



Insolvency Act 1985

1985 CHAPTER 65

PART III

INDIVIDUAL INSOLVENCY

CHAPTER V

ADMINISTRATION BY TRUSTEE

Preliminary

152 Preliminary

- (1) This Chapter applies in relation to any bankruptcy where either—
 - (a) the appointment of a person as trustee of a bankrupt's estate takes effect; or
 - (b) the official receiver becomes trustee of a bankrupt's estate.
- (2) The function of the trustee shall be to get in, realise and distribute the bankrupt's estate in accordance with the following provisions of this Chapter; and in the carrying out of that function and in the management of the bankrupt's estate the trustee shall be entitled, subject to those provisions, to use his own discretion.
- (3) It shall be the duty of the trustee, if he is not the official receiver—
 - (a) to furnish the official receiver with such information;
 - (b) to produce to the official receiver, and permit inspection by the official receiver of, such books, papers and other records; and
 - (c) to give the official receiver such other assistance,as the official receiver may reasonably require for the purpose of enabling him to carry out his functions in relation to the bankruptcy.

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- (4) The official name of the trustee shall be " the trustee of the estate of , a bankrupt" (inserting the name of the bankrupt); but he may be referred to as " the trustee in bankruptcy " of the particular bankrupt.

Vesting of property in trustee etc.

153 Vesting of bankrupt's estate in trustee

- (1) The bankrupt's estate shall vest in the trustee immediately on his appointment taking effect or, in the case of the official receiver, on his becoming trustee.
- (2) Where any property which is, or is to be, comprised in the bankrupt's estate vests in the trustee (whether under this section or under any other provision of this Part), it shall so vest without any conveyance, assignment or transfer.

154 After-acquired property

- (1) Subject to the following provisions of this section, the trustee may by notice in writing claim for the bankrupt's estate any property which has been acquired by, or has devolved upon, the bankrupt since the commencement of the bankruptcy.
- (2) A notice under subsection (1) above shall not be served in respect of—
- (a) any property falling within subsections (2) to (4) of section 130 above;
 - (b) any property which by virtue of any other enactment is excluded from the bankrupt's estate; or
 - (c) without prejudice to section 127(2)(c) above, any property which is acquired by, or devolves upon, the bankrupt after his discharge.
- (3) Subject to subsection (4) below, upon the service on the bankrupt of a notice under subsection (1) above the property to which the notice relates shall vest in the trustee as part of the bankrupt's estate; and the trustee's title to that property shall have relation back to the time at which the property was acquired by, or devolved upon, the bankrupt.
- (4) Where, whether before or after the service of a notice under this section—
- (a) a person acquires property in good faith, for value and without notice of the bankruptcy ; or
 - (b) a banker enters into a transaction in good faith and without such notice,
- the trustee shall not in respect of that property or transaction be entitled by virtue of this section to any remedy against that person or banker, or any person whose title to any property derives from that person or banker.
- (5) Except with the leave of the court, a notice under subsection (1) above shall not be served after the end of the period of forty-two days beginning with the day on which it first came to the knowledge of the trustee that the property in question had been acquired by, or had devolved upon, the bankrupt.
- (6) For the purposes of subsection (5) above—
- (a) anything which comes to the knowledge of the trustee shall be deemed in relation to any successor of his as trustee to have come to the knowledge of the successor at the same time; and
 - (b) anything which comes, otherwise than under paragraph (a) above, to the knowledge of a person before he is the trustee shall be deemed to come to

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his knowledge on his appointment taking effect or, in the case of the official receiver, on his becoming trustee.

- (7) References in this section to property shall not include any property which, as part of the bankrupt's income, may be the subject of an order under section 156 below.

155 Vesting in trustee of tools, clothes etc. that exceed value of reasonable replacement

- (1) Where—
- (a) property is excluded by virtue of section 130(2) above from the bankrupt's estate; and
 - (b) it appears to the trustee that the realisable value of the whole or any part of that property exceeds the cost of a reasonable replacement for that property or that part of it,
- the trustee may by notice in writing claim that property or, as the case may be, that part of it for the bankrupt's estate.
- (2) Upon the service on the bankrupt of a notice under subsection (1) above, the property to which the notice relates shall vest in the trustee as part of the bankrupt's estate; and, except against a purchaser in good faith, for value and without notice of the bankruptcy, the trustee's title to that property shall have relation back to the commencement of the bankruptcy.
- (3) Except with the leave of the court, a notice under subsection (1) above shall not be served after the end of the period of forty-two days beginning with the day on which the property in question first came to the knowledge of the trustee; and subsection (6) of section 154 above shall apply for the purposes of this subsection as it applies for the purposes of subsection (5) of that section.
- (4) The trustee shall apply funds comprised in the bankrupt's estate to the purchase by or on behalf of the bankrupt of a reasonable replacement for any property vested in the trustee under this section ; and the duty imposed by this subsection shall have priority over the obligation of the trustee to distribute the bankrupt's estate.
- (5) For the purposes of this section property shall be a reasonable replacement for other property if it is reasonably adequate for meeting the needs met by the other property.

156 Income payments orders

- (1) The court may, on the application of the trustee, make an order (" an income payments order ") claiming for the bankrupt's estate so much of the income of the bankrupt during the period for which the order is in force as may be specified in the order.
- (2) The court shall not make an income payments order the effect of which would be to reduce the income of the bankrupt below what appears to the court to be necessary for meeting the reasonable domestic needs of the bankrupt and his family.
- (3) An income payments order shall, in respect of any payment of income to which it is to apply, either—
- (a) require the bankrupt to pay the trustee an amount equal to so much of that payment as is claimed by the order; or
 - (b) require the person making the payment to pay so much of it as is so claimed to the trustee, instead of to the bankrupt.

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- (4) Where the court makes an income payments order it may, if it thinks fit, discharge or vary any attachment of earnings order that is for the time being in force to secure payments by the bankrupt.
- (5) Sums received by the trustee under an income payments order shall form part of the bankrupt's estate.
- (6) An income payments order shall not be made after the discharge of the bankrupt, and if made before, shall not have effect after his discharge except—
 - (a) in the case of a discharge under section 126(2)(a) above, by virtue of a condition imposed under section 127(2)(c) above; or
 - (b) in the case of a discharge under section 126(2)(b) above, by virtue of a provision of the order requiring it to continue in force for a period ending after the discharge but no later than three years after the making of the order.
- (7) For the purposes of this section the income of the bankrupt comprises every payment in the nature of income which is from time to time made to the bankrupt or to which he from time to time becomes entitled, including any payment in respect of the carrying on of any business or in respect of any office or employment.

Control and realisation of bankrupt's estate etc.

157 Acquisition by trustee of control

- (1) The trustee shall take possession of all books, papers and other records which relate to the bankrupt's estate or affairs and which belong to him or are in his possession or under his control (including any which would be privileged from disclosure in any proceedings).
- (2) The trustee shall, in relation to, and for the purpose of acquiring or retaining possession of, the bankrupt's estate, be in the same position as if he were a receiver of property appointed by the High Court; and the court may, on his application, enforce such acquisition or retention accordingly.
- (3) Where any part of the bankrupt's estate consists of stock or shares in a company, shares in a ship or any other property transferable in the books of a company, office or person, the trustee may exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt.
- (4) Where any part of the bankrupt's estate consists of things in action, they shall be deemed to have been assigned to the trustee; but notice of the deemed assignment shall not be required to be given except in so far as it is necessary, in a case where the deemed assignment is from the bankrupt himself, for protecting the priority of the trustee.
- (5) Where any goods comprised in the bankrupt's estate are held by any person by way of pledge, pawn or other security and no notice has been served in respect of those goods by the official receiver under subsection (5) of section 132 above, the trustee may serve such a notice in respect of those goods; and whether or not a notice has been served under this subsection or that subsection, the trustee may, if he thinks fit, exercise the bankrupt's right of redemption in respect of any such goods.
- (6) A notice served by the trustee under subsection (5) above shall have the same effect as a notice served by the official receiver under section 132(5) above.

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158 Obligations to surrender control to trustee

- (1) Without prejudice to his general duties under section 169 below, the bankrupt shall deliver up to the trustee possession of any property, books, papers or other records of which the trustee is required to take possession and of which the bankrupt has possession or control.
- (2) If any of the following is in possession of any property, books, papers or other records of which the trustee is required to take possession, namely—
 - (a) the official receiver ;
 - (b) a person who has ceased to be trustee of the bankrupt's estate; or
 - (c) a person who has been the supervisor of a composition or scheme approved in relation to the bankrupt under Chapter I of this Part,the official receiver or, as the case may be, that person shall deliver up possession of the property, books, papers or records to the trustee.
- (3) Any banker or agent of the bankrupt or any other person who holds any property to the account of, or for, the bankrupt shall pay or deliver to the trustee all property in his possession or under his control which forms part of the bankrupt's estate and which he is not by law entitled to retain as against the bankrupt or trustee.
- (4) If any person without reasonable excuse fails to comply with any obligation imposed by this section he shall, in addition to any other punishment to which he may be subject, be guilty of contempt of court and liable to be punished accordingly.

159 Charge on dwelling house

- (1) Where any property consisting of an interest in a dwelling house which is occupied by the bankrupt or by his spouse or former spouse is comprised in the bankrupt's estate and the trustee is, for any reason, unable for the time being to realise that property, the trustee may apply to the court for an order imposing a charge on the property for the benefit of the bankrupt's estate.
- (2) If on an application under this section the court imposes a charge on any property, the benefit of that charge shall be comprised in the bankrupt's estate and shall be enforceable, up to the value from time to time of the property secured, for the payment of any amount which is payable otherwise than to the bankrupt out of the bankrupt's estate and of interest on that amount at the prescribed rate.
- (3) An order under this section made in respect of property vested in the trustee shall provide, in accordance with the rules, for the property to cease to be comprised in the bankrupt's estate and, subject to the charge (and any prior charge), to vest in the bankrupt.
- (4) Subsections (1) and (2) and (4) to (6) of section 3 of the Charging Orders Act 1979 (which contain supplemental provisions with respect to charging orders) shall have effect in relation to orders under this section as they have effect in relation to charging orders under that Act.

160 General powers of trustee

- (1) The trustee may—
 - (a) sell any part of the property for the time being comprised in the bankrupt's estate, including the goodwill and book debts of any business ;

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- (b) give receipts for any money received by him, being receipts which effectually discharge the person paying the money from all responsibility in respect of its application ;
 - (c) prove, rank, claim and draw a dividend in respect of such debts due to the bankrupt as are comprised in the bankrupt's estate;
 - (d) exercise in relation to any property comprised in the bankrupt's estate any powers the capacity to exercise which is vested in the trustee under this Part;
 - (e) deal with any property comprised in the bankrupt's estate to which a bankrupt is beneficially entitled as tenant in tail in the same manner as the bankrupt might have dealt with it.
- (2) With the permission of the committee established under section 148 above or the court, the trustee may—
- (a) carry on any business of the bankrupt so far as may be necessary for winding it up beneficially and so far as he is able to do so without contravening any requirement imposed by or under any enactment;
 - (b) bring, institute or defend any action or legal proceedings relating to the property comprised in the bankrupt's estate;
 - (c) accept as the consideration for the sale of any property comprised in the bankrupt's estate a sum of money payable at a future time subject to such stipulations as to security or otherwise as the committee or the court thinks fit;
 - (d) mortgage or pledge any part of the property comprised in the bankrupt's estate for the purpose of raising money for the payment of his debts;
 - (e) where any right, option or other power forms part of the bankrupt's estate, make payments or incur liabilities with a view to obtaining, for the benefit of the creditors, any property which is the subject of the right, option or power;
 - (f) refer to arbitration, or compromise on such terms as may be agreed on, any debts, claims or liabilities subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt;
 - (g) make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of bankruptcy debts ;
 - (h) make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the bankrupt's estate made or capable of being made on the trustee by any person or by the trustee on any person.
- (3) With the permission of the committee established under section 148 above or the court, the trustee may appoint the bankrupt
- (a) to superintend the management of the bankrupt's estate, or any part of it;
 - (b) to carry on his business (if any) for the benefit of his creditors; or
 - (c) in any other respect to assist in administering that estate in such manner and on such terms as the trustee may direct.
- (4) A permission given for the purposes of subsection (2) or (3) above shall not be a general permission but shall relate to a particular proposed exercise of the power in question; and a person dealing with the trustee in good faith and for value shall not be concerned to enquire whether any permission required by either of those subsections has been given.
- (5) Where the trustee has done anything without the permission required by subsection (2) or (3) above, the court or the committee established under section 148 above may, for

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the purpose of enabling him to meet his expenses out of the bankrupt's estate, ratify what the trustee has done; but that committee shall not do so unless it is satisfied that the trustee has acted in a case of urgency and has sought its ratification without undue delay.

- (6) For the purposes of, or in connection with, the exercise of any of his powers under this Part, the trustee shall be able, by his official name, to hold property of every description, to make contracts, to sue and be sued, to enter into engagements binding on himself and, in respect of the bankrupt's estate, on his successors in office, to employ an agent, to execute any power of attorney, deed or other instrument and to do any other act which is necessary or expedient for the purposes of or in connection with the exercise of those powers.
- (7) Where the trustee (not being the official receiver) in exercise of the powers conferred on him by this Part—
 - (a) disposes of any property comprised in the bankrupt's estate to an associate of the bankrupt; or
 - (b) employs a solicitor,he shall, if there is for the time being a committee established under section 148 above, give notice to the committee of that exercise of his powers.
- (8) Without prejudice to the generality of subsection (6) above, the trustee may, if he thinks fit, at any time summon a general meeting of the bankrupt's creditors; and, subject to the preceding provisions of this Part, the trustee shall summon such a meeting if he is requested to do so by a creditor of the bankrupt and the request is made with the concurrence of not less than one-tenth, in value, of the bankrupt's creditors (including the creditor making the request).
- (9) Nothing in this Act shall be construed as restricting the capacity of the trustee to exercise any of his powers outside England and Wales.

161 Power to disclaim onerous property

- (1) Subject to the provisions of this section, the trustee may, by the giving of the prescribed notice, disclaim any onerous property and may do so notwithstanding that he has taken possession of it, endeavoured to sell it or otherwise exercised rights of ownership in relation to it.
- (2) The following is onerous property for the purposes of this section, that is to say—
 - (a) any unprofitable contract; and
 - (b) any other property comprised in the bankrupt's estate which is unsaleable or not readily saleable or is such that it may give rise to a liability to pay money or perform any other onerous act.
- (3) A disclaimer under this section shall—
 - (a) operate so as to determine, as from the date of the disclaimer, the rights, interests and liabilities of the bankrupt and his estate in or in respect of the property disclaimed; and
 - (b) discharge the trustee from all personal liability in respect of that property as from the commencement of his trusteeship;but shall not, except so far as is necessary for the purpose of releasing the bankrupt, the bankrupt's estate and the trustee from any liability, affect the rights or liabilities of any other person.

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- (4) A notice of disclaimer shall not be given under this section in respect of any property that has been claimed for the bankrupt's estate under section 154 or 155 above except with the leave of the court.
- (5) A notice of disclaimer shall not be given under this section in respect of any property if—
- (a) a person interested in the property has applied in writing to the trustee or one of his predecessors as trustee requiring the trustee or that predecessor to decide whether he will disclaim or not; and
 - (b) the period of twenty-eight days beginning with the day on which that application was made has expired without a notice of disclaimer having been given under this section in respect of that property ;
- and the trustee shall be deemed to have adopted any contract which by virtue of the preceding provisions of this subsection he is not entitled to disclaim.
- (6) The disclaimer of any property of a leasehold nature shall not take effect unless a copy of the disclaimer has been served (so far as the trustee is aware of their addresses) on every person claiming under the bankrupt as underlessee or as mortgagee and either—
- (a) no application under section 162 below is made with respect to that property before the end of the period of fourteen days beginning with the day on which the last notice served under this subsection was served ; Or
 - (b) where such an application has been made, the court directs that the disclaimer shall take effect.
- (7) Where the court gives a direction under subsection (6)(b) above it may also, instead of or in addition to any order it makes under section 162 below, make such orders with respect to fixtures, tenant's improvements and other matters arising out of the lease as it thinks fit.
- (8) Without prejudice to subsection (6) above, the disclaimer of any property in a dwelling house shall not take effect unless a copy of the disclaimer has been served (so far as the trustee is aware of their addresses) on every person in occupation of or claiming a right to occupy the dwelling house and either—
- (a) no application under section 162 below is made with respect to that property before the end of the period of fourteen days beginning with the day on which the last notice served under this subsection was served; or
 - (b) where such an application has been made, the court directs that the disclaimer shall take effect.
- (9) Where, in consequence of the disclaimer under this section of any land subject to a rentcharge, that land vests by operation of law in the Crown or any other person, the Crown or that person and the successors in title of the Crown or that person shall not be subject to any personal liability in respect of any sums becoming due under that rentcharge except sums becoming due after the Crown or that person or some person claiming under or through the Crown or that person has taken possession or control of the land or has entered into occupation of it.
- (10) Any person sustaining loss or damage in consequence of the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the loss or damage and accordingly may prove for the loss or damage as a bankruptcy debt.

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162 Powers of court in respect of disclaimed property

- (1) This section applies where the trustee has disclaimed any property under section 161 above.
- (2) An application may be made to the court under this section by—
 - (a) any person who claims an interest in the disclaimed property;
 - (b) any person who is under any liability in respect of the disclaimed property, not being a liability discharged by the disclaimer; or
 - (c) where the disclaimed property is property in a dwelling house, any person who at the time when the bankruptcy petition was presented was in occupation of or entitled to occupy the dwelling house.
- (3) Subject to subsections (4) and (5) below, the court may, on an application under this section, make an order on such terms as it thinks fit for the vesting of the disclaimed property in, or for its delivery to—
 - (a) a person entitled to it or a trustee for such a person;
 - (b) a person subject to such a liability as is mentioned in subsection (2)(b) above or a trustee for such a person; or
 - (c) where the disclaimed property is property in a dwelling house, any person who at the time when the bankruptcy petition was presented was in occupation of or entitled to occupy the dwelling house.
- (4) The court shall not make an order by virtue of paragraph (b) of subsection (3) above except where it appears to the court that it would be just to do so for the purpose of compensating the person subject to the liability in respect of the disclaimer.
- (5) The court shall not make an order under this section vesting property of a leasehold nature in any person, except on terms making that person—
 - (a) subject to the same liabilities and obligations as the bankrupt was subject to under the lease on the day the bankruptcy petition was presented ; or
 - (b) if the court thinks fit, subject to the same liabilities and obligations as that person would be subject to if the lease had been assigned to him on that day.
- (6) For the purposes of an order under this section relating to only part of any property comprised in a lease, the requirements of subsection (5) above shall apply as if the lease comprised only the property to which the order relates.
- (7) Where subsection (5) above applies and no person is willing to accept an order under this section on the terms required by virtue of that subsection, the court may, by order under this section, vest the estate or interest of the bankrupt in the property in any person who is liable (whether personally or in a representative capacity and whether alone or jointly with the bankrupt) to perform the lessee's covenants in the lease ; and the court may vest that estate and interest in such a person freed and discharged from all estates, incumbrances and interests created by the bankrupt.
- (8) Where subsection (5) above applies and a person declines to accept any order under this section, that person shall be excluded from all interest in the property.
- (9) The effect of any order under this section shall be taken into account in assessing for the purposes of section 161(10) above the extent of any loss or damage sustained by any person in consequence of the disclaimer.
- (10) An order under this section vesting any property in any person shall not need to be completed by any conveyance, assignment or transfer.

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Distribution of bankrupt's estate

163 Proof of debts

- (1) Subject to the following provisions of this section and to section 164 below, the proof of any bankruptcy debt by any secured or unsecured creditor of the bankrupt and the admission or rejection of any proof shall take place in accordance with the rules.
- (2) Where a bankruptcy debt bears interest, that interest shall be provable as part of that debt except in so far as it is payable in respect of any period after the commencement of the bankruptcy.
- (3) The trustee shall estimate the value of any bankruptcy debt which, by reason of its being subject to any contingency or contingencies or for any other reason, does not bear a certain value.
- (4) Where the value of any bankruptcy debt is estimated by the trustee under subsection (3) above or, by virtue of section 150 above, by the court, the amount provable in the bankruptcy in respect of that debt shall be the amount of the estimate.

164 Mutual credit and set off

- (1) This section applies where before the commencement of the bankruptcy there have been mutual credits, mutual debts or other mutual dealings between the bankrupt and any creditor of the bankrupt proving or claiming to prove for a bankruptcy debt.
- (2) An account shall be taken of what is due from each party to the other in respect of the mutual dealings and the sums due from one party shall be set off against the sums due from the other.
- (3) Sums due from the bankrupt to another party shall not be included in the account taken under subsection (2) above if that other party had notice at the time they became due that a bankruptcy petition relating to the bankrupt was pending.
- (4) Only the balance (if any) of the account taken under subsection (2) above shall be provable as a bankruptcy debt or, as the case may be, be paid to the trustee as part of the bankrupt's estate.

165 Manner of distribution of estate

- (1) Whenever the trustee has sufficient funds in hand for the purpose he shall, subject to the retention of such sums as may be necessary for the expenses of the bankruptcy, declare and distribute dividends among the creditors in respect of the bankruptcy debts which they have respectively proved.
- (2) The trustee shall give notice of his intention to declare and distribute a dividend.
- (3) Where the trustee has declared a dividend he shall give notice of the dividend and of how it is proposed to distribute it; and a notice given under this subsection shall contain the prescribed particulars of the bankrupt's estate.
- (4) In the calculation and distribution of a dividend the trustee shall make provision—
 - (a) for any bankruptcy debts which appear to him to be due to persons who, by reason of the distance of their place of residence, may not have had sufficient time to tender and establish their proofs ;

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- (b) for any bankruptcy debts which are the subject of claims which have not yet been determined; and
 - (c) for disputed proofs and claims.
- (5) A creditor who has not proved his debt before the declaration of any dividend shall not be entitled to disturb, by reason that he has not participated in it, the distribution of that dividend or any other dividend declared before his debt was proved, but—
- (a) when he has proved that debt he shall be entitled to be paid, out of any money for the time being available for the payment of any further dividend, any dividend or dividends which he has failed to receive ; and
 - (b) any dividend or dividends payable under paragraph (a) above shall be paid before that money is applied to the payment of any such further dividend.
- (6) No action shall lie against the trustee for a dividend, but if the trustee refuses to pay a dividend the court may, if it thinks fit, order him to pay it and also to pay, out of his own money—
- (a) interest on the dividend, at the rate for the time being specified in section 17 of the Judgments Act 1838, from the time it was withheld ; and
 - (b) the costs of the proceedings in which the order to pay is made.
- (7) Without prejudice to section 161 above, the trustee may, with the permission of the committee established under section 148 above, divide in its existing form amongst the bankrupt's creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.
- (8) Subsections (4) and (5) of section 160 above shall have effect in relation to the power conferred by subsection (7) above as they have effect in relation to the powers conferred by subsections (2) and (3) of that section.
- (9) Where the bankruptcy order was made on a petition under section 119(1)(d) above, no distribution shall be made under this section so long as an appeal is pending (within the meaning of section 125 above) against the bankrupt's conviction of any offence by virtue of which the criminal bankruptcy order on which the petition was based was made.

166 Priority of debts

- (1) In the distribution of the bankrupt's estate, the preferential debts listed in Part I of Schedule 4 to this Act shall be paid in priority to other debts; and Part II of that Schedule shall have effect for the interpretation of the said Part I.
- (2) Preferential debts shall rank equally between themselves after the expenses of the bankruptcy and shall be paid in full unless the bankrupt's estate is insufficient for meeting them, in which case they shall abate in equal proportions between themselves.
- (3) Debts which are neither preferential debts nor debts falling within subsection (6) below shall also rank equally between themselves and, after the preferential debts, shall be paid in full unless the bankrupt's estate is insufficient for meeting them, in which case they shall abate in equal proportions between themselves.
- (4) Any surplus remaining after the payment of the debts that are preferential or rank equally under subsection (3) above shall be applied in paying interest on those debts in respect of the periods during which they have been outstanding since the

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commencement of the bankruptcy; and interest on preferential debts shall rank equally with interest on debts other than preferential debts.

- (5) The rate of the interest payable under subsection (4) above in respect of any debt shall be whichever is the greater of—
 - (a) the rate specified in section 17 of the Judgments Act 1838 at the commencement of the bankruptcy; and
 - (b) the rate applicable to that debt apart from the bankruptcy.
- (6) Bankruptcy debts owed in respect of credit provided by a person who (whether or not the bankrupt's spouse at the time the credit was provided) was the bankrupt's spouse at the commencement of the bankruptcy shall—
 - (a) rank in priority after the debts and interest required to be paid in pursuance of subsections (3) and (4) above; and
 - (b) be payable with interest at the rate specified in subsection (5) above in respect of the period during which they have been outstanding since the commencement of the bankruptcy; and the interest payable under paragraph (b) above shall have the same priority as the debts on which it is payable.
- (7) This section is without prejudice to any provision of this Act or of any other Act under which the payment of any debt or the making of any other payment is, in the event of bankruptcy, to have a particular priority or to be postponed.

167 Final distribution

- (1) When the trustee has realised all the bankrupt's estate or so much of it as can, in the opinion of the trustee, be realised without needlessly protracting the trusteeship, he shall give notice in the prescribed manner either—
 - (a) of his intention to declare a final dividend; or
 - (b) that no dividend, or further dividend, will be declared.
- (2) The notice given under subsection (1) above shall contain the prescribed particulars and shall require claims against the bankrupt's estate to be established by a date (" the final date ") specified in the notice.
- (3) The court may, on the application of any person, postpone the final date.
- (4) After the final date, the trustee shall—
 - (a) defray any outstanding expenses of the bankruptcy out of the bankrupt's estate; and
 - (b) if he intends to declare a final dividend, declare and distribute that dividend without regard to the claim of any person in respect of a debt not already proved in the bankruptcy.
- (5) If a surplus remains after payment in full and with interest of all the bankrupt's creditors and the payment of the expenses of the bankruptcy, the bankrupt shall be entitled to the surplus.

168 Final meeting

- (1) Subject to subsections (2) and (3) below, where it appears to the trustee that the administration of the bankrupt's estate in accordance with this Chapter is for practical

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- purposes complete and the trustee is not the official receiver, the trustee shall summon a final general meeting of the bankrupt's creditors which—
- (a) shall receive the trustee's report of his administration of the bankrupt's estate; and
 - (b) shall determine whether the trustee should have his release under section 146 above.
- (2) The trustee may, if he thinks fit, give the notice summoning the final general meeting at the same time as giving notice under section 167(1) above but, if summoned for an earlier date, that meeting shall be adjourned (and, if necessary, further adjourned) until a date on which the trustee is able to report to the meeting that the administration of the bankrupt's estate is for practical purposes complete.
- (3) In a case where property consisting of an interest in a dwelling house which is occupied by the bankrupt or by his spouse or former spouse is comprised in the bankrupt's estate and the trustee has been unable for any reason to realise that property, the trustee shall not summon a meeting under this section unless either—
- (a) the court has made an order under section 159 above imposing a charge on that property for the benefit of the bankrupt's estate ; or
 - (b) the court has declined, on an application under that section, to make such an order ; or
 - (c) the Secretary of State has issued a certificate to the trustee stating that it would be inappropriate or inexpedient for such an application to be made in the case in question.
- (4) In the administration of the bankrupt's estate it shall be the duty of the trustee to retain sufficient sums from the bankrupt's estate to cover the expenses of summoning and holding the meeting required by this section.

Supplemental

169 Duties of bankrupt in relation to trustee

- (1) The bankrupt shall—
- (a) give to the trustee such information as to his affairs;
 - (b) attend on the trustee at such times ; and
 - (c) do all such other things,
- as the trustee may for the purposes of carrying out his functions under this Part reasonably require.
- (2) Where at any time after the commencement of the bankruptcy any property is acquired by, or devolves upon, the bankrupt or there is any increase of the bankrupt's income, the bankrupt shall, within the prescribed period, give the trustee notice of the property or, as the case may be, of the increase.
- (3) Subsection (1) above shall apply to a bankrupt after his discharge.
- (4) If the bankrupt without reasonable excuse fails to comply with any obligation imposed by this section, he shall, in addition to any other punishment to which he may be subject, be guilty of contempt of court and liable to be punished accordingly.

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170 Second bankruptcy

- (1) This section applies where a bankruptcy order is made against an undischarged bankrupt; and in this section—
 - (a) references to the later bankruptcy are references to the bankruptcy arising from that order ;
 - (b) references to the earlier bankruptcy are references to the bankruptcy (or, as the case may be, most recent bankruptcy) from which the bankrupt has not been discharged at the commencement of the later bankruptcy; and
 - (c) references to the existing trustee are references to the trustee (if any) of the bankrupt's estate for the purposes of the earlier bankruptcy.
- (2) Without prejudice to section 131 above, where the existing trustee has been given the prescribed notice of the presentation of the petition for the later bankruptcy, any distribution or other disposition by him of anything to which subsection (3) below applies shall, if made after the giving of the notice, be void except to the extent that it was made with the consent of the court or is or was subsequently ratified by the court.
- (3) This subsection applies to—
 - (a) any property which is vested in the existing trustee under section 154(3) above ;
 - (b) any money paid to the existing trustee in pursuance of an order under section 156 above ; and
 - (c) any property or money which is, or in the hands of the existing trustee represents, the proceeds of sale or application of property or money falling within paragraph (a) or (b) above.
- (4) With effect from the commencement of the later bankruptcy anything to which subsection (3) above applies which, immediately before the commencement of that bankruptcy, is comprised in the bankrupt's estate for the purposes of the earlier bankruptcy shall be treated as comprised in the bankrupt's estate for the purposes of the later bankruptcy and, until there is a trustee of that estate, shall be dealt with by the existing trustee in accordance with the rules.
- (5) Any sums which in pursuance of an order under section 156 above are payable after the commencement of the later bankruptcy to the existing trustee shall form part of the bankrupt's estate for the purposes of the later bankruptcy and the court may give such consequential directions for the modification of the order as it thinks fit.
- (6) Anything comprised in a bankrupt's estate by virtue of subsection (4) or (5) above shall be so comprised subject to a first charge in favour of the existing trustee for any bankruptcy expenses incurred by him in relation thereto.
- (7) Except as provided by the preceding provisions of this section, property which is, or by virtue of section 155 above is capable of being, comprised in the bankrupt's estate for the purposes of the earlier bankruptcy, or of any bankruptcy prior to the earlier bankruptcy, shall not be comprised in his estate for the purposes of the later bankruptcy.
- (8) The creditors of the bankrupt in the earlier bankruptcy and the creditors of the bankrupt in any bankruptcy prior to the earlier bankruptcy shall not be creditors of the bankrupt in the later bankruptcy in respect of the same debts, but the existing trustee may prove in the later bankruptcy for—

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- (a) the unsatisfied balance of the debts (including any debt under this subsection) provable against the bankrupt's estate in the earlier bankruptcy ;
 - (b) any interest payable on that balance ; and
 - (c) any unpaid expenses of the earlier bankruptcy.
- (9) Any amount provable under subsection (8) above shall rank in priority after all the other debts provable in the later bankruptcy and after interest on those debts and, accordingly, shall not be paid unless those debts and that interest have first been paid in full.