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**CHAPTER 69**  
**BANKRUPTCY**

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**CHAPTER 69****BANKRUPTCY****An Act relating to bankruptcy.***[Commencement 15th March, 1870]*

*13 of 1870  
5 of 1871  
10 of 1954  
43 of 1964  
46 of 1964  
21 of 1972  
5 of 1987  
5 of 2012*

**PRELIMINARY**

1. This Act may be cited as the Bankruptcy Act. Short title.
2. In this Act, unless the context otherwise requires — Interpretation.
  - “court” means the Supreme Court;
  - “debt provable in bankruptcy” includes any debt or liability by this Act made provable in bankruptcy;
  - “judge” includes the Chief Justice, a Senior Justice and a Justice of the Supreme Court;
  - “person” includes a body corporate;
  - “prescribed” means prescribed by rules to be made under this Act;
  - “property” includes money, goods, things in action, land, and every description of property, whether real or personal; also obligations, easement and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined;
  - “Registrar” means the Registrar of the court;
  - “rules” means rules made under this Act;
  - “secured creditor” means any creditor holding any mortgage, charge or lien on the bankrupt’s estate, or any part thereof, as security for a debt due to him;
  - “trader” means the several persons in that behalf mentioned in the Schedule to this Act. Schedule.

Exclusion of  
companies, etc.  
Ch. 308.

**3.** A partnership, association or company corporate, or registered under the Companies Act, shall not be adjudged bankrupt under this Act.

## PART I ADJUDICATION AND VESTING OF PROPERTY

### *Adjudication*

Petition for  
adjudication in  
bankruptcy.  
*5 of 1987, s. 2.*

**4.** A single creditor, or two or more creditors, if the debt due to such single creditor, or the aggregate amount of debts due to such several creditors from any debtor amount to a sum of not less than two hundred dollars, may present a petition to the court, praying that the debtor be adjudged a bankrupt, and alleging as the ground for such adjudication any one or more of the following acts or defaults, hereinafter deemed to be and included under the expression “acts of bankruptcy” —

- (1) that the debtor has, in The Bahamas or elsewhere, made a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally;
- (2) that the debtor has, in The Bahamas or elsewhere, made a fraudulent conveyance, gift, delivery or transfer of his property or of any part thereof;
- (3) that the debtor has, with intent to defeat or delay his creditors, done any of the following things, namely, departed out of The Bahamas, or, being out of The Bahamas, remains out of The Bahamas, or, being a trader, departed from his dwelling house, or otherwise absented himself, or begun to keep house;
- (4) that the debtor has filed, in the prescribed manner in the court, a declaration admitting his inability to pay his debts;
- (5) that execution issued against the debtor on any legal process for the purpose of obtaining payment of not less than two hundred dollars, has, in the case of a trader, been levied by seizure and sale of his goods;

*5 of 1987, s. 2.*



- (6) that the creditor presenting the petition has served in the prescribed manner on the debtor a debtor's summons, requiring the debtor to pay a sum due, of an amount of not less than two hundred dollars, and the debtor, being a trader, has, for the space of seven days, or not being a trader, has, for the space of three weeks succeeding the service of such summons, neglected to pay such sum, or to secure or compound for the same. *5 of 1987, s.2.*

But no person shall be adjudged a bankrupt on any of the above grounds unless the act of bankruptcy on which the adjudication is grounded has occurred within six months before the presentation of the petition for adjudication; moreover, the debt of the petitioning creditor must be a liquidated sum due at law or in equity, and must not be a secured debt, unless the petitioner state in his petition that he will be ready to give up such security for the benefit of the creditors, in the event of the debtor being adjudicated a bankrupt, or unless the petitioner is willing to give an estimate of the value of his security, in which 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, but he shall, on an application being made by the trustee within the prescribed time after the date of adjudication, give up his security to such trustee for the benefit of the creditors upon payment of such estimated value.

5. A debtor's summons may be granted by the court, on a creditor proving to its satisfaction that a debt sufficient to support a petition in bankruptcy is due to him from the person against whom the summons is sought, and that the creditor has failed to obtain payment of his debt, after using reasonable efforts to do so. The summons shall be in the prescribed form, resembling, as nearly as circumstances admit, a writ issued by the court. It shall state that, in the event of the debtor failing to pay the sum specified in the summons, or to compound for the same to the satisfaction of the creditor, a petition may be presented against him, praying that he may be adjudged a bankrupt. The summons shall have an endorsement thereon to the like effect, or such other prescribed endorsement as may be best calculated to indicate to the debtor the nature of the document served upon him, and the consequences of inattention to the requisitions therein made.

Proceedings in relation to a debtor's summons.

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Any debtor served with a debtor's summons may apply to the court in the prescribed manner, and within the prescribed time, to dismiss such summons, on the ground that he is not indebted to the creditor serving such summons, or that he is not indebted to such amount as will justify such creditor in presenting a bankruptcy petition against him; and the court may dismiss the summons, with or without costs, if satisfied with the allegations made by the debtor, or it may, upon such security (if any) being given as the court may require for payment to the creditor of the debt alleged by him to be due, and the costs of establishing such debt, stay all proceedings on the summons for such time as will be required for the trial of the question relating to such debt.

Proceedings on petition.

6. A petition praying that a debtor may be adjudged a bankrupt (in this Act referred to as a bankruptcy petition) shall be served in the prescribed manner. At the hearing, the court shall require proof of the debt of the petitioning creditor, and of the trading, if necessary, 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 such proof, shall adjudge the debtor to be bankrupt. The court may adjourn the petition, either conditionally or unconditionally, for the procurement of further evidence, or for any other just cause, or may dismiss the petition, with or without costs, as the court thinks just.

Proceedings if debt of petitioning creditor is contested.

7. Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such amount as would justify the petitioner in presenting a bankruptcy petition against him, the court, upon 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 such debt, may stay all proceedings on the petition for such time as may be required for trial of the question relating to such debt, and such trial shall be had in manner hereinbefore provided with respect to disputed debts under debtor's summonses.

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Where proceedings are stayed, the court may, if by reason of the delay caused by such stay of proceedings, or for any other cause it thinks just, adjudge the debtor a bankrupt on the petition of some other creditor, and shall thereupon dismiss, upon such terms as it thinks just, the petition, proceedings in which have been stayed as aforesaid.

**8.** A copy of an order of the court adjudging the debtor to be bankrupt shall be published in the *Gazette*, and be notified locally in such manner (if any) as may be prescribed, and the date of such order shall be the date of the adjudication for the purposes of this Act, and the production of a copy of the *Gazette* containing such order, as aforesaid, shall be conclusive evidence in all legal proceedings of the debtor having been duly adjudged a bankrupt; and of the date of the adjudication.

Advertisement of order of adjudication.

**9.** The bankruptcy of a debtor shall be deemed to have relation back to and to commence at the time of the act of bankruptcy being completed on which the order is made adjudging him to be bankrupt; or, if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to and to commence at the time of the first of the acts of bankruptcy that may be proved to have been committed by the bankrupt, within twelve months next preceding the order of adjudication; but the bankruptcy shall not relate to any prior act of bankruptcy, unless it be that, at the time of committing such prior acts, the bankrupt was indebted to some creditor or creditors in a sum or sums sufficient to support a petition in bankruptcy, and unless such debt or debts are still remaining due at the time of the adjudication.

Definition of commencement of bankruptcy.

**10.** Where a debtor shall be adjudicated a bankrupt, no creditor to whom the bankrupt is indebted in respect of any debt provable in the bankruptcy shall have any remedy against the property or person of the bankrupt in respect of such debt, except in manner directed by this Act; but this section shall not affect the power of any creditor holding a security upon the property of the bankrupt to realise or otherwise deal with such security in the same manner as he would have been entitled to realise or deal with the same if this section had not been passed.

Creditors bound by bankruptcy proceedings.

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Power after presentation of petition to restrain suits, etc., and appoint receiver.

**11.** The court may, at any time after the presentation of a bankruptcy petition against the debtor, restrain further proceedings in any action, suit, execution, or other legal process against the debtor in respect of any debt provable in bankruptcy, or it may allow such proceedings, whether in progress at the commencement of the bankruptcy or commenced during its continuance, to proceed upon such terms as the court may think just. The court may also, at any time after the presentation of such petition, appoint a receiver or manager of the property or business of the debtor against whom the petition is presented, or of any part thereof, and may direct immediate possession to be taken of such property or business or any part thereof.

*Appointment of Trustee*

Meeting of creditors for appointment of persons to administer bankrupt's property.

**12.** When an order has been made adjudging a debtor bankrupt (herein referred to as an order of adjudication) the property of the bankrupt shall become divisible amongst his creditors in proportion to the debts proved by them in the bankruptcy; and for the purpose of effecting such division, the court shall, as soon as may be, summon a general meeting of his creditors, and the creditors assembled at such meeting shall and may do as follows —

- (1) they shall by resolution appoint some fit person, whether a creditor or not, to fill the office of trustee of the property of the bankrupt, at such remuneration as they may from time to time determine, if any; or they may resolve to leave his appointment to the committee of inspection hereinafter mentioned;
- (2) they shall, when they appoint a trustee, by resolution, declare what security is to be given, and to whom, by the person so appointed before he enters on the office of trustee;
- (3) they shall, by resolution, appoint some other fit persons, not exceeding five in number, and being creditors qualified to vote at such first meeting of creditors, as is in this Act mentioned, or authorised in the prescribed form by creditors so

qualified to vote, to form a committee of inspection for the purpose of superintending the administration by the trustee of the bankrupt's property;

- (4) they may, by resolution, give directions as to the manner in which the property is to be administered by the trustee; and it shall be the duty of the trustee to conform to such direction, unless the court, for some just cause, otherwise orders.

**13.** The property of the bankrupt divisible among his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following, particulars —

Description of bankrupt's property divisible amongst creditors.

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

*5 of 1987, s. 2.*

but it shall comprise the following particulars —

- (3) 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 during its continuance;
- (4) 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 during its continuance;
- (5) all goods and chattels being, at the commencement of the bankruptcy, in the possession, order or disposition of the bankrupt, being a trader, by the consent and permission of the true owner of which goods and chattels the bankrupt is reputed owner, or of which he has taken upon himself the sale or disposition as owner:

Provided that things in action, other than debts due to him in the course of his trade or business, shall not be deemed goods and chattels within the meaning of this clause.

Regulations as to first meeting of creditors.

**14.** The general meeting of creditors to be summoned, as aforesaid, by the court (in this Act referred to as the first meeting of creditors) shall be held in the prescribed manner and subject to the prescribed regulations as to the quorum, adjournment of meeting and all other matters relating to the conduct of the meeting or the proceedings thereat:

Provided that —

- (1) every meeting held under this section shall be presided over by the Registrar or, in his absence, by such chairman as the meeting may elect;
- (2) a person shall not be entitled to vote as a creditor unless at or previously to the meeting he has, in the prescribed manner, proved a debt provable under the bankruptcy to be due to him;
- (3) a creditor shall not vote at the said meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained;
- (4) a secured creditor shall, for the purposes of voting, be deemed to be a creditor only in respect of the balance (if any) due to him after deducting the value of his security; and the amount of such balance shall, until the security be realised, be determined in the prescribed manner. He may, however, at or previously to the meeting of creditors, give up the security to the trustee, and thereupon he shall rank as a creditor in respect of the whole sum due to him;
- (5) votes may be given either personally or by proxy;
- (6) an ordinary resolution shall be decided by a majority in value of the creditors present personally or by proxy at the meeting and voting on such resolution;
- (7) a special resolution shall be decided by a majority in number, and three-fourths in value of the creditors present personally or by proxy at the meeting and voting on such resolution.

Devolution of property on trustee.

**15.** (1) Until a trustee is appointed the Registrar shall be the trustee for the purposes of this Act, and immediately upon the order of adjudication being made the property of the bankrupt shall vest in the Registrar. On the appointment of a trustee the property shall forthwith pass to and vest in the trustee appointed.

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(2) The expression “trustee,” when used in this Act, shall include the person for the time being filling the office of trustee, whether he be the Registrar or not; but when the Registrar holds the office of trustee, he shall, unless the court otherwise orders, in the administration of the property of the bankrupt, apply to the court for directions as to the mode of administering such property and shall not take possession thereof unless directed by the court.

Definition of trustee.

**16.** The appointment of a trustee shall be reported to the court; and the court, upon being satisfied that the requisite security has been entered into by him, shall give a certificate declaring him to be trustee of the bankruptcy named in the certificate, and such certificate shall be conclusive evidence of the appointment of the trustee, and such appointment shall date from the date of the certificate. When the Registrar holds the office of trustee, or when the trustee is changed, a like certificate of the court may be made, declaring the person therein named to be trustee, and such certificate shall be conclusive evidence of the person therein named being trustee.

Evidence of appointment of trustee.

## **PART II**

### **ADMINISTRATION OF PROPERTY**

#### *General Provisions affecting Administration of Property*

**17.** The bankrupt shall, to the utmost of his power, aid in the realisation of his property, and the distribution of the proceeds amongst his creditors. He shall produce a statement of his affairs to the first meeting of creditors, and shall be publicly examined thereon on a day to be named by the court, and subject to such adjourned public examination as the court may direct. He shall give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, attend such meetings of his creditors, wait at such times on the trustee, execute such powers of attorney, conveyances, deeds and instruments, and generally do all such acts and things in relation to his

Conduct of bankrupt.

property and the distribution of the proceeds amongst his creditors as may be reasonably required by the trustee, or may be prescribed by the rules, or be directed by the court by any special order or orders made in reference to any particular bankruptcy, or made on the occasion of any special application by the trustee or any creditor.

If the bankrupt wilfully fails to perform the duties imposed on him by this section, or if he fails to deliver up possession to the trustee of any part of his property which is divisible amongst his creditors under this Act, and which may for the time being be in the possession or under the control of such bankrupt, 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.

**18.** 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 be deemed to override any directions given by the committee of inspection; the trustee shall call a meeting of the committee of inspection once at least every three months, when they shall audit his accounts, and determine whether any or what dividend is to be paid; he may also call special meetings of the said committee as he thinks necessary.

Subject to the provisions of this Act, and to such directions as aforesaid, the trustee shall exercise his own discretion in the management of the estate, and its distribution amongst the creditors. The trustee may from time to time summon general meetings of the creditors for the purpose of ascertaining their wishes; he may also apply to the court in the manner prescribed for directions in relation to any particular matter arising under the bankruptcy. The bankrupt or any creditor, debtor or other person aggrieved by any act of the trustee may apply to the court, and the court may confirm, reverse or modify the act complained of, and make such order in the premises as it thinks just. The court may, from time to time, during the continuance of a bankruptcy, summon general meetings of the creditors for the purpose of ascertaining their wishes, and may, if the court thinks fit, direct the Registrar to preside at such meetings.

Conduct of trustee and appeal to court against trustee.



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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 in all respects as if he were a receiver of such property appointed by the court, and the court may, on his application, enforce such acquisition or retention of property accordingly.

**19.** The provisions of this Act with respect to the first general meeting of creditors shall apply to any subsequent general meeting of creditors in a bankruptcy, with this exception, that subsequent meetings of creditors may be summoned by the trustee, or by a member of the committee of inspection, and that such meetings may, unless otherwise directed by the court, in the case of meetings summoned by the court be presided over by any person chosen by the creditors assembled at such meeting, and that any creditor whose debt has been proved, or the value of whose debt has been ascertained at, or subsequent to, such first meeting, shall be allowed to be present and to vote thereat.

Regulations as to general meetings of creditors subsequent to first meeting.

#### *Dealings with Bankrupt's Property*

**20.** Where any portion 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 right to transfer such property shall be absolutely vested in the trustee, to the same extent as the bankrupt might have exercised the same if he had not become bankrupt.

Possession of property by trustee.

Where any portion of the property of the bankrupt consists of things in action, any action, suit or other proceeding for the recovery of such things instituted by the trustee shall be instituted in his official name, as in this Act provided; and such things shall, for the purpose of such action, suit or other proceedings, be deemed to be assignable in law, and to have been duly assigned to the trustee in his official capacity.

The trustee shall, as soon as may be, take possession of the deeds, books and documents of the bankrupt, and all other property capable of manual delivery. The trustee shall keep, in such manner as the rules shall direct, proper books, in which he shall, from time to time, make or cause

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to be made entries or minutes of proceedings at meetings, and of such other matters as the rules shall direct, and any creditor of the bankrupt may, subject to the control of the court, personally or by his agent inspect such books.

Disclaimer as to  
onerous property

**21.** When any property of the bankrupt acquired by the trustee under this Act consists of land of any tenure, burdened with onerous covenants, of unmarketable shares 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 he has endeavoured to sell, or has taken possession of such property or exercised any act of ownership in relation thereto, may, by writing under his hand, disclaim such property, and, upon the execution of such disclaimer, the property disclaimed shall, if the same is a contract, be deemed to be determined from the date of the order of adjudication; and if the same is a lease be deemed to have been surrendered on the same date, and if the same be shares in any company be deemed to be forfeited from that date, and if any other species of property it shall revert to the person entitled on the determination of the estate or interest of the bankrupt; but if there shall be no person in existence so entitled, then in no case shall any estate or interest therein remain in the bankrupt. Any person interested in any disclaimed property may apply to the court, and the court may upon such application, order possession of the disclaimed property to be delivered up to him, or make such other order as to the possession thereof as may be just.

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

Limitation of  
time for  
disclaimer.

**22.** The trustee shall not be entitled to disclaim any property in pursuance of this Act in cases where an application in writing has been made to him by any person interested in such property, requiring such trustee to decide whether he will disclaim or not, and the trustee has for a

period of not less than twenty-eight days after the receipt of such application, or such further term as may be allowed by the court, declined or neglected to give notice whether he disclaims the same or not.

**23.** Subject to the provisions of this Act, the trustee shall have power to do the following things —

Power of trustee to deal with property.

- (1) to receive and decide upon proof of debts in the prescribed manner, and for such purpose to administer oaths;
- (2) to carry on the business of the bankrupt so far as may be necessary for the beneficial winding up of the same;
- (3) to bring or defend any action, suit or other legal proceeding relating to the property of the bankrupt;
- (4) to 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 the same; and the Estates Tail Barring Act shall extend and apply to proceedings in bankruptcy under this Act as if the said Act, and the Act of the Imperial Parliament to which it refers, were here re-enacted and made applicable in terms to such proceedings;
- (5) to exercise any powers the capacity to exercise which is vested in him under this Act, and to execute all powers of attorney, deeds, and other instruments expedient or necessary for the purpose of carrying into effect the provisions of this Act;
- (6) to sell all 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, if he thinks fit, to transfer the whole thereof to any person or company, or to sell the same in parcels;
- (7) to give receipts for any money received by him, which receipt shall effectually discharge the person paying such moneys from all responsibility in respect of the application thereof;

Ch. 143.

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- (8) to prove, rank, claim and draw a dividend in the matter of the bankruptcy or sequestration of any debtor of the bankrupt.

Power to allow bankrupt to manage property.

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

Power of trustee to compromise, etc.

**25.** The trustee may, with the sanction of the committee of inspection, do all or any of the following things —

- (1) mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts;
- (2) refer any dispute to arbitration, compromise all debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist, between the bankrupt and any debtor or person who may have incurred any liability to the bankrupt, upon the receipt of such sums, payable at such terms, and generally upon such terms as may be agreed upon;
- (3) 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;
- (4) 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;
- (5) to 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 advantageously be realised by sale.

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The sanction given for the purposes of this section may be a general permission to do all or any of the above-mentioned things, or a permission to do all or any of them in any specified case or cases.

**26.** The trustee may, with the sanction of a special resolution of the creditors assembled at any meeting of which notice has been given specifying the object of such meeting, accept any composition offered by the bankrupt, or assent to any general scheme of settlement of the affairs of the bankrupt, upon such terms as may be thought expedient, and with or without a condition that the order of adjudication is to be annulled, subject nevertheless to the approval of the court, to be testified by the judge of the court signing the instrument containing the terms of such composition or scheme, or embodying such terms in an order of the court.

Power of trustee to accept composition or general scheme of arrangement.

Where the annulling of the order of adjudication is made a condition of any composition with the bankrupt or of any general scheme for the liquidation of his affairs, the court, if it approves of such composition or general scheme, shall annul the adjudication on an application made by or on behalf of any person interested, and the adjudication shall be annulled from or after the date of the order annulling the same.

The provisions of any composition or general scheme made in pursuance of this Act may be enforced by the court, on a motion made in a summary manner, by any person interested, and any disobedience of the order of the court made on such motion shall be deemed to be a contempt of court. The approval of the court shall be conclusive as to the validity of any such composition or scheme, and it shall be binding on all the creditors, so far as relates to any debts due to them, and provable under the bankruptcy.

**27.** A trustee shall not, without the consent of the committee of inspection, employ a counsel and attorney or other agent, but where the trustee is himself a counsel and attorney, he may contract to be paid a certain sum, by way of percentage or otherwise, as a remuneration for his services as trustee, including all professional services, and any such contract shall, notwithstanding any law to the contrary, be lawful.

Trustee if counsel and attorney may be paid for services.  
*5 of 1987, Sch.*

Trustees to pay  
money into bank.  
5 of 1987, s.2.

**28.** The trustee shall pay all sums from time to time received by him into such bank as the court may direct, and if he at any time keeps in his hands any sum exceeding two hundred dollars for more than ten days, he shall be subject to the following liabilities, that is to say —

- (1) he shall pay interest at the rate, of twenty dollars per centum per annum on the excess of such sum, above two hundred dollars, as he may retain in his hands;
- (2) unless he can prove to the satisfaction of the court that his reason for retaining the money was sufficient, he shall, on the application of any creditor, be dismissed from his office by the court, and shall have no claim for remuneration, and be liable to any expenses to which the creditors may be put by or in consequence of his dismissal.

*Payment of Debts and Distribution of Assets*

Description of  
debts provable in  
bankruptcy.

**29.** Demands in the nature of unliquidated damages, arising otherwise than by reason of a contract or promise, shall not be provable in bankruptcy, and no person having notice of any act of bankruptcy available for adjudication against the bankrupt shall prove for any debt or liability contracted by the bankrupt subsequently to the date of his so having notice.

Save, as aforesaid, all debts and liabilities, present or future, certain or contingent, to which the bankrupt is subject at the date of the order of adjudication, or to which he may become subject during the continuance of the bankruptcy by reason of any obligation incurred previously to the date of the order of adjudication, shall be deemed to be debts provable in bankruptcy, and may be proved in the prescribed manner before the trustee in the bankruptcy.

An estimate shall be made according to the rules for the time being in force, so far as the same may be applicable, and where they are not applicable, at the discretion of the trustee, of the value of any debt or liability provable as aforesaid, which by reason of its being subject to any contingency, or contingencies, or for any other reason, does not bear a certain value.

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Any person aggrieved by any estimate made by the trustee, as aforesaid, may appeal to the court, and the court may, if it thinks the value of the debt or liability incapable of being fairly estimated, make an order to that effect, and upon such order being made, such debt or liability shall, for the purposes of this Act, be deemed to be a debt not provable in bankruptcy; but if the court thinks that the value of the debt or liability is capable of being fairly estimated, it may direct such value to be assessed with the consent of all the parties interested before the court itself without the intervention of a jury, or if such parties do not consent, by a jury, either before the court itself or some other competent court, and may give all necessary directions for such purpose, and the amount of such value when assessed shall be provable as a debt under the bankruptcy.

“Liability” shall for the purposes of this Act include any compensation for work or labour done, 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 such breach does or does not occur, or is or is not likely to occur, or capable of occurring, before the close of the bankruptcy, and generally it shall include any express or implied engagement, agreement or undertaking to pay, or capable of resulting in the payment of money or money’s worth, whether such payment be 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 assessable only by a jury, or as matter of opinion.

**30.** The debts hereinafter mentioned shall be paid in priority to all other debts. Between themselves such debts shall rank equally, 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, that is to say —

Preferential debts.

- (1) All debts due to the Crown whether as Crown revenues or on account of the Consolidated Fund of The Bahamas.

5 of 1987, s.2.

(2) All wages or salary of any clerk or servant in the employment of the bankrupt at the date of the order of adjudication, not exceeding four months' wages or salary, and not exceeding two hundred dollars; all wages of any labourer or workman in the employment of the bankrupt at the date of the order of adjudication and not exceeding two months' wages.

21 of 1972, s. 59  
and 5th Sch.  
Ch. 350.

(3) All contributions payable pursuant to the National Insurance Act.

Save as aforesaid, all debts provable under the bankruptcy shall be paid *pari passu*.

Preferential  
claim in case of  
apprenticeship.

**31.** Where at the time of the presentation of the petition for adjudication any person is apprenticed or is an articulated clerk to the bankrupt, the order of adjudication shall, if either the bankrupt or apprentice or clerk give notice in writing to the trustee to that effect, be a complete discharge of the indenture of apprenticeship or articles of agreement; and if any money has been paid by or on behalf of such 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 such trustee, subject to an appeal to the court, thinks reasonable, out of the bankrupt's property to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the indenture or articles before the commencement of the bankruptcy, and to the other circumstances of the case.

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

Power of  
landlord to  
distrain for rent.

**32.** 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



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for rent be levied after the commencement of the bankruptcy it shall be available only for one year's rent accrued due prior to the date of the order of adjudication, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the overplus due for which the distress may not have been available.

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

Proof in case of rent and periodical payment.

**34.** Interest on any debt provable in bankruptcy may be allowed by the trustee under the same circumstances in which interest would have been allowable by a jury if an action had been for such debt.

Interest on debts.

**35.** If any bankrupt is at the date of the order of adjudication liable in respect of distinct contracts as member of two or more distinct firms, or as a sole contractor, and also a member of a firm, the circumstance that such 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 such contracts, against the properties respectively liable upon such contracts.

Proof in respect of contracts.

**36.** The trustee, with the consent of the creditors, testified by a resolution passed in general meeting, may from time to time, during the continuance of the bankruptcy, make such allowance as may be approved by the creditors 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.

Allowance to bankrupt for maintenance or service.

**37.** Where there have been mutual credits, mutual debts or other mutual dealings between the bankrupt and any other person proving or claiming to prove a debt under his bankruptcy, an account shall be taken of what is due from the one party to the other, in respect of such mutual dealings, and the sum due from the one party shall

Set off.

be set off against any sum due from the other party, and the balance of such 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 bankrupt in any case where he had at the time of giving credit to the bankrupt notice of an act of bankruptcy committed by such bankrupt and available against him for adjudication.

Provision as to  
secured creditor.

**38.** A creditor holding a specific security on the property of the bankrupt, or on any part thereof, may, on giving up his security prove for his whole debt.

He shall also be entitled to a dividend in respect of the balance due to him after realising or giving credit for the value of his security, in manner and at the time prescribed.

A creditor holding a specific security as aforesaid and not complying with the foregoing conditions shall be excluded from all share in any dividend.

#### *Dividends*

Distribution of  
dividends.

**39.** The trustee shall from time to time, when the committee of inspection determines, declare a dividend amongst the creditors who have proved to his satisfaction debts provable in bankruptcy, and shall distribute the same accordingly; and in the event of his not declaring a dividend for the space of six months, he shall summon a meeting of the creditors, and explain to them his reasons for not declaring the same.

Provision for  
creditors residing  
at a distance, etc.

**40.** In the calculation and distribution of a dividend it shall be obligatory on the trustee to 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.

**41.** 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 moneys for the time being in the hand of the trustee any dividend or dividends he may have failed to receive before such moneys are made applicable to the payment of any future dividend or dividends; but he shall not be entitled to disturb the distribution of dividend declared before his debt was proved, by reason that he has not participated therein.

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

**42.** When the trustee has converted into money all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of inspection, be realised without needlessly protracting the bankruptcy, he shall declare a final dividend, and give notice of the time at which it will be distributed.

Final dividend.

**43.** The bankrupt shall be entitled to any surplus remaining after payment of his creditors, and of the costs, charges and expenses of the bankruptcy.

Bankrupt entitled to surplus.

**44.** No action or suit 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 the trustee to pay the same, and also to pay out of his own moneys interest thereon for the time that it is withheld, and the costs of the application.

No action for dividend.

#### *Close of Bankruptcy*

**45.** When the whole property of the bankrupt has been realised for the benefit of his creditors, or so much thereof as can, in the joint opinion of the trustee, and committee of inspection, be realised without needlessly protracting the bankruptcy, or a composition or arrangement has been completed, the trustee shall make a report accordingly to the court; and the court, if satisfied that the whole of the property of the bankrupt has been realised for the benefit of his creditors, or so much thereof as can be realised without needlessly protracting the bankruptcy, or that a composition or arrangement has been completed, shall make an order that the bankruptcy has closed, and the bankruptcy shall be deemed to have closed at and after the date of such order.

Close of bankruptcy.

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A copy of the order closing the bankruptcy may be published in the *Gazette*, and the production of a copy of such *Gazette* containing a copy of the order shall be conclusive evidence of the order having been made, and of the date and the contents thereof.

*Discharge of Bankrupt*

Order of  
discharge.

**46.** When a bankruptcy is closed, or at any time during its continuance, with the assent of the creditors testified by a special resolution, the bankrupt may apply to the court for an order of discharge; but such discharge shall not be granted unless it is proved to the court that one of the following conditions has been fulfilled, that is to say, either that a dividend of not less than fifty cents in the dollar has been paid out of his property, or might have been paid except through the negligence or fraud of the trustee, or that a special resolution of his creditors has been passed to the effect that his bankruptcy or the failure to pay fifty cents in the dollar has, in their opinion, arisen from circumstances for which the bankrupt cannot justly be held responsible, and that they desire that an order of discharge should be granted to him; and the court may suspend for such time as it deems to be just, or withhold altogether, the order of discharge in the circumstances following; namely, if it appears to the court on the representation of the creditors made by special resolution, of the truth of which representation the court is satisfied, or by other sufficient evidence, that the bankrupt has made default in giving up to his creditors the property which he is required by this Act to give up; or that a prosecution has been commenced against him in pursuance of the provisions relating to the punishment of fraudulent debtors, contained in the Debtors Act, in respect of any offence alleged to have been committed by him against the said Act.

5 of 1987, Sch.

Ch. 70.

Effect of order of  
discharge.

**47.** An order of discharge shall not release the bankrupt from any debt or liability incurred by means of any fraud or breach of trust, nor from any debt or liability whereof he has obtained forbearance by any fraud, but it shall release the bankrupt from all other debts provable under the bankruptcy with the exception of —

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- (1) debts due to the Crown;
  - (2) debts with which the bankrupt stands charged at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the Provost Marshal or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence.

An order of discharge shall be sufficient evidence of the bankruptcy, and of the validity of the proceedings thereon, 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 such order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

**48.** The order of discharge shall not release any person who, at the date of the order of adjudication, was a partner with the bankrupt, or was jointly bound or had made any joint contract with him.

Exception of joint debtors.

#### *Release of Trustee*

**49.** When the bankruptcy is closed the trustee shall call a meeting of the creditors to consider an application to be made to the court for his release. At the meeting the trustee shall lay before the assembled creditors an account showing the manner in which the bankruptcy has been conducted, with a list of the unclaimed dividends, if any, and of the property, if any, outstanding, and shall inform the meeting that he proposes to apply to the court for a release.

Release of trustee.

The creditors assembled at the meeting may express their opinion as to the conduct of the trustee, and they, or any of them, may appear before the court and oppose the release of the trustee.

The court, after hearing what, if anything, can be urged against the release of the trustee, shall grant or withhold the release accordingly, and if it withholds the release shall make such order as it thinks just, charging the trustee with the consequences of any act or default he may

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have done or made contrary to his duty, and shall suspend his release until such charging order has been complied with, and the court thinks just to grant the release of the trustee.

Duty of trustee as to unclaimed dividends and outstanding property.

**50.** Unclaimed dividends, and any other moneys arising from the property of the bankrupt, remaining under the control of the trustee at the close of the bankruptcy of any bankrupt, or accruing thereafter, shall be accounted and paid over to such account as may be directed by the rules; and any parties entitled thereto may claim the same in manner directed by the rules. The trustee shall also deliver a list of any outstanding property of the bankrupt to the prescribed persons, and the same shall, when practicable, be got in and applied for the benefit of the creditors in manner prescribed.

Effect of release of trustee.

**51.** The order of the court releasing the trustee of a bankruptcy 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 of such bankrupt, but such order may be revoked by the court on proof that it was obtained by fraud.

*Status of Undischarged Bankrupt*

Status of undischarged bankrupt.

**52.** Where a person who has been made a bankrupt has not obtained his discharge, then, from and after the close of his bankruptcy, the following consequences shall ensue —

- (1) no portion of a debt provable under the bankruptcy shall be enforced against the property of the person so made bankrupt until the expiration of three years from the close of the bankruptcy; and during that time, if he pays to his creditors such additional sum as will, with the dividend paid out of his property during the bankruptcy, make up fifty cents in the dollar, he shall be entitled to an order of discharge in the same manner as if a dividend of fifty cents in the dollar had originally been paid out of his property;

50 of 1987, Sch.

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- (2) at the expiration of a period of three years from the close of the bankruptcy, if the debtor made bankrupt has not obtained an order of discharge, any balance remaining unpaid in respect of any debt proved in such bankruptcy (but without interest in the meantime) shall be deemed to be a subsisting debt in the nature of a judgment debt, and, subject to the rights of any persons who have become creditors of the debtor since the close of his bankruptcy, may be enforced against any property of the debtor, with the sanction of the court which adjudicated such debtor a bankrupt, or of the court having jurisdiction in bankruptcy in the place where the property is situated, but to the extent only, and at the time and in manner directed by such court, and after giving such notice and doing such acts as may be prescribed in that behalf.

*Audit*

**53.** The trustee, having had his quarterly statement of accounts audited by the committee of inspection, shall, within the prescribed time, forward the certified statement in the prescribed form to the Registrar, and if he fails to do so he shall be deemed guilty of a contempt of court to be punishable accordingly.

Return of  
statement to  
Registrar.

**54.** Every trustee of a bankrupt shall from time to time as may be prescribed, and not less than once in every year during the bankruptcy, transmit to the Registrar a statement showing the proceedings in such bankruptcy up to the date of the statement containing the prescribed particulars, and made out in the prescribed form; and any trustee failing to transmit accounts in compliance with this section shall be deemed guilty of a contempt of court, and be punishable accordingly.

Return of  
accounts to  
Registrar.

**55.** The Registrar shall examine the statements transmitted to him, and shall call the trustee to account for any misfeasance, neglect or omission which may appear on such statements, and may require the trustee to make good any loss the estate of the bankrupt may have sustained by such misfeasance, neglect or omission. If the

Duty of  
Registrar.

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trustee fails to comply with such requisition of the Registrar, the Registrar may report the same to the court; and the court, after hearing the explanation, if any, of the trustee, shall make such order in the premises as it thinks just.

Powers of Registrar.

**56.** The Registrar may at any time require any trustee to answer any inquiry made by him in relation to any bankruptcy in which such trustee is engaged, and may, if he thinks fit, apply to the court to examine on oath such trustee or any other person concerning such bankruptcy; he may also direct a local investigation to be made of the books and vouchers of the trustee.

### **PART III CONSTITUTION AND POWERS OF COURT**

#### *Description of Court*

A judge's powers in chambers.

**57.** A judge may sit in chambers, and when in chambers shall have the same jurisdiction and exercise the same power as if sitting in open court.

Court may delegate authority.

**58.** The court may, subject and in accordance with the rules, delegate to the Registrar or any other officer of the court such of the powers vested in it by this Act as it may be expedient for the court to delegate to him.

Powers of court.

**59.** Subject to the provisions of this Act, the court shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, arising in any case of bankruptcy coming within the cognisance of such 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; and no such court as aforesaid shall be subject to be restrained in the execution of its powers under this Act by the order of any other court, nor shall any appeal lie from its decisions, except in manner directed by this Act; and if in any proceedings in bankruptcy there arises any question of fact which the parties desire to be tried before a jury instead of by the court itself, or which the court thinks ought to be tried by a



jury, the court may direct such trial to be had, and such trial may be had accordingly in the court in the same manner in which jury trials in ordinary cases are by law held in such court.

**60.** Any search warrant issued by the court for the discovery of any property of a bankrupt may be executed 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.

Search warrants.

**61.** Where the court commits any person to prison, the commitment may be to such convenient prison as the court thinks expedient; and if the gaoler of any prison refuses to receive any prisoner so committed, he shall be liable for every refusal to a penalty of four hundred dollars.

Commitment to prison.  
5 of 1987, s.2.

## PART IV SUPPLEMENTAL PROVISIONS

### *As to Proceedings*

**62.** The following provisions shall apply with respect to proceedings in bankruptcy —

Supplemental provisions as to proceedings in bankruptcy.

- (1) every bankruptcy petition shall be accompanied by an affidavit of the petitioner in the prescribed form, verifying the statements contained in such petition;
- (2) where two or more bankruptcy petitions are presented against the same debtor, or against debtors being members of the same partnership, the court may consolidate the proceedings or any of them, upon such terms as the court thinks fit;
- (3) 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;
- (4) a corporation may prove a debt, vote and otherwise act in bankruptcy, by an agent duly authorised under the seal of the corporation;

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- (5) a creditor may, in the prescribed manner, by instrument in writing, appoint a person to represent him in all matters relating to any debtor or his affairs in which a creditor is concerned in pursuance of this Act, and such representative shall thereupon, for all the purposes of this Act, stand in the same position as the creditor who appointed him;
  - (6) when a debtor who has been adjudicated a bankrupt dies, the court may order that the proceedings in the matter be continued as if he were alive;
  - (7) the court may, at any time, on proof to its satisfaction that proceedings in bankruptcy ought to be stayed, by reason that negotiations are pending for the liquidation of the affairs of the bankrupt by arrangement or for the acceptance of a composition by the creditors in pursuance of the provisions hereinafter contained, or on proof to its satisfaction of any other sufficient reason for staying the same, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the court may think just.

Consequences of annulling of adjudication.

**63.** Whenever any adjudication in bankruptcy is annulled all sales and dispositions of property and payments duly made, and all acts theretofore done, by the trustee or any person acting under his authority, or by the court, shall be valid, but the property of the debtor who was adjudged a bankrupt shall in such case vest in such person as the court may appoint, or in default of any such appointment revert to the bankrupt for all his estate or interest therein upon such terms and subject to such conditions, if any, as the court may declare by order. A copy of the order of the court annulling the adjudication of a debtor as a bankrupt shall be forthwith published in the *Gazette* and notified locally in the prescribed manner, and the production of a copy of the *Gazette* containing such order shall be conclusive evidence of the fact of the adjudication having been annulled, and of the terms of the order annulling the same.

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**64.** No proceedings in bankruptcy shall be invalidated by any formal defect or by any irregularity unless the court before which an objection is made to such proceedings is of opinion that substantial injustice has been caused by such defect or irregularity, and that such injustice cannot be remedied by any order of such court.

Formal defects not to invalidate proceedings.

*As to Trustees and Committee of Inspection*

**65.** The following provisions shall apply with respect to the trustee and committee of inspection —

Provisions as to trustee, etc.

- (1) the creditors may, if they think fit, appoint more persons than one to the office of trustee, and when more 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. 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;
- (2) if any vacancy occurs in the office of trustee by death, resignation or otherwise, the creditors in general meeting shall fill up such vacancy, and a general meeting for the purpose of filling up such vacancy may be convened by the continuing trustee, if there be more than one, or by the Registrar on the requisition of any creditor;
- (3) if, through any cause whatever, there is no trustee acting during the continuance of a bankruptcy, the Registrar shall act as such trustee;
- (4) the court may, upon cause shown, remove any trustee. The creditors may, by special resolution at a meeting specially called for that purpose, of which seven days’ notice has been given, remove the trustee and appoint another person to fill his office, and the court shall give a certificate declaring him to be the trustee;

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- (5) if a trustee be adjudged bankrupt, he shall cease to be trustee, and the Registrar shall, if there be no other trustee, call a meeting of creditors for the appointment of another trustee in his place;
  - (6) the property of the bankrupt shall pass from trustee to trustee, including under that term the Registrar 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;
  - (7) the trustee of a bankrupt may sue and be sued by the official name of the “trustee of the property of \_\_\_\_\_ a bankrupt,” inserting the name of the bankrupt, and by that name may hold property of every description, make contracts, sue and be sued, enter into any engagements binding upon himself and his successors in office and do all other acts necessary or expedient to be done in the execution of his office;
  - (8) the certificate of appointment of a trustee shall, for all purposes of any law in force in any part of the Commonwealth requiring registration, enrolment or recording of conveyances or assignments of property be deemed to be a conveyance or assignment of property, and may be registered, enrolled and recorded accordingly;
  - (9) any member of the committee of inspection may resign his office by notice in writing signed by him, and delivered to the trustee;
  - (10) the creditors may by resolution fix the quorum required to be present at a meeting of the committee of inspection;
  - (11) any member of the committee of inspection may also be removed by a special resolution at any meeting of creditors of which the prescribed notice has been given, stating the object of the meeting;
  - (12) on any vacancy occurring in the office of a member of the committee of inspection by removal, death, resignation or otherwise, the trustee shall convene a meeting of creditors for the purpose of filling up such vacancy;

*43 of 1964, Third  
Sch.*

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- (13) the continuing members of the committee of inspection may act, notwithstanding any vacancy in their body; and where the number of members of the committee of inspection is for the time being less than five, the creditors may increase that number so that it does not exceed five;
  - (14) no defect or irregularity in the election of a trustee or of a member of the committee of inspection shall vitiate any act *bona fide* done by him; and no act or proceeding of the trustee or of the creditors shall be invalid by reason of any failure of the creditors to elect all or any members of the committee of inspection;
  - (15) if a member of the committee of inspection becomes a bankrupt his office shall thereupon become vacant;
  - (16) where there is no committee of inspection, any act or thing or any direction or consent by this Act authorised or required to be done or given by such committee may be done or given by the court on the application of the trustee.

**66.** The Registrar may adjourn the first meeting of creditors from time to time and from place to place, subject to the directions of the court; but if at such first meeting of creditors or at some adjournment thereof no trustee is appointed by reason of the prescribed quorum not being present, or for any other reason whatever, the court may annul the adjudication, unless it deems it expedient to carry on the bankruptcy, with the aid of the Registrar as trustee. Moreover, if at any time during the bankruptcy no new trustee is appointed to fill a vacancy in that office, the court may either carry on the bankruptcy with the aid of the Registrar as trustee or annul the order of adjudication, as it thinks just.

Power of court on failure of creditors to appoint trustee.

*As to Power over Bankrupt*

**67.** The court, upon the application of the trustee, may from time to time order that, for such time as the court thinks fit, not exceeding three months from the date of the order of adjudication, post letters addressed to the

Post letters addressed to bankrupt.

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bankrupt at any place or any of the places mentioned in the order, shall be re-directed, sent or delivered by the postmaster or the officers acting under him, to the trustee or otherwise as the court directs, and the same shall be done accordingly.

Arrest of  
bankrupt under  
certain  
circumstances.

**68.** The court may, by warrant addressed to any peace officer or prescribed officer of the court, cause a debtor to be arrested, and any books, papers, moneys, goods and chattels in his possession to be seized, and him and them to be safely kept as prescribed until such time as the court may order, under the following circumstances —

- (1) if, after a petition of bankruptcy is presented against such debtor, it appears to the court that there is probable reason for believing that he is about to go abroad or to quit his place of residence with a view of avoiding service of the petition, or of avoiding appearing to the petition or of avoiding examination in respect of his affairs, or otherwise delaying or embarrassing the proceedings in bankruptcy;
- (2) if, after a petition in bankruptcy has been presented against such debtor, it appears to the court that there is probable cause for believing that he 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, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods or chattels, or any books, documents or writings which might be of use to his creditors in the course of his bankruptcy;
- (3) if, after the service of the petition on such debtor, or after an adjudication in bankruptcy against him, he removes any goods or chattels in his possession above the value of twenty dollars, without the leave of the trustee, or if, without good cause shown, he fails to attend any examination ordered by the court.

*5 of 1987, s.2.*

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*As to Property Devolving upon Trustee*

**69.** Where the goods of any trader have been taken into execution in respect of a judgment for a sum exceeding two hundred dollars and sold, the Provost Marshal shall retain the proceeds of such sale in his hands for a period of fourteen days, and upon notice being served on him within that period of a bankruptcy petition having been presented against such trader, shall hold the proceeds of such sale, after deducting expenses, on trust to pay the same to the trustee; but if no notice of such petition having been presented be served on him within such period of fourteen days, or if, such notice having been served, the trader against whom the petition has been presented is not adjudged a bankrupt on such petition, or on any other petition of which the Provost Marshal has notice, he may deal with the proceeds of such sale in the same manner as he would have done had no notice of the presentation of a bankruptcy petition been served on him.

Proceeds of sale and seizure of goods.  
*5 of 1987, s.2.*

**70.** Where a bankrupt is in the receipt of a salary or income, however derived, the court, upon the application of the trustee, shall from time to time make such order as it thinks just for the payment of such salary or income, or of any part thereof, to the trustee during the bankruptcy, and to the Registrar, if necessary, after the close of the bankruptcy, to be applied by him in such manner as the court may direct.

Appropriation of portion of salary to creditors.

**71.** Any settlement of property made by a trader not being a settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife, shall, if the settlor become bankrupt within two years after the date of such settlement, be void as against the trustee of the bankrupt appointed under this Act, and shall, if the settlor becomes bankrupt at any subsequent time within ten years after the date of such settlement, unless the parties claiming under such settlement can prove that the settlor was at the time of making the settlement able to pay all his debts without the aid of

Avoidance of voluntary settlements.

the property comprised in such settlement, be void against such trustee. Any covenant or contract made by a trader, in consideration of marriage, for the future settlement upon or for his wife or children of any money or property wherein he had not at the date of his marriage any estate or interest, whether vested or contingent in possession or remainder, and not being money or property of or in right of his wife, shall, upon his becoming bankrupt before such property or money has been actually transferred or paid pursuant to such contract or covenant, be void against his trustee appointed under this Act.

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

Avoidance of  
fraudulent  
preferences.

**72.** 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 moneys in favour of any creditor, or any person in trust for any creditor, with a view of giving such creditor a preference over the other creditors, shall if the person making, taking, paying or suffering the same becomes bankrupt, within three months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee of the bankrupt appointed under this Act; but this section shall not affect the rights of a purchaser, payee or incumbrancer in good faith and for valuable consideration.

Payment of  
money by agents  
to trustee.

**73.** Any treasurer or other officer, or any banker, attorney, or agent of a bankrupt, shall pay and deliver to the trustee all moneys and securities in his possession or power, as such officer or agent, if he be not by law entitled to retain them as against the bankrupt or the trustee; if he do not he shall be guilty of a contempt of court, and may be punished accordingly on the application of the trustee.

Protection of  
certain  
transactions with  
bankrupt.

**74.** Nothing in this Act contained shall render invalid —

- (1) any payment made in good faith and for value received to any bankrupt before the date of the order of adjudication by a person not having at the time of such payment notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication;



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- (2) any payment or delivery of money or goods belonging to a bankrupt, made to such bankrupt by a depositary of such money or goods before the date of the order of adjudication, who had not at the time of such payment or delivery notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication;
  - (3) any contract or dealing with any bankrupt, made in good faith and for valuable consideration, before the date of the order of adjudication, by a person not having, at the time of making such contract or dealing, notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication.

**75.** Subject and without prejudice to the provisions of this Act relating to the proceeds of the sale and seizure of goods of a trader, and to the provisions of this Act avoiding certain settlements, and avoiding, on the ground of their constituting fraudulent preferences, certain conveyances, charges, payments and judicial proceedings, the following transactions by and in relation to the property of a bankrupt shall be valid, notwithstanding any prior act of bankruptcy —

Protection of certain transactions entered into by or in relation to the property of the bankrupt.

- (1) any disposition or contract with respect to the disposition of property by conveyance, transfer, charge, delivery of goods, payment of money, or otherwise howsoever made by any bankrupt in good faith and for valuable considerations, before the date of the order of adjudication, with any person not having at the time of the making of such disposition of property notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication;
- (2) any execution or attachment against the land of the bankrupt, executed in good faith by seizure before the date of the order of adjudication, if the person on whose account such execution or attachment was issued had not at the time of the same being so executed by seizure, notice of any act of bankruptcy committed by the bankrupt and available against him for adjudication;

- (3) any execution or attachment against the goods of any bankrupt, executed in good faith by seizure and sale before the date of the order of adjudication, if the person on whose account such execution or attachment was issued had not at the time of the same being executed by seizure and sale notice of any act of bankruptcy committed by the bankrupt and available against him for adjudication.

Protection of transactions within designated systems.

5 of 2012, s. 2.

**75A.** (1) Notwithstanding any other provision of this Act or any prior act of bankruptcy by a bankrupt, transactions in relation to the property of a bankrupt shall be valid where such transactions consist of —

- (a) any entry to or payment out of the account of a bankrupt at the Central Bank, made prior to the date the order is made adjudging the account holder a bankrupt, which is in accordance with the system rules of a designated system final, irrevocable and irreversible;
- (b) any grant by a bankrupt, made prior to the date of adjudication of bankruptcy, of any collateral to a participant, clearing house, central counter-party or the Bank as security for a payment, or the performance of an obligation, incurred in a designated system.
- (2) For the purposes of this section, “designated system”, “participant”, “clearing house”, “central counter-party” or “the Bank” have the meanings assigned to them under the Payment Systems Act.
- (3) A court shall not grant a stay, provision or order under this Act except in accordance with the system rules and finality of payment provisions of Part III of the Payment Systems Act.

Ch. 351A.

Ch. 351A.

Non-recognition of insolvency order of foreign court.

5 of 2012, s. 2.

**75B.** Notwithstanding any provision of any other written law or rule of law, a court in The Bahamas shall not recognise or give effect to an order of a court outside The Bahamas exercising jurisdiction under the law of insolvency to the extent that the making of or contents of that order would be inconsistent with or contrary to the provisions of the Payment Systems Act.

Ch. 351A.

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*As to Discovery of Bankrupt's Property*

**76.** The court may, on the application of the trustee, at any time after an order of adjudication has been made against a bankrupt, summon before it the bankrupt or his wife, or any person whatever known or suspected to have in his possession any of the estate or effects belonging to the bankrupt, or supposed to be indebted to the bankrupt, or any person whom the court may deem capable of giving information respecting the bankrupt, his trade dealings or property, and the court may require any such person to produce any documents in his custody or power relating to the bankrupt, his dealings or property; and 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 such documents, having no lawful impediment made known to the court at the time of its sitting and allowed by it, the court may, by warrant addressed as aforesaid, cause such person to be apprehended and brought up for examination.

Power of court to summon persons before it suspected of having property of bankrupt.

**77.** The court may examine upon oath, either by word of mouth or by written interrogatories, any person so brought before it in manner aforesaid concerning the bankrupt, his dealings or property.

Examination of parties by court.

**78.** If any person on examination before the court admits he is indebted to the bankrupt, the court may, on the application of the trustee, order him to pay to the 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 of court for payment of amount admitted on examination.

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**79.** Any person acting under warrant of the court may seize any property of the bankrupt divisible amongst his creditors under this Act, and in the bankrupt's custody or possession, or in that of any other person, and with a view to such seizure may break open any house, building or room of the bankrupt where the bankrupt is supposed to be, or any building or receptacle of the bankrupt where any of his property is supposed to be; and where the court is satisfied that there is reason to believe that property of the bankrupt is concealed in a house or place not belonging to him, the court may, if it thinks fit, grant a search warrant to any peace officer or prescribed officer of the court, who may execute the same according to the tenor thereof.

Seizure of property of bankrupt.

*Joint and Separate Estates*

**80.** Any creditor, whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm, may present such petition against any one or more partners of such firm without including the others.

One partner may be petitioned against.

**81.** 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.

Dismissal of petition against some respondents.

**82.** Where one member of a partnership has been adjudicated a bankrupt, any other petition for adjudication against a member of the same partnership shall be filed in or transferred to the court in which the first-mentioned petition is in course of prosecution, and unless the court otherwise directs the property of such last-mentioned member shall vest in the trustee appointed in respect of the property of the first-mentioned member of the partnership, and the court may give such directions for amalgamating the proceedings in respect of the properties of the members of the same partnership as it thinks just.

Property of partners to be vested in same trustee.

**83.** If one partner of a firm is adjudged bankrupt, any creditor to whom the bankrupt 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,

Joint creditor may prove for purpose of voting.

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and shall be entitled to vote thereat, but 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.

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

Suits by trustees and bankrupt's partners.

**85.** Where a member of a partnership is adjudged bankrupt, the court may authorise the trustee, with consent of the creditors, certified by a special resolution, to commence and prosecute any action or suit 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 or suit relates, shall be void; but notice of the application for authority to commence the action or suit shall be given to such partner, and he may show cause against it; and on his application the court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action or suit, and if he does not claim any benefit therefrom, he shall be indemnified against costs in respect thereof as the court directs.

#### *Evidence*

Evidence of proceedings at meeting of creditors.

**86.** The Registrar, or any other person presiding at a meeting of creditors under this Act, shall cause minutes to be kept and duly entered in a book of all resolutions and proceedings of such meeting, and any such minutes, as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had, shall be received as evidence in all legal proceedings, and until the contrary is proved every general meeting of the creditors in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had to have been duly passed and had.

**87.** Any petition or copy of a petition in bankruptcy, any order or copy of an order made by any court having jurisdiction in bankruptcy, any certificate or copy of a certificate made by any court having jurisdiction in bankruptcy, any deed or copy of a deed of arrangement in bankruptcy, and any other 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, may, if any such instrument as aforesaid or copy of an instrument, appears to be sealed with the seal of any court having jurisdiction, or purports to be signed by any judge having jurisdiction in bankruptcy under this Act, be receivable in evidence in all legal proceedings whatever.

Evidence of proceedings in bankruptcy.

**88.** In the case of the death of the bankrupt or his wife, or of a witness whose evidence has been received by any 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.

Death of witness.

#### *Miscellaneous*

**89.** Any person to whom any thing in action belonging to the bankrupt is assigned in pursuance of this Act may bring or defend any action or suit relating to such thing in action in his own name.

Power of assignee to sue.

**90.** 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 such contract, without the joinder of the bankrupt.

Saving as to joint contracts.

**91.** Every deed, conveyance, assignment, surrender, admission 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 such deed, conveyance, assignment, surrender, admission or other assurance, either at law or in equity, is or remains the estate of the bankrupt or of the trustee under the

Exemption of deeds, etc., from stamp duty.

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 (except in respect of fees under this Act).

Computation of time.

**92.** Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of such limited time the same shall be taken as exclusive of the day of such date or of the happening of such event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of such limited time according to such computation, unless such last day is a public holiday, in which case, any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being a public holiday.

Where by this Act any act or proceeding is directed to be done or taken on a certain day, then if that day happens to be a public holiday, such act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being a public holiday.

Removal of bankrupt from trusteeship.

**93.** Where a bankrupt is a trustee 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.

A debtor may petition against himself.

**94.** A debtor may petition for an adjudication of bankruptcy against himself, and the proceedings on such petition shall be, where not herein provided for, such as may be prescribed by the rules.

## PART V

### PERSONS HAVING PRIVILEGE OF PARLIAMENT

Privilege no exemption.

**95.** If a person having privilege as a member either of the Senate or House of Assembly commits an act of bankruptcy he may be dealt with under this Act in like manner as if he had not such privilege.



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**PART VI**  
**LIQUIDATION BY ARRANGEMENT**

**96.** The following provisions shall apply with respect to the liquidation by arrangement of the affairs of the debtor —

Provisions as to liquidation by arrangement.

- (1) a debtor unable to pay his debts may summon a general meeting of his creditors, and such meeting may, by a special resolution as defined by this Act, declare that the affairs of the debtor are to be liquidated by arrangement and not in bankruptcy, and may at that or some subsequent meeting, held at an interval of not more than a week, appoint a trustee, with or without a committee of inspection;
- (2) all the provisions of this Act relating to a first meeting of creditors, and to subsequent meeting of creditors in the case of a bankruptcy, including the description of creditors entitled to vote at such meetings, and the debts in respect of which they are entitled to vote, shall apply respectively to the first meeting of creditors, and to subsequent meetings of creditors, for the purposes of this section, subject to the following modifications —
  - (a) that every such meeting shall be presided over by such chairman as the meeting may elect;
  - (b) that no creditor shall be entitled to vote until he has proved by a statutory declaration a debt provable in bankruptcy to be due to him, and the amount of such debt, with any prescribed particulars; and any person wilfully making a false declaration in relation to such debt shall be guilty of a misdemeanour;
- (3) the debtor, unless prevented by sickness or other cause satisfactory to such meeting, shall be present at the meeting at which the special resolution is passed, and shall answer any inquiries made of him, and he, or if he is so prevented from being at such meeting, someone on his behalf shall produce to the meeting a statement showing the whole of his assets and debts and the names and addresses of the creditors to whom his debts are due;

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- (4) the special resolution, together with the statement of the assets and debts of the debtor, and the name of the trustee appointed, and of the members, if any, of the committee of inspection, shall be presented to the Registrar, and it shall be his duty to inquire whether such resolution has been passed in manner directed by this section, but if satisfied that it was so passed, and that a trustee has been appointed with or without a committee of inspection, he shall forthwith register the resolution and the statement of the assets and debts of the debtor, and such resolution and statement shall be open for inspection on the prescribed conditions, and the liquidation by arrangement shall be deemed to have commenced as from the date of the appointment of the trustee;
  - (5) all such property of the debtor as would, if he were made bankrupt, be divisible amongst his creditors shall, from and after the date of the appointment of a trustee, vest in such trustee under a liquidation by arrangement, and be divisible amongst the creditors, and all such settlements, conveyances, transfers, charges, payments, obligations and proceedings, as would be void against the trustee in the case of a bankruptcy, shall be void against the trustee in the case of liquidation by arrangement;
  - (6) the certificate of the Registrar in respect of the appointment of any trustee in the case of a liquidation by arrangement shall be of the same effect as a certificate of the court to the like effect in the case of a bankruptcy;
  - (7) the trustee under a liquidation shall have the same powers, and perform the same duties, as a trustee under a bankruptcy, and the property of the debtor shall be distributed in the same manner as in a bankruptcy; and, with the modification hereinafter mentioned, all the provisions of this Act shall, so far as the same are applicable, apply to the case of liquidation by arrangement in the same manner as if the word “bankrupt” included a debtor whose affairs are under liquidation, and the word “bankruptcy”

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- included liquidation by arrangement; and in construing such provisions the appointment of a trustee under a liquidation shall, according to circumstances, be deemed to be equivalent to and a substitute for the presentation of a petition in bankruptcy, or the service of such petition or an order of adjudication in bankruptcy;
- (8) the creditors at their first or any general meeting may prescribe the bank into which the trustee is to pay any moneys received by him and the sum which he may retain in his hands;
  - (9) the provisions of this Act with respect to the close of the bankruptcy, discharge of a bankrupt, to the release of the trustee, and to the audit of accounts by the Registrar, shall not apply in the case of a debtor whose affairs are under liquidation by arrangement; but the close of the liquidation may be fixed, and the discharge of the debtor and the release of the trustee may be granted, by a special resolution of the creditors in general meeting, and the accounts may be audited in pursuance of such resolution, at such time and in such manner and upon such terms and conditions as the creditors think fit;
  - (10) the trustee shall report to the Registrar the discharge of the debtor, and a certificate of such discharge given by the Registrar shall have the same effect as an order of discharge given to a bankrupt under this Act;
  - (11) rules may be made in relation to proceedings on the occasion of liquidation by arrangement, in the same manner and to the same extent and of the same authority as in respect to proceedings in bankruptcy;
  - (12) if it appears to the court, on satisfactory evidence, that the liquidation by arrangement cannot, in consequence of legal difficulties, or of there being no trustee for the time being, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, the court may adjudge the debtor a bankrupt, and proceedings may be had accordingly;

- (13) where no committee of inspection is appointed, the trustee may act in his own discretion in cases where he would otherwise have been bound to refer to such committee;
- (14) in calculating a majority, on a special resolution for the purposes of this section, creditors whose debts amount to sums not exceeding forty dollars shall be reckoned in the majority in value, but not in the majority in number.

*5 of 1987, s. 2.*

## **PART VII COMPOSITION WITH CREDITORS AND MISCELLANEOUS**

Provisions as to  
composition by  
creditors.

**97.** The creditors of a debtor unable to pay his debts may, without any proceedings in bankruptcy, by an extraordinary resolution, resolve that a composition shall be accepted in satisfaction of the debts due to them from the debtor.

An extraordinary resolution of creditors shall be a resolution which has been passed by a majority in number and three-fourths in value of the creditors of the debtor, assembled at a general meeting to be held in the manner prescribed, of which notice has been given in the prescribed manner, and has been confirmed by a majority in number and value of the creditors assembled at a subsequent general meeting, of which notice has been given in the prescribed manner, and held at an interval of not less than seven days or more than fourteen days from the date of the meeting at which such resolution was first passed.

In calculating a majority for the purposes of a composition under this section, creditors whose debts amount to sums not exceeding forty dollars shall be reckoned in the majority in value, but not in the majority in number, and the value of the debts of secured creditors shall, as nearly as circumstances admit, be estimated in the same way, and the same description of creditors shall be entitled to vote at such general meetings as in bankruptcy.

*5 of 1987, s. 2.*

The debtor, unless prevented by sickness or other cause satisfactory to such meetings, shall be present at both the meetings at which the extraordinary resolution is passed, and shall answer any inquiries made of him, and

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he, or if he is so prevented from being at such meetings, some one on his behalf, shall produce to the meetings a statement showing the whole of his assets, and debts, and the names and addresses of the creditors to whom such debts respectively are due.

The extraordinary resolution, together with the statement of the debtor as to his assets and debts, shall be presented to the Registrar, and it shall be his duty to inquire whether such resolution has been passed in manner directed by this section, and if satisfied that it has been so passed he shall forthwith register the resolution and statement of assets and debts, but until such registration has taken place such resolution shall be of no validity; and any creditor of the debtor may inspect such statement at prescribed times, and on payment of such fee, if any, as may be prescribed.

The creditors may by an extraordinary resolution add to or vary the provisions of any composition previously accepted by them, without prejudice to any persons taking interest undo such provisions who do not assent to such addition or variation; and any such extraordinary resolution shall be presented to the Registrar in the same manner and with the same consequences as the extraordinary resolution by which the composition was accepted in the first instance.

The provisions of a composition accepted by an extraordinary resolution in pursuance of this section shall be binding on all the creditors whose names and addresses, and the amount of the debts due to whom, are shown in the statement of the debtor produced to the meetings at which the resolution was passed, but shall not affect or prejudice the rights of any other creditors.

Where a debt arises on a bill of exchange or promissory note, if the debtor is ignorant of the holder of any such bill of exchange or promissory note, he shall be required to state the amount of such bill or note, the date on which it falls due, the name of the acceptor or person to whom it is payable, and any other particulars within his knowledge respecting the same, and the insertion of such particulars shall be deemed a sufficient description of the creditor of the debtor in respect of such debt, and any mistake made inadvertently by a debtor in the statement of

his debts may be corrected after the prescribed notice has been given, with the consent of a general meeting of his creditors.

The provisions of any composition made in pursuance of this section may be enforced by the court on a motion made in a summary manner by any person interested, and any disobedience of the order of the court made on such motion shall be deemed to be a contempt of court.

Rules may be made in relation to proceedings on the occasion of the acceptance of a composition by an extraordinary resolution of creditors in the same manner and to the same extent and of the same authority as in respect of proceedings in bankruptcy.

If it appears to the court, on satisfactory evidence, that a composition under this section cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, the court may adjudge the debtor a bankrupt, and proceedings may be had accordingly.

Registration of resolutions of creditors conclusive in certain cases.

**98.** The registration by the Registrar of a special resolution of the creditors on the occasion of a liquidation by arrangement under Part VI of this Act, or of an extraordinary resolution of the creditors on the occasion of a composition under Part VII of this Act, shall, in the absence of a fraud, be conclusive evidence that such resolutions respectively were duly passed and all the requisitions of this Act in respect of such resolutions complied with.

Arrest of debtor.

**99.** The court may, by warrant addressed to any peace officer or prescribed officer of the court, cause a debtor to be arrested and safely kept as prescribed, until such time as the court may order, if, after a debtor's summons has been granted in the manner prescribed by this Act, and before a petition of bankruptcy can be presented against him, it appears to the court that there is probable reason for believing that he is about to quit The Bahamas or depart from New Providence, with a view of avoiding payment of the debt for which the summons has been granted, or of avoiding service of a petition of bankruptcy, or of avoiding appearing to such petition, or of avoiding examination in respect of his affairs, or otherwise avoiding, delaying or embarrassing proceedings in bankruptcy:

Provided that nothing herein contained shall be construed to alter or qualify the right of the debtor to apply to the court in the prescribed manner to dismiss the said summons as in this Act is provided, or to pay, secure or compound for the said debt within the time by this Act provided, without being deemed to have committed an act of bankruptcy:

*5 of 1871, s. 1.*

Provided also that upon any such payment or composition being made, or such security offered as the court shall think reasonable, the said debtor shall be discharged out of custody, unless the court shall otherwise order.

**100.** No arrest shall be valid or protected under this Act unless the debtor, before or at the time of his arrest, shall be served with the debtor's summons.

When arrest not valid.  
*5 of 1871, s. 2.*

**101.** No payment or composition of a debt made, or security for the same given after an arrest made under this Act, shall be exempted from the provisions of this Act relating to fraudulent preferences.

Security for debt given after arrest.  
*5 of 1871, s.3.*

**102.** It shall be lawful for rules of court to be made under section 76 of the Supreme Court Act for the purpose of generally carrying into effect the provisions of this Act and for prescribing fees in relation to any matter arising under the Act or the said rules of court.

Rules.  
Ch. 53.  
*46 of 1964, Sch.*

## SCHEDULE (Section 2)

### DESCRIPTION OF TRADERS

Apothecaries, auctioneers, bankers, brokers, builders, carpenters, carriers, inn keepers, tavern keepers, hotel keepers, coffee house keepers, lime burners, livery stable keepers, printers, shipowners, shipwrights, victuallers, warehousemen, wharfingers, persons insuring ships or their freight or other matters against perils of the sea, persons using the trade of merchandise by way of bargaining, exchange, bartering, commission, consignment, or otherwise, in gross or by retail, and persons who, either for themselves or as agents or factors for others, seek their living by buying and selling or buying and letting for hire goods or commodities, or by the workmanship or the conversion of goods or commodities; but a farmer, grazier, common labourer, or workman for hire, shall not, nor shall a member of any partnership, association, or company which cannot be adjudged bankrupt under this Act, be deemed as such a trader for the purposes of this Act

