

LAWS OF TRINIDAD AND TOBAGO

DEEDS OF ARRANGEMENT ACT

CHAPTER 9:71

Act
28 of 1932
Amended by
45 of 1979

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1-38	1/1980

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of
Subsidiary Legislation**

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**Note
on
Adaptation**

Certain fees in this Chapter were increased by the Commission under paragraph 4 of the Second Schedule to the Law Revision Act (Ch. 3:03). Where this occurs, a marginal reference in the form normally indicating an amendment is made to L.N. 51/1980 (the Legal Notice by which the President's approval was signified).

**Note
on
Revision Date**

As this Act was amended by the Law Revision (Miscellaneous Amendments) (No. 1) Act 1979 (Act 45 of 1979), this Chapter has been revised up to 31st December 1979, instead of the normal revision date (31st December 1977).

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DEEDS OF ARRANGEMENT ACT

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CHAPTER 9:71

DEEDS OF ARRANGEMENT ACT

1950 Ed.
Ch. 6 No. 7.

28 of 1932.
Commence-
ment.

Short title.

Interpretation.

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An Act relating to Deeds of Arrangement.

[1ST JANUARY 1934]

1. This Act may be cited as the Deeds of Arrangement Act.

2. (1) In this Act—

“Court” means the High Court;

“creditors generally” includes all creditors who may assent to, or take the benefit of, a deed of arrangement;

“property” has the same meaning as in the Bankruptcy Act;

“rules” includes forms.

(2) For the purpose of determining the number of creditors for whose benefit a deed is made, any two or more joint creditors shall be treated as a single creditor.

PART I

APPLICATION OF ACT

3. (1) A deed of arrangement to which this Act applies shall include any instrument of the classes mentioned in subsection (2)—

Deeds of arrangement to which Act applies.

- (a) made by, for or in respect of the affairs of a debtor for the benefit of his creditors generally;
- (b) made by, for or in respect of the affairs of a debtor who was insolvent at the date of the execution of the instrument for the benefit of any three or more of his creditors,

otherwise than in pursuance of the law for the time being in force relating to bankruptcy.

(2) The classes of instrument referred to above are—

- (a) an assignment of property;
- (b) a deed of or agreement for a composition;

and in cases where creditors of the debtor obtain any control over his property or business—

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

PART II

AVOIDANCE OF DEEDS OF ARRANGEMENT WHERE
STATUTORY CONDITIONS NOT COMPLIED WITH

4. A deed of arrangement shall be void unless it is registered with the Registrar General within seven clear days after the first execution thereof by the debtor or any creditor, or if it is executed in any place out of Trinidad and Tobago then within seven clear

Avoidance of unregistered deeds of arrangement. [51/1980].

days after the time at which it would, in the ordinary course of post, arrive in Trinidad and Tobago if posted within one week after the execution thereof, and unless it bears such ordinary and *ad valorem* stamp as is provided by this Act.

Avoidance of deeds of arrangement unless assented to by a majority of the creditors.

5. (1) A deed of arrangement, which either is expressed to be or is in fact for the benefit of a debtor's creditors generally, shall be void unless, before, or within twenty-one days after, the registration thereof, or within such extended time as the Court may allow, it has received the assent of a majority in number and value of the creditors of the debtor.

(2) The list of creditors annexed to the affidavit of the debtor filed on the registration of the deed of arrangement shall be *prima facie* evidence of the names of the creditors and the amounts of their claims.

(3) The assent of a creditor for the purposes of subsection (1) shall be established by his executing the deed of arrangement or sending to the trustee his assent in writing attested by a witness, but not otherwise.

(4) The trustee shall file with the Registrar General at the time of the registration of a deed of arrangement, or, in the case of a deed of arrangement assented to after registration, within twenty-eight days after registration or within such extended time as the Court may allow, a statutory declaration by the trustee that the requisite majority of the creditors of the debtor have assented to the deed of arrangement, which declaration shall, in favour of a purchaser for value, be conclusive evidence and, in other cases, be *prima facie* evidence, of the act declared.

(5) In calculating a majority of creditors for the purposes of this section, a creditor holding security upon the property of the debtor shall be reckoned as a creditor only in respect of the balance (if any) due to him after deducting the value of such security, and creditors whose debts amount to sums not exceeding one hundred dollars shall be reckoned in the majority in value but not in the majority in number.

PART III

REGISTRATION OF DEEDS OF ARRANGEMENT

Registrar and office for registration.

6. The Registrar General shall be the Registrar for the purposes of this Act and his office shall be the office for the registration of deeds of arrangement.

7. (1) The registration of a deed of arrangement under this Act shall be effected in the following manner:

Mode of registration.
[51/1980].

The deed, and every schedule or inventory thereto annexed, or therein referred to, shall be presented to and filed with the Registrar General within seven clear days after the execution of the deed, together with an affidavit verifying the time of execution, and containing a description of the residence and occupation of the debtor and of the place or places where his business is carried on, and an affidavit by the debtor stating the total estimated amount of property and liabilities included under the deed, the total amount of the composition (if any) payable thereunder, and the names and addresses of his creditors.

(2) No deed shall be registered under this Act unless it has been duly stamped with the proper stamp duty; and in addition to such duty a stamp denoting a duty computed at the rate of twenty-five cents for every five hundred dollars or fraction thereof of the sworn value of the property passing, or (where no property passes under the deed) the amount of composition payable under the deed.

8. The Registrar General shall keep a register wherein shall be entered, as soon as conveniently may be after the presentation of a deed for registration, an abstract of the contents of every deed of arrangement registered under this Act, containing the following and any other prescribed particulars:—

Form of register.

- (a) the date of the deed, its registered number and the date of its registration;
- (b) the name, address, and description of the debtor, and the place or places where his business was carried on at the date of the execution of the deed, and the title of the firm or firms under which the debtor carried on business, and the name and address of the trustee (if any) under the deed;
- (c) the amount of property and liabilities included under the deed, as estimated by the debtor.

9. The Court, upon being satisfied that the omission to register a deed of arrangement within the time required by this Act or that the omission or mis-statement of the name, residence, or description of any person was accidental or due to inadvertence, or to some cause beyond the control of the debtor and not imputable to any negligence on his part, may, on the application of any

Rectification of register.

party interested, and on such terms and conditions as are just and expedient, extend the time for registration or order the omission or mis-statement to be supplied or rectified by the insertion in the register of the true name, residence, or description.

Time for registration.

10. Where the time for registering a deed of arrangement expires on a Sunday, or other day on which the registration office is closed, the registration shall be valid if made on the next following day on which the office is open.

Inspection of register and registered deeds. [51/1980].

11. Any person shall be entitled, at all reasonable times to search the register on payment of one dollar, or such other fee as may be prescribed, and subject to such regulations as may be prescribed, and shall be entitled at all reasonable times to inspect, examine and make extracts from any registered deed of arrangement upon payment of one dollar, or such other fee as may be prescribed, for each deed of arrangement inspected. The extracts shall be limited to the dates of execution and of registration, the names, addresses, and descriptions of the debtor and of the parties to the deed, a short statement of the nature and effect of the deed, and any other prescribed particulars.

PART IV

PROVISIONS AS TO TRUSTEES

Security by trustee. [51/1980].

12. (1) The trustee under a deed of arrangement shall, within seven days from the date on which the statutory declaration certifying the assent of the creditors is filed, give security in the prescribed manner to the Registrar General in a sum equal to the estimated assets available for distribution amongst the unsecured creditors as shown by the affidavit filed on registration, to administer the deed properly and account fully for the assets which come to his hands, unless a majority in number and value of the debtor's creditors, either by resolution passed at a meeting convened by notice to all the creditors, or by writing addressed to the trustee, dispense with his giving such security.

(2) When such a dispensation has been so given, the trustee shall forthwith make and file with the Registrar General a statutory declaration to that effect, which declaration shall, in favour of a purchaser for value, be conclusive evidence and, in other cases, be *prima facie* evidence, of the facts declared.

(3) If a trustee under a deed of arrangement fails to comply

with the requirements of this section, the Court, on the application of any creditor and after hearing such persons as it may think fit, may declare the deed of arrangement to be void or may make an order appointing another trustee in the place of the trustee appointed by the deed of arrangement.

(4) A certificate that the security required by this section has been given by a trustee, signed by the Registrar General, shall be conclusive evidence of the fact.

(5) All moneys received by a trustee under a deed of arrangement shall be banked by him to an account to be opened in the name of the debtor's estate.

(6) In calculating a majority of creditors for the purposes of this section, a creditor holding security upon the property of the debtor shall be reckoned as a creditor only in respect of the balance (if any) due to him after deducting the value of such security, and creditors whose debts amount to sums not exceeding one hundred dollars shall be reckoned in the majority in value but not in the majority in number.

13. If a trustee acts under a deed of arrangement—

(a) after it has to his knowledge become void by reason of non-compliance with any of the requirements of this Act; or

(b) after he has failed to give security within the time and in the manner provided for by this Act,

he is liable on summary conviction to a fine of two hundred dollars for every day between the date on which the deed became void or the expiration of the time within which security should have been given, as the case may be, and the last day on which he is proved to have acted as trustee, unless he satisfies the court before which he is accused that his contravention of the law was due to inadvertence, or that his action has been confined to taking such steps as were necessary for the protection of the estate.

14. (1) Every trustee under a deed of arrangement shall, at such times as may be prescribed, transmit to the Registrar General an account of his receipts and payments as trustee, in the prescribed form and verified in the prescribed manner; and the Court may, for the purpose of enforcing this subsection, exercise on the application of the Registrar General all the powers conferred on the Court by section 97(3) of the Bankruptcy Act, as in the case of bankruptcy.

Penalty on trustee acting when deed of arrangement void.

Transmission of accounts to the Registrar General.

Ch. 9:70.

(2) If any trustee fails to transmit such account, he is liable on summary conviction to a fine of two hundred dollars for each day during which the default continues.

(3) The accounts transmitted to the Registrar General in pursuance of this section shall be open to inspection by the debtor or any creditor or other person interested on payment of the prescribed fee, and copies of or extracts from the accounts shall, on payment of the prescribed fee, be furnished to the debtor, the creditors, or any other persons interested.

(4) In this section the expression "trustee" shall include any person appointed to distribute a composition or to act in any fiduciary capacity under any deed of arrangement, and the expression "prescribed" means prescribed by rules under the Bankruptcy Act.

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Trans-
mission of
accounts to
creditors.

15. Every trustee under a deed of arrangement shall, at the expiration of six months from the date of the registration of the deed, and thereafter at the expiration of every subsequent period of six months until the estate has been finally wound up, send to each creditor who has assented to the deed a statement in the prescribed form of the trustee's accounts and of the proceedings under the deed down to the date of the statement, and shall, in his affidavit verifying his accounts transmitted to the Registrar General, state whether or not he has duly sent such statements, and the dates on which the statements were sent; and, if a trustee fails to comply with any of the provisions of this section, the Court may, for the purpose of enforcing those provisions, exercise on the application of the Registrar General all the powers conferred on the Court by section 97(3) of the Bankruptcy Act, as in the case of bankruptcy.

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Audit of
accounts.

16. (1) Where, in the course of the administration of a debtor who has executed a deed of arrangement, or within twelve months from the date when the final accounts of the estate were rendered to the Registrar General, an application in writing is made to the Registrar General by a majority in number and value of the creditors who have assented to the deed for an official audit of the trustee's accounts, the Registrar General may cause the trustee's accounts to be audited, and in such case all the provisions of the Bankruptcy Act relating to the institution and enforcement of an audit of the accounts of a trustee in bankruptcy (including the provisions as to fees) shall, with necessary modifications, apply to the audit of the trustee's accounts, and the Registrar General shall have power on the audit to require pro-

Ch. 9:70.

duction of a certificate for the taxed costs of any solicitor whose costs have been paid or charged by the trustee, and to disallow the whole or any part of any costs in respect of which no certificate is produced.

(2) The Registrar General may determine how and by what parties the costs, charges and expenses of and incidental to the audit (including any prescribed fees, chargeable in respect thereof) are to be borne, whether by the applicants or by the trustee or out of the estate, and may, before granting an application for an audit, require the applicants to give security for the costs of the audit.

17. At any time after the expiration of two years from the date of the registration of a deed of arrangement, the Court may, on the application of the trustee or a creditor, or on the application of the debtor, order that all moneys representing unclaimed dividends and undistributed funds then in the hands of the trustee or under his control be paid into Court.

Payment of undistributed moneys into Court.

18. If a trustee under a deed of arrangement pays to any creditor out of the debtor's property a sum larger in proportion to the creditor's claim than that paid to other creditors entitled to the benefit of the deed, then unless the deed authorises him to do so, or unless such payments are either made to a creditor entitled to enforce his claim by distress or are such as would be lawful in a bankruptcy, he is liable on summary conviction to a fine of two thousand dollars, or to imprisonment for six months.

Preferential payment to creditor an offence.

19. (1) The Court may whenever it is expedient to appoint a new trustee or new trustees, and it is found inexpedient, difficult or impracticable to do so without the assistance of the Court, make an order appointing a new trustee or new trustees either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee.

Power of Court to appoint new trustees.

(2) Without prejudice to the generality of subsection (1) the Court may make an order appointing a new trustee in substitution for a trustee who is convicted of an arrestable offence, or is insane, or is a bankrupt, or is a corporation which is in liquidation or has been dissolved.

(3) An order under this section and any consequential vesting order or conveyance shall not operate further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under any power for that purpose contained in any instrument would have operated.

(4) Nothing herein contained gives power to appoint an executor or administrator.

Provisions for the protection of trustees under void deeds.

20. (1) Where a deed of arrangement is void by reason that the requisite majority of creditors have not assented thereto, or, in the case of a deed for the benefit of three or more creditors, by reason that the debtor was insolvent at the time of the execution of the deed and that the deed was not registered as required by this Act, but is not void for any other reason, and a receiving order is made against the debtor upon a petition presented after the lapse of three months from the execution of the deed, the trustee under the deed shall not be liable to account to the trustee in bankruptcy for any dealings with or payments made out of the debtor's property which would have been proper if the deed had been valid, if he proves that at the time of such dealings or payments he did not know, and had no reason to suspect, that the deed was void.

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(2) Where a receiving order is made against a debtor under section 98 of the Bankruptcy Act, this section shall apply if the receiving order was made after the lapse of three months from the execution of the deed.

Notice to creditors of avoidance of deed.

21. When a deed of arrangement is void by virtue of this Act for any reason other than that, being for the benefit of creditors generally, it has not been registered within the time allowed for the purpose by this Act, the trustee shall, as soon as practicable after he has become aware that the deed is void, give notice in writing thereof to each creditor whose name and address he knows, and file a copy of the notice with the Registrar General, and, if he fails to do so, he is liable on summary conviction to a fine of one thousand dollars.

Payment of expenses incurred by trustees.

22. Where a deed of arrangement is avoided by reason of the bankruptcy of the debtor, any expenses properly incurred by the trustee under the deed in the performance of any of the duties imposed on him by this Act shall be allowed or paid him by the trustee in the bankruptcy as a first charge on the estate.

Application of Part IV.

23. The provisions of this Part, except such of those provisions—

- (a) as relate to the transmission of accounts to the Registrar General;
- (b) as provide for the protection of trustees under void deeds;

- (c) as require a notice to be given to creditors of avoidance of deeds;
- (d) as provide for the payment of expenses incurred by trustees,

shall not apply to a deed of arrangement made for the benefit of any three or more of the debtor's creditors unless it is in fact for the benefit of the debtor's creditors generally.

PART V

GENERAL

24. Any application by the trustee under a deed of arrangement, which either is expressed to be or is in fact for the benefit of the debtor's creditors generally, or by the debtor or by any creditor entitled to the benefit of such a deed of arrangement, for the enforcement of the trusts or the determination of questions under it, shall be made to the Court.

Applications for enforcement of trusts.

25. (1) If the trustee under a deed of arrangement, which either is expressed to be or is in fact for the benefit of the debtor's creditors generally, serves in the prescribed manner on any creditor of the debtor notice in writing of the execution of the deed and of the filing of the statutory declaration certifying the creditors' assents with an intimation that the creditor will not after the expiration of one month from the service of the notice be entitled to present a bankruptcy petition against the debtor founded on the execution of the deed or on any other act committed by him in the course or for the purpose of the proceedings preliminary to the execution of the deed as an act of bankruptcy, that creditor shall not, after the expiration of that period, unless the deed becomes void, be entitled to present a bankruptcy petition against the debtor founded on the execution of the deed or any act so committed by him as an act of bankruptcy.

Relation to bankruptcy law.

(2) Where such a deed of arrangement as mentioned above has become void by virtue of this Act, the fact that a creditor has assented to the deed shall not disentitle him to present a bankruptcy petition founded on the execution of the deed of arrangement as an act of bankruptcy.

(3) Save as otherwise expressly provided by this Act, nothing in this Act shall be construed as repealing or shall affect any provision of the law for the time being in force in relation to

bankruptcy or shall give validity to any deed or instrument which by law is an act of bankruptcy or void or voidable.

Office copies.

26. Subject to this Act, and to any rules made thereunder, any person shall be entitled to have an office copy of, or extract from, any deed registered under this Act, upon paying for it at the like rate as for office copies of judgments of the Supreme Court, and any copy or extract purporting to be an office copy or extract shall, in all courts and before all arbitrators or other persons, be admitted as *prima facie* evidence thereof, and of the fact and date of registration as shown thereon.

Fees.

27. There shall be taken, in respect of the registration of deeds of arrangement, and in respect of any office copies or extracts, or searches, such fees as are set out in the Schedule, or as may from time to time prescribed; and nothing contained in this Act shall make it obligatory on the Registrar General to do, or permit to be done, any act in respect of which any fee is specified, except on payment of such fee.

Rules.
Ch. 4:01.

28. The Rules Committee established by the Supreme Court of Judicature Act may make rules of Court prescribing any matter of procedure that is necessary or expedient for the purposes of any of the provisions of this Act.

Section 27.
[45 of 1979
[51/1980].

SCHEDULE

FEEES

Item	Fee	Document to be stamped
	\$ c.	
1. On registering a deed with the Registrar General:		
(i) where the total estimated amount of property included therein, or the total amount of composition payable thereunder, appears from the affidavit of the debtor—		
(a) not to exceed \$10,000	10.00	The deed
(b) to exceed \$10,000	20.00	
(ii) in every case to which the above fees do not apply	20.00	
2. On a certificate	2.00	The certificate

SCHEDULE—continued

FEES—continued

Item	Fee	Document to be stamped
	\$ c.	
3. On filing a statutory declaration or notice with the Registrar General of arrangement pursuant to the Act or the rules	2.00	The declaration or notice
4. On searching the register and on inspecting the deed, including the limited extract to be taken pursuant to the Act and the rules (for every name inspected)	1.00	The search form
5. On an account transmitted by a trustee in pursuance of section 14 of the Act; a fee upon the gross amount of the assets realised and brought to credit or in the case of a composition a fee upon the gross amount of the composition distributed during the period comprised in the account, according to the following scale:—		
On every \$1,000 or fraction of \$1,000 up to \$5,000	5.00	
On every \$1,000 or fraction of \$1,000 above \$5,000	2.00	
6. On an application in pursuance of section 14(3) of the Act, to inspect accounts of a trustee under a deed of arrangement ..	1.00	The application
7. On an application to the Registrar General under section 16(1) of the Act, for an official audit of a trustee's accounts ..	15.00	The application
8. On the audit of a trustee's accounts by the Registrar General in pursuance of section 16(1) of the Act:		
a fee, not being less than \$50 according to the following scale on the amount brought to credit after deducting (1) the amount received and spent in carrying on the business, and (2) the amount paid to secured creditors out of the proceeds of their securities, viz.:		
On every \$500 or fraction of \$500 up to \$25,000	10.00	

SCHEDULE—*continued*FEES—*continued*

Item	Fee	Document to be stamped
<p>On every \$1,000 or fraction of \$1,000 beyond \$25,000</p> <p><i>Provided that there shall be deducted from this fee the amount of any fee taken on accounts transmitted in pursuance of section 14 of the Act.</i></p>	<p>\$ c.</p> <p>5.00</p>	
<p>9. On copies furnished by the Registrar General, for every page or part thereof ..</p>	<p>1.00</p>	<p>The copy</p>

SUBSIDIARY LEGISLATION

DEEDS OF ARRANGEMENT RULES

ARRANGEMENT OF RULES

PART I

RULE

1. Citation.
2. Interpretation.
3. Forms.

PART II

REGISTRATION OF DEEDS

4. Affidavits, Forms 4, 5, 6.
5. Execution of deed by Trustee prior to registration.
6. Certificate of registration on deed.

SEARCHES AND EXTRACTS

7. Extract from registered deed.

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9. Applications, to whom to be made.
10. Evidence.
11. Affidavits by parties other than applicant.
12. Chambers and adjournment to Court.
13. Service of application under section 12(2).
14. Form (of order) 12. Application to determine liability on bond.

PART IV

TRUSTEES

15. Security by trustee. Form 9. Form 10.
16. Notice by new trustee of appointment.

RULE

17. Notice to creditor of execution of deed &c. Form 14. Forms 2, 3.
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PART V

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20. Transmission of accounts. Form 15. Form 16.
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25. Dividends. Form 18.
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27. Imperfect accounts.
28. Affidavit of no receipts or payments.
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30. Summary of accounts or modified forms of account in particular cases.

APPENDIX.

R.G. 26/10/33.

DEEDS OF ARRANGEMENT RULES*made under section 28*

PART I

Citation.

1. These Rules may be cited as the Deeds of Arrangement Rules.

Interpretation.

2. In these Rules—

“debtor” means any person by, for, or in respect of whose affairs a deed of arrangement as defined by the Act is made or entered into, and includes a firm of persons in co-partnership;

“deed” means any deed of arrangement as defined by the Act;

“Court” means the High Court.

3. The forms in the Appendix where applicable and where they are not applicable forms of a like character with such variations as circumstances may require shall be used. Where such forms are applicable any costs occasioned by the use of any other or more prolix forms shall be borne by or disallowed to the party using the same unless the Court otherwise directs.

Forms.

PART II

REGISTRATION OF DEEDS

4. The affidavits to be made pursuant to section 7 of the Act shall be filed with the Registrar General.

Affidavits,
Forms 4, 5, 6.

5. An assignment of property by a debtor to a trustee or assignee for the benefit of his creditors shall not be registered under the Act unless it appears from the assignment that it has been or purports to have been executed, or (if not made by deed) signed by the trustee or assignee; and it shall be the duty of the Registrar General, before registering such an assignment, to satisfy himself that the assignment purports to have been duly executed or signed as the case may be by the trustee or assignee thereunder.

Execution of
deed by Trustee
prior to
registration.

6. When a deed is registered under the Act there shall be written on the deed a certificate stating that the deed has been duly registered as prescribed by the Act and the date of registration. Such certificate shall be sealed with the seal of the Registrar General.

Certificate of
registration on
deed.

SEARCHES AND EXTRACTS

7. Extracts from a registered deed shall be limited to the date of execution and registration, the names, addresses, and descriptions of the debtor and the parties to the deed, and a short statement of the nature and effect of the deed.

Extract from
registered deed.

PART III

PROCEDURE

8. All applications other than applications under section 9 of the Act which by the Act or these Rules are directed or allowed

Applications,
how to be
made.

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to be made to the Court shall be deemed to be proceedings in bankruptcy, and subject to the Act and these Rules shall be made in accordance with and in the manner prescribed for proceedings under the Bankruptcy Act, and the Bankruptcy Rules for the time being in force, with such variations as the circumstances may require, and shall be supported by affidavit, except that applications for extension of time for procuring the assent of creditors to a deed under section 5(1) or for filing the statutory declaration required by section 5(4) of the Act may be made *ex-parte* and without affidavit unless the Court in any case otherwise orders.

Applications, to whom to be made.

9. The application, together with the affidavits in support, shall be filed in Court, and the Court shall appoint a day for the hearing not earlier than 14 days from the filing of the application. The Court may direct notice of the application to be served on such person or persons as it thinks fit, but in the absence of any special direction by it, the notice, together with copies of the affidavits in support, shall be served, when the application is made by the trustees, on the debtor and any creditor or other person to be affected thereby, and, when made by the debtor on the trustee and on any creditor or other person to be affected thereby, and, when made by a creditor, on the trustee and the debtor.

Evidence.

10. The evidence to be used on the application shall, unless the Court or the judge otherwise orders, be given by affidavit, but any opposite party may require, by notice in writing addressed to any deponent or his solicitor, the attendance of such deponent for cross examination.

Affidavits by parties other than applicant.

11. All affidavits intended to be used by any party to such application, other than the applicant, shall be filed in the Court, and copies served on the applicant not less than four days before the day appointed for the hearing of the application.

Chambers and adjournment to Court.

12. All such applications as are referred to in the preceding Rules shall be heard and determined by a judge in Chambers, but he may in any case and shall at the request of any party thereto, adjourn the application to be heard and determined in Court.

Service of application under s. 12(2).

13. Notice of any application under section 12(2) of the Act to declare a deed void, or appoint another trustee, shall be served on the trustee named in the deed not less than eight days before the day appointed for the hearing.

14. If a trustee fails to pay to a Guarantee Society, party to a bond given by him under rule 15, the annual premium payable by him within fourteen days of the date when such premium becomes payable, or if the Society refuses to accept such premium, the Society may apply to the Court to determine its liability under the bond, and the Court, if satisfied by affidavit that default in payment of the premium has been made by the trustee, or that the refusal of the Society to accept the premium in order that its liability may be determined is reasonable, may order that, as from the date of expiration of the year for which the last premium was paid, or as from the date of the order, whichever may be the later date, all further liability of the Society shall cease and determine, save and except in respect of any loss or damage occasioned by any act or default of the said trustee in relation to his duties as such trustee as aforesaid previously to such cesser and determination of liability. Notice of any application under this rule shall be served on the three largest creditors named in the affidavit filed on registration of the deed not less than eight days before the day appointed for hearing the application, and any of such creditors may appear and be heard thereon, and rules 8 to 12 inclusive shall, so far as applicable, be observed.

Form (of order)
12.
Application to
determine
liability on
bond.

PART IV

TRUSTEES

15. The security to be given by the trustee under a deed of arrangement pursuant to section 12(1) of the Act may be either by way of the bond of a Guarantee Society which Society is approved by the Registrar General, or it may be by way of any such other bond or bonds as the Registrar General may deem sufficient. In the case of a bond of an approved Society, a cover note shall, pending preparation of the bond, be accepted by the Registrar General as sufficient temporary security.

Security by
trustee.
Form 9.
Form 10.

16. Where a new trustee of a deed has been appointed he shall forthwith send to the Registrar General a notice of his appointment, giving his full name and address, and showing how and when the appointment has been made, and the Registrar General shall forthwith file the same.

Notice by new
trustee of
appointment.

17. Notice under section 25(1) of the Act to a creditor of the execution of a deed and of the filing of the certificate of the assents of creditors thereto shall be sent by prepaid registered

Notice to
creditor of
execution of
deed, &c.
Form 13.
Forms 2, 3.

post addressed to such creditor at the address mentioned in the affidavit of the debtor filed on the registration of the deed, and service shall be deemed to have been made on the day on which the notice was posted.

Audit of trustee's accounts.

18. Where the Registrar General causes a trustee's accounts to be audited, the trustee shall, within seven days of service upon him by registered post of an order made by the Registrar General directing him so to do, deliver to the Registrar General copies of all the accounts transmitted by him to the Registrar General under section 14 of the Act, together with an account in similar form from the date to which the last account extended to the date of the order. Such copies and account shall be sent together with an affidavit verifying the same.

Certificate of audit.

19. The account as audited and the auditor's certificate or observations thereon shall be filed and kept by the Registrar General, and shall be open to the inspection of any creditor or of the trustee, who shall be at liberty to take a copy of such certificate or observations. A certified copy of the certificate or observations shall be supplied to the trustee or to any creditor on application.

PART V

ACCOUNTS

Transmission of accounts.
Form 14.

20. (1) The accounts of receipts and payments to be transmitted to the Registrar General by every trustee under deed shall be in the prescribed form.

(2) The first account shall commence at the date of execution of the deed by the debtor, and be brought down to the end of twelve months from the date of registration thereof, and shall be transmitted within thirty days from the expiration of such twelve months and the subsequent accounts shall be transmitted at intervals of twelve months. Each account shall be brought down to the end of the period of twelve months for which it is sent, and shall be verified by affidavit.

Form 16.

(3) The trustee shall stamp the accounts transmitted by him to the Registrar General with a stamp equivalent to the amount of the prescribed fee.

Receipts and payments.

21. In the account each receipt and payment must be entered in such a manner as sufficiently to explain its nature.

22. When the trustee carries on a business, a trading account must be forwarded as a distinct account, and the total of receipts and payments on the trading account must alone be set out in the yearly account. The trading account shall be in the prescribed form.

Trading
account.
Form 17.

23. Petty expenses must be entered in the accounts in sufficient detail to show that no estimated charges are made.

Petty expenses.

24. Where property has been realised, the gross proceeds of sale must be entered under receipts in the account, and the necessary disbursements and charges incidental to sales must be entered as payments.

Realisations.

25. Where dividends or instalments of composition are distributed under the deed, the total amount of each dividend or instalment of composition must be entered in the trustee's accounts as one sum, and the trustee shall forward to the Registrar General (1) with each account in which a charge in respect of dividend or composition appears a statement showing the amount of the claim of each creditor, and the amount of dividend or composition payable to each creditor, distinguishing in such statement the dividends or instalments of composition paid and those remaining unpaid; and (2) with his final account a complete statement in similar form showing the amount of the claim and the full amount of dividend or composition paid to or reserved for each creditor. Such statement shall be in the prescribed form.

Dividends.
Form 18.

26. Where the deed has been made by a firm of debtors in partnership, distinct accounts shall be transmitted of the joint estate and of each of the separate estates.

Partnership
accounts.

27. Where it appears to the Registrar General that the account transmitted by a trustee under a deed of arrangement is incomplete, or requires amendment or explanation, the Registrar General may require such account to be completed or amended, or require the trustee to furnish explanations with reference to any of the entries appearing therein; and any such requirement by the Registrar General may be enforced in the same manner as the transmission of accounts under section 14 of the Act.

Imperfect
accounts.

28. Where a trustee has not since the date of his becoming trustee, or since the last time that his accounts have been transmitted, as the case may be, received or paid any money on account of the debtor's estate he shall, at the period when he is

Affidavit of no
receipts or
payments.

required to transmit his accounts to the Registrar General, forward to the Registrar General an affidavit of no receipts or payments.

Affidavit
verifying final
account.
Form 19.

29. As soon as a trustee has realised all the property included in any deed of arrangement, or so much thereof as can probably be realised, and has distributed a final dividend, or final instalment of composition, or in any other case as soon as the trusts of the deed and the obligations of the trustee have been completely fulfilled, the trustee shall forthwith transmit his final account together with an affidavit verifying the same.

Summary of
accounts or
modified forms
of account in
particular cases.

30. In any particular case in which it appears to the Registrar General that an account of receipts and payments in the form and containing the particulars specified in these Rules may for special reasons be dispensed with, the Registrar General may permit the trustee to transmit, instead of accounts in the form therein specified, such a summary of his accounts or modified statement of accounts as to the Registrar General appears sufficient.

APPENDIX

FORMS

LIST OF FORMS

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FORM 1

GENERAL TITLE

In the matter of a Deed of Arrangement betweenof
, (1) and his creditors, dated theday of, 19...., (1) Add
 (2) (and registered under the Deeds of Arrangement Act on the description.
 day of, 19....). (2) Strike out
 words in
 brackets if deed
 has not been
 already
 registered.
 Trustee (A.B.) of

FORM 2

ASSENT OF CREDITORS TO DEED

(Title)

I (or we), being a creditor (or creditors) offor \$,
 hereby assent to the above-mentioned Deed of Arrangement.

Dated thisday of, 19....

(C.D.)

Name, address, and description of witness to creditor's signature.

FORM 3

STATUTORY DECLARATION BY TRUSTEE
 TO BE FILED WITH REGISTRAR GENERAL
 AS TO ASSENTS OF CREDITORS

(Title)

I,, ofbeing the trustee under the above-mentioned
 Deed of Arrangement, do solemnly and sincerely declare that
 the requisite majority in number and value of the creditors of the said
, so far as the same are known to me, have assented to the said
 Deed of Arrangement, and I make this solemn declaration conscienti-
 ously believing the same to be true and according to the Statutory

Declarations Act, and I am aware that if there is any statement in this declaration which is false in fact, which I know or believe to be false or do not believe to be true, I am liable to fine and imprisonment.

Declared at
in theof
thisday of, 19.....

Before me,

.....
Commissioner of Affidavits

FORM 4

AFFIDAVIT OF EXECUTION BY DEBTOR

(Title)

(a) State whether deed of assignment of property; deed of or agreement for a composition; a deed of inspectorship; a letter of licence, or an agreement to carry on or wind up debtor's business.
(b) Insert name, residence, and occupation of the debtor.
(c) State also in what other names (if any) debtor carried on business.

I,, of, make oath and say as follows:—

1. The document hereto annexed marked "A" is a Deed of (a) including every Schedule and Inventory thereto annexed or therein referred to, and every attestation of the execution thereof.

2. The Deed was executed on theday of19....., by, the debtor, at ...of the clock in the fore (after) noon. I was present when the debtor executed the said Deed, and saw him execute the same.

3. The said (b)resides at, and is a

4. The place or places where the business of the said is carried on is (or are) as follows:—(c)

Sworn at
thisday of19.....

Before me,

.....
Commissioner of Affidavits

FORM 5

AFFIDAVIT OF EXECUTION WHERE DEED IS FIRST EXECUTED BY A CREDITOR

(Title)

I,, of, made oath and say as follows:—

1. The document hereto annexed marked "A" is a Deed of (a) including every Schedule and Inventory thereto annexed or therein referred to.

(a) State whether deed of assignment of property, deed of agreement for a composition, a deed of inspectorship, a letter of licence, or an agreement to carry on or wind up debtor's business.

2. The Deed was first executed by (b), a creditor (who resides at, and is) on theday of19....., atof the clock in the fore (after) noon. I was present when the saidexecuted the said Deed and saw him execute the same.

(b) Insert name, residence and occupation of creditor.

3. The debtor (c)resides atand is

(c) Insert name, residence and occupation of debtor.

4. The place or places where business of the said debtor is carried on is (or are) as follows:—(d)

(d) State also in what other names (if any) debtor carries on business.

Sworn at thisday of19.....

Before me,

..... Commissioner of Affidavits

FORM 6

DEBTOR'S AFFIDAVIT

(Title)

(a) State whether deed of assignment of property; deed of or agreement for a composition; deed of inspectorship; a letter of licence, or an agreement to carry on or wind up debtor's business.
 (b) The estimated surplus (if any) from securities held by creditors should not be deducted from the gross amount of property.
 (c) This amount must correspond with the amount of securities deducted above. No deduction should be made in respect of the unsecured balances of partially secured debts.
 (d) If there is no compensation payable, strike this clause out.

I,, of, make oath and say as follows:—

1. That on theday of, 19, I executed a Deed of (a)

2. The total estimated amount of my property included under the Deed is \$, and the net amount of my property included under the Deed after deducting \$, being the value of (b) of securities held by creditors, and required to cover debts due to them.

3. The total estimated amount of my liabilities included under the Deed is \$, and the net amount of my liabilities included under the Deed after deducting \$, being the (c) amount covered by securities held by creditors is \$

4. (d) The total amount of the compensation payable thereunder is \$

5. The names of my creditors under the Deed with their full postal addresses (so far as the same are known to me) and the amount of debt due to or claimed by each of such creditors are contained in the Schedule to this my Affidavit.

Sworn at,
 this ...day of, 19,
 Before me,

.....
Commissioner of Affidavits

Schedule

Names of Creditors	Full Postal Addresses	Amount of debt due to or claimed by each creditor after deduction of value of securities held by creditor

FORM OF REGISTER

FORM 7

No.	
Name of Debtor	
Address	
Place or places where business carried on	
Description	
Title of firm or firms under which Debtor carried on business	
Name and Address of Trustee (if any)	
AMOUNT OF PROPERTY AS ESTIMATED BY DEBTOR	Gross amount of property
	Value of securities given excluding any estimated surplus
	Net value of property
AMOUNT OF LIABILITIES AS ESTIMATED BY DEBTOR	Gross amount of liabilities
	Amount of debts covered by securities
	Net amount of liabilities
Date of Deed	
Date and Number of Registration	
Date of Declaration of Assent by majority of Creditors	
SECURITY	Date of certificate
	Date of Declaration of Dispensation
AVOIDANCE OF DEED	Date of Order of Court under Sec. 5 of the Deeds of Arrangement Act
	Date of Notice by Trustee under Sec. 21 of the Deeds of Arrangement Act
APPOINTMENT OF NEW TRUSTEE	Name and Address of new Trustee
	By whom appointed
	Date of appointment
Remarks	

FORM 8

STATUTORY DECLARATION BY TRUSTEE TO BE FILED
WITH REGISTRAR GENERAL THAT CREDITORS HAVE
DISPENSED WITH HIS GIVING SECURITY

(Title)

I, of, being the trustee under the above-mentioned Deed of Arrangement, do solemnly and sincerely declare that the requisite majority in number and value of the creditors of, so far as the same are known to me, by resolution passed at a meeting convened by notice to all the creditors and duly held on theday of(or by writing addressed to me) dispensed with my giving the security directed to be given by section 12 of the Deeds of Arrangement Act and I make this declaration conscientiously believing the same to be true according to the Statutory Declarations Act (Ch. 7:04) and I am aware that if there is any statement in this declaration which is false in fact, which I know or believe to be false or do not believe to be true, I am liable to fine and imprisonment.

Declared at,in theof, this day of, 19.....

Before me,

.....
Commissioner of Affidavits

FORM 9

SECURITY BY TRUSTEE UNDER SECTION 12(1) OF THE ACT

No.

Amount of guarantee, \$ Annual premium, \$

Know All Men by these Presents, that we (trustee)and the (a guarantee society)(hereinafter called the said Society), are jointly and severally held and firmly bound to the State in the sum of \$ to be paid to the said Registrar General, his successors and assigns, for which payment to be made I, the said, for myself, my heirs, executors, and administrators, and we, the said Society for ourselves and our successors, jointly and severally bind ourselves firmly by these presents.

Dated thisday of, 19.....

Whereas on theday of, 19.....,, of, executed a Deed of Arrangement for the benefit of his (her or their) creditors, which was duly registered on the day of, 19.....

And whereas the said(hereinafter called the said trustee) is the trustee under the aforesaid Deed of Arrangement. And whereas the

estimated assets available for distribution among the unsecured creditors, as shown by the Affidavit filed on registration of the Deed, amount to the sum of \$ Now, therefore, the condition of this Bond or Obligation is such that if the said trustee shall administer the trust deed properly and account fully for the assets which come to his hand, and shall and do from time to time well and sufficiently perform and execute all and singular the duties required of him under the Deed of Arrangement of which he is trustee, and by any Act and Rules relating to such trusteeship, or if the said trustee shall fail therein and the said Society shall make good any loss or damage occasioned by any such default made on or after the date hereof to the estate of the said debtor to the extent of \$, this obligation shall be void or otherwise shall remain in full force and virtue.

Provided always, and it is hereby agreed and declared, that this bond is entered into by the said Society on the condition that the capital stock and funds for the time being of the said Society shall alone be liable to answer and make good all claims or demands in respect of this Bond, and that no director or other proprietor or holder of shares of the said Society shall in any manner be personally liable or subject to any claims or demands by reason of such bond, beyond his or her particular share or shares of such capital stock and funds.

Provided always, and it is further agreed between the said trustee and the said Society, that the said trustee on ceasing to act as such trustee as aforesaid shall forthwith give notice thereof in writing to the said Society.

Provided always that the said trustee, his heirs, executors or administrators shall and will from time to time and at all times save, defend, and keep harmless the said Society and their successors and the capital stock, funds, or property of the said Society from and against all loss or damage, costs, and expenses which the said Society or the capital, stock, funds, or property thereof shall or may or otherwise might at any time sustain or be put unto for or by reason or in consequence of the said Society having entered into the above written Bond for him and at his request.

And the said trustee hereby covenants that he will, on the day of, of each successive year during the continuance of his administration of the estate under the Deed, pay or cause to be paid to the said Society the annual premium of \$

In witness whereof the said trustee hath hereunto set his hand and the said Society have hereunto caused their seal to be affixed the day and year first above written.

Signed and delivered by
the said

In the presence of:—

The Seal of the said society was
hereunto affixed in the presence
of:—

..... *Directors*
..... *Secretary*

FORM 10

COVER NOTE

Bond No., 19

Mr., of, having this day effected a Guarantee for in favour of the State, as trustee under a Deed of Arrangement executed by on the terms and conditions contained in the Society's Bond (according to the form prescribed under the Deeds of Arrangement Rules), a Bond will be prepared and delivered to the Registrar General within fourteen days of this date.

.....
Manager of the said Society

FORM 11

CERTIFICATE OF SECURITY

(Title)

I hereby certify that Mr., of, the trustee under the above-mentioned Deed of Arrangement, has given security to me in the sum of \$ by Bond (a) of the Society for the due performance of duties under the Deed pursuant to section 12(4) of the Deeds of Arrangement Act.

(a) Or cover note.

Dated the day
of, 19

.....
Registrar General

FORM 12

ORDER DECLARING VOID OR APPOINTING NEW TRUSTEE

(Title)

Whereas is the trustee under the above-mentioned Deed of Arrangement and whereas it has been proved to the satisfaction of the Court that the said has failed to comply with the requirements of section 12(1) of the Deeds of Arrangement Act. Now, on the application of a creditor and upon hearing and upon reading this Court doth declare the said Deed of Arrangement to be void (or doth order that, of, be appointed trustee under the said Deed in place of the said, but this Order shall not take effect unless the said shall give security as provided by section 12(1) of the Deeds of Arrangement Act, within days after this date (or as the Court may order with reference to security)).

By the Court,

.....
Registrar

FORM 13

NOTICE TO CREDITORS OF DEED OF ARRANGEMENT

(Title)

Take Notice that a Deed of Arrangement by, for, or in respect of the affairs of, of, has been duly executed and registered, and a certificate of the assents of creditors thereto duly filed, and that after the expiration of one month from [*insert date of posting*] you will not be entitled to present a Bankruptcy petition againstfounded on the execution of the Deed, or on any other act committed by him (or them) in the course of or for the purpose of proceedings preliminary to the execution of the Deed, as an act of Bankruptcy, unless the Deed becomes void.

Dated thisday of, 19

.....
Trustee under the said Deed of Arrangement

To A.B.
(a creditor of the said debtor)

FORM 14

No.

TRUSTEE'S ACCOUNT OF RECEIPTS AND PAYMENTS
THE DEEDS OF ARRANGEMENT ACT

(Title)

Trustee

ACCOUNT OF RECEIPTS AND PAYMENTS UNDER SECTION 14 OF THE
DEEDS OF ARRANGEMENT ACT

RECEIPTS				PAYMENTS			
Date	Of whom received	Nature of Receipt	Amount \$ c.	Date	To whom paid	Nature of Payment	Amount \$ c.

NOTE.—The outstanding estate consists of (here set out particulars of any outstanding estate and the estimated value thereof).

FORM

DEEDS OF ARRANGE

STATEMENT UNDER

(Title)

Statement of Trustee's Accounts and of proceedings under the

RECEIPTS				\$	c.
Cash deposited by Debtor with Solicitor for costs of deed	..				
Cash at bank at date of deed	..	..	..
Cash in hand at date of deed	..	..	..
Book debts	..	..	..
Stock-in-trade realised from sale by (1)	..	..	..
Machinery realised from sale by (1)	..	..	..
Trade fixtures, fittings, etc., realised from sale by (1)	..				
Furniture realised from sale by (1)	..	..	..
Surplus from securities in hands of creditors	..				
Trading receipts	..	..	..
Other property, viz.: realised from sale by (1)	..				
Gross Receipts				\$	c.
LESS: Trading payments. Payments to redeem securities, viz. (2)					
		\$	c.		
Net realisations					
Balance due to Trustee (if any)	..				

- (1) Insert gross proceeds of sale, and state how goods were sold, e.g., by auction, by
- (2) Here insert to whom payments made, nature of security redeemed, and amount of
- (3) Insert particulars or annex schedule.
- (4) Insert Name of Bank
 The Total payments into the (4) Bank to the day of, of, 19....., were \$.....
 The amounts of the Assets and Liabilities at the time the Deed was executed as Assets after deducting \$....., the value of securities held by creditors and Liabilities after deducting \$....., the amount covered by securities, \$.....
 The nature and value of the assets unrealised are (3)
 The causes which delay the termination of the winding up of the estate are
 The estate will probably be completely wound up within
 The following special circumstances affect the costs of realisation and the Trustee

Date

15

MENT ACT

SECTION 15

Deed from the ...day of, 19, to the ...day of, 19

PAYMENTS		\$	c.	\$	c.
Law costs of preparation and registration of deed				
Law costs of solicitor to trustee				
Other law costs (3)				
Accountant's charges				
Auctioneer's and valuer's charges				
Trustees remuneration				
Possession				
Incidental expenses				
Other costs and charges (3)				
 Total costs and charges				
Allowance to debtor				
Payments to creditors, viz.:—					
Rent from the ...day of, 19, to the ...day of, 19					
Rates and taxes				
Salaries and wages				
Other preferential payments, viz. (3)				
Dividends of ...in the \$.... on \$....					
Paid				
Unpaid				
Other payments (if any) (3)				
 Total				
Balance in hand (if any)				

valuation or as the case may be.
each payment or annex schedule giving these particulars.

19, were \$, and the total payments out of the said Bank to theday

estimated by the Debtor were:—
required to cover debts due to them \$

(3)

administration of the estate, viz. (3)

Address

FORM 16

AFFIDAVIT VERIFYING TRUSTEE'S ACCOUNT

(Title)

I, G.H. of, the Trustee for the purposes of the above-mentioned Deed (or the person distributing the composition herein) make oath and say:—

1. That **the account hereunto annexed marked "B" contains a full and true account of my receipts and payments on account of the estate comprised in the said Deed from theday of, 19, to theday of, 19, inclusive, and that** I have not, nor has any other person by my order or of 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 account.*

2. That on theday of, 19, and theday of, 19, I duly sent to each creditor of the saidwho has assented to the Deed a statement of accounts and proceedings as required by section 15 of the Deeds of Arrangement Act.

Sworn at,thisday of, 19

*If no receipts or payments, strike out the words in italics.

FORM 17

TRUSTEE'S TRADING ACCOUNT

(Title)

ACCOUNT OF RECEIPTS AND PAYMENTS IN CONNECTION WITH THE DEBTOR'S BUSINESS, PURSUANT TO RULE 22

RECEIPTS				PAYMENTS			
Date		\$ c.		Date		\$ c.	

G.H., Trustee

We have examined this account with the vouchers and find the same correct, and we are of opinion the expenditure has been proper.

Dated thisday of, 19

.....
Committee of Inspection
(or member of the Committee of Inspection)

To be inserted if the accounts have been audited by a committee of inspection.

FORM 18

LIST OF DIVIDENDS OR COMPOSITIONS

(Title)

I hereby certify that a dividend (or composition) ofin the \$ has been paid in the above matter and that the creditors whose names are set forth below are entitled to the amounts set opposite their respective names in the columns headed "Amount of dividend (or composition)," and I further certify that the column headed "Unpaid" contains a full and complete list of all unpaid dividends or compositions.

.....
Trustee

Dated theday of, 19.....
To the Registrar General.

Surname	Christian Name	Amount of Claim	Amount of Dividend (or Composition)	
			Paid	Unpaid

FORM 19

AFFIDAVIT VERIFYING TRUSTEE'S FINAL ACCOUNT

(Title)

I,, ofthe Trustee for the purposes of the above-mentioned Deed (or the person distributing the composition herein) make oath and say:—

1. That **the account hereunto annexed marked "B" containing a full and true account of my receipts and payments on account of the estate comprised in the said Deed, from theday of, to the date of swearing this my affidavit, inclusive, *and that I have not, nor has any 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 account.*

2. †That all the property assigned under the Deed, or so much thereof as can probably be realised, has been realised and distributed according to the terms of the Deed, and that a dividend (*or* dividends) ofin the \$ has been paid as shown in the list hereunto annexed, marked "C"

OR

2. That the composition proposed under the Deed has been fully received and distributed as far as possible, as shown in the list hereunto annexed, marked "C".

3. That on theday of, 19, and theday of, 19, I duly sent to each creditor of the saidwho has assented to the Deed a statement of accounts and proceedings as required by section 15 of the Deeds of Arrangement Act.

Sworn at,thisday of, 19

*If no receipts or payments, strike out the words in italics.

†Strike out paragraph not applicable or if neither paragraph is applicable, strike out both and add a special paragraph setting out the facts.
