

**BANKRUPTCY AND INSOLVENCY ACT**

**CHAPTER 9:70**

**Act**  
**26 of 2007**

**Current Authorised Pages**

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**LAWS OF TRINIDAD AND TOBAGO**

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

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**Chap. 9:70**

*Bankruptcy and Insolvency*

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**Note on Commencement**

At the date of Revision of this Act, Part XI was awaiting proclamation.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

**CHAPTER 9:70**

**BANKRUPTCY AND INSOLVENCY ACT**

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**CHAPTER 9:70**

**BANKRUPTCY AND INSOLVENCY ACT**

**An Act to revise the law relating to bankruptcy to make provision for corporate and individual insolvency; to provide for the rehabilitation of the insolvent debtor and to create the office of Supervisor of Insolvency.** 26 of 2007.

\*[ASSENTED TO 28TH SEPTEMBER 2007]

**PART I**

**PRELIMINARY**

**1.** This Act may be cited as the Bankruptcy and Insolvency Act. Short title.

**\*2.** Parts I, II, III, IV, V, VI, VII, VIII, IX, X, XII and XIII of this Act came into operation on the 26th of May, 2014. Commencement. 225/2014.

**3.** (1) In this Act— Interpretation.  
“affidavit” includes statutory declaration and solemn affirmation;  
“assignment” means an assignment filed with the Supervisor of Insolvency;  
“bank” means every bank to which the Financial Institutions Act applies, and where the context requires includes a banker; Ch. 79:09.  
“bankrupt” means a person who has made an assignment or against whom a receiving order has been made under section 5(10);  
“books” and “records” include documents as well as data maintained or processed manually, mechanically, photographically or electronically by any information storage device;  
“claim provable in bankruptcy”, “provable claim” or “claim provable” includes any claim or liability provable in proceedings under this Act by a creditor;  
“cohabitant” means a person in a cohabitational relationship referred to in section 2 of the Cohabital Relationships Act; Ch. 45:55.

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\*See Note on Commencement on page 2.

“cohabitational relationship” means the relationship between cohabitants, who not being married to each other are living or have lived together as husband and wife in a bona fide domestic relationship;

Ch. 79:09.

“corporation” means any incorporated company, wherever or however incorporated, that is authorised to carry on business in Trinidad and Tobago or that has an office or property in Trinidad and Tobago, but does not include financial institutions to which the Financial Institutions Act applies or insurance companies;

“Court” means the High Court and includes a judge sitting in chambers;

Ch. 79:51.

“credit card” has the same meaning assigned to it under section 2 of the Electronic Transfer of Funds Crime Act, and includes debit cards and smart cards;

“creditor” means a person having a claim, unsecured preferred by virtue of priority under section 127 or secured, provable as a claim under this Act;

“date of the initial bankruptcy event”, in respect of a person, means the earliest of the date of filing of or making of—

- (a) an assignment by or in respect of the person;
- (b) a proposal by or in respect of the person;
- (c) a notice of intention by the person; or
- (d) the first petition for a receiving order against the person;

“debtor” includes an insolvent person and any person who, at the time an act of bankruptcy was committed by him, resided or carried on business in Trinidad and Tobago and, where the context requires, includes a bankrupt;

“goods” includes all chattels personal;

“individual” means a natural person;

“inspector” means an inspector appointed under section 107;

“insolvent person” means a person who is not bankrupt and who resides, carries on business or has property in Trinidad and

Tobago, whose liabilities to creditors provable as claims under this Act amount to not less than four thousand dollars, and—

- (a) who is for any reason unable to meet his obligations as they generally become due;
- (b) who has ceased paying his current obligations in the ordinary course of business as they generally become due; or
- (c) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due;

“Marshal” includes bailiff and any officer charged with the execution of a writ or other process under this Act or any other proceeding with respect to any property of a debtor;

“Minister” means the Minister to whom the responsibility for finance is assigned;

“person” includes a partnership, an unincorporated association, a corporation, a co-operative society or an organisation, the successors of a partnership, association, corporation, society or organisation, and the heirs, executors, liquidators of the succession, administrators or other legal representative of a person;

“property” includes money, goods, choses in action, land and every description of property, whether real or personal, legal or equitable, and whether situated in Trinidad and Tobago or elsewhere, and includes obligations, easements and every description of estate, interest and profit, present or future, vested or contingent in, arising out of or incidental to property;

“proposal” means a proposal for a composition, for an extension of time, or for a scheme or arrangement;

“receiver” means a person who has been appointed to take, or has taken, possession or control, pursuant to—

- (a) a security agreement; or
- (b) an order of a Court made under any law that provides for or authorises the appointment of a receiver or receiver-manager,

of all or substantially all of—

- (i) the inventory;

(ii) the accounts receivable; or

(iii) the other property,

of a debtor that was acquired for, or is used in relation to, a business carried on by the debtor;

“receiving order” means an order of the Court made under any law that provides for or authorises the appointment of a receiver or a receiver-manager;

“Registrar” means the Registrar of the Supreme Court;

“resolution” or “ordinary resolution” means a resolution carried by the majority of votes, and for that purpose the votes of a creditor shall be calculated by counting one vote for each dollar of every claim of the creditor that is not disallowed;

“secured creditor” means a person holding a mortgage, pledge, charge or lien on or against the property of the debtor or any part thereof as security for a debt due or accruing due to him from the debtor, or a person whose claim is based on, or secured by, a negotiable instrument held as collateral security and on which the debtor is only indirectly or secondarily liable;

“security agreement” means an agreement under which property becomes subject to a security for the payment of an obligation;

“service provider” means any entity or person who supplies fuel, water, electricity, telecommunications, or such services as may be prescribed;

“settlement” includes a contract, covenant, conveyance, transfer, gift and designation of a beneficiary in an insurance contract, to the extent that the contract, covenant, conveyance, transfer, gift, or designation is gratuitous or made for merely nominal consideration;

“special resolution” means a resolution decided by a majority in number and two-thirds in value of the creditors with proven claims present, personally or by proxy, at a meeting of creditors and voting on the resolution;

“Supervisor” means the office of Supervisor of Insolvency established under section 175;

“trustee” or “licensed trustee” means a person who is licensed or appointed under this Act.



(2) For the purposes of this Act—

“related group” means a group of persons each member of which is related to every other member of the group;

“unrelated group” means a group of persons that is not a related group.

(3) For the purposes of this Act—

“related persons” are persons who are related to each other if they are—

(a) individuals connected by blood relationship, marriage, cohabitational relationship or adoption;

(b) a corporation and—

(i) a person who controls the corporation, if it is controlled by one person;

(ii) a person who is a member of a related group that controls the corporation; or

(iii) any person connected in the manner set out in paragraph (a) to a person described in subparagraph (i) or (ii); or

(c) two corporations—

(i) controlled by the same person or group of persons;

(ii) each of which is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation;

(iii) one of which is controlled by one person and that person is related to any member of a related group that controls the other corporation;

(iv) one of which is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation;

(v) one of which is controlled by a related group a member of which is related to each member of an unrelated group that controls the other corporation; or

- (vi) one of which is controlled by an unrelated group each member of which is related to at least one member of an unrelated group that controls the other corporation.
- (4) For the purposes of this Act—
- (a) where two corporations are related to the same corporation within the meaning of subsection (3), they shall be deemed to be related to each other;
  - (b) where a related group is in a position to control a corporation, it shall be deemed to be a related group that controls the corporation whether or not it is part of a larger group by whom the corporation is in fact controlled;
  - (c) a person who has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares in a corporation, or to control the voting rights in shares of a corporation, shall, except where the contract provides that the right is not exercisable until the death of an individual designated therein, be deemed to have the same position in relation to the control of the corporation as if he owned the shares;
  - (d) where a person owns shares in two or more corporations, he shall, as a shareholder of one of the corporations, be deemed to be related to himself as shareholder of each of the other corporations;
  - (e) persons are connected by blood relationship if one is the child, mother, father, brother, sister, aunt, uncle or first cousin of the other;
  - (f) persons are connected by marriage if one is married to the other or to a person who is connected by blood relationship to the other;
  - (g) persons are connected by a cohabitational relationship if one is a cohabitant of the other; and

(h) persons are connected by adoption if one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is connected by blood relationship, otherwise than as a brother or sister, to the other.

(5) For the purposes of the Act, a person who has entered into a transaction with another person otherwise than at arm's length shall be deemed to have entered into a reviewable transaction.

(6) It is a question of fact whether persons not related to one another within the meaning of subsection (2) were at a particular time dealing with each other at arm's length.

(7) Persons related to each other within the meaning of subsection (2) shall be deemed not to deal with each other at arm's length while so related.

## PART II

### ACTS OF BANKRUPTCY

4. (1) A debtor commits an act of bankruptcy where the debtor— Acts of bankruptcy.

- (a) either in Trinidad and Tobago or elsewhere makes an assignment of his property to a trustee for the benefit of his creditors generally, whether it is an assignment authorised by this Act or not;
- (b) either in Trinidad and Tobago or elsewhere makes a fraudulent conveyance, gift, delivery or transfer of his property or of any part of that property;
- (c) either in Trinidad and Tobago or elsewhere makes any conveyance or transfer of his property or any part of the property, or creates any charge on the property that would under this Act be void as a fraudulent preference;
- (d) with intent to defeat or delay his creditors, departs out of Trinidad and Tobago, or being out of Trinidad and Tobago remains out of Trinidad

and Tobago, or departs from his dwelling house or otherwise absents himself;

- (e) permits any execution or other process issued against the debtor under which any of the debtor's property is seized, levied on or taken in execution to remain unsatisfied for twenty-one days, or if any of the debtor's property has been sold by the Marshal, or if the execution or other process is returned endorsed to the effect that the Marshal can find no property on which to levy or to seize or to take;
- (f) exhibits to any meeting of his creditors any statement of his assets and liabilities that shows he is insolvent, or presents or causes to be presented to that meeting a written admission of his inability to pay his debts;
- (g) assigns, removes, secretes or disposes of or attempts or is about to assign, remove, secrete or dispose of any of his property with intent to defraud, defeat or delay his creditors or any of them;
- (h) gives notice to any of his creditors that he has suspended or is about to suspend payment of his debts;
- (i) defaults in any proposal made under this Act; or
- (j) ceases to meet his liabilities generally as they become due.

(2) Notwithstanding paragraph (e), where interpleader proceedings have been instituted in respect of the property seized, the time elapsing between the date at which the proceedings were instituted and the date at which the proceedings are finally disposed of, settled or abandoned shall not be taken into account in calculating the period of twenty-one days.

(3) Every assignment of his property other than an assignment pursuant to this Act, made by an insolvent debtor for the general benefit of his creditors, is void.

**PART III**

**RECEIVING ORDERS, INTERIM RECEIVERS, SECURED CREDITORS AND RECEIVERS**

**PETITION FOR RECEIVING ORDER**

**5.** (1) Subject to this section, one or more creditors may file in Court a petition for a receiving order against a debtor where it is alleged in the petition that—

Filing of  
petition.

- (a) the debt owing to the petitioning creditor amounts to not less than ten thousand dollars; and
- (b) the debtor has committed an act of bankruptcy within six months immediately preceding the filing of the petition.

(2) Where the petitioning creditor referred to in subsection (1) is a secured creditor, the petitioning creditor shall in his petition either state that he is willing to give up his security for the benefit of the creditors in the event of a receiving order being made against the debtor or give an estimate of the value of his security.

(3) Where the petitioning creditor gives an estimate of the value of his security, he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated, in the same manner as if he were an unsecured creditor.

(4) The petition shall be verified by affidavit of the petitioner or by someone duly authorised on his behalf having personal knowledge of the facts alleged in the petition.

(5) Where the petition is attested—

- (a) in Trinidad and Tobago, the witness must be an Attorney-at-law;
- (b) out of Trinidad and Tobago, the witness must be a Judge, a Magistrate, a Consul or Consular Officer, or a Notary Public.

(6) When the petitioning creditor cannot himself verify all the statements contained in his petition he shall file in support of the petition the affidavit of some person who can depose to the statements.

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

(8) A petitioning creditor—

- (a) who is resident abroad;
- (b) whose estate is vested in a trustee or an assignee under any law relating to bankruptcy;
- (c) against whom a petition is pending under the Act; or
- (d) who has made default in payment of any costs ordered by any Court, to be paid by him to the debtor,

may be ordered to give security for costs to the debtor.

(9) Where two or more petitions are filed against the same debtor or against joint debtors, the Court may consolidate the proceedings or any of them on such terms as the Court thinks fit.

(10) At the hearing of the petition, the Court shall require proof of the facts alleged in the petition and of the service of the petition, and, if satisfied with the proof, may make a receiving order.

(11) Where the Court is not satisfied with the proof of the facts alleged in the petition or of the service of the petition, or is satisfied by the evidence of the debtor that he is able to pay his debts, or that for other sufficient cause no order ought to be made, it shall dismiss the petition.

(12) Where there is more than one respondent to a petition, the Court may dismiss the petition with respect to one or more of them, without prejudice to the effect of the petition as against the other or others of them.

(13) On a receiving order being made, the Court shall appoint a licensed trustee of the property of the bankrupt, having regard as far as the Court deems just, to the wishes of the creditors.

(14) Where the debtor appears at the hearing of the petition and denies the truth of the facts alleged in the petition, the Court may instead of dismissing the petition, stay all proceedings on the petition on such terms as it may see fit to impose on the petitioner as to costs or on the debtor to prevent alienation of his property and for such time as may be required for trial of the issue relating to the disputed facts.

(15) The Court may for other sufficient reason make an order staying the proceedings under a petition, either altogether or for a limited time, on such terms and subject to such conditions as the Court may think just.

(16) A petitioner who is resident outside of Trinidad and Tobago may be ordered to give security for costs to the debtor, and proceedings under the petition may be stayed until the security is furnished.

(17) Where proceedings on a petition have been stayed or have not been prosecuted with due diligence and effect, the Court may—

- (a) if by reason of the delay or for any other cause it is deemed just, substitute or add as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act;
- (b) make a receiving order on the petition of the other creditor; and
- (c) shall dismiss on such terms as it may deem just the petition in the stayed or non-prosecuted proceedings.

(18) Where proceedings on a petition have been stayed for trial on the question of the validity of the creditor's debt, and the question has been decided in favour of the validity of the debt, the petitioning creditor may apply to the Registrar to fix a day on which further proceedings on the petition may be had and the Registrar, on production of the judgment or certified copy of the judgment shall give notice—

- (a) to the petitioner, by post or otherwise, of the time and place fixed for the hearing of the petition;
- (b) to the debtor, at the address given in the notice to dispute; and

(c) to the Attorneys-at-law, for the creditor and debtor.

(19) A petition shall not be withdrawn without the leave of the Court.

(20) Any creditor whose claim against a partnership is sufficient to entitle him to present a bankruptcy petition may present a petition against any one or more partners of the firm without including the others.

(21) Where a receiving order has been made against one member of a partnership, and any other petition against a member of the same partnership is filed, the Court may give such directions for consolidating the proceedings under the petitions as it thinks just.

(22) Where a debtor against whom a petition has been filed dies, the proceedings shall, unless the Court otherwise orders, be continued as if he were alive.

Petition against  
estate of  
deceased.

6. (1) Subject to section 5, a petition for a receiving order may be filed against the estate of a deceased debtor.

(2) After service of a petition for a receiving order on the legal personal representative of a deceased debtor, he shall not make payment of any moneys or transfer any property of the deceased debtor, except as required for payment of the proper funeral and testamentary expenses, until the petition is disposed of otherwise, in addition to any penalties to which he may be subject, he is personally liable.

(3) Nothing in this section invalidates any payment or transfer of property made or any act or thing done by the legal personal representative in good faith before the service of a petition referred to in subsection (2).

Costs of  
petitioner.

7. (1) Where a receiving order is made, the costs of the petitioner shall be taxed and be payable out of the estate unless the Court otherwise orders.

(2) Where the proceeds of the estate are not sufficient for the payment of any costs incurred by the trustee, the Court may order the costs to be paid by the petitioner.



**APPOINTMENT OF INTERIM RECEIVER**

**8.** (1) The Court may, if it is shown to be necessary for the protection of the estate of a debtor, at any time after the filing of a petition for a receiving order and before a receiving order is made, appoint a licensed trustee as interim receiver of the property of the debtor or any part of that property and direct the licensed trustee to take immediate possession of the property on such undertaking being given by the petitioner as the Court may impose with respect to interference with the debtor's legal rights and with respect to damages in the event of the petition being dismissed.

Appointment of interim receiver.

(2) The interim receiver appointed under subsection (1) may, under the direction of the Court, take conservatory measures and summarily dispose of property that is perishable or likely to depreciate rapidly in value and exercise such control over the business of the debtor as the Court deems advisable, but the interim receiver shall not unduly interfere with the debtor in the carrying out of his business except as may be necessary for conservatory purposes or to comply with the order of the Court.

**9.** (1) Where the Court is satisfied that a notice is about to be sent or has been sent under section 13, the Court may, subject to subsection (3), appoint a trustee as interim receiver of all or any part of the debtor's property that is subject to the security to which the notice relates, for such term as the Court may determine.

Appointment of interim receiver where section 13 notice pending.

(2) The Court may direct an interim receiver appointed under subsection (1) to do any or all of the following:

- (a) take possession of all or part of the debtor's property mentioned in the appointment;
- (b) exercise such control over that property, and over the debtor's business, as the Court considers advisable; and
- (c) take such other action as the Court considers advisable.

(3) An appointment of an interim receiver may be made under subsection (1) only if it is shown to the Court to be necessary for the protection of—

- (a) the debtor's estate; or

- (b) the interests of the creditor who sent the notice under section 13.

Appointment of interim receiver where notice of intention or proposal filed.

**10.** (1) Where a notice of intention has been filed under section 30 or a proposal has been filed under section 44(1), the Court may at any time thereafter, subject to subsection (3), appoint as interim receiver of all or part of the debtor's property, for such term as the Court may determine—

- (a) the trustee under the notice of intention or proposal;  
 (b) another trustee; or  
 (c) the trustee under the notice of intention or proposal and another trustee jointly.

(2) The Court may direct an interim receiver appointed under subsection (1) to—

- (a) carry out the duties set out in section 26(18), in substitution for the trustee referred to in that subsection or jointly with that trustee;  
 (b) take possession of all or part of the debtor's property mentioned in the order of the Court;  
 (c) exercise such control over that property, and over the debtor's business, as the Court considers advisable; and  
 (d) take such other action as the Court considers advisable.

(3) An appointment of an interim receiver may be made under subsection (1) only if it is shown to the Court to be necessary for the protection of—

- (a) the debtor's estate; or  
 (b) the interests of one or more creditors, or of the creditors generally.

Costs of interim receiver.

**11.** (1) Where an appointment of an interim receiver is made under section 9 or 10, the Court may make such order respecting the payment of fees and disbursements of the interim receiver as it considers proper, including an order giving the interim receiver a charge, ranking ahead of any or all secured creditors, over any or all of the assets of the debtor in respect of his claim for fees or disbursements; but the Court shall not make

such an order unless it is satisfied that all secured creditors who would be materially affected by the order were given reasonable advance notification and an opportunity to make representations to the Court.

(2) With respect to interim receivers appointed under section 8, 9, or 10—

- (a) the form and content of their accounts;
- (b) the procedure for the preparation and taxation of those accounts; and
- (c) the procedure for the discharge of the interim receiver,

shall be as prescribed.

(3) In subsection (1), “disbursements” do not include payments made in operating a business of the debtor.

#### SECURED CREDITORS AND RECEIVERS

**12.** Only a person who is licensed as a trustee under this Act may be appointed a receiver under a security agreement. Who may be a receiver.

**13.** (1) A secured creditor who intends to enforce a security on all or substantially all of— Secured party to provide notice.

- (a) the inventory;
- (b) the accounts receivable; or
- (c) the other property,

of a debtor that was acquired for, or is used in relation to a business carried on by the debtor, shall send to that debtor in the prescribed form and manner, a notice of that intention.

(2) Where a notice is required to be sent under subsection (1), the secured creditor shall not enforce the security in respect of which the notice is required until the expiry of ten days after sending that notice, unless the debtor consents to an earlier enforcement of the security.

(3) For the purposes of subsection (2), consent to earlier enforcement of a security may not be obtained by a secured creditor prior to the sending of the notice referred to in subsection (1).

- (4) This section does not apply, or ceases to apply—
- (a) in respect of a secured creditor—
    - (i) whose right to realise or otherwise deal with his security is protected by section 55(3) or (4); or
    - (ii) in respect of whom a stay under section 55 has been lifted pursuant to section 57;
  - (b) where there is a receiver in respect of the debtor.

Duties of the receiver.

**14.** A receiver shall—

- (a) act honestly and in good faith;
- (b) deal with the property of the debtor in a commercially reasonable manner;
- (c) not later than ten days after becoming a receiver, send a notice of that fact, in the prescribed form and manner—
  - (i) to the Supervisor, accompanied by the prescribed fee;
  - (ii) where the debtor is bankrupt, to the trustee; and
  - (iii) where the debtor is not bankrupt, to the debtor, and to all creditors of the debtor that the receiver, after making reasonable efforts, has ascertained;
- (d) send notice of his becoming a receiver to any creditor whose name and address he ascertains after sending the notice referred to in subparagraph (c)(iii);
- (e) forthwith after taking possession or control, whichever occurs first, of property of a debtor, prepare a statement containing prescribed information relating to the receivership, and shall forthwith provide a copy of the statement to the Supervisor, the debtor, the trustee, in the case of a bankrupt, and to any creditor of the debtor who requests a copy at any time up to six months after the end of the receivership;
- (f) in accordance with the Bankruptcy Rules, prepare interim reports relating to the receivership, and

shall provide copies of those reports to the Supervisor, the debtor, the trustee, in the case of a bankrupt, and to any creditor of the debtor who requests a copy at any time up to six months after the end of the receivership; and

- (g) prepare, forthwith after the completion of his duties as receiver, a final report and a statement of accounts, in the prescribed form and containing the prescribed information relating to the receivership, and forthwith provide a copy of that Report and statement of accounts to the Supervisor, the debtor, the trustee, in the case of a bankrupt, and to any creditor of the debtor or the bankrupt who requests a copy at any time up to six months after the end of the receivership.

**15.** A receiver shall—

Required action  
by receiver.

- (a) if appointed by instrument, act in accordance with the instrument and any directions by the Court;
- (b) if appointed by a Court order, act in accordance with the directions of the Court;
- (c) not later than fourteen days after being appointed receiver, publish a notice of his appointment in one issue of a local daily newspaper;
- (d) take into his custody or control the collateral in accordance with the security agreement or order providing for his appointment;
- (e) deal with any property of the debtor in his possession or control in a commercially reasonable manner;
- (f) open and maintain a bank account in his name as receiver for the deposit of all moneys coming under his control as receiver;
- (g) keep records, in accordance with accepted accounting practices, of all receipts, expenditures and transactions involving collateral or other property of the debtor;
- (h) prepare monthly summaries of accounts of his administration of the collateral and other property of the debtor;

- (i) indicate on every business letter, invoice, contract, or similar document used or executed in connection with the receivership, that he is acting as a receiver.

Rights of receiver.

**16. A receiver—**

- (a) may, subject to the rights of secured creditors, receive the income from the property, pay the liability connected with the property, and realise the security interest of those on behalf of whom he is appointed; and
- (b) may not, unless appointed a receiver-manager or unless the Court orders otherwise, carry on the business of the debtor for more than fourteen days after his appointment.

Duty of debtor.

**17.** A debtor shall, forthwith after being notified that there is a receiver in respect of any of his property, provide the receiver with the names and addresses of all creditors.

Receiver to provide notice of disposition.

**18. (1)** A receiver shall, not less than fourteen days before the disposition of the collateral in whole or in part, give notice of disposition in the prescribed form—

- (a) to the debtor;
  - (b) to any person with a charge registered against the collateral;
  - (c) to any person who, as a creditor of the debtor, has given notice to the receiver of its interest in the collateral; and
  - (d) if the debtor is a corporation, to a director of the debtor.
- (2) The notice under subsection (1) is not required if—
- (a) the collateral is money, is perishable or, on reasonable grounds, is expected to decline significantly in value;
  - (b) the collateral is to be disposed of by sale on an organised market that handles large volumes of transactions between many different sellers and many different buyers; or

- (c) the cost and care of storing the collateral is disproportionately large to the collateral's expected value.

**19.** A receiver—

- (a) is personally liable on any contract entered into by him in the performance of his functions, except to the extent that the contract otherwise provides; and
- (b) is entitled in respect of the liability under paragraph (a), to an indemnity out of the assets of which he was appointed to be receiver.

Personal liability of receiver.

**20.** Where the Court, on the application of the Supervisor, the debtor, the trustee, in the case of a bankrupt, a receiver or a creditor, is satisfied that the secured creditor, the receiver or the debtor is failing or has failed to carry out any duty imposed in this Part, the Court may make an order, on such terms as it considers proper—

Court order in respect of non-performance of duties.

- (a) directing the secured creditor, receiver or debtor, as the case may be, to carry out that duty; or
- (b) restraining the secured creditor or receiver, as the case may be, from realising or otherwise dealing with the property of the debtor until that duty has been carried out, or both.

**21.** (1) The Court may, on the application of the Supervisor, the debtor, the trustee (in the case of a bankrupt), or a creditor, made within six months after the statement of accounts was provided to the Supervisor pursuant to section 14, order the receiver to submit to it the statement of accounts for review.

Court may order statement of accounts to be submitted for review.

(2) The Court may adjust in the manner and the extent as it considers proper, the fees and charges of the receiver as set out in the statement of accounts.

**22.** A receiver may apply to the Court for directions in relation to any provision of this Part, and the Court shall give, in writing, such directions, if any, as it considers proper in the circumstances including—

Receiver may apply to Court for directions.

- (a) an order appointing, replacing or discharging a receiver or receiver-manager and approving his accounts;

- (b) an order determining the notice to be given to any person, or dispensing with notice to any person;
- (c) an order declaring the rights of persons before the Court or otherwise, or directing any person to do, or abstain from doing, anything;
- (d) an order fixing the remuneration of the receiver or receiver-manager;
- (e) an order requiring the receiver or receiver-manager, or a person by or on behalf of whom he is appointed—
  - (i) to make good any default in connection with the receiver's or receiver-manager's custody or management of the property and business of the company;
  - (ii) to relieve any such person from any default on such terms as the Court thinks fit; and
  - (iii) to confirm any act of the receiver or receiver-manager; and
- (f) an order giving direction on any matter in relation to the duties of the receiver or receiver-manager.

Provisions of Companies Act to apply where debtor is a company.  
Ch. 81:01.

**23.** Where the debtor is a corporation—

- (a) the provisions of sections 290 to 303 of the Companies Act shall apply in the absence of provisions relating thereto in this Act; and
- (b) where the provisions of this Act are inconsistent with the provisions of sections 290 to 303 of the Companies Act, this Act shall prevail.

Priorities of distribution in a receivership.

Ch. 81:01.

**24.** Except where the debtor is bankrupt or the Court has ratified a proposal made to creditors under this Act, the priorities in receivership, of distribution of the property of a debtor shall be as established by Division 3 of Part IV of the Companies Act.



**PART IV**

**ASSIGNMENTS**

**25.** (1) An insolvent person or, if deceased, the insolvent's legal personal representative, may, with the leave of the Court, make an assignment of all his property for the general benefit of his creditors. Who may make an assignment.

(2) The assignment made under subsection (1) shall be accompanied by a sworn statement in the prescribed form showing—

- (a) the property of the debtor divisible among his creditors;
- (b) the names and addresses of all his creditors;
- (c) the amounts of their respective claims; and
- (d) the nature of the claim, whether secured, preferred or unsecured.

(3) The assignment made under subsection (1) shall be offered to the Supervisor, and it is inoperative until filed with the Supervisor, who shall refuse to file the assignment unless it is in the prescribed form and accompanied by the sworn statement required by subsection (2).

(4) Where the Supervisor files the assignment made under subsection (1), the Supervisor shall appoint as trustee a licensed trustee whom he shall, as far as possible, select by reference to the wishes of the most interested creditors if ascertainable at the time, and the Supervisor shall complete the assignment by inserting therein as grantee the name of the trustee.

(5) Where the Supervisor is unable to find a licensed trustee who is willing to act, the Supervisor shall, after giving the bankrupt five days notice, cancel the assignment.

(6) Where the bankrupt is not a corporation and in the opinion of the Supervisor the realisable assets of the bankrupt, after the claims of secured creditors are deducted, will not exceed ten thousand dollars or such other amount as is prescribed, the provision of this Act relating to the summary administration of estates shall apply.

(7) In the determination of the realisable assets of a bankrupt for the purpose of subsection (6), no regard shall be had to any property that may be acquired by the bankrupt or devolve on the bankrupt before the bankrupt's discharge.

(8) The Supervisor may direct that subsection (6) shall cease to apply in respect of the bankrupt where the Supervisor determines that—

- (a) the realisable assets of the bankrupt, after the claims of secured creditors are deducted, exceed ten thousand dollars or the amount prescribed, as the case may be; or
- (b) the costs of realisation of the assets of the bankrupt are a significant proportion of the realisable value of the assets,

and the Supervisor considers that such a direction is appropriate.

#### PART V

#### PROPOSALS

Who may make a proposal.

**26.** (1) A proposal may be made by—

- (a) an insolvent person;
- (b) a receiver, but only in relation to an insolvent person;
- (c) a liquidator of an insolvent person's property;
- (d) a bankrupt; and
- (e) a trustee of the estate of a bankrupt.

(2) Subject to subsection (3), a proposal must be made to the creditors generally, either as a group or separated into classes as provided in the proposal, and may also be made to secured creditors in respect of any class of secured claims.

(3) Where a proposal is made to one or more secured creditors in respect of secured claims of a particular class, the proposal must be made to all secured creditors in respect of the secured claims of that class.

(4) Secured claims may be included in the same class where the interests of the creditors holding those claims are

sufficiently similar to give them a commonality of interest, taking into account—

- (a) the nature of the debts giving rise to the claims;
- (b) the nature and priority of the security in respect of the claims;
- (c) the remedies available to the creditors in the absence of the proposal, and the extent to which the creditors would recover their claims by exercising those remedies;
- (d) the treatment of the claims under the proposal, and the extent to which the claims would be paid under the proposal; and
- (e) such further criteria, consistent with those set out in paragraphs (a) to (d), as may be prescribed.

(5) the Court may, on application made at any time after a notice of intention or a proposal is filed, determine in accordance with subsection (4), the classes of secured claims appropriate to a proposal, and the class into which any particular secured claim falls.

(6) Subject to section 27, as regards included secured creditors, any creditor may respond to the proposal as made to the creditors generally, by filing with the trustee a proof of claim in the manner provided for in—

- (a) sections 115 to 117, in the case of unsecured creditors; or
- (b) sections 115 to 125, in the case of secured creditors.

(7) In the following sections in this Part, a reference to an unsecured creditor shall be deemed to include a secured creditor who has filed a proof of claim under subsection (6), and a reference to an unsecured claim shall be deemed to include that secured creditor's claim.

(8) All questions relating to a proposal, except the question of accepting or refusing the proposal, shall be decided by ordinary resolution of the creditors to whom the proposal was made.

(9) Proceedings for a proposal shall be commenced in the case of an insolvent person by lodging with a licensed trustee, and in the case of a bankrupt by lodging with the trustee of the

estate, a copy of the proposal in writing setting out the terms of the proposal and the particulars of any securities or sureties proposed, signed by the person making the proposal and the proposed sureties if any, and—

- (a) if the person in respect of whom the proposal is made is bankrupt, the statement of affairs referred to in section 149(e); or
- (b) if the person in respect of whom the proposal is made is not bankrupt, a statement showing the financial position of the person at the date of the proposal, verified by affidavit as being correct to the belief and knowledge of the person making the proposal.

(10) A proposal made in respect of a bankrupt shall be approved by the inspectors before any further action is taken on the proposal.

(11) No proposal or any security or guarantee tendered with the proposal may be withdrawn pending the decision of the creditors and the Court.

(12) Subsection (11) shall not be construed as preventing an insolvent person in respect of whom a proposal has been made from subsequently making an assignment.

(13) The trustee shall make or cause to be made such an appraisal and investigation of the affairs and property of the debtor as to enable the trustee to estimate with reasonable accuracy the financial situation of the debtor and the cause of the debtor's financial difficulties or insolvency and report the result of the appraisal and investigation to the meeting of the creditors.

(14) The trustee shall, when filing a proposal under section 44(1), file with the proposal—

- (a) a statement indicating the projected cash flow of the insolvent person for the expected duration of the proposal in this section referred to as the "cash flow statement", prepared by the person making the proposal, reviewed for its reasonableness by the trustee and signed by the trustee and the person making the proposal;

- (b) a report on the reasonableness of the cash flow statement, in the prescribed form, prepared and signed by the trustee; and
- (c) a report containing prescribed representations by the person making the proposal regarding the preparation of the cash flow statement, in the prescribed form, prepared and signed by the person making the proposal.

(15) Subject to subsection (16), any creditor may obtain a copy of the cash flow statement on request made to the trustee.

(16) The Court may order that a cash flow statement or any part of that statement not be released to some or all of the creditors pursuant to subsection (15) where it is satisfied that—

- (a) such release would unduly prejudice the insolvent person; and
- (b) non-release would not unduly prejudice the creditor or creditors in question.

(17) If the trustee acts in good faith and takes reasonable care in reviewing the cash flow statement, the trustee is not liable for loss or damage to any person resulting from that person's reliance on the cash flow statement.

(18) Subject to any direction of the Court under section 27(2)(a), the trustee under a proposal in respect of an insolvent person shall, for the purpose of monitoring the business and financial affairs, have access to and examine the property of the insolvent person, including the premises, books, records and other financial documents, to the extent necessary to assess adequately the business and financial affairs of the insolvent person, from the filing of the proposal until the proposal is approved by the Court or the insolvent person becomes bankrupt, and shall—

- (a) file a report on the state of the business and financial affairs of the insolvent person containing any prescribed information—
  - (i) with the Supervisor forthwith after ascertaining any material adverse change in the insolvent person's projected cash

flow or financial circumstances of the insolvent person; and

(ii) with the Court at such other times as the Court may order; and

(b) send a report on the state of the business and financial affairs of the insolvent person, containing any prescribed information, to the creditors and the Supervisor, in the prescribed manner, at least ten days before the meeting of creditors referred to in section 32(1).

(19) An interim receiver who has been directed under section 10(2) to carry out the duties set out in subsection (18) in substitution for the trustee shall deliver a report on the state of the business and financial affairs, of the insolvent person, containing any prescribed information, to the trustee at least three days before the meeting of creditors referred to in section 32(1).

(20) The Court may, on application by the trustee, the interim receiver, if any, appointed under section 10 or a creditor, at any time before the meeting of creditors, declare that the proposal is deemed to have been refused by the creditors if the Court is satisfied that—

(a) the debtor has not acted, or is not acting, in good faith and with due diligence;

(b) the proposal will not likely be accepted by the creditors; or

(c) the creditors as a whole would be materially prejudiced if the application under this subsection is rejected.

Filing of proof of secured claim.

**27.** (1) Subject to subsections (2) to (4), a secured creditor to whom a proposal has been made in respect of a particular secured claim may respond to the proposal by filing with the trustee a proof of secured claim in the prescribed form, and may vote on all questions relating to the proposal, in respect of that entire claim, and sections 115 to 117 apply, in so far as they are applicable, with such modifications as the circumstances require, to proofs of secured claim.

(2) Where a proposal made to a secured creditor in respect of a secured claim includes a proposed assessed value of

the security in respect of the claim, the secured creditor may file with the trustee a proof of secured claim in the prescribed form, and may vote as a secured creditor on all questions relating to the proposal in respect of an amount equal to the lesser of —

- (a) the amount of the claim; and
- (b) the proposed assessed value of the security.

(3) Where the proposed assessed value is less than the amount of the claim of the secured creditor, the secured creditor may file with the trustee a proof of claim in the prescribed form, and may vote as an unsecured creditor on all questions relating to the proposal in respect of an amount equal to the difference between the amount of the claim and the proposed assessed value.

(4) Where a secured creditor is dissatisfied with the proposed assessed value of his security, the secured creditor may apply to the Court within fifteen days after the proposal is sent to the creditors, to have the proposed assessed value revised, and the Court may revise the proposed assessed value, in which case the revised value applies for the purposes of this Part.

(5) Where no secured creditor having a secured claim of a particular class files a proof of secured claim at or before the meeting of creditors, the secured creditors having claims of that class shall be deemed to have voted for the refusal of the proposal.

**28.** A secured creditor to whom a proposal has not been made in respect of a particular secured claim may not file a proof of secured claim in respect of that claim. Where secured creditors may not vote.

**29.** On the bankruptcy of an insolvent person who made a proposal to one or more secured creditors in respect of secured claims, any proof of secured claim filed pursuant to section 27 ceases to be valid or effective, and sections 103 and 118 to 135 apply in respect of a proof of claim filed by any secured creditor in the bankruptcy. Secured claims upon bankruptcy.

**30.** (1) Before lodging a copy of a proposal with a licensed trustee, an insolvent person may file a notice of intention, in the prescribed form, with the Supervisor stating— Notice of intention.

- (a) the insolvent person's intention to make a proposal;

- (b) the name and address of the licensed trustee who has consented, in writing, to act as the trustee under the proposal; and
- (c) the names of the creditors with claims amounting to two hundred and fifty dollars or more and the amounts of their claims as known or shown by the debtor's books,

and attaching to the proposal a copy of the consent referred to in paragraph (b).

(2) Within ten days after filing a notice of intention under subsection (1), the insolvent person shall file with the Supervisor—

- (a) a statement indicating the projected cash flow of the insolvent person (in this section referred to as the “cash flow statement”), prepared by the insolvent person, reviewed for its reasonableness by the trustee under the notice of intention, and signed by the trustee and the insolvent person;
- (b) a report on the reasonableness of the cash flow statement, in the prescribed form, prepared and signed by the trustee; and
- (c) a report containing prescribed representations by the insolvent person regarding the preparation of the cash flow statement, in the prescribed form, prepared and signed by the insolvent person.

(3) Subject to subsection (4), any creditor may obtain a copy of the cash flow statement on request made to the trustee.

(4) The Court may order that a cash flow statement or any part thereof not be released to some or all of the creditors pursuant to subsection (3), where it is satisfied that—

- (a) such release would unduly prejudice the insolvent person; and
- (b) non-release would not unduly prejudice the creditor or creditors in question.



(5) If the trustee acts in good faith and takes reasonable care in reviewing the cash flow statement, the trustee is not liable for loss or damage to any person resulting from that person's reliance on the cash flow statement.

(6) Within five days after the filing of a notice of intention under subsection (1), the trustee named in the notice shall send to every known creditor, in the prescribed manner, a copy of the notice.

(7) Subject to any direction of the Court under section 10(2)(a), the trustee, under a notice of intention, in respect of an insolvent person shall—

- (a) for the purpose of monitoring the insolvent person's business and financial affairs, have access to and examine the insolvent person's property, including his premises, books, records and other financial documents, to the extent necessary to adequately assess the insolvent person's business and financial affairs, from the filing of the notice of intention until a proposal is filed or the insolvent person becomes bankrupt; and
- (b) file a report on the state of the insolvent person's business and financial affairs, containing any prescribed information—
  - (i) with the Supervisor, forthwith after ascertaining any material adverse change in the insolvent person's projected cash flow or financial circumstances; and
  - (ii) with the Court, at or before the hearing by the Court of any application under subsection (9) and at such other times as the Court may order.

(8) Where an insolvent person fails to comply with subsection (2), or where the trustee fails to file a proposal with the Supervisor under section 44(1) within a period of thirty days after the day the notice of intention was filed under

subsection (1), or within any extension of that period granted under subsection (9)—

- (a) the insolvent person is, on the expiration of that period or that extension, as the case may be, deemed to have made an assignment;
- (b) the trustee shall forthwith file a report thereof in the prescribed form with the receiver, who shall issue a certificate of assignment in the prescribed form, which has the same effect for the purposes of this Act as an assignment filed pursuant to section 25; and
- (c) the trustee shall, within five days after the day the certificate mentioned in paragraph (b) is issued, send notice of the meeting of creditors under section 93, at which meeting the creditors may by ordinary resolution, notwithstanding section 186, affirm the appointment of the trustee or appoint another licensed trustee in lieu of that trustee.

(9) The insolvent person may, before the expiration of the thirty-day period mentioned in subsection (8) or any extension thereof granted under this subsection, apply to the Court for an extension, or further extension, as the case may be, of that period, and the Court may grant such extensions, not exceeding forty-five days for any individual extension and not exceeding in the aggregate five months after the expiration of the thirty-day period mentioned in subsection (8), if satisfied on each application that—

- (a) the insolvent person has acted, and is acting, in good faith and with due diligence;
- (b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and
- (c) no creditor would be materially prejudiced if the extension being applied for were granted.

(10) The Court may, on application by the trustee, the interim receiver, if any, appointed under section 10(1), or a creditor, declare terminated, before its actual expiration, the thirty-

day period mentioned in subsection (8) or any extension thereof granted under subsection (9), if the Court is satisfied that—

- (a) the insolvent person has not acted, or is not acting, in good faith and with due diligence;
- (b) the insolvent person will not likely be able to make a viable proposal before the expiration of the period in question;
- (c) the insolvent person will not likely be able to make a proposal, before the expiration of the period in question, that will be accepted by the creditors, or rejected,

and where the Court declares the period in question terminated, subsection 8(a) to (c) thereupon apply as if that period had expired.

**31.** The trustee under a notice of intention shall, between the filing of the notice of intention and the filing of a proposal, advise on and participate in the preparation of the proposal, including negotiations thereon.

Trustee to assist in preparation of proposal.

**32.** (1) The trustee shall call a meeting of creditors, to be held within twenty-one days after the filing of the proposal with the Supervisor under section 44(1), by sending in the prescribed manner to every known creditor and to the Supervisor, at least ten days before the meeting—

Meeting of creditors.

- (a) a notice of the date, time and place of the meeting;
- (b) a condensed statement of the assets and liabilities;
- (c) a list of the creditors with claims amounting to two hundred and fifty dollars or more and the amounts of their claims as known or shown by the books of the debtor;
- (d) a copy of the proposal;
- (e) the prescribed forms, in blank, of—
  - (i) proof of claim;
  - (ii) in the case of a secured creditor to whom the proposal was made, proof of secured claim; and

- (iii) proxy, if not already sent; and
- (f) a voting letter as prescribed.

(2) The Supervisor, or the nominee thereof, shall be the Chairman of the meeting referred to in subsection (1) and shall decide any questions or disputes arising at the meeting, and any creditor may appeal any decision of the meeting to the Court.

Adjournment of meeting.

**33.** Where the creditors by ordinary resolution at the meeting at which a proposal is being considered so require, the meeting shall be adjourned to such time and place as may be fixed by the Chairman.

Proven creditors may vote prior to meeting.

**34.** Any creditor who has proved a claim, whether secured or unsecured, may indicate assent to or dissent from the proposal by mail, personal delivery, or printed electronic transmission delivered to the trustee prior to the meeting, and any assent or dissent, if received by the trustee at or prior to the meeting, has effect as if the creditor had been present and had voted at the meeting.

Creditors may accept or refuse proposal.

**35.** (1) The creditors may, in accordance with this section, resolve to accept or may refuse the proposal as made or as altered at the meeting or any adjournment of the meeting.

- (2) For the purposes of subsection (1)—
  - (a) the following creditors with proven claims are entitled to vote:
    - (i) all unsecured creditors; and
    - (ii) those secured creditors in respect of whose secured claims the proposal was made;
  - (b) the creditors shall vote by class, according to the class of their respective claims, and for that purpose—
    - (i) all unsecured claims constitute one class, unless the proposal provides for more than one class of unsecured claims; and
    - (ii) the classes of secured claims shall be determined as provided by section 26(4);
  - (c) the votes of the secured creditors do not count for the purpose of this section, but are relevant only for the purpose of section 44(4); and

(d) the proposal shall be deemed to be accepted by the creditors if, and only if, all classes of unsecured creditors vote for the acceptance of the proposal by a majority in number and two-thirds in value of the unsecured creditors of each class present, personally or by proxy, at the meeting and voting on the resolution.

(3) Where there is no quorum of secured creditors in respect of a particular class of secured claims, the secured creditors having claims of that class shall be deemed to have voted for the refusal of the proposal.

(4) A creditor who is related to the debtor may vote against but not for the acceptance of the proposal.

(5) The trustee, as a creditor, may not vote on the proposal.

**36.** At a meeting to consider a proposal, the creditors, with the consent of the debtor, may include such provisions or terms in the proposal with respect to the supervision of the affairs of the debtor as they may deem advisable.

Proposal may include terms of supervision.

**37.** The creditors may appoint one or more, but not exceeding five inspectors of the estate of the debtor, who shall have the powers of an inspector under this Act, subject to any extension or restriction of those powers by the terms of the proposal.

Creditors may appoint inspectors.

**38.** Where the creditors refuse a proposal in respect of an insolvent person—

Effect of refusal of proposal by creditors.

- (a) the insolvent person is deemed to have made an assignment at the time of the refusal;
- (b) the trustee shall forthwith file a report in respect of the refusal of the proposal in the prescribed form with the Supervisor, who shall thereupon issue a certificate of assignment in the prescribed form, which has the same effect for the purposes of this Act as an assignment filed pursuant to section 25; and
- (c) the trustee shall either—
  - (i) forthwith call a meeting of creditors present at that time, which meeting shall

be deemed to be a meeting called under section 93; or

- (ii) if no quorum exists for the purpose of subparagraph (i), send a notice, within five days after the day the certificate mentioned in paragraph (b) is issued, of the meeting of creditors under section 93, and at either meeting the creditors may by ordinary resolution, notwithstanding section 186, affirm the appointment of the trustee or appoint another licensed trustee in lieu of that trustee.

Substitution of trustee by Court order.

**39.** Where a declaration has been made under section 26(20) or 30(10), the Court may, if it is satisfied that it would be in the best interests of the creditors to do so, appoint a trustee in lieu of the trustee appointed under the notice of intention or proposal that was filed.

Trustee to apply to Court for approval of proposal.

**40.** On acceptance of a proposal by the creditors, the trustee shall—

- (a) within five days after the acceptance, apply to the Court for an appointment for a hearing of the application for the approval by the Court of the proposal;
- (b) send a notice of the hearing of the application, in the prescribed manner and at least fifteen days before the date of the hearing, to the debtor, to every creditor who has proved a claim, whether secured or unsecured, to the person making the proposal and to the Supervisor;
- (c) forward a copy of the report referred to in paragraph (d) to the Supervisor at least ten days before the date of the hearing; and
- (d) at least two days before the date of the hearing, file with the Court, in the prescribed form, a report on the proposal.

Trustee to prepare report to Court.

**41.** (1) The Court shall, before approving the proposal, hear a report of the trustee in the prescribed form respecting the terms of the proposal and the conduct of the debtor, and, in addition,

shall hear the trustee, the debtor, the person making the proposal, any opposing, objecting or dissenting creditor and such further evidence as the Court may require.

(2) Where the Court is of the opinion that the terms of the proposal are not reasonable or are not calculated to benefit the general body of creditors, the Court shall refuse to approve the proposal.

(3) Where any of the facts mentioned in section 165 or 169 are proved against the debtor, the Court shall refuse to approve the proposal unless it provides reasonable security for the payment of not less than twenty-five cents on the dollar on all the unsecured claims provable against the estate of the debtor or such percentage thereof as the Court may direct.

**42.** (1) No proposal shall be approved by the Court that does not provide for the payment in priority to other claims of all claims directed to be so paid in the distribution of the property of a debtor and for the payment of all proper fees and expenses of the trustee on and incidental to the proceedings arising out of the proposal or in the bankruptcy.

Payment of preferred claims and trustee's costs.

(2) No proposal in respect of an employer shall be approved by the Court unless—

- (a) it provides for payment to the employees and former employees, immediately after the Court approval of the proposal of amounts equal to the amounts that they would be qualified to receive under section 127(1)(c), if the employer became bankrupt on the date of the filing of the notice of intention, or proposal if no notice of intention was filed, as well as wages, salaries, communications or compensation for services rendered after that date and before the Court approval of the proposal, together with, in the case of travelling salesmen, disbursements properly incurred by those salesmen in and about the bankrupt's business during the same period; and
- (b) the Court is satisfied that the employer can and will make the payments as required under paragraph (a).

(3) For the purpose of voting on any question relating to a proposal in respect of an employer, no person has a claim for an amount referred to in subsection (2)(a).

(4) All moneys payable under the proposal shall be paid to the trustee and, after payment of all proper fees and expenses mentioned in subsection (1), shall be distributed by him to the creditors.

(5) Where the proposal provides for the distribution of property in the nature of promissory notes or other evidence of obligations by or on behalf of the debtor or, when the debtor is a corporation, shares in the capital stock of the corporation, the property shall be dealt with in the manner set out in subsection (4).

(6) Section 137 applies to all distributions made to the creditors by the trustee pursuant to subsection (4) or (5).

(7) Subject to subsections (1), (2) and (3), the Court may either approve or refuse to approve the proposal.

Where proposal approved by Court made by bankrupt.

**43.** (1) The approval by the Court of a proposal made after bankruptcy operates to annul the bankruptcy and to revest in the debtor, or in such other person as the Court may approve, all the right, title and interest of the trustee in the property of the debtor, unless the terms of the proposal otherwise provide.

(2) Where the Court refuses to approve a proposal in respect of an insolvent person, a copy of which has been filed under section 44—

- (a) the insolvent person is deemed to have made an assignment at the time of the refusal;
- (b) the trustee shall forthwith file a report in respect of the refusal of the proposal in the prescribed form with the Supervisor, who shall then issue a certificate of assignment in the prescribed form, which has the same effect for the purposes of this Act as an assignment filed pursuant to section 25; and
- (c) the trustee shall, within five days after the day the certificate mentioned in paragraph (b) is issued, send notice of the meeting of creditors under section 93, at which meeting the creditors



may by ordinary resolution, notwithstanding section 187, affirm the appointment of the trustee or appoint another licensed trustee in lieu of that trustee.

(3) No costs incurred by a debtor on or incidental to an application to approve a proposal, other than the costs incurred by the trustee, shall be allowed out of the estate of the debtor if the Court refuses to approve the proposal.

**44.** (1) Where a proposal is made in respect of an insolvent person, the trustee shall file a copy of the proposal with the Supervisor. Trustee to file proposal with Supervisor.

(2) Except in respect of claims referred to in section 193(11), where a proposal is made in respect of an insolvent person, the time with respect to which the claims of creditors shall be determined is the time of the filing of—

- (a) the notice of intention; or
- (b) the proposal, if no notice of intention was filed.

(3) Except in respect of claims referred to in section 193(11), where a proposal is made in respect of a bankrupt, the time with respect to which the claims of creditors shall be determined is the date on which the debtor became bankrupt.

(4) A proposal accepted by the creditors and approved by the Court is binding on the creditors in respect of—

- (a) all unsecured claims; and
- (b) the secured claims in respect of which the proposal was made and that were in classes in which the secured creditors voted for the acceptance of the proposal by a majority in number and two-thirds in value of the secured creditors present, personally or by proxy, at the meeting and voting on the resolution to accept the proposal, but does not release the insolvent person from the debts and liabilities referred to in section 170, unless the creditor assents to so releasing the insolvent person.

(5) The acceptance of a proposal by a creditor does not release any person who would not be released under this Act by the discharge of the debtor.

Default in performance of proposal.

**45. Where—**

- (a) default is made in the performance of any provision in a proposal;
- (b) the default is not waived—
  - (i) by the inspectors; or
  - (ii) if there are no inspectors, by the creditors; and
- (c) the default is not remedied by the insolvent person within the prescribed time,

the trustee shall, within such time and in such form and manner as are prescribed, so inform all the creditors and the Supervisor.

Court may annul the proposal.

**46. (1)** Where default is made in the performance of any provision in a proposal, or where it appears to the Court that the proposal cannot continue without injustice or undue delay or that the approval of the Court was obtained by fraud, the Court may, on application with such notice as the Court may direct to the debtor, and if applicable to the trustee and to the creditors, annul the proposal.

(2) An order made under subsection (1) shall be made without prejudice to the validity of any sale, disposition of property or payment duly made, or anything done under or in pursuance of the proposal, and notwithstanding the annulment of the proposal, a guarantee given pursuant to the proposal remains in full force and effect in accordance with its terms.

(3) A proposal, although accepted or approved, may be annulled by order of the Court at the request of the trustee or of any creditor whenever the debtor is afterwards convicted of any offence under this Act.

(4) On the annulment of a proposal, the debtor shall be deemed to have made an assignment and the order annulling the proposal shall so state.

(5) Where an order annulling a proposal has been made, the trustee shall, within five days after the order is made, send notice of the meeting of creditors under section 93, at which meeting the creditors may by ordinary resolution, notwithstanding section 186, affirm the appointment of the trustee or appoint another licensed trustee in lieu of that trustee.

(6) Where an order annulling the proposal described in subsection (5) has been made, the trustee shall file a report thereof in the prescribed form with the Supervisor, who shall then issue a certificate of assignment in the prescribed form, which has the same effect for the purposes of this Act as an assignment filed pursuant to section 25.

**47.** For greater certainty, where an insolvent person in respect of whom a proposal has been filed under section 44 makes an assignment at any time before the Court has approved the proposal, the date of the bankruptcy is the date of the filing of the assignment.

Date of assignment where Court approval not obtained.

**48.** A proposal made conditional on the purchase of shares or securities or on any other payment or contribution by the creditors shall provide that the claim of any creditor who elects not to participate in the proposal shall be valued by the Court and shall be paid in cash on approval of the proposal.

Court to value claims where creditor participation required.

**49.** (1) Where a notice of intention or a proposal has been filed in respect of an insolvent person, no person may terminate or amend any agreement with the insolvent person, or claim an accelerated payment under any agreement with the insolvent person by reason only that—

Agreement not to be terminated or altered.

- (a) the insolvent person is insolvent; or
- (b) a notice of intention or a proposal has been filed in respect of the insolvent person.

(2) Where the agreement referred to in subsection (1) is a lease or a licensing agreement, subsection (1) shall be read as including the following paragraph:

“(c) the insolvent person has not paid rent or royalties, as the case may be, or other payments of a similar nature, in respect of a period preceding the filing of—

- (i) the notice of intention, if one was filed; or
- (ii) the proposal, if no notice of intention was filed.”.

(3) Where a notice of intention or a proposal has been filed in respect of an insolvent person, no service provider may discontinue service to that insolvent person by reason only that—

- (a) the insolvent person is insolvent;
- (b) a notice of intention or a proposal has been filed in respect of the insolvent person; or
- (c) the insolvent person has not paid for services rendered, or material provided, before the filing of the proposal.

(4) Nothing in subsections (1) to (3) shall be construed—

- (a) as prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided after—
  - (i) the notice of intention, if one was filed; or
  - (ii) the proposal, if no notice of intention was filed; or
- (b) as requiring the further advance of money or credit.

(5) Any provision in an agreement that has the effect of providing for or permitting anything that in substance, is contrary to subsections (1) to (3) is of no force or effect.

(6) The Court may, on application by a party to an agreement or by a service provider, declare that subsections (1) to (3) do not apply or apply only to the extent declared by the Court, where the applicant satisfies the Court that the operation of those subsections would be likely to cause significant financial hardship.

(7) Subsection (1) does not apply—

- (a) in respect of an eligible financial contract; or
- (b) to prevent a Trinidad and Tobago clearing agent or group clearer from ceasing to act as such for an insolvent person.

(8) In subsections (7) and (9), “eligible financial contract” means—

- (a) a currency or interest rate swap agreement;
- (b) a basis swap agreement;

- (c) a spot, future, forward, or other foreign exchange agreement;
- (d) a cap, collar or floor transaction;
- (e) a commodity swap;
- (f) a forward rate agreement;
- (g) a repurchase or reverse repurchase agreement;
- (h) a spot, future, forward or other commodity contract;
- (i) an agreement to buy, sell, borrow or lend securities, to clear or settle securities transactions or to act as a depository for securities;
- (j) any derivative, combination or option in respect of, or agreement similar to, an agreement or contract referred to in paragraphs (a) to (i);
- (k) any master agreement in respect of any agreement or contract referred to in paragraphs (a) to (j);
- (l) any master agreement in respect of a master agreement referred to in paragraph (k);
- (m) a guarantee of the liabilities under an agreement or contract referred to in paragraphs (a) to (l); or
- (n) any agreement of a kind prescribed.

(9) For greater certainty, where an eligible financial contract entered into before the filing in respect of an insolvent person of—

(a) a notice of intention; or

(b) a proposal, where no notice of intention was filed,

is terminated on or after that filing, the setting off of the obligations between the insolvent person and the other parties to the eligible financial contract, in accordance with its provisions, shall be permitted; and if net termination values determined in accordance with the eligible financial contract are owed by the insolvent person to another party to the eligible financial contract, that other party shall be deemed, for the purposes of section 55, to be a creditor of the insolvent person with a claim provable in bankruptcy in respect of those net termination values.

(10) In this section—

“basis swap agreement” means an interest rate swap in which contracting parties exchange obligations to make interest rate payments;

“cap transaction” means an agreement providing the right to benefit from changes in interest or currency rate involving the setting of a maximum or upper limit;

“collar transaction” means an agreement providing the right to benefit from changes in interest or currency rate involving the setting of both a minimum or lower limit and a maximum or upper limit;

“commodity swap” means a lending arrangement in which repayment is in a commodity or is based on a commodity price;

“currency swap agreement” means a transaction in which two counterparties exchange specific amounts of two different currencies at the outset and repay over time in accordance with a predetermined rule that reflects interest payments and possible amortization of principal;

“floor transaction” means an agreement providing the right to benefit from changes in interest or currency rate involving the setting of a maximum or upper limit;

“forward agreement” means a cash contract in which two parties agree to the exchange of an asset to be delivered by the seller to the buyer at a specific future date;

“future contract” means a contract under which one party agrees to deliver to the other party on a specified future date, a specified asset at a price agreed at the time of the contract and payable on the future date;

“interest rate swap agreement” means an agreement between two parties to exchange series payments based on an agreed principal amount;

“master agreement” means a standard agreement that covers all transactions between the parties;

“net termination value” means the net amount obtained after setting off the mutual obligations between the parties to an eligible financial contract in accordance with its provisions;

“repurchase agreement” means a financial agreement in which a dealer or other holder of government securities sells the securities to a lender and agrees to repurchase them at an agreed future date at an agreed price;

“reverse purchase agreement” means an overnight or similar term cash equivalent investment that is collateralised by transfer of ownership in a security;

“spot agreement” means an arrangement for expected annual immediate delivery of a currency commodity at a stated rate of exchange or price.

**50.** Where a proposal is fully performed, the trustee shall give a certificate to that effect, in the prescribed form, to the debtor and to the Supervisor. Certificate of performance.

**51.** All the provisions of this Act, in so far as they are applicable, apply, with such modifications as the circumstances require, to proposals made under this Part. Mutatis mutandis provisions.

## PART VI

### PROPERTY OF THE BANKRUPT

**52.** The property of a bankrupt divisible among his creditors shall not comprise— Property of a bankrupt.

- (a) property held by the bankrupt in trust for any other person; or
- (b) any property that as against the bankrupt is prescribed to be exempt from execution or seizure,

but it shall comprise—

- (c) all property wherever situated of the bankrupt at the date of the bankruptcy or that may be acquired by or devolve on the bankrupt before the discharge of the bankrupt; and
- (d) such powers in or over or in respect of the property as might have been exercised by the bankrupt for the benefit of the bankrupt.

Excess income of individual bankrupts to be as prescribed.

**53.** (1) Standards for determining the portion of the total income of an individual bankrupt that exceed that which is necessary to enable the bankrupt to maintain a reasonable standard of living shall be as prescribed.

(2) The trustee shall—

- (a) having regard to the Bankruptcy Rules and to the personal and family situation of the bankrupt, fix the amount that the bankrupt is required to pay to the estate of the bankrupt;
- (b) inform the Supervisor in writing of the amount fixed under paragraph (a); and
- (c) take reasonable measures to ensure that the bankrupt complies with the requirement to pay.

(3) The trustee may, at any time, amend an amount fixed under subsection (2), to take into account—

- (a) material changes that have occurred in the personal or family situation of the bankrupt; or
- (b) a recommendation made by the Supervisor under subsection (4).

(4) Where the Supervisor determines that the amount required to be paid by the bankrupt under subsection (2) or (3) is substantially not in accordance with the applicable standards established under subsection (1), the Supervisor shall recommend to the trustee and to the bankrupt an amount required to be paid that the Supervisor determined is in accordance with the applicable standards.

(5) Where the trustee and the bankrupt are not in agreement with the amount that the bankrupt is required to pay under subsection (2) or (3), the trustee shall, forthwith, in the prescribed form, send to the Supervisor a request that the matter be determined by mediation and send a copy of the request to the bankrupt.

(6) On the request in writing of a creditor made within thirty days after the date of bankruptcy or an amendment referred to in subsection (3), the trustee shall, within the five days following the thirty-day period, send to the Supervisor a request in the prescribed form that the matter of the amount the bankrupt is required to pay under subsection (2) or (3) be determined by mediation and send a copy of the request to the bankrupt and the creditor.



(7) A mediation shall be in accordance with prescribed procedures.

(8) Documents contained in a file on the mediation of a matter under this section form part of the records referred to in section 179(2).

(9) Where—

- (a) the trustee has not implemented a recommendation made by the Supervisor under subsection (4);
- (b) the issue submitted to mediation requested under subsection (5) or (6) is not resolved; or
- (c) the bankrupt fails to comply with the requirement to pay as determined under this section,

the trustee shall, on the request of the inspectors, any of the creditors or the Supervisor, apply to the Court for the hearing of the matter, and the Court may, on the hearing, in accordance with the standards established under subsection (1) and having regard to the personal and family situation of the bankrupt, by order, fix the amount that the bankrupt is required to pay to the estate of the bankrupt.

(10) The Court may fix an amount that is fair and reasonable—

- (a) as salary, wages or other remuneration for the services being performed by a bankrupt for a person employing the bankrupt; or
- (b) as payment for or commission in respect of any services being performed by a bankrupt for a person,

where the person is related to the bankrupt, and the Court may, by order, determine the part of the salary, wages or other remuneration, or the part of payment or commission, that shall be paid to the trustee on the basis of the amount so fixed by the Court, unless it appears to the Court that the services have been performed for the benefit of the bankrupt and are not of any substantial benefit to the person for whom they were performed.

(11) On the application of any interested person, the Court may, at any time, amend an order made under this section to take into account material changes that have occurred in the personal or family situation of the bankrupt.

(12) An order of the Court made under this section may be served on a person from whom the bankrupt is entitled to receive money and in such case—

- (a) the order binds the person to pay to the estate of the bankrupt the amount fixed by the order; and
- (b) if the person fails to comply with the terms of the order, the Court may, on the application of the trustee, order the person to pay the trustee the amount of money that the estate of the bankrupt would have received had the person complied with the terms of the order.

(13) For the purposes of section 222, an application referred to in subsection (9) is deemed to be a proceeding for the benefit of the estate.

(14) For the purposes of this section—

- (a) “total income” referred to in subsection (1) includes, notwithstanding section 52(b), all revenues of a bankrupt of whatever nature or source; and
- (b) a requirement that a bankrupt pay an amount to the estate of the bankrupt that is enforceable against all property of the bankrupt, other than property referred to in section 52(b).

Where assignment of certain payments ineffectual.

**54.** (1) An assignment of existing or future wages made by a debtor before the debtor became bankrupt is of no effect in respect of wages earned after the bankruptcy.

(2) An assignment made by a debtor of existing or future amounts receivable as payment for or commission or professional fees in respect of services rendered by a debtor who is a natural person before the debtor became bankrupt is of no effect in respect of such amounts earned or generated after the bankruptcy.

#### STAY OF PROCEEDINGS

Stay of proceedings upon filing of notice of intention or proposal.

**55.** (1) Subject to subsections (2) to (4) and section 57, on the filing of a notice of intention under section 30(1) in respect of an insolvent person—

- (a) no creditor has any remedy against the insolvent person or the insolvent person’s property, or

- shall commence or continue any action, execution or other proceedings, for the recovery of a claim provable in bankruptcy, until the trustee has been discharged or the insolvent person becomes bankrupt; and
- (b) no provision of a security agreement between the insolvent person and a secured creditor that provides, in substance, that on—
- (i) the insolvent person's insolvency;
  - (ii) the default by the insolvent person of an obligation under the security agreement; or
  - (iii) the filing by the insolvent person of a notice of intention under section 30(1) in respect of the insolvent person,
- the insolvent person ceases to have such rights to use or deal with assets secured under the agreement as the insolvent person would otherwise have, has any force or effect until the trustee has been discharged or the insolvent person becomes bankrupt.
- (2) The stays provided by subsection (1) do not apply—
- (a) to prevent a secured creditor who took possession of secured assets of the insolvent person for the purpose of realisation before the notice of intention under section 30 was filed from dealing with those assets;
  - (b) unless the secured creditor otherwise agrees, to prevent a secured creditor who gave notice of intention under section 13(1), to enforce that creditor's security against the insolvent person more than ten days before—
    - (i) a notice of intention was filed in respect of the insolvent person under section 30; or
    - (ii) the proposal was filed, if no notice of intention under section 30 was filed from enforcing that security; or
  - (c) to prevent a secured creditor who gave notice of intention under section 13(1) to enforce that

creditor's security from enforcing the security if the insolvent person has, under section 13(2), consented to the enforcement action.

(3) Subject to sections 20, 69 and 118 to 125, the filing of a proposal under section 44(1) does not prevent a secured creditor to whom the proposal has not been made in respect of a particular security from realising or otherwise dealing with that security in the same manner as he would have been entitled to realise or deal with it if this section had not been passed.

(4) Subject to sections 20, 69 and 118 to 125, where secured creditors holding a particular class of secured claim voted for the refusal of a proposal, a secured creditor holding a secured claim of that class may henceforth realise or otherwise deal with his security in the same manner as he would have been entitled to realise or deal with it if this section had not been passed.

Stay of  
proceedings  
upon  
bankruptcy.

**56.** (1) Subject to subsection (2) and section 57, on the bankruptcy of any debtor, no creditor has any remedy against the debtor or the debtor's property or shall commence or continue any action, execution or other proceedings, for the recovery of a claim provable in bankruptcy, until the trustee has been discharged.

(2) Subject to sections 20, 69 and 118 to 125, the bankruptcy of a debtor does not prevent a secured creditor from realising or otherwise dealing with his security in the same manner as he would have been entitled to realise or deal with it if this section had not been passed, unless the Court otherwise orders, but in so ordering the Court shall not postpone the right of the secured creditor to realise or otherwise deal with his security, except as follows:

- (a) in the case of a security for a debt that is due at the date the bankrupt became bankrupt or that becomes due not later than six months thereafter, that right shall not be postponed for more than six months from that date; and
- (b) in the case of a security for a debt that does not become due until more than six months after the date the bankrupt became bankrupt, that right shall not be postponed for more than six months from

that date, unless all instalments of interest that are more than six months in arrears are paid and all other defaults of more than six months standing are cured, and then only so long as no instalment of interest remains in arrears or defaults remain unsecured for more than six months, but, in any event, not beyond the date at which the debt secured by the security becomes payable under the instrument or law creating the security.

**57.** A creditor who is affected by the operation of section 55 or 56 may apply to the Court for a declaration that those sections no longer operate in respect of that creditor, and the Court may make such a declaration, subject to any qualifications that the Court considers proper, if it is satisfied—

Aggrieved creditor may apply to Court for removal of stay.

- (a) that the creditor or person is likely to be materially prejudiced by the continued operation of those sections; or
- (b) that it is equitable on other grounds to make such a declaration.

**58.** (1) Sections 55 and 56 do not apply in respect of a claim referred to in section 112(4).

Stay ineffectual against certain parties and claims.

(2) Notwithstanding subsection (1), no creditor with a claim referred to in section 112(4) has any remedy, or shall commence or continue any action, execution or other proceeding, against—

- (a) property of a bankrupt that has vested in the trustee; or
- (b) amounts that are payable to the estate of the bankrupt under section 53.

#### GENERAL PROVISIONS

**59.** (1) Every receiving order and every assignment made in pursuance of this Act takes precedence over all judicial and other attachments, garnishments, certificates of judgment, judgments operating as executions or other process against the property of a bankrupt, except those that have been completely executed by payment to the creditors or his agent, and except the rights of a secured creditor.

Precedence of bankruptcy over certain creditors unless process completed.

(2) An execution levied by seizure and sale of the property of a bankrupt is not invalid by reason only of its being an act of bankruptcy, and a person who purchases the property in good faith under a sale by the Marshal acquires a good title against the trustee.

Property of bankrupt to vest in trustee.

**60.** (1) On a receiving order being made or an assignment being filed with the Supervisor, a bankrupt ceases to have any capacity to dispose or otherwise deal with his property, which shall, subject to this Act and to the rights of secured creditors, pass to and vest in the trustee named in the receiving order or assignment, and in any case of change of trustee the property shall pass from trustee to trustee without any conveyance, assignment or transfer.

(2) Subject to section 214(1), the trustee may exercise the right to transfer the property of the bankrupt to the same extent as the bankrupt might have exercised that right if he had not become bankrupt.

Trustee to avail himself of other rights.

**61.** The provisions of this Act shall not be deemed to abrogate or supersede the substantive provisions of any other law or statute that are not in conflict with this Act, and the trustee is entitled to avail himself of all rights and remedies provided by that law or statute as supplementary to and in addition to the rights and remedies provided by this Act.

Delivery of seized property to trustee.

**62.** (1) Where an assignment or a receiving order has been made, the Marshal or other officer of any Court or other person having seized property of the bankrupt under execution or attachment or any other process shall, on receiving a copy of the assignment or the receiving order certified by the trustee as a true copy, forthwith deliver to the trustee all that property.

(2) Where the Marshal has sold the property of a bankrupt or any part of that property, he shall deliver to the trustee the money so realised.

(3) Any property of a bankrupt under seizure for rent or taxes shall, on production of a copy of the receiving order or the assignment certified by the trustee as a true copy, be delivered forthwith to the trustee, but the costs of distress are a first charge

on the property, and, if the property or any part thereof has been sold, the money realised from the sale less the costs of distress and sale be paid to the trustee.

**63.** (1) Where the bankrupt is a lessee of premises, the trustee, notwithstanding a condition, covenant or agreement in the lease, has the right to hold and retain the leased premises until the expiration of the tenancy on the same terms and conditions as the lessee might have held the premises, had no bankruptcy occurred.

Trustee may surrender lease or deal with leasehold interests.

(2) The tenancy of the leased premises shall terminate upon the trustee disclaiming the lease, but nothing shall prevent the trustee from transferring or disposing of a lease, leasehold property, or any interest of the lessee for the unexpired term to as full an extent as could have been done by the lessee had the bankruptcy not occurred.

(3) If the lease contains a covenant, condition or agreement that the lessee may not assign or sublet the premises without the leave or consent of the landlord or other person, the covenant, condition or agreement shall be of no effect in the case of such a transfer or disposition of the lease or leasehold property if the Court, on the application of the trustee and after notice of the application to the landlord, approves the transfer or disposition proposed to be made of the lease or leasehold property.

(4) The entry of the trustee into possession of the leased premises and the occupation of the premises by the trustee, while required for the purposes of the administration by the trustee, shall not be evidence of an intention on the part of the trustee to elect to retain the premises, nor affect the trustee's right to disclaim the lease.

(5) If the trustee elects to retain the benefits of the lease and after assigns the lease to a person approved by the Court, the liability of the trustee and of the estate of the debtor is, subject to the provisions of subsection (6), limited to the payment of rent for the period of time during which the trustee remains in possession of the leased premises.

(6) The landlord has a preferred claim for any costs of distress and arrears of rent not exceeding three months' rent

accrued and due prior to the date of bankruptcy and not exceeding the realisation by the trustee from the property on the premises under lease.

(7) The landlord may prove as a general creditor for all rent accrued and due at the date of bankruptcy plus any accelerated rent, not exceeding three months, that may be claimed under the lease, less the amount in subsection (6).

(8) Except as referred to in subsection (7), the landlord is not entitled to prove as a creditor for rent for any portion of the unexpired term of the lease, but the trustee shall pay to the landlord for the period during which the trustee actually occupies and uses the premises from and after the date of bankruptcy a rental calculated on the basis of the lease and payable in accordance with its terms, but any payment already made to the landlord as rent in advance in respect of that period, and any payment to be made to the landlord in respect of accelerated rent, shall be credited against the amount payable by the trustee for that period.

(9) Nothing in this section shall render the trustee personally liable beyond the assets of the debtor in possession of the trustee.

Receiving order  
and assignment  
may be  
registered.

**64.** (1) Every true copy of a receiving order certified by the Registrar or other officer of the Court that made it, and every true copy of an assignment certified by the Supervisor, may be registered by or on behalf of the trustee in respect of the whole or any part of real property that the bankrupt owns or in which he has any interest or estate in the appropriate registry in accordance with laws regarding same.

(2) Where the bankrupt is the registered owner of any land or charge, the trustee, on registration of the documents referred to in subsection (1), is entitled to be registered as owner of the land or charge free of all encumbrances or charges mentioned in section 59(1).

(3) Where a bankrupt owns any land or charge registered under any Act, or has or is believed to have any interest or estate in that land or charge, and for any reason a copy of the receiving order or assignment has not been registered under



subsection (1), a caveat or caution may be lodged with the official in charge of the appropriate registry by the trustee, and any registration thereafter made in respect of the land or charge is subject to the caveat or caution unless it has been removed or cancelled under the provisions of the relevant statute.

(4) The person to whom a trustee tenders or causes to be tendered for registration any receiving order, assignment or other document shall register it according to the ordinary procedure for registering documents relating to real property.

(5) In the conveyance of real estate purchased from the trustee it shall not be necessary to join as parties with the trustee persons in whom the legal estate in any mortgage in fee or the legal interest in any mortgage term of years or any other legal or equitable lien or security is vested, but such conveyance when executed by the trustee shall be effectual to vest in the purchaser the real estate purported to be conveyed as if the person having lien or security, whether the same come within the purchase money or not, had been made parties to and had executed the said conveyance and had thereby granted, transferred, surrendered or released the same.

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

**65.** (1) Where any interest of the bankrupt in any property at the date of bankruptcy was held in joint tenancy, the bankruptcy shall operate as a severance of the joint tenancy and a reversion to tenancy in common.

Joint tenancy to  
revert to tenants  
in common.

(2) Where a debtor—

(a) who is married is at the date of bankruptcy, the sole registered owner of the matrimonial home and any immediately related real property not exceeding one acre;

(b) is in a cohabitational relationship and is at the date of the bankruptcy, the sole registered owner of a dwelling house in which the other cohabiting partner resides and any immediately related real property not exceeding one acre,

the spouse or cohabitant of the debtor shall be entitled, within ten days following the bankruptcy, to claim in the prescribed form a one-half interest in any net proceeds from a sale or disposition by the trustee of the property after satisfaction of any valid and enforceable charges registered in the appropriate registry.

Transactions valid unless prior registration.

**66.** Notwithstanding anything in this Act, a deed, conveyance, transfer, agreement for sale, mortgage, or charge made to or in favour of a bona fide purchaser or mortgagee for adequate valuable consideration and covering any real property affected by a receiving order or an assignment under this Act is valid and effectual according to the tenor thereof as fully and effectually and to all intents and purposes as if no receiving order or assignment had been made under this Act, unless the receiving order or assignment, or notice, or caution, has been registered against the property in the appropriate registry prior to the registration of the deed, conveyance, transfer, agreement for sale, mortgage, or charge in accordance with the relevant laws.

Where contributory indebted to bankrupt.

**67.** (1) Every shareholder or member of a bankrupt corporation is liable to contribute the amount unpaid on his shares of the capital or on his liability to the corporation, its members or creditors, as the case may be, made under the Act, charter, or instrument of incorporation of the company or otherwise.

(2) The amount that the contributor is liable to contribute under subsection (1) shall be deemed an asset of the corporation and a debt payable to the trustee forthwith on the bankruptcy of the corporation.

**68.** (1) Where a banker has ascertained that a person having an account with the banker is an undischarged bankrupt, it is his duty to inform the trustee of the existence of the account, and the banker shall not make any payment out of the account, except under an order of the Court or in accordance with instructions from the trustee, unless on the expiration of one month from the date of giving the information no instructions have been received from the trustee.

Banker to advise trustee of existence of account.

(2) Notwithstanding anything contained in any other Act, a deposit-taking institution shall on application of the trustee disclose what deposits of money, if any, of the bankrupt are remaining to the bankrupt's credit and the deposit-taking institution shall, upon request of the trustee, pay the same to the trustee.

**69.** Where property of a bankrupt is held as a pledge, pawn or other security, the trustee may give notice in writing of the trustee's intention to inspect the property, and the person so notified is not thereafter entitled to realise the security until the person has given the trustee a reasonable opportunity of inspecting the property and of exercising the trustee's right of redemption.

Trustee may inspect property.

**70.** Where the trustee has seized or disposed of property in the possession or on the premises of a bankrupt without notice of any claim in respect of the property and it is made to appear that the property was not at the date of the bankruptcy the property of the bankrupt or was subject to an unregistered lien, a right of retention, a pledge or a charge, the trustee is not personally liable for any loss or damage arising from the seizure or disposal sustained by any person claiming the property or an interest in the property or for the costs of proceedings taken to establish a claim to the property, unless the Court is of the opinion that the trustee has been guilty of negligence with respect to the duties of the trustee in relation to the property.

Where trustee disposes property subject to an encumbrance.

**71.** (1) Where a person claims any property, or interest in property, in the possession of a bankrupt at the time of the bankruptcy, that person shall file with the trustee a proof of claim verified by affidavit giving the grounds on which the claim is based and sufficient particulars to enable the property to be identified.

Persons claiming ownership interest in property of the bankrupt.

(2) The trustee with whom a proof of claim is filed under subsection (1), shall within fifteen days after the filing of the claim or within fifteen days after the first meeting of creditors, whichever is the later, either admit the claim and deliver possession of the property to the claimant or give notice in writing to the claimant that the claim is disputed with his reasons and, unless the claimant appeals to the Court within fifteen days after the mailing of the notice of dispute, the claimant shall be deemed to have abandoned or relinquished all his right to or interest in the property to the trustee who may sell or dispose of the property free of any lien, right, title or interest of the claimant.

(3) The onus of establishing a claim to or interest in property under this section is on the claimant.

(4) The trustee may give notice in writing to any person to prove his claim to or interest in property under this section, and, unless that person files with the trustee a proof of a claim in the prescribed form within fifteen days after the mailing of the notice, the trustee may with the leave of the Court sell or dispose of the property free of any lien, right, title or interest of that person.

(5) No proceedings shall be instituted to establish a claim to, or to recover any right or interest in any property in the possession of a bankrupt at the time of the bankruptcy, except as provided in this section.

(6) Nothing in this section shall be construed as extending the rights of any person other than the trustee.

Unpaid  
suppliers may  
prove for certain  
goods.

**72.** (1) Subject to this section, where a person, in this section referred to as the “supplier”, has sold and delivered goods to another person, in this section referred to as the “purchaser”, for use in relation to the business of the purchaser, and the purchaser has not fully paid for the goods, the supplier may have access to and repossess the goods at the expense of the supplier, and the purchaser, trustee or receiver shall release the goods, if—

(a) the supplier presents a written demand for repossession to the purchaser, trustee or receiver, in the prescribed form and

containing the details of the transaction, within a period of thirty days after the delivery of the goods to the purchaser;

- (b) at the time when the demand referred to in paragraph (a) is presented—
  - (i) the purchaser is bankrupt; or
  - (ii) there is a receiver in relation to the purchaser;
- (c) at the time when the demand referred to in paragraph (a) is presented, the goods—
  - (i) are in the possession of the purchaser, trustee or receiver;
  - (ii) are identifiable as the goods delivered by the supplier and are not fully paid for;
  - (iii) are in the same state as they were on delivery;
  - (iv) have not been resold at arm's length; and
  - (v) are not subject to any agreement for sale at arm's length; and
- (d) the purchaser, trustee or receiver does not, after the demand referred to in paragraph (a) is presented, pay to the supplier the entire balance owing.

(2) Where, at the time when the demand referred to in paragraph (a) is presented, the goods have been partly paid for, the right of the supplier to repossess under subsection (1) shall be read as a right—

- (a) to repossess a portion of the goods proportional to the unpaid amount; or
- (b) to repossess all of the goods on paying to the purchaser, trustee or receiver an amount equal to the partial payment previously made to the supplier.

(3) For the purpose of subsection (1)(b)(i), section 47 shall be disregarded and sections 38(a) and 43(2)(a) shall both be read as follows:

“(a) the insolvent person shall at the time of the refusal be deemed to have made an assignment;”.

(4) Where a notice of intention under section 30 or a proposal was filed in respect of the purchaser after the delivery of the goods to the purchaser and before there was a receiver in relation to the purchaser or the purchaser became bankrupt, the period between—

- (a) the earlier of the filing of the notice of intention or proposal; and
- (b) the earlier of the first day there was a receiver in relation to the purchaser or the day the purchaser became bankrupt,

shall not be counted in determining the end of the thirty-day period referred to in subsection (1)(a).

(5) A supplier's right to repossess goods pursuant to this section expires if not exercised within ten days after the purchaser, trustee or receiver presents the supplier with a written notice admitting that right, unless the ten-day period is extended by mutual agreement.

(6) Notwithstanding any other Act or law, the right of the supplier to repossess goods pursuant to this section ranks above every other claim or right against the purchaser in respect of those goods, other than the right of a bona fide subsequent purchaser of the goods for value without notice that the supplier had demanded repossession of the goods.

(7) The purchaser, trustee or receiver may apply to the Court for directions in relation to any matter relating to this section, and the Court shall give, in writing, such directions, if any, as it considers proper in the circumstances.

(8) Where a supplier is aggrieved by an act, omission or decision of the purchaser, trustee or receiver, the supplier may apply to the Court and the Court may make such order as it considers proper in the circumstances.

(9) Nothing in subsection (7) or (8) precludes a person from exercising any right that the person may have under section 217(1) or 220.

(10) A supplier who repossesses goods pursuant to this section is not entitled to be paid for those goods.

**73. (1) Where—**

Claim of farmer  
or fisherman.

- (a) a farmer has sold and delivered products of agriculture, or a fisherman has sold and delivered products of the sea, to another person, in this section referred to as the “purchaser”, for use in relation to the business of the purchaser;
- (b) the products were delivered to the purchaser within the fifteen-day period preceding—
  - (i) the day on which the purchaser became bankrupt; or
  - (ii) the first day on which there was a receiver in relation to the purchaser;
- (c) as of the day referred to in subparagraph (b)(i) or (ii), the farmer or fisherman has not been fully paid for the products; and
- (d) the farmer or fisherman files a proof of claim in the prescribed form in respect of the unpaid amount with the trustee or receiver, as the case may be, within thirty days after the day referred to in subparagraph (b)(i) or (ii),

the claim of the farmer or fisherman for the unpaid amount in respect of the products is secured by a charge on all the inventory of or held by the purchaser as of the day referred to in subparagraph (b)(i) or (ii).

(2) The charge ranks above every other claim, right or charge against that inventory, regardless of when that other claim, right or charge arose, except a supplier’s right to repossess goods pursuant to section 72, notwithstanding any other law.

(3) Where the trustee or receiver, as the case may be, takes possession of or in any way disposes of an inventory covered by the charge referred to in subsection (1), the trustee or receiver is liable for the claim of the farmer or fisherman to the extent of the net amount realised on the disposition of that inventory, after deducting the cost of realisation; and is subrogated in and to all rights of the farmer or fisherman to the extent of the amounts paid to them by the trustee or receiver.

(4) In this section—

“aquatic plants and animals” means plants and animals that, at most stages of their development or life cycle, live in an aquatic environment;

“farm” means land in Trinidad and Tobago used for the purpose of farming, livestock raising, dairying, bee-keeping, fruit growing, the growing of trees and all tillage of the soil;

“farmer” includes the owner, occupier, landlord and tenant of a farm;

“fish” includes shellfish, crustaceans and marine animals;

“fisherman” means a person whose business consists in whole or in part of fishing;

“fishing” means fishing for or catching fish by any method;

“products of agriculture” includes—

(a) vegetables, fruits and all other direct products of the soil; and

(b) honey, livestock, dairy products, eggs and all other indirect products of the soil; and

“products of the sea” includes fish of all kinds, marine organic and inorganic life and any substances extracted or derived from the sea.

(5) For the purposes of this section, each thing included in the following terms as defined in subsection (4), namely—

(a) “products of agriculture”; and

(b) “products of the sea”,

comprises that thing in any form or state and any part thereof and any product or by-product thereof or derived therefrom.

(6) For the avoidance of doubt, “goods” in section 72 includes products of agriculture and products of the sea.

(7) Nothing in this section precludes a farmer or fisherman from exercising the right that that person may have under section 72 to repossess products of agriculture or products of the sea.

Sale of patented articles by trustee.

**74.** (1) Where any property of a bankrupt vesting in a trustee consists of patented articles that were sold to the bankrupt



subject to any restrictions or limitations, the trustee is not bound by the restrictions or limitations but may sell and dispose of the patented articles free of the restrictions or limitations.

(2) Where the manufacturer or vendor of the patented articles referred to in subsection (1) objects to the disposition of them by the trustee as provided by this section and gives the trustee notice in writing of the objection before the sale or disposition of the patented articles, that manufacturer or vendor has the right to purchase the patented articles at the invoice prices of those articles, subject to any reasonable deduction for depreciation or deterioration.

**75.** (1) Notwithstanding anything in this Act or in any other statute, the author's manuscripts and any copyright or any interest in a copyright in whole or in part assigned to a publisher, printer, firm or person becoming bankrupt shall, where—

Copyright  
works dealt with  
by bankrupt.

- (a) the work covered by the copyright has not been published and put on the market at the time of the bankruptcy and no expense has been incurred in connection with the work, revert and be delivered to the author or his heirs, and any contract or agreement between the author or his heirs and the bankrupt shall then terminate and be void;
- (b) the work covered by the copyright has in whole or in part been put into type and expenses have been incurred by the bankrupt, revert and be delivered to the author on payment of the expenses so incurred and the product of those expenses shall also be delivered to the author or his heirs and any contract or agreement between the author or his heirs and the bankrupt shall then terminate and be void, but if the author does not exercise his rights under this paragraph within six months of the date of bankruptcy, the trustee may carry out the original contract; or
- (c) the trustee at the expiration of six months from the date of the bankruptcy decides not to carry out the contract, revert without expenses to the

author and any contract or agreement between the author or his heirs and the bankrupt shall then terminate and be void.

(2) Where, at the time of the bankruptcy referred to in subsection (1), the work was published and put on the market, the trustee is entitled to sell, or authorise the sale or reproduction of, any copies of the published work, or to perform or authorise the performance of the work, but—

- (a) there shall be paid to the author or his heirs such sums by way of royalties or share of the profits as would have been payable by the bankrupt;
- (b) the trustee is not, without the written consent of the author or his heirs, entitled to assign the copyright or transfer the interest or to grant any interest in the copyright by licence or otherwise, except on terms that will guarantee to the author or his heirs payment by way of royalties or share of the profits at a rate not less than the rate the bankrupt was liable to pay; and
- (c) any contract or agreement between the author or his heirs and the bankrupt shall then terminate and be void, except with respect to the disposal, under this subsection, of copies of the work published and put on the market before the bankruptcy.

(3) The trustee shall offer in writing to the author or his heirs the right to purchase the manufactured or marketable copies of the copyright work comprised in the estate of the bankrupt at such price and on such terms and conditions as the trustee may deem fair and proper before disposing of the manufactured and marketable copies in the manner set out in this section.

Bankrupt's interest vests in purchaser upon sale by trustee.

**76.** All sales of property made by a trustee vest in the purchaser all the legal and equitable estate of the bankrupt in the property.

#### PARTNERSHIP PROPERTY

Limited partnerships.

**77.** (1) This Act applies to limited partnerships in like manner as if limited partnerships were ordinary partnerships,

and, on all the general partners of a limited partnership becoming bankrupt, the property of the limited partnership vests in the trustee.

(2) Where a member of a partnership becomes bankrupt, the Court may authorise the trustee to commence and prosecute any action in the names of the trustee and of the bankrupt's partner, and any release by the partner of the debt or demand to which the action relates is void.

(3) Notice of the application for authority to commence an action under subsection (2) shall be given to the bankrupt's partner, who may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action, and if he does not claim any benefit from his share, he shall be indemnified against costs in respect of the action the Court directs.

#### STATE INTERESTS

**78.** (1) Notwithstanding any other law in relation to a bankruptcy or proposal, all provable claims, including secured claims of the State, rank as unsecured claims. State's claims are unsecured.

(2) Subsection (1) does not apply to claims that are secured by a security or privilege of a kind that can be obtained by persons other than the State pursuant to any law.

**79.** (1) A security provided for in legislation for the sole or principal purpose of securing a claim of the State is valid in relation to a bankruptcy or proposal only if the security is registered, before the earliest date of— State's security to be registered to be enforceable.

- (a) the date a petition is filed against the debtor;
- (b) the date the debtor makes an assignment; and
- (c) the date the debtor commences proceedings for a proposal pursuant to a prescribed system of registration.

(2) In relation to a bankruptcy or proposal, a security referred to in subsection (1) that is registered in accordance with that subsection is valid only in respect of amounts owing to the State at the time of that registration, plus any interest subsequently accruing on those amounts.

## SETTLEMENTS AND PREFERENCES

Settlements  
within one year  
void.

**80.** (1) Any settlement of property made within the period beginning on the day that is one year before the date of the initial bankruptcy event in respect of the settlor and ending on the date that the settlor became bankrupt, both dates included, is void against the trustee.

(2) Any settlement of property made within the period beginning on the day that is five years before the date of the initial bankruptcy event in respect of the settlor and ending on the date that the settlor became bankrupt, both dates included, is void against the trustee if the trustee can prove that the settlor was, at the time of making the settlement, unable to pay all the settlor's debts without the aid of the property comprised in the settlement or that the interest of the settlor in the property did not pass on the executions thereof.

(3) This section does not extend to any settlement made—

- (a) before and in consideration of marriage or in respect of a cohabitational relationship;
- (b) in favour of a purchaser or encumbrancer in good faith and for valuable consideration; or
- (c) on or for the spouse, cohabitant, or children of the settlor of property that has accrued to the settlor after the marriage or commencement of the cohabitational relationship in right of the settlor's spouse, cohabitant, or children.

Contracts in  
consideration of  
marriage.

**81.** (1) Any covenant or contract made by any person, hereinafter called "the settlor", in consideration of the settlor's marriage or either for the future payment of money for the benefit of the settlor's spouse, or children, or for the future settlement on or for the settlor's spouse, or children, of property wherein the settlor had not at the date of the marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property in right of the settlor's spouse is, if the settlor becomes bankrupt and the covenant or contract has not been executed at the date of the initial bankruptcy event in respect of the settlor, void against the trustee.

(2) Notwithstanding subsection (1), as far as it enables the persons entitled under the covenant or contract to claim a dividend in the settlor's bankruptcy proceedings under or in respect of the covenant or contract, but any such claim to a dividend shall be postponed until all claims of the other creditors have been satisfied.

**82.** (1) Any payment of money, not being payment of premiums on a policy of life insurance in favour of the spouse, child or children of the settlor, or any transfer of property made by the settlor in pursuance of a covenant or contract mentioned in section 81, is void against the trustee unless the person to whom the payment or transfer was made proves that—

Payments void except on proof of certain facts.

- (a) the payment or transfer was made more than six months before the date of the initial bankruptcy event in respect of the settlor;
- (b) at the date of payment or transfer, the settlor was able to pay all his debts without the aid of the money so paid or the property so transferred; or
- (c) the payment or transfer was made in pursuance of a covenant or contract to pay or transfer money or property expected to come to the settlor from or on the death of a particular person named in the covenant or contract and was made within three months after the money or property came into the possession or under the control of the settlor.

(2) Where any payment or transfer mentioned in subsection (1) is declared void, the persons to whom it was made are entitled to claim for dividend under or in respect of the covenant or contract in like manner as it had not been executed at the date of the initial bankruptcy event.

**83.** (1) Where a person engaged in any trade or business makes an assignment of his existing or future book debts or any class or part thereof and subsequently becomes bankrupt, the assignment of book debts is void against the trustee with respect to any book debts that have not been paid at the date of bankruptcy.

Assignment of book debts void.

(2) This section does not apply to an assignment of book debts that is registered pursuant to any statute providing for the registration thereof if the assignment is valid in accordance with the statute.

(3) Nothing in this section renders void any assignment of book debts due at the date of the assignment from specified debtors, or of debts growing due under specified contracts, or any assignment of book debts included in a transfer of a business made in good faith and for valuable consideration.

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

Preferences voidable if made within three months.

**84.** (1) Every conveyance or transfer of property or charge made on the property, every payment made, every obligation incurred and every judicial proceeding taken or suffered by any insolvent person in favour of any creditor or of any person in trust for any creditor with a view to giving such creditor or any surety or guarantor for the debt due to such creditor a preference over the other creditors is, where it is made, incurred, taken or suffered within the period beginning on the day that is three months before the date of the initial bankruptcy event and ending on the date the insolvent person became bankrupt, both dates included, deemed fraudulent and void as against the trustee in the bankruptcy.

(2) Where any conveyance, transfer, charge, payment, obligation, or judicial proceeding mentioned in subsection (1) has the effect of giving any creditor a preference over other creditors, or over any one or more of them, it shall be presumed, in the absence of evidence to the contrary, to have been made, incurred, taken, paid or suffered with a view to giving the creditor a preference over other creditors, whether or not it was made voluntarily or under pressure and evidence of pressure shall not be admissible to support the transaction.

(3) Subsection (2) does not apply in respect of a margin deposit made by a clearing member with a clearing house.

(4) In this section—  
“clearing house” means a body that acts as an intermediary for its clearing members in effecting securities transactions;

“clearing member” means a person engaged in the business of effecting securities transactions who uses a clearing house as intermediary;

“creditor” includes a surety or guarantor for the debt due to the creditor;

“margin deposit” means a payment, deposit or transfer to a clearing house under the rules of the clearing house to assure the performance of the obligations of a clearing member in connection with security transactions, including, without limiting the generality of the foregoing, transactions respecting futures, options or other derivatives or to fulfil any of those obligations.

**85.** Where the conveyance, transfer, charge, payment, obligation or judicial proceeding mentioned in section 84(1) is in favour of a person related to the insolvent person, the period referred to in section 84(1) shall be one year instead of three months.

Preference to related party voidable if made within twelve months.

**86.** (1) No payment, delivery, conveyance, transfer, contract, dealing or transaction to, by or with a bankrupt made between the date of the initial bankruptcy event and the date of the bankruptcy is valid, except the following, which are valid if made in good faith, subject to the foregoing provisions of this Act with respect to the effect of bankruptcy on an execution, attachment or other process against property, and subject to the provisions of this Act respecting settlements, preferences and reviewable transactions—

Transactions between initial bankruptcy event and bankruptcy.

- (a) a payment by the bankrupt to any of the creditors of the bankrupt;
- (b) a payment or delivery to the bankrupt;
- (c) a conveyance or transfer by the bankrupt for adequate valuable consideration; and
- (d) a contract, dealing or transaction, including any giving of security, by or with the bankrupt for adequate valuable consideration.

(2) The expression “adequate valuable consideration” in paragraph (1)(c) means a consideration of fair and reasonable money value with relation to that of the property conveyed, assigned or transferred, and in paragraph (1)(d) means a

consideration of fair and reasonable money value with relation to the known or reasonably to be anticipated benefits of the contract, dealing or transaction.

(3) Where there have been mutual credit, mutual debts or other mutual dealings between a bankrupt and any other person proving or claiming to prove a debt in the bankruptcy, an account may be taken of what is due from one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively.

Proceeds from dealing with property obtained in voidable transaction.

**87.** (1) Where a person has acquired the property of a bankrupt under a transaction that is void or under a voidable transaction that is set aside and has sold, disposed of, realised or collected the property or any part thereof, the money or other proceeds, whether further disposed of or not, shall be deemed the property of the trustee.

(2) The trustee may recover the property or the value of the property or the money or proceeds from the property from the person who acquired it from the bankrupt or from any other person to whom he may have resold, transferred or paid over the proceeds of the property as fully and effectually as the trustee could have recovered the property if it had not been sold, disposed of, realised or collected.

(3) Notwithstanding subsection (1), where any person to whom the property has been sold or disposed of has paid or given in good faith adequate valuable consideration for the property, that person is not subject to the operation of this section but the trustee's recourse shall be solely against the person entering into the transaction with the bankrupt for recovery of the consideration so paid or given or the value of the property.

(4) Where the consideration payable for or on any sale or resale of the property or any part of the property remains unsatisfied, the trustee is subrogated to the rights of the vendor to compel payment or satisfaction.

Good faith transactions with bankrupts protected.

**88.** (1) All transactions by a bankrupt with any person dealing with the bankrupt in good faith and for value in respect



of property acquired by the bankrupt after the bankruptcy, if completed before any intervention by the trustee, are valid against the trustee, and any estate or interest in the property that by virtue of this Act is vested in the trustee shall determine and pass in such manner and to such extent as may be required for giving effect to the transaction.

(2) For the purposes of this section, the receipt of any money, security or negotiable instrument for or by the order or direction of a bankrupt by his banker and any payment and any delivery of any security or negotiable instrument made to or by the order or direction of a bankrupt by his banker shall be deemed to be a transaction by the bankrupt with his banker dealing with him for value.

**89.** (1) Where a bankrupt sold, purchased, leased, hired, supplied or received property or services in a reviewable transaction within the period beginning on the day that is one year before the date of the initial bankruptcy event and ending on the date of the bankruptcy, the Court may, on the application of the trustee, inquire into whether the bankrupt gave or received, as the case may be, fair market value in consideration for the property or services concerned in the transaction.

Reviewable transactions in year prior to initial bankruptcy event.

(2) Where the Court in proceedings under this section finds that the consideration given or received by the bankrupt in the reviewable transaction was conspicuously greater or less than the fair market value of the property or services concerned in the transaction, the Court may give judgment to the trustee against the other party to the transaction, against any other person being privy to the transaction with the bankrupt or against all those persons for the difference between the actual consideration given or received by the bankrupt and the fair market value, as determined by the Court, of the property or services concerned in the transaction.

(3) In making an application under this section, the trustee shall state what in his opinion was the fair market value of the property or services concerned in the transaction and what in his opinion was the value of the actual consideration given or received by the bankrupt in the transaction, and the values on which the Court makes any finding pursuant to this section shall be the values so stated by the trustee unless other values are proven.

Where dividend paid by company.

**90.** (1) Where a corporation that is bankrupt has paid a dividend, other than a stock dividend, or redeemed or purchased for cancellation any of the shares of the capital stock of the corporation within the period beginning on the day that is one year before the date of the initial bankruptcy event and ending on the date of the bankruptcy, the Court may, on the application of the trustee, inquire into the transaction to ascertain whether it occurred at a time when the corporation was insolvent or whether it rendered the corporation insolvent.

(2) Where a transaction referred to in subsection (1) has occurred, the Court may give judgment to the trustee against the directors of the corporation, jointly and severally, in the amount of the dividend or redemption or purchase price, with interest on the dividend, redemption or purchase price, that has not been paid to the corporation where the Court finds that—

- (a) the transaction occurred at a time when the corporation was insolvent or the transaction rendered the corporation insolvent; and
- (b) the directors did not have reasonable grounds to believe that the transaction was occurring at a time when the corporation was not insolvent or the transaction would not render the corporation insolvent.

(3) In making a determination under subsection (2)(b), the Court shall consider whether the directors acted as prudent and diligent persons would have acted in the same circumstances and whether the directors in good faith relied on—

- (a) financial or other statements of the corporation represented to them by officers of the corporation or the auditor of the corporation, as the case may be, or by written reports of the auditor to fairly reflect the financial condition of the corporation; or
- (b) a report relating to the corporation's affairs prepared pursuant to a contract with the corporation by an Attorney-at-law, notary public, accountant, engineer, appraiser or other person whose profession gave credibility to the statements made in the report.

(4) Where a transaction referred to in subsection (1) has occurred and the Court makes a finding referred to in subsection (2)(a), the Court may give judgment to the trustee against a shareholder who is related to one or more directors or to the corporation or who is a director not liable by reason of subsection (2)(b) or (5), in the amount of the dividend or redemption or purchase price referred to in subsection (1) and the interest on the dividend, redemption or purchase price, that was received by the shareholder and not repaid to the corporation.

(5) A judgment pursuant to subsection (2) shall not be entered against or be binding on a director who had, in accordance with any applicable law governing the operation of the corporation, protested against the payment of the dividend or the redemption or purchase for cancellation of the shares of the capital stock of the corporation and had thereby exonerated himself under that law from any liability.

(6) Nothing in this section shall be construed to affect any right, under any applicable law governing the operation of the corporation, of the directors to recover from a shareholder the whole or any part of any dividend, or any redemption or purchase price, made or paid to the shareholder when the corporation was insolvent or that rendered the corporation insolvent.

(7) For the purposes of subsection (2), the onus of proving—

- (a) that the corporation was not insolvent at the time the transaction occurred and that the transaction did not render the corporation insolvent; or
- (b) that the directors had reasonable grounds to believe that the transaction was occurring at a time when the corporation was not insolvent or that the transaction would not render the corporation insolvent,

lies on the directors.

(8) For the purposes of subsection (4), the onus of proving that the corporation was not insolvent at the time the transaction occurred and that the transaction did not render the corporation insolvent lies on the shareholder.

Sections 80 to 90 to apply.

**91.** (1) Where a proposal is made under Part V, sections 80 to 90 apply to the proposal, with such modifications as the circumstances require, except where the proposal otherwise provides.

(2) For the purposes of subsection (1), any reference in sections 80 to 90 to “becomes bankrupt” shall be construed as a reference to “files a proposal”, and any reference in those sections to a bankrupt shall be construed as a reference to the debtor in respect of whom the proposal is filed.

Where proposal followed by bankruptcy.

**92.** Sections 80 to 90 apply as though the debtor became bankrupt on the date of the initial bankruptcy event where the proposal is annulled either by the Court pursuant to section 46(1) or as a result of a receiving order or assignment.

## PART VII

### ADMINISTRATION OF ESTATES

#### MEETINGS OF CREDITORS

Trustee to send notice to creditors of first meeting.

**93.** (1) Subject to subsection (2), it is the duty of the trustee—

(a) to inquire as to the names and addresses of the creditors of a bankrupt; and

(b) within five days after the date of the trustee’s appointment, to send in the prescribed manner to the bankrupt, to every known creditor and to the Supervisor a notice in the prescribed form of the bankruptcy and of the first meeting of creditors, to be held within the twenty-one day period following the day of the trustee’s appointment, at the office of the Supervisor; but the Supervisor may, when he deems it expedient, authorise the meeting to be held at such other place as he may fix.

(2) Where the Supervisor is satisfied that the extension of the period during which the first meeting of creditors must be held will not be detrimental to the creditors and is in the general interest of the administration of the estate, the Supervisor may extend the period—

(a) by ten days; or

(b) where the Supervisor is satisfied that special circumstances exist, by up to thirty days.

(3) The trustee shall include with the notice referred to in subsection (1), a list of the creditors with claims amounting to one hundred dollars or more and the amount of claims together with a proof of claim and proxy in the prescribed form but no name shall be inserted in the proxy before it is so sent.

(4) In the case of the bankruptcy of an individual, the trustee shall—

(a) set out in the notice, in the prescribed form, information concerning the financial situation of the bankrupt and the obligation of the bankrupt to make payments required under section 53 to the estate of the bankrupt; and

(b) forthwith advise the Supervisor, and any creditors who have requested such information, of—

(i) any material change relating to the financial situation of the bankrupt; and

(ii) any amendment made under section 53(3) to the amount that the bankrupt is required to pay to the estate of the bankrupt.

(5) A notice in the prescribed form shall, as soon as possible after the bankruptcy and not later than five days before the first meeting of creditors, be published in a local daily newspaper by the trustee.

(6) The purpose of the first meeting of creditors shall be to—

(a) consider the affairs of the bankrupt;

(b) affirm the appointment of the trustee or substitute another in place of the trustee;

(c) appoint inspectors; and

(d) give such directions to the trustee as the creditors may see fit with reference to the administration of the estate.

**94.** (1) The trustee may at any time call a meeting of creditors and he shall do so when directed by the Court and whenever requested in writing by a majority of the inspectors or Trustee may call meeting.

by any creditor with the concurrence of one-sixth in value of the unsecured creditors holding one-sixth in number of the proved unsecured claims.

(2) A meeting of the creditors may be convened by a majority of the inspectors at any time when a trustee is not available to call a meeting or has neglected or failed to do so when so directed by the inspectors.

Notice regarding subsequent meetings.

**95.** (1) Meetings of creditors other than the first shall be called by sending a notice of the time and place of the meeting not less than five days before the time of each meeting to each creditor at the address given in the creditor's proof of claim.

(2) After the first meeting of creditors, notice of any meeting or of any proceeding need not be given to any creditors other than those who have proved their claims.

#### PROCEDURE AT MEETINGS

Chairman of first meeting.

**96.** (1) The Supervisor or the nominee of the Supervisor shall be the Chairman of the first meeting of creditors and shall decide any questions or disputes arising at the meeting; and any creditor may appeal to the Court from any decision arising from the meeting.

(2) At all meetings of creditors other than the first, the trustee shall be the Chairman unless by resolution at the meeting some other person is appointed.

(3) The Chairman of any meeting of creditors shall, in the case of a tie, have a second or casting vote.

(4) The Chairman of any meeting of creditors shall cause minutes of the proceedings at the meeting to be drawn up and entered in a book kept for that purpose, and the minutes shall be signed by that Chairman or by the Chairman of the next ensuing meeting.

(5) Where a meeting of creditors is called, the proceedings and resolutions passed at the meeting, unless the Court otherwise orders, are valid, notwithstanding that some creditors had not received notice.

**97.** (1) One creditor entitled to vote, or the representative of that creditor, constitutes a quorum for a meeting of creditors. Quorum at meeting.

(2) Where there is no quorum at the first meeting of creditors—

(a) the appointment of the trustee shall be deemed to be confirmed; and

(b) the Chairman shall adjourn the meeting—

(i) to such time and place as the Chairman fixes; or

(ii) without fixing a time or place for a future meeting.

(3) Where there is no quorum at any meeting of creditors other than the first meeting, the Chairman shall adjourn the meeting to such time and place as the Chairman fixes.

(4) The Chairman of any meeting of creditors may with the consent of the meeting, adjourn the meeting, from time to time.

**98.** Every class of creditors may express its views and wishes separately from every other class and the effect to be given to those views and wishes shall, in case of any dispute and subject to this Act, be in the discretion of the Court. Creditors may vote by class.

**99.** (1) The Chairman of any meeting of creditors has power to admit or reject a proof of claim for the purpose of voting but his decision is subject to appeal to the Court. Chairman may admit or reject proofs.

(2) Notwithstanding anything in this Act, the Chairman may, for the purpose of voting, accept any letter or printed matter transmitted by any form or mode of telecommunication as proof of the claim of a creditor.

(3) Where the Chairman is in doubt as to whether a proof of claim should be admitted or rejected, the Chairman shall mark the proof as objected to and allow the creditor to vote subject to the vote being declared invalid in the event of the objection being sustained.

**100.** (1) A person is not entitled to vote as a creditor at any meeting of creditors unless that person has duly proved a claim provable in bankruptcy and the proof of claim has been duly lodged with the trustee before the time appointed for the meeting. Completed proof of claim required to enable voting.

(2) A creditor may vote either in person or by proxy.

(3) A proxy is not invalid merely because it is in the form of a letter or printed matter transmitted by any form or mode of telecommunication.

(4) A debtor may not be appointed a proxy to vote at any meeting of his creditors.

(5) A corporation may vote by an authorised agent at meetings of creditors.

(6) Except as otherwise provided by this Act, a creditor is not entitled to vote at any meeting of creditors if the creditor did not, at all times within the period beginning on the day that is one year before the date of the initial bankruptcy event in respect of the debtor and ending on the date of the bankruptcy, both dates included, deal with the debtor at arm's length.

(7) A creditor who is not entitled to vote at a meeting of creditors by virtue of subsection (6) may with leave of the Court vote at the meeting of creditors when all the creditors who have dealt with the debtor at arm's length do not together present at least twenty per cent in value of the claims against the debtor.

Voting where claims acquired.

**101.** (1) No person is entitled to vote on a claim acquired after the bankruptcy of a debtor unless the entire claim is acquired.

(2) Subsection (1) does not apply to persons acquiring notes, bills or other securities on which they are liable.

Where non-bankrupt parties jointly liable.

**102.** A creditor shall not vote in respect of any claim on or secured by a current bill of exchange or promissory note held by that creditor, unless the creditor is willing to treat the liability to him by virtue of the bill of exchange or promissory note of every person who is liable on that bill or note antecedently to the debtor, and who is not a bankrupt, as a security in his hands and to estimate the value thereof and for the purposes of voting, but not for the purposes of dividend, to deduct it from his claim.

Secured creditor may vote unsecured portion only.

**103.** For the purpose of voting, a secured creditor shall, unless that creditor surrenders his security, state in his proof the particulars of his security, the date when it was given and the



value at which he assesses it, and he is entitled to vote only in respect of the balance, if any, due to him after deducting the value of his security.

**104.** (1) Where the trustee is a creditor or a proxy for a creditor, the trustee may vote as a creditor at any meeting of creditors. Where trustee may vote.

(2) The vote of the trustee or of his partner, clerk, Attorney-at-law or attorney's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the trustee.

(3) The following persons are not entitled to vote on the appointment of a trustee or inspector:

- (a) the father, mother, child, sister, brother, uncle or aunt by blood or marriage, or spouse or cohabitant of the bankrupt;
- (b) where the bankrupt is a corporation, any officer, director or employee of the corporation; and
- (c) where the bankrupt is a corporation, any wholly owned subsidiary corporation or any officer, director or employee of the corporation.

**105.** (1) A minute of proceedings at a meeting of creditors under this Act signed at the same or the next ensuing meeting by a person describing himself as or appearing to be Chairman of the meeting at which the minute is signed shall be admitted in evidence without further proof. Minutes to be proof of meeting.

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

**106.** Subject to this Act, all questions at meetings of creditors shall be decided by resolution carried by the majority of votes, and for that purpose the votes of a creditor shall be calculated by counting one vote for each dollar of every claim of the creditor that is not disallowed. Creditors vote by dollar.

## INSPECTORS

Appointment of  
inspectors.

**107.** (1) At the first or a subsequent meeting of creditors, the creditors shall appoint one or more, but not exceeding five inspectors of the estate of the bankrupt for the purpose of overseeing the administration of the estate of the trustee bankrupt.

(2) No person is eligible to be appointed or to act as an inspector unless he satisfies the criteria prescribed and is not a party to any contested action or proceedings by or against the estate of the bankrupt.

(3) The powers of the inspectors may be exercised by a majority of them.

(4) The creditors or inspectors at any meeting may fill any vacancy on the Board of inspectors.

(5) The creditors may at any meeting and the Court may on the application of the trustee or any creditor revoke the appointment of any inspector and appoint another in his stead.

(6) Where there are no inspectors, any act or thing or any direction or permission by this Act authorised or required to be done or given by inspectors may be done or given by the Court on the application of the trustee.

Trustee may call  
meeting of  
inspectors.

**108.** (1) The trustee may call a meeting of inspectors when he deems it advisable and he shall do so when requested in writing by a majority of the inspectors.

(2) An inspector may, if all the other inspectors consent, participate in a meeting of inspectors by means of such telephone or other communication facilities as permit all persons participating in the meeting to communicate with each other, and an inspector participating in such a meeting by such means is deemed for the purpose of this Act to be present at that meeting.

(3) In the event of an equal division of opinion at a meeting of inspectors, the opinion of any absent inspector shall be sought in order to resolve the difference, and in the case of a difference that cannot be so resolved, it shall be resolved by the trustee, unless it concerns his personal conduct or interest in which case it shall be resolved by the creditors or the Court.

**109.** Where there are no inspectors of the estate of the bankrupt or where the inspectors fail to exercise the powers conferred upon them, the trustee shall call a meeting of the creditors for the purpose of appointing inspectors or substituting other inspectors, taking such action or giving such directions as may be necessary.

Trustee to call meeting to appoint inspectors.

**110.** (1) Subject to this Act, the trustee shall in the administration of the property of the bankrupt and in the distribution of that property among his creditors have regard to any directions that may be given by resolution of the creditors at any general meeting or by the inspectors, and any directions so given by the creditors shall in case of conflict be deemed to override any directions given by the inspectors.

Directions of creditors to override directions by inspectors.

(2) The decisions and actions of the inspectors are subject to review by the Court at the instance of the trustee or any interested person and the Court may revoke or vary any act or decision of the inspectors and it may give such directions, permission or authority as it deems proper in substitution or may refer any matter back to the inspectors for reconsideration.

**111.** (1) No inspector is directly or indirectly, capable of purchasing or acquiring for himself or for another any of the property of the estate for which he is inspector, except with the prior approval of the Court.

Inspectors may not acquire assets.

(2) No defect or irregularity in the appointment of an inspector vitiates any act done by him in good faith.

(3) The inspectors shall from time to time verify the bank balance of the estate, examine the trustee's accounts and inquire into the adequacy of the security filed by the trustee, and subject to subsection (4), shall approve the trustee's final statement of receipts and disbursements, dividend sheet and disposition of unrealised property.

(4) Before approving the final statement of receipts and disbursements of the trustee, the inspectors shall satisfy themselves that all the property has been accounted for and that the administration of the estate has been completed as far as can reasonably be done and shall determine whether or not the

disbursements and expenses incurred are proper and have been duly authorised, and the fees and remuneration just and reasonable in the circumstances.

(5) Each inspector—

(a) may be repaid actual and necessary travel expenses incurred in relation to the performance of the inspector's duties; and

(b) may be paid such fees per meeting as are prescribed.

(6) An inspector duly authorised by the creditors or by the other inspectors to perform special services for the estate may be allowed a special fee for those services, subject to approval of the Court, which may vary that fee as it deems proper having regard to the nature of the services rendered in relation to the fiduciary obligations of the inspector to the estate.

#### CLAIMS PROVABLE

Claims  
provable.

**112.** (1) All debts and liabilities, present or future, to which the bankrupt is subject on the day on which the bankrupt becomes bankrupt or to which the bankrupt may become subject before the bankrupt's discharge by reason of any obligation incurred before the day on which the bankrupt becomes bankrupt shall be deemed to be claims provable in proceedings under this Act.

(2) The determination whether a contingent or unliquidated claim is a provable claim and the valuation of such a claim shall be made in accordance with section 126.

(3) A creditor may prove a debt not payable at the date of bankruptcy and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of five per cent per annum computed from the declaration of a dividend to the time when the debt would have become payable according to the terms on which it was contracted.

(4) A claim in respect of a debt or liability referred to in section 170(1)(c) or (d) payable under an order or agreement made before the date of the initial bankruptcy event in respect of

the bankrupt and at a time when the spouse, cohabitant or child was living apart from the bankrupt, whether the order or agreement provides for periodic amounts or lump sum amounts, is a claim provable under this Act.

**113.** (1) The claims of creditors under a proposal are, in the event of a debtor subsequently becoming bankrupt, provable in the bankruptcy for the full amount of the claims less any dividends paid on those claims pursuant to the proposal, and the provable claims of creditors arising after the proposal until the date of bankruptcy shall be provable in the bankruptcy.

Where  
bankruptcy  
follows  
proposal.

(2) Where interest on any debt or sum certain is provable under this Act but the rate of interest has not been agreed on, the creditor may prove interest at a rate not exceeding five per cent per annum to the date of the bankruptcy from the time the debt or sum was payable, if evidenced by a written instrument, or, if not so evidenced, from the time notice has been given to the debtor of the interest claimed.

**114.** Where a bankrupt was, at the date of the bankruptcy, liable in respect of distinct contracts as a member of two or more distinct firms, or as a sole contractor and also as a member of a firm, the fact that the firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof, in respect of the contracts, against the debtors respectively liable on the contracts.

Proof in respect  
of distinct  
contracts.

#### PROOF OF CLAIMS

**115.** (1) Every creditor shall prove his claim, and a creditor who does not prove his claim is not entitled to share in any distribution that may be made.

Proof of claim  
required to  
share in  
distribution.

(2) A claim shall be proved by delivering to the trustee a proof of claim in the prescribed form.

(3) The proof of claim may be made by the creditor himself or by a person authorised by him on behalf of the creditor, and, if made by a person so authorised, it shall state his authority and means of knowledge.

(4) The proof of claim shall contain or refer to a statement of account showing the particulars of the claim and any counterclaim that the bankrupt may have to the knowledge of the creditor and shall specify the vouchers or other evidence, if any, by which it can be substantiated.

(5) The proof of claim shall state whether the creditor is or is not a secured or preferred creditor.

(6) Where any rent or other payment for certain periods falls due at stated times the person entitled to the rent or payment may prove for a proportionate part of the rent or other payment to the date of bankruptcy as if the rent or payment grew due from day-to-day.

Court may disallow false claims.

**116.** Where a creditor or other person in any proceedings under this Act files with the trustee a proof of claim containing any wilfully false statement or wilful misrepresentation, the Court may, in addition to any other penalty provided in this Act, disallow the claim in whole or in part as the Court in its discretion may see fit.

Proven creditors may examine proofs of claim.

**117.** (1) Every creditor who has lodged a proof of claim is entitled to see and examine the proofs of other creditors.

(2) Proofs of claims for wages of workers and others employed by the bankrupt may be made in one proof by the bankrupt or someone on behalf of the bankrupt or by a representative of a Ministry responsible for labour matters or a representative of a union representing workers and others employed by the bankrupt, by attaching to the proof a schedule setting out the names and addresses of the workers and others and the amounts severally due to them, but that proof does not disentitle any worker or other wage earner to file a separate proof on their own behalf.

#### PROOF BY SECURED CREDITORS

Secured creditor may prove for balance due.

**118.** (1) Where a secured creditor realises his security, he may prove the balance due to him after deducting the net amount realised.

(2) Where a secured creditor surrenders his security to the trustee for the general benefit of the creditors, he may prove his whole claim.

**119.** (1) Where the trustee has knowledge of property that may be subject to a security, the trustee may, by serving notice in the prescribed form, require any person to file, in the prescribed form and manner, a proof of the security that gives full particulars of the security, including the date on which the security was given and the value at which that person assesses it.

Trustee may require proof of claim by secured creditor.

(2) Where the trustee serves a notice pursuant to subsection (1), and the person on whom the notice is served does not file a proof of security within thirty days after the day of service of the notice, the trustee may, with leave of the Court, sell or dispose of any property that was subject to the security, free of that security.

(3) A creditor is entitled to receive a dividend in respect only of the balance due to him after deducting the assessed value of his security.

(4) The trustee may redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in the proof of security, by the secured creditor.

**120.** (1) Where the trustee is dissatisfied with the value at which a security is assessed, the trustee may require that the property the security comprises be offered for sale at such time and on such terms and conditions as may be agreed on between the creditor and the trustee or, in default of such an agreement, as the Court may direct.

Trustee may require security to be sold.

(2) Where a sale under subsection (1) is by public auction the creditor or the trustee on behalf of the estate may bid or purchase.

(3) The costs and expenses of a sale made under this section are in the discretion of the Court.

**121.** Notwithstanding section 119(3) and section 120, the creditor may, by notice in writing, require the trustee to elect whether he will exercise the power of redeeming the security or

Secured creditor may require election of trustee.

requiring it to be realised, and if the trustee does not, within one month after receiving the notice or such further time or times as the Court may allow, signify in writing to the creditor his election to exercise the power, the trustee is not entitled to exercise that power, and the equity of redemption or any other interest in the property comprised in the security that is vested in the trustee shall vest in the creditor, and the amount of the claim of the trustee shall be reduced by the amount at which the security has been valued.

Amended claim where security realised.

**122.** Where a creditor after having valued his security subsequently realises it, or it is realised under section 120, the net amount realised shall be substituted for the amount of any valuation previously made by the creditor and shall be treated in all respects as an amended valuation made by the creditor.

Amendment of claim where security not realised.

**123.** (1) Where a trustee has not elected to acquire the security as provided in this Act, a creditor may at any time amend the valuation and proof on showing to the satisfaction of the trustee or the Court that the valuation and proof were made in good faith on a mistaken estimate or that the security has diminished or increased in value since its previous valuation.

(2) An amendment pursuant to subsection (1) shall be made at the cost of the creditor and on such terms as the Court orders, unless the trustee allows the amendment without application to the Court.

(3) Where a valuation has been amended pursuant to this section, the creditor—

- (a) shall forthwith repay any surplus dividend that he may have received in excess of that to which he would have been entitled on the amended valuation; or
- (b) is entitled to be paid out of any money for the time being available for dividend any dividend or share of dividend that he may have failed to receive by reason of the amount of the original valuation before that money is made applicable to the payment of any future



dividend, but he is not entitled to disturb the distribution of any dividend declared before the amendment is filed with the trustee.

**124.** Where a secured creditor does not comply with sections 118 to 123, he shall be excluded from any dividend.

Exclusion of secured creditor from dividend.

**125.** Subject to section 121, a creditor shall in no case receive more than one hundred cents on the dollar and interest as provided by this Act.

No creditor to receive more than 100 cents on dollar.

**ADMISSION AND DISALLOWANCE OF PROOFS OF CLAIM AND PROOFS OF SECURITY**

**126.** (1) The trustee shall examine every proof of claim or proof of security and the grounds for the proof and may require further evidence in support of the claim or security.

Trustee to examine proofs.

(2) The trustee shall determine whether any contingent claim or unliquidated claim is a provable claim, and, if it is a provable claim, the trustee shall value it, and the claim is, subject to this section, deemed a proved claim to the amount of its valuation.

(3) The trustee may disallow in whole or in part—

(a) any claim;

(b) any right to a priority under the applicable order of priority set out in this Act; or

(c) any security.

(4) Where the trustee makes a determination under subsection (2), or pursuant to subsection (3), disallows, in whole or in part, any claim, any right to a priority or any security, the trustee shall provide, in the prescribed manner, to the person whose claim was subject to a determination under subsection (2) or whose claim, right to a priority or security was disallowed under subsection (3), a notice in the prescribed form setting out the reasons for the determination or disallowance.

(5) A determination under subsection (2), or a disallowance referred to in subsection (3) is final and conclusive unless, within a thirty-day period after the service of the notice referred to in subsection (4) or such further time as the Court may

on application made within that period allow, the person to whom the notice was provided appeals from the trustee's decision to the Court in accordance with the Bankruptcy Rules.

(6) The Court may expunge or reduce a proof of claim or a proof of security on the application of a creditor or of the debtor if the trustee declines to interfere in the matter.

#### SCHEME OF DISTRIBUTION

Preferred  
creditors.

**127.** (1) Subject to subsection (2) and the rights of secured creditors, the proceeds realised from the property of a bankrupt shall be applied in priority of payment as follows:

- (a) in the case of a deceased bankrupt, the reasonable funeral and testamentary expenses incurred by the legal personal representative of the deceased bankrupt;
- (b) the costs of administration, in the following order:
  - (i) the expenses and fees of any person acting under a direction made under section 190(1)(a);
  - (ii) the expenses and fees of the trustee; and
  - (iii) legal costs;
- (c) the levy payable under section 137;
- (d) excluding severance, claims for wages, salaries, commissions or compensation of any employee for services rendered during the six months immediately preceding the bankruptcy, together with disbursements properly incurred by a travelling salesman in and about the bankrupt's business, during the same period, so as not to exceed such amount as may be prescribed by Order in each case;
- (e) contributions payable by the bankrupt, as an employer, pursuant to the National Insurance Act, the Widows' and Orphans' Pensions Act and a Pension Fund Plan;
- (f) all taxes including land tax or income tax assessed on the bankrupt and not exceeding in total one year's assessment;

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Ch. 23:54.

- (g) claims of the landlord pursuant to section 63(6);
- (h) claims of individuals being of less than thirty years of age as of the date of bankruptcy having contracted directly with the bankrupt, in each case not to exceed such amount as may be prescribed by Order, and where there are insufficient funds in the estate to pay all such claims, they shall be paid rateably; and
- (i) all claims of all persons having contracted directly with the bankrupt, in each case to a maximum of one thousand dollars, and where there are insufficient funds in the estate to pay all such claims, they shall be paid rateably.

(2) Where a proposal made by an insolvent person has been approved by the Court pursuant to section 42(7), the insolvent person has not subsequently been adjudged bankrupt, and the trustee has not been required to notify the Supervisor pursuant to section 45, the claims under subsection (1)(d) and (e) shall be read as including only those amounts due for the periods commencing twelve and six months, respectively, before the proposal was filed.

(3) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, payment in accordance with subsections (1) and (2) shall be made as soon as funds are available for the purpose.

(4) A creditor whose rights are restricted by this section is entitled to rank as an unsecured creditor for any balance of claim due to him.

**128.** A creditor who entered into a reviewable transaction with a debtor at any time prior to the bankruptcy of the debtor is not entitled to claim a dividend in respect of a claim arising out of that transaction until all claims of the other creditors have been satisfied unless the transaction was in the opinion of the trustee or of the Court a proper transaction.

Claim of dividend where reviewable transaction.

**129.** A father, child, mother, brother, sister, uncle or aunt by blood, marriage, or adoption of a bankrupt is not entitled to have

Claim of relative of bankrupt.

a claim preferred as provided by section 127, in respect of wages, salary, commission or compensation for work done or services rendered to the bankrupt.

Claim of participating lender.

**130.** Where a lender advances money to a borrower engaged or about to engage in trade or business under a contract with the borrower that the lender shall receive a rate of interest varying with the profits or shall receive a share of the profits arising from carrying on the trade or business, and the borrower subsequently becomes bankrupt, the lender of the money is not entitled to recover anything in respect of the loan until the claims of all other creditors of the borrower have been satisfied.

Claim of officer and director.

**131.** Where a corporation becomes bankrupt, no officer or director of the corporation is entitled to have his claim preferred as provided by section 127 in respect of wages, salary, commission or compensation for work done or services rendered to that corporation in any capacity.

Dividends *pro rata*.

**132.** Subject to this Act, all claims proved in a bankruptcy shall be paid rateably.

Property of bankrupt partnership.

**133.** (1) Where partners become bankrupt, their joint property shall be applicable in the first instance in payment of their joint debts, and the separate property of each partner shall be applicable in the first instance in payment of his separate debts.

(2) Where there is a surplus of the separate properties of the partners, it shall be dealt with as part of the joint property.

(3) Where there is a surplus of the joint property of the partners, it shall be dealt with as part of the respective separate properties in proportion to the right and interest of each partner in the joint property.

(4) Where a bankrupt owes or owed debts both individually and as a member of one or more partnerships, the claims shall rank first on the property of the individual or partnership by which they were contracted and shall only rank on the other estate or estates after all the creditors of the other estate or estates have been paid in full.

(5) Where the joint property of any bankrupt partnership is insufficient to defray any costs properly incurred, the trustee may pay such costs as cannot be paid out of the joint property, out of the separate property of the bankrupts or one or more of them in such proportion as he may determine with the consent of the inspectors of the estates out of which the payment is intended to be made, or, if the inspectors withhold or refuse their consent, with the approval of the Court.

**134.** Where there is a surplus after payment of the claims as provided in sections 127 to 133, it shall be applied in payment of interest from the date of the bankruptcy at the rate of six per cent per annum on all claims proved in the bankruptcy and according to their priority.

Where surplus remains after claims paid.

**135.** The bankrupt or the legal personal representative of a deceased bankrupt is entitled to any surplus remaining after payment in full of his creditors with interest as provided by this Act and of the costs, charges and expenses of the bankruptcy proceedings.

Final surplus to bankrupt.

**136.** Nothing in this Act affects the right of any person who has a claim against the bankrupt for damages on account of injury to or death of any person, or injury to property, occasioned by a motor vehicle, or on account of injury to property being carried in or on a motor vehicle, to have the proceeds of any liability insurance policy applied in or toward the satisfaction of the claim.

Motor vehicle insurance.

**137.** (1) For the purpose of defraying the expenses of the supervision by the Supervisor, there shall be payable to the Supervisor for deposit with the State a levy on all payments, made by the trustee by way of dividend or otherwise on account of the claims of creditors, whether unsecured, preferred or secured creditors, and including the State claiming in respect of taxes or otherwise.

Supervisor's levy.

(2) The levy referred to in subsection (1) shall be five per cent of all payments and shall be charged proportionately against all payments and deducted from the payments by the trustee before payment is made.

## DIVIDENDS

Inspectors to declare dividends to ordinary unsecured creditors.

**138.** (1) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the trustee shall, from time to time as required by the inspectors, declare and distribute dividends among the unsecured creditors entitled to dividends.

(2) Where the validity of any claim filed with the trustee has not yet been determined, the trustee shall retain sufficient funds to provide for payment of the claim in the event that the claim is admitted.

(3) No action for a dividend lies against the trustee, but, if the trustee refuses or fails to pay any dividend after having been directed to do so by the inspectors, the Court may, on the application of any creditor, order him to pay it, and also to pay personally, interest on the dividend for the time that it is withheld as well as the costs of the application.

Thirty-day notice to prove claims.

**139.** (1) The trustee may, after the first meeting of the creditors, give notice by registered mail to every person with a claim of which the trustee has notice or knowledge but whose claim has not been proved that if that person does not prove his claim within a period of thirty days after the mailing of the notice the trustee will proceed to declare a dividend or final dividend without regard to that person's claim.

(2) Where a person notified under subsection (1) does not prove the claim within the time limit or within such further time as the Court may allow on proof of merits and satisfactory explanation of the delay in making proof, the claim of that person shall, notwithstanding anything in this Act, be excluded from all share in any dividend, but a taxing authority may notify the trustee within the period referred to in subsection (1) that it proposes to file a claim as soon as the amount has been ascertained, and the time for filing the claim shall thereupon be extended to three months or such further time as the Court may allow.

Ch. 75:01.

(3) Notwithstanding subsection (2), a claim may be filed for an amount payable under the Income Tax Act within the time limit referred to in subsection (2) or within three months from the

time the return of income or other evidence of the facts on which the claim is based is filed or comes to the attention of the State.

(4) Unless the trustee retains sufficient funds to provide for payment of any claims that may be filed under the Income Tax Act, no dividend shall be declared until the expiration of three months after the trustee has filed all returns that the trustee is required to file.

Ch. 75:01.

**140.** A creditor who has not proved his claim before the declaration of any dividend is entitled on proof of his claim to be paid out of any money for the time being in the hands of the trustee, any dividend or dividends he may have failed to receive before that money is applied to the payment of any future dividend, but he is not entitled to disturb the distribution of any dividend declared before his claim was proved for the reason that he has not participated in that dividend, except on such terms and conditions as may be ordered by the Court.

Where claim proven after dividend declared.

**141.** When the trustee has realised all the property of the bankrupt or all of that property that can, in the joint opinion of the trustee and of the inspectors, be realised without needlessly protracting the administration, and settled or determined or caused to be settled or determined, the claims of all creditors to rank against the estate of the bankrupt, the trustee shall prepare a final statement of receipts and disbursements and dividend sheet and, subject to this Act, divide the property of the bankrupt among the creditors who have proved their claims.

Final statements of receipts and disbursements to be prepared.

**142.** (1) The trustee's final statement of receipts and disbursements shall contain a complete account of all moneys received by the trustee out of the property of the bankrupt or otherwise, the amount of interest received by the trustee, all moneys disbursed and expenses incurred and the remuneration claimed by the trustee, together with full particulars, description and value of all property of the bankrupt that has not been sold or realised, setting out the reason why the property has not been sold or realised and the disposition made thereof.

Final statement to be complete account.

(2) The statement referred to in subsection (1) shall be prepared in the prescribed form or as near thereto as the

circumstances of the case will permit and together with the dividend sheet shall be submitted to the inspectors for their approval.

(3) The trustee shall forward a copy of the statement and dividend sheet to the Supervisor after they have been approved by the inspectors.

(4) The Supervisor shall comment as he sees fit and his comments shall be placed by the trustee before the taxing officer for his consideration on the taxation of the accounts of the trustee.

(5) After the Supervisor has commented on the taxation of the trustee's accounts or advised the trustee that the Supervisor has no comments to make and the accounts of the trustee have been taxed, the trustee shall, in the prescribed manner, forward to every creditor whose claim has been proved, to the Registrar, to the Supervisor and to the bankrupt—

- (a) a copy of the final statement of receipts and disbursements;
- (b) a copy of the dividend sheet; and
- (c) a notice in the prescribed form of his intention to pay a final dividend after the expiration of fifteen days from the mailing of the notice, statement and dividend sheet and to apply to the Court for his discharge on a subsequent date not less than thirty days after the payment of the dividend.

(6) No interested person is entitled to object to the final statement and the dividend sheet unless, prior to the expiration of the fifteen days referred to in subsection (5)(c), that person files notice of his objection with the Registrar setting out his reasons for the objection and serves a copy of the notice on the trustee.

Dividends on joint and separate properties.

**143.** Where joint and separate properties are being administered, the dividends may be declared together, and the expenses of administering the properties shall be apportioned by the trustee.

Unclaimed dividends and undistributed funds.

**144.** (1) Before proceeding to discharge, the trustee shall forward to the Supervisor for deposit, as prescribed, the unclaimed dividends and undistributed funds that the trustee possesses, other than those exempted by the Bankruptcy Rules,



and shall provide a list of names and the post office addresses, in so far as known, of the creditors entitled to the unclaimed dividends, showing the amount payable to each creditor.

(2) The Supervisor shall, after receiving the dividends and funds and the list referred to in subsection (1), on application, pay to any creditor his proper dividend as shown on that list, and such payment has effect as if made by the trustee.

#### SUMMARY ADMINISTRATION

**145.** The following provisions apply to the summary administration of estates under this Act:

Provisions  
applying to  
summary  
administration.

- (a) all proceedings under this section shall be titled “Summary Administration”;
- (b) the security to be deposited by a trustee under section 200 shall not be required unless directed by the Supervisor;
- (c) a notice of the bankruptcy shall not be published in a local newspaper unless such publication is deemed expedient by the trustee or ordered by the Court;
- (d) all notices, statements and other documents shall be sent by ordinary mail;
- (e) a first meeting of creditors—
  - (i) is required to be called by the trustee only if it is requested within thirty days after the date of the bankruptcy by the Supervisor or by creditors who have in the aggregate at least twenty-five per cent in value of the proven claims;
  - (ii) must be called in the prescribed form and manner; and
  - (iii) must be held within twenty-one days after being called;
- (f) there shall be no inspectors unless the creditors decide to appoint them, and if no inspectors are appointed, the trustee, in the absence of directions from the creditors, may do all things that may ordinarily be done by the trustee with the permission of the inspectors;

- (g) in such circumstances as may be specified by the Supervisor, the estates of individuals who, because of their relationship, could reasonably be dealt with as one estate may be dealt with as one estate;
- (h) in such circumstances as are specified by the Supervisor and with the approval of the Supervisor, the trustee may deposit all moneys relating to the summary administration of estates in a single trust account;
- (i) a notice of bankruptcy and—
  - (i) a notice of impending automatic discharge of the bankrupt; or
  - (ii) an application for discharge of the bankrupt may be given in a single notice in the prescribed form;
- (j) notwithstanding section 142, the procedure respecting the accounts of the trustee, including the taxation of those accounts shall be as prescribed; and
- (k) notwithstanding section 225(1), (5) and (6), the procedure for the discharge of the trustee shall be as prescribed.

Remuneration in summary administration.

**146.** For the summary administration of estates, the trustee shall receive such fees and disbursements as may be prescribed.

Provisions to apply *mutatis mutandis*.

**147.** Except as provided in section 145, all provisions of this Act, in so far as they are applicable, apply with such modifications as the circumstances require to summary administration.

## PART VIII

### BANKRUPTS

#### COUNSELLING SERVICES

Trustee to counsel individual bankrupts.

**148.** (1) The trustee shall provide, or provide for, counselling for an individual bankrupt and his immediate

family as prescribed, and the estate of the bankrupt shall pay the costs of the counselling, as costs of administration of the estate according to the prescribed tariff.

(2) Where counselling is provided by a trustee to a debtor who is not bankrupt, that counselling must be provided as prescribed.

(3) Section 160(1)(g) does not apply to an individual bankrupt who has refused or neglected to receive counselling provided pursuant to subsection (1).

#### DUTIES OF BANKRUPT

**149.** A bankrupt shall—

- (a) make discovery of and deliver all his property that is under his possession or control to the trustee or to any person authorised by the trustee to take possession of it or any part thereof;
- (b) deliver to the trustee, for cancellation, all credit cards issued to and in the possession or control of the bankrupt;
- (c) deliver to the trustee all books, records, documents, writings and papers including without restricting the generality of the foregoing, title papers, insurance policies and tax records and returns and copies thereof in any way relating to his property or affairs;
- (d) at such time and place as may be fixed by the Supervisor, attend upon the Supervisor for examination under oath with respect to his conduct, the causes of his bankruptcy and the disposition of his property;
- (e) within five days following the bankruptcy, unless the time is extended by the Supervisor, prepare and submit to the trustee a statement of the bankrupt's affairs in the prescribed form verified by affidavit and showing—
  - (i) the particulars of the bankrupt's assets and liabilities;

Duties of bankrupt.

- (ii) the names and addresses of the bankrupt's creditors;
  - (iii) the securities held by them respectively;
  - (iv) the dates when the securities were respectively given; and
  - (v) such further or other information as may be required,
- but where the affairs of the bankrupt are so involved or complicated that the bankrupt alone cannot reasonably prepare a proper statement of affairs, the Supervisor may, as an expense of the administration of the estate, authorise the employment of a qualified person to assist in the preparation of the statement;
- (f) make or give all the assistance within his power to the trustee in making an inventory of his assets;
  - (g) make disclosure to the trustee—
    - (i) of all property disposed of within the period beginning on the day that is one year before the date of the initial bankruptcy event or beginning on such other antecedent date as the Court direct, and ending on the date of the bankruptcy; and
    - (ii) how and to whom and for what consideration any part of the property was disposed of except such part as had been disposed of in the ordinary manner of trade or used for reasonable personal expenses;
  - (h) make disclosure to the trustee of all property disposed of by gift or settlement without adequate valuable consideration within the period beginning on the day that is five years before the date of the initial bankruptcy event and ending on the date of the bankruptcy;
  - (i) attend the first meeting of his creditors unless prevented by sickness or other sufficient cause and at the meeting submit thereat to examination;

- (j) when required, attend other meetings of his creditors or of the inspectors, or attend on the trustee;
- (k) submit to such other examinations under oath with respect to his property or affairs as may be required;
- (l) aid to the utmost of his power in the realisation of his property and the distribution of the proceeds among his creditors;
- (m) execute such powers of attorney, conveyances, deeds and instruments as may be required;
- (n) examine the correctness of all proofs of claim filed, if required by the trustee;
- (o) in case any person has to his knowledge filed a false claim, disclose the fact immediately to the trustee;
- (p) inform the trustee of any material change in the bankrupt's financial situation;
- (q) until his application for discharge has been disposed of and the administration of the estate completed, keep the trustee advised at all times of his place of residence or address; and
- (r) generally do all such acts and things in relation to his property and the distribution of the proceeds among his creditors as may be reasonably required by the trustee, or may be prescribed by the Bankruptcy Rules, or may be directed by the Court by any special order made with reference to any particular case or made on the occasion of any special application by the trustee, or any creditor or person interested.

**150.** Where a bankrupt is a corporation, the officer executing the assignment, or such officer of the corporation, or person who has, or has had, directly or indirectly, control of the corporation as the Supervisor may specify, shall attend before the Supervisor for examination and shall perform all of the duties imposed on a

Bankrupt  
corporation.

bankrupt by section 149, and, in case of failure to do so, the officer or person is punishable as though that officer or person were the bankrupt.

Imprisoned  
bankrupt.

**151.** Where a bankrupt is undergoing imprisonment, the Court may, in order to enable the bankrupt—

- (a) to attend Court in bankruptcy proceedings at which his personal presence is required;
- (b) to attend the first meeting of creditors; or
- (c) to perform the duties required of him under this Act,

direct that the bankrupt be brought before the Court in the protective custody of a Marshal, or other duly authorised officer at such time and place as may be designated, or the Court may make such other order as it deems proper and requisite in the circumstances.

#### EXAMINATION OF BANKRUPTS AND OTHERS

Examination of  
bankrupt by  
Supervisor.

**152.** (1) Before the discharge of a bankrupt, the Supervisor may, on the attendance of the bankrupt, examine the bankrupt under oath with respect to the conduct of the bankrupt, the causes of the bankruptcy and the disposition of the bankrupt's property and shall put to the bankrupt questions as the Supervisor may see fit.

(2) The Supervisor shall make notes of an examination made under subsection (1) and shall forward a copy of the notes to the trustee and the Court for deposit therein.

(3) Where the examination under subsection (1) is held—

- (a) before the first meeting of creditors, the notes shall be communicated to the creditors at the meeting; or
- (b) after the first meeting of creditors, the notes shall be made available to any creditor who requests them.

(4) Where a bankrupt fails to present himself for examination by the Supervisor, the Supervisor shall report the failure to the trustee.

**153.** (1) The Supervisor may make or cause to be made any inquiry or investigation that may be deemed necessary in respect of the conduct of the bankrupt, the causes of his bankruptcy and the disposition of his property, and the Supervisor shall report the findings on any such inquiry or investigation to the trustee and to the Court.

Investigation by Supervisor regarding bankrupt.

(2) Where, pursuant to subsection (1), an inquiry or investigation is made by the Supervisor, the Supervisor shall, out of the moneys appropriated by Parliament to defray the expenses of the office of the Supervisor, pay such reasonable costs and expenses incurred in connection with the inquiry or investigation, not being ordinary costs or expenses of his office.

(3) Section 155 applies *mutatis mutandis* in respect of an inquiry or investigation under subsection (1).

**154.** (1) The trustee, on ordinary resolution passed by the creditors or on the written request or resolution of a majority of the inspectors, may, without an order, examine under oath before the Court or other authorised person, the bankrupt, any person reasonably thought to have knowledge of the affairs of the bankrupt or any person who is or has been an agent, clerk, servant, officer, director or employee of the bankrupt, respecting the bankrupt, his dealings or property and may order any person liable to be so examined to produce any books, documents, correspondence or papers in his possession or power relating in all or in part to the bankrupt, his dealings or property.

Trustee may examine bankrupt and others.

(2) On the application to the Court by the Supervisor, any creditor or other interested person and on sufficient cause being shown, the Court may make an order for the examination under oath, before the Registrar or other authorised person—

- (a) of the trustee;
- (b) the bankrupt;
- (c) an inspector or a creditor; or
- (d) any other person named in the order,

for the purpose of investigating the administration of the estate of any bankrupt, and may further order any person liable to be so examined to produce any books, documents, correspondence or

papers in the person's possession or power relating in all or in part to the bankrupt, the trustee or any creditor, the costs of the examination and investigation to be in the discretion of the Court.

(3) The evidence of any person examined under this section shall, if transcribed, be filed in the Court and may be read in any proceedings before the Court under this Act and to which the person examined is a party.

Trustee may require delivery of property of bankrupt and production of books and records.

**155.** (1) Where a person has, or is believed or suspected to have, in his possession or power any of the property of the bankrupt, or any book, document or paper of any kind relating in whole or in part to the bankrupt, his dealings or property, or showing that he is indebted to the bankrupt, he may be required by the trustee to produce the book, document or paper for the information of the trustee, or to deliver to him any property of the bankrupt in his possession.

(2) Where a person fails to produce a book, document or paper or to deliver property as required by this section within five days after being required to do so, the trustee may, without an order, examine the person before the Registrar of the Court or other authorised person concerning the property, book, document or paper that the person is supposed to possess.

(3) Any person referred to in subsection (1) may be compelled to attend and testify, and to produce on his examination any book, document or paper that under this section he is liable to produce, in the same manner and subject to the same rules of examination, and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he may be examined, as would apply to a bankrupt.

Where person may be ordered by Court to pay trustee.

**156.** (1) Where a person on examination admits that 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 of the amount either in full discharge of the whole amount in question or not, as the Court thinks fit, with or without costs of the examination.



(2) Where any person on examination admits that he has in his possession any property belonging to the bankrupt, the Court may, on the application of the trustee, order him to deliver to the trustee the property or any part of the property at such time, in such manner and on such terms as to the Court may seem just.

**157.** Where the bankrupt fails to present himself for examination before the Supervisor as required by section 149(d) or where he or any other person is served with an appointment or summons to attend for any examination but refuses or neglects to attend as required by the appointment or summons, the Court may, on the application of the trustee, by warrant cause the bankrupt or other person so in default to be apprehended and brought up for examination.

Issue of warrant for apprehension and examination of persons.

**158.** (1) Any person being examined is bound to answer all questions relating to the business or property of the bankrupt, to the causes of his bankruptcy and the disposition of his property.

Examination by Court.

(2) The Court may order that any person who, if in Trinidad and Tobago, would be liable to be brought before the Court for any examination under this Act, shall be examined in any place out of Trinidad and Tobago.

#### ARREST OF BANKRUPTS

**159.** (1) The Court may by warrant cause a bankrupt to be arrested and detained, and any books, papers and property in his possession to be seized, and the books, papers, electronic documents and property to be safely kept as directed until such time as the Court may order, under the following circumstances:

Court order for arrest of bankrupt.

- (a) where, after the filing of a bankruptcy petition against the bankrupt, it appears to the Court that there are grounds for believing that he has absconded or is about to abscond from Trinidad and Tobago with a view to—
- (i) avoiding payment of the debt in respect of which the bankruptcy petition was filed;
  - (ii) avoiding appearance to any such petition;

- (iii) avoiding examination in respect of his affairs; or
  - (iv) otherwise avoiding, delaying or embarrassing proceedings in bankruptcy against him;
- (b) where, after making an assignment, it appears to the Court that there are grounds for believing that the bankrupt has absconded or is about to abscond from Trinidad and Tobago with a view to avoiding payment of his debts or to avoiding examination in respect of his affairs;
- (c) where, after the filing of a bankruptcy petition or an assignment, it appears to the Court there are reasonable grounds for believing that the debtor—
- (i) is about to remove his property with a view to preventing or delaying possession being taken of the property by the trustee; or
  - (ii) has concealed or is about to conceal or destroy any of his property or any books, documents or writings that might be of use to the trustee or to his creditors in the course of the bankruptcy proceedings;
- (d) where the bankrupt removes any property in his possession above the value of two hundred dollars without leave of the Court or the trustee; or
- (e) where after the commencement of proceedings under this Act, the bankrupt has failed to obey an order of the Court.

(2) No payment or proposal made or security given after arrest made under this section is exempt from the provisions of this Act relating to fraudulent preferences.

#### DISCHARGE OF BANKRUPTS

**160.** (1) Except as provided in subsection (2), the following provisions apply in respect of an individual who has

Automatic discharge of first-time individual bankrupt.

never before been bankrupt under the laws of Trinidad and Tobago or any prescribed jurisdiction:

- (a) the trustee shall, before the expiration of the eight-month period immediately following the date on which a receiving order is made against, or an assignment is made by the individual bankrupt, file a report prepared under section 162(1) with the Supervisor and send a copy of the report to the bankrupt and to each creditor who requested a copy;
- (b) the trustee shall, not less than fifteen days before the date of automatic discharge provided for in paragraph (g), give notice of the impending discharge, in the prescribed form, to the Supervisor, the bankrupt and every creditor who has proved a claim, at the creditor's last known address;
- (c) where the Supervisor intends to oppose the discharge of the bankrupt, the Supervisor shall give notice of the intended opposition, stating the grounds for the opposition to the trustee and to the bankrupt at any time prior to the expiration of the nine-month period immediately following the bankruptcy;
- (d) where a creditor intends to oppose the discharge of the bankrupt, the creditor shall give notice of the intended opposition, stating the grounds for the opposition to the Supervisor, to the trustee and to the bankrupt at any time prior to the expiration of the nine-month period immediately following the bankruptcy;
- (e) where the trustee intends to oppose the discharge of the bankrupt, the trustee shall give notice of the intended opposition in prescribed form and manner, stating the grounds for the opposition to the bankrupt and the Supervisor at any time prior to the expiration of the nine-month period immediately following the bankruptcy;

- (f) where the Supervisor, the trustee or a creditor opposes the discharge of the bankrupt, the trustee shall, unless the matter is to be dealt with by mediation under section 163, forthwith apply to the Court for an appointment for the hearing of the opposition in the manner referred to in sections 161 to 168, which hearing shall be held—
- (i) within thirty days after the day the appointment is made; or
  - (ii) at such later time as may be fixed by the Court at the request of the bankrupt or the trustee; and
- (g) where the Supervisor, the trustee or a creditor has not opposed the discharge of the bankrupt in the nine-month period immediately following the bankruptcy, then, subject to section 148(3)—
- (i) on the expiration of that nine-month period, the bankrupt is automatically discharged; and
  - (ii) forthwith after the expiration of that nine-month period, the trustee shall issue a certificate to the discharged bankrupt, in the prescribed form, declaring that the bankrupt is discharged and is released from all debts except those matters referred to in section 224 and shall send a copy of the certificate to the Supervisor.

(2) Nothing in subsection (1) precludes an individual bankrupt from applying to the Court for discharge before the expiration of the nine-month period immediately following the bankruptcy, and subsection (1) ceases to apply to an individual bankrupt who makes an application before the expiration of that period.

(3) The provisions of this Act concerning the discharge of bankrupts apply in respect of an individual bankrupt who has never before been bankrupt under the laws of Trinidad and

Tobago or of any prescribed jurisdiction, to the extent that those provisions are not inconsistent with this section, whether or not the bankrupt applies to the Court for a discharge referred to in subsection (2).

(4) An automatic discharge by virtue of subsection (1)(g) is deemed, for all purposes, to be an absolute and immediate order of discharge.

**161.** (1) Subject to section 160, the making of a receiving order against, or an assignment by, any person except a corporation operates as an application for discharge, unless the bankrupt, by notice in writing, files in the Court and serves on the trustee a waiver of application before being served by the trustee with a notice of the trustee's intention to apply to the Court for an appointment for the hearing of the application as provided in this section.

Bankruptcy of an individual operates as an application for discharge.

(2) The trustee, before proceeding to the discharge and in any case not earlier than three months and not later than one year following the bankruptcy of any person who has not served a notice of waiver on the trustee, shall on five days notice to the bankrupt apply to the Court for an appointment for a hearing of the application on a date not more than thirty days after the date of the appointment or at such other time as may be fixed by the Court at the request of the bankrupt or trustee.

(3) A bankrupt who has given a notice of waiver as provided in subsection (1) may, at any time at the bankrupt's own expense, apply for a discharge by obtaining from the Court an appointment for hearing, which shall be served on the trustee not less than twenty-one days before the date fixed for the hearing of the application, and the trustee on being served therewith shall proceed as provided in this section.

(4) A bankrupt corporation may not apply for a discharge unless it has satisfied the claims of its creditors in full.

(5) The Court may, before issuing an appointment for hearing an application for discharge, if requested by the trustee, require such funds to be deposited with, or such guarantee to be given to, the trustee, as it deems proper, for the payment of the fees and disbursements incurred in respect of the application.

(6) The trustee, on obtaining or being served with an appointment for hearing an application for discharge, shall, not less than fourteen days before the day appointed for the hearing of the application, send a notice of the application in the prescribed form to the Supervisor, the bankrupt and every creditor who has proved a claim, at the creditor's last known address.

(7) Where the trustee is not available to perform the duties required of a trustee on the application of a bankrupt for a discharge, the Court may authorise any other person to perform such duties and may give such directions as it deems necessary to enable the application of the bankrupt to be brought before the Court.

Trustee to prepare report of application of bankrupt for discharge.

**162.** (1) The trustee shall prepare a report in the prescribed form with respect to—

- (a) the affairs of the bankrupt;
- (b) the causes of his bankruptcy;
- (c) the manner in which the bankrupt has performed the duties imposed on him under this Act or obeyed the orders of the Court;
- (d) the conduct of the bankrupt both before and after the date of the initial bankruptcy event;
- (e) whether the bankrupt has been convicted of any offence under this Act; and
- (f) any other fact, matter or circumstance that would justify the Court in refusing an unconditional order of discharge,

and the report shall be accompanied by a resolution of the inspectors declaring whether or not they approve or disapprove of the report, and in the latter case, the reasons of the disapproval shall be given.

(2) Where an application of a bankrupt for a discharge is pending, the trustee shall file the report prepared under subsection (1) in the Court not less than two days, and forward a copy to the Supervisor, to the bankrupt and to each creditor who requested a copy not less than ten days before the day appointed

for hearing the application, and in all other cases the trustee, before proceeding to the discharge, shall file the report in the Court and forward a copy to the Supervisor.

(3) The Supervisor may make such further or other report to the Court as he deems expedient or as in his opinion ought to be before the Court on the application referred to in subsection (2).

(4) The trustee or any creditor may attend the Court and be heard in person or by counsel.

(5) For the purposes of the application referred to in subsection (2), the report of the trustee is evidence of the statements contained in the report.

(6) Where a bankrupt intends to dispute any statement contained in the trustee's report prepared under subsection (1), the bankrupt shall at or before the time appointed for hearing the application for discharge give notice in writing to the trustee specifying the statements in the report that he proposes at the hearing to dispute.

(7) A creditor who intends to oppose the discharge of a bankrupt on grounds other than those mentioned in the trustee's report shall give notice of the intended opposition, stating the grounds of the opposition to the trustee and to the bankrupt at or before the time appointed for the hearing of the application for discharge.

**163.** (1) The report prepared under section 162(1) shall include a recommendation as to whether or not the bankrupt should be discharged subject to conditions, having regard to the bankrupt's conduct and ability to make payments.

Trustee's report  
to provide  
recommendation.

(2) The trustee shall consider the following matters in making a recommendation under subsection (1):

- (a) whether the bankrupt has complied with a requirement imposed on the bankrupt under section 53;
- (b) the total amount paid to the estate by the bankrupt, having regard to the bankrupt's indebtedness and financial resources; and

(c) whether the bankrupt, where the bankrupt could have made a viable proposal, chose to proceed to bankruptcy rather than to make a proposal as the means to resolve the indebtedness.

(3) A recommendation that the bankrupt be discharged subject to conditions is deemed to be an opposition to the discharge of the bankrupt.

(4) Where the bankrupt does not agree with the recommendation of the trustee, the bankrupt may, before the expiration of the ninth month after the date of the bankruptcy, send the trustee a request in writing to have the matter determined by mediation.

(5) Where a request for mediation has been made under subsection (4) or the discharge of the bankrupt is opposed by a creditor or the trustee in whole or in part on a ground referred to in section 165(m) or (n), the trustee shall send an application for mediation in the prescribed form to the Supervisor within five days after the expiration of the nine-month period referred to in subsection (4) or within such further time as the Supervisor may allow.

(6) A mediation shall be in accordance with prescribed procedures.

(7) Where the issues submitted to mediation are not resolved by mediation or the bankrupt has failed to comply with conditions that were established by the trustee or as a result of mediation, the trustee shall forthwith apply to the Court for an appointment for the hearing of the matter, which hearing shall be held—

(a) within thirty days after the day the appointment is made; or

(b) at such later time as may be fixed by the Court,

and the provisions of this Part in respect of applications to the Court under this subsection in relation to the discharge of a bankrupt apply, with such modifications as the circumstances require.



(8) Where the bankrupt complies with the conditions imposed on the bankrupt by the trustee in relation to the discharge of the bankrupt or as a result of mediation referred to in this section, the trustee shall—

- (a) issue to the bankrupt a certificate of discharge in the prescribed form releasing the bankrupt from all debts other than a debt referred to in section 170(1); and
- (b) send a copy of the certificate of discharge to the Supervisor.

(9) Documents contained in a file on the mediation of a matter under this section form part of the records referred to in section 10(2).

**164.** (1) On the hearing of an application of a bankrupt for a discharge, the Court may put such questions to the debtor and receive such evidence as it thinks fit.

Questions to debtor.

(2) On the hearing of an application of a bankrupt for a discharge, the Court may either grant or refuse an absolute order of discharge or suspend the operation of the order for a specified time, or grant an order of discharge subject to any terms or conditions with respect to any earnings or income that may afterwards become due to the bankrupt or with respect to his after-acquired property.

(3) The Court shall on proof of any of the facts mentioned in section 165—

- (a) refuse the discharge of a bankrupt;
- (b) suspend the discharge for such period as the Court thinks proper; or
- (c) require the bankrupt, as a condition of his discharge, to perform such acts, pay such moneys, consent to such judgments or comply with such other terms as the Court may direct.

(4) Where at any time after the expiration of one year after the date of any order made under this section the bankrupt satisfies the Court that there is no reasonable probability

for his being in a position to comply with the terms of the order, the Court may modify the terms of the order or of any substituted order, in such manner and on such conditions as it may think fit.

(5) The powers of suspending and of attaching conditions to the discharge of a bankrupt may be exercised concurrently.

Facts pursuant to which bankrupt's conduct is subject to censure.

**165.** The facts referred to in section 164 are—

- (a) the assets of the bankrupt are not of a value equal to thirty-three and one-third cents on the dollar on the amount of the bankrupt's unsecured liabilities, unless the bankrupt satisfies the Court that the fact that the assets are not that value has arisen from circumstances for which the bankrupt cannot justly be held responsible;
- (b) the bankrupt has omitted to keep such books of account as are usual and proper in the business carried on by the bankrupt and does not sufficiently disclose the business transactions and financial position of the bankrupt within the three years before the date of the initial bankruptcy event;
- (c) the bankrupt has continued to trade after becoming aware of being insolvent;
- (d) the bankrupt has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet the bankrupt's liabilities;
- (e) the bankrupt has brought on, or contributed to, the bankruptcy by rash and hazardous speculations, by unjustifiable extravagance in living, by gambling or by culpable neglect of the bankrupt's business affairs;
- (f) the bankrupt has put any of the bankrupt's creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against the bankrupt;

- (g) the bankrupt has, within the period beginning on the day that is three months before the date of the initial bankruptcy event and ending on the date of the bankruptcy, incurred unjustifiable expense by bringing a frivolous or vexatious action;
- (h) the bankrupt has, within the period beginning on the day that is three months before the date of the initial bankruptcy event and ending on the date of the bankruptcy, when unable to pay debts as they became due, given an undue preference to any of the bankrupt's creditors;
- (i) the bankrupt has, within the period beginning on the day that is three months before the date of the initial bankruptcy event and ending on the date of the bankruptcy, incurred liabilities in order to make the bankrupt's assets equal to thirty-three and one-third cents on the dollar on the amount of the bankrupt's unsecured liabilities;
- (j) the bankrupt has on any previous occasion been bankrupt or made a proposal to creditors;
- (k) the bankrupt has been guilty of any fraud or fraudulent breach of trust;
- (l) the bankrupt has committed any offence under this Act or any other statute in connection with the bankrupt's property, the bankruptcy or the proceedings under the bankruptcy;
- (m) the bankrupt has failed to comply with the requirement to pay imposed under section 53;
- (n) the bankrupt, if the bankrupt could have made a viable proposal, chose bankruptcy rather than a proposal to creditors as the means to resolve the indebtedness; and
- (o) the bankrupt has failed to perform the duties imposed on the bankrupt under this Act or to comply with any order of the Court.

Value of bankrupt's assets.

**166.** For purposes of section 165, the assets of a bankrupt shall be deemed of a value equal to thirty-three and one-third cents on the dollar on the amount of his unsecured liabilities when the Court is satisfied that the property of the bankrupt has realised, is likely to realise or, with due care in realisation, might have realised an amount equal to thirty-three and one-third cents on the dollar on his unsecured liabilities.

Cessation of any statutory disqualification.

**167.** (1) A statutory disqualification on account of bankruptcy ceases when the bankrupt is discharged and obtains from the Court a certificate to the effect that the bankruptcy was caused by misfortune without any misconduct on his part.

(2) The Court may, if it thinks fit, grant a certificate mentioned in subsection (1), and a refusal to grant such a certificate is subject to appeal.

Bankrupt to report to trustee and Court.

**168.** (1) Where an order is granted on terms or conditions or on the bankrupt consenting to judgment, the bankrupt shall, until the terms, conditions or judgment are satisfied—

- (a) give the trustee such information as he may require with respect to his earnings and after-acquired property and income; and
- (b) not less than once each year, file in the Court and with the trustee a statement verified under oath showing the particulars of any property or income he may have acquired subsequent to the order for his discharge,

and the trustee or any creditor may require the bankrupt to attend for examination under oath with respect to the facts contained in the statement or with respect to his earnings, income, after-acquired property or dealings.

(2) Where the bankrupt fails to give information or to file a statement as required by subsection (1), to attend for examination when required to do so or to answer all questions fully and accurately with respect to his earnings, income, after-acquired property or dealings, the Court may on the application of the trustee or of any creditor revoke the order of discharge.

(3) Where a conditional order of discharge of a bankrupt is made providing for payment of a further dividend or sum of money by the bankrupt, all payments on account in respect of the dividend or sum of money shall be made to the trustee for distribution to the creditors.

**169.** Where—

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

Court may consider effects of settlement before marriage.

if the settlor becomes bankrupt, and it appears to the Court that the settlement, covenant or contract was made in order to defeat or delay his creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the Court may refuse or suspend an order of discharge or grant an order subject to conditions in like manner as in cases where the bankrupt has been guilty of fraud.

**170.** (1) An order of discharge does not release the bankrupt from—

- (a) any fine, penalty, restitution order or other order similar in nature to a fine, penalty or restitution order, imposed by a Court in respect of an offence, or any debt arising out of a recognisance or bail;
- (b) any award of damages by a Court in civil proceedings in respect of—
  - (i) bodily harm intentionally inflicted, or sexual assault; or

Debts not released by order of discharge.

- (ii) wrongful death resulting from the bodily harm or sexual assault referred to in paragraph (i);
- (c) any debt or liability for maintenance of the spouse or cohabitant of the bankrupt;
- (d) any debt or liability under a support, maintenance or affiliation order or under an agreement for maintenance and support of a spouse, cohabitant or child living apart from the bankrupt;
- (e) any debt or liability arising out of fraud, embezzlement, misappropriation or defalcation while acting in a fiduciary capacity;
- (f) any debt or liability for obtaining property by false pretences or fraudulent misrepresentation;
- (g) liability for the dividend that a creditor would have been entitled to receive on any provable claim not disclosed to the trustee, unless the creditor had notice or knowledge of the bankruptcy and failed to take reasonable action to prove his claim; or
- (h) any debt or interest owed in relation to an amount referred to in paragraphs (a) to (g);
- (i) any debt or obligation in respect of a loan made under the Students Revolving Fund Loan Act or any other law which provides for loans or guarantees of loans to students where the date of bankruptcy of the bankrupt occurred—
  - (i) before the date of which the bankrupt ceased to be a full-time or part-time student, as the case may be, under the relevant law; or
  - (ii) within ten years after the date on which the bankrupt ceased to be a full-time or part-time student.

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(2) Subject to subsection (1), an order of discharge releases the bankrupt from all claims provable in bankruptcy.

(3) At any time after ten years after a bankrupt who has a debt referred to in subsection (1)(i) ceases to be a full-time or

part-time student as the case may be under the relevant law, the Court may, on application, order that subsection (1) does not apply to the debt if the Court is satisfied that—

- (a) the bankrupt has acted in good faith in connection with the liabilities under the loan; and
- (b) the bankrupt has and will continue to experience financial difficulty to such an extent that the bankrupt will be unable to pay the liabilities under the loan.

**171.** An order of discharge does not release a person who at the date of the bankruptcy was a partner or co-trustee with the bankrupt or was jointly bound or had made a joint contract with the bankrupt, or a person who was surety or in the nature of a surety for the bankrupt.

Third parties  
not released.

**172.** (1) Where a bankrupt after his discharge fails to perform the duties imposed on him by this Act, the Court may, on application, annul his discharge.

Court may  
annul  
discharge.

(2) Where it appears to the Court that the discharge of a bankrupt was obtained by fraud, the Court may, on application, annul his discharge.

(3) An order revoking or annulling the discharge of a bankrupt does not prejudice the validity of a sale, disposition of property, payment made or thing duly done before the revocation or annulment of the discharge.

**173.** (1) Where, in the opinion of the Court, a receiving order ought not to have been made or an assignment ought not to have been filed, the Court may by order annul the bankruptcy.

Court may  
annul  
bankruptcy.

(2) Where an order is made under subsection (1), all sales, dispositions of property, payments duly made and acts done theretofore by the trustee or other person acting under his authority, or by the Court, are valid, but the property of the bankrupt shall vest in such person as the Court may appoint, or, in default of that appointment, without any conveyance or assignment whatever revert to and revest in the debtor for all his estate and interest in the property upon such terms and subject to such conditions, if any, as the Court may order.

Issuance of orders to be delayed.

**174.** An order of discharge or annulment shall be dated on the day on which it is made, but it shall not be issued or served until the expiration of the time allowed for an appeal, and, if an appeal is entered, not until the appeal has been finally disposed of.

#### PART IX

### ADMINISTRATIVE OFFICIALS

#### SUPERVISOR

Appointment of Supervisor.

**175.** (1) For the purposes of this Act, there shall be a Supervisor of Insolvency who shall be responsible to the Minister for the general administration of this Act and whose office shall be a public office.

(2) The Supervisor shall supervise the administration of all estates and matters to which this Act applies.

(3) The Supervisor shall, without limiting the authority conferred by subsection (2)—

- (a) receive applications of licences to act as trustees under this Act and issue licences to persons whose applications have been approved;
- (b) where not otherwise provided for, require the deposit of one or more continuing guaranty bonds as security for the due accounting of all property received by trustees and for the due and faithful performance by them of their duties in the administration of estates to which they are appointed, in such amount as the Supervisor may determine, and—
  - (i) which amount may be increased or decreased as he may deem expedient;
  - (ii) the security shall be in a form satisfactory to the Supervisor; and
  - (iii) may be enforced by the Supervisor for the benefit of the creditors;
- (c) from time to time make or cause to be made such inspection or investigation of estates or other matters to which this Act applies, including the conduct of a trustee or a trustee



acting as a receiver or interim receiver, as the supervisor may deem expedient and for the purpose of the inspection or investigation the Supervisor or any person appointed by the Supervisor for the purpose shall have access to and the right to examine and make copies of all books and records pertaining or relating to any estate or other matter to which this Act applies;

- (d) receive and keep a record of all complaints from any creditor or other person interested in any estate and make such specific investigations with regard to such complaints as the Supervisor may determine; and
- (e) examine trustee's accounts of receipts and disbursements and final statements.

(4) The Supervisor may by way of notice, intervene in any matter or proceeding in Court, where the Supervisor considers it expedient to do so, as if the Supervisor were a party to the matter of proceedings.

**176.** (1) Any trade union, body or association representing the interests of employees may request that the Supervisor investigate any acts by a trustee or debtor which adversely affects the rights of employees.

Employee association to represent interest of employees.

(2) Where upon conducting an investigation under subsection (1), the Supervisor is satisfied that the rights or interests of employees are affected he may intervene under this Part.

**177.** (1) The Supervisor, or anyone duly authorised by him in writing on his behalf, is entitled to have access to and to examine and make copies of the banking accounts of a trustee in which estate funds may have been deposited, and, when required, all deposit slips, cancelled cheques or other documents relating to the banking accounts in the custody of the bank or the trustee shall be produced for examination.

Access to trustee's accounts.

(2) The Supervisor, or anyone duly authorised in writing by or on behalf of the Supervisor, may with the leave of the Court granted on an *ex parte* application examine the books, records and deposit accounts of a trustee or any other person

designated in the order granting that leave for the purpose of tracing or discovering the property or funds of an estate when there are reasonable grounds to believe or suspect that the property or funds of an estate have not been properly disclosed or dealt with and for that purpose may under a warrant from the Court enter on and search any premises.

(3) Where the Supervisor, on *ex parte* application, satisfies the Court that it is necessary and in the public interest to do so, the Court may issue an order directing a deposit-taking institution that holds a deposit account of a trustee or such other person as is designated in the order not to make payments out of the account until such time as the Court otherwise directs.

Suspected  
offences.

**178.** (1) Where, on information supplied by a trustee or other person, the Supervisor suspects on reasonable grounds, that a person has, in connection with any estate or matter to which this Act applies, committed an offence under this Act or any other law, the Supervisor may, if it appears to the Supervisor that the alleged offence might not otherwise be investigated, make or cause to be made such enquiries or investigations as the Supervisor deems expedient with respect to—

- (a) the conduct, dealings and transactions of the debtor concerned;
- (b) the causes of the bankruptcy or insolvency of the debtor; and
- (c) the disposition of the property of the debtor.

(2) Where, on the application of the Supervisor or the Supervisor's authorised representative, a subpoena has been issued by the Court, the Supervisor may, for the purpose of an investigation under subsection (1), examine or cause to be examined under oath before the Court or other authorised person—

- (a) the debtor;
- (b) any person whom the Supervisor suspects, on reasonable grounds, has knowledge of the affairs of the debtor; or

- (c) any person who is or has been an agent, clerk, servant, officer, director or employee of the debtor,

with respect to—

- (i) the conduct, dealings and transactions of the debtor;
- (ii) the causes of the bankruptcy or insolvency of the debtor; and
- (iii) the disposition of the property of the debtor,

and may order any person liable to be so examined to produce any books and records in the person's possession or under the control of the person relating to the debtor and the conduct, dealings and transactions of the debtor or the disposition of the debtor's property.

(3) A person being examined pursuant to this section is bound to answer all questions relating to the conduct, dealings and transactions of the debtor, the causes of the debtor's bankruptcy or insolvency and the disposition of the debtor's property.

(4) A statement or admission made by any person in any examination or deposition before the Court on the hearing of any matter in bankruptcy shall not be admissible as evidence against that person in any proceeding in respect of any offence under any other law.

(5) No person shall hinder, molest or interfere with any person doing anything that he is authorised by or pursuant to this section to do, or prevent or attempt to prevent any person doing any such thing, and, notwithstanding any other law, every person shall, unless he is unable to do so, do everything he is required by or pursuant to this section to do.

(6) Where any book or record is examined or produced in accordance with this section, the person by whom it is examined or to whom it is produced or the Supervisor may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Supervisor or a person authorised by the Supervisor to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if it were proven in accordance with the Evidence Act.

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(7) Notwithstanding section 127, a recovery made as the result of any inquiries or investigation made or caused to be made pursuant to this section shall be applied to the reimbursement of any costs and expenses incurred by the Supervisor on the recovery, not being ordinary costs or expenses of the office of the Supervisor, and the balance remaining in respect of the recovery shall be made available for the benefit of the creditors of the debtor.

#### PUBLIC RECORDS

Maintenance of public records.

**179.** (1) The Supervisor shall keep, or shall cause to be kept, in such form as the Supervisor deems appropriate and for the prescribed period, a public record of—

- (a) proposals;
- (b) bankruptcies;
- (c) licences issued to trustees by the Supervisor; and
- (d) notices sent to the Supervisor by receivers pursuant to section 14,

and, on request for the records and on payment of such fee as may be prescribed, shall provide, or cause to be provided, any information contained in that public record.

(2) The Supervisor shall keep, or cause to be kept, in such form as the Supervisor deems appropriate and for the prescribed period, such other records relating to the administration of the Act as the Supervisor deems necessary.

#### TRUSTEES

##### LICENSING OF TRUSTEES

Application for licence as trustee.

**180.** (1) A person who wishes to obtain a licence to act as a trustee shall file with the Supervisor an application for a licence in the prescribed form.

(2) The Supervisor, after such investigation concerning an applicant for a licence to act as a trustee as the Supervisor considers necessary, may issue the licence if the Supervisor having regard to the qualifications prescribed is satisfied that the applicant is qualified to obtain the licence.

(3) A person is not qualified to act as trustee unless authorised to do so by virtue of membership of a professional body prescribed by the Minister and is permitted to act as trustee by the rules of that body.

**181.** A licence shall be in the prescribed form and shall be subject to such conditions and limitations as are specified by the Supervisor in the licence. Form of licence.

**182.** (1) Prior to the issue of a licence, the applicant shall pay such fees as may be prescribed and thereafter on the thirty-first day of December following the day on which a licence is issued, and on the thirty-first day of December in each year, the trustee shall pay such fees as may be prescribed. Payment of fees.

(2) A licence ceases to be valid—

- (a) on the failure of the trustee to pay a fee in accordance with subsection (1); or
- (b) if the trustee becomes bankrupt.

(3) Where a licence has ceased to be valid by reason of—

- (a) failure to pay fees, the Supervisor may reinstate the trustee where the trustee pays the outstanding fees together with any penalty amount prescribed and provides a reasonable written explanation of the failure to pay the fees in accordance with subsection (1); or
- (b) the trustee becoming bankrupt, the Supervisor may, on written representations made by the trustee, reinstate the licence subject to such conditions and limitations as the Supervisor considers appropriate and may specify in that licence.

(4) A licence may be suspended or cancelled by the Supervisor where—

- (a) the trustee is convicted of an indictable offence;
- (b) the trustee has failed to comply with any of the conditions or limitations to which the licence is subject;

- (c) the trustee has ceased to act as a trustee; or
- (d) the trustee so requests.

(5) Notice of an intended decision under subsection (4) shall be in writing setting out the reasons of the Supervisor for the decision and shall be sent to the trustee at least ten days before the decision takes effect.

(6) Where a licence ceases to be valid by virtue of subsection (2) or is suspended or cancelled under subsection (4), the Supervisor may impose on the trustee such requirements as the Supervisor considers appropriate, including a requirement that the trustee deposit security for the protection of an estate.

(7) For the avoidance of doubt, section 188 does not apply in respect of a suspension or cancellation of a licence under subsection (4).

#### CONDUCT OF TRUSTEES

Trustee prohibited from acting in specified circumstances.

**183.** (1) Except with the permission of the Court and on such conditions as the Court may impose, no trustee shall act as trustee in relation to the estate of a debtor—

- (a) where the trustee is, or at any time during the two preceding years was—
  - (i) a director or officer of the debtor;
  - (ii) an employer or employee of the debtor or of a director or officer of the debtor;
  - (iii) related to the debtor or to any director or officer of the debtor; or
  - (iv) the auditor, accountant or Attorney-at-law, or a partner or employee of the auditor, accountant or Attorney-at-law of the debtor; or
- (b) where the trustee is—
  - (i) the trustee under a trust indenture issued by the debtor or any person related to the debtor; or
  - (ii) related to the trustee under a trust indenture referred to in subsection (1)(b)(i).

(2) No trustee shall act as a trustee in relation to the estate of a debtor where the trustee is already —

- (a) the trustee in the bankruptcy of, or in a proposal concerning any person related to the debtor; or
- (b) the receiver or the liquidator of the property of any person related to the debtor,

without making, at the time of being appointed as trustee in relation to the estate of the debtor and at the first meeting of creditors, full disclosure of that fact and of the potential conflict of interest.

**184.** (1) No trustee shall, while acting as the trustee of an estate, act for or assist a secured creditor of the estate to assert any claim against the estate or to realise or otherwise deal with the security that the secured creditor holds, unless the trustee has obtained a written opinion of an Attorney-at-law who does not act for the secured creditor, that the security is valid and enforceable as against the estate.

Independent  
legal opinion.

(2) On commencing to act for or assist a secured creditor of the estate in the manner set out in subsection (1), a trustee shall notify forthwith the Supervisor and the creditors or the inspectors —

- (a) that the trustee is acting for the secured creditor;
- (b) of the basis of any remuneration paid by the secured creditor; and
- (c) of the opinion referred to in subsection (1).

(3) Within two days after receiving a request for a copy of the opinion referred to in subsection (1), a trustee shall provide the Supervisor with that copy and shall also provide a copy to each creditor who has made a request for a copy.

**185.** A trustee shall comply with such code of ethics respecting the conduct of trustees as may be prescribed.

Code of ethics.

**186.** A trustee shall not engage the services of another trustee whose licence has been cancelled under section 182(4)(a) or 188(1).

Cancelled  
licences.

## APPOINTMENT AND SUBSTITUTION OF TRUSTEES

Appointment or substitution of trustee by creditors.

**187.** The creditors may, at any meeting by special resolution, appoint or substitute another licensed trustee for the trustee named in an assignment, receiving order or proposal, or otherwise appointed or substituted.

Rights of Supervisor where trustee's conduct is questionable.

**188.** (1) Where, after making an investigation into the conduct of a trustee, it appears to the Supervisor that—

- (a) a trustee has not properly performed the duties of a trustee or has been guilty of any improper management of an estate;
- (b) a trustee has not fully complied with this Act, the Bankruptcy Rules, or any law with regard to the proper administration of any estate; or
- (c) it is in the public interest to do so,

the Supervisor may do one or more of the following:

- (i) cancel or suspend the licence of the trustee;
- (ii) place such conditions or limitations on the licence as the Supervisor considers appropriate including a requirement that the trustee successfully take an exam or enrol in such course as may be prescribed; and
- (iii) require the trustee to make restitution to the estate of such amount of money as the estate has been deprived of as a result of the trustee's conduct.

(2) This section and section 189 apply, in so far as they are applicable, in respect of former trustees, with such modifications as the circumstances require.

Notice to trustee.

**189.** (1) Where the Supervisor intends to exercise any of the powers referred to in subsection 188(1), the Supervisor shall send the trustee written notice of the powers that the Supervisor intends to exercise and the reasons therefore and afford the trustee a reasonable opportunity for a hearing.



(2) At a hearing referred to in subsection (1), the Supervisor—

- (a) has power to administer oaths;
- (b) is not bound by any legal or technical rules of evidence in conducting the hearing;
- (c) shall deal with the matters set out in the notice of the hearing as informally and as expeditiously as the circumstances and a consideration of fairness permit; and
- (d) shall cause a summary of any oral evidence to be made in writing.

(3) The notice referred to in subsection (1) and, where applicable, the summary of oral evidence referred to in subsection (2)(d), together with such documentary evidence as the Supervisor receives in evidence shall form the record of the hearing.

(4) The record of the hearing referred to in subsection (3) is public, unless the Supervisor is satisfied that personal or other matters that may be disclosed are of such a nature that the desirability of avoiding public disclosure of those matters, in the interest of a third party or in the public interest, outweighs the desirability of the access by the public to information about those matters.

(5) The decision of the Supervisor after a hearing referred to in subsection (1), together with the reasons given for the hearing, shall be given in writing to the trustee not later than three months after the conclusion of the hearing, and the decision shall be made public.

(6) Any decision of the Supervisor may on application to the Court be reviewed, set aside, or confirmed.

**190.** (1) The Supervisor may, for the protection of an estate in the circumstances referred to in subsection (2)—

Protection of  
estate by  
Supervisor.

- (a) direct a person to deal with property of the estate described in the direction in such manner as may be indicated in the direction, including the continuation of the administration of the estate;

- (b) direct any person to take such steps as the Supervisor considers necessary to preserve the books and records of the estate;
- (c) direct a bank or other depository not to pay out funds held to the credit of the estate except in accordance with the direction; and
- (d) where action in respect of a trustee is being taken under section 182(4) or 188(1), refuse to appoint the trustee in respect of any new estates until a decision in respect of the trustee is made.

(2) The circumstances in which the Supervisor is authorised to exercise the powers set out in subsection (1) are where—

- (a) an estate is left without a trustee by the death, removal or incapacity of the trustee;
- (b) the Supervisor makes or causes to be made any investigation pursuant to section 175(3)(c);
- (c) the Supervisor exercises any of the powers set out in section 188;
- (d) the fees referred to in section 182(1) have not been paid in respect of the licence of a trustee;
- (e) a trustee becomes insolvent;
- (f) a trustee is convicted of an indictable offence or has failed to comply with any of the conditions or limitations to which the trustee's licence is subject; or
- (g) a circumstance referred to in section 182(4)(c) or (d) exists and the Supervisor is considering cancelling the licence.

(3) A direction given pursuant to subsection (1)—

- (a) shall state the statutory authority pursuant to which the direction is given;
- (b) is binding on the person to whom it is given; and
- (c) is, in favour of the person to whom it is given, and conclusive proof of the facts set out in the direction.

(4) A person who complies with a direction given pursuant to subsection (1) is not liable for any act done by the person only in compliance with that direction.

**191.** The Court on the application of any interested person, may for cause remove a trustee and appoint another licensed trustee in the trustee's place.

Court removal of trustee.

**192.** Where no licensed trustee can be found who is willing to act as trustee, the Court or the Supervisor may appoint a responsible person to administer the estate of the debtor, and that person, for that purpose, has all the powers of a licensed trustee under this Act, and the provisions of this Act apply to that person as if a licence had been issued to that person under section 175(3)(a).

Appointment by Supervisor of non-licensed trustee.

**193.** (1) No trustee is bound to assume the duties of trustee in matters relating to assignments, receiving orders or proposals, but having accepted an appointment in relation to those matters the trustee shall, until discharged or another trustee is appointed in the place of the trustee, perform the duties required of a trustee under this Act.

Duty to act.

(2) In subsections (3) to (9), reference to a trustee means a trustee in a bankruptcy or proposal and includes an interim receiver or a receiver.

(3) Notwithstanding anything in any law, where a trustee carries on in that position the business of the debtor or continues the employment of the debtor's employees, the trustee is not by reason of that fact personally liable in respect of any claim against the debtor or related to a requirement imposed on the debtor to pay an amount where the claim arose before or upon the trustee's appointment.

(4) A claim referred to in subsection (3) shall not rank as costs of administration.

(5) Notwithstanding anything in any law, a trustee is not personally liable in that position for any environmental condition that arose or environmental damage that occurred—

(a) before the trustee's appointment; or

(b) after the trustee's appointment, unless it is established that the condition arose or the damage occurred as a result of the trustee's negligence or misconduct.

(6) Nothing in subsection (5) exempts a trustee from any duty to report or make disclosure imposed by a law referred to in that subsection.

(7) Notwithstanding anything in any law but subject to subsection (5) where an order is made which has the effect of requiring a trustee to remedy any environmental condition or environmental damage affecting property involved in a bankruptcy, proposal or receivership, the trustee is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order—

(a) where, within such time as is specified in the order and where no time is specified, within ten days after the order is made, within ten days after the appointment of the trustee, if the order is in effect when the trustee is appointed, or during the period of the stay referred to in paragraph (b) the trustee—

- (i) complies with the order; or
- (ii) on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;

(b) where during the period of a stay of the order granted on application made within the time specified in the order referred to in paragraph (a), within ten days after the order is made or within ten days after the appointment of the trustee, where the order is in effect when the trustee is appointed, to—

- (i) the Court or body having jurisdiction under the law pursuant to which the order was made to enable the trustee to contest the order; or

- (ii) the Court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- (c) if the trustee had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

(8) The Court may grant a stay of the order referred to in subsection (7) on such notice and for such period as the Court deems necessary for the purpose of enabling the trustee to assess the economic viability of complying with the order.

(9) Where the trustee has abandoned or renounced any interest in real property affected by the environmental condition or environmental damage, claims for costs of remedying the condition or damage shall not rank as costs of administration.

(10) Any claim by the State against the debtor in a bankruptcy, proposal or receivership for costs of remedying any environmental condition or environmental damage affecting real property of the debtor is secured by a charge on the real property and on any other real property of the debtor that is contiguous thereto and that is related to the activity that caused the environmental condition or environmental damage, and the charge—

- (a) is enforceable in the same way as a mortgage, or other security on real property; and
- (b) ranks above any other claim, right or charge against the property, notwithstanding any other provision of this Act or anything in any other law.

(11) Notwithstanding section 112(1), a claim against a debtor in a bankruptcy or proposal for the costs of remedying any environmental condition or environmental damage affecting real property of the debtor shall be a provable claim, whether the condition arose or the damage occurred before or after the date of the filing of the proposal or the date of the bankruptcy.

**LAWS OF TRINIDAD AND TOBAGO**

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

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*Bankruptcy and Insolvency*

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Acts done in good faith.

**194.** No defect or irregularity in the appointment of a trustee vitiates any act done by the trustee in good faith.

**CORPORATIONS AS TRUSTEES**

Corporate trustee.

**195.** A body corporate may hold a licence as trustee only if a majority of its directors and a majority of its officers hold licences as trustees.

Incorporation. Ch. 81:01.

**196.** Notwithstanding the Companies Act, no person may be incorporated under the Act for the purpose of acting as a trustee in insolvency from within Trinidad and Tobago unless its incorporation has been consented to by the Supervisor.

Acts by corporate trustee.

**197.** A body corporate that holds a licence as a trustee may perform the duties and exercise the powers of a trustee only through a director or officer of the body corporate who holds a licence as a trustee.

Corporate trustee not a trust company.

**198.** Every body corporate that is incorporated by or under an Act of Parliament and that holds a licence as a trustee may carry on the business of a trustee and shall not, in respect of its operations as a trustee, be construed to be carrying on the business of a trust company.

**OFFICIAL NAME**

Official name.

**199.** The official name of a trustee acting in bankruptcy proceedings is “The Trustee of the Estate of (insert the name of the bankrupt), a Bankrupt”, and the official name of a trustee acting with respect to a proposal by an insolvent person is “The Trustee acting in *re* the proposal of (insert the name of the debtor)”.

**DUTIES AND POWERS OF TRUSTEES**

Trustee to give security.

**200.** (1) Every trustee duly appointed shall forthwith give security in cash or by bond of a guarantee company satisfactory to the Supervisor for the due accounting for the payment and the transfer of all property received by him as trustee and for the due and faithful performance of his duties.

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(2) The security required to be given under subsection (1) shall be deposited with the Supervisor, shall be given in favour of the creditors generally and may be enforced by any succeeding trustee or by one of the creditors on behalf of all by direction of the Court, and may be increased or reduced by the Supervisor.

(3) The trustee shall, as soon as possible, take possession of the deeds, books and records, and all property of the bankrupt and make an inventory and for the purpose of making an inventory the trustee is entitled to enter, subject to subsection (4), on any premises on which the deeds, books and records, or property of the bankrupt may be, notwithstanding that they may be in the possession of a Marshal, a secured creditor or other claimant to the deeds, books, records or property of the bankrupt.

(4) Where the premises referred to in subsection (3) are occupied by a person other than the bankrupt, the trustee may not enter the premises without the consent of that other person except under the authority of a warrant issued under section 232.

(5) The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position as if he were a receiver of the property appointed by the Court, and the Court may on his application, enforce the acquisition or retention accordingly.

(6) No person is, as against the trustee, entitled to withhold possession of the books and records belonging to the bankrupt or to set up any lien or right of retention on those books and records.

**201.** Where a person has in his possession or power any property of the bankrupt that he is not by law entitled to retain as against the bankrupt or the trustee, that person shall deliver the property to the trustee.

Delivery of property to trustee.

**202.** The trustee may when necessary in the interest of the estate of the bankrupt—

Protective measures.

- (a) take conservatory measures and summarily dispose of property that is perishable or likely to depreciate rapidly in value; and

(b) carry on the business of the bankrupt until the date fixed for the first meeting of creditors.

Legal proceedings to protect estate.

**203.** (1) The trustee may prior to the first meeting of creditors, obtain such legal advice and take such Court proceedings as he may consider necessary for the recovery or protection of the property of the bankrupt.

(2) In the case of an emergency where the necessary authority cannot be obtained from the inspectors in time to take appropriate action, the trustee may obtain such legal advice and institute such legal proceedings and take such action as he may deem necessary in the interests of the estate of the bankrupt.

(3) The trustee shall verify the bankrupt's statement of affairs.

Divesting of real property.

**204.** (1) The trustee may, with the permission of the inspectors, divest all or any part of the trustee's right, title or interest in any real property of the bankrupt by notice or disclaimer by the trustee, and the official in charge of the land registry office, as the case may be, where title to the real property is registered shall accept and register in the land register the notice when tendered for registration.

(2) Registration of a notice under subsection (1) operates as a discharge or release of any document previously registered in the land register by or on behalf of the trustee with respect to the property referred to in the notice.

Initiation of criminal proceedings.

**205.** The trustee may initiate such criminal proceedings as may be authorised by the creditors, the inspectors or the Court against any person believed to have committed an offence under this Act.

Returns.

**206.** The trustee is not liable to make any return that the bankrupt was required to make more than one year prior to the commencement of the calendar year, or the fiscal year of the bankrupt where that is different from the calendar year in which he became bankrupt.



**207.** The trustee shall at all reasonable times permit any authorised person to inspect the books and records of the bankrupt in order to prepare or verify returns that the bankrupt is by statute required to file.

Regulators  
empowered to  
review records.

**208.** (1) The trustee shall forthwith temporarily insure and keep insured in his official name all the insurable property of the bankrupt, for such amount and against such hazards as he may deem advisable until the inspectors are appointed; and the inspectors shall determine the amount for which and the hazards against which the bankrupt's property shall be insured by the trustee.

Insure property.

(2) All insurance covering property of the bankrupt in force at the date of bankruptcy shall in the event of loss suffered, without any notice to the insurer or other action on the part of the trustee and notwithstanding any statute or rule of law or contract or provision to a contrary effect become payable immediately to the trustee as if the name of the trustee were written in the policy or contract of insurance as that of the insured or as if no change of title or ownership had come about and the trustee were the insured.

**209.** (1) Subject to subsections (2) and (3), a trustee shall forthwith deposit all moneys received for an estate in a separate trust account for each estate.

Deposits.

(2) The trustee shall deposit moneys pursuant to subsection (1) in a financial institution licensed under the Financial Institutions Act.

Ch. 79:09.

(3) Where moneys referred to in subsection (1) are situated in a country other than Trinidad and Tobago, the trustee may, where authorised by the Supervisor, deposit the moneys in a financial institution in that country that is similar to a bank.

(4) The trustee shall not withdraw any money from the trust account of an estate without the permission in writing of the inspectors or, on application, the Court, except for the payment of dividends and charges incidental to the administration of the estate.

(5) All payments made by a trustee under subsection (1) shall be made by cheque drawn on the estate account or in such manner as may be specified by the Supervisor.

(6) The trustee shall not deposit any sums received by the trustee in the trustee's official capacity as a trustee in any banking account kept by the trustee for the trustee's personal use.

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

Maintenance  
books and  
records.

**210.** (1) The trustee shall keep proper books and records of the administration of each estate to which he is appointed, in which shall be entered—

- (a) a record of all moneys received or disbursed by him;
- (b) a list of all creditors filing claims;
- (c) the amount and disposition of those claims;
- (d) a copy of all notices sent out;
- (e) the original signed copy of all minutes, proceedings had, and resolutions passed at any meeting of creditors or inspectors;
- (f) Court orders; and
- (g) all such other matters or proceedings as may be necessary to give a complete account of his administration of the estate.

(2) The estate books and records relating to the administration of an estate are deemed to be the property of the estate, and, in the event of any change of trustee, shall forthwith be delivered to the substituted trustee.

(3) The trustee shall permit the books and records referred to in subsection (2) to be inspected and copies of those books and records made by the Supervisor, the bankrupt, or any creditor or their agents, at any reasonable time.

Reporting by  
trustee.

**211.** (1) The trustee shall report in writing—

- (a) when required by the inspectors, to every creditor;
- (b) when required by any specific creditor, to the creditor; and

(c) when required by the Supervisor, to the Supervisor or the creditors, showing the condition of the bankrupt's estate, the moneys on hand, if any, and particulars of any property remaining unsold.

(2) The trustee is entitled to charge against the estate of the bankrupt, for the preparation and delivery of any report referred to in subsection (1), only his actual disbursements.

**212.** (1) The trustee shall, forthwith after the receipt or preparation of the documents referred to in section 145—

Documents to be provided to Supervisor.

(a) send them to the Supervisor along with a true copy of—

- (i) the notice referred to in section 93;
- (ii) the statement referred to in section 149(e);
- (iii) the trustee's final statement of receipts and disbursements and the dividend sheet; and
- (iv) every order made by the Court on the application for discharge of a bankrupt or for annulling any bankruptcy; and

(b) file a copy of the documents referred to in paragraphs (ii) and (iii) in the Court.

(2) The trustee shall forward promptly to the Supervisor copies of all notices, reports and statements sent by the trustee to the creditors and, when required, copies of such other documents as the Supervisor may specify.

**213.** (1) Where—

- (a) the licence of a trustee has been cancelled or suspended, or has ceased to be valid by reason of failure to pay fees;
- (b) a trustee has been removed from continuing the administration of an estate; or

Report to Supervisor where trustee no longer appointed.

(c) a trustee dies or becomes incapacitated, the trustee or the legal representative of the trustee shall, within such time as is fixed by the Supervisor—

- (i) prepare and forward to the Supervisor a detailed financial statement of the receipts and disbursements together with a list of and report on the unadministered property of every estate under the administration of the trustee for which the trustee has not been discharged; and
- (ii) forward to such other trustee as may be appointed in the place of the trustee or, pending the appointment of the other trustee, to the Supervisor, all the remaining property of every estate under the administration together with all the books and records relating thereto.

(2) Every trustee before proceeding to his discharge shall, unless he has already done so, prepare and file the report referred to in section 162 and forward a copy to the Supervisor.

Permission to  
take specified  
action.

**214.** (1) The trustee may, with the permission of the inspectors, do all or any of the following things:

- (a) sell or otherwise dispose of for such price or other consideration as the inspectors may approve of, all or any part of the property of the bankrupt, including the goodwill of the business, if any, and the book debts due or falling due to the bankrupt, by tender, public auction or private contract, with power to transfer the whole of the property to any person or to sell the same in parcels;
- (b) lease any real property;
- (c) carry on the business of the bankrupt, in so far as may be necessary for the beneficial administration of the estate of the bankrupt;
- (d) bring, institute or defend any action or other legal proceedings relating to the property of the bankrupt;

- (e) employ an Attorney-at-law or other agent to take any proceedings or do any business that may be sanctioned by the inspectors;
- (f) accept as the consideration for the sale of any property of the bankrupt a sum of money payable at a future time, subject to such stipulations as to security and otherwise as the inspectors think fit;
- (g) incur obligations, borrow money and give security on any property of the bankrupt by mortgage, charge, assignment, pledge or otherwise, and the obligations and money borrowed shall be discharged or repaid with interest out of the property of the bankrupt in priority to the claims of the creditors;
- (h) compromise and settle any debt owing to the bankrupt;
- (i) compromise any claim made by or against the estate;
- (j) divide in its existing form among the creditors, according to its estimated value, any property that from its particular nature or other special circumstances cannot be readily or advantageously sold;
- (k) disclaim any property which binds the possessor of the property to the performance of any onerous act or to the payment of any sum of money;
- (l) elect to retain for the whole part of its unexpired term, or to assign, surrender, disclaim any lease of, or other temporary interest in, any property of the bankrupt; and
- (m) appoint the bankrupt to aid in administering the estate of the bankrupt in such manner and on such terms as the inspectors may direct.

(2) The permission given for the purposes of subsection (1) is not a general permission to do all or any of the things mentioned in that subsection, but is only a permission to do the particular thing or things or class of thing or things that the permission specifies.

Borrowing with permission of Court.

**215.** (1) With the permission of the Court, an interim receiver or trustee, may prior to the appointment of inspectors, make necessary or advisable advances, incur obligations, borrow money and give security on the property of the debtor in such amounts, on such terms and on such property as may be authorised by the Court; and those advances, obligations and moneys borrowed shall be repaid out of the property of the debtor in priority to the claims of the creditors.

- (2) The creditors or inspectors may by resolution limit—
- (a) the amount of the obligations that may be incurred; and
  - (b) the advances that may be made or moneys that may be borrowed by the trustee and may limit the period of time during which the business of the bankrupt may be carried on by the trustee.

(3) All debts incurred and credit received in carrying the business of a bankrupt are deemed to be debts incurred and credit received by the estate of the bankrupt.

Trustee not required to operate business.

**216.** The trustee is not under any obligation to carry on the business of the bankrupt—

- (a) where in his opinion the realisable value of the property of the bankrupt is insufficient to protect him fully against possible loss occasioned by so doing; and
- (b) the creditors or inspectors, on demand made by the trustee, neglect or refuse to secure him against such possible loss.

Order for sale of assets.

**217.** (1) The Court may make an order providing for the sale of any or all of the assets of the estate of the bankrupt, either by tender, private sale or public auction, setting out the terms and conditions of the sale and directing that the proceeds from the sale shall be used for the purpose of reimbursing the trustee in respect of any costs that may be owing to him or of any moneys that he may have advanced for the benefit of the estate.

(2) If no bid is received for the assets of the estate of the bankrupt sufficient to reimburse the trustee, the Court may make an order vesting in the trustee personally all assets of the estate

and on the making of the order the rights to the assets and interests of the creditors and of the bankrupt to the assets, shall be determined and ended.

**218.** (1) A trustee may apply to the Court for directions in relation to any matter affecting the administration of the estate of a bankrupt and the Court shall give in writing such directions, if any, as appears to be proper in the circumstances.

Application for directions.

(2) Where an estate has not been fully administered within three years after the bankruptcy, the trustee shall, if requested to do so by the Supervisor, report that fact to the Court as soon as practicable thereafter, and the Court shall make such order as it considers fit to expedite the administration of the estate.

**219.** (1) Subject to subsection (2), the trustee may, by sending to the Managing Director of the Trinidad and Tobago Postal Corporation—

Redirection of mail.

- (a) a notice in the prescribed form; and
- (b) a copy of the trustee's certificate of appointment,

request that any mail addressed to a bankrupt that is directed to any place referred to in the notice be redirected or sent by the Managing Director of the Trinidad and Tobago Postal Corporation to the trustee or to such other person as the trustee may designate; and when the Managing Director receives those documents, he shall so redirect or send that mail.

(2) A notice referred to in subsection (1) may refer to a bankrupt's residence only where the trustee has, on application, obtained permission from the Court.

(3) Where a bankrupt is an individual, a notice referred to in subsection (1) is operative only during the three-month period immediately following the date of bankruptcy unless the Court, on application, extends that period on such terms as the Court considers fit.

**220.** (1) On the appointment of a substituted trustee, the former trustee shall forthwith pass his accounts before the Court

Former trustee to pass accounts.

and deliver to the substituted trustee all the property of the estate, together with all books and records of the bankrupt and of those relating to the administration of the estate.

- (2) A substituted trustee shall—
- (a) if appointed by the creditors, file with the Court a copy of the minutes of the meeting at which the substituted trustee was appointed signed by the Chairman;
  - (b) notify the Supervisor of the appointment of the substituted trustee;
  - (c) if required by the inspectors, register a notice of the appointment in the land register of any land titles or registry office where the assignment or receiving order has been registered; and
  - (d) as soon as funds are available, pay to the former trustee his remuneration and disbursements as approved by the Court.

Application to  
Court by  
aggrieved party.

**221.** Where the bankrupt or any of the creditors or any other person is aggrieved by any act or decision of the trustee, he may apply to the Court and the Court may confirm, reverse or modify the act or decision complained of and make such other order in the premises as it thinks just.

Trustee refusing  
to act.

**222.** (1) Where a creditor requests the trustee to take any proceedings that in his opinion would be for the benefit of the estate of a bankrupt and the trustee refuses or neglects to take the proceedings, the creditor may obtain from the Court an order authorising him to take the proceedings in his own name and at his own expense and risk, on notice being given to the other creditors of the contemplated proceeding, and on such other terms and conditions as the Court may direct.

(2) On an order under subsection (1) being made, the trustee shall assign and transfer to the creditor all his right, title and interest in the chose-in-action or subject matter of the proceeding, including any document in support of the chose-in-action or proceedings.

(3) Any benefit derived from a proceeding taken pursuant to subsection (1), to the extent of his claim and the



costs, belongs exclusively to the creditor instituting the proceedings, and the surplus, if any, belongs to the estate.

(4) Where, before an order is made under subsection (1), the trustee, with the permission of the inspectors, signifies to the Court his readiness to institute the proceedings for the benefit of the creditors, the order shall fix the time within which he shall do so, and in that case the benefit derived from the proceedings, if instituted within the time so fixed, belongs to the estate.

#### REMUNERATION OF TRUSTEE

**223.** (1) The remuneration of the trustee shall be such as is voted to the trustee by ordinary resolution at any meeting of creditors, or if the creditors resolve by ordinary resolution, by the inspectors.

Determination of fees.

(2) Where the remuneration of the trustee has not been fixed under subsection (1), the trustee shall apply to the Court for an order fixing the amount of the trustee's remuneration.

(3) Where the business of the debtor has been carried on by the trustee or under his supervision, he may be allowed such special remuneration for such services as the creditors or the inspectors may by resolution authorise, and, in the case of a proposal, such special remuneration as may be agreed to by the debtor, or in the absence of agreement with the creditors or debtor such amount as may be approved by the Court.

(4) In the case of two or more trustees acting in succession, the remuneration shall be apportioned between the trustees in accordance with the services rendered by each, and in the absence of agreement between the trustees the Court shall determine the amount payable to each.

(5) On application by the trustee, a creditor or the debtor and on notice to such parties as the Court may direct, the Court may make an order increasing or reducing the remuneration.

#### DISCHARGE OF TRUSTEE

**224.** (1) With the permission of the inspectors, any property of a bankrupt found incapable of realisation shall be returned to the bankrupt prior to the trustee's application for discharge.

Property incapable of realisation.

(2) Where a trustee is unable to dispose of any property as provided in this section, the Court may make such order as it may consider necessary.

Trustee to apply for discharge.

**225.** (1) When a trustee has completed the duties required of him with respect to the administration of the property of a bankrupt, he shall apply to the Court for a discharge.

(2) The Court may discharge a trustee with respect to any estate on full administration thereof or, for sufficient cause, before full administration.

(3) A trustee when replaced by another trustee is entitled to be discharged if he has accounted to the satisfaction of the inspectors and the Court for all property that came to his hands, and a period of three months has elapsed after the date of the replacement without any undisposed of claim or objection having been made by the bankrupt or any creditor.

(4) When the accounts of a trustee have been approved by the inspectors and taxed by the Court and all objections, applications and appeals have been settled or disposed of and all dividends have been paid, the estate is deemed to have been fully administered.

(5) Any interested person desiring to object to the discharge of a trustee shall, at least five days prior to the date of the hearing, file notice of objection with the Registrar of the Court setting out the reasons for the objection and serve a copy of the notice on the trustee.

(6) The Court shall consider the objection filed under subsection (5) and may grant or withhold a discharge or give such directions as it may deem proper in the circumstances.

(7) Nothing in or done under the authority of this section relieves or discharges or shall be deemed to relieve or discharge a trustee from the results of any fraud.

(8) The discharge of a trustee discharges him from all liability—

- (a) in respect of any act done or default made by him in the administration of the property of the bankrupt; and

(b) in relation to his conduct as trustee,  
but any discharge may be revoked by the Court on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(9) Nothing in subsection (8) shall be construed to prevent an investigation or a proceeding in respect of a trustee under section 188(1).

(10) The discharge of a trustee under this section operates as a release of the security provided pursuant to section 200(1).

(11) Notwithstanding his discharge, the trustee remains the trustee of the estate for the performance of such duties as may be incidental to the full administration of the estate.

(12) The Court, on being satisfied that there are assets that have not been realised or distributed, may, on the application of any interested person, appoint a trustee to complete the administration of the estate of the bankrupt; and the trustee shall be governed by the provisions of this Act, in so far as they are applicable.

**PART X**

**COURTS AND PROCEDURE**

**JURISDICTION OF COURTS**

**226.** The Court shall have and exercise jurisdiction in respect of bankrupts and matters of insolvency, and such jurisdiction shall be exercised under and subject to this Act, the Bankruptcy Rules and any other enactment relating to bankruptcy and insolvency.

Jurisdiction of High Court.

**227.** Subject to the Bankruptcy Rules—

- (a) all proceedings used in Court must be dated and entitled in the name of the Court in which they are used, together with the words “In Bankruptcy and Insolvency”;
- (b) every document used in the filing of a petition or used after the filing of an assignment must be entitled “In the Matter of the Bankruptcy of .....”;

Title of insolvency matters.

- (c) every document used in the filing of a proposal before bankruptcy must be entitled “In the Matter of the Proposal of .....”; and
- (d) every document used in the course of a receivership must be entitled “In the Matter of the Receivership of .....”.

General power of Court.

**228.** Subject to this Act, the Court shall have full power to decide all questions of priorities and all other questions whatsoever whether law or fact, that may arise in any case of insolvency coming within the cognisance of the Court or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

Proceeding not invalidated by defect or irregularity.

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

Court may review, rescind, or vary order.

**230.** (1) The Court may review, rescind, or vary any order made by it under its jurisdiction in insolvency.

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

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

Court may give leave to omit material or to send notices in alternative manner.

**231.** (1) Where in the opinion of the Court the cost of preparing statements, lists of creditors or other material required by this Act to be sent with notices to creditors, or the cost of sending the material or notices, is unjustified in the circumstances, the Court may give leave to omit the material or any part thereof or to send the material or notices in such manner as the Court may direct.

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

**232.** (1) Where on *ex parte* application by the trustee or interim receiver the Court is satisfied by information on oath that there are reasonable grounds to believe there is in any place or premises any property of the bankrupt, the Court may issue a warrant authorising the trustee or interim receiver to enter and search that place or premises and to seize the property of the bankrupt, subject to such conditions as may be specified in the warrant.

Seizure of  
property of  
bankrupt.

(2) In executing a warrant under subsection (1), the trustee or interim receiver shall not use force unless the trustee or interim receiver is accompanied by a constable or officer of the Court and the use of force has been specifically authorised in the warrant.

**233.** (1) Subject to the Bankruptcy Rules, the Court may in any matter take the whole or any part of the evidence either *viva voce* or by interrogatories or upon affidavit or, out of Trinidad and Tobago, by commission.

Evidence in  
Court.

(2) Subject to the Bankruptcy Rules, any affidavit to be used in Court may be sworn before any person authorised to administer oaths in the Court or, in the case of a person who is out of Trinidad and Tobago, before a Magistrate or Justice of the Peace or other person qualified to administer oaths in the country where he resides (being appointed a Magistrate or Justice of the Peace) or so qualified by reason of being a diplomatic or consular representative for Trinidad and Tobago or by a Notary Public.

(3) Any document made or used in the course of any bankruptcy proceedings or other proceedings had under this Act shall, if it appears to be sealed with the seal of the Court having jurisdiction in insolvency, purports to be signed by any Judge thereof or is certified as a true copy by any Registrar thereof, be admissible in evidence in all legal proceedings.

(4) The production of an original document relating to any insolvency proceeding or a copy certified by the person making it as a true copy thereof or by a successor in that office of that person as a true copy of a document found among the records in his control or possession is evidence of the contents of those documents.

(5) In case of the death of the bankrupt or the spouse or cohabitant of a bankrupt or a witness, whose evidence has been received by any Court in any proceedings under this Act, the deposition of the deceased person, purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

Orders subject to appeal.

**234.** (1) Orders in insolvency matters shall at the instance of any person aggrieved, be subject to appeal in the same manner as other orders of the Court.

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

Costs are in the discretion of the Court.

**235.** Subject to this Act and the Bankruptcy Rules, the costs of and incidental to any proceedings in Court under this Act shall be in the discretion of the Court.

Application to Court where default.

**236.** Where default is made by a trustee, debtor, or other person in obeying any order or direction given by the Court, the Supervisor or the trustee under any power conferred by this Act, in addition to any other remedy provided for under this Act, the Supervisor, trustee, or other interested person may apply to the Court for an order requiring such person to comply with the order or direction so given, and the Court may also, if it thinks fit, upon any such application, make an immediate order for the committal of such person.

Trustee not personally liable.

**237.** Where an action or any proceedings is brought by or against a trustee, or where a trustee is made a party to any action or proceedings on his application or on the application of any other party thereto, he is not personally liable for costs unless the Court otherwise directs.

**PART XI**

**INTERNATIONAL INSOLVENCIES**

**238.** In this Part—

Interpretation.

“debtor” means an insolvent person who has property in Trinidad and Tobago, a bankrupt who has property in Trinidad and Tobago or a person who has the status of a bankrupt under foreign law in a foreign proceeding and has property in Trinidad and Tobago;

“foreign proceeding” means a judicial or administrative proceeding commenced outside Trinidad and Tobago in respect of a debtor, under a law relating to bankruptcy or insolvency and dealing with the collective interests of creditors generally;

“foreign representative” means a person, other than a debtor, holding office under the law of a jurisdiction outside Trinidad and Tobago who, irrespective of the person’s designation, is assigned, under the laws of the jurisdiction outside Trinidad and Tobago, functions in connection with a foreign proceeding that are similar to those performed by a trustee, liquidator, administrator or receiver appointed by the Court.

**239.** (1) For the purposes of this Part, where a bankruptcy, insolvency, reorganisation or like order has been made in respect of a debtor in a foreign proceeding, a certified copy of the order is, in the absence of evidence to the contrary, proof that the debtor is insolvent and proof of the appointment of the foreign representative made by the order.

Copy of order to be proof of event.

(2) Where a foreign proceeding has been commenced and a receiving order or assignment is made under this Act in respect of a debtor, the Court may, on application and on such terms as it considers appropriate, limit the property to which the authority of the trustee extends to the property of the debtor situated in Trinidad and Tobago and to such property of the debtor outside Trinidad and Tobago as the Court considers can be effectively administered by the trustee.

(3) The Court may, in respect of a debtor, make such orders and grant such relief as it considers appropriate to facilitate, approve or implement arrangements that will result in a co-ordination of proceedings under this Act with any foreign proceeding.

(4) An order of the Court under this Part may be made on such terms and conditions as the Court considers appropriate in the circumstances.

(5) Nothing in this Part prevents the Court, on the application of a foreign representative or any other interested person, from applying such legal or equitable rules governing the recognition of foreign insolvency orders and assistance to foreign representatives as are not inconsistent with the provision of this Act.

(6) Nothing in this Part requires the Court to make any order that is not in compliance with the laws of Trinidad and Tobago or to enforce any order made by a foreign Court.

Stay of proceedings not to apply unless proceedings taken in Trinidad and Tobago.

**240.** A stay of proceedings that operates against creditors of a debtor in a foreign proceeding does not apply in respect of creditors who reside or carry on business in Trinidad and Tobago with respect to property in Trinidad and Tobago unless the stay of proceedings is the result of proceedings taken in Trinidad and Tobago.

Proceedings by foreign representatives.

**241.** A foreign representative may commence and continue proceedings pursuant to sections 5, 8 to 11 and section 26(1) in respect of a debtor as if the foreign representative were a creditor, trustee, liquidator or receiver of property of the debtor, or the debtor.

Court may seek aid of foreign authority.

**242.** (1) The Court may seek the aid and assistance of a Court, tribunal or other authority in a foreign proceeding by order or written request or otherwise as the Court considers appropriate.

(2) On application by a foreign representative in respect of a foreign proceeding commenced for the purpose of effecting a composition, an extension of time or a scheme of arrangement in respect of a debtor or in respect of the bankruptcy of a debtor, the Court may grant a stay of proceedings against the debtor or



the debtor's property in Trinidad and Tobago on such terms and for such period as is consistent with the relief provided for under sections 55 to 58 in respect of a debtor in Trinidad and Tobago who files a notice of intention or a proposal or who becomes bankrupt in Trinidad and Tobago.

(3) On application by a foreign representative in respect of a debtor, the Court may, where it is satisfied that it is necessary for the protection of the debtor's estate or the interest of a creditor or creditors—

- (a) appoint a trustee as interim receiver of all or any part of the debtor's property in Trinidad and Tobago, for such term as the Court considers appropriate; and
- (b) direct the interim receiver to do all or any of the following:
  - (i) take conservatory measures and summarily dispose of property that is perishable or likely to depreciate rapidly in value;
  - (ii) take possession of all or part of the debtor's property mentioned in the appointment and exercise such control over the property and over the debtor's business as the Court considers appropriate; and
  - (iii) take such other action as the Court considers appropriate.

(4) Section 11 applies, with such modifications as the circumstances require, in respect of an interim receiver appointed under subsection (3).

(5) On application of a foreign representative in respect of a debtor, the Court may authorise the examination under oath by the foreign representative of the debtor or of any person in relation to the debtor who, if the debtor were a bankrupt referred to in section 154, would be a person who could be examined under that section.

Court order may be conditional on compliance of foreign representative with other Court order.

**243.** An application to the Court by a foreign representative under this Part does not submit the foreign representative to the jurisdiction of the Court for any other purpose except with regard to the costs of the proceedings, but the Court may make any order under this Part conditional on the compliance by the foreign representative with any other order of the Court.

Foreign representative not prevented from proceeding due to appeal.

**244.** A foreign representative is not prevented from making an application to the Court under this Part by reason only that proceedings by way of appeal or review have been taken in a foreign proceeding, and the Court may, on an application where such proceedings have been taken, grant relief as if the proceedings had not been taken.

Dividends subject to property the creditor may acquire outside Trinidad and Tobago.

**245.** (1) Where any receiving order, proposal or assignment is made in respect of a debtor under this Act—

- (a) the amount that a creditor receives or is entitled to receive outside Trinidad and Tobago by way of a dividend in a foreign proceeding in respect of the debtor; and
- (b) the value of any property of the debtor that the creditor acquires outside Trinidad and Tobago—
  - (i) on account of a provable claim of the creditor; and
  - (ii) by way of a transfer that, if it were subject to this Act, would be set aside or reviewed under sections 80 to 92,

shall be taken into account in the distribution of dividends to creditors of the debtor in Trinidad and Tobago as if they were a part of that distribution.

(2) The creditor is not entitled to receive a dividend from the distribution in Trinidad and Tobago referred to in subsection (1) until every other creditor who has a claim of equal rank in the order of priority established under this Act has received a dividend, the amount of which is the same percentage of that other creditor's claim as the aggregate of the amount referred to in paragraph (a) and the value referred to in paragraph (b) is of that creditor's claim.

**246.** A claim for a debt that is payable in a currency other than Trinidad and Tobago currency shall be converted to Trinidad and Tobago currency—

Claim payable  
in foreign  
currency.

- (a) in the case of a proposal in respect of an insolvent person and unless otherwise provided in the proposal, where a notice of intention was filed under section 30, as of the day the notice was filed or, if no notice was filed, as of the day the proposal was filed with the Supervisor under section 44;
- (b) in the case of a proposal in respect of a bankrupt and unless otherwise provided in the proposal, as of the date of the bankruptcy; or
- (c) in the case of a bankruptcy, as of the date of the bankruptcy.

## PART XII

### OFFENCES

**247.** (1) Any bankrupt who—

Offences  
committed by  
bankrupt.

- (a) makes any fraudulent disposition of the bankrupt's property before or after the date of the initial bankruptcy event;
- (b) refuses or neglects to answer fully and truthfully all proper questions put to the bankrupt at any examination held pursuant to this Act;
- (c) makes a false entry or knowingly makes a material omission in a statement or accounting;
- (d) after or within one year immediately preceding the date of the initial bankruptcy event—
  - (i) conceals, destroys, mutilates, falsifies, makes an omission in or disposes of, or is privy to the concealment, destruction, mutilation, falsification, omission from or disposition of, a book or document affecting or relating to the bankrupt's property or affairs, unless the bankrupt

had no intent to conceal the state of the bankrupt's affairs;

- (ii) obtains any credit or any property by false representations made by the bankrupt or made by any other person to the bankrupt's knowledge;
  - (iii) fraudulently conceals or removes any property of a value of two hundred dollars or more or any debt due to or from the bankrupt;
  - (iv) hypothecates, pawns, pledges or disposes of any property that the bankrupt has obtained on credit and has not paid for, unless in the case of a trader the hypothecation, pawning, pledging or disposing is in the ordinary way of trade and unless the bankrupt had no intent to defraud; or
- (e) after the filing of a petition against him, or within six months before the filing of the petition, leaves Trinidad and Tobago and takes with him, or attempts or makes preparation to leave Trinidad and Tobago and take with him, any part of his property to the amount of two hundred dollars or upwards, which ought by law to be divided amongst his creditors,

commits an offence and is liable on summary conviction, to a fine of ten thousand dollars and imprisonment for one year, or on conviction on indictment, to a fine of twenty thousand dollars and imprisonment for three years.

(2) A bankrupt who, without reasonable cause fails to comply with an order of the Court made under section 53 or to do any of the things required of the bankrupt under section 149 commits an offence and is liable—

- (a) on summary conviction, to a fine of ten thousand dollars and imprisonment for one year; or
- (b) on conviction on indictment, to a fine of twenty thousand dollars and imprisonment for a term of three years.

**248.** An undischarged bankrupt who—

- (a) engages in any trade or business without disclosing to all persons with whom he enters into any business transaction valued at more than five hundred dollars that he is an undischarged bankrupt; or
- (b) obtains credit to a total of one thousand dollars or more from any person or persons without informing such persons that he is an undischarged bankrupt,

Offences committed by undischarged bankrupt.

commits an offence and is liable on summary conviction, to a fine of ten thousand dollars and imprisonment for one year.

**249.** (1) Where any person who on any previous occasion has been bankrupt or made a proposal to creditors becomes bankrupt or makes a proposal, that person commits an offence and is liable on summary conviction to a fine of ten thousand dollars and imprisonment for one year, if—

Where debtor having previously taken bankruptcy protection and not keeping proper books.

- (a) being engaged in any trade or business, at any time within the period beginning on the day that is two years before the date of the initial bankruptcy event and ending on the date of the bankruptcy, that person has not kept and preserved proper books and records; or
- (b) within the period mentioned in paragraph (a), that person conceals, destroys, mutilates, falsifies or disposes of, or is privy to the concealment, destruction, mutilation, falsification or disposition of, any book or record affecting or relating to the person's property or affairs, unless the person had no intent to conceal the state of the person's affairs.

(2) For the purposes of this section, a debtor shall be deemed not to have kept proper books of account if he has not kept such books or accounts as are necessary to exhibit or explain his transactions and financial position in his trade or business, including a book or books containing entries from day-to-day in sufficient detail of all cash received and cash paid,

and, where the trade or business has involved dealings in goods, also accounts of all goods sold and purchased, and statements of physical inventory counts.

False claims,  
unlawful fees  
and unlawful  
transactions.

**250.** (1) Where a creditor, or a person claiming to be a creditor in any proceedings under this Act, wilfully and with intent to defraud makes any false claim or any proof, declaration or statement of account that is untrue in any material particular, the creditor or person commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars and imprisonment for two years.

(2) Where an inspector accepts from the bankrupt or from any person, firm or corporation acting on behalf of the bankrupt or from the trustee any fee, commission or emolument other than or in addition to the regular fees provided for by this Act, the inspector commits an offence and is liable on summary conviction to a fine of ten thousand dollars and imprisonment for five years.

(3) Where the bankrupt enters into any transaction with any person for the purpose of obtaining a benefit or advantage to which either of them would not be entitled, the bankrupt commits an offence and is liable on summary conviction to a fine of ten thousand dollars and imprisonment for a term of one year.

Offences by  
trustee and  
others.

**251.** (1) A person who—

- (a) not being a licensed trustee, does any act as, or represents himself to be, a licensed trustee;
- (b) being a trustee, either before providing the bond required by section 200(1) or after providing the bond but at any time while the bond is not in force, acts as or exercises any of the powers of trustee;
- (c) having been appointed a trustee, with intent to defraud, fails to observe or to comply with any of the provisions of this Act, or fails duly to do, observe or perform an act or duty that he may be ordered to do, observe or perform by the Court pursuant to this Act;

- (d) having been appointed a trustee, without reasonable exercise, fails to observe or to comply with any of the provisions of this Act, or fails duly to do, observe or perform any act or duty that he may be ordered to do, observe or perform by the Court pursuant to this Act;
- (e) having been appointed a trustee to any estate and another trustee having been appointed in his place, does not deliver to the substituted trustee on demand all unadministered property of the estate, together with the books, records and documents of the estate and of his administration;
- (f) directly or indirectly solicits or canvasses any person to make an assignment or proposal under this Act, or to petition for a receiving order;
- (g) being a trustee, directly or indirectly, solicits proxies to vote at a meeting of creditors; or
- (h) being a trustee—
  - (i) makes any arrangement under any circumstances with the bankrupt, or an attorney-at-law, auctioneer or other person employed in connection with a bankruptcy, for any gift, remuneration or pecuniary or other consideration or benefit whatever beyond the remuneration payable out of the estate; or
  - (ii) accepts any such consideration or benefit from any such person, or makes any arrangement for giving up, or gives up, any part of his remuneration, either as a receiver or trustee, to the bankrupt or any solicitor, auctioneer or other person employed in connection with the bankruptcy,

commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars, and imprisonment for a term of five years.

(2) A person who fails to comply with or contravenes any provision of section 178 commits an offence and is liable on summary conviction to a fine of ten thousand dollars and imprisonment for one year.

(3) Every person who contravenes or fails to comply with an order made under section 256—

(a) commits an offence and is liable on summary conviction to a fine of ten thousand dollars and imprisonment for a term of one year; or

(b) commits an indictable offence and is liable to a fine of twenty thousand dollars and imprisonment for three years.

(4) Nothing in subsection (1)(h) shall be construed to apply to a sharing of trustee's fees among persons who together act as trustee of the estate of a bankrupt or as joint trustee to a proposal.

(5) Subject to this Act, every person who contravenes or fails to comply with a provision of this Act or the Bankruptcy Rules commits an offence and is liable on summary conviction to a fine of ten thousand dollars and imprisonment for one year.

Removal of  
property.

**252.** A person, except the trustee, who—

(a) within thirty days after delivery to the trustee of the proof of claim mentioned in section 71; or

(b) where no proof has been delivered,

removes or attempts to remove the property or part mentioned in section 71 out of the charge or possession of the bankrupt, the trustee or other custodian of the property, except with the written permission of the trustee, commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and imprisonment for a term of two years.

Invalid trustee  
licence.

**253.** Any trustee who exercises any of the powers or perform any of the duties of a trustee while the trustee's licence has ceased to be valid for failure to pay licence fees, after the trustee's licence has been suspended or cancelled under section 182(4) or after



having been informed pursuant to section 189(5) of the suspension or cancellation of the trustee's licence commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and imprisonment for a term of two years.

**254.** Where the Supervisor has placed conditions or limitations on the licence of a trustee and the trustee exercises any of the powers of a trustee other than the powers that the trustee is authorised to exercise, the trustee commits an offence and is liable on summary conviction to a fine not exceeding twenty thousand dollars and imprisonment for two years.

Trustee acting outside authority.

**255.** Where a corporation commits an offence under this Act, any officer, director or agent of the corporation, or any person who has or has had, directly or indirectly, control of the corporation, who directed, authorised, assented to, acquiesced in or participated in the commission of the offence commits an offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

Offences committed by corporation.

**256.** Where a person has been convicted of an offence under this Act, the Court may, having regard to the nature of the offence and the circumstances surrounding its commission, and in addition to any other punishment that may be imposed under this Act, make an order directing the person to perform community service, subject to such reasonable conditions as may be specified in the order.

Court may make order for community service.

**257.** (1) Subject to subsection (2), where a Court has made an order under section 256 in respect of a person, the Court may, on application by the person or the Director of Public Prosecutions of Trinidad and Tobago require the person to appear before it and, after hearing the person or the Director of Public Prosecutions, the Court may vary the order in one or any combination of the following ways that is applicable and that, in the opinion of the Court, is desirable because of a change in the circumstances of the person since the order was made—

Variation of order made under section 256.

(a) by making changes in the order or conditions specified therein or extending the period for

which the order is to remain in force for such period, not exceeding one year, as the Court considers desirable; or

- (b) by reducing the period for which the order is to remain in force or relieving the person, either absolutely or partially or for such period as the Court considers desirable, of compliance with any condition that is specified in the order.

(2) Before varying an order under subsection (1), the Court may direct that notice be given to such persons as the Court considers to be interested, and may hear any such persons.

(3) Where an application made under subsection (1) in respect of a person has been heard by the Court, no application may be made with respect to the person except with leave of the Court.

Court may make an order regarding damages.

**258.** (1) Where a person has been convicted of an offence under this Act and any other person has suffered loss or damage because of the commission of the offence, the Court may, at the time sentence is imposed, order the person who has been convicted to pay to the person who has suffered loss or damage or to the trustee of the bankrupt an amount by way of satisfaction or compensation for loss or damage to property suffered by that person as a result of the commission of the offence.

(2) Where an amount that is ordered to be paid under subsection (1) is not paid forthwith, the person in favour of whom the order has been made may file the order in Court and that order is enforceable against the person who has been convicted in the same manner as if it were a judgment rendered against the person who has been convicted in that Court in civil proceedings.

Trustee to report to Court.

**259.** (1) Whenever a trustee has grounds to believe that—

(a) an offence under this Act or under any other law has been committed with respect to any bankrupt estate in connection with which he has been acting under this Act; or

(b) that for any special reason an investigation should be had in connection with that estate,

it is the duty of the trustee to—

- (i) report the matter to the Court, including in the report a statement of all the facts or circumstances of the case within his knowledge, the names of the witnesses who should in his opinion be examined, and a statement respecting the offence or offences believed to have been committed; and
- (ii) forward a copy of the report forthwith to the Supervisor.

(2) A creditor, inspector or other interested person who believes on reasonable grounds that a person has committed an offence under this Act or under any other law, in connection with a bankrupt, his property or his transactions, may file a report with the Court of the facts on which that belief is based, or he may make such further representations supplementary to the report of the trustee as he may deem proper.

(3) Whenever the Court is satisfied on the representation of the Supervisor or trustee or of any creditor, inspector or other interested person, that there is ground to believe that any person has committed an offence under this Act or under any other law in connection with the bankrupt, his property or transactions, the Court may authorise the trustee to initiate proceedings for the prosecution of that person for that offence.

(4) Where a trustee is authorised or directed by the creditors, the inspectors or the Court to initiate proceedings against any person believed to have committed an offence, the trustee shall initiate the proceedings and shall send or cause to be sent to the Director of Public Prosecutions, a duly certified copy of the resolution or order, together with a copy of all reports or statements of the facts on which the order or resolution was based.

**260.** (1) Where the trustee believes on reasonable grounds that an offence under this Act or any other law relating to the property of the bankrupt was committed either before or after the date of the initial bankruptcy event by the bankrupt or any other person, the trustee shall make a report to the Director of Public Prosecutions.

Trustee to report criminal acts.

(2) A copy of a report made under subsection (1) shall be sent by the trustee to the Supervisor.

Substance of offence sufficient.

**261.** In an information, complaint or indictment for an offence under this Act, it is sufficient to set out the substance of the offence charged in the words of this Act, specifying the offence or as near thereto as circumstances admit, without alleging or setting out any debt, act of bankruptcy, trading, adjudication or any proceedings, in, or order, warrant, or document of, any Court acting under this Act.

Time for commencement of action.

**262.** A prosecution by indictment under this Act shall be commenced within five years from the time of the commission of the offence and, in the case of an offence punishable on summary conviction, the complaint shall be made or the information laid within three years from the time when the subject matter of the complaint or information arose.

### PART XIII

#### GENERAL

Power respecting Bankruptcy Rules.  
Ch. 4:01.

**263.** For the purpose of carrying into effect the objects of this Act, Rules of Court may be made under the Supreme Court of Judicature Act and such Rules may provide for—

- (a) the sittings of the Court and a Judge of the Court in chambers;
- (b) the practice and procedure in Court; and
- (c) any matters relating to the practice and procedure of the Court, the duties of the officers of the Court, and the costs of or fees upon and percentages to be charged for or in respect of proceedings provided that no rules so made shall extend the jurisdiction of the Court.

*Gazette* or local daily newspaper to be evidence of facts.

**264.** (1) A copy of the *Gazette* or local daily newspaper containing any notice inserted in the *Gazette* or local newspaper in pursuance of this Act shall be evidence of the facts stated in the notice.

(2) The production of a copy of the *Gazette* or local newspaper containing any notice of a receiving order, an

assignment, a proposal, or a receivership shall be conclusive evidence in all legal proceedings of the order or declaration having been duly made and of its date.

(3) Copies authenticated by the signature of the Supervisor or trustee of any entries in the books kept by them with respect to any estate vested in or administered by the Supervisor or trustee under this Act shall be admissible in evidence in any legal proceeding or for any other purpose and shall have the same effect in evidence in all respects as the originals from which copies were made.

(4) In all legal proceedings, judicial notice shall be taken of the signature of the Supervisor and of the trustee but any Court, Judge or Magistrate may require such signature to be proved as may be required under the Evidence Act, if it is doubtful to the Court, Judge or Magistrate whether the alleged signature is genuine. Ch. 7:02.

**265.** A statement or admission made by any person in any compulsory examination or deposition before the Court on the hearing of any matter in bankruptcy shall not be admissible as evidence against that person in respect of any offence under any other law. Admission not admissible under the law.

**266.** For all or any purposes of this Act— Acts by corporations, firms and individuals of unsound mind.

- (a) a corporation may act by any of its officers authorised in that behalf under the seal of the corporation;
- (b) a firm may act by any of its members; and
- (c) an individual of unsound mind may act by his committee.

**267.** Except by leave of the Court, no action lies against the Supervisor, an interim receiver or a trustee with respect to any report made under, or any action taken pursuant to this Act. Leave of the Court required to pursue certain actions.

**268.** (1) The Minister may make Regulations— Regulations.

- (a) generally for giving effect to this Act; and
- (b) for prescribing anything that is authorised or required to be prescribed by the Act.

(2) Regulations made under subsection (1) shall be subject to negative resolution of Parliament.

Transitional. **\*269.** With effect from the date of the commencement of this Act—

- (a) any winding up which is commenced or treated as having commenced before the commencement of this Act; or
- (b) any case in which a petition in bankruptcy was presented, or a receiving order or adjudication in bankruptcy was made before the commencement of this Act,

shall be subject to the law in force immediately before the commencement of this Act.

Repeal of  
Ch.9:70.

**270.** The Bankruptcy Act is repealed.

Act binds the  
State.

**271.** This Act binds the State.

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\*See Section 2 and Note on page 2.

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**SUBSIDIARY LEGISLATION**

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**BANKRUPTCY AND INSOLVENCY REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

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232/2014.

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*made by the Minister under section 268*

**PART I**

**PRELIMINARY**

Citation.

**1.** These Regulations may be cited as the Bankruptcy and Insolvency Regulations.

Interpretation.

**2.** In these Regulations—

“contributor” means a person who is liable to contribute unpaid amounts under section 67 of the Act;

“counselling” means assisting and educating an individual bankrupt or his immediate family on good financial management, including prudent use of consumer credit and budgeting principles, and development of successful strategies for achieving financial goals and overcoming financial setbacks, and, where appropriate, making referrals with respect to non-budgetary causes of insolvency including gambling, addiction and marital and family problems;

“immediate family” means a spouse or cohabitant or child of an individual;

“professional engagement” means any appointment or designation of a trustee for the purposes of any bankruptcy or insolvency matter;

“relevant experience” means experience in consumer bankruptcy, commercial bankruptcy, receivership, insolvency, restructuring or liquidation of a business, or other related work in audit, tax, accounting or forensic accounting;

“retirement pension” means income set aside for retirement purposes from any source including state pension, occupational pension, a personal pension plan or a group pension plan;

“taxing officer” means an officer appointed by the Court for taxing purposes; and

“taxing order” means an order made by a taxing officer.

3. The forms required for the purposes of the Act are set out in Schedule 1. Forms.  
Schedule 1.

4. The fees payable under the Act are set out in Schedule 2. Fees.  
Schedule 2.

5. (1) Unless otherwise provided for in the Act, every notice or other document required to be served shall be served personally and every notice or other document required to be sent shall be delivered personally or sent by mail, courier, facsimile or electronic transmission. Service or  
sending of  
documents.

(2) Where a trustee or receiver gives or sends a notice or other document he shall obtain proof that the notice or other document was given or sent and shall retain the proof in his files.

(3) An assignment, proposal or notice of intention that is offered, lodged or filed respectively, pursuant to the Act, shall be offered, lodged or filed by service, personal delivery, mail, courier, facsimile or electronic transmission.

## PART II

### INTERIM RECEIVER

6. (1) An interim receiver shall apply to the Court for taxation of accounts and discharge within two months of completion of his duties. Taxation  
accounts and  
discharge of  
interim receiver.

(2) An interim receiver shall give at least five days' notice of the application to—

- (a) the debtor, or in the case of a bankruptcy, the trustee;
- (b) each creditor; and
- (c) the Supervisor.

(3) The notice referred to in subregulation (2) shall—

- (a) be in the form set out in Schedule 1; and Form 1.  
Schedule 1.
- (b) have attached a copy of the interim receiver's statement of receipts and disbursements in the form set out in Schedule 1. Form 2.  
Schedule 1.

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(4) The interim receiver shall submit a statement identifying—

- (a) the number of hours spent on the matter, the tasks performed, his hourly rates and such other factors as are necessary for consideration in the calculation of fees; and
- (b) the expenses incurred by the interim receiver, and include a copy of any bills of costs for legal services.

Objection to taxation of accounts or discharge of interim receiver.

7. (1) A person referred to in regulation 6(2)(a) or (b) may object to the taxation of the accounts and discharge of the interim receiver by filing a notice of objection with the Court within thirty days of receipt of the notice referred to in regulation 6(2).

Form 3.  
Schedule 1.

(2) The notice of objection referred to in subregulation (1) shall be in the form set out in Schedule 1.

(3) Where a person files an objection he shall send a copy of the objection to the interim receiver within the thirty days' period referred to in subregulation (1) and the interim receiver shall, within ten days of receipt of the objection, apply to the Court for a date for a hearing, and shall send a notice of the date of the hearing to the person who filed the objection.

(4) Where no objection is filed, the accounts of the interim receiver are deemed to have been taxed and he is deemed to be discharged, unless the court requires that the accounts be taxed on their own merit.

(5) The Court, at the hearing, shall tax the interim receiver's accounts, and may discharge the interim receiver and the interim receiver shall send a copy of the order of the Court relating to the taxation and discharge to the Supervisor.

PART III

SECURED CREDITORS AND RECEIVERS

Notice of intention to enforce a security.  
Form 4.  
Schedule 1.

8. The notice of intention to enforce a security pursuant to section 13(1) of the Act shall be in the form set out in Schedule 1 and shall be served or sent by registered mail or courier or, where the parties so agree, by electronic transmission.

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**9.** (1) Where a person has been appointed as a receiver pursuant to the Act, the notice of his appointment shall be in the form set out in Schedule 1 and accompanied by the fee set out in Schedule 2.

Notice of appointment of receiver.  
Form 5.  
Schedule 1.  
Schedule 2.

(2) The notice of the appointment of a receiver shall be published in at least two newspapers in daily circulation in Trinidad and Tobago in the form set out in Schedule 1.

Form 6.  
Schedule 1.

**10.** The statement a receiver is required to prepare pursuant to section 14(e) of the Act shall be in the form set out in Schedule 1 and shall contain the following information:

Statement of receiver.  
Form 5.  
Schedule 1.

- (a) the name of each creditor of the insolvent person or bankrupt;
- (b) the amount owing to each creditor;
- (c) the total amount owing to creditors;
- (d) a list of the property in the possession or under the control of the receiver and the book value of each item;
- (e) the receiver's intended plan of action during the receivership, where such a plan has been determined; and
- (f) any other additional information as may be required by the Supervisor.

**11.** For the purposes of section 14(f) of the Act, interim reports relating to a receivership shall be prepared by the receiver at least once every six months and shall include—

Interim reports of receiver.

- (a) a statement of receipts and disbursements in the form set out in Schedule 1;
- (b) a statement of all property of which the receiver has taken possession or control that has not yet been sold or realised;
- (c) information related to the anticipated completion of the receivership; and
- (d) any other substantial information relating to the receivership.

Form 2.  
Schedule 1.

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Final report and statement of accounts of receiver.

Form 2.  
Schedule 1.

Notice of disposition of collateral.  
Form 7.  
Schedule 1.

Assignment.  
Form 8.  
Schedule 1.

Appointment of trustee.

Form 9.  
Schedule 1.

Statement of Affairs.  
Forms 10 and 11.  
Schedule 1.

Reports to be filed with Court.

**12.** The final report and statement of accounts that a receiver is required to prepare pursuant to section 14(g) of the Act shall contain the following information:

- (a) a final statement of receipts and disbursements in the form set out in Schedule 1;
- (b) details of the manner of distribution of the proceeds realised from the property of which the receiver had taken possession or control; and
- (c) details of the disposition of any property of which the receiver had taken possession or control and which is not accounted for in the final statement of receipts and disbursements.

**13.** The notice of disposition of collateral required under section 18 of the Act shall be in the form set out in Schedule 1 and shall be served, or sent by registered mail or courier, or, where the parties so agree, by electronic transmission.

PART IV

ASSIGNMENTS

**14.** An assignment made under section 25(1) of the Act shall be in the form set out in Schedule 1.

**15.** Where the Supervisor appoints a trustee pursuant to section 25(4) of the Act, the Supervisor shall in addition to inserting the name of the trustee on the assignment, prepare a certificate of appointment of the trustee in the form set out in Schedule 1 and furnish the trustee with a copy of the certificate.

**16.** On receiving a statement of affairs from a bankrupt, in the respective forms set out in Schedule 1, a trustee shall file a copy of it at the Office of the Supervisor.

PART V

PROPOSALS

**17.** A trustee shall file a copy of the following documents with the Court as soon as they are filed with the Supervisor:

- (a) the proposal;

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- (b) the cash-flow statement, the report on the reasonableness of the cash-flow statement and the report containing the representations by the insolvent person required by section 26(14)(a), (b) and (c) of the Act;
- (c) the material adverse change report required by section 26(18)(a)(i) of the Act;
- (d) the report on the state of the insolvent person's business and personal financial affairs required by section 26(18)(b) of the Act;
- (e) the notice of intention referred to in section 30(1) of the Act;
- (f) the cash-flow statement required by section 30(2)(a) of the Act;
- (g) the report on the reasonableness of the cash-flow statement, required by section 30(2)(b) of the Act;
- (h) the report containing the representations by the insolvent person required by section 30(2)(c) of the Act;
- (i) the material adverse change report required by section 30(7)(b)(i) of the Act; and
- (j) the notice of the meeting of creditors required by section 32(1)(a) of the Act.

**18.** A proof of secured claim required by section 27 of the Act shall be in the form set out in Schedule 1.

Proof of secured claim.  
Form 12.  
Schedule 1.

**19.** (1) Where an insolvent person wishes to file a notice of intention to make a proposal, pursuant to section 30(1) of the Act, the notice shall be in the form set out in Schedule 1.

Notice of intention to make proposal.  
Form 13.  
Schedule 1.

(2) Where the insolvent person files the notice of intention he shall, pursuant to section 30(2) of the Act, file—

- (a) a report on the reasonableness of the cash-flow statement as set out in Schedule 1; and
- (b) a report on the cash-flow statement as set out in Schedule 1.

Form 14.  
Schedule 1.

Form 15.  
Schedule 1.

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Form 16.  
Schedule 1. (3) The report required under section 30(8)(b) of the Act shall be in the form set out in Schedule 1.

Form 17.  
Schedule 1. (4) The certificate of assignment referred to in section 30(8)(b) of the Act shall be in the form set out in Schedule 1.

Meeting of creditors.  
Form 12.  
Form 18.  
Form 19.  
Form 20.  
Schedule 1. **20.** The notice of the meeting of creditors, claim form, proxy letter and voting letter required under section 32(1) of the Act shall be in the respective forms set out in Schedule 1.

Refusal of proposal.  
Form 21.  
Form 22.  
Schedule 1. **21.** (1) Where a proposal is refused pursuant to section 38(b) or section 43(2)(b) of the Act the report required to be filed by the trustee shall be in the respective forms set out in Schedule 1.

Form 23.  
Schedule 1. (2) The certificate required under section 38(b) of the Act shall be in the form set out in Schedule 1.

Form 24.  
Schedule 1. (3) The certificate required under section 43(2)(b) of the Act shall be in the form set out in Schedule 1.

Default in performance of proposal. **22.** For the purposes of section 45 of the Act—  
(a) an insolvent person shall remedy a default in the performance of any provision in a proposal within thirty days after the day on which the default was made; and  
(b) a trustee shall inform the Supervisor and all creditors of the default within fifteen days of the expiration of the period referred to in paragraph (a).

Annulment of proposal. **23.** (1) Where the Court annuls a proposal pursuant to section 46(6) of the Act, the report required to be filed by the trustee shall be in the form set out in Schedule 1.

Form 25.  
Schedule 1. (2) The certificate required under section 46(6) of the Act shall be in the form set out in Schedule 1.

Form 26.  
Schedule 1. **24.** For the purposes of section 49 of the Act, “eligible financial contract” includes—

(a) an agreement relating to financial collateral, including any form of security or security interest in financial collateral and a title transfer

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credit support agreement, with respect to any agreement referred to in section 49(8)(a) to (m) of the Act;

- (b) a guarantee of, or an indemnity or reimbursement obligation with respect to, the liabilities under an agreement referred to in section 49(8)(a) to (m) of the Act; and
- (c) a total return swap, price return swap or default swap agreement.

**25.** The certificate required under section 50 of the Act shall be in the form set out in Schedule 1.

Certificate of performance.  
Form 27.  
Schedule 1.

#### PART VI

#### PROPERTY OF THE BANKRUPT

**26.** For the purposes of section 52 of the Act, the following property is exempt from execution or seizure:

Exempt property.

- (a) personal items and clothing to satisfy basic domestic needs;
- (b) permanent home of the debtor provided that the home is not subject to a security agreement with a secured creditor;
- (c) household furniture, food and equipment to satisfy basic domestic needs in the permanent home of the debtor;
- (d) tools necessary for the bankrupt to undertake his profession;
- (e) retirement pension from any source or combination of sources, subject to regulation 28; and
- (f) maintenance received by the debtor pursuant to an order of the Court for the support of his immediate family to satisfy their basic needs.

**27.** (1) For the purposes of section 53(1) of the Act, the debtor shall submit a statement of monthly income and expenditure to the trustee, upon his request, in the form set out in Schedule 1.

Statement of income and expenditure.  
Form 28.  
Schedule 1.

(2) An amended statement of monthly income and expenditure shall be immediately submitted to the trustee upon the occurrence of any material changes in the personal or family situation of the bankrupt.

Standards for determining reasonable standard of living.

**28.** For the purposes of section 53(1) of the Act, the following factors shall be taken into account in determining the portion of the income of an individual bankrupt that exceeds that which is necessary to maintain a reasonable standard of living:

- (a) the size of the bankrupt's family and the number of his dependants;
- (b) the reasonable medical expenses of the bankrupt and his dependants;
- (c) the reasonable education expenses of the bankrupt's dependants;
- (d) the reasonable household expenses of the bankrupt necessary to satisfy basic domestic needs; and
- (e) the minimum wage established under the Minimum Wages Act.

Ch. 88:04.

## PART VII

### MEDIATION

Application of Part.

**29.** This Part applies to mediation that is to be conducted under the Act.

Parties to mediation.

**30.** For the purposes of mediation—

- (a) the bankrupt and the trustee are always to be parties to the mediation;
- (b) the trustee may act either personally or through a representative; and
- (c) a creditor who requests mediation is a party to the mediation.

Designation of mediation.

**31.** (1) For the purpose of conducting mediation, the Supervisor shall designate as a mediator, a certified mediator under the Mediation Act.

Ch. 5:32.

(2) Where the Supervisor deems that a person referred to in subregulation (1) is not available, the Supervisor shall consult the Mediation Board of Trinidad and Tobago and appoint such other suitably qualified person, provided that such person agrees to be bound by the Code of Ethics contained in the First Schedule of the Mediation Act.

Ch. 5:32.

**32.** The request for mediation made by the trustee under the Act shall be in the form set out in Schedule 1.

Request to mediation.  
Form 29.  
Schedule 1.

**33.** (1) Upon the receipt of a request for mediation, accompanied by the most recent income and expense statement of the bankrupt in the form set out in Schedule 1, the Supervisor shall refer the matter to a certified mediator within five days of receipt of the request.

Referral to mediator.  
Form 28.  
Schedule 1.

(2) The mediator shall set the time and place for conducting the mediation.

(3) The mediation shall be completed within forty-five days of the receipt of the request for the mediation by the Supervisor.

**34.** The mediator shall conduct the mediation with all parties physically present or by telephone conference call, or by such other means of communication which permits all parties participating in the mediation to communicate with each other simultaneously.

Presence of parties at the mediation.

**35.** The mediation shall be held at the office of the Supervisor or at any other place as the mediator designates or, where necessary, a combination of places to facilitate a mediation in which telephone conference calls or such other means of communication is utilised.

Location of mediation.

**36.** The mediator shall forward a copy of the notice of the mediation, in the form set out in Schedule 1, to—

Notice of mediation.  
Form 30.  
Schedule 1.

- (a) the bankrupt;
- (b) the trustee; and

(c) any creditor who requested the mediation, no more than fifteen days prior to the date set for the mediation, or such shorter period as may be agreed to by all the parties.

Rescheduling of mediation.

**37.** At any time before a mediation has started if the mediator reasonably believes that the mediation cannot proceed on the scheduled date, he may reschedule the mediation.

Adjournment of mediation.

**38.** Except where it would constitute a second adjournment, the mediator shall, subject to regulation 42, adjourn the mediation at any time during the mediation if—

- (a) a party requests an adjournment and the mediator reasonably believes that the mediation would benefit from further negotiations or the provision of additional information;
- (b) the mediator reasonably believes that one of the parties, other than the trustee in the case of a mediation requested by a creditor, cannot continue the mediation for a period of time;
- (c) all the creditors who were informed of the mediation fail to appear at the mediation and the mediator reasonably believes, with respect to at least one of those creditors, that the non-appearance is neither a delaying tactic nor intended to bring the mediation into disrepute;
- (d) in the case of a mediation requested by a creditor, a party, other than the trustee, who was informed of the mediation, fails to appear at the mediation and the mediator reasonably believes that the non-appearance is neither a delaying tactic nor intended to bring the mediation into disrepute; or
- (e) in any case other than the one referred to in paragraph (d), a party, other than a creditor, who was informed of the mediation, fails to appear at the mediation and the mediator reasonably believes that the non-appearance is neither a delaying tactic nor intended to bring the mediation into disrepute.

- 39.** Where a mediation has been rescheduled or adjourned— New date for mediation.
- (a) the new date for the mediation shall be within ten days after the date on which the rescheduling or adjournment occurs; and
  - (b) the mediator shall notify the parties of the new date and place for the mediation.

- 40.** Subject to regulation 41, the mediator shall cancel a mediation at any time during the mediation if— Cancellation of mediation.
- (a) there is an outstanding opposition to the discharge of the bankrupt by a creditor or the trustee on a ground referred to in section 165(a) to (l) or (o) of the Act;
  - (b) the mediator reasonably believes that a party is abusing the rescheduling procedures;
  - (c) there has already been an adjournment and—
    - (i) there is a request for an adjournment under regulation 38(a); or
    - (ii) one of the circumstances referred to in regulation 38(b) to (e) occurs;
  - (d) the mediator reasonably believes that one of the parties, other than the trustee in the case of a mediation requested by a creditor, cannot continue the mediation;
  - (e) all creditors who were informed of the mediation fail to appear at the mediation and the mediator reasonably believes, with respect to all of those creditors, that the non-appearance is a delaying tactic or is intended to bring the mediation into disrepute;
  - (f) in the case of a mediation requested by a creditor, a party, other than the trustee, who was informed of the mediation, fails to appear at the mediation and the mediator reasonably believes that the non-appearance is a delaying tactic or is intended to bring the mediation into disrepute; or
  - (g) in any case other than the one referred to in paragraph (f), a party, other than a creditor,

who was informed of the mediation, fails to appear at the mediation and the mediator reasonably believes that the non-appearance is a delaying tactic or is intended to bring the mediation into disrepute.

Absence or inability of creditor who requested mediation.

**41.** Notwithstanding regulation 38(b) and (d) and regulation 40(d) and (f), the absence of one or more creditors who requested mediation, or the inability of one or more creditors who requested the mediation to continue the mediation, shall not be a ground for adjourning or cancelling the mediation if at least one creditor who requested the mediation is present at the mediation or is able to continue the mediation, as the case may be.

Effect of cancellation of mediation requested by creditor.

**42.** Where a mediation is conducted pursuant to section 163 of the Act and all the creditors who requested the mediation cause the cancellation of the mediation pursuant to regulation 40(e)—

- (a) the opposition to discharge on the part of each of those creditors on a ground referred to in section 165(m) or (n) of the Act is deemed withdrawn; and
- (b) the issues submitted to mediation are deemed to have been resolved for the purposes of section 163(7) of the Act.

Non-resolution of issues.

**43.** The issues submitted to mediation are deemed not to have been resolved for the purposes of section 53(9) or 163(7) of the Act where—

- (a) a mediation conducted pursuant to section 53 of the Act is cancelled under regulation 40(a) to (g); or
- (b) a mediation conducted pursuant to section 163 of the Act is cancelled otherwise than under regulation 40(e).

Notice of non-resolution of issue.  
Form 31.  
Schedule 1.

**44.** Where the issues submitted for mediation have not been resolved by the parties, the mediator shall send a notice of non-resolution, in the form set out in Schedule 1, to the Supervisor.



**45.** Where a mediation is cancelled, the mediator shall send a notice of the cancellation in the form set out in Schedule 1 to the Supervisor and the parties to the mediation, setting out the grounds for the cancellation.

Notice of  
cancellation of  
mediation.  
Form 32.  
Schedule 1.

**46.** A mediator or any party to a mediation shall not disclose any confidential information concerning any issue submitted to mediation unless the disclosure is—

Non-disclosure  
of confidential  
information.

(a) required by law; or

(b) authorised by the person about whom the confidential information relates.

**47.** (1) Where an agreement is reached by all parties at the mediation, a mediation settlement agreement, in the form set out in Schedule 1, including all terms and conditions of the settlement, shall be signed by the parties to the mediation.

Mediation  
settlement  
agreement.  
Form 33.  
Schedule 1.

(2) The mediator shall send a copy of the mediation settlement agreement to the Supervisor and the parties to the mediation.

(3) The mediation settlement agreement shall be binding on the parties to the mediation, subject to any subsequent order of the Court.

**48.** All payments made by a bankrupt under a mediation settlement agreement shall be made to the trustee and the trustee shall deposit it into the estate account referred to in section 209 of the Act.

Payment by  
bankrupt.

#### PART VIII

#### CONTRIBUTOR

**49.** (1) The trustee may request payment from a contributor in the amount that the contributor is liable to contribute under section 67(1) of the Act.

Contributor.

(2) The request made under subregulation (1) shall be served personally on the contributor, or sent by registered mail or courier to the contributor's last known address or the address shown in the stock register or other books of the bankrupt corporation.

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Form 34.  
Schedule 1.

(3) Within thirty days after the date on which the request was served under subregulation (1), a contributor may dispute his liability, in whole or in part, in respect of the amount to be contributed, by giving the trustee a written notice of dispute in the form set out in Schedule 1, setting out the disputed items and the grounds for disputing them and, after this notice is given, except with leave of the Court, the contributor may not plead any other ground of dispute in any proceedings brought against the contributor by the trustee.

Form 36.  
Schedule 1.

(4) Where the amount to be contributed is not paid, or a notice of dispute is not served, within the thirty-day period referred to in subregulation (3), the trustee may take *ex parte* proceedings for the recovery of the amount from the contributor.

(5) When the trustee receives a notice of dispute, the trustee may apply to the Court to determine the issue and, within ten days after making the application, shall send the contributor a notice of hearing of the application in the form set out in Schedule 1.

PART IX

BANKRUPT PARTNERSHIPS

Bankrupt  
partnership.

**50.** A partnership that is bankrupt shall submit to the trustee a statement of its partnership affairs, verified by one of the partners or by the manager in charge of the partnership affairs, and each partner shall submit a statement of his own individual affairs.

PART X

ADMINISTRATION OF ESTATES

Partnership  
creditors.

**51.** Where a partnership is bankrupt, the creditors of the partnership and of each partner shall be convened collectively for a first meeting of creditors.

Notice of first  
meeting.  
Form 36.  
Schedule 1.  
Form 12 and 19.  
Schedule 1.

**52.** For the purposes of section 93(1)(b) of the Act, the notice of the first meeting of creditors shall be in the form set out in Schedule 1 and pursuant to section 93(3) of the Act, shall be sent together with a proof of claim and proxy in the respective forms set out in Schedule 1.

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**53.** For the purposes of section 119(1) of the Act, the notice requiring a person to file a proof of security shall be in the form set out in Schedule 1.

Proof of security.  
Form 37.  
Schedule 1.

**54.** Where a trustee makes a determination or disallowance under section 126(4) of the Act, he shall serve or send by registered mail or courier a notice, in the form set out in Schedule 1, to the relevant person.

Determination or disallowance.  
Form 38.  
Schedule 1.

#### PART XI

### TAXATION OF ACCOUNTS AND DISCHARGE OF TRUSTEE—GENERAL

**55.** Where, pursuant to section 142(4) of the Act, the Supervisor gives a letter of comment to the trustee, the trustee shall, within thirty days after receiving the letter, apply to the taxing officer for a date for a taxation hearing.

Application to taxing officer.

**56.** (1) Unless the Court orders otherwise, the remuneration of a trustee is deemed to take into account all services performed by the trustee and by the trustee's partners and employees.

Calculation of remuneration of trustee.

(2) A trustee's disbursements do not include the indirect costs of the trustee's facilities or premises.

#### PART XII

### TAXATION OF ACCOUNTS AND DISCHARGE OF TRUSTEE—SUMMARY ADMINISTRATION

**57.** The trustee of the estate of a bankrupt under summary administration shall apply, pursuant to section 145(j) of the Act, for taxation of the trustee's accounts and for the discharge of the trustee by sending to the Supervisor—

Taxation of trustee's accounts.  
Schedule 1.

- (a) the trustee's final statement of receipts and disbursements in the form set out in Schedule 1; and
- (b) the dividend sheet, showing the dividends paid or to be paid to the creditors of the bankrupt in the form set out in Schedule 1.

Form 2.  
Schedule 1.

Form 2.  
Schedule 1.

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Letter of comment of Supervisor.

**58.** The Supervisor shall examine all documents sent to his office pursuant to regulation 57 and issue a letter of comment to the trustee, stating whether the Supervisor is requesting from the taxing officer the taxation of the trustee's accounts.

Notice of taxation of trustee's accounts and discharge.

**59.** Where the Supervisor's letter of comment states that the Supervisor is not requesting the taxation of the trustee's accounts, the trustee shall, within thirty days after receipt of the letter of comment, send to each creditor who has proved a claim a notice of taxation of the trustee's accounts and discharge of the trustee, in the form set out in Schedule 1, attaching—

Form 39.  
Schedule 1.  
Form 2.

- (a) a copy of the trustee's final statement of receipts and disbursements;
- (b) a copy of the dividend sheet, showing the dividends paid or to be paid to the creditors of the bankrupt; and
- (c) the final dividend that is owed to the creditor, if the trustee is satisfied that no creditor will object to the taxation of the trustee's accounts and the discharge of the trustee.

Notice of objection to trustee's accounts.

**60.** A creditor may, within thirty days after the date on which the notice referred to in regulation 59 is sent, object to the taxation of the trustee's accounts and the discharge of the trustee by—

Form 40.  
Schedule 1.

- (a) serving on the trustee or sending to the trustee by registered mail or courier, a notice of objection in the form set out in Schedule 1;
- (b) filing a copy of the notice of objection with the taxing officer; and
- (c) sending a copy of the notice of objection to the Supervisor.

No notice of objection.

**61.** (1) Where a trustee receives no notice of objection, the trustee shall—

- (a) at the expiration of the time limit stated in regulation 60, take the trustee's fee;

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- (b) at the expiration of the time limit stated in regulation 60, if the trustee has not already done so, send a final dividend to each creditor to whom one is owed; and
- (c) within three months after the date on which the notice referred to in regulation 59 is sent—
  - (i) close the bank account used in administering the estate of the bankrupt, if that account is not a consolidated account, or, if the account is a consolidated account, ensure that all estate funds have been withdrawn from it;
  - (ii) remit any unclaimed dividends and undistributed funds to the Supervisor; and
  - (iii) send to the Supervisor a certificate of compliance and deemed discharge in the form set out in Schedule 1.

Form 39.  
Schedule 1.

(2) A trustee is deemed to be discharged on meeting the requirements of subregulation (1)(b) and (c).

**62.** Where a trustee receives a notice of objection, the trustee shall—

Where objection received.

- (a) obtain a hearing date from the taxing officer; and
- (b) within thirty days after the date on which the notice of objection is received and at least thirty days before the date of the hearing, send the objecting creditor a notice of hearing, in the form set out in Schedule 1.

Form 41.  
Schedule 1.

**63.** (1) Where the Supervisor issues a letter of comment pursuant to regulation 58 requesting the taxation of a trustee's accounts, the trustee shall, after obtaining a hearing date from the taxing officer and within thirty days after the date of receipt of the letter of comment, send to the Supervisor and each creditor who has proved a claim—

Supervisor's request for taxation.

- (a) a notice of hearing for the taxation of the trustee's accounts and the discharge of the trustee, in the form set out in Schedule 1, at least thirty days before the date of the hearing;

Form 41.  
Schedule 1.

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Form 2. (b) a copy of the trustee's final statement of receipts and disbursements; and

Form 2. (c) a copy of the dividend sheet, showing the dividends paid or to be paid to the creditors of the bankrupt.

(2) A creditor may object to the taxation of the trustee's accounts and discharge of the trustee by—

Form 40. Schedule 1. (a) serving a notice of objection in the form set out in Schedule 1, on the trustee or sending a notice of objection to the trustee by registered mail or courier;

(b) filing a copy of the notice of objection with the taxing officer; and

(c) sending a copy of the notice of objection to the Supervisor.

Taxation hearing.

**64.** (1) At the time of the hearing, the taxing officer shall consider the creditors' objections and the letter of comment issued by the Supervisor, and shall tax the trustee's accounts.

(2) If the taxing officer taxes a trustee's accounts as submitted, the trustee shall—

(a) take the trustee's fee as taxed;

(b) send a final dividend to each creditor to whom one is owed; and

(c) within two months after the date of the taxation order—

(i) close the bank account used in administering the estate of the bankrupt, if that account is not a consolidated account or, if the account is a consolidated account, ensure that all estate funds have been withdrawn from it;

(ii) remit any unclaimed dividends and undistributed funds to the Supervisor; and

(iii) send to the Supervisor a certificate of compliance and deemed discharge in the form as set out in Schedule 1.

Form 39. Schedule 1.

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(3) A trustee is deemed to be discharged on meeting the requirements of subregulation (2)(b) and (c).

(4) Where the taxing officer taxes a trustee's accounts otherwise than as submitted, the trustee shall—

- (a) take the trustee's fee as taxed;
- (b) send a final dividend to each creditor to whom one is owed, in accordance with the taxation order; and
- (c) within two months after the date of the taxation order—
  - (i) close the bank account used in administering the estate of the bankrupt if that account is not a consolidated account or, if the account is a consolidated account, ensure that all estate funds have been withdrawn from it;
  - (ii) remit any unclaimed dividends and undistributed funds to the Supervisor;
  - (iii) send to the Supervisor and to each creditor a revised final statement of receipts and disbursements, a revised dividend sheet and a copy of the taxation order; and
  - (iv) send to the Supervisor and to the Registrar a certificate of compliance and deemed discharge, in the form set out in Schedule 1.

Form 2.

Form 39.  
Schedule 1.

(5) A trustee is deemed to be discharged on meeting the requirements of subregulation (4)(b) and (c).

### PART XIII

#### DISCHARGE UNDER SUMMARY ADMINISTRATION

**65.** The notice of bankruptcy and notice of impending automatic discharge, or notice of bankruptcy and application for discharge, referred to in section 145(i) of the Act, shall be in the form set out in Schedule 1.

Discharge of  
bankrupt.

Form 36.  
Schedule 1.

## PART XIV

## MAINTENANCE OF PUBLIC RECORDS

Time period for  
keeping of  
records.

**66.** For the purposes of section 179 of the Act, the Supervisor shall keep—

- (a) the files relating to a proposal for at least six years after the date on which a certificate of full performance of the proposal is given pursuant to section 50 of the Act;
- (b) the files relating to the bankruptcy of an individual—
  - (i) for at least six years after the date on which the trustee of the bankrupt's estate is discharged under section 225(2) of the Act, or is deemed to be discharged pursuant to these Regulations; and
  - (ii) if the bankrupt has not been granted an absolute order of discharge under section 164(2) of the Act at the end of the period referred to in subparagraph (i), until the bankrupt has been granted the absolute order of discharge;
- (c) the files relating to the bankruptcy of a corporation for at least six years after the date on which the trustee of the bankrupt's estate is discharged under section 225(2) of the Act;
- (d) the files relating to a licence issued to a trustee for at least six years after the date of expiry of the licence;
- (e) the files relating to each notice sent to the Supervisor by a receiver pursuant to section 14 of the Act for at least six years after the date on which the notice is received by the Supervisor; and
- (f) all other records relating to the administration of the Act for at least six years after the date on which they are received.



PART XV

LICENSING OF TRUSTEES

**67.** The following persons shall not be issued with a trustee licence: Disqualification.

- (a) an undischarged bankrupt;
- (b) a person under the age of eighteen years;
- (c) a person who is mentally ill within the meaning of the Mental Health Act; Ch. 28:02
- (d) a person who is disqualified from being a director under the provisions of the Companies Act; and Ch. 81:01.
- (e) a person who does not meet the minimum criteria to be considered fit and proper as set out in Schedule 3. Schedule 3.

**68.** (1) For the purposes of section 180(2) of the Act, the Supervisor may issue an individual trustee licence to an applicant if the applicant satisfies the Supervisor that— Application for individual trustee licence.

- (a) the applicant is of good character and reputation and that the issuance of a licence will not impair public confidence in the bankruptcy and insolvency system;
- (b) the applicant is in good standing with, and not subject to, any disciplinary action by any professional organisation of which the applicant is or was a member; and
- (c) the applicant is—
  - (i) a resident of Trinidad and Tobago in accordance with the Immigration Act; Ch. 18:01.
  - (ii) a holder of a work permit under the Immigration Act or exempted from holding a work permit under the Immigration Act; or
  - (iii) is affiliated with a company incorporated under the Companies Act. Ch. 81:01.

(2) An application for an individual trustee licence shall be in the form set out in Schedule 1. Form 42. Schedule 1.

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Form 43.  
Schedule 1. (3) An individual licence issued by the Supervisor shall be in the form set out in Schedule 1.

Application for  
corporate trustee  
licence. **69.** (1) Subject to sections 195 to 198 of the Act, the Supervisor may issue a corporate trustee licence to an applicant who is —

Ch. 81:01. (a) a company incorporated under the Companies Act;  
(b) solvent; and  
(c) considered fit and proper in accordance with Part 2 of Schedule 3.

Part 2.  
Schedule 3.

Form 44.  
Schedule 1. (2) An application for a corporate trustee licence shall be in the form set out in Schedule 1.

Form 45.  
Schedule 1. (3) A corporate licence issued by the Supervisor shall be in the form as set out in Schedule 1.

Additional  
requirements.

**70.** In addition to any other requirements under these Regulations, an applicant shall demonstrate to the Supervisor—  
(a) his financial condition and solvency;  
(b) his educational and other qualifications;  
(c) that he has at least three years' relevant experience;  
(d) his ability to perform his proposed business efficiently, honestly and fairly;  
(e) his ability to comply with the requirements of the Act; and  
(f) his character, financial integrity and reliability.

Member of  
professional  
body.

**71.** Pursuant to section 180(3) of the Act, a person shall not be granted a licence as a trustee unless he is a member of one of the following professional bodies:

- (a) the Institute of Chartered Accountants of Trinidad and Tobago (ICATT);
- (b) the Institute of Chartered Accountants of the Caribbean (ICAC);
- (c) the Institute of Internal Auditors of Trinidad and Tobago (IIATT);

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- (d) the Association of Chartered Certified Accountants; or
- (e) Law Association of Trinidad and Tobago established under the Legal Profession Act.

Ch. 90:03.

**72.** Prior to appointing a trustee for professional engagement under the Act, the Supervisor shall be satisfied that the trustee—

Acceptance of professional engagement.

- (a) has a valid licence;
- (b) is solvent;
- (c) does not practice an incompatible activity; and
- (d) has sufficient financial resources and professional liability insurance and employee dishonesty or fidelity insurance to properly administer the professional engagement.

#### PART XVI

#### TRUSTEES' CODE OF ETHICS

**73.** A trustee shall be bound to the code of ethics contained in this Part.

Code of ethics.

**74.** A trustee shall maintain a high standard of ethics that is central to the maintenance of public trust and confidence in the administration of the Act.

Public trust and confidence.

**75.** A trustee shall perform his duties in a timely manner and carry out his functions with competence, honesty, integrity and due care.

Performance of functions.

**76.** A trustee shall co-operate fully with the Office of the Supervisor in all matters arising out of the Act.

Co-operation with Supervisor.

**77.** A trustee shall not assist, advise or encourage any person to engage in any conduct that he knows, or ought to know, is illegal or dishonest, in respect of the bankruptcy and insolvency process.

Illegal or dishonest conduct.

**78.** A trustee shall be honest and impartial and shall provide to interested parties full and accurate information as required by the Act with respect to his professional engagement.

Trustee to be impartial.

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Non-disclosure of confidential information by trustee.

**79.** A trustee shall not disclose confidential information concerning any professional engagement, unless the disclosure is—

- (a) required by law; or
- (b) authorised by the person about whom the confidential information relates.

Prohibition on use of confidential information.

**80.** A trustee shall not use any confidential information that is gathered in his professional capacity for his personal benefit or for the benefit of a third party.

Prohibition on purchase of property.

**81.** A trustee shall not purchase, directly or indirectly—

- (a) property of a debtor for whom he is acting with respect to a professional engagement;
- (b) property of property in respect of which the Act applies and for which they are not acting in a professional capacity, unless the property is purchased—
  - (i) at the same time that it is offered to the public;
  - (ii) at the same price that it is offered to the public; and
  - (iii) during the normal course of business of the bankrupt or debtor.

Prohibition on sale of property.

**82.** (1) Subject to subregulation (2), if a trustee has a responsibility to sell property in connection with a proposal or bankruptcy, he shall not sell the property, directly or indirectly—

- (a) to his employee, agent or mandatary, or person not dealing at arms' length with the trustees;
- (b) to another trustee or knowingly to an employee of another trustee; or
- (c) to a related person of the trustee or, knowingly, to a related person of the persons referred to in paragraph (a) or (b).

(2) A trustee may sell property in connection with a proposal or bankruptcy to the persons set out in subregulation (1)(a), (b) or (c), if the property is offered for sale—

- (a) at the same time that it is offered to the public;

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- (b) at the same price that it is offered to the public; and
- (c) during the normal course of business of the bankrupt or debtor.

**83.** A trustee who is acting with respect to any professional engagement shall avoid any influence, interest or relationship that impairs, or may appear in the opinion of an informed person, to impair his professional judgment.

Impairment of professional judgment.

**84.** A trustee shall not sign any document, including any letter, report, statement, representation or financial statement, that he knows, or reasonably ought to know, is false or misleading and shall not associate himself with such a document in any way, including by adding a disclaimer of responsibility after his signature.

Signing of false or misleading document.

**85.** A trustee may transmit information that he has not verified, respecting the financial affairs of a bankrupt or debtor, if—

Transmission of unverified information.

- (a) the information is subject to a disclaimer of responsibility or an explanation of the origin of the information; and
- (b) the transmission of the information is not contrary to the Act.

**86.** A trustee shall not engage in any business or occupation that would compromise his ability to perform any professional engagement or that would jeopardize his integrity, independence or competence.

Engaging in other business or occupation.

**87.** A trustee who holds money or other property in trust shall—

Money or property in trust.

- (a) hold the money or property in accordance with the laws, regulations and terms applicable to the trust; and
- (b) administer the money or property with due care, subject to the laws, regulations and terms applicable to the trust.

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Prohibition on payment or receipt of commission, compensation or benefit.

**88.** A trustee shall not, directly or indirectly, pay to a third party a commission, compensation or other benefit in order to obtain a professional engagement, or accept, directly or indirectly from a third party, a commission, compensation or other benefit for referring work relating to a professional engagement.

Discredit to the profession.

**89.** A trustee shall not obtain, solicit or conduct any professional engagement that would discredit the profession or jeopardize the integrity of the bankruptcy and insolvency process.

Advertisement.

**90.** A trustee shall not, directly or indirectly, advertise in a manner that—

- (a) he knows, or ought reasonably to know, is false, misleading, materially incomplete or likely to induce error; or
- (b) unfavourably reflects on the reputation or competence of another trustee or on the integrity of the bankruptcy and insolvency process.

Actions of employees and agents of a trustee.

**91.** A trustee, in the course of his professional engagement, shall apply due care to ensure that the actions carried out by his employee, agent, mandatary or any person hired by him on a contractual basis are carried out in accordance with the same professional standards that he himself is required to follow in relation to the professional engagement.

Complaints.

**92.** A complaint that a trustee has contravened the Act shall be sent to the Supervisor in writing.

PART XVII

DUTIES OF TRUSTEES

Notification of appointment as trustee.

**93.** A trustee who is appointed pursuant to section 225(12) of the Act shall notify the Supervisor of his appointment, in writing, within ten days after the appointment.

Passing of accounts.

**94.** (1) Subject to subregulation (2), a former trustee who is to pass the accounts before the Court in accordance with section 220(1) of the Act shall make an application to the Court and attach to it an

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affidavit and shall send a notice in the form set out in Schedule 1, accompanied by a copy of the statement of receipts and disbursements, specifying the time and place set for passing the accounts, to the following persons:

Form 46  
Schedule 1.

- (a) every creditor whose claim has been proved;
- (b) the Registrar;
- (c) the bankrupt;
- (d) the substituted trustee; and
- (e) the Supervisor.

(2) The Court may order that a notice is not required to be given to the persons referred to in regulation 94(1)(a).

#### PART XVIII

#### BOOKS, RECORDS AND DOCUMENTS

**95.** (1) Unless the Court orders otherwise, a trustee shall keep, for at least six years after the date of his discharge, the books, records and documents relating to the administration of that estate.

Books, records  
and documents  
of trustee.

(2) Unless the Court orders otherwise, a trustee shall, after being discharged, send to the last known address of the debtor, bankrupt or officer of the bankrupt corporation, a written notice, unless there is a written waiver giving up the right to be notified, that he or his representative may, within the thirty days following the sending of the notice, take back any of the debtor's or bankrupt's books, records and documents to which subregulation (1) does not apply.

(3) Where no person has taken back the books, records and documents pursuant to subregulation (2), the trustee may dispose of the books, records and documents.

(4) Documents on which legal counsel has a lien or a right of retention shall be returned to the legal counsel on completion of the administration of the estate to which the documents relate.

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PART XIX

MISCELLANEOUS

- Claim by spouse or cohabitant of debtor.  
Form 47.  
Schedule 1.
96. For the purposes of section 65(2) of the Act, a spouse or cohabitant shall make a claim in the form set out in Schedule 1.
- Proof of claim.  
Form 12.  
Schedule 1.
97. For the purposes of sections 27, 32, 71, 73, 93, 100, 115 and 252 of the Act, a proof of claim shall be in the form set out in Schedule 1.
- Demand for repossession of goods.  
Form 48.  
Schedule 1.
98. For the purposes of section 72(1)(a) of the Act, a demand for repossession shall be made in the form set out in Schedule 1.
- Counselling.
99. (1) Subject to section 148 of the Act, counselling services may be provided to an individual bankrupt and his immediate family if requested by the individual bankrupt, or in the opinion of the trustee would aid in the rehabilitation of the individual bankrupt.
- (2) All counselling to be provided to an individual bankrupt or his immediate family shall be provided by appropriate persons approved by the Supervisor.
- (3) Where counselling services are provided to the immediate family of an individual bankrupt, such counselling shall be provided at the same time as the counselling provided to the individual bankrupt.
- (4) Upon completion of any counselling provided under this regulation, an individual bankrupt and his immediate family, shall provide to the trustee evidence of attendance and completion of the counselling sessions.
- Statement of affairs of bankrupt.  
Forms 10 and 11.  
Schedule 1.
100. For the purposes of section 149(e) of the Act, the statement of the affairs of the bankrupt shall be in the respective forms set out in Schedule 1.
- Notice of final dividend.  
Form 49.  
Schedule 1.
101. For the purposes of section 142(5)(c) of the Act, the notice of final dividend shall be in the form set out in Schedule 1.

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**SCHEDULE 1**

**FORM 1**

*[Section 11(2) of the Act and Regulation 6(3)]*

**NOTICE OF APPLICATION FOR TAXATION OF  
ACCOUNTS AND DISCHARGE OF INTERIM RECEIVER**

Take notice that:

1. Attached to this notice is a copy of the final statement of receipts and disbursements of \_\_\_\_\_, the interim receiver of the property of \_\_\_\_\_, the debtor.
2. Also attached is a statement of account prepared by the interim receiver and other information concerning the fees and expenses.
3. Objection to the statement of receipts and disbursements and to the discharge of the interim receiver must be filed with the court and the undersigned within the thirty days after the day on which this notice is sent. The notice of objection must state the reasons for the objection.
4. The debtor or, in the case of a bankruptcy, the trustee or any creditor may file a notice of objection.
5. Where no objection is filed within thirty days after the sending of this notice, the interim receiver's accounts are deemed to have been taxed and the interim receiver is deemed to be discharged, unless the court requires that the accounts be taxed on their own merit.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
*Interim Receiver*

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**FORM 2**

*[Sections 11(2), 14(f), 14(g), 141 and 142(2) of the Act and Regulations 6(3)(b), 11(a), 12(a), 57(a) and (b), 59(a), (b) and (c), 63(1)(b) and (c), 64(4)(c)(iii)]*

**STATEMENT OF RECEIPTS AND DISBURSEMENTS**

**RECEIPTS**

1. Cash in hand and in bank	...	...	...	\$ _____
2. Realisation of assets: Book debts and bills of exchange				\$ _____
3. Realisation of assets: Stock, fixtures, machinery and furniture				\$ _____
4. Realisation of assets: Real property or immovable				\$ _____
5. Received from:				
(a) Interim receiver as taxed			\$ _____	
(b) Former trustee as taxed			\$ _____	\$ _____
6. Operating receipts	...	...	...	...
Less: (a) Purchases	...	...	\$ _____	
(b) Operating expenses			\$ _____	\$ _____
<i>(Attach statement detailing purchases and expenses)</i>				
Net profit <i>(net loss to be shown in miscellaneous disbursements, 19(a))</i>				\$ _____
7. Miscellaneous:				
(a) Bank interest, etc <i>(specify)</i>	...	...		\$ _____
(b) Funds received from guarantor <i>(if applicable)</i>	...			\$ _____
TOTAL RECEIPTS	...	...	...	\$ _____

**DISBURSEMENT**

8. Fees paid:				
(a) To Court	...	...	\$ _____	
(b) Other fees	...		\$ _____	\$ _____
9. Notice of first meeting:				
(a) Local paper	...		\$ _____	
(b) To <i>(number)</i> _____ creditors			\$ _____	
(c) Postage	...		\$ _____	\$ _____

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- |   |     |     |     |     |          |
|---|-----|-----|-----|-----|----------|
| 10. Other advertising   | ... | ... | ... | ... | \$ _____ |
| 11. Stock-taking and possession (actual expenses only)                | ... |     |     |     | \$ _____ |
| 12. Premiums:   |     |     |     |     |          |
| (a) Bond or suretyship  |     |     |     |     | \$ _____ |
| (b) Insurance   | ... |     |     | ... | \$ _____ |
| 13. Notice of bankrupt's application for discharge:                   |     |     |     |     |          |
| (a) To ( <i>number</i> ) ___ creditors                                |     |     |     |     | \$ _____ |
| (b) Postage   | ... |     |     | ... | \$ _____ |
| 14. Auctioneer:   |     |     |     |     |          |
| (a) Commission  | ... |     |     |     | \$ _____ |
| (b) Expenses  | ... |     |     | ... | \$ _____ |
| 15. Notice of final dividend and trustee's application for discharge: |     |     |     |     |          |
| (a) To ( <i>number</i> ) ___ creditors                                |     |     |     |     | \$ _____ |
| (b) Postage   | ... |     |     | ... | \$ _____ |
| 16. Other notices and reports:  |     |     |     |     |          |
| (a) To ( <i>number</i> ) ___ creditors                                |     |     |     |     | \$ _____ |
| (b) Postage   | ... |     |     | ... | \$ _____ |
| 17. Postage on general correspondence                                 | ... |     |     | ... | \$ _____ |
| 18. Inspector:  |     |     |     |     |          |
| (a) Fees  | ... |     |     |     | \$ _____ |
| (b) Expenses  | ... |     |     | ... | \$ _____ |
| 19. Miscellaneous:  |     |     |     |     |          |
| (a) Loss on operations  |     |     |     |     | \$ _____ |
| (b) Cost of former trustee as taxed                                   |     |     |     |     | \$ _____ |
| (c) Other ( <i>provide details</i> )                                  |     |     |     | ... | \$ _____ |
| 20. Trustee's remuneration  | ... |     |     | ... | \$ _____ |
| 21. Legal fees and legal services costs ( <i>taxed</i> ):             |     |     |     |     |          |
| (a) Legal counsel on application or assignment                        |     |     |     |     | \$ _____ |
| (b) Legal counsel to estate   | ... |     |     |     | \$ _____ |
| (c) Court fees awarded against trustee                                |     |     |     |     | \$ _____ |
| (d) Costs awarded to opposing creditor                                |     |     |     |     | \$ _____ |

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**FORM 2—Continued**

22. Taxes ( <i>Federal and Provincial</i> )	...	...	...	\$ _____
23. Counselling fees	...	...	...	\$ _____
24. Trust claim ( <i>Crown</i> )	...	...	...	\$ _____
<b>TOTAL DISBURSEMENTS</b>	...	...	...	<b>\$ _____</b>

Note: Total disbursements paid for services provided

by persons related to the trustee: \$ \_\_\_\_\_

(a) Amount \$ \_\_\_\_\_

(b) Name of person related to the trustee \_\_\_\_\_

(c) Relationship to the trustee (e.g., spouse, parent) \_\_\_\_\_

25. Amount available for distribution	...	...	...	\$ _____
26. 5% levy payable under section 137 of the Act	...	...	...	\$ _____
27. Secured creditors:				
Dividend \$ _____	Less levy \$ _____			\$ _____
28. Preferred creditors:				
Dividend \$ _____	Less levy \$ _____			\$ _____
29. Unsecured creditors:				
Proved claims of	...	...	...	\$ _____
Interim dividend		Less levy \$ _____		\$ _____
Final dividend		Less levy \$ _____		\$ _____
30. Amount refunded to debtor	...	...	...	\$ _____
31. Undistributed assets	...	...	...	\$ _____

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32. Status of Bankrupt's Discharge (if an individual)/Status of Proposal:

Absolute discharge	Automatic	Conditional
Discharge suspended	Hearing set	Refused
Annulled by Court	Court approval refused	Creditor acceptance rejected
Deemed annulled	Full performance	Withdrawn
Deceased	<i>Sine die</i>	Ongoing

Status date \_\_\_\_\_

\_\_\_\_\_  
[Provide a description and value of all property of the bankrupt (whether or not secured) as shown in the Statement of Affairs, or otherwise known and not accounted for in the receipts, stating why the property has not been sold or realised and stating the disposition made.]

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Trustee*

Approved by the following inspectors: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Taxed at the sum of \$ \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Supervisor*

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**FORM 3**

[Section 11(2) of the Act and Regulation 7(2)]

**NOTICE OF OBJECTION**

To the Registrar

In the matter of \_\_\_\_\_ (*name of debtor*),  
I, \_\_\_\_\_, of \_\_\_\_\_ (*name and address of  
objector*) object to the taxation of the accounts and discharge of the interim  
receiver on the following grounds:

[*Reason(s) for objection*]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This notice must be filed with the Registrar, and a copy must be sent to the  
interim receiver.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Objector*

\_\_\_\_\_

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**FORM 4**

[Section 13(1) of the Act and Regulation 8]

**NOTICE OF INTENTION TO ENFORCE A SECURITY**

To \_\_\_\_\_, an insolvent person.

Take notice that:

1. \_\_\_\_\_, a secured creditor, intends to enforce its security on the insolvent person's property as described below:

*(Describe the property to which the security relates.)*

2. The security that is to be enforced is the following:

*(Provide particulars of the security.)*

3. The total amount of the indebtedness secured by the security is \$ \_\_\_\_\_.
4. The secured creditor will not have the right to enforce the security until after the expiry of the ten-day period after this notice is sent unless the insolvent person consents to an earlier enforcement.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Signature/Stamp of secured creditor*

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FORM 5

[Section 14(c), (e) of the Act and Regulations 9(1), 10(1)]

NOTICE AND STATEMENT OF THE RECEIVER

The receiver gives notice and declares that:

- 1. On the \_\_\_ day of \_\_\_, I, \_\_\_, became the receiver in respect of the property of \_\_\_, an insolvent person (or a bankrupt), that is described below—

(Provide an appropriate description of the property including the book value of each asset and broken down into the categories of inventory, accounts receivable and other assets.)

- 2. I became a receiver by having taken possession or control of the property described above [or by virtue of being appointed by \_\_\_ (name of person or court that appointed receiver)] pursuant to \_\_\_ (State particulars of security agreement or court order pursuant to which receiver was appointed).

- 3. I, the undersigned took possession or control of the property described above on the \_\_\_ day of \_\_\_, \_\_\_.

- 4. The following information relates to the receivership:

- (a) Address of insolvent person (or bankrupt) \_\_\_\_\_.
- (b) Principal line of business \_\_\_\_\_.
- (c) Location(s) of business \_\_\_\_\_.
- (d) Amount owed by insolvent person (or bankrupt) to each creditor who holds a security on the property described above \$ \_\_\_\_\_.
- (e) The list of other creditors of the insolvent person (or the bankrupt) and the amount owed to each creditor and the total amount due by the insolvent person (or the bankrupt) is as follows \_\_\_\_\_.
- (f) The intended plan of action of the receiver during the receivership, to the extent that such a plan has been determined, is as follows \_\_\_\_\_.
- (g) Contact person for receiver—

(Provide name, telephone and fax numbers and, if applicable, an e-mail address.)

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signature

Name and Title of Receiver

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**FORM 6**

[Section 15(c) and Regulation 9(2)]

**NOTICE OF APPOINTMENT OF RECEIVER IN LOCAL  
NEWSPAPER**

In the matter of the receivership of \_\_\_\_\_.

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
I, \_\_\_\_\_, became the receiver in respect of the property  
of \_\_\_\_\_, an insolvent person (or a bankrupt). I  
became a receiver by virtue of being appointed by \_\_\_\_\_  
(*name of person or court that appointed receiver*) pursuant to  
\_\_\_\_\_ (*state particulars of security agreement or court  
order pursuant to which receiver was appointed*).

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Receiver*

\_\_\_\_\_  
*Address of Receiver*

\_\_\_\_\_

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**FORM 7**

[Section 18(1) of the Act and Regulation 13]

**NOTICE OF DISPOSITION OF COLLATERAL**

To \_\_\_\_\_ (*Name of debtor/person with charge registered against the collateral/creditor who has given notice to the receiver of his interest in the collateral/if the debtor is a corporation, to director of the debtor.*)

Take notice that as the duly appointed receiver/receiver-manager over the property of \_\_\_\_\_ (*details of debtor*), I intend to dispose of the whole or part of the collateral under my control by \_\_\_\_\_ (*insert details of disposition*) on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Receiver*

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**FORM 8**

*(Regulation 14)*

**ASSIGNMENT FOR THE GENERAL BENEFIT OF CREDITORS**

This indenture made on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between

\_\_\_\_\_  
*(Insert the full legal name of the Debtor)*

\_\_\_\_\_  
*(Insert address of the Debtor)*  
hereinafter called "the debtor"

and

\_\_\_\_\_  
*(Insert the name of the Trustee)*  
hereinafter called "the trustee."

*(Check applicable category)*

Natural person

Corporate or other legal entity

WHEREAS the debtor is insolvent and desires to assign and to abandon all his/her property for distribution among his/her creditors, in pursuance of the Act, this indenture witnesses that the debtor does hereby assign to the trustee all the debtor's property for the uses, intents and purposes provided by the Act.

Signed at \_\_\_\_\_, in the presence of \_\_\_\_\_.

\_\_\_\_\_  
*Witness*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Debtor*  
*(or Legal Personal*  
*Representative of*  
*the Debtor)*

Notes: (i) If the debtor is a corporation, a certified copy of the resolution of the Board of Directors must be attached to this document.

(ii) Attach a copy of the Court order granted pursuant to section 25(1) of the Act.

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**FORM 9**

(Regulation 15)

**CERTIFICATE OF APPOINTMENT OF TRUSTEE (ASSIGNMENT)**

IN THE REPUBLIC OF TRINIDAD AND TOBAGO

In the Matter of the Bankruptcy of:

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Trustee

\_\_\_\_\_  
Date and time of bankruptcy:

Security:

Date of trustee appointment:

Meeting of creditors:

Chair:

CERTIFICATE OF APPOINTMENT

[Section 25(4) and Regulation 15]

I, the undersigned, in my capacity as Supervisor, do hereby certify that:

the aforementioned debtor filed an assignment under section 25 of the Bankruptcy and Insolvency Act;

the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

to provide to me, without delay, security in the aforementioned amount;

to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy;

when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the Supervisor; and

to inform me without delay and in writing of any material change to the circumstances surrounding the granting of his licence.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Supervisor*

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**FORM 10**

[Sections 25(2), 26(9)(a) and 149(e) of the Act and Regulations 16 and 100]

**STATEMENT OF AFFAIRS (Business Bankruptcy/Proposal)**

*(This form must be completed by all bankrupts/debtors where a business is involved, whether the business is in the form of a corporation, partnership, sole proprietorship or otherwise)*

**Original          Amended**

To the Bankrupt/Debtor:

You are required to carefully and accurately complete this form and the applicable attachments showing the state of your affairs on the date of your bankruptcy/date of filing of your proposal (*or, if applicable, notice of intention*) on the \_\_\_\_\_ day of \_\_\_\_\_. When completed, this form and the applicable attachments will constitute your Statement of Affairs and must be verified by oath or solemn declaration.

**LIABILITIES**

*(as stated and estimated by bankrupt/debtor)*

1. Unsecured creditors as per list "A" ... \$ \_\_\_\_\_
2. Secured creditors as per list "B" ... \$ \_\_\_\_\_
3. Preferred creditors as per list "C" ... \$ \_\_\_\_\_
4. Contingent, trust claims or other liabilities  
as per list "D" estimated to to be  
reclaimable for ... .. \$ \_\_\_\_\_
- Total liabilities ... \$ \_\_\_\_\_
- Surplus ... \$ \_\_\_\_\_

I, \_\_\_\_\_, of \_\_\_\_\_  
do swear (*or solemnly declare*) that this statement and the attached lists are, to the best of my knowledge, a full, true and complete statement of my affairs on the \_\_\_\_\_ day of \_\_\_\_\_ and fully discloses all property of every description that is in my possession or that may devolve on me in accordance with the Act.

**ASSETS**

*(as stated and estimated by bankrupt/debtor)*

1. Inventory ... .. \$ \_\_\_\_\_
2. Trade fixtures, etc. ... \$ \_\_\_\_\_
3. Accounts receivable and other  
receivables as per list "E":  
Good ... \$ \_\_\_\_\_  
Doubtful ... \$ \_\_\_\_\_  
Bad ... \$ \_\_\_\_\_  
Estimated to produce. \$ \_\_\_\_\_ \$ \_\_\_\_\_
4. Bills of exchange, promissory note,  
etc., as per list "F" ... \$ \_\_\_\_\_
5. Deposits in financial institutions \$ \_\_\_\_\_
6. Cash ... .. \$ \_\_\_\_\_
7. Livestock ... .. \$ \_\_\_\_\_
8. Machinery, equipment and plant \$ \_\_\_\_\_
9. Real property or immovables as  
per list "G" ... .. \$ \_\_\_\_\_
10. Furniture ... .. \$ \_\_\_\_\_
11. Savings Plans, Retirement  
Plans, Investment Funds,  
Life Insurance, etc. ... \$ \_\_\_\_\_
12. Securities (shares, bonds,  
debentures, etc.) ... \$ \_\_\_\_\_
13. Interests under wills ... \$ \_\_\_\_\_

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**FORM 10—Continued**

SWORN (or SOLEMNLY DECLARED) before  
me at \_\_\_\_\_  
(address),

on this \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
*Commissioner of Affidavits*

\_\_\_\_\_  
*Signature of Bankrupt/ Debtor*

14 Vehicles ... .. \$ \_\_\_\_\_

15. Other property as per list "H"

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

If bankrupt/debtor is a corporation, add:

Amount of  
subscribed capital \$ \_\_\_\_\_

Amount paid on  
capital \$ \_\_\_\_\_

\$ \_\_\_\_\_

Balance subscribed and unpaid ... \$ \_\_\_\_\_

Estimated to produce ... .. \$ \_\_\_\_\_  
\$ \_\_\_\_\_

Total assets ... .. \$ \_\_\_\_\_

Deficiency ... .. \$ \_\_\_\_\_

**LIST "A"**  
**UNSECURED CREDITORS**

*Names to be arranged in alphabetical order and numbered consecutively.*

No.	Name of Creditor	Address	Amount of claim

Bankrupt/Debtor

Date

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**FORM 10—Continued  
LIST “B”**

**SECURED CREDITORS**

No.	Name of Creditor	Address	Amount of claim	Particulars of security	When given	Estimated value of security	Estimated surplus from security	Balance of claim unsecured

\_\_\_\_\_ *Date*

\_\_\_\_\_ *Bankrupt/Debtor*



LIST "C"  
PREFERRED CREDITORS FOR WAGES, RENT, ETC.

No.	Name of Creditor	Address and occupation	Nature of claim	Period during which claim accrued	Amount of claim	Amount payable in full	Difference ranking for dividend

\_\_\_\_\_  
*Bankrupt/Debtor*

\_\_\_\_\_  
*Date*

FORM 10—Continued  
LIST “D”

**CONTINGENT OR OTHER LIABILITIES**

Give particulars of claims not set out in list “B” or “C”

No.	Name of Creditor or claimant	Address and occupation	Amount of liability or claim	Amount expected to rank for dividend	Date when liability incurred	Nature of liability

\_\_\_\_\_ Date

\_\_\_\_\_ Bankrupt/Debtor

**LIST "E"**

**DEBTS DUE TO THE BANKRUPT/DEBTOR**

No.	Name of Creditor	Address and occupation	Nature of debt	Amount of debt (good, doubtful, bad)	Folio of ledgers or other book where particulars to be found	When contracted	Estimated to produce	Particulars of any securities held for debt

\_\_\_\_\_ *Date*

\_\_\_\_\_ *Bankrupt/Debtor*

FORM 10—Continued  
LIST ‘F’

**BILLS OF EXCHANGE, PROMISSORY NOTES, LIEN NOTES, CHATTEL MORTGAGES, ETC.,  
AVAILABLE AS ASSETS**

No.	Name of all promissory, acceptors, endorsers, mortgagors and guarantors	Address	Occupation	Amount of bill or note, etc.	Date when due	Estimated to produce	Particulars of any property held as security for payment of bill or note, etc.

\_\_\_\_\_  
*Bankrupt/Debtor*

\_\_\_\_\_  
*Date*

**LIST "G"**  
**REAL PROPERTY OR IMMOVABLE PROPERTY OWNED BY BANKRUPT/DEBTOR**

Description of Property	Nature of Bankrupt's/ Debtor's interest	In whose name does title stand	Total value	Particulars of mortgages, hypothecs or other encumbrances (name, address, amount)	Equity or surplus

\_\_\_\_\_ *Date*

\_\_\_\_\_ *Bankrupt/Debtor*

FORM 10—Continued  
LIST “H”

**PROPERTY**

Give full particulars of property of every description that is in the bankrupt's/debtor's possession or that may devolve on the bankrupt/debtor in accordance with the Act and that is not included in any other list.

FULL STATEMENT OF PROPERTY

Nature of property	Location	Details of property	Original cost	Estimated to produce
(a) Stock-in-trade				
(b) Trade fixtures, etc.				
(c) Cash in financial institutions (name) (address)				
(d) Cash on hand				
(e) Livestock				
(f) Machinery, equipment and plant				
(g) Furniture				
(h) Life insurance policies, RRSPs, etc.				
(i) Securities				
(j) Interests under wills, etc.				
(k) Vehicles				
(l) Taxes				
(m) Other property (state particulars)				

\_\_\_\_\_  
Bankrupt/Debtor

\_\_\_\_\_  
Date

**FORM 11**

*[Sections 25(2), 26(9)(a) and 149(e) of the Act and Regulations 16 and 100]*

**STATEMENT OF AFFAIRS (Non-Business Bankruptcy/Proposal)**

(This form must be completed by individual (consumer) bankrupts. If the Bankrupt/Debtor is a corporation or partnership, or an individual running a business as a sole proprietorship, or any other form of business, Form 10 must be completed)

Original

Amended

ASSETS						
Type of assets	Description <i>(provide details)</i>	Estimate dollar value	Exempt property		Secured amount/ liens	Estimated net realisable dollar value
			Yes	No		
1. Cash on hand						
2. Furniture						
3. Personal effects						
4. Cash surrender value of Life Insurance policies, RRSPs, etc.						
5. Securities						
6. Real property or immovables	House					
	Cottage					
	Land					
7. Motor vehicle	Automobile					
	Motorcycle					
	Other					
8. Recreational equipment						
9. Estimated tax refund						
10. Other assets						
<b>TOTAL</b>						

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Debtor*

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**FORM 11—Continued**

**LIABILITIES**

Liabilities Type Code (LTC):

1. Real property or immovable mortgage or hypothec
2. Bank loans (except real property mortgage)
3. Finance company loans
4. Credit cards — bank/trust company issuers
5. Credit cards — other issuers
6. Taxes — government and municipal
7. Student loans
8. Loans from individuals
9. Other

Creditor	Address, including postal code	Account No.	Unsecured	Amount of debt Secured	Preferred	Enter LTC
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						

**TOTAL Unsecured** \_\_\_\_\_

**TOTAL Secured** \_\_\_\_\_

**TOTAL Preferred** \_\_\_\_\_

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Bankrupt/Debtor*

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**A. INFORMATION RELATING TO THE AFFAIRS OF THE BANKRUPT/DEBTOR**

1. Family name: \_\_\_\_\_ Given names: \_\_\_\_\_ Date of birth: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Gender: F M YYYYY /MM/ DD

2. Also known as:

3. Complete address, including postal code:

4. Marital status:

*(Specify month and year of event*

*if it occurred in the last five years)*

Married \_\_\_\_\_ Single \_\_\_\_\_

Widowed \_\_\_\_\_ Separated \_\_\_\_\_

Divorced \_\_\_\_\_ Common-law partner \_\_\_\_\_

5. Full name of spouse or common-law partner:

6. Name of present employer: \_\_\_\_\_ Occupation (bankrupt/debtor): \_\_\_\_\_

7A. Number of persons in household family unit, including bankrupt/debtor:

7B. Number of persons 18 years of age or younger:

8. Have you operated a business within the last five years? Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes) Name, type and period of operation: \_\_\_\_\_

**B. WITHIN TWELVE MONTHS PRIOR TO THE DATE OF THE INITIAL BANKRUPTCY EVENT, HAVE YOU EITHER IN TRINIDAD AND TOBAGO OR ELSEWHERE:**

9A. Sold or disposed of any of your property? Yes \_\_\_\_\_ No \_\_\_\_\_

9B. Made payments in excess of the regular payments to creditors? Yes \_\_\_\_\_ No \_\_\_\_\_

9C. Had any property seized by a creditor? Yes \_\_\_\_\_ No \_\_\_\_\_

**C. WITHIN FIVE YEARS PRIOR TO THE DATE OF THE INITIAL BANKRUPTCY EVENT, HAVE YOU, EITHER IN TRINIDAD AND TOBAGO OR ELSEWHERE:**

10. Sold or disposed of any property? Yes \_\_\_\_\_ No \_\_\_\_\_

10B. Made any gifts to relatives or others in excess of \$500? Yes \_\_\_\_\_ No \_\_\_\_\_

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Bankrupt/Debtor*

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FORM 11—Continued

D. BUDGET INFORMATION: Attach Form 17 to this form.

11A. Have you ever made a proposal under the Bankruptcy and Insolvency Act? Yes No

11B. Have you ever been bankrupt before in Trinidad and Tobago? Yes No

[If yes, provide the following details for all insolvency proceedings:

- (a) filing date and location of the proceedings;
(b) name of trustee or other office holder;
(c) if applicable, was the proposal successful?;
(d) date on which Certificate of Full Performance of Discharge was obtained.]

12. Do you expect to receive any sums of money that are not related to your normal income or any other property within the next 12 months? Yes No

13. If you answered "Yes" to any of questions 8, 9 or 11, provide details:

14. Provide reasons for your financial difficulties:

I, \_\_\_\_\_, of \_\_\_\_\_ do swear (or solemnly declare) that this statement is, to the best of my knowledge, a full, true and complete statement of my affairs on the \_\_\_\_\_ day of \_\_\_\_\_ and fully discloses all property and transactions of every description that is or was in my possession or that may devolve on me in accordance with the Bankruptcy and Insolvency Act.

SWORN (or SOLEMNLY DECLARED)

before me at \_\_\_\_\_

on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Commissioner of Affidavits

Bankrupt/Debtor

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**FORM 12**

[Sections 27, 32(1)(e)(i), 71(1), 73(1)(d), 93(3), 100 and 115 of the Act and  
Regulations 18, 20, 52 and 97]

**PROOF OF CLAIM**

All notices or correspondence regarding this claim must be forwarded to the following  
address: \_\_\_\_\_

In the matter of the bankruptcy (or the proposal or the receivership) of \_\_\_\_\_ (name of  
debtor) of \_\_\_\_\_ (city and province) and the claim of \_\_\_\_\_, creditor.

I, \_\_\_\_\_ (name of creditor or representative of the creditor), of  
\_\_\_\_\_ (city and province), do hereby certify:

1. That I am a creditor of the above-named debtor [or that I am \_\_\_\_\_ (state  
position or title) of \_\_\_\_\_ (name of creditor or representative of the creditor)].
2. That I have knowledge of all of the circumstances connected with the claim referred to below.
3. That the debtor was, at the date of bankruptcy (or the date of the receivership or, in the case of  
a proposal, the date of the notice of intention or of the proposal, if no notice of intention was  
filed), namely the \_\_\_\_\_ day of \_\_\_\_\_, and still is, indebted to the creditor in the  
sum of \$ \_\_\_\_\_, as specified in the statement of account (or affidavit) attached  
and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled.  
(The attached statement of account or affidavit must specify the vouchers or other evidence in  
support of the claim.)
4. Check and complete appropriate category:  
A. Unsecured Claim of \$ \_\_\_\_\_.

That in respect of this debt, I do not hold any assets of the debtor as security and—

(Check appropriate description)

Regarding the amount of \$ \_\_\_\_\_, I claim a right to a priority under section 127 of  
the Act.

Regarding the amount of \$ \_\_\_\_\_, I do not claim a right to a priority.

(Set out on an attached sheet details to support priority claim)

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FORM 12—Continued

B. Secured Claim of \$\_\_\_\_\_.

That in respect of this debt, I hold assets of the debtor valued at \$\_\_\_\_\_ as security, particulars of which are as follows:

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents)

C. Claim by Farmer or Fisherman of \$\_\_\_\_\_.

That I hereby make a claim under section 73 of the Act for the unpaid amount of \$\_\_\_\_\_.

(Attach a copy of sales agreement and delivery receipts)

D. Claim by Wage Earner of \$\_\_\_\_\_.

That I hereby make a claim in terms of section 127(1)(d) in the amount of \$\_\_\_\_\_.

E. Claim by Employee for unpaid amount regarding Pension Plan of \$\_\_\_\_\_.

That I hereby make a claim under section 127(1)(e) of the Act in the amount of \$\_\_\_\_\_.

5. That, to the best of my knowledge, I am (or the above-named creditor is) (or am not or is not) related to the debtor within the meaning of the Act, and have (or has) (or have not or has not) dealt with the debtor in a non-arm's-length manner.

6. That the following are the payments that I have received from, the credits that I have allowed to, and the transfers at undervalue within the meaning of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of the Act or were not dealing with each other at arm's length, within the twelve months) immediately before the date of the initial bankruptcy event: (provide details of payments, credits and transfers at undervalue).

7. (Applicable only in the case of the bankruptcy of an individual)

Whenever the trustee reviews the financial situation of a bankrupt to re-determine whether or not the bankrupt is required to make payments under section 53 of the Act, I request to be informed, pursuant to section 53 of the Act, of the new fixed amount or of the fact that there is no longer surplus income.

I request that a copy of the report filed by the trustee regarding the bankrupt's application for discharge pursuant to section 162(1) of the Act be sent to the above address.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Witness

Creditor

Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

E-mail Address \_\_\_\_\_

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: A trustee may redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor. The Act provides severe penalties for making any false claim, proof, declaration or statement of account.

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**FORM 13**

[Section 30(1) of the Act and Regulation 19(1)]

**NOTICE OF INTENTION TO MAKE A PROPOSAL**

Take notice that:

1. I, \_\_\_\_\_, an insolvent person, state, pursuant to section 30(1) of the Act, that I intend to make a proposal to my creditors.
2. \_\_\_\_\_ (*name of trustee*), of \_\_\_\_\_ (*address of trustee*), a licenced trustee, has consented to act as trustee under the proposal. A copy of the consent is attached.
3. A list of the names of the known creditors with claims of \$250 or more and the amounts of their claims is also attached.
4. Pursuant to section 55 of the Act, all proceedings against me are stayed as of the date of filing of this notice with the Supervisor.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Insolvent Person*

To be completed by Supervisor:

Filing Date \_\_\_\_\_

\_\_\_\_\_  
*Supervisor*

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**FORM 14**

*[Sections 26(14)(b) and 30(2)(b) of the Act and Regulation 19(2)(a)]*

**TRUSTEE'S REPORT ON CASH FLOW STATEMENT**

The attached statement of projected cash flow of \_\_\_\_\_ (name of insolvent person), as of the \_\_\_\_\_ day of \_\_\_\_\_, consisting of \_\_\_\_\_ (describe, including relevant dates), has been prepared by the management of the insolvent person (or the insolvent person) for the purpose described in Note \_\_\_\_\_, using the probable and hypothetical assumptions set out in Notes \_\_\_\_\_.

Our review consisted of inquiries, analytical procedures and discussions related to information supplied to us by the management and employees of the insolvent person (or the insolvent person). Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the projection. We have also reviewed the support provided by management (or the insolvent person) for the probable assumptions and preparation and presentation of the projection.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects—

- (a) the hypothetical assumptions are not consistent with the purpose of the projection;
- (b) as at the date of this report, the probable assumptions developed are not suitably supported and consistent with the plans of the insolvent person or do not provide a reasonable basis for the projection, given the hypothetical assumptions; or
- (c) the projection does not reflect the probable and hypothetical assumptions.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the projection will be achieved.

The projection has been prepared solely for the purpose described in Note \_\_\_\_\_, and readers are cautioned that it may not be appropriate for other purposes.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Trustee*

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**FORM 15**

*[Sections 26(14)(c) and 30(2)(c) of the Act and Regulation 19(2)(b)]*

**REPORT ON CASH FLOW STATEMENT BY THE  
PERSON MAKING THE PROPOSAL**

The \_\_\_\_\_ (management, receiver, liquidator, etc.) of \_\_\_\_\_  
(name of insolvent person) or I, \_\_\_\_\_ (name of insolvent  
person), has/have developed the assumptions and prepared the attached statement of  
projected cash flow of the insolvent person, as of the \_\_\_\_\_ day of \_\_\_\_\_,  
consisting of \_\_\_\_\_ (describe, including relevant dates).

The hypothetical assumptions are reasonable and consistent with the purpose of  
the projection described in Note \_\_\_\_\_, and the probable assumptions are suitably  
supported and consistent with the plans of the insolvent person and provide a  
reasonable basis for the projection. All such assumptions are disclosed in Notes \_\_\_\_\_.

Since the projection is based on assumptions regarding future events, actual  
results will vary from the information presented, and the variations may be material.

The projection has been prepared solely for the purpose described in Note \_\_\_\_\_,  
using a set of hypothetical and probable assumptions set out in Notes \_\_\_\_\_.  
Consequently, readers are cautioned that it may not be appropriate for other purposes.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Name of the Person  
making the proposal*

\_\_\_\_\_  
*Name and Title of Signing Officer*

\_\_\_\_\_  
*Name and Title of Signing Officer*

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**FORM 16**

[Section 30(8)(b) of the Act and Regulation 19(3)]

**REPORT OF TRUSTEE ON NON-FILING OF CASH  
FLOW STATEMENT OR PROPOSAL**

I, \_\_\_\_\_, of \_\_\_\_\_, the trustee under a notice of intention to make a proposal filed by \_\_\_\_\_, an insolvent person, hereby report to the Supervisor as follows:

1. That the insolvent person did, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, file with the Supervisor a notice of intention to make a proposal.

2. That:

*(Check appropriate description)*

a projected cash flow statement was not filed within the period of ten days after the filing of the notice of intention.

a proposal was not filed within the period of thirty days after the day on which the notice of intention was filed or within any extension of that period granted by the court under section 30(9) of the Act. (If an extension of time has been granted by the court, attach a copy of the Court order.)

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Trustee*

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**FORM 17**

[Section 30(8)(b) and Regulation 19(4)]

**CERTIFICATE OF ASSIGNMENT**

IN THE REPUBLIC OF TRINIDAD AND TOBAGO

In the Matter of the Bankruptcy of:

\_\_\_\_\_  
*Debtor*

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_  
Date of bankruptcy:

\_\_\_\_\_  
Security:

\_\_\_\_\_  
Meeting of creditors:

\_\_\_\_\_  
Chair:

\_\_\_\_\_  
Designated person:

**CERTIFICATE OF ASSIGNMENT**

[Section 30(8)(b) of the Act]

I, the undersigned, the Supervisor of Insolvency, do hereby certify that the insolvent person did, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, file with me a notice of intention to make a proposal, and that:

(Check appropriate description)

a projected cash-flow statement was not filed within the period of ten days after the filing of the notice of intention.

a proposal was not filed within the period of thirty days after the day on which the notice of intention was filed or within any extension of that period granted by the court under section 30(9) of the Act.

Consequently, the debtor is deemed to have made an assignment.

The appointed trustee is required—

- (a) to provide to me, without delay, security in the aforementioned amount;
- (b) to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- (c) when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by me.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Supervisor*

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**FORM 18**

[Section 32(1) of the Act and Regulation 20]

**NOTICE OF MEETING OF CREDITORS  
TO CONSIDER PROPOSAL**

Take notice that:

1. A meeting of creditors has been called to consider the proposal made by \_\_\_\_\_, an insolvent person (or a receiver, or the liquidator of an insolvent person's property, or a bankrupt, or the trustee of the estate of a bankrupt), a copy of which proposal was filed with the Supervisor on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.
2. The meeting of creditors will be held at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_ o'clock.
3. The creditors may, by ordinary resolution, voting all as one class, accept or refuse the proposal as filed or as altered at the meeting, subject to the rights of secured creditors.
4. Attached are the following documents:
  - 4.1 a voting letter form;
  - 4.2 a proxy form;
  - 4.3 a condensed statement of the assets and liabilities;
  - 4.4 a list of the creditors with claims amounting to two hundred and fifty dollars or more and the amounts of their claims as known or shown by the books of the debtor;
  - 4.5 a copy of the proposal;
  - 4.6 proof of claim (or proof of secured claim, if applicable).
5. In order to be entitled to vote at the meeting, a creditor must prove a claim before the time appointed for the meeting.
6. A creditor who has proved a claim may indicate assent to or dissent from the proposal to me at or before the meeting of creditors, and any assent or dissent I receive at or before the meeting will have the same effect as if the creditor were present and had voted at the meeting.
7. The proposal shall be deemed to be accepted by the creditors if, and only if, all classes of unsecured creditors vote for the acceptance of the proposal by a majority in number and two-thirds in value of the unsecured creditors of each class present, personally or by proxy, at the meeting and voting on the resolution.

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8. Where there is no quorum of secured creditors in respect of a particular class of secured claims, the secured creditors having claims of that class shall be deemed to have voted for the refusal of the proposal.
9. A creditor who is related to the debtor may vote against but not for the acceptance of the proposal.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Trustee*

**FORM 19**

[Sections 32(1)(e)(iii), and 93(3) of the Act and Regulations 20 and 52]

**PROXY**

I, \_\_\_\_\_ (name of creditor),  
of \_\_\_\_\_ (name of town or city), a creditor in the above matter,  
hereby appoint \_\_\_\_\_, of \_\_\_\_\_, to be my  
proxy holder in the above matter, except as to the receipt of dividends, with (or  
without) power to appoint another proxy holder in his or her place.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Witness*

\_\_\_\_\_  
*Individual Creditor*

\_\_\_\_\_  
*Name of Corporate Creditor*

\_\_\_\_\_  
*Witness*

Per \_\_\_\_\_  
*Name and Title of Signing Officer*

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**FORM 20**

*[Section 32(1)(f) of the Act and Regulation 20]*

**VOTING LETTER**

In the matter of the proposal of \_\_\_\_\_ I,  
\_\_\_\_\_, creditor (or I, \_\_\_\_\_, representative of  
\_\_\_\_\_, creditor), of \_\_\_\_\_ (name of city), a creditor in the above  
matter for the sum of \$ \_\_\_\_\_, hereby request the trustee acting with respect to  
the proposal of \_\_\_\_\_ to record my vote \_\_\_\_\_ (*for or against*) the  
acceptance of the proposal as made on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Witness*

\_\_\_\_\_  
*Individual Creditor*

\_\_\_\_\_  
*Name of Corporate Creditor*

Per \_\_\_\_\_ Witness  
*Name and Title of Signing Officer*

\_\_\_\_\_  
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**FORM 21**

[Section 38(b) of the Act and Regulation 21(1)]

**REPORT OF TRUSTEE ON REFUSAL BY CREDITORS  
TO APPROVE PROPOSAL**

I, \_\_\_\_\_, of \_\_\_\_\_, the trustee acting in the  
proposal of \_\_\_\_\_, hereby report to the Supervisor as follows:

1. That \_\_\_\_\_ did, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, file a  
proposal with me.
2. That at the meeting of creditors held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and  
presided over by \_\_\_\_\_, the creditors refused the proposal.

Dated at \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_

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**FORM 22**

[Section 43(2)(b) of the Act and Regulation 21(1)]

**REPORT OF TRUSTEE ON REFUSAL BY COURT TO APPROVE PROPOSAL**

I, \_\_\_\_\_, of \_\_\_\_\_, the trustee acting in the proposal of \_\_\_\_\_, hereby report to the Supervisor as follows:

1. That on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, I applied to the \_\_\_\_\_ Court of \_\_\_\_\_ for approval of the proposal of \_\_\_\_\_, a copy of which proposal was filed with the Supervisor on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in accordance with section 44(1) of the Act.
2. That the Court, by Order dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, refused to approve the proposal.

Dated at \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Trustee*

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**FORM 23**

[Section 38(b) of the Act and Regulation 21(2)]

**CERTIFICATE OF ASSIGNMENT**

IN THE REPUBLIC OF TRINIDAD AND TOBAGO

In the Matter of the Bankruptcy of:

\_\_\_\_\_  
*Debtor*

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_  
Date of bankruptcy:

\_\_\_\_\_  
Security:

\_\_\_\_\_  
Meeting of creditors:

\_\_\_\_\_  
Chair:

\_\_\_\_\_  
Designated person:

**CERTIFICATE OF ASSIGNMENT**

[Section 38(b) of the Act]

I, the undersigned, the Supervisor of Insolvency, do hereby certify that—

- (a) a proposal in respect of the aforementioned debtor was filed under section 44(1) of the Bankruptcy and Insolvency Act; and
- (b) the creditors, at a meeting held to consider the proposal, refused to accept the proposal and the debtor is there upon deemed to have made an assignment.

Consequently, the appointed trustee is required—

- (a) to provide to me, without delay, security in the aforementioned amount;
- (b) to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- (c) when applicable, to call in the prescribed manner a first meeting of creditors, to be held immediately following the meeting held to consider the proposal or at the aforementioned time and place or at any other time and place that may be later requested by me.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Supervisor*

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**FORM 24**

[Section 43(2)(b) and Regulation 21(3)]

**CERTIFICATE OF ASSIGNMENT**

In the Matter of the Bankruptcy of:

\_\_\_\_\_  
*Debtor*

\_\_\_\_\_  
*Trustee*

Date of bankruptcy:

Security:

Meeting of creditors:

Chair:

Designated person:

**CERTIFICATE OF ASSIGNMENT**

[Section 43(2)(b) of the Act]

I, the undersigned, the Supervisor of Insolvency, do hereby certify that—

- (a) a proposal in respect of the aforementioned debtor was filed under section 44(1) of the Bankruptcy and Insolvency Act; and
- (b) the Court, by its order, has refused to approve the proposal and the debtor is thereupon deemed to have made an assignment.

Consequently, the appointed trustee is required—

- (a) to provide to me, without delay, security in the aforementioned amount;
- (b) to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- (c) when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by me.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Supervisor*

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**FORM 25**

[Section 46(6) of the Act and Regulation 23(1)]

**REPORT OF TRUSTEE ON ANNULMENT OF PROPOSAL**

I, \_\_\_\_\_, of \_\_\_\_\_, the trustee acting in the proposal of \_\_\_\_\_, hereby report to the Supervisor as follows:

1. That \_\_\_\_\_ did, on the \_\_\_\_\_ day of \_\_\_\_\_, file a proposal with me, and that the \_\_\_\_\_ Court of \_\_\_\_\_, by Order dated the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, has annulled the proposal.
2. The proposal was annulled by the court on the application of \_\_\_\_\_, the trustee of the proposal (or a creditor of the debtor).
3. The proposal was annulled on the grounds that (Check appropriate grounds.)  
the debtor has defaulted in the performance of a provision in the proposal.  
the proposal could not continue without injustice or undue delay.  
the approval of the court was obtained by fraud.  
the debtor was convicted of an offence under the Act.

(Specify: \_\_\_\_\_)

4. As a consequence of the annulment of the proposal, the debtor is deemed on the annulment to have made an assignment pursuant to section 46(4) of the Act.
5. The court further ordered that the property be vested in \_\_\_\_\_, the trustee.  
*(In the case of a proposal by a bankrupt, the previous paragraph is to be replaced by the following:)*
6. The court further ordered that the property vested in the bankrupt by the order approving the proposal, be re-vested in \_\_\_\_\_, the trustee.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
*Trustee*

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**FORM 26**

[Section 46(6) of the Act and Regulation 23(2)]

**CERTIFICATE OF ASSIGNMENT**

IN THE REPUBLIC OF TRINIDAD AND TOBAGO

In the Matter of the Bankruptcy of:

\_\_\_\_\_  
*Debtor*

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_  
Date of bankruptcy:

\_\_\_\_\_  
Security:

\_\_\_\_\_  
Meeting of creditors:

\_\_\_\_\_  
Chair:

\_\_\_\_\_  
Designated person:

**CERTIFICATE OF ASSIGNMENT**

*(Section 46(6) of the Act)*

I, the undersigned, the Supervisor of Insolvency, do hereby certify that—

- (a) a proposal in respect of the aforementioned debtor was filed under section 44(1) of the Bankruptcy and Insolvency Act; and
- (b) the said proposal, although accepted and approved, has been annulled by order of the Court and the debtor is thereupon deemed to have made an assignment.

Consequently, the appointed trustee is required—

- (a) to provide to me, without delay, security in the aforementioned amount;
- (b) to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- (c) when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by me.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Supervisor*

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**FORM 27**

*(Section 50 of the Act and Regulation 25)*

**CERTIFICATE OF FULL PERFORMANCE  
OF PROPOSAL**

I, \_\_\_\_\_, the trustee acting in the proposal of  
\_\_\_\_\_, certify that the proposal, as filed with the Supervisor on the  
\_\_\_ day of \_\_\_, 20\_\_\_ (and, if applicable, as amended on the \_\_\_ day of \_\_\_, 20\_\_\_),  
has been fully performed as of the \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_  
NOTE: A copy of this certificate is to be sent to both the Debtor and the Supervisor  
pursuant to section 50 of the Act.

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**FORM 28**

*[Section 53(1) and 93(4)(a) and Regulation 27]*

**MONTHLY INCOME AND EXPENSE STATEMENT OF THE BANKRUPT/DEBTOR AND THE FAMILY UNIT AND INFORMATION (OR AMENDED INFORMATION) CONCERNING THE FINANCIAL SITUATION OF THE INDIVIDUAL BANKRUPT**

Original                      Amended

Information concerning the monthly income and expense statement of the bankrupt/debtor and the family unit, financial situation of the bankrupt/debtor and bankrupt's obligation to make payments required under section 68 of the Act to the estate of the bankrupt are as follows:

MONTHLY INCOME	Bankrupt/Debtor	Other members of the family unit	Total
Net employment income ... ..	...	...	...
Net pension/annuities... ..	...	...	...
Net child support ... ..	...	...	...
Net spousal support ... ..	...	...	...
Net employment insurance benefits ... ..	...	...	...
Net social assistance ... ..	...	...	...
Self-employment income			
Gross _____			
Net _____			
Other net income ... ..	...	...	...
<i>(Such as amounts received as damages for wrongful dismissal, as pay equity settlement, or that relate to workers' compensation)</i>			
<i>(Provide details _____ )</i>			
<b>TOTAL MONTHLY INCOME</b> ... ..	... \$ _____ (1)	\$ _____ (2)*	
<b>TOTAL MONTHLY INCOME OF THE FAMILY UNIT [(1) + (2)]</b>			\$ _____ (3)
<b>MONTHLY NON-DISCRETIONARY EXPENSES</b>			
Child support payments ... ..	...	...	...
Spousal support payments ... ..	...	...	...
Child care ... ..	...	...	...
Health condition expenses ... ..	...	...	...
Fines/penalties imposed by the Court			
Expenses as a condition of employment			
Debts where stay has been lifted ... ..	...	...	...
Other expenses ... ..	...	...	...
<i>(Provide details _____ )</i>			
<b>TOTAL MONTHLY NON-DISCRETIONARY EXPENSES</b> \$ _____ (4)			\$ _____ (5)
<b>TOTAL MONTHLY NON-DISCRETIONARY EXPENSES OF THE FAMILY UNIT [(4) + (5)]</b>			\$ _____ (6)
<b>AVAILABLE MONTHLY INCOME OF THE BANKRUPT/DEBTOR [(1) – (4)]</b> ... ..	... \$ _____ (7)		
<b>AVAILABLE MONTHLY INCOME OF THE FAMILY UNIT [(3) – (6)]</b>			\$ _____ (8)
<b>BANKRUPT'S/DEBTOR'S PORTION OF THE AVAILABLE MONTHLY INCOME OF THE FAMILY UNIT [(7) / (8) X 100]</b>			\$ _____ (9)

\* If one or more members of the bankrupt's/debtor's family unit have refused to divulge this information, please provide details.

MONTHLY DISCRETIONARY EXPENSES: (Family unit)

<p><b>Housing expenses</b></p> Rent/mortgage etc. ... .. _____ Property taxes... .. _____ Gas ... .. _____ Telephone ... .. _____ Cable ... .. _____ Water ... .. _____ Furniture ... .. _____ Other ... .. _____ <p><b>Personal expenses</b></p> Smoking ... .. _____ Alcohol ... .. _____ Dining/lunches/restaurants ... .. _____ Entertainment/sports ... .. _____ Gifts/charitable donations ... .. _____ Allowances ... .. _____ Other ... .. _____ <p><b>Non-recoverable medical expenses</b></p> Prescriptions ... .. _____ Dental ... .. _____ Other ... .. _____	<p><b>Living expenses</b></p> Food/grocery ... .. _____ Laundry/dry cleaning ... .. _____ Grooming/toiletries ... .. _____ Clothing ... .. _____ Other... .. _____ <p><b>Transportation expenses</b></p> Car lease/payments ... .. _____ Repair/maintenance/gas... .. _____ Public transportation ... .. _____ Other... .. _____ <p><b>Insurance expenses</b></p> Vehicle... .. _____ House... .. _____ Furniture/contents ... .. _____ Life insurance... .. _____ Other... .. _____ <p><b>Payments</b></p> To the estate ... .. _____ To secured creditor ... .. _____ (Not mortgage and vehicle) ... .. _____ Other... .. _____
--	--

TOTAL MONTHLY DISCRETIONARY EXPENSES (FAMILY UNIT)—\$ \_\_\_\_\_(10)

MONTHLY SURPLUS OR (DEFICIT) FAMILY UNIT [(8) — (10)] = \$ \_\_\_\_\_(11)

INFORMATION (OR AMENDED INFORMATION) CONCERNING THE FINANCIAL SITUATION OF THE INDIVIDUAL BANKRUPT

**Payments to the estate as per agreement**

Number of persons in household family unit, including bankrupt: \_\_\_\_\_

Total amount bankrupt has agreed to pay monthly ... .. \$ \_\_\_\_\_(12)

Amount bankrupt has agreed to pay monthly to repurchase assets  
*(Provide details)* \_\_\_\_\_ ... .. \$ \_\_\_\_\_(13)

Residual amount paid into the estate [(12) — (13)] ... .. \$ \_\_\_\_\_(14)

**Payments required (Surplus Income)**

Monthly amount required (Surplus Income) based on percentage established on line (9) \$ \_\_\_\_\_(15)

Difference between (14) and (15) ... .. \$ \_\_\_\_\_(16)

*Other applicable comments (If amount on line (14) is less than amount on line (15), explain why the required payments are not being made: \_\_\_\_\_)*

*Amendment or material change (If the information relates to a material change or an amendment, provide details: \_\_\_\_\_)*

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Trustee

\_\_\_\_\_  
Bankrupt/Debtor

NOTE: In a joint assignment, only one form is required and each debtor's monthly income and non-discretionary expenses have to be explained in detail.

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FORM 29

[Sections 53(5), (6) and 163(4), (5) of the Act and Regulation 32]

REQUEST FOR MEDIATION MADE BY TRUSTEE

I, \_\_\_\_\_, trustee of the estate of \_\_\_\_\_, a bankrupt, who made an assignment (or against whom a bankruptcy order was made) on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, hereby apply to the Supervisor to refer this matter to the mediator, who shall set the time and place for the mediation.

This application for mediation is being made for the following reasons:

[Check appropriate description(s)]

Section 53(5)—There is disagreement as to the amount of surplus income to be paid by the bankrupt.

Section 53(6)—There is a written request from \_\_\_\_\_, a creditor, \_\_\_\_\_ (creditor's address), to proceed with the mediation process.

Section 163(5)—The trustee is opposed to the discharge of the bankrupt on a ground referred to in section 165(1)(m) or (n) of the Act.

Section 163(5)— \_\_\_\_\_, a creditor, \_\_\_\_\_ (creditor's address), is opposed to the discharge of the bankrupt on a ground referred to in section 165(1)(m) or (n) of the Act.

An income and expense statement of the bankrupt is attached to this request (Form 28).

[Indicate names, mailing addresses, phone numbers and e-mail addresses of all parties, including the trustee's representative (if applicable)]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Provide details (names and estate number) of any related estate file requiring concurrent mediation (e.g., spousal file)]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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[Check applicable box(es)]

Has a *Mediation Settlement Agreement* (Form 33) been reached by the parties?

Yes

No

If “yes”,

(i) Has the *Mediation Settlement Agreement* (Form 33) been signed by the parties?

Yes, and a copy of the signed settlement agreement is attached to this request.

No, but details pertaining to the settlement agreement (draft - Form 29) are attached to this request.

(ii) Are you willing to proceed with this mediation via e-mail, *if applicable*?

Yes

No

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_

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FORM 30

(Regulation 36)

NOTICE OF MEDIATION

To \_\_\_\_\_ Bankrupt

To \_\_\_\_\_ Trustee

To \_\_\_\_\_ Creditor(s) (if applicable:)

Take notice that the mediation in the matter of the bankruptcy of \_\_\_\_\_, a bankrupt, will be held in \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (or as soon as possible) at \_\_\_\_\_.

The mediation will be held for the following reasons: (Check appropriate description)

Section 53(5)—There is disagreement as to the amount of surplus income to be paid by the bankrupt.

Section 53(6)—There is a written request from \_\_\_\_\_, a creditor, \_\_\_\_\_ (creditor's address), to proceed with the mediation process.

Section 163(5)—The trustee is opposed to the discharge of the bankrupt on a ground referred to in section 165(1)(m) or (n) of the Act.

Section 163(5)—\_\_\_\_\_, a creditor, \_\_\_\_\_ (creditor's address), is opposed to the discharge of the the bankrupt on a ground referred to in section 165(1)(m) or (n) of the Act.

Further take notice that the mediation can only be rescheduled on extraordinary grounds and that, under the Bankruptcy and Insolvency Regulations, only one such adjournment will be allowed. Therefore, if the mediation has already been adjourned and a second adjournment is requested, regardless of the ground for adjournment, the mediator must cancel the mediation.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Mediator

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**FORM 31**

*(Regulation 44)*

**NOTICE OF NON-RESOLUTION OF MEDIATION**

Take notice that in the matter of the mediation of \_\_\_\_\_, bankrupt, which was held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ the issues submitted to mediation were not resolved because the parties have failed to reach an agreement.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Mediator*

\_\_\_\_\_

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FORM 32

(Regulation 45)

NOTICE OF CANCELLATION OF MEDIATION

Take notice that the mediation of issues related to the bankruptcy of \_\_\_\_\_, a bankrupt was cancelled for the following reason:

(Check appropriate description)

There was an outstanding opposition to the discharge of the bankrupt on a ground referred to in section 165(1)(a) to (l) or (o) of the Act.

I believe on reasonable grounds that \_\_\_\_\_ (indicate the bankrupt, the trustee or a creditor, as applicable) abused the rescheduling procedures.

A second adjournment was requested or circumstances causing an adjournment occurred after one adjournment had already been granted.

I believe on reasonable grounds that \_\_\_\_\_ (indicate the bankrupt or a creditor, as applicable), in the case of a mediation requested by a creditor under section 163(5) of the Act, cannot continue the mediation at all.

I believe that the non-appearance of all creditors, who were informed of the mediation, is a delaying tactic or is intended to bring the mediation into disrepute.

I believe that, in the case of a mediation requested by a creditor under section 163(5), the non-appearance of \_\_\_\_\_ (indicate the bankrupt or a creditor, as applicable), who was informed of the mediation, is a delaying tactic or is intended to bring the mediation into disrepute.

I believe that the non-appearance of \_\_\_\_\_ (indicate the bankrupt or the trustee, as applicable), who was informed of the mediation, is a delaying tactic or is intended to bring the mediation into disrepute.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Mediator

\_\_\_\_\_  
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**FORM 33**

*[Regulation 47(1)]*

**MEDIATION SETTLEMENT AGREEMENT**

Final      Draft

The parties acknowledge that an agreement was reached in the mediation held on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_ and that the results of the mediation are as follows:

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*(For the Expedited Mediation Process, use the following box:)*

The parties acknowledge that an agreement was reached before the mediation session and was confirmed by e-mail on \_\_\_\_\_, the \_\_\_ day of \_\_\_\_\_, 20\_\_\_ and that the results of the mediation are as follows:

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**CONFIDENTIALITY**

We accept that the mediator cannot be asked by any of the parties to testify in any proceedings before a court of law.

We accept that all statements or documents obtained during the course of mediation, which would not have been obtained otherwise, will not be used when discussing the matter before the court or during any other proceedings. Also, we accept that all the information obtained during the course of mediation will not be admissible as evidence or to impeach the credibility of a party.

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**FORM 33—Continued**

We understand that the mediator or any party to the mediation shall not disclose to the public any confidential information concerning an issue submitted to mediation unless the disclosure is—

- (a) required by law; and
- (b) authorised by the person to whom the confidential information relates.

SIGNATURE OF THE MEDIATION AGREEMENT

We hereby agree that this agreement may be signed in counterparts and submitted electronically to the Office of the Supervisor.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
*Bankrupt*

\_\_\_\_\_  
*Bankrupt's Attorney-at-law  
(if applicable)*

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_  
*Trustee's Attorney-at-law  
(if applicable)*

\_\_\_\_\_  
*Creditor  
(as applicable)*

\_\_\_\_\_  
*Creditor's Attorney-at-law  
(if applicable)*

\_\_\_\_\_

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**FORM 34**  
*[Regulation 49(3)]*

**NOTICE OF DISPUTE**

To:

The Trustee in the bankrupt estate of \_\_\_\_\_.

With reference to your written request dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, requiring me to contribute to the bankrupt estate of the aforementioned debtor pursuant to section 67(1) of the Bankruptcy and Insolvency Act, I hereby notify you that I dispute the liability set out in your request.

The items in your request that I dispute are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The grounds for disputing these items are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Contributor*

NOTES:

1. This notice must be given to the trustee within thirty days of his written request having been served on the contributor.
2. Except with the leave of the Court, in any proceedings brought against the contributor by the trustee the contributor may not plead any other ground of dispute than those declared above.

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**FORM 35**

[Regulation 49(5)]

**NOTICE OF HEARING TO CONTRIBUTOR**

Take notice that the hearing for the determination of the dispute between \_\_\_\_\_ (*the trustee*) of the bankrupt estate of \_\_\_\_\_ (*bankrupt*) and \_\_\_\_\_ (*name of contributor*) pursuant to section 67(1) of the Bankruptcy and Insolvency Act, will be held before the \_\_\_\_\_ Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ at \_\_\_\_\_ o'clock.

Dated at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_

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**FORM 36**

[Section 93(1)(b) of the Act and Regulation 52]

**NOTICE OF BANKRUPTCY, FIRST MEETING OF  
CREDITORS**

(Where the bankrupt is an individual, add:)

and Impending Automatic Discharge of Bankrupt

(Section 145(i)(i) and (ii) of the Act and Regulation 58)

Original      Amended

Take notice that:

1. \_\_\_\_\_ (name of bankrupt) filed (or was deemed to have filed) an assignment [or a bankruptcy order was made against \_\_\_\_\_ (name of bankrupt)] on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ and the undersigned, \_\_\_\_\_ (name of trustee), was appointed as trustee of the estate of the bankrupt by the Supervisor (or the Court); subject to affirmation by the creditors of the trustee's appointment or substitution of another trustee by the creditors.
2. The first meeting of creditors of the bankrupt will be held on \_\_\_\_\_ (date), at \_\_\_\_\_ (time) at the office of \_\_\_\_\_ (meeting office), at \_\_\_\_\_ (address of meeting office).
3. To be entitled to vote at the meeting, a creditor must file with the trustee, before the meeting, a proof of claim and, where necessary, a proxy.
4. Enclosed with this notice are a proof of claim form, proxy form and list of creditors with claims amounting to one hundred dollars (\$100) or more showing the amounts of their claims.
5. Creditors must prove their claims against the estate of the bankrupt to share in any distribution of the proceeds realised from the estate.

(Where the bankrupt is an individual, include paragraphs 6, 7, 8, 9 and 10)

6. Included pursuant to section 93(3) of the Act is information concerning the financial situation of the bankrupt and the obligation of the bankrupt to make payments to the estate of the bankrupt, as required under section 53 of the Act.

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FORM 36—Continued

The following, if applicable:

7. Pursuant to section 160 of the Act, the bankrupt will be given an automatic discharge on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ unless the Supervisor, the trustee of the estate of the bankrupt or a creditor of the bankrupt gives notice of intended opposition to the discharge of the bankrupt before that date.

*(Check appropriate provision in respect of the bankrupt's discharge)*

In the case of an individual who has never before been bankrupt:

- on the expiry of nine months after the date of bankruptcy;
- on the expiry of twenty-one months after the date of bankruptcy where the bankrupt is required to make payments under section 53 of the Act to the estate.

In the case of an individual who has been a bankrupt one time before:

- on the expiry of twenty-four months after the date of bankruptcy;
- on the expiry of thirty-six months after the date of bankruptcy where the bankrupt is required to make payments under section 53 of the Act to the estate.

8. Any creditor who intends to oppose the discharge of the bankrupt shall state in writing the grounds for his/her opposition and send a notice to this effect to the office of the Supervisor, the trustee of the estate of the bankrupt and the bankrupt at any time before the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
*(Insert the same date as in item 7).*

9. If any creditor opposes the discharge of the bankrupt, a Court fee applies.

10. If the discharge of the bankrupt is opposed, the trustee will apply to the Court without delay for an appointment for the hearing of the opposition in accordance with the Act unless it is a matter to be dealt with by mediation pursuant to section 163(4) of the Act.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_  
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**FORM 37**

[Section 119(1) of the Act and Regulation 53]

**NOTICE BY TRUSTEE REQUIRING FILING OF  
PROOF OF SECURITY**

Take notice that:

1. You are hereby required, pursuant to section 119(1) of the Act, to file with me a proof of claim and proof of security (security documents) relating to any security that you hold on the property of \_\_\_\_\_, a bankrupt, which property is described below:

*(Describe the property.)*

2. The proof of claim and proof of security must give full particulars of the security, including the date on which it was given and the value at which you assess it.
3. If you do not file with me a proof of claim and proof of security in respect of the property within the thirty days after the day on which this notice is served I may, with leave of the Court, sell or dispose of the property, free of your security.
4. Proof of claim in the required form is attached.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_

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FORM 38

[Section 126(4) of the Act and Regulation 54]

**NOTICE OF DISALLOWANCE OF CLAIM, RIGHT  
TO PRIORITY OR SECURITY OR NOTICE OF  
VALUATION OF CLAIM**

Take notice that:

(A) As trustee acting in the matter of the bankruptcy (or proposal) of \_\_\_\_\_,  
I have disallowed your claim (or your right to a priority or your security on  
the property) in whole (or to the extent of \$\_\_\_\_\_), pursuant to  
section 126(3) of the Act, for the following reasons:

*(Set out the reasons for the disallowance.)*

*(or)*

(B) As trustee acting in the matter of the bankruptcy (or proposal) of \_\_\_\_\_,  
I have determined that your contingent or unliquidated claim is a provable  
claim and have valued it at \$\_\_\_\_\_ and therefore, it is deemed a  
proved claim to this amount pursuant to section 126(2) of the Act.

And further take notice that if you are dissatisfied with my decision in disallowing  
your claim in whole or in part (or a right to rank or your security or valuation of your  
claim), you may appeal to the Court within the thirty-day period after the day on which  
this notice is served, or within any other period that the Court may, on application  
made within the same thirty-day period, allow.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_  
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**FORM 39**

*[Regulations 59, 61(1)(c)(iii), 64(2)(c)(iii) and 64(4)(c)(iv)]*

**NOTICE OF DEEMED TAXATION OF TRUSTEE'S  
ACCOUNTS, DEEMED DISCHARGE OF TRUSTEE AND  
CERTIFICATE OF COMPLIANCE SUMMARY  
ADMINISTRATION**

Take notice that:

1. I, \_\_\_\_\_ trustee of the estate of \_\_\_\_\_, a bankrupt, under summary administration, have applied for taxation of my accounts and for my discharge.
2. The Supervisor has issued a letter of comment to me that does not request that my accounts be taxed by the Registrar.
3. Attached to this notice are those documents listed in regulation 59(1)(a) to (c).
4. Any creditor may object to the taxation of my accounts and to my discharge, within thirty days after the date on which this notice is sent, by—
  - (a) serving a notice of objection on me or sending me a notice of objection by registered mail or by courier;
  - (b) filing a copy of the notice of objection with the Registrar, along with any applicable fee as specified in the tariff; or
  - (c) sending a copy of the notice of objection to the Supervisor.

Where a creditor objects to the taxation of my accounts, I will apply to the Registrar for a date for the hearing of the objection and will send to any creditor who has objected a notice of the hearing.

5. If I do not receive a notice of objection to the taxation of my accounts and to my discharge within thirty days after the date on which this notice is sent, I will—
  - (a) at the expiration of that time limit, take my fee;
  - (b) at the expiration of that time limit, if I have not already done so, send to each creditor his/her final dividend; and
  - (c) within three months after the date on which this notice referred to in regulation 59(1) is sent—
    - (i) close the bank account used in administering the estate of the bankrupt, if that account is not a consolidated account, or, where the account is a consolidated account, ensure that all estate funds have been withdrawn from it;
    - (ii) remit any unclaimed dividends and undistributed funds to the Supervisor; and
    - (iii) send a certificate of compliance, as provided below and deemed discharge to the Supervisor.

6. After fulfilling the requirements of paragraph 5, I will be deemed to be discharged.

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**FORM 39—Continued**

**CERTIFICATE OF COMPLIANCE**

The undersigned has attached a Certificate of Compliance from (*State Relevant Authority*) that certifies the corporation has sent its most recent annual filings, paid its most recent filing fees, not dissolved, and is in “good standing”.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Trustee*

**FORM 40**

*(Regulation 60)*

**NOTICE OF OBJECTION**

To:

\_\_\_\_\_  
\_\_\_\_\_

*(Insert Trustee’s name and address as applicable)*

In the matter of \_\_\_\_\_ regarding the debtor  
\_\_\_\_\_ (*name of debtor*), I, \_\_\_\_\_, (*name of creditor of  
the debtor*) object to the taxation of the trustee’s accounts on the grounds set out below.

Reason(s) for objection:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This notice must be filed with the trustee within thirty days of the notice of taxation having been sent.

Dated at \_\_\_\_\_, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Creditor*

Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

E-mail Address \_\_\_\_\_

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**FORM 41**

[Regulation 62(b), and 63(1)(a)]

**NOTICE OF HEARING TO CREDITOR**

Take notice that the hearing for the determination of the objection by \_\_\_\_\_ (*the creditor*) of the bankrupt estate of \_\_\_\_\_ (*bankrupt*) against the taxation of the accounts of the trustee \_\_\_\_\_ (*name of trustee*) pursuant to regulation 55(3)(b), will be held before the \_\_\_\_\_ Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ at \_\_\_\_\_ o'clock.

Dated at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_

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**FORM 42**

[Section 180(1) of the Act and Regulation 68(2)]

**APPLICATION FOR TRUSTEE LICENCE (INDIVIDUAL)**

GENERAL INFORMATION

Candidate's Name (as you would like it to appear on a trustee licence)

Date of Birth

\_\_\_\_\_  
Family Name / Given Name(s):

\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
year month day

Other Previous Legal Names or Aliases:

\_\_\_\_\_

Business Address:

Home Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No. \_\_\_\_\_

Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

Fax No. \_\_\_\_\_

E-mail Address \_\_\_\_\_

Current Employer

Employment Began:

\_\_\_\_\_

\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
year month day

\_\_\_\_\_

Professional organisation(s) of which you are or were a member (if any):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ATTESTATION REGARDING PREREQUISITE QUALIFICATIONS**

I hereby attest, pursuant to regulations 67, 68 and 71 of the Bankruptcy and Insolvency Regulations, that—

(a) I am not an undischarged bankrupt;

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- (b) I am eighteen years or older;
- (c) I am not mentally ill within the meaning of the Mental Health Act, Ch. 28:02;
- (d) I am not disqualified from being a company director under the provisions of the Companies Act, Ch. 81:01;
- (e) I meet the minimum criteria to be considered a fit and proper person under Schedule 3;
- (f) I am in good standing with and I am not subject to any current disciplinary action by any professional organisation of which I am or was a member; and
- (g) I am a member of the Institute of Chartered Accountants of Trinidad and Tobago (ICATT) or Institute of Chartered Accounts of the Caribbean (ICAC) or Institute of Internal Auditors of Trinidad and Tobago (IIATT) or Association of Chartered Certified Accountants (ACCA) or the Law Association of Trinidad and Tobago (*delete whichever is not applicable*).

#### DECLARATION REGARDING REPUTATION

To assess whether you satisfy the reputation requirements under regulations 68 and 72 of the Bankruptcy and Insolvency Regulations, please answer the following questions:

- (a) Have you ever been found guilty of an indictable offence?  
Yes                  No  
If yes, please provide details on the nature of the offence(s).
- (b) Have you ever been found guilty of professional misconduct by any professional organisation of which you are or were a member?  
Yes                  No  
If yes, please provide details on the nature of the misconduct.
- (c) Have you ever been in a state of insolvency?  
Yes                  No  
If yes, please provide details (estate name, estate number, district of the filing, date of discharge, etc.).
- (d) Have you ever been a principal shareholder, director or officer of a bankrupt corporation?  
Yes                  No  
If yes, please provide details (corporation's estate name, estate number, district of the filing, date of discharge, etc.).

#### INCOMPATIBLE ACTIVITY

I attest that, should I be granted a trustee licence, I will not engage in an incompatible activity, including any activity that would or may be perceived to create a conflict of duties, compromise my ability to perform any professional engagement, or jeopardise my integrity, independence or competence.

#### CONSENT AND AUTHORISATION

I hereby consent to and authorise the Office of the Supervisor of Insolvency to publish my name and contact information on the Trustee Registry that is posted on the website if I am granted a trustee licence.

#### CONSENT TO BE BOUND BY THE CODE OF ETHICS

I hereby consent to being bound by the code of ethics set out in regulations 73 to 92 of the Bankruptcy and Insolvency Regulations. I understand that if I am found to have breached the code of ethics in any way the Supervisor is authorised to suspend or cancel my trustee licence as he deems appropriate.

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*Bankruptcy and Insolvency Regulations*

**FORM 42—Continued**

DECLARATION AND SIGNATURE

I, the undersigned, do solemnly declare that I am the applicant named in this application and that the information set out in this application and in the attached documents is, to the best of my knowledge and belief, true, correct and complete in all respects, and that I agree to respect the conditions contained in this form if the Supervisor issues me a licence.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Applicant's name in block letter*

\_\_\_\_\_  
*Signature of applicant*

REQUIRED DOCUMENTATION

Please include the documents listed below with your application. If any items are not provided, please indicate the reason for the information being excluded and the date when it will be provided to the Office of the Supervisor—

1. A certificate of character from the Trinidad and Tobago Police Service.
2. Certificates you received from tertiary level institutions.
3. A detailed description of your relevant experience (*see* attached table).

Where you intend to practise either with a trustee firm (i.e., partnership or corporate licence) or as an employee of another trustee—

4. A supporting letter in which a partner or the employer undertakes to provide the necessary resources (work facilities, equipment and personnel) that will be required for the execution of your duties as a trustee, as well as insurance coverage [professional liability insurance and employee dishonesty (fidelity) insurance].
5. Two references signed by the respective referees who are familiar with your relevant experience.

In all other cases (to obtain authorisation to begin accepting professional engagements)—

6. A personal balance sheet.
7. Details of necessary resources (work facilities, equipment and personnel) that will be at your disposal during the execution of your duties as a trustee, and of banking arrangements.
8. Proof of insurance coverage [professional liability insurance and employee dishonesty (fidelity) insurance].

APPLICATION FOR A TRUSTEE LICENCE  
BREAKDOWN OF AREAS OF EXPERIENCE IN INSOLVENCY MATTERS

Name of applicant \_\_\_\_\_

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Firm \_\_\_\_\_

Please provide a list of main activities you performed in relation to each category of work listed below together with your best estimate as to the percentage (%) of time expended on the activities throughout the experience period.

Consumer bankruptcies

Proposals

Percentage of overall time during the year

Percentage of overall time during the year

\_\_\_\_\_

\_\_\_\_\_

Commercial bankruptcies

Interim Receiverships

Percentage of overall time during the year

Percentage of overall time during the year

\_\_\_\_\_

\_\_\_\_\_

Receiverships, etc.

Percentage of overall time during the year

\_\_\_\_\_

Other non-insolvency work (i.e., audit, tax, accounting, forensic accounting)

Percentage of time during the year \_\_\_\_\_

Total years experience \_\_\_\_\_

I, the undersigned applicant for a trustee licence, hereby attest that the above information faithfully reflects my experience in insolvency matters and other fields during the periods indicated.

I, the undersigned, a trustee of the firm where the applicant is currently employed or associated, hereby attest that the information provided by the applicant, for the period of time with this firm, faithfully reflects the extent of his/her experience in insolvency matters and other fields.

\_\_\_\_\_  
*Signature of Applicant*

\_\_\_\_\_  
*Signature of Trustee*

Date \_\_\_\_\_

\_\_\_\_\_  
*Trustee's name in block letters*

Date \_\_\_\_\_

\_\_\_\_\_

UNOFFICIAL VERSION

L.R.O.

**LAWS OF TRINIDAD AND TOBAGO**

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**[Subsidiary]**

*Bankruptcy and Insolvency Regulations*

**FORM 43**

*[Section 181 of the Act and Regulation 68(3)]*

**TRUSTEE LICENCE**

**(Individual)**

This is to certify that

\_\_\_\_\_ is licensed to act as a trustee in the Republic of Trinidad and Tobago.

This licence is subject to the following conditions:

The Supervisor shall be informed without delay and in writing of any material change to the circumstances surrounding the granting of this licence.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

And valid for a period of three years from the date of issue.

\_\_\_\_\_  
*Supervisor*

\_\_\_\_\_  
*Date*

\_\_\_\_\_

**FORM 44**

[Section 180(1) of the Act and Regulation 69(2)]

**APPLICATION FOR TRUSTEE LICENCE (CORPORATION)**

GENERAL INFORMATION

Name of corporation \_\_\_\_\_

Address of head office

\_\_\_\_\_  
\_\_\_\_\_

Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

E-mail Address \_\_\_\_\_

Incorporated \_\_\_\_\_

Date of Incorporation \_\_\_\_\_

Date of Incorporation \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
year month day

DECLARATION

I, the undersigned, do solemnly declare that I am authorised to submit the present application on behalf of the corporation named herein and that the information set out in this application and in the attached documents is, to the best of my knowledge and belief, true, correct and complete in all respects.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Signature of Applicant, on behalf of the Corporation*

REQUIRED DOCUMENTATION

Please include the documents listed below with your application. If any items are not provided, please indicate the reason for the information being excluded and the date when it will be provided to the Office of the Supervisor.

1. The original or a certified true copy of the incorporating documents (letters patent, certificate of incorporation, memorandum or articles of association, and other pertinent documentation).

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**FORM 44—Continued**

2. The address of the head office and of every other office or place of business from which the corporate trustee intends to provide bankruptcy services.
3. A personal balance sheet of the firm's managing trustee (as of the date of this application).
4. The name, residential address and occupation of each shareholder and of each person having a direct or indirect proprietary interest in the corporation (including the beneficial owner, if applicable).
5. The number of shares (or proportion of total shares) and the classes of shares held by each shareholder in the corporation.
6. A list of every trustee who is simultaneously a shareholder (or financial backer) of this corporation and of any other corporate trustee and all relevant details (i.e., names of those corporate trustees).
7. The name, residential address and occupation of each director and of each officer of the corporation.
8. The name and business address of every licenced trustee who will practise in an office or place of business of the corporate trustee.
9. Proof of insurance coverage [professional liability insurance and employee dishonesty (fidelity) insurance].

A copy of the following information must also be sent to the Supervisor:

- (a) details of necessary resources (work facilities, equipment and personnel) available for each office from which the corporate trustee intends to provide bankruptcy services, and of banking arrangements; and
- (b) if a trustee responsible for the administration of estates is replaced, a letter indicating which trustee will assume responsibility for those estates, and the signature of that trustee confirming his/her acceptance of the transfer.

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**FORM 45**

[Section 181 of the Act and Regulation 69(3)]

**TRUSTEE LICENCE**

**(Corporate)**

This is to certify that

\_\_\_\_\_ is licenced to act as a trustee in the Republic of Trinidad and Tobago subject to the following condition(s):

The Supervisor shall be informed without delay and in writing of any material change to the circumstances surrounding the granting of this licence.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

And valid for a period of three years from the date of issue.

\_\_\_\_\_  
*Supervisor*

\_\_\_\_\_  
*Date*

\_\_\_\_\_

**LAWS OF TRINIDAD AND TOBAGO**

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**FORM 46**

[Regulation 94(1)]

**NOTICE OF PASSING OF ACCOUNTS OF  
FORMER TRUSTEE**

Take notice that the passing of accounts before the Court pursuant to section 220(1) of the Act in the bankrupt estate of \_\_\_\_\_ (*bankrupt*), will be held before the \_\_\_\_\_ Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock.

Dated at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Former Trustee*

**FORM 47**

[Section 65(2) of the Act and Regulation 96]

**CLAIM BY SPOUSE OR COHABITANT**

I, \_\_\_\_\_ (*full name*) of \_\_\_\_\_ (*address*), hereby confirm that I am the spouse (*or cohabitant*) of \_\_\_\_\_, the debtor, and that I share the matrimonial home/dwelling house of which the debtor is the sole registered owner.

I hereby claim, pursuant to section 65(2) of the Bankruptcy and Insolvency Act, one-half of the net proceeds of the sale of the matrimonial home/dwelling house after satisfaction of any valid and enforceable charges against the said property.

The matrimonial home/dwelling house can be described as: (*include here a description of the property against which the claim pursuant to section 65(2) of the Act is being made.*)

\_\_\_\_\_  
*Spouse/Cohabitant*

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**FORM 48**

[Section 72(1)(a) of the Act and Regulation 98]

**DEMAND FOR REPOSSESSION OF GOODS**

To \_\_\_\_\_, purchaser (or trustee or receiver).

I, \_\_\_\_\_, of \_\_\_\_\_ (*address*), (or as \_\_\_\_\_  
of \_\_\_\_\_) supplier, hereby demand access to and repossession of the  
goods described below, which were sold and delivered to \_\_\_\_\_, the  
purchaser, on the dates and in accordance with the terms set out in the attached documents:

*[Attach copies of documents of sale (invoice, delivery slip, etc.) and provide an  
appropriate description of the goods.]*

Whereas the purchaser is bankrupt (or there is a receiver within the meaning of  
section 12 of the Act, appointed in respect of the purchaser's property) the trustee  
(or receiver) is required to release the goods described above in accordance with  
section 72(1) of the Act.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Supplier*

Telephone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

\_\_\_\_\_

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*Bankruptcy and Insolvency Regulations*

**FORM 49**

*[Section 142(5)(c) of the Act and Regulation 101]*

**NOTICE OF FINAL DIVIDEND AND APPLICATION FOR DISCHARGE OF TRUSTEE**

Take notice that:

1. A final dividend sheet has been prepared. There is enclosed with this form a copy of the dividend sheet and a copy of my final statement of receipts and disbursements as taxed.
2. The final dividend will be paid after the expiration of fifteen days following the date of the mailing of this notice.
3. Notice of objection of the final statement and dividend sheet must be filed with the Registrar, at \_\_\_\_\_, before the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and a copy of the notice served on the undersigned. The notice must state the reasons for the objection.
4. I will apply to the court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_\_ o'clock, or so soon thereafter as the motion can be heard, for an order of discharge with respect to the above-mentioned estate and for a release of the security provided by me pursuant to section 200(1) of the Act.
5. Notice of objection to my discharge, setting out the reasons for opposition, must be filed with the Registrar, at \_\_\_\_\_, at least five days before the date of the hearing, and a copy of the notice must be served on me within those five days.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Trustee*

\_\_\_\_\_  
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**SCHEDULE 2**

**FEES PAYABLE IN TERMS OF THE ACT**

PART I

**Fee Payable by Receiver**

1. For the purposes of section 14(c) of the Act and regulation 9(1), the fee payable by a receiver shall be \$250.

PART II

**Fees Payable to Inspectors**

2. For the purposes of section 111(5)(b) of the Act, the fees per meeting that may be paid to an inspector, to be determined on the net receipts as calculated by subtracting the payments to secured creditors from the amount of total receipts received by the trustee, are as follows:
  - (a) if the estate has net receipts of less than \$10,000 ... .. \$10
  - (b) if the estate has net receipts of \$10,000 or more but less than \$50,000 ... \$20
  - (c) if the estate has net receipts of \$50,000 or more but less than \$100,000... \$30
  - (d) if the estate has net receipts of \$100,000 or more ... .. \$50

PART III

**Fees Payable to Trustees in Summary Administration**

3. For the purposes of section 146 of the Act, the fees of the trustee for services performed in a summary administration are calculated on the total receipts remaining after deducting necessary disbursements relating directly to the realisation of the property of the bankrupt, and the payments to secured creditors, according to the following percentages:
  - (a) on the first \$1,000 of receipts ... .. 100%
  - (b) on the portion of receipts exceeding \$1,000 but not exceeding \$2,500 ... 35%
  - (c) on the portion of receipts exceeding \$2,500 ... .. 50%

PART IV

**Fees payable to the Office of the Supervisor**

4. Pursuant to section 179(1) of the Act, the following fees are payable to the Office of the Supervisor:
  - (a) Proposals \$3.50 per page;
  - (b) Bankruptcies \$3.50 per page;
  - (c) Licences \$3.50 per page;
  - (d) Notices \$3.50 per page.

## SCHEDULE 2—Continued

## PART V

## Fees payable by Trustees for Application for a Trustee Licence

5. For the purposes of section 180 and 182 of the Act, the following fees are payable:

- (a) Trustee Licence (Individual)—application fee: \$1,000 per annum;
- (b) Trustee Licence (Corporate)—application fee: \$5,000 per annum.

## SCHEDULE 3

(Regulation 67 and 69)

## PART 1—FIT AND PROPER PERSON

A person shall be considered fit and proper person if he—

- (a) has not been convicted of an offence involving fraud, insider trading, money laundering, terrorist financing or other forms of dishonesty or violence;
- (b) has not engaged in any business practices that are deceitful, oppressive, unsafe, unsound or otherwise improper, whether unlawful or not, or which otherwise discredit his method of conducting business;
- (c) does not have an employment record which leads the Supervisor to believe that he carried out an act of impropriety in the handling of his employer's business;
- (d) has not engaged in or been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment; and
- (e) has not contravened any provision of the Act, the Financial Institutions Act, Ch. 79:09, the Securities Act, Ch. 83:02, the Insurance Act, Ch. 84:01 or the Companies Act, Ch. 81:01.

## PART 2—FIT AND PROPER CORPORATION

A corporation shall be considered fit and proper if it—

- (a) has not been found guilty of insider trading or fraud by local or foreign authorities;
- (b) has not been convicted of an offence;
- (c) has not contravened any provision of the Act, the Financial Institutions Act, Ch. 79:09, the Securities Act, Ch. 83:02, the Insurance Act, Ch. 84:01 or the Companies Act, Ch. 81:01; and
- (d) in the opinion of the Supervisor, its affairs or the affairs of any related persons are conducted in a manner that is not prejudicial to its soundness or the insolvency system in Trinidad and Tobago.