrupt,") and all moneys received by him under the bankruptcy shall be paid to that account.

(2) Any interest recoverable in respect of the account shall be part of the assets of the estate.

(3) If a trustee at any time retains for more than ten days a sum exceeding one hundred and twenty dollars, or such other amount as the Court in any particular case

authorises 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 by the Court, and shall be liable to pay any expenses occasioned by reason of his default.

90. (1) Every trustee shall, at such times as may be prescribed, but not less than twice in each year during his term of office, send to the Registrar, or as he directs, an account of his receipts and payments as such trustee.

Audit of trustee's accounts.

(2) The account shall be in the prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

(3) The Registrar shall cause the accounts so sent to be audited, and, for the purposes of the audit, the trustee shall furnish the Registrar with such vouchers and information as he may require, and the Registrar may at any time require the production of and inspect any books or accounts kept by the trustee.

(4) When any such account has been audited, one copy thereof shall be filed and kept by the Registrar, and the other shall be kept by the trustee or such other person as the Registrar may direct, and each copy shall be open to the inspection of any creditor, or of the bankrupt, or of any person interested.

*Vacation of office by trustee.*

91. (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 Court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the Court, shall take into consideration the report, and any objection which may be urged by any creditor or person interested against the release of the trustee, 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 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) The foregoing provisions of this section shall apply to the Receiver when he is, or is acting as, trustee, and when the Receiver has been released under this section, or any previous similar enactment, he shall continue to act as trustee for any subsequent purposes of the administration of the debtor's estate, but no liability shall attach to him personally by reason of his so continuing in respect of any act done, default made, or liability incurred before his release.

(5) 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 Receiver shall be trustee.

(6) Where, on the release of a trustee, the Receiver is, or is acting as, trustee, no liability shall attach to him personally in respect of any act done or default made, or liability incurred, by any prior trustee.

Office of  
trustee  
vacated by  
insolvency.

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

Removal of  
trustee.

**93.** (1) The creditors may, by ordinary 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 hereinbefore provided in case of a vacancy in the office of trustee.

(2) If the Court is of opinion—

(a) that a trustee appointed by the creditors is guilty

of misconduct or fails to perform his duties under this Ordinance, or

(b) that his trusteeship is being needlessly protracted without any probable advantage to the creditors, or

(c) that he is, by reason of insanity or continued sickness or absence, incapable of performing his duties, or

(d) 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 interests of the creditors generally, or

(e) where in any other matter he has been removed from office on the ground of misconduct,

the Court may, having due regard to the opinion of the creditors as expressed at a meeting summoned for that purpose, remove him from office.

## PART VI.

### JURISDICTION, PROCEDURE, AND POWERS OF COURT.

#### *Jurisdiction.*

94. The Supreme Court shall have and exercise an exclusive jurisdiction within the Colony in respect of bankrupts and matters of bankruptcy; and such jurisdiction shall be exercised under and subject to the provisions of this Ordinance and of the rules. Jurisdiction of the Court.

95. Subject to the rules, all bankruptcy matters shall be entitled "In bankruptcy." Bankruptcy matters, how entitled.

96. (1) The Court may exercise the whole or any part of its jurisdiction during the vacation. Jurisdiction in Chambers and during vacation.

(2) Subject to the provisions of this Ordinance and to the rules, any Judge of the Court may exercise in Chambers the whole or any part of his jurisdiction.

97. (1) Subject to the provisions of this Ordinance, the Court shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or General powers of Court.

fact, which may arise in any case of bankruptcy coming within within the cognisance of the Court, or which the Court may deem 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) If in any proceeding in bankruptcy there arises any question of fact which either of the parties desire to be tried before a jury instead of by the Court itself, or which the Court thinks ought to be tried by a jury, the Court may, if it thinks fit, direct the trial to be had with 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 or by the Receiver under any power conferred by this Ordinance or any enactment repealed by this Ordinance, the Court may, on the application of the Receiver or of any person interested, order such defaulting trustee, debtor, or person to comply with the order or direction so given; and 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.

#### *Judgment debtors.*

Receiving  
order on  
judgment  
summons.

98. Where, under the Debtors Ordinance, application is made by a judgment creditor to the Court for the committal of a judgment debtor, 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. In such case the judgment debtor shall be deemed to have committed an act of bankruptcy at the time the order is made, and the provisions of this Ordinance, except Part VIII. thereof, shall apply as if for references to the presentation of a petition by or against a person there were substituted references to the making of such a receiving order.

*Appeals.*

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

Appeals in  
bankruptcy.

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

(3) Where by this Ordinance an appeal to the Court is given against any decision of the Receiver, the appeal shall be brought within twenty-one days from the time when the decision appealed against is pronounced or made.

*Procedure.*

100. (1) Subject to the provisions of this Ordinance and to the rules, the costs of and incidental to any proceeding in the Court under this Ordinance 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 Judge before whom such issue is tried otherwise orders.

Discretionary  
powers of  
Court.

(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 Ordinance, upon such terms, if any, as it may think fit to impose.

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

(5) Subject to the rules, the Court may in any matter take the whole or any part of the evidence either *vivá voce*, or by interrogatories, or upon affidavit, or, out of the Colony, by commission.

101. 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.

Power to change carriage of proceedings.

**102.** Where the petitioner does not proceed with due diligence on his petition, the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Ordinance in the case of a petitioning creditor.

Continuance of proceedings on death of debtor.

**103.** 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.

Power to stay proceedings.

**104.** 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 present petition against one partner.

**105.** 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.

**106.** 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.

Property of partners to be vested in same trustee.

**107.** Where a receiving order has been made on a bankruptcy petition by or against one member of a partnership, and any other bankruptcy petition by or against a member of the same partnership shall be filed, the Court may give such directions for consolidating the proceedings under the petitions as it thinks just, and the same trustee or receiver shall, unless the Court otherwise directs, be appointed as may have been appointed in respect of the property of the first mentioned member of the partnership.

Actions by trustee and bankrupt's partners.

**108.** 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.

**109.** 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.

Actions  
on joint  
contracts.

**110.** 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 Ordinance in the name of the firm, 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.

Proceedings  
in partner-  
ship name.

*Search warrants and commitments to prison.*

**111.** A search warrant issued by the Court for the discovery of any property of a debtor may be executed 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.

Execution  
of search  
warrant.

**112.** Where the Court commits any person to prison, the commitment shall be to the Royal Gaol.

Commitment  
to prison.

PART VII.

SUPPLEMENTAL PROVISIONS.

*Application of Ordinance.*

**113.** A receiving order shall not be made against any corporation or against any partnership or association or company registered under the Companies Ordinance, or any enactment repealed by that Ordinance.

Exclusion of  
registered  
companies,  
etc.

Application  
of Ordinance  
in case of  
small estates.

114. Where a petition is presented by or against a debtor, if the Court is satisfied by affidavit or otherwise, or the Receiver reports to the Court, that the property of the debtor is not likely to exceed in value one thousand four hundred and forty dollars, the Court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Ordinance shall be subject to the following modifications:—

(a) if the debtor is adjudged bankrupt, the Receiver shall be the trustee in the bankruptcy;

(b) there shall be no committee of inspection, but the Receiver may do at his discretion all things which may be done by the trustee with the permission of the committee of inspection: Provided that any person aggrieved may appeal to the Court against any act or decision of the Receiver;

(c) such other modifications may be made in the provisions of this Ordinance as may be prescribed with the view of saving expense and simplifying procedure; but nothing in this section shall permit the modification of the provisions of this Ordinance 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 Receiver be appointed trustee in the bankruptcy, and thereupon the bankruptcy shall proceed as if an order for summary administration had not been made.

Administra-  
tion in bank-  
ruptcy of  
estate of  
person dying  
insolvent.

115. (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:

The order.

(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 under any other jurisdiction of the Court for the administration of the deceased debtor's estate; but the Court exercising such other jurisdiction may in such case, if satisfied that the estate is insufficient to pay its debts, in the prescribed manner, make an order for the administration of the estate of the deceased debtor under this Ordinance, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

Proceedings  
for adminis-  
tration.

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

Property to  
vest in  
Receiver.

Provided that 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 Ordinance relating to trustees and committees of inspection shall apply to trustees and committees of inspection appointed under the power so conferred.

If no committee of inspection is appointed, the Receiver may do, without the direction or permission of the committee, such acts or things as he might have done with the permission or at the direction of the committee if a committee had been appointed.

(5) With the modifications hereinafter mentioned, all the provisions of Part III. of this Ordinance (relating to the administration of the property of a bankrupt) and, subject to any modification that may be made therein by rules under the next succeeding section, the provisions of the following sections of this Ordinance, namely,—

Application  
of Ordinance.

section 26 (which relates to enquiries as to the debtor's conduct, dealings, and property);

section 84 (which relates to the costs of trustees, managers, and other persons);

section 114 (which relates to the summary administration of small estates); and

subsection (4) of section 91 so far as it relates to the effect of the release of the Receiver,

shall, so far as the same are applicable, apply in the case of an administration order under this section in like manner as to an order of adjudication under this Ordinance, and subsection (1) of section 39 shall apply as if for the reference to an order of adjudication there were substituted a reference to an administration order under this section.

Priority of claims.

(6) In the administration of the property of the deceased debtor under an order of administration, the Receiver or trustees 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 shall, notwithstanding anything to the contrary in the provisions of this Ordinance relating to the priority of other debts, be payable in full out of the debtor's estate, in priority to all other debts.

Surplus.

(7) If, on the administration of a deceased debtor's estate, any surplus remains in the hands of the Receiver or trustee 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 Ordinance 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.

Effect of notice to personal representative of presentation of petition.

(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 Receiver or trustee; save 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) A petition for the administration of the estate of a deceased debtor under this section may be presented by the legal personal representative of the debtor; and, where a petition is so presented by such a representative, this section shall apply subject to such modifications as may be prescribed by rules made under the next succeeding section.

Personal representative may present petition.

(10) Unless the context otherwise requires, "creditor" in this section means one or more creditors qualified to present a bankruptcy petition as in this Ordinance provided.

"Creditor."

*Rules.*

116. Rules for carrying into effect the provisions of the preceding section may be made in the same manner and to the like effect and extent as in bankruptcy.

Rules.

117. (1) Rules may be made in like manner as rules may be made under and for the purposes of the Judicature Ordinance for carrying into effect the objects of this Ordinance, and in particular for all or any of the following matters:—

Power to make rules. Ord. 35-1945, ss. 2 and 3.

(a) for regulating sittings of the Court and the Judges thereof in Chambers;

(b) for regulating the practice and procedure in the Court;

(c) generally, for regulating any matters relating to the practice and procedure of the Court, or to the duties of the officers thereof, or to the costs of or fees upon and percentages to be charged for or in respect of proceedings therein.

(2) Provided always, that any rules so made shall not extend the jurisdiction of the Court.

(3) All rules of Court made and in force on the 22nd of November, 1945, shall remain in force as though this section had been in force when they were made and they had been made under the provisions of this Ordinance.

Saving of existing rules.

*Evidence.*

*Royal Gazette*  
to be  
evidence.

**118.** (1) A copy of the *Royal Gazette* containing any notice inserted therein in pursuance of this Ordinance shall be evidence of the facts stated in the notice.

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

Evidence of  
proceedings  
at meetings  
of creditors.

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

(2) Until the contrary is proved, every meeting of creditors in respect of the proceedings whereof a minute has been so signed shall be deemed to have been duly convened and held, and all resolutions passed or proceedings had thereat to have been duly passed or had.

Evidence  
of proceed-  
ings in  
bankruptcy.

**120.** 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 Ordinance, shall, if it appears to be sealed with the seal of the Court, or purports to be signed by any Judge thereof, or is certified as a true copy by the Registrar, be receivable in evidence in all legal proceedings whatsoever.

Swearing of  
affidavits.

**121.** Subject to rules, any affidavit to be used in the Court may be sworn before any person authorised to administer oaths in the Court, or, in the case of a person who is out of the Colony, before a Magistrate or Justice or other person qualified to administer oaths in the country where he resides (he being certified to be a Magistrate or Justice, or qualified as aforesaid, by a British Minister or British Consul, or by a Notary Public).

122. 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 Ordinance, 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.

Death of  
debtor or  
witness.

*Registration, endorsements, etc., of receiving orders.*

123. (1) The Registrar General shall, at the request of the Receiver or the trustee of a debtor's estate, register a receiving order or administration order made under this Ordinance.

Registration  
of receiving  
orders.

(2) Every order in bankruptcy, so long as the receiving order or administration order, as the case may be, is unregistered, shall be void as to any land or interest in land affected by such order as against any subsequent *bonâ fide* purchaser or mortgagee of the same land or interest in land or any part thereof respectively without notice of such order.

(3) The Registrar General shall enter in a register book to be kept by him for such purpose a reference to all receiving orders and administration orders registered as aforesaid.

124. (1) Where any part of the property of a debtor consists of land or any interest in land subject to the provisions of the Real Property Ordinance, the Registrar General shall, at the request of the Receiver or trustee, and on production of an office copy of the receiving order or administration order, cause a note thereof to be endorsed on the grant or certificate of title evidencing title to such land or interest in land.

Endorsement  
under Real  
Property  
Ordinance.

(2) Where, by virtue of this Ordinance or any rules made in pursuance thereof, the property of a debtor is vested in the Receiver or a trustee, and any part of such property consists of land or any interest in land subject to the provisions of the Real Property Ordinance, the Registrar General shall, at the request of the Receiver or trustee, and

on production of an office copy of the order or orders by virtue of which the property became so vested, cause such Receiver or trustee, as the case may be, to be endorsed as proprietor of such land or interest in land on the grant or certificate of title and the duplicate thereof evidencing title to such land or interest in land.

(3) Any such Receiver or trustee shall, for the purposes of the said Ordinance, be deemed to be the registered proprietor of such land or interest in land.

Registration  
fee.

**125.** Upon registration of any order under either of the two last preceding sections there shall be paid to the Registrar General a fee of \$4.80.

*Miscellaneous.*

Computation  
of time.

**126.** (1) Where, by this Ordinance, any limited 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 the same 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 public holiday or 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 is not one of the days in this section specified.

(2) Where, by this Ordinance, 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 is not one of the days in this section specified.

Service of  
notices.

**127.** All notices and other documents, for the service of which no special mode is directed, may be sent by prepaid post letter or left at the last known address or place of business of the person to be served therewith.

**128.** (1) No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the Court is of opinion that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of the Court.

Formal defects not to invalidate proceedings.

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

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

Exemption of deeds from stamp duty.

(2) For the purposes of this section, "bankruptcy" includes any proceedings before or after adjudication, whether adjudication is made or not, and "bankrupt" includes any debtor proceeded against under this Ordinance.

**130.** For all or any of the purposes of this Ordinance, 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.

Acts of corporations, partners, and insane persons.

**131.** Where, by any Ordinance or instrument, reference is made to any Ordinance repealed by this Ordinance, that Ordinance or instrument shall, unless the context otherwise requires, be construed and have effect as if this Ordinance or the corresponding provision (if any) of this Ordinance were therein referred to.

Construction of Ordinances and instruments mentioning repealed Bankruptcy Ordinances.

**132.** Save as provided in this Ordinance, the provisions of this Ordinance relating to the remedies against the

Certain provisions to bind the Crown.

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 Crown.

Solicitor's  
right of  
audience.

**133.** Nothing in this Ordinance shall take away or affect any right of audience that any solicitor may have had at the commencement of this Ordinance, and every solicitor of the Supreme Court shall be, and may practise as, a solicitor of and in the Court.

Removal of  
bankrupt  
from trustee-  
ship.

**134.** Where a bankrupt is a trustee within the Trustee Ordinance, the Court may appoint a new trustee in substitution for the bankrupt (whether voluntarily resigning or not), if it appears to the Court expedient so to do, and all provisions of that Ordinance, and of any other Ordinance relative thereto, shall have effect accordingly.

*Unclaimed funds or dividends.*

Unclaimed  
funds or  
dividends  
under this  
and former  
Ordinances.

**135.** (1) Where the trustee, under any bankruptcy composition or scheme, pursuant to this Ordinance or any enactment repealed by this Ordinance, 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 money arising from the property of the debtor, he shall forthwith pay the same into Court. The Court shall cause him to be furnished with a certificate of receipt of the money so paid, which shall be an effectual discharge to him in respect thereof.

(2) (a) Where any unclaimed or undistributed funds or dividends in the hands or under the control of any trustee or other person empowered to collect, receive, or distribute any funds or dividends under any enactment repealed by this Ordinance, or any petition, resolution, deed, or other proceeding under or in pursuance of any such enactment, have remained or remain unclaimed or undistributed for six months after they became claimable or distributable, or in any other case for two years after the receipt thereof by such trustee or other person, it shall be the duty of such trustee or other person forthwith to pay the same into Court. The Court shall cause such trustee or other person to be furnished with a receipt of the money so paid, which shall be an effectual discharge in respect thereof.

(b) The Court may at any time order any such trustee or other person to submit to it an account verified by affidavit of the sums received and paid by him under or in pursuance of any such petition, resolution, deed, or other proceeding as aforesaid, and may direct and enforce an audit of the account.

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

(4) Any person claiming to be entitled to any moneys paid into Court pursuant to this section may apply to the Court for payment to him of the same, and the Court, if satisfied that the person claiming is entitled, shall make an order for the payment to such person of the sum due.

## PART VIII.

### BANKRUPTCY OFFENCES.

**136.** (1) Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made under this Ordinance shall, in each of the cases following, be guilty of a misdemeanor:—

Fraudulent debtors.

(a) if he does not to the best of his knowledge and belief fully and truly discover to the trustee all his property, real and personal, and how and to whom and for what consideration and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any) or laid out in the ordinary expense of his family, unless he proves that he had no intent to defraud;

Non-discovery of property.

(b) if he does not deliver up to the 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 he proves that he had no intent to defraud;

Non-delivery of property.

(c) if he does not deliver up to the trustee, or as he directs, all books, documents, papers, and writings in his custody or under his control relating to his property

Non-delivery of books, etc.

or affairs, unless he proves that he had no intent to defraud;

Concealment  
of property.

(*d*) if, after the presentation of a bankruptcy petition by or against him, or within twelve months next before such presentation, he conceals any part of his property to the value of forty-eight dollars or upwards, or conceals any debt due to or from him, unless he proves that he had no intent to defraud;

Removal of  
property.

(*e*) if, after the presentation of a bankruptcy petition by or against him, or within twelve months next before such presentation, he fraudulently removes any part of his property of the value of forty-eight dollars or upwards;

Omission in  
statement  
of affairs.

(*f*) if he makes any material omission in any statement relating to his affairs, unless he proves that he had no intent to defraud;

Not inform-  
ing trustee of  
false claim.

(*g*) if, knowing or believing that a false debt has been proved by any person under the bankruptcy, he fails for the period of a month to inform the trustee thereof;

Preventing  
production  
of books, etc.

(*h*) if, after the presentation of a bankruptcy petition by or against him, he prevents the production of any book, document, paper, or writing affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;

Destruction,  
etc., of  
books.

(*i*) if, after the presentation of a bankruptcy petition by or against him, or within twelve months next before such presentation, he conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation, or falsification of, any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;

False entries  
in books, etc.

(*j*) if, after the presentation of a bankruptcy petition by or against him, or within twelve months next before such presentation, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;

(k) if, after the presentation of a bankruptcy petition by or against him, or within twelve months next before such presentation, he fraudulently parts with, alters, or makes any omission in, or is privy to the fraudulently parting with, altering, or making any omission in, any document affecting or relating to his property or affairs;

Parting with alteration, etc., of documents.

(l) if, after the presentation of a bankruptcy petition by or against him, or at any meeting of his creditors within twelve months next before such presentation, he attempts to account for any part of his property by fictitious losses or expenses;

Accounting for property by fictitious losses, etc.

(m) if, within twelve months next before the presentation of a bankruptcy petition by or against him, or, in the case of a receiving order made under section 98, before the date of the order, or after the presentation of a bankruptcy petition against him and before the making of a receiving order, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same;

Obtaining property on credit by fraud.

(n) if, within twelve months next before the presentation of a bankruptcy petition by or against him, or, in the case of a receiving order made under section 98, before the date of the order, or after the presentation of a bankruptcy petition against him and before the making of a receiving order, he obtains, under the false pretence of carrying on business and, if a trader, of dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless he proves that he had no intent to defraud;

Obtaining property on credit on pretence of carrying on business.

(o) if, within twelve months next before the presentation of a bankruptcy petition by or against him, or, in the case of a receiving order made under section 98, before the date of the order, or after the presentation of a bankruptcy petition against him and before the making of a receiving order, he pawns, pledges, or disposes of any property which he has obtained on credit and has not paid for, unless, in the case of a trader, such pawning, pledging, or disposing is in the ordinary way of his trade, and unless in any case he proves that he had no intent to defraud;

Pawning property obtained on credit.

Obtaining  
consent of  
creditors by  
fraud.

(*p*) if he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to any agreement with reference to his affairs or to his bankruptcy.

(2) Any person guilty of a misdemeanor in the cases mentioned respectively in paragraphs (*m*), (*n*) and (*o*) of the last foregoing subsection shall be liable, on conviction on indictment, to imprisonment with hard labour for five years, or, on summary conviction to imprisonment for twelve months.

(3) Where any person pawns, pledges or disposes of any property in circumstances which amount to a misdemeanor under paragraph (*o*) of subsection (1) of this section, every person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged or disposed of in such circumstances as aforesaid shall be guilty of a misdemeanor, and on conviction on indictment, liable to be punished in the same way as if he had received the property knowing it to have been obtained in circumstances amounting to a misdemeanor.

(4) For the purposes of this section, the expression "trustee" means the Receiver or trustee administering the debtor's estate for the benefit of his creditors.

Obtaining  
credit by  
undischarged  
bankrupts.

### 137. Where an undischarged bankrupt—

(*a*) either alone or jointly with any other person obtains credit to the extent of forty-eight dollars or upwards from any person without informing that person that he is an undischarged bankrupt, or

(*b*) engages in any trade or business under a name other than that under which he was adjudicated bankrupt without disclosing to all persons with whom he enters into any business transaction the name under which he was adjudicated bankrupt;

he shall be guilty of a misdemeanor.

Frauds by  
bankrupts,  
etc.

138. (1) If any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made—

(*a*) in incurring any debt or liability, has obtained

credit under false pretences or by means of any other fraud,

(b) with intent to defraud his creditors or any of them, has made or caused to be made any gift or transfer of, or charge on, his property,

(c) with intent to defraud his creditors, has concealed or removed any part of his property since, or within two months before, the date of any unsatisfied judgment or order for payment of money obtained against him,

he shall be guilty of a misdemeanor.

(2) If any person who has been adjudged bankrupt, or in respect of whose estate a receiving order has been made, has with intent to defraud his creditors or any of them caused or connived at the levying of any execution against his property, he shall for the purposes of paragraph (b) of subsection (1) of this section be deemed to have made a transfer of or charge on his property, and shall accordingly be guilty of a misdemeanor.

Causing or conniving at levy of execution to be deemed transfer or charge.

**139.** (1) An person who has been adjudged bankrupt, or in respect of whose estate a receiving order has been made, shall be guilty of a misdemeanor, if, having been engaged in any trade or business, and having outstanding at the date of the receiving order any debts contracted in the course and for the purposes of such trade or business—

Punishment of bankrupt for gambling etc.

(a) he has, within two years prior to the presentation of the bankruptcy petition, materially contributed to or increased the extent of his insolvency by gambling or by rash and hazardous speculations, and such gambling or speculations are unconnected with his trade or business; or

(b) he has, between the date of the presentation of the petition and the date of the receiving order, lost any part of his estate by such gambling or rash and hazardous speculations as aforesaid; or

(c) on being required by the Receiver at any time, or in the course of his public examination by the Court, to account for the loss of any substantial part of his estate incurred within a period of a year next preceding the date of the presentation of the bankruptcy petition, or

between that date and the date of the receiving order, he fails to give a satisfactory explanation of the manner in which such loss was incurred:

Provided that, in determining for the purposes of this section whether any speculations were rash and hazardous, the financial position of the accused person at the time when he entered into the speculations shall be taken into consideration.

(2) A prosecution shall not be instituted against any person under this section except by order of the Court, nor where the receiving order in the bankruptcy is made within two years from the 1st of January, 1918.

(3) Where a receiving order is made against a person under section 98, this section shall apply as if for references to the presentation of a petition there were substituted references to the making of the receiving order.

Punishment  
of bankrupt  
failing to  
keep proper  
accounts.

**140.** (1) Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made shall be guilty of a misdemeanor, if, having been engaged in any trade or business during any period in the two years immediately preceding the date of the presentation of the bankruptcy petition, he has not kept proper books of account throughout that period and throughout any further period in which he was so engaged between the date of the presentation of the petition and the date of the receiving order, or has not preserved all books of account so kept:

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

(a) if his unsecured liabilities at the date of the receiving order did not exceed, in the case of a person who has not on any previous occasion been adjudged bankrupt or made a composition or arrangement with his creditors one thousand two hundred dollars, or in any other case four hundred and eighty dollars; or

(b) if he proves that in the circumstances in which he traded or carried on business the omission was honest and excusable.

(2) A prosecution shall not be instituted against any person under this section except by order of the Court, nor where the receiving order in the bankruptcy is made within two years from the 1st of January, 1918.

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

(4) Paragraphs (i), (j) and (k) of subsection (1) of section 136 (which relate to the destruction, mutilation, and falsification and other fraudulent dealing with books and documents) shall, in their application to such books as aforesaid, have effect as if "two years next before the presentation of the bankruptcy petition" were substituted for the time mentioned in those paragraphs as the time prior to the presentation within which the acts or omissions specified in those paragraphs constitute an offence.

(5) Where a receiving order is made against a person under section 98, this section shall apply as if for references to the presentation of a petition there were substituted references to the making of the receiving order.

141. If any person who is adjudged bankrupt, or in respect of whose estate a receiving order has been made, after the presentation of a bankruptcy petition by or against him, or within six months before such presentation, quits the Colony and takes with him, or attempts or makes preparation to quit the Colony and take with him, any part of his property to the amount of ninety-six dollars or upwards, which ought by law to be divided amongst his creditors, he shall (unless he proves that he had no intent to defraud) be guilty of felony.

Bankrupt  
absconding  
with  
property.

False claims,  
and fraudu-  
lent accounts

**142.** If any creditor, or any person claiming to be a creditor, in any bankruptcy proceedings, 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, he shall be guilty of a misdemeanor.

Order  
to direct  
prosecution  
if desirable.

**143.** Where the Receiver or a trustee in bankruptcy reports to the Court that in his opinion a debtor who has been adjudged bankrupt or in respect of whose estate a receiving order has been made has been guilty of any offence under this Ordinance or any enactment repealed by this Ordinance, or where the Court is satisfied upon the representation of any creditor or member of the committee of inspection that there is ground to believe that the debtor has been guilty of any such offence, the Court shall, if it appears to the Court that there is a reasonable probability that the debtor will be convicted and that the circumstances are such as to render a prosecution desirable, order that the debtor be prosecuted for such offence.

Criminal  
liability after  
discharge or  
composition.

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

Trial and  
punishment  
of offences.

**145.** (1) A person guilty of an offence declared to be a felony or misdemeanor under this Ordinance in respect of which no special penalty is imposed by this Ordinance shall be liable, on conviction on indictment, to imprisonment for two years, or, on summary conviction, to imprisonment for twelve months:

Provided that the maximum term of imprisonment which may be awarded on conviction on indictment under either section 138 or section 142 shall be one year.

(2) Summary proceedings in respect of any such offence shall not be instituted after one year from the first discovery thereof either by the Receiver or by the trustee in the bankruptcy, or, in the case of proceedings instituted by a creditor, by the creditor, nor in any case shall they be instituted after three years from the commission of the offence.

## SCHEDULES.

## FIRST SCHEDULE.

(Section 14.)

## Meetings of Creditors.

1. The first meeting of creditors shall be summoned for a day not later than fourteen days 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 Receiver shall summon the meeting by giving not less than six clear days' notice of the time and place thereof in the *Royal Gazette*.

3. The 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 cause of his failure, and any observations thereon which the 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 Receiver most convenient for the majority of the creditors.

5. The 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 by a creditor in accordance with the provisions of this Ordinance.

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 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 his whole debt he shall be deemed to have surrendered his security, unless the

Court, on application, is satisfied that the omission to value the security has arisen from inadvertence.

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

12. It shall be competent to the trustee or to the 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 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 Commissioner of Affidavits.

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 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 a 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 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 the Receiver or a trustee 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 Receiver to act in 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 nor 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.

28. The vote of the trustee, or of his partner, clerk, solicitor, or solicitor's clerk, 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.

(Section 36.)

## SECOND SCHEDULE.

### 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 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 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, and if it is found at any time that the affidavit made by or on behalf of a secured creditor has omitted to state that he is a secured creditor, the secured creditor shall surrender his security to the Receiver or trustee for the general benefit of the creditors unless the Court on application is satisfied that the omission has arisen from inadvertence, and in that case the Court may allow the affidavit to be amended upon such terms as to the repayment of any dividends or otherwise as the Court may consider to be just.

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 eight 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 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.

(c) 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 *bonâ fide* on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation; and 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 the provisions of 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 Ordinance.

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

*Interest.*

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.

*Debt payable at a future time.*

21. 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 eight 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 proofs.*

22. 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.

23. 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.

24. 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.

25. 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.

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

27. The 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.

## CHAPTER 6. No. 6.

## BANKRUPTCY.

R.G. Rules made under section 117 of the Bankruptcy Ordinance.  
19.11.25.

## PART I

## PRELIMINARY.

- Short title. 1. These rules may be cited as the Bankruptcy Rules.
- Interpre- 2. In these Rules—  
tation of  
terms. (a) "The Ordinance" means the Bankruptcy Ordinance;  
"Court" includes a Judge exercising jurisdiction in Chambers;  
"creditor" includes a corporation and a firm of creditors in partnership;  
"debtor" includes a firm of debtors in partnership, and includes any debtor  
proceeded against under the Ordinance, whether adjudged bankrupt or not;  
"Registrar" includes the Deputy Registrar, the Sub-Registrar of San  
Fernando and the Sub-Registrar of Tobago;  
"scheme" means a scheme of arrangement pursuant to the Ordinance;  
"sealed" means sealed with the seal of the Court;  
"trustee" includes the trustee appointed under a composition or scheme  
of arrangement under which a trustee is appointed to administer a debtor's  
property or manage his business, and also includes the Receiver when acting  
as trustee;  
"writing" includes type-writing and print and "written" includes type-  
written and printed.  
(b) The provisions of section 2 of the Ordinance shall apply to these Rules,  
and any other terms or expressions defined by the Ordinance shall, in these  
Rules, have the meanings thereby assigned to them.
- Computation 3. (1) The provisions of section 126 of the Ordinance shall apply to these Rules.  
of time. (2) Where by the Ordinance or these Rules the time limited for doing any  
act or thing is less than six days, Sunday, Christmas Day, Good Friday, the Saturday  
next after Good Friday, Monday and Tuesday in Easter week, and any other day  
on which the offices of the Court are wholly closed, shall be excluded in computing  
such time.  
(3) For the purposes of these Rules and of section 126 of the Ordinance, "day  
on which the Court does not sit" shall mean a day on which the offices of the  
Court are closed.

## FORMS.

- Use of 4. The forms in the Appendix, where applicable, and where they are not  
Forms in applicable forms of a like character, with such variations as circumstances may  
Appendix. require, shall be used. When such forms are applicable, any costs occasioned by  
the use of more prolix forms shall be borne by or disallowed to the party using the  
same, unless the Court shall otherwise direct.

## PART 2.

## GENERAL PROCEDURE.

## COURT AND CHAMBERS.

5. The following matters and applications shall be heard and determined in open Court, namely:—

- (a) the public examination of debtors;
- (b) applications to approve a composition or scheme arrangement;
- (c) applications for orders of discharge or certificates of removal of disqualifications;
- (d) applications to set aside or avoid any settlement, conveyance, transfer, security, or payment, or to declare for or against the title of the trustee to any property adversely claimed;
- (e) applications for the committal of any person to prison for contempt;
- (f) appeals against the rejection of a proof, or applications to expunge or reduce a proof, when the amount in dispute exceeds four hundred and eighty dollars;
- (g) the trial of any issue of fact with a jury.

Any other matter or application may be heard and determined in Chambers.

6. Subject to the provisions of the Ordinance and these Rules, any matter or application may at any time if the Judge thinks fit, be adjourned from Chambers to Court or from Court to Chambers; and if all the contending parties require any matter or application to be adjourned from Chambers into Court it shall be so adjourned.

## PROCEEDINGS.

7. (1) Every proceeding in Court under the Ordinance shall be dated and shall be entitled "In Bankruptcy," with the name of the Court and of the matter to which it relates. Numbers and dates may be denoted by figures.

(2) All applications and orders shall be entitled *ex parte* the applicant.

(3) The first proceeding in every matter shall have a distinctive number assigned to it by the Registrar, and all subsequent proceedings in the same matter shall bear the same number.

8. All proceedings in Court shall be written on paper of foolscap size; but no objection shall be allowed to any proof, affidavit, or proxy on account of its being written on paper of other size.

9. All proceedings of the Court shall remain of record in the Court, so as to form a complete record of each matter, and they shall not be removed for any purpose, except for the use of the officers of the Court, or by special direction of a Judge, but they may at all reasonable times be inspected by the trustee, the debtor, and any creditor who has proved, or any person on behalf of the trustee, debtor, or any such creditor.

10. All notices required by the Ordinance or these Rules shall be in writing, unless these Rules otherwise provide, or the Court shall in any particular case otherwise order.

11. All summonses, petitions, notices, orders, warrants, and other process issued by the Court shall be sealed.

12. Where the Court orders a general meeting of creditors to be summoned under Rule 5 of Schedule 1 to the Ordinance, it shall be summoned as the Court directs, and in default of any direction by the Court the Registrar shall transmit a sealed copy of the order to the trustee or as the case may be the Receiver; and the trustee or Receiver shall, not less than seven days before such meeting send a copy of the order to each creditor at the address given in his proof, or when he shall not have proved, the address given in the list of creditors by the debtor, or such other address as may be known to the trustee or Receiver.

Office copies. 13. All office copies of petitions, proceedings, affidavits, books, papers and writings, or any parts thereof required by any trustee, debtor, creditor, or by the solicitor of any such trustee, debtor, or creditor, shall be provided by the Registrar; and shall except as to figures, be fairly written at length and be sealed and delivered out without any unnecessary delay, and in the order in which they shall have been bespoken.

Filing,  
Gazetting,  
&c.

14. (1) Whenever the *Royal Gazette* contains any advertisement relating to any matter under the Ordinance, the Registrar shall file with the proceedings in the matter a memorandum referring to and giving the date of such advertisement.

Form 178.

(2) In the case of an advertisement in a local paper, the Registrar shall file a copy of the paper and a memorandum referring to and giving the date of such advertisement.

(3) For this purpose one copy of each local paper in which any advertisement relating to any matter under the Ordinance is inserted, shall be left with the Registrar by the person inserting the advertisement.

(4) The memorandum by the Registrar shall be *prima facie* evidence that the advertisement to which it refers was duly inserted in the issue of the *Royal Gazette* or paper mentioned in it.

#### MOTIONS AND PRACTICE.

Application  
to be by  
motion.

15. Every application to the Court (unless otherwise provided by these Rules or the Court shall in any particular case otherwise direct) shall be made by motion supported by affidavit.

Notice of  
motion and  
*ex parte*  
application.

16. Where any party other than the applicant is affected by the motion, no order shall be made unless upon the consent of such party duly shown to the Court, or upon proof that notice of the intended motion and a copy of the affidavits in support thereof have been duly served upon such party: Provided that the Court, if satisfied that the delay caused by proceeding in the ordinary way would or might entail serious mischief, may make any order *ex parte* upon such terms as to costs and otherwise, and subject to such undertaking, if any, as the Court may think just; and any party affected by such order may move to set it aside.

Length  
of notice.

17. Unless the Court gives leave to the contrary, notice of motion shall be served on any party to be affected thereby not less than eight days before the day named in the notice for hearing the motion. An application for leave to serve short notice of motion shall be made *ex parte*.

Affidavits  
against  
motion

18. Where a respondent intends to use affidavits in opposition to a motion, he shall deliver copies of such affidavits to the applicant not less than two days before the day appointed for the hearing.

Notice not  
served on all  
proper  
parties.

19. If on the hearing of any motion or application the Court shall be of opinion that any person to whom notice has not been given ought to have, or to have had, such notice, the Court may either dismiss the motion or application or adjourn the hearing thereof, in order that such notice may be given upon such terms as the Court thinks fit.

Adjourn-  
ment.

20. The hearing of any motion or application may from time to time be adjourned upon such terms (if any) as the Court thinks fit.

Personal  
service

21. In cases in which personal service of any notice of motion, or of any order of the Court, is required the same shall be effected, in the case of a notice of motion, by delivering to each party to be served a copy of the notice of motion; and in the case of an order, by delivering to each party to be served a sealed copy of the order.

Filing  
affidavits  
on motion.

22. Every affidavit to be used in supporting or opposing any opposed motion shall be filed with the Registrar not later than the day before the day appointed for the hearing.

Indorsement  
and filing of  
affidavits.

23. The Registrar, upon any affidavit being left with him to be filed, shall indorse the same with the day of the month and year when the same was so left, and forthwith file the same with the proceedings to which the same relates, and any affidavit

left with the Registrar to be filed shall on no account be delivered out to any person except by order of the Court.

24. A party intending to move shall, previous to the public sitting of the Court, deliver to the Registrar a copy of his notice of motion. There shall be indorsed on such copy the name of the applicant's solicitor and counsel (if any), and also if known the name of the respondent's solicitor and counsel (if any). Notice of motion to be filed.

#### PREPARATION OF ORDERS.

25. If within one week from the making of any order of adjudication, order annulling adjudication, order on application to approve a composition or scheme, order annulling a composition or scheme, or order on application for discharge, such order has not been completed, it shall be the duty of the Registrar to prepare and complete such order: Provided that if in any case the Judge shall be of opinion that the provisions of this rule ought not to apply, he may so order: and provided also that where an order for discharge has been granted subject to the condition that judgment shall be entered against the bankrupt, nothing in this rule shall require the Registrar to prepare and complete the order until the bankrupt has given consent in the prescribed form, to judgment being entered against him. Preparation of orders. Form 96.

26. A person who has the carriage of an order shall obtain from the Registrar an appointment to settle the order, and shall give reasonable notice of the appointment to all persons who may be affected by the order or to their solicitors. Notice of appointment to settle order.

#### SECURITY IN COURT.

27. Except where these Rules otherwise provide, where a person is required to give security, such security shall be in the form of a bond with one or more surety or sureties to the person proposed to be secured. Security by bond.

28. The bond shall be taken in a penal sum which shall be not less than the sum for which security is to be given and probable costs, unless the Registrar consents to it being taken for a less sum. Amount of bond.

29. Where a person is required to give security he may, in lieu thereof, lodge in Court a sum equal to the sum in question in respect of which security is to be given and the probable costs of the trial of the question, together with a memorandum to be approved of by the Registrar and to be signed by such person or his solicitor or agent, setting forth the conditions on which the money is deposited. Deposit in lieu of bond.

30. The Rules for the time being in force in the Supreme Court relating to payment into and out of Court of money lodged in Court by way of security for costs shall apply to money lodged in Court under these Rules. Money lodged in Court.

31. The security of a guarantee association or society approved by the Registrar may be given in lieu of a bond or a deposit. Security of guarantee society.

32. In all cases where a person proposes to give a bond by way of security, he shall serve by post or otherwise on the Registrar, notice of the proposed sureties, and the Registrar shall forthwith give notice of the time and place at which he proposes that the bond shall be executed, and shall state in the notice that should the proposed obligee have any valid objection to make to the sureties, or either of them, it must be made at that time. Notice of surety. Form 20.

33. The sureties shall make an affidavit of their sufficiency, unless the Registrar shall dispense with such affidavit, and such sureties shall attend to be cross-examined if required. Justification by sureties. Form 21.

34. The bond shall be executed and attested in the presence of the Registrar or the Receiver or before a Justice of the Peace or a Barrister or a Solicitor. Execution of bond.

35. Where a person makes a deposit of money in lieu of giving a bond, the Registrar shall forthwith give notice to the person to whom the security is to be given of such deposit having been made. Notice of deposit.

## STAMPS.

Defacement of stamp.

36. Every officer of the Court who receives any document to which an adhesive stamp is affixed, shall immediately upon the receipt of such document deface the stamp thereon in the manner for the time being prescribed for the defacement of stamps or in such other manner as the Governor may from time to time direct; and no such document shall be filed or delivered until the stamp thereon shall have been defaced in manner aforesaid, and it shall be the duty of the party presenting or receiving such document to see that such defacement has been duly made.

## AFFIDAVITS.

Cost of unnecessary matter.

37. The costs of every affidavit which shall unnecessarily set forth matters of hearsay, or argumentative matters or copies of or extracts from documents, shall be paid by the party filing the same.

Form.

38. Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this Rule.

Deponent's description.

39. Every affidavit shall state the description and true place of abode of the deponent.

Several deponents.

40. In every affidavit made by two or more deponents the names of the several persons making the affidavit shall be inserted in the jurat, except that if the affidavit of all the deponents is taken at one time by the same officer it shall be sufficient to state that it was sworn by both (or all) of the "above-named" deponents.

Scandalous matter.

41. The Court may order to be struck out from any affidavit any matter which is scandalous, and may order the costs of any application to strike out such matter to be paid as between solicitor and client.

Erasures, &c.

42. No affidavit having in the jurat or body thereof any interlineation or erasure shall without leave of the Court be read or made use of in any matter depending in Court unless the interlineation or alteration (other than by erasure) is authenticated by the initials of the officer or person taking the affidavit, nor in the case of an erasure unless the words or figures appearing at the time of taking the affidavit to be written on the erasure are re-written and signed or initialled in the margin of the affidavit by the officer or person taking it.

Blind or illiterate persons.

43. Where an affidavit is sworn by any person who appears to the person taking the affidavit to be illiterate or blind, the person taking the affidavit shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent made his signature in the presence of such person. No such affidavit shall be used in evidence in the absence of this certificate, unless the Court is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent.

Formal defects.

44. The Court may receive any affidavit sworn for the purpose of being used in any matter notwithstanding any defect by misdescription of parties or otherwise in the title or jurat, or any other irregularity in the form thereof, and may direct a memorandum to be made on the document that it has been so received.

Filing office copies, &c.

45. (1) In cases in which by the present practice an original affidavit is allowed to be used, it shall before it is used be stamped with a proper filing stamp, and shall at the time when it is used be delivered and left in Court or in Chambers with the proper officer, who shall send it to be filed.

(2) An office copy of an affidavit may in all cases be used, the original affidavit having been filed and the copy duly authenticated with the seal of the Court.

Time for filing.

46. Where a special time is limited for filing affidavits, no affidavit filed after that time shall be used unless by leave of the Court.

47. Except by leave of the Court, no order made *ex parte* in Court founded on any affidavit shall be of any force, unless the affidavit on which the application was made was actually made before the order was applied for and produced or filed at the time of making the motion. Affidavit in *ex parte* application.

48. The Court shall take judicial notice of the seal or signature of any person authorised by or under any Ordinance to take affidavits or to certify to such authority. Proof of affidavit.

## WITNESSES AND DEPOSITIONS.

49. A subpoena for the attendance of a witness shall be issued by the Court at the instance of the Receiver, the trustee, a creditor, a debtor, or any applicant or respondent in any matter, with or without a clause requiring the production of books deeds papers documents and writings in his possession or control, and in such subpoena the name of several witnesses may be inserted. Subpcena.

50. A sealed copy of the subpoena shall be served personally on the witness by the person at whose instance the same is issued, or by his solicitor, or by an officer of the Court, or by some person in their employ, within a reasonable time before the time of the return thereof. Service of subpoena.

51. Service of the subpoena may where required be proved by affidavit. Proof of service.

52. The Court may in any matter limit the number of witnesses to be allowed on taxation of costs, and their allowance for attendance shall in no case exceed the highest rate of the allowances mentioned in the scale of costs. Limit of witnesses' costs.

53. The costs of witnesses, whether they have been examined or not, may, in the discretion of the Court be allowed. Costs of witnesses.

54. The Court may, in any matter where it appears necessary for the purposes of justice, make an order for the examination upon oath before the Court or any officer of the Court or any other person, and at any place, of any witness or person, and may empower any party to any such matter to give such deposition in evidence therein on such terms (if any) as the Court may direct. Depositions, &c.

55. If the Court shall in any case, and at any stage of the proceedings, be of opinion that it would be desirable that a person should be appointed to take down the evidence of the debtor, or of any witness examined at any public sitting or private meeting under the Ordinance, in shorthand or otherwise, it shall be competent for the Court to make such appointment, and every person so appointed shall be paid a sum not exceeding \$5.04 a day, and where the Court appoints a shorthand writer, a sum not exceeding 16 cents per folio of ninety words for any transcript of evidence that may be required, and such sums shall be paid by the party at whose instance the appointment was made, or out of the estate, as may be directed by the Court. Shorthand notes.

56. An order for a commission or letter of request to examine witnesses, and the writ of commission or request shall follow the forms for the time being in use in the Supreme Court, with such variations as circumstances may require. Form of commission.

57. The Court may in any matter at any stage of the proceedings order the attendance of any person for the purpose of producing any writings or other documents named in the order which the Court may think fit to be produced. Production of document.

58. Any person wilfully disobeying any subpoena or order requiring his attendance for the purpose of being examined or producing any document shall be deemed guilty of contempt of Court and may be dealt with accordingly. Disobedience of order.

59. Any witness (other than the debtor) required to attend for the purpose of being examined or of producing any document shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in Court. Conduct money.

## DISCOVERY AND EXAMINATION UNDER SECTION 26.

60. Any party to any proceeding in Court may, with the leave of the Court, administer interrogatories to or obtain discovery of documents from any other party. Discovery.

to such proceeding. Proceedings under this Rule shall be regulated as nearly as may be by the practice of the Supreme Court for the time being in force in relation to discovery and inspection. An application for leave under this Rule may be made *ex parte*.

Application  
for  
discovery.

61. Every application to the Court under section 26 of the Ordinance shall be in writing and shall state shortly the grounds upon which the application is made. Where the application is made on behalf of the Receiver or trustee it need not be verified by affidavit.

#### ACCOUNTS AND SALE OF MORTGAGED PROPERTY.

Inquiry into  
mortgage,  
&c.

62. Upon application by motion of any person claiming to be a mortgagee of any part of the bankrupt's real or leasehold estate, and whether such mortgage shall be by deed or otherwise, and whether the same shall be of a legal or equitable nature, the Court shall proceed to inquire whether such person is such mortgagee and for what consideration and under what circumstances, and if it shall be found that such person is such mortgagee and if no sufficient objection shall appear to the title of such person to the sum claimed by him under such mortgage, the Court shall take or direct such accounts and inquiries to be taken as may be necessary for ascertaining the principal interest and costs due upon such mortgage, and of the rents and profits, or dividends interest or other proceeds received by such person, or by any other person by his order or for his use in case he shall have been in possession of the property over which the mortgage shall extend, or any part thereof, and the Court, if satisfied that there ought to be a sale, shall direct notice to be given in such newspapers as the Court shall think fit, when and where and in what way the said premises or property, or the interest therein so mortgaged, are to be sold, and that such sale be made accordingly and that the trustee (unless it be otherwise ordered) shall have the conduct of such sale; but it shall not be imperative on any such mortgagee to make such application. At any such sale the mortgagee may bid and purchase.

Conveyance.

63. All proper parties shall join in the conveyance to the purchaser, as the Court shall direct.

Proceeds of  
sale.

64. The moneys to arise from such sale shall be applied in the first place, in payment of the costs, charges, and expenses of the trustee, of and occasioned by the application to the Court, and of such sale and attendance thereat, and in the next place, in payment and satisfaction, so far as the same shall extend, of what shall be found due to such mortgagee, for principal interest and costs, and the surplus of the said moneys (if any) shall be paid to the trustee. But in case the moneys to arise from such sale shall be insufficient to pay and satisfy what shall be found due to such mortgagee, then he shall be entitled to prove as a creditor for such deficiency, and receive dividends thereon rateably with other creditors, but so as not to disturb any dividend then already declared.

Proceedings  
on inquiry.

65. For the better taking of such inquiries and accounts and making a title to the purchaser, all parties may be examined by the Court upon interrogatories or otherwise as the Court shall think fit, and shall produce before the Court upon oath all deeds, documents, papers, books and writings in their respective custody or power relating to the estate or effects of the bankrupt as the Court shall direct.

Accounts,  
&c.

66. In any proceedings between a mortgagor and mortgagee, or the trustee of either of them, the Court may order all such inquiries and accounts to be taken in like manner as in the Supreme Court.

#### WARRANTS, ARRESTS AND COMMITMENTS.

Custody and  
production  
of debtor.

67. Where a debtor is arrested under a warrant issued under section 24 of the Ordinance, he shall be given into the custody of the Superintendent of Prisons, who shall produce such debtor before the Court as it may from time to time direct, and shall safely keep him until such time as the Court shall otherwise order; and any books, papers, moneys, goods and chattels in the possession of the debtor which may be seized shall forthwith be lodged with the Receiver or trustee, as the case may be.

68. (1) When a person is apprehended under a warrant issued under section 26 (2) of the Ordinance the officer apprehending him shall forthwith bring him before the Court issuing the warrant to the end that he may be examined, and if he cannot immediately be brought up for examination or examined, the officer shall deliver him into the custody of the Superintendent of Prisons, who shall receive him into custody and shall produce him before the Court as it may from time to time direct or order, and subject to such direction or order shall safely keep him. Execution of warrant. Forms 138, 139.

(2) The officer executing a warrant issued under section 26 (2) of the Ordinance shall forthwith, after apprehending the person named in the warrant and bringing him before the Court as in the last preceding rule mentioned, or after delivering him to the Superintendent of Prisons, as the case may be, report such apprehension or delivery to the Court issuing the warrant, and apply to the Court to appoint a day and time for the examination of the person so apprehended, and the Court shall thereupon appoint the earliest practicable day for the examination, and shall issue its direction or order to the said Superintendent to produce him for examination at a place and time to be mentioned in such direction or order.

Notice of any such appointment shall forthwith be given by the Registrar to the Receiver, trustee, or other person who shall have applied for the examination or warrant.

69. An application to the Court to commit any person for contempt of Court shall be supported by affidavit and be filed in Court. Applications to commit.

70. Subject to the provisions of the Ordinance and Rules, upon the filing of an application to commit, the Registrar shall fix a time and place for the Court to hear the application, notice whereof shall be personally served on the person sought to be committed not less than three days before the day fixed for the hearing of the application: Provided that in any case in which the Court may think fit, the Court may allow substituted service of the notice by advertisement or otherwise or shorten the length of notice to be given. Notice and hearing of application.

71. Where an order of committal is made against a debtor or other person for disobeying any order of the Court or of the Receiver to do some particular act or thing, the Court may direct that the order of committal shall not be issued, provided that such debtor or person as the case may be complies with the previous order within a specified time. Suspension of issue of committal order.

#### SERVICE AND EXECUTION OF PROCESS.

72. Every solicitor suing out or serving any petition, notice, summons, order or other document shall indorse thereon his name or firm and place of business, which shall be called his address for service. All notices, orders, documents and other written communications, which do not require personal service shall be deemed to be sufficiently served on such solicitor if left for him at his address for service. Address of solicitor for service.

73. Service of notice, orders or other proceedings shall be effected before the hour of four in the afternoon, except on Saturdays when it shall be effected before the hour of two in the afternoon. Service effected after four in the afternoon on any week day except Saturday shall for the purpose of computing any period of time be deemed to have been effected on the following day. Service effected after two in the afternoon on Saturday shall for the like purpose be deemed to have been effected on the following Monday. Hours for service.

74. It shall be the duty of the Marshal of the Supreme Court and of such officer or officers as the Court may direct, to serve such orders, summonses, petitions and notices as the Court may require them to serve: to execute warrants and other process and to do and perform all such things as may be required of them by the Court. Notices by whom served.

But this Rule shall not be construed to require any order, summons, petition or notice to be served by the Marshal or officer of the said Court which is not specifically by the Ordinance or the Rules required to be so served, unless the Court shall in any particular proceeding by order specially so direct.

Service by post. 75. Where notice of an order or other proceeding in Court may be served by post it shall be sent by registered letter.

Enforcement of Order. 76. Every order of the Court may be enforced as if it were a judgment of the Court to the same effect.

#### TRIAL BY JURY.

Settlement of issues for trial. 77. Where upon application to the Court for a decision on any question, the Court, with or without the application of any person, shall have directed that a question of fact be tried with a jury, such question of fact shall be reduced into writing and submitted to the Court for its approval, and shall when approved be called the record for trial, but the Court shall have power to allow any amendment thereof at any time upon such terms as the Court may think fit.

Special or common jury. 78. An order of the Court for trial of a question of fact before a jury shall specify whether it shall be before a special or common jury, but the order may be amended by the substitution of one jury for the other, upon such terms as the Court may think fit.

#### COSTS AND TAXATION.

Awarding costs. 79. (1) The Court in awarding costs may direct that the costs of any matter or application shall be taxed and paid as between party and party or as between solicitor and client, or that full costs charges and expenses shall be allowed, or the Court may fix a sum to be paid in lieu of taxed costs.

(2) In the absence of any express direction, costs of an opposed motion shall follow the event and shall be taxed as between party and party.

(3) Where an action is brought against the Receiver or trustee as representing the estate of the debtor, or where a Receiver or trustee is made a party to a cause or matter on the application of any other party thereto, he shall not personally be liable for costs, unless the Court otherwise directs.

Orders to be sealed, signed and filed. 80. Every order for payment of money and costs or either of them shall be sealed and be signed by the Registrar and shall be forthwith filed with the proceedings.

Scale of costs and charges. 81. (1) The scale of costs set forth in Part 2 of the Appendix and the regulations contained in such scale, shall, subject to these Rules, apply to the taxation and allowance of costs and charges in all proceedings under the Ordinance and these Rules.

(2) Subject to the regulations contained in the scale of costs, when the estimated assets of the debtor do not exceed the sum of \$1,440, a lower scale of solicitors' costs shall be allowed in all proceedings under the Ordinance in which costs are payable out of the estate, namely, three-fifths of the charges ordinarily allowed, disbursements being added.

R.G. 24.12.42. G.N. 36—1944. (3) The total in any bill of the costs and charges (as distinct from payments) prescribed by these Rules shall be increased in respect of business done after the 31st day of December, 1942, by 50 per centum and such increase shall be allowed upon any taxations whether as between party and party or as between solicitor and client: Provided (a) that this rule shall not apply to bills carried in for taxation or delivered to the client sought to be charged therewith, or to the party chargeable therewith before this rule comes into operation, or to bills then already taxed or certified or allowed, and (b) that this rule shall not affect the power of the Court to fix a sum to be paid in lieu of taxed costs.

Solicitor's cost in case of petition by debtor. 82. The solicitor in the matter of a bankruptcy petition presented by the debtor against himself shall in his bill of costs give credit for such sum or security (if any) as he may have received from the debtor as a deposit on account of the costs and expenses to be incurred in and about the filing and prosecution of such a petition, and the amount of any such deposit shall be noted by the taxing officer on the bill of costs.

Costs paid other than out of estate. 83. When a bill of costs is taxed under any special order of the Court, and if it appears by such order that the costs are to be paid otherwise than out of the estate of the bankrupt, the taxing officer shall state at the foot of the bill by whom or the manner in which such costs are to be paid.

84. Upon the taxation of any bill of costs charges or expenses being completed, the Registrar shall forthwith file such bill with the proceedings in the matter. Filing bills of costs.
85. Before the bill or charges of any solicitor, manager, accountant, auctioneer, broker or other person employed by the Receiver or trustee is taxed, there shall be produced a certificate in writing signed by the Receiver or trustee, as the case may be, setting forth whether any and if so what special terms of remuneration have been agreed to, and in the case of the bill of costs of a solicitor, a copy of the authority sanctioning the employment. Certificate of employment.
86. In any case in which pursuant to section 45 (1) of the Ordinance the Marshal is required to deliver goods to the Receiver or trustee, such Marshal shall without delay bring in his bill of costs for taxation, which shall be taxed; and unless such bill of costs is brought in for taxation within one month from the date when the Marshal makes such delivery, the Receiver or trustee may decline to pay the same. The term goods in this Rule includes money. Costs of Marshal.
87. If the Receiver or trustee shall in writing require any costs which the Marshal has deducted under section 45 (2) of the Ordinance to be taxed, the Marshal shall within seven days from the date of the request bring in such costs for taxation, which shall be taxed; and any amount disallowed on such taxation shall forthwith be paid over by the Marshal to the Receiver or trustee. Taxation of Marshal's costs after deduction.
88. Every person whose bill or charges is or are to be taxed shall in all cases give not less than three days' notice of the appointment to tax the same to the Receiver and to the trustee (if any). Notice of appointment.
89. The bill or charges, if incurred prior to the appointment of a trustee, shall be lodged with the Receiver, and if incurred after the appointment of a trustee, shall be lodged with the trustee, three clear days before the application for the appointment to tax the same is made. The Receiver or trustee, as the case may be, shall forthwith, on receiving notice of taxation, lodge such bill or charges with the Registrar. Lodgment of bill.
90. Every person whose bill or charges is or are to be taxed, shall on application of the Receiver or trustee furnish a copy of his bill or charges to be so taxed, on payment at the rate of 8 cents per folio, which payment may be charged to the estate. The Receiver shall call the attention of the trustee to any items which in his opinion ought to be disallowed or reduced and may attend or be represented on the taxation. Copy of bill.
91. Where any party to or person affected by any proceeding desires to make an application for an order that he be allowed his costs or any part of them incident to such proceeding, and such application is not made at the time of the proceeding— Applications for costs.
- (1) Such party or person shall serve notice of his intended application on the Receiver, and if a trustee has been appointed, on the trustee.
  - (2) The Receiver or trustee may appear on such application and object thereto.
  - (3) No costs of or incident to such application shall be allowed to the applicant, unless the Court is satisfied that the application could not have been made at the time of the proceeding.
92. The assets in every matter remaining after payment of the actual expenses incurred in realising any of the assets of the debtor, shall, subject to any order of the Court, be liable to the following payments, which shall be made in the following order of priority, namely:— Priority of costs and charges payable out of estate.
- First.*—The actual expenses incurred by the Receiver in protecting the property or assets of the debtor or any part thereof, and any expenses or outlay incurred by him or by his authority in carrying on the business of the debtor;
- Next.*—The fees percentages and charges payable to or costs charges and expenses incurred or authorised by the Receiver;
- The deposits or deposit lodged by the petitioning creditor pursuant to these Rules;

The deposit or deposits lodged on any application for the appointment of an interim Receiver;

The remuneration of the special manager (if any);

The taxed costs of the petitioner;

*Next.*—The remuneration and charges of the person (if any) appointed to assist the debtor in the preparation of his statement of affairs;

Any allowance made to the debtor by the Receiver;

The taxed charges of any shorthand writer appointed by the Court;

The trustee's necessary disbursements other than actual expenses of realisation heretofore provided for;

The costs of any person properly employed by the trustee with the sanction of the committee of inspection;

Any allowance made to the debtor by the trustee with the sanction of the committee of inspection;

The remuneration of the trustee;

The actual out-of-pocket expenses necessarily incurred by the committee of inspection, subject to the approval of the Court.

Disallowance of costs of unnecessary petition.

93. In any case in which after a bankruptcy petition has been presented by a creditor against a debtor, and before the hearing of such petition, the debtor files a petition, and a receiving order is made on the petition of the debtor, unless in the opinion of the Court the estate has benefited thereby or there are special circumstances which make it just that such costs should be allowed, no costs shall be allowed to the debtor or his solicitor out of the estate.

Apportionment of costs in case of partnership.

94. In the case of a bankruptcy petition against a partnership, the costs payable out of the estates incurred up to and inclusive of the receiving order shall be apportioned between the joint and separate estates in such proportions as the Receiver may in his discretion determine.

Costs out of joint or separate estates.

95. (1) Where the joint estate of any co-debtors is insufficient to defray any costs or charges properly incurred prior to the appointment of the trustee, the Receiver may pay or direct the trustee to pay such costs or charges out of the separate estates of such co-debtors or one or more of them in such proportions as in his discretion the Receiver may think fit. The Receiver may also, as in his discretion he may think fit, pay or direct the trustee to pay any costs or charges properly incurred prior to the vesting in him of any separate estate out of the joint estate or out of any other separate estate, and any part of the costs or charges of the joint estate incurred prior to the adjudication which affects any separate estate, out of that separate estate.

(2) Where the joint estate of any co-debtors is insufficient to defray any costs or charges properly incurred after the appointment of the trustee, the trustee with such consent as is hereinafter mentioned, may pay such costs or charges out of the separate estates of such co-debtors or one or more of them. He may also with the said consent pay any costs or charges properly incurred for any separate estate after his appointment out of the joint estate, and any part of the costs or charges of the joint estate incurred after his appointment which affects any separate estate out of that separate estate. No payment under this Rule shall be made out of a separate estate or joint estate by a trustee without the consent of the committee of inspection of the estate out of which the payment is intended to be made, or, if the committee withhold or refuse their consent without an order of the Court.

#### APPEALS.

Restrictions on appeal.

96. (1) Except by leave of the Court there shall be no appeal to the Full Court from any order made by consent or as to costs only.

(2) Except by leave of the Court no appeal to the Full Court shall be brought from any order relating to property when it is apparent from the proceedings that the money or money's worth involved does not exceed \$240.

(3) No appeal to the Full Court shall be brought in respect of the omission by the Court appealed from to exercise any discretionary power, unless the Court

shall in its judgment, or on application made at the hearing, have expressly refused to exercise such power, in which case the refusal may be a ground of appeal.

97. Subject to the powers of the Full Court to extend the time under special circumstances, no appeal from any order of the Court shall be brought after the expiration of twenty-one days. The period shall be calculated from the time at which the order is signed, entered, or otherwise perfected, or in case of the refusal of an application, from the date of such refusal. Time for appeal.

98. At or before the time of entering an appeal, the party intending to appeal shall lodge in Court the sum of \$96 to satisfy, in so far as the same may extend, any costs that the appellant may be ordered to pay: Provided that the Full Court may in any special case increase or diminish the amount of such security or dispense therewith. The Receiver shall not be required to make any deposit as a security for costs. Security for costs.

99. No appeal shall operate as a stay of proceedings under the judgment or order appealed from unless the Court otherwise orders. Appeal not to operate as stay of proceedings.

100. Subject to the foregoing rules, appeals to the Full Court shall be regulated by the Rules of the Supreme Court and any Rules amending the same. Procedure on appeals.

### PART 3.—PROCEEDINGS IN BANKRUPTCY.

#### DECLARATION OF INABILITY TO PAY DEBTS.

101. A declaration by a debtor of his inability to pay his debts shall be dated signed and witnessed. The witness shall be a solicitor or the Registrar. Form of declaration.  
Form 2.

#### BANKRUPTCY NOTICE.

102. A creditor desirous that a bankruptcy notice may be issued shall produce to the Registrar an office copy of the judgment on which the notice is founded and file the notice together with a request for issue. The creditor shall at the same time lodge with the Registrar two copies of the bankruptcy notice to be sealed and issued for service. Issue of notice.  
Forms 4 and 5.

103. (1) Every bankruptcy notice shall be indorsed with the name and place of business of the solicitor actually suing out the same, or if no solicitor be employed, with a memorandum that it is sued out by the creditor in person. Indorsement of address, &c.

(2) There shall be indorsed on every bankruptcy notice an intimation to the debtor that if he has a counter-claim, set-off or cross demand which equals or exceeds the amount of the judgment debt and which he could not have set up in the action in which the judgment was obtained, he must within the time specified in the notice file an affidavit to that effect with the Registrar.

(3) In the case of a notice served in Port-of-Spain the time shall be three days. In the case of a notice served elsewhere the Registrar when issuing the notice shall fix the time.

104. The filing of such affidavit shall operate as an application to set aside the bankruptcy notice, and thereupon the Registrar shall fix a day for hearing the application, and not less than three days before the day so fixed, shall give notice thereof both to the debtor and the creditor and their respective solicitors if known. If the application cannot be heard until after the expiration of the time specified in the notice as the day on which the act of bankruptcy will be complete, the Registrar shall extend the time, and no act of bankruptcy shall be deemed to have been committed under the notice until the application has been heard and determined. Application to set aside.

105. Subject to the power of the Court to extend the time, a bankruptcy notice to be served in the Colony shall be served within one month from the issue thereof. Duration of notice.

Service of notice. **106.** A bankruptcy notice shall be served and service thereof shall be proved in the like manner as is by these rules prescribed for the service of a creditor's petition.

Setting aside notice. **107.** When the Court makes an order setting aside the bankruptcy notice, it may at the same time declare that no act of bankruptcy has been committed by the debtor under such notice.

#### BANKRUPTCY PETITION.

Form of petition. Forms 3, 9. Description and address of debtor. **108.** Every petition shall be fairly written without alterations, interlineations or erasures unless initialled by the attesting witness.

**109.** (1) Where a petition is presented by a debtor, he shall besides inserting therein his name and description and his address at the date when the petition is presented, further describe himself as lately residing or carrying on business at the address or several addresses as the case may be, at which he has incurred debts and liabilities which at the date of the petition remain unpaid or unsatisfied.

(2) Where a petition is presented against a debtor who resides or carries on business at an address other than the address at which the debtor was residing or carrying on business at the time of contracting the debt or liability in respect of which the petition is presented, the petitioning creditor in addition to stating in the petition the description of the debtor and of his then present address and description, shall in the petition describe the debtor as lately residing or carrying on business at the address at which he was residing or carrying on business when the debt or liability was incurred.

Attestation. **110.** Every bankruptcy petition shall be attested. If it be attested in the Colony, the witness must be a solicitor or the Registrar. If it be attested out of the Colony, the witness must be a Judge or Magistrate or a British Consul or Vice-Consul or a Notary Public.

Deposit by petitioner. **111.** (1) Upon the presentation of a petition either by the debtor or by a creditor, the petitioner shall deposit with the Registrar the sum of \$24, and such further sum (if any) as the Court may from time to time direct, to cover the fees and expenses to be incurred by the Receiver; and no petition shall be received unless the receipt of the Registrar for the deposit payable on the presentation of the petition is produced.

(2) The Registrar shall account for the moneys so deposited to the creditor or as the case may be to the debtor's estate, and any sum so paid by a petitioning creditor shall be repaid to such creditor (except and so far as such deposit may be required by reason of insufficiency of assets for the payment of the fees of and expenses incurred by the Receiver) out of the proceeds of the estate in the priority prescribed by these Rules.

#### CREDITOR'S PETITION.

Security for costs. **112.** A petitioning creditor who is resident abroad, or whose estate is vested in a trustee or assignee under any law relating to bankruptcy, or against whom a petition is pending under the Ordinance, or who has made default in payment of any costs ordered by any Court to be paid by him to the debtor, may be ordered to give security for costs to the debtor.

Verification and copies. **113.** Every creditor's petition shall be verified by affidavit, and when it is filed there shall be lodged with it two or more copies to be sealed and issued to the petitioner.

Who to verify. **114.** When the petitioning creditor cannot himself verify all the statements contained in his petition, he shall file in support of the petition the affidavit of some person who can depose to them.

Joint petitioners. **115.** Where a petition is presented by two or more creditors jointly, it shall not be necessary that each creditor shall depose to the truth of all the statements which are within his own knowledge; but it shall be sufficient that each statement in the petition is deposed to by some one within whose knowledge it is.

116. After the presentation of a creditor's petition and before sealing the copies of the petition for service, the statements in the petition shall be investigated by the Registrar, and where some of the statements in the petition cannot be verified by affidavit witnesses may be summoned to prove the same. Investigation of petition.

## SERVICE OF CREDITOR'S PETITION.

117. A creditor's petition shall be personally served by delivering to the debtor a sealed copy of the filed petition. Personal service.

118. A petition shall be served upon the debtor by an officer of the Court, or by the creditor or his solicitor, or by some person in their employ: Provided that if personal service cannot be effected, the Court may extend the time for hearing the petition, or if the Court is satisfied by affidavit or other evidence on oath that the debtor is keeping out of the way to avoid such service, or service of any other legal process, or that for any other cause prompt personal service cannot be effected, it may order substituted service to be made by delivery of the petition to some adult inmate at his usual or last known residence or place of business, or by registered letter, or in such other manner as the Court may direct, and that such petition shall then be deemed to have been duly served on the debtor. Substituted service. Form 16.

119. Service of the petition shall be proved by affidavit with a sealed copy of the petition attached, which shall be filed in Court forthwith after the service. Proof of service.

120. Where a debtor petitioned against is not in the Colony, the Court may order service to be made within such time and in such manner and form as it shall think fit. Service out of jurisdiction.

121. If a debtor against whom a bankruptcy petition has been filed dies before service thereof, the Court may order service thereof to be effected on the personal representative of the debtor, or on such other persons as the Court may think fit. Service after death of debtor.

## INTERIM RECEIVER.

122. After the presentation of a petition, upon the application of a creditor or of the debtor himself and upon proof by affidavit of sufficient grounds for the appointment of an interim Receiver of the property of the debtor or any part thereof, the Court may, if it thinks fit, and upon such terms as may be just, make such appointment. Appointment of interim Receiver.

123. Where an order is made appointing an interim Receiver of the property of the debtor, such order shall bear the number of the petition in respect of which it is made, and shall state the locality of the property of which the interim Receiver is ordered to take possession, and may direct him to take immediate possession of all books of accounts and other papers and documents belonging to the debtor and relating to his business. Form and contents of order.

124. Before any such order is issued the person who has made the application therefor shall deposit with the Registrar such sum as the Court may direct for the purpose of defraying the expenses which may be incurred in consequence of such order; and if such sum should prove to be insufficient, the Court on the application of the interim Receiver, may from time to time order the deposit of such additional sum as it shall think fit. Such additional sum shall be deposited within twenty-four hours after the making of the order therefor; and if the same shall not be so deposited, the order appointing the interim Receiver may be discharged by the Court. Deposit.

125. If an order appointing an interim Receiver is followed by a receiving order, the deposits made by the creditor on whose application such interim Receiver was appointed shall be repaid to him (except and so far as such deposits may be required by reason of insufficiency of assets for the payment of the fees chargeable and the expenses incurred by the interim Receiver) out of the proceeds of the estate in the order of priority prescribed by these Rules. Repayment of deposit.

126. Where, after an order has been made appointing an interim Receiver, the petition is dismissed, the Court shall upon application to be made within twenty-one days from the date of the dismissal thereof, adjudicate with respect to any damage or claim thereto arising out of the appointment, and shall make such order as the Damages if petition dismissed.

Court thinks fit; and such decision or order shall be final and conclusive between the parties unless the order be appealed from.

HEARING OF PETITION.

Proceedings on petition.

127. (1) Where a petition is filed by a debtor, the Court shall forthwith make a receiving order thereon.

(2) A creditor's petition shall not be heard until the expiration of eight days from the service thereof: Provided that where the act of bankruptcy alleged is that the debtor has filed a declaration of inability to pay his debts, or where it is proved to the satisfaction of the Court that the debtor has absconded, or in any other case for good cause shown, the Court, may on such terms if any as the Court may think fit to impose, hear the petition at such earlier date as the Court may deem expedient.

Time of hearing.

128. The Registrar shall appoint the time and place at which the petition will be heard, and notice thereof shall be written on the petition and sealed copies, and where the petition has not been served the Registrar may from time to time alter the first day so appointed and appoint another day and hour.

Several respondents.

129. Where there are more respondents than one to a petition, the Rules as to service shall be observed with respect to each respondent, but where all the respondents have not been served, the petition may be heard separately or collectively as to the respondent or such of the respondents as has or have been served, and separately or collectively as to the respondents not then served, according as service upon them is effected.

Debtor intending to show cause. Form 17.

130. Where a debtor intends to show cause against a petition he shall file a notice with the Registrar, specifying the statements in the petition which he intends to deny or dispute, and transmit by post or otherwise to the petitioning creditor and his solicitor, if known, a copy of the notice three days before the day on which the petition is to be heard.

Non-appearance of debtor.

131. If the debtor does not appear at the hearing, the Court may make a receiving order on such proof of the statements in the petition as the Court thinks sufficient.

Appearance of debtor to show cause.

132. On the appearance of the debtor to show cause against the petition, the petitioning creditor's debt, and the act of bankruptcy, or such of those matters as the debtor shall have given notice that he intends to dispute, shall be proved, and if any new evidence of those matters or any of them be given, or any witness or witnesses to such matters be not present for cross-examination, and further time be desired to show cause, the Court shall, if the application appears to the Court to be reasonable, grant such further time as the Court thinks fit.

Non-appearance of creditor.

133. If any creditor neglects to appear on his petition, no subsequent petition against the same debtor or debtors or any of them either alone or jointly with any other person shall be presented by the same creditor in respect of the same act of bankruptcy without leave of the Court.

Personal attendance of creditor when dispensed with.

134. The personal attendance of the petitioning creditor and of the witnesses to prove the debt and act of bankruptcy or other material statements upon the hearing of the petition may if the Court shall think fit be dispensed with.

Proceedings after trial of disputed question.

135. Where proceedings on a petition have been stayed for trial of the question of the validity of the petitioning creditor's debt, and such question has been decided in favour of the validity of the debt, the petitioning creditor may apply to the Registrar to fix a day on which further proceedings on the petition may be had, and the Registrar on production of the judgment or an office copy thereof, shall give notice to the petitioner by post or otherwise of the time and place fixed for the hearing of the petition, and a like notice to the debtor at the address given in his notice to dispute, and also to their respective solicitors, if known.

Application to dismiss.

136. Where proceedings on a petition have been stayed for the trial of the question of the validity of the petitioning creditor's debt and such question has been decided against the validity of the debt, the debtor may apply to the Registrar to fix a day on which he may apply to the Court for the dismissal of the petition.

with costs, and the Registrar on the production of the judgment or an office copy thereof, shall give notice to both the petitioner and debtor (and to their respective solicitors if known) by post or otherwise of the time and place fixed for the hearing of the application.

137. An application for an extension of time for hearing a petition shall be in writing, but need not be supported by affidavit unless in any case the Court shall otherwise require. Application for extension of time.

138. On an application for an extension of time for the hearing of a petition, no order shall be made for an extension beyond fourteen days from the day fixed for the hearing of the petition, unless the Court is satisfied that such extension of time will not be prejudicial to the general body of creditors. Any costs occasioned by such application shall not be allowed out of the estate unless so ordered by the Court. Order for extension of time.

139. After the expiration of one month from the day appointed for the first hearing of a petition (provided such petition shall have been duly served) no further adjournment of the hearing merely by consent of the parties shall be allowed, except for the reasons set forth in Rule 132 of these Rules or for such other sufficient reason to be stated in the order for adjournment as the Court thinks fit; but in every such case unless an order for adjournment is made the Court shall either make a receiving order or dismiss the petition. Adjournments of hearing.

#### RECEIVING ORDER.

140. When the receiving order is made on a creditor's petition there shall be stated in the receiving order the nature and date or dates of the act or acts of bankruptcy upon which the order has been made. Every order shall contain at the foot thereof a notice requiring the debtor to attend on the Receiver forthwith on the service thereof at the place mentioned therein. Form and contents. Forms 26, 27.

141. Every receiving order and order for the appointment of an interim Receiver of a debtor's property shall be prepared by the Registrar. Where the petitioner is represented by a solicitor the receiving order shall be indorsed with the name and address of such solicitor. Preparation.

142. A copy of every receiving order, and order for the appointment of an interim Receiver of the debtor's property, sealed with the seal of the Court, shall, forthwith be sent by post or otherwise by the Registrar to the Receiver. Transmission of copy to Receiver.

143. The Receiver shall cause a copy of the receiving order sealed with the seal of the Court to be served on the debtor. Service of receiving order.

144. Where a debtor against whom a receiving order has been made is not in the Colony, the Court may order service on the debtor of the receiving order, order of adjudication, order to attend the public examination or any adjournment thereof, or of any other order made against, or summons issued for the attendance of the debtor, to be made within such time and in such manner and form as it shall think fit. Service where debtor abroad.

145. A receiving order shall not be made against the debtor on a petition in which the act of bankruptcy alleged is non-compliance with a bankruptcy notice within the appointed time, where such debtor has applied to set aside such notice until after the hearing of the application, or where the notice has been set aside, or during a stay of the proceedings thereon; but in such case the petition shall be adjourned or dismissed as the Court thinks fit. Receiving order on bankruptcy notice.

146. There may be included in a receiving order an order staying any action or proceeding against the debtor or staying proceedings generally. Stay of proceedings.

147. Where a receiving order is made, the Receiver shall forthwith send notice thereof for insertion in the *Royal Gazette*, and in one of the local papers. Advertisement. Forms 29, 30 and 178 (1).

148. (1) The costs of all proceedings under the Ordinance, down to and including the making of a receiving order, shall be at the cost of the party prosecuting the same, unless the Court shall order that the debtor shall pay the whole or any part Costs of petition, &c.

of them, or, in the case of a receiving order being made on a debtor's petition while a creditor's petition against such debtor is pending, that they shall be paid out of the estate. When a receiving order is made on a creditor's petition the costs of the petitioning creditor (including the costs of the bankruptcy notice (if any) sued out by him) shall be taxed and be payable out of the estate.

(2) When the proceeds of the estate are not sufficient for the payment of any costs necessarily incurred by the Receiver (in excess of the deposit) between the making of a receiving order and the conclusion of the first meeting of creditors, the Court may order such costs to be paid by the party prosecuting the proceedings.

Notice of application to rescind receiving order, &c.  
Form 99.

**149.** An application to the Court to rescind a receiving order or to stay proceedings thereunder, or to annul an adjudication, shall not be heard except upon proof that notice of the intended application, and a copy of the affidavits in support thereof, have been duly served upon the Receiver. Unless the Court gives leave to the contrary, notice of any such application shall be served on the Receiver not less than seven days before the day named in the notice for hearing the application. Pending the hearing of the application, the Court may make an interim order staying such of the proceedings as it thinks fit.

Order annulling adjudication.

When an adjudication is annulled the Registrar shall forthwith cause the annulment to be gazetted.

#### STATEMENT OF AFFAIRS.

How made out.  
Form 31.

**150.** Every debtor shall be furnished by the Receiver with instructions for the preparation of his statement of affairs. The statement of affairs shall be made out in duplicate and one copy shall be verified. The Receiver shall file in Court the verified statement of affairs submitted to him by the debtor.

Extension of time.

**151.** Where any debtor requires any extension of the time for the filing by him of his statement of affairs, he shall apply to the Receiver, who may, if he thinks fit give a written certificate extending such time, which certificate shall be filed and shall render an application to the Court under section 15 of the Ordinance unnecessary.

#### PUBLIC EXAMINATION.

Time for holding public examination.

**152.** When a receiving order has been made against a debtor, it shall be the duty of the Receiver to make an application to the Court to appoint a day and hour for holding the public examination of the debtor, and, upon such application being made, the Court shall, by an order, appoint the day and hour for such public examination, and shall order the debtor to attend the Court upon such day and at such hour.

Default by debtor in attending.

**153.** If the debtor fails to attend the public examination at the time and place appointed by any order for holding or proceeding with the same, and no good cause is shown by him for such failure, it shall be lawful for the Court, upon its being proved to the satisfaction of the Court that the order requiring the debtor to attend the public examination was duly served, and without any further notice to the debtor, to issue a warrant for his arrest as provided by section 24 (1) (d) of the Ordinance, or to make such other order as the Court thinks just.

Notice to creditors.

**154.** Where any order is made appointing the time and place for holding the public examination of a debtor, the Receiver shall serve a copy thereof on the debtor, and shall give to creditors notice of such order, and of the time and place appointed thereby. The Receiver shall also send a notice of such order to one of the local papers and shall forward notice of such order to be gazetted.

Adjournments *sine die*.

**155.** (1) Where the Court is of opinion that a debtor is failing to disclose his affairs, or where the debtor has failed to attend the public examination or any adjournment thereof, or where the debtor has not complied with any order of the Court in relation to his accounts, conduct, dealings or property, and no good cause is shown by him for such failure, the Court may adjourn the public examination *sine die*, and may make such further or other order as the Court thinks fit.

(2) The Court may on the application either of the Receiver or of the debtor appoint a day for proceeding with a public examination which has been adjourned *sine die*.

156. Where an examination has been adjourned *sine die*, and the debtor desires to have a day appointed for proceeding with his public examination, the expense of gazetting, advertising, and giving notice to creditors of the day to be appointed for proceeding with such examination shall unless the Receiver or trustee, as the case may be, consents to the costs being paid out of the estate, be at the cost of the debtor, who shall, before any day is appointed for proceeding with the public examination, deposit with the Receiver such sum as the Receiver shall think sufficient to defray the expense aforesaid. The balance of the deposit, after defraying the expense aforesaid, shall be returned to the debtor.

Proceedings after adjournment *sine die*.

157. In any case in which a public examination has been adjourned *sine die*, and the Court afterwards makes an order for proceeding with such public examination, notice to creditors of the time and place appointed for proceeding with such public examination shall be sent by the Receiver, and notice shall also be inserted in the *Gazette* and the local paper in which the notice of the first holding of the public examination was inserted, seven days before the day appointed.

Notice of proceedings after adjournment *sine die*.

158. (1) An application for an order dispensing with the public examination of a debtor, or directing that the debtor be examined in some manner or at some place other than is usual, on the ground that the debtor suffers from mental or physical affliction or disability rendering him unfit to attend a public examination, may be made by the Receiver, or by any person who has been appointed by any Court having jurisdiction so to do to manage the affairs of or represent the debtor, or by any relative or friend of the debtor who may appear to the Court to be a proper person to make the application.

Application for order dispensing with public examination. Forms 70, 71.

(2) Where the application is made by the Receiver, it may be made *ex parte*, and the evidence in support of the application may be given by a report of the Receiver to the Court, the contents of which report shall be received as *prima facie* evidence of the matter therein stated.

(3) Where the application is made by some person other than the Receiver, it shall be made by motion, of which notice shall be given to the Receiver and trustee (if any), and shall, except in the case of a person so found by inquisition, be supported by an affidavit of a duly registered medical practitioner as to the physical and mental condition of the debtor.

(4) Where the order is made on the application of the Receiver, the expense of holding the examination shall be deemed to be an expense incurred by the Receiver within the meaning of Rule 92. When the application is made by any other person, he shall, before any order is made on the application, deposit with the Receiver such sum as the Receiver shall certify to be necessary for the expenses of the examination.

COMPOSITION OR SCHEME.

159. Where a debtor intends to submit a proposal for a composition or scheme, the prescribed forms of proposal, notice and report, shall be used by the Receiver for the purpose of the meeting of creditors for consideration of the proposal.

Forms where proposal submitted by the debtor. Forms 38, 39, 74-76.

160. Where the creditors have accepted a composition or scheme, and the public examination of the debtor has been concluded, the Receiver or the debtor may forthwith apply to the Court to fix a day for the hearing of an application for the approval of such composition or scheme. The Receiver shall not by making such application be deemed necessarily to approve of the composition or scheme.

Application for approval of the Court.

161. Any person other than the Receiver, who applies to the Court to approve of a composition or scheme shall, not less than ten days before the day appointed for hearing the application, send notice of the application to the Receiver.

Notice to Receiver.

162. Where application is made to the Court to approve of a composition or scheme, the Receiver shall, not less than three days before the day appointed for hearing the application, send notice of the application to every creditor who has proved his debt.

Notice to Creditors.

163. In every case of an application to the Court to approve a composition or scheme, the report of the Receiver shall be filed not less than four days before the time fixed for hearing the application.

Receiver's report to be filed.

Hearing and Appeal.

**164.** On the hearing of any application to the Court to approve of a composition or scheme, the Court shall in addition to considering the report of the Receiver, hear the Receiver and the trustee (if any) thereon, and an appeal to the Full Court shall lie at the instance of the Receiver, or of the trustee (if any), from any order of the Court made upon such an application.

Costs of application by debtor.

**165.** No costs incurred by a debtor, of or incidental to an application to approve of a composition or scheme, shall be allowed out of the estate, if the Court refuses to approve the composition or scheme.

Evidence and order. Form 85.

**166.** (1) The Court before approving of a composition or scheme shall, in addition to investigating the other matters as required by the Ordinance, require proof that the provisions of subsections (1) and (2) of section 17 of the Ordinance have been complied with.

Form 178 (5).

(2) The Registrar shall forthwith cause a notice of every order made on an application to approve of a composition or scheme, to be gazetted.

Provision in composition or scheme for costs and charges.

**167.** Where a composition or scheme has been duly accepted by the creditors, such composition or scheme shall not be approved by the Court unless the Court is satisfied, on the report of the Receiver, that provision is made for payment of all proper costs, charges and expenses of and incidental to the proceedings, and all fees and percentages payable to the Receiver under the scale of fees and percentages in force for the time being.

Fees on application.

**168.** The fee prescribed to be charged for and in respect of an application to the Court to approve a composition or scheme may be allowed and paid out of the estate of the debtor in any case in which there are sufficient funds in the hands of the Receiver or trustee, as the case may be, available for the purpose.

Correction of formal slips, etc.

**169.** At the time a composition or scheme is approved, the Court may correct or supply any accidental or formal slip, error, or omission therein, but no alteration in the substance of the composition or scheme shall be made.

Proceedings if scheme approved.

**170.** When a composition or scheme is approved, the Receiver shall, on payment of all costs, charges and expenses of and incidental to the proceedings, forthwith put the debtor (or as the case may be, the trustee under the composition or scheme, or the person or persons to whom under the composition or scheme the property of the debtor is to be assigned) into possession of the debtor's property. The Court shall also discharge the receiving order.

Cases in which Receiver is to be trustee.

**171.** In every case of a composition or scheme in which a trustee is not appointed, or, if appointed, declines to act or becomes incapable of acting, or is removed, the Receiver shall, unless and until another trustee is appointed by the creditors, be the trustee for the purpose of receiving and distributing the composition, or for the purpose of administering the debtor's property, and carrying out the terms of the composition or scheme, as the case may be.

Security by trustee under scheme.

**172.** Where under a composition or scheme of arrangement a trustee is appointed, he shall, after the composition or scheme has been approved by the Court, give security to the satisfaction of the Court as if he were a trustee in bankruptcy. If the trustee fail to give such security within the time required, he shall be deemed to have declined to act, and the Registrar shall forthwith give notice of such failure to the Receiver.

Non-payment of composition.

**173.** Where a composition or scheme has been approved, and default is made in any payment thereunder by the debtor or the trustee (if any), no action to enforce such payment shall lie, but the remedy of any person aggrieved shall be by application to the Court.

Vesting of property on annulment of composition.

**174.** Where a composition or scheme is annulled, the property of the debtor shall, unless the Court otherwise directs, forthwith vest in the Receiver without any special order being made or necessary.

Annulment of composition.

**175.** Where a composition or scheme is annulled, the trustee under the composition or scheme shall pay over and account to the trustee under the bankruptcy for any money or property of the debtor which has come to his hands; and

pay or deliver over to the said trustee any money or property which has not been duly administered.

176. Where under any composition or scheme provision is made for the payment of any moneys to creditors entitled thereto, and any claim, in respect of which a proof has been lodged, is disputed, the Court may, if it thinks fit, direct that the amount which would be payable upon such claim, if established, shall be secured in such manner as the Court directs, until the determination of the claim so disputed; and on the determination thereof, the sum so secured shall be paid as the Court may direct.

Dividends under composition or scheme.

177. Every person claiming to be a creditor under any composition or scheme, who has not proved his debt before the approval of such composition or scheme, shall lodge his proof with the trustee thereunder, if any, or if there is no such trustee with the Receiver, who shall admit or reject the same. And no creditor shall be entitled to enforce payment of any part of the sums payable under a composition or scheme unless and until he has proved his debt and his proof has been admitted.

Proof of debts in compositions.

178. All Rules relating to compositions or schemes shall, so far as applicable apply to compositions or schemes under section 17 or section 22 of the Ordinance.

Compositions and schemes.

ADJUDICATION.

179. At the time of making a receiving order, or at any time thereafter, the Court may, on the application of the debtor himself, adjudge him a bankrupt. Such application may be made orally and without notice.

Adjudication on application of debtor.  
Form 96.

180. When a receiving order has been made, and a quorum of creditors do not attend at the time and place appointed for the first meeting, or one adjournment thereof, or where a composition or scheme is not accepted by the creditors at the first meeting or one adjournment thereof, or where the Receiver satisfies the Court that the debtor has absconded, or that the debtor does not intend to propose a composition or scheme, or in any of the other cases mentioned in the Ordinance, the Court may, either on the application of a creditor, or of the Receiver, forthwith adjudge the debtor bankrupt.

Adjudication on application of other parties.  
Form 92.

181. Where a composition or scheme is not accepted by the creditors at the first meeting or at one adjournment thereof, the Court may, on the application of the Receiver, or of any person interested, adjudge the debtor bankrupt.

Adjudication on failure of composition or scheme.

182. Where the public examination of a debtor is adjourned *sine die* and the debtor has not previously been adjudged bankrupt, the Court may forthwith, and without any notice to the debtor, adjudge him bankrupt.

Adjudication where public examination adjourned *sine die*.

183. When a debtor is adjudged bankrupt, notice thereof shall be advertised and gazetted, in the like manner as is provided in the case of a receiving order.

Notice of order of adjudication.  
Form 96.

DISCHARGE.

184. A bankrupt intending to apply for his discharge shall produce to the Registrar a certificate from the Receiver specifying the number of his creditors of whom the Receiver has notice (whether they have proved or not). The Registrar shall not less than twenty-eight days before the day appointed for hearing the application, give notice, in the form 102, of the time and place of the hearing of the application to the Receiver and trustee. The Registrar shall forthwith cause a copy of such notice to be gazetted, and the Receiver shall send a copy of such notice to each creditor not less than fourteen days before the day so appointed.

Application.  
Form 102.  
Form 103.

185. An appeal to the Full Court shall lie at the instance of the trustee (if any) from any order of the Court made upon such an application.

Appeals.

186. In every case of an application by a bankrupt for his discharge, the report of the Receiver shall be filed not less than seven days before the time fixed for hearing the application.

Report of Receiver.

Evidence in answer to report.

**187.** (1) Where a bankrupt intends to dispute any statement with regard to his conduct and affairs contained in the Receiver's report, he shall, not less than two days before the hearing of the application for discharge, give notice in writing to the Receiver, specifying the statements in the report, if any, which he proposes at the hearing to dispute.

(2) Any creditor who intends to oppose the discharge of a bankrupt on grounds other than those mentioned in the Receiver's report, shall give notice of the intended opposition, stating the grounds thereof, to the Receiver not less than two days before the hearing of the application.

Costs of application.

**188.** A bankrupt shall not be entitled to have any of the costs of or incidental to his application for his discharge allowed to him out of his estate. This Rule shall not apply to costs of a successful appeal from a refusal to grant a discharge.

Conditional orders.

Forms 109, 110.

**189.** (1) Where the Court grants an order of discharge conditionally upon the bankrupt consenting to judgment being entered against him by the Receiver or trustee for any balance or part of the balance of the debts provable under the bankruptcy which is not satisfied at the date of his discharge, the order of discharge shall not be signed, completed, or delivered out until the bankrupt has given the required consent. The judgment shall be entered.

(2) An order of discharge of a bankrupt, subject to conditions as to his earnings, after-acquired property and income shall be in the form No. 107, and an order of discharge subject to a condition requiring the bankrupt to consent to judgment being entered against him for the balance or part of the balance of the debts provable in bankruptcy, shall be in the form No. 108 with such variations as circumstances may require.

(3) If the bankrupt does not give the required consent within one month of the making of the conditional order, the Court may, on the application of the Receiver or trustee, revoke the order or make such other order as the Court may think fit.

Order, delivery.

Forms 104-108

**190.** The order of the Court made on an application for discharge shall be dated of the day on which it is made, and shall take effect from the day on which the order is drawn up and signed; but such order shall not be delivered out or gazetted until after the expiration of the time allowed for appeal, or, if an appeal be entered, until after the decision of the Full Court thereon.

Gazetting order.

Form 178 (9).

**191.** When the time for appeal has expired, or, as the case may be, when the appeal has been decided by the Court of Appeal, the Registrar shall forthwith cause a notice of the order to be gazetted.

Execution on judgment in case of conditional discharge.

**192.** (1) An application by the Receiver or trustee for leave to issue execution on a judgment under subsection (2) of section 27 shall be in writing and shall state shortly the grounds on which the application is made. When the application is lodged the Registrar shall fix a day for the hearing.

(2) The Receiver or trustee shall give notice of the application to the debtor not less than eight days before the day appointed for the hearing, and shall at the same time furnish him with a copy of the application.

Notice of after-acquired property to Receiver.

**193.** When a bankrupt is discharged subject to the condition that judgment shall be entered against him, or subject to any other condition as to his future earnings or after-acquired property, it shall be his duty until such judgment or condition is satisfied, from time to time to give the Receiver such information as he may require with respect to his after-acquired property and income, and not less than once a year to file in Court a statement showing the particulars of any property or income he may have acquired subsequent to his discharge.

Enquiry as to after-acquired property. Form 111.

**194.** Any statement of after-acquired property or income filed by a bankrupt whose discharge has been granted subject to conditions, shall be verified by affidavit, and the Receiver or trustee may require the bankrupt to attend before the Court to be examined on oath with reference to the statements contained in such affidavit, or as to his earnings, income, after-acquired property, or dealings. Where a bankrupt neglects to file such affidavit or to attend the Court for examination

when required so to do, or properly to answer all such questions as the Court may put or allow to be put to him, the Court may, on the application of the Receiver or trustee, rescind the order of discharge.

195. Where after the expiration of two years from the date of any order made upon a bankrupt's application for discharge, the bankrupt applies to the Court to modify the terms of the order on the ground that there is no reasonable probability of his being in a position to comply with the terms of such order, he shall give fourteen days' notice of the day fixed for hearing the application to the Receiver and to all his creditors.

Application for modification of order.

MEETINGS OF CREDITORS.

196. (1) The Receiver shall give three days' notice to the debtor of the time and place appointed for the first meeting of creditors. The notice may be either delivered to him personally or sent to him by prepaid post letter as may be convenient. It shall nevertheless be the duty of the debtor to attend such first meeting although the notice is not sent to or does not reach him.

Notice to debtor of first meeting. Form 41.

(2) A notice to attend subsequent meetings shall be in the like form with such variations as circumstances may require.

197. The Receiver shall fix the day for the first meeting and shall forthwith cause the same to be gazetted, and shall also give notice to the creditors.

Notice to creditors of first meeting.

198. The notices of subsequent meetings shall be issued to creditors by the Receiver or trustee. Where no special time is prescribed the notices shall be sent off not less than three days before the day appointed for the meeting.

Notice of other meetings. Form 48.

199. Where a meeting of creditors is called by notice, the proceedings had and resolutions passed at such meeting shall unless the Court otherwise orders be valid notwithstanding that some creditors shall not have received the notice sent to them.

Non-reception of notice by creditors.

200. Where a trustee summons a meeting of creditors he shall send the Receiver a copy of the notice convening the meeting.

Notice to Receiver.

201. A certificate by the Receiver or other officer of the Court or an affidavit by the trustee or his solicitor or by the clerk of any of such persons, that a notice has been duly posted, shall be sufficient evidence of such notice having been duly sent to the person to whom the same was addressed.

Proof of notice. Form 49.

202. The Receiver, or as the case may be, the trustee, shall send to the Registrar a copy certified by him of every resolution of a meeting of creditors.

Copy of resolution for Registrar

203. Where a meeting of creditors is adjourned, the adjourned meeting shall be held at the same place as the original place of meeting, unless in the resolution or adjournment another place is specified.

Adjournment.

204. In calculating a quorum of creditors present at a meeting, those persons only who are entitled to vote at the meeting shall be reckoned.

Quorum.

PROOF OF DEBTS.

205. In any case in which it shall appear from the debtor's statement of affairs that there are numerous claims for wages by labourers, workmen and others employed by the debtor, it shall be sufficient if one proof for all such claims is made either by the debtor, or his foreman, or some other person on behalf of all such creditors. Such proof shall have annexed thereto as forming part thereof, a schedule setting forth the names of the labourers, workmen and others, and the amounts severally due to them. Any proof made in compliance with this Rule shall have the same effect as if separate proofs had been made by each of the said labourers, workmen and others, but shall be stamped with one stamp as an ordinary proof.

Form 55. Workmen's wages. Form 57.

206. Where a creditor seeks to prove in respect of a bill of exchange, promissory note, or other negotiable instrument or security on which the debtor is liable, such bill of exchange, note, instrument or security must, subject to any special order of the Court made to the contrary, be produced to the Receiver before the proof can be admitted either for voting or for dividend.

Production of bills of exchange and promissory notes.

Time for lodging proofs.

207. A proof intended to be used at the first meeting of creditors shall be lodged with the Receiver not later than the time mentioned for that purpose in the notice convening the meeting, which time shall not be earlier than twelve o'clock at noon of the day but one before, nor later than twelve o'clock at noon of the day before the day appointed for such meeting.

A proof intended to be used at an adjournment of the first meeting (*i.e.*, not lodged in time for the first meeting), must be lodged not less than twenty-four hours before the time fixed for holding the adjourned meeting.

Transmission of proofs to trustee.

208. Where a trustee is appointed in any matter, all proofs of debts that have been received by the Receiver shall be handed over to the trustee, but the Receiver shall first make a list of such proofs, and take a receipt thereon from the trustee for such proofs.

Proofs to be sent by Receiver to Registrar.

209. The Receiver, where no other trustee is appointed, shall, forthwith after the final payment has been made in a composition or scheme of arrangement duly approved by the Court, and in a bankruptcy after a final dividend has been declared, cause to be filed all proofs tendered in the proceeding with a list thereof certified to be correct, distinguishing in such list the proofs which were wholly or partly admitted, and the proofs which were wholly or partly rejected.

Proof sent by trustee to Registrar.

210. Every trustee in bankruptcy, other than the Receiver, shall on the first day in every month, send to the Registrar a certified list of all proofs, if any, received by him from the Receiver, or otherwise tendered during the month next preceding, distinguishing in such lists the proofs admitted, those rejected, and such as stand over for further consideration; and in case of proofs which have stood over for further consideration, he shall forward them together with an explanatory note, on the first day of the month next after they have been admitted or rejected; and in the case of proofs admitted or rejected, he shall transmit the proofs themselves for the purpose of being filed.

Procedure where creditor appeals.

211. The Receiver, or as the case may be, the trustee, shall, within three days after receiving notice from a creditor of his intention to appeal against a decision rejecting a proof, file such proof with the Registrar, with a memorandum thereon of his disallowance thereof. After the appeal has been heard by the Court, the proof, unless wholly disallowed, shall be given back to the Receiver or trustee, as the case may be.

Time for admission or rejection of proofs by Receiver.

212. Subject to the power of the Court to extend the time, the Receiver, as trustee, not later than fourteen days from the latest date specified in the notice of his intention to declare a dividend, as the time within which such proofs must be lodged, shall, in writing, either admit or reject, wholly or in part, every proof lodged with him, or require further evidence in support thereof.

Time for admission or rejection of proofs by trustee.

213. Subject to the power of the Court to extend the time, the trustee, other than the Receiver, within twenty-eight days after receiving a proof, which has not been previously dealt with by the Receiver, shall, in writing either admit or reject it wholly or in part or require further evidence in support thereof. Provided that where the trustee has given notice of his intention to declare a dividend, he shall within seven days after the date mentioned in such notice as the latest date up to which proofs must be lodged, examine and in writing admit or reject every proof which has not been already admitted or rejected, and give notice of his decision rejecting a proof wholly or in part to the creditor affected thereby.

Notice of admission of proof.

214. Where a creditor's proof has been admitted, the notice of dividend shall be sufficient notification to such creditor of such admission.

Appeal from rejection of proof.

215. Subject to the power of the Court to extend the time, no application to reverse or vary the decision of the Receiver or trustee in rejecting a proof shall be entertained after the expiration of twenty-one days from the date of the decision complained of.

Costs of appeal from decision as to proofs.

216. The Receiver shall in no case be personally liable for costs in relation to an appeal from his decision rejecting any proof wholly or in part.

PROXIES AND VOTING LETTERS.

217. (1) A proxy shall be lodged with the Receiver or trustee not later than four o'clock on the day before the meeting or adjourned meeting at which it is to be used. Form and filing of proxies. Forms 59, 60.

(2) As soon as a proxy or voting letter has been used it shall be filed with the proceedings in the matter.

218. A proxy given by a creditor shall be deemed to be sufficiently executed if it is signed by any person in the employ of the creditor having a general authority to sign for such creditor, or by the authorised agent for such creditor if resident abroad; such authority shall be in writing, and shall be produced to the Receiver if required, unless such authority be duly registered. Signature of proxies.

219. The proxy of a creditor blind or incapable of writing may be accepted if such creditor has attached his signature or mark thereto in the presence of a witness who shall add to his signature his description and residence; and provided that all insertions in the proxy are in the handwriting of the witness and such witness shall have certified at the foot of the proxy that all such insertions have been made by him at the request of the creditor and in his presence before he attached his signature or mark. Filling in when creditor blind, etc.

220. No person shall be appointed a general or special proxy who is a minor. Minors not to be proxies.

DIVIDENDS.

221. (1) Not more than two months before declaring a dividend, the trustee shall give notice of his intention to do so to such of the creditors mentioned in the bankrupt's statement of affairs as have not proved their debts. Such notice shall specify the latest date up to which proofs must be lodged, which shall be not less than fourteen days from the date of such notice. The trustee shall also cause such notice to be gazetted. Notice of intention to declare dividend. Forms 159, 160, 162, 164.

(2) Where any creditor, after the date mentioned in the notice of intention to declare a dividend as the latest date upon which proof may be lodged, appeals against the decision of the Receiver or trustee rejecting a proof, such appeal shall, subject to the power of the Court to extend the time in special cases, be commenced, and notice thereof given to the Receiver or trustee within seven days from the date of the notice of the decision against which the appeal is made, and the Receiver or trustee shall in such case make provision for the dividend upon such proof, and the probable costs of such appeal in the event of the proof being admitted. Where no appeal has been commenced within the time specified in this Rule the trustee shall exclude all proofs which have been rejected from participation in the dividend.

(3) Immediately after the expiration of the time fixed by this Rule for appealing against the decision of the trustee, he shall proceed to declare a dividend, and shall cause the same to be gazetted, and shall also send a notice of dividend to each creditor whose proof has been admitted, accompanied by a statement showing the position of the estate.

(4) If it becomes necessary in the opinion of the trustee and the committee of inspection, to postpone the declaration of the dividend beyond the prescribed limit of two months, the trustee shall cause a fresh notice of his intention to declare a dividend to be forthwith gazetted, but it shall not be necessary to give a fresh notice to such of the creditors mentioned in the bankrupt's statement of affairs as have not proved their debts. In all other respects the same procedure shall follow the fresh notice as would have followed the original notice.

222. Subject to the provisions of section 70 of the Bills of Exchange Ordinance, and subject to the power of the Court in any other case on special grounds to allow production to be dispensed with, every bill of exchange, promissory note, or other negotiable instrument or security, upon which proof has been made, shall be exhibited to the trustee before payment of dividend thereon and the amount of dividend paid shall be indorsed on the instrument. Production of bills, notes, etc.

223. The amount of the dividend may, at the request and risk of the creditor, be transmitted to him by post. Dividend may be sent by post.

## APPROPRIATION OF PAY, SALARY, PENSIONS, ETC.

Notice to  
bankrupt of  
application.  
Form 140.

**224.** When a trustee intends to apply to the Court for an appropriation order under section 54 of the Ordinance, he shall give to the bankrupt notice of his intention so to do. Such notice shall specify the time and place fixed for hearing the application and shall state that the bankrupt is at liberty to show cause against such order being made.

Notice to  
Colonial  
Secretary.

**225.** When the application is made under subsection (1) of section 54 of the Ordinance, a copy of the proposed order shall be sent by the Registrar to the Colonial Secretary and the application shall stand adjourned until the written consent of the Governor under the hand of the Colonial Secretary is obtained as required by the Ordinance.

Copy of  
order to  
Colonial  
Secretary.

**226.** Where an order is made under subsection (2) of section 54 of the Ordinance, the Registrar shall give to the trustee a sealed copy of the order, who shall communicate the same to the Colonial Secretary.

Review of  
order.

**227.** Where an order has been made for the payment by a bankrupt, or by his employer for the time being, of a portion of his income or salary, the bankrupt may, upon his ceasing to receive a salary or income of the amount he received when the order was made, apply to the Court to rescind the order or to reduce the amount ordered to be paid by him to the trustee.

## DISCLAIMER OF LEASE.

Disclaimer  
of lease  
without  
leave.

**228.** (1) A lease may be disclaimed without the leave of the Court in any of the following cases:—

(i) Where the bankrupt has not sub-let the demised premises or any part thereof or created any mortgage or charge thereon; and

Forms 145–  
147, 151, 152.

(a) the rent reserved and real value of the property leased, are less than \$96 per annum; or

(b) the estate is administered under the provisions of section 114 of the Ordinance; or

(c) the trustee serves the lessor with notice of his intention to disclaim, and the lessor does not within seven days after the receipt of such notice give notice to the trustee requiring the matter to be brought before the Court.

(ii) Where the bankrupt has sub-let demised premises or created a mortgage or charge upon the lease, and the trustee serves the lessor and the sub-lessee or the mortgagees with a notice of his intention to disclaim, and neither the lessor or the sub-lessee or the mortgagees or any of them within fourteen days after the receipt of such notice, require or requires the matter to be brought before the Court.

(2) Except as provided by this Rule, the disclaimer of a lease without leave of the Court, shall be void.

(3) Where the trustee disclaims a leasehold interest, he shall forthwith file the disclaimer with the proceedings in the Court, and the disclaimer shall contain particulars of the interest disclaimed, and a statement of the persons to whom notice of disclaimer has been given. Until the disclaimer is filed by the trustee, the disclaimer shall be inoperative.

(4) Where, in pursuance of notice by the trustee of his intention to disclaim a leasehold interest, the lessor, sub-lessee, or mortgagee requires the trustee to apply to the Court for leave to disclaim, the costs of the lessor, sub-lessee, or mortgagee shall not be allowed out of the estate of the bankrupt, except in cases in which the Court is satisfied that such application was necessary in order to do justice between the parties.

(5) A disclaimer made without leave of the Court under this Rule shall not be void or otherwise affected on the ground only that the notice required by this Rule has not been given to some person who claims to be interested in the property leased.

(6) Where any person claims to be interested in any part of the property of the bankrupt burdened with onerous covenants, he shall at the request of the Receiver or trustee, furnish a statement of the interest so claimed by him.

PROCEEDINGS BY COMPANY OR CO-PARTNERSHIP.

229. A bankruptcy petition against or bankruptcy notice to any debtor to any company or co-partnership duly authorised to sue and be sued in the name of a public officer or agent of such company or co-partnership, may be presented by or sued out by such public officer or agent as the nominal petitioner for and on behalf of such company or co-partnership, on such public officer or agent filing an affidavit stating that he is such public officer or agent and that he is authorised to present or sue out such petition or bankruptcy notice.

Public officer or agent of company, etc.

PROCEEDINGS BY OR AGAINST FIRM.

230. Where any notice declaration petition or other document requiring attestation is signed by a firm of creditors or debtors in the firm name, the partner signing for the firm shall add also his own signature, *e.g.*, "Brown & Co. by James Green a partner in the said firm."

Attestation of signature of firm.

231. Any notice or petition for which personal service is necessary shall be deemed to be duly served on all the members of a firm if it is served at the principal place of business of the firm in the Colony, on any one of the partners, or upon any person having at the time of service the control or management of the partnership business there.

Service on firm.

232. The provisions of the last preceding Rule shall so far as the nature of the case will admit apply in the case of any person carrying on business within the jurisdiction in a name or style other than his own.

Individual trading as firm.

233. Where a firm of debtors file a declaration of inability to pay their debts or a bankruptcy petition, the same shall contain the names in full of the individual partners, and if such declaration or petition is signed in the firm name, the declaration or petition shall be accompanied by an affidavit made by the partner who signs the declaration or petition showing that all the partners concur in the filing of the same.

Debtor's petition by firm.

234. A receiving order made against a firm shall operate as if it were a receiving order made against each of the persons who at the date of the order is a partner in that firm.

Receiving order against firm.

235. In cases of partnership the debtors shall submit a statement of their partnership affairs, and each debtor shall submit a statement of his separate affairs.

Statement of affairs.

236. No order of adjudication shall be made against a firm in the firm name, but it shall be made against the partners individually.

Adjudication against partners.

237. Where a receiving order is made against a firm, the joint and separate creditors shall collectively be convened to the first meeting of creditors.

First meeting.

238. The joint creditors and each set of separate creditors, may severally accept compositions or schemes of arrangement. So far as circumstances will allow, a proposal entertained by joint creditors may be confirmed and approved in the prescribed manner, notwithstanding that the proposals or proposal of some or one of the debtors made to their or his separate creditors may not be accepted.

Composition, etc.

239. Where proposals for compositions or schemes are made by a firm, and by the partners therein individually, the proposal made to the joint creditors shall be considered and voted upon by them apart from every set of separate creditors; and the proposal made to each separate set of creditors shall be considered and voted upon by such separate set of creditors, apart from all other creditors. Such proposals may vary in character and amount. Where a composition or scheme is approved, the receiving order shall be discharged only so far as it relates to the estate, the creditors of which have confirmed the composition or scheme.

Voting on composition.

Adjudication:  
Trustee.

**240.** On the adjudication in bankruptcy of a partnership, the trustee appointed by the joint creditors, or by the Court under section 20 (7) or section 79 (3) of the Ordinance, as the case may be, shall be the trustee of the separate estates. Each set of creditors may appoint its own committee of inspection, but if any set of creditors do not appoint a separate committee, the committee (if any) appointed by the joint creditors shall be deemed to have been appointed also by such separate creditors.

Separate firms.

**241.** If any two or more of the members of a partnership constitute a separate and independent firm, the creditors of such last-mentioned firm shall be deemed to be a separate set of creditors, and to be on the same footing as the separate creditors of any individual member of the firm. And where any surplus shall arise upon the administration of the assets of such separate or independent firm, the same shall be carried over to the separate estates of the partners in such separate and independent firm according to their respective rights therein.

Apportionment of trustees' remuneration.

**242.** When joint and separate estates are being administered, the remuneration of the trustee in respect of the administration of the joint estate may be fixed by the creditors, or (if duly authorised) by the committee of inspection of such joint estate, and the remuneration of the trustee in respect of the administration of any separate estate may be fixed by the creditors, or (if duly authorised) by the committee of inspection of such separate estate.

#### LUNATICS.

Lunatics.

**243.** (1) Where it appears to the Court that any debtor or creditor or other person who may be affected by any proceeding under the Ordinance or Rules, is a lunatic not so found by inquisition (hereinafter called the lunatic), the Court may appoint such person as it may think fit, to appear for, represent, or act for, and in the name of the lunatic, either generally, or in and for the purpose of any particular application or proceeding, or the exercise of any particular rights or powers which under the Ordinance and Rules the lunatic might have exercised if he had been of sound mind. The appointment may be made as hereinafter mentioned, or if the Court thinks fit to do so, without any previous application.

(2) An application to the Court to make an appointment under this Rule, may be made by any person who has been appointed by the Supreme Court to manage the affairs or property of or to represent the lunatic, or by any relative or friend of the lunatic who may appear to the Court to be a proper person to make the application, or by the Receiver.

(3) The application may be made *ex parte* and without notice, but in any case in which the Court shall think it desirable, the Court may require such notice of the application as it shall think necessary to be given to the Receiver or trustee (if any) or to the petitioning creditor, or to the person alleged to be a lunatic, or to any other person, and for that purpose may adjourn the hearing of the application.

(4) The application shall be supported by the affidavit of a duly registered medical practitioner as to the physical and mental condition of the lunatic.

(5) Where a person has been appointed under this Rule, any notice under the Ordinance and Rules served on or given to such person, shall have the same effect as if the notice had been served on or given to the lunatic.

#### SMALL BANKRUPTCIES.

**244.** Where an estate is ordered to be administered in a summary manner under section 114 of the Ordinance, the provisions of the Ordinance and Rules shall, subject to any special direction of the Court, be modified as follows, namely:—

(1) There shall be no advertisement of any proceedings in a local paper unless the Court otherwise directs.

(2) The title of every document in the proceedings subsequent to the making of the order for summary administration shall have inserted thereon the words "Summary Case."

(3) All questions of law and fact shall be determined by the Court, and no application for a jury shall be entertained.

(4) If no proposal for a composition or scheme is lodged with the Receiver within the time specified for that purpose in section 17 of the Ordinance, or within such time thereafter as the Receiver may fix, or if the Receiver satisfies the Court that the debtor has absconded, or that the debtor does not intend to propose a composition or scheme, or that the composition or scheme proposed is not reasonable or calculated to benefit the general body of creditors, the Court may forthwith adjudge the debtor bankrupt. A report by the Receiver under this paragraph shall be *prima facie* evidence of the facts stated therein.

(5) If during or at the conclusion of the public examination of the debtor it appears to the Court that a composition or scheme ought not to be sanctioned by reason of the conduct of the debtor, the Court may forthwith adjudge the debtor bankrupt.

(6) All payments shall, unless the Court otherwise orders, be made into and out of such Bank as may be directed by the Court.

(7) The first meeting of creditors may, where it is expedient, be held on the day appointed for the public examination, or on any other day fixed by the Receiver. If a quorum of creditors be not present, it shall not be necessary to adjourn the meeting.

(8) Meetings of creditors shall, unless the Receiver for special reasons otherwise determines, be held in the office of the Receiver.

(9) On an application by a bankrupt for his discharge the certificate of the Receiver shall not include, nor shall notices be sent to, creditors whose debts do not exceed \$9.60.

(10) In lieu of the copy of the account to be filed with the Court, as prescribed by section 90 (4) of the Ordinance, a statement showing the position of the estate, analogous as nearly as may be, to that prescribed by form No. 170 shall be filed.

(11) Notices of meetings, other than of first meetings, or of sittings of the Court, shall only be sent to creditors whose debts or claims exceed the sum of \$9.60.

(12) The time mentioned in section 65 (2) of the Ordinance shall be extended to six months.

(13) The estate shall be realised with all reasonable despatch, and, where practicable, distributed in a single dividend when realised.

(14) The costs or charges payable out of the debtor's estate of any person other than of a solicitor may be paid and allowed without taxation where such costs or charges are within the prescribed scale: Provided that the Receiver may require such costs or charges to be taxed.

(15) The Receiver shall open but one account in respect of all estates administered by him under section 114 of the Ordinance. Such account shall be in the official name of the Receiver with the words "Small Bankruptcies Account" added.

Every cheque shall be payable to order and shall have marked or written on the face of the above title, and need only be signed by the Receiver.

#### ADMINISTRATION OF ESTATE OF DECEASED INSOLVENTS.

245. A creditor's petition and a petition by the legal personal representative of the deceased under section 115 of the Ordinance shall be verified by affidavit.

Form of  
petition.  
Form 10.  
Gazetting.

246. Where an administration order under section 115 is made, such order shall be gazetted and advertised in the same manner in all respects as an order of adjudication is gazetted and advertised.

247. (1) The petition shall, unless the Court otherwise directs, be served on each executor who has proved the will, or as the case may be on each person who has taken out letters of administration. The Court may also, if the Court thinks fit, order the petition to be served on any other person.

Service.

(2) Service shall be proved in the same way as is provided in the case of an ordinary creditor's petition, and the petition shall be heard in the like manner.

Duties of executor, etc.

Form 41.

**248.** When an administration order under section 115 has been made, it shall be the duty of the legal representative of the deceased debtor to lodge with the Receiver forthwith (in duplicate) an account of the dealings, with and administration of (if any), the deceased's estate by such legal representative, and such legal representative shall also furnish forthwith in duplicate a list of the assets and liabilities, and such other particulars of the affairs of the deceased as may be required by the Receiver. Every account, list, and statement to be made under this Rule shall be made and verified as nearly as may be in accordance with the practice for the time being of the Supreme Court in suits for the administration of the estates of deceased persons.

The expense of preparing making verifying and lodging any account, list, and statement under this Rule shall, after being taxed, be allowed out of the estate upon production of an office copy of the taxed bill.

Executor *de son tort*.

**249.** In any case in which an administration order under section 115 has been made, and it appears to the Court, on the report of the Receiver, that no legal representative exists, the account, list, and statement mentioned in the last preceding Rule shall be made, verified and lodged by such person as in the opinion of the Court upon such report, may have taken upon himself the administration of, or may otherwise have intermeddled with, the property of the deceased, or any part thereof.

Meetings of creditors, etc.

**250.** In proceedings under an order for the administration of the estate of a person dying insolvent, where a meeting of creditors is summoned for the appointment of a trustee:—

(1) The provisions of Schedule 1 of the Ordinance relating to the mode of summoning a meeting of creditors, and to the persons entitled to a vote at a meeting;

(2) The provisions of the Bankruptcy Rules, which refer to creditors, meetings of creditors, trustees, and committees of inspection

shall, so far as applicable, apply as if the proceedings were under a receiving order and order of adjudication.

Modification where summary order made.

**251.** Where under an administration order under section 115 of the Ordinance the estate is ordered to be administered in a summary way the modifications imposed by section 114 and Rule 244 shall not apply, but in lieu thereof the modifications following shall apply:—

(1) The Receiver shall be trustee under the order unless the creditors at any time by special resolution resolve that some person other than the Receiver shall be appointed trustee, in which case the administration shall proceed as if an order for summary administration had not been made.

(2) There shall be no committee of inspection, but the Court shall exercise the powers of a committee of inspection.

(3) There shall be no advertisement of any proceedings in a local paper unless the Court otherwise directs.

(4) The title of every document in the proceedings subsequent to the making of the order for summary administration shall have inserted thereon the words "Summary Case."

(5) All questions of law and fact shall be determined by the Court, and no application for a jury shall be entertained.

(6) All payments shall, unless the Court otherwise orders, be made into and out of such bank as may be directed by the Court.

(7) Meetings of creditors shall, unless the Receiver for special reasons otherwise determines, be held in the office of the Receiver.

(8) In lieu of the copy of the account to be filed with the Court, as prescribed by section 90 (4) of the Ordinance, a statement showing the position of the estate, analogous as nearly as may be, to that prescribed by form No. 170 shall be filed.

(9) Notices of meetings, other than of first meetings, or of sittings of the Court, shall only be sent to creditors whose debts or claims exceed the sum of \$9.60.

(10) The time mentioned in section 65 (2) of the Ordinance shall be extended to six months.

(11) The estate shall be realised with all reasonable despatch, and, where practicable, distributed in a single dividend when realised.

(12) The costs or charges, payable out of the debtor's estate, of any person other than of a solicitor may be paid and allowed without taxation where such costs or charges are within the prescribed scale: Provided that the Receiver may require such costs or charges to be taxed by the taxing officer.

#### PART 4.

#### RECEIVER, TRUSTEES, SPECIAL MANAGERS, SECURITY BY TRUSTEE OR SPECIAL MANAGER, ACCOUNTS AND AUDIT, UNCLAIMED FUNDS.

**252.** (1) As soon as the Receiver receives notice that he has been appointed to the receivership of an estate, he shall furnish the debtor with a copy of instructions for the preparation of his statement of affairs. Duties as to debtor's statement of affairs.

(2) The Receiver or some person deputed by him shall also furnish the debtor with all such explanations as he may require for the preparation of the said statement. Form 31.

(3) The Receiver or some person deputed by him shall also forthwith hold a personal interview with the debtor for the purpose of investigating his affairs and determining whether the estate should be administered under section 114 of the Ordinance.

(4) It shall be the duty of the debtor to attend at such time and place as the Receiver may appoint.

**253.** Subject to any general or special directions of a Judge, the Receiver while in the possession of the property of a debtor, may make him such allowance out of his property for the support of himself and his family as may be just. In fixing the amount of such allowance the assistance rendered by the debtor in the management of his business or affairs may be taken into account. Subsistence allowance to debtor.

**254.** Whenever, under the powers given by section 76 of the Ordinance, the Receiver employs any person to assist the debtor in the preparation of his statement of affairs, he shall forthwith report the matter to a Judge in writing, justifying his action therein, and specifying the remuneration (if any) to be allowed to such person. Special report as to person employed to assist debtor.

**255.** Where the Receiver holds any proxies and cannot conveniently attend any meeting of creditors, at which such proxy or proxies might be used, he may depute some person in his employment or under his official control, or some Government officer by writing under his hand, to attend such meeting and use such proxies on his behalf and in such manner as he may direct. Use of proxies by deputy.

**256.** The Chief Justice with the concurrence of a Puisne Judge may, by general or special directions, determine what acts or duties shall be performed by the Receiver in person, and in what cases he may discharge his functions through the agency of his clerks or other persons in his regular employ or under his official control. Personal performance of duties.

**257.** In any case of sudden emergency where there is no Receiver capable of acting, any act or thing required or authorised to be done by the Receiver may be done by the Assistant Receiver. Assistant to act in sudden emergency.

**258.** Where a special manager is appointed, the Receiver or interim Receiver may at any time remove him if his employment seems unnecessary, or unprofitable to the estate, and he shall remove him, if so required by a special resolution of the creditors. Removal of special manager.

Mode of application to Court.

259. Applications by the Receiver to the Court may be made personally, and without notice, filing of motion paper or other formality; but the Court may in any case order that an application be renewed in a formal manner, and that such notice thereof be given to any person likely to be affected thereby as the Court may direct.

Evidence on application by Receiver.

260. Where for the purposes of any application to the Court by the Receiver for directions, or to adjudge a debtor bankrupt, or for leave to disclaim a lease, or for an extension of time to apply for leave to disclaim a lease, or for an order to take criminal proceedings against a bankrupt, or to commit a bankrupt, it is necessary that evidence be given by him in support of such application, such evidence may be given by a report of the Receiver to the Court, and need not be given by affidavit, and any such report of the Receiver to the Court shall be received by the Court as *prima facie* evidence of the matters reported upon.

Application for directions.

261. In any case of doubt or difficulty, or in any matter not provided for by the Ordinance or these Rules relating to any proceeding in Court, the Receiver may apply to the Court for directions.

Duties where no assets.

262. Where a debtor against whom a receiving order has been made has no available assets, the Receiver shall not be required to incur any expense in relation to his estate without the express directions of the Court.

Accounting by Receiver.

263. (1) Where a composition or scheme is sanctioned by the Court, the Receiver shall account to the debtor, or, as the case may be, to the trustee under the composition or scheme.

(2) Where a debtor is adjudged bankrupt, and a trustee is appointed, the Receiver shall account to the trustee in the bankruptcy.

(3) If the debtor, or, as the case may be, the trustee, is dissatisfied with the account or any part thereof, he may report the matter to the Court, who shall take such action (if any) thereon as it may deem expedient.

(4) The provisions of this Part of these Rules as to trustees and their accounts shall not apply to the Receiver when acting as trustee, but he shall account in such manner as the Court may from time to time direct.

Trading account of debtor.

264. The debtor shall, on the request of the Receiver, furnish him with trading and profit and loss accounts, and a cash and goods account for such period not exceeding two years prior to the date of the receiving order as the Receiver shall specify: Provided that the debtor shall, if ordered by the Court so to do, furnish such accounts as the Court may order for any longer period. If the debtor fails to comply with the requirements of this Rule the Receiver shall report such failure to the Court and the Court shall take such action on such report as the Court shall think just.

Liability for costs, expenses and damages.

265. The following provisions shall apply to every case in which proceedings are taken, either by action, motion, or in any other manner, against the Receiver in respect of anything done or default made by him, when acting, or in the *bona fide* and reasonable belief that he is acting, in pursuance of the Ordinance or in execution of the powers given to a Receiver by the Ordinance:—

(1) Subject to the provisions of the next following subsection, the costs, damages, and expenses which the Receiver may have to pay, or to which he may be put under such proceedings, shall be paid out of the estate of the debtor.

(2) As soon as any such proceedings are commenced it shall be the duty of the Receiver to report the same to the Governor, who shall determine whether or not such proceedings shall be resisted or defended.

(3) The Receiver shall not, unless the Court shall otherwise order, be entitled to be paid out of the estate any costs or expenses which he may have to pay or bear in consequence of resisting or defending any such proceedings, unless the Governor shall have determined that such proceedings shall be resisted or defended.

(4) The Receiver shall, if necessary, apply to the Court for any reasonable adjournment for any motion, or other summary proceedings before it, pending the determination of the Governor upon the question whether such motion or proceedings should be resisted or defended. And the Court may grant an adjournment upon such terms as it shall think fit.

(5) If such proceedings are commenced before the appointment of a trustee by the creditors, or before the approval of a composition or scheme, the Receiver may, before putting the trustee, or in the case of a composition the debtor himself into possession of the debtor's property, retain the whole or some part of the debtor's estate according as the Governor shall in each case direct, to meet the damages, costs, or expenses which the Receiver may have to pay or bear in consequence of the said proceedings. If such proceedings are commenced after the appointment of a trustee or after the approval of a composition or scheme, the Receiver shall forthwith give notice of such proceedings to the trustee or other person in whom the estate of the debtor may be vested (including where necessary the debtor himself), and the estate of the debtor shall, as from the date of such notice, be deemed to be charged with the payment of the said damages, costs and expenses.

## TRUSTEES.

266. Where the appointment of a trustee is certified, the trustee shall forthwith insert notice of his appointment in a local paper. The expense of such notice shall be borne by the trustee, and may be charged by him to the estate. Notice of appointment.  
Form 113.
267. (1) On receipt of a notice objecting to the appointment of a trustee, the Registrar shall fix a time for the hearing of the matter. Notice of objection.
- (2) Notice of the time fixed for hearing the matter shall be given to the Receiver, to the person objected to and to the person objecting.
- (3) At the hearing the person objected to, the Receiver and every creditor shall be entitled to be heard.
268. It shall be sufficient objection to the appointment of a trustee that he has not complied with the requirements of section 135 of the Ordinance, or of any order of the Court made thereunder. Trustee not accounting under section 135.
269. It shall be a sufficient reason for refusing to certify the appointment of a person as trustee that in any other proceeding under the Ordinance such person has either been removed under section 93 (2) of the Ordinance from the office of trustee, or has failed or neglected, without good cause shown by him, to render his accounts for audit for two months after the date by which the same should have been rendered. Removal of trustee.
270. Where a trustee or special manager has given security in the prescribed manner, but fails to keep up such security, the Court may, if it thinks fit, remove him from his office. Failing to keep up security.
271. A trustee intending to resign his office shall call a meeting of creditors to consider whether his resignation shall be accepted or not, and shall give not less than seven days' notice of the meeting to the Receiver. Notice of resignation..
272. The creditors, or, as the case may be, the committee of inspection, in voting the remuneration of the trustee, shall have regard to the amount realised exclusive of any sums paid to secured creditors out of the proceeds of their securities, and to the amount distributed in dividend. Remuneration of trustee.
273. In any case in which, under the provisions of subsection (7) of section 20 or subsection (3) of section 79 of the Ordinance, the Court appoints a trustee, the trustee shall receive out of the estate such remuneration as the Court shall determine. Remuneration of trustee appointed by the Court.
274. (1) Where a trustee carries on the business of the debtor, he shall keep a distinct account of the trading, and shall incorporate in the Cash Book the total weekly amount of the receipts and payments on such trading account. Trustee carrying on business.
- (2) The trading account shall from time to time, and not less than once every month, be verified by affidavit, and the trustee shall thereupon submit such account to the committee of inspection (if any) or such member thereof as may be appointed by the committee for that purpose, who shall examine and certify the same.

Application  
for release.  
Form 172.  
Form 158.

**275.** A trustee before making application to the Court for his release, shall give notice of his intention so to do to all the creditors of the debtor who have proved for debts exceeding \$24 in amount, and to the debtor, and shall send with such notice a summary of his receipts and payments: Provided that where such application is made upon the trustee ceasing to act by reason of a composition having been approved under section 22 of the Ordinance, such notice and summary shall be sent to the debtor only.

Delivery of  
books, etc.,  
on release of  
trustee.

**276.** The release of a trustee shall not take effect unless and until he has delivered over to the Receiver all the books, papers, documents, and accounts which by the Rules he is required to deliver over on his release.

Meeting to  
consider the  
conduct of  
trustee.

**277.** Where one-fourth in value of the creditors desire that a general meeting of creditors may be summoned to consider the propriety of removing the trustee, such meeting may be summoned by a member of the committee of inspection, or by the Receiver, on the deposit of a sum sufficient to defray the expenses of summoning such meeting.

Payments  
into and out  
of a bank.

**278.** (1) The trustee shall forthwith pay into the bank selected by the creditors to the credit of the estate all moneys received by him: Provided that where no bank has been selected, or where an estate is being administered under section 114 of the Ordinance, the trustee shall pay such moneys into such bank as he shall think fit.

(2) All payments out shall be made by cheque payable to order, and subject to Rule 244 (15) every cheque shall have marked or written on the face of it the name of the estate, and shall be signed by the trustee, and countersigned by at least one member of the committee of inspection or by such other person if any as the creditors or committee of inspection may appoint and where there is no committee by such person if any as the Receiver may direct.

Application  
for  
directions.  
Form 154.

**279.** Where a trustee desires to apply to the Court for directions in any matter, he may file an application, and the Court shall then hear the application or fix a day for hearing it and direct the trustee to apply by motion.

Copy of  
trustee's  
accounts.

**280.** Any creditor who has proved his debt may apply to the trustee for a copy of the accounts (or any part thereof) relating to the estate, as shown by the Cash Book up to date, and on paying for the same at the rate of 6c. per folio he shall be entitled to have such copy accordingly.

Statements  
of accounts  
to be  
furnished to  
creditors.  
Form 170.

**281.** Where in pursuance of section 85 of the Ordinance the Receiver or trustee is required to transmit to creditors a statement of the accounts, the cost of furnishing and transmitting such statement shall be calculated at the rate of 6c. per folio for each statement when the creditors do not exceed ten, and when the creditors exceed ten, 24c. per folio, for the preparation of the statement and the actual cost of printing.

Dealings  
with estate.

**282.** Neither the trustee nor any member of the committee of inspection of an estate shall, while acting as trustee or member of such committee, except by leave of the Court, either directly or indirectly, by himself or any partner, clerk, agent or servant, become purchaser of any part of the estate. Any such purchase made contrary to the provisions of this Rule may be set aside by the Court on the application of the Receiver or any creditor.

Trustee not  
to purchase  
from his  
employer  
or partner  
without the  
Court's  
sanction.

**283.** (1) Where the trustee carries on the business of the debtor, he shall not, without the express sanction of the Court, purchase goods for the carrying on of such business from his employer (if any) or from any person whose connection with the trustee is of such a nature as would result in the trustee obtaining any portion of the profit (if any) arising out of the transaction.

Committee  
of  
Inspection.

(2) No member of a committee of inspection of an estate shall, except under and with the sanction of the Court, directly or indirectly by himself or an employer, partner, clerk, agent, or servant be entitled to derive any profit from any transaction arising out of the bankruptcy, or to receive out of the estate any payment for services rendered by him in connection with the administration of the estate, or for any goods supplied by him to the trustee for or on account of the estate. If it appears to the Court that any profit or payment has been made contrary to the provisions

of this Rule, the Court may direct the Receiver to disallow such payment or recover such profit, as the case may be, on the audit of the trustee's account.

(3) Where the sanction of the Court under this Rule to a payment to a member of a committee of inspection for services rendered by him in connection with the administration of the estate is obtained, the order shall specify the nature of the services, and shall only be given where the service performed is of a special nature. No payment shall under any circumstances, be allowed to a member of a committee for services rendered by him in the discharge of his duties attaching to his office as a member of such committee. Sanction of payments to members of committee of inspection.

(4) In any case in which the sanction of the Court is obtained under this Rule or under Rule 282, the cost of obtaining such sanction shall be borne by the person in whose interest such sanction is obtained, and shall not be payable out of the debtor's estate.

**284.** (1) Where a debtor is adjudged bankrupt, and a trustee is appointed, the Receiver shall forthwith put the trustee in possession of all the property of the bankrupt of which the Receiver may be possessed: Provided that such trustee shall have, before the estate is handed over to him by the Receiver, discharged any balance due to the Receiver on account of fees, costs, and charges properly incurred by him and payable under the Ordinance, and on account of all advances made by him in respect of the estate, together with interest on such advances at the rate of six per centum per annum, and shall have discharged or undertaken to discharge all guarantees which have been properly given by the Receiver for the benefit of the estate; and the trustee shall pay all fees, costs and charges of the Receiver which may not have been discharged by the trustee before being put into possession of the property of the bankrupt, and whether incurred before or after he has been put into such possession. Discharge of costs, etc., before estate handed over to trustee.

(2) The Receiver shall be deemed to have a lien on the estate until such balance shall have been paid, and such guarantees and other liabilities have been discharged.

(3) It shall be the duty of the Receiver, if so requested by the trustee, to communicate to the trustee all such information respecting the bankrupt and his estate and affairs as may be necessary or conducive to the due discharge of the duties of the trustee.

**285.** Where the Receiver is of opinion that any act done by the trustee or any resolution passed by a committee of inspection should be brought to the notice of the creditors, for the purpose of being reviewed or otherwise, the Receiver may summon a meeting of creditors accordingly to consider the same, and the expense of summoning such meeting shall be paid by the trustee out of any available assets under his control. Meetings of creditors to consider the conduct of trustee.

SPECIAL MANAGER.

**286.** Where a special manager is appointed, and his remuneration is not fixed by the creditors, he shall be paid such remuneration as the Court shall think fit. Remuneration of special manager.

**287.** Every special manager shall account to the Receiver, and the special manager's accounts shall be verified by affidavit in the prescribed form, and when approved by the Receiver, the totals of the receipts and payments shall be added to the Receiver's accounts. Accounts.

SECURITY BY TRUSTEE OR SPECIAL MANAGER.

**288.** In the case of a trustee or special manager, the following rules as to security shall be observed:— Standing security.

(1) The security shall be given to such officers or persons and in such manner as the Court may from time to time direct.

(2) It shall not be necessary that security shall be given in each separate matter; but security may be given either specially in a particular matter or generally to be available for any matter in which the person giving security may be appointed, either as trustee or special manager.

(3) The Court shall fix the amount and nature of such security, and may from time to time, as it thinks fit, either increase or diminish the amount of special or general security which any person has given.

## ACCOUNTS AND AUDIT.

Record Book.

**289.** The Receiver until a trustee is appointed, and thereafter the trustee, shall keep a book to be called the "Record Book," in which he shall record all minutes, all proceedings had, and resolutions passed at any meeting of creditors, or of the committee of inspection, and all such matters as may, be necessary to give a correct view of his administration of the estate, but he shall not be bound to insert in the record any document of a confidential nature (such as the opinion of counsel on any matter affecting the interest of the creditors), nor need he exhibit such document to any person other than a member of the committee of inspection.

Cash Book.

**290.** The Receiver, until a trustee is appointed and thereafter the trustee, shall keep a book to be called the "Cash Book," in which he shall (subject to the provisions of these Rules as to trading accounts) enter from day to day the receipts and payments made by him.

Books to be opened to committee of inspection.

**291.** The trustee shall submit the Record Book and Cash Book, together with any other requisite books and vouchers, to the inspection of the committee of inspection (if any) when required, and not less than once every three months.

Audit of Cash Book. Form 165.

**292.** The committee of inspection shall, not less than once every three months, audit the Cash Book and certify therein under their hands the day on which the said book was audited.

Audit of trustee's accounts.

**293.** (1) Every trustee shall, at the expiration of six months from the date of the receiving order, and at the expiration of every succeeding six months thereafter until his release, transmit to the Registrar or to such person if any, as the Court shall direct, a duplicate copy of the Cash Book for such period, together with the necessary vouchers and copies of the certificate of audit by the committee of inspection. He shall also forward with the first accounts a summary of the debtor's statement of affairs, showing thereon in red ink the amounts realised, and explaining the cause of non-realisation of such assets as may be unrealised.

(2) When the estate has been fully realised and distributed, or, if the adjudication is annulled, the trustee shall forthwith send in his accounts to the Registrar or to such person, if any, as the Court shall direct, although the six months may not have expired.

Form 166.

(3) The accounts sent in by the trustee shall be certified and verified by him.

Copy of accounts to be filed.

**294.** When the trustee's account has been audited, the Registrar or other person making the audit shall certify that the account has been duly passed, and thereupon the duplicate copy, bearing a like certificate, shall be filed with the proceedings in the bankruptcy.

Affidavit of no receipt.

**295.** Where a trustee has not, since the date of his appointment or since the last audit of his accounts, as the case may be, received or paid any sum of money on account of the debtor's estate, he shall, at the period when he is required to transmit his Cash Book, forward an affidavit of no receipts or payments.

Proceedings on resignation, etc., of trustee.

**296.** Upon the trustee resigning or being released or removed from his office, he shall deliver over to the Receiver, or as the case may be, to the new trustee, all books kept by him, and all other books, documents, papers, and accounts in his possession relating to the office of trustee.

Joint and separate estates accounts.

**297.** Where a receiving order has been made against debtors in partnership, distinct accounts shall be kept of the joint estate and of the separate estate or estates, and no transfer of a surplus from a separate estate to the joint estate, on the ground that there are no creditors under such separate estate, shall be made until notice of the intention to make such transfer has been gazetted.

298. Where property forming part of a debtor's estate is sold by the trustee through an auctioneer or other agent, the gross proceeds of the sale shall be paid over by such auctioneer or agent, and the charges and expenses connected with the sale shall afterwards be paid to such auctioneer or agent on the production of his taxed bill of charges. Every trustee, by whom such auctioneer or agent is employed, shall be accountable for the proceeds of such sale. Expenses of sales.

299. In any case in which, under the provisions of section 61 of the Ordinance the trustee makes an allowance to a bankrupt out of his property, such allowance unless the creditors by special resolution determine otherwise, shall be in money, and the amount allowed shall be duly entered in the trustee's accounts. Allowances to debtor.

UNCLAIMED FUNDS, ETC., UNDER SECTION 135.

300. Any person whose duty it is pursuant to section 135 of the Ordinance, to pay into Court any unclaimed funds or dividends, shall first apply to the Registrar for a paying-in order. The paying-in order shall be an authority to the Accountant General to receive the payment. Mode of payment into Court.

301. An application under section 135 of the Ordinance, for payment of any sum to which any person claims to be entitled, shall be made in such form and manner as may from time to time be prescribed, and shall (unless the Court dispenses therewith) be supported by the affidavit of the claimant and such further evidence as the Court may require. Application for payment out by party entitled.

302. For the purposes of subsection (1) of section 135 of the Ordinance, the Court may at any time order the trustee under any bankruptcy, composition or scheme, to submit to the Court an account verified by affidavit of the sums received and paid by him under or in pursuance of any such bankruptcy, composition or scheme, and may direct and enforce an audit of the account, and payment of any unclaimed or undistributed moneys arising from the property of the debtor in the hands or under the control of such trustee into Court in accordance with the terms of the said subsection. Accounts by trustees of unclaimed funds.

PART 5.

JUDGMENT DEBTORS.

303. (1) When a receiving order is made under section 98 of the Ordinance, the creditor shall pay the like fee and deposit as are prescribed in the case of a bankruptcy petition. Fee on Receiving Order.

(2) Where the Court is of opinion that a receiving order ought to be made in lieu of committal, and the judgment creditor does not consent to pay the required fee and deposit, the Court may dismiss the application or adjourn it on such terms, as to costs and otherwise, as may be just.

304. When a receiving order is made under section 98 of the Ordinance, the Court may, if satisfied, by affidavit or otherwise, or by the report of the Receiver, that the property of the debtor (after deduction of any property in the hands of secured creditors, debts enforceable by distraint, the costs of execution under section 45 (1) of the Ordinance, and all debts which under the Ordinance are directed to be paid in priority to other debts), is not likely to exceed in value \$1,440, make an order that the debtor's estate be administered in a summary manner pursuant to section 114 of the Ordinance and these Rules. Summary administration.

PART 6.—MISCELLANEOUS.

305. (1) Any person who knowingly falsifies or fraudulently alters any document in or incidental to any proceeding under the Ordinance or these Rules shall be deemed to be guilty of contempt of court and shall be liable to be punished accordingly. Falsification of documents.

(2) The penalty imposed by this Rule shall be in addition to, and not in substitution for, any other penalty, punishment, or proceeding to which such person may be liable.

- No lien on debtor's books.      **306.** No person shall, as against the Receiver or trustee, be entitled to withhold possession of the books of accounts belonging to the debtor, or set up a lien thereon.
- Debtor's books.      **307.** The Court may on the application of the Receiver direct that the debtor's books of account and other documents given up by him may be sold, destroyed or otherwise dealt with.
- Effect of non-compliance with Rules.      **308.** Non-compliance with any of these Rules, or with any rule of practice for the time being in force, shall not render any proceeding void unless the Court shall so direct, but such proceeding may be set aside, either wholly or in part, as irregular, or amended or otherwise dealt with in such manner and upon such terms as the Court may think fit.
- Abridgment or enlargement of time.      **309.** The Court may, under special circumstances and for good cause shown, extend or abridge the time appointed by these Rules or fixed by any order of the Court for doing any act or taking any proceeding.
- Rules of Supreme Court not to apply unless provided for.      **310.** Save as provided by these Rules, the Rules of the Supreme Court shall not apply to any proceeding in bankruptcy.

## LIST OF FORMS.

	FORM.
Adjournment of Petition	22
Admission of Debt by Debtor of Bankrupt	136
Affidavit by Special Manager	171
Affidavit in support of Application for Committal of Debtor for Contempt under section 23	117
Affidavit in support of Application for Enforcement of Provisions of Composition	87
Affidavit of Justification	21
Affidavit of Non-Compliance with Order under section 97 (3)	125
Affidavit of Person interested in Composition for Committal	116
Affidavit of Postage of Notices of First Meeting	40
Affidavit of Postage of Notices (General)	49
Affidavit of Service of Bankruptcy Notice	6
Affidavit of Service of Petition	14
Affidavit of Trustee under section 52 (5)	118
Affidavit of Truth of Statements in Petition	11
Affidavit of Truth of Statements in Joint Petition	12
Affidavit on Application to set aside Bankruptcy Notice	7
Affidavit verifying Trustee's Account	166
Affidavit verifying Trustee's Trading Account	169
Affidavit of after-acquired Property	111
Application by Creditor for Order for Trustee to pay Dividend, and Order thereon	164
Application by Receiver for Order fixing Public Examination	61
Application by Receiver for Adjudication	91-95
Application by Receiver for Adjudication (Summary Case)	94
Application by Trustee for Committal of Bankrupt or other Person	115
Application by Trustee for Release	173
Application for Directions by Trustee	154
Application for Enforcement of Composition	86
Application for Extension of Time for First Meeting, and Order thereon	34
Application for Interim Receiver	13
Application for Order of Discharge	100
Application for Summary Administration	32
Application to annul Adjudication	98
Application to appoint a Day for approving Composition or Scheme	60
Application to appoint Day for approving Composition or Scheme in Summary Case	81
Application to extend Time for accepting or approving Composition or Scheme and Order thereon	79

	FORM.
Appointment of Shorthand Writer ... ..	65
Authority to Deputy to act as Chairman ... ..	42
Authority to Trustee to pay dividends to another person ... ..	163
Bankruptcy Notice ... ..	5
Bond on Stay of Proceedings, Security account ... ..	19
Certificate by Committee of Inspection as to Audit of Trustee's Accounts ...	165
Certificate for Removal of Disqualifications ... ..	112
Certificate of Appointment of Trustee ... ..	113
Certificate of Number of Creditors ... ..	101
Certificate of Postage of Notices (First Meeting) ... ..	40
Certificate of Postage of Notices (General) ... ..	49
Certificate of Approval of Composition or Scheme ... ..	89
Consent of Bankrupt to Judgment ... ..	109
Creditors' Petition ... ..	9
Creditors' Petition (Section 115) ... ..	10
Debtors' petition ... ..	3
Declaration by Shorthand Writer ... ..	66
Declaration of Inability ... ..	2
Disclaimer without Notice ... ..	148
Disclaimer after Notice ... ..	149
Disclaimer, with leave, of Lease ... ..	150
Dismissal of Petition ... ..	23
Dismissal of Petition (Stay of Proceedings) ... ..	24
General Proxy ... ..	59
General Title ... ..	1
Judgment to be entered pursuant to Bankrupt's consent ... ..	110
List of Creditors Assembled to be used at every Meeting ... ..	53
List of Creditors at Meeting to consider Scheme or Composition ... ..	54
Memorandum of Adjournment of First or other Meeting ... ..	45
Memorandum of Advertisement or Gazetting ... ..	178
Memorandum of Proceedings at First Meeting (Summary Case) ... ..	44
Memorandum of Proceedings at adjourned First Meeting. No Quorum ...	46
Memorandum of Public Examination ... ..	72
Minutes of Meeting for receiving Resignation of Trustee ... ..	52
Notes of Public Examination when Shorthand Writer appointed ... ..	67
Note of Public Examination when Shorthand Writer not appointed ... ..	68
Notice by Debtor of Intention to oppose Petition ... ..	17
Notice for <i>Gazette</i> of intention to transfer Separate Estate to Joint Estate ...	177
Notices for <i>Royal Gazette</i> ... ..	178
Notice in <i>Gazette</i> of Substituted Service of Petition ... ..	15
Notice of Application for Committal under sections 17 or 22 ... ..	119
Notice of Application for Committal under section 23 ... ..	120
Notice of Application for Committal under section 52 (5) ... ..	121
Notice of application to set aside income of separate property ... ..	141
Notice of day for proceeding with Public Examination (Local Paper) ... ..	64
Notice of Disclaimer without leave ... ..	151
Notice of Disclaimer with leave ... ..	152
Notice requiring Question of Disclaimer to be brought before Court ... ..	153
Notice of Dividend ... ..	162
Notice of intention to disclaim Lease ... ..	145
Notice to Landlord of intention to disclaim Property not sub-let or mortgaged ... ..	146
Notice of intention to disclaim Property sub-let or mortgaged ... ..	147
Notice of Meeting (General Form) ... ..	48

	FORM.
Notice of Meeting to appoint New Trustee ... ..	51
Notice of Receiving Order, etc. ... ..	28-30
Notice of Rejection of Proof of Debt ... ..	58
Notice of Sureties ... ..	20
Notice to Bankrupt under section 54 ... ..	140
Notice to Creditors of Adjourned Meeting ... ..	39
Notice to Creditors of Application to approve Composition or Scheme ... ..	82
Notice to Creditors of Application to approve Composition or Scheme (Summary Case) ... ..	83
Notice to Creditors of First Meeting ... ..	35
Notice to Creditors of Meeting to remove Trustee and to fill Vacancy ... ..	50
Notice to Creditors of Application for Discharge ... ..	103
Notice to Creditors of intention to declare Dividend ... ..	159
Notice to Creditors of intention to pay Composition ... ..	161
Notice of Creditors of intention to apply for Release ... ..	172
Notice to Creditors of First Meeting where no offer for composition (Summary Case) ... ..	36
Notice of First or other Meeting where Debtor submits offer ... ..	37
Notice to Creditors of Meeting where Debtor submits offer (Summary Case) ... ..	38
Notice to Debtor to attend First Meeting ... ..	41
Notice to Debtor of intended Application for Adjudication ... ..	90
Notice to Receiver of Application by Debtor to Court to approve Composition or Scheme ... ..	84
Notice to Receiver and Trustee of Application for Discharge ... ..	102
Notice to persons claiming to be creditors of intention to declare Final Dividend ... ..	160
Order annulling Adjudication ... ..	99
Order appointing Public Examination ... ..	62
Order adjourning Public Examination ... ..	69
Order for Administration of Estate of deceased Debtor on Petition ... ..	156
Order for Administration of Estate of deceased Debtor on Transfer of Proceedings ... ..	157
Order for Discharge from Custody on Contempt ... ..	127
Order dispensing with Public Examination ... ..	70
Order for Examination of Afflicted Debtor ... ..	71
Order for Production of Person in Prison for Examination ... ..	128
Order for Enforcement of Provisions of Composition ... ..	88
Order for payment of income of separate property ... ..	144
Order for production of person apprehended under section 26 ... ..	139
Order for Summary Administration ... ..	33
Order of Adjudication ... ..	96-97
Order of Committal under sections 17 or 22 ... ..	122
Order of Committal under section 23 ... ..	123
Order of Committal under section 52 (5) ... ..	124
Order of Court that Examination is concluded ... ..	73
Order of Court for General Meeting of Creditors ... ..	47
Orders as to Discharge ... ..	104-108
Order on application of Trustee for Directions ... ..	155
Order on application to approve Composition ... ..	85
Order restraining Action before Receiving Order ... ..	25
Order setting aside Bankruptcy Notice ... ..	8
Order setting aside Pay, etc., under section 54 (1) ... ..	142
Order setting aside Pay, etc., under section 54 (2) ... ..	143
Order to pay admitted debt ... ..	137
Order to Postmaster-General under section 25 ... ..	132
Order to stay Proceedings on Petition ... ..	18
Order for Substituted Service ... ..	16
Profit and Loss Account ... ..	168
Proofs of Debt ... ..	55-57
Proposal for Composition ... ..	74
Proposal for Scheme ... ..	75

	FORM.
Receiving Order. Creditors' Petition ... ..	27
Receiving Order. Debtors' Petition ... ..	26
Register of Bankruptcy Notices ... ..	174
Register of Petitions ... ..	175
Register of Receiving Orders ... ..	176
Report of appointment of Trustee to fill Vacancy ... ..	114
Report of Receiver on proposal for Scheme or Composition ... ..	76
Report of Receiver where Witness refuses to answer ... ..	63
Request for issue of Bankruptcy Notice ... ..	4
Request to deliver Bill for Taxation ... ..	147
Resolution accepting Composition ... ..	77
Resolution accepting Scheme ... ..	78
Resolution where Adjudication resolved on ... ..	43
Search Warrant ... ..	129
Special Proxy ... ..	60
Statement of Affairs ... ..	31
Statement of Accounts under section 90 (2) ... ..	170
Statement to accompany Notice of Dividend or Application for Release ... ..	158
Subpoena ... ..	133
Subpoena Duces Tecum ... ..	134
Summons under section 26 ... ..	135
Trustee's Trading Account ... ..	167
Voting Letter ... ..	76
Warrant against Debtor about to quit the Colony ... ..	131
Warrant of Committal for Contempt ... ..	126
Warrant of Seizure ... ..	130
Warrant to Apprehend Person summoned under section 26 ... ..	138

APPENDIX.

PART 1.

No. 1.

General Title.

IN THE SUPREME COURT OF TRINIDAD AND TOBAGO.

In Bankruptcy.

No. of 19

Re [James Brown]

Ex parte [here insert "the Debtor" or J. S. a creditor," or "the Receiver" or "the Trustee."]

No. 2.

Declaration of Inability to Pay.

(Title.)

I, A.B. [name and description of debtor], residing at [and carrying on business at ], hereby declare that I am unable to pay my debts.

Dated this day of 19

(Signature)  
A.B.

Signed by the debtor in my presence.

Signature of witness.

Address.

Description.

Filed the day of 19

NOTE.—Where the debtor resides at a place other than his place of business both addresses should be inserted.

No. 3.

## Debtor's Petition.

(Title.)

(a) Insert name, address, and description of debtor.  
 (b) Insert the other address or addresses at which unsatisfied debts or liabilities may have been incurred.

I (a) lately residing at [and carrying on business at (b) ] having for the greater part of the past six months resided at [and carried on business at ] within the jurisdiction of the Court and being unable to pay my debts, hereby petition the Court that a receiving order be made in respect of my estate [and that I may be adjudged bankrupt].

Dated the            day of            19            .

(Signature.)

Signed by the debtor in my presence.

Signature of witness.

Address.

Description.

Filed the            day of            19            .

NOTE.—Where the debtor resides at a place other than his place of business both addresses should be inserted.

No. 4.

## Request for Issue of Bankruptcy Notice.

IN THE SUPREME COURT OF TRINIDAD AND TOBAGO.

In Bankruptcy.

1. I, C.D., of            , hereby request that a bankruptcy notice be issued by this Court against [here insert name, description, and address of judgment debtor].

2. The said A.B. has for the greater part of the past six months resided at [or carried on business at            ] within the jurisdiction of this Court.

3. I produce an office copy of a final judgment against the said A.B. obtained by [me] in the            Court on the            day of            .

4. Execution on the said judgment has not been stayed.

Dated this            day of            19            .

C.D., judgment creditor

or,

[E.F., solicitor for the judgment creditor.]

NOTE.—Where the debtor resides at a place other than his place of business both addresses should be inserted.

No. 5.

## Bankruptcy Notice.

(Title.)

To A.B. (or A.B. &amp; Co.)            , of            .

TAKE NOTICE that within [seven] days after service of this Notice on you excluding the day of such service, you must pay to            of            [or to            of            his (or their) agent duly authorised] (a) the sum of \$            claimed by (b)            as being the amount due on a Final Judgment or Order obtained by (c)            against you in the Court, dated            , whereon execution has not been stayed, or you must secure or compound for the said sum to (d) satisfaction [or the satisfaction of his (or their) said agent] (a) or to the satisfaction of the Court; or you must satisfy the Court that you have a counterclaim, set-off, or cross-demand against (c)            which equals or exceeds the sum claimed by (c)            and which you could not set up in the action or other proceedings in which the Judgment or Order was obtained.

Dated this            day of            19            .

By the Court,

Registrar.

(a) Strike out if no agent authorised.  
 (b) Insert name of creditor.  
 (c) "him"  
 or "them."  
 (d) "his"  
 or "their."

**Indorsement on Notice.**

*You are specially to note:*

That the consequences of not complying with the requisitions of this notice are that you will have committed an act of bankruptcy, on which bankruptcy proceedings may be taken against you.

If, however, you have a counterclaim, set-off, or cross-demand which equals or exceeds the amount claimed by (e) in respect of the Judgment or Order and which you could not set up in the action or other proceedings in which the said Judgment or Order was obtained, you must within days apply to the Court to set aside this notice by filing with the Registrar an affidavit to the above effect.

(f)

(e) Name of creditor.  
(f) Name and address of solicitor suing out the notice, or "This notice is sued out by in person."

No. 6.

**Affidavit of Service of Bankruptcy Notice.**

(Title.)

In the matter of a bankruptcy notice issued.

I, L.M., of make oath and say:—

1. That I did on day of day of 19 , serve the above-mentioned A.B. [or the partners in the above-mentioned firm of ] with a copy of the above-mentioned notice, duly sealed with the seal of the Court, by delivering the same personally to the said A.B. [or C.D. a partner or E.F. a person having at the time of service the control and management of the partnership business there or of the business carried on under the above-mentioned name or style] at [place] before the hour of in the noon.

2. A sealed copy of the said notice marked A is hereunto annexed.

Sworn at, etc. L.M.

NOTE.—If the service is effected on one partner on behalf of his firm or on a person having at the time of service the control or management of the partnership business there or of a business carried on by any person in a name or style other than his own, the affidavit must, after the word "at," contain the words "being the principal place of business of the said " " ."

No. 7.

**Affidavit on an Application to set aside Bankruptcy Notice.**

(Title.)

I, A.B., of make oath and say:—

1. That I was, on the day of , served with the notice hereunto annexed [or describe the notice].

That I have satisfied the judgment debt claimed by C.D. by [state nature of satisfaction].

Or

2. That I have a counter-claim [or set-off or cross demand] for \$ being a sum equal to [or exceeding] the claim of the said C.D. in respect of [here state grounds of counter-claim].

3. That I could not have set up the said counter-claim [or as the case may be] in the action in which the said judgment was obtained against me.

Sworn, etc.

No. 8.

## Order setting aside Bankruptcy Notice.

(Title.)

In the matter of a bankruptcy notice issued.

Upon the application of A.B. to set aside this notice, and upon reading the affidavit of A.B. [and upon hearing C.D. (if present)], it is ordered that this notice be set aside, and that C.D. [or as the case may be] pay to A.B. the sum of \$ [or the costs of this matter].

Dated this            day of            , 19 .

By the Court,  
Registrar.Or  
(Title.)

In the matter of a bankruptcy notice issued.

Upon the application of A.B. to set aside this notice, and upon reading and hearing            and upon the said A.B. having entered in a bond in the penal sum of [the amount of the alleged debt and probable costs or such other sum as the Court may direct], with such two sufficient sureties as the Court [or C.D.] has approved [or having deposited in Court the sum of \$            ], as security for the amount claimed by the notice, the condition of the bond [or deposit] being [here insert condition], it is ordered, etc.

Dated this            day of            , 19 .

By the Court,  
Registrar.

(a) Insert name of debtor.  
(b) Insert present address and description of debtor.  
(c) Insert address or addresses at which the debtor has lately resided, or carried on business.  
Note.—The address at which the debtor was residing or carrying on business when the petitioning creditor's debt was incurred should in all cases appear in the petition.

No. 9.

## Creditors' Petition.

(Title.)

I, C.D., of            [or we, C.D., of            , and E.F., of            ] hereby petition the Court that a receiving order may be made in respect of the estate of (a)            of (b)            and lately carrying on business at [or residing at] (c),            and say:—

1. That the said A.B. has for the greater part of six months next preceding the presentation of this petition resided [or carried on business] at            within the jurisdiction of this Court.

2. That the said A.B. is justly and truly indebted to me [or us] in the aggregate in the sum of \$            [set out amount of debt, debtors and the consideration].

3. That [I or we] do not, nor does any person on my [or our] behalf hold any security on the said debtor's estate, or any part thereof, for the payment of the said sum.

Or

That I hold security for the payment of [or part of] the said sum but that I will give up such security for the benefit of the creditors of A.B. in the event of his being adjudged bankrupt [or and I estimate the value of such security at the sum of \$            ]

Or

That I, C.D., one of your petitioners, hold security for the payment of, etc.

Or

That I, E.F., another of your petitioners, hold security for the payment of, etc.

4. That A.B. within three months before the date of the presentation of this petition has committed the following [act or acts] of bankruptcy namely [here set out the nature and date or dates of the act or acts of bankruptcy relied on.]

Dated this            day of            , 19 .

(Signed)            C.D.  
E.F.

Signed by the petitioner in my presence

Signature of witness.

Address.

Description.

NOTE.—If there be more than one petitioner, and they do not sign together, the signature of each must be separately attested, *e.g.*, “Signed by the petitioner E.F. in my presence.” If the petition is signed by a firm, the partner signing should add also his own signature, *e.g.*, “A.S. & Co. F.S., a partner in the said firm.” If the debtor resides at any place other than the place where he carries on business both addresses should be inserted.

*Indorsement.*

This petition having been presented to the Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, it is ordered that this petition shall be heard at (a) [*insert the place at which the debtor is to attend on the Receiver*] on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon.

And you the said A.B. are to take notice that if you intend to dispute the truth of any of the statements contained in the petition you must file with the Registrar of this Court a notice showing the grounds upon which you intend to dispute the same, and send by post a copy of the notice to the petitioner [three] days before the date fixed for the hearing.

No. 10.

**Creditors' Petition for Administration of Estate of Deceased Debtor under Section 115.**

*(Title.)*

I, C.D., of \_\_\_\_\_, [*or we, C.D., of \_\_\_\_\_ and E.F., of \_\_\_\_\_*], hereby petition the Court that an order be made for the administration in bankruptcy of the estate of the late [*here insert the name and description of deceased debtor*], who died on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and say:—

1. That the said A.B. for the greater part of the six months next preceding his decease resided [*or carried on business*] at \_\_\_\_\_ within the jurisdiction of this Court.

2. That the estate of the said A.B. is justly and truly indebted to me [*or us*] in the aggregate in the sum of \$ \_\_\_\_\_ [*set out the amount of debt or debts and the consideration*].

3. That [*I*] do not nor does any person on [*my*] behalf hold any security on the said deceased debtor's estate, or on any part thereof, etc. [*or as in Form No. 9, Creditor's Petition*].

4. That A.B. within three months next before the said date of his decease committed the following act [*or acts*] of bankruptcy, namely [*here set out the nature and date or dates of the act or acts of bankruptcy relied on*].

*Or*

That the will of the said A.B. [*or as the case may be*] was on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, proved by J.S. of \_\_\_\_\_, and G.H., of \_\_\_\_\_, who consent to this petition.

*Or*

That letters of administration [*or as the case may be*] were on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, granted to J.S. of \_\_\_\_\_, and G.H. of \_\_\_\_\_, and that the estate of the said A.B. is [*according to my information and belief*] insufficient to pay his debts.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signed) C.D.  
E.F.

Signed by the petitioner in my presence.

*Signature of witness.*

*Address.*

*Description.*

*Indorsement.*

This petition having been presented to the Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, it is ordered that this petition shall be heard at \_\_\_\_\_ noon.

If you, the said J.S. or G.H., intend to dispute the matter of any of the statements contained in the petition, you must file with the Registrar of this court a notice showing the grounds upon which you intend to dispute the same.

No. 11.

**Affidavit of Truth of Statements in Petition.**

(Title.)

I, the petitioner named in the petition hereunto annexed, make oath [*if the petitioner declare or affirm, alter the form accordingly*] and say:—

1. That the several statements in the said petition are within my own knowledge true.

Sworn at, etc.

C.D.

NOTE.—If the petitioner cannot depose that the truth of all the several statements in the petition is within his own knowledge he must set forth the statements the truth of which he can depose to, and file a further affidavit by some person or persons who can depose to the truth of the remaining statements.

No. 12.

**Affidavit of Truth of Statements in Joint Petition.**

(Title.)

We, C.D., E.F., G.H., etc., the petitioners named in the petition hereunto annexed, severally make oath and say:—

And first I, the said C.D. for myself say:—

1. That A.B. is justly and truly indebted to me in the sum of \_\_\_\_\_ as stated in the said before-mentioned petition.

2. That the said A.B. committed the act [*or acts*] of bankruptcy stated to have been committed by him in the said before-mentioned petition.

3. That A.B. has for the greater part of the past six months resided [*or carried on business*] at \_\_\_\_\_

And I, the said E.F., for myself say:—

4. That A.B. is justly and truly indebted to me in the sum of \_\_\_\_\_ as stated in the said before-mentioned petition.

And I, the said G.H., for myself say:—

5. That A.B. is, etc.

C.D.  
E.F.  
G.H.

Sworn by the deponents C.D., E.F. and G.H., etc.

[See note to last Form.]

No. 13.

**Application for Interim Receiver.**

(Title.)

I, C.D., of \_\_\_\_\_, do, on the grounds set forth in the annexed affidavit, apply to the Court to appoint some fit and proper person as Interim Receiver of the property of the said A.B. and [*here insert any special directions to the Receiver that may be desired*].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

(Signed) C.D.

Order thereon.

Upon reading this application and the affidavit therein referred to, and hearing it is ordered that upon a deposit of \$ \_\_\_\_\_ being lodged by the applicant, X.Y., of \_\_\_\_\_ be thereupon constituted Interim Receiver of the property of the said A.B. and [*here insert directions, if any*].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

By the Court,  
Registrar.

No. 14.

**Affidavit of Service of Petition.***(Title.)*

In the matter of a petition dated

I, L.M. of \_\_\_\_\_, make oath and say:—

1. That I did, on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, serve the above-mentioned A.B. with a copy of the above-mentioned petition, duly sealed with the seal of the Court, by delivering the same personally to the said A.B. at [place] before the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon.

2. A sealed copy of the said petition is hereunto annexed.

Sworn at, etc.

L.M., *Marshal, creditor,  
solicitor or his clerk.*

NOTE.—If the service is effected on one partner on behalf of his firm the affidavit must, after the word “at,” contain the words “being the principal place of business of the said \_\_\_\_\_.”

No. 15.

**Substituted Service of Petition. Notice in Gazette.**

In the

In Bankruptcy.

In the matter of a bankruptcy petition filed the \_\_\_\_\_ day of

To A.B., of \_\_\_\_\_

Take notice, that a bankruptcy petition has been presented against you to this Court by C.D. of \_\_\_\_\_ and the Court has ordered that the publication of this notice in the *Royal Gazette* and in the \_\_\_\_\_ newspapers [following the terms of the order for substituted service] shall be deemed to be service of the petition upon you; and further take notice that the said petition will be heard at this Court on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, on which day you are required to appear, and if you do not appear the Court may make a receiving order against you in your absence.

The petition can be inspected by you on application to the Registrar.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*Registrar.*

No. 16.

**Order for Substituted Service of a Petition.***(Title.)*

In the matter of a bankruptcy petition filed the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, upon the application of \_\_\_\_\_, and upon reading the affidavit of \_\_\_\_\_, of \_\_\_\_\_, in the Ward of \_\_\_\_\_

It is ordered that the sending of a sealed copy of the above-mentioned petition together with a sealed copy of this order, by registered post, addressed to \_\_\_\_\_ in the Ward of \_\_\_\_\_, and/or by publication in the *Royal Gazette* and in the \_\_\_\_\_ newspaper of the presentation of such petition, and the time and place fixed for the hearing of the petition, shall be deemed to be good and sufficient service of the said petition on the said \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ completing such posting and/or publication as aforesaid.

Given under the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,  
*Registrar.*

No. 17.

**Notice by Debtor of Intention to oppose Petition.***(Title.)*

In the matter of a bankruptcy petition presented against me A.B. of  
on the            day of           , 19    by C.D. of            [or and E.F. of  
G.H. of           , etc.]

I, the above A.B., do hereby give you notice that I intend to oppose the making  
of a receiving order as prayed and that I intend to dispute the petitioning  
creditor's debt [or the act of bankruptcy, or as the case may be].

Dated this            day of           , 19   .

To C.D., of           , and to            A.B. and to the Registrar of the said Court.

No. 18.

**Order to Stay Proceedings on Petition.***(Title.)*

In the matter of a bankruptcy petition against A.B., of

Upon the hearing of this petition this day and the said A.B. appearing and  
denying that he is indebted to the petitioner [*where petition presented by more than  
one creditor, add the name of the creditor whose debt is denied*] in the sum stated in  
the petition [or that he is indebted to the petitioner in a sum of a less amount than  
          ], [or that he is indebted to C.D., one of the petitioners, in a sum less  
than the sum stated to be due from him in the petition], it is ordered that the said  
A.B. shall within            days enter into a bond in the penal sum of [*the amount  
of the alleged debt and probable costs, or such other sum as the Court may direct*], with  
such two sufficient sureties as the Court shall approve of to pay [or deposit with  
the Registrar the sum of            as security for the payment of] such sum or sums  
as shall be recovered against the said A.B. by C.D. the petitioner [or one of the  
petitioners] in any proceeding taken or continued by him against the said A.B.  
together with such costs as shall be given by the Court.

And it is further ordered, that upon the said A.B. entering into the bond aforesaid  
all proceedings on this petition shall be stayed until after the Court in which the  
proceedings shall be taken shall have come to a decision thereon.

Dated this            day of           , 19   .

By the Court,  
                                 Registrar.

No. 19.

**Bond on Stay of Proceedings, Security, etc.***(Title.)*

Know all men by these presents, that we, A.B. of, etc., and C.D. of, etc., and  
E.F. of, etc., are jointly and severally held and firmly bound to L.M. of, etc., in  
\$            to be paid to the said L.M., or his certain attorney, executors,  
administrators or assigns. For which payment to be made we bind ourselves and  
each and every one of us, our and each of our heirs, executors, and administrators,  
jointly and severally, firmly by these presents.

Dated this            day of           , one thousand nine hundred and           .

Whereas a bankruptcy petition against the said A.B. having been presented  
to the Court he did appear at the hearing of the said petition and deny that he was  
indebted to the petitioner [or to one or more of the petitioners], [or alleged that he  
was indebted to the petitioner in the sum of \$            only or as the case may be].

Now, therefore, the condition of this obligation is such that if the above-bounden  
A.B. or the said C.D. or E.F. shall on demand well and truly pay or cause to be  
paid to L.M., his attorney or agent, such sum or sums as shall be recovered against

the said A.B. by any proceedings taken or continued within twenty-one days from the date hereof in any competent Court by the said L.M. for the payment of the debt claimed by him in the said petition, together with such costs as shall be given to the said L.M. by such Court, [or whatever the condition of the bond is], this obligation shall be void, otherwise shall remain in full force.

A.B. [L.S.]  
 C.D. [E.S.]  
 E.F. [L.S.]

Signed and delivered by the above-bounden in the presence of

NOTE.—If a deposit of money be made the memorandum should follow the terms of the conditions of the bond. This form may be adapted to other cases.

No. 20.

Notice of Sureties.

(Title.)

In the matter of a bankruptcy petition [or In the matter of a bankruptcy notice by C.D.] of

Take notice that the sureties whom I propose as my security in the above matter [here state the proceedings which has rendered the sureties necessary] are [here state the full names and descriptions of the sureties, and their residence, therein mentioning the ward, places, streets, and numbers, if any].

Dated this day of , 19 .

A.B.

To the Registrar of the Court.

No. 21.

Affidavit of Justification.

(Title.)

In the matter of a bankruptcy petition against A.B. of [or In the matter of a bankruptcy notice by L.M. against A.B. of ]

I, E.F., of , one of the sureties for make oath and say:—

1. That I am a householder [or as the case may be] residing [describing particularly the ward, the street or place, and the number of the house, if any].

2. That I am worth property to the amount of \$ [the amount required] over and above what will pay my just debts [if security in any other action or for any other purpose, add, and every sum for which I am now security].

3. That I am not bail or security in any other matter, action, or proceeding, or for any other person [or if security in any other action or actions, add] except for C.D., at the suit of E.F., in the Court of in the sum of \$ : for G.H., at the suit of I.K., in the Court of in the sum of \$ [specifying the several actions with the Courts in which they are brought and the sums in which he has become bound].

4. That my property, to the amount of the said sum of \$ [and if security in any other action, etc., over and above all other sums for which I am now security as aforesaid], consists of [here specify the nature and value of the property in respect of which the deponent proposes to become bondsman as follows, stock in trade, in my business of carried on by me at of the value of \$ of good book debts owing to me to the amount of \$ , of furniture in my house at of the value of \$ , of a freehold [or leasehold] farm of the value of \$ situate at occupied by , or of a dwelling-house of the value of \$ situate at occupied by , or of other property, particularising each description of property, with the value thereof].

5. That I have for the last six months resided at [describing the place of such residence, or if he has had more than one residence during that period, state in the same manner as above directed].

Sworn at, etc.

E.F.

No. 22.

**Adjournment of Petition.***(Title.)*

Upon the hearing of the petition this day, it is ordered that the further hearing of this petition be adjourned until the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,  
*Registrar.*

No. 23.

**Dismissal of Petition.***(Title.)*

In the matter of a bankruptcy petition filed the [date \_\_\_\_\_].

Upon the hearing of this petition this day, and upon reading \_\_\_\_\_ and hearing \_\_\_\_\_ it is ordered that this petition be dismissed [and that the petitioner do pay to the said A.B. the taxed costs thereof].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,  
*Registrar.*

No. 24.

**Dismissal of Petition upon which Proceedings are stayed where a Receiving Order has been made on a subsequent Petition.***(Title.)*

Whereas a receiving order has been made against A.B. upon a petition presented to this Court by O.P., of \_\_\_\_\_, it is ordered that the bankruptcy petition against the said A.B., presented to this Court by C.D. of \_\_\_\_\_, the proceedings on which were stayed by order of Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ be dismissed [add terms if any].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,  
*Registrar.*

No. 25.

**Order restraining Action, etc., before Receiving Order.***(Title.)*

Upon the application of \_\_\_\_\_ and upon reading \_\_\_\_\_ it is ordered that L.M., of \_\_\_\_\_, shall be restrained from taking any further proceedings in the action brought by him [or upon the judgment recovered or obtained by him] against the said A.B. in [here state the Court in which proceedings are], [or it is ordered] that the proceedings in the action [or suit] brought by him against the said A.B. in [here state the Court in which proceedings are] may be proceeded with on [here insert terms fixed by the Court].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,  
*Registrar.*

No. 26.

**Receiving Order on Debtor's Petition.**

(Title.)

On the petition of the debtor himself, filed the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and numbered \_\_\_\_\_ of 19\_\_\_\_, a receiving order is hereby made against A.B. [*insert name, addresses and descriptions of debtor as set out in the petition*], and C.D. is hereby constituted Receiver of the estate of the said debtor.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,  
Registrar.

NOTE.—The above-named debtor is required immediately after the service of this order upon him to attend the Receiver appointed by the Court at his office at (a)

The Receiver's offices are open (except on holidays) every week-day from 8.30 a.m. to 4 p.m., except Saturdays, when they close at 12 noon.

(a) Insert the place at which the debtor is to attend on the Receiver.

*Indorsement on Order.*

The name and address of the solicitor (if any) to the debtor are [*insert name and address*].

No. 27.

**Receiving Order on Creditor's Petition.**

(Title.)

On the petition (dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and numbered \_\_\_\_\_ of 19\_\_\_\_) of F.S., of \_\_\_\_\_, a creditor, filed the [*insert date*] and on reading and hearing \_\_\_\_\_ and it appearing to the Court that the following act or acts of bankruptcy has or have been committed, viz.:

[*Set out the nature and date or dates of the act or acts of bankruptcy on which the order is made.*]

A receiving order is hereby made against A.B. [*insert name, addresses, and descriptions of debtor as set out in petition*] and C.D. is hereby constituted Receiver of the estate of the said debtor.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,  
Registrar.

NOTE.—The above-named debtor is required, immediately after the service of this order upon him, to attend the Receiver appointed by the Court at his offices at (a)

The Receiver's Offices are open every week-day from 8.30 a.m. to 4 p.m., except Saturdays, when they close at 12 noon.

(a) Insert the place at which the debtor is to attend on the Receiver.

*Indorsement on Order.*

The name and address of the solicitor to the petitioning creditor are [*insert name and address*].

No. 28.

**Receiving Order under Section 98**

In the matter of \_\_\_\_\_, a debtor.

Whereas an order was made against the above-named debtor on the \_\_\_\_\_ day of \_\_\_\_\_ for the payment of his debts in full [or by instalments of \_\_\_\_\_].

And whereas the debtor has made default in payment of \_\_\_\_\_ payable in pursuance of the said order.

Now upon reading the consent of the judgment creditor that a receiving order

should be made against the debtor in lieu of an order for commitment to prison, and the prescribed fees having been paid.

It is ordered that a receiving order be made against the debtor in lieu of an order of commitment to prison, and a receiving order is hereby made against the debtor, and the Official Receiver of this Court is hereby constituted Receiver of the estate of the said debtor.

Dated this            day of            19

By the Court,  
*Registrar.*

NOTE.—The above-named debtor is required immediately after the service of this order upon him to attend the Receiver at his office at

The Receiver's office is open (except on holidays) every week-day from 8.30 a.m. to 4 p.m., except Saturdays, when they close at 12 noon.

*Indorsement.*

The name and address of the solicitor to the judgment creditor are

\_\_\_\_\_

No. 29.

**Notice of Receiving Order, etc. (for Local Paper).**

(Title.)

Receiving Order made  
Date of Adjudication (if any)  
Date and place of first meeting  
Date of Public Examination

NOTE.—All debts due to the estate should be paid to me.

(Address.)  
*Receiver.*

Dated            19

\_\_\_\_\_

No. 30.

**Notice of Receiving Order, etc., in Summary Cases (for Local Paper).**

In Bankruptcy.

*Re A.B., of [insert here as concisely as possible, name, address and description of debtor, and add where Court held, and No. of proceedings, e.g. ("Supreme Court, Port-of-Spain, No. 1 of 1947").]*

Receiving order made  
Date of order for summary administration  
Date of adjudication (if any)  
Date and place of first meeting  
Date of public examination

(Signed)  
*Receiver.*

Dated            19

\_\_\_\_\_

No. 31.

(Title.)

**Statement of Affairs.**

To the debtor.—You are required to fill up, carefully and accurately, this sheet, and the several sheets, A, B, C, D, E, F, G, H, I, J and K (1), showing the state of your affairs on the day on which the Receiving Order was made against you, viz., the            day of            . Such sheets, when filled up, will constitute your statement of affairs.

(1) Sheet L should be substituted for any one or more of such of the sheets named as will have to be returned blank.

When completed such statement must be verified by oath or declaration.

Gross Liabilities	Liabilities (as stated and estimated by Debtor).	Expected to rank.	Assets (as stated and estimated by Debtor).	Estimated to produce.	
\$		\$		\$	\$
	Unsecured creditors as per list (A.) ... ..		Cash at Bankers ... Cash in hand ...		
				Estimated cost.	
	Creditors fully secured as per list (B.) Estimated value of securities	\$	Property as per list (H.) viz. :— (a) Stock in trade in the Colony. Stock in trade out of the Colony. Stock in trade of Goods in transit from or to the Colony.	\$	
	Surplus to contra ... \$		(b) Machinery, trade fixtures, fittings, utensils, etc. (c) Farming, stock, growing crops. (d) Furniture. (e) Other property viz. :—		
	Creditors partly secured, as per list (C.) Less estimated value of securities	\$			
	Other liabilities as per list (D.) \$ Of which it is expected will rank against the estate for dividend		Book debts as per list (I.) viz. :— Good ... .. Doubtful ... .. Bad ... ..		
	Liabilities on bills other than debtor's own acceptances, as per list (F.) \$ Of which it is expected will rank against the estate for dividend				
	Preferential creditors for rates, taxes, wages, etc., as per list (E.) Preferential creditors for rent payable as per list (G.) Preferential claim for Marshal's charges under s. 45 estimated	\$	Estimated to produce ... Bills of exchange or other similar securities, as per list (J.) \$ Estimated to produce ... Surplus from securities in the hands of creditors fully secured (per contra) ...		
	Deducted contra \$		Deduct preferential creditors for rent, rates, taxes, wages, etc. (per contra) ...		
			Deficiency explained in statement (K.) ... ..		

I, \_\_\_\_\_ of \_\_\_\_\_ make oath and say that the above statement and the several lists hereunto annexed marked \_\_\_\_\_ are to the best of my knowledge and belief a full, true and complete statement of my affairs on the date of the above-mentioned Receiving Order made against me.

Sworn at \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ } (Signature)  
 this \_\_\_\_\_ before me

A.

*Unsecured Creditors.*

The names to be arranged in alphabetical order and numbered consecutively, Creditors for \$48 and upwards being placed first.

No.	Name.	Address and Occupation.	Amount of Debt.	Date when Contracted.		Consideration

Signature \_\_\_\_\_

Dated \_\_\_\_\_ 19 \_\_\_\_\_

NOTES.—1. When there is a contra account against the creditor less than the amount of his claim against the estate, the amount of the creditor's claim and the amount of the contra account should be shown in the third column, and the balance only be inserted under the heading "Amount of debt," thus:—

Total amount of claim	...	...	...	...	...	\$
Less contra account...	...	...	...	...	...	

No such set-off should be included in sheet 1.

2. The particulars of any bills of exchange and promissory notes held by a creditor should be inserted immediately below the name and address of such creditor.

B.

*Creditors fully secured.*

No.	Name of Creditor.	Address and Occupation.	Amount of Debt.	Date when contracted.		Consideration.	Particulars of Security.	Date when given.	Estimated value of security.	Estimated surplus from security.
				Month.	Year.					

Signature \_\_\_\_\_

Dated \_\_\_\_\_ 19 \_\_\_\_\_

C.

*Creditors partly secured.*

No.	Name of Creditor.	Address and Occupation.	Amount of Debt.	Date when contracted.		Consideration.	Particulars of Security.	Date when given.	Estimated value of security.	Balance of Debt unsecured.
				Month.	Year.					

Signature \_\_\_\_\_

Dated 19 .

D.

*Contingent or other Liabilities.*

Full particulars of all liabilities not otherwise scheduled to be given here.

No.	Name of Creditor or Claimant.	Address and Occupation.	Amount of Liability or Claim.	Date when Liability incurred		Nature of Liability.
				Month.	Year.	

Signature \_\_\_\_\_

Dated 19 .

E.

*Preferential Creditors for Rates, Taxes and Wages.*

No.	Name of Creditor.	Address and Occupation.	Nature of Claim.	Period during which claim accrued due.	Date when due.	Amount of Claim.	Amount payable in full.	Difference ranking for Dividend.

Signature \_\_\_\_\_

Dated 19

F.

*Liabilities of Debtor on Bills other than his own Acceptances.*

No.	Acceptor's Name, Address and Occupation.	Whether liable as drawer or indorser.	Date when due.	Amount.		Holder's Name, Address and Occupation (if known).	Amount expected to rank against Estate for Dividend.
				Accommodation bills.	Other bills.		
				\$	\$		

Signature \_\_\_\_\_

Dated \_\_\_\_\_

19 . . .

G.

*Creditors for Rent, etc., Recoverable by Distress.*

No.	Name of Creditor.	Address and Occupation.	Nature of Claim.	Period during which claim accrued due.	Date when due.	Amount of Claim.	Amount payable in full.	Difference ranking for Dividend (to be carried to list A.)

Signature \_\_\_\_\_

Dated \_\_\_\_\_

19 . . .

H.

*Property.*

Full particulars of every description of property in possession and in reversion as defined by Section 2 of the Ordinance not included in any other list are to be set forth in this list.

Full Statement and Nature of Property.	Estimated to Produce.
	\$ . . .
(a) Cash at Bankers (including the Government Savings Bank) . . . . .	
(b) Cash in hand . . . . .	
(c) Cash deposited with Solicitor for Costs of Petition . . . . .	
(d) Stock in trade in the Colony (cost \$ . . . . .)	
(e) Stock in trade out of the Colony (cost \$ . . . . .)	
(f) Stock in trade and Goods in transit (cost \$ . . . . .)	
(g) Machinery, trade fixtures, fittings, utensils, etc. . . . .	
(h) Farming stock . . . . .	
(i) Growing crops (where not owner of the land) at . . . . .	
(j) Household Furniture and Effects at . . . . .	
(k) Life Policies . . . . .	
(l) Other Property (state particulars), viz. . . . .	

Signature \_\_\_\_\_

Dated \_\_\_\_\_

I.

*Debts due to the Estate.*

No.	Name of Debtor.	Residence and Occupation.	Amount of Debt.			Folio of Ledger or other Book where particulars to be found.	When contracted.		Estimated to produce.	Particulars of any Securities held for debt.
			Good.	Doubtful.	Bad.		Month.	Year.		

Signature

Dated 19

NOTE.—If any debtor to the estate is also a creditor *but for a less amount than his indebtedness*, the gross amount due to the estate and the amount of the contra account should be shown in the third column, and the balance only be inserted under the heading "Amount of debt," thus:—

Due to estate	...	...	...	...	...	...	...	...	...	...	\$
Less contra account	...	...	...	...	...	...	...	...	...	...	

No such claim should be included in sheet "A."

J.

*Bills of Exchange, Promissory Notes, etc., available as Assets.*

No.	Name of Acceptor of Bill of Note.	Address, etc.	Amount of Bill of Note.	Date when due.	Estimated to produce.	Particulars of any Property held as Security for payment of Bill of Note.

Signature

Dated

19

## K.

## Deficiency Account.

Excess of Assets over liabilities on the (a) day of 19 , (if any) ...	\$	\$	Excess of liabilities over assets on the (a) day of 19 , (if any) ...	\$	\$
Net profit (if any) arising from carrying on business from the (a) day of 19 , to date of receiving order, after deducting usual trade expenses ... ..			Net loss (if any) arising from carrying on business from the (a) day of 19 , to date of receiving order, after deducting from profits the usual trade expenses ... ..		
Income or profit from other sources (if any) since the (a) day of 19 ....			Bad debts (if any) as per Schedule " I " (b) ... ..		
Deficiency as per statement of affairs ...			Expenses incurred since the (a) day of 19 , other than usual trade expenses, viz. : household expenses of self and (c) ... ..		
			(d) Other losses and expenses (if any) ...		
			Surplus as per Statement of affairs (if any)...		
Total amount to be accounted for	(e) \$		Total amount accounted for	(e) \$	

Signature

Dated

19 .

- NOTE.—(a) The date should be twelve months before date of receiving order, or such other time as the Receiver may have fixed.
- (b) This Schedule must show when the debts were contracted.
- (c) Add " wife and children " (if any) stating the number of the latter.

- (d) Here add particulars of other losses or expenses (if any) including depreciation in the value of stock and effects or other property as estimated for realisation and liabilities (if any), for which no consideration received.
- (e) These figures should agree.

L.

IN SUBSTITUTION for such of the Sheets named "A" to "J" as will have to be returned blank.

List.	Particulars, as per front sheet.	DEBTOR'S REMARKS. Where no particulars are entered by the debtor on any one or more of the lists named "A" to "J" the word "Nil" should be inserted in this column opposite the particular list or lists thus left blank.
A.	Unsecured creditors ... ..	
B.	Creditors fully secured ... ..	
C.	Creditors partly secured... ..	
D.	Liabilities of debtor on bills discounted other than his own acceptances for value ... ..	
E.	Contingent or other liabilities ... ..	
F.	Creditors for rent, etc., recoverable by distress.	
G.	Preferential creditors for rates, taxes and wages.	
H.	Property ... ..	
I.	Debts due to the estate... ..	
J.	Bills of Exchange, Promissory Notes, etc., available as assets.	

Signature

Dated , 19 .

No. 32.

**Application for Summary Administration under Section 114.**

(Title.)

I, , the Receiver, hereby report to the Court that the property of the debtor is not likely to exceed in value \$1,440, and I apply that the Court may order the estate to be administered in a summary manner pursuant to Section 114 of the Ordinance.

Dated this day of , 19 .

Receiver.

No. 33.

**Order for Summary Administration.**

(Title.)

Upon the application of and reading it is ordered that the estate of the above-named debtor be administered in a summary manner pursuant to Section 114 of the Ordinance.

Dated this day of , 19 .

By the Court,  
Registrar.

No. 34.

**Application for Extension of Time for holding First Meeting, and Order thereon.**

(Title.)

*Ex parte* the Receiver.

(a) Strike out such of the grounds as are not applicable.

I, A. B., the Receiver in the above matter, apply to the Court for an extension of time to the            day of            , 19    , for holding the first meeting of creditors on the ground following (a):—

That the said debtor has not submitted a statement of and in relation to his affairs in compliance with Section 15 of the Bankruptcy Ordinance.

*Or*

That the said debtor has obtained an extension of time for submitting a statement of and in relation to his affairs, viz., to the            day of            , 19    .

*Or*

That the prescribed notice in the *Royal Gazette* of the first meeting of creditors in the above matter required by Rule 2 of the First Schedule to the Ordinance cannot be given in time for holding the meeting within 14 days from the date of the receiving order.

*Or*

That there may not be sufficient time for the books of the debtor to be examined, the statement of affairs investigated, and the summary and the observations thereon prepared, pursuant to Rule 3 of the First Schedule to the Ordinance.

Dated this            day of            , 19    .

*Receiver.**Order thereon.*

Upon the application of the Receiver it is ordered that the time for holding the first meeting of creditors in the above matter be extended to the            day of            19    .

Dated this            day of            , 19    .

By the Court,  
*Registrar.*

No. 35.

**Notice to Creditors of First Meeting when no Order for Summary Administration has been made and the Debtor has not submitted a Proposal for Composition or Scheme.**

(Title.)

(Under receiving order dated the            day of            , 19    .)

Notice is hereby given, that the first meeting of creditors in the above matter will be held at            on the            day of            , 19    , at            o'clock in the            noon.

To entitle you to vote thereat your proof must be lodged with me not later than            o'clock on the            day of            , 19    .

Forms of proof and of general and special proxy are enclosed herewith. Proxies to be used at the meeting must be lodged with me not later than            o'clock on the            day of            19    .

The public examination of the debtor is fixed for the            day of            19    , at            o'clock in the            noon, at

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

*Receiver.*

(The debtor's statement of affairs (a) .)

(a) Here insert " has not been lodged " or " has been lodged and summary is enclosed."

NOTE.

At the first meeting the creditors may amongst other things:—

1. By ordinary resolution resolve that the debtor be adjudged bankrupt, and in that case they may also, by ordinary resolution, appoint a trustee.
2. By ordinary resolution fix the remuneration of the trustee, or resolve that the same be left to the committee of inspection.
3. By ordinary resolution appoint a committee of inspection from among the creditors or the holders or intended holders of general proxies or general powers of attorney for the creditors.

No. 36.

**Notice to Creditors of First Meeting in Summary Case where Debtor has not submitted an Order of Composition.**

(Title.)

SUMMARY CASE.

(Under receiving order dated the                      day of                      , 19                      .)

Notice is hereby given that the first meeting of the creditors in the above matter will be held at                      on the                      day of                      , 19                      , at                      o'clock in the                      noon, for the purpose of receiving a report by the Receiver upon the position of the estate.

The debtor has been adjudged bankrupt, an order for summary administration has been made by the Court, and the Receiver is the trustee in bankruptcy.

To entitle you to vote thereat your proof must be lodged with me not later than                      o'clock on the                      day of                      , 19                      .

Forms of proof and of general and special proxy are enclosed herewith. Proxies to be used at the meeting must be lodged with me not later than                      o'clock on the                      day of                      19                      .

The public examination of the debtor is fixed for the                      day of                      19                      , at                      o'clock in the                      noon, at                      .

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

Dated this                      day of                      19                      .

Receiver.

(The debtor's statement of affairs (a) .)

(a) Here insert " has not been lodged " or " has been lodged, and summary is enclosed."

No. 37.

**Notice of First or other Meeting where Debtor submits an Offer of Composition or Scheme (where no order for Summary administration has been made.)**

(Title.)

(Under receiving order, dated the                      day of                      19                      .)

Notice is hereby given that a general meeting of creditors of the above-named debtor will be held at                      on the                      day of                      19                      , at                      o'clock in the                      noon precisely.

Creditors required to vote at such meeting may, by a resolution passed by majority in number, and three-fourths in value, of all the creditors who have proved their debts, accept the proposal made by the debtor for a composition [or scheme], the terms of which are set forth in the accompanying report, or any amendment of such proposal which in the opinion of the Receiver is calculated to benefit the general body of creditors.

Proof of debts intended to be used at the meeting must be lodged with the Receiver not later than            o'clock on the            day of            19            .

Proxies and voting letters to be used at the meeting must be lodged not later than            o'clock on the            day of            19            .

Creditors who prove their debts and whose proofs are admitted, and who do not vote on the debtor's proposal, will be reckoned as voting *against* it.

A sitting of the Court for the public examination of the debtor will be held at            on the            day of            19            , at            o'clock in the noon.

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

Dated this            day of            , 19            .

*Receiver.*

*Notes.*

1. Creditors who have proved may vote for or against the acceptance of the debtor's proposals by means of the voting letter attached to the Receiver's report.

2. If the proposal is not accepted the meeting may, if the debtor has not already been adjudged bankrupt, resolve on his adjudication, and in that case they may appoint a trustee and a committee of inspection, and fix the remuneration of the trustee, or resolve that it be left to the committee of inspection.

3. A form of proof and forms of general and special proxy and a summary of the statement of affairs are sent herewith.

No. 38.

**Notice of meeting in Summary Case where Debtor submits an Offer of Composition, etc.**

*(Title.)*

SUMMARY CASE.

(Under receiving order dated            )

Notice is hereby given that a general meeting of the creditors of the above-named debtor will be held at            on the            day of            19            , at            o'clock in the            noon precisely.

An order for summary administration under Section 114 of the Ordinance has been made by the Court.

Creditors qualified to vote at such meeting may, by a resolution passed by a majority in number, and three-fourths in value, of those who have proved their debts, accept the proposal made by the debtor for a composition [*or* scheme], the terms of which are set forth in the accompanying report, or any amendment of such proposal which, in the opinion of the Receiver, is calculated to benefit the general body of creditors.

Proofs of debts intended to be used at the meeting must be lodged with the Receiver not later than            o'clock on the            day of            19            .

Creditors who prove their debts, and whose proofs are admitted, and who do not vote on the debtor's proposal, will be reckoned as voting *against* it.

The public examination of the debtor will be held at            on the            day of            19            , at            o'clock in the            noon.

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

Dated this            day of            . 19            .

*Receiver.*

*Notes.*

1. Creditors who have proved may vote for or against the acceptance of the debtor's proposal by means of the voting letter attached to the Receiver's report.

2. If the proposal is not accepted, the Court shall, if the debtor has not already been adjudged bankrupt, adjudge him bankrupt.

3. Forms of proof and of general and special proxy and a summary of the statement of affairs are sent herewith.

No. 39.

**Notice to Creditors of Adjourned Meeting.**

Take notice that the meeting of creditors in the above matter held on the day of \_\_\_\_\_ at \_\_\_\_\_ was adjourned to the \_\_\_\_\_ day of \_\_\_\_\_ and will accordingly be held at \_\_\_\_\_ on the said day at \_\_\_\_\_ o'clock in the noon.

*Agenda.*

[Insert here nature of business to be transacted.]

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

Receiver.

No. 40.

**Affidavit and Certificate of Postage of Notices. First Meeting.**

(Title.)

I, \_\_\_\_\_, a clerk in the office of the Receiver in the above matter (a) make oath and say as follows:—(b)

1. That I did on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, send to each creditor mentioned in the debtor's statement of affairs, and to the above-named debtor a notice of the time and the place of the (c) first meeting of creditors, accompanied by summary of the debtor's statement of affairs in the form[s] hereunto annexed marked "A" and "B" respectively (d).

2. That such notices were addressed to the said creditors respectively, according to their respective names and addresses appearing in the statement of affairs of the said debtor, and also to the said debtor at \_\_\_\_\_

3. That I sent the said notice by putting the same into the Post Office before the hour of \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon on the said day.

Sworn, etc. [e]

(a) Or as the case may be.  
 (b) Or hereby certify.  
 (c) Insert here if necessary.  
 "adjourned" or "new" or "adjourned new."  
 (d) Strike out the words underlined if summary not sent.  
 (e) or signed this day of \_\_\_\_\_

No. 41.

**Notice to Debtor to attend First Meeting of Creditors.**

(Title.)

Take notice that the first meeting of your creditors will be held on the day of \_\_\_\_\_ 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock at (a) \_\_\_\_\_ and that you are required to attend thereat, and submit to such examination and give such information as the meeting may require. And further, take notice that if you fail to comply with the requirements of this notice, you will be guilty of a contempt of Court, and may be punished accordingly.

(a) Here insert place where meeting will be held.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

Receiver.

To the above-named debtor.

No. 42.

**Authority to Deputy to act as Chairman of Meeting and use Proxies.**

(Title.)

I, \_\_\_\_\_, the Receiver in Bankruptcy in the above matter, do hereby nominate Mr. \_\_\_\_\_, of \_\_\_\_\_ to be the chairman of the first meeting of creditors in the above matter, appointed to be held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, and I depute him (a) \_\_\_\_\_, to attend such meeting and use, on my behalf, any proxy or proxies held by me in this matter.

(a) being a person in my employment or under my official control.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_ .

Receiver.

No. 43.

**Resolutions where Adjudication resolved on.**

(Title.)

Minutes of resolutions come to and proceedings had at the first meeting of creditors held at this day of , 19 , Chairman, the Receiver [or the Receiver being absent, F.K., of , Chairman].

Resolved as follows [unanimously]:—

That A.B., shall be adjudged bankrupt, and that the Receiver do apply to the Court to make the adjudication.

That G.H. of shall be the trustee of the property of the bankrupt at [here state remuneration] [or that the appointment of a trustee be made by the committee of inspection].

That I.K., L.M., N.O., etc., be appointed the committee of inspection in this bankruptcy.

[Add any other resolution if any.]

F.K., Chairman.

Number.	Assenting Creditors' Signatures.	Amount of Proof.	Number.	Dissenting Creditors' Signatures.	Amount of Proof.

NOTE.—When a resolution is carried unanimously the creditors need not sign, but when a division is taken all creditors and holders of proxies voting should sign. The signatures must be attached at the meeting. Resolutions should be put separately.

No. 44.

**Memorandum of Proceedings at First Meeting in Summary Cases.**

SUMMARY CASE.

(Title.)

Before at on the day of , 19 , at o'clock.

Memorandum.—The first meeting of creditors in the above matter was held at the place and time above-mentioned, and the several proofs of debt lodged were produced; but no resolution was passed.

Chairman.

No. 45.

**Memorandum of Adjournment of First or Other Meeting.**

(Title.)

Before at on the day of 19 , at o'clock.

Memorandum.—The (a) meeting of creditors in the above matter was held at the time and place above-mentioned, and the several proofs of debt lodged were produced; but it appearing that (b) the meeting was adjourned until the day of , 19 , at o'clock in the noon, then to be held at the same place.

Chairman.

(a) " First " or as the case may be. (b) Here state reason for ad-journment.

No. 46.

**Memorandum of Proceedings at Adjourned First Meeting.**

No Quorum.

(Title.)

Before \_\_\_\_\_ at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock.

Memorandum.—The adjourned first meeting of creditors in the above matter was held at the time and place above-mentioned, and the several proofs of debt lodged were produced, but it appearing that there was not a quorum of creditors qualified to vote present or represented no resolution was passed, and the meeting was not further adjourned.

Chairman.

No. 47.

**Order of Court for General Meeting of Creditors.**

(Title.)

Upon the application of C.D., of \_\_\_\_\_, it is ordered that the trustee of the property of the bankrupt [or the Receiver in this matter] do summon a meeting of the creditors of the bankrupt to be held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon [here state the purpose for which meeting called].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,  
Registrar.

No. 48.

**Notice of Meeting (General Form).**

(Title.)

Take notice that a meeting of creditors in the above matter will be held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. Agenda (a).

Receiver or Trustee.  
Address.

(a) Here insert purpose for which meeting called.

N.B.—Forms of general and special proxy can be obtained on application to the Receiver or trustee at \_\_\_\_\_

Early application is necessary, as proxies must be lodged with the person summoning the meeting not later than the day before the meeting.

No. 49.

**Affidavit and Certificate of Postage of Notices (General).**

(Title.)

I, \_\_\_\_\_, a clerk in the office of C.D., Receiver or trustee (a) make oath and say as follows: (b)

1. That I did on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, send to each creditor who has proved in this matter, and also to all creditors mentioned in the debtor's statement of affairs, a notice of the time and the place of (c) \_\_\_\_\_, in the form hereunto annexed marked "A"

(a) or as the case may be.  
(b) or "hereby certify."  
(c) Insert here "general," or "adjourned general," as the case may be,

2. That such notices were addressed to such of the said creditors who have proved their debts according to the addresses in their respective proofs, and to such as have not proved, according to their respective names and addresses appearing in the statement of affairs of the said debtor.

3. That I sent the said notices by putting the same into the Post Office at before the hour of o'clock in the noon on the said day.

(d) or signed  
this day of Sworn, etc. (d)

No. 50.

**Notice to Creditors of Meeting to remove Trustee and to appoint a person to fill the Vacancy.**

(Title.)

At the request of one-fourth in value of the creditors of the bankrupt a general meeting of the creditors is hereby summoned to be held at on the day of , 19 , at o'clock in the noon for the purpose of considering the propriety of removing G.H., the trustee of the property of the bankrupt, from his office as such trustee, and in the event of his removal to appoint a person to fill the vacancy.

Dated this day of , 19 .

L.M.,  
A Member of the Committee of Inspection  
[or Receiver].

No. 51.

**Notice of Meeting to be held to appoint new Trustee.**

(Title.)

I, C.D., the Receiver in the above matter, hereby give you notice that a meeting of creditors will be held at on the day of , 19 , at o'clock in the noon, for the purpose of appointing a trustee in the place of the late trustee, who has resigned his office [or who has died, or has become bankrupt].

Dated this day of , 19 .

C.D.,  
Receiver.

To X.Y.

No. 52.

**Minutes of Meeting for receiving Resignation of Trustee, etc.**

(Title.)

Minutes of proceedings had at a meeting of creditors of the said bankrupt held at on the day of , 19 .

Chairman of the meeting, E.F. of

Resolved (*here should follow resolutions*).

E.F., Chairman of this meeting.

No. 53.

**List of Creditors Assembled to be used at every Meeting.**

(Except a second meeting where scheme or composition has been considered.)

Meeting held at this <sup>(Title.)</sup> day of , 19 .

Number.	Names of Creditors present or assembled.	Amount of Proof.
1		\$
2		
3		
4		
6		
7		
7	Total number of creditors present or assembled.	

No. 54.

**List of Creditors for use at Meeting held for Consideration of Composition or Scheme.**

Meeting held at this <sup>(Title.)</sup> day of 19 .

No.	Names of all Creditors whose proofs have been admitted.	Present in person or by Proxy or by voting Letter.	Amount of Assets.	Amount of Proof admitted.
	Total Number.	Total amount ... ..		

Required number for majority ... ..  
 Required value ... .. \$

(a) Here insert the number of matter, and the name of debtor as given on the notice of meeting.

No. 55.

**Proof of Debt. General Form.**

Re (a)                      No. (a)                      (Title.)  
of 19                      ,  
I (b)

(b) Fill of                      in the Ward of                      , make oath and say:—

in full name, address, and occupation of deponent.

If proof made by creditor strike out

clauses (c) and (d).

If made by clerk strike out (d).

If by agent of company strike out (c).

(e) Insert me and to C.D. and E.F. my co-

partners in trade if any, or, if by clerk insert name address and description of principal.

(c) That I am in the employ of the under-mentioned creditor, and that I am duly authorised by                      to make this affidavit, and that it is within my own knowledge that the debt hereinafter deponed to was incurred, and for the consideration stated, and that such debt, to the best of my knowledge and belief still remains unpaid and unsatisfied.

(d) That I am duly authorised, under the seal of the company hereinafter named, to make the proof of debt on its behalf.

1. That the said                      was, at the date of the receiving order, viz.: the day of                      , 19                      , and still                      justly and truly indebted to (e)                      in the sum of                      for (f)                      as shown by the account endorsed hereon, or by the following account, viz.:—

for which sum or any part thereof I say that I have not nor hath (g)                      or any person by (h)                      order to my knowledge or belief for (h)                      use had or received any manner of satisfaction or security whatsoever, save and except the following (i)

You should attend carefully to these directions.

	Date.	Drawer.	Acceptor.	Amount.	Due date.
Admitted to vote for the day of 19 .					
Receiver or Trustee.					
Admitted to rank for dividend for \$ this day of 19 ,					
Receiver or Trustee.					

Sworn at this day of 19 , Before me } Deponent's signature.

NOTE THIS.  
 (f) State consideration (as— Goods sold and delivered by me [and my said partner] to him [or them] at his [or their] request between the dates of, [or, monies] advanced by me in respect of the under-mentioned bill of exchange, [or as the case may be].  
 (See back.)  
 (g) My said partners or any of them or the above-named creditor (as the case may be.)  
 (h) My or our or their or his (as the case may be).  
 (i) Here state the particulars of all securities held, and where the securities are on the property of the debtor, assess the value of the same and if any bills or other negotiable securities be held, specify them in the schedule.

The proof cannot be admitted for voting at the first meeting unless it is properly completed and lodged with the Receiver for the time named in the notice convening such meeting.

A.

The Voucher  
(if any) by  
which the  
account can  
be substantiated should  
be set out  
here.

**Particulars of Account** referred to on other side.

(Credit should be given for contra accounts.)

If space not sufficient let the particulars be annexed, but where the particulars are on a separate sheet of paper the same must be marked by the person before whom the affidavit is sworn.

Date.	Consideration.	Amount.	Remarks.

Acceptance of the debtor held as collateral security must be specified.

No. 56.

**Proof by Trustee in Prior Bankruptcy.**

(Title.)

I, \_\_\_\_\_, of \_\_\_\_\_, make oath and say:—

1. The said \_\_\_\_\_ was adjudicated a bankrupt in the \_\_\_\_\_ Court on 19\_\_\_\_, and I am the trustee under such bankruptcy.

2. There was at the date of the receiving order herein, namely, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and still is an unsatisfied balance of the debts provable in the aforesaid bankruptcy, of which I am trustee, amounting to \$ \_\_\_\_\_ as shown in the statement endorsed hereon [or annexed hereto and marked A].

3. I claim to prove in the present bankruptcy for the said amount.  
Sworn, etc.,

Before me,

Admitted to vote for \$ \_\_\_\_\_  
the \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_.

Receiver  
or Trustee.

Admitted to rank for dividend  
for \$ \_\_\_\_\_ this  
day of \_\_\_\_\_ 19\_\_\_\_.

Receiver  
or Trustee.

No. 57.

**Proof of Debt to Workmen.**

(Title.)

No. (a) \_\_\_\_\_ of \_\_\_\_\_ 19\_\_\_\_.

Re (a)

I (b) \_\_\_\_\_ of \_\_\_\_\_, the above-named debtor [or the foreman of the above-named debtor] on behalf of the workmen and others employed by the above-named debtor] make oath and say:

1. That I [or the said \_\_\_\_\_] was \_\_\_\_\_ at the date of the receiving order, viz.: the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and still \_\_\_\_\_ justly and truly indebted to the several persons whose names, addresses, and descriptions appear in the schedule hereunder written [or hereunto annexed], in the sums severally set against their names in the sixth column of such schedule for wages due to them respectively as workmen or others in my employ [or the employ of the above-named debtor] in

(a) Here insert the number of matter and the name of debtor as given on the notice of meeting.

(b) Fill in full name, address, and occupation of deponent.

respect of services rendered by them respectively to me [or to the above-named debtor] during such periods before the date of the receiving order as are set out against their respective names in the fifth column of such schedule for which said sums or any part thereof I say that they have not nor hath any of them had or received in any manner of satisfaction or security whatsoever.

SCHEDULE above referred to.

1. No.	2. Full Name of Workman.	3. Address.	4. Description.	5. Period over which wages due.	6. Amount due.
					\$

Sworn at this day of 19 . } Deponent's signature.  
 Before me.

No. 58.

**Notice of Rejection of Proof of Debt.**

(Title.)

Take notice, that, as Receiver of the above estate, I have this day rejected your claim against such estate (a) to the extent of \$ \_\_\_\_\_ on the following grounds:—

(a) If proof wholly rejected strike out words underlined.

And further take notice that subject to the power of the Court to extend the time, no application to reverse or vary my decision in rejecting your proof will be entertained after the expiration of (b) \_\_\_\_\_ days from this date.

(b) 21 days or 7 days as the case may be.

Dated this day of , 19 . Address.

To Receiver.

No. 59.

**General Proxy.**

(Title.)

I (a) C.D., of \_\_\_\_\_, creditor, hereby appoint the Receiver in the above matter [or Mr. A.B., of \_\_\_\_\_, a clerk in my regular employ] to be my (or our) general proxy in the above matter [excepting as to the receipt of dividend].

(a) If a firm write "we" and set out the full name of the firm.  
 (b) If a firm, sign the firm's trading title, and add "by X.Y. a partner in the said firm."

Dated this day of , 19 . (Signed) (b) C.D.

Signature of witness.  
 Address.

Notes.

(1) When the creditor desires that his general proxy should receive dividends he should strike out the words "excepting as to the receipt of dividend," putting his initials thereto.

(2) The authorised agent of a corporation may fill up blanks, and sign for the corporation, thus—

"For the \_\_\_\_\_ Company."

F.S. (duly authorised under the seal of the company).

(3) A proxy given by a creditor may be filled up and signed by any person having a general authority in writing to sign for such firm or person. Such person shall sign:—

F.S. [duly authorised by a general authority in writing to sign on behalf of [name of firm or person] (c).

(c) The receiver or trustee may require the authority to sign to be produced for his inspection.

*Certificate to be signed by witness of creditor blind or incapable of filling up the above proxy.*

I, \_\_\_\_\_, of \_\_\_\_\_, hereby certify that all insertions in the above proxy are in my own handwriting, and have been made by me at the request of the above-named \_\_\_\_\_, and in his presence before he attached his signature [or mark] thereto.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(Signature.)

The proxy must be lodged with the Receiver or trustee not later than the day before the meeting at which it is to be used.

(a) If a firm, write "we" instead of "C.D." and set out the full name of the firm.

No. 60.

**Special Proxy.**

(Title.)

(b) Here insert either Mr. \_\_\_\_\_ of \_\_\_\_\_ Receiver in the above matter."

(a) C.D., of \_\_\_\_\_, a creditor, hereby appoint the (b) \_\_\_\_\_ as my (or our) proxy at the meeting of creditors to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_ or at any adjournment thereof, to vote (c)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(Signed) (d)

C.D.

(c) Here insert the word "for" or "against" as the case may require, and specify the particular resolution, name of proposed trustee, etc.

Signature of witness.  
Address.

Notes.

The authorised agent of a corporation may fill up blanks and sign for the corporation, thus:—

"For the \_\_\_\_\_ Company."

F.S. (duly authorised under the seal of the company).

A proxy given by a creditor may be filled up and signed by any person having a general authority in writing to sign for such creditor. Such person shall sign:

F.S. (duly authorised by a general authority in writing to sign on behalf of [name of creditor] (e) ]

*Certificate to be signed by witness of creditor blind or incapable of filling up the above proxy.*

I, \_\_\_\_\_, of \_\_\_\_\_, hereby certify that all insertions in the above proxy are in my own handwriting, and have been made by me at the request of the above-named \_\_\_\_\_, and in his presence before he attached his signature [or mark] thereto.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(Signature.)

The proxy must be lodged with the Receiver or trustee not later than the day before the meeting at which it is to be used.

(e) The Receiver may require the authority to sign to be produced for his inspection.

No. 61.

**Application by the Receiver for an Order appointing a Sitting for the Public Examination of the Debtor.**

(Title.)

A receiving order having been made in the above matter, application is hereby made to the Court by the Receiver for an order appointing the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ or such other time and place as the Court shall direct for holding the public examination of the debtor, and that the debtor do attend such public examination.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Receiver.

No. 62.

**Order appointing a Time for Public Examination of the Debtor.**

(Title.)

Upon the application of the Receiver in the above matter it is ordered that the public examination of the above-named debtor be held at (a) \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock in the \_\_\_\_\_. And it is ordered that the above-named debtor do attend at the place and time above-mentioned.

(a) Insert the place for the examination.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

By the Court,  
Registrar.

NOTE.—Notice is hereby given that if you, the above-named debtor, fail without reasonable excuse to attend at the time and place aforesaid you will be liable to be committed to prison without further notice.

No. 63.

**Report of Receiver where Debtor or Witness refuse to answer to his Satisfaction.**

(Title.)

At the [public] examination of (a) \_\_\_\_\_ held before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, the following question was allowed by me to be put to the said [ \_\_\_\_\_ ].

(a) The above-named debtor, or, A.B., a witness in the above matter.

Q. (b) The (c) refused to answer the said question (or) The (c) answered the said question as follows:

(b) Here state question.

A. (d) I thereupon named the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_ as the time and place for such [refusal to] answer to be reported to Mr. Justice \_\_\_\_\_

(c) Debtor or witness.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Receiver.

(d) Here insert answer (if any).

No. 64.

**Notice of Day for proceeding with Public Examination (for Local Paper).**

(Title.)

Notice is hereby given that the above-named Court has appointed \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, for proceeding with the public examination of the above-named debtor, which, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, was adjourned *sine die*.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

(Signed) \_\_\_\_\_  
Receiver.

No. 65.

**Appointment of Shorthand Writer to take Examination of Debtor.***(Title.)*

Before Mr. Justice

Upon the application of the Receiver of \_\_\_\_\_ the Court hereby appoints \_\_\_\_\_ of \_\_\_\_\_ to take the examination of the said \_\_\_\_\_ at his public examination this day, pursuant to Bankruptcy Rule 55.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

By the Court,  
*Registrar.*

No. 66.

**Declaration by Shorthand Writer.***(Title.)*

I, \_\_\_\_\_ of \_\_\_\_\_, the shorthand writer appointed by this Court do take down the examination of the said \_\_\_\_\_, do solemnly and sincerely declare that I will truly and faithfully take down the questions and answers put and given by the said \_\_\_\_\_ in this matter and will deliver true and faithful transcripts thereof as the Court may direct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Declared before me at the time and place above-mentioned.

*Registrar.*

No. 67.

**Notes of Public Examination of Debtor where a Shorthand Writer is Appointed.***(Title.)*

Public Examination of the Debtor.

Before Mr. Justice \_\_\_\_\_ at the Supreme Court this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

The above-named debtor being sworn and examined at the time and place above-mentioned, upon the several questions following being put and propounded to him, gave the several answers thereto respectively following each question, that is to say:—

A.

These are the notes of the public examination referred to in the memorandum of public examination of \_\_\_\_\_, taken the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

*Shorthand Writer.*

No. 68.

**Notes of Public Examination of Debtor where Shorthand Writer is not Appointed.***(Title.)*

Public Examination of the Debtor.

Before Mr. Justice \_\_\_\_\_ at the Supreme Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

The above-named debtor being sworn and examined at the time and place above-mentioned, upon his oath saith as follows:—

A.

These are the notes of the public examination referred to in the memorandum of public examination of \_\_\_\_\_, taken the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

*Clerk of the Judges or Receiver.*

No. 69.

**Order of Adjournment of Public Examination.**

(Title.)

This being the day appointed for the (a) public examination of the above-named , and the said having submitted himself for such examination now upon hearing Mr. , the Receiver in the above matter, and upon hearing and it appearing that It is ordered that the said public examination be adjourned to the day of , 19 , at the noon at . And it is further ordered that the said do attend at the said Court on the said day of 19 , for the purpose of being further examined as to his conduct, dealings and property. And it is further ordered that the said [set out any further order of the Court.]

(a) Insert here word "further" if necessary.

Dated the day of , 19 .

By the Court,  
Registrar.

No. 70.

**Order Dispensing with Public Examination of Debtor.**

(Title.)

Upon the application of the Receiver (or, of (a) of ) in the above matter, and upon reading and upon hearing , and it appearing to the Court that the debtor is (b) , it is ordered that the public examination of the debtor be dispensed with.

(a) Insert name and address of applicant, and capacity in which he makes the application.  
(b) State what the disability is.

Dated this day of , 19 .

By the Court,  
Registrar.

No. 71.

**Order as to Examination of Debtor who is suffering from Mental or Physical Affliction or Disability.**

(Title.)

Upon application of the Receiver [or, of (a) of ] in the above matter, and upon reading and upon hearing , and it appearing to the Court that the debtor is suffering from physical disability which makes him unfit to attend a public examination in Court [or as the case may be], it is ordered that instead of a public examination of the debtor (b) , the debtor be examined on oath at (c) before on the day of , 19 , at o'clock or such other time as having regard to the condition of the debtor may be convenient, and that the Receiver and trustee and (d) be at liberty to attend such examination and take part therein.

(a) Insert name and address of applicant, and the capacity in which he makes the application.  
(b) This part of the order to be adapted to circumstances of the case.  
(c) Insert place of examination.  
(d) Insert name of any other person authorised by the Court to attend.

Dated this day of , 19 .

By the Court,  
Registrar.

No. 72.

**Memorandum of Public Examination of Debtor.***(Title.)*

Memorandum.—That I, \_\_\_\_\_, the above-named debtor, being sworn and examined, upon my oath say that the notes of my public examination, marked A and appended hereto, were read over by or to me, and are correct.

And I further say, that at the time of this my examination, I have delivered up to the Receiver or the trustee of my estate, all property, estate and effects, and all books, papers and writings relating thereto.

And I further say, that I have made a full disclosure of all my assets and of all my debts and liabilities of whatever kind and that I have not removed, concealed, embezzled, or destroyed any part of my estate, real or personal, nor any books of accounts, papers, or writings relating thereto, with an intent to defraud my creditors, or to conceal the state of my affairs.

*[Here insert any special matter.]*

(Signature.)

Sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

No. 73.

**Order of Court that Examination is concluded.***(Title.)*

Whereas the above-named A.B. has duly attended before the Court, and has been publicly examined as to his conduct, dealings, and property:

And whereas the Court is of opinion that the affairs of the said A.B. have been sufficiently investigated, it is hereby ordered that the examination of the said A.B. is concluded.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

By the Court,  
C.D., Registrar.

No. 74.

**Proposal for a Composition.***(Title.)*

I, \_\_\_\_\_, the above-named debtor, hereby submit the following proposal for a composition in satisfaction of my debts:

1. That payment in priority to all other of my debts of all debts directed to be so paid in the distribution of the property of a bankrupt shall be provided for as follows:

*[Set out terms of proposal so far as relates to preferential claims.]*

2. That provision for payment of all proper costs, charges, expenses of and incidental to the proceedings, and all fees and percentages payable shall be made in the following manner:

*[Set out proposal for provisions for fees, charges, costs, etc.]*

3. That the following composition shall be paid as hereinafter mentioned on all provable debts:

*[Set out terms of Composition.]*

4. That the payment of the Composition be secured in the following manner:

*[Set out full names and address of sureties (if any) and complete particulars of all securities intended to be given.]*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Signed (a)

(a) To be signed by the debtor: in case of joint debtors to be signed in the firm name by such of the debtors as the Receiver shall require.

No. 75.

Proposal for a Scheme.

(Title.)

I, , the above-named debtor, hereby submit the following proposal for a scheme of arrangement of my affairs in satisfaction of my debts.

1. That

[Set out terms of Scheme.]

2. That payment in priority of all other of my debts of all debts directed to be so paid in the distribution of the property of a bankrupt is provided for as follows:—

[Set out or indicate by reference to the scheme, how it is proposed to satisfy preferential claims.]

3. That provision for the payment of all proper costs, charges and expenses of and incidental to the proceedings and all fees and percentages payable is provided for as follows:

[Set out or indicate by reference to the scheme, how it is proposed to provide for fees, costs, charges, etc.]

[Set out any other terms.]

Dated this day of , 19 .

Signed (a)

(a) To be signed by the debtor: or in case of joint debtors to be signed in the firm name by such of the debtors as the Receiver shall require.

No. 76.

Report of the Receiver on Proposal for Composition or Scheme and Voting Letter.

(Title.)

The Receiver of the above estate hereby reports:—

That the debtor has lodged with him a proposal for a composition [or scheme] to be submitted to the creditors, of which the following is a copy:—

[Here set out fully the terms of proposal.]

That the liabilities, as shown by the debtor's statement of affairs, amount to the sum of \$ and the assets are estimated by the debtor at the sum of \$ after payment of preferential debts.

That the value of the assets is [fairly estimated by the debtor] [or as the case may be].

That the terms of the debtor's proposal [set out report as to proposal and the debtor's conduct].

Dated this day of , 19 .

Receiver.

VOTING LETTER.

(Title.)

I, of , a creditor in the above matter for the sum of \$ hereby request the Receiver of the said estate to record my vote (a) the acceptance of the above proposal and/or (b) any amendment thereof which shall in the opinion of the Receiver be calculated to benefit the general body of the creditors.

Dated this day of 19 .

Signature.

(a) Insert here the word "for" or the word "against" as the case may require. (b) Creditors may authorise the Receiver to vote "against" the proposal now submitted, but "for" such amendment thereof as may be satisfactory to the Receiver.

Witness. Address.

No. 77.

**Resolution Accepting Composition.***(Title.)*

Minutes of resolutions come to and proceedings had at the first meeting of creditors held at this day of , 19 , Chairman.

Resolved as follows [unanimously]:—

That the debtor's proposal for a composition, as set forth in the annexed paper writing, marked "A" be accepted.

*[If the Receiver is not to be the trustee for the purpose of receiving and distributing the composition, add here resolutions appointing a trustee, fixing his remuneration, and stating the security (if any) he is to give.]*

F. K., *Chairman.*

Number.	Assenting Creditors' Signatures.	Amount of Proof.	Number.	Dissenting Creditors' Signatures.	Amount of Proof.

NOTE.—When a resolution is carried unanimously the creditors need not sign, but when a division is taken all creditors and holders of proxies voting should sign. The signatures must be attached at the meeting. Resolutions should be put separately.

No. 78.

**Resolution Accepting a Scheme of Arrangement.***(Title.)*

Minutes of resolutions come to and proceedings had at the first meeting of creditors held at this day of , 19 , Chairman.

Resolved as follows: (a)

That the debtor's proposal for a scheme of arrangement as set forth in the paper writing hereunto annexed, and marked with the letter "A," be accepted.

F. K., *Chairman.*

(a) Insert "unanimously" where the resolution is so carried.

Number.	Assenting Creditors' Signatures.	Amount of Proof.	Number.	Dissenting Creditors' Signatures.	Amount of Proof.

NOTE.—When a resolution is carried unanimously the creditors need not sign, but when a division is taken all creditors and holders of proxies voting should sign. The signatures must be attached at the meeting. Resolutions should be put separately.

No. 79.

**Application to Extend Time for Accepting or Approving a Composition or Scheme, and Order thereon.**

(Title.)

*Ex parte* the Receiver.

The Receiver in the above matter reports to the Court:—

That a (a) was on the day of , 19 , duly entertained (a) Composition or scheme of arrangement.

That the public examination of the debtor was concluded on the day of , 19 .

That (b) in time to allow of the acceptance or approval of the said (a) (b) The prescribed notices cannot be given; or the moneys or securities required for the said (a) have not been lodged; or as the case may be.

Under these circumstances, an application is made for an extension of time to the day of , 19 , for obtaining such acceptance or approval.

Dated this day of , 19 .

Receiver.

Order.

Before

Upon reading the above report of the Receiver, and hearing , it is ordered that the time for obtaining the acceptance or approval of the said (a) in the above matter be extended to the day of , 19 .

Dated this day of , 19 .

By the Court,  
Registrar.

No. 80.

**Application to Court to Appoint Day for Approving Composition or Scheme.**

(Title.)

Whereas at a meeting of creditors of the above-named debtor, held at on the day of , 19 , a resolution to entertain (a) was duly passed by a majority in number representing three-fourths in value of all the creditors who have proved their debts. (a) A composition or scheme of arrangement.

And whereas the public examination of the said debtor was concluded on the day of , 19 .

Now the (b) applies to the Court to fix a day for the consideration of the above-mentioned (a) (b) "Debtor" or "Receiver."

The gross amount of the (c) on which the *ad valorem* fee will be payable is \$ (c) Estimated assets (but not exceeding the gross amount of the unsecured liabilities), or "composition."

Dated this day of 19 .

Debtor [or Receiver].

Order.

Before

Upon reading the above application, and hearing , it is ordered that the application for the consideration by the Court of the above-mentioned (a), shall be heard at on the day of , 19 .

Dated this day of , 19 .

By the Court,  
Registrar.

No. 81.

**Application to Court to appoint Day for Approving Composition or Scheme in a Summary Case.**

(Title.)

## SUMMARY CASE.

Whereas an order for the summary administration of the estate of the above-named \_\_\_\_\_ was made by the Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

And whereas at a meeting of creditors of the above-named debtor, held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, a resolution to accept (a) \_\_\_\_\_ was duly passed by a majority in number representing three-fourths in value of all the creditors who have proved their debts.

(a) A composition or scheme of arrangement.

And whereas the public examination of the said debtor was concluded on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

(b) "Debtor" or "Receiver." Now the (b) \_\_\_\_\_ applies to the Court to fix a day for the consideration of the above-mentioned (a) \_\_\_\_\_.

(c) Estimated assets (but not exceeding the gross amount of the unsecured liabilities), or "composition." The gross amount of the (c) \_\_\_\_\_ on which the *ad valorem* fee will be payable is \$ \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Debtor [or Receiver].

Order.

Before

Upon reading the above application, and hearing \_\_\_\_\_, it is ordered that the application for the consideration by the Court of the above-mentioned (a) \_\_\_\_\_ shall be heard at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

By the Court,  
Registrar.

No. 82.

**Notice to Creditors of Application to Court to approve Composition or Scheme of Arrangement.**

(Title.)

Take notice that application will be made to the above Court sitting at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon to approve the composition [or scheme of arrangement] as proposed by the said debtor and duly accepted by the statutory majority of creditors at a meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Receiver.

No. 83.

**Notice to Creditors of Application to Court to approve Composition or Scheme of Arrangement in a Summary Case.**

(Title.)

## SUMMARY CASE.

Take notice that application will be made to the above Court sitting at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon to approve the composition [or scheme of arrangement] as proposed by the said debtor and duly accepted by the statutory majority of creditors at a meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Receiver.

No. 84.

**Notice to Receiver of Application to Court by Debtor to approve Composition or Scheme.**

(Title.)

Take notice that application will be made to the Court on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, to sanction the composition [or scheme] approved on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, by the statutory majority of creditors.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

G.H.

No. 85.

**Order on Application to approve Composition.**

(Title.)

On the application of \_\_\_\_\_, and on reading the report of the Receiver, filed on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and hearing the Receiver and \_\_\_\_\_, and the Court being satisfied that the creditors in the above matter have duly accepted and approved a composition [or scheme] in the following terms, namely [*here insert terms if short; if not, insert " in the terms contained in the paper writing marked A. annexed hereto "*], and being satisfied that the said terms are reasonable and calculated to benefit the general body of creditors, and being satisfied that the case is one in which the Court would not be required if the debtor were adjudged bankrupt to refuse an order of discharge. [and as the case may be].

*And being satisfied*

(a) That no facts have been proved which would justify the Court in refusing, qualifying or suspending an order of discharge;

Or,

(b) That facts have been proved which would justify the Court in refusing, qualifying or suspending an order of discharge, but that having regard to the nature of such facts, and the composition [or scheme] providing reasonable security for payment of not less than \$1.80 in respect of every \$4.80 on all unsecured debts provable against the debtor's estate, the said composition [or scheme] is hereby approved.

or after

and being satisfied that the said terms are not reasonable or calculated to benefit the general order of creditors,

and/or, after

and/or, being satisfied

(a) That the case is one in which the Court would be required, if the debtor were adjudged bankrupt, to refuse his discharge.

(b) That facts have been proved which would under the Bankruptcy Ordinance justify the Court in refusing, qualifying or suspending the debtor's discharge the Court doth refuse to approve the said composition [or scheme].

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

No. 86.

**Application for Enforcement of Provision in a Composition.**

(Title.)

In the matter of a composition made by A.B. of \_\_\_\_\_ I, F.M., of \_\_\_\_\_, do apply to this Court for an order for the enforcement of the provisions of the said composition against \_\_\_\_\_, on the grounds set forth in the annexed affidavit.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

F. M.

No. 87.

**Affidavit in support of Application for Enforcement of Provisions of a Composition.***(Title.)*

In the matter of a composition made by A.B. of  
I, F.M., of \_\_\_\_\_, make oath and say—

1. That I am interested in the said composition, having proved my debt as a creditor of the said A.B. [*or as the case may be*].

2. That [one of] the provisions of the said composition is [or are] [*here set it or them out*].

3. That \_\_\_\_\_ has failed to comply with the said provisions [*or as the case may be*].

Sworn at, etc.

F.M.

No. 88.

**Order for Enforcement of Provisions in a Composition.***(Title.)*

In the matter of a composition made by A.B., of \_\_\_\_\_

Upon the application of F.M., of \_\_\_\_\_, and reading [*here insert evidence*] and upon hearing \_\_\_\_\_ the Court being of opinion that the provisions of the said composition mentioned in the said affidavit should be enforced, it is ordered that [*here insert order*].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

By the Court,  
*Registrar.*

To

Take notice that unless you obey the direction contained in this order, you will be deemed to have committed a contempt of Court.

No. 89.

**Certificate of Approval of Composition or Scheme.***(Title.)*

I hereby certify that a composition [*or scheme of arrangement*] between A.B., of \_\_\_\_\_, the above-named debtor, and his creditors was duly approved by the Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

*Receiver.*

No. 90.

**Notice to Debtor of Intended Application for Adjudication.***(Title.)*

Take notice that, on behalf of the Receiver application will be made to the Court \_\_\_\_\_, at \_\_\_\_\_ on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon for an order adjudging you, the above-named A.B., bankrupt.\*

\*Here state the grounds on which the application will be made.

And further take notice, that leave has been obtained to serve you with short notice of this application.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

To the above-named \_\_\_\_\_

No. 91.

**Application for Adjudication under Section 15.***(Title.)*

The Receiver in the above matter reports to the Court:—

That a receiving order was made against the above-named debtor on the day of 19 .

That a copy of the Form hereunto annexed was to the said debtor, on the day of 19 .

That the debtor has not submitted a statement of and in relation to his affairs as required by Section 15 of the Ordinance nor has he furnished the Receiver with any reasonable excuse for his failure to do so.

The Receiver accordingly, in pursuance of Section 15 of the Ordinance makes application to the Court to adjudge the said debtor bankrupt.

Dated this day of 19 .

*Receiver.*

No. 92.

**Application for Adjudication under Section 15 and Rule 180.***(Title.)*

The Receiver in the above matter reports to the Court:—

That a receiving order was made against the above-named debtor on the day of 19 .

That the act of bankruptcy on which the petition was founded was the allegation that the debtor had within three months before the date of presentation of the petition.

That from enquiries made since the receiving order, the statement that the debtor had appears to have been well founded, and the present place and residence of the debtor has not been ascertained.

That the debtor has failed to attend at the office of the Receiver to be examined in respect of his property and creditors, and to give necessary information relative to his estate, affairs, conduct, and dealings, and to receive instructions as to the preparation of a statement of and in relation to his affairs in accordance with the notice (a copy of which is hereto annexed) sent by post addressed to as aforesaid.

That the debtor has not submitted a statement of and in relation to his affairs in pursuance of Section 15 of the Ordinance.

The Receiver accordingly, in pursuance of the provisions of Section 15 of the Ordinance and Rule 180 of the Bankruptcy Rules makes application to the Court to adjudge the said debtor bankrupt.

Dated this day of 19 .

*Receiver.*

No. 93.

**Application for Adjudication after Resolution for Bankruptcy.***(Title.)*

The Receiver of the estate of the above-named debtor hereby reports to the Court:—

That at the first meeting of the creditors of the said debtor , held at , on the day of 19 , the following resolution was passed:—

“That , the above-named debtor, shall be adjudged bankrupt, and that the Receiver do apply to the Court to make the adjudication.”

(a) "The debtor has in writing, consented to the Court adjudging him bankrupt."

(a) And the Receiver, accordingly, in pursuance of the provisions of Section 19 of the Ordinance makes application to the Court to adjudge the said debtor bankrupt.

Dated this            day of            19            .

Receiver.

No. 94.

**Application for Adjudication. No Quorum. Summary Administration.**

(Title.)

SUMMARY CASE.

The Receiver reports to the Court:—

That a receiving order was made against the above-named debtor on the day of            , 19            .

That an order for the summary administration of the estate of the debtor was made on the            day of            19            .

That the first meeting of creditors was duly summoned to be held at on the            day of            19            .

That creditors qualified to vote not being present or represented thereat to form a quorum, no resolution was passed [or the meeting was adjourned to the day of            ].

No good purpose would have been served by            adjourning the said meeting [or that at such adjourned meeting creditors qualified to vote not being present or represented to form a quorum no resolution was passed].

That (a)

The Receiver accordingly, in pursuance of the provisions of Section 19 of the Ordinance makes application to the Court to adjudge the said debtor bankrupt.

Dated this            day of            19            .

Receiver.

(a) "That the debtor has, in writing, consented to be adjudged bankrupt."

No. 95.

**Application for Adjudication where no Quorum at Adjourned Meeting.**

(Title.)

The Receiver reports to the Court:—

That a receiving order was made against the above-named debtor on the day of            , 19            .

That the first meeting of creditors was duly summoned to be held at on the            day of            19            .

That creditors qualified to vote not being present or represented thereat to form a quorum, the said meeting was adjourned to the            day of            19            .

That at such adjourned meeting creditors qualified to vote not being present or represented to form a quorum no resolution was passed.

That (a)

The Receiver accordingly in pursuance of Section 19 of the Ordinance, makes application to the Court to adjudge the said debtor bankrupt.

Dated this            day of            19            .

Receiver.

(a) Notice of this application was on the            day of            , 19            , sent by post addressed to the debtor, or the debtor has consented, in writing, to the Court adjudging him bankrupt.

No. 96.

**Order of Adjudication.**

(Title.)

Pursuant to a petition, dated \_\_\_\_\_ against [here insert name, description and address of debtor] on which a receiving order was made, on the [date] and on the application of [here insert "the Receiver" or "the debtor himself" or "A.B. of \_\_\_\_\_, a creditor"], and on reading \_\_\_\_\_ and hearing \_\_\_\_\_ it is ordered that the debtor be and the debtor is hereby adjudged bankrupt.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

By the Court,  
Registrar.

or

Whereas pursuant to a petition dated \_\_\_\_\_ against A.B., a receiving order was made on the [date]. And whereas it appears to the Court that at the first meeting of creditors held on the [date] (or at an adjournment of the first meeting of creditors) at \_\_\_\_\_ it was duly resolved that the debtor be adjudged bankrupt: It is ordered that the debtor be and the said debtor is hereby adjudged bankrupt.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

By the Court,  
Registrar.

No. 97.

**Order of Adjudication after Receiving Order under Section 98 of the Ordinance.**

(Title.)

Whereas a receiving order was made against the above-named debtor on the \_\_\_\_\_ day of \_\_\_\_\_ upon the hearing of an application for his commitment to prison for default in payment of moneys pursuant to an order of the Court, and in lieu of his commitment to prison for such default.

And whereas it appears to this Court that [grounds of application for adjudication]. It is ordered that the debtor be and the said debtor is hereby adjudged bankrupt.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

By the Court,  
Registrar.

No. 98.

**Application to Annul Adjudication under Section 30.**

(Title.)

I, R.S., of \_\_\_\_\_, being interested in this matter, do hereby make application to the Court that the order of adjudication against A.B. be annulled [here state grounds of application].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_ .

R.S.

No. 99.

**Order Annuling Adjudication under Section 30.**

(Title.)

On the application of R.S.; of \_\_\_\_\_, and on reading \_\_\_\_\_ and hearing \_\_\_\_\_ it is ordered that the order of adjudication dated \_\_\_\_\_ against A.B. of \_\_\_\_\_, be and the same is hereby annulled.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

By the Court,  
Registrar.

No. 100.

**Application for Order of Discharge.***(Title.)*

I, A.B., of \_\_\_\_\_, having been adjudged bankrupt on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, and being desirous of obtaining my discharge, hereby apply to the Court to fix a day for hearing my application.

My public examination was concluded on the \_\_\_\_\_ day of \_\_\_\_\_ .  
Annexed hereto is the certificate of the Receiver certifying the number of any creditors.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ .

(Signed) A.B.,

To the Registrar of the Supreme Court.

No. 101.

**Certificate of Number of Creditors.***(Title.)*

I certify that the creditors of the above bankrupt who require to be notified of his intention to apply for his discharge are \_\_\_\_\_ in number.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ .

G.H.

No. 102.

**Notice to Receiver and Trustee of Application for Discharge.***(Title.)*

The bankrupt having applied to the Court for his discharge, the Court has fixed the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, at \_\_\_\_\_ for hearing the application.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ .

*Registrar.*

To the Receiver and trustee.

No. 103.

**Notice to Creditors of Application for Discharge.***(Title.)*

Take notice that the bankrupt A.B., of \_\_\_\_\_ has applied to the Court for his discharge, and that the Court has fixed the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock, for hearing the application.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ .

G.H.,  
*Receiver.*

To X.Y.

NOTE.—On the back of this notice the provisions of Sections 27 and 28 of the Ordinance should be printed

No. 104.

**Order Granting or Refusing Discharge.**

On the application of A.B., of \_\_\_\_\_, etc., adjudged bankrupt on the day of \_\_\_\_\_, 19\_\_\_\_, and upon taking into consideration the report of the Receiver as to the bankrupt's conduct and affairs and upon hearing the Receiver and C.D., E.F., etc., creditors, and G.H., the trustee [as the case may be].

And whereas it has not been proved that the bankrupt has committed any misdemeanour under the Ordinance, or any misdemeanour or felony connected with his bankruptcy, and proof has not been made of any of the "facts" mentioned in subsection 3 of Section 27 or in Section 28 of the Ordinance or that the bankrupt has been guilty of any misconduct in relation to his property and affairs: It is ordered that he be and he hereby is discharged.

*Or*

And whereas the bankrupt has committed the following misdemeanours or felonies (*here state particulars*):

It is ordered that his discharge be and it is hereby refused.

*Or*

And whereas it has not been proved that the bankrupt has committed any misdemeanours or felonies mentioned in the Ordinance; but proof has been made of the following facts under subsection 3 of Section 27 (or/and Section 28) of the Ordinance, viz. (*here state particulars*):

And/or that he has been guilty of misconduct in relation to his property and affairs, viz. (*here state particulars*):

It is ordered that his discharge be and it is hereby refused.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

By the Court,  
*Registrar.*

No. 105.

**Order Suspending Discharge.**

(*Title.*)

On the application of \_\_\_\_\_ (as in Form \_\_\_\_\_).

And whereas it has not been proved that the bankrupt has committed any of the misdemeanours or felonies mentioned in Section 27 of the Bankruptcy Ordinance [or it has been proved that the bankrupt has committed the following misdemeanours (and/or felonies), namely [set them out], but the Court has for the following special reasons [state them] determined that his discharge shall not on that ground be absolutely refused]; but proof has been made of the following facts under subsection 3 of Section 27 of the Bankruptcy Ordinance (or/and, Section 28 of the Bankruptcy Ordinance), (*here state particulars*): or/and, that he has been guilty of misconduct in relation to his property and affairs, viz. *here state particulars*]:

It is ordered that the bankrupt's discharge be suspended until a dividend of not less than fifty cents in the dollar has been paid to the creditors, with liberty to the bankrupt at any time after the expiration of two years from the date of this order to apply for a modification thereof, pursuant to Section 27 of the Bankruptcy Ordinance.

*Or*

It is ordered that the bankrupt's discharge be suspended for \_\_\_\_\_ years and that he be discharged as from the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

By the Court,  
*Registrar.*

No. 106.

**Order of Discharge where only fact proved that Assets not equal to 50c. in §.**

(Title.)

On the application of

[Commencement as in Form 104.]

And whereas it has not been proved that the bankrupt has committed any of the misdemeanours or felonies mentioned in Section 27 of the Bankruptcy Ordinance, and whereas the only fact under subsection 3 of that Section and Section 28 of which proof has been made is the fact that the bankrupt's assets are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities.

It is ordered that the bankrupt's discharge be suspended for \_\_\_\_\_ and that he be discharge as from the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

By the Court,  
Registrar.

No. 107.

**Order of Discharge subject to conditions as to Earnings, After-acquired Property, and Income.**

(Title.)

On the application of \_\_\_\_\_, adjudged bankrupt on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, and upon taking into consideration the report of the Receiver as to the bankrupt's conduct and affairs, and (a)

And where as it has not been proved (b)

It is ordered that the bankrupt be discharged subject to the following conditions as to his future earnings, after-acquired property and income:—

After setting aside out of the bankrupt's earnings, after-acquired property and income, the yearly sum of \$ \_\_\_\_\_ for the support of himself and family, the bankrupt shall pay the surplus, if any (or such portion of such surplus as the Court may determine), of such earnings after-acquired property and income to the Receiver [or trustee] for distribution among the creditors in the bankruptcy. An account shall, on the 1st day of January in every year, or within fourteen days thereafter, be filed in these proceedings by the bankrupt, setting forth a statement of his receipts and earnings, after-acquired property, and income during the year immediately preceding the said date, and the surplus payable under this order shall be paid by the bankrupt to the Receiver [or trustee] within fourteen days of the filing of the said account.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_ .

By the Court,  
Registrar.

No. 108.

**Order of Discharge subject to a condition requiring the Bankrupt to consent to Judgment being entered up against him.**

(Title.)

On the application (a)

It is ordered that the bankrupt be discharged subject to the following condition to be fulfilled before the discharge takes effect, namely, he shall, before the signing of the order, consent to judgment being entered against him in the Supreme Court, by the Receiver [or trustee] for the sum of \$ \_\_\_\_\_, being the balance [or part of the balance] of the debts probable in the bankruptcy which is not satisfied at the date of this order, and \$5 for costs of the judgment.

And it is further ordered, without prejudice and subject to any execution which may be issued on the said judgment with the leave of the Court, that the said sum of

(a) Further recitals to be inserted.

(b) This recital is to follow the other forms, with necessary variations.

(a) Formal parts and recitals as in the last preceding form.



No. 111.

**Affidavit by Bankrupt, whose discharge has been granted conditionally as to after-acquired Property or Income.***(Title.)*

I, the above-named debtor, make oath and say as follows:—

1. I have since the date of my discharge resided and carried on business at \_\_\_\_\_, and I now reside and carry on business at \_\_\_\_\_.

2. The statement hereunto annexed is a full, true and complete account of all moneys earned by me and of all property and income acquired as received by me since the date of my discharge [or, since the date when I last filed a statement, of after-acquired property and income in Court, namely, the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_].

Sworn at, etc.

*(Signature of Debtor.)*

No. 112.

**Certificate for Removal of Disqualification.***(Title.)*

Whereas an order of discharge was, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ granted to A.B., of the above-named bankrupt, it is hereby certified that the bankruptcy of the said A.B. was caused by misfortune without any misconduct on his part.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

By the Court,  
*Registrar.*

No. 113.

**Certificate of Appointment of Trustee.***(Title.)*

This is to certify that G.H., of \_\_\_\_\_, has been duly appointed and approved as trustee of the property of \_\_\_\_\_, who was adjudged bankrupt on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

*Judge.*

No. 114.

**Report of Appointment of Trustee to fill a Vacancy caused by Resignation, etc.***(Title.)*

It is reported to the Court as follows:—

1. That a meeting of creditors in this bankruptcy was held on the \_\_\_\_\_ day of \_\_\_\_\_, for the purpose of receiving of G.H. his resignation of the office of trustee and of appointing a person to fill such office [or for the purpose of appointing a trustee in the place of G.H. who is dead, or who has resigned, or who has been removed or, as the case may be].

2. That by resolution of such meeting N.O. of \_\_\_\_\_, was appointed to fill the office of trustee of the property of the bankrupt.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

F.K., *Chairman.*

No. 115.

**Application by Trustee for Committal of Bankrupt or other Person.**

(Title.)

I, the trustee of the property of the said bankrupt [or as the case may be], do apply to this Court for an order of committal for contempt of this Court against the said bankrupt [or L.M., ] on the ground set forth in the annexed affidavit.

Dated this            day of            , 19            .

G.H., Trustee.

No. 116.

**Affidavit of Person interested in a Composition for Committal.**

(Title.)

In the matter of a composition made by A.B., of            I, F.M., of            , make oath and say:—

1. That            of            was by an order of this Court made on the day of            19            , ordered to [here set out the order].
- 2 That a copy of the said order was duly served on the said            .
3. That the said            has failed to obey such order.

Sworn at, etc.

F.M.

No. 117.

**Affidavit in support of Application of Committal of Debtor for Contempt under Section 24.**

(Title.)

I, G.H., the Receiver of the estate of the said debtor [the trustee of the property of the said bankrupt] make oath and say:—

[1. That the debtor did attend at the first meeting of his creditors held on the day of            , 19            , at            , and wilfully refused to submit to be examined at such meeting in respect of his property [or his creditors], contrary to the provisions of the Ordinance.]

Where the debtor does not submit to examination.

[1. That the said [debtor] bankrupt did wilfully fail to attend a meeting of his creditors held on the            day of            , 19            , at            [or to wait on me at my office on the            day of            , 19            ], contrary to the provisions of the Ordinance.]

Where the debtor fails to attend a meeting other than the first.

[or 1. That the said [debtor] bankrupt has wilfully failed to execute [here describe the deed, etc., that he has failed to execute], contrary to the provisions of the Ordinance.]

Where debtor fails to execute a deed.

2. [That the said (debtor) bankrupt was on the            day of            19            duly served with a notice, a copy of which is hereunto annexed by leaving the same at his usual place of residence, requiring him to attend the said meeting], [or to execute the above-mentioned deed, etc.]

When the debtor fails to attend a meeting other than the first, or to execute a deed.

When the debtor fails to obey any special orders of the Court.

[or 1. That the said [debtor] bankrupt has wilfully failed to perform the duty imposed on him by section 24 of the Ordinance. [*Here insert any act he has been required to do by any special order of the court, stating the day on which the order was made.*]

2. [That the said [debtor] bankrupt was duly served with a copy of such order by leaving the same at his usual place of residence on the \_\_\_\_\_ day of 19 \_\_\_\_.]

When debtor fails to deliver up property.

[or 1. That the said [debtor] bankrupt has failed to deliver up possession of [*here state the property he has failed to deliver up*], which property is divisible among his creditors under the Ordinance, and which said property was [*or is*] in his possession or control, he having been required by me to deliver up the said property by notice, a copy of which is hereto annexed, and which notice was duly served upon him on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ , at \_\_\_\_\_.]

Sworn at, etc.

G.H.

No. 118.

**Affidavit of Trustee under Section 52 (5).**

(*Title.*)

I, G.H., the trustee of the property of the said A.B., a bankrupt, make oath and say:—

1. That I believe that L.M., of \_\_\_\_\_, hath in his possession or power as [*here set out the capacity in which the person stands to the bankrupt*] certain moneys and securities belonging to the bankrupt, that is to say [*here set out and describe the particular moneys and securities*].

2. That on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, I did apply personally to the said L.M., to pay and deliver to me the said moneys and securities, and that he did not then, nor has he since paid or delivered to me the same [*or, that I, on the \_\_\_\_\_ day of \_\_\_\_\_, posted a letter to the said L.M., addressed to him at \_\_\_\_\_, calling upon him, etc.*] and that on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, I posted another letter, by which I again called upon him to, etc., and that he has failed to pay and deliver the same.

3. That I firmly believe that the said L.M. is not entitled by law to retain such moneys [and securities] as against the bankrupt or against me as the trustee of the property of the bankrupt.

Sworn at, etc.

G.H., *Trustee.*

No. 119.

**Notice of Application for Committal under Section 17 or 22.**

(*Title.*)

To

Take notice that C.D., of \_\_\_\_\_ will on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, apply to this Court for an order for your committal to prison for contempt of this Court you having disobeyed the order of this Court made on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ [*here set out order*]. And further take notice that you are required to attend the Court on such day at the hour before stated, to show cause why an order for your committal should not be made.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ .

*Registrar.*

No. 120.

Notice of Application for Committal under Section 23.

(Title.)

To the said A.B., bankrupt.

Take notice that the trustee (or Receiver) of the property of the said bankrupt will on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, apply to this Court for an order for your committal to prison for contempt of this Court you having failed to perform the duty imposed on you by the twenty-third section of the Ordinance [*here set out the duty he failed to perform*]. And further take notice that you are required to attend the Court on such day at the hour before stated to shew cause why an order for your committal should not be made.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Registrar.

No. 121.

Notice of Application for Committal under Section 52 (5).

(Title.)

To [*here insert name, address and description of the person to whom the notice is to be sent.*]

Take notice that the trustee (or Receiver) of the property of the said bankrupt will on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, apply to this Court, for an order for your committal to prison for contempt of this Court, you having failed to pay and deliver to him certain moneys [and securities] belonging to the bankrupt in your possession or power as [*here state whether as treasurer, banker, etc.*] that it is to say [*here set out and describe the particular moneys and securities*]. And further take notice that you are required to attend the Court on such day at the hour before stated to show cause why an order for your committal should not be made.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Registrar.

No. 122.

Order of Committal under Section 17 or 22.

(Title.)

Whereas by an order of this Court made on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, [*here recite the order*]: Now upon the application of C.D., of \_\_\_\_\_, and upon hearing A.B. [*or as the case may be*] [*or if he does not appear*] reading the affidavit of [*here insert name and description of person by whom the order was served on A. B.*], and upon reading the affidavit of [*enter evidence*], the Court being of opinion that the said A.B. has been guilty of contempt of this Court by his disobedience of the said order, it is ordered that the said A.B. do stand committed to [*here insert prison*] for his said contempt.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,  
Registrar.

No. 123.

**Order for Committal under Section 23.***(Title.)*

Upon application of the trustee [or Receiver] of the property of the bankrupt [or debtor], and upon hearing the bankrupt [or if he does appear], and reading the affidavit of [here insert name and description of person by whom the notice to show cause was served], and upon reading the affidavit of [enter evidence], the Court being of opinion that the bankrupt has been guilty of a contempt of this Court by having failed to [here follow the notice], it is ordered that the said bankrupt do stand committed to the Royal Gaol for the said contempt.

Dated this            day of            19

By the Court,  
Registrar.

No. 124.

**Order of Committal under Section 52 (5).***(Title.)*

Upon the application of the trustee of the property of the bankrupt and upon hearing L.M. [or if L.M. does not appear], and reading the affidavit of [here insert name and description of person by whom the notice to show cause was served] and upon reading the affidavit of [enter evidence] the Court being of opinion that L.M. has been guilty of a contempt of this Court by having failed to pay and deliver to the said trustee certain moneys [and securities], [here follow the notice], and that the said L.M. do stand committed to the Royal Gaol for the said contempt.

Dated this            day of            19

By the Court,  
Registrar.

No. 125.

**Affidavit of Non-compliance with Order under Section 97 (3).***(Title.)*

I, F.M., of            , make oath and say:—

1. That G.H., of            , was by an order of the            made on the day of            19            , ordered to [here set out order].
2. That [a copy of] the said order was duly served on the said G.H.
3. That the said G.H. has failed to obey the order.

Sworn, etc.

No. 126.

**Warrant of Committal for Contempt.***(Title.)*

To X.Y., officer of this Court and to the Superintendent of Prisons.

Whereas by an order of this Court bearing date the            day of 19            , it was ordered that the said debtor [or L.M., of            ] should stand committed for contempt of this Court.

These are therefore to require you that said X.Y. to take the said A.B. [or L.M.] and to deliver him to the Superintendent of Prisons, and you the said Superintendent to receive the said A.B. and him safely to keep in prison and in your custody until such time as this Court shall order; and you the said Superintendent shall, while the said A.B. is in your custody, at all times when the Court shall so direct, produce the said A.B. before the Court.

Dated this            day of            , 19

By the Court,  
Registrar.

No. 127.

**Order for Discharge from Custody on Contempt.**

(Title.)

Upon application made this            day of            for A.B., who was committed to prison for contempt by order of this Court, dated the            day of            , 19            and upon reading his affidavit showing that he has cleared [or is desirous of clearing] his contempt and has paid the costs occasioned thereby, and upon hearing the trustee [or Receiver] [or C.D. of            ], it is ordered that the Superintendent of Prisons to discharge the said A.B. out of his custody, as to the said contempt.

Dated this            day of            , 19            .

By the Court,  
Registrar.

No. 128.

**Order for Production of Person in Prison for Examination before the Court.**

(Title.)

Upon application made this            day of            by [applicant] for an order for the production of A.B., who was committed to prison for contempt by order of this Court dated the            day of            , for examination before this Court; it is ordered that the Superintendent of Prisons do cause the said A.B. to be brought in custody before the Court at            on the            day of            for examination before the Court, and afterwards to be taken back to the said prison, to be there safely kept pursuant to the said order.

Dated this            day of            91            .

By the Court,  
Registrar.

No. 129.

**Search Warrant.**

(Title.)

Whereas by evidence duly taken upon oath it hath been made to appear to the Court that there is reason to suspect and believe that property of the said debtor is concealed in the house [or other place describing it as the case may be] of one X.M., of            such house [or place] not belonging to the said debtor.

These are therefore to require you to enter in the day time into the house [or other place, describing it] of the said X.M., situate at            aforesaid, and diligently to search for the said property and if any property of the said debtor shall be there found by you on such search, that you seize the same, to be disposed of and dealt with according to the provisions of the Ordinance.

Dated this            day of            19            .

Registrar.

To the X.Y. officer of this Court and his assistants [or Marshal and others, the Bailiffs of this Court.]

No. 130.

**Warrant of Seizure.***(Title.)*

Whereas on the            day of            19            , a receiving order was made against the said debtor: These are therefore to require you forthwith to enter into and upon the house and houses, and other the premises of the said debtor, and also in all other place and places belonging to the said debtor where any or his goods and moneys are, or are reputed to be, and there seize all the ready money, jewels, plate, household stuff, goods, merchandise, books of accounts, and all other things whatsoever, belonging to the said debtor, except his necessary wearing apparel, bedding and tools as excepted by the Ordinance.

And that which you shall so seize you shall safely detain and keep in your possession until you shall receive other orders in writing for the disposal thereof from the trustee; and in case of resistance or of not having the key or keys of any door or lock of any premises belonging to the said debtor where any of his goods are or are suspected to be, you shall break open, or cause the same to be broken open for the better execution of this warrant.

Dated this            day of            , 19            .

*Registrar.*

To the X.Y. officer of this Court, and to his assistants [*or to the Marshal and others, the Bailiffs of this Court.*]

No. 131.

**Warrant against Debtor about to Quit the Colony, etc.***(Title.)*

To the X.Y. officer of this Court and all peace officers within the jurisdiction of the said Court, and to the Superintendent of Prisons.

Whereas by evidence taken upon oath, it had been made to appear to the satisfaction of the Court, that there is probable reason to suspect and believe that the said A.B., of            , is about to go abroad [*or quit his place of residence*] with a view of avoiding service of a bankruptcy petition [*or of avoiding appearing to a bankruptcy petition*], [*or of avoiding examination in respect of his affairs or other wise delaying or embarrassing the proceedings in bankruptcy*] [*or of avoiding payment of a judgment debt in respect of which a bankruptcy notice has been issued*].

[*Or that there is probable cause to suspect and believe that the said A.B. is about to remove his goods or chattels with a view of preventing or delaying such goods or chattels being taken possession of by the trustee of the property of the bankrupt or that the said A.B. has concealed or is about to conceal or destroy his goods or chattels, or some of them, or his books, documents, or writings, or some or one of them which books, documents, or writings, or some or one of them, may be of use to the creditors in the course of the bankruptcy of the said A.B.*]

[*Or whereas, by evidence taken upon oath, it hath been made to appear to the satisfaction of this Court that the said A.B. has removed certain of his goods and chattels in his possession, above the value of            , without the leave of the trustees, that is to say.*]

[*here describe the goods or chattels.*]

[*Or that the said A.B. did without good cause fail to attend at this Court on the            day of            , 19            , for the purpose of being examined according to the requirements of an order of this Court made on the            day of            , 19            , directing him so to attend.*]

These are therefore to require you the said            and others, to take the said A.B. and to deliver him to the Superintendent of Prisons, and you the said Superintendent to receive the said A.B., and him safely to keep in the prison until such time as this Court may order.

Dated this            day of            , 19            .

By the Court,  
*Registrar.*

No. 132.

**Order to Postmaster General under Section 25.**

(Title.)

Upon the application of G.H., of \_\_\_\_\_, the Receiver (or trustee) of the property of the above debtor, it is ordered that for a period of three months from [here insert the date] all post letters directed or addressed to the said debtor at [here insert the full address or addresses] shall be re-directed, sent, or delivered by the Postmaster General or officers acting under him to the said Receiver (or trustee) at \_\_\_\_\_ [or otherwise, as the Court may direct], and that a sealed duplicate of this order be forthwith transmitted by the Receiver (or trustee) to the Postmaster General, or officers acting under him.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

By the Court,  
Registrar.

No. 133.

**Subpoena.**

(Title.)

GEORGE, by the grace of God, &c., to [the names of three witnesses may be inserted] greeting: We command you to attend before \_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_ day the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon, and so from day to day until the above matter is heard, to give evidence on behalf of [insert name].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Registrar.

No. 134.

**Subpoena Duces Tecum.**

(Title.)

GEORGE, by the grace of God, &c., to [the names of three witnesses may be inserted] greeting: We command you to attend before \_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_ day the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon and so from day to day until the above matter is heard, to give evidence on behalf of \_\_\_\_\_ and also to bring with you and produce at the time and place aforesaid [specify documents to be produced].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Registrar.

No. 135.

**Summons under Section 26.**

(Title.)

To \_\_\_\_\_, of \_\_\_\_\_

You are hereby required to attend at the Court of \_\_\_\_\_, holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, to give evidence in the above matter, and then and there to have and produce\* hereof if you fail, having no lawful impediment to be then made known to the Court, and allowed by it, the Court may by warrant cause you to be apprehended and brought up for examination.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Registrar.

\*State any particular documents required, e.g. all ledgers and books of account, invoices, statements of account, letters, books, papers and documents of every kind, in any manner relating to your dealings and transactions with A.B. a bankrupt, touching a debt alleged to be due by you to the said bankrupt's estate amounting to the sum of \$ \_\_\_\_\_ of \$ \_\_\_\_\_

NOTE.—This summons is issued on the application of the Receiver and trustee and take notice, that if the sum of \$ \_\_\_\_\_, stated to be due by you to this estate, be paid to \_\_\_\_\_, Receiver, at \_\_\_\_\_ on or before the \_\_\_\_\_ day of \_\_\_\_\_, this summons will be discharged.

No. 136.

**Admission of Debt by Debtor of Bankrupt.***(Title.)*

In the matter of A.B., of \_\_\_\_\_, a bankrupt.  
 I, the undersigned J.K., of \_\_\_\_\_, do hereby admit that I am indebted to  
 the said bankrupt in the sum of \_\_\_\_\_ upon the balance of accounts between  
 myself and the said bankrupt.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

J. K.

Witness,  
 C.D., *Registrar*  
 [or as the case may be].

No. 137.

**Order to Pay Admitted Debt.***(Title.)*

Whereas J.K., of \_\_\_\_\_, in his examination taken this day and signed and  
 subscribed by him, has admitted that he is indebted to the said debtor in the sum  
 of \_\_\_\_\_, on the balance of accounts between him and the debtor; it is ordered  
 that the said J.K. do pay to the trustee of the property of the debtor, in full  
 discharge of the sum so admitted the sum of \_\_\_\_\_ forthwith [or if otherwise,  
*state the time and manner of payment*], and do further pay to the said trustee the  
 sum of \_\_\_\_\_ for costs.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

By the Court,  
*Registrar.*

No. 138.

**Warrant to apprehend a Person summoned under Section 26.***(Title.)*

To X.Y. and his assistants of this Court and to the Superintendent of Prisons.  
 Whereas by summons dated the \_\_\_\_\_ day of \_\_\_\_\_, and directed to A.B.,  
 of \_\_\_\_\_ [or F.M., of \_\_\_\_\_], the said A.B. [or F.M.] was required personally  
 to be and appear on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock in the  
 noon at this Court to be examined [and/or produce such document as hereinafter  
 mentioned] which said summons was afterwards on the \_\_\_\_\_ day of \_\_\_\_\_ as  
 hath been proved upon oath duly served upon the said \_\_\_\_\_ and a reasonable  
 sum was tendered him for his expenses, and whereas the said \_\_\_\_\_ having no  
 lawful impediment made known to and allowed by this Court at the time of its sitting  
 hath refused to appear before the Court at the time appointed [and/or hath refused  
 to produce a document in his custody or power relating to the debtor, his dealings,  
 or property, which this Court has required him to produce]. These are, therefore, to  
 require and authorise you and every of you, the said X.Y. and your assistants  
 immediately upon receipt hereof to take the said A.B. [or F.M.], and bring him  
 before this Court at such time and place as this Court shall direct, in order to his  
 being examined as aforesaid, and in the meantime him safely to keep or deliver to  
 the Superintendent of Prisons, and forthwith, after such taking and delivery, to  
 report the same to this Court, and obtain its direction or order fixing a day, time, and  
 place for the examination of the said A.B. [or F.M.], and you the said Superintendent  
 of Prisons to receive the said A.B. [or F.M.], and him safely keep in the Royal Gaol  
 and in your custody to await the direction or order of this Court, and to produce  
 him before this Court at such time and place as shall be specified in such direction  
 or order, and for so doing this shall be a sufficient warrant to you and every of you.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

By the Court,  
*Registrar.*

No. 139.

**Order for Production of Person apprehended under Warrant under Section 26 for Examination before the Court.**

(Title.)

Upon report made to the Court the \_\_\_\_\_ day of \_\_\_\_\_ that A.B. has been apprehended under a Warrant issued by this Court on the \_\_\_\_\_ day of \_\_\_\_\_, it is ordered that the Superintendent of Prisons do cause the said A.B. to be brought in custody before the Court sitting at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon for examination before the Court, and in the meantime to be safely kept, and afterwards if the Court shall so direct to be taken back to the Royal Gaol and there safely kept pursuant to the said Warrant.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

By the Court,  
Registrar.

No. 140.

**Notice to Bankrupt under Section 54.**

(Title.)

To A.B.

Take notice that I intend to apply to this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, for an order under Section 54 of the Ordinance, for the payment of a part of your salary [or income] to me as trustee for the benefit of the creditors under your bankruptcy.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

G.H., Trustee.

No. 141.

**Notice of Application to set aside Income of Property of Bankrupt Married Woman.**

(Title.)

Take notice that I intend to apply to this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_; at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon for an order pursuant to Section 55 of the Bankruptcy Ordinance, that the whole, or such part as the Court may determine, of the income of the property of the said A.B. arising under a deed of settlement dated the \_\_\_\_\_ day of \_\_\_\_\_ and made between \_\_\_\_\_ and \_\_\_\_\_ [or as the case may be], notwithstanding the restraint on anticipation to which such income is subject, may be paid to me as trustee for distribution among the creditors.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.  
To

Trustee.

No. 142.

**Order setting aside Pay, Salary, etc., under Section 54 (1):**

(Title.)

Whereas it appears to the Court that the said bankrupt is [or, here state what the bankrupt is], and as such is in the enjoyment of the annual pay [or salary] of \_\_\_\_\_; and whereas upon the application of G.H., of \_\_\_\_\_, trustee of the property of the bankrupt, it appears to the Court just and reasonable that the annual sum of \_\_\_\_\_, portion of the said pay [or salary] ought to be paid to the said trustee during the bankruptcy, in order that the same may be applied in

payment of the debts of the said bankrupt, and that such payment ought to be made out of the first moneys which shall be due after the                    day of                    , 19                    , and be continued until this Court shall make order to the contrary; it is ordered, with the written consent of [here insert the official title of the chief officer of the department under which the pay or salary is enjoyed], that such portion of the [here insert pay or salary] shall be paid to the trustee accordingly.

Dated this                    day of                    , 19                    .

By the Court,  
Registrar.

I consent to the above order.  
Dated this                    day of                    , 19                    .

F.K. [add title and office.]

No. 143.

### Order setting aside Salary or Income, etc., under Section 54 (2).

(Title.)

Whereas it having been made to appear to this Court that the bankrupt is in the receipt of [or entitled to] a salary [or income, half-pay, pension, or compensation granted by the Government, as the case may be] of                    , as [here set forth the circumstances under which the salary or income is received]; And whereas upon the application of the trustee of the property of the bankrupt, and upon hearing the bankrupt, it appears to the Court just and reasonable that the annual sum of                    , portion of the said salary [or income, etc.] ought to be paid by the bankrupt by monthly [or quarterly] payment [according as the bankrupt receives his salary or income, etc.] to the trustee during the bankruptcy in order that the same may be applied in payment of the debts of the said bankrupt and that the first of such payments ought to be made on the                    day of                    , 19                    , and be continued monthly [or quarterly] until this Court shall make order to the contrary: it is ordered that the said sum shall be paid by                    in the manner aforesaid out of the bankrupt's said salary [or income, etc.]

Dated this                    day of                    , 19                    .

By the Court,  
Registrar.

No. 144.

### Order for Payment to Trustee of Income of Property of Married Woman notwithstanding Restraint on Anticipation.

(Title.)

Whereas it has been made to appear to this Court that the bankrupt under a deed of settlement dated the                    day of                    and made between                    and                    [as the case may be] is entitled to property, the income whereof is subject to a restraint on anticipation and whereas upon the application of the trustee in the bankruptcy and having regard to the means of subsistence available for the bankrupt and her children it appears to the Court just and reasonable that the whole [or the annual sum of \$                    part] of such income should be paid to the trustee in the bankruptcy during the bankruptcy or distribution among the creditors by equal monthly [or quarterly or half-yearly] payments of \$                    , and that the first of such payments ought to be made on the                    day of                    , 19                    , and be continued monthly [or quarterly or half-yearly] until this Court shall make order to the contrary. It is ordered that the said income [or part of income] shall be paid by                    to the trustee in the bankruptcy in manner aforesaid.

Dated this

By the Court,  
Registrar.

No. 145.

**Notice of Intention to Disclaim Lease.**

(Title.)

Take notice that I intend to disclaim the lease dated \_\_\_\_\_, whereby [*here specify property left*] was let to the above-named debtor at a rent of \$ \_\_\_\_\_.

If you do not within seven days after service of this notice upon you require me by notice in writing to bring the matter before the Court, I hereby disclaim the said lease as from the expiration of the said seven days.

Dated \_\_\_\_\_

To Mr. X.Y.

G.H., *Trustee.*

No. 146.

**Notice to Landlord of Intention to Disclaim Leasehold Property not Sub-let or Mortgaged.**

(Title.)

Take notice that I intend to disclaim the (a) \_\_\_\_\_ dated \_\_\_\_\_ whereby (b) \_\_\_\_\_ was let to the above-named debtor at a rent of \$ \_\_\_\_\_.

If you require the matter to be brought before the Court, you must give notice thereof to me in writing within seven days of the receipt by you of this notice.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

*Trustee.*

Address.

To the landlord of the above-mentioned property.

(a) Lease or tenancy as the case may be.  
(b) Here specify the property let.

No. 147.

**Notice of Intention to Disclaim Leasehold Property Sub-let or Mortgaged.**

(Title.)

Take notice that I intend to disclaim the lease dated \_\_\_\_\_, whereby (a) \_\_\_\_\_ was let to (b) \_\_\_\_\_ at a rent of \$ \_\_\_\_\_.

If you require the matter to be brought before the Court, you must give notice thereof to me in writing within fourteen days of the receipt by you of this notice.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

*Trustee.*

Address.

To Mr. \_\_\_\_\_  
the landlord of the above-mentioned premises; *and*

To Mr. \_\_\_\_\_  
The Mortgagee or Sub-tenant.

(a) Here insert particulars of demised property.  
(b) The above named bankrupt, or as the case may be.

(a) Lease dated the \_\_\_\_\_, or as the case may be.

No. 148.

**Disclaimer without Notice.**

(Title.)

(b) Description of the property.  
(c) On a tenancy or for a term of years or as the case may be.

I, \_\_\_\_\_, the trustee of the property of the above-named bankrupt, hereby disclaim the (a) \_\_\_\_\_ of the premises (b) \_\_\_\_\_ which were let to the above-named bankrupt (c) \_\_\_\_\_ at a rent of \$ \_\_\_\_\_ per

(d) Names and addresses of persons to whom notice given.

Notice of this disclaimer has been given to (d) \_\_\_\_\_  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Address.

Trustee.

(a) Names and addresses of persons to whom notice of intention to disclaim has been given.

No. 149.

**Disclaimer of Leasehold Property after Notice to Landlord, Mortgagees, etc.**

(Title.)

(b) Particulars of demised property.  
(c) The above-named bankrupt, or as the case may be.

Pursuant to notice dated the \_\_\_\_\_ day of \_\_\_\_\_ addressed to (a) \_\_\_\_\_, I, \_\_\_\_\_, the trustee of the property of the above-named bankrupt, hereby disclaim the lease dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, whereby (b) \_\_\_\_\_ were let to (c) \_\_\_\_\_ at a rent of \$ \_\_\_\_\_ for a term of \_\_\_\_\_.

Notice of this disclaimer has been given to (d) \_\_\_\_\_  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Address.

Trustee.

(d) Names and addresses of persons to whom notice of disclaimer has been given.

No. 150.

**Disclaimer of Lease with Leave of the Court.**

(Title.)

(a) Description of property disclaimed.

Pursuant to an order of the Court dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, I, \_\_\_\_\_, the trustee of the property of the above-named bankrupt, hereby disclaim all interest in the lease dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, whereby the premises (a) \_\_\_\_\_ were demised to \_\_\_\_\_ at a rent of \$ \_\_\_\_\_ per annum, for a term of \_\_\_\_\_.

Notice of this disclaimer has been given to \_\_\_\_\_  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Trustee.

No. 151.

**Notice of Disclaimer without Leave of the Court.**

(Title.)

Take notice that by writing under my hand, bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, I \_\_\_\_\_ the trustee of the property of the above-named bankrupt, disclaimed (a) \_\_\_\_\_ of the premises known as (b) \_\_\_\_\_ which were let to (c) \_\_\_\_\_ at a rent of \$ \_\_\_\_\_ per (d) \_\_\_\_\_

(a) The lease dated the \_\_\_\_\_ day of \_\_\_\_\_ or as the case may be.  
 (b) Description of property disclaimed.  
 (c) On a tenancy or for a term or as the case may be.  
 (d) Add where necessary "pursuant to notice dated the \_\_\_\_\_ day of \_\_\_\_\_."

The above-mentioned disclaimer has been filed in Court with the proceedings in the bankruptcy.

Your attention is directed to the provisions of the Bankruptcy Ordinance printed at the back hereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Trustee.  
 Address.

NOTE.—On the back of this notice the provisions of subsections (2) and (6) of Section 57 should be printed.

No. 152.

**Notice of Disclaimer of Lease with Leave of Court.**

(Title.)

Take notice that pursuant to an order of Court dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, I \_\_\_\_\_, the trustee of the property of the above-named bankrupt, by writing under my hand bearing date the \_\_\_\_\_ day of \_\_\_\_\_ disclaimed all interest in the lease dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, whereby the premises were demised to \_\_\_\_\_ at a rent of \$ \_\_\_\_\_ per annum, for a term of \_\_\_\_\_

The above-mentioned disclaimer has been filed in Court with the proceedings in the bankruptcy.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Trustee.  
 Address.

To \_\_\_\_\_

No. 153.

**Form of Notice by Landlord or other person requiring Trustee to bring matter of intended Disclaimer of Property burdened with onerous covenants before the Court.**

(Title.)

To Mr. \_\_\_\_\_  
 Trustee of the property of the  
 above-named bankrupt.

Sir,

I hereby give you notice that the said bankrupt was, at the date of the receiving order, interested as lessee [*or, as the case may be*] in the property described in the schedule to this notice, and that as such lessee [*or as the case may be*], the bankrupt was liable in respect of [*set out nature of bankrupt's liability*] which liability has devolved on you as trustee in bankruptcy of his property, and I hereby require you to bring the matter of your intended disclaimer of the bankrupt's interest in the said property before the Court.

I am, etc.,

(Signed) A.B.

[State how interested in the property.]

Schedule to Notice given by Lessor.

Date of Lease.	Names, addresses and descriptions of parties to Lease.	Full description of Property Leased.	Term and Rent.	Date of Assignment to Bankrupt (if any).	Names and addresses of parties to Assignment (if any).	Particulars of any notices of Mortgage of lease by Bankrupt.

Schedule to Notice when given by Mortgagee or Assignee.

Date of Lease.	Names and addresses of parties to Lease.	Description of Property Leased.	Term and Rent.	Date of Mortgage.	Name and addresses of parties to Mortgage.	Term conveyed by Mortgage.	Amount secured by Mortgage.	Particulars of any transfer of Mortgage, with date and names, and description of parties thereto.

No. 154.

Application for Directions by Trustee.

(Title.)

I desire to make application to the Court for its directions [here state the particular matter.]

Trustee.

Let this application be heard on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, and let the trustee give notice to [here insert the persons to whom Notice is to be given].

Dated this \_\_\_\_\_ day \_\_\_\_\_ 19 \_\_\_\_\_

Registrar.

No. 155.

**Order on Application of Trustee for Directions.**

(Title.)

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the trustee of the property of the bankrupt applied to the Court for its directions [*here state the particular matter in relation to which they are sought*]. Now upon hearing of C.D. of \_\_\_\_\_, on the matter, it is ordered [*here set out the order*] and that the trustee do pay out of his own moneys [*or out of the property of the bankrupt*] the sum of \_\_\_\_\_ the costs of this order, and the sum of \_\_\_\_\_ to C.D. for his costs [*or that C.D. do pay the sum of \_\_\_\_\_ the costs of this order, and also the sum of \_\_\_\_\_ to E.F. for his costs*].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,  
Registrar.

No. 156.

**Order for Administration in Bankruptcy of Estate of Deceased Debtor upon Petition.**

(Title.)

Upon the Petition of C.D., dated \_\_\_\_\_, and numbered \_\_\_\_\_ of 19\_\_\_\_, and upon reading \_\_\_\_\_ and hearing \_\_\_\_\_, it is ordered that the estate of A.B. of \_\_\_\_\_, who died insolvent, be administered in bankruptcy and that \_\_\_\_\_ be the trustee and that the costs of this application be \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,  
Registrar.

No. 157.

**Order for Administration of Estate of Deceased Debtor on Transfer of Proceedings under Section 115 (3).**

(Title.)

Whereas proceedings for the administration of the estate of A.B., late of \_\_\_\_\_, deceased, were commenced in the [*here set out Court in which proceedings commenced*] on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

And whereas that Court did on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, transfer such proceedings to this Court:

It is hereby ordered that the estate of the said A.B. deceased, shall be administered according to the law of bankruptcy pursuant to Section 115 of the Ordinance, and that G.H. be the trustee of the property of the said A.B. deceased.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,  
Registrar.

No. 158.

**Statement to accompany Notice of Dividend and Application for Release**

(Title.)

In the matter of \_\_\_\_\_, of \_\_\_\_\_, under receiving order \_\_\_\_\_ dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Statement showing position of estate at date of declaring \_\_\_\_\_ dividend or at date of application for release, as the case may be.

[TABLE.]

DR.

CR.

		Estimated to pro- duce per debtor's statement.	Receipts.		Payments.
		\$	\$		\$
(a) Creditors or committee of inspection or as the case may be.	To total receipts from date of receiv- ing order, viz.:— [State particulars under the several headings specified in the debtor's Statement of Affairs.]			By Court fees (including stamp on petition)	\$
	Receipts per trading account ... ..			Law costs of petition ... ..	
	Other receipts ... ..			Other law costs	
	Total ... ..			Trustee's remuneration as fixed by (a) viz.:	
	Less:—	\$		Assets realised	\$
	Deposit returned to petitioner ... ..			Assets distribu- ted in divi- dend ... ..	
	Payments to re- deem securities			Special manager's charges	
	Costs of execution			Auctioneer's charges as taxed ... ..	
	Payments per trading account			Other taxed costs ... ..	
				Costs of possession ... ..	
			Costs of notices in Gazette and local papers ... ..		
			Incidental outlay ... ..		
			Total cost of realisation	\$	
			Allowance to debtor ... ..	\$	
	Net realisations ... ..	\$	Creditors, viz.:		
			Preferential (b)		
			Unsecured (c)		
			dividend now declared of c		
			in the \$ on ... ..		
			Dividends pre- viously de- clared ... ..		
			The debtor's esti- mate of amount expected to rank for dividend was \$		
			Balance ... ..		
				\$	
				\$	

(b) Insert  
number of  
creditors.  
(c) First or  
as the case  
may be.

Section 83 (2) of the Ordinance provides that "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."

Assets not yet realised estimated to produce \$

[Add here any special remarks the trustee thinks desirable.]

Creditors can obtain any further information by inquiry at the office of the trustee.

Dated this            day of            19    .

(Signature)

(Address)

NOTE.—When this statement accompanies a declaration of a second or subsequent dividend, it shall incorporate the figures of the preceding statement or statements under their respective headings.

\_\_\_\_\_  
No. 159.

**Notice to Creditors of Intention to Declare Dividend.**

(Title.)

A (a) dividend is intended to be declared in the above matter. You are mentioned in the debtor's statement of affairs but you have not yet proved your debt. If you do not prove your debt by the            day of            19    , you will be excluded from this dividend.

(a) Insert here "first," or "second" "final," or as the case may be.

Dated this            day of            19    .

To X.Y.

G.H., Trustee.

\_\_\_\_\_  
No. 160.

**Notice to persons claiming to be Creditors of Intention to Declare Final Dividend.**

(Title.)

Take notice that a final dividend is intended to be declared in the above matter, and that if you do not establish your claim to the satisfaction of the Court on or before the            day of            19    , or such later day as the Court may fix, your claim will be expunged and I shall proceed to make a final dividend without regard to such claim.

Dated this            day of            19    .

G.H., Trustee.

\_\_\_\_\_  
No. 161.

**Notice to Creditor of Intention to Pay Composition.**

(Title.)

Notice is hereby given that a composition is intended to be paid in the above matter.

Your name is included in the list of creditors in the debtor's statement of affairs but you have not yet proved your debt.

The last day for receiving proofs is the            day of            19    .

Dated this            day of            19    .

Receiver.

\_\_\_\_\_

No. 162.

**Notice of Dividend.***(Title.)*

[Please bring this Dividend Notice with you.]

Dividend of \_\_\_\_\_ in the \$.

[Address.]

Dated \_\_\_\_\_ 19 \_\_\_\_

Notice is hereby given that a dividend of \_\_\_\_\_ in the dollar has been declared in this matter, and that the same may be received at the office, as above, on the \_\_\_\_\_ of \_\_\_\_\_ or on any subsequent \_\_\_\_\_ between the hours of \_\_\_\_\_

Upon applying for payment this notice must be produced entire, together with any bills of exchange or other securities held by you; and if you do not attend personally you must fill up and sign the subjoined forms of *Receipt* and *Authority* when a cheque payable to your order will be delivered to the bearer.

(Signed)  
G.H., Trustee.

To

NOTE.—On application for the dividend, this notice must be produced entire and the bills or other securities held by you must be produced.

**RECEIPT.**

Received of \_\_\_\_\_ the sum of \$ \_\_\_\_\_ being the amount payable to \_\_\_\_\_ in respect of the \_\_\_\_\_ dividend of \_\_\_\_\_ in the dollar on \_\_\_\_\_ claim against this estate. \_\_\_\_\_ 19 \_\_\_\_

*Creditor's Signature.*

\$ \_\_\_\_\_

**AUTHORITY.**

SIR,

PLEASE deliver to \_\_\_\_\_ the cheque \_\_\_\_\_

*[Insert the name of the person who is to receive the cheque, or the words "me by post" if you wish the cheque sent to you in that way.]*

for the dividend payable to \_\_\_\_\_ in this matter.

*Creditor's Signature.*

No. 163.

**Authority to Trustee to Pay Dividends to another person.***(Title.)*

To

The Trustee.

SIR,

I/WE hereby authorise and request you to pay to M \_\_\_\_\_ of \_\_\_\_\_, all dividends as they are declared in the above-named matter, and which may become due and payable to me/us in respect of the proof of debt for the sum of \$ \_\_\_\_\_ against the above Estate made by me/us (or by \_\_\_\_\_, on my/our behalf). (a).

(a) Strike out words inapplicable.

And I/we further request that the cheque or cheques drawn in respect of such dividends may be made payable to the order of the said M \_\_\_\_\_ whose receipt shall be sufficient authority to you for the issue of such cheque or cheques in his name.

It is understood that this authority is to remain in force until revoked by me/us in writing.

Witness to the signature  
of \_\_\_\_\_

Signature  
Date. \_\_\_\_\_

No. 164.

**Application by Creditor for Order for Trustee to Pay Dividend withheld and order thereon.**

(Title.)

I, F.K., of \_\_\_\_\_, make application to this Court for an order to be made upon the trustee to pay the dividend in this bankruptcy due to me, with interest thereon for the time it has been withheld from me, that is to say, from the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, on which day I applied to the trustee for its payment to me, and also to pay to me the costs of this application.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

F.K.

**ORDER.**

Upon reading of this application, and upon hearing \_\_\_\_\_, it is ordered that the trustee do forthwith pay to the said F.K. the sum of \_\_\_\_\_ the amount of such dividend.

And it is further ordered that the trustee do pay to the said creditor at the same time the sum of \_\_\_\_\_, for interest on such dividend, being at the rate of 8 per cent. per annum for the time that its payment has been withheld, together with a further sum of \_\_\_\_\_ for the costs of this application.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court.

Registrar.

[If the Court does not order payment, then after the words "it is ordered," insert the order made].

No. 165.

**Certificate by Committee of Inspection as to Audit of Trustee's Accounts.**

We, the undersigned, members of the committee of inspection in the matter of \_\_\_\_\_, a bankrupt, hereby certify that we have examined the foregoing accounts with the vouchers, and that to the best of our knowledge and belief the said account contains a full, true and complete account of the trustee's receipts and payments on account of the estate.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

A.B. }  
C.D. } Committee of Inspection.  
E.F. }

No. 166.

**Affidavit verifying Trustee's Account.**

(Title.)

I, G.H., of \_\_\_\_\_, the trustee of the property of the above-named bankrupt, make oath and say: That *\*the account hereunto annexed and marked B is a true copy of the Estate Cash Book, and contains a full and true account of my receipts and payments on account of the bankrupt's estate from the day of \_\_\_\_\_ to the \_\_\_\_\_ day of \_\_\_\_\_ inclusive, \*and that I have not, nor has any other person by my order or for my use during such period, received or paid any moneys on account of the said estate \*other than and except the items mentioned and specified in the said accounts.*

Sworn at, etc. }

\* NOTE.—If no receipt or payment strike out the words in italics.

No. 167.

**Trustee's Trading Account.**

(Title.)

G.H., \_\_\_\_\_, the trustee of the property of the bankrupt in account with the estate.

Dr.				Cr.			
RECEIPTS.				PAYMENTS.			
Date.				Date.			

G.H., *Trustee.*

(Date)

We have examined this account with the vouchers, and find the same correct, and we are of opinion the expenditure has been proper.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
*Committee of Inspection*  
 [or *Member of the Committee of Inspection.*]

No. 168.

**Profit and Loss Account (Trading Account).**

(Title.)

*Profit and Loss Account.*

Dr.				Cr.			
Stock on hand on _____ day of _____, 19 _____				Sales ... ..			
Purchases ... ..				Other receipts (if any) ... ..			
Trade expenses, viz.:				Stock on hand on day of _____ 19 _____			
Rent and taxes							
Wages ... ..							
Miscellaneous...							
Balance being							
profit ... ..							

G.H., *Trustee.*

(Date).

NOTE.—This account is to be submitted when the committee of inspection require, and in any case at the end of the trading business carried on by the trustee.

No. 169.

**Affidavit verifying Trustee's Trading Account.**

(Title.)

I, G.H., of \_\_\_\_\_, the trustee of the property of the above-named bankrupt, make oath and say that the account hereto annexed is a full, true, and complete account of all money received and paid by me or by any person on my behalf in respect of the carrying on of the trade or business of the bankrupt, and that the sums paid by me as set out in such account have, as I believe, been necessarily expended in carrying on such trade or business.

Sworn, etc.

G.H., *Trustee.*

No. 170.

Statement of Accounts under Section 85 (2) of the Ordinance.

(Title.)

RECEIPTS.				PAYMENTS.			
Date.	Of whom received.	Nature of Receipts.	Amount.	Date.	To whom paid.	Nature of Payments.	Amount.

Dated the            day of            , 19 .

(Signature).

No. 171.

Affidavit by Special Manager.

(Title.)

I,            of            , make oath and say as follows:—

1. The account hereunto annexed marked with the letter A, produced and shown to me at the time of swearing this my affidavit, and purporting to be my account as special manager of the estate or business of the above-named debtor, contains a true account of all and every sums and sum of money received by me or by any other person or persons by my order or to my knowledge or belief for my use on account or in respect of the said estate or business.

2. The several sums of money mentioned in the said account hereby verified to have been paid or allowed have been actually and truly so paid and allowed for the several purposes in the said account mentioned.

3. The said account is just and true in all and every the items and particulars therein contained according to the best of my knowledge and belief.

Sworn, etc.

No. 172.

Notice to Creditors of Intention to Apply for Release.

(Title.)

Take notice that I, the undersigned, trustee (or late trustee) of the property of the bankrupt, intend to apply to the Court for my release, and further take notice that any objection you may have to the granting of my release must be notified to the Registrar within twenty-one days of the date hereof.

A summary of my receipts and payments as trustee is hereto annexed.

Dated this            day of            , 19 .

G.H., Trustee.

To K.L., Creditor.

NOTE.—Section 91 (3) of the Ordinance enacts that “ 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.”







(7) Notice of Dividend.

Debtor's Name.	Address.	Description.	Court.	Number.	Amount per \$	First or final or otherwise.	When payable.	Where payable.

(8) Application for Discharge.

Debtor's Name.	Address.	Description.	Court.	Number.	Day fixed for Hearing.

(9) Orders made on Application for Discharge.

Debtor's Name.	Address.	Description.	Court.	Number.	Date of Order.	Nature of Order made.	Grounds named in Order for refusing an absolute Order of Discharge.

(10) Adjudications Annulled.

Debtor's Name.	Address.	Description.	Court.	No.	Date of Adjudication.	Date of Annulment.	Grounds of Annulment.

(11) Appointment of Trustees.

Debtor's Name.	Address.	Court.	Number.	Trustee's Name.	Address.	Date of Certificate of appointment.



(15) *Notices to Debtors in lieu of Personal Service of Bankruptcy Notices and Petitions, and of Applications to commit for Contempt of Court.*

Debtor's Name.	Debtor's Address.	Debtor's description.	Cost.	Number of proceedings.	Nature of notice of which substituted service is directed.	Date thereof.	If a petition or application to commit, date of hearing.	Name and description of person giving Bankruptcy notice, or by whom petition is presented or by whom application to commit is being made.

(16) *Notices, in lieu of Personal Service, of Applications to commit Persons, other than Debtors, for Contempt of Court.*

Name of Person against whom application is made.	Address.	Description.	In what matter application made.					Date on which application will be heard.
			Name of Debtor.	Address.	Description.	Court.	Number of proceedings.	

(17) **Memorandum of Advertisement or Gazetting.**

(Title.)

Name of Paper.	Date of Issue.	Date of Filing.	Nature of Order, etc.

(Signed) A.B., Registrar.

## APPENDIX.

## PART 2.

## FEES PAYABLE TO THE REGISTRAR.

	\$
On filing every declaration by a debtor of inability to pay his debts ...	1.20
On issuing every bankruptcy notice ... ..	1.20
On every bond with sureties ... ..	2.40
On every affidavit filed other than proof of debts ... ..	.48
On every subpoena ... ..	.48
On filing every application for an order of discharge including expenses of gazetting ... ..	7.20
On every other application to the Court ... ..	1.20
On filing any other document ... ..	.48
On every record of trial ... ..	14.40
On issuing a judgment or other summons ... ..	1.20
On public examination of the debtor ... ..	4.80
On hearing every application to the Court, verbal or otherwise ... ..	2.40
On giving any notice, in addition to actual cost of printing, if same is advertised ... ..	.96
On searching records ... ..	.48
On every office copy, each folio of 72 words ... ..	.08
On every certificate for any costs, charges or disbursements Where the amount shall not exceed \$19.20 ... ..	.48
Where the amount exceeds \$19.20, for every \$9.60 allowed or a fraction thereof ... ..	.24
For any other act not herein provided for the same fee as in cases of actions under the Rules of the Supreme Court.	
In respect of the services of the Marshal the same fees as in cases of actions under the Rules of the Supreme Court.	

## FEES PAYABLE TO THE RECEIVER.

	\$
For inspecting books kept by him, provided such inspection does not exceed half an hour ... ..	.48
For every additional half hour or part thereof ... ..	.24
For copies of documents and accounts, each folio of 72 words ... ..	.08
For receiving and filing each claim with the documents and vouchers in support thereof ... ..	.48
For administering oath to affidavit of claimant, if not previously sworn to before a Commissioner of Affidavits... ..	.48
For searching the records ... ..	.48
For giving out certificates from such records ... ..	.48
For every insolvency petition ... ..	24.00
For every petition under Section 115 of the Ordinance ... ..	24.00
For every special proxy or voting paper ... ..	.24
For every general proxy ... ..	.48
For every administration order granted under Section 115 of the Ordinance ... ..	4.80
For every application to approve a scheme of composition where the gross amount of assets exceeds \$4,800 ... ..	24.00
Where it does not exceed \$4,800 ... ..	14.40
On every application to appoint a special manager ... ..	1.20
For every order of the Receiver for a local banking account ... ..	4.80

On the net assets realised or brought to credit by the Receiver, whether acting as interim Receiver, Receiver or trustee, after deducting all sums paid to secured creditors in respect of their securities and not being assets realised by a special manager or moneys received and spent in carrying on the business of the debtor and on the net assets realised by a Receiver when acting as a trustee to administer a debtor's property under a composition or scheme after deducting any sums paid to secured creditors in respect of their securities and not being moneys received and spent in carrying on the business of a debtor, a percentage according to the following scale:—

On the first \$4,800 or fraction thereof	...	...	...	...	8 per cent.
On the next \$4,800	do.	...	...	...	4 do.
On the next \$9,600	do.	...	...	...	3 do.
On all further sums	...	...	...	...	1 do.

On the amount distributed to creditors by the Receiver when acting as trustee under a composition:—

On the first \$2,400 or fraction thereof	...	...	...	...	4 per cent.
On the next \$2,400	do.	...	...	...	2 do.
On the next \$4,800	do.	...	...	...	1½ do.
On all further sums	...	...	...	...	1 do.

On the amount distributed in dividend by the Receiver when acting as trustee under adjudications, schemes or orders of administration of the property of a deceased insolvent:—

On the first \$4,800 or fraction thereof	...	...	...	...	4 per cent.
On the next \$4,800	do.	...	...	...	2½ do.
On the next \$9,600	do.	...	...	...	2 do.
On all further sums	...	...	...	...	1 do.

For the Receiver acting as interim Receiver of the property of a debtor in addition to the percentages chargeable on realisations, on every order ... \$14.40

For every notice by a Receiver to a creditor of a first or any other meeting or sitting of the Court.

On the first twenty notices—Each notice	...	...	...	...	.24
For each notice above twenty	...	...	...	...	.12

For supervising a special manager or the carrying on a debtor's business.

If the gross assets are estimated by the Receiver not to exceed \$2,400	...	...	...	...	\$4.80 per week.
If to exceed \$2,400 but not to exceed \$24,000	...	...	...	...	\$9.60 do.
If to exceed \$24,000 but not to exceed \$48,000	...	...	...	...	\$14.40 do.
If to exceed \$48,000 but not to exceed \$96,000	...	...	...	...	\$19.20 do.
If to exceed \$96,000	...	...	...	...	\$24.00 do.

Travelling, keeping possession and other reasonable expenses, the amount disbursed.

For stationery, printing books, forms and postage ... \$2.40

On every application for release by trustee in non-summary cases a fee of .48 on every \$480 or fraction of \$480 of assets realised and brought to credit.

SCALE OF SOLICITORS' FEES.

PETITIONING DEBTOR'S SOLICITOR'S BILL OF COSTS.

Where the assets are not likely to exceed in value \$1,440—

Instructions for petition, search for prior petition, drawing and altering petition, attending presentation and hearing thereof, attending Official Receiver with deposit on giving him all necessary information after order made and upon preliminary examination of debtor, attending public examination, drawing bill of costs, obtaining appointment to tax and copy notice of and attendance at taxation (exclusive of Court fees and other proper disbursements)	...	...	...	...	\$
					14.40

Where assets are likely to exceed \$1,440—	\$
Instructions for petition ... ..	4.80
Drawing and altering petition ... ..	3.20
Attending Official Receiver with deposit ... ..	1.60
Attending presentation and hearing petition ... ..	2.40
Drawing receiving order and copy and attending passing ... ..	1.60

---

PETITIONING CREDITORS' COSTS.

---

	\$
Instructions for petition ... ..	4.80
Examining witnesses as to act of bankruptcy ... ..	2.40
Drawing petition ... ..	2.40
Two copies of petition for dealing, each folio ... ..	.08
Attesting signature of each petition, except where the petitioners are in partnership ... ..	1.60
Attending Court for hearing petition ... ..	4.80
Attending Receiver after receiving order made and giving him all necessary information ... ..	3.20
Instructions for appointment of interim Receiver ... ..	2.40
Drawing and copy application ... ..	1.20
Attending Court on hearing application ... ..	3.20
Attending Receiver with order paying deposit and giving all necessary information ... ..	3.20
Drawing exceptions to sureties ... ..	.80
Instructions for appointment of special manager ... ..	3.20
Attendance at public examination when the Court thinks such attendance necessary and so certifies ... ..	4.80
Drawing any affidavit and fair copy ... ..	.80 to 2.40
Drawing any order in duplicate and attending to pass ... ..	2.40
All necessary attendances ... ..	1.60
Drawing Bill of Costs and copy of notice of and attendance at taxation ...	3.60

The petitioning creditor's solicitor may be allowed all proper charges at the rate specified in the scale for all work necessarily or usefully done in the interest of the creditors generally for the protection or benefit of the estate between the presentation of the petition and the date of the receiving order, if the Receiver or trustee shall certify that the work done was necessary or useful. Such certificate may be given by the signature of the Receiver or trustee to a memorandum containing such certificate at the foot of the Bill of Costs.

In exceptional cases where the petitioning creditor's solicitor has from the presentation of the petition rendered special services in the interests of the creditors generally, and such services shall have assisted to preserve or increase the assets, or otherwise been of substantial advantage to the estate, all proper charges for such services at the rate specified in the scale may be allowed upon a certificate signed by the Receiver or trustee to that effect which may be given by a memorandum containing such certificate at the foot of the Bill of Costs.

When the Receiver employs the petitioning creditor's solicitor or the debtor's or other solicitor to take any steps for the protection or benefit of the estate or in other matters not included in the foregoing scale, the costs of the work done under such employment, in the absence of any special agreement with the Receiver, may be allowed.

Where the petition is opposed costs may be allowed in addition for necessary matters, such allowance shall be made in conformity with the scale as nearly as may be of costs in the Supreme Court.

---

DEBTORS' SOLICITORS' COSTS.

WHERE THE COURT ALLOWS COSTS TO THE DEBTOR ON A BANKRUPTCY NOTICE  
BEING SET ASIDE.

	\$
Instructions to apply to set aside bankruptcy notice ... ..	1.60
Perusing and considering notice ... ..	1.20
Instructions for affidavit of counterclaim ... ..	1.60
Drawing same and fair copy ... ..	1.60
Attending to file, and drawing application for appointment to hear and notice ... ..	1.60
Costs of further affidavits or of procuring <i>viva voce</i> evidence, and of other incidental charges properly incurred, including where necessary usual charges for brief and fees to Counsel may be allowed.	
Attending Court on application ... ..	3.20
Drawing order and copy and attending to pass where the Court allows cost to the debtor on dismissal of petition ... ..	1.60
Attending debtor served with copy of petition and taking instructions to show cause ... ..	1.60
Drawing notice to show cause ... ..	1.20
Two fair copies for service ... ..	.48
Attending filing ... ..	1.60
Service on creditor ... ..	.60
Service on creditor's solicitor ... ..	.60
Perusing and considering petition ... ..	1.60
Special attendances may be allowed to examine witnesses as to the facts they can prove, and also for summoning witnesses, and where it is necessary to instruct Counsel, the usual charges for brief and Counsel's fees may be allowed.	
Attending Court on petition ... ..	3.20
Drawing order and copy and attending to pass ... ..	1.60

MISCELLANEOUS COSTS.

INSTRUCTIONS.

	\$
For statement of facts of special case for the opinion of the Court or a Judge	3.20
For motion ... ..	1.60
For motion on appeal ... ..	3.20
For any proceeding or application not otherwise provided for ... ..	1.60
For application for directions ... ..	1.60
For application for substituted service ... ..	1.60
For brief on hearing, trial or determination of any petition, issue of fact, special case or motion other than an interlocutory motion before the Court or a Judge ... ..	4.80

PERUSALS.

Perusals of any document ... ..	1.60
---------------------------------	------

ATTENDANCES.

In Court ... ..	3.20
General attendances, each ... ..	1.60