

BANKRUPTCY ACT

CHAPTER 9:70

Act

38 of 1916

Amended by

24 of 1917

52 of 1925

19 of 1931

25 of 1936

35 of 1945

52 of 1976

45 of 1979

*19 of 1981

*24 of 1981

*See Note on Amendments at page 2

Current Authorised Pages

<i>Pages</i>	<i>Authorised</i>
<i>(inclusive)</i>	<i>by L.R.O.</i>
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Note on Amendments

- (a) Section 39(2) has been amended by Act No. 19 of 1981.
- (b) Section 56(3) and sections 123, 124 and 125 have been amended by Act No. 24 of 1981.

However, Act No. 19 of 1981 and Act No. 24 of 1981 had not, up to the date of the last revision of this Act, been brought into operation.

Note on Adaptation

Under paragraph 6 of the Second Schedule to the Law Revision Act (Ch. 3:03) the Commission amended certain references to public officers in this Chapter. The Minister's approval of the amendment was signified by LN 52/1980, but no marginal reference is made to this Notice where any such amendment is made in the text.

CHAPTER 9:70

BANKRUPTCY ACT

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CHAPTER 9:70

BANKRUPTCY ACT

An Act relating to bankruptcy.

1950 Ed.
Ch. 6 No. 6.
38 of 1916.

[1ST JANUARY 1918]

Commencement.

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

Short title.

2. In this Act—

Interpretation.

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

“Court” means the High Court exercising jurisdiction in bankruptcy under this Act;

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

“gazetted” means published in the *Gazette*;

“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 Act;

“Registrar” means Registrar of the Supreme Court;

“resolution” means ordinary resolution;

“rules” includes forms;

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“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 Trinidad and Tobago 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 Trinidad and Tobago or elsewhere he makes a fraudulent conveyance, gift, delivery, or transfer of his property, or of any part thereof;

Fraudulent
preference.

(c) if in Trinidad and Tobago 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 written law 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 Trinidad and Tobago, or being out of Trinidad and Tobago remains out of Trinidad and Tobago, or departs from his dwelling-house, or otherwise absents himself, or begins to keep house;

Executions.

(e) if execution against him has been levied by seizure of his goods under process in any civil proceeding in the High Court, and the goods have either been sold or held by the Marshal for

twenty-one days. However, where an interpleader summons has been taken out in regard to the goods seized, the time elapsing between the date on which such summons is taken out and the date on 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 Trinidad and Tobago, or, by leave of the Court, elsewhere, a bankruptcy notice under this Act, and he does not, within seven days after service of the notice, in case the service is effected in Trinidad and Tobago, 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; and for the purposes of this paragraph 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; Non-compliance with bankruptcy notice.
- (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 Act, the expression “a debtor” includes any person, whether a citizen of Trinidad and Tobago or not,

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

- (a) was personally present in Trinidad and Tobago; or
- (b) ordinarily resided or had a place of residence in Trinidad and Tobago; or
- (c) was carrying on business in Trinidad and Tobago personally, or by means of an agent or manager; or
- (d) was a member of a firm or partnership that carried on business in Trinidad and Tobago.

Bankruptcy notices.

4. (1) A bankruptcy notice under this Act 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 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.

(2) A bankruptcy notice under this Act—

- (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 mis-statement; 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.

(3) For the purposes of this section, 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.

RECEIVING ORDER

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

Jurisdiction to make receiving order.

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

Conditions on which creditor may petition. [51 of 1980].

- (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 five hundred dollars;
- (b) the debt is a liquidated sum, payable either immediately or at some certain future time;
- (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 Trinidad and Tobago, 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 Trinidad and Tobago, or has carried on business in Trinidad and Tobago, 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 Trinidad and Tobago 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 doing so by the law for the time being in force relating to deeds of arrangement.

Petition by secured creditor.

(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.

Proceedings and order on creditor's petition.

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.

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 creditors 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.

(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.

If proceedings stayed.

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

No withdrawal without leave.

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.

Debtor's petition and an order thereon.

(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 Act, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the debtor in respect of the debt, or shall commence any action or other legal proceedings, unless with the leave of the Court and on such terms as the Court may impose.

Effect of receiving order.

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

Secured creditor.

Discretionary powers as to appointment of interim receiver.

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.

Power to stay proceedings.

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.

Service of order.

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

Power to appoint special manager.

12. (1) The Receiver may, on the application of any creditor, 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.

Advertisement of receiving order.

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

PROCEEDINGS CONSEQUENT ON ORDER

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 Act referred to as the first meeting of creditors) shall be held for the purpose of considering whether a proposal for a composition or scheme of arrangement shall be 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.

First and other meetings of creditors.

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

First Schedule.

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.

Debtor's statement of affairs.

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

- (a) if the order is made on the petition of the debtor, within 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

Public
examination of
debtor.

16. (1) Where the Court makes a receiving order, it shall, save as provided in this Act, hold a public sitting, on a day to be appointed by the Court, for the examination of the debtor, and the debtor shall attend thereat, and shall be examined as to his conduct, dealings, and property.

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

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

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

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

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

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

(8) The debtor shall be examined 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 provided in this Act, 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

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.

Compositions and schemes of arrangement. [45 of 1979].

(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.

Meeting of creditors to approve.

(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,

Assent or dissent.

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.

Application for approval of Court.

(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.

Hearing of application.

(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.

Public examination of joint debtors.

(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 to do so, 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 Trinidad and Tobago.

Report of Receiver.

(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.

When Court must refuse to approve.

(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.

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 forty cents in respect of every dollar 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.

(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.

Testifying approval.

(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.

Effect of composition.

(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.

Certificate of Receiver.

(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.

Enforcement of provisions.

(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 of 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.

Default in instalment.

Application of Act and meaning of terms.

(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 shall apply as if the trustee were a trustee in a bankruptcy, and as if the terms "bankruptcy", "bankrupt", and "order of adjudication" included respectively a composition or scheme of arrangement, a compounding or arranging debtor, and an order approving the composition or scheme.

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

Payment in priority of preferred creditors.

(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.

Release of debt by acceptance.

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

Effect of composition or scheme.

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 this Act, the debtor would not be released by an order of discharge in bankruptcy, unless the creditor assents to the composition or scheme.

ADJUDICATION OF BANKRUPTCY AND APPOINTMENT OF TRUSTEE

Adjudication where composition not accepted or approved.

19. (1) Where a receiving order is made against a debtor, then, if the creditors at the first meeting or any adjournment thereof by ordinary resolution resolve that the debtor be adjudged bankrupt, or pass no resolution, or if the creditors do not meet, or if a composition or scheme is not accepted or approved in pursuance of this Act within fourteen days after the conclusion of the

examination of the debtor or such further time as the Court may allow, the Court shall adjudge the debtor bankrupt; and thereupon the property of the bankrupt shall become divisible among his creditors and shall vest in a trustee.

(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 Act, be the date of the adjudication.

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.

Appointment of trustee.

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

Where person not fit to act.

(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.

Security.

(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.

Notice of objection to appointment.

Evidence of
appointment.

(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.

Receiver not to
be trustee.

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

If trustee not
appointed.

(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.

(8) 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.

Meeting to
appoint trustee.

(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.

Committee of
inspection.

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.

Qualifications of
committee.

(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:

(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.

(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. Meetings of committee.

(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. Quorum.

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

(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. Vacation of office.

(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. Removal.

(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. Filling a vacancy.

Continuing members may act.

(9) The continuing members of the committee, provided there are 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 does not exceed five.

If no committee, Court to act.

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

Power to accept composition or scheme after adjudication.

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.

Approval of Court.

(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.

Defaults, etc.

(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.

CONTROL OVER PERSON AND PROPERTY OF DEBTOR

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.

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

(2) The debtor 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 discover property.

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

To aid in realisation.

(4) If a debtor wilfully fails to perform the duties imposed on him by this section, or to deliver up possession of any part of his property which is divisible amongst his creditors under this Act, and which is for the time being in his possession or under his control, to the 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.

Failure to perform duties.

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

Arrest of debtor under certain circumstances. [51/1980].

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 Act, 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;

After
presentation of
petition.

(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 service 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 two hundred dollars, without leave of the Receiver or trustee;

Failure to attend
examination.

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

No arrest upon a bankruptcy notice shall be valid and protected, unless the debtor before or at the time of his arrest is served with 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 Act 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 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 Trinidad and Tobago Post, or the employees of the Trinidad and Tobago Post, to the Receiver, or the trustee, or otherwise as the Court directs, and the same shall be done accordingly.

Re-direction of debtor's letters.

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.

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

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

In case of refusal.

(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.

Examination.

(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

Order to pay.

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.

Examination out of Trinidad and Tobago.

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

DISCHARGE OF BANKRUPT

Discharge of bankrupt. [45 of 1979].

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 Act otherwise directs, be heard in open Court.

Powers of Court.

(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.

When Court must refuse discharge.

(3) Where the bankrupt has committed an indictable offence other than an arrestable offence under this Act, or any written law repealed by this Act, or any indictable offence

connected with his bankruptcy, or where in any case any of the facts mentioned in subsection (5) are proved, the Court shall either—

- (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 seventy-five 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.

(4) 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.

- (5) The facts referred to in subsection (3) are as follows:
- (a) that the bankrupt's assets are not of a value equal to seventy-five 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 seventy-five cents in the dollar on the amount of his unsecured liabilities has arisen

Facts to be proved.

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 seventy-five 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.

(6) 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.

(7) For the purposes of this section, a bankrupt's assets shall be deemed of a value equal to seventy-five 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 seventy-five cents in the dollar on his unsecured liabilities, and a report by the Receiver or the trustee shall be *prima facie* evidence of the amount of such liabilities.

When assets are seventy-five per cent.

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

Report of Receiver.

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

Notice of application for discharge.

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

Duties of discharged bankrupt.

(11) 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 any thing duly done subsequent to the discharge, but before its revocation.

Fraudulent settlement.

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.

Effect of order of discharge.

29. (1) An order of discharge shall not release the bankrupt—
(a) from any debt on a recognisance, nor from any debt with which the bankrupt may be chargeable

at the suit of the State or of any person for any offence against a written law 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 Minister 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.

(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.

No release of other persons.

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

Annulling adjudication and the effect thereof.

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

Disqualifications of bankrupt.

31. (1) Subject to this Act, when a debtor is adjudged a bankrupt he shall, (in addition to the disqualifications imposed by the Constitution, and the written law relating to municipalities and County Councils),* be disqualified for—

- (a) being appointed or acting as a Justice of the Peace;
- (b) being nominated or elected to or holding or exercising the office of Auditor of a municipality, or City assessor, or member of the National Advisory Committee of the Ministry of Education and Culture, or member of the Water and

*See sections 42(1)(c) and 48(1)(b) of the Constitution, section 5(3) of the County Councils Act 1967, section 13(4)(d) and section 46(1) of the Port-of-Spain Corporation Ordinance 1914, section 12(2)(d) and section 26(1) of the San Fernando Corporation Ordinance 1936, section 12(2)(d) and section 26(1) of the Arima Corporation Ordinance 1938.

Sewerage Authority, 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 Act.

32. If a person is adjudged bankrupt whilst holding any of the offices enumerated in section 31 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.

(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. Creditor with notice of act of bankruptcy.

(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 What may be proved.

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 mentioned above 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 mentioned above 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 Act, 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 thinks 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 Act 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 an arrestable offence, unless it is shown that the creditor seeking to prove has omitted to perform some duty in connection with the prosecution of the offender.

Debts founded
in an arrestable
offence.

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 Act 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, the rules in that Schedule shall be observed.

Rules as to
proof as debts.

Second
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.
[51/1980].

(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.

(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 one thousand

Wages or salary.

*With respect to amounts due for workmen's compensation, *see* section 27(b) (ii) of the Workmen's Compensation Act (Ch. 88:05).

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 five hundred 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. However, 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), 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; but, 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 this Act, 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 have been proved, it shall be applied in payment of interest from the date of the receiving order at the rate of four per cent a year on all debts proved in the bankruptcy.

Surplus.

(9) Nothing in this Act shall alter the effect of section 5 of the Partnership Act, or shall prejudice the provisions of the Friendly Societies Act, or the provisions of any written law 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.

Ch. 81:02.

Ch. 32:50.

38. (1) Where at the time of the presentation of the bankruptcy petition any person is apprenticed or is an articulated clerk to the bankrupt, the adjudication of bankruptcy shall, if either the bankrupt or apprentice or clerk gives notice in writing to the 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 on 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

Preferential claim in case of apprenticeship.

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.

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 of landlord to distrain for rent. [51/1980].

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 is 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 execution creditor must pay landlord. Ch. 27 No. 16. (1950 Ed.).

(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 subsection (2) 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 has 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 one thousand 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 acts of bankruptcy proved to have been committed by the bankrupt within three months

Relation back of trustee’s title.

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.

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 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 the Act referred to as the property of the bankrupt, shall not comprise the following particulars:

Trust property.

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

Tools of trade, etc. [45 of 1979].

(b) the tools (if any) of his trade not exceeding one thousand dollars in value and the necessary wearing apparel and bedding of himself, his wife and children,

but it shall comprise the following particulars:

Property vested or acquired.

(c) 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;

Powers.

(d) 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;

Reputed ownership.

(e) 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; but 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.

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.

Provisions as to second bankruptcy.

(2) In the event of a second or subsequent receiving order made against a bankrupt being followed by an order adjudging him bankrupt, or in the event of an order being made for the 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

Restriction of creditor's rights under execution or attachment.

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 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 Act, 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 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. [51/1980].

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 moneys 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 five hundred dollars, the goods of a debtor are sold or money is paid in order to avoid sale, the Marshal shall deduct his costs of the execution from the proceeds of sale or the money paid, and retain the balance for fourteen days, and if within

that time notice is served on him of a bankruptcy petition having been presented 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.

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.

Avoidance of certain settlements.

(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

Covenants in marriage settlements to settle after-acquired property.

other creditors for valuable consideration in money or money's worth have been satisfied.

Transfers and payments under such covenants.

(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—

- (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 Act 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 Act. Ch. 82:32.

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 *bona fide* and for value, or in any assignment of assets for the benefit of creditors generally.

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

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.

Protection of
bona fide
transactions
without notice.

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

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

provided that both the following conditions are complied with, namely:

- (i) 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 this Act 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.

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 Act, 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 *bona fide*.

Validity of certain payments to bankrupt and assignee.

51. (1) All transactions by a bankrupt with any person dealing with him *bona 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 Act 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.

Dealings with undischarged bankrupt.

This subsection shall apply to transactions with respect to real property completed before 1st January 1918 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

Duties of bankers.

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.

REALISATION OF PROPERTY

Possession of property by trustee.

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.

Position of 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.

Shares.

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

(5) Subject to the provisions of this Act 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.

Ch. 79:04.

(6) Notwithstanding anything contained in the Post Office Savings Bank Act, the Trinidad and Tobago Post 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.

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 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.

Seizure of property of bankrupt.

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

Appropriation of portion of pay or salary to creditors.

(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 State, 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 State to dismiss a bankrupt, or to declare the pension, half-pay, or compensation of any bankrupt to be forfeited.

Vesting and transfer of property.

55. Until a trustee is appointed, the Receiver shall be the trustee for the purposes of this Act, and, immediately on a debtor being adjudged bankrupt, the property of the bankrupt shall vest in the trustee.

Vesting in trustee.

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

Passing from trustee to trustee.

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

Certificate of appointment.

(3) 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 Act, cause a note thereof to be endorsed on the State grant or certificate of title and the duplicate thereof.

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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. However, 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.

(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.

Effect of disclaimer.

(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.

Disclaimer of leases.

(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

Vesting orders.

liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in, or delivery thereof to, any person entitled thereto, or to whom it may seem just that 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.

(7) Where the property disclaimed is of a leasehold nature, the Court shall not make a vesting order in favour of any person claiming under the bankrupt, whether as under-lessee or as mortgagee by demise, except upon the terms of making 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.

(8) 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 exercisable 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.

(9) 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.

Proof of damages.

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

Powers of trustee to deal with property.

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

Powers exercisable by trustee with permission of committee of inspection.

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 an Attorney-at-law 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 thinks fit;
- (e) mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts;
- (f) refer any dispute to arbitration, compromise any debts, claims, and liabilities, whether present or future, certain or contingent liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt, on the receipt of such sums, payable at such times, and generally on such terms, as may be agreed on;
- (g) make such compromise or other arrangement as may be thought expedient with 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.

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.

Power to allow bankrupt to manage property.

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.

Allowance to bankrupt for maintenance or services.

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, the Receiver or trustee may, after giving notice in writing of his intention to do so, 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.

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

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

Limitation of trustee's powers in relation to copyright.

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.

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

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.

DISTRIBUTION OF PROPERTY

Declaration and distribution of dividends.

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 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.

(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 intention to declare.

(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.

Notice of dividend.

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

Joint and separate dividends.

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

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.

Provision for distant creditors' disputed or undetermined claims.

(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.

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

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.

Interest on debts.

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 cent a year, 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.

(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.

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.

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.

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

PART IV

RECEIVER IN BANKRUPTCY

Official Receiver.

73. (1) There shall be in the public service an Official Receiver of debtors' estates. Such Receiver shall be an officer of the Court in its jurisdiction in bankruptcy, and judicial notice shall be taken of any appointment of a Receiver pursuant to this section.

(2) A person acting as 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 the tenure of office of an acting Receiver and without any conveyance or transfer, vest in such acting Receiver.

Status of 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.

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

(3) All provisions in this or any other Act referring to the trustee in a bankruptcy shall, unless the context otherwise requires, or the Act 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 Act.

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 an indictable offence under this Act or any written law repealed by

this Act, or which would justify the Court in refusing, suspending, or qualifying an order for his discharge;

- (b) to make such other reports concerning the conduct of the debtor as the Court may direct;
- (c) to take such part as may be directed by the Court in the public examination of the debtor;
- (d) to take such part and give such assistance in relation to the prosecution of any fraudulent debtor as the Court may direct or as may be required by the Director of Public Prosecutions.

76. (1) As regards the estate of the debtor, it shall be the duty of the Receiver—

Duties of Receiver as to debtor's estate.

- (a) pending the appointment of a trustee, to act as interim receiver of the debtor's estate, and, where a special manager is not appointed, as manager thereof;
- (b) to authorise the special manager to raise money or make advances for the purposes of the estate in any case where, in the interests of the creditors, it appears necessary to do so;
- (c) to summon and preside at the first meeting of creditors;
- (d) to issue forms of proxy for use at the meetings of creditors;
- (e) to report to the creditors as to any proposal which the debtor may have made with respect to the mode of liquidating his affairs;
- (f) to advertise the receiving order, the date of the 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 orders, incur any expense beyond such as is requisite for the protection of the debtor's property or the disposing of perishable goods. 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

TRUSTEES IN BANKRUPTCY

OFFICIAL NAME

Official name of trustee.

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.

APPOINTMENT

Power to appoint joint or successive trustees.

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

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

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.

Proceedings on vacancy in office of trustee.

(2) The Receiver shall, on the requisition 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

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

Discretionary powers of trustee and control thereof.

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

Summoning general meetings.

concurrence of one-sixth in value of the creditors (including himself), at any time 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. 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.

Application for directions.

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

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

Appeal to Court against trustee.

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.

Control of Court over trustees.

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 any written law, 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 thinks fit.

(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

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 of the amount distributed in dividends.

Remuneration of trustee.

(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 Attorney-at-law, auctioneer, or any other person that may be employed about a bankruptcy, any gift, remuneration, or pecuniary or other consideration or benefit whatever, beyond the remuneration fixed by the creditors and payable out of the estate, nor shall he make any arrangement for giving up, or give up, any part of his remuneration, either as receiver, manager, or trustee, to the bankrupt or any Attorney-at-law or other person that may be employed about a bankruptcy.

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 any written law to be performed by himself.

Allowance and taxation of costs.

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

(3) All bills and charges of Attorneys-at-law, 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 Attorneys-at-law 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

Trustee to furnish list of creditors.

85. (1) The trustee or Receiver shall, whenever required by any creditor to do so, 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 statement of accounts.

(2) Any creditor may, with the concurrence of one-sixth of the creditors (including himself), at any time 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.

(3) 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.

86. The trustee shall keep, in the manner prescribed, proper books, in which he shall from time to time cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor of the bankrupt may, subject to the control of the Court, personally or by his agent inspect any such books.

Books to be kept by trustee.

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.

Annual statement of proceedings.

(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.

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.

Trustee not to pay into private account.

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.

Payment of money into bank. [51/1980].

(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 five hundred 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 cent a year, 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.

Audit of trustee's accounts.

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.

(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

Release of 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.

(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, written law, 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.

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

Office of trustee
vacated by
insolvency.

93. (1) The creditors may, by ordinary resolution, at a meeting specially called for that purpose, of which seven days' notice has

Removal of
trustee.

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 Act; 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

Jurisdiction of the Court.

94. The High Court shall have and exercise an exclusive jurisdiction within Trinidad and Tobago in respect of bankrupts and matters of bankruptcy; and such jurisdiction shall be exercised under and subject to the provisions of this Act and the Rules.

Bankruptcy matters, how entitled.

95. Subject to the Rules, all bankruptcy matters shall be entitled “In bankruptcy”.

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 this Act 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 this Act the Court shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, which may arise in any case of bankruptcy coming within the 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. General powers of Court. [45 of 1979].

(2) If in any proceeding in bankruptcy there arises any question of fact which either of the parties desire to be tried before a referee or a Judge with the assistance of assessors, or which the Court thinks ought to be tried by a referee or by a Judge with the assistance of assessors, the Court may if it thinks fit, direct that the question be tried by a referee or by a Judge with the assistance of assessors 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 Act or any written law repealed by this Act 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. 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

98. Where, under the Debtors Act application is made by a judgment creditor to the Court for the committal of a judgment Receiving order on judgment summons. Ch. 8:07.

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 this Act except Part VIII, 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

Appeals in
bankruptcy.

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

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

(3) Where by this Act 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

Discretionary
powers of Court.
[45 of 1979].

100. (1) Subject to this Act and to the Rules, the costs of an incidental to any proceeding in the Court under this Act shall be in the discretion of the 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 Act, upon such terms, if any, as it may think fit to impose.

(4) Where, by this Act 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 *viva voce*, or by interrogatories, or upon affidavit, or, out of Trinidad and Tobago, 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.

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 Act in the case of a petitioning creditor.

Power to change carriage of proceedings.

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.

Continuance of proceedings on death of debtor.

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 stay proceedings.

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 present petition against one partner.

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.

Power to dismiss petition against some respondents only.

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

Property of partners to be vested in same trustee.

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.

Actions on joint contract.

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.

Proceedings in partnership name.

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 Act 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.

SEARCH WARRANTS AND COMMITMENTS TO PRISON

Execution of search warrant.

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.

Commitment to prison.

112. Where the Court commits any person to prison, the commitment shall be to the Port-of-Spain Prison.

PART VII

SUPPLEMENTAL PROVISIONS

APPLICATION OF ACT

113. A receiving order shall not be made against any corporation or against any partnership or association or company registered under the Companies Act or any written law repealed by that Act.

Exclusion of registered companies, etc.
Ch. 81:01.

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 five thousand dollars, the Court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications:

Application of Act in case of small estates.
[51/1980].

- (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; and 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 Act 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 Act relating to the examination or discharge of the debtor.

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.

Administration in bankruptcy 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.

Proceedings for administration.

(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 Act, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

Property to vest in Receiver.

(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 Act.

The creditors shall have the same powers as to appointment of trustees and committees of inspection as they have in other cases where the estate of a debtor is being administered or dealt with in bankruptcy, and the provisions of this Act relating to trustees and committees of inspection shall apply to trustees and committees of inspection appointed under the power 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 (relating to the administration of the property of a bankrupt) and, subject to any modification that may be made therein by rules under section 116, the provisions of the following sections of this Act, namely:

Application of Act.

- (a) sections 26 (which relates to enquiries as to the debtor's conduct, dealings, and property);
- (b) section 84 (which relates to the costs of trustees, managers, and other persons);
- (c) section 114 (which relates to the summary administration of small estates); and
- (d) section 91(4) (which 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 Act and section 39(1) shall apply as if for the reference to an order of adjudication there were substituted a reference to an administration order under this section.

(6) In the administration of the property of the deceased debtor under an order of administration, the Receiver or trustee 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 Act relating to the priority of other debts, be payable in full out of the debtor's estate, in priority to all other debts.

Priority of claims.

(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

Surplus.

with the costs of the administration and interest as provided by this Act in case of bankruptcy, such surplus shall be paid over to the legal personal representative of the deceased debtor's estate, or dealt with in such 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.

Personal representative may present petition.

(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 section 116.

"Creditor."

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

RULES

Rules.

116. Rules for carrying into effect the provisions of section 115 may be made in the same manner and to the like effect and extent as in bankruptcy.

Power to make Rules. Ch. 4:01.

117. (1) The Rules Committee established by the Supreme Court of Judicature Act may, subject to affirmative resolution of Parliament, make Rules for carrying into effect the objects of this Act and in particular for all or any of the following matters:

- (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) No rules so made shall extend the jurisdiction of the Court.

EVIDENCE

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

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

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

(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.

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 Act, shall, if it appears to be sealed with the seal of the Court, or purports to be signed by any Judge Evidence of proceedings in bankruptcy.

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 Trinidad and Tobago, 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 diplomatic agent or consular officer of Trinidad and Tobago or by a Notary Public).

Death of debtor or witness.

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

REGISTRATION, ENDORSEMENT, ETC., OF RECEIVING ORDERS

Registration 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 Act.

(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 *bona 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.

Endorsement under Real Property Act. Ch. 56:02.

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 Act, 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.

(2) Where, by virtue of this Act 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 Real Property Act, 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 Act be deemed to be the registered proprietor of such land or interest in land.

125. Upon registration of any order under either section 123 or 124 there shall be paid to the Registrar General a fee of five dollars. Registration fee.

MISCELLANEOUS

126. 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. Service of notices.

127. 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.

128. 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. Irregular appointments, etc.

Exemption of deed from stamp duty.

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.

(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 Act.

Acts of corporations, partners, and insane persons.

130. For all or any of the purposes of this Act a corporation may act by any of its officers authorised in that behalf under the seal of the corporation, a firm may act by any of its members, and a mentally ill person may act by his committee.

Construction of Acts and instruments mentioning repealed Bankruptcy Acts.

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

Certain provisions to bind the State.

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

Attorney’s-at-law right of audience.

133. Nothing in this Act shall take away or affect any right of audience that any Attorney-at-law may have had at the commencement of this Act, and every Attorney-at-law of the Supreme Court shall be, and may practise as, an Attorney-at-law of and in the Court.

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 to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.

Removal of bankrupt from trusteeship. Ch. 8 No. 3. (1950 Ed.).

UNCLAIMED FUNDS OR DIVIDENDS

135. (1) Where the trustee, under any bankruptcy composition or scheme, pursuant to this Act or any written law repealed by this Act, has under his control any unclaimed dividend which has remained unclaimed for more than six months, or where, after making a final dividend he has in his hands or under his control any unclaimed or undistributed 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.

Unclaimed funds or dividends under this and former Acts.

(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 written law repealed by this Act, or any petition, resolution, deed, or other proceeding under or in pursuance of any such written law, 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, such trustee or other person shall forthwith 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) This section does not, except as expressly declared herein, deprive any person of any larger or other right or remedy to which he may be entitled against such trustee or other person.

(4) Any person claiming to be entitled to any 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

Fraudulent debtors. [45 of 1979].

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

Non-discovery of property.

(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-delivery 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 books, etc.

(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 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 five hundred dollars or upwards or conceals any debt due to or from him, unless he proves that he had no intent to defraud;
- (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 five hundred dollars or upwards; Removal of property.
- (f) if he makes any material omission in any statement relating to his affairs, unless he proves that he had no intent to defraud; Omission in statement of affairs.
- (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; Not informing trustee of false claim.
- (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; Preventing production of books, etc.
- (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; Destruction, etc., of books.
- (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 False entries in books, etc.

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

Parting with alteration, etc., of documents.

(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;

Accounting for property by fictitious losses, etc.

(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;

Obtaining property on credit by fraud.

(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 on pretence of carrying on business.

(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;

Pawning property obtained on credit.

(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;

- (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.

Obtaining consent of creditors by fraud.

(2) Any person guilty of an offence in the cases mentioned in subsection (1)(m), (n) and (o) is liable on conviction on indictment to imprisonment 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 an offence under subsection (1)(o), 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 is liable on conviction on indictment to imprisonment for five years or on summary conviction to imprisonment for twelve months.

(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.

137. An undischarged bankrupt who—

- (a) either alone or jointly with any other person obtains credit to the extent of five hundred 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

Obtaining credit by undischarged bankrupts. [45 of 1979].

bankrupt without disclosing to all persons with whom he enters into any business transaction the name under which he was adjudicated bankrupt,

is guilty of an offence.

Frauds by bankrupts, etc.

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

- (a) in incurring any debt or liability, obtains credit under false pretences or by means of any other fraud;
- (b) with intent to defraud his creditors or any of them, has, makes or causes to be made any gift or transfer of, or charge on, his property;
- (c) with intent to defraud his creditors, conceals or removes 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,

is guilty of an offence.

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

(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 subsection (1)(b) be deemed to have made a transfer of or charge on his property, and shall accordingly be guilty of an offence.

Punishment of bankrupt for gambling, etc.

139. (1) Any person who has been adjudged bankrupt, or in respect of whose estate a receiving order has been made, is guilty of an offence, 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—

- (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.

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 1st 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.

140. (1) Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made is guilty of an offence, 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

Punishment of bankrupt failing to keep proper accounts. [51/1980].

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.

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 two thousand dollars, or in any other case one thousand 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 1st 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 stocktaking, 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) Section 136(1)(i),(j) and (k) (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 the said section 136(1)(i), (j) and (k) 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. 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, and who quits Trinidad and Tobago and takes with him, or attempts or makes preparation to quit Trinidad and Tobago and take with him, any part of his property to the amount of one thousand dollars or upwards, which ought by law to be divided amongst his creditors, is (unless he proves that he had no intent to defraud) guilty of an offence.

Bankrupt absconding with property. [51/1980].

142. Any creditor, or any person claiming to be a creditor, in any bankruptcy proceedings, who wilfully and with intent to defraud makes any false claim, or any proof, declaration, or statement of account, which is untrue in any material particular, is guilty of an offence.

False claims and fraudulent accounts.

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 Act or any written law repealed by this Act, 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.

Order to direct prosecution if desirable.

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.
[45 of 1979].

145. (1) A person guilty of an offence under this Act in respect of which no special penalty is imposed by this Act is liable on conviction on indictment to imprisonment for two years or on summary conviction to imprisonment for twelve months.

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.

FIRST SCHEDULE

Section 14.

MEETINGS OF CREDITORS RULES

1. These Rules may be cited as the Meetings of Creditors Rules.
2. (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 thinks 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 *Gazette*.
3. The Receiver shall also, as soon as practicable, send to each creditor mentioned in the debtor's settlement 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 this Act.
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.

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

13. Where a creditor has so valued his security, he may at any time amend the valuation and proof on showing to the satisfaction of the trustee, or the Court, that the valuation and proof were made *bona fide* on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation; 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 rule 13, 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 Act.

PROOF IN RESPECT OF DISTINCT CONTRACTS

18. If a debtor was at the date of the receiving order liable in respect of distinct contracts as a member of two or more distinct firms, or as a sole contractor, and also as member of a firm, the 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 cent a year 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 cent a year 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.

SUBSIDIARY LEGISLATION

BANKRUPTCY RULES

ARRANGEMENT OF RULES

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- 140. Form and contents.
- 141. Preparation.
- 142. Transmission of copy to Receiver.

RULE

143. Service of receiving order.
144. Service where debtor abroad.
145. Receiving order on bankruptcy notice.
146. Stay of proceedings.
147. Advertisement.
148. Costs of petition, etc.
149. Notice of application to rescind receiving order, etc.
Order annulling adjudication.

STATEMENT OF AFFAIRS

150. How made out.
151. Extension of time.

PUBLIC EXAMINATION

152. Time for holding public examination.
153. Default by debtor in attending.
154. Notice to creditors.
155. Adjournments *sine die*.
156. Proceedings after adjournment *sine die*.
157. Notice of proceedings after adjournment *sine die*.
158. Application for order dispensing with public examination.

COMPOSITION OR SCHEME

159. Forms where proposal submitted by the debtor.
160. Application for approval of the Court.
161. Notice to Receiver.
162. Notice to creditors.
163. Receiver's report to be filed.
164. Hearing and appeal.
165. Costs of application by debtor.
166. Evidence and order.
167. Provision in composition or scheme for costs and charges.
168. Fees on application.
169. Correction of formal slips, etc.

ARRANGEMENT OF RULES—*Continued***RULE**

170. Proceedings if scheme approved.
171. Cases in which Receiver is to be trustee.
172. Security by trustee under scheme.
173. Non-payment of composition.
174. Vesting of property on annulment of composition.
175. Annulment of composition.
176. Dividends under composition or scheme.
177. Proof of debts in compositions.
178. Compositions and schemes.

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179. Adjudication on application of debtor.
180. Adjudication on application of other parties.
181. Adjudication on failure of composition or scheme.
182. Adjudication where public examination adjourned *sine die*.
183. Notice of order of adjudication.

DISCHARGE

184. Application.
185. Appeals.
186. Report of Receiver.
187. Evidence in answer to report.
188. Costs of application.
189. Conditional orders.
190. Order, delivery.
191. Gazetting order.
192. Execution on judgment in case of conditional discharge.
193. Notice of after-acquired property to Receiver.
194. Enquiry as to after-acquired property.
195. Application for modification of order.

MEETINGS OF CREDITORS

196. Notice to debtor of first meeting.
197. Notice to creditors of first meeting.

RULE

- 198. Notice of other meetings.
- 199. Non-reception of notice by creditors.
- 200. Notice to Receiver.
- 201. Proof of notice.
- 202. Copy of resolution for Registrar.
- 203. Adjournment.
- 204. Quorum.

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- 205. Workmen's wages
- 206. Production of bills of exchange and promissory notes.
- 207. Time for lodging proofs.
- 208. Transmission of proofs to trustee.
- 209. Proofs to be sent by Receiver to Registrar.
- 210. Proof sent by trustee to Registrar.
- 211. Procedure where creditor appeals.
- 212. Time for admission or rejection of proofs by Receiver.
- 213. Time for admission or rejection of proofs by trustee.
- 214. Notice of admission of proof.
- 215. Appeal from rejection of proof.
- 216. Costs of appeal from decision as to proofs.

PROXIES AND VOTING LETTERS

- 217. Form and filing of proxies.
- 218. Signature of proxies.
- 219. Filling in when creditor blind, etc.
- 220. Minors not to be proxies.

DIVIDENDS

- 221. Notice of intention to declare dividend.
- 222. Production of bills, notes, etc.
- 223. Dividend may be sent by post.

ARRANGEMENT OF RULES—*Continued*

RULE

APPROPRIATION OF PAY, SALARY, PENSIONS, ETC.

- 224. Notice to bankrupt of application.
- 225. Notice to Minister.
- 226. Copy of order to Minister.
- 227. Review of order.

DISCLAIMER OF LEASE

- 228. Disclaimer of lease without leave.

PROCEEDINGS BY COMPANY OR CO-PARTNERSHIP

- 229. Public officer or agent of company, etc.

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- 230. Attestation of signature of firm.
- 231. Service on firm.
- 232. Individual trading as firm.
- 233. Debtor's petition by firm.
- 234. Receiving order against firm.
- 235. Statement of affairs.
- 236. Adjudication against partners.
- 237. First meeting.
- 238. Composition, etc.
- 239. Voting on composition.
- 240. Adjudication: Trustee.
- 241. Separate firms.
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MENTALLY ILL PERSONS

- 243. Mentally ill persons.

SMALL BANKRUPTCIES

- 244. Estate administered in summary manner.

RULE

ADMINISTRATION OF ESTATE OF DECEASED INSOLVENTS

- 245. Form of petition.
- 246. Gazetting.
- 247. Service.
- 248. Duties of executor, etc.
- 249. Executor *de son tort*.
- 250. Meeting of creditors, etc.
- 251. Modification where summary order made.

PART IV

**RECEIVER, TRUSTEE, SPECIAL MANAGERS,
SECURITY BY TRUSTEE OR SPECIAL MANAGER,
ACCOUNTS, AND AUDIT, UNCLAIMED FUNDS**

- 252. Duties as to debtor's statement of affairs.
- 253. Subsistence allowance to debtor.
- 254. Special report as to person employed to assist debtor.
- 255. Use of proxies by deputy.
- 256. Personal performance of duties.
- 257. Assistant to act in sudden emergency.
- 258. Removal of special manager.
- 259. Mode of application to Court.
- 260. Evidence on application by Receiver.
- 261. Application for directions.
- 262. Duties where no assets.
- 263. Accounting by Receiver.
- 264. Trading account of debtor.
- 265. Liability for costs, expenses and damages.

TRUSTEES

- 266. Notice of appointment.
- 267. Notice of objection.
- 268. Trustee not accounting under section 135.
- 269. Removal of trustee.

ARRANGEMENT OF RULES—*Continued*

RULE

- 270. Failing to keep up security.
- 271. Notice of resignation.
- 272. Remuneration of trustee.
- 273. Remuneration of trustee appointed by the Court.
- 274. Trustee carrying on business.
- 275. Application for release.
- 276. Delivery of books, etc., on release of trustee.
- 277. Meeting to consider the conduct of trustee.
- 278. Payments into and out of a bank.
- 279. Application for directions.
- 280. Copy of trustee's accounts.
- 281. Statements of accounts to be furnished to creditors.
- 282. Dealings with estate.
- 283. Trustee not to purchase from his employer or partner without the Court's sanction.
Committee of inspection.
Sanction of payments to members of committee of inspection.
- 284. Discharge of costs, etc., before estate handed over to trustee.
- 285. Meetings of creditors to consider the conduct of trustee.

SPECIAL MANAGER

- 286. Remuneration of special manager.
- 287. Accounts.

SECURITY BY TRUSTEE OR SPECIAL MANAGER

- 288. Standing security.

ACCOUNTS AND AUDIT

- 289. Record Book.
- 290. Cash Book.
- 291. Books to be opened to committee of inspection.

RULE

- 292. Audit of Cash Book.
- 293. Audit of trustee's accounts.
- 294. Copy of accounts to be filed.
- 295. Affidavit of no receipt.
- 296. Proceedings on resignation, etc., of trustee.
- 297. Joint and separate estates accounts.
- 298. Expenses of sales.
- 299. Allowances to debtor.

UNCLAIMED FUNDS, ETC., UNDER SECTION 135

- 300. Mode of payment into Court.
- 301. Application for payment out by party entitled.
- 302. Accounts by trustee of unclaimed funds.

PART V

JUDGMENT DEBTORS

- 303. Fee on receiving order.
- 304. Summary administration.

PART VI

MISCELLANEOUS

- 305. Falsification of documents.
- 306. No lien on debtor's books.
- 307. Debtor's books.
- 308. Effect of non-compliance with Rules.
- 309. Abridgment or enlargement of time.
- 310. Rules of Supreme Court not to apply unless provided for.

APPENDIX.

[Subsidiary]

G.19.11.25
[G.24.12.42
36/1944
45 of 1979
47 of 1980
51/1980].

BANKRUPTCY RULES

made under section 117

PART I

PRELIMINARY

Citation.

1. These Rules may be cited as the Bankruptcy Rules.

Interpretation.

2. In these Rules—

“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 Act, whether adjudged bankrupt or not;
“Registrar” includes the Deputy Registrar, the Assistant Registrar of San Fernando and the Assistant-Registrar of Tobago;
“scheme” means a scheme of arrangement pursuant to the Act;
“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 typewriting and print and “written” includes typewritten and printed.

Computation of time.
[45 of 1979].
Ch. 3:01.

3. In its application to the doing of any act under the Act or these Rules at an office of the Supreme Court, section 25 of the Interpretation Act shall have effect as if the reference in subsection (4) of that section to a “public holiday” includes a reference to a day on which that office of the Supreme Court is closed and by reason thereof the act cannot be done on that day.

FORMS

Use of forms in Appendix.

4. The forms in the Appendix, where applicable, and where they are not applicable forms of a like character, with such

variation as circumstances may 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 otherwise directs.

PART II
GENERAL PROCEDURE
COURT AND CHAMBERS

5. The following matters and applications shall be heard and determined in open Court: Matters to be heard in Court.

- (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 Act 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. Adjournment from Chambers into Court and vice versa.

LAWS OF TRINIDAD AND TOBAGO

PROCEEDINGS

Proceedings how entitled.

Form 1.

7. (1) Every proceeding in Court under the Act 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.

Written proceedings.

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.

Records of the Court.

9. All proceedings of the Court shall remain on 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.

Notices to be in writing.

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

Process to be sealed.

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

Meetings summoned by Court.

12. Where the Court orders a general meeting of creditors to be summoned under rule 5 of the Meetings of Creditors Rules contained in the First Schedule to the Act, 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.

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 Attorney-at-law 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. Office copies.

14. (1) Whenever the *Gazette* contains any advertisement relating to any matter under the Act, the Registrar shall file with the proceedings in the matter a memorandum referring to and giving the date of such advertisement. Filing, Gazetting, etc. 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 Act 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 *Gazette* or paper mentioned in it.

MOTIONS AND PRACTICE

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

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Bankruptcy

[Subsidiary]

Bankruptcy Rules

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; but 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 is 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.

Adjournment.

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.

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.

Filing affidavits on motion.

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.

Indorsement and filing of affidavits.

24. A party intending to move shall, prior 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 Attorney-at-law (if any), and also if known the name of the respondent's Attorney-at-law (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; but if in any case the Judge is of opinion that the provisions of this rule ought not to apply, he may so order; and where an order for discharge has been granted subject to the condition that judgment 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 Attorneys-at-law.

Notice of appointment to settle order.

SECURITY IN COURT

Security by
bond.

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 sureties to the person proposed to be secured.

Amount of
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.

Deposit in lieu
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 by the Registrar and to be signed by such person or his Attorney-at-law or agent, setting forth the conditions on which the money is deposited.

Money lodged
in Court.

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.

Security of
guarantee
society.

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

Notice of surety.

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.

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 an Attorney-at-law.

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

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 Minister may from time to time direct; and no such document shall be filed or delivered until the stamp thereon has 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.

Defacement of stamp.

AFFIDAVITS

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

Cost of unnecessary matter.

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.

Form.

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

Deponent's description.

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Bankruptcy

[Subsidiary]

Bankruptcy Rules

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 Attorney-at-law and client.

Erasures, etc.

42. No affidavit having in the jurat or body thereof any inter-lineation or erasure shall without leave of the Court be read or made use of in any matter depending in Court unless the inter-lineation 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 rewritten 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 to understand it perfectly, 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.

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. Filing office copies, etc.

(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.

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. Time for filing.

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 Act 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 and documents and writings in his possession or control, and in such subpoena the name of several witnesses may be inserted. Subpoena.

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 Attorney-at-law, 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.

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

Limit of witnesses' costs. **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.

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

Depositions, etc. **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.

Shorthand notes. [51/1980]. **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 Act, in shorthand or otherwise, the Court might make such appointment, and every person so appointed shall be paid a sum not exceeding forty dollars a day, and where the Court appoints a shorthand writer, a sum not exceeding fifty cents per folio of seventy-two 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.

Form of commission. **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.

Production of document. **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.

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 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*. Discovery.

61. Every application to the Court under section 26 of the Act 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. Application for discovery.

ACCOUNTS AND SALE OF MORTGAGED PROPERTY

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 is found that such person is such mortgagee and if no sufficient Inquiry into mortgage, etc.

objection appears 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 was in possession of the property over which the mortgage extends, or any part thereof; and the Court, if satisfied that there ought to be a sale, shall direct notice to be given in such newspapers as the Court thinks 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 arising 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 is 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 arising from such sale are insufficient to pay and satisfy what is 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 thinks 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 directs.

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. Accounts, etc.

WARRANTS, ARRESTS AND COMMITMENTS

67. Where a debtor is arrested under a warrant issued under section 24 of the Act, he shall be given into the custody of the Commissioner 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. Custody and production of debtor.

68. (1) When a person is apprehended under a warrant issued under section 26(2) of the Act 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 be examined, the officer shall deliver him into the custody of the Commissioner 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 Act shall forthwith, after apprehending the person named in the warrant and bringing him before the Court as mentioned in subrule (1) or after delivering him to the Commissioner 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

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the earliest practicable day for the examination, and shall issue its direction or order to the said Commissioner 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 has applied for the examination or warrant.

Applications to commit.

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

Notice and hearing of application.

70. Subject to the Act 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; but in any case in which the Court thinks fit, the Court may allow substituted service of the notice by advertisement or otherwise or shorten the length of notice to be given.

Suspension of issue of committal order.

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 such debtor or person as the case may be, complies with the previous order within a specified time.

SERVICE AND EXECUTION OF PROCESS

Address of Attorney-at-law for service.

72. Every Attorney-at-law 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 Attorney-at-law if left for him at his address 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 weekday 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 Act or Rules required to be so served, unless the Court shall in any particular proceeding by order specially so direct.

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

Service by post.

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

Enforcement of order.

TRIAL BY JURY

77. Where upon application to the Court for a decision on any question, the Court, with or without the application of any person, has directed that a question of fact be tried before a referee or a Judge with the assistance of assessors, 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.

Settlement of issues for trial.

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 Attorney-at-law 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.
[47 of 1980
51/1980].
Appendix.

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 Act 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 five thousand dollars, a lower scale of Attorneys'-at-law costs shall be allowed in all proceedings under the Act in which costs are payable out of the estate, namely, three-fifths of the charges ordinarily allowed, disbursements being added.

82. The Attorney-at-law 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.

Attorney's-at-law cost in case of petition by debtor.

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.

Costs paid otherwise than out of estate.

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 Attorney-at-law, manager, accountant, auctioneer, broker of 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 an Attorney-at-law, a copy of the authority sanctioning the employment.

Certificate of employment.

86. In any case in which pursuant to section 45(1) of the Act 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

Taxation of Marshal's costs after deduction.

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Chap. 9:70

Bankruptcy

[Subsidiary]

Bankruptcy Rules

Act 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.

Notice of appointment.

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).

Lodgment of bill.

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.

Copy of bill. [51/1980].

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 bills or charges to be so taxed, on payment at the rate of fifty 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.

Applications for costs.

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—

- (a) such party or person shall serve notice of his intended application on the Receiver, and if a trustee has been appointed, on the trustee;
- (b) the Receiver or trustee may appear on such application and object thereto;

(c) 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:

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 Attorney-at-law 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-debtor 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 thinks fit. The Receiver may also, as in his discretion he thinks 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

96. (1) Except by leave of the Court there shall be no appeal to the Court of Appeal from any order made by consent or as to costs only. Restrictions on appeal. [51/1980].

(2) Except by leave of the Court no appeal to the Court of Appeal 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 one thousand dollars.

(3) No appeal to the Court of Appeal 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 Court of Appeal 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 one thousand Security for costs. [45 of 1979].

five hundred dollars to satisfy, in so far as the same may extend, any costs that the appellant may be ordered to pay; but the Court of Appeal 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.

Appeal not to operate as stay of proceedings.

99. No appeal shall operate as a stay of proceedings under the judgment or order appealed from unless the Court otherwise orders.

Procedure on appeals.

100. Subject to the foregoing rules, appeals to the Court of Appeal shall be regulated by the Rules of the Supreme Court.

PART III

PROCEEDINGS IN BANKRUPTCY

DECLARATION OF INABILITY TO PAY DEBTS

Form of declaration.

101. A declaration by a debtor of his inability to pay his debts shall be dated, signed and witnessed. The witness shall be an Attorney-at-law or the Registrar.

Form 2.

BANKRUPTCY NOTICE

Issue of 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.

Forms 4 and 5.

Indorsement of address, etc.

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

(2) There shall be indorsed on every bankruptcy notice an intimation to the debtor that if he has a counterclaim, 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 Attorneys-at-law 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 Trinidad and Tobago shall be served within one month from the issue thereof.

Duration 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.

Service of 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.

Setting aside notice.

BANKRUPTCY PETITION

108. Every petition shall be fairly written without alterations, interlineations or erasures unless initialled by the attesting witness.

Form of petition.
Forms 3, 9.

109. (1) Where a petition is presented by a debtor, he shall besides inserting therein his name and description and his

Description and address of debtor.

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 Trinidad and Tobago, the witness must be an Attorney-at-law or the Registrar. If it be attested out of Trinidad and Tobago, the witness must be a Judge or Magistrate or a consular officer of Trinidad and Tobago or a Notary Public.

Deposit by
petitioner.
[45 of 1979].

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 two hundred and fifty dollars, 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

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 Act, 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.

Security for costs.

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.

Verification and copies.

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.

Who to verify.

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.

Joint petitioners.

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 affidavits 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 Attorney-at-law, or by some

Substituted service.

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person in their employ. However, 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.

Form 16.

Proof of service.

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.

Service out of jurisdiction.

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

Service after death of debtor.

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.

INTERIM RECEIVER

Appointment of 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.

Form and contents of order.

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.

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

Damages if petition dismissed.

HEARING OF PETITION

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

Proceedings on petition.

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(2) A creditor’s petition shall not be heard until the expiration of eight days from the service thereof. However, 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 Attorney-at-law, 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.

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.

Non-appearance of creditor.

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 thinks fit, be dispensed with.

Personal attendance of creditor when dispensed with.

135. Where the 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 Attorneys-at-law, if known.

Proceedings after trial of disputed question.

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

Application to dismiss.

and debtor (and to their respective Attorneys-at-law if known) by post or otherwise of the time and place fixed for the hearing of the application.

Application for extension of time.

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.

Order 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.

Adjournments of hearing.

139. After the expiration of one month from the day appointed for the first hearing of a petition (provided such petition has 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 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.

RECEIVING ORDER

Form and contents.

Forms 26, 27.

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.

Preparation.

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 an

Attorney-at-law the receiving order shall be indorsed with the name and address of such Attorney-at-law.

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 Trinidad and Tobago, the Court may order service on the debtor of the receiving order, order of adjudication, order to attend the public examination of any adjournment thereof, or of any other order made against, or summons issued for the attendance of the debtor, to be made with such time and in such manner and form as it thinks 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 *Gazette*, and in one of the local papers.

Advertisement.
Forms 29, 30 and 178(1).

148. (1) The costs of all proceedings under the Act, down to and including the making of a receiving order, shall be at the cost

Costs of petition, etc.

of the party prosecuting the same, unless the Court shall order that the debtor shall pay the whole or any part 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, etc.
Form 98.

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.

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 Act unnecessary. Extension of time.

PUBLIC EXAMINATION

152. When a receiving order has been made against a debtor, the Receiver shall 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. Time for holding public examination.

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, the Court may, 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, issue a warrant for his arrest as provided by section 24(1)(d) of the Act, or make such other order as the Court thinks just. Default by debtor in attending.

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. Notice to creditors.

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 Adjournments sine die.

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*.

Proceedings after adjournment *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 expenses aforesaid. The balance of the deposit, after defraying the expense aforesaid, shall be returned to the debtor.

Notice of 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.

Application for order dispensing with public examination.

Forms 70, 71.

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.

(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.

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Chap. 9:70

Bankruptcy

[Subsidiary]

Bankruptcy Rules

Notice to Receiver.

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 creditors.

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.

Receiver's report to be filed.

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.

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 Court of Appeal 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.

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

Form 85.

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.

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.

Fees on application.

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.

Correction of formal slips, etc.

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.

Proceedings if scheme approved.

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.

Cases in which Receiver is to be trustee.

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

Security by trustee under scheme.

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.

Dividends under composition or scheme.

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.

Proof of debts in compositions.

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.

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 Act.

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 Act, 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.

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DISCHARGE

- Application. **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.
- Form 102.
Form 103.
- Appeals. **185.** An appeal to the Court of Appeal shall lie at the instance of the trustee (if any) from any order of the Court made upon such an application.
- Report of Receiver. **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.
- 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.

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.

Conditional orders.
Forms 109, 110.

(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 Form 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 thinks fit.

190. The order of the Court made on an application for discharge shall be dated 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 Court of Appeal thereon.

Order, delivery.
Forms 104–108.

191. When a 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.

Gazetting order.
Form 178(9).

192. (1) An application by the Receiver or trustee for leave to issue execution on a judgment under section 27(2) of the Act 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 date for the hearing.

Execution on judgment in case of conditional discharge.

(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 to do so, 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.

Application for modification of order.

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.

MEETINGS OF CREDITORS

Notice to debtor of first meeting.

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. 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 Attorney-at-law 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 the meeting, unless in the resolution or adjournment another place is specified. Adjournment.

Quorum. **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.

PROOF OF DEBTS

Workmen's wages.
Form 55.
Form 57.

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.

Production of bills of exchange and promissory notes.

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.

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.

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.

Proofs to be sent by Receiver 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.

Proof sent by trustee to Registrar.

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.

Procedure where creditor appeals.

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 Receiver.

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. 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

Form and filing of proxies.

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.

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.

Signature of proxies.

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.

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 not be 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

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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.

Production of bills, notes, etc. Ch. 82:31.

222. Subject to section 70 of the Bills of Exchange Act, 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.

Dividend may be sent by post.

223. The amount of the dividend may, at the request and risk of the creditor, be transmitted to him 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 Act, he shall give to the bankrupt notice of his intention to do so. 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 Minister.

225. When the application is made under section 54(1) of the Act, a copy of the proposed order shall be sent by the Registrar to the Minister and the application shall stand adjourned until the written consent of the Minister is obtained as required by the Act.

226. Where an order is made under section 54(2) of the Act, the Registrar shall give to the trustee a sealed copy of the order, who shall communicate the same to the Minister.

Copy of order to Minister.

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.

Review of order.

DISCLAIMER OF LEASE

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

Disclaimer of lease without leave.

(i) where the bankrupt has not sublet 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 ninety-six dollars a year; or

(b) the estate is administered under the provisions of section 114 of the Act; 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 sublet 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

Public officer or agent of company, etc.

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.

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 Trinidad and Tobago, 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. Rule 231 shall so far as the nature of the case admits 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.

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First meeting. **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.

Composition, etc. **238.** The joint creditors and each set of separate creditors, may severally accept composition 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.

Voting on composition. **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.

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 Act, 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.

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.

Apportionment
of trustee's
remuneration.

MENTALLY ILL PERSONS

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 Act or Rules, is a mentally ill person the Court may appoint such person as it may think fit, to appear for, represent, or act for, and in the name of the mentally ill person, 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 Act and Rules the mentally ill person 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.

Mentally ill
persons.

(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 High Court to manage the affairs or property of or to represent the mentally ill person, or by any relative or friend of the mentally ill person 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 mentally

ill person, 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 mentally ill person.

(5) Where a person has been appointed under this rule, any notice under the Act 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 mentally ill person.

SMALL BANKRUPTCIES

Estate
administered in
summary
manner.
[45 of 1979].

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

- (a) there shall be no advertisement of any proceedings in a local paper unless the Court otherwise directs;
- (b) 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";
- (c) all questions of law and fact shall be determined by the Court, and no application for a jury shall be entertained;
- (d) 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 Act, 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;

- (e) 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;
- (f) all payments shall, unless the Court otherwise orders, be made into and out of such Bank as may be directed by the Court;
- (g) 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;
- (h) meetings of creditors shall, unless the Receiver for special reasons otherwise determines, be held in the office of the Receiver;
- (i) 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 two hundred dollars;
- (j) in lieu of the copy of the account to be filed with the Court, as prescribed by section 90(4) of the Act, a statement showing the position of the estate, analogous as nearly as may be, to that prescribed by Form 170 shall be filed;
- (k) 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 two hundred dollars;
- (l) the time mentioned in section 65(2) of the Act shall be extended to six months;

Form 170.

- (m) the estate shall be realised with all reasonable despatch, and, where practicable, distributed in a single dividend when realised;
- (n) the costs or charge payable out of the debtor's estate of any person other than of an Attorney-at-law 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;
- (o) the Receiver shall open but one account in respect of all estates administered by him under section 114 of the Act. 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

Form of petition.

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

Form 10.

Gazetting.

246. Where an administration order under section 115 of the Act 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.

Service.

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.

(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.

248. When an administration order under section 115 of the Act 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.

Duties of
executor, etc.
Form 41.

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.

249. In any case in which an administration order under section 115 of the Act 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 rule 248 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.

Executor *de son
tort*.

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—

Meeting of
creditors, etc.

- (a) the provisions of the First Schedule to the Act relating to the mode of summoning a meeting of creditors, and to the persons entitled to a vote at a meeting;
- (b) 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.
[45 of 1979].

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

- (a) 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;
- (b) there shall be no committee of inspection, but the Court shall exercise the powers of a committee of inspection;
- (c) there shall be no advertisement of any proceedings in a local paper unless the Court otherwise directs;
- (d) 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";
- (e) all questions of law and fact shall be determined by the Court, and no application for a jury shall be entertained;
- (f) all payments shall, unless the Court otherwise orders, be made into and out of such bank as may be directed by the Court;
- (g) meetings of creditors shall, unless the Receiver for special reasons otherwise determines, be held in the office of the Receiver;
- (h) in lieu of the copy of the account to be filed with the Court, as prescribed by section 90(4) of the Act, a statement showing the position of the estate, analogous as nearly as may be, to that prescribed by Form 170 shall be filed;
- (i) 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 two hundred dollars;

Form 170.

- (j) the time mentioned in section 65(2) of the Act shall be extended to six months;
- (k) the estate shall be realised with all reasonable despatch, and, where practicable, distributed in a single dividend when realised;
- (l) the costs or charges, payable out of the debtor's estate, of any person other than of an Attorney-at-law 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 IV

RECEIVER, TRUSTEE, 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.
Form 31.

(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.

(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 Act.

(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.

Special report as to person employed to assist debtor.

254. Whenever, under the powers given by section 76 of the Act, 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.

Use of proxies by deputy.

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.

Personal performance of duties.

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.

Assistant to act in sudden emergency.

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.

Removal of special manager.

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.

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.

261. In any case of doubt or difficulty, or in any matter not provided for by the Act or these Rules relating to any proceeding in Court, the Receiver may apply to the Court for directions.

Application for directions.

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.

Duties where no assets.

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.

Accounting by Receiver.

(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, which 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.

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 to do so, furnish such

Trading account of debtor.

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. (1) The provisions of subrules (2) to (6) shall apply to every case in which proceedings are taken, either by action, motion, 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 Act or in execution of the powers given to a Receiver by the Act.

(2) Subject to the provisions of the following paragraphs of this rule, 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.

(3) As soon as any such proceedings are commenced it shall be the duty of the Receiver to report the same to the Minister who shall determine whether or not such proceedings shall be resisted or defended.

(4) 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 Minister shall have determined that such proceedings shall be resisted or defended.

(5) 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 Minister 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.

(6) 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 Minister 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 Act, 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 Act such person has either been removed under section 93(2) of the Act from the office of trustee, or has failed or neglected, without good cause shown by him, to render his accounts

Removal of
trustee.

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for audit for two months after the date by which the same should have been rendered.

Failing to keep up security.

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 office.

Notice of resignation.

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.

Remuneration of trustee.

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 appointed by the Court.

273. In any case in which, under the provisions of section 20(7) or section 79(3) of the Act, the Court appoints a trustee, the trustee shall receive out of the estate such remuneration as the Court shall determine.

Trustee carrying on business.

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.

(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.

275. A trustee before making application to the Court for his release, shall give notice of his intention to do so to all the creditors of the debtor who have proved for debts exceeding two

Form 172.

hundred dollars 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 Act, such notice and summary shall be sent to the debtor only.

Form 158.
[51/1980].

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.

Delivery of books, etc., on release 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.

Meeting to consider the conduct of trustee.

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; but where no bank has been selected, or where an estate is being administered under section 114 of the Act, the trustee shall pay such moneys into such bank as he shall think fit.

Payments into and out of a bank.

(2) All payments out shall be made by cheque payable to order, and subject to rule 244(o) 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.

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.

Application for directions.

Form 154.

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Copy of trustee's accounts. [51/1980].

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 fifty cents per folio he shall be entitled to have such copy accordingly.

Statements of accounts to be furnished to creditors.

Form 170. [51/1980].

281. Where in pursuance of section 85 of the Act 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 fifty cents per folio for each statement when the creditors do not exceed ten, and when the creditors exceed ten, fifty cents 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 Act, 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 cent a year, 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.

Meetings of creditors to consider the conduct of 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 the 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.

SPECIAL MANAGER

Remuneration of 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.

Accounts.

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.

SECURITY BY TRUSTEE OR SPECIAL MANAGER

Standing security.

288. In the case of a trustee or special manager, the following rules as to security shall be observed:

- (a) the security shall be given to such officers or persons and in such manner as the Court may from time to time direct;
- (b) 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;

- (c) 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

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 an Attorney-at-law 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.

Record 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.

Cash Book.

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.

Books to be opened to committee of inspection.

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 Cash Book.

Form 165.

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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 the 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 Act 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 Act, 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 Comptroller of Accounts to receive the payment.

Mode of payment into Court.

301. An application under section 135 of the Act, 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 section 135(1) of the Act, the Court may at any time order the trustee under any bankruptcy, composition or scheme, to submit to the Court an account verified

Accounts by trustees of unclaimed funds.

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.

PART V

JUDGMENT DEBTORS

Fee on receiving order.

303. (1) When a receiving order is made under section 98 of the Act, the creditor shall pay the like fee and deposit as are prescribed in the case of a bankruptcy petition.

(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.

Summary administration. [51/1980].

304. When a receiving order is made under section 98 of the Act, 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 Act, and all debts which under the Act are directed to be paid in priority to other debts), is not likely to exceed in value five thousand dollars, make an order that the debtor's estate be administered in a summary manner pursuant to section 114 of the Act and these Rules.

PART VI

MISCELLANEOUS

Falsification of documents.

305. (1) Any person who knowingly falsifies or fraudulently alters any document in or incidental to any proceeding under the Act or these Rules shall be deemed to be guilty of contempt of Court and shall be liable to be punished accordingly.

(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.

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 to set up a lien thereon. No lien on 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. Debtor's books.

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. Effect of non-compliance with Rules.

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. Abridgement or enlargement of time.

310. Save as provided by these Rules, the Rules of the Supreme Court shall not apply to any proceeding in bankruptcy. Rules of Supreme Court not to apply unless provided for.

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FORM 1

GENERAL TITLE

IN THE HIGH COURT OF JUSTICE

In Bankruptcy No. of 20.....
Re [James Brown]

Ex parte [here insert "the Debtor" or "J. S. a creditor," or "the Receiver" or
"the Trustee"].

FORM 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 20.....

(Signature)
A.B.

Signed by the debtor in my presence.

Signature of witness

Address

Description

Filed theday of 20.....

Note—Where the debtor resides at a place other than his place of business both
addresses should be inserted.

FORM 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 this day of 20.....

.....
(Signature)

Signed by the debtor in my presence.

Signature of witness

Address

Description

Filed the day of 20.....

Note—Where the debtor resides at a place other than his place of business both addresses should be inserted.

FORM 4

REQUEST FOR ISSUE OF BANKRUPTCY NOTICE

IN THE HIGH COURT OF JUSTICE

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 20.....

4. Execution on the said judgment has not been stayed.

Dated this day of 20.....

C.D., judgment creditor
or,

[E.F., Attorney-at-law for the judgment creditor].

Note—Where the debtor resides at a place other than his place of business both addresses should be inserted.

FORM 5

BANKRUPTCY NOTICE

(TITLE)

To A.B. (or A.B. & 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.

(a) Strike out if no agent authorised.
(b) Insert name of creditor.
(c) "him" or "them".
(d) "his" or "their".

Dated this day of 20.....

By the Court,
Registrar.

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 attorney-at-law suing out the notice, or "This notice is sued out by in person".

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FORM 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 the day of 20....., 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 ‘.....’.”

FORM 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 counterclaim [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 counterclaim].

3. That I could not have set up the said counterclaim [or as the case may be] in the action in which the said judgment was obtained against me.

Sworn, etc.

FORM 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 20.....

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 , 20.....

By the Court,
Registrar.

FORM 9

CREDITOR'S 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—

(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.

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 20.....

(Signed) C.D.

Signed by the petitioner in my presence E.F.

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 20....., 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 , 20....., 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.

FORM 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 20....., 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 , 20....., 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, 20....., 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 20.....

(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 20....., 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.

FORM 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.

FORM 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.*]

FORM 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 20.....
(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 , 20.....
By the Court,
Registrar.

FORM 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 , 20....., 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,*
Attorney-at-law 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

FORM 15

**SUBSTITUTED SERVICE OF PETITION
NOTICE IN GAZETTE**

In the

In Bankruptcy.

In the matter of a bankruptcy petition filed the day of
....., 20.....

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 *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, 20.....

Registrar.

FORM 16

**ORDER FOR SUBSTITUTED SERVICE OF PETITION
(TITLE)**

In the matter of a bankruptcy petition filed the day of
....., 20..... 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 *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, 20.....

By the Court,

Registrar.

FORM 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, 20 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, 20.....

To C.D., of, and to A.B. and to the
Registrar of the said Court.

FORM 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, 20.....

By the Court,
Registrar.

FORM 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, 20.....

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. [L.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.

FORM 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 have 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, 20.....

A.B.

To the Registrar of the Court.

FORM 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 \$ situated at , occupied by , or of a dwelling-house of the value of \$ situated 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.

FORM 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 , 20..... , at o'clock in the noon.

Dated this day of 20.....

By the Court,
Registrar.

FORM 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 , 20.....

By the Court,
Registrar.

FORM 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, 20.... be dismissed *[add terms if any]*.

Dated this day of, 20....

By the Court,
Registrar.

FORM 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, 20....

By the Court,
Registrar.

FORM 26

RECEIVING ORDER ON DEBTOR'S PETITION

(TITLE)

On the petition of the debtor himself, filed the day of , 20..... , and numbered of 20..... , a receiving order is hereby made against A.B. [*insert name, address and description 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 , 20.....

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)

(a) Insert the place at which the debtor is to attend on the Receiver.

The Receiver's offices are open (except on holidays) every week-day from 8.30 a.m. to 4.00 p.m.

INDORSEMENT ON ORDER

The name and address of the Attorney-at-law (if any) to the debtor are [*insert name and address*].

FORM 27

RECEIVING ORDER ON CREDITOR'S PETITION

(TITLE)

On the petition (dated the day of , 20..... , and numbered of 20.....) 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 , 20.....

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)

(a) Insert the place at which the debtor is to attend on the Receiver.

The Receiver's offices are open (except on holidays) every week-day from 8.30 a.m. to 4.00 p.m.

INDORSEMENT ON ORDER

The name and address of the Attorney-at-law to the petitioning creditor are [*insert name and address*].

FORM 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 , 20.....

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

The Receiver’s offices are open (on working days) from 8.30 a.m. to 4.00 p.m.

INDORSEMENT

The name and address of the Attorney-at-law to the judgment creditor are

FORM 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

Receiver.

(Address.)

Dated , 20.....

FORM 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 20.....

FORM 31

STATEMENT OF AFFAIRS

(TITLE)

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.

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Bankruptcy Rules

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		
	Creditors fully secured as per list (B.) Estimated value of securities		Property as per list (H) viz.— (a) Stock in trade in Trinidad and Tobago Stock in trade out of Trinidad and Tobago Stock in trade of Goods in transit from or to Trinidad and Tobago	Estimated cost \$	
	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		Book debts as per list (I) viz.:— Good Doubtful Bad	\$	
	Other liabilities as per list (D.) \$ Of which it is expected will rank against the estate for dividend		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)...		
	Liabilities on bills other than debtor's own acceptance, 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		Deduct preferential creditors for rent, rates, taxes, wages, etc., (per contra)...		\$
	\$		Deficiency explained in statement (K.)		\$
	Deducted contra \$				\$

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
 this day of , 20.....
 before me } (Signature)

A

UNSECURED CREDITORS

The names to be arranged in alphabetical order and numbered consecutively, Creditors for one thousand dollars and upwards being placed first.

No.	Name	Address and Occupation	Amount of Debt	Date when Contracted		Consideration

Signature

Dated 20.....

Note—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.

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Bankruptcy Rules

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 20.....

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 20.....

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 20.....

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 20.....

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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 20.....

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 20.....

H
PROPERTY

Full particulars of every description of property in possession and in reversion as defined by section 2 of the Act 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 Attorney-at-law for Costs of Petition...	
(d) Stock in trade in Trinidad and Tobago (cost \$)	
(e) Stock in trade out of Trinidad and Tobago (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 20.....

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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 20.....

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 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 20.....

K

DEFICIENCY ACCOUNT

Excess of assets over liabilities on the (a) day of 20....., (if any) Net profit (if any) arising from carrying on business from the (a) day of 20....., to date of receiving order, after deducting usual trade expenses ... Income or profit from other sources (if any) since the (a) day of 20..... Deficiency as per statement of affairs	Excess of liabilities over assets on the (a) day of 20....., (if any) Net loss (if any) arising from carrying on business from the (a) day of 20....., to date of receiving order, after deducting from profits the usual trade expenses Bad debts (if any) as per Schedule "I" (b) Expenses incurred since the (a) day of 20....., 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	Total amount accounted for
(e) \$	(e) \$

Signature
 Dated 20.....

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 20.....

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FORM 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 five thousand dollars, and I apply that the Court may order the estate to be administered in a summary manner in pursuance to section 114 of the Act.

Dated this day of , 20.....

Receiver.

FORM 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 Act.

Dated this day of , 20.....

By the Court, Registrar.

FORM 34

**APPLICATION FOR EXTENSION OF TIME FOR
HOLDING FIRST MEETING, AND ORDER THEREON**

(TITLE)

EX PARTE THE RECEIVER

I, A.B., the Receiver in the above matter, apply to the Court for an extension of time to the day of, 20....., 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 Act.

(a) Strike out such of the grounds as are not applicable.

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, 20.....

Or

That the prescribed notice in the *Gazette* of the first meeting of creditors in the above matter required by rule 2 of the Meetings of Creditors Rules in the First Schedule to the Act cannot be given in time for holding the meeting within fourteen 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 Meetings of Creditors Rules in the First Schedule to the Act.

Dated this day of, 20.....

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, 20.....

Dated this day of, 20.....

By the Court,
Registrar.

FORM 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 ,20.....)

Notice is hereby given, that the first meeting of creditors in the above matter will be held at on the day of , 20..... 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 , 20.....

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 , 20.....

The public examination of the debtor is fixed for the day of , 20..... 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.

(a) Here insert "has not been lodged" or "has been lodged and summary is enclosed".

(The debtor's statement of affairs (a))

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.

FORM 36

**NOTICE TO CREDITORS OF FIRST MEETING IN
SUMMARY CASE WHERE DEBTOR HAS NOT
SUBMITTED AN OFFER OF COMPOSITION**

(TITLE)

SUMMARY CASE

(Under receiving order dated the day of, 20.....)

Notice is hereby given that the first meeting of the creditors in the above matter will be held at on the day of, 20....., 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, 20.....

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, 20.....

The public examination of the debtor is fixed for the day of, 20....., at o'clock in thenoon, 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, 20.....

Receiver.

(The debtor's statement of affairs (a))

(a) Here insert "has not been lodged" or "has been lodged and summary is enclosed".

FORM 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 , 20....)

Notice is hereby given that a general meeting of creditors of the above-named debtor will be held at on the day of , 20...., 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 , 20....

Proxies and voting letters to be used at the meeting must be lodged not later than o'clock on the day of , 20....

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 , 20.... 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 , 20....

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.

FORM 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, 20..... at o'clock in the noon precisely.

An order for summary administration under section 114 of the Act 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, 20.....

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, 20....., 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, 20.....

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.

FORM 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 , 20.....

Receiver.

FORM 40

AFFIDAVIT AND CERTIFICATE OF POSTAGE OF NOTICES OF FIRST MEETING

(TITLE)

(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

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 , 20..... , send to each creditor mentioned in the debtor's statement of affairs, and to the above-named debtor a notice of the time and 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]

FORM 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 , 20..... at o'clock at (a) and (a) Here insert
that you are required to attend thereat, and submit to such examination and give such place where
information as the meeting may require. And further, take notice that if you fail to comply meeting will be
with the requirements of this notice, you will be guilty of a contempt of Court, and may held.
be punished accordingly.

Dated this day of , 20.....

Receiver.

To the above-named debtor.

FORM 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 , 20..... , and I depute him
(a) , to attend such meeting and use, on my behalf, any proxy or proxies (a) being a
held by me in this matter. person in my
employment or
under my
official control.

Dated this day of , 20.....

Receiver.

FORM 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 , 20..... , 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.

FORM 44

**MEMORANDUM OF PROCEEDINGS AT FIRST MEETING
IN SUMMARY CASES**

(TITLE)

SUMMARY CASE

Before at on the day
of....., 20....., 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.

FORM 45

**MEMORANDUM OF ADJOURNMENT OF FIRST OR
OTHER MEETING**

(TITLE)

Before at on the day of
....., 20....., 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 , 20....., at o'clock
in the noon, then to be held at the same place.

(a) "First" or as
the case may be.
(b) Here state
reason for
adjournment.

Chairman.

FORM 46

**MEMORANDUM OF PROCEEDINGS AT ADJOURNED
FIRST MEETING**

NO QUORUM

(TITLE)

Before at on the day of
....., 20....., 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.

FORM 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 , 20..... at o'clock in the noon [*here state the purpose for which meeting called*].

Dated this day of , 20.....

By the Court,
Registrar.

FORM 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 , 20....., at o'clock
in the noon.

Agenda (a)

(a) Here insert
purpose for
which meeting
called.

Dated this day of , 20.....

Receiver or Trustee.

Address

NB—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.

FORM 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)

(a) or as the
case may be.
(b) or "hereby
certify."

1. That I did on the day of , 20..... , 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".

(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.

Sworn, etc. (d)

(d) or signed
thisday
of

FORM 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 , 20..... 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 , 20.....

L.M.,

A Member of the Committee of Inspection
[or Receiver].

FORM 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 , 20..... , 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 , 20.....

C.D.,

Receiver.

To X.Y.

FORM 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 , 20.....

Chairman of the meeting, E.F. of

Resolved (*here should follow resolutions*).

E.F., *Chairman* of this meeting.

FORM 53

**LIST OF CREDITORS ASSEMBLED TO BE USED
AT EVERY MEETING**

(EXCEPT A SECOND MEETING WHERE SCHEME OR COMPOSITION
HAS BEEN CONSIDERED)

(TITLE)

Meeting held at this day of , 20.....

Number	Name of Creditors present or assembled	Amount of Proof
1		\$
2		
3		
4		
6		
7		
7	Total number of creditors present or assembled	

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Bankruptcy

[Subsidiary]

Bankruptcy Rules

FORM 54

**LIST OF CREDITORS FOR USE AT MEETING HELD
FOR CONSIDERATION OF COMPOSITION OR SCHEME**

(TITLE)

Meeting held at this day of, 20.....

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 \$ _____

FORM 55

PROOF OF DEBT—GENERAL FORM

(TITLE)

Re (a) No. (a) of 20..... ,
I (b)
of in the Ward of , make oath and say:

(a) Here insert the number of matter, and the name of debtor as given on the notice of meeting.

(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, 20....., 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.

(b) Fill 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.

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Bankruptcy

[Subsidiary]

Bankruptcy Rules

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, moneys] 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.*

Admitted to vote for the.... day of 20.....

Receiver or Trustee

Admitted to rank for dividend for \$ this day of 20.....

Receiver or Trustee

Date	Drawer	Acceptor	Amount	Due date

Sworn at
 this day of
 20..... ,
 Before me } Deponent's signature

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

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.

FORM 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 , 20..... and I am the trustee under such bankruptcy.

2. There was at the date of the receiving order herein, namely, the day of , 20..... , 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 20.....

Receiver
or Trustee.

Admitted to rank for dividend for \$ this day of 20.....

Receiver
or Trustee.

FORM 57

PROOF OF DEBT TO WORKMEN

(TITLE)

(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.

No. (a) of , 20.....

Re (a)

I (b) of , the above-named debtor [or the foreman of the above-named debtor (or) on behalf of the workmen and others employed by the above-named debtor] make oath and say—

1. That I [or the said] w at the date of the receiving order, viz.: the day of , 20..... , 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 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 any manner of satisfaction or security whatsoever.

Schedule above referred to

Table with 6 columns: 1. No., 2. Full Name of Workman, 3. Address, 4. Description, 5. Period over which wages due, 6. Amount due. The 6th column contains a dollar sign (\$) at the bottom.

Sworn at this day of , 20.... } Deponent's signature

Before me.

FORM 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, 20.....

To Address
Receiver.

FORM 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.

Dated this day of, 20..... (b) If a firm, sign the firm's trading title, and add "by X.Y. a partner in the said firm".
(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.

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Bankruptcy

[Subsidiary]

Bankruptcy Rules

(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 persons] (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 , 20.....

(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.

FORM 60

SPECIAL PROXY

(TITLE)

(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 20..... , or at any adjournment thereof, to vote (c)

(a) If a firm, write "we" instead of "CD." and set out the full name of the firm.

Dated this day of , 20.....

(b) Here insert either Mr.

(Signed) (d)

C.D.

..... ofor "the Receiver in the above matter."

Signature of witness.

Address.

Notes

(c) Here insert the word "for" or "against" as the case may require, and specify the particular resolution, name of proposed trustee, etc.

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).

(d) If a firm, sign the firm's trading title, and add "A.B. partner in the said Firm."

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)

(e) The Receiver 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 , 20.....

(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.

FORM 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 , 20.....

Receiver.

FORM 62

**ORDER APPOINTING A TIME FOR PUBLIC
EXAMINATION OF THE DEBTOR**

(TITLE)

(a) Insert the place for the examination.

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.

Dated this day of , 20.....

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.

FORM 63

**REPORT OF RECEIVER WHERE DEBTOR OR
WITNESS REFUSES TO ANSWER TO HIS SATISFACTION**

(TITLE)

At the [public] examination of (a) held before me this
..... day of, 20....., the following question was
allowed by me to be put to the said [.....].

Q. (b)

The (c) refused to answer the said question

(or) The (c) answered the said question as follows:

A. (d)

I thereupon named the day of, 20.....,
at as the time and place for such [refusal to] answer to be reported
to Mr. Justice

Dated this day of, 20.....

Receiver.

(a) The above-named debtor, or, A.B., a witness in the above matter.
(b) Here state question.
(c) Debtor or witness.
(d) Here insert answer (if any).

FORM 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 20....., at o'clock
in the noon, for proceeding with the public examination of the
above-named debtor, which, on the day of 20....., was
adjourned *sine die*.

Dated this day of 20.....

(Signed)

Receiver.

FORM 65

APPOINTMENT OF SHORTHAND WRITER TO TAKE EXAMINATION OF DEBTOR

(TITLE)

Before Mr. Justice

Upon the application of the Receiver the Court hereby appoints of to take the examination of the said at his public examination this day, pursuant to rule 55 of the Bankruptcy Rules.

Dated this day of , 20.....

By the Court,
Registrar.

FORM 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 , 20.....

Declared before me at the time and place above-mentioned.

Registrar.

FORM 67

**NOTES OF PUBLIC EXAMINATION OF DEBTOR WHERE
A SHORTHAND WRITER IS APPOINTED**

(TITLE)

PUBLIC EXAMINATION OF THE DEBTOR

Before Mr. Justice at the High Court thisday of
..... , 20.....

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 , 20.....

Shorthand Writer.

FORM 68

**NOTES OF PUBLIC EXAMINATION OF DEBTOR WHERE
SHORTHAND WRITER IS NOT APPOINTED**

(TITLE)

PUBLIC EXAMINATION OF THE DEBTOR

Before Mr. Justice at the High Court this day
of , 20.....

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
..... , 20.....

Clerk of the Judges or Receiver.

FORM 69

ORDER OF ADJOURNMENT OF PUBLIC EXAMINATION

(TITLE)

(a) Insert here word "further" if necessary.

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, 20....., at in the noon at And it is further ordered that the said do attend at the said Court on the said day of , 20..... , 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.]

Dated the day of , 20.....

By the Court,
Registrar.

FORM 70

ORDER DISPENSING WITH PUBLIC EXAMINATION OF DEBTOR

(TITLE)

(a) Insert name and address of applicant, and capacity in which he makes the application. (b) State what the disability is.

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.

Dated this day of , 20.....

By the Court,
Registrar.

FORM 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 , 20..... , 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 , 20.....

By the Court,
Registrar.

FORM 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 , 20.....

FORM 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, 20.....

By the Court, C.D., Registrar.

FORM 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 addresses of sureties (if any) and complete particulars of all securities intended to be given.]

(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.

Dated this day of, 20.....

Signed (a)

FORM 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, 20.....

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.

FORM 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 , 20.....

Receiver.

VOTING LETTER

(TITLE)

(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.

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 , 20.....

Signature.

Witness.

Address.

FORM 77

RESOLUTION ACCEPTING COMPOSITION

(TITLE)

Minutes of resolutions come to and proceedings had at the first meeting of creditors held at this day of, 20....., 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.

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Bankruptcy

[Subsidiary]

Bankruptcy Rules

FORM 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 , 20..... , Chairman.

(a) Insert "unanimously" where the resolution is so carried.

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.

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.

FORM 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 , 20..... , duly entertained by the statutory majority of the creditors in the above matter.

That the public examination of the debtor was concluded on the day of , 20.....

That (b) in time to allow of the acceptance or approval of the said (a) within fourteen days after the conclusion of the examination of the debtor as required by the Act.

Under these circumstances, an application is made for an extension of time to the day of , 20..... , for obtaining such acceptance or approval.

Dated this day of , 20.....

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 , 20.....

Dated this day of , 20.....

By the Court,
Registrar.

FORM 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 , 20..... , 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 , 20.....

(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 , 20.....

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 , 20.....

Dated this day of , 20.....

By the Court, Registrar.

FORM 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 , 20.....

And whereas at a meeting of creditors of the above-named debtor, held at on the day of 20..... 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 , 20.....

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 , 20.....

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 , 20..... , at o'clock in the noon.

Dated this day of , 20.....

By the Court,
Registrar.

FORM 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 , 20..... , 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 , 20.....

Receiver.

FORM 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 , 20..... , 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 , 20.....

Dated this day of , 20.....

Receiver.

FORM 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 ,
20..... , by the statutory majority of creditors.

Dated this day of , 20.....

G.H.

FORM 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, 20....., 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 forty cents in respect of every dollar 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 Act 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, 20.....

FORM 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, 20.....

F.M.

FORM 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.

FORM 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 , 20.....

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.

FORM 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 , 20.....

Dated this day of , 20.....

Receiver.

FORM 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 , 20..... , 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 , 20.....
To the above-named

FORM 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 , 20.....

That a copy of the Form hereunto annexed was to the said debtor, on the..... day of , 20.....

That the debtor has not submitted a statement of and in relation to his affairs as required by section 15 of the Act 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 Act makes application to the Court to adjudge the said debtor bankrupt.

Dated this day of , 20.....

Receiver.

FORM 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, 20.....

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 Act.

The Receiver accordingly, in pursuance of the provisions of section 15 of the Act and rule 180 of the Bankruptcy Rules makes application to the Court to adjudge the said debtor bankrupt.

Dated this day of, 20.....

Receiver.

FORM 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 20..... ,
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
Act makes application to the Court to adjudge the said debtor bankrupt.

Dated this day of , 20.....

Receiver.

FORM 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 , 20.....

That an order for the summary administration of the estate of the debtor was made
on the day of , 20.....

That the first meeting of creditors was duly summoned to be held at
on the day of , 20.....

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 20.....].

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].

(a) “That the
debtor has, in
writing,
consented to be
adjudged
bankrupt.”

That (a)

The Receiver accordingly, in pursuance of the provisions of section 19 of the Act,
makes application to the Court to adjudge the said debtor bankrupt.

Dated this day of , 20.....

Receiver.

FORM 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, 20.....

That the first meeting of creditors was duly summoned to be held at on the day of, 20.....

That creditors qualified to vote not being present or represented thereat to form a quorum, the said meeting was adjourned to the day of, 20.....

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 Act, makes application to the Court to adjudge the said debtor bankrupt.

Dated this day of, 20.....

Receiver.

(a) Notice of this application was on the day of, 20....., sent by post addressed to the debtor, or the debtor has consented, in writing, to the Court adjudging him bankrupt.

FORM 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, 20.....

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, 20.....

By the Court,
Registrar.

FORM 97

ORDER OF ADJUDICATION AFTER RECEIVING ORDER UNDER SECTION 98 OF THE ACT

(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 , 20.....

By the Court,
Registrar.

FORM 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 , 20.....

R.S.

FORM 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 , 20.....

By the Court,
Registrar.

FORM 100

APPLICATION FOR ORDER OF DISCHARGE

(TITLE)

I, A.B., of , having been adjudged bankrupt on the
..... day of , 20..... , 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
..... , 20.....

Annexed hereto is the certificate of the Receiver certifying the number of any creditors.
Dated this..... day of , 20.....

(Signed) A.B.

To the Registrar of the Supreme Court.

FORM 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 , 20.....

G.H.

FORM 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 20..... , at o'clock in the
noon, at for hearing the application.

Dated this day of , 20.....

Registrar.

To the Receiver and trustee.

FORM 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 , 20..... , at o'clock, for hearing the application.

Dated this day of , 20.....

G.H.,
Receiver.

To X.Y.

Note—On the back of this notice the provisions of sections 27 and 28 of the Act should be printed.

FORM 104

ORDER GRANTING OR REFUSING DISCHARGE

On the application of A.B., of , etc., adjudged bankrupt on the day of 20..... , 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 indictable offence other than an arrestable offence under the Act, or any indictable offence in connection with his bankruptcy, and proof has not been made of any of the "facts" mentioned in section 27(3) or in section 28 of the Act 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 indictable offences [*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 indictable offences mentioned in the Act, but proof has been made of the following facts under section 27(3) (or/and section 28) of the Act, 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, 20.....

By the Court,
Registrar.

FORM 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 indictable offences mentioned in section 27 of the Bankruptcy Act [or it has been proved that the bankrupt has committed the following indictable offences, 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 section 27(3) of the Bankruptcy Act (and/or, section 28 of the Bankruptcy Act), [*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 Act.

Or

It is ordered that the bankrupt's discharge be suspended for years and that he be discharged as from the day of, 20.....

Dated this day of, 20.....

By the Court,
Registrar.

FORM 106

ORDER OF DISCHARGE WHERE ONLY FACT PROVED THAT ASSETS NOT EQUAL TO FIFTY CENTS IN THE DOLLAR

(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 indictable offences mentioned in section 27 of the Bankruptcy Act, 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 discharged as from the day of , 20.....

Dated this day of , 20.....

By the Court,
Registrar.

FORM 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 , 20..... , and upon taking into consideration the report of the Receiver as to the bankrupt's conduct and affairs, and (a)

(a) Further recitals to be inserted.
(b) This recital is to follow the other forms, with necessary variations.

And whereas 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 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 , 20.....

By the Court,
Registrar.

FORM 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 High Court, by the Receiver [or trustee] for the sum of \$ being the balance [or part of the balance] of the debts provable in the bankruptcy which is not satisfied at the date of this order, and \$ for costs of the judgment.

(a) Formal parts and recitals as in the last preceding form.

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 \$ be paid out of the future earnings and after-acquired property of the bankrupt in manner following, that is to say, after setting aside out of the bankrupt's earnings and after-acquired property a yearly sum of \$ for the support of himself and his family, the bankrupt shall pay the surplus, if any [or such portion of the surplus as the Court may determine], to the Receiver [or trustee] for distribution among the creditors in the bankruptcy. An account shall, on the first day of January in each year, or within fourteen days thereafter, be filed in these proceedings by the bankrupt, setting forth a statement of his receipts from 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.

And it is further ordered that upon the required consent being given, judgment may be entered up against the bankrupt in the High Court, for the said sum of \$ together with \$ for costs of judgment.

Dated this day of , 20....

By the Court,
Registrar.

FORM 109

CONSENT OF BANKRUPT TO JUDGMENT BEING ENTERED UNDER SECTION 27

Re

I, A.B., of the above-named bankrupt, do hereby consent to judgment being entered against me by the Receiver for the sum of \$, being the balance or part of the balance of the debts provable under my bankruptcy which is not satisfied at the date of my discharge; but this consent is subject to provision contained in section 27 of the Act in regard to the issue of execution on such judgment.

Dated this day of , 20.....

FORM 110

JUDGMENT TO BE ENTERED PURSUANT TO CONSENT (IN THE HIGH COURT)

IN THE HIGH COURT OF JUSTICE

..... 20..... No. BetweenPlaintiff, and

.....A.B., Defendant

And in the matter of the bankruptcy of the said A.B.

The day of , 20.....

Pursuant to the order of the High Court in bankruptcy dated the day of , whereby it was ordered that

(Recite substance of order)

And the consent mentioned in the said order having been given and filed in the matter of the said bankruptcy:

It is this day adjudged that the plaintiff recover against the said defendant \$, together with \$ for costs of judgment.

Dated this day of , 20.....

G.F., Attorney-at-law for Plaintiff.

FORM 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 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, 20.....]

Sworn at, etc.

.....
(Signature of Debtor).

FORM 112

CERTIFICATE FOR REMOVAL OF DISQUALIFICATION

(TITLE)

Whereas an order of discharge was, on the day of , 20..... , 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, 20.....

By the Court,
Registrar.

FORM 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, 20.....

Judge.

FORM 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 , 20.....

F.K., *Chairman.*

FORM 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 , 20.....

G.H., *Trustee.*

FORM 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 , 20..... , 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.

FORM 117

**AFFIDAVIT IN SUPPORT OF APPLICATION FOR
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 theday of , 20..... , at and wilfully refused to submit to be examined at such meeting in respect of his property (*or* his creditors), contrary to the Act.] 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 , 20..... , at (*or* to wait on me at my office on the day of , 20....), contrary to the Act.] 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 Act.] Where debtor fails to execute a deed.

2. [That the said (debtor) bankrupt was on the day of , 20..... , 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.

[*or* 1. That the said (debtor) bankrupt has wilfully failed to perform the duty imposed on him by section 24 of the Act. [*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.*]] When the debtor fails to obey any special orders of the Court.

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 , 20.....].

[*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 Act, 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 , 20..... , at]. When debtor fails to deliver up property.

Sworn at, etc.

G.H.

FORM 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 , 20..... , 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 20..... , 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.

FORM 119

NOTICE OF APPLICATION FOR COMMITTAL UNDER SECTION 17 OR 22

(TITLE)

To

Take notice that C.D., of will on the day of , 20..... , 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 , 20..... [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 , 20.....

Registrar.

FORM 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 20....., 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 section 23 of the Act [*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 show cause why an order for your committal should not be made.

Dated this day of , 20.....

Registrar.

FORM 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 , 20....., 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 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 , 20.....

Registrar.

FORM 122

ORDER OF COMMITTAL UNDER SECTION 17 OR 22

(TITLE)

Whereas by an order of this Court made on the day of , 20..... , [*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 the 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 , 20.....

By the Court,
Registrar.

FORM 123

ORDER OF 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 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 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 Port-of-Spain Prison for the said contempt.

Dated this day of , 20.....

By the Court,
Registrar.

FORM 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 Port-of-Spain Prison for the said contempt.

Dated this day of, 20.....

By the Court,
Registrar.

FORM 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, 20....., 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.

FORM 126

WARRANT OF COMMITTAL FOR CONTEMPT

(TITLE)

To X.Y., officer of this Court and to the Commissioner of Prisons.

Whereas by an order of this Court bearing date the day of , 20..... , 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 Commissioner of Prisons, and you the said Commissioner to receive the said A.B. and to keep him safely in prison and in your custody until such time as this Court shall order; and you the said Commissioner 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 , 20.....

By the Court,
Registrar.

FORM 127

ORDER FOR DISCHARGE FROM CUSTODY ON CONTEMPT

(TITLE)

Upon application made this day of , 20..... , for A.B., who was committed to prison for contempt by order of this Court, dated the day of , 20..... 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 Commissioner of Prisons do discharge the said A.B. out of his custody, as to the said contempt.

Dated this day of , 20.....

By the Court,
Registrar.

FORM 128

**ORDER FOR PRODUCTION OF PERSON IN PRISON
FOR EXAMINATION BEFORE THE COURT**

(TITLE)

Upon application made this day of , 20..... , 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 , 20..... , for examination before this Court; it is orderd that the Commissioner 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 , 20.....

By the Court,
Registrar.

FORM 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 daytime into the house [*or other place, describing it*] of the said X.M., situated 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 Act.

Dated this day of , 20.....

Registrar.

To the X.Y. officer of this Court and his assistants [*or Marshal*
and others, the Bailiffs of this Court.]

FORM 130

WARRANT OF SEIZURE

(TITLE)

Whereas on the day of , 20..... 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 the other premises of the said debtor, and also in all other place and places belonging to the said debtor where any of 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 Act.

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 , 20.....

Registrar.

To the X.Y. officer of this Court, and to his assistants [*or* to the Marshal and others, the Bailiffs of this Court].

FORM 131

**WARRANT AGAINST DEBTOR ABOUT TO QUIT
TRINIDAD AND TOBAGO, ETC.**

(TITLE)

To the X.Y. officer of this Court and all peace officers within the jurisdiction of the said Court, and to the Commissioner of Prisons.

Whereas by evidence taken upon oath, it has 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 to avoiding service of a bankruptcy petition [*or* of avoiding appearing to a bankruptcy petition], [*or* of avoiding examination in respect of his affairs or otherwise 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 the 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 , 20..... , for the purpose of being examined according to the requirements of an order of this Court made on the day of , 20..... , 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 Commissioner of Prisons, and you the said Commissioner to receive the said A.B., and to keep him safely in the prison until such time as this Court may order.

Dated this day of , 20.....

By the Court,
Registrar.

FORM 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 , 20.....

By the Court,
Registrar.

FORM 133

SUBPOENA

(TITLE)

The State of Trinidad and Tobago, to [*the names of three witnesses may be inserted*] greeting: You are hereby commanded to attend before at on day the day of , 20..... , 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 , 20.....

Registrar.

FORM 134

SUBPOENA DUCES TECUM

(TITLE)

The State of Trinidad and Tobago, to [*the names of three witnesses may be inserted*] greeting: You are hereby commanded to attend before at on day the day of , 20..... , 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 , 20.....

Registrar.

FORM 135

SUMMONS UNDER SECTION 26

(TITLE)

To, of

You are hereby required to attend at the Court of, holden at on the day of, 20....., 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, 20.....

Registrar.

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.

*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 \$

FORM 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, 20.....

Witness,
C.D., *Registrar*
[or as the case may be].

J.K.

FORM 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 , 20.....

By the Court,
Registrar.

FORM 138

WARRANT TO APPREHEND A PERSON SUMMONED UNDER SECTION 26

(TITLE)

To X.Y. and his assistants of this Court and to the Commissioner 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 to keep him safely or deliver to the Commissioner 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 Commissioner of Prisons to receive the said A.B. [or F.M.], and

keep him safely in the Port-of-Spain Prison 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 , 20.....

By the Court,
Registrar.

FORM 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 Commissioner 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 Port-of- Spain Prison and there safely kept pursuant to the said Warrant.

Dated this day of , 20.....

By the Court,
Registrar.

FORM 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 , 20..... , at o'clock in the noon, for an order under section 54 of the Act, for the payment of a part of your salary [or income] to me as a trustee for the benefit of the creditors under your bankruptcy.

Dated this day of , 20.....

G.H., *Trustee.*

FORM 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
....., 20....., at o'clock in the noon for an
order pursuant to section 55 of the Bankruptcy Act, 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 , 20....., 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 , 20.....
To

Trustee.

FORM 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 , 20....., 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 , 20.....

By the Court,
Registrar.

I consent to the above order.

Dated this day of , 20.....

F.K. [*add title and office*].

FORM 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 , 20..... , 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 , 20.....

By the Court,
Registrar.

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FORM 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 , 20..... , 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 day of , 20.....

By the Court, Registrar.

FORM 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 this day of , 20.....

To Mr. X.Y.

G.H., Trustee.

FORM 146

**NOTICE TO LANDLORD OF INTENTION TO DISCLAIM
LEASEHOLD PROPERTY NOT SUBLET
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 \$

(a) Lease or
tenancy as the
case may be.
(b) Here specify
the property let.

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, 20.....

Trustee.

.....
Address

To the landlord of the above-mentioned property.

FORM 147

**NOTICE OF INTENTION TO DISCLAIM LEASEHOLD
PROPERTY SUBLET OR MORTGAGED**

(TITLE)

Take notice that I intend to disclaim the lease dated, whereby (a) was
let to (b) at a rent of \$

(a) Here insert
particulars of
demised
property.
(b) The above
named bankrupt
or as the case
may be.

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, 20.....

Trustee.

.....
Address

To Mr.
the landlord of the above-
mentioned premises; *and*

To Mr.
The Mortgagee or Sub-tenant.

FORM 148

DISCLAIMER WITHOUT NOTICE

(TITLE)

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

(a) Lease dated the, or as the case may be.
 (b) Description of the property.
 (c) On a tenancy or for a term of years or as the case may be.
 (d) Names and addresses of persons to whom notice given.

Notice of this disclaimer has been given to (d)

Dated this day of, 20.....

.....
 Address

Trustee.

FORM 149

DISCLAIMER OF LEASEHOLD PROPERTY AFTER NOTICE TO LANDLORD, MORTGAGEES, ETC.

(TITLE)

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, 20....., whereby (b) were let to (c) at a rent of \$ for a term of

(a) Names and addresses of persons to whom notice of intention to disclaim has been given.
 (b) Particulars of demised property.
 (c) The above-named bankrupt or as the case may be.
 (d) Names and addresses of persons to whom notice of disclaimer has been given.

Notice of this disclaimer has been given to (d)

Dated this day of, 20.....

.....
 Address

Trustee.

FORM 150

DISCLAIMER OF LEASE WITH LEAVE OF THE COURT

(TITLE)

Pursuant to an order of the Court dated the day of, 20..... ,
I,, the trustee of the property of the above-named bankrupt, hereby
disclaim all interest in the lease dated the day of,
20..... , whereby the premises (a) were demised to (a) Description
at a rent of \$ a year, for a term of of property
Notice of this disclaimer has been given to disclaimed.

Dated this day of, 20.....

Trustee.

FORM 151

**NOTICE OF DISCLAIMER WITHOUT LEAVE OF
THE COURT**

(TITLE)

Take notice that by writing under my hand, bearing date the day of
....., 20..... , I,, the trustee of the property of
the above-named bankrupt, disclaimed (a) of the premises (a) The lease
known as (b) which were let to (c) at a rent of dated the
\$ per (d) day ofor
as the case
may be.

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 Act printed at the
back hereof.

Dated this day of, 20.....

Trustee.

.....
Address

Note—On the back of this notice the provisions of section 57(2) and (6) of the Act
should be printed.

FORM 152

NOTICE OF DISCLAIMER OF LEASE WITH LEAVE OF COURT

(TITLE)

Take notice that pursuant to an order of Court dated the day of 20....., 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 20....., whereby the premises were demised to at a rent of \$ a year, for a term of

The above-mentioned disclaimer has been filed in Court with the proceedings in the bankruptcy.

Dated this day of, 20.....

Trustee.

.....

Address

To

FORM 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

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**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

FORM 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 20..... 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 of , 20.....

Registrar.

FORM 155

**ORDER ON APPLICATION OF TRUSTEE
FOR DIRECTIONS**

(TITLE)

Whereas on the day of , 20..... , 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 , 20.....

By the Court,
Registrar.

FORM 156

**ORDER FOR ADMINISTRATION IN BANKRUPTCY OF
ESTATE OF DECEASED DEBTOR UPON PETITION**

(TITLE)

Upon the Petition of C.D., dated , and numbered of , 20..... , 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 , 20.....

By the Court,
Registrar.

FORM 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 ... , 20.....

And whereas that Court did on the ... day of ... , 20....., 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 Act, and that G.H. be the trustee of the property of the said A.B. deceased.

Dated this ... day of ... , 20.....

By the Court, Registrar.

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Section 83(2) of the Act 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, 20.....

(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.

FORM 159

NOTICE TO CREDITORS OF INTENTION TO DECLARE DIVIDEND

(TITLE)

(a) Insert here "first," or "second" "final," or as the case may be.

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, 20....., you will be excluded from this dividend.

Dated this day of, 20.....

To X.Y.

G.H., Trustee.

FORM 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, 20....., 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, 20.....

G.H., Trustee.

FORM 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, 20.....

Dated this day of, 20.....

Receiver.

FORM 162

NOTICE OF DIVIDEND

(TITLE)

[Please bring this Dividend Notice with you].

Dividend of in the \$.

.....
[Address]

Dated 20.....

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.

20.....

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.

FORM 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 Signature

of Date

FORM 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 , 20..... , 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 , 20.....

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 eight per cent a year 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 , 20.....

By the Court,
Registrar.

[If the Court does not order payment, then after the words "it is ordered" insert the order made].

FORM 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 , 20.....

A.B. }
C.D. } *Committee of Inspection*
E.F. }

FORM 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.

FORM 167

TRUSTEE'S TRADING ACCOUNT

(TITLE)

G.H , the trustee of the property of the bankrupt in account with the estate.

Receipts				Payments			
Dr.							Cr.
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 , 20.....

Committee of Inspection
[or *Member of the Committee of Inspection.*]

FORM 168

PROFIT AND LOSS ACCOUNT (TRADING ACCOUNT)

(TITLE)

Profit and Loss Account

Dr.			Cr.
Stock on hand on			Sales.....
day of, 20.... ..			Other receipts (if any)
Purchases			Stock on hand on
Trade expenses, viz.:			day of..... 20....
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.

FORM 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.*

FORM 170

**STATEMENT OF ACCOUNTS UNDER SECTION 85(2)
 OF THE ACT**

(TITLE)

Receipts				Payments			
Date	Of whom received	Nature of Receipts	Amount	Date	To whom received	Nature of Payments	Amount

.....
 (Signature)

Dated the day of , 20.....

FORM 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.

FORM 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 objections 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 , 20.....

G.H., *Trustee.*

To K.L., *Creditor.*

Note—Section 91(3) of the Act provides 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.”

FORM 173

APPLICATION FOR RELEASE BY TRUSTEE

(TITLE)

I, the Trustee of the property of the bankrupt, do hereby report to the Court as follows:

1. That the whole of the property of the bankrupt has been realised for the benefit of his creditors [and a dividend to the amount of cents in the dollar has been paid, as shown by the statement hereunto annexed]; [or That so much of the property of the bankrupt as can, according to the joint opinion of myself and the committee of inspection, hereunto annexed, in writing under our hands, be realised without needlessly protracting the bankruptcy, has been realised as shown by the statement hereunto annexed and a dividend to the amount of has been paid];

[or That a composition [or scheme] under section 22 of the Act has been duly approved by the Court].

2. I therefore request the Court to cause a report on my accounts to be prepared and to grant me a certificate of release.

Dated this day of , 20.....

G.H.,Trustee.

FORM 174

REGISTER OF BANKRUPTCY NOTICES TO BE KEPT BY THE REGISTRAR

No.	Debtor	Creditor	Where filed	Attorney-at-law	Result of Notice

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FORM 175

REGISTER OF PETITIONS TO BE KEPT BY REGISTRAR

No. of Petition	Registrar	Name of Debtor	Residence	Description	Date of Petition	Petitioning Creditor	Attorneys-at-law	Act of Bankruptcy alleged	Date of Receiving Order

FORM 176

REGISTER OF RECEIVING ORDERS TO BE KEPT BY REGISTRAR

No. of Receiving Order	No. of Petition	Date of Petition	Date of Receiving Order	Date of Public Examination	Date of Approval of Composition or Scheme	Date of Adjudication	Trustee	Date of Hearing Application for Discharge	Date of Order of Discharge	Result of Application and Conditions (if any)	Date of Trustee's Release	Date of Annulling Adjudication	Proceedings consolidated or transferred	Date of Order for Summary Administration (under section 114)	Date of Order for Administration of deceased's Estate (section 115)

FORM 177

**NOTICE OF TRANSFER OF SEPARATE ESTATE TO
JOINT ESTATE FOR GAZETTE**

(TITLE)

Notice is hereby given that there being in the hands of the trustee in the above bankruptcy a surplus estimated at \$ arising from the separate estate of [*name of separate partner*] one of the bankrupts, and there being no separate creditors of such bankrupt, it is the intention of such trustee, at the expiration of days from the appearance of this notice in the *Gazette*, to transfer such surplus to the credit of the joint estate in the said bankruptcy.

Dated this day of, 20.....

(Signed)

Trustee.

FORM 178

NOTICES FOR GAZETTE

THE BANKRUPTCY ACT

(1) *Receiving Orders*

Debtor's Name	Address	Description	Court	Number of Matter	Date of Order	Date of Petition	Act or Acts of Bankruptcy

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(2) First Meetings and Public Examinations

Debtor's Name	Address	Description	Court	Number	Date of first Meeting	Hour	Place	Date of Public Examination	Hour	Place	Date of Order (if any) for Summary Administration

(3) Notice of Day appointed for proceeding with Public Examinations adjourned sine die

Debtor's Name	Address	Description	Court	Number of Matter	Date fixed for proceeding with Examination	Hour	Place

(4) Adjudications

Debtor's Name	Address	Description	Court	Number	Date of Order	Date of Petition

(5) Order on Application to sanction Composition or Scheme

Debtor's Name	Address	Description	Court	Number	Date of Order	Nature of Scheme or Composition sanctioned or Order made

(6) Notice of Intended Dividend

Debtor's Name	Address	Description	Court	Number	Last day for receiving proofs	Name of Trustee	Address

(7) Notice of Dividend

Debtor's Name	Address	Description	Court	Number	Amount per \$	First or final or otherwise	When payable	Where payable

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(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

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(11) *Appointment of Trustees*

Debtor's Name	Address	Court	Number	Trustee's Name	Address	Date of Certificate of appointment

(12) *Notice of Release of Trustee*

Debtor's Name	Debtor's Address	Debtor's Description	Court	No. of Matter	Trustee's Name	Trustee's Address	Trustee's Description	Date of Release

(13) *Administration Orders in the Case of Deceased Debtors under section 115*

Name of Deceased	Address	Description	Date of Death	Court	No. of Matter	Date of Order	Date of petition or Application for Transfer	Act or acts of Bankruptcy (if any) committed by Deceased within 3 months before the date of his decease	Whether Will or other Testamentary Disposition (with date thereof), or Letters of Administration	Date when proved or granted

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(14) Order annulling Composition or Scheme

Debtor's Name	Address	Description	Court	No.	Date of Approval	Date of Annulment	Grounds of Annulment

(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 Address	Debtor's Name	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	

(17) *Memorandum of Advertisement or Gazetting*

(TITLE)

Name of Paper	Date of Issue	Date of Filing	Nature of Order, etc

(Signed) A.B., *Registrar.*

[45 of 1979
51/1980].

APPENDIX

PART 2

FEES PAYABLE TO THE REGISTRAR

	\$
On filing every declaration by a debtor of inability to pay his debts ...	5.00
On issuing every bankruptcy notice	5.00
On every bond with sureties	2.50
On every affidavit filed other than proof of debts	1.00
On every subpoena	0.50
On filing every application for an order of discharge including expenses of gazetting	25.00
On every other application to the Court	1.50
On filing any other document	1.00
On every record of trial	20.00
On issuing a judgment or other summons	1.50
On public examination of the debtor	10.00
On hearing every application to the Court, verbal or otherwise	2.50
On giving any notice, in addition to actual cost of printing, if same is advertised	1.00
On searching records	1.00
On every office copy, each folio of 100 words	0.25
On every certificate for any costs, charges or disbursements	5.00
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	1.00
For every additional half hour or part thereof	0.50
For copies of documents and accounts, each folio of 72 words	0.50
For receiving and filing each claim with the documents and vouchers in support thereof	4.00
For administering oath to affidavit of claimant, if not previously sworn to before a Commissioner of Affidavits	2.50
For searching the records	1.00
For giving out certificates from such records	1.00
For every insolvency petition	25.00
For every petition under section 115 of the Act	25.00
For every special proxy or voting paper	1.00
For every general proxy	1.00
For every administration order granted under section 115 of the Act	5.00
For every application to approve a scheme of composition where the gross amount of assets exceeds \$4,800	25.00
Where it does not exceed \$4,800	15.00
On every application to appoint a special manager	1.50
For every order of the Receiver for a local banking account	5.00

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 \$10,000 or fraction thereof	10%
On the next \$10,000 or fraction thereof	5%
On the next \$20,000 or fraction thereof	3%
On all further sums	1%

On the amount distributed to creditors by the Receiver when acting as trustee under a composition:

On the first \$5,000 or fraction thereof	5%
On the next \$5,000 or fraction thereof	3%
On the next \$10,000 or fraction thereof	2%
On all further sums	1%

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Bankruptcy

[Subsidiary]

Bankruptcy Rules

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 \$10,000 or fraction thereof	5%
On the next \$10,000 or fraction thereof	3%
On the next \$20,000 or fraction thereof	2%
On all further sums	1%

On every application for release by trustee in non-summary cases a fee of \$1.00 on every \$1,000 or fraction of \$1,000 of assets realised and brought to credit.

For the Receiver acting as interim Receiver of the property of a debtor in addition to the percentages chargeable on realisations, on every order\$100.00

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	1.00
For each notice above twenty	0.50
For Supervising a special manager or the carrying on a debtor’s business—per week:	\$

If the gross assets are estimated by the Receiver not to exceed \$ 5,000	...	50.00
If to exceed \$ 5,000 but not to exceed \$ 50,000	100.00
If to exceed \$ 50,000 but not to exceed \$ 100,000	100.00
If to exceed \$ 100,000 but not to exceed \$ 200,000	150.00
If to exceed \$ 200,000	200.00

Travelling, keeping possession and other reasonable expenses, the amount disbursed.
For stationery, printing, books, forms and postage \$ 50.00

PETITIONING CREDITOR’S COSTS

	\$	¢
Instructions for petition	...	Discretionary
Examining witnesses as to act of bankruptcy	...	25.00
Drawing petition	...	15.00 to 50.00
Two copies of petition for dealing, each folio	...	0.50
Attesting signature of each petition, except where the petitioners are in partnership	...	2.50
Attending Court for hearing petition	...	7.50 to 60.00
		per day
Attending Receiver after receiving order made and giving him all necessary information	...	7.50
Instructions for appointment of interim Receiver	...	25.00
Drawing and copy application	...	20.00
Attending Court on hearing application	...	20.00
Attending Receiver with order paying deposit and giving all necessary information	...	7.50

	\$	¢
Drawing exceptions to sureties	3.75	
Instructions for appointment of special manager... ..	25.00	
Attendance to public examination when the Court thinks such attendance necessary and so certifies	7.50 to 60.00	
		per day
Drawing any affidavit and fair copy	10.00	
Drawing any order in duplicate and attending to pass	3.75	
All necessary attendances	3.75	
Drawing Bill of Costs and copy of notice of and attendance at taxation	0.50	

Petitioning Debtor's Attorney's-at-law Bill of Costs

	\$	¢
Where the assets are not likely to exceed in value \$ 5,000.		
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 (inclusive of Court fees and other proper disbursements)	150.00	
Where assets are likely to exceed \$ 5,000.		
Instructions for petition	Discretionary	
Drawing and altering petition	7.50 to 15.00	
Attending Official Receiver with deposit	3.75	
Attending presentation and hearing petition	3.75	
Drawing receiving order and copy and attending passing... ..	3.75	

DEBTOR'S ATTORNEYS'-AT-LAW COSTS

Where the Court allows costs to the Debtor on a Bankruptcy Notice being set aside

	\$	¢
Instructions to apply to set aside bankruptcy notice	Discretionary	
Perusing and considering notice	0.50 per folio	
Instructions for affidavit of counterclaim	Discretionary	
Drawing same and fair copy	10.00	
Attending to file, and drawing application for appointment to hear notice	7.50 to 25.00	

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Bankruptcy Rules

	\$	¢
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 Attorney-at-law may be allowed	Discretionary	
Attending Court on application	7.50 to 60.00	
Drawing order and copy and attending to pass where the Court allows cost to the debtor on dismissal of petition	3.75	
Attending debtor served with copy of petition and taking instructions to show cause	Discretionary	
Drawing notice to show cause	0.75	
Two fair copies for service	0.50 per folio	
Attending filing	1.60	
Service to creditor	2.50 to 7.50	
Service on creditor's Attorney-at-law	2.50 to 7.50	
Perusing and considering petition	0.50 per folio	
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 Attorney-at-law, the usual charges for brief and Attorney's-at-law fees may be allowed.		
Attending Court on petition	7.50 to 80.00	
Drawing order and copy and attending to pass	3.75	

MISCELLANEOUS COSTS

Instructions

For statement of facts of special case for the opinion of the Court or a Judge	Discretionary	
For motion on appeal	Discretionary	
For any proceeding or application not otherwise provided for ...	Discretionary	
For application for directions	7.50 to 15.00	
For motion	Discretionary	
For application for substituted service	Discretionary	
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	Discretionary	

PERUSALS

Perusals of any document	0.50 per folio	
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ATTENDANCES

In Court	15.00 to 75.00	
General attendances, each	3.75	