

LAWS OF BRUNEI

REVISED EDITION 1984

CHAPTER 67

BANKRUPTCY

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Short title
2. Interpretation

PART II

**PROCEEDINGS FROM ACT OF BANKRUPTCY TO
DISCHARGE**

3. Acts of bankruptcy
4. Bankruptcy notices
5. Jurisdiction to make receiving order
6. Conditions on which creditor may petition
7. Liability of firm to have receiving order made against
it

8. Powers of Official Receiver and duties of debtor on petition being filed
9. Creditor's petition and order thereon
10. Debtor's petition and order thereon
11. Appearance of Official Receiver on petition
12. Effect of receiving order
13. Power to appoint interim receiver
14. Power to stay pending proceedings
15. Power to appoint special manager
16. Advertisement of receiving order
17. First and other meetings of creditors
18. Debtor's statement of affairs
19. Public examination of debtor
20. Compositions and schemes of arrangement
21. Effect of composition or scheme
22. Adjudication of bankruptcy where composition not accepted or not approved
23. Appointment of trustee
24. Committee of inspection
25. Power to accept composition or scheme after adjudication
26. Duties of debtor as to discovery and realization of property
27. Arrest of debtor under certain circumstances
28. Re-direction of debtor's telegrams and letters
29. Inquiry as to debtor's conduct, dealings and property
30. Discharge of bankrupt

-
31. Fraudulent settlements
 32. Effect of order of discharge
 33. Power of Court to annul adjudication in certain cases

PART III

ADMINISTRATION OF PROPERTY

34. Description of debts provable in bankruptcy
35. Mutual credit and set-off
36. Rules as to proof of debts
37. Priority of costs and charges
38. Priority of debts
39. Preferential claims in case of apprenticeship
40. Landlord's power of distress
41. Postponement of husband's and wife's claims
42. Relation back of trustee's title
43. Description of bankrupt's property divisible amongst creditors
44. Provisions as to second bankruptcy
45. Restriction of rights of creditor under execution or attachment
46. Duties of bailiff as to goods taken in execution
47. Avoidance of certain settlements
48. Avoidance of general assignments of book debts unless registered
49. Avoidance of preference in certain cases
50. Protection of good faith transaction without notice

51. Validity of certain payments to bankrupt and assignee
52. Dealings with undischarged bankrupt
53. Possession of property by trustee
54. Seizure of property of bankrupt
55. Sale of property out of Brunei
56. Appropriation of portion of pay, etc. to creditors
57. Appropriation of income of property restrained from anticipation
58. Vesting and transfer of property
59. Disclaimer of onerous property
60. Powers of trustee to deal with property
61. Powers exercisable by trustee with permission of committee of inspection
62. Powers to allow bankrupt to manage property
63. Allowance to bankrupt for maintenance or service
64. Right of trustee to inspect goods pawned etc.
65. Limitation of trustee's powers in relation to copy-right
66. Protection of Official Receiver and trustee from personal liability in certain cases
67. Declaration and distribution of dividends
68. Joint and separate dividends
69. Provision for creditors residing at a distance etc.
70. Right of creditor who has not proved debt before declaration of a dividend
71. Interest on debts
72. Final dividend

73. No action for dividend
74. Right of bankrupt to surplus

PART IV
OFFICIAL RECEIVER

75. Appointment of Official Receiver
76. Status of Official Receiver
77. Duties of Official Receiver as regards the debtor's conduct
78. Duties of Official Receiver as to debtor's estate

PART V
TRUSTEES IN BANKRUPTCY

79. Official name of trustee
80. Power to appoint joint or successive trustees
81. Proceedings in case of vacancy in office of trustee
82. Discretionary powers of trustee and control thereof
83. Appeal to Court against trustee
84. Control of Court over trustee
85. Remuneration of trustee
86. Allowance and taxation of costs
87. Trustee to furnish list of creditors
88. Trustee to furnish statement of accounts
89. Annual statement of proceedings
90. Trustee not to pay into private account
91. Payment of moneys into bank

- 92. Record and account to be kept by trustee
- 93. Audit of trustee's accounts
- 94. Release of trustee
- 95. Office of trustee vacated by insolvency
- 96. Removal of trustee

PART VI

CONSTITUTION, PROCEDURE AND POWERS OF
COURT

- 97. General power of Court
- 98. Review and appeals in bankruptcy
- 99. General rules of procedure
- 100. Discretionary powers of Court
- 101. Consolidation of petitions
- 102. Power to change carriage of proceedings
- 103. Continuance of proceedings on death of debtor
- 104. Power to stay proceedings
- 105. Power to present petition against one partner
- 106. Power to dismiss petition against some respondents
only
- 107. Actions by trustee and bankrupt's partners
- 108. Actions on joint contracts
- 109. Proceedings in partnership name

PART VII
SUPPLEMENTAL PROVISION

110. Disobedience to order of Court
111. Exclusion of corporations, companies and limited partnerships
112. Administration in bankruptcy of estate of person dying insolvent
113. Power to make general rules
114. Fees and remunerations
115. Disposal of Official Receiver's fees
116. Evidence of proceedings at meetings of creditors
117. Evidence of proceedings in bankruptcy
118. Swearing of affidavits
119. Death of debtor or witness
120. Statements made to Official Receiver or trustee through an interpreter
121. Certificate of appointment of trustee
122. Computation of time
123. Service of notices
124. Formal defect not to invalidate proceedings
125. Exemption of deeds, etc. from stamp duty
126. Acting of corporations, partners, etc.
127. Certain provisions to bind Government
128. Unclaimed and undistributed dividends or funds

PART VIII

BANKRUPTCY OFFENCES

- 129. Fraudulent debtors
 - 130. Certain offences by persons other than the debtor
 - 131. Undischarged bankrupt obtaining credit
 - 132. Frauds by bankrupts, etc.
 - 133. Bankrupt guilty of gambling, etc.
 - 134. Bankrupt failing to keep proper accounts
 - 135. Bankrupt absconding with property
 - 136. Debtor concealing himself to avoid service, etc.
 - 137. False claim, etc.
 - 138. Order by Court for prosecution on report of trustee
 - 139. Criminal liability after discharge or composition
 - 140. Trial of offences
 - 141. Evidence as to frauds by agents
 - 142. Summary prosecution
-

NOTE. This Act is based on the Hong Kong Bankruptcy Ordinance (Cap. 6).

NOTE. The forms are in the Appendix to the Bankruptcy Rules.

BANKRUPTCY ACT

An Act to make provision for proceedings in bankruptcy

20 of 1956

Commencement: 1st January 1957 S.2/57

PART I

Preliminary

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

2. In this Act — Interpreta-
tion
 - “Affidavit” includes statutory declaration, affirmation and attestation on honour;
 - “available act of bankruptcy” means any act of bankruptcy available for a bankruptcy petition at the date of the presentation of the petition on which the receiving order is made;
 - “bailiff” means any person appointed to be a bailiff under any rule of Court and includes the Chief Bailiff and deputy bailiffs;
 - “Court” means the Supreme Court sitting in its bankruptcy jurisdiction;
 - “debt provable in bankruptcy” or “provable debt” includes any debt or liability by this Act made provable in bankruptcy;
 - “goods” includes all chattels personal;
 - “oath” includes affirmation, declaration and attestation on honour;

“ordinary resolution” means a resolution decided by a majority in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution;

“prescribed” means prescribed by general rules within the meaning of this Act;

“property” includes money, goods, things in action, land and every description of property, whether real or personal and whether situate in Brunei or elsewhere, also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined;

“resolution” means ordinary resolution;

“secured creditor” means a person holding a mortgage, charge or lien on the property of the debtor or any part thereof, as a security for a debt due to him from the debtor;

“special resolution” means a resolution decided by a majority in number and three-fourths in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution;

“Registrar” means the Registrar of the Supreme Court and includes the Chief Registrar, Deputy Registrar and Assistant Registrar;

“trustee” means the trustee in bankruptcy of a debtor’s estate.

PART II

Proceedings from Act of Bankruptcy to Discharge

Acts of bankruptcy

3. (1) A debtor commits an act of bankruptcy in each of the following cases — Acts of bankruptcy

(a) if in Brunei or elsewhere he makes a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally;

(b) if in Brunei or elsewhere he makes a fraudulent conveyance, gift, delivery or transfer of his property or of any part thereof;

(c) if in Brunei or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would be void as a fraudulent preference if he were adjudged bankrupt;

(d) if with intent to defeat or delay his creditors he does any of the following things, namely —

- (i) departs out of Brunei, or being out of Brunei remains out of Brunei;
- (ii) departs from his dwelling-house or usual place of business, or otherwise absents himself, or begins to keep house; or
- (iii) removes his property or any part thereof beyond the jurisdiction of the Court;

(e) if execution against him has been levied by seizure of his goods under process in an action, or proceeding in the Court, and the goods have been either sold or held by the bailiff for 21 days:

Provided that, where an interpleader summons has been taken out in regard to the goods seized, the time elapsing between the date on which such summons is taken out and the date on which the proceedings on such summons are finally disposed of, settled or abandoned shall not be taken into account in calculating such period of 21 days;

Form 2

(f) if he files in the Court a declaration of his inability to pay his debts or presents a bankruptcy petition against himself;

(g) if a creditor has obtained a final judgment or final order against him for any amount, and execution thereon not having been stayed, has served on him in Brunei or, by leave of the Court, elsewhere a bankruptcy notice under this Act, and he does not, within 7 days after service of the notice, in case the service is effected in Brunei and in case the service is effected elsewhere, then within the time limited in that behalf by the order giving leave to effect the service, either comply with the requirements of the notice or satisfy the Court that he has a counter-claim set off or cross demand which equals or exceeds the amount of the judgment debt or sum ordered to be paid and which he could not set up in the action in which the judgment was obtained or the proceedings in which the order was obtained: For the purposes of this paragraph and of section 4, any person who is for the time being entitled to enforce a final judgment or final order shall be deemed to be a creditor who has obtained a final judgment or final order; and

(h) if the debtor gives notice to any of his creditors that he has suspended or that he is about to suspend payment of his debts.

(2) In this Act, "a debtor" includes any person whether a subject of His Majesty the Sultan and Yang Di-Pertuan or not, who at the time when any act of bankruptcy was done or suffered by him —

(a) was personally present in Brunei;

(b) ordinarily resided or had a place of residence in Brunei;

(c) was carrying on business in Brunei, personally or by means of an agent or manager; or

(d) was a member of a firm or partnership which carried on business in Brunei.

4. A bankruptcy notice under this Act shall be issued to a judgment creditor or creditor who has obtained a final order by the Registrar on the filing of a request for that purpose, and shall be in the prescribed form and shall require the debtor to pay the judgment debt or sum ordered to be paid in accordance with the terms of the judgment or order or to secure or compound for it to the satisfaction of the creditor or the Court, and shall state the consequences of non-compliance with the notice, and shall be served in the prescribed manner:

Bankruptcy notices.
Forms 4, 5

Provided that a bankruptcy notice —

(a) may specify an agent to act on behalf of the creditor in respect of any payment or other thing required by the notice to be made to, or done to the satisfaction of, the creditor; and

(b) shall not be invalidated by reason only that the sum specified in the notice as the amount due

exceeds the amount actually due unless the debtor within the time allowed for payment gives notice to the creditor that he disputes the validity of the notice on the ground of such misstatement; but if the debtor does not give such notice he shall be deemed to have complied with the bankruptcy notice if within the time allowed he takes such steps as would have constituted a compliance with the notice had the actual amount due been correctly specified therein.

Receiving order and Official Receiver

Jurisdiction to make receiving order. Forms 25, 26

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

Conditions on which creditor may petition. Form 10

6. (1) Subject to the provisions of section 7, a creditor shall not be entitled to present a bankruptcy petition against a debtor unless —

(a) the debt owing by the debtor to the petitioning creditor or, if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors, amounts to \$500;

(b) the debt is a liquidated sum payable either immediately or at some certain future time;

(c) the act of bankruptcy on which the petition is grounded has occurred within 3 months before the presentation of the petition, and

(d) the debtor is domiciled in Brunei or, within a year before the date of the presentation of the petition, has ordinarily resided or had a dwelling-house or place of business in Brunei or has carried

on business in Brunei, personally or by means of an agent or manager, or is or within the said period has been a member of a firm or partnership of persons which has carried on business in Brunei by means of a partner or partners or an agent or manager.

(2) If the petitioning creditor is a secured creditor, he must in his petition either state that he is willing to give up his security for the benefit of the creditors in the event of the debtor being adjudged bankrupt, or give an estimate of the value of his security. In the latter case he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated in the same manner as if he were an unsecured creditor.

7. (1) The following provisions shall have the effect in the case of a firm carrying on business in Brunei —

Liability of firm to have receiving order made against it

(a) a creditor of the firm shall be entitled to present a bankruptcy petition against the firm, and a receiving order may be made against the firm in respect of an act of bankruptcy committed in reference to the business of the firm by any partner of the firm or by any person having the control or management of the business of the firm. An act of bankruptcy shall be deemed to be committed in reference to the business of the firm in all cases in which the act relates to the property or creditors of the firm and would be an act of bankruptcy by such partner or person as aforesaid if it related to his property or creditors;

(b) it shall be sufficient that a receiving order against the firm be made in the firm name, without mentioning the names of the partners, and such receiving order shall affect the joint and separate property of all the partners;

(c) the right of a creditor to present a bankruptcy petition against the firm and the jurisdiction of the court to make a receiving order or an adjudication of bankruptcy against the firm shall not be affected by the fact, if it is so, that all or any of the partners of the firm are not subjects of His Majesty or are not resident or domiciled in Brunei.

(2) The provisions of this section shall, so far as the nature of the case will permit, apply to any person carrying on business in Brunei in a name or style other than his own name.

Powers of
Official Re-
ceiver and
duties of de-
btor on peti-
tion being
filed

8. (1) Immediately on the filing of any petition the Official Receiver may, in cases where he has reason to believe that any offence under this Act or any fraud has been or is about to be perpetrated, by notice sent by messenger or by ordinary post, summon the debtor to attend before him to give such information as he requires and may, either by himself or his agent authorized by him in writing, enter on any premises occupied by the debtor between the hours of 8 a.m. and 6 p.m. for the purpose of inspecting his property, stock in trade and books of account.

(2) It shall be the duty of the debtor to furnish the Official Receiver with all such information as it is in the debtor's power to give or to obtain.

(3) If the debtor fails without reasonable cause to attend on the Official Receiver as aforesaid or to furnish him with such information as aforesaid or if the debtor obstructs the search of the premises or the production of any book or document required in connexion therewith or authorizes or permits any such obstruction, the debtor shall be guilty of an offence: Penalty, imprisonment for 6 months, and every person who takes any part in any such obstruction, whether authorized or permitted by the debtor or not, shall be liable to the like penalty.

9. (1) A creditor's petition shall be verified by affidavit of the creditor or of some person on his behalf having knowledge of the facts and shall be served in the same manner as a writ of summons unless some other manner of service be prescribed.

Creditor's
petition and
order there-
on.
Forms 10, 11,
12

(2) At the hearing the Court shall require proof of the debt of the petitioning creditor, of the service of the petition and of the act of bankruptcy or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy and if satisfied with the proof, may make a receiving order in pursuance of the petition.

(3) If the Court is not satisfied with the proof of the petitioning creditor's debt or of the act of bankruptcy or of the service of the petition or is satisfied by the debtor that he is able to pay his debts or is not satisfied that the assets for division among the unsecured creditors, after payment of all costs, charges and expenses, and the debts which are preferential under this Act, will be sufficient to pay a dividend of 15 *per cent*, or considers that for other sufficient cause no order ought to be made, the Court may dismiss the petition.

(4) When the act of bankruptcy relied on is non-compliance with a bankruptcy notice to pay, secure or compound for a judgment debt or sum ordered to be paid the Court may, if it thinks fit, stay or dismiss the petition on the ground that an appeal is pending from the judgment or order.

(5) Where the debtor appears on the petition and denies that he is indebted to the petitioner or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him the Court, on such security (if any) being given as the Court may require for payment to the petitioner of any debt which may be established against him in due course of law and of the costs of establishing the debt may instead of dismissing the petition,

stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

(6) Where proceedings are stayed the Court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make a receiving order on the petition of some other creditor and shall thereupon dismiss, on such terms as it thinks just, the petition in which proceedings have been stayed as aforesaid.

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

Debtor's
petition and
order there-
on.
Form 3

10. (1) A debtor's petition shall allege that the debtor is unable to pay his debts and the presentation thereof shall be deemed an act of bankruptcy without the previous filing by the debtor of any declaration of inability to pay his debts and the Court shall thereupon make a receiving order:

Provided that it shall be lawful for the Court in its discretion to refuse the order if it is not satisfied that assets for division among the unsecured creditors after payment of all costs, charges and expenses, and the debts which are preferential under this Act, will be sufficient to pay a dividend of 15 *per cent*, or if the Court considers for other sufficient cause that no order ought to be made. In this subsection "sufficient cause" shall be deemed to include, among other things, the non-attendance of the debtor or, in the case of a firm, of at least one of the partners thereof, on the hearing of the petition, the absence of any material book of account or any fraud or misconduct not amounting to fraud by the debtor in relation to his affairs.

(2) A debtor's petition shall not after presentation be withdrawn without the leave of the Court.

Appearance
of Official
Receiver on
petition

11. On the hearing of any creditor's or debtor's petition it shall be lawful for the Official Receiver to appear and to call, examine and cross-examine any witness and, if he

thinks fit, to support or oppose the making of a receiving order.

12. (1) On the making of a receiving order the Official Receiver shall be thereby constituted receiver of the property of the debtor and thereafter, except as directed by this Act, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the debtor in respect of the debt or shall commence any action or other legal proceedings unless with the leave of the Court and on such terms as the Court may impose.

Effect of receiving order

(2) This section shall not affect the power of any secured creditor to realize or otherwise deal with his security.

13. The Court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of a bankruptcy petition and before a receiving order is made appoint the Official Receiver to be *interim* receiver of the property of the debtor or of any part thereof and direct him to take immediate possession thereof or of any part thereof.

Power to appointment *interim* receiver Form 13

14. (1) The Court may at any time after the presentation of a bankruptcy petition either stay any action, execution or other legal process against the property or person of the debtor or allow it to continue on such terms as it may think just.

Power to stay proceedings

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

(3) Without prejudice to the provisions of subsection (1), if the Court orders the release of any debtor

who is under execution for a civil debt it may impose such conditions as it thinks fit and in particular it may require as a condition of such release that the debtor find security to attend in the subsequent bankruptcy proceedings and to abide by all orders of the Court relating to the said proceedings.

Power to
appoint
special mana-
ger

15. (1) The Court may, on the application of the Official Receiver or of any creditor or creditors, and if satisfied that the nature of the debtor's estate or business or the interests of the creditors generally require the appointment of a special manager of the estate or business other than the Official Receiver, appoint a manager thereof accordingly to act until a trustee is appointed, and with such powers (including any of the powers of a receiver) as may be entrusted to him by the Official Receiver.

(2) The special manager shall give security and account in such manner as the Court may direct.

(3) The special manager shall receive such remuneration as may be prescribed.

Advertise-
ment
of receiving
order.
Form 27

16. Notice of every receiving order, stating the name, address and description of the debtor, the date of the order, and the date of the petition, shall be gazetted by the Official Receiver.

Proceedings consequent on receiving order

First and
other meet-
ings of
creditors.
Forms 30, 31,
32, 39, 45

17. (1) As soon as may be after the making of a receiving order against a debtor a general meeting of his creditors (in this Act referred to as the first meeting of creditors) shall be held for the purpose of considering whether a proposal for a composition or scheme of arrangement shall be accepted or whether it is expedient that the debtor shall be adjudged bankrupt and generally as to the mode of dealing with the debtor's property.

(2) The Chief Justice may, with the approval of His Majesty in Council, make rules with respect to the summoning of and proceedings at the first and other meetings of creditors. Rules

18. (1) Where a receiving order is made against a debtor, he shall make out and submit to the Official Receiver a statement of and in relation to his affairs in the prescribed form, verified by affidavit, and showing the particulars of the debtor's assets, debts and liabilities, wherever situate, the names, residences and occupations of his creditors, whether in Brunei or elsewhere, the securities held by them respectively, the dates when the securities were respectively given and such further or other information as may be prescribed or as the Official Receiver may require. Such statement shall also give details of all property held by him in a trading name or under any alias, or by his wife or any concubine of his, or by any person in trust for him or them, with full particulars as to the manner and date of its being acquired. Debtor's statement of affairs.
Form 28

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

(a) if the order is made on the petition of the debtor, within 7 days from the date of the order;

(b) if the order is made on the petition of a creditor, within 21 days from the date of the order;

but the Court may, in either case for special reasons, extend the time.

(3) If the debtor fails without reasonable excuse to comply with the requirements of this section, he may be punished for a contempt of Court and the Court may, on the application of the Official Receiver or of any creditor, adjudge him bankrupt. Form 75

(4) Any person stating himself to be a creditor of the bankrupt may, on payment of the prescribed fee, personally or by agent inspect the statement at all reasonable times and take any copy thereof or extract therefrom, but any person untruthfully so stating himself to be a creditor shall be guilty of a contempt of Court and shall be punishable accordingly on the application of the trustee or Official Receiver.

Public examination of debtor

Public
examination
of debtor.
Forms
52 to 63

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

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

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

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

(5) The Official Receiver shall take part in the examination of the debtor and, for the purpose thereof, if specially authorized by the Court, may employ an advocate. No advocate shall be allowed to take part in the examination on behalf of the debtor.

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

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

(8) The debtor shall be examined upon oath and it shall be his duty to answer all such questions as the Court may put or allow to be put to him. Such notes of the examination as the Court thinks proper shall be taken down either in shorthand or longhand and they or a transcript thereof shall be read over either to or by the debtor and signed by him and may thereafter, save as in this Act provided, be used in evidence against him; they shall also be open to the inspection of any creditor at all reasonable times upon payment of the prescribed fee.

(9) When the Court is of opinion that the affairs of the debtor have been sufficiently investigated, it shall by order declare that his examination is concluded, but such order shall not be made until after the day appointed for the first meeting of creditors.

(10) Where the debtor is a lunatic or suffers from any such mental or physical affliction or disability as in the opinion of the Court makes him unfit to attend his public examination or is absent from Brunei the Court may make an order dispensing with such examination or directing that the debtor be examined on such terms, in such manner and at such place as to the Court seems expedient.

(11) The Registrar may, under the general or special directions of the Court, hold the public examination of the debtor but the examination may at any time be adjourned by him to be heard before the Court.

Compositions and schemes of arrangement

20. (1) Where a debtor intends to make a proposal for a composition in satisfaction of his debts or a proposal for a scheme of arrangement of his affairs, he shall, within 4 days of submitting his statement of affairs or within such time thereafter as the Official Receiver may fix, lodge with the Official Receiver a proposal in writing, signed by him, embodying the terms of the composition or scheme which

Compositions
and schemes
of arrange-
ment

he is desirous of submitting for the consideration of his creditors and setting out particulars of any sureties or securities proposed.

Forms
64, 65, 66

(2) In such case the Official Receiver shall hold a meeting of creditors before the public examination of the debtor is concluded and send to each creditor before the meeting a copy of the debtor's proposal with a report thereon; and if at that meeting a majority in number and three-fourths in value of all the creditors who have proved resolve to accept the proposal, it shall be deemed to be duly accepted by the creditors and, when approved by the Court, shall be binding on all the creditors.

(3) The debtor may at the meeting amend the terms of his proposal if the amendment is in the opinion of the Official Receiver calculated to benefit the general body of creditors.

(4) Any creditor who has proved his debt may assent to or dissent from the proposal by a letter addressed to the Official Receiver so as to be received by him not later than the day preceding the meeting and any such assent or dissent shall have effect as if the creditor has been present and had voted at the meeting.

Form 68

(5) The debtor or the Official Receiver may, after the proposal is accepted by the creditors, apply to the Court to approve it and notice of the time appointed for hearing the application shall be given to each creditor who has proved.

(6) The application shall not be heard until after the conclusion of the public examination of the debtor. Any creditor who has proved may be heard by the Court in opposition to the application notwithstanding that he may at a meeting of creditors have voted for the acceptance of the proposal.

(7) For the purpose of approving a composition or scheme by joint debtors the Court may, if it thinks fit and on the report of the Official Receiver that it is expedient so to do, dispense with the public examination of any of the joint debtors if they are or any one of them is prevented from attending the examination by illness or absence from Brunei but one at least of such joint debtors shall be publicly examined.

(8) The Court shall before approving the proposal hear a report of the Official Receiver as to the terms thereof and as to the conduct of the debtor and any objections which may be made by or on behalf of any creditor.

(9) If the Court is of opinion that the terms of the proposal are not reasonable or are not calculated to benefit the general body of creditors or in any case in which the Court is required, where the debtor is adjudged bankrupt, to refuse his discharge the Court shall refuse to approve the proposal.

(10) If any facts are proved on proof of which the Court would be required either to refuse, suspend or attach conditions to the debtor's discharge were he adjudged bankrupt the Court shall refuse to approve the proposal unless it provides reasonable security for the payment of not less than 25 *per cent* on all the unsecured debts provable against the debtor's estate.

(11) In any other case the Court may either approve or refuse to approve the proposal.

(12) If the Court approves the proposal, the approval may be testified by the seal of the Court being attached to the instrument containing the terms of the proposed composition or scheme, or by the terms being embodied in an order of the Court.

Form 70

(13) A composition or scheme accepted and approved in pursuance of this section shall be binding on all the creditors so far as relates to any debts due to them from the debtor and provable in bankruptcy.

(14) A certificate of the Official Receiver that a composition or scheme has been duly accepted and approved shall, in the absence of fraud, be conclusive as to its validity.

Forms 72, 73,
98, 101

(15) The provisions of a composition or scheme under this section may be enforced by the Court on application by any person interested, and any disobedience of an order of the Court made on the application shall be deemed a contempt of Court.

(16) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court on satisfactory evidence that the composition or scheme cannot, in consequence of legal difficulties or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the Court was obtained by fraud the Court may, if it thinks fit, on application by the Official Receiver or the trustee or by any creditor, adjudge the debtor bankrupt and annul the composition or scheme but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this subsection any debt provable in other respects which has been contracted before the adjudication shall be provable in the bankruptcy.

(17) If under or in pursuance of a composition or scheme a trustee is appointed to administer the debtor's property or manage his business or to distribute the composition, section 29 and Part V shall apply as if the trustee were a trustee in a bankruptcy and as if the terms "bankruptcy", "bankrupt" and "order of adjudication" included respectively a composition or scheme of arrangement, a

compounding or arranging debtor and an order approving the composition or scheme.

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

(19) No composition or scheme shall be approved by the Court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of a bankrupt.

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

21. Notwithstanding the acceptance and approval of a composition or scheme shall not be binding on any creditor so far as regards a debt or liability from which under the provisions of this Act the debtor would not be released by an order of discharge in bankruptcy, unless the creditor assents to the composition or scheme.

Effect of
composition
or scheme

Adjudication of bankruptcy

22. (1) Where a receiving order is made against a debtor, then if the creditors at the first meeting or any adjournment thereof by ordinary resolution resolve that the debtor be adjudged bankrupt or pass no resolution or if the creditors do not meet or if a composition or scheme is not approved in pursuance of this Act within 14 days after the conclusion of the examination of the debtor or such further time as the Court may allow the Court shall adjudge the debtor bankrupt and thereupon the property of the bankrupt shall become divisible among his creditors and shall vest in a trustee.

Adjudication
of bank-
ruptcy where
composition
not accepted
or not
approved
Forms 27, 78

(2) Notice of every order adjudging a debtor bankrupt, stating the name, address and description of the bankrupt, the date of the adjudication and the name of the trustee, shall be gazetted and shall be advertised in a local newspaper and the date of the order shall for the purposes of this Act be the date of the adjudication.

(3) It shall be sufficient that an adjudication order against a firm be made in the firm name without mentioning the names of the partners, and such adjudication order shall affect the joint and separate property of all the partners.

Appointment
of trustee

23. (1) Where a debtor is adjudged bankrupt or the creditors have resolved that he be adjudged bankrupt the creditors may by ordinary resolution appoint the Official Receiver or some other fit person, whether a creditor or not, to fill the office of trustee of the property of the bankrupt or they may resolve to leave his appointment to the committee of inspection hereinafter mentioned. A person shall be deemed not fit to act as trustee of the property of a bankrupt where he has been previously removed from the office of trustee of a bankrupt's property for misconduct or neglect of duty.

(2) The person appointed shall, unless he is the Official Receiver, give such security as the Court may direct or as may be prescribed and the Court, if satisfied with the security, shall certify under the hand of the Registrar that his appointment has been duly made unless the appointment is disapproved by the Court on the ground that it has not been made in good faith by a majority in value of the creditors voting or that the person appointed is not fit to act as trustee, or that his connexion with or relation to the bankrupt or his estate or any particular creditor makes it difficult for him to act with impartiality in the interests of the creditors generally.

(3) The appointment of a trustee shall take effect as from the date of the certificate.

(4) When a debtor is adjudged bankrupt after the first meeting of creditors has been held and a trustee has not been appointed prior to the adjudication, the Official Receiver shall forthwith summon a meeting of creditors for the purpose of appointing a trustee. If no trustee is then appointed by the creditors the Court shall on the application of the Official Receiver appoint the Official Receiver or some other fit person to be trustee.

24. (1) The creditors qualified to vote may at their first or any subsequent meeting, by resolution, appoint a committee of inspection for the purpose of superintending the administration of the bankrupt's property by the trustee.

Committee of
inspection

(2) The committee of inspection shall consist of not more than five nor less than three persons, possessing one or other of the following qualifications —

(a) that of being a creditor or the holder of a general proxy or general power of attorney from a creditor;

Provided that no creditors and no holder of a general proxy or general power of attorney from a creditor shall be qualified to act as a member of the committee of inspection until the creditor has proved his debt and the proof has been admitted; or

(b) that of being a person to whom a creditor intends to give a general proxy or general power of attorney:

Provided that no such person shall be qualified to act as a member of the committee of inspection until he holds such a proxy or power of attorney, and until the creditor has proved his debt and the proof has been admitted.

(3) The committee of inspection shall meet at such times as they shall from time to time appoint and, failing such appointment, at least once a month and the trustee or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(4) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present at the meeting.

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

(6) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from 5 consecutive meetings of the committee his office shall thereupon become vacant.

(7) Any member of the committee may be removed by an ordinary resolution at any meeting of creditors of which 7 days' notice has been given stating the object of the meeting.

(8) On a vacancy occurring in the office of a member of the committee the trustee shall forthwith summon a meeting of creditors for the purpose of filling the vacancy and the meeting may by resolution appoint another creditor or other person eligible as above to fill the vacancy.

(9) The continuing members of the committee, provided there be not less than two such continuing members, may act notwithstanding any vacancy in their body, and where the number of members of the committee of inspection is for the time being less than five the creditors may increase that number so that it does not exceed five.

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

25. (1) Where a debtor is adjudged bankrupt the creditors may, if they think fit, at any time after the adjudication, by a majority in number and three-fourths in value of all the creditors who have proved, resolve to accept a proposal or a composition in satisfaction of the debts due to them under the bankruptcy or for a scheme of arrangement of the bankrupt's affairs, and thereupon the same proceedings shall be taken and the same consequences shall ensue as in the case of a composition or scheme accepted before adjudication.

Power to accept composition or scheme after adjudication. Forms 31, 64, 65, 66

(2) If the Court approves the composition or scheme it may make an order annulling the bankruptcy and vesting the property of the bankrupt in him or in such other person as the Court may appoint, on such terms and subject to such conditions, if any, as the Court may declare.

(3) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay or that the approval of the Court was obtained by fraud the Court may, if it thinks fit, on application by any person interested, adjudge the debtor bankrupt and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this subsection all debts, provable in other respects, which have been contracted before the date of such adjudication shall be provable in the bankruptcy.

Control over person and property of debtor

Duties of debtor as to discovery and realization of property

26. (1) Every debtor against whom a receiving order is made shall, unless prevented by sickness or other sufficient cause, attend the first meeting of his creditors and shall submit to such examination and give such information as the meeting may require.

(2) He shall give such inventory of his property, such list of his creditors and debtors and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, attend such other meetings of his creditors, wait at such times on the Official Receiver, special manager or trustee, execute such powers of attorney, conveyances, deeds and instruments and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors as may be reasonably required by the Official Receiver, special manager or trustee or may be provided by this Act, or be prescribed or be directed by the Court by any special order or orders made in reference to any particular case or made on the occasion of any special application by the Official Receiver, special manager, trustee or any creditor or person interested.

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

Forms 99,
102, 104

(4) If a debtor wilfully fails to perform the duties imposed on him by this section or to deliver up possession of any part of his property, which is divisible amongst his creditors under this Act and which is for the time being in his possession or under his control to the Official Receiver or to the trustee or to any person authorized by the Court to take possession of it he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of Court and may be punished accordingly.

27. (1) The Court may, by warrant addressed to any person or persons named therein, cause a debtor to be arrested, and any books, papers, money and goods in his possession or under his control or relating to his affairs to be seized and him and them to be safely kept as prescribed until such time as the Court may order under the following circumstances —

Arrest of debtor under certain circumstances Forms 109, 110

(a) if, after a bankruptcy notice has been issued under this Act or after presentation of a bankruptcy petition by or against him, it appears to the Court that there is probable cause for believing that he has absconded or is about to abscond, with a view of avoiding payment of the debt in respect of which the bankruptcy notice was issued or of avoiding service of a bankruptcy petition, or of avoiding appearance to any such petition or of avoiding examination in respect of his affairs or of otherwise avoiding, delaying or embarrassing proceedings in bankruptcy against himself;

(b) if, after presentation of a bankruptcy petition by or against him, it appears to the Court that there is probable cause for believing that he is about to dispose of or remove his goods with a view to preventing or delaying possession being taken of them by the Official Receiver or trustee or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods or any books, documents or writings which might be of use to his creditors in the course of his bankruptcy;

(c) if, after service of a bankruptcy petition on him or after a receiving order is made against him, he removes any goods in his possession above the value of \$25 without the leave of the Official Receiver or trustee;

(d) if without good cause shewn he fails to attend any examination ordered by the Court; or

(e) there is probable cause for believing that he has committed an offence punishable under this Act:

Provided that no arrest upon a bankruptcy notice shall be valid and protected unless the debtor before or at the time of his arrest is served with such bankruptcy notice.

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

Re-direction
of debtor's
telegrams
and letters.
Form 111

28. Where a receiving order is made against a debtor the Court, on the application of the Official Receiver or trustee, may from time to time order that for such time not exceeding 3 months as the Court thinks fit telegrams and letters and other postal packets, addressed to the debtor at any place or places mentioned in the order for re-direction, shall be re-directed, sent or delivered by the agent of the telegraph organization or the Postmaster General, or the officers acting under them to the Official Receiver or the trustee or otherwise as the Court directs and the same shall be done accordingly.

Inquiry as to
debtor's con-
duct, dealings
and property
Forms 112 to
116

29. (1) The Court may, on the application of the Official Receiver or trustee, at any time after a receiving order has been made against a debtor, summon before it the debtor or his wife or any person known or suspected to have in his possession any of the estate or effects belonging to the debtor or supposed to be indebted to the debtor or any person whom the Court may deem capable of giving information respecting the debtor, his dealings or property, and the Court may require any such person to produce any documents in his custody or power relating to the debtor, his dealings or property.

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

(3) The Court may, by itself or by a commissioner appointed for the purpose, examine on oath, either by word of mouth or by written interrogatories, any person so brought before it concerning the debtor, his dealings or property.

(4) If any person on examination before the Court admits that he is indebted to the debtor, the Court may, on the application of the Official Receiver or trustee, order him to pay to the Official Receiver or trustee, at such time and in such manner as to the Court seems expedient, the amount admitted or any part thereof, either in full discharge of the whole amount in question or not, as the Court thinks fit, with or without costs of the examination.

(5) If any person on examination before the Court admits that he has in his possession any property belonging to the debtor the Court may, on the application of the Official Receiver or trustee, order him to deliver to the Official Receiver or trustee such property or any part thereof, at such time and in such manner and on such terms as to the Court may seem just.

(6) The Court may, if it thinks fit, order that any person who if in Brunei would be liable to be brought before it under this section shall be examined in any place out of Brunei by a commissioner appointed for the purpose.

(7) Where a debtor or his wife or any other witness whose evidence has been duly taken under this Act dies, the deposition of the person so deceased purporting to be sealed

with the seal of the Court or a copy thereof purporting to be so sealed shall, in all legal proceedings, be admitted as evidence of the matters therein deposed to saving all just exceptions.

Discharge of Bankrupt

Discharge of
bankrupt.
Forms 81 to
90

30. (1) A bankrupt may at any time after being adjudged bankrupt apply to the Court for an order of discharge, and the Court shall appoint a day for hearing the application, but the application shall not be heard until the public examination of the bankrupt is concluded. The application shall, except when the Court in accordance with rules under this Act otherwise directs, be heard in open Court.

(2) Where the bankrupt does not of his own accord, within such time as the Court may deem reasonable, apply for his discharge the Court may, of its own motion or on the application of the Official Receiver or the trustee or any creditor who has proved, make an order calling upon the bankrupt to come up for his discharge on a day to be fixed by the Court and, on due service of the order, if the bankrupt does not appear on the day fixed thereby the Court may make such order as it thinks fit, subject to the provisions of this section, and the debtor shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of Court and may be punished accordingly.

(3) On the hearing of the application or on the day on which the bankrupt has been ordered to come up for his discharge or any subsequent day, the Court shall take into consideration a report of the Official Receiver as to the bankrupt's conduct and affairs (including a report as to the bankrupt's conduct during the proceedings under his bankruptcy) and may either grant or refuse an absolute order of discharge or suspend the operation of the order for a specified time or grant an order of discharge subject to any conditions with respect to any earnings or income which

may afterwards become due to the bankrupt or with respect to property which may afterwards be acquired by him:

Provided that where the bankrupt has committed any offence under this Act, or any other offence connected with his bankruptcy or where in any case any of the facts hereinafter mentioned are proved the Court shall —

(a) refuse the discharge;

(b) suspend the discharge for such period as the Court thinks proper;

(c) suspend the discharge until a dividend of not less than 50 *per cent* has been paid to the creditors; or

(d) require the bankrupt as a condition of his discharge to consent to judgment being entered against him by the Official Receiver or trustee for any balance of the debts provable under the bankruptcy which is not satisfied at the date of the discharge, such balance or part of any balance of the debts to be paid out of the future earnings or after acquired property of the bankrupt in such manner and subject to such conditions as the Court may direct; but execution shall not be issued on the judgment without leave of the Court, which leave may be given on proof that the bankrupt has since his discharge acquired property or income available towards payment of his debts:

Provided that, if at any time after the expiration of 2 years from the date of any order made under this section the bankrupt satisfies the Court that there is no reasonable probability of his being in a position to comply with the terms of such order, the Court may modify the terms of the order or of

any substituted order in such manner and upon such conditions as it may think fit.

(4) The facts hereinbefore referred to are —

(a) that the bankrupt's assets are not of a value equal to 50 *per cent* of his unsecured liabilities, unless he satisfies the Court that the fact that his assets are not of a value of 50 *per cent* of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible;

(b) that the bankrupt has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the 3 years immediately preceding his bankruptcy, or that such books have not been available for the trustee during the bankruptcy proceedings, unless they have been accidentally lost or destroyed, the onus of proof of such accidental loss or destruction being on the bankrupt;

(c) that the bankrupt has continued to trade after knowing himself to be insolvent;

(d) that the bankrupt has contracted any debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation (proof whereof shall lie on him) of being able to pay it;

(e) that the bankrupt has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;

(f) that the bankrupt has brought on or contributed to his bankruptcy by rash and hazardous

speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs;

(g) that the bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against him;

(h) that the bankrupt has brought on or contributed to his bankruptcy by incurring unjustifiable expense by bringing a frivolous or vexatious action;

(i) that the bankrupt has within 3 months preceding the date of the receiving order, when unable to pay his debts as they become due, given an undue preference to any of his creditors;

(j) that the bankrupt has within 3 months preceding the date of the receiving order incurred liabilities with a view to making his assets equal to 50 *per cent* of his unsecured liabilities;

(k) that the bankrupt has on any previous occasion, whether in Brunei or elsewhere, been adjudged bankrupt or made a composition or arrangement with his creditors; or

(l) that the bankrupt has been guilty of any fraud or fraudulent breach of trust.

(5) The Court may, on proof to its satisfaction of any of the facts mentioned in paragraphs (b), (c), (d), (f), (g), (h), (i) or (l) of subsection (4) summarily sentence the bankrupt to imprisonment for one year.

(6) For the purpose of this section, a bankrupt's assets shall be deemed of a value equal to 50 *per cent* of his

unsecured liabilities when the Court is satisfied that the property of the bankrupt has realized or is likely to realize or with due care in realization might have realized an amount equal to 50 *per cent* of his unsecured liabilities and a report by the Official Receiver or trustee shall, until the contrary is proved, be evidence of the amount of such liabilities.

(7) For the purposes of this section, the report of the Official Receiver shall, until the contrary is proved be evidence of the statements therein contained.

(8) Notice of the appointment by the Court of the day for hearing the application for discharge shall be published as the Court may direct or as may be prescribed and shall be sent 14 days at least before the day so appointed to each creditor who has proved and the Court may hear the Official Receiver and the trustee and may also hear any creditor. At the hearing the Court may put such questions to the debtor and receive such evidence as it may think fit.

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

(10) A discharged bankrupt shall, notwithstanding his discharge, give such assistance as the trustee may require in the realization and distribution of such of his property as is vested in the trustee, and if he fails to do so he shall be guilty of a contempt of Court; and the Court may also, if it thinks fit, revoke his discharge but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done subsequent to the discharge but before its revocation.

31. In either of the following cases, that is to say —

(a) in the case of a settlement made before and in consideration of marriage where the settlor is

not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; or

(b) in the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest (not being money or property of or in right of his wife)

if the settlor is adjudged bankrupt or compounds or arranges with his creditors and it appears to the Court that such settlement, covenant or contract was made in order to defeat or delay creditors or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made the Court may refuse or suspend an order of discharge or grant an order subject to conditions or refuse to approve a composition or arrangement, as the case may be, in like manner as in cases where the debtor has been guilty of fraud.

32. (1) An order of discharge shall not release the bankrupt —

Effect of
order of dis-
charge

(a) from any debt or recognizance nor from any debt with which the bankrupt may be chargeable at the suit of the Government or of any person for any offence against a statute relating to any branch of the public revenue or at the suit of any public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence and he shall not be discharged from such excepted debts unless the State Financial Officer certify in writing his consent to his being discharged therefrom; or

(b) from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party or from any debt or liability whereof

he has obtained forbearance by any fraud to which he was a party.

(2) An order of discharge shall release the bankrupt from all other debts provable in bankruptcy.

(3) An order of discharge shall be conclusive evidence of the bankruptcy and of the validity of the proceedings therein and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order the bankrupt may plead that the cause of action occurred before his discharge.

(4) An order of discharge shall not release any person who at the date of the receiving order was a partner or co-trustee with the bankrupt or was jointly bound or had made any joint contract with him or any person who was surety or in the nature of a surety for him.

Power of Court to annul adjudication in certain cases

33. (1) Where in the opinion of the Court a debtor ought not to have been adjudged bankrupt or where the Court is satisfied that the assets for division among the unsecured creditors after payment of all costs, charges and expenses and the debts which are preferential under this Act are not and will not be sufficient to pay a dividend of 15 *per cent*, or where it is proved to the satisfaction of the Court that the debts of the bankrupt are paid in full, the Court may, on the application of any person interested, by order annul the adjudication.

(2) Where an adjudication is annulled under this section all sales and dispositions of property and payments duly made and all acts theretofore done by the Official Receiver, trustee or other person acting under their authority or by the Court shall be valid, but the property of the debtor who was adjudged bankrupt shall vest in such person as the Court may appoint or in default of any such appointment revert to the debtor for all his estate or interest therein on

such terms and subject to such conditions, if any, as the Court may declare by order.

(3) Notice of the order annulling an adjudication shall be forthwith gazetted and shall be advertised in a local newspaper.

(4) For the purposes of this section, any debt disputed by a debtor shall be considered as paid in full if the debtor enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt with costs and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into Court.

PART III

Administration of Property

Proof of debts

34. (1) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise or breach of trust shall not be provable in bankruptcy.

Description
of debts prov-
able in bank-
ruptcy

(2) A person having notice of any act of bankruptcy available against the debtor shall not prove under the order for any debt or liability contracted by the debtor subsequently to the date of his so having noticed.

(3) Save as aforesaid all debts and liabilities, present or future, certain or contingent, to which the debtor is subject at the date of the receiving order or to which he may become subject before his discharge by reason of any obligation incurred before the date of the receiving order shall be deemed to be debts provable in bankruptcy.

(4) An estimate shall be made by the trustee of the value of any debt or liability provable as aforesaid which by reason of its being subject to any contingency or contingencies or for any other reason does not bear a certain value.

(5) Any person aggrieved by any estimate made by the trustee as aforesaid may appeal to the Court.

(6) If in the opinion of the Court the value of the debt or liability is incapable of being fairly estimated the Court may make an order to that effect, and thereupon the debt or liability shall, for the purposes of this Act, be deemed to be a debt not provable in bankruptcy.

(7) If in the opinion of the Court the value of the debt or liability is capable of being fairly estimated the Court may direct the value to be assessed before the Court itself without the intervention of a jury and may give all necessary directions for this purpose and the amount of the value when assessed shall be deemed to be a debt provable in bankruptcy.

(8) For the purposes of this Act, "liability" shall include —

(a) any compensation for work or labour done;

(b) any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement or undertaking, whether the breach does or does not occur or is or is not likely to occur or capable of occurring before the discharge of the debtor; and

(c) generally, any express or implied engagement, agreement or undertaking to pay or capable of resulting in the payment of money or money's worth whether the payment is, as respects amount,

fixed or unliquidated or as respects time, present or future or certain or dependent on any one contingency or on 2 or more contingencies or, as to mode of valuation, capable of being ascertained by fixed rules or as matter of opinion.

35. Where there have been mutual credits, mutual debts or other mutual dealings between a debtor against whom a receiving order is made under this Act and any other person proving or claiming to prove a debt under the receiving order an account shall be taken of what is due from the one party to the other in respect of such mutual dealings and the sum due from the one party shall be set off against any sum due from the other party and the balance of the account and no more, shall be claimed or paid on either side respectively; but a person shall not be entitled under this section to claim the benefit of any set-off against the property of a debtor in any case where he had, at the time of giving credit to the debtor, notice of an act of bankruptcy committed by the debtor and available against him.

Mutual credit
and set-off

36. The Chief Justice may, with the approval of His Majesty in Council, make rules with respect to the mode of proving debts, the right of proof by secured and other creditors, the admission and rejection of proofs and other matters.

Rules as to
proof of
debts

37. (1) The assets remaining after payment of the actual expenses incurred in realizing any of the assets of the debtor shall, subject to any order of the Court, first be liable to the following payments which shall be made in the following order of priority, namely —

Priority of
costs and
charges

(a) actual expenses incurred by the Official Receiver in protecting or attempting to protect the property or assets of the debtor or any part thereof and any expenses or outlay incurred by him or by his authority in carrying on the business of the debtor;

(b) the fees, percentages and charges payable to, or costs, charges and expenses incurred or authorized by, the Official Receiver where acting as Official Receiver or trustee;

(c) the remuneration of the special manager, if any; and

(d) the taxed costs of the petitioner, so far as the same may not have been disallowed by the Court.

(2) Whenever the Court is satisfied that property of a debtor in respect of whose estate a receiving order has been made has been preserved for the benefit of the creditors by means of legal proceedings brought by a creditor against the debtor without notice of any available act of bankruptcy committed by the debtor the Court may in its discretion order the payment of the costs of such legal proceedings or any part of them (taxed as between party and party) out of the estate with the same priority as to payment as is herein provided in respect of the taxed costs of the petitioner.

Priority of debts

38. (1) In the distribution of the property of a bankrupt there shall be paid in priority to all other debts —

Cap. 57

(a) all rates due under the provisions of the Municipal Boards Act from the bankrupt at the date of the date of the receiving order and having become due and payable within 12 months next before that time;

(b) income tax assessed on the bankrupt up to the 31st day of December next before the date of the receiving order and not exceeding in the whole one year's assessment; and

(c) all wages or salary of any clerk, servant, labourer or workman not exceeding \$1,000 for each whether payable for time or piece work or whether or not payable wholly or in part by way of commission in respect of services rendered to the bankrupt during the period of 5 months next before the date of the receiving order or the date of the termination of his service if the latter occurs within 12 months of and precedes the date of the receiving order:

Provided that, without prejudice to the conditions and restrictions imposed upon contracts and agreements to labour by the Labour Act, where any clerk, servant, labourer or workman has entered into a contract for the payment of his wages or any part thereof in a lump sum at the end of the year of hiring the priority under this section shall extend to the whole of such sum or a part thereof, as the Court may decide to be due under the contract, proportionate to the time of service up to the date of the receiving order. Cap. 93

(2) The foregoing debts shall rank equally between themselves and shall be paid in full unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) Subject to the provisions contained in section 37 and to the retention of such sums as may be necessary for the costs of administration or otherwise, the foregoing debts shall be discharged forthwith so far as the property of the debtor is sufficient to meet them.

(4) In the event of a landlord or other person distraining or having distrained on any goods or effects of a bankrupt within 3 months next before the date of the receiving order the debts to which priority is given by this section

shall be a first charge on the goods or effects so distrained on or the proceeds of the sale thereof:

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom such payment is made.

(5) This section shall apply in the case of a deceased person who dies insolvent as if he were a bankrupt and as if the date of his death were substituted for the date of the receiving order.

Form 154

(6) In the case of partners the joint estate shall be applicable in the first instance in payment of their joint debts and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts. If there is a surplus of the separate estates, it shall be dealt with as part of the joint estate. If there is a surplus of the joint estate, it shall be dealt with as part of the respective separate estates in proportion to the right and interest of each partner in the joint estate.

(7) Subject to the provisions of this Act, all debts proved in the bankruptcy shall be paid *pari passu*.

(8) If there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date of the receiving at the rate of 8 *per cent per annum* on all debts proved in the bankruptcy.

Preferential
claims in case
of appren-
ticeship

39. (1) Where at the time of the presentation of the bankruptcy petition any person is apprenticed or is an articulated clerk to the bankrupt the adjudication of bankruptcy shall, if either the bankrupt or the apprentice or clerk gives notice in writing to the trustee to that effect, be a complete discharge of the indenture of apprenticeship or articles of agreement; and if any money has been paid by or on behalf of the apprentice or clerk to the bankrupt as a fee the trus-

tee may, on the application of the apprentice or clerk or of some person on his behalf, pay such sum as the trustee, subject to an appeal to the Court, thinks reasonable out of the bankrupt's property to or for the use of the apprentice or clerk regard being had to the amount paid by him or on his behalf and to the time during which he served with the bankrupt under the indenture or articles before the commencement of the bankruptcy and to the other circumstances of the case.

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

40. The landlord or other person to whom any rent is due from the bankrupt may, subject to the provisions of any written law relating to distress for rent, at any time either before or after the commencement of the bankruptcy, distrain upon the goods or effects of the bankrupt for the rent due to him from the bankrupt with this limitation that if such distress for rent be levied after the commencement of the bankruptcy it shall be available only for 6 months' rent accrued due prior to the date of the order of adjudication and shall not be available for rent payable in respect of any period subsequent to the date when the distress was levied but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the surplus due for which the distress may not have been available.

Landlord's
power of dis-
tress

41. (1) Where a married woman has been adjudged bankrupt, her husband shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by him to her until all claims of the other creditors of his wife for valuable consideration in money or money's worth have been satisfied.

Postpone-
ment of hus-
band's and
wife's claims

(2) Where a debtor has been adjudged bankrupt, any money or other estate of his wife lent or entrusted by her to him shall be treated as assets of his estate and the wife shall not be entitled to claim any dividend as a creditor in respect of any such money or other estate until all claims of the other creditors of the debtor for valuable consideration in money or money's worth have been satisfied.

(3) In this section "married woman" and "wife" include "concubine".

Property available for payment of debts

Relation
back of trustee's title

42. The bankruptcy of a debtor, whether it takes place on the debtor's own petition or upon that of a creditor or creditors, shall be deemed to have relation back to and to commence at the time of the act of bankruptcy being committed on which a receiving order is made against him, or if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to and to commence at the time of the first of the acts of bankruptcy proved to have been committed by the bankrupt within 3 months next preceding the date of the presentation of the bankruptcy petition, but no bankruptcy petition, receiving order or adjudication shall be rendered invalid by reason of any act of bankruptcy anterior to the debt of the petitioning creditor.

Description
of bankrupt's
property divisible
amongst creditors

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

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

(b) the tools (if any) of his trade and the necessary wearing apparel and bedding of himself and his family dependent on and residing with him to a value, inclusive of tools and apparel and bedding, not exceeding \$500 in the whole:

But it shall comprise the following particulars —

- (i) all such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy or may be acquired by or devolve on him before his discharge;
- (ii) the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or before his discharge; and
- (iii) all goods being at the commencement of the bankruptcy in the possession, order or disposition of the bankrupt, in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof:

Provided that things in action other than debts due or growing due to the bankrupt in the course of his trade or business shall not be deemed goods within the meaning of this section.

44. (1) Where a second or subsequent receiving order is made against a bankrupt, or where an order is made for the administration in bankruptcy of the estate of a deceased bankrupt, then for the purposes of any proceedings consequent upon such order the trustee in the last preceding bankruptcy shall be deemed to be a creditor in respect of any unsatisfied balance of the debts provable against the property of the bankrupt in that bankruptcy.

Provisions as
to second
bankruptcy

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

deceased bankrupt, any property acquired by him since he was last adjudged bankrupt, which at the date when the subsequent petition was presented had not been distributed amongst the creditors in such last preceding bankruptcy, shall, subject to any disposition thereof made by the Official Receiver or trustee in that bankruptcy, without knowledge of the presentation of the subsequent petition, and subject to the provisions of section 52, vest in the trustee in the subsequent bankruptcy or administration in bankruptcy, as the case may be.

(3) Where the trustee in any bankruptcy receives notice of a subsequent petition in bankruptcy against the bankrupt or after his decease of a petition for the administration of his estate in bankruptcy, the trustee shall hold any property then in his possession which has been acquired by the bankrupt since he was adjudged bankrupt until the subsequent petition has been disposed of, and if on the subsequent petition an order of adjudication or an order for the administration of the estate in bankruptcy is made, he shall transfer all such property or the proceeds thereof (after deducting his costs and expenses) to the trustee in the subsequent bankruptcy or administration in bankruptcy, as the case may be.

Effect of bankruptcy on antecedent and other transactions

Restriction of
rights of
creditor
under
execution or
attachment

45. (1) Where a creditor has issued execution against the property of a debtor or has attached any debt due to him, he shall not be entitled to retain the benefit of the execution or attachment against the trustee in bankruptcy of the debtor unless he has completed the execution or attachment before the date of the receiving order and before notice of the presentation of any bankruptcy petition by or against the debtor, or of the commission of any available act of bankruptcy by the debtor.

(2) For the purposes of this Act, an execution shall be deemed to be completed —

(a) in the case of movable property in the possession of the debtor or of negotiable instruments or of money, by receipt or recovery by the judgment creditor of the full amount of the levy, after due compliance by the bailiff with the provisions of section 46;

(b) in the case of movable property to which the debtor is entitled subject to a lien or right of some person to the immediate possession thereof, by attachment by prohibitory order and sale;

(c) in the case of lands, houses or other immovable property or any interest therein, either at law or in equity, by attachment by prohibitory order and due registration thereof in the appropriate Land Office;

(d) in the case of an attachment of a debt not being a negotiable instrument, by receipt of the debt;

(e) in the case of shares in any public company or corporation, by attachment by prohibitory order;

(f) in the case of property in the custody or under the control of any public officer in his official capacity or in *custodia legis*, by attachment by prohibitory order duly obtained and served; and

(g) in the case of an equitable interest in lands, houses or other immovable property, by the appointment of a receiver or manager.

(3) An execution completed as aforesaid is not invalid by reason only of its being an act of bankruptcy, and a person who purchases the goods in good faith under a sale

by the bailiff shall in all cases acquire a good title to them against the trustee in bankruptcy.

Duties of
bailiff as to
goods taken
in execution

46. (1) Where any movable property or negotiable instruments or money of a debtor are taken in execution and before the receipt or recovery by the judgment creditor of the full amount of the levy, notice is served on the bailiff that a receiving order has been made against the debtor the bailiff shall on request deliver the movable property, negotiable instruments or money or any money received in satisfaction or part satisfaction of the execution to the Official Receiver, but the costs of the execution shall be a first charge on the property so delivered and the Official Receiver or trustee may sell the movable property or negotiable instruments or an adequate part thereof or apply the money for the purpose of satisfying the charge.

(2) Where, under an execution in respect of a judgment for a sum exceeding \$500, the property of a debtor is sold or money is paid in order to avoid sale, the bailiff shall deduct his costs of the execution from the proceeds of sale or the money paid and pay the balance into Court, and if within 14 clear days of such sale or payment as aforesaid a bankruptcy petition is presented by or against the debtor, the said balance shall remain in Court and if the debtor is adjudged bankrupt the balance shall be paid out to the trustee in the bankruptcy, who shall be entitled to retain the same against the execution creditor but otherwise it shall be dealt with as if no bankruptcy petition had been presented.

Avoidance of
certain settle-
ments

47. (1) Any settlement of property not being a settlement made before and in consideration of marriage or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife shall, if the settlor becomes bankrupt within 2 years after the date of the settlement, be void against the trustee in the bankruptcy, and shall, if the settlor becomes bankrupt at any

subsequent time within 10 years after the date of the settlement, be void against the trustee in the bankruptcy, unless the parties claiming under the settlement can prove that the settlor was at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement and that the interest of the settlor in such property passed to the trustee of such settlement on the execution thereof.

(2) Any covenant or contract made by any person (hereinafter called the settlor) in consideration of his or her marriage, either for the future payment of money for the benefit of the settlor's wife or husband or children or for the future settlement on or for the settlor's wife or husband or children of property, wherein the settlor had not at the date of the marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property in right of the settlor's wife or husband, shall if the settlor is adjudged bankrupt and the covenant or contract has not been executed at the date of the commencement of his bankruptcy, be void against the trustee in the bankruptcy except so far as it enables the persons entitled under the covenant or contract to claim for dividend in the settlor's bankruptcy under or in respect of the covenant or contract, but any such claim to dividend shall be postponed until all claims of the other creditors for valuable consideration in money or money's worth have been satisfied.

(3) Any payment of money (not being payment of premiums on a policy of life assurance), or any transfer of property made by the settlor in pursuance of such a covenant or contract as aforesaid, shall be void against the trustee in the settlor's bankruptcy unless the persons to whom the payment or transfer was made prove —

(a) that the payment or transfer was made more than 2 years before the date of the commencement of the bankruptcy;

(b) that at the date of the payment or transfer the settlor was able to pay all his debts without the aid of the money so paid or the property so transferred; or

(c) that the payment or transfer was made in pursuance of a covenant or contract to pay or transfer money or property expected to come to the settlor from or on the death of a particular person named in the covenant or contract and was made within 3 months after the money or property came into the possession or under the control of the settlor;

but, in the event of any such payment or transfer being declared void, the persons to whom it was made shall be entitled to claim for dividend under or in respect of the covenant or contract in like manner as if it had not been executed at the commencement of the bankruptcy.

(4) For the purposes of this section, "settlement" shall include any conveyance or transfer of property.

Avoidance of
general
assignments
of book debts
unless reg-
istered

48. (1) Where a person engaged in any trade or business makes an assignment to any other person of his existing or future book debts or any class thereof and is subsequently adjudicated bankrupt the assignment shall be void against the trustee as regards any book debts which have not been paid at the commencement of the bankruptcy unless the assignment has been registered with the Registrar in a register to be kept by him for that purpose:

Provided that nothing in this section shall have effect so as to render void any assignment of books 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 value, or in any assignment of assets for the benefit of creditors generally.

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

49. (1) Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor or of any person in trust for any creditor with a view to giving such creditor or any surety or guarantor for the debt due to such creditor, a preference over the other creditors shall, if the person making, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within 3 months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy.

Avoidance of preference in certain cases

(2) This section shall not affect the rights of any person making title in good faith and for valuable consideration through or under a creditor of the bankrupt.

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

Protection of transactions made in good faith without notice

(a) any payment by the bankrupt to any of his creditors;

(b) any payment or delivery to the bankrupt;

(c) any conveyance or assignment by the bankrupt for valuable consideration; or

(d) any contract, dealing or transaction by or with the bankrupt for valuable consideration;

Provided that both the following conditions are complied with, namely —

(a) that the payment, delivery, conveyance, assignment, contract, dealing or transaction, as the case may be, takes place before the date of the receiving order; and

(b) that the person (other than the debtor) to, by or with whom the payment, delivery, conveyance, assignment, contract, dealing or transaction was made, executed or entered into has not at the time of the payment, delivery, conveyance, assignment, contract, dealing or transaction notice of any available act of bankruptcy committed by the bankrupt before that time.

(2) Where any money or property of a bankrupt has, on or after the date of the receiving order but before notice thereof has been gazetted in the prescribed manner, been paid or transferred by a person having possession of it to some other person, and the payment or transfer is under the provisions of this Act void as against the trustee in the bankruptcy, then if the person by whom the payment or transfer was made proves that when it was made he had not had notice of the receiving order, any right of recovery which the trustee may have against him in respect of the money or property shall not be enforced by any legal proceedings except where and in so far as the Court is satisfied that it is not reasonably practicable for the trustee to recover in respect of the money or property or of some part thereof from the person to whom it was paid or transferred.

Validity of
certain pay-
ments to
bankrupt and
assignee

51. A payment of money or delivery of property to a person subsequently adjudged bankrupt or to a person claiming by assignment from him shall, notwithstanding anything in this Act, be a good discharge to the person paying the money or delivering the property if the payment or delivery is made before the actual date on which the

receiving order is made and without notice of the presentation of a bankruptcy petition and is either pursuant to the ordinary course of business or otherwise in good faith.

52. (1) All transactions by a bankrupt with any person dealing with him in good faith and for value, in respect of property, whether real or personal, acquired by the bankrupt after the adjudication, shall, if completed before any intervention by the trustee, be valid against the trustee, and any estate or interest in such property which by virtue of this Act is vested in the trustee shall determine and pass in such manner and to such extent as may be required for giving effect to any such transaction. For the purposes of this subsection, the receipt of any money, security or negotiable instrument from or by the order or direction of a bankrupt by his banker, and any payment and any delivery of any security or negotiable instrument made to or by the order or direction of a bankrupt by his banker, shall be deemed to be a transaction by the bankrupt with such banker dealing with him for value.

Deals with
undischarged
bankrupt

(2) Where any individual, company or firm has ascertained that a person having a deposit, whether a deposit in respect of capital or not, or a credit balance with such individual, company or firm is an undischarged bankrupt, then it shall be the duty of such individual, company or firm forthwith to inform the Official Receiver and the trustee in the bankruptcy of the existence of the deposit or credit balance, and such individual, company or firm shall not make any payment out of or in respect of the deposit or credit balance except under an order of the Court or in accordance with instructions from the Official Receiver or the trustee in the bankruptcy.

(3) In the case of any contravention of the provisions of subsection (2) the individual or the directors and officers of the company, or the partners and manager of the firm, as the case may be, shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 2 years.

Realisation of property

Possession of
property by
trustee

53. (1) The trustee shall as soon as may be take possession of the deeds, books and documents of the bankrupt and all other parts of his property capable of manual delivery.

(2) The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position as if he were a receiver of the property appointed by the Court, and the Court may on his application enforce such acquisition or retention accordingly.

(3) Where any part of the property of the bankrupt consists of stock, shares in ships, shares, or any other property transferrable in the books of any company, office or person, the trustee may exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt.

(4) Where any part of the property of the bankrupt consists of things in action, such things shall be deemed to have been duly assigned to the trustee.

Forms
100, 103

(5) Subject to the provisions of this Act with respect to property acquired by a bankrupt after adjudication, any treasurer or other officer, or any banker, attorney, clerk, servant, comprador, employer or agent, of a bankrupt, shall pay and deliver to the trustee all money and securities in his possession or power, which he is not by law entitled to retain as against the bankrupt or the trustee. If he does not, he shall be guilty of a contempt of Court and may be punished accordingly on the application of the trustee.

Seizure of
property of
bankrupt

54. Any person acting under warrant of the Court may seize any part of the property of a bankrupt, or of a debtor against whom a receiving order has been made, in the custody or possession of the bankrupt or the debtor or of any other person, and with a view to such seizure may break

open any house, building or room of the bankrupt or the debtor where the bankrupt or the debtor is supposed to be, or any building or receptacle of the bankrupt or the debtor where any of his property is supposed to be; and where the Court is satisfied that there is reason to believe that property of a bankrupt, or of a debtor against whom a receiving order has been made, is concealed in a house or place not belonging to him, the Court may if it thinks fit grant a search warrant to any police officer or officer of the Court, who may execute it according to its tenor.

Form 108

55. Where a bankrupt is possessed of any property out of Brunei, the trustee shall require him to join in selling the same for the benefit of the creditors and to sign all necessary authorities, powers, deeds and documents for the purpose, and if and so often as the bankrupt refuses to do so he may be punished for a contempt of Court.

Sale of property out of Brunei

56. (1) Where a bankrupt is an officer of the armed forces and the police force of Brunei or public officer or where a bankrupt is in receipt of any part or pension from the Government or is entitled to any allowance or compensation granted by the Government, the trustee shall receive for distribution among the creditors so much of the bankrupt's pay, salary, pension, allowance or compensation as the Court, with the consent of His Majesty, on the application of the trustee, may direct.

Appropriation of portion of pay, etc., to creditors.
Forms
118, 120

(2) Where a bankrupt is in receipt of a salary or income other than as aforesaid, the Court on the application of the trustee may from time to time make such order as it thinks just for the payment of the salary or income or of any part thereof to the trustee to be applied by him in such manner as the Court may direct.

(2) Nothing in this section shall take away or abridge any power to dismiss a bankrupt or to declare the pay,

Rules
Form 121

pension, allowance, compensation, salary or income of any bankrupt to be forfeited.

Appropriation of income of property restrained from anticipation. Forms 119, 122

57. When a married woman who has been adjudged bankrupt has property the income of which is subject to a restraint on anticipation the Court shall have power, on the application of the trustee, to order that, during such time as the Court may order, the whole or some part of such income be paid to the trustee for distribution amongst the creditors, and in the exercise of such power the Court shall have regard to the means of subsistence available for the woman and her children.

Vesting and transfer of property

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

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

(3) The property of the bankrupt shall pass from trustee to trustee, including under that term the Official Receiver when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment or transfer whatever.

Disclaimer of onerous property. Forms 123 to 130

59. (1) Where any part of the property of the bankrupt consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act or to the payment of any sum of money, the trustee, notwithstanding that he has endeavoured to sell or has taken possession of the property or exercised any act of ownership in relation thereto, but subject to the provisions of this section, may, by writing signed by him, at any time within 12 months after

the first appointment of a trustee or such extended period as may be allowed by the Court, disclaim the property:

Provided that, where any such property has not come to the knowledge of the trustee within one month after such appointment, he may disclaim such property at any time within 12 months after he has become aware thereof or such extended period as may be allowed by the Court.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests and liabilities of the bankrupt and his property in or in respect of the property disclaimed, and shall also discharge the trustee from all personal liability in respect of the property disclaimed as from the date when the property vested in him, but shall not, except so far as is necessary for the purpose of releasing the bankrupt and his property and the trustee from liability, affect the rights or liabilities of any other person.

(3) A trustee shall not be entitled to disclaim a lease without the leave of the Court, except in any cases which may be prescribed by general rules, and the Court may, before or on granting such leave, require such notices to be given to persons interested, and impose such terms as a condition of granting leave and make such orders with respect to fixtures, tenant's improvements and other matters arising out of the tenancy, as the Court thinks just.

(4) The trustee shall not be entitled to disclaim any property in pursuance of this section in any case where an application in writing has been made to the trustee by any person interested in the property requiring him to decide whether he will disclaim or not and the trustee has for a period of 28 days after the receipt of the application, or such extended period as may be allowed by the Court, declined or neglected to give notice whether he disclaims the property or not; and in the case of a contract, if the trustee after such application as aforesaid does not within the said period

or extended period disclaim the contract, he shall be deemed to have adopted it.

(5) The Court may, on the application of any person who is, as against the trustee, entitled to the benefit or subject to the burden of a contract made with the bankrupt, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise, as to the Court may seem equitable, and any damages payable under the order to any such person may be proved by him as a debt under the bankruptcy.

(6) The Court may, on application by any person claiming either to have any interest in any disclaimed property or to be under any liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or delivery thereof to any person entitled thereto or to whom it may seem just that the same should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just; and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided that where the property disclaimed is of a leasehold nature the Court shall not make a vesting order in favour of any person claiming under the bankrupt, whether as under-lessee or as mortgagee by demise except upon the terms of making that person —

(a) subject to the same liabilities and obligations as the bankrupt was subject to under the lease in respect of the property at the date when the bankruptcy petition was filed; or

(b) if the Court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date,

and in the event (if the case so requires) subject only to the same liabilities and obligations as if the lease has comprised only the property comprised in the vesting order; and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and if there is no person claiming under the bankrupt who is willing to accept an order upon such terms, the Court shall have power to vest the bankrupt's estate and interest in the property in any person liable either personally or in a representative character and either alone or jointly with the bankrupt to perform the lessee's covenants in the lease, freed and discharged from all estates, incumbrances and interests created therein by the bankrupt.

(7) Where on the release, removal, resignation or death of a trustee in bankruptcy the Official Receiver is acting as trustee, he may disclaim any property which might be disclaimed by a trustee under the foregoing provisions, notwithstanding that the time prescribed by this section for such disclaimer has expired, but such power of disclaimer shall be exercisable only within 12 months after the Official Receiver has become trustee in the circumstances aforesaid or has become aware of the existence of such property, whichever period may last expire.

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

60. Subject to the provisions of this Act and to any order of the Court, the trustee may do all or any of the following things —

Powers of trustee to deal with property

(a) sell all or any part of the property of the bankrupt (including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt), by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels, and any transfer of a business of a bankrupt by the Official Receiver or trustee shall be deemed to be exempted from the provisions of any written law relating to the fraudulent transfer of businesses;

(b) give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof;

(c) prove, rank, claim and draw a dividend in respect of any debt due to the bankrupt; and

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

Powers exercisable by trustee with permission of committee of inspection

61. (1) The trustee may, with the permission of the committee of inspection, do all or any of the following things —

(a) carry on the business of the bankrupt so far as may be necessary for the beneficial winding up of the same;

(b) bring, institute or defend any action or other legal proceeding relating to the property of the bankrupt;

(c) employ an advocate or other agent to take any proceedings or do any business which may be sanctioned by the committee of inspection;

(d) accept as the consideration for the sale of any property of the bankrupt a sum of money payable at a future time subject to such stipulations as to security and otherwise as the committee thinks fit;

(e) mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts;

(f) refer any dispute to arbitration, or compromise any debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt, on the receipt of such sums, payable at such times and generally on such terms as may be agreed on;

(g) make such compromise or other arrangement as may be thought expedient with creditors or persons claiming to be creditors in respect of any debts provable under the bankruptcy;

(h) make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the trustee by any person or by the trustee on any person; and

(i) divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

(2) The permission given for the purposes of this section shall not be a general permission to do all or any of

the above-mentioned things but shall only be a permission to do the particular thing or things for which permission is sought in the specified case or cases.

Power to allow bankrupt to manage property

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

Allowance to bankrupt for maintenance or service

63. The trustee may from time to time, with the permission of the committee of inspection, make such allowance as he may think just to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate, but any such allowance may be reduced by the Court.

Right of trustee to inspect goods pawned, etc.

64. Where any goods of a debtor against whom a receiving order has been made are held by any person by way of pledge, pawn or other security, it shall be lawful for the Official Receiver or trustee, after giving notice in writing of his intention to do so, to inspect the goods, and where such notice has been given, such person as aforesaid shall not be entitled to realize his security until he has given the trustee a reasonable opportunity of inspecting the goods and of exercising his right of redemption if he thinks fit to do so.

Limitation of trustee's powers in relation to copyright

65. Where the property of a bankrupt comprises the copyright in any work or any interest in such copyright and he is liable to pay to the author of the work royalties or a share of the profits in respect thereof, the trustee shall not be entitled to sell or authorize the sale of any copies of the work, or to perform or authorize the performance of the work, except on the terms of paying to the author such sums by way of royalty or share of the profits as would have been payable by the bankrupt, nor shall he, without the consent of the author or of the Court, be entitled to assign the right

or transfer the interest or to grant any interest in the right by licence, except upon terms which will secure to the author payments by way of royalty or share of the profits at a rate not less than that which the bankrupt was liable to pay.

66. Where the Official Receiver or trustee has seized or disposed of any goods, chattels, property or other effects in the possession or on the premises or under the control of a debtor against whom a receiving order has been made and it is thereafter made to appear that the said goods, chattels, property or other effects were not at the date of the receiving order the property of the debtor, the Official Receiver or trustee shall not be personally liable for any loss or damage arising from the seizure or disposal sustained by any person claiming such property nor for the costs of any proceedings taken to establish a claim thereto, unless the Court is of opinion that the Official Receiver or trustee has been guilty of bad faith or of gross negligence in respect of the same.

Protection of
Official Re-
ceiver and
trustee from
personal
liability in
certain cases

Distribution of property

67. (1) Subject to the retention of such sums as may be necessary for the costs of administration, or otherwise, the trustee shall with all convenient speed declare and distribute dividends amongst the creditors who have proved their debts.

Declaration
and distribu-
tion of di-
vidends.
Forms
138, 139, 141

(2) The first dividend, if any, shall be declared and distributed within 4 months after the conclusion of the first meeting of creditors, unless the trustee satisfies the Court that there is sufficient reason for postponing the declaration to a later date.

(3) Subsequent dividends shall, in the absence of sufficient reason to the contrary, be declared and distributed at intervals of not more than 6 months.

(4) Before declaring a dividend, the trustee shall cause notice of his intention to do so to be gazetted and shall also send reasonable notice thereof to each creditor mentioned in the bankrupt's statement who has not proved his debt.

(5) When the trustee has declared a dividend he shall cause to be gazetted and shall send to each creditor who has proved a notice showing the amount of the dividend and when and how it is payable.

Joint and
separate di-
vidends

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

(2) Where joint and separate properties are being administered, dividends of the joint and separate properties shall, unless otherwise directed by the Court on the application of any person interested, be declared together and the expenses of and incidental to such dividends shall be fairly apportioned by the trustee between the joint and separate properties, regard being had to the work done for and the benefit received by each property.

Provision for
creditors re-
siding at a
distance, etc

69. (1) In the calculation and distribution of a dividend the trustee shall make provision for debts provable in bankruptcy appearing from the bankrupt's statements, or otherwise, to be due to persons resident in places so distant from Brunei that in the ordinary course of communication they have not had sufficient time to tender their proofs or to establish them if disputed and also for debts provable in bankruptcy the subject of claims not yet determined.

(2) He shall also make provision for any disputed proofs or claims and for the expenses necessary for the administration of the estate or otherwise.

(3) Subject to the foregoing provisions he shall distribute as dividend all money in hand.

70. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any money for the time being in the hands of the trustee and dividend or dividends he may have failed to receive before that money is applied to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

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

71. (1) Where a debt has been proved and the debt includes interest or any pecuniary consideration in lieu of interest, such interest or consideration shall, for the purposes of dividend, be calculated at a rate not exceeding 8 *per cent per annum* and be calculated only up to the date of the receiving order, without prejudice to the right of a creditor to receive out of the estate any higher rate of interest to which he may be entitled after all the debts proved in the state have been paid in full.

Interest on debts

(2) In dealing with the proof of the debt the following rules shall be observed —

(a) any account settled between the debtor and the creditor within 3 years preceding the date of the receiving order may be examined and if it appears that the settlement of the account forms substantially one transaction with any debt alleged to be due out of the debtor's estate (whether in the form of renewal of a loan or capitalization of interest or ascertainment of loans or otherwise) the account may be reopened and the whole transaction treated as one;

(b) any payments made by the debtor to the creditor before the receiving order, whether by

way of bonus or otherwise, and any sums received by the creditor before the receiving order from the realization of any security for the debt shall, notwithstanding any agreement to the contrary, be appropriated to principal and interest in the proportion that the principal bears to the sum payable as interest at the agreed rate; and

(c) where the debt due is secured and the security is realized after the receiving order or the value thereof is assessed in the proof the amount realized or assessed shall be appropriated to the satisfaction of principal and interest in the proportion that the principal bears to the sum payable as interest at the agreed rate.

Final
dividend

72. (1) Where the trustee has realized all the property of the bankrupt or so much thereof as can be realized without needlessly protracting the trusteeship, he shall declare a final dividend but before so doing he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified to him but not established to his satisfaction that if they do not establish their claims to the satisfaction of the Court within a time limited by the notice, he will proceed to make a final dividend without regard to their claims.

(2) After the expiration of the time so limited or if the Court on application by any such claimant grants him further time for establishing his claim then on the expiration of such further time, the property of the bankrupt shall be divided among the creditors who have proved their debts, without regard to the claims of any other persons.

No action for
dividend

73. No action for a dividend shall lie against the trustee but if the trustee refuses to pay any dividend the Court may, if it thinks fit, order him to pay it and also to pay out of his own money interest thereon for the time that it is withheld and the costs of the application.

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

Right of bankrupt to surplus

PART IV

Official Receiver

75. (1) Subject to the provisions of subsection (2), His Majesty may appoint such persons as he thinks fit to be Official Receiver and deputy official receiver of debtors' estates under this Act.

Appointment of Official Receiver

(2) The Official Receiver shall act under the general authority and direction of the Minister and shall also be an officer of the Court.

(3) Every deputy official receiver shall have all the powers conferred on the Official Receiver by this Act.

(4) Every deputy official receiver shall act under the general authority and direction of the Official Receiver for the time being or, if there be no Official Receiver for the time being, under the general authority and direction of the Minister, and shall also be an officer of the Court.

76. (1) The duties of the Official Receiver shall have relation both to the conduct of the debtor and to the administration of his estate.

Status of Official Receiver

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

(3) All provisions in this Act or any other written law referring to the trustee in a bankruptcy shall, unless the context otherwise requires or the Act otherwise provides, include the Official Receiver when acting as trustee.

(4) The trustee shall supply the Official Receiver with such information, and give him such access to and facilities for inspecting the bankrupt's books and documents, and generally shall give him such aid, as may be requisite for enabling the Official Receiver to perform his duties under this Act.

Duties of
Official
Receiver as
regards the
debtor's con-
duct

77. As regards the debtor, it shall be the duty of the Official Receiver —

(a) to investigate the conduct of the debtor and to report to the Court, stating whether there is reason to believe that the debtor has committed any act which constitutes a misdemeanor under this Act or which would justify the Court in refusing, suspending or qualifying an order for his discharge;

(b) to conduct the public examination of the debtor; and

(c) to take such part and give such assistance in relation to the prosecution of any fraudulent debtor as the Public Prosecutor may direct.

Duties of Of-
ficial Receiv-
er as to de-
btor's estate

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

(a) pending the appointment of a trustee, to act as *interim* receiver of the debtor's estate, and

where a special manager is not appointed, as manager thereof;

(b) to raise money in any case where in the interests of the creditors it appears necessary so to do;

(c) to summon and preside at the first meeting of creditors;

(d) to issue forms of proxy for use at the meetings of creditors; Forms 50, 51

(e) to report to the creditors as to any proposal which the debtor may have made with respect to the mode of liquidating his affairs;

(f) to advertise the receiving order, the date of the creditors' first meeting and of the debtor's public examination, and such other matters as it may be necessary to advertise; Form 27

(g) to act as trustee during any vacancy in the office of trustee; and

(h) to assist the debtor in preparing his statement of affairs in case the debtor has no solicitor acting for him and is unable properly to prepare it himself, and for this purpose he may employ at the expense of the estate any person or persons to assist in its preparation.

(2) For the purpose of his duties as *interim* receiver or manager the Official Receiver shall have the same powers as if he were a receiver and manager appointed by the Court, but shall, as far as practicable, consult the wishes of the creditors with respect to the management of the debtor's property, and may for that purpose, if he thinks it advisable, summon meetings of the persons claiming to be creditors,

and shall not, unless the Court otherwise orders, incur any expense beyond such as is requisite for the protection of the debtor's property or the disposing of perishable goods.

(3) The Official Receiver shall account to the Court and pay over all moneys and deal with all securities in such manner as the Court from time to time directs.

PART V

Trustees in Bankruptcy

Official name

Official name
of trustee

79. The official name of a trustee in bankruptcy shall be "*the trustee of the property of a bankrupt*" (inserting the name of the bankrupt), and by that name the trustee may hold property of every description, make contracts, sue and be sued, enter into any engagements binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office.

Appointment

Power to
appoint joint
or successive
trustees

80. (1) The creditors may, if they think fit, appoint more persons than one to the office of trustee and, when more persons than one are appointed, shall declare whether any act required or authorized to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are in this Act included under the term "trustee" and shall be joint tenants of the property of the bankrupt.

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

81. (1) If a vacancy occurs in the office of a trustee the creditors in general meeting may appoint a person to fill the vacancy and thereupon the same proceedings shall be taken as in the case of a first appointment.

Proceedings
in case of
vacancy in
office of trustee

(2) The Official Receiver shall, on the requisition of any creditor, summon a meeting for the purpose of filling any such vacancy.

(3) If the creditors do not within 3 weeks after the occurrence of a vacancy appoint a person to fill the vacancy the Official Receiver shall report the matter to the Court and the Court may appoint a trustee.

(4) During any vacancy in the office of trustee the Official Receiver shall act as trustee.

Control over trustee

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

Discretionary
powers of
trustee and
control thereof

(2) The trustee may from time to time summon general meetings of the creditors for the purpose of ascertaining their wishes and it shall be his duty to summon meetings at such times as the creditors, by resolution, either at the meeting appointing the trustee or otherwise, may direct and it shall be lawful for any creditor, with the concurrence of one-fourth in value of the creditors (including himself), at any time to request the trustee or Official Receiver to call a meeting of the creditors, and the trustee or Official Receiver shall call such meeting accordingly within 14 days:

Provided that the person at whose instance the meeting is summoned shall, if so required, deposit with the trustee or the Official Receiver, as the case may be, a sum sufficient to pay the costs of summoning the meeting, such sum to be repaid to him out of the estate if the Court so directs.

Forms
131, 132

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

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

Appeal to
Court against
trustee

83. If the bankrupt or any of the creditors or any other person is aggrieved by any act or decision of the trustee he may apply to the Court and the Court may confirm reverse or modify the act or decision complained of, and make such order in the premises as it thinks just.

Control of
Court over
trustee

84. (1) The Court shall take cognizance of the conduct of trustees and in the event of any trustee not faithfully performing his duties and duly observing all the requirements imposed on him by Act, rules or otherwise with respect to the performance of his duties, or in the event of any complaint being made to the Court by any creditor in regard thereto by notice duly served on the trustee at least 8 clear days before the date of hearing, the Court shall inquire into the matter and take such action thereon as may be deemed expedient.

(2) The Court may either of its own motion or on the application of the Official Receiver at any time require any trustee to answer any inquiry made by it or him in relation to any bankruptcy in which the trustee is engaged and may examine on oath the trustee or any other person concerning the bankruptcy.

(3) The Court may also direct an investigation to be made of the books and vouchers of the trustee.

Remuneration and costs

85. (1) Where the creditors appoint any person to be trustee of a debtor's estate his remuneration (if any) shall be in the nature of a commission or percentage of which one part shall be payable on the amount realized by the trustee, after deducting any sums paid to secured creditors out of the proceeds of their securities, and the other part on the amount distributed in dividend. Such percentages shall be as the Court may approve or as may be prescribed.

Remuneration of trustee

(2) The remuneration shall cover all expenses except actual out of pocket expenses properly incurred and no liability shall attach to the bankrupt's estate or to the creditors in respect of any other expenses.

(3) Where a trustee acts without remuneration he shall be allowed out of the bankrupt's estate such proper expenses incurred by him in or about the proceedings of the bankruptcy as the Court may approve.

(4) A trustee shall not under any circumstances whatever make any arrangement for or accept from the bankrupt, or any advocate, auctioneer or any other person who may be employed about a bankruptcy, any gift, remuneration or pecuniary or other consideration or benefit whatever beyond his said remuneration payable out of the estate nor shall he make any arrangement for giving up or give up any part of his remuneration, whether as receiver, manager or trustee, to the bankrupt or any advocate or other person who may be employed about a bankruptcy.

86. (1) Where a trustee or manager receives remuneration for his services as such, no payment shall be allowed in his accounts in respect of the performance by any other

Allowance and taxation of costs

person of the ordinary duties which are required by Act or rules to be performed by himself.

(2) Where the trustee is an advocate he may contract that the remuneration for his services as trustee shall include all professional services.

(3) All bills and charges of advocates, managers, accountants, auctioneers, brokers and other persons, not being trustees, shall be taxed by the Registrar and no payments in respect thereof shall be allowed in the trustee's accounts without proof of such taxation having been made. The Registrar shall satisfy himself before passing such bills and charges that the employment of such advocates and other persons, in respect of the particular matters out of which such charges arise, has been duly sanctioned. The sanction must be obtained before the employment, except in cases of urgency, and in such cases it must be shown that no undue delay took place in obtaining the sanction.

(4) Every such person shall, on request by the trustee (which request the trustee shall make a significant time before declaring a dividend), deliver his bill of costs or charges to the Registrar for taxation, and if he fails to do so within 7 days after receipt of the request or such further time as the Court on application may grant, the trustee shall declare and distribute the dividend without regard to any claim by him, and thereupon any such claim shall be forfeited as well against the trustee personally as against the estate.

Receipts, payments, accounts, audit

Trustee to
furnish list of
creditors

87. The trustee or Official Receiver shall, whenever required by any creditor so to do, furnish and transmit to him by post a list of the creditors showing the amount of the debt due to each creditor, and shall be entitled to charge for such list the sum of \$2 for each page or part thereof.

88. It shall be lawful for any creditor, with the concurrence of one-fourth of the creditors (including himself), at any time to call upon the trustee or Official Receiver to furnish and transmit to the creditors a statement of the accounts up to the date of such notice, and the trustee shall upon receipt of such notice furnish and transmit such statement of the accounts:

Trustee to furnish statement of accounts Form 150

Provided that the person at whose instance the accounts are furnished shall, if so required, deposit with the trustee or Official Receiver, as the case may be, a sum sufficient to pay the costs of furnishing and transmitting the accounts which sum shall be repaid to him out of the estate if the Court so directs.

89. (1) Every trustee in a bankruptcy shall from time to time, as may be prescribed, and not less than once in every year during the continuance of the bankruptcy transmit to the Official Receiver a statement showing the proceedings in the bankruptcy up to the date of the statement and containing the prescribed particulars and made out in the prescribed form.

Annual statement of proceedings Form 146

(2) The Official Receiver shall cause the statements so transmitted to be examined, and shall call the trustee to account for any misfeasance, neglect or omission which may appear on the said statements or in his accounts or otherwise and may apply to the Court for an order that the trustee do make good any loss which the estate of the bankrupt may have sustained by the misfeasance, neglect or omission.

90. No trustee in a bankruptcy or under any composition or scheme of arrangement shall pay any sums received by him as trustee into his private banking account or use them otherwise than in the administration of the estate.

Trustee not to pay into private account

91. (1) The Official Receiver shall open in his name as Official Receiver an account at a bank approved by the Minister and shall pay to the credit thereof all sums received

Payment of monies into bank

by him as such Official Receiver or as trustee, and every trustee in a bankruptcy, other than the Official Receiver, receiving money as such trustee shall open an account at such bank in the name of the debtor's estate and shall pay to the credit of such account all sums which may from time to time be received by him as such trustee.

(2) If a trustee at any time retains for more than 10 days a sum exceeding \$500 or such other amount as the Court in any particular case may authorize him to retain then unless he explains the retention to the satisfaction of the Court he shall pay interest on the amount so retained in excess at the rate of 20 *per cent per annum*, and shall have no claim to remuneration and may be removed from his office by the Court and shall be liable to pay any expenses occasioned by reason of his default.

(3) Any trustee paying money into his private banking account or using it otherwise than in the administration of the estate may without prejudice to any other liability be dismissed from office without remuneration and may be ordered by the Court to make good all losses and expenses which the creditors may suffer in consequence of his conduct.

Record and
account to be
kept by trustee

92. (1) The trustee shall keep a record in writing in which he shall enter a minute of all proceedings had and resolutions passed at any meeting of creditors or of the committee of inspection and a statement of all negotiations and proceedings necessary to give a correct view of the management of the bankrupt's property. Such record shall be produced for inspection to the Official Receiver at any time on demand.

(2) The trustee shall also keep an account, to be called the estate account, in the form of an ordinary debtor and creditor account, in which he shall enter from day to day all his receipts and payments as trustee.

(3) The trustee shall produce at every meeting of creditors and at every meeting of the committee of inspection the record and account above mentioned and also the passbook of the estate's bank account and such documents shall be open to the inspection of any creditor at all reasonable times.

93. (1) Every trustee other than the Official Receiver shall, at such times as may be prescribed but not less than once in each year during his tenure of office, send to the Official Receiver an account of his receipts and payments as such trustee.

Audit of trustee's accounts.
Form 146

(2) The account shall be in a prescribed form, shall be sent in duplicate and shall be verified by a statutory declaration in the prescribed form.

(3) The Official Receiver shall cause the accounts so sent to be audited and for the purposes of the audit the trustee shall furnish the Official Receiver with such vouchers and information as he may require and the Official Receiver may at any time require the production of and inspect any books or accounts kept by the trustee.

(4) When any such account has been audited it shall be filed and kept by the Official Receiver and shall be open on payment of the prescribed fee to the inspection of any creditor or of the bankrupt or of any person interested.

(5) The Court may if it desires examine the trustee and after hearing the explanation, if any, of the trustee, make such order as it may think just for compelling the trustee to make good any loss to the estate which, after such audit or examination, may appear to the Court to have been occasioned by any misfeasance, neglect or improper conduct or omission of the trustee.

Vacation of office by trustee

Release of
trustee.
Forms
137, 152, 153

94. (1) When the trustee has realized all the property of the bankrupt or so much thereof as can, in his opinion, be realized without needlessly protracting the trusteeship and distributed a final dividend, if any, or has ceased to act by reason of a composition having been approved or has resigned or has been removed from his office, he shall apply to the Court for his release, and if all the requirements of the Court with respect to accounts and with respect to any order of the Court against the trustee have been fulfilled, the Court may make an order for release accordingly.

(2) Where the release of a trustee is withheld the Court may, on the application of any creditor or person interested, make such order as it thinks just, charging the trustee with the consequences of any act or default he may have done or made contrary to his duty.

(3) An order of the Court releasing the trustee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt or otherwise in relation to his conduct as trustee but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) The foregoing provisions of this section shall apply to the Official Receiver when he is or is acting as trustee and when the Official Receiver has been released under this section or any previous similar written law he shall continue to act as trustee for any subsequent purposes of the administration of the debtor's estate but no liability shall attach to him personally by reason of his so continuing in respect of any act done, default made or liability incurred before his release.

(5) Where the trustee has not previously resigned or been removed, his release shall operate as a removal of him

from his office, and thereupon the Official Receiver shall be the trustee.

(6) Where on the release of a trustee the Official Receiver is or is acting as trustee, no liability shall attach to him personally in respect of any act done or default made or liability incurred by any prior trustee.

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

Office of trustee vacated by insolvency

96. (1) The creditors may by ordinary resolution, at a meeting specially called for that purpose of which 7 days' notice has been given, remove a trustee, other than the Official Receiver, appointed by them, and may at the same or any subsequent meeting appoint another person to fill the vacancy as provided in case of a vacancy in the office of trustee.

Removal of trustee

(2) If the Court is of opinion —

(a) that a trustee appointed by the creditors is guilty of misconduct or fails to perform his duties under this Act;

(b) that his trusteeship is being needlessly protracted without any probable advantage to the creditors;

(c) that he is by reason of lunacy or continued sickness or absence incapable of performing his duties;

(d) that his connexion with or relation to the bankrupt or his estate or any particular creditor might make it difficult for him to act with impartiality in the interest of the creditors generally; or

(e) that the interests of the creditors require it, the Court may remove him from his office and appoint another person in his place.

PART VI

Constitution, Procedure and Powers of Court

Jurisdiction

General
power of
Court

97. (1) Subject to the provisions of this Act, the Court shall have full power to decide all questions of priorities and all other questions whatsoever, whether of law or fact, which may arise in any case of bankruptcy coming within the cognizance 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.

Rules
Form 133

(2) If in any proceeding in bankruptcy there arises any question of fact which either of the parties desires to be tried before the Court sitting with assessors instead of by the Court itself or which the Court thinks ought to be tried by the Court sitting with assessors, the Court may if it thinks fit direct the trial to be had with assessors and the trial may be had accordingly.

Review and appeals

Review and
appeals in
bankruptcy

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

(2) Every order of the Court shall be subject to appeal to the Court of Appeal. The appeal shall be commenced within 21 days from the time when the decision appealed against is pronounced or made.

Procedure

99. (1) The rules and practice of the Supreme Court for the time being for regulating the ordinary civil procedure of the Court shall, so far as the same may be applicable and not inconsistent with the provisions of this Act, be applied to bankruptcy proceedings and every order of the Court made in connexion with bankruptcy proceeding may be enforced in the same way as a judgment of the Court made in respect of any other civil proceedings may be enforced.

General rules
of procedure

(2) The Registrar shall in cases of urgency have power to make *interim* orders and to hear and determine unopposed or *ex parte* applications and any order so made shall, subject to an appeal to the Court, be deemed to be an order of the Court.

100. (1) Subject to the provisions of this Act and to general rules, the costs of and incidental to any proceeding in Court under this Act shall be in the discretion of the Court:

Discretionary
powers of
Court

Provided that, where any issue is tried by a Court sitting with assessors, the costs shall follow the event unless, upon application made at the trial, for good cause shown, the judge before whom such issue is tried otherwise orders.

(2) The Court may at any time adjourn any proceedings before it upon such terms, if any, as it may think fit to impose.

(3) The Court may at any time amend any written process or proceeding under this Act upon such terms, if any, as it may think fit to impose.

(4) Where by this Act or by general rules the time for doing any act or thing is limited the Court may extend the time either before or after the expiration thereof upon such terms, if any, as the Court may think fit to impose.

(5) Subject to general rules, the Court may in any matter take the whole or any part of the evidence orally or by interrogatories or upon affidavit or, out of Brunei, by commission.

Consolidation of petitions

101. Where 2 or more bankruptcy petitions are presented against the same debtor or against joint debtors the Court may consolidate the proceedings or any of them on such terms as the Court thinks fit.

Power to change carriage of proceedings

102. Where the petitioner does not proceed with due diligence on his petition the Court may either dismiss the petition or substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the place of the petitioning creditor.

Continuance of proceedings on death of debtor

103. If a debtor by or against whom a bankruptcy petition has been presented dies the proceedings in the matter shall, unless the Court otherwise orders, be continued as if he were alive.

Power to stay proceedings

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

Power to present petition against one partner

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

Power to dismiss petition against some respondents only

106. Where there are more respondents than one to a petition the Court may dismiss the petition as to one or more of them without prejudice to the effect of the petition as against the other or others of them.

Actions by trustee and bankrupt's partners

107. Where a member of a partnership is adjudged bankrupt the Court may authorize the trustee to commence and prosecute any action in the names of the trustees and of the

bankrupt's partner; and any release by such partner of the debt or demand to which the action relates shall be void; but notice of the application for authority to commence the action shall be given to him, and he may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the Court directs.

108. Where a bankrupt is a contractor in respect of any contract jointly with any person or persons, such person or persons may sue or be sued in respect of the contract without the joinder of the bankrupt.

Actions on
joint con-
tracts

109. Any two or more persons, being partners, or any person carrying on business under a partnership name may take proceedings or be proceeded against under this Act in the name of the firm, but in such case the Court may, on application by any person interested, order the names of the persons who are partners in such firm or the name of such person to be disclosed in such manner, and verified on oath or otherwise, as the Court may direct.

Proceedings
in part-
nership name

PART VII

Supplemental Provision

Disobedience to order of Court

110. Where default is made by a trustee, debtor or other person in obeying any order or direction made or given by the Court under this Act, the Court may take an immediate order for the committal of such trustee, debtor or other person for contempt of Court:

Disobedience
to order of
Court.
Forms 98,
101

Provided that the power given by this section shall be deemed to be in addition to and not in substitution for any other right, remedy or liability in respect of such default.

Application of Act

Exclusion of corporations, companies and limited partnerships. Cap. 39

111. A receiving order shall not be made against any corporation, or against any association or company registered under the Companies Act, or against any partnership registered under any written law relating to limited partnership.

Administration in bankruptcy of estate of person dying insolvent. Form 134

112. (1) Any creditor of a deceased debtor whose debt would have been sufficient to support a bankruptcy petition against the debtor, had he been alive, may present to the Court a petition in the prescribed form praying for an order for the administration in bankruptcy of the estate of the deceased debtor according to the law of bankruptcy.

(2) The petition shall be served on the legal personal representative of the deceased debtor or, if there is none in Brunei, on the Probate Officer and the Court may in the prescribed manner, upon proof of the petitioner's debt, unless the Court is satisfied that there is a reasonable probability that the estate will be sufficient for the payment of the debts owing by the deceased, make an order for the administration in bankruptcy of the deceased debtor's estate or may upon cause shown dismiss the petition with or without costs.

(3) A petition for administration in bankruptcy under this section shall not be presented to the Court after proceedings have been commenced under any written law for the administration of the deceased debtor's estate but the Court may, when satisfied that the estate is insufficient to pay its debts, make an order for the administration in bankruptcy of the estate of the deceased debtor and the like consequences shall ensue as under an administration order made on the petition of a creditor.

Form 136

(4) Upon an order being made for the administration in bankruptcy of a deceased debtor's estate the property of the debtor shall vest in the Official Receiver as trustee

thereof and he shall forthwith proceed to realize and distribute it in accordance with the provisions of this Act:

Provided that the creditors shall have the same powers as to appointment of trustees and committees of inspection as they have in other cases where the estate of a debtor is being administered or dealt with in bankruptcy, and the provisions of this Act relating to trustees and committees of inspection shall apply to trustees and committees of inspection appointed under the power so conferred. If no committee of inspection is appointed any act or thing or any direction or permission which might have been done or given by a committee of inspection may be done or given by the Court.

(5) With the modifications hereinafter mentioned, all the provisions of Part III (relating to the administration of the property of a bankrupt) and, subject to any modification that may be made therein by general rules under subsection (10) the following provisions, namely section 29 (which relates to inquiries as to the debtor's conduct, dealings and property) and section 86 (which relates to the costs of trustees, managers and other persons) shall, so far as the same are applicable, apply to the case of an administration order under this section in like manner as to an order of adjudication under this Act, and section 40 shall apply as if for the reference to an order of adjudication there were substituted a reference to an administration order under this section.

(6) In the administration of the property of the deceased debtor under an order of administration the Official Receiver or trustee shall have regard to any claim by the legal personal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate and such claims shall be deemed a preferential debt under the order and shall, notwithstanding anything to the contrary in the

provisions of this Act relating to the priority of other debts, be payable in full out of the debtor's estate in priority to all other debts.

(7) If on the administration of a deceased debtor's estate any surplus remains in the hands of the Official Receiver or trustee after payment in full of all the debts due from the debtor together with the costs of the administration and interest as provided by this Act in case of bankruptcy, such surplus shall be paid over to the legal personal representative of the deceased debtor's estate, or failing such representative to the Probate Officer.

(8) Service on the legal personal representative of a deceased debtor or on the Probate Officer of a petition under this section shall, in the event of an order for administration being made thereon, be deemed to be equivalent to notice of an act of bankruptcy, and after such service no payment or transfer of property made by the legal personal representative shall operate as a discharge to him as between himself and the Official Receiver or trustee; save as aforesaid nothing in this section shall invalidate any payment made or any act or thing done in good faith by the legal personal representative before the date of the order for administration.

Form 135

(9) A petition for the administration of the estate of a deceased debtor under this section may be presented by the legal personal representative of the debtor or by the Probate Officer; and where a petition is so presented by such a representative or by the Probate Officer this section shall apply subject to such modifications as may be prescribed by general rules made under subsection (10).

(10) General rules for carrying into effect the provisions of this section may be made in the same manner and to the like effect and extent as in bankruptcy.

General rules

113. The Chief Justice with the approval of the Legislative Council may make general rules for carrying into effect the objects of this Act.

Power to
make general
rules

Fees and remuneration

114. (1) The Chief Justice with the approval of His Majesty in Council may prescribe a scale of fees and percentages to be charged for or in respect of proceedings under this Act.

Fees and re-
muneration

(2) The Court may remit the payment of any particular fee or fees due from any debtor, or any part thereof, either absolutely or on such terms as it may think fit.

115. All fees and commissions received by or payable to the Official Receiver on the appointment of a trustee other than himself or for acting as trustee and any remuneration received by the Official Receiver as an interim receiver or otherwise shall be paid by such officer forthwith to the State Financial Officer.

Disposal of
Official Re-
ceiver's fees

Evidence

116. (1) A minute of proceedings at a meeting of creditors under this Act signed by a person describing himself as or appearing to be chairman of the meeting shall be received in evidence without further proof.

Evidence of
proceedings
at meetings
of creditors

(2) Until the contrary is proved every meeting of creditors in respect of the proceedings whereof a minute has been so signed shall be deemed to have been duly convened and held and all resolutions passed or proceedings had thereat to have been duly passed or had.

117. Any petition or copy of a petition in bankruptcy, any order or certificate or copy of an order or certificate made

Evidence of
proceedings
in bankruptcy

by the Court, any instrument or copy of an instrument, affidavit or document made or used in the course of any bankruptcy proceedings or other proceedings had under this Act shall, if it appears to be sealed by the Registrar or is certified as a true copy by the Registrar, be receivable in evidence in all legal proceedings whatsoever.

Swearing of
affidavits

118. Subject to general rules, any affidavit to be used in a bankruptcy Court may be sworn before any person authorized to administer oaths or in the case of a person who is out of Brunei before any person qualified to administer oaths in the country where he resides.

Death of de-
btor or wit-
ness

119. In the case of the death of the debtor or his wife or of a witness whose evidence has been received by the Court in any proceeding under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposited to.

Statements
made to Of-
ficial Receiv-
er or trustee
through an
interpreter

120. Any statement made by a debtor or creditor in any bankruptcy to the Official Receiver or trustee through an interpreter shall be deemed to have been made to the Official Receiver or trustee as the case may be respectively, and evidence thereof shall be receivable from the Official Receiver or trustee on it being proved either that the interpreter employed was a sworn interpreter or that he held the substantive or acting appointment of interpreter or of clerk and interpreter, to the Official Receiver.

Certificate of
appointment
of trustee

121. A certificate of the Official Receiver that a person has been appointed trustee under this Act shall be conclusive evidence of his appointment.

Miscellaneous

122. (1) Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time the same shall be taken as exclusive of the day of that date or of the happening of that event and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of that limited time as so computed.

Computation
of time

(2) Where the limited time so appointed or allowed is less than 6 days public holidays shall not be reckoned in the computation of such time.

(3) Where the limited time so appointed or allowed expires on a public holiday the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards which is not a public holiday.

(4) The provisions of this section shall take effect notwithstanding anything in any other written law contained.

123. All notices and other documents for the service of which no special mode is directed may be sent by post to the last known address of the person to be served therewith.

Service of
notices

124. (1) No proceeding in bankruptcy shall be invalidated by any formal defect or by irregularity unless the Court is of opinion that substantial injustice has been caused by the defect or irregularity and that the injustice cannot be remedied by any order of the Court.

Formal de-
fect not to in-
validate pro-
ceedings

(2) No defect or irregularity in the appointment or election of a receiver, trustee or member of a committee of inspection shall vitiate any act done by him in good faith.

Exemption of
deeds, etc.
from stamp
duty

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

Acting of cor-
poration,
partners, etc.

126. For all or any of the purposes of this Act a corporation may act by any of its officers authorized in that behalf under the seal of the corporation, a firm may act by any of its members and a lunatic may act by his committee or *curator bonis*.

Certain pro-
visions to
bind Govern-
ment

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

Unclaimed funds or dividends

Unclaimed
and undistri-
buted di-
vidends or
funds

128. (1) Where the trustee under any bankruptcy, composition or scheme pursuant to this Act has under his control any unclaimed dividend which has remained unclaimed for more than 6 months or where, after making a final dividend, he has in his hands or under his control any unclaimed or undistributed money arising from the property of the debtor, he shall forthwith pay it to the Registrar who

shall carry the same to an account to be termed the Bankruptcy Estates Account. The Registrar's receipt for the money so paid shall be a sufficient discharge to the trustee in respect thereof.

(2) The trustee, whether he has obtained his release or not, may be called upon by the Court to account for any unclaimed funds or dividends and any failure to comply with the requisitions of the Court in this behalf may be dealt with as a contempt of Court.

(3) Any person claiming to be entitled to any moneys paid into the Bankruptcy Estates Account under this Act may, within 5 years of the date when the same was so paid in, apply to the Registrar for payment to him of the same, and the Registrar, if satisfied that the person claiming is entitled, shall make an order for the payment to such person of the sum due. Any person dissatisfied with the decision of the Registrar may appeal to the Court.

(4) After any money has remained unclaimed in the Bankruptcy Estates Account for a period of 5 years it shall be dealt with in accordance with the provisions of any written law relating to unclaimed balances.

PART VIII

Bankruptcy Offences

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

Fraudulent
debtors

(a) if he does not to the best of his knowledge and belief fully and truly discover to the trustee all his property, real and personal and how and to whom and for what consideration and when he

disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any) or laid out in the ordinary expenses of his family, unless he proves that he had no intent to defraud;

(b) if he does not deliver up to the trustee or as he directs all such part of his movable or immovable property as is in his custody or under his control and which he is required by law to deliver up unless he proves that he had no intent to defraud;

(c) if he does deliver up to the trustee, or as he directs all books, documents, papers and writings in his custody or under his control relating to his property or affairs unless he proves that he had no intent to defraud;

(d) if, after the presentation of a bankruptcy petition by or against him or within 12 months next before such presentation, he conceals any part of his property to the value of \$100 or upwards or conceals any debt due to or from him, unless he proves that he had no intent to defraud;

(e) if, after the presentation of a bankruptcy petition by or against him or within 12 months next before such presentation, he fraudulently removes any part of his property to the value of \$100 or upwards;

(f) if he makes any material omission or misstatement in any statement relating to his affairs unless he proves that he had no intent to defraud;

(g) if, knowing or having any reason to believe that a false debt has been proved by any person under the bankruptcy, he fails for the period of a month to inform the trustee thereof;

(h) if, after the presentation of a bankruptcy petition by or against him, he prevents or is privy to preventing the production of any book, document, paper or writing affecting or relating to his property or affairs unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;

(i) if, after the presentation of a bankruptcy petition by or against him or within 12 months next before such presentation, he removes, conceals, destroys, mutilates or falsifies or is privy to the removal, concealment, destruction, mutilation, or falsification of any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;

(j) if, after the presentation of a bankruptcy petition by or against him or within 12 months next before such presentation, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;

(k) if, after the presentation of a bankruptcy petition by or against him or within 12 months next before such presentation, he fraudulently parts with, alters or makes any omission in, or is privy to the fraudulently parting with, altering or making any omission in, any document affecting or relating to his property or affairs;

(l) if, after the presentation of a bankruptcy petition by or against him or at any meeting of his creditors within 12 months next before such presentation, he attempts to account for any part of his property by fictitious losses or expenses;

(*m*) if, within 12 months next before the presentation of a bankruptcy petition by or against him or after the presentation of a bankruptcy petition and before the making of a receiving order, he by any false representation or other fraud has obtained any property on credit, and has not paid for the same;

(*n*) if, within 12 months next before the presentation of a bankruptcy petition by or against him or after the presentation of a bankruptcy petition and before the making of a receiving order, he obtains under the false pretence of carrying on business, and if a trader, of dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless he proves that he had no intent to defraud;

(*o*) if, within 12 months next before the presentation of a bankruptcy petition by or against him or after the presentation of a bankruptcy petition and before the making of a receiving order, he pawns, pledges or disposes of any property which he has obtained on credit and has not paid for, unless, in the case of a trader, such pawning, pledging or disposing is in the ordinary way of his trade, and unless in any case he proves that he had no intent to defraud; or

(*p*) if he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to an agreement with reference to his affairs or to his bankruptcy;

be guilty of an offence: Penalty, imprisonment for 2 years.

(2) A person who has sent out of Brunei any property which he has obtained on credit and has not paid for shall

until the contrary is proved be deemed to have disposed of the same otherwise than in the ordinary way of his trade if, such property not having been paid or accounted for at the date of the receiving order by the person to whom the same was sent, such last-mentioned person does not pay or account for the same within a reasonable time after being called upon to do so by the trustee or cannot be found within a reasonable time.

(3) In any prosecution under paragraph (i) of subsection (1) the absence of any such book or document as is referred to in the said paragraph shall until the contrary is proved be evidence that such book or document was removed by the debtor contrary to the provisions of the said paragraph or that he was privy to its removal contrary to those provisions, and thereupon the onus shall be upon the debtor to prove that he did not so remove such book or document and that he was not privy to such removal.

(4) In any prosecution under paragraph (i) of subsection (1) the mutilation or falsification of any such book or document as is referred to in the said paragraph shall, until the contrary is proved, be evidence that such book or document was mutilated or falsified by the debtor in contravention of the provisions of the said paragraph or that he was privy to its mutilation or falsification contrary to those provisions, and thereupon the onus shall be upon the debtor to prove that he did not so mutilate or falsify the said book or document and that he was not privy to such mutilation or falsification.

(5) For the purposes of this section, the term "trustee" includes the Official Receiver, whether acting as Official Receiver or as a trustee.

130. (1) If any manager, accountant or book-keeper in the employment of the debtor does any act which if committed by the debtor would be a contravention of any of the provisions of paragraph (i) or paragraph (j) of subsection

Certain offences by persons other than the debtor

(1) of section 129, or is privy to any such act whether committed by the debtor or by any other person, such manager, accountant or book-keeper shall be deemed to be guilty of an offence: Penalty, imprisonment for 2 years.

(2) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence contrary to the provisions of paragraph (o) of subsection (1) of section 129, every person who takes in pawn or pledge or otherwise receives the property, knowing it to be pawned, pledged or disposed of in such circumstances as aforesaid, shall be guilty of an offence: Penalty, imprisonment for 2 years.

Undis-
charged
bankrupt
obtaining cre-
dit

131. Any undischarged bankrupt shall —

(a) if either alone or jointly with any other person he obtains credit to the extent of \$100 or upwards from any person without first informing that person that he is an undischarged bankrupt;

(b) if he engages in any trade or business under a name or names other than that or those under which he was adjudicated bankrupt and in the course of such trade or business obtains credit from any person without first disclosing to such person the name or names under which he was adjudicated bankrupt; or

(c) if he engages in any trade or business under a name or names other than that or those under which he was adjudicated bankrupt without first publishing, once in the *Gazette*, and in 3 successive issues of a local newspaper, a notice containing the following particulars —

(i) the name or names under which he was adjudicated bankrupt;

- (ii) the last address at which he carried on any trade or business prior to the adjudication;
- (iii) the name or names under which he intends to carry on the trade or business;
- (iv) the nature of the trade or business which he intends to carry on; and
- (v) the address or addresses at which he intends to carry it on,

be guilty of an offence: Penalty, imprisonment for 2 years.

132. Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made shall — Frauds by bankrupts, etc.

(a) if in incurring any debt or liability he has obtained credit under false pretences or by means of any other fraud;

(b) if with intent to defraud his creditors or any of them he has made or caused to be made any gift or transfer of or charge on his property;

(c) if with intent to defraud his creditors he has concealed or removed any part of his property since or within 2 months before the date of any unsatisfied judgment or order for payment of money obtained against him; or

(d) if with intent to defraud his creditors or any of them he has caused or connived at the levying of any execution against his property,

be guilty of an offence: Penalty, imprisonment for 2 years.

133. (1) Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made Bankrupt guilty of gambling etc.

shall if, having been engaged in any trade or business and having outstanding at the date of the receiving order any debts contracted in the course and for the purposes of such trade or business —

(a) he has within 2 years prior to the presentation of the bankruptcy petition materially contributed to or increased the extent of his insolvency by gambling or by rash and hazardous speculations and such gambling or speculations are unconnected with his trade or business;

(b) he has between the date of the presentation of the petition and the date of the receiving order lost any part of his estate by such gambling or rash and hazardous speculations as aforesaid; or

(c) on being required by the Official Receiver at any time, or in the course of his public examination by the Court, to account for the loss of any substantial part of his estate incurred within a period of a year next preceding the date of the presentation of the bankruptcy petition or between that date and the date of the receiving order, he fails to give a satisfactory explanation of the manner in which such loss was incurred,

be guilty of an offence: Penalty, imprisonment for 2 years:

Provided that, in determining for the purposes of this section whether any speculations were rash and hazardous, the financial position of the accused person at the time when he entered into the speculations shall be taken into consideration.

(2) A prosecution shall not be instituted against any person under this section except by order of the Court.

134. (1) Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made shall if, having been engaged in any trade or business during any period in the 2 years immediately preceding the date of the presentation of the bankruptcy petition, he has not kept proper books of account throughout that period and throughout any further period in which he was so engaged between the date of the presentation of the petition and the date of the receiving order, or has not preserved all books of account so kept, be guilty of an offence: Penalty, imprisonment for 2 years:

Bankrupt
failing to
keep proper
accounts

Provided that a person who has not kept or has not preserved such books of account shall not be convicted of an offence under this section —

(a) if his unsecured liabilities at the date of the receiving order did not exceed, in the case of a person who has not on any previous occasion in Brunei or elsewhere been adjudged bankrupt or made a composition or arrangement with his creditors, \$5,000, or in any other case \$1,000; or

(b) if he proves that in the circumstances in which he traded or carried on business the omission was honest and excusable.

(2) A prosecution shall not be instituted against any person under this section except by order of the Court.

(3) For the purposes of this section, a person shall be deemed not to have kept proper books of account if he has not kept such books or accounts as are necessary to exhibit or explain his transactions and financial position in his trade or business, including a book or books containing entries from day to day in sufficient detail of all cash received and cash paid and where the trade or business has involved dealings in goods statements of annual stock-takings, and (except in the case of goods sold by way of retail trade to the

actual consumer) accounts of all goods sold and purchased showing the buyers and sellers thereof in sufficient detail to enable the goods and the buyers and sellers thereof to be identified.

Bankrupt
absconding
with property

135. If any person who is adjudged bankrupt, or in respect of whose estate a receiving order has been made after the presentation of a bankruptcy petition by or against him or within 6 months before such presentation, quits Brunei and takes with him, or attempts or makes preparation to quit Brunei and take with him, any part of his property to the amount of \$50 or upwards which ought by law to be divided amongst his creditors he shall (unless he proves that he had no intent to defraud) be guilty of an offence: Penalty, imprisonment for 2 years.

Debtor con-
cealing him-
self to avoid
service, etc.

136. (1) If any person against whom a receiving order is made conceals himself or absents himself from his usual or last known place of abode or business or quits Brunei, with intent to avoid service or any process in bankruptcy or to avoid examination in respect of his affairs or otherwise to defeat, embarrass or delay any proceedings against him in bankruptcy, he shall be guilty of an offence: Penalty, imprisonment for 2 years:

(2) A person who, after the presentation of a bankruptcy petition by or against him or within 3 months next before such presentation, conceals or absents himself as aforesaid or quits Brunei shall until the contrary is proved be deemed to have concealed or absented himself or quitted Brunei with such intent as is mentioned in this section.

False claim,
etc.

137. If any creditor, or any person claiming to be a creditor, in any bankruptcy proceedings, wilfully and with intent to defraud makes any false claim, or any proof, declaration or statement of account which is untrue in any material particular, he shall be guilty of an offence: Penalty, imprisonment for 2 years.

138. Where the Official Receiver or a trustee in a bankruptcy reports to the Court that in his opinion a debtor who has been adjudged bankrupt or in respect of whose estate a receiving order has been made has been guilty of any offence under this Act or where the Court is satisfied upon the representation of any creditor or member of the committee of inspection that there is ground to believe that the debtor has been guilty of any such offence the Court shall, if it appears to the Court that there is a reasonable probability that the debtor will be convicted and that the circumstances are such as to render a prosecution desirable, order that the debtor be prosecuted for such offence, but no such order shall be a condition antecedent to any prosecution under this Act.

Order by Court for prosecution on report of trustee

139. Where a debtor has been guilty of any criminal offence he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved.

Criminal liability after discharge or composition

140. (1) Criminal proceedings in respect of any offence contrary to the provisions of subsection (1) of section 129, subsection (1) of section 130, section 131, section 132, subsection (1) of section 133, subsection (1) of section 134, section 135, subsection (1) of section 136 or section 137 shall not be instituted after one year from the first discovery thereof either by the Official Receiver or by the trustee in the bankruptcy or in the case of proceedings instituted by a creditor, by the creditor, nor in any case shall they be instituted after 3 years from the commission of the offence.

Trial of offences

(2) In an indictment for an offence under this Act it shall be sufficient to set forth 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 forth any debt, act of bankruptcy, trading, adjudication, or any proceedings in, or order, warrant or document of, the Court acting under this Act.

Evidence as
to fraud by
agents.
Cap. 22

141. 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 any proceedings in respect of any of the offences punishable under sections 406, 407, 408, 409 and 477A of the Penal Code (which sections relate to criminal breach of trust and falsification of accounts).

Summary
prosecution

142. Any offence under this Act may be dealt with before the Court of a Magistrate.

SUBSIDIARY LEGISLATION

Rules under section 17

MEETINGS OF CREDITORS RULES

20 of 1956,
1st Sch.

ARRANGEMENT OF RULES

Rule

1. Citation
2. Interpretation
3. First meeting of creditors
4. Notice of first meeting to be given
5. Statement of affairs
6. Meeting to be held at office of Official Receiver
7. Summoning of meetings of creditors
8. Notice to be given for meetings other than first meeting
9. Chairman
10. Voting
11. Creditor not to vote if debt not ascertained
12. Voting by secured creditors
13. Voting by creditors having debts secured by bills of exchange, etc.
14. Valuation of securities
15. Receiving order against partner
16. Powers of chairman re voting
17. Creditor may vote by proxy
18. Instrument of proxy
19. Forms of proxy to be sent with notice of meeting
20. General proxy
21. Special proxy
22. Proxies to be deposited
23. Solicited proxies

LAWS OF BRUNEI

110

CAP. 67

Bankruptcy

[Subsidiary]

Rule

24. Official Receiver may act as proxy
25. Adjournment of meetings
26. Quorum
27. Absence of quorum
28. Minutes of meetings
29. Restrictions on voting by proxy
30. Persons not entitled to vote

Commencement: 1st January 1957

- | | |
|---|---|
| Citation | 1. These rules may be cited as the Meetings of Creditors Rules. |
| Interpretation | 2. In these rules "the Act" means the Bankruptcy Act. |
| First meeting of creditors | 3. The first meeting of creditors shall be summoned for a day not later than 14 days after the date of the receiving order, unless the Court for any special reason deems it expedient that the meeting be summoned for a later day. |
| Notice of first meeting to be given | 4. The Official Receiver shall summon the meeting by giving not less than 4 clear days' notice of the time and place thereof in the <i>Gazette</i> and in a local paper. |
| Statement of affairs | 5. The Official Receiver shall also as soon as practicable send to each creditor mentioned in the debtor's statement of affairs a notice of the time and place of the first meeting of creditors, but the proceedings at the first meeting shall not be invalidated by reason of any such notice not having been sent or received before the meeting. |
| Meeting to be held at office of Official Receiver | 6. The meeting shall be held at the office of the Official Receiver. |
| Summoning of meetings of creditors | 7. The Official Receiver or the trustee may at any time summon a meeting of creditors, and shall do so whenever so directed by the Court or so requested by a creditor in accordance with the provisions of the Act. |

[Subsidiary]

8. Meetings subsequent to the first meeting shall be summoned by sending notice of the time and place thereof to each creditor at the address given in his proof, or if he has not proved, at the address given in the debtor's statement of affairs, or at such other address as may be known to the person summoning the meeting.

Notice to be given for meetings other than first meeting

9. The Official Receiver or some person nominated by him shall be the chairman at the first meeting, and at subsequent meetings until the appointment of a trustee other than the Official Receiver, when such trustee shall be chairman.

Chairman

10. A person shall not be entitled to vote as a creditor at the first or any other meeting of creditors unless he has duly proved a debt provable in bankruptcy to be due to him from the debtor and the proof has been duly lodged 24 hours at least before the time appointed for the meeting.

Voting

11. A creditor shall not vote at any such meeting in respect of any unliquidated or contingent debt or any debt the value of which is not ascertained.

Creditor not to vote if debt not ascertained

12. For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him after deducting the value of his security. If he votes in respect of his whole debt he shall be deemed to have surrendered his security unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

Voting by secured creditors

13. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the debtor, and against whom a receiving order has not been made, as a security in his hands and to estimate the value thereof and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

Voting by creditors having debts secured by bills of exchange, etc.

14. It shall be competent to the trustee or to the Official Receiver, within 28 days after a proof estimating the value of a security as mentioned in rule 13 has been made use of in voting at any meeting, to require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated, with an addition thereto of 20 *per cent*:

Valuation of securities

[Subsidiary]

Provided that where a creditor has put a value on such security he may, at any time before he has been required to give up such security as aforesaid, correct such valuation by a new proof and deduct such new value from his debt, but in that case such addition of 20 per cent shall not be made if the trustee requires the security to be given up.

Receiving order against partner

15. If a receiving order is made against one partner of a firm, any creditor to whom that partner is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors and shall be entitled to vote thereat.

Powers of chairman re voting

16. The chairman of a meeting shall have power of admit or reject a proof for the purpose of voting but his decision shall be subject to appeal to the Court. If he is in doubt whether the proof of a creditor should be admitted or rejected he shall mark the proof as objected to and shall allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

Creditor may vote by proxy

17. A creditor may vote either in person or by proxy.

Instrument of proxy

18. Every instrument of proxy shall be in the prescribed form and shall be issued by the Official Receiver or, after the appointment of a trustee, by the trustee, and every insertion therein shall be in the handwriting of the person giving the proxy, or of any manager or clerk or other person in his regular employment, or of any person authorised to administer oaths or of the Official Receiver.

Forms of proxy to be sent with notice of meeting

19. General and special forms of proxy shall be sent to the creditors together with a notice summoning a meeting of creditors, and neither the name nor the description of the Official Receiver or of any other person shall be printed or inserted in the body of any instrument of proxy before it is so sent.

General proxy

20. A creditor may give a general proxy to his manager or clerk or any other person in his regular employment or to his advocate or solicitor. In such case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

Special proxy

21. A creditor may give a special proxy to any person to vote at any specified meeting or adjournment thereof on all or any of the following matters —

(a) for or against any specific proposal for a composition or scheme of arrangement;

[Subsidiary]

(b) for or against the appointment of any specified person as trustee or as member of the committee of inspection, or for or against the continuance in office of any specified person as trustee or member of a committee of inspection;

(c) on all questions relating to any matter other than those above referred to, arising at any specified meeting or adjournment thereof.

22. A proxy shall not be used unless it is deposited with the Official Receiver or trustee 24 hours before the meeting at which it is to be used. Proxies to be deposited
23. Where it appears to the satisfaction of the Court that any solicitation has been used by or on behalf of a trustee or receiver in obtaining proxies, or in procuring the trusteeship or receivership, except by the direction of a meeting of creditors, the Court shall have power, if it thinks fit, to order that no remuneration shall be allowed to the person by whom or on whose behalf such solicitation may have been exercised, notwithstanding any resolution of the committee of inspection or of the creditors to the contrary. Solicited proxies
24. A creditor may appoint the Official Receiver to act in manner prescribed as his general or special proxy. Official Receiver may act as proxy
25. The chairman of a meeting may, with the consent of the meeting, adjourn the meeting from time to time and from place to place. Adjournment of meetings
26. A meeting shall not be competent to act for any purpose, except the election of a chairman, the proving of debts and the adjournment of the meeting, unless there are present or represented thereat at least 3 creditors, or all the creditors if their number does not exceed 3. Quorum
27. If within half an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place or to such other day as the chairman may appoint, being not less than 7 nor more than 21 days after the day first appointed. Absence of quorum
28. The chairman of every meeting shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a record kept for that purpose and the minutes shall be signed by him or by the chairman of the next ensuing meeting. Minutes of meetings
29. No person acting under either a general or a special proxy shall vote in favour of any resolution which would directly or indirectly place Restrictions on voting by proxy

LAWS OF BRUNEI

114

CAP. 67

Bankruptcy

[Subsidiary]

himself or his partner or employer in a position to receive any remuneration out of the estate of the debtor otherwise than as a creditor rateably with the other creditors of the debtor:

Provided that where any person holds special proxies to vote for the appointment of himself as trustee he may use the said proxies and vote accordingly.

Persons not
entitled to
vote

30. The vote of the trustee or of his partner, clerk, advocate or solicitor or solicitor'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 conduct of the trustee.

Rules under section 36

PROOF OF DEBTS RULES

20 of 1956,
2nd Sch.

ARRANGEMENT OF RULES

Rule

1. Citation
2. Interpretation
3. Debts to be proved without delay
4. Method of proving debts
5. Proving by affidavit
6. Contents of affidavit
7. Affidavit to state whether or not debt secured
8. Cost of proving debt
9. Fees for examination of proofs of debts
10. Deduction of trade discounts
11. Secured creditor may realise security
12. Secured creditor may surrender security
13. Secured creditor may value security
14. Redemption of valued securities
15. Amended valuations
16. Refund of surplus dividend
17. Procedure when valued security is realised
18. Secured creditor must comply with rules
19. Maximum amount creditor may receive
20. Proof of distinct contracts
21. Proportional payments
22. Proving for interest
23. Interest on debts payable in future
24. Admission and rejection of proofs
25. Expunging of proof

LAWS OF BRUNEI

116

CAP. 67

Bankruptcy

[Subsidiary]

Rule

26. Creditor may apply to Court if dissatisfied
27. Creditor may apply to Court if trustee takes no action
28. Powers of Official Receiver before appointment of trustee

Commencement: 1st January 1957

- | | |
|--|--|
| Citation | 1. These rules may be cited as the Proof of Debts Rules. |
| Interpretation | 2. In these rules "the Act" means the Bankruptcy Act. |
| Debts to be proved without delay | 3. Every creditor shall prove his debt as soon as may be after the making of a receiving order. |
| Method of proving debts | 4. A debt may be proved by delivering or sending through the post in a prepaid letter to the Official Receiver, or if a trustee has been appointed, to the trustee, an affidavit verifying the debt. |
| Proving by affidavit | 5. The affidavit may be made by the creditor himself or by some person authorised by or on behalf of the creditor and having knowledge of the facts. If made by a person so authorised, it shall state his authority and means of knowledge. |
| Contents of affidavit | 6. The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The Official Receiver or trustee may at any time call for the production of the vouchers. |
| Affidavit to state whether or not debt secured | 7. The affidavit shall state whether the creditor is or is not a secured creditor, and if it is found at any time that the affidavit made by or on behalf of a secured creditor has omitted to state that he is a secured creditor, the secured creditor shall surrender his security to the Official Receiver or trustee for the general benefit of the creditors unless the Court on application is satisfied that the omission has arisen from inadvertence, and in that case the Court may allow the affidavit to be amended upon such terms as to the repayment of any dividends or otherwise as the Court may consider just. |
| Cost of proving debt | 8. A creditor shall bear the cost of proving his debt unless the Court otherwise specially orders. |

[Subsidiary]

9. Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors before the first meeting, and at all reasonable times on payment of the prescribed fee.

Fees for examination of proofs of debts

10. A creditor proving his debt shall deduct therefrom all trade discounts, but he shall be compelled to deduct any discount, not exceeding 5 per cent on the net amount of his claim, which he may have agreed to allow for payment in cash.

Deduction of trade discounts

Proof by secured creditors

11. If a secured creditor realises his security he may prove for the balance due to him, after deducting the net amount realised.

Secured creditor may realise security

12. If a secured creditor surrenders his security to the Official Receiver or trustee for the general benefit of the creditors, he may prove for his whole debt.

Secured creditor may surrender security

13. If a secured creditor does not either realise or surrender his security he shall, before ranking for dividend, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

Secured creditor may value

14. (1) Where a security is so valued the trustee may at any time redeem it on payment to the creditor of the assessed value.

Redemption of valued securities

(2) If the trustee is dissatisfied with the value at which a security is assessed he may require that the property comprised in any security so valued be offered for sale at such times and on such terms and conditions as may be agreed on between the creditor and the trustee or as, in default of such agreement, the Court may direct. If the sale be by public auction the creditor, or the trustee on behalf of the estate, may bid or purchase:

Provided that the creditor may at any time by notice in writing require the trustee to elect whether he will or will not exercise his power of redeeming the security or requiring it to be realised, and if the trustee does not within 6 months after receiving the notice signify in writing to the creditor his election to exercise the power, he shall not be entitled to exercise it; and the equity of redemption, or any other interest in the property comprised in the security which is vested in the trustee, shall vest in the creditor and the amount of his debt shall be reduced by the amount at which the security has been valued.

LAWS OF BRUNEI

118

CAP. 67

Bankruptcy

[Subsidiary]

Amended valuations

15. Where a creditor has so valued his security he may at any time amend the valuation and proof on showing to the satisfaction of the trustee or the Court that the valuation and proof were made in good faith on a mistaken estimate or that the security has diminished or increased in value since its previous valuation; but every such amendment shall be made at the cost of the creditor and upon such terms as the Court shall order, unless the trustee allows the amendment without application to the Court.

Refund of surplus dividend

16. Where a valuation has been amended in accordance with rule 15 the creditor shall forthwith repay any surplus dividend which he may have received in excess of that to which he would have been entitled on the amended valuation or, as the case may be, shall be entitled to be paid out of any money, for the time being available for dividend, any dividend or share of dividend which he may have failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

Procedure when valued security is realised

17. If a creditor after having valued his security subsequently realises it, or if it is realised under the provisions of rule 14, 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.

Secured creditor must comply with rules

18. If a secured creditor does not comply with the foregoing rules he shall be excluded from all share in any dividend.

Maximum amount creditor may receive

19. Subject to the provisions of rule 14, a creditor shall in no case receive more than the full amount of his debt, and interest as provided by the Act.

Proof in respect of distinct contracts

Proof of distinct contracts

20. If a debtor was at the date of the receiving order liable in respect of distinct contracts as a member of 2 or more distinct firms, or as a sole contractor, and also as member of a firm, the circumstance that the firms are in whole or part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of the contracts, against the properties respectively liable on the contracts.

[Subsidiary]

Periodical payments

21. When any rent or other payment falls due at stated periods and the receiving order is made at any time other than one of those periods, the person entitled to the rent or payment may prove for a proportionate part thereof up to the date of the order as if the rent or payment became due from day to day.

Proportional payments

22. On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed and which is overdue at the date of the receiving order and provable in bankruptcy, the creditor may prove for interest at a rate not exceeding 8 *per cent per annum* to the date of the order from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and if payable otherwise, then from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment.

Proving for interest

*Interest**Debt payable at a future time*

23. A creditor may prove for a debt not payable when the debtor committed an act of bankruptcy as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of 5 *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.

Interest on debts payable in future

Admission or rejection of proofs

24. The trustee shall examine every proof and the grounds of the debt, and in writing admit or reject it in whole or in part or require further evidence in support of it. If he rejects a proof he shall state in writing to the creditor the grounds of the rejection.

Admission and rejection of proofs

25. If the trustee thinks that proof has been improperly admitted the Court may, on the application of the trustee, after the notice to the creditor who made the proof, expunge the proof or reduce its amount.

Expunging of proof

26. If a creditor is dissatisfied with the decision of the trustee in respect of a proof the Court may, on the application of the creditor reverse or vary the decision. The Official Receiver or trustee shall not be personally liable for any costs in respect of the rejection by him in whole or in part of any proof unless it is proved to the satisfaction of the Court that he has acted in bad faith or with gross negligence.

Creditor may apply to Court if dissatisfied

LAWS OF BRUNEI

120

CAP. 67

Bankruptcy

[Subsidiary]

Creditor may
apply to
Court if trustee
takes no
action

27. The Court may also expunge or reduce a proof upon the application of a creditor if the trustee declines to interfere in the matter, or in the case of a composition or scheme, upon the application of the debtor.

Powers of Official Receiver
before
appointment
of trustee

28. The Official Receiver before the appointment of a trustee shall have all the powers of a trustee with respect to the examination, admission and rejection of proofs, and any act or decision of his in relation thereto shall be subject to the like appeal.

Rules under section 113

BANKRUPTCY RULES

ARRANGEMENT OF RULES

PART I

PRELIMINARY

Rule

1. Citation
2. Interpretation
3. Computation of time
4. Use of forms in Appendix

PART II

GENERAL PROCEDURE

5. Matters to be heard in Court
6. Adjournment from Chambers to Court and *vice versa*
7. Proceedings, how intituled
8. Records of the Court
9. Notices to be in writing
10. Meetings summoned by Court
11. Filing, gazetting, etc.
12. Preparation of order
13. Security by bond
14. Amount of bond
15. Deposit in lieu of bond
16. Money lodged in Court
17. Security of guarantee society
18. Notice of sureties

LAWS OF BRUNEI

122

CAP. 67

Bankruptcy

[Subsidiary]

Rule

19. Justification by sureties
20. Execution of bond
21. Notice of deposit
22. Application of section 125
23. Shorthand notes, etc.
24. Discovery
25. Examination under section 29
26. To whom warrants addressed
27. Custody and production of debtor
28. Execution of warrant
29. Application to commit
30. Notice and hearing of application
31. Service of petition, etc.
32. Regulations as to costs
33. Solicitor's cost in case of petition by debtor
34. Certificate of employment
35. Notice of appointment
36. Lodgment of bills
37. Copy of bill
38. Application for costs
39. Costs of shorthand notes
40. Disallowance of costs of unnecessary petition
41. Appointment of costs in case of partnership
42. Costs out of joint and separate estates

PART III

PROCEEDINGS IN BANKRUPTCY

43. Form of declaration
44. Issue of notice

Rule

45. Indorsement of address, etc.
46. Application to set aside
47. Duration of notice
48. Service of notice
49. Setting aside notice
50. Description and address of debtor
51. Attestation
52. Deposit by petitioner
53. Registration of petition in Land Office or District Land Office
54. Registration of petition in Land Office or District Land Office
against partner
55. Security for costs
56. Verification
57. Who to verify
58. Joint petitioners
59. Service
60. Death of debtor before service of petition
61. Form and contents of order
62. Deposit
63. Further deposit necessary
64. Repayment of deposit
65. Damages if petition dismissed
66. Time of hearing
67. Several respondents
68. Debtor intending to show cause
69. Non-appearance of debtor
70. Hearing of petition
71. Non-appearance of creditor
72. Application to withdraw petition

LAWS OF BRUNEI

124

CAP. 67

Bankruptcy

[Subsidiary]

- Rule
73. Registration of receiving order or order of adjudication in Land Office or District Land Office
 74. Registration of receiving order or order of adjudication in Land Office, or District Land Office, against partner
 75. Service of receiving order
 76. Receiving order on bankruptcy notice
 77. Stay of proceedings
 78. Advertisement
 79. Costs of petition, etc.
 80. Application to rescind order, to stay proceedings thereunder or to annul adjudication
 81. How made out
 82. Extension of time
 83. Adjournment *sine die*
 84. Application to proceed
 85. Proceeding after adjournment *sine die*
 86. Notice of proceeding after adjournment *sine die*
 87. Public examination of debtor who is a lunatic, etc.
 88. Application
 89. Appeals
 90. Report of Official Receiver
 91. Evidence in answer to report
 92. Costs of application
 93. Orders conditional on consent to judgment
 94. Order
 95. Gazetting order
 96. Execution on judgment in case of conditional discharge
 97. Accounts of after-acquired property
 98. Verification of statements of after-acquired property
 99. Application for modification of order
 100. Notice to debtor of first meeting

Rule

101. Notice of first meeting
102. Notices of other meetings
103. Non-reception of notice by creditor
104. Notice to Official Receiver of creditors' meetings
105. Proof of notice
106. Cost of creditors' meetings
107. Adjournment
108. Quorum
109. Swearing of proof
110. Workmen's wages
111. Production of bills of exchange and promissory notes
112. Time for lodging proofs
113. Transmission of proofs to trustee
114. Time for admission or rejection of proofs by Official Receiver
115. Time for admission or rejection of proof by trustee
116. Notice of admission of proof
117. Appeal from rejection of proof
118. Costs of appeals from decisions as to proofs
119. Filing of proxies
120. Signature of proxy
121. Filling in when creditor blind, etc.
122. Minors not be be proxies
123. Notice of intended dividend
124. Production of bills, notes, etc.
125. Dividend may be sent by post
126. Payment of dividends to a nominee
127. Form of register
128. Notice to bankrupt of application
129. Review of order

[Subsidiary]

Rule

130. Disclaimer of lease
131. Public officer or agent of company, etc.
132. Attestation of firm's signature
133. Debtor's petition by firm
134. Creditor's petition by firm
135. Creditor's petition against firm
136. Statement of affairs
137. First meeting
138. Acceptance of composition, etc. by joint and separate creditors
139. Voting on composition
140. Adjudication, trustee
141. Separate firms
142. Lunatics
143. Verification of petition
144. Deposit
145. Gazetting
146. Service
147. Duties of executor, etc.
148. Meetings of creditors, trustees, etc.

PART IV

OFFICIAL RECEIVER, TRUSTEES, SPECIAL MANAGER,
SECURITY BY TRUSTEE OR SPECIAL MANAGER
GAZETTING ACCOUNTS AND AUDIT, UNCLAIMED FUNDS

149. Duties as to debtor's statement of affairs
150. Subsistence allowance to debtor
151. Special report as to person employed to assist debtor
152. Use of proxies by deputy
153. Registrar to act in sudden emergency
154. Removal of special manager

Rule

155. Mode of application to Court
156. Evidence on application by Official Receiver
157. Application for directions
158. Accounting by Official Receiver
159. Accounts of debtor
160. Liability for costs, expenses and damages
161. Notice of appointment
162. Grounds for refusing to appoint
163. Removal for failing to keep up or increase security
164. Removal by Court
165. Notice of resignation
166. Limit of remuneration
167. Trustee carrying on business
168. Application for release
169. Gazetting of release
170. Delivery of books, etc., on release of trustee
171. Meeting to consider removal of trustee
172. Bank account
173. Application for directions
174. Creditor may obtain copy of trustee's accounts
175. Statements of accounts to be furnished to creditors
176. Purchase of part of estate by trustee or committee forbidden
177. Dealings with estate by trustee and committee of inspection
178. Discharge of costs, etc., before estate handed over to trustee
179. Meetings of creditors to consider conduct of trustee
180. Remuneration of special manager
181. Accounts
182. Standing security to Registrar
183. Gazetting notices

LAWS OF BRUNEI

128

CAP. 67

Bankruptcy

[Subsidiary]

Rule

- 184. Re-gazetting
- 185. Gazetting annulment of order already gazetted
- 186. Record of minutes, etc.
- 187. Cash book
- 188. Books to be submitted to committee of inspection
- 189. Audit of cash book
- 190. Official Receiver's audit of trustee's accounts
- 191. Accounts to be filed
- 192. Affidavit of no receipts
- 193. Proceedings on resignation, etc., of trustee
- 194. Joint and separate estates' accounts
- 195. Expenses of sale
- 196. Allowance to debtor
- 197. Application for payment out by party entitled
- 198. Accounts by trustees of unclaimed funds

PART V

MISCELLANEOUS

- 199. Falsification of documents
- 200. No lien on debtor's books
- 201. Disposal of bankrupt's books and papers
- 202. Non-compliance with rules
- 203. Abridgment or enlargement of time
- 204. Interim provisions

APPENDIX OF FORMS

Commencement: 1st January 1957

PART I

PRELIMINARY

1. These rules may be cited as the Bankruptcy Rules. Citation
2. In these rules — Interpreta-
tion
 - “Court” means the Court as defined by the Act, and includes the Registrar when exercising the power of the Court pursuant to the Act or these rules;
 - “Court of Appeal” means any Court exercising appellate jurisdiction under the Act or these rules;
 - “creditor” includes a corporation, and a firm of creditors in partnership;
 - “debtor” includes any debtor proceeded against under the Act, whether adjudged bankrupt or not, and also includes a firm of debtors in partnership;
 - “Act” means the Bankruptcy Act;
 - “scheme” means scheme of arrangement pursuant to the Act;
 - “sealed” means sealed with seal of the Court;
 - “solicitor” includes an advocate and solicitor; and an advocate;
 - “taxing officer” includes the Registrar and also any officer or officers of the Court whose duty it is to tax costs;
 - “trustee” includes the trustee appointed under a composition or scheme of arrangement, and also includes the Official Receiver when acting as trustee.
3. The provisions of section 122 of the Act shall apply to these rules as if the words “these rules” were substituted for the words “this Act” in the first line of the said section. Computation
of time

Forms

4. (1) Subject to the provisions of paragraph (2), the forms in the Appendix where applicable, and where they are not applicable forms of the like character, with such variations as circumstances may require, shall be used. Where such forms are applicable any costs occasioned by Use of forms
in Appendix

[Subsidiary]

the use of any other or more prolix forms shall be borne by or disallowed to the party using the same, unless the Court otherwise directs.

(2) The Chief Justice may from time to time amend any form in the Appendix or prescribe any new form. Where the Chief Justice amends any form or prescribes any new form, such amended or new form shall be published in the *Gazette*.

PART II

GENERAL PROCEDURE

Court and Chambers

Matters to be
heard in
Court

5. The following matters and applications shall be heard and determined in open Court —

(a) petitions: Provided that a debtor's petition may be heard in Chambers if urgent, and if the judge so directs;

(b) applications to rescind a receiving order, or to annul an adjudication;

(c) the public examination of debtors;

(d) applications to approve a composition or scheme of arrangement;

(e) applications for orders of discharge;

(f) applications to set aside or avoid any settlement, conveyance, transfer, security or payment, or to declare for or against the title of the trustee to any property adversely claimed;

(g) applications for the committal of any person to prison for contempt;

(h) appeals against the rejection of a proof, or applications to expunge or reduce a proof, where the amount in dispute exceeds \$5,000;

(i) applications for the trial of issues of fact with assessors, and the trial of such issues;

[Subsidiary]

(j) any other matter which the Chief Justice may direct.

Any other matter or application may be heard and determined in Chambers unless the judge directs that it be heard and determined in open Court.

6. Subject to the provisions of the Act and these rules, any matter or application may, at any time, if the Judge thinks fit, be adjourned from Chambers to Court or from Court to Chambers; and if all the contending parties require any matter or application to be adjourned from Chambers to Court it shall be so adjourned.

Adjournment
from Cham-
bers to Court
and vice
versa

Proceedings

7. (1) Every proceeding in Court under the Act shall be dated, and shall be intitled "*In Bankruptcy*" and with the name of the matter to which it relates. Numbers and dates may be denoted by figures.

Proceedings
how intitled
Form 1

(2) All applications and orders shall be intitled *ex parte* the applicant.

(3) The first proceeding in every matter shall have a distinctive number assigned to it by the Official Receiver and all subsequent proceedings in the same matter shall bear the same number.

8. All proceedings of the Court shall remain on record in the Court, in the custody of the Official Receiver, so as to form a complete record of each matter, and they shall not be removed for any purpose, except for the use of the officers of the Court, or by special direction of the judge or Official Receiver, but they may at all reasonable times be inspected by the trustee, the debtor, and any creditor who has proved, or any person acting on behalf of the trustee, debtor, or creditor, and, by special direction of the Court, any other person.

Records of
the Court

9. All notices required by the Act or these rules shall be in writing, unless these rules otherwise provide or the Court in any particular case otherwise orders.

Notices to be
in writing

10. Where the Act orders a general meeting of creditors to be summoned under rule 6 of the Meetings of Creditors Rules it shall be summoned as the Court directs, and in default of any direction by the Court the Official Receiver, if a trustee other than the Official Receiver has been appointed, shall transmit a sealed copy of the order to the trustee; and the trustee (if any) or Official Receiver (if no trustee has been appointed) shall not less than 7 days before such meeting send a

Meetings
summoned
by Court
Form 39

[Subsidiary]

copy of the order to each creditor at the address given in his proof, or when he has not proved, the address given in the list of creditors by the debtor, or such other address as may be known to the trustee or Official Receiver.

Filing gazet-
ting etc.

11. (1) Whenever the *Gazette* contains any advertisement relating to any matter under the Act the Official Receiver shall file with the proceedings in the matter a copy of such advertisement.

(2) In the case of an advertisement in a local paper the Official Receiver shall in like manner file a copy of the advertisement appearing therein.

(3) For this purpose one copy of each local paper, in which any advertisement relating to any matter under the Act is inserted, shall be left with the Official Receiver by the person inserting the advertisement.

(4) The filed copy of such advertisement shall until the contrary is proved be evidence that it was duly inserted in the issue of the *Gazette* or paper mentioned.

Preparation of order

Preparation
of order
Forms 70, 78,
80, 85 to 92

12. If within one week from the making of an order of adjudication, order annulling adjudication or rescinding a receiving order, order on application to approve a composition or scheme, order annulling a composition or scheme, or order on application for discharge, such order has not been completed, it shall be the duty of the Official Receiver to prepare and complete such order:

Provided that if in any case the judge is of opinion that the provisions of this rule ought not to apply, he may so order:

And provided further that where an order of discharge is granted subject to the condition that judgment shall be entered against the bankrupt, nothing in this rule shall require the Official Receiver to prepare and complete the order until the bankrupt has given a consent to judgment being entered against him.

Security in Court

Security by
bond
Form 19

13. Except where these rules otherwise provide, where a person is required to give security such security shall be in the form of a bond with 2 sureties to the person proposed to be secured:

Provided that the Court may direct that one surety shall suffice.

14. The bond shall be taken in a penal sum, which shall be not less than the sum for which security is to be given, and probable costs, unless the opposite party consents to it being taken for a less sum. Amount of bond
15. Where a person is required to give security he may in lieu thereof lodge in Court a sum equal to the sum in question in respect of which security is to be given and the probable costs of the trial of the question, together with a memorandum to be approved of by the Registrar and to be signed by such person, his advocate or agent, setting forth the conditions on which the money is deposited. Deposit in lieu of bond
16. The rules for the time being in force in the Court relating to payment into and out of Court of money lodged in Court by way of security for costs shall apply to money lodged in Court under these rules. Money lodged in Court
17. The security of a guarantee association or society approved by the Court or the opposite party may be given in lieu of a bond or a deposit. Security of guarantee society
18. In all cases where a person proposes to give a bond by way of security, he shall serve, by post or otherwise, on the opposite party and on the Registrar, notice of the proposed sureties, and the Registrar may give notice to both parties of the time and place at which he proposes that the bond shall be executed and may state in the notice that should the proposed obligee have any valid objection to make to the sureties or either of them, it must be made at that time. Notice of sureties Form 20
19. The sureties shall make an affidavit of their sufficiency unless the opposite party dispenses with such affidavit, and such sureties shall attend the Court to be cross-examined, if required. Justification by sureties Form 21
20. The bond shall be executed and attested in the presence of the Registrar or the Official Receiver. Execution of bond
21. Where a person makes a deposit of money in lieu of giving a bond the Registrar shall forthwith give notice to the person to whom the security is to be given of such deposit having been made. Notice of deposit

Exemption from stamp duty

22. For the purposes of section 125 of the Act, "bankruptcy" shall include any proceeding under the Act whether before or after adjudication, and whether an adjudication is made or not, and "bankrupt" shall include any debtor proceeded against under the Act. Application of section 125

[Subsidiary]

*Shorthand notes*Shorthand
notes, etc.
Forms 55 to
58

23. If the Court is in any case, and at any stage in the proceedings, of opinion that it would be desirable that a person (other than the person before whom the examination is taken) should be appointed to take down, in shorthand or otherwise, the evidence of the debtor, or of any witness examined at any public or private sitting or private meeting under the Act, it shall be competent for the Court to make such appointment; and every person so appointed shall be paid a sum not exceeding \$25 a day, and also a sum not exceeding \$2 per page or part thereof for any transcript of the evidence that may be required, and such sums shall be paid by the party at whose instance the appointment was made, or out of the estate, as may be directed by the Court. The shorthand writer (if any) attached to the Official Receiver's office shall be deemed to be duly appointed under this rule, and it shall not be necessary to make any application to make such appointment, and a general declaration by such shorthand writer adapted from Form 56 shall be deemed to apply to all cases in which notes, purporting to be such transcript and purporting to be signed by a shorthand writer duly appointed under this rule or by the shorthand writer attached to the Official Receiver's office, shall until the contrary is proved be sufficient evidence that the questions and answers set forth therein were so put and answered respectively:

Provided that if the person appointed under this rule to take down evidence is a public servant, the fees which become payable to him shall be paid forthwith by the person responsible for such fees to the Official Receiver for payment into the Treasury.

Discovery and examination under section 92

Discovery

24. Any party to any proceeding in Court may with the leave of the Court administer interrogatories to or obtain discovery of documents from any other party to such proceeding. Proceedings under this rule shall be regulated as nearly as may be by the provisions in any written law relating to civil procedure for the time being in force in relation to discovery and inspection. An application for leave under this rule may be made *ex parte*.

Examination
under
section 29.
Forms 112 to
114

25. Every application to the Court under section 29 of the Act shall be in writing and shall state shortly the grounds upon which the application is made. When the application is made by or on behalf of the trustee or the Official Receiver it need not be verified by affidavit.

Warrants, arrests, and commitments

26. A warrant of seizure, or a search warrant, or any other warrant issued under the provision of the Act, shall be addressed to such officer of the Court or to such public officer as the Registrar may direct.

To whom
warrants
addressed.
Forms 105,
108 to 110,
115

27. When a debtor is arrested under a warrant issued under section 27 of the Act he shall be given into the custody of the Superintendent of Prisons, who shall produce such debtor before the Court as it may from time to time direct, and shall safely keep him until such time as the Court otherwise orders; and any books, papers, moneys, goods and chattels in the possession of the debtor, which may be seized, shall forthwith be lodged with the Official Receiver or trustee, as the case may be.

Custody and
production of
debtor.
Form 110

28. (1) When a person is apprehended under a warrant issued under subsection (2) of section 29 of the Act the officer apprehending him shall forthwith bring him before the Court to the end that he may be examined, and if he cannot immediately be brought up for examination or examined the officer shall deliver him into the custody of the Superintendent of Prisons and the said Superintendent shall receive him into custody and shall produce him before the Court as it may from time to time direct or order, and subject to such direction or order shall safely keep him.

Execution of
warrant.
Form 115

(2) The officer executing a warrant issued under subsection (2) of section 29 of the Act shall forthwith, after apprehending the person named in the warrant report to the Court the apprehension or delivery into custody, as the case may be, and apply to the Court to appoint a day and time for the examination of the person so apprehended, and the Court shall thereupon appoint the earliest practicable day for the examination and shall issue its direction or order to the said Superintendent to produce him for examination at a place and time to be mentioned in such direction or order. Notice of any such appointment shall forthwith be given by the Registrar to the Official Receiver, trustee or other person who has applied for the examination or warrant.

Form 116

29. An application to the Court to commit any person for contempt of Court shall be supported by affidavit.

Application
to commit.
Forms 94 to
97

30. Subject to the provisions of the Act and these rules, upon the filing of an application to commit, the Court shall fix a time and place to hear the application, notice whereof shall be personally served on the person sought to be committed, not less than 3 days before the day fixed for the hearing of the application:

Notice and
hearing of ap-
plication.
Forms 98 to
100, 104

LAWS OF BRUNEI

136

CAP. 67

Bankruptcy

[Subsidiary]

Provided that in any case in which the Court may think fit, the Court may allow substituted service of the notice by advertisement or otherwise, or shorten the length of notice to be given.

Service of
petition, etc.

31. When the debtor is not in Brunei or cannot be found, the Court may order service on him of the petition, the receiving order or any other order made against him, or of any summons issued for his attendance, to be effected within such time and in such manner as it thinks fit.

Costs and taxation

Regulations
as to costs

32. The regulations as to costs contained in Part II of the Appendix shall, subject to these rules, apply to the taxation and allowance of costs and charges in all proceedings under the Act and these rules.

Solicitor's
costs in case
of petition by
debtor

33. The solicitor in the matter of a bankruptcy petition presented by the debtor against himself shall in his bill of costs give credit for such sum or security (if any) as he may have received from the debtor as a deposit on account of the costs and expenses to be incurred in and about the filing and prosecution of such petition; and the amount of any such deposit shall be noted by the taxing officer upon the allocatur issued for such costs.

Certificate of
employment

34. Before taxing the bill or charges of any solicitor, manager, accountant, auctioneer, broker or other person employed by the Official Receiver or trustee, the taxing officer shall require a certificate in writing, signed by the Official Receiver or trustee as the case may be, to be produced to him, setting forth whether any, and if so what, special terms of remuneration have been agreed to, and in the case of the bill of costs of a solicitor, a copy of the resolution or other authority sanctioning the employment.

Notice of
appointment

35. Every person whose bill or charges is or are to be taxed shall in all cases give not less than 4 days' notice of the appointment to tax the same to the Official Receiver and to the trustee (if any).

Lodgement
of bill

36. The bill or charges, if incurred prior to the appointment of a trustee, shall be lodged with the Official Receiver, and if incurred after the appointment of a trustee, shall be lodged with the trustee, 3 clear days before the application for the appointment to tax the same is made. The Official Receiver or the trustee, as the case may be, shall forthwith, on receiving notice of taxation, lodge such bill or charges with the taxing officer.

[Subsidiary]

37. Every person whose bill or charges is or are to be taxed shall, on the application of either the Official Receiver or the trustee, furnish a copy of his bill or charges so to be taxed. The Official Receiver shall call the attention of the trustee to any items which in his opinion ought to be disallowed or reduced and may attend or be represented on the taxation.

Copy of bill

38. Where any party to or person affected by any proceeding desires to make an application for an order that he be allowed his costs, or any part of them, incident to such proceeding, and such application is not made at the time of the proceeding —

Applications for costs

(a) such party or person shall serve notice of his intended application on the Official Receiver, and if a trustee has been appointed, on the trustee;

(b) the Official Receiver and the trustee may appear on such application and object thereto; and

(c) no costs of or incident to such application shall be allowed to the applicant unless the Court is satisfied that the application could not have been made at the time of the proceeding.

39. Where at the instance of the Official Receiver a shorthand writer is appointed to take notes of the examination of the debtor at his public examination, the cost of such notes shall be deemed to be an expense incurred or authorized by the Official Receiver and shall be payable out of the estate of the bankrupt in the order of priority in which such expenses are payable under the provisions of section 37 of the Act.

Costs of shorthand notes

40. In any case in which, after a bankruptcy petition has been presented by a creditor against a debtor and before the hearing of such petition, the debtor files a petition and a receiving order is made on the petition of the debtor, unless in the opinion of the Court the estate has benefited thereby or there are special circumstances which make it just that such costs should be allowed, no costs shall be allowed to the debtor or his solicitor out of the estate.

Disallowance of costs of unnecessary petition

41. In the case of a bankruptcy petition against a partnership the costs payable out of the estates incurred up to and inclusive of the receiving order shall be apportioned between the joint and separate estates in such proportions as the Official Receiver may in his discretion determine.

Apportionment of costs in case of partnership

[Subsidiary]

Costs out of
joint and
separate
estates

42. (1) Where the joint estate of any co-debtors is insufficient to defray any costs or charges properly incurred prior to the appointment of the trustee, the Official Receiver may pay or direct the trustee to pay such costs or charges out of the separate estates of such co-debtors, or one or more of them, in such proportions as in his discretion the Official Receiver may think fit. The Official Receiver may also, as in his discretion he may think fit, pay or direct the trustee to pay any costs or charges properly incurred, prior to the appointment of the trustee, for any separate estate out of the joint estate or out of any other separate estate, and any part of the costs or charges of the joint estate incurred prior to the appointment of the trustee which affects any separate estate out of that separate estate.

(2) Where the joint estate of any co-debtors is insufficient to defray any costs or charges properly incurred after the appointment of the trustee, the trustee, with such consent as is hereinafter mentioned, may pay such costs or charges out of the separate estates of such co-debtors, or one or more of them. The trustee, with the said consent, may also pay any costs or charges properly incurred for any separate estate, after his appointment, out of the joint estate, and any part of the costs or charges of the joint estate incurred after his appointment which affects any separate estate out of that separate estate. No payment under this rule shall be made out of a separate estate or joint estate by a trustee without the consent of the committee of inspection of the estate out of which the payment is intended to be made, or if such committee withhold or refuse their consent, without an order of the Court.

PART III

PROCEEDINGS IN BANKRUPTCY

Declaration of inability to pay debts

Form of dec-
laration.
Form 2

43. A declaration by a debtor of his inability to pay his debts shall be dated, signed and witnessed. The witness shall be a solicitor or the Official Receiver or Registrar.

Bankruptcy notice

Issue of
notice.
Forms 4, 5

44. A creditor desirous that a bankruptcy notice may be issued shall produce to the Registrar a sealed copy of the judgment or order on which the notice is founded and file the notice together with a request for issue. The creditor shall at the same time lodge with the Registrar 2 copies of the bankruptcy notice to be sealed and issued for service.

[Subsidiary]

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

Indorsement of address, etc.

(2) There shall also be indorsed on every bankruptcy notice an intimation to the debtor that, if he has a counterclaim, set-off or cross demand which equals or exceeds the amount of the judgment debt and which he could not have set up in the action in which the judgment or order was obtained, he must within the time specified in the notice file an affidavit to that effect with the Registrar.

Form 8

(3) In the case of a notice served in Brunei the time shall be 3 days. In the case of a notice served elsewhere with the leave of the Court under section 3 of the Act, the Registrar when issuing the notice shall fix the time.

46. The filing of such affidavit shall operate as an application to set aside the bankruptcy notice and thereupon the Court shall fix a day for hearing the application, and not less than 3 days before the day so fixed the Registrar shall give notice thereof both to the debtor and the creditor and to their respective solicitors, if known. If the application cannot be heard until after the expiration of the time specified in the notice as the day on which the act of bankruptcy will be complete, the Court shall extend the time and no act of bankruptcy shall be deemed to have been committed under the notice until the application has been heard and determined.

Application to set aside. Form 8

47. Subject to the power of the Court to extend the time, a bankruptcy notice to be served in Brunei shall be served within one month from the issue thereof.

Duration of notice

48. A bankruptcy notice shall be served and service thereof shall be proved in the like manner as is by these rules prescribed for the service of a creditor's petition.

Service of notice. Forms 7, 15, 16

49. When the Court makes an order setting aside the bankruptcy notice it may at the same time declare that no act of bankruptcy has been committed by the debtor under such notice.

Setting aside notice. Form 9

Petitions

50. (1) Where a petition is presented by a debtor he shall, besides inserting therein his name and description and his address at the date when the petition is presented, further describe himself as lately residing

Description and address of debtor. Form 3

LAWS OF BRUNEI

140

CAP. 67

Bankruptcy

[Subsidiary]

or carrying on business at the address or several addresses, as the case may be, at which he has incurred debts and liabilities which at the date of the petition remain unpaid or unsatisfied.

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

Attestation

51. Every bankruptcy petition shall be attested. If it be attested in Brunei the witness shall be a magistrate or the Official Receiver or the Registrar. If it be attested out of Brunei the witness shall be a judge or magistrate or a Brunei consul or vice-consul or a notary public.

Deposit by
petitioner

52. (1) Upon the presentation of a petition either by the debtor or by a creditor the petitioner shall deposit with the Official Receiver the sum of \$100, and such further sum (if any) as the Court may from time to time direct, to cover the fees and expenses to be incurred by the Official Receiver; and no petition shall be received unless the receipt of the Official Receiver for the deposit payable on the presentation of the petition is produced to the Registrar.

(2) The Official Receiver shall account for the money so deposited to the creditor or, as the case may be, to the debtor's estate, and any sum so paid by a petitioning creditor shall be repaid to such creditor (except and so far as such deposit may be required by reason of insufficiency of assets for the payment of the fees of and expenses incurred by the Official Receiver) out of the proceeds of the estate in the order of priority prescribed by section 37 of the Act.

Registration
of petition in
Land Office
or District
Land Office

53. When a petition is filed the Official Receiver may register a memorial of the petition in the Land Office or in any District Land Office against any property registered therein in the name of the debtor or in any alias of his or in his trading name, or in the name of any firm in which he has any share or interest, or in the name or names of any wife or concubine of the debtor. This provision shall so far as the nature of the case will admit apply in the case of any person carrying on business in a name or style other than this own.

[Subsidiary]

54. The Official Receiver may in either of the cases mentioned in rule 133 or 135 register a memorial of the petition in the Land Office or in any District Land Office against any property registered in the name or names of any partner or partners in the debtor firm or in any alias of his or theirs or in any trading name of his or theirs, or in the name of any firm in which he or they has or have any share or interest, or in the name or names of any wife or concubine of his or theirs respectively.

Registration of petition in Land Office or District Land Office against partner

Creditor's petition

55. A petitioning creditor who is resident out of the jurisdiction, or whose estate is vested in a trustee under any law relating to bankruptcy or against whom a petition is pending under the Act, or who has made default in payment of any costs ordered by any Court to be paid by him to the debtor, may be ordered to give security for costs to the debtor.

Security for costs

56. Every creditor's petition shall be verified by affidavit, and when it is filed there shall be lodged with it one copy to be sealed and issued to the petitioner.

Verification. Forms 10 to 12

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

Who to verify

58. Where a petition is presented by 2 or more creditors jointly it shall not be necessary for each creditor to depose to the truth of all the statements which are within his own knowledge; but it shall be sufficient that each statement in the petition is deposed to by someone within whose knowledge it is.

Joint petitioners

Service of creditor's petition

59. A creditor's petition may be served in the same manner as a writ of summons.

Service. Form 14

60. If a debtor against whom a bankruptcy petition has been filed dies before service thereof, the Court may order service to be offered on the personal representatives of the debtor or on the Probate Officer or on such other persons as the Court may think fit.

Death of debtor before service of petition

Interim receiver

61. Where an order is made appointing the Official Receiver to be interim receiver of the property of the debtor, such order shall state the

Form contents of order.

LAWS OF BRUNEI

142

CAP. 67

Bankruptcy

[Subsidiary]

Form 13 nature and, so far as it is known, the locality of the property of which the Official Receiver is ordered to take possession.

Deposit 62. Before any such order is made the person who has made the application therefor shall deposit with the Official Receiver the sum of \$100 towards the prescribed fee for the Official Receiver, and such further sum as the Court directs for the expenses which may be incurred by him.

Further deposit necessary. 63. If the sum of \$100, and such further sum so to be deposited for the expenses which may be incurred by the Official Receiver, proves to be insufficient the person on whose application the order has been made shall from time to time deposit with the Official Receiver such additional sum as the Court may, on the application of the Official Receiver, from time to time direct; and such sum shall be deposited within 48 hours after the making of a written request therefor. If such additional sum be not so deposited the order appointing the interim receiver may be discharged by the Court.

Repayment of deposit 64. If an order appointing an interim receiver is followed by a receiving order the deposits made by the creditor on whose application such interim receiver was appointed shall be repaid to him (except and so far as such deposits may be required by reason of insufficiency of assets for the payment of the fees chargeable and the expenses incurred by the interim receiver) out of the proceeds of the estate in the order of priority prescribed by section 37 of the Act.

Damages if petition dismissed 65. Where, after an order has been made appointing an interim receiver, the petition is dismissed, the Court shall, upon application to be made within 21 days from the date of the dismissal thereof, adjudicate with respect to any damages or claim thereto arising out of the appointment and shall make such order as the Court thinks fit; and such decision or order shall be final and conclusive between the parties.

Hearing of petition

Time of hearing 66. The Registrar shall after reference to the Official Receiver appoint the time and place at which the petition is to be heard and notice thereof shall be written on the petition and sealed copy, and where the petition has not been served the Registrar may, after such reference as aforesaid, from time to time alter the first day so appointed and appoint another day and hour.

Several respondents 67. Where there are more respondents than one to a petition the rules as to service shall be observed with respect to each respondent, but

where all the respondents have not been served the petition may be heard separately or collectively as to the respondent or such of the respondents as has or have been served, separately or collectively as to the respondents not then served according as service upon them is effected.

68. Where a debtor intends to show cause against a petition he shall file a notice with the Official Receiver specifying the grounds on which he intends to show cause, and shall post to the petitioning creditor or to his solicitor a copy of the notice, in each case 3 days before the day on which the petition is to be heard.

Debtor intending to show cause.
R169
Form 17

69. If the debtor does not appear at the hearing the Court may on hearing the petitioning creditor and the Official Receiver either dismiss the petition or make a receiving order on such proof of the statements in the petition and of the amount of assets and liabilities as the Court thinks sufficient.

Non-appearance of debtor.
Forms 23, 25, 26

70. On the hearing of the petition the amount of assets and liabilities, and in the case of a creditor's petition any matters which the debtor has given notice that he intends to dispute, shall be proved.

Hearing of petition

71. If any creditor neglects to appear on his petition no subsequent petition against the same debtor or debtors, or any of them, either alone or jointly with any other person, shall without the leave of the Court be presented by the same creditor in respect of the same act of bankruptcy.

Non-appearance of creditor

72. No application to withdraw a petition shall be heard except upon proof that notice of the intended application and a copy of the affidavits in support thereof have been duly served upon the Official Receiver not less than 7 days before the day named in the notice for hearing the application.

Application to withdraw petition.

Receiving order, etc.

73. When a receiving order or order of adjudication is made the Official Receiver may register a memorial of such receiving order or order of adjudication in the Land Office or in any District Land Office against any property registered therein in the name of the debtor or in any alias of his or in his trading name, or in the name of any firm in which he has any share or interest, or in the name or names of any wife or concubine of the debtor.

Registration of receiving order or order of adjudication in Land Office or District Land Office

LAWS OF BRUNEI

144

CAP. 67

Bankruptcy

[Subsidiary]

Registration of receiving order or order of adjudication in Land Office, or District Land Office against partners

74. Where a receiving order or order of adjudication is made against a firm the Official Receiver may register a memorial thereof in the Land Office or in any District Land Office against any property registered in the name of any partner or partners in the debtor firm or in any alias of his or theirs or in any trading name of his or theirs, or in the name of any firm in which he or they has or have any share or interest, or in the name or names of any wife or concubine of such partner or partners.

Service of receiving order. Forms 25, 26

75. The Official Receiver shall cause a sealed copy of a receiving order and an adjudication order to be served on the debtor.

Receiving order on bankruptcy notice

76. A receiving order shall not be made against a debtor on a petition in which the act of bankruptcy alleged is non-compliance with a bankruptcy notice within the appointed time, where such debtor has applied to set aside such notice until after the hearing of the application, or where the notice has been set aside, or during a stay of the proceedings thereon; but in such case the petition shall be adjourned or dismissed as the Court may think fit.

Stay of proceedings

77. There may be included in a receiving order an order staying any action or proceedings against the debtor or staying proceedings generally.

Advertisement. Form 27

78. Where a receiving order is made the Official Receiver shall forthwith send notice thereof to the *Gazette* and to such local newspaper or newspapers as he may think fit.

Costs of petition etc.

79. (1) The costs of all proceedings under the Act, down to and including the making of a receiving order, shall be borne by the party prosecuting the same unless the Court orders that the debtor shall pay the whole or any part of them, or in the case of a receiving order being made on a debtor's petition while a creditor's petition against such debtor is pending, that they shall be paid out of the estate. When a receiving order is made on a creditor's petition the costs of the petitioning creditor, including the costs of the bankruptcy notice, if any, sued out by him, shall be taxed and be payable out of the estate.

(2) When the proceeds of the estate are not sufficient for the payment of any costs properly incurred by the Official Receiver in excess of the deposit between the making of a receiving order and the conclusion of the first meeting of creditors, the Court may order such costs to be paid by the party prosecuting the proceedings.

[Subsidiary]

80. (1) An application to the Court to rescind a receiving order or to stay proceedings thereunder, or to annul an adjudication, made by any person other than the Official Receiver, shall not be heard except upon proof that notice of the intended application and a copy of the affidavits in support thereof have been duly served upon the Official Receiver. Notice of any such application shall be served on the Official Receiver not less than seven days before the day named in the notice for hearing the application. Pending the hearing of the application the Court may make an interim order staying such of the proceedings as it thinks fit.

Application to rescind order, to stay proceedings thereunder or to annul adjudication. Forms 18, 19, 79

(2) In any case in which any such application is made by the Official Receiver, 4 days' notice thereof and a copy of any report in support thereof shall be served on the debtor and the petitioning creditor (if any):

Application by Official Receiver

Provided that where such service is found to be impracticable by reason that the debtor or the petitioning creditor is out of Brunei or cannot be found at his usual or last known address or place of business no objection shall be taken to the application on the ground of such service not having been effected.

(3) Where an application is made to the Court to rescind a receiving order or annul an order of adjudication, the Official Receiver shall make and file 4 days before the day appointed for hearing the application a report as to the debtor's conduct and affairs, including a report as to his conduct during the proceedings, and the Court on the hearing of the application shall hear and consider such report and such further evidence as may be adduced by any party, and any objections which may be made by or on behalf of the trustee (if any) or any creditor whom the Court may order to be served with notice of the application or may permit to appear thereon. For the purposes of the application the report shall until the contrary is proved be evidence of the statements therein contained.

Report by Official Receiver on application to rescind receiving order or annul adjudication

(4) For the purposes of this rule "creditor" includes all creditors mentioned in the debtor's statement of affairs or who have notified to the Official Receiver or trustee that they have or at the date of the receiving order had claims against the debtor.

Statement of affairs

81. The statement of affairs shall be made out in duplicate, and one copy shall be verified. The Official Receiver shall file in Court the verified statement of affairs submitted to him by the debtor.

How made out. Form 28

LAWS OF BRUNEI

146

CAP. 67

Bankruptcy

[Subsidiary]

Extension of time 82. Where any debtor requires any extension of the time for the filing by him of his statement of affairs, he shall apply to the Official Receiver who may, if he thinks fit, give a written certificate extending such time, which certificate shall be filed and shall render an application to the Court under section 18 of the Act unnecessary.

Public examination

Adjournments *sine die* 83. Where the Court is of opinion that a debtor is failing to disclose his affairs or where the debtor has failed to attend the public examination or any adjournment thereof or where the debtor has not complied with any order of the Court in relation to his accounts, conduct, dealings and property and no good cause is shown by him for such failure, the Court may forthwith commit the debtor for contempt of Court or may adjourn the public examination *sine die*, and may make such further or other order as the Court thinks fit.

Application to proceed 84. The Court may on the application either of the Official Receiver or of the debtor appoint a day for proceeding with a public examination which has been adjourned *sine die*.

Proceeding after adjournment *sine die* 85. Where an examination has been adjourned *sine die* and the debtor desires to have a day appointed for proceeding with his public examination, the expense of gazetting, advertising and giving notice to creditors of the day to be appointed for proceeding with such examination shall, unless the Official Receiver or trustee, as the case may be, consents to the costs being paid out of the estate, be at the cost of the debtor, who shall, before any day is appointed for proceeding with the public examination, deposit with Official Receiver such sum as the Official Receiver may think sufficient to defray the expense aforesaid. The balance of the deposit after defraying the expense aforesaid shall be returned to the debtor.

Notice of proceeding after adjournment *sine die*. Form 54 86. In any case in which a public examination has been adjourned *sine die* and the Court afterwards makes an order for proceeding with such public examination, notice to creditors of the time and place appointed for proceeding with such public examination shall be sent by the Official Receiver, and notice shall also be inserted in the *Gazette* and in the local paper (if any) in which the notice of the first holding of the public examination was inserted, 7 days before the day appointed.

Public examination of debtor who is a lunatic, etc. Forms 60, 61 87. (1) An application for an order dispensing with the public examination of a debtor or directing that the debtor be examined in some manner or at some place other than is usual, on the ground that the debtor is a lunatic or suffers from mental or physical affliction or disabil-

ity rendering him unfit to attend a public examination, may be made by the Official Receiver or by any person who has been appointed by any Court having jurisdiction so to do to manage the affairs of or represent the debtor, or by any relative or friend of the debtor who may appear to the Court to be a proper person to make the application.

(2) Where the application is made by the Official Receiver it may be made *ex parte* and the evidence in support of the application may be given by a report of the Official Receiver to the Court, the contents of which report shall, until the contrary is proved, be received as evidence of the matters therein stated.

(3) Where the application is made by some person other than the Official Receiver it shall be made by motion, of which notice shall be given to the Official Receiver and trustee (if any), and shall, except in the case of a lunatic so found by inquisition, be supported by an affidavit of a duly registered medical practitioner as to the physical and mental condition of the debtor.

(4) Where the order is made on the application of the Official Receiver the expense of holding the examination shall be deemed to be an expense incurred by the Official Receiver within the meaning of section 37 of the Act. Where the application is made by any other person he shall, before any order is made on the application, deposit with the Official Receiver such sum as the Official Receiver may certify to be necessary for the expenses of the examination.

Discharge

88. (1) A bankrupt intending to apply for his discharge shall file an application for a day to be fixed for the hearing and when a day for the hearing has been fixed the Official Receiver shall forthwith send notice thereof to the *Gazette* and to one local newspaper.

Application
Forms 81 to
84

(2) Notice of the day appointed for the hearing of the debtor's application for discharge shall be sent by the Official Receiver to each creditor not less than 14 days before the day so appointed.

89. Without prejudice to the provisions of section 98 of the Act, an appeal to the Court of Appeal shall lie at the instance of the Official Receiver from any order of the Court made upon an application for the rescission of a receiving order, and at the instance of the Official Receiver or of the trustee (if any) from any order of the Court made upon an application for discharge or for annulment of adjudication.

Appeals

LAWS OF BRUNEI

148

CAP. 67

Bankruptcy

[Subsidiary]

Report of Official Receiver

90. In every case of an application by a bankrupt for his discharge the report of the Official Receiver shall be filed not less than 7 days before the time fixed for hearing the application.

Evidence in answer to report

91. Where a bankrupt intends to dispute any statement with regard to his conduct and affairs contained in the Official Receiver's report, he shall, not less than 3 days before the hearing of the application for discharge, give notice in writing to the Official Receiver, specifying the statements in the report which he proposes at the hearing to dispute. Any creditor who intends to oppose the discharge of a bankrupt on grounds other than those mentioned in the Official Receiver's report shall give notice of the intended opposition, stating the grounds thereof, to the Official Receiver and to the bankrupt not less than 3 days before the hearing of the application.

Costs of application

92. A bankrupt shall not be entitled to have any of the costs of or incidental to his application for his discharge allowed to him out of his estate.

Orders conditional on consent to judgment. Forms 90 to 92

93. (1) Where a Court grants an order of discharge conditionally upon the bankrupt consenting to judgment being entered against him by the Official Receiver or trustee for the balance or any part of the balance of the debts provable under the bankruptcy which is not satisfied at the date of his discharge, the order of discharge shall not be signed, completed or delivered out until the bankrupt has given the required consent.

(2) If the bankrupt does not give the required consent within one month of the making of the conditional order the Court may, on the application of the Official Receiver or trustee, revoke the order or make such other order as the Court may think fit.

Order. Forms 85 to 89

94. The order of the Court made on an application for discharge shall bear the date of and take effect from the day on which it is made; but such order shall not be delivered out or gazetted until after the expiration of the time allowed for appeal, or if an appeal be entered, until after the decision of the Court of Appeal thereon.

Gazetting order

95. When the time for appeal has expired or, as the case may be, when the appeal has been decided by the Court of Appeal the Official Receiver shall forthwith gazette the order; and advertise it in one local newspaper.

[Subsidiary]

96. (1) An application by the Official Receiver or trustee for leave to issue execution on a judgment entered pursuant to a conditional order of discharge shall be in writing and shall state shortly the grounds on which the application is made. When the application is lodged the Registrar shall fix a day for the hearing.

Execution on judgment in case of conditional discharge

(2) The Official Receiver or trustee shall give notice of the application to the debtor not less than 4 days before the day appointed for the hearing and shall at the same time furnish him with a copy of the application. Such notice may be shortened or dispensed with on sufficient grounds, one of which shall be the probability of the debtor absconding.

97. Where a bankrupt is discharged subject to the condition that judgment shall be entered against him, or subject to any other condition as to his future earnings or after-acquired property, it shall be his duty, until such judgment or condition is satisfied, from time to time to give the Official Receiver such information as he may require with respect to his earnings and after-acquired property and income, and not less than once a year to file in the Court a statement showing the particulars of any property or income he may have acquired subsequent to his discharge.

Accounts of after-acquired property

98. Any statement of after-acquired property or income filed by a bankrupt whose discharge has been granted subject to conditions shall be verified by affidavit, and the Official Receiver or trustee may require the bankrupt to attend before the Court to be examined on oath with reference to the statements contained in such affidavit or as to his earnings, income, after-acquired property or dealings. Where a bankrupt neglects to file such affidavit or to attend the Court for examination when required so to do, or properly to answer all such questions as the Court may put or allow to be put to him, the Court may, on the application of the Official Receiver or trustee, rescind the order of discharge, commit the bankrupt for contempt of Court or make such other order as it may see fit.

Verification of statements of after-acquired property. Form 93

99. Where after the expiration of 2 years from the date of any order made upon a bankrupt's application for a discharge, the bankrupt applies to the Court to modify the terms of the order on the ground that there is no reasonable probability of his being in a position to comply with the terms of such order, he shall give 14 days' notice of the day fixed for hearing the application to the Official Receiver and to all his creditors.

Application for modification of order

[Subsidiary]

Meetings of creditors

Notice to debtor of first meeting. Forms 29, 35, 39

100. The Official Receiver shall give 3 days' notice to the debtor of the time and place appointed for the first meeting of creditors. The notice may be either delivered to him personally or sent to him by prepaid letter post as may be convenient. It shall nevertheless be the duty of the debtor to attend such first meeting although the notice is not sent to or does not reach him.

Notice of first meeting. Forms 30

101. The Official Receiver shall fix the day for the first meeting, and shall forthwith gazette and advertise the same in one local newspaper if he considers such advertisement desirable. The Official Receiver shall also give notice to the creditors.

Notice of other meetings. Forms 31, 32, 43, 44

102. The notices of subsequent meetings shall be issued to creditors by the Official Receiver or trustee. Where no special time is prescribed the notices shall be sent off not less than 3 days before the day appointed for the meeting.

Non-reception of notice by creditor

103. Where a meeting of creditors is called by notice the proceedings had and resolutions passed at such meeting shall, unless the Court otherwise orders, be valid notwithstanding that some creditors have not received the notice summoning the meeting.

Notice to Official Receiver of creditors' meetings.

104. Where a trustee summons a meeting of creditors he shall send to the Official Receiver a copy of the notice convening the meeting.

Proof of notice. Forms 33, 34, 41, 42

105. A certificate by the Official Receiver or other officer of the Court or by the clerk of any such person, or an affidavit by the trustee or his solicitor or the clerk of either of such persons, that the notice of any meeting of creditors or sitting of the Court has been duly posted, shall be sufficient evidence of such notice having been duly sent to the person to whom the same was addressed.

Cost of creditors' meetings

106. Where on the request of creditors the Official Receiver or trustee calls a meeting of creditors, the cost of summoning such meeting, including all disbursements for printing, stationery, postage and the hire of a room for the meeting (if necessary), shall be calculated at the following rates for each creditor to whom notice is required to be sent —

(a) where the assets do not exceed \$1,000 at the rate of 30 cents per creditor for the first 20 creditors and 15 cents per creditor for any number of creditors after the first 20; and

(b) where the assets exceed \$1,000 at the rate of 30 cents per creditor for any number of creditors.

107. Where a meeting of creditors is adjourned the adjourned meeting shall be held at the same place as the original place of meeting unless in the resolution for adjournment another place is specified.

Adjournment.
Form 37

108. In calculating a quorum of creditors present at a meeting those persons only who are entitled to vote at the meeting shall be reckoned.

Quorum

Proof of debts

109. An affidavit of proof of debt may be sworn or declared before the Official Receiver or any person authorized to administer oaths or take statutory declarations.

Swearing of proof.
Forms 46, 47

110. In any case in which it appears from the debtor's statement of affairs that there are numerous claims for wages by workmen or others employed by the debtor, it shall be sufficient if one proof for all such claims is made either by the debtor or by his foreman or some other person on behalf of all such creditors. Such proof shall have annexed thereto, as forming part thereof, a schedule setting forth the names of the workmen or others and the amounts severally due to them. Any proof made in compliance with this rule shall have the same effect as if separate proofs had been made by each of the said workmen or others.

Workmen's wages.
Form 48

111. Where a creditor seeks to prove in respect of a bill of exchange, promissory note, or other negotiable instrument or security on which the debtor is liable, such bill of exchange, note, instrument or security must, subject to any special order of the Court made to the contrary, be produced to the Official Receiver, chairman of a meeting or trustee, as the case may be, before the proof can be admitted either by voting or for dividend.

Production of bills of exchange and promissory notes

112. A proof intended to be used at the first meeting of creditors shall be lodged with the Official Receiver not later than 24 hours before the time appointed for the meeting. A proof intended to be used at an adjournment of the first meeting (if not lodged in time for the first meeting) must be lodged not less than 24 hours before the time appointed for the adjourned meeting.

Time for lodging proofs

113. Where a trustee is appointed in any matter all proofs of debts that have been received by the Official Receiver shall be handed over to the trustee but the Official Receiver shall first make a list of such proofs and take a receipt thereon from the trustee for such proofs.

Transmission of proofs to trustee.

LAWS OF BRUNEI

152

CAP. 67

Bankruptcy

[Subsidiary]

Time for admission or rejection of proofs by Official Receiver.
Form 49

114. The Official Receiver, as trustee, not later than 21 days from the latest date specified in the notice of his intention to declare a dividend as the time within which such proofs must be lodged, shall either admit or reject wholly or in part every proof lodged with him or require further evidence in support thereof.

Time for admission or rejection of proof by trustee.
Form 49

115. The trustee, other than the Official Receiver, within 28 days after receiving a proof which has not previously been dealt with by the Official Receiver shall, in writing, either admit or reject it wholly or in part or require further evidence in support thereof:

Provided that where the trustee has given notice of his intention to declare a dividend he shall, within 21 days after the date mentioned in such notice as the latest date up to which proofs must be lodged, examine and in writing admit or reject every proof which has not been already admitted or rejected and give notice of his decision rejecting a proof wholly or in part to the creditor affected thereby.

Notice of admission of proof

116. Where a creditor's proof has been admitted the notice of dividend shall be sufficient notification to such creditor of such admission.

Appeal from rejection of proof

117. No application to reverse or vary the decision of the Official Receiver or trustee in rejecting a proof shall be entertained after the expiration of 21 days from the date of the decision complained of.

Costs of appeals from decisions as to proofs

118. The Official Receiver shall in no case be personally liable for costs in relation to an appeal from his decision rejecting any proof wholly or in part.

Proxies and voting letters

Filing of proxies.
Forms 50, 51

119. A proxy shall be lodged with the Official Receiver or trustee not later than 24 hours before the time appointed for the meeting or adjourned meeting at which it is to be used.

Signature of proxy

120. A proxy given by a creditor shall be deemed to be sufficiently executed if it is signed by any person in the employ of the creditor having a general authority to sign for such creditor, or by the authorized agent of such creditor if resident abroad. Such authority shall be in writing and shall be produced to the Official Receiver if required.

Filling in when creditor blind, etc.

121. The proxy of a creditor blind or incapable of writing may be accepted if such creditor has attached his signature or mark thereto in the presence of a witness, who shall add to his signature his description and residence:

[Subsidiary]

Provided that all insertions in the proxy are in the handwriting of the witness and such witness has certified at the foot of the proxy that all such insertions have been made by him at the request of the creditor and in his presence before he attached his signature or mark.

122. No person shall be appointed a general or special proxy who is a minor.

Minors not to be proxies

Dividends

123. (1) Not more than 4 months before declaring a dividend, the trustee shall gazette notice of his intention to do so and at the same time give notice to such of the creditors mentioned in the bankrupt's statement of affairs as have not proved their debts. Such notice shall specify the latest date up to which proofs shall be lodged, which shall be not less than 14 days from the date of such notice.

Notice of intended dividend.
Forms 138, 139, 141

(2) Where any creditor, after the date mentioned in the notice of intention to declare a dividend as the latest date upon which proofs may be lodged, appeals against the decision of the Official Receiver or trustee rejecting a proof, such appeal shall be commenced, and notice thereof given to the Official Receiver or trustee, within 7 days from the date of the notice of the decision against which the appeal is made, and the Official Receiver or trustee shall in such case make provision for the dividend upon such proof and the probable costs of such appeal in the event of the proof being admitted. Where no appeal has been commenced within the time specified in this rule the trustee shall exclude all proofs which have been rejected from participation in the dividend.

(3) Immediately after the expiration of the time fixed by this rule for appealing against the decision of the trustee, he shall proceed to declare a dividend and gazette the same and shall also send a notice of dividend to each creditor whose proof has been admitted.

(4) If it becomes necessary, in the opinion of the trustee and the committee of inspection, to postpone the declaration of the dividend beyond the prescribed limit of 4 months, the trustee shall gazette a fresh notice of his intention to declare a dividend; but it shall not be necessary for such trustee to give a fresh notice to such of the creditors mentioned in the bankrupt's statement of affairs as have not proved their debts. In all other respects the same procedure shall follow the fresh notice as would have followed the original notice.

124. Subject to the provisions of any written law relating to bills of exchange, and subject to the power of the Court in any other case on special grounds to order production to be dispensed with, every bill of

Production of bills, notes, etc.

[Subsidiary]

exchange, promissory note or other negotiable instrument or security upon which proof has been made shall be exhibited to the trustee before payment of dividend thereon, and the amount of dividend paid shall be indorsed on the instrument.

Dividend may be sent by post

125. The amount of the dividend may at the request and risk of the creditor be transmitted to him by post.

Payment of dividends to a nominee

126. If a person to whom dividends are payable desires that they shall be paid to some other person he may lodge with the trustee a request to that effect which shall be a sufficient authority for payment of the dividend to the person therein named.

Registration of general assignments of book debts

Form of register.
Form 117

127. (1) The Registrar shall keep a register for the purpose of section 48 of the Act, and shall on request and on the filing of a duly attested copy of an assignment of existing or future book debts or any class thereof from a person engaged in any trade or business to any other person, and production of the original thereof, and deposit of a certified translation thereof in such language as the Registrar may direct. The register shall contain the name, residence and occupation of the persons by whom and to whom the assignment was made and given, and the other particulars shown in the form prescribed under these rules, and all such assignments registered in each year shall be numbered consecutively according to the respective dates of the registration.

(2) The Registrar shall also keep an index of the names of the assignors under such assignments. Such index shall be arranged in divisions corresponding with the letters of the alphabet, so that all assignors whose surnames begin with the same letter, and no others, shall be comprised in one division but the arrangement within each such division need not be alphabetical.

(3) The fees mentioned in the Appendix and such other fees as may be prescribed shall be paid to the Registrar.

Appropriation of pay, salary, pensions, etc.

Notice of bankrupt of application.
Forms 118, 119

128. When a trustee intends to apply to the Court for an appropriation order under section 56 of the Act, he shall give to the bankrupt notice of his intention so to do. Such notice shall specify the time and place fixed for hearing the application, and shall state that the bankrupt is at liberty to show cause against such order being made.

[Subsidiary]

129. Where an order has been made for the payment by a bankrupt, or by his employer for the time being, of a portion of his income or salary (including any bonus or commission payable to him) the bankrupt may, upon his ceasing to receive a salary or income of the amount he received when the order was made, apply to the Court to rescind the order or to reduce the amount ordered to be paid by him to the trustee. And in the case of any increase in the amount of such salary or income (inclusive of any bonus or commission as aforesaid) the Official Receiver or trustee may in like manner apply to the Court to increase the amount ordered to be paid by the debtor to the trustee.

Review of order

Disclaimer of lease

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

Disclaimer of lease. Forms 123 to 130

(a) where the bankrupt has not sublet the demised premises or any part thereof or created a mortgage or charge upon the lease, and —

- (i) the rent reserved or the value of the property leased, as ascertained by the assessment, is less than \$1,800 per annum; or
- (ii) the trustee serves the lessor with notice of his intention to disclaim, and the lessor does not within 7 days after the receipt of such notice give notice to the trustee requiring the matter to be brought before the Court;

(b) where the bankrupt has sublet the demised premises or created a mortgage or charge upon the lease, and the trustee serves the lessor and the sub-lessee or the mortgagees with notice of his intention to disclaim, and neither the lessor nor the sub-lessee or the mortgagees or any of them, within 14 days after the receipt of such notice, require or requires the matter to be brought before the Court.

(2) Except as provided by this rule, the disclaimer of a lease without the leave of the Court shall be void.

(3) Where a trustee disclaims a lease he shall forthwith file the disclaimer with the proceedings in the Court and shall also, if the lease is registered, register a memorial of such disclaimer in the Land Office or in any District Land Office; and the disclaimer shall contain particulars of the interest disclaimed and a statement of the persons to whom notice of the disclaimer has been given. Until the disclaimer is so filed, or, as

[Subsidiary]

the case may be, filed and registered, by the trustee, the disclaimer shall be inoperative.

(4) Where, in pursuance of notice by the trustee of his intention to disclaim a lease, the lessor, sub-lessee, or mortgagee requires the trustee to apply to the Court for leave to disclaim, the costs of the lessor, sub-lessee, or mortgagee shall not be allowed out of the estate of the bankrupt except in cases in which the Court is satisfied that such application was necessary in order to do justice between the parties.

(5) A disclaimer made without leave of the Court under this rule shall not be void or otherwise affected on the ground only that the notice required by this rule has not been given to some person who claims to be interested in the demised property.

(6) Where any person claims to be interested in any part of the property of the bankrupt burdened with onerous covenants, he shall, at the request of the Official Receiver or trustee, furnish a statement of the interest so claimed by him.

Proceedings by company or co-partnership

Public officer
or agent of
company,
etc.

131. A bankruptcy petition against or bankruptcy notice to any debtor to any company or co-partnership duly authorized to sue and be sued in the name of a public officer or agent of such company or co-partnership may be presented by or sued out by such public officer or agent as the nominal petitioner for and on behalf of such company or co-partnership, on such public officer or agent filing an affidavit stating that he is such public officer or agent and that he is authorized to present or sue out such petition or bankruptcy notice.

Proceedings by or against firm

Attestation
of firm's sign-
ature.

132. Where any notice, declaration, petition or other document requiring attestation is signed by a firm of creditors or debtors in the firm name, the partner signing for the firm shall add also his own signature e.g. "*Puteh & Co. by Bakar bin Ali, a partner in the said firm.*"

Debtor's
petition by
firm.

133. Where a firm of debtors file a declaration of inability to pay their debts or a bankruptcy petition the same shall contain the names in full of the individual partners, and if such declaration or petition is signed in the firm name the declaration or petition shall be accompanied by an affidavit made by the partner who signs the declaration or petition, showing that all the partners concur in the filing of the same:

Provided that the Court may dispense with proof of the concurrence of any partner if it has been impracticable to obtain his concurrence in time.

134. A creditor's petition in the firm's name may be presented by any partner of the firm, or in the absence of all the partners from Brunei, by any person having the control or management of the business of the firm.

Creditor's
petition by
firm

135. Where a petition is filed against a firm the petitioning creditor, or if the petitioning creditor is a firm then one of the partners therein, shall state on affidavit the names and addresses of all the partners in the debtor firm to the best of his information and belief.

Creditor's
petition
against firm

136. In cases of partnership the debtors shall submit a statement of their partnership affairs and each debtor shall submit a statement of his separate affairs.

Statement of
affairs

137. Where a receiving order is made against a firm the joint and separate creditors shall collectively be convened to the first meeting of creditors.

First meeting

138. The joint creditors, and each set of separate creditors, may severally accept compositions or schemes of arrangement. So far as circumstances allow, a proposal accepted by joint creditors may be approved in the prescribed manner, notwithstanding that the proposals or proposal of some or one of the debtors made to their or his separate creditors may not be accepted.

Acceptance
of composi-
tion, etc., by
joint and
separate cre-
ditors

139. Where proposals for compositions or schemes are made by a firm, and by the partners therein individually, the proposal made to the joint creditors shall be considered and voted upon by them apart from every set of separate creditors; and the proposal made to each separate set of creditors shall be considered and voted upon by such separate set of creditors apart from all other creditors. Such proposals may vary in character and amount. Where a composition or scheme is approved the receiving order shall be discharged only so far as it relates to the estate the creditors of which have accepted the composition or scheme.

Voting on
composition

140. On the adjudication in bankruptcy of a partnership the trustee appointed by the joint creditors, or by the Court under subsection (4) of section 23 or subsection (3) of section 81 of the Act, as the case may be, shall be the trustee of the separate estates. Each set of separate creditors may appoint its own committee of inspection; but if any set of separate creditors does not appoint a separate committee, the committee (if any)

Adjudica-
tion, trustee

[Subsidiary]

appointed by the joint creditors shall be deemed to have been appointed also by such separate creditors.

Separate firms

141. If any 2 or more of the members of a partnership constitute a separate and independent firm, the creditors of such last-mentioned firm shall be deemed to be a separate set of creditors and to be on the same footing as the separate creditors of any individual member of the firm. And where any surplus arises upon the administration of the assets of such separate or independent firm the same shall be carried over to the separate estates of the partners in such separate and independent firm according to their respective rights therein.

Lunatics

Lunatics

142. (1) Where it appears to the Court that any debtor or creditor or other person who may be affected by any proceeding under the Act or any rules made thereunder is a lunatic not so found by inquisition (hereinafter called the lunatic), the Court may appoint such person as it may think fit to appear for, represent or act for and in the name of the lunatic, either generally or in and for the purpose of any particular application or proceeding or the exercise of any particular rights or powers which under the Act and any rules made thereunder the lunatic might have exercised if he had been of sound mind. The appointment may be made by the Court either on an application made as hereinafter mentioned or, if the Court thinks fit so to do, with any previous application.

(2) An application to the Court to make an appointment under this rule may be made by any person who has been duly appointed by the Court to manage the affairs or property of or to represent the lunatic, or by any relative or friend of the lunatic who may appear to the Court to be a proper person to make the application, or by the Official Receiver.

(3) The application may be made *ex parte* and without notice, but in any case in which the Court thinks it desirable the Court may require such notice of the application as it thinks necessary to be given to the Official Receiver or trustee (if any) or to the petitioning creditor or to the person alleged to be a lunatic, or to any other person, and for that purpose may adjourn the hearing of the application.

(4) Where the application is made by some person other than the Official Receiver it shall be supported by an affidavit of a duly registered medical practitioner as to the physical and mental condition of the lunatic. Where the application is made by the Official Receiver it may be

supported by a report of the Official Receiver, the contents of which shall be received until the contrary is proved evidence of the facts therein stated.

(5) When a person has been appointed under this rule any notice under the Act and any rules made thereunder served on or given to such person shall have the same effect as if the notice had been served on or given to the lunatic.

Administration of estates of deceased insolvents

143. A creditor's petition, and a petition by the legal personal representative of the deceased, under section 112 of the Act shall be verified by affidavit. Verification of petition. Forms 134, 135

144. The provisions of rule 52 as to deposits, on presentation of a petition shall apply to petitions presented by a creditor or by a legal personal representative under section 112 of the Act. Deposit

145. Where an administration order under section 112 of the Act is made, such order shall be gazetted and advertised in the same manner in all aspects as an order of adjudication is gazetted and advertised. Gazetting. Form 136

146. (1) The petition shall, unless the Court otherwise directs, be served on each executor who has proved the will or, as the case may be, on each person who has taken out letters of administration or, if there is no personal representative in Brunei, on the Probate Officer. The Court may also, if the Court thinks fit, order the petition to be served on any other person. Service.

(2) Service shall be proved in the same way as in the case of an ordinary creditor's petition, and the petition shall be heard in the like manner.

(3) Where any executor or administrator or the Probate Officer, as the case may be, intends to show cause against the petition he shall file with the Official Receiver a notice specifying the grounds on which he intends to show cause and shall transmit by post to the petitioning creditor, or to his solicitor, a copy of the notice, in each case 3 days before the day on which the petition is to be heard.

147. (1) When an administration order under section 112 of the Act has been made it shall be the duty of the executor or legal personal representative of the deceased debtor, or of the Probate Officer to lodge with the Official Receiver forthwith (in duplicate) an account of the Duties of executor, etc.

[Subsidiary]

dealings with, and administration of (if any), the deceased's estate by such executor or legal personal representative or by the Probate Officer, and such executor or legal personal representative or the Probate Officer shall also furnish forthwith in duplicate a list of the creditors and a statement of the assets and liabilities and such other particulars of the affairs of the deceased as may be required by the Official Receiver. Every account, list and statement to be made under this rule shall be made and verified as nearly as may be in accordance with the practice for the time being of the original jurisdiction of the Court.

(2) The expense of preparing, making, verifying and lodging any account, list and statement under this rule shall, after being taxed, be allowed out of the estate, upon production of the necessary allocatur.

Meetings of creditors, trustees, etc.

148. In proceedings under an order for the administration of the estate of a person dying insolvent, where a meeting of creditors is summoned for the appointment of a trustee —

(a) the provisions of the Meetings of Creditors Rules relating to the mode of summoning a meeting of creditors, and to the persons entitled to a vote at a meeting; and

(b) the provisions of these rules which refer to creditors, meetings of creditors, trustees and committees of inspection;

shall, so far as applicable, apply as if the proceedings were under a receiving order and order of adjudication.

PART IV

OFFICIAL RECEIVER, TRUSTEES, SPECIAL MANAGERS,
SECURITY BY TRUSTEE OR SPECIAL MANAGER,
GAZETTING, ACCOUNTS AND AUDIT, UNCLAIMED FUNDS

Official Receivers

Duties as to debtor's statement of affairs. Form 28

149. (1) As soon as the Official Receiver has been appointed to the receivership of an estate he shall furnish the debtor with a form for the preparation of his statement of affairs.

(2) The Official Receiver or some person deputed by him shall also forthwith hold a personal interview with the debtor for the purpose of investigating his affairs.

(3) It shall be the duty of the debtor to attend at such times and places as the Official Receiver may appoint.

150. Subject to any general or special directions which the Court may give, the Official Receiver, while in the possession of the property of a debtor, may make him such allowance out of his property for the support of himself and his family as may be just. In fixing the amount of such allowance the assistance rendered by the debtor in the management of his business or affairs may be taken into account.

Subsistence allowance to debtor

151. Whenever, under the powers given by section 78 of the Act, the Official Receiver employs any person to assist the debtor in the preparation of his statement of affairs he shall report the matter to the Court and specify the remuneration to be allowed to such person.

Special report as to person employed to assist debtor

152. Where the Official Receiver holds any proxies but cannot conveniently attend any meeting of creditors at which such proxy or proxies might be used, he may depute some person under his official control, by writing under his hand, to attend such meeting and use proxies on his behalf and in such manner as he may direct.

Use of proxies by deputy

153. In any case of sudden emergency or where there is no Official Receiver or Deputy Official Receiver capable of acting, any act or thing required or authorized to be done by the Official Receiver may be done by the Registrar.

Registrar to act in sudden emergency

154. When the Official Receiver appoints a special manager he may at any time remove him if his employment seems unnecessary or unprofitable to the estate, and he shall remove him if so required by a special resolution of the creditors.

Removal of special manager

155. Applications by the Official Receiver to the Court may be made personally, and without notice or other formality; but the Court may in the case order that an application may be renewed in a formal manner and that such notice thereof be given to any person likely to be affected thereby as the Court may direct.

Mode of application to Court

156. Where for the purposes of any application to the Court by the Official Receiver for directions, or on his opposing a receiving order or an order for adjudication, or on his applying to adjudge a debtor bankrupt, or to rescind a receiving order, or to annul an adjudication order, or for leave to disclaim a lease, or for an extension of time to apply for leave to disclaim a lease, or for an order to take criminal proceedings against a bankrupt, or to commit a bankrupt, it is necessary that evidence be given by him in support of such opposition or application, such

Evidence on application by Official Receiver

[Subsidiary]

evidence may be given by a report of the Official Receiver to the Court and need not be given by affidavit, and any such report of the Official Receiver to the Court shall be received by the Court until the contrary is proved as evidence of the matters reported upon.

Application
for directions

157. In any case of doubt or difficulty or in any matter not provided for by the Act or any rules made thereunder relating to any proceedings in Court the Official Receiver may apply to the Court for directions.

Accounting
by Official
Receiver

158. (1) Where a composition or scheme is sanctioned by the Court the Official Receiver shall account to the debtor or, as the case may be, to the trustee under composition or scheme.

(2) Where a debtor is adjudged bankrupt and a trustee is appointed, the Official Receiver shall account to the trustee in the bankruptcy.

(3) The provisions of this Part as to trustees and their accounts shall not apply to the Official Receiver when acting as trustee, but he shall account in such manner as is provided by the Act or as the Court may from time to time direct.

Accounts of
debtor

159. The debtor shall on the request of the Official Receiver furnish him with all such accounts and particulars as he may require. If the debtor fails to comply with the requirements of this rule the Official Receiver shall report such failure to the Court and the Court shall take such action on such report as the Court may think just.

Liability for
costs, ex-
penses and
damages

160. The following provisions shall apply to every case in which proceedings are taken by action, motion or in any other manner against the Official Receiver in respect of anything done or default made by him when acting, or in good faith and reasonable belief that he is acting, in pursuance of the Act or in execution of the powers given to the Official Receiver by the Act —

(a) Subject to the provisions of paragraphs (b) to (e), the costs, damages and expenses which the Official Receiver may have to pay, or to which he may be put under such proceedings, shall be paid out of the estate of the debtor and not personally.

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

[Subsidiary]

(c) The Official Receiver shall not, unless the Court otherwise orders, be entitled to be paid out of the estate any costs or expenses which he may have to pay or bear in consequence of resisting or defending any such proceedings, unless the Minister has determined that such proceedings shall be resisted or defended.

(d) The Official Receiver shall, if necessary, apply to the Court for any reasonable adjournment of any motion or other summary proceedings before the Court pending the determination of the Minister upon the question whether such motion or proceedings shall be resisted or defended. And the Court may grant an adjournment upon such terms as it thinks fit.

(e) If such proceedings are commenced before the appointment of a trustee by the creditors or before the approval of a composition or scheme, the Official Receiver may, before putting the trustee appointed by the creditors or in the case of a composition the debtor himself into possession of the debtor's property, retain the whole or some part of the debtor's estate according as the Minister shall in each case direct, to meet the damages, costs or expenses which the Official Receiver may have to pay or bear in consequence of the said proceedings. If such proceedings are commenced after the appointment of a trustee by the creditors or after the approval of a composition or scheme, the Official Receiver shall forthwith give notice of such proceedings to the trustee or other person in whom the estate of the debtor may be vested (including where necessary the debtor himself) and the estate of the debtor shall, as from the date of such notice, be deemed to be charged with the payment of the said damages, costs and expenses.

Outside trustees

161. On the appointment of a trustee, notice of his appointment shall forthwith be gazetted by the Official Receiver. Notice of the appointment shall if he considers it necessary be inserted by the Official Receiver in a local paper. The expense of such gazetting and notice shall be borne by the estate.

Notice of
appointment

162. It shall be a sufficient reason for refusing to approve the appointment of a person as trustee that in my other proceedings under the Act such person has either been removed under subsection (2) of section 96

Grounds for
refusing to
appoint

LAWS OF BRUNEI

164

CAP. 67

Bankruptcy

[Subsidiary]

of the Act from the office of trustee or has failed or neglected, without good cause shown by him, to render his accounts for audit for 2 months after the date by which the same should have been rendered.

Removal for failing to keep up or increase security

163. Where a trustee or special manager has given security in the prescribed manner but fails to keep up such security or, if called upon to do so, to increase such security, the Court may remove him from his office.

Removal by Court.

164. Where a trustee is removed by the Court the order removing him shall at once be filed with the proceedings in the matter and shall also be gazetted by the Official Receiver.

Notices of resignation.

165. A trustee intending to resign his office shall call a meeting of creditors to consider whether his resignation shall be accepted or not, and shall give not less than 7 days' notice of the meeting to the Official Receiver.

Limit of remuneration

166. Except as provided by the Act or any rules made thereunder, no trustee shall be entitled to receive out of the estate any remuneration for services rendered to the estate except the remuneration to which under the Act and such rules he is entitled as trustee.

Trustee carrying on business.
Forms 147 to 149

167. (1) Where the trustee or special manager carries on the business of the debtor he shall keep a distinct account of the trading and shall incorporate in the cash book the total weekly amount of the receipts and payments on such trading account.

(2) The trading account shall from time to time, and not less than once in 3 months, be verified by affidavit and the trustee shall thereupon submit such account to the committee of inspection (if any), or such member thereof as may be appointed by the committee for that purpose, who shall examine and certify the same.

Application for release.
Forms 137, 152, 153

168. A trustee before making application to the Court for his release shall give notice of his intention so to do to the Official Receiver, to all the creditors of the debtor who have proved their debts and to the debtor, and shall send with such notice a summary of his receipts and payments as trustee:

Provided that where such application is made upon the trustee ceasing to act by reason of a composition having been approved under section 25 of the Act, such notice and summary shall be sent to the debtor only.

[Subsidiary]

169. Where the Court has granted to a trustee his release a notice of the order granting such release shall be gazetted. The fees shall be charged to the estate. Gazetting of release
170. The release of a trustee shall not take effect unless and until he has duly delivered over all the books, papers, documents and accounts which by these rules he is required to deliver over on his release. Delivery of books, etc., on release of trustee
171. Where one fourth in value of the creditors desire that a general meeting of the creditors may be summoned to consider the propriety of removing the trustee such meeting may be summoned by a member of the committee of inspection, or by the Official Receiver, on the deposit of a sum sufficient to defray the expenses of summoning such meeting. Meeting to consider removal of trustee
172. The trustee shall forthwith pay all moneys received by him as trustee to the credit of the bank account in the name of the debtor's estate opened by him in pursuance of the provisions of subsection (1) of section 91 of the Act. All payments out shall be made by cheque payable to order, and every cheque shall have marked or written on the face of it the name of the estate and shall be signed by the trustee. Every cheque shall be countersigned in cases where there is a committee of inspection by at least one member of the committee and by such other person, if any, as the creditors or committee of inspection may appoint. Bank account
173. Where a trustee applies to the Court for directions in any matter he shall file an application, and the Court shall then hear the application, or fix a day for hearing it, and direct the trustee to apply by motion. Application for directions. Forms 131, 132
174. Any creditor who has proved his debt may apply to the trustee for a copy of the accounts (or any part thereof) relating to the estate as shown by the cash book up to date, and on paying for the same at the rate of \$2 per page or part thereof he shall be entitled to have such copy accordingly. Creditor may obtain copy of trustee's accounts
175. Where in pursuance of section 88 of the Act the Official Receiver or trustee is required to transmit to creditors a statement of the accounts, the cost of furnishing and transmitting such statement shall be calculated at the rate of \$2 per page or part thereof for each statement. Statements of accounts to be furnished to creditors. Form 150
176. Neither the trustee nor any member of the committee of inspection of an estate shall, while acting as trustee or member of such committee, except by leave of the Court, either directly or indirectly, by himself or any partner, clerk, agent or servant, become purchaser of any part of the estate. Any such purchase made contrary to the provisions of Purchase of part of estate by trustee or committee forbidden

LAWS OF BRUNEI

166

CAP. 67

Bankruptcy

[Subsidiary]

this rule may be set aside by the Court on the application of the Official Receiver or any creditor or the debtor.

Dealings with estate by trustee and committee of inspection

177. (1) Where the trustee carries on the business of the debtor he shall not without the express sanction of the Court purchase goods for the carrying on of such business from his employer (if any) or from any person whose connexion with the trustee is of such a nature as would result in the trustee obtaining any portion of the profit (if any) out of the transaction.

(2) No member of a committee of inspection of an estate shall, except under and with the sanction of the Court, directly or indirectly, by himself or any employer, partner, clerk, agent or servant, be entitled to derive any profit from any transaction arising out of the bankruptcy or to receive out of the estate any payment for services rendered by him in connexion with the administration of the estate or for any goods supplied by him to the trustee for or on account of the estate. If it appears to the Court that any profits or payment has been made contrary to the provisions of this rule it may disallow such payment or recover such profit, as the case may be, on the audit of the trustee's account.

(3) Where the sanction of the Court under this rule to a payment to a member of a committee of inspection for services rendered by him in connexion with the administration of the estate is obtained, the order of the Court shall specify the nature of the services and shall only be given where the service performed is of a special nature. No payment shall under any circumstances be allowed to a member of a committee for services rendered by him in the discharge of the duties attaching to his office as a member of such committee.

(4) The cost of obtaining such sanction as aforesaid shall be borne by the person in whose interest it is obtained and shall not be payable out of the debtor's estate.

Discharge of costs, etc., before estate handed over to trustee

178. (1) Where a debtor is adjudged bankrupt and a trustee is appointed the Official Receiver shall forthwith put the trustee into possession of all property of the bankrupt of which the Official Receiver may be possessed: Provided that such trustee has, before the estate is handed over to him by the Official Receiver, discharged any balance due to the Official Receiver on account of fees, costs and charges properly incurred by him and payable under the Act, and on account of all advances properly made by him in respect of the estate, together with interest on such advances at the rate of 8 *per cent per annum*, and has discharged or undertaken to discharge all guarantees which have been

[Subsidiary]

given by the Official Receiver for the benefit of the estate; and the trustee shall pay all fees, costs and charges of the Official Receiver which may not have been discharged by the trustee before being put into possession of the property of the bankrupt and whether incurred before or after he has been put into such possession.

(2) The Official Receiver shall be deemed to have a lien upon the estate until such balance has been paid and such guarantees and other liabilities have been discharged.

(3) It shall be the duty of the Official Receiver, if so requested by the trustee, to communicate to the trustee all such information respecting the bankrupt and his estate and affairs as may be necessary or conducive to the due discharge of the duties of the trustee.

179. Where the Official Receiver is of opinion that any act done by a trustee or any resolution passed by a committee of inspection should be brought to the notice of the creditors, for the purpose of being reviewed or otherwise, the Official Receiver may summon a meeting of creditors accordingly to consider the same, and the expense of summoning such meeting shall be paid by the trustee out of any available assets under his control.

Meetings of creditors to consider conduct of trustee

Special manager

180. Where a special manager is appointed he shall be paid such remuneration as is provided by the scale of allowances contained in Table C of Part III of the Appendix.

Remuneration of special manager

181. Every special manager shall account to the Official Receiver and such special manager's accounts shall be verified by affidavit in the prescribed form and, when approved by the Official Receiver, the totals of the receipts and payments shall be added to the Official Receiver's accounts.

Accounts. Form 151

Security by trustee or special manager

182. In the case of a trustee or special manager the following rules as to security shall be observed —

Standing security to Registrar

(a) the security shall be given to the Registrar;

(b) it shall not be necessary that security be given in each separate matter; but security may be given either specially in a particular matter or generally to be available for any matter

LAWS OF BRUNEI

168

CAP. 67

Bankruptcy

[Subsidiary]

in which the person giving security may be appointed either as trustee or special manager; and

(c) the Official Receiver shall fix the amount and nature of such security and may from time to time, as he thinks fit, either increase or diminish the amount of special or general security which any person has given.

Gazetting

Gazetting notices

183. All notices requiring publication in the *Gazette* shall be gazetted by the Official Receiver or trustee as the case may be.

Re-gazetting

184. Where any receiving order is amended, and also in any case in which any matter which has been gazetted has been amended or altered or in which a matter has been wrongly or inaccurately gazetted, the Official Receiver or trustee shall re-gazette such order or matter with the necessary amendments and alterations in the prescribed form, at the expense of the estate.

Gazetting annulment of order already gazetted

185. Where an order which has been gazetted is annulled, revoked or rescinded, notice of the order of annulment, revocation or rescission shall be published in the *Gazette*. When the order is annulled, revoked or rescinded on the application of the Official Receiver or of the trustee the fee for gazetting shall be paid out of the estate but in any other case such fee shall be paid by the party making the application.

Accounts and audit

Record of minutes, etc.

186. The Official Receiver until a trustee is appointed, and thereafter the trustee, shall keep a record of all minutes, all proceedings had and resolutions passed at any meeting of creditors or of the committee of inspection, and all such matters as may be necessary to give a correct view of his administration of the estate, but he shall not be bound to insert in the record any document of a confidential nature (such as the opinion of counsel on any matter affecting the interest of the creditors) nor need he exhibit such document to any person other than a member of the committee of inspection.

Cash book

187. The Official Receiver until a trustee is appointed, and thereafter the trustee, shall keep a book to be called the "Cash Book" in which he shall (subject to the provisions of these rules as to trading accounts) enter the receipts and payments made by him.

[Subsidiary]

188. The trustee shall submit the said record and cash book, together with any other requisite books and vouchers, to the committee of inspection (if any) when required, and not less than once every 3 months. Books to be submitted to committee of inspection
189. The committee of inspection shall not less than once every 3 months audit the cash book and certify therein under their hands the day on which the said book was audited. Audit of cash book. Form 145
190. (1) Every trustee shall, at the expiration of 6 months from the date of the receiving order and at the expiration of every succeeding 6 months thereafter until his release, transmit to the Official Receiver a copy of the cash book in duplicate for such period, together with the necessary vouchers and copies of the certificates of audit by the committee of inspection. He shall also forward with the first accounts a summary of the debtor's statement of affairs, showing thereon in red ink the amounts realized, and explaining the cause of the non-realization of such assets as may be unrealized. Official Receiver's audit of trustee's accounts
- (2) When the estate has been fully realized and distributed or if the adjudication is annulled, the trustee shall forthwith send in his accounts to the Official Receiver although the 6 months may not have expired.
- (3) The accounts sent in by the trustee shall be certified and verified by him. Form 146
191. When the trustee's account has been audited the Official Receiver shall certify that the account has been duly passed and shall file the same with the proceedings in the bankruptcy. Accounts to be filed
192. Where a trustee has not since the date of his appointment or since the last audit of his accounts, as the case may be, received or paid any sum of money on account of the debtor's estate, he shall, at the period when he is required to transmit his estate account to the Official Receiver, forward to the Official Receiver an affidavit of no receipts or payments. Affidavit of no receipts
193. Upon a trustee resigning or being released or removed from his office, he shall deliver over to the Official Receiver or, as the case may be, to the new trustee all books kept by him and all other books, papers, documents and accounts in his possession relating to the office of trustee. Proceedings on resignation, etc., of trustee
194. Where a receiving order has been made against debtors in partnership distinct accounts shall be kept of the joint estate and of the separate estate or estates, and no transfer of a surplus from a separate Joint and separate estates' accounts

LAWS OF BRUNEI

170

CAP. 67

Bankruptcy

[Subsidiary]

estate to the joint estate on the ground that there are no creditors under such separate estate shall be made until notice of the intention to make such transfer has been gazetted.

Expenses of sales

195. When property forming part of a debtor's estate is sold by the trustee through an auctioneer or other agent, the gross proceeds of the sale shall be paid over by such auctioneer or agent, and the charges and expenses connected with the sale shall afterwards be paid to such auctioneer or agent on the production of the necessary allocatur of the taxing officer.

Allowance to debtor

196. In any case in which, under the provisions of section 63 of the Act, a trustee makes an allowance to a bankrupt out of his property, such allowance, unless the creditors by special resolution determine otherwise, shall be in money and the amount allowed shall be duly entered in the trustee's accounts.

Unclaimed funds

Application for payment out by party entitled.

197. An application under section 128 of the Act for payment out of the Bankruptcy Estates Account of any sum to which any person claims to be entitled shall be made in such form and manner as the Registrar may from time to time direct and shall (unless the Registrar dispenses therewith) be supported by the affidavit of the claimant and such further evidence as the Registrar may require.

Accounts by trustees of unclaimed funds

198. For the purposes of subsection (1) of section 128 of the Act the Court may at any time order the trustee under any bankruptcy, composition or scheme to submit to it an account verified by affidavit of the sums received and paid by him under or in pursuance of any such bankruptcy, composition or scheme, and may direct and enforce an audit of the account and payment of any unclaimed or undistributed moneys arising from the property of the debtor in the hands or under the control of such trustee into the Bankruptcy Estates Account in accordance with the terms of the said subsection.

PART V

MISCELLANEOUS

Falsification of documents

199. (1) Any person who knowingly falsifies or fraudulently alters any document in or incidental to any proceedings under the Act or any rules made thereunder shall be deemed to be guilty of contempt of Court and shall be liable to be punished accordingly.

[Subsidiary]

(2) The penalty imposed by this rule shall be in addition to and not in substitution for any other penalty, punishment or proceeding to which such person may be liable.

- | | |
|---|---|
| 200. No person shall, as against the Official Receiver or trustee, be entitled to withhold possession of the books of account or of any document or paper belonging to the debtor or to set up any lien thereon. | No lien on debtor's books |
| 201. The Court may, on the application of the Official Receiver, direct that the debtor's books of account and other documents given up by him may be sold, destroyed or otherwise disposed of. | Disposal of bankrupt's books and papers |
| 202. Non-compliance with any of these rules, or with any rule of practice for the time being in force, shall not render any proceeding void unless the Court so directs, but such proceeding may be set aside, either wholly or in part, as irregular or amended or otherwise dealt with in such manner and upon such terms as the Court may think fit. | Non-compliance with rules. |
| 203. The Court may, under special circumstances and for good cause shown, extend or abridge the time appointed by these rules or fixed by any order of the Court for doing any act or taking any proceeding. | Abridgment or enlargement of time |
| 204. When no other provision is made by the Act or any rules made thereunder the law, procedure and practice in bankruptcy matters in England shall apply. | Interim provisions |

APPENDIX

PART I

FORMS

INDEX

Form

Accounts:

Affidavit verifying trustee's account	146
Affidavit verifying trustee's trading account	149
Affidavit verifying special manager's account	151

[Subsidiary]

Accounts—contd.

	<i>Form</i>
Certificate of committee of inspection as to audit of trustee's account	145
Profit and loss account	148
Statement of accounts for creditors under section 88	150
Trustee's trading account	147

Action:

Order restraining before receiving order	24
--	----

Adjudication:

Application for under section 18	75
Application for adjudication after resolution for bankruptcy or by consent	76
Application for: no quorum at adjourned meeting	77
Application to annul	79
Order of	78
Order annulling	80
Resolutions where adjudication resolved on	36
Admission of debt by debtor of bankrupt	113

Advertisement:

Of day for proceeding with public examination	54
Of receiving order, etc.	27
Of day for hearing application for discharge	82

Affirmation:

Form of	6
---------------	---

After-acquired property:

Affidavit by bankrupt as to	93
-----------------------------------	----

Allocatur:

For costs of debtor's petition	144
--------------------------------------	-----

Form

Bankruptcy notice:

On judgment or order of court	5
Affidavit of service	7
Affidavit on application to set aside	8
Notice in newspapers of substituted service	15
Order setting aside	9
Order for substituted service	16
Request for issue of	4

Bond on stay of proceedings:

Form	19
Affidavit of justification	21
Notice of sureties	20

Book debts:

Register of assignment of	117
---------------------------------	-----

Committal:

Affidavit in support of application for committal of debtor under section 26 or 55	96
Affidavit of non-compliance with order of court	104
Affidavit of person interested in composition for committal	95
Affidavit of trustee under section 53(5)	97
Application by trustee for committal of bankruptcy or other person	94
Notice of application for committal under section 20 or 110	93
Notice of application for committal under section 26	99
Notice of application for committal under section 53(5)	100
Order of committal under section 20 or 110	101
Order of committal under section 26	102
Order of committal under section 53(5)	103
Order for discharge from custody	106

LAWS OF BRUNEI

174

CAP. 67

Bankruptcy

[Subsidiary]

Committal—contd.

	<i>Form</i>
Order for production for examination of person in prison	107
Warrant of committal for contempt	105

Composition or scheme:

Affidavit in support of application for enforcement of provisions	72
Application for enforcement of composition or scheme	71
Application to extend time for approving composition or scheme and order thereon	67
Certificate of approval of composition or scheme	74
Notice to creditors of application to approve composition or scheme	68
Notice to creditors of intention to pay composition	140
Notice to Official Receiver of application by debtor to approve composition or scheme	69
Order for enforcement of provisions of composition or scheme	73
Order on application to approve composition or scheme	70
Proposal for composition	64
Proposal for scheme	65
Report of Official Receiver on proposal for composition or scheme	66

Debt:

Admission of debt	113
Order to pay admitted debt	114

Deceased debtor:

Petition by creditor (section 112)	134
Petition by legal personal representative (section 112)	135
Order for administration of estate on petition	136

Declaration of inability to pay:

Declaration of inability to pay	2
---------------------------------------	---

Directions:

Application for by trustee	131
Order on application by trustee	132

Discharge:

Affidavit by debtor whose discharge has been granted conditionally as to after-acquired property	93
Application for	81
Advertisement of date of hearing of application	82
Consent of bankrupt to judgment	91
Judgment	92
Notice to creditors of application	84
Notice to Official Receiver and trustee of application	83
Order of, unconditionally	85
Order refusing discharge	86
Order subject to conditions as to earnings, etc.	89
Order subject to consent to judgment	90
Order suspending discharge	87
Order where only fact proved is that assets are not equal to 50 per cent	88

Disclaimer:

Without notice	125
Of lease after notice	126
Of lease with leave of court	127
Notice of disclaimer without leave of court	128
Notice of disclaimer with leave of court	129
Notice to landlord of intention to disclaim lease not sublet or mortgaged	123
Notice of intention to disclaim lease sublet or mortgaged	124
Notice by landlord or other person requiring trustee to bring disclaimer before court	130

LAWS OF BRUNEI

176

CAP. 67

Bankruptcy

[Subsidiary]

	<i>Form</i>
<i>Dividend:</i>	
Application by creditor for order for trustee to pay and order thereon	142
Notice to creditors of intention to declare	138
Notice to persons claiming to be creditors on intention to declare final dividend	139
Notice of dividend	141
<i>Examination:</i>	
Shorthand writer, appointment of	55
Shorthand writer, declaration by	56
Summons under section 29	112
<i>Gazetting and publication in newspaper:</i>	
Substituted service of petition or bankruptcy notice	15
Transfer from separate estate to joint estate	154
<i>Interim receiver:</i>	
Application for, order thereon	13
<i>Issue of fact:</i>	
For trial with assessors	133
<i>Letters, etc.:</i>	
Order for redirection (section 28)	111
<i>Married women:</i>	
Notice of application to set aside income of separate property notwithstanding restraint on anticipation	119
Order for payment to trustee of income from separate property	122
<i>Meetings:</i>	
<i>First Meeting:</i>	
Affidavit of postage of notices	33
Application for extension of time for holding and order thereon	29

[Subsidiary]

First Meeting—contd.

	<i>Form</i>
Certificate of postage of notices	34
List of creditors assembled at	45
Memorandum of adjournment	37
Memorandum of proceedings at adjourned first meeting: no quorum	38
Notice to creditors where no offer of composition or scheme	30
Notice to creditors where debtor submits offer	31
Notice to creditors of adjourned meeting	32
Notice to debtor to attend	35
Resolutions where adjudication resolved on	36

Other meetings:

Affidavit of postage of notices	41
Certificate of postage of notices	42
List of creditors assembled at	45
Memorandum of adjournment	37
Notice (general form)	40
Notice of, to appoint new trustee	44
Notice to creditors of adjourned meeting	32
Notice to creditors where debtor submits offer for composition	31
Notice to creditors to remove trustee and to fill vacancy	43
Order of court for general meeting of creditors	39

Petition:

Adjournment of	22
Affidavit of justification	21
Affidavit of service	14
Affidavit of truth of statements in petition	11
Affidavit of truth of statements in joint petition	12
Allocatur for costs of debtor's petition	114
Bond on stay of proceedings, security, etc.	19

[Subsidiary]

Petition—contd.

	<i>Form</i>
Creditor's petition	10
Creditor's petition (section 112)	134
Debtor's petition	3
Dismissal of	23
Legal personal representative's petition (section 112)	135
Notice by debtor of intentions to oppose	17
Notice of sureties	20
Notice in newspaper of substituted service	15
Order for substituted service	16
Order to stay proceedings on	18

Postage of notices:

Affidavit of (first meeting)	33
Affidavit of, general	41
Certificate of (first meeting)	34
Certificate of, general	42

Proof:

Form of	46
Form of, for debt of workmen	48
Notice of rejection	49
By trustee in prior bankruptcy	47

Proxies:

General	50
Special	51

Public examination:

Application by Official Receiver for order fixing	52
Appointment of shorthand writer	55
Declaration by shorthand writer	56
Memorandum of	62

[Subsidiary]

Public examination—contd.

	<i>Form</i>
Notes of shorthand writer if appointed	57
Notes where shorthand writer not appointed	58
Notice of day for proceeding with (local paper)	54
Order appointing	53
Order dispensing with	60
Order as to examination of person suffering from mental or physical affliction	61
Order of adjournment	59
Order that examination concluded	63
Shorthand writer, appointment of	55
Shorthand writer, declaration by	56

Receiving order:

Application to rescind	79
Notice of, etc., (for local paper)	27
Order rescinding	80
Order on creditor's petition	26
Order on debtor's petition	25

Register:

Of assignment of book debts	117
-----------------------------------	-----

Release:

Application by trustee for	153
Notice to creditors of intention to apply for	152
Statement to accompany notice to creditors	137

Request:

For issue of bankruptcy notice	4
To deliver bill for taxation	143

[Subsidiary]

	<i>Form</i>
<i>Salary or income:</i>	
Notice of application for payment to trustee of portion of pay or salary (section 56)	118
Notice of application for payment to trustee of income of married woman (section 57)	119
Order under section 56 (1)	120
Order under section 56 (2)	121
Order under section 57	122
<i>Schemes—see Composition or scheme</i>	
<i>Shorthand writer:</i>	
Appointment of	55
Declaration by	56
<i>Special manager:</i>	
Affidavit by	151
<i>Statement:</i>	
Of affairs	28
Of accounts under section 88	150
To accompany application for release	137
<i>Subpoena:</i>	
Summons under section 29	112
<i>Taxation:</i>	
Allocatur, for costs of debtor's petition	144
Request to deliver bill for	143
<i>Title:</i>	
General title	1
<i>Trial with assessors:</i>	
Issues of fact	133

*Form**Warrants:*

Search warrant	108
Against debtor about to quit Brunei	110
Of committal for contempt	105
Of seizure	109
To apprehend person under section 29	115
Order for production for examination of person apprehended under section 29	116



FORMS

[rule 7]

FORM 1

General title

In the Supreme Court of Brunei

In Bankruptcy

No. of 19

Re [James Brown]

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

FORM 2

[s. 3 (1) (f); rule 42]

Declaration of inability to pay

(Title)

I, A.B. [name and description of debtor], residing at
[and carrying on business at], hereby declare
that I am unable to pay my debts.

Dated this day of , 19

A.B.

Signed by the debtor in my presence

Signature of witness

Address

Description

Filed the day of , 19

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

LAWS OF BRUNEI

184

CAP. 67

Bankruptcy

[Subsidiary]

FORM 3

[s. 10; rule 49]

Debtor's petition

(Title)

(a) Insert the other address or addresses at which unsatisfied debts or liabilities may have been incurred

I, A.B. [name and description of debtor], residing at [and carrying on business at (a)] and being unable to pay my debts, hereby petition the court that a receiving order be made in respect of my estate [and that I may be adjudged bankrupt].

Dated this day of , 19

A.B.

Signed by the debtor in my presence

Signature of witness

Address

Description

Filed the day of , 19

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

FORM 4

[s. 4; rule 43]

Request for issue of bankruptcy notice

(Title)

(a) Insert description, name and address of judgment debtor

(b) "me" or as the case may be

(c) Or "Solicitor for the judgment creditor"

1. I, , of in the of hereby request that a bankruptcy notice be issued by the court against (a)

2. I produce a sealed copy of a final judgment or order against the said obtained by (b) in the Supreme Court on the day of , 19

3. Execution on the said judgment or order has not been stayed.

Dated this day of , 19

Judgment Creditor (c)

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

FORM 5

[s. 4; rule 43]

Bankruptcy notice on judgment or order

(Title)

To A.B. [or A.B. & Co.] , of

Take notice that within [seven] days after service of this notice on you excluding the day of such service you must pay to [or to] of his (or their) agent duly authorised] (a) the sum of \$ claimed by (b) as being the amount due on a final judgment or order obtained by (c) against you in the Supreme Court, dated where- on execution has not been stayed, or you must secure or compound for the said sum to (d) satisfaction [or the satisfaction of his (or their) said agent] (a) or to the satisfaction of the court; or you must satisfy the court that you have a counterclaim, set-off or cross-demand against (c) which equals or exceeds the sum claimed by (c) and which you could not set up in the action or other proceedings in which the judgment or order was obtained.

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

Dated this day of , 19

Registrar

Indorsement on notice

You are specially to note:

That the consequences of not complying with the requisitions of this notice are that you will have committed an act of bankruptcy, on which bankruptcy proceedings may be taken against you.

If however, you have a counterclaim, set-off or cross-demand which equals or exceeds the amount claimed by (e) in respect of the judgment or order and which you could not set up in the action or other proceedings in which the said judgment or order was obtained, you must within days apply to the court to set aside this notice, by filing with the Registrar an affidavit to the above effect.

(e) Name of creditor
(f) Name and address of solicitor suing out the notice, or this notice is sued out by in person

(f)

[Subsidiary]

FORM 6

Form of affirmation

(Alternative form to be used in cases where deponent is affirmed and not sworn, and form of jurat where affirmation has to be interpreted to deponent.)

I of do solemnly and sincerely affirm
Affirmed at the , this day of ,
19 , the contents of this affirmation having been first duly interpreted to the deponent in the language by

Sworn Interpreter

Before me,
Magistrate/Registrar.

FORM 7

[rule 47]

Affidavit of service of bankruptcy notice

(Title)

In the matter of a bankruptcy notice, issued

I, L.M., of make oath and say —

1. That I did on day the day of , 19 , serve the above-mentioned A.B. [or the partners in the above-mentioned firm of] with a copy of the above-mentioned notice, duly sealed with the seal of the court, by delivering the same personally to the said A.B. [or C.D. a partner or E.F. a person having at the time of service the control and management of the partnership business there or of the business carried on under the above-mentioned name or style] at [place] at in the noon.

2. A sealed copy of the said notice is hereunto annexed and marked

Sworn at, etc.

L.M.

NOTE.—If the service is effected on a person having at the time of service the control or management of the partnership business, the affidavit must, after the description of the place of service, contain the words "being the principal place of business of the said ."

FORM 8

[rules 44, 45]

Affidavit on application to set aside bankruptcy notice

(Title)

I, A.B., of _____ make oath and say —

1. That I was, on the _____ day of _____, served with the notice hereunto annexed [or describe the notice.]

That I have satisfied the debt claimed by C.D. by [state nature of satisfaction].

or,

2. That I have a counterclaim [or set-off or cross-demand] for \$ _____ being a sum equal to [or exceeding] the claim of the said C.D. in respect of [here state grounds of counterclaim].

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

Sworn at, etc.

(Signature)

FORM 9

[rule 48]

Order setting aside bankruptcy notice

(Title)

In the matter of a bankruptcy notice issued

Upon the application of A.B. to set aside this notice, and upon reading the affidavit of A.B. [and upon hearing _____], it is ordered that this notice be set aside, and that C.D. [or as the case may be] pay to A.B. the sum of \$ _____ for costs [or the costs of this matter].

Dated this _____ day of _____, 19 _____

Registrar

or,

(Title)

In the matter of a bankruptcy notice issued

Upon the application of A.B. to set aside this notice and upon reading _____ and hearing _____, and upon the said A.B. having entered into a bond in the penal sum of [the amount of the alleged debt and probable costs or such other sum as the court may direct], with

LAWS OF BRUNEI

188

CAP. 67

Bankruptcy

[Subsidiary]

such 2 sufficient sureties as the court [or C.D.] has approved [or having deposited in court the sum of \$], as security for the amount claimed by the notice, the condition of the bond [or deposit] being [here insert condition], it is ordered, etc.

Dated this day of , 19

Registrar

FORM 10

[ss. 6, 9; rule 55]

Creditor's petition

(Title)

(a) Insert name of debtor

I, C.D., of [or We, C.D., of and E.F., of], hereby petition the court that a receiving order may be

(b) Insert present address and description of debtor

made in respect of the estate of (a) of (b) and lately carrying on business at [or residing at] (c), and say —

or addresses at (c) Insert address which the debtor has lately revised or carried on business. Note—The address at which the debtor was residing or carrying on business when the petitioning creditor's debt was incurred should in all cases appear in the petition (see rule 49)

1. That the said A.B. is domiciled in Brunei [or has within a year next preceding the presentation of this petition resided (or carried on business) within Brunei or as the case may be, following the terms of section 6].

2. That the said A.B. is justly and truly indebted to me [or us] in the aggregate in the sum of \$ [set out amount of debt or debts and the consideration].

3. That I [or we] do not, nor does any person on my [or our] behalf hold any security on the said debtor's estate, or on any part thereof, for the payment of the said sum.

or,

That I hold security for the payment of [or part of] the said sum [but that I will give up such security for the benefit of the creditors of A.B. in the event of his being adjudged bankrupt (or and I estimate the value of such security at the sum of \$)].

or,

That I, C.D., one of your petitioners, hold security for the payment of, etc.

That I, E.F., another of your petitioners, hold security for the payment of, etc.

4. That A.B. within 3 months before the date of the presentation of this petition has committed the following act [or acts] of bankruptcy, namely [here set out the nature and date or dates of the act or acts of bankruptcy relied on].

Dated this day of , 19

[Subsidiary]

(Signed) C.D.

E.F.

Signed by the petitioner in
my presence

Signature of witness

Address

Description

NOTE.—If there be more than one petitioner and they do not sign together, the signature of each must be separately attested, e.g. "Signed by the petitioner E.F. in my presence." If the petition be signed by a firm the partner signing should add also his own signature, e.g. "A.S. & Co. by J.S., a partner in the said firm." If the debtor resides at any place other than the place where he carries on business both addresses should be inserted.

Indorsement

This petition having been presented to the court on the
day of , 19 , it is ordered that this petition
shall be heard at on the day of ,
19 , at o'clock in the noon.

And you, the said *A.B.*, are to take notice that if you intend to show cause against the petition you must file with the Official Receiver a notice showing the grounds upon which you intend to show cause, and post a copy of the notice to the petitioner or his solicitor, in each case 3 days before the day on which the petition is to be heard.

Registrar

LAWS OF BRUNEI

190

CAP. 67

Bankruptcy

[Subsidiary]

FORM 11

[s. 9; rule 55]

Affidavit of truth of statements in petition

(Title)

I, _____ the petitioner named in the petition hereunto annexed make oath and say —

That the several statements in the said petition are within my own knowledge true.

Sworn at, etc.

(Signature)

NOTE.—If the petitioner cannot depose that the truth of all the several statements in the petition is within his own knowledge he must set forth the statements the truth of which he can depose to and file a further affidavit by some person or persons who can depose to the truth of the remaining statements.

Affidavit of truth of statements in joint petition*(Title)*

We, *C.D.*, *E.F.*, *G.H.*, etc. the petitioners named in the petition hereunto annexed, severally make oath and say —

And first I the said *C.D.* for myself say —

1. That *A.B.* is justly and truly indebted to me in the sum of \$ _____ as stated in the said before-mentioned petition.

2. That the said *A.B.* committed the act [or acts] of bankruptcy stated to have been committed by him in the said before-mentioned petition.

3. That *A.B.* has within a year before the date of the presentation of the petition ordinarily resided [*or* carried on business] at _____

And I the said *E.F.* for myself say —

4. That *A.B.* is justly and truly indebted to me in the sum of \$ _____ as stated in the said before-mentioned petition.

And I the said *G.H.* for myself say —

5. That *A.B.* is, etc.

*C.D.**E.F.**G.H.*

Sworn by the deponents *C.D.*, *E.F.*,
and *G.H.*, etc.

(See note to last form)

LAWS OF BRUNEI

192

CAP. 67

Bankruptcy

[Subsidiary]

FORM 13

[s. 13; rule 60]

Application for interim receiver

(Title)

I, C.D., of _____, do, on the grounds set forth in the annexed affidavit, apply to the court to appoint the Official Receiver as interim receiver of the property of the said A.B., and [*here insert any special directions to the receiver that may be desired*].

Dated this _____ day of _____, 19____

(signed) C.D.

Order thereon

Upon reading this application and the affidavit therein referred to, and hearing _____ it is ordered that upon a deposit of \$100 being lodged by the applicant the Official Receiver be thereupon constituted interim receiver of the property of the said A.B., and [*here insert directions, if any*].

Nature and locality of property to be taken possession of

Dated this _____ day of _____, 19____

Registrar

Affidavit of service of petition*(Title)*

In the matter of a petition dated

I, *L.M.*, of _____, make oath and say —

1. That I did, on _____ day the _____ day of _____, 19____, serve the above-mentioned *A.B.* [*or* the partners in the above-mentioned firm of _____] with a copy of the above-mentioned petition, duly sealed with the seal of the court, by delivering the same personally to the said *A.B.* [*or C.D.*, a partner, or *E.F.*, a person having at the time of service the control and management of the partnership business there *or* of the business carried on under the above-mentioned name or style] at* [*place*] before the hour of _____ in the _____ noon.

2. A sealed copy of the said petition is hereunto annexed.

Sworn at, etc.

L.M.

*NOTE.—*If the service is effected on a person having at the time of service the control and management of the partnership business, the affidavit must, after the description of the place of service, contain the words "being the principal place of business of the said _____."*

LAWS OF BRUNEI

194

CAP. 67

Bankruptcy

[Subsidiary]

FORM 15

[rule 47]

Substituted service of petition or bankruptcy notice

Notice in newspaper

(Title)

In the matter of a bankruptcy petition filed the _____ day of _____, 19____, [or in the matter of a bankruptcy notice issued on the _____ day of _____, 19____].

(a) Add this in case of a petition

Take notice that a bankruptcy petition has been presented [or a bankruptcy notice has been issued] against you by _____ of _____ and the court has ordered that the sending of a sealed copy of the petition [or bankruptcy notice] together with a sealed copy of the order for substituted service by registered post addressed to _____ and/or the publication of this notice in the _____ newspapers [following the terms of the order for substituted service] shall be deemed to be service of the petition [or bankruptcy notice] upon you; (a) and further take notice that the said petition will be heard at the Court on the _____ day of _____ at _____ o'clock in the _____ noon, on which day you are required to appear, and if you do not appear the Court may make a receiving order against you in your absence.

The petition [or bankruptcy notice] may be inspected by you on application at the Court.

Dated this _____ day of _____, 19____

Registrar

To A.B.

FORM 16

[rule 47]

Order for substituted service of a petition or bankruptcy notice*(Title)*

In the matter of a bankruptcy petition filed the _____ day of
 [or In the matter of a bankruptcy notice issued on the
 day of _____, 19 ____].

Upon the application of _____ and upon reading the affidavit
 of _____ of _____ in the _____ of _____

It is ordered that the sending of a sealed copy of the above-mentioned petition [or bankruptcy notice] together with a sealed copy of this order by registered post addressed to _____ at _____ and/or by publication in the _____ newspapers of the presentation of such petition and the time and place fixed for hearing the petition [or of the issuing of such bankruptcy notice] shall be deemed to be good and sufficient service of the said petition [or bankruptcy notice] on the said _____ on the _____ day of completing such posting or publication as aforesaid.

Dated this _____ day of _____, 19 ____

Registrar

FORM 17

[rule 67]

Notice by debtor of intention to oppose petition*(Title)*

In the matter of a bankruptcy petition presented against me on
 the _____ day of _____, 19 ____, by C.D. of
 [or and E.F. of _____, G.H. of _____, etc]

I, the above A.B. do hereby give you notice that I intend to show cause against the petition and that I intend to dispute the petitioning creditor's debt [or the act of bankruptcy, or to contend that _____, or as the case may be.]

Dated this _____ day of _____, 19 ____

To the Official Receiver, and to C.D. [petitioning creditor].

LAWS OF BRUNEI

196

CAP. 67

Bankruptcy

[Subsidiary]

FORM 18

[rule 80]

Order to stay proceedings on petition

(Title)

In the matter of a bankruptcy petition against *A.B.* of

Upon the hearing of this petition this day, and the said *A.B.* appearing and denying that he is indebted to the petitioner [*where petition presented by more than one creditor, add the name of the creditor whose debt is denied*] in the sum stated in the petition [*or alleging that he is indebted to the petitioner in a sum of a less amount than \$500, or alleging that he is indebted to C.D., one of the petitioners, in a sum less than the sum stated to be due from him in the petition*] it is ordered that the said *A.B.* shall within _____ days enter into a bond in the penal sum of [*the amount of the alleged debt and probable costs, or such other sum as the court may direct*] with such 2 sufficient sureties as the court shall approve to pay [*or deposit with the Registrar the sum of _____ as security for the payment of*] such sum or sums as shall be recovered against the said *A.B.* by *C.D.* the petitioner [*or one of the petitioners*] in any proceeding taken or continued by him against the said *A.B.*, together with such costs as shall be given by the court.

And it is further ordered that, upon the said *A.B.* entering into the bond aforesaid, all proceedings on this petition shall be stayed until after the court shall have come to a decision on the proceedings.

Dated this _____ day of _____, 19____

Registrar

Bond on stay of proceedings, security, etc.*(Title)*

Know all men by these presents, that we, *A.B.* of etc. and *C.D.* of etc. and *E.F.* of etc. are jointly and severally held and firmly bound to *L.M.* of etc. in \$ _____ to be paid to the said *L.M.*, or his certain attorney, executors, administrators or assigns, for which payment to be made we bind ourselves and each and every of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this _____ day of _____ one thousand nine hundred and _____

Whereas a bankruptcy petition against the said *A.B.* having been presented to the court he did appear at the hearing of the said petition and deny that he was indebted to the petitioner [*or to one or more of the petitioners*], [*or allege that he was indebted to the petitioner in the sum of \$ _____ only or as the case may be*].

Now, therefore, the condition of this obligation is such that if the above-bounded *A.B.*, or the said *C.D.* or *E.F.*, shall on demand well and truly pay or cause to be paid to *L.M.*, his attorney or agent, such sum or sums as shall be recovered against the said *A.B.* by any proceedings taken or continued within 21 days from the date hereof in any competent court by the said *L.M.* for the payment of the debt claimed by him in the said petition, together with such costs as shall be given to the said *L.M.* by such court [*or whatever the condition of the bond is*] this obligation shall be void, otherwise it shall remain in full force.

A.B. (L.S.)

C.D. (L.S.)

E.F. (L.S.)

Signed, sealed and delivered by the above-bounden _____ in the presence of _____

NOTE.—If a deposit of money be made the memorandum should follow the terms of the conditions of the bond. This form may be adapted to other cases.

LAWS OF BRUNEI

198

CAP. 67

Bankruptcy

[Subsidiary]

FORM 20

[rule 18]

Notice of sureties

(Title)

In the matter of a bankruptcy petition [*or* In the matter of a bankruptcy notice by *C.D.*] of

Take notice that the sureties whom I propose as my security in the above matter [*here state the proceeding which has rendered the sureties necessary*] are [*here state the full names and descriptions of the sureties and their residences for the last 6 months, therein mentioning the district or city, places, streets and numbers, if any*].

Dated this day of , 19

(Signature)

To the Registrar
and to *L.M.* of

Affidavit of justification*(Title)*

In the matter of a bankruptcy petition against *A.B.* of
 [or In the matter of a bankruptcy notice by *L.M.* against
A.B. of].

I, *E.F.*, of , one of the sureties for make
 oath and say —

1. That I am a householder [or as the case may be], residing
 [describing particularly the street or place and the number of
 the house, if any].

2. That I am worth property to the amount of \$ [the
 amount required] over and above what will pay my just debts [if security
 in any other action or for any other purpose, add and every other sum for
 which I am now security].

That I am not bail or security in any other matter, action or pro-
 ceedings, or for any other person [or if security in any other action or
 actions, add except for *C.D.*, at the suit of *E.F.*, in the Supreme Court
 in the sum of \$; for *G.H.*, at the suit of *I.K.*, in the Supreme
 Court in the sum of \$ specifying the several actions or mat-
 ters, and courts, and the sums in which he has become bound].

4. That my property, to the amount of the said sum of
 \$ [and if security in any other action, etc. over and above all
 other sums for which I am now security as aforesaid], consist of [here
 specify the nature and value of the property in respect of which the depo-
 nent proposes to become bondsman as follows, stock in trade, in my
 business of carried on by me at of the value of
 \$ of good book debts owing to me to the amount of
 \$, of furniture in my house at of the value of
 \$, of leasehold property of the value of \$, situate
 at , or of other property, particularising each description of
 property, with the value thereof].

5. That I have for the last 6 months resided at
 [describing the place of such residence, or if he has had more
 than one residence during that period, state in the same manner as above
 directed].

Sworn at, etc.

LAWS OF BRUNEI

200

CAP. 67

Bankruptcy

[Subsidiary]

FORM 22

Adjournment of petition

(Title)

Upon the hearing of the petition this day, and hearing for the petitioner and for the debtor and the Official Receiver, and reading it is ordered that the further hearing of this petition be adjourned until the day of , 19 , at o'clock in the noon.

Dated this day of , 19

Registrar

FORM 23

[rule 68]

Dismissal of petition

(Title)

In the matter of a bankruptcy petition filed the [date].

Upon the hearing of this petition this day, and upon reading and hearing and the Official Receiver it is ordered that this petition be dismissed [and that the petitioner do pay to the said A.B. the taxed costs thereof].

Dated this day of , 19

Registrar

FORM 24

Order restraining action, etc. before receiving order

(Title)

Upon the application of and upon reading it is ordered that L.M. of shall be restrained from taking any further proceedings in the action brought by him [or upon the judgment recovered or obtained by him] against the said A.B. in [here state the number of the action] [or it is ordered that the proceedings in the action (or suit) brought by him against the said A.B. in (here state the number of the action) may be proceeded with on (here insert the terms fixed by the court)].

Dated this day of , 19

Registrar

FORM 25

[s. 5; rules 68, 74]

Receiving order on debtor's petition*(Title)*

On the petition of the debtor himself, filed the _____ day of _____, 19____, a receiving order is hereby made against *A.B.* [*insert name, addresses and descriptions of debtor as set out in petition*], and the Official Receiver is hereby constituted receiver of the estate of the said debtor.

Dated this _____ day of _____, 19____

Registrar

NOTE.—The above-named debtor is required immediately after the service of this order upon him to attend the Official Receiver at his offices at the Courts of Justice.

The Official Receiver's offices are open every week-day from 8.30 a.m. to 12.00 p.m. and 2 p.m. to 4 p.m. except on Saturdays, when they are open from 8.30 a.m. to noon.

Indorsement on order

The name and address of the solicitor (if any) to the debtor are [*insert name and address*].

LAWS OF BRUNEI

202

CAP. 67

Bankruptcy

[Subsidiary]

FORM 26

[s. 5; rules 68, 74]

Receiving order on creditor's petition

(Title)

On the petition dated the ... day of ..., 19 ... of J.S. of ... a creditor, filed the [insert date], and on reading ... and hearing ... and it appearing to the court that the following act or acts of bankruptcy has or have been committed, viz. —

[Set out the nature and date or dates of the act or acts of bankruptcy on which the order is made.]

A receiving order is hereby made against A. B. [insert name, addresses and descriptions of debtor as set out in petition] and the Official Receiver is hereby constituted receiver of the estate of the said debtor.

Dated this ... day of ..., 19

Registrar

NOTE.—The above-named debtor is required, immediately after the service of this order upon him, to attend the Official Receiver at his offices at the Courts of Justice.

The Official Receiver's offices are open every week-day from 8.30 a.m. to 12.00 p.m. and 2 p.m. to 4 p.m. except on Saturdays, when they are open from 8.30 a.m. to noon.

Indorsement on order

The name and address of the solicitor (if any) to the petitioning creditor are [insert name and address].

FORM 27

[ss. 16, 22(2), 78(1) (f); rule 78]

Notice of receiving order, etc. (for local newspaper)

(Title)

Receiving order made Date and place of first meeting Date of public examination Date of adjudication (if any)

Note.—All debts due to the estate should be paid to me.

Dated this ... day of ..., 19

Official Receiver

Statement of Affairs

(Title)

To the Debtor,

You are required to fill up, carefully and accurately, this sheet and such of the several sheets A, B, C, D, E, F, G, H, I, J, K, L and M* as are applicable showing the state of your affairs on the day on which the receiving order was made against you, viz. the _____ day of _____, 19____. Such sheets, when filled up, will constitute your Statement of Affairs, and must be verified by oath, declaration or affirmation.

*Sheet "L" should be substituted for any one or more of such of the sheets named as will have to be returned blank

Gross liabilities	Liabilities (as stated and estimated by debtor)	Expected to rank	Assets (as stated and estimated by debtor)	Estimated to produce
\$ c.	Unsecured creditors as per list (A) secured as per list (B) \$ c. Estimated value of securities Surplus Creditors partly On other bills as drawer or indorser Creditors fully Less amount thereof carried to sheet (C) Balance thereof to Contra secured as per list (C) Less estimated value of securities Liabilities on bills discounted other than debtor's own acceptances for value as per list (D), viz.— On accommodation bills as drawer, acceptor or indorser \$	\$ c.	Property as per list (H), viz. (a) Cash at bankers (b) Cash in hand (c) Cash deposited with solicitor for costs of petition (d) Stock-in-trade (cost \$) (e) Machinery (f) Trade fixtures, fittings, utensils, etc. (g) Furniture (h) Life policies (i) Stock and shares (j) Reversionary or other interests under wills (k) Other property, viz.— Total as per list (H). Book debts as per list (I), viz.— Good Doubtful \$ c. Bad \$	\$ c.

LAWS OF BRUNEI

204

CAP. 67

Bankruptcy

[Subsidiary]

Gross liabilities	Liabilities (as stated and estimated by debtor)	Expected to rank	Assets (as stated and estimated by debtor)	Estimated to produce
\$ c.	<p>Of which it is expected will rank against the estate for dividend</p> <p>Contingent or other liabilities as per list (E)</p> <p style="text-align: right;">\$ _____</p> <p>Of which it is expected will rank against the estate for dividend</p> <p style="text-align: center;">\$ c.</p> <p>Creditors for rent, etc., recoverable by distress as per list (F)</p> <p>Creditors for rates, taxes, wages, etc., payable in full as per list (G)</p> <p>Deducted contra</p> <p>† Surplus explained in statement (K)</p> <p style="text-align: right;">\$</p>	\$ c.	<p>Estimated to produce.</p> <p>Bills of exchange, or other similar securities on hand as per list (J)</p> <p style="text-align: right;">\$</p> <p>Estimated to produce.</p> <p>Surplus from securities in the hands of creditors fully secured (per contra)</p> <p style="text-align: right;">\$</p> <p>Deduct Creditors for distrainable rent and for preferential rates, taxes, wages, bailiff's charges, etc. (per contra)</p> <p style="text-align: right;">\$</p> <p>† Deficiency explained in statement (K)</p> <p style="text-align: right;">\$</p>	\$ c.

†Strike out words which do not apply

I of _____ make oath and say that the above statement and the several lists hereunto annexed marked are, to the best of my knowledge and belief, a full, true and complete statement of my affairs on the date of the above-mentioned receiving order made against me.

Sworn at the _____, this
 day of _____, 19____
 Before me,
Magistrate/Registrar

(Signature)

Alternative form to be used where affirmation is made, and statement of affairs has to be interpreted to deponent.

I _____ of _____ do solemnly and sincerely affirm that the contents of this my statement of affairs and of the several lists thereunto annexed and of my affirmation are to the best of my knowledge and belief full, true and complete.

Affirmed at _____, this _____ day of _____, 19____, the contents of this statement of affairs and of the several lists hereunto annexed, and the affirmation, having been first duly interpreted to the deponent _____ in the _____ language by _____

Sworn Interpreter.

Before me,

Magistrate/Registrar

(Signature)

A.

Unsecured creditors

The names to be numbered consecutively, creditors for \$1,000 and upwards being placed first.

No.	Name	Address and occupation	Amount of debt		Date when contracted		Consideration
			\$	c.	Month	Year	

(Signature)

Dated this _____ day of _____, 19____

NOTE.—1. When there is a contra account against the creditor less than the amount of his claim against the estate, the amount of the creditor's claim and the amount of the contra account should be shown in the third column and the balance only inserted under the heading "Amount of debt" thus

LAWS OF BRUNEI

206

CAP. 67

Bankruptcy

[Subsidiary]

\$ c.

Total amount of claim

Less contra account

No such set-off should be included in sheet "I."

2. The particulars of any bills of exchange and promisory notes held by a creditor should be inserted immediately below the name and address of such creditor.

B.

Creditors fully secured

No.	Name of creditor	Address and occupation	Amount of debt		Date when contracted		Con-sidera-tion	Parti-culars of secu-rity	Date when given	Estimated value of security		Estimated surplus from security	
					Month	Year				\$	c.	\$	c.
			\$	c.						\$	c.	\$	c.

(Signature)

Dated this day of , 19

C.

Creditors partly secured

No.	Name of creditor	Address and occupation	Amount of debt		Date when contracted		Con-sidera-tion	Parti-culars of secu-rity	Month and year when given	Estimated value of security		Balance of debt unsecured	
					Month	Year				\$	c.	\$	c.
			\$	c.						\$	c.	\$	c.

(Signature)

Dated this day of , 19

D.

Liabilities of debtor on bills discounted other than his own acceptances for value

No.	Acceptor's name, address and occupation	Date when due	Whether liable as drawer or indorser	Amount				Holder's name, address and occupation (if known)	Amount expected to rank against estate for dividend
				Accommodation bills		Other bills			
				\$	c.	\$	c.		

(Signature)

Dated this _____ day of _____, 19____

E.

Contingent or other liabilities

Full particulars of all liabilities not otherwise scheduled to be given here

No.	Name of creditor or claimant	Address and occupation	Amount of liability or claim		Amount expected to rank for dividend		Date when liability incurred		Nature of liability
			\$	c.	\$	c.	Month	Year	
			\$	c.	\$	c.			

(Signature)

Dated this _____ day of _____, 19____

LAWS OF BRUNEI

208

CAP. 67

Bankruptcy

[Subsidiary]

F.

Creditors for rent, etc., recoverable by distress

No.	Name of creditor	Address and occupation	Nature of claim	Period during which claim accrued due	Date when due	Amount of claim		Amount recoverable by distress		Difference ranking for dividend (to be carried to List A.)	
						\$	c.	\$	c.	\$	c.

(Signature)

Dated this day of , 19

G.

Preferential creditors for rates, taxes, and wages

No.	Name of creditor	Address and occupation	Nature of claim	Period during which claim accrued due	Date when due	Amount of claim		Amount payable in full		Difference ranking for dividend (to be carried to List A.)	
						\$	c.	\$	c.	\$	c.

(Signature)

Dated this day of , 19

H.

Property

Full particulars of every description of **property** in possession and in reversion as defined by section 2 of the Bankruptcy Act, Cap. 67, not included in any other list, are to be set forth in this list —

Full statement and nature of property	Estimated to produce	
	\$	c.
(a) Cash at bankers.....		
(b) Cash in hand		
(c) Cash deposited with solicitor for costs of petition		
(d) Stock in trade at Costs \$.....		
(e) Trade fixtures, fittings, utensils, etc., at		
(f) Household furniture and effects at		
(g) Life policies		
(h) Stock and shares.....		
(i) Reversionary or other interests under wills, etc.....		
(j) Other property including all property in a trading name or under any <i>alias</i> [state particulars], viz.....		

Dated this day of , 19

(Signature)

LAWS OF BRUNEI

210

CAP. 67

Bankruptcy

[Subsidiary]

I.

Debts due to the estate

No.	Name of debtor	Residence and occupation	Amount of debt			Folio of ledger or other book where found, to be particulars	When contracted		Estimated to produce	Particulars of any securities held for debt
			Good	Doubtful	Bad		Year	Month		
			\$	c.	\$	c.	\$	c.		
Dated this			day of			, 19		(Signature)		

NOTE.—If any debtor to the estate is also a creditor, but for a less amount than his indebtedness, the gross amount due to the estate and the amount of the contra account should be shown in the third column and the balance only inserted under the heading “Amount of debt” thus —

Due to estate \$

Less contra account \$

No such claim should be included in sheet “A.”

J.

Bills of exchange, promissory notes, etc., available as assets

No.	Name of acceptor of bill or note	Address, etc.	Amount of bill or note		Date when due	Estimated to produce		Particulars of any property held as security for payment of bill or note
			\$	c.		\$	c.	
			\$	c.		\$	c.	
Dated this			day of			, 19		(Signature)

[Subsidiary]

K.

Deficiency (or surplus) account

	\$	c.	\$	c.		\$	c.	\$	c.
Excess of assets over liabilities on the (1) day of 19 (if any)					Excess of liabilities over assets on the (1) day of 19 (if any)				
Net profit (if any) arising from carrying on business from the (1) day of 19 to date of receiving order, after deducting usual trade expenses					Net loss (if any) arising from carrying on business from the (1) day of 19 to date of receiving order, after charging against profits the usual trade expenses				
Income or profit from other sources (if any) since the (1) day of 19					Bad debts (if any) as per Schedule "I" (2)				
Gifts from relations and others (5) Deficiency as per statement of affairs					Depreciation of stock in trade				
					Depreciation of machinery				
					Depreciation of trade fixtures, fittings, etc.				
					Expenses incurred since the (1) day of 19, other than usual trade expenses, viz. household and personal expenses of self and family (3) —				
					(4) Other losses and expenses (if any) —				
					(5) Surplus as per statement of affairs				
Total amount to be accounted for (6)	\$				Total amount accounted for (6)	\$			

(1) This date should be 12 months before date of receiving order, or such other time as Official Receiver may have fixed

(2) This schedule must show when debts were contracted

(3) Specify all dependants

(4) Here add particulars of other losses or expenses (if any), including liabilities (if any) for which no consideration received

(5) Strike out which do not apply

(6) These figures should agree

Dated this _____ day of _____, 19 _____

(Signature)

LAWS OF BRUNEI

212

CAP. 67

Bankruptcy

[Subsidiary]

L.

In Substitution for such of the sheets named "A" to "J" as will have to be returned blank

List	Particulars, as per front sheet	DEBTOR'S REMARKS <small>Where no particulars are entered by the debtor on any one or more of the lists named "A" to "J" the word "Nil" should be inserted in this column opposite the particular list or lists thus left blank.</small>
A.	Unsecured creditors	
B.	Creditors fully secured	
C.	Liabilities of debtor on bills discounted other than his own acceptances for value	
D.	Contingent or other liabilities	
E.	Creditors for rent, etc., recoverable by distress	
F.	Preferential creditors for rates, taxes,	
G.	and wages	
H.	Property	
I.	Debts due to the estate	
J.	Bills of exchange, promissory notes, etc., available as assets	

Dated this day of , 19

(Signature)

M.

Particulars of all property held by or in name of wife (or of any concubine.)

Nature of property	When acquired	From whom	Consideration	Remarks

Dated this day of , 19

(Signature)

Application for extension of time for holding first meeting and order thereon

(Title)

Ex parte the Official Receiver

I, _____, the Official Receiver in the above matter, apply to the court for an extension of time to the _____ day of _____, 19____, for holding the first meeting of creditors, on the ground following (a) —

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

That the said debtor has not submitted a statement of and in relation to his affairs in compliance with section 18 of the Bankruptcy Act, Cap. 67.

or

That the said debtor has obtained an extension of time for submitting a statement of and in relation to his affairs, viz. to the day of _____, 19____

or

That the prescribed notice in the *Gazette* of the first meeting of creditors in the above matter required by rule 2 of the Meetings of Creditors Rules cannot be given in time for holding the meeting within 14 days from the date of the receiving order.

or

That there may be sufficient time for the books of the debtor to be examined and the statement of affairs investigated.

Dated this _____ day of _____, 19____

Official Receiver

Order thereon

Upon the application of the Official Receiver it is ordered that the time for holding the first meeting of creditors in the above matter be extended to the _____ day of _____, 19____

Registrar

LAWS OF BRUNEI

214

CAP. 67

Bankruptcy

[Subsidiary]

FORM 30

[s. 17; rule 101]

Notice to creditors of first meeting, where the debtor has not submitted a proposal for a composition or scheme

(Title)

(Under receiving order dated the _____ day of _____, 19 ____.)

Notice is hereby given that the first meeting of creditors in the above matter will be held at the Official Receiver's Office, Courts of Justice, on the _____ day of _____ 19 ____, at _____ o'clock in the _____ noon.

To entitle you to vote thereat your proof must be lodged with me not later than 24 hours before the time appointed for the meeting.

Proxies to be used at the meeting must be lodged with me not later than 24 hours before the time appointed for the meeting.

The public examination of the debtor is fixed for the _____ day of _____, 19 ____, at _____ o'clock in the _____ noon, at _____

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

Dated this _____ day of _____, 19 ____

Official Receiver

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

(a) Here insert "has not been lodged" or "has been lodged"

NOTE.—At the first meeting the creditors may amongst other things —

1. *By ordinary resolution resolve that the debtor be adjudged bankrupt, and in that case they may also, by ordinary resolution, appoint a trustee.*

2. *By ordinary resolution appoint a committee of inspection from among the creditors or the holders or intended holders of general proxies or general powers of attorney for the creditors.*

3. *A form of proof and forms of general and special proxy are sent herewith.*

FORM 31 [ss. 17, 25; rules 101, 102]

Notice of first or other meeting where debtor submits an offer or composition or scheme*(Title)*

(Under receiving order, dated the _____ day of _____, 19____.)

Notice is hereby given that for the first [*or a general*] meeting of the creditors of the above-named debtor will be held at the Official Receiver's Office, _____, on the _____ day of _____, 19____, at _____ o'clock in the _____ noon precisely.

Creditors qualified to vote at such meeting may, by a resolution passed by a majority in number, and three-fourths in value, of all the creditors who have proved their debts, accept the proposal made by the debtor for a composition [*or scheme*], the terms of which are set forth in the accompanying report, or any amendment of such proposal which in the opinion of the Official Receiver is calculated to benefit the general body of creditors.

Proofs of debt intended to be used at the meeting must be lodged with the Official Receiver not later than 24 hours before the time appointed for the meeting.

Proxies to be used at the meeting must be lodged not later than 24 hours before the time appointed for the meeting.

Creditors who prove their debts, and whose proofs are admitted, and who do not vote on the debtor's proposal, will be reckoned as voting *against* it.

The public examination of the debtor is fixed for the _____ day of _____, 19____, at _____ o'clock in the _____ noon.

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

Dated this _____ day of _____, 19____

Official Receiver

NOTES.

1. Creditors who have proved may vote for or against the acceptance of the debtor's proposal by means of the voting letter attached to the Official Receiver's report.

2. If the proposal be not accepted the meeting may, if the debtor has not already been adjudged bankrupt, resolve on his adjudication, and in that case they may also by ordinary resolutions appoint a trustee and a committee of inspection.

3. A form of proof and forms of general and special proxy are sent herewith.

LAWS OF BRUNEI

216

CAP. 67

Bankruptcy

[Subsidiary]

FORM 32

[s. 17; rule 102]

Notice to creditors of adjourned meeting

(Title)

Take notice that the meeting of creditors in the above matter held on the _____ day of _____ at the Official Receiver's Office was adjourned to the _____ day of _____ and will accordingly be held at the Official Receiver's Office, _____ on the said day at _____ o'clock in the _____ noon.

Agenda

[Insert here nature of business to be transacted.]

Dated this _____ day of _____, 19 _____

Official Receiver

FORM 33

[rule 105]

Affidavit of postage of notices. First meeting

(Title)

(a) Insert here if necessary "adjourned"

I, _____, a clerk in the office of the Official Receiver, make oath and say as follows —

1. That I did, on the _____ day of _____, 19 _____, send to each creditor mentioned in the debtor's statement of affairs, and to the above-named debtor, a notice of the time and the place of the *(a)* first meeting of creditors.

2. That such notices were addressed to the said creditors respectively, according to their respective names and addresses appearing in the statement of affairs of the said debtor, and also to the said debtor at _____

3. That the post office acknowledgment for the same is hereunto annexed and marked "A".

Sworn at, etc.

(Signature)

FORM 34

[rule 105]

Certificate of postage of notices. First meeting*(Title)*

I, _____, a clerk in the office of the Official Receiver, hereby certify — (a) Insert here if necessary "ad-journed"

1. That I did, on the _____ day of _____, 19____, send to each creditor mentioned in the debtor's statement of affairs, a notice of the time and place of the (a) first meeting of creditors.

2. That such notices were addressed to the said creditors respectively according to their respective names and addresses appearing in the statement of affairs of the said debtor.

3. That the post office acknowledgment for the same is hereunto annexed and marked "A".

4. That I did on the said _____ day of _____, 19____, send by registered post notice of the time and place of the said meeting to the said debtor, and that such notice was sent to the following addres-
ses —

Dated this _____ day of _____, 19____

Clerk to the Official Receiver

FORM 35

[rule 100]

Notice to debtor to attend first meeting of creditors*(Title)*

Take notice that the first meeting of your creditors will be held on the _____ day of _____, 19____, at _____ o'clock at the Official Receiver's Office, and that you are required to attend thereat and submit to such examination and give such information as the meeting may require. And further, take notice that if you fail to comply with the requirements of this notice you will be guilty of a contempt of court and may be punished accordingly.

Dated this _____ day of _____, 19____

Official Receiver

To

the above-named debtor.

LAWS OF BRUNEI

218

CAP. 67

Bankruptcy

[Subsidiary]

FORM 36

[rule 100]

Resolutions where adjudication resolved on

(Title)

Minutes of resolutions come to and proceedings had at the first meeting of creditors held at this day of , 19 , Official Receiver, Chairman.

Resolved as follows [unanimously] —

That *A.B.* shall be adjudged bankrupt, and that the Official Receiver do apply to the court to make the adjudication.

That *G.H.* of [*residence and occupation*] [or That the Official Receiver] shall be the trustee of the property of the bankrupt.

That *I.K.*, *L.M.*, *N.O.*, *P.Q.* and *R.S.* be appointed the committee of inspection in this bankruptcy, for the purpose of superintending the administration of the property of the bankrupt by the trustee.

[Here add any other resolutions that may be come to as to the manner of the administration of the property by the trustee, etc.]

Chairman

No.	Assenting creditors signatures	Amount of proof		No.	Dissenting creditors signatures	Amount of proof	
		\$	c.			\$	c.

NOTE.—When a resolution is carried unanimously the creditors need not sign, but when a division is taken all creditors and holders of proxies voting should sign. The signatures must be attached at the meeting. Resolutions should be put separately.

FORM 37

[rule 107]

Memorandum of adjournment of first or other meeting

(Title)

Meeting held at _____ on the _____ day of _____, 19____, at _____ o'clock.

Memorandum.—The (a) _____ meeting of creditors in the above matter was held at the time and place above mentioned, and the several proofs of debt lodged were produced; but it appearing that (b) the meeting was adjourned until the _____ day of _____, 19____, at _____ o'clock in the _____ noon, then to be held at the same place.

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

Chairman

FORM 38

Memorandum of proceedings at adjourned first meeting. Where no quorum

(Title)

Meeting held at _____ on the _____ day of _____, 19____, at _____ o'clock.

Memorandum.—The adjourned meeting of creditors in the above matter was held at the time and place above mentioned, and the several proofs of debt lodged were produced; but it appearing that there was not a quorum of creditors qualified to vote present or represented no resolution was passed, and the meeting was not further adjourned.

Chairman

FORM 39

[s. 17; rules 10, 100]

Order of court for general meeting of creditors

(Title)

Upon the application of *C.D.*, of _____, it is ordered that the trustee of the property of the bankruptcy [or the Official Receiver] do summon a meeting of the creditors of the bankrupt to be held at _____ on the _____ day of _____, 19____, at _____ o'clock in the _____ noon [here state the purpose for which meeting called].

Dated this _____ day of _____, 19____

Registrar

LAWS OF BRUNEI

220

CAP. 67

Bankruptcy

[Subsidiary]

FORM 40

[rule 101]

Notice of meeting (general form)

(Title)

[Here insert purposes for which meeting called.]

Take notice that a meeting of creditors in the above matter will be held at _____ on the _____ day of _____, 19____, at _____ o'clock in the _____ noon.

(Forms of general and special proxy are inclosed herewith.)

Agenda

(a) "Trustee" or "Official Receiver"

Dated this _____ day of _____, 19____

(Signed (a))

FORM 41

[rule 105]

Affidavit of postage of notices (general)

(Title)

(a) Insert here "the time and place of a general meeting or adjourned general meeting" or as the case may be

I, _____ the trustee [or clerk to the trustee, as the case may be] in the above matter, make oath and say as follows —

1. That I did on the _____ day of _____, 19____, send to each creditor who has proved in this matter, and also to all creditors mentioned in the debtor's statement of affairs, a notice of (a)

2. That such notices were addressed to such of the said creditors who have proved their debts according to the addresses in their respective proofs, and to such as have not proved, according to their respective names and addresses appearing in the statement of affairs of the said debtor.

3. That the post office acknowledgment for the same is hereunto annexed and marked "A".

Sworn at, etc.

(Signature)

FORM 42

[rule 105]

Certificate of postage of notices (general)*(Title)*

I, _____ a clerk in the office of the Official Receiver, hereby certify —

1. That I did on the _____ day of _____, 19____, send to each creditor who has proved in this matter, and also to all creditors mentioned in the debtor's statement of affairs, a notice of (a)

2. That such notices were addressed to such of the said creditors who have proved their debts according to the addresses in their respective proofs, and to such as have not proved, according to their respective names and addresses appearing in the statement of affairs of the said debtor.

3. That the post office acknowledgment for the same is hereunto annexed and marked "A".

Dated this _____ day of _____, 19____

Clerk to the Official Receiver

FORM 43

[rule 102]

Notice to creditors of meeting to remove trustee and to appoint a person to fill the vacancy*(Title)*

At the request of one-fourth in value of the creditors of the bankrupt a general meeting of the creditors is hereby summoned to be held at _____ on the _____ day of _____, 19____, at _____ o'clock in the _____ noon for the purpose of considering the propriety of removing *G.H.*, the trustee of the property of the bankrupt, from his office as such trustee, and in the event of his removal to appoint a person to fill the vacancy.

Dated this _____ day of _____, 19____

L.M.,

*A member of the Committee of Inspection
[or Official Receiver]*

LAWS OF BRUNEI

222

CAP. 67

Bankruptcy

[Subsidiary]

FORM 44

[rule 102]

Notice of meeting to be held to appoint new trustee

(Title)

I, *C.D.*, Official Receiver, hereby give you notice that a meeting of creditors will be held at _____ on the _____ day of _____, 19____, at _____ o'clock in the _____ noon, for the purpose of appointing a trustee in the place of the late trustee, who has resigned the office [*or who has died or against whom a receiving order has been made*].

Dated this _____ day of _____, 19____

Official Receiver

FORM 45

[s. 17]

List of creditors assembled. To be used at every meeting

(Except a meeting at which a scheme or composition has been considered.)

(Title)

Meeting held at _____ this _____ day of _____, 19____

Number	Names of creditors present or represented	Amount of proof	
1		\$	c.
2			
3			
4			
5			
6			
7			
7	Total number of creditors present or represented		

[Subsidiary]

FORM 46

[rule 109]

Proof of debt. General form

(Title)

No. (a) of 19

Re (a)

I (b)

of , make oath and say —

(c) That I am in the employ of the under-mentioned creditor, and that I am duly authorised by to make this affidavit, and that it is within my own knowledge that the debt hereinafter deponed to was incurred, and for the consideration stated, and that such debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

(d) That I am duly authorised, under the seal of the company hereinafter named, to make the proof of debt on its behalf.

That the said , at the date of the receiving order, viz, the day of , 19 , and still justly and truly indebted to (e) in the sum of \$ and c. for (f) as shown

by the* } account indorsed hereon } for which sum or any part thereof I say that I have not nor hath (g) or any person by (h) order to my knowledge or belief for (h) used had or received any manner of satisfaction or security whatsoever, save and except the following (i) —

Admitted to vote for

\$:

the day

of , 19

Official Receiver

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

(b) Fill in full name, address and occupation of dependent.

If proof made by creditor strike out clauses (c) and (d).

If made by clerk of creditor strike out (d).

(e) Insert "me" or in case of a firm "me and C.D. and E.F. my co-partners trading as", or if by clerk, insert name, address and description of principal.

Debt \$:

Contra \$:

\$:

NOTE THIS

(f) State consideration, as — Goods sold and delivered by me [and my said partner] to him [or them] at his [or their] request between the dates of [or moneys advanced by me in respect of the undermentioned bill of exchange], or as the case may be.

*Strike out the words not applicable.

(g) "my said partners or any of them" or "the abovenamed creditor", as the case may be.

You should attend carefully to these directions

LAWS OF BRUNEI

224

CAP. 67

Bankruptcy

[Subsidiary]

or "their" or "his",
(h) "my" or "our" as
the case may be.

(i) Here state the particulars of all securities held, and where the securities are on the property of the debtor, assess the value of the same, and if any bills or other negotiable securities be held, specify them in the schedule.

N.B.—Bills or other negotiable securities must be produced before the proof can be admitted.

You should attend carefully to these directions

Admitted to rank
for dividend for
\$:
this day
of
19
Trustee

Sworn at
this day
of , 19
Before me

(Deponent's
signature)

Where the debt
proved for exceeds \$100
a one dollar stamp
must be affixed here as
otherwise the proof
cannot be admitted.

NOTE—The stamp must not be defaced by the creditor

The proof cannot be admitted for voting at the first meeting unless it is properly completed and lodged with the Official Receiver before the time named in the notice convening such meeting.

Particulars of account referred to on other side

(Credit should be given for *contra* accounts)

If space is not sufficient, let the particulars be annexed, but where the particulars are on a separate sheet of paper the same must be marked by the person before whom the affidavit is sworn, thus —

In bankruptcy.—*This is the account marked with the letter 'A' referred to in the annexed proof of the debt made by* _____ *in re*
Sworn before me this _____ *day of* _____, 19

Magistrate/Registrar

Date	Consideration	Amount		Remarks
		\$	c.	*The vouchers (if any) by which the account can be substantiated should be set out here
		\$	c.	*

(Signature of Deponent)

FORM 47

[rule 109]

Proof by trustee in prior bankruptcy*(Title)*

I, _____, of _____, make oath and say —

1. The said _____ was adjudicated a bankrupt on _____, 19____, and I am the trustee under such bankruptcy.
2. There was at the date of the receiving [*or administration*] order herein, namely, the _____ day of _____, 19____, and still is an unsatisfied balance of the debts provable in the aforesaid bankruptcy, of which I am trustee, amounting to \$ _____ as shown in the statement indorsed hereon [*or annexed hereto and marked "A"*].
3. I claim to prove in the present bankruptcy for the said amount.

Sworn, etc.,

Before me,

Admitted to vote for \$ _____ the _____ day of _____, 19____

*Official Receiver
or Trustee*

Admitted to rank for dividend for \$ _____ this day of _____, 19____

*Official Receiver
or Trustee*

FORM 48

[rule 110]

Proof of debt of workmen*(Title)*

I (a) _____ of _____ (b) _____ make oath and say —

1. That (c) _____ of _____ at the date of the receiving order, viz. the _____ day of _____, 19____, and still justly and truly indebted to the several persons whose names, addresses and descriptions appear in the schedule indorsed hereon in sums severally set against their names in the sixth column of such schedule for wages due to them respectively as workmen or others in (d) _____ in respect of services rendered by them respectively to (e) _____ during such periods before the date of the receiving order as are set out against their respective names in the fifth column of such schedule, for which said sums, or any part thereof, I say that they have

(a) Fill in full name, address and occupation of deponent.*(b)* the above-named debtor or the foreman of the above-named debtor or on behalf of the workmen and others

LAWS OF BRUNEI

226

CAP. 67

Bankruptcy

[Subsidiary]

employed by
the above-
named
debtor

not, nor hath any of them, had or received any manner of satisfaction or security whatsoever.

Sworn, etc.,

(c) I or the
said

(Signature)

(d) my
employ or the
employ of the
above-named
debtor

Schedule referred to on the other side.

(e) me or the
above-named
debtor

1 No.	2 Full name of workman	3 Address	4 Description	5 Period over which wages due	6 Amount due	
					\$	c.

FORM 49

[rules 114, 115]

Notice of rejection of proof of debt

(Title)

(a) If proof
wholly
rejected
strike out
words
underlined

Take notice, that, as Official Receiver [*or trustee*] of the above estate, I have this day rejected your claim against such estate (a) [to the extent of] on the following grounds —

(b) 21 days or
7 days as the
case may be.
See Rules 117
and 123 (2).

And further take notice that if you are dissatisfied with my decision in respect of your proof you may apply to the court to reverse or vary the same, but subject to the power of the court to extend the time, no application to reverse or vary my decision in rejecting your proof will be entertained after the expiration of (b) _____ days from this.

Dated this _____ day of _____, 19 _____

Official Receiver

or Trustee

To

FORM 50

[s. 78 (1) (d); rule 119]

[Subsidiary]

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

General proxy

(Title)

I, (a) of , a creditor, hereby appoint (b) to be (c) general proxy in the above matter [excepting as to the receipt of dividend (d)].

(b) Here insert either "Mr of a clerk, manager, etc., in my regular employ," or "the Official Receiver". The standing of the person appointed must be clearly set out

Dated this day of , 19

(Signed) (e)

(Signature of witness)

(Address)

(c) "my" or "our"

(d) See footnote 1

(e) If a firm, sign the firm's trading title, and add "by A.B., a partner in the said firm". As to signature by agent. See footnotes 2 & 3.

NOTES

1. When the creditor desires that his general proxy should receive dividends he should strike out the words, "excepting as to the receipt of dividend", putting his initials thereto (f).

2. The authorised agent of a corporation may fill up blanks, and sign for the corporation thus —

For the Company, Berhad.

J.S. (duly authorised under the seal of the company).

3. A proxy given by a creditor may be filled up and signed by any person in the employ of the creditor having a general authority in writing to sign for such creditor. Such person shall sign —

J.S. (duly authorised by a general authority in writing to sign on behalf [name of creditor]) (g).

Certificate to be signed by person other than creditor filling up the above proxy.

I, of , being a [here state whether clerk or manager in the regular employment of the creditor or authorised to administer oaths in the Supreme Court], hereby certify that all insertions in the above proxy are in my own handwriting, and have been made by me at the request of the above-named and in his presence, before he attached his signature [or mark] hereto.

(f) It is not intended that Official Receiver shall in any case receive dividends on behalf of a creditor

Dated this day of , 19

(Signature)

(g) The Official Receiver or trustee may require the authority to sign to be produced for his inspection

The proxy must be lodged with the Official Receiver or trustee not later than 24 hours before the time appointed for the meeting at which it is to be used.

LAWS OF BRUNEI

228

CAP. 67

Bankruptcy

[Subsidiary]

FORM 51

[s. 78 (1) (d); rule 119]

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

Special proxy

(Title)

I, (a) _____ of _____, creditor, hereby appoint (b) _____ as (c) _____ proxy at the meeting of creditors to be held

(b) Here insert either "Mr. _____" or "the Official Receiver"

on the _____ day of _____, 19____, or at any adjournment thereof, to vote (d) _____

Dated this _____ day of _____, 19____

(Signed) (e) _____

(Signature of witness)

(Address)

(c) "my" or "our"

NOTES

(d) Here insert the word "for" or the word "against" as the case may require, and specify the particular resolution or name of proposed trustee, remuneration, or other matter

1. A creditor may give a special proxy to any person to vote at any specified meeting or adjournment thereof on all or any of the following matters —

- (a) for or against any specific proposal for a composition or scheme of arrangement;
- (b) for or against the appointment of any specified person as trustee or as member of the committee of inspection, or for or against the continuance in Office of any specified person, as trustee or member of a committee of inspection;
- (c) on all questions relating to any matter, other than those above referred to, arising at any specified meeting or adjournment thereof.

(e) If a firm, sign the firm's trading title, and add "by A.B., partner in the said firm". As to signature by agent see footnotes 2 & 3

2. The authorised agent of a corporation may fill up blanks, and sign for the corporation thus —

For the _____ Company, Berhad.
J.S. (duly authorised under the seal of the company).

3. A proxy given by a creditor may be filled up and signed by any person in the employ of the creditor having a general authority in writing to sign for such creditor. Such person shall sign —

J.S. (duly authorised by a general authority in writing to sign on behalf of [name of creditor]) (f).

(f) The Official Receiver or trustee may require the authority to sign to be produced for his inspection

Certificate to be signed by person other than creditor filling up the above proxy.

I, _____, of _____, being a [here state whether clerk or manager in the regular employment of the creditor or a commissioner to administer oaths in the Supreme Court] hereby certify that all insertions

[Subsidiary]

in the above proxy are in my own handwriting, and have been made by me at the request of the above-named _____ and in his presence, before he attached his signature [*or mark*] hereto.

Dated this _____ day of _____, 19 _____

(Signature)

The proxy must be lodged with the Official Receiver or trustee not later than 24 hours before the time appointed for the meeting at which it is to be used.

FORM 52

[s. 19]

Application by the Official Receiver for an order appointing a sitting for the public examination of the debtor

(Title)

A receiving order having been made in the above matter application is hereby made to the court by the Official Receiver for an order appointing the _____ day of _____ at _____ or such other time and place as the court shall direct for holding the public examination of the debtor, and that the debtor do attend such public examination.

Dated this _____ day of _____, 19 _____

Official Receiver

FORM 53

[s. 19]

Order appointing a time for the public examination of the debtor

(Title)

Upon the application of the Official Receiver in the above matter it is ordered that the public examination of the above-named debtor be held at _____ on the _____ day of _____ at _____ o'clock in the _____ noon.

And it is ordered that the above-named debtor do attend at the place and time above mentioned

Dated this _____ day of _____, 19 _____

Registrar

NOTE.—Notice is hereby given that if you, the above-named debtor, fail without reasonable excuse, to attend at the time and place aforesaid you will be liable to be committed to prison without further notice.

LAWS OF BRUNEI

230

CAP. 67

Bankruptcy

[Subsidiary]

FORM 54

[s. 19; rule 86]

Notice of day for proceeding with public examination (for local paper or Gazette)

(Title)

Notice is hereby given that the court has appointed _____ day, the _____ day of _____, 19____, at _____ o'clock in the _____ noon, for proceeding with the public examination of the above-named debtor, which, on the _____ day of _____, 19____, was adjourned *sine die*.

Dated this _____ day of _____, 19____

Official Receiver

FORM 55

[s. 19; rule 23]

Appointment of shorthand writer to take examination of debtor

(Title)

Upon the application of the Official Receiver _____ the court hereby, pursuant to rule 23 of the Bankruptcy Rules, appoints _____ of _____ to take the examination of the said _____ at his public examination this day.

Dated this _____ day of _____, 19____

Registrar

FORM 56

[s. 19; rule 23]

Declaration by shorthand writer

(Title)

I, _____, of _____, the shorthand writer appointed by the court to take down the examination of the said _____, do solemnly and sincerely declare that I will truly and faithfully take down the questions and answers put to and given by the said _____ in this matter, and will deliver true and faithful transcripts thereof as the court may direct.

Dated this _____ day of _____, 19____

Declared before me at the time and place
above-mentioned

Magistrate/Registrar

FORM 57

[s. 19; rule 23]

Notes of public examination of debtor where a shorthand writer is appointed

(Title)

Public examination of the debtor held this _____ day of _____, 19____

The above-named debtor, being sworn and examined at the time and place above-mentioned, upon the several questions following being put to him, gave the several answers thereto respectively following each question, that is to say —

A

This is a transcript of the notes of the public examination of _____, held this _____ day of _____, 19____

Shorthand writer duly appointed under rule 23, Shorthand writer attached to the Official Receiver's Office.

FORM 58

[s. 19; rule 23]

Notes of public examination of debtor where shorthand writer is not appointed

Public examination of the debtor held this _____ day of _____, 19____

The above-named debtor being sworn and examined at the time and place above-mentioned, upon his oath saith as follows —

A

These are the notes of the examination of _____, held this _____ day of _____, 19____

Clerk of the Court/Registrar

LAWS OF BRUNEI

232

CAP. 67

Bankruptcy

[Subsidiary]

FORM 59

[s. 19]

Order of adjournment of public examination

(Title)

(a) insert here word "further" if necessary

[Set out any further order of the court]

This being the day appointed for the (a) public examination of the above-named , and the said having submitted himself for such examination; now upon hearing the Official Receiver, and upon hearing and it appearing that

It is ordered that the said public examination be adjourned to the day of , 19 , at in the noon. And it is further ordered that the said do attend at the court on the said day of , 19 , for the purpose of being further examined as to his conduct, dealings, and property. And it is further ordered that the said

Dated this day of , 19

Registrar

FORM 60

[s. 19; rule 87]

Order dispensing with public examination of debtor

(Title)

(a) Insert name and address of applicant, and the capacity in which he makes the application

(b) State what the disability is

Upon the application of the Official Receiver [or of (a) of] in the above matter, and upon reading and upon hearing , and it appearing to the court that the debtor is (b) , it is ordered that the public examination of the debtor be dispensed with.

Dated this day of , 19

Registrar

[Subsidiary]

FORM 61

[s. 19; rule 87]

Order as to examination of debtor who is suffering from mental or physical affliction or disability*(Title)*

Upon the application of the Official Receiver [or of (a) _____ of _____] in the above matter, and upon reading _____, and upon hearing _____, and it appearing to the court that the debtor is suffering from physical disability which makes him unfit to attend a public examination in court [or as the case may be] it is ordered that instead of a public examination of the debtor (b) the debtor be examined on oath at (c) _____ before the Registrar on the _____ day of _____, 19____, at _____ o'clock or such other time as having regard to the condition of the debtor may be convenient, and that the Official Receiver and trustee and (d) _____ be at liberty to attend such examination and take part therein.

(a) Insert name and address of applicant, and the capacity in which he makes the application

(b) The part of the order to be adapted to the circumstances of the case

(c) Insert place of examination

(d) Insert name of any other person authorised by the court to attend

Dated this _____ day of _____, 19____

Registrar

FORM 62

[s. 19 (8)]

Memorandum of public examination of debtor*(Title)*

Memorandum.—That I, _____ the above-named debtor, being sworn and examined upon my oath say that the notes of my public examination marked "A", and appended hereto, were read over by or to me and are correct.

And I further say that, at the time of this my examination, I have delivered up to the Official Receiver or the trustee of my estate, all property, estate and effects, and all books, papers and writings relating thereto.

And I further say that I have made a full disclosure of all my assets and of all my debts and liabilities of whatever kind, and that I have not removed, concealed, embezzled or destroyed any part of my estate, real or personal, nor any books of account, papers or writing relating thereto, with an intent to defraud my creditors or to conceal the state of my affairs.

[Here insert any special matter]

Dated this _____ day of _____, 19____

Debtor

LAWS OF BRUNEI

234

CAP. 67

Bankruptcy

[Subsidiary]

FORM 63

[s. 19]

Order of court that examination is concluded

(Title)

Whereas the above-named A.B. has duly attended before the court and has been publicly examined as to his conduct, dealings and property;

And whereas the court is of opinion that the affairs of the said A.B. have been sufficiently investigated, it is hereby ordered that the examination of the said A.B. is concluded.

Dated this day of , 19

Registrar

FORM 64

[ss. 20, 25]

Proposal for a composition

(Title)

I, the above-named debtor, hereby submit the following for a composition in satisfaction of my debts —

(a) To be signed by the debtor; in case of joint debtors to be signed in the firm name by such of the debtors as the Official Receiver shall require

1. That payment in priority to all other of my debts of all debts directed to be so paid in the distribution of the property of a bankrupt shall be provided for as follow —

[Set out terms of proposal so far as relate to preferential claims]

2. That provision for payment of all the proper costs, charges and expenses of and incidental to the proceedings, and all fees and percentages payable to the Official Receiver and the court, shall be made in the following manner —

[Set out proposal for provisions for fees, charges, costs, etc.]

3. That the following composition shall be paid as hereinafter mentioned on all provable debts —

[Set out terms of composition]

4. That the payment of the composition be secured in the following manner —

[Set out full names and addresses of sureties (if any) and complete particulars of all securities intended to be given]

Dated this day of , 19

(Signed) (a)

Proposal for scheme

(Title)

I, _____, the above-named debtor, hereby submit the following proposal for a scheme of arrangement of my affairs in satisfaction of my debts.

(a) To be signed by the debtor, or in the case of joint debtors to be signed in the firm name by such of the debtors as the Official Receiver shall require

1. That —

[Set out terms of scheme]

2. That payment in priority to all other of my debts of all debts directed to be so paid in the distribution of the property of a bankrupt is provided for as follows —

[Set out or indicate by reference to the scheme how it is proposed to satisfy preferential claims]

3. That provision for payment of all the proper costs, charges and expenses of and incidental to the proceedings, and all fees and percentages payable to the Official Receiver and the court, is provided for as follows —

[Set out or indicate by reference to the scheme how it is proposed to provide for fees, costs, charges, etc.]

[Set out any other terms]

Dated this _____ day of _____, 19 _____

(Signed) (a)

LAWS OF BRUNEI

236

CAP. 67

Bankruptcy

[Subsidiary]

FORM 66

[ss. 20, 25]

Report of Official Receiver to creditors on proposal for composition or scheme

(Title)

The Official Receiver hereby reports —

That the debtor has lodged with him a proposal for a composition [or scheme] to be submitted to the creditors, of which the following is a copy —

[Here set out fully the terms of proposal]

That the liabilities as shown by the debtor's statement of affairs amount to the sum of _____, and the assets are estimated by the debtor at the sum of _____ after payment of preferential debts.

That the value of the assets is fairly estimated by the debtor [or as the case may be].

That the terms of the debtor's proposal [set out particulars of proposal and observations on the proposal and the debtor's conduct.]

Dated this _____ day of _____, 19 _____

Official Receiver

FORM 67

Application to extend time for approving a composition or scheme and order thereon*(Title)**Ex parte* the Official Receiver.

The Official Receiver reports to the court —

That a (a) _____ was on the _____ day of _____, 19____, duly lodged by the debtor in the above matter.

(a) "composition" or "scheme of arrangement"

That the public examination of the debtor was concluded on the _____ day of _____, 19____.

That (b) _____ in time to allow of the approval of the said (a) _____ within 14 days after the conclusion of the examination of the debtor as required by section 22 of the Bankruptcy Act, Cap. 67.

(b) "the prescribed notices cannot be given"; or "the moneys or securities required for the said (a) have not been lodged"; or as the case may be

Under these circumstances, application is made for an extension of time to the _____ day of _____, 19____, for obtaining such approval.

Dated this _____ day of _____, 19____.

*Official Receiver***Order**

Upon reading the above report of the Official Receiver, and hearing _____, it is ordered that the time for obtaining the approval of the said (a) _____ in the above matter be extended to the _____ day of _____, 19____.

Dated this _____ day of _____, 19____.

Registrar

FORM 68

[s. 20, (5)]

Notice to creditors of application to court to approve composition or scheme of arrangement*(Title)*

Take notice that application will be made to the court, on the _____ day of _____, 19____, at _____ o'clock in the _____ noon to approve the composition [or scheme of arrangement] as proposed by the said debtor and duly accepted by the statutory majority of the creditors at a meeting held on the _____ day of _____, 19____.

Dated this _____ day of _____, 19____.

Official Receiver

LAWS OF BRUNEI

238

CAP. 67

Bankruptcy

[Subsidiary]

FORM 69

Notice to Official Receiver of application to court by debtor to approve composition or scheme

(Title)

Take notice that application will be made to the court on the day of _____, 19____, at _____ o'clock in the noon, to approve the composition [*or scheme*] accepted on the day of _____, 19____, by the statutory majority of creditors.

Dated this _____ day of _____, 19____

Debtor

FORM 70

[s. 20 (12); rule 12]

Order on application to approve composition or scheme

(Title)

On the application of _____ and on reading the report of the Official Receiver filed on the _____ day of _____, and hearing the Official Receiver and _____, and the court being satisfied that the creditors in the above matter have duly accepted a composition [*or scheme*] in the following terms, namely [*here insert terms if short; if not, insert in the terms contained in the paper writing marked "A", annexed hereto*]* and being satisfied that the said terms are reasonable and calculated to benefit the general body of creditors† and that the case is not one in which the court would be required, if the debtor were adjudged bankrupt, to refuse an order of discharge.

[*and as the case may be*]

And being satisfied —

(a) that no facts have been proved which would justify the court in refusing, qualifying or suspending an order of discharge;

or

(b) that facts have been proved which would justify the court in refusing, qualifying or suspending an order of discharge, but that having regard to the nature of such facts, and the composition [*or scheme*] providing reasonable security for payment of not less than 25 *per cent* on all the unsecured debts provable against the debtor's estate, the said composition [*or scheme*] is hereby approved, and it is ordered —

[Subsidiary]

(a) That the receiving order made against the said _____ on the _____ day of _____, 19____, be and the same is hereby discharged,

or

(b) That the order of adjudication made against the said _____ on the _____ day of _____, 19____, be and the same is hereby annulled.

*or after**

and being satisfied that the said terms are not reasonable or calculated to benefit the general body of creditors

and [or after† and being satisfied]

(a) that the case is one in which the court would be required, if the debtor were adjudged, bankrupt, to refuse his discharge,

or

(b) that facts have been proved which would, under the Bankruptcy Act, Cap. 67, justify the court in refusing, qualifying or suspending the debtor's discharge.

The court both refuse to approve the said composition [*or scheme*].

Dated this _____ day of _____, 19____

Registrar

FORM 71

[s. 20 (15)]

Application for enforcement of provision in a composition or scheme

(Title)

In a matter of a composition [*or scheme of arrangement*] made by *A.B.*, of

I, *L.M.*, of _____, do apply to this court for an order for the enforcement of the provisions of the said composition [*or scheme of arrangement*] against _____, on the grounds set forth in the annexed affidavit.

Dated this _____ day of _____, 19____

L.M.

LAWS OF BRUNEI

240

CAP. 67

Bankruptcy

[Subsidiary]

FORM 72

[s. 20 (15)]

Affidavit in support of application for enforcement of provisions of a composition or scheme

(Title)

In the matter of a composition [*or* scheme of arrangement] made by *A.B.*, of

L.M., of _____, make oath and say —

1. That I am interested in the said composition [*or* scheme of arrangement], having proved my debt as a creditor of the said *A.B.* [*or as the case may be*].

2. That [one] of the provisions of the said composition [*or* scheme of arrangement] is [*or* are] that [*here set it or them out*].

3. That _____ has failed to comply with the said provision [*or as the case may be*].

Sworn at, etc.

L.M.

FORM 73

[s. 20 (15)]

Order for enforcement of provision in a composition or scheme

(Title)

In the matter of a composition [*or* scheme of arrangement] made by *A.B.*, of

Upon the application of *L.M.*, of _____, and reading [*here insert evidence*], and upon hearing _____, the court being of opinion that the provisions of the said composition [*or* scheme of arrangement] mentioned in the said affidavit should be enforced, it is ordered that [*here insert order*].

Dated this _____ day of _____, 19 _____

Registrar

To

Take notice that unless you obey the directions contained in this order, you will be deemed to have committed a contempt of court.

FORM 74

Certificate of approval of composition or scheme*(Title)*

I hereby certify that a composition [*or* scheme of arrangement] between *A.B.*, of _____, the above-named debtor, and his creditors was duly approved by the court on the _____ day of _____, 19____

Dated this _____ day of _____, 19____

Official Receiver

FORM 75

[s. 18 (3)]

Application for adjudication under section 18*(Title)*

The Official Receiver hereby reports to the court —

That a receiving order was made against the above-named debtor on the _____ day of _____, 19____

That the act of bankruptcy on which the petition was founded was the allegation that the debtor had within 3 months before the date of the presentation of the petition.

That from inquiries made since the receiving order, the statement that the said debtor had _____ appears to have been well founded, and the present place of residence of the debtor has not been ascertained.

That the debtor has failed to attend at the office of the Official Receiver to be examined in respect of his property and creditors, and to give necessary information relative to his estate, affairs, conduct and dealings, and to receive instructions as to the preparation of a statement of and in relation to his affairs in accordance with the notice (a copy of which is hereto annexed) sent by post addressed to _____ as aforesaid.

That the debtor has not submitted a statement of and in relation to his affairs in pursuance of section 18 of the Bankruptcy Act, Cap 67.

The Official Receiver accordingly, in pursuance of the provisions of section 18 of the Bankruptcy Act, Cap. 67, makes application to the court to adjudge the said debtor _____ bankrupt.

Dated this _____ day of _____, 19____

Official Receiver

LAWS OF BRUNEI

242

CAP. 67

Bankruptcy

[Subsidiary]

FORM 76

[s. 22]

Application for adjudication after resolution for bankruptcy or by consent

(Title)

The Official Receiver reports to the court —

That at the first meeting of the creditors of the said debtor held at _____ on the _____ day of 19____, the following resolution was passed —

“That _____, the above-named debtor, shall be adjudged bankrupt, and that the Official Receiver do apply to the court to make the adjudication”; [and (or, or) that the debtor has, in writing, consented to be adjudged bankrupt].

The Official Receiver accordingly, in pursuance of the provisions of section 22 of the Bankruptcy Act, Cap. 67, makes application to the court to adjudge the said debtor, _____, bankrupt.

Dated this _____ day of _____, 19____

Official Receiver

FORM 77

[s. 22]

Application for adjudication where no quorum at adjourned meeting

(Title)

The Official Receiver reports to the court —

That a receiving order was made against the above-named debtor on the _____ day of _____, 19____

That the first meeting of creditors was duly summoned to be held at _____ on the _____ day of _____, 19____

(a) Notice of application was on the _____ day of 19____, sent by post addressed to the debtor, or the debtor has consented, in writing, to the court adjudging him bankrupt

That creditors qualified to vote not being present or represented thereat to form a quorum, the said meeting was adjourned to the _____ day of _____, 19____

That at such adjourned meeting creditors qualified to vote not being present or represented to form a quorum no resolution was passed.

That (a)

The Official Receiver accordingly, in pursuance of section 22 of the Bankruptcy Act, Cap. 67, makes application to the court to adjudge the said debtor, _____, bankrupt.

Dated this _____ day of _____, 19____

Official Receiver

FORM 78

[s. 22; rule 12]

Order of adjudication*(Title)*

Pursuant to a petition, dated _____ against [*here insert name, description and address of debtor*] on which a receiving order was made, on the [*date*], and on the application of the Official Receiver, and on reading _____ and hearing _____ it is ordered that the debtor be and the said debtor is hereby adjudged bankrupt.

Dated this _____ day of _____, 19 _____

Registrar

or

Whereas pursuant to a petition dated _____ against *A.B.*, a receiving order was made on the [*date*]: And whereas it appears to the court that at the first meeting of creditors held on the [*date*], [or at an adjournment of the first meeting of creditors] at _____, it was duly resolved that the debtor be adjudged bankrupt. It is ordered that the debtor be and the said debtor is hereby adjudged bankrupt.

Dated this _____ day of _____, 19 _____

Registrar

FORM 79

[rule 80]

Application to annul adjudication or rescind receiving order*(Title)*

I, *R.S.*, of _____, being interested in this matter [or I, _____, Official Receiver] do hereby make application to the court that the order of adjudication [or receiving order] against *A.B.* be annulled [or rescinded] [*here state grounds of application*].

Dated this _____ day of _____, 19 _____

(Signature)

LAWS OF BRUNEI

244

CAP. 67

Bankruptcy

[Subsidiary]

FORM 80

[rule 12]

Order annulling adjudication or rescinding receiving order

(Title)

On the application of *R.S.*, of _____, [or On the application of the Official Receiver], and on reading _____ and hearing _____, it is ordered that the order of adjudication [or receiving order] dated _____ against *A.B.*, of _____, be and the same is hereby annulled [or rescinded].

Dated this _____ day of _____, 19 _____

Registrar

FORM 81

[s. 30; rule 88]

Application for order of discharge

(Title)

I, *A.B.*, of _____, having been adjudged bankrupt on the _____ day of _____, 19 _____, and being desirous of obtaining my discharge, hereby apply to the court to fix a day for hearing my application.

My public examination was concluded on the _____ day of _____

Annexed hereto is the certificate of the Official Receiver certifying the number of my creditors.

Dated this _____ day of _____, 19 _____

Debtor

To the Registrar

FORM 82

[s. 30; rule 88]

Notice of day for hearing of application for discharge

(Title)

(For local paper or *Gazette*)

Notice is hereby given that the court has appointed _____ day, the _____ day of _____, 19 _____, at _____ o'clock in the noon, for hearing the application of the above-named debtor.

Dated this _____ day of _____, 19 _____

Official Receiver

FORM 83

[s. 30; rule 88]

Notice to Official Receiver and trustee of application for discharge*(Title)*

The bankrupt having applied to the court for his discharge, the court has fixed the day of , 19 , at o'clock in the noon at for hearing the application.

Dated this day of , 19

Registrar

To the Official Receiver and
trustee of the estate of
the bankrupt

FORM 84

[s. 30; rule 88]

Notice to creditors of application for discharge*(Title)*

Take notice that the above-named bankrupt has applied to the court for his discharge, and that the court has fixed the day of , 19 , at o'clock for hearing the application.

Dated this day of , 19

Official Receiver

LAWS OF BRUNEI

246

CAP. 67

Bankruptcy

[Subsidiary]

FORM 85

[s. 30; rules 12, 94]

Order granting discharge unconditionally

(Title)

On the application of *A.B.*, of *etc.* adjudged bankrupt on the day of _____, 19____, and upon taking into consideration the report of the Official Receiver as to the bankrupt's conduct and affairs, including the bankrupt's conduct during the proceedings under his bankruptcy, and upon hearing the Official Receiver, and *C.D. E.F.*, *etc.* creditors, and *G.H.*, the trustee [*as the case may be*].

And whereas it has not been proved that the bankrupt has committed any of the misdemeanors or felonies mentioned in section 30 of the Bankruptcy Act, Cap. 67, and proof has not been made of any of the facts mentioned in section 30(4) or section 31 of the said Act and that the bankrupt has been guilty of any misconduct in relation to his property and affairs. It is ordered that he be and he hereby is discharged.

Dated this _____ day of _____, 19____

Registrar

FORM 86

[s. 30; rules 12, 94]

Order refusing discharge*(Title)*

On the application of

[Commencement as in Form 85]

And whereas it has been proved that the bankrupt has committed namely, any of the offences mentioned in Section 30.

*[Here state particulars]**or*

And whereas it has not been proved that the bankrupt has committed any of the offences mentioned in section 30 of the Bankruptcy Act, Cap. 67, but proof has been made of the following facts under subsection (4) of that section, [and section 31 of the said Act] namely,

[Here state particulars]

or/and that he has been guilty of misconduct in relation to his property and affairs, namely,

[Here state particulars]

It is ordered that the bankrupt's discharge be and it is hereby refused.

Dated this day of , 19

Registrar

LAWS OF BRUNEI

248

CAP. 67

Bankruptcy

[Subsidiary]

FORM 87

[s. 30; rules 12, 94]

Order suspending discharge

(Title)

On the application of

[Commencement as in Form 85]

And whereas it has not been proved that the bankrupt has committed any of the offences mentioned in section 30 of the Bankruptcy Act, Cap. 67, [*or it has been proved that the bankrupt has committed any of the offences mentioned in section 30, namely (set them out), but the court has for the following special reasons state them*] determined that his discharge shall not on that ground be absolutely refused]; but proof has been made of the following facts under section 30(4) [and section 31] of the said Act.

[Here state particulars]

or/and that he has been guilty of misconduct in relation to his property and affairs, namely,

[Here state particulars]

It is ordered that the bankrupt's discharge be suspended until a dividend of not less than 50 *per cent* has been paid to the creditors, with liberty to the bankrupt at any time after the expiration of 2 years from the date of this order to apply for a modification thereof, pursuant to section 30 of the Bankruptcy Act, Cap. 67.

or

It is ordered that the bankrupt's discharge be suspended for _____ years, and that he be discharged as from the _____ day of _____, 19 _____

Dated this _____ day of _____, 19 _____

Registrar

FORM 88

[s. 30; rules 12, 94]

Order of discharge where only fact proved that assets not equal to 50 per cent*(Title)*

On the application of

[Commencement as in Form 85]

And whereas it has not been proved that the bankrupt has committed any of the offences mentioned in section 30 of the Bankruptcy Act, Cap. 67, and whereas the only fact under subsection (4) of that section and section 31 of which proof has been made is the fact that the bankrupt's assets are not of a value equal to 50 per cent of the amount of his unsecured liabilities.

It is ordered that the bankrupt's discharge be suspended for and that he be discharged as from the day of , 19

Dated this day of , 19

Registrar

FORM 89

[s. 30; rules 12, 94]

Order of discharge subject to conditions as to earnings, after-acquired property, and income*(Title)*

On the application of

[Commencement as in Form 85]

And whereas it has not been proved (a)

(a) Here state particulars of the finding of the court

It is ordered that the bankrupt be discharged subject to the following conditions as to his future earnings, after-acquired property, and income —

After setting aside out of the bankrupt's earnings, after-acquired property, and income the yearly sum of \$ for the support of himself and his family, the bankrupt shall pay the surplus, if any [*or such portion of such surplus as the court may determine*], of such earnings, after-acquired property, and income to the Official Receiver [*or trustee*] for distribution among the creditors in the bankruptcy. An account shall, on the 1st day of January in every year, or within 14 days thereafter, be filed in these proceedings by the bankrupt, setting forth a statement of his receipts from earnings, after-acquired property, and income during the year immediately preceding the said date, and the surplus payable under this order shall be paid by the bankrupt to the Official Receiver [*or trustee*] within 14 days of the filing of the said account.

Dated this day of , 19

Registrar

LAWS OF BRUNEI

250

CAP. 67

Bankruptcy

[Subsidiary]

FORM 90

[s. 30; rules 12, 93]

Order of discharge subject to a condition requiring the bankrupt to consent to judgment being entered up against him

(Title)

On the application of

[Commencement as in Form 85]

It is ordered that the bankrupt be discharged subject to the following condition to be fulfilled before his discharge takes effect, namely, he shall before the signing of his order consent to judgment being entered against him in the original jurisdiction of this court by the Official Receiver [*or trustee*] for the sum of \$ _____, being the balance [*or part of the balance*] of the debts provable in the bankruptcy which is not satisfied at the date of his order, and for \$25 for costs of judgment.

And it is further ordered, without prejudice and subject to any execution which may be issued on the said judgment with the leave of the court, that the said sum of \$ _____ be paid out of the future earnings or after-acquired property of the bankrupt in manner following, that is to say, after setting aside out of the bankrupt's earnings and after-acquired property a yearly sum of \$ _____ for the support of himself and his family, the bankrupt shall pay the surplus, if any [*or such portion of such surplus as the court may determine*], to the Official Receiver [*or trustee*] for distribution among the creditors in the bankruptcy. An account shall on the 1st day of January in each year, or within 14 days thereafter, be filed in these proceedings by the bankrupt, setting forth a statement of his receipts from earnings, after-acquired property, and income during the year immediately preceding the said date, and the surplus payable under this order shall be paid by the bankrupt to the Official Receiver [*or trustee*] within 14 days of the filing of the said account.

And it is further ordered that upon the required consent being given judgment may be entered against the bankrupt in original jurisdiction for the said sum of \$ _____, together with \$25 for costs of judgment.

Dated this _____ day of _____, 19 _____

Registrar

FORM 91

[rules 12, 93]

**Consent of bankrupt to judgment being entered for balance or part of
balance of provable debts**

(Title)

Re

I, *A.B.*, of _____, the above-named bankrupt, do hereby consent to judgment being entered against me in the original jurisdiction of the court by the Official Receiver [*or trustee*] for the sum of \$ _____, being the balance or part of the balance of the debts provable under my bankruptcy which is not satisfied at the date of my discharge; but this consent is subject to the provision contained in the Bankruptcy Act, Cap. 67, with regard to the issue of execution on such judgment.

Dated this _____ day of _____, 19____

Debtor

FORM 92

[rules 12, 93]

Judgment to be entered pursuant to the consent

In the Supreme Court of Brunei, sitting at

No. _____ of 19____

Between _____

Plaintiff,

and _____

A.B., Defendant

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

The _____ day of _____, 19____

Pursuant to the order of the court in bankruptcy dated the _____ day of _____, whereby it was ordered that

[recite substance of order]

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

It is this day adjudged that the said plaintiff recover against the said defendant _____, together with \$25 for costs of judgment.

Dated this _____ day of _____, 19____

Registrar

LAWS OF BRUNEI

252

CAP. 67

Bankruptcy

[Subsidiary]

FORM 93

[rule 98]

Affidavit by debtor, whose discharge has been granted conditionally as to after-acquired property or income

(Title)

I, _____ the above-named debtor, make oath and say as follows —

1. I have since the date of my discharge resided and carried on business at _____, and I now reside and carry on business at _____

2. The statement hereto annexed is a full, true and complete account of all moneys earned by me and of all property and income acquired or received by me since the date of my discharge [or since the date when last I filed a statement of after-acquired property and income in court, namely, the _____ day of _____, 19 ____].

Sworn at, etc.

Debtor

FORM 94

[rule 29]

Application by trustee for committal of bankrupt or other person

(Title)

I, the trustee of the property of the said bankrupt [or as the case may be], do apply to the court for an order of committal for contempt of the court against the said bankrupt [or L.M., _____], on the ground set forth in the annexed affidavit.

Dated this _____ day of _____, 19 ____

Trustee

Affidavit of person interested in a composition for committal*(Title)*In the matter of a composition made by *A.B.*, ofI, *L.M.*, of _____, make oath and say —

1. That _____ of _____ was by an order of the court made on the _____ day of _____, 19____, ordered to [*here set out the order*].

2. That a copy of the said order was duly served on the said

3. That the said _____ has failed to obey such order.

Sworn at, etc.

L.M.

LAWS OF BRUNEI

254

CAP. 67

Bankruptcy

[Subsidiary]

FORM 96

[rule 29]

Affidavit in support of application for committal of debtor for contempt under section 26 or 55

(Title)

I, _____, the Official Receiver of the estate of the said debtor [the trustee of the property of the said bankrupt] make oath, and say —

Where debtor does not submit to examination

[1. That the said debtor did attend at the first meeting of his creditors held on the _____ day of _____, 19____, at _____, and wilfully refused to submit to be examined at such meeting in respect of his property [or his creditors], the submitting to examination being a duty imposed upon him by the Bankruptcy Act, Cap. 67.

or

Where debtor fails to attend a meeting other than the first

[1. That the said [debtor] bankrupt did wilfully fail to attend a meeting of his creditors held on the _____ day of _____, 19____, at _____ [or to wait on me at my office on the _____ day of _____, 19____], the attending such meeting [or waiting on me] being a duty imposed upon him by the Bankruptcy Act, Cap. 67.

or

Where debtor fails to execute a deed

[1. That the said [debtor] bankrupt has wilfully failed to execute [here describe the deed, etc, that he has failed to execute], the execution of such deed when required by me being a duty imposed upon him by section 26 [or 55] of the Bankruptcy Act, Cap. 67.

Where debtors fails to attend a meeting other than the first or to execute a deed

2. [That the said [debtor] bankrupt was on the _____ day of _____, 19____, duly served with a notice, a copy of which is hereunto annexed, by leaving the same at his usual place of residence, requiring him to attend the said meeting], [or to execute the above-mentioned deed, etc.]

Or

Where debtor fails to obey special orders of court

[1. That the said (debtor) bankrupt has wilfully failed to perform the duty imposed upon him by section 26 of the Bankruptcy Act, Cap. 67, (here insert any act he has been required to do by any special order of the court, stating the day on which the order was made).]

2. [That the said (debtor) bankrupt was duly served with a copy of such order by leaving the same at his usual place of residence on the _____ day of _____, 19____.]

Or

Where debtor has failed to deliver up property

[1. That the said (debtor) bankrupt has failed to deliver up possession of (here state the property he has failed to deliver up), which

[Subsidiary]

property is divisible amongst his creditors under the Bankruptcy Act, Cap. 67, and which said property was (*or is*) in his possession or control, he having been required by me to deliver up the said property by notice, a copy of which is hereunto annexed, and which notice was served upon him on the _____ day of _____, 19____, at _____.]

Sworn at, etc.

Official Receiver
[or Trustee]

FORM 97

[rule 29]

Affidavit of trustee under section 53 (5)

(Title)

I, *G.H.*, the trustee of the property of the said *A.B.*, a bankrupt, make oath and say —

1. That I believe that *L.M.*, of _____, hath in his possession or power as [*here set out the capacity in which the person stands to the bankrupt*] certain moneys [and securities] belonging to the bankrupt, that is to say [*here set out and describe the particular moneys and securities*].

2. That on the _____ day of _____, 19____, I did apply personally to the said *L.M.* to pay and deliver to me the said moneys and securities, and that he did not then pay or deliver, nor has he since paid or delivered, to me the same [*or That I, on the _____ day of _____, posted a letter to the said L.M., addressed to him at _____, calling upon him to, etc., and that on the _____ day of _____, 19____, I posted another letter, by which I again called upon him to, etc., and that he has failed to pay and deliver the same*].

3. That I firmly believe that the said *L.M.* is not entitled by law to retain such moneys [and securities] as against the bankrupt or against me as the trustee of the property of the bankrupt.

Sworn at, etc.

Trustee

LAWS OF BRUNEI

256

CAP. 67

Bankruptcy

[Subsidiary]

FORM 98

[ss. 20 (15), 110]
[rule 30]

Notice of application for committal under section 20 or 110

(Title)

To

Take notice that *C.D.*, of _____, will on the _____ day of _____, 19____, at _____ o'clock in the _____ noon, apply to the court for an order for your committal to prison for contempt of this court, you having disobeyed the order of the court made on the day of _____, 19____. [*here set out order*]. And further take notice that you are required to attend the court on such day at the hour before stated, to show cause why an order for your committal should not be made.

Dated this _____ day of _____, 19____

Registrar

FORM 99

[s. 26 (4); rule 30]

Notice of application for committal under section 26

(Title)

To the said *A.B.*, bankrupt.

Take notice that the trustee [*or Official Receiver*] of the property of the said bankrupt will on the _____ day of _____, 19____, at _____ o'clock in the _____ noon, apply to the court for an order for your committal to prison for contempt of this court, you having failed to perform the duty imposed on you by section 26 of the Bankruptcy Act, Cap. 67, [*here set out the duty he has failed to perform*]. And further take notice that you are required to attend the court on such day at the hour before stated to show cause why an order for your committal should not be made.

Dated this _____ day of _____, 19____

Registrar

FORM 100

[s. 53 (5); rule 30]

Notice of application for committal under section 53 (5)*(Title)*

To [here insert name, address and description of the person to whom the notice is to be sent].

Take notice that the trustee [or Official Receiver] of the property of the bankrupt will on the _____ day of _____, 19____, at _____ o'clock in the _____ noon, apply to the court for an order for your committal to prison for contempt of this court you having failed to pay and deliver to him certain moneys [and securities] belonging to the bankrupt in your possession or power as [here state whether as treasurer, banker, etc.], that is to say [here set out and describe the particular moneys and securities]. And further take notice that you are required to attend the court on such day at the hour before stated to show cause why an order for your committal should not be made.

Dated this _____ day of _____, 19____

Registrar

FORM 101

[ss. 20 (15); 110]

Order of committal under section 20 or 110*(Title)*

Whereas by an order of this court made on the _____ day of _____, 19____, [here recite the order]. Now upon the application of C.D., of _____, and upon hearing A.B. [or as the case may be], [or if he does not appear] reading the affidavit of [here insert name and description of person by whom the order was served on A.B.], and upon reading the affidavit of [enter evidence], the court being of opinion that the said A.B. has been guilty of a contempt of this court by his disobedience of the said order, it is ordered that the said A.B. do stand committed to [here insert prison] for his said contempt.

Dated this _____ day of _____, 19____

Registrar

LAWS OF BRUNEI

258

CAP. 67

Bankruptcy

[Subsidiary]

FORM 102

[s. 26 (4)]

Order of committal under section 26

(Title)

Upon the application of the trustee [or Official Receiver] of the property of the bankrupt [or debtor], and upon hearing the bankrupt [or if he does not appear], and reading the affidavit of [here insert name and description of person by whom the notice to show cause was served] and upon reading the affidavit of [enter evidence], the court being of opinion that the bankrupt has been guilty of a contempt of this court by having failed to [here follow the notice], it is ordered that the bankrupt do stand committed to [here insert prison] for his said contempt.

Dated this day of , 19

Registrar

FORM 103

[s. 53 (5)]

Order of committal under section 53 (5)

(Title)

Upon the application of the trustee of the property of the bankrupt, and upon hearing *L.M.* [or if *L.M.* does not appear] and reading the affidavit of here insert name and description of person by whom the notice to show cause was served] and upon reading the affidavit of [enter evidence] the court being of opinion that *L.M.* has been guilty of a contempt of this court by having failed to pay and deliver to the said trustee certain moneys [and securities] [here follow the notice], it is ordered that the said *L.M.* do stand committed to [here insert prison] for the said contempt.

Dated this day of , 19

Registrar

FORM 104

[s. 26 (4); rule 30]

Affidavit of non-compliance with order of court*(Title)*I *L.M.* of _____ make oath and say —

1. That *G.H.* of _____ was by an order of the court made on the _____ day of _____, 19____, ordered to [*here set out order*].

2. That [a copy of] the said order was duly served on the said *G.H.*

3. That the said *G.H.* has failed to obey the order.

Sworn, etc.

(Signature)

FORM 105

[rule 26]

Warrant of committal for contempt*(Title)*

To the Bailiff of the Supreme Court of Brunei and his assistants and to all police officers and to the Superintendent of Prisons.

Whereas by an order of this court bearing date the _____ day of _____, 19____, it was ordered that the said debtor [*or L.M.* of _____] should stand committed for contempt of this court.

These are therefore to require you the said bailiff, and others, to take the said *A.B.* [*or L.M.*] and to deliver him to the Superintendent of Prisons, and you the said Superintendent to receive the said *A.B.*, and him safely to keep in prison in your custody until such time as this court shall order; and you the said Superintendent shall, while the said *A.B.* is in your custody, at all times when the court shall so direct produce the said *A.B.* before the court.

Dated this _____ day of _____, 19____

Registrar

LAWS OF BRUNEI

260

CAP. 67

Bankruptcy

[Subsidiary]

FORM 106

Order for discharge from custody on contempt

(Title)

Upon application made this day of for *A.B.*, who was committed to prison for contempt by order of this court, dated the day of , 19 , and upon reading his affidavit showing that he has cleared [*or is desirous of clearing*] his contempt and has paid the costs occasioned thereby, and upon hearing the trustee [*or Official Receiver or C.D. of*], it is ordered that the Superintendent of Prisons do discharge the said *A.B.* out of his custody, as to the said contempt.

Dated this day of , 19

Registrar

FORM 107

Order for production of person in prison for examination before the court

(Title)

Upon application made this day of by [*applicant*] for an order for the production of *A.B.*, who was committed to prison for contempt by order of this court dated the day of , for examination before this court, it is ordered that the Superintendent of Prisons do cause the said *A.B.* to be brought in custody before the court at on the day of for examination before the court, and afterwards to be taken back to prison to be there safely kept pursuant to the said order.

Dated this day of , 19

Registrar

FORM 108

[s. 54; rule 26]

Search warrant*(Title)*

Whereas by evidence duly taken upon oath it hath been made to appear to the court that there is reason to suspect and believe that property of the said debtor is concealed in the house [*or other place, describing it, as the case may be*] of one *X.M.*, of such house [*or place*] not belonging to the said debtor.

These are therefore to require you to enter in the daytime into the house [*or other place, describing it*] of the said *X.M.* situate at aforesaid, and there diligently to search for the said property, and if any property of the said debtor shall be there found by you on such search, that you seize the same, to be disposed of and dealt with according to the provisions of the Bankruptcy Act, Cap. 67.

Dated this day of , 19

Registrar

To the Bailiff of the Supreme Court and his assistants.

FORM 109

[s. 27; rule 26]

Warrant of seizure*(Title)*

Whereas on the day of , 19 , a receiving order was made against the said debtor: These are therefore to require you forthwith to enter into and upon the house and houses, and other the premises of the said debtor, and also in all other place and places belonging to the said debtor where any of his goods and moneys are, or are reputed to be; and there seize all the ready money, jewels, plate, household stuff, goods, merchandise, books of account, and all other things whatsoever, belonging to the said debtor, except his necessary wearing apparel, bedding and tools, as excepted by the Bankruptcy Act, Cap. 67.

And that which you shall so seize you shall safely detain and keep in your possession until you shall receive other orders in writing for the disposal thereof from the trustee [*or Official Receiver*]; and in case of resistance or of not having the key or keys of any door or lock of any premises belonging to the said debtor where any of his goods are or are suspected to be, you shall break open, or cause the same to be broken open, for the better execution of this warrant.

Dated this day of , 19

Registrar

To the Bailiff of the Supreme Court and his assistants.

LAWS OF BRUNEI

262

CAP. 67

Bankruptcy

[Subsidiary]

FORM 110

[s. 27; rules 26, 27]

Warrant against debtor about to quit Brunei

(Title)

To the Bailiff of the Supreme Court of Brunei and his assistants and to all police officers and to the Superintendent of Prisons.

Whereas, by evidence taken upon oath, it hath been made to appear to the satisfaction of the court that there is probable reason to suspect and believe that the said *A. B.*, of _____ has absconded and gone abroad [*or* quitted his place of residence], [*or* is about to go abroad (*or* quit his place of residence)] with a view to avoiding service of a bankruptcy petition [*or* to avoiding appearing in a bankruptcy petition, *or* to avoiding examination in respect of his affairs, or otherwise delaying or embarrassing the proceedings in bankruptcy *or* to avoiding payment of a judgment debt in respect of which a bankruptcy notice has been issued.]

[*Or* that there is probable cause to suspect and believe that the said *A. B.* is about to remove his goods or chattels with a view to preventing or delaying such goods or chattels being taken possession of by the trustee of the property of the bankrupt *or* that the said *A. B.* has concealed (*or* is about to conceal or destroy) his goods or chattels, or some of them, or his books, documents or writings, or some or one of them, which books, documents or writings, or some or one of them, may be of use to the creditors in the course of the bankruptcy of the said *A. B.*]

[*Or* that it hath been made to appear to the satisfaction of this court that the said *A. B.* has removed certain of his goods and chattels in his possession, above the value of \$50, without the leave of the Official Receiver or trustee, that is to say (*here describe the goods or chattels*).]

[*Or* that the said *A. B.* did without good cause fail to attend at this court on the _____ day of _____, 19____, for the purpose of being examined, according to the requirements of an order of this court made on the _____ day of _____, 19____, directing him so to attend.]

These are therefore to require you the said bailiff, and others, to take the said *A. B.* and to deliver him to the Superintendent of Prisons and you the said Superintendent to receive the said *A. B.*, and him safely to keep in prison until such time as this court may order.

Dated this _____ day of _____, 19____

Registrar

FORM 111

[s. 28]

Order to Postmaster-General under section 28

(Title)

Upon the application of _____ the Official Receiver [or the trustee] of the property of the above debtor, it is ordered that for a period of 3 months from the _____ day of _____, 19____, all post letters, telegrams and postal packets directed or addressed to the said debtor, at (a) _____ shall be re-directed, sent or delivered by the Postmaster-General or officers acting under him, to (b) _____ except any letter on which there is a specific direction signed by the Official Receiver [or trustee] that it is to be delivered as addressed, if possible, and that a sealed duplicate of this order be forthwith transmitted by the Official Receiver [or trustee] to the Postmaster-General or officers acting under him.

(a) Here insert the full address or addresses

(b) "the said Official Receiver [or trustee] at _____ otherwise as the court may direct

Dated this _____ day of _____, 19____

Registrar

FORM 112

[s. 29; rule 25]

Summons under section 29

(Title)

To _____, of _____
 You are hereby required to attend at _____ on the _____ day of _____, 19____, at _____ o'clock in the _____ noon, to give evidence in the above matter, and then and there to have and produce (a) _____

(a) State any particular documents required, e.g. all ledgers and books account invoices, statements of account, letters, books, papers, and documents of every kind, in any manner relating to your dealings and transactions with A. B. a bankrupt, touching a debt alleged to be due by you to the said bankrupt's estate amounting to the sum of \$ _____

Hereof if you fail, having no lawful impediment to be then made known to the court, and allowed by it, the court may by warrant cause you to be apprehended and brought up for examination.

Dated this _____ day of _____, 19____

Registrar

NOTE.—This summons is issued on the application of the Official Receiver and trustee, and take notice, that if the sum of \$ _____, stated to be due by you to this estate, to be paid to _____, Official Receiver, at _____, on or before the _____ day of _____, this summons will be discharged.

LAWS OF BRUNEI

264

CAP. 67

Bankruptcy

[Subsidiary]

FORM 113

[s. 29; rule 25]

Admission of debt by debtor of bankrupt

(Title)

In the matter of *A.B.* of _____, a bankrupt.

I, the undersigned *J.K.* of _____, do hereby admit that I am indebted to the said bankrupt in the sum of \$ _____ upon the balance of accounts between myself and the said bankrupt.

J.K.

Dated this _____ day of _____, 19 _____

Witness,

C.D., Registrar,

[or *Official Receiver*].

FORM 114

[s. 29; rule 25]

Order to pay admitted debt

(Title)

Whereas *J.K.*, of _____, in his examination taken this day, and signed and subscribed by him, has admitted that he is indebted to the said debtor in the sum of \$ _____, on the balance of accounts between him and the debtor; it is ordered that the said *J.K.* do pay to the trustee of the property of the debtor, in full discharge of the sum so admitted, the sum of \$ _____ forthwith [or if otherwise state the *time and manner of payment*], and to further pay to the said trustee the sum of \$ _____ for costs.

Dated this _____ day of _____, 19 _____

Registrar

FORM 115

[s. 29; rules 26, 28]

Warrant to apprehend a person summoned under section 29*(Title)*

To the Bailiff of the Supreme Court of Brunei and his assistants and to all police officers and to the Superintendent of Prisons.

Whereas by summons dated the _____ day of _____, and directed to *A.B.*, of _____ [or *F.M.*, of _____], the said *A.B.* [or *F.M.*] was required personally to be and appear on the _____ day of _____ at _____ o'clock in the _____ noon at the court to be examined [and produce such document as hereinafter mentioned] which said summons was afterwards on the _____ day of _____ as hath been proved upon oath duly served upon the said _____ and a reasonable sum was tendered him for his expenses, and whereas the said _____ having no lawful impediment made known to and allowed by the court at the time of its sitting hath refused to appear before the court at the time appointed [and/or hath refused to produce a document in his custody or power relating to the debtor, his dealings, or property, which the court has required him to produce]. These are, therefore, to require and authorise you and every of you, the said bailiff and your assistants and police officers and constables immediately upon receipt hereof to take the said *A.B.* [or *F.M.*], and bring him before this court at such time and place as this court shall direct, in order to his being examined as aforesaid, and in the meantime him safely to keep or deliver to the Superintendent of Prisons and forthwith, after such taking and delivery, to report the same to the court, and obtain its direction or order fixing a day, time and place for the examination of the said *A.B.* [or *F.M.*], and you the said Superintendent of Prisons to receive the said *A.B.* [or *F.M.*], and him safely keep in prison and in your custody to await the direction or order of the court, and to produce him before the court at such time and place as shall be specified in such direction or order, and for so doing this shall be a sufficient warrant to you and every of you.

Dated this _____ day of _____, 19 _____

Registrar

LAWS OF BRUNEI

266

CAP. 67

Bankruptcy

[Subsidiary]

FORM 116

[s. 29; rule 28]

Order for production of person apprehended under warrant under section 29 for examination before the court

(Title)

Upon report made to the court the _____ day of _____, that *A. B.* has been apprehended under a warrant issued by the court on the _____ day of _____, it is ordered that the Superintendent of Prisons do cause the said *A. B.* to be brought in custody before the court sitting on the _____ day of _____ at _____ o'clock in the _____ noon for examination before the court, and in the meantime to be safely kept, and afterwards if the court shall so direct to be taken back to prison and there safely kept pursuant to the said warrant.

Dated this _____ day of _____, 19 _____

Registrar

FORM 117

[rule 127]

Register of assignment of book debts

Satisfaction entered*	No.	Assignor			Assignee			Nature of assignment	Consideration	Date	Date of registration	Remarks
		Name	Residence	Occupation	Name	Residence	Occupation					

*For use only in case of assignment by way of security or other charge.

FORM 118

[s. 56; rule 128]

Notice of application for payment to trustee of portion of pay or salary*(Title)*To *A.B.*

Take notice that I intend to apply to the court on the day of _____, 19____, at _____ o'clock in the noon, for an order under section 56 of the Bankruptcy Act, Cap. 67, for the payment of a part of your pay [*or salary or income*] to me as trustee for the benefit of the creditors under your bankruptcy. On the application you are at liberty to show cause against such order being made.

Dated this _____ day of _____, 19____

G.H., Trustee

FORM 119

[ss. 56, 57; rule 128]

Notice of application for payment to trustee of income of bankrupt married woman*(Title)*

Take notice that I intend to apply to the court on the day of _____, 19____, at _____ o'clock in the noon for an order pursuant to section 57 of the Bankruptcy Act, Cap. 67, that the whole, or such part as the court may determine, of the income of the separate property of the said *A.B.* arising under an indenture of settlement dated the _____ day of _____, and made between _____ and _____ [*or as the case may be*], notwithstanding the restraint on anticipation to which such income is subject, may be paid to me as trustee for distribution among the creditors.

Dated this _____ day of _____, 19____

Trustee

LAWS OF BRUNEI

268

CAP. 67

Bankruptcy

[Subsidiary]

FORM 120

[s. 56 (1)]

Order under section 56 (1)

(Title)

Whereas it appears to the court that the bankrupt is [*or here state what the bankrupt is*], and as such is in the enjoyment of the monthly pay [*or pension, allowance or compensation*] of \$ _____; and whereas upon the application of *G.H.* of _____, the trustee of the property of the bankrupt, it appears to the court just and reasonable that the monthly sum of \$ _____, portion of the said pay [*or pension, allowance or compensation*] ought to be paid to the said trustee during the bankruptcy, in order that the same may be applied in payment of the debts of the bankrupt, and that such payment ought to be made out of the first moneys which shall be due after the _____ day of _____, 19____, and be continued until the court shall make order to the contrary; it is ordered, with the consent of the Menteri Besar that such portion of the [*here insert pay or pension, allowance or compensation*] shall be paid to the trustee accordingly.

Dated this _____ day of _____, 19____

Registrar

I consent to the above order.

Dated this _____ day of _____, 19____

Resident

FORM 121

[s. 56 (2)]

Order under section 56 (2)

(Title)

Whereas it appears to the court that the bankrupt is in receipt of or entitled to a salary or income including bonus or commission of _____ and whereas upon the application of the trustee of the property of the bankrupt and upon hearing the bankrupt it appears to the court just and reasonable that the monthly sum of \$ _____ a portion of the said salary or income ought to be paid by the bankrupt to the trustee during the bankruptcy in order that the sum may be applied in payment of the debts of the said bankrupt and that the first of such payments ought to be made on the _____ day of _____, 19____, and that the payments ought to be continued monthly until this court shall make order to the contrary; it is ordered that the said sum shall be paid by _____ in manner aforesaid out of the bankrupt's said salary or income.

Dated this _____ day of _____, 19____

Registrar

FORM 122

[s. 57]

Order under section 57*(Title)*

Whereas it has been made to appear to the court that the bankrupt under and by virtue of an indenture of settlement, dated the day of _____, and made between _____ and _____ [or as the case may be] is entitled to separate property, the income whereof is subject to a restraint on anticipation, and whereas upon the application of the trustee in the bankruptcy and having regard to the means of subsistence available for the bankrupt and her children it appears to the court just and reasonable that the whole [or the annual sum of \$ _____ part] of such income should be paid to the trustee in the bankruptcy during the bankruptcy for distribution among the creditors by equal monthly [or quarterly or half-yearly] payments of \$ _____, and that the first of such payments ought to be made on the _____ day of _____, 19____, and that the payments ought to be continued monthly [or quarterly or half-yearly] until the court shall make order to the contrary. It is ordered that the said income [or part of income] shall be paid by _____ to the trustee in the bankruptcy in manner aforesaid.

Dated this _____ day of _____, 19____

Registrar

FORM 123

[s. 59; rule 130]

Notice to landlord of intention to disclaim leasehold property not sublet or mortgaged*(Title)*

Take notice that I intend to disclaim the (a) _____ dated _____ whereby (b) _____ was let to the above-named bankrupt at a rent of \$ _____ (a) lease or tenancy as the case may be

If you require the matter to be brought before the court, you must give notice thereof to me in writing within 7 days of the receipt by you of this notice. (b) Here specify property let

Dated this _____ day of _____, 19____

Trustee

To

The landlord of the above-mentioned property.

LAWS OF BRUNEI

270

CAP. 67

Bankruptcy

[Subsidiary]

FORM 124 [ss. 59, 112 (1); rule 130]

Notice of intention to disclaim leasehold property sublet or mortgaged

(Title)

(a) Here insert particulars of demised property

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

(b) the above-named bankrupt or the case may be

If you require the matter to be brought before the court, you must give notice thereof to me in writing within 14 days of the receipt by you of this notice.

Dated this day of , 19

Trustee

To

The landlord of the above-mentioned premises and

To

The sub-tenant, or mortgagee.

FORM 125 [s. 59; rule 130]

(a) lease dated the or as the case may be

Disclaimer without notice

(Title)

(b) Insert description of the property

I, , the trustee of the property of the above-named bankrupt, hereby disclaim the (a) of the premises (b)

(c) on a tendency or for a term of years or the case may be.

which were let to the above-named bankrupt (c) at a rent of \$ per

Notice of this disclaimer has been given to (d)

(d) Insert names and addresses of persons to whom notice given

Dated this day of , 19

Trustee

[Subsidiary]

FORM 126

[s. 59; rule 130]

Disclaimer of leasehold property after notice to landlord, mortgagees, etc.

(Title)

Pursuant to notice dated the _____ day of _____, 19____, addressed to (a) _____ I, _____, the trustee of the property of the above-named bankrupt, hereby disclaim the lease dated the _____ day of _____, 19____, whereby (b) _____ were let to (c) _____ at a rent of \$ _____ for a term of _____

Notice of this disclaimer has been given to (d) _____

Dated this _____ day of _____, 19____

Trustee

(Address)

(a) Here insert names and addresses of persons to whom notice of intention to disclaim has been given

(b) Here insert particulars of demised property

(c) the above-named bankrupt or the case may be

(d) Insert names and addresses of persons to whom notice of disclaimer has been given

FORM 127

[s. 59; rule 130]

Disclaimer of lease with leave of court

(Title)

Pursuant to an order of court dated the _____ day of _____, 19____, I, _____, the trustee of the property of the above-named bankrupt, hereby disclaim all interest in the lease dated the _____ day of _____, 19____, whereby the premises (a) _____ were demised to _____ at a rent of \$ _____ per annum, for a term of _____

Notice of this disclaimer has been given to _____

Dated this _____ day of _____, 19____

Trustee

(a) Insert description of the property disclaimed

LAWS OF BRUNEI

272

CAP. 67

Bankruptcy

[Subsidiary]

FORM 128

[s. 59; rule 130]

(a) the lease dated the

day of or as the case may be

(b) Insert description of property disclaimed

(c) on a tendency or for a term of years or as the case may be

(d) Add where necessary pursuant to notice dated the day of 19

Notice of disclaimer without leave of court

(Title)

Take notice that, by writing under my hand, bearing date day of , 19 , I, , the trustee of the property of the above-named bankrupt, disclaimed (a) of the premises known as (b) which were let to (c) at a rent of \$ per (d)

The above-mentioned disclaimer has been filed in court with the proceedings in the bankruptcy [and has been registered in the Land Office].

Your attention is directed to the provisions of the Bankruptcy Act, Cap. 67.

Dated this day of , 19

Trustee

To

(Address)

NOTE.—On the back of this notice the provisions of subsection (2) and (6) of section 59 of the Bankruptcy Act, Cap. 67, should appear.

FORM 129

[s. 59; rule 130]

Notice of disclaimer of lease with leave of court

(Title)

Take notice that pursuant to an order of court dated the day of , 19 , I, , the trustee of the property of the above-named bankrupt, by writing under my hand bearing date the day of disclaimed all interest in the lease dated the day of , 19 , whereby the premises were demised to at a rent of \$ per annum, for a term of

The above-mentioned disclaimer has been filed in court with the proceedings in the bankruptcy [and has been registered in the Land Office].

Dated this day of , 19

Trustee

To

(Address)

FORM 130

[s. 59; rule 130]

**Form of notice by landlord other person requiring trustee to bring matter
of intended disclaimer of property burdened with onerous covenants
before the court**

(Title)

To

Trustee of the property of the above-named bankrupt.

Sir,

I hereby give you notice that the bankrupt was, at the date of the receiving order, interested as lessee [*or as the case may be*] in the property described in the schedule to this notice, and that as such lessee [*or as the case may be*] the bankrupt was liable in respect of [*set out nature of the bankrupt's liability*] which liability has devolved on you as trustee in bankruptcy of his property, and I hereby require you to bring the matter of your intended disclaimer of the bankrupt's interest in the said property before the court.

I am, etc.,

(Signature)

[*State how interested in the property*]

Schedule to notice when given by lessor

Date of lease	Names, addresses and descriptions of parties to lease	Full description of property leased	Term and rent	Date of assignment to bankrupt (if any)	Names and addresses of parties to assignment of mortgage (if any)	Particulars of any notices of lease by bankrupt

LAWS OF BRUNEI

274

CAP. 67

Bankruptcy

[Subsidiary]

Schedule to notice when given by mortgagee or assignee

Date of lease	Names and addresses of parties to lease	Description of property leased	Term and rent	Date of mortgage	Names and addresses of parties to mortgage	Term conveyed by mortgage	Amount secured by mortgage	Particulars of any transfer of mortgage, with dates and names and descriptions of parties

FORM 131

[s. 82 (3); rule 173]

Application for directions by trustee

(Title)

I desire to make application to the court for its directions [*here state the particular matter in relation to which they are sought*].

Trustee

Let this application be heard on the _____ day of _____, at _____ o'clock in the _____ noon, and let the trustee give notice to [*here insert the persons to whom it is to be given*].

Dated this _____ day of _____, 19 _____

Registrar

FORM 132

[s. 82 (3); rule 173]

Order on application of trustee for directions*(Title)*

Whereas at a court held [*or in chambers*] this day the trustee of the property of the bankrupt applied to the court for its directions [*here state the particular matter in relation to which they are sought*]. Now upon hearing *C.D.*, of _____ on the matter, it is ordered [*here set out the order*], and that the trustee do pay out of the property of the bankrupt the sum of \$ _____ the costs of this order, [and the sum of \$ _____ to *C.D.* for his costs] [*or that C.D. do pay the sum of \$ _____ the costs of this order.*]

Dated this _____ day of _____, 19 _____

Registrar

FORM 133

[s. 97 (2)]

Issues of fact for trial with assessors*(Title)*

On the application of _____ and on hearing _____ it is ordered that the following issues of fact be tried with _____ assessors on _____ [*add any other necessary directions*].

Issues

- 1.
- 2.

Dated this _____ day of _____, 19 _____

Registrar

LAWS OF BRUNEI

276

CAP. 67

Bankruptcy

[Subsidiary]

FORM 134

[rule 143]

Creditor's petition for administration of estate of deceased debtor under section 112

(Title)

I, C.D., of [or We, C.D., of , and E.F. of], hereby petition the court that an order be made for the administration in bankruptcy of the estate of the late [here insert name and description of deceased debtor] who died on the day of , 19 , and say —

1. That the said A.B. for the greater part of the 6 months next preceding his decease resided [or carried on business] within the jurisdiction of this court [or as the case may be].

2. That the estate of the said A.B. is justly and truly indebted to me [or us in the aggregate] in the sum of \$ [set out amount of debt or debts and the consideration].

3. That [I] do not nor does any person on [my] behalf hold any security on the said deceased debtor's estate, or on any part thereof, etc. [or as in Form No. 10, Creditor's petition].

4. That the estate of the said A.B. is according to my information and belief insufficient to pay his debts.

5. That the will of the said A.B. was on the day of , 19 , proved by J.S., of , and G.H., of
or

That letters of administration were on the day of , 19 , granted to J.S., of , and G.H., of
or

That no probate or administration in respect of the said estate has been applied for.

Dated this day of , 19

C.D.

E.F.

Signed by the petitioner in my presence.

Signature of witness.

Address.

Description.

Indorsement

This petition having been presented to the court on the _____ day of _____, 19____, it is ordered that this petition shall be heard at _____ on the _____ day of _____, 19____, at _____ o'clock in the _____ noon.

If you, the said *J.S.* or *G.H.*, intend to show cause against the petition, you must file with the Official Receiver a notice showing the grounds upon which you intend to show cause, and post a copy of the notice to the petitioner or his solicitor, in each case 3 days before the day on which the petition is to be heard.

Registrar

FORM 135

[s. 112 (9); rule 143]

Petition by legal personal representative or Official Administrator for order of administration under section 112

(Title)

I, *C.D.*, of _____ [*or We, C.D.*, of _____, and *E.F.*, of _____], hereby petition the court that an order be made for the administration in bankruptcy of the estate of the late [*here insert name and description of deceased debtor*], who died on the _____ day of _____, 19____, and say —

1. That I am the Probate Officer administering the estate [*or we are*] the legal personal representative [*or representatives*] of the said [*debtor*] and that his will was on the _____ day of _____, 19____, proved by _____ [*or that letters of administration of his estate were on the _____ day of _____, 19____, granted to _____*].

2. That the said [*debtor*] for the greater part of the 6 months next preceding his decease resided [*or carried on business*] within the jurisdiction of the court [*or as the case may be*].

3. That the estate of [*debtor*] is according to my [*or our*] information and belief insufficient to pay his debts.

(Signed)

Signed by the petitioner in my presence.

Signature of witness.

Address.

Description.

LAWS OF BRUNEI

278

CAP. 67

Bankruptcy

[Subsidiary]

FORM 136

[s. 112 (4); rule 145]

**Order for administration in bankruptcy of estate of deceased debtor
upon petition**

(Title)

Upon the petition of *C.D.*, dated _____, and numbered
of 19____, and upon reading _____ and hearing
_____, it is ordered that the estate of *A.B.*, of _____, who
died insolvent, be administered in bankruptcy, and that the Official
Receiver be the trustee, and the costs of this application be

Dated this _____ day of _____, 19____

Registrar

Statement to accompany application for release

(Title)

Statement showing position of estate at date of application for release

Dr.		Cr.		
	Estimated to produce per debtor's statement	Receipts		Payments
		\$	c.	
				\$
			By court fees	
			Law costs of petition	\$ c.
			Other law costs	
			Trustee's remuneration, viz —	
			per cent on \$	\$ c.
			assets realised	
			per cent on \$	
			assets distributed in dividend	
			Special manager's charges Person appointed to assist debtor under section 78 of the Bankruptcy Act.	
			Auctioneer's charges as taxed	
			Other taxed costs	
			Costs of possession	
			Costs of notices in Gazette and local papers	
			Incidental outlay	
			Total cost of realisation \$	
			Allowance to debtor.	
			(a) dividend now declared of \$	\$ c.
			per cent on \$	
			Dividends previously declared	
			Balance	\$
	\$			
Net realisation	\$			
	\$			

(a) 1st or as the case may be

LAWS OF BRUNEI

280

CAP. 67

Bankruptcy

[Subsidiary]

Note—Creditors —

\$ c.

(b) Insert number of creditors

(b) preferential

(b) unsecured

The debtor's estimate of amount expected to rank for dividend was \$

Assets not yet realised are estimated to produce \$

[Add here any special remarks which the trustee thinks desirable]

Creditors can obtain any further information by inquiry at the office of the trustee.

Dated this day of , 19

Registrar

(Address)

FORM 138

[s. 67; rule 123]

Notice to creditors of intention to declare dividend

(Title)

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

A (a) dividend is intended to be declared in the above matter. You are mentioned in the debtor's statement of affairs, but you have not yet proved your debt.

If you do not prove your debt by the day of , 19 , you will be excluded from this dividend.

Dated this day of , 19

Trustee

(Address)

FORM 139

[s. 67; rule 123]

Notice to person claiming to be creditors of intention to declare final dividend*(Title)*

Take notice that a final dividend is intended to be declared in the above matter, and that if you do not establish your claim to the satisfaction of the court on or before the _____ day of _____, 19____, or such later day as the court may fix, your claim will be expunged, and I shall proceed to make a final dividend without regard to such claim.

Dated this _____ day of _____, 19____

*(Trustee)**(Address)*

FORM 140

Notice to creditor of intention to pay composition*(Title)*

Notice is hereby given that a composition is intended to be paid in the above matter.

Your name is included in the list of creditors in the debtor's statement of affairs, but you have not yet proved your debt.

The last day for receiving proofs is the _____ day of _____, 19____

Dated this _____ day of _____, 19____

Official Receiver

LAWS OF BRUNEI

282

CAP. 67

Bankruptcy

[Subsidiary]

FORM 141

[s. 67; rule 123]

Notice of dividend

(Title)

(Please bring this dividend notice with you)

Dividend of per cent

Notice is hereby given that a dividend of per cent has been declared in this matter, and that the same may be received at my office, as above, on the day of , 19 , or on any subsequent between the hours of and

Upon applying for payment this notice must be produced entire together with any bills of exchange, promissory notes or other negotiable securities held by you. If you do not attend personally you must fill up and sign the subjoined forms of receipt and authority, when a cheque or money order payable to your order will be delivered in accordance with the authority.

Dated this day of , 19

(Signed)

G.H.
Trustee

(Address)

Receipt

Received of the sum of dollars and cents, being the amount payable to me/us in respect of the dividend of per cent on my/our claim against this estate.

\$

(Creditor's signature)

Authority

(a) Strike out words inapplicable. If not to be sent by post strike out words in italics, and insert the name of the person who is to receive the or money order

Sir,

Please deliver (a) to me/us by post, at my/our risk or (a) to the bearer, Mr. the cheque or money order for the dividend payable to me/us in this matter.

(Creditor's signature)

(Date)

, 19

To

FORM 142

[s. 73]

**Application by creditor for order for trustee to pay dividend withheld
and order thereon**

(Title)

I, *F.K.*, of _____, make application to this court for an order to be made upon the trustee to pay the dividend in this bankruptcy due to me, with interest thereon for the time it has been withheld from me, that is to say, from the _____ day of _____, 19____, on which day I applied to the trustee for its payment to me, and also to pay to me the costs of this application.

Dated this _____ day of _____, 19____

F.K.

Order

Upon the reading of this application, and upon hearing _____, it is ordered that the trustee do forthwith pay to the said *F.K.* the sum of _____ dollars, the amount of such dividend.

And it is further ordered that the trustee do pay to the said creditor at the same time the sum of \$ _____, for interest on such dividend, being at the rate of 8 *per cent per annum* for the time that its payment has been withheld, together with a further sum of \$ _____ for the costs of this application.

Dated this _____ day of _____, 19____

Registrar

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

FORM 143

Request to deliver bill for taxation

(Title)

I hereby request that you will, within 7 days of this date or such further time as the court may grant, deliver to me for taxation by the Registrar your bill of costs [or charges] as (a) _____ failing which I shall, in pursuance of the Bankruptcy Act, Cap. 67, proceed to declare and distribute a dividend without regard to any claim you may have against me or against the estate of the debtor.

(a) Here state capacity in which person employed or engaged

Dated this _____ day of _____, 19____

G.H.,
Trustee

LAWS OF BRUNEI

284

CAP. 67

Bankruptcy

[Subsidiary]

FORM 144

Allocatur for costs of debtor's petition

(Title)

I hereby certify —

1. That I have taxed the bill of costs of _____, the debtor's solicitor, for filing the petition herein, and have allowed the same at the sum of _____ dollars and _____ cents.

2. That the deposit of _____ paid to the Official Receiver on the filing of the petition (a) _____ included in the above-mentioned sum. (a) is or is not

3. That credit has been given in the said bill for the sum of _____ received on account of such costs.

Dated this _____ day of _____, 19

\$ _____

Registrar

FORM 145

[rule 189]

Certificate by committee of inspection as to audit of trustee's account

We, the undersigned, members of the committee of inspection in the matter of _____, a bankrupt, hereby certify that we have examined the foregoing account with the vouchers, and that to the best of our knowledge and belief the said account contains a full, true and complete account of the trustee's receipts and payments on account of the estate.

Dated this _____ day of _____, 19

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

FORM 146

[ss. 89, 93; rule 190 (3)]

Affidavit verifying trustee's account

(Title)

I, *G.H.*, of _____, the trustee of the property of the above-named bankrupt, make oath and say —

That **the account hereunto annexed marked B contains a full and true account of my receipts and payments on account of the bankrupt's estate from the _____ day of _____ to the _____ day of _____ inclusive, *and that I have not, nor has any other person by my order or for my use during such period, received or paid any moneys on account of the said estate *other than and except the items mentioned and specified in the said account.*

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

Sworn at, etc.

G.H., Trustee

FORM 147

[rule 167]

Trustee's trading account

(Title)

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

Receipts				Payments			
Date		\$	c.	Date		\$	c.

G.H., Trustee

(Date)

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

Dated this _____ day of _____, 19____

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

LAWS OF BRUNEI

286

CAP. 67

Bankruptcy

[Subsidiary]

FORM 148

[rule 168]

Profit and loss account (trading account)

(Title)

Profit and loss account

<i>Dr.</i>		\$	c.			\$	c.
Stock on hand on _____ day of _____, 19 _____				Sales			
Purchases				Other receipts, if any			
Trade expenses, viz —				Stock on hand on _____ day of _____, 19 _____			
Rent and taxes	\$	c.					
Wages							
Miscellaneous							
Balance being profit							

G.H., Trustee

(Date)

NOTE.—This account to be submitted when the committee of inspection require, and in any case at the end of the trading business carried on by the trustee.

FORM 149

[rule 168]

Affidavit verifying trustee's trading account

(Title)

I, *G.H.*, of _____ the trustee of the property of the above-named bankrupt, make oath and say that the account hereto annexed is a full, true and complete account of all money received and paid by me or by any person on my behalf in respect of the carrying on of the trade or business of the bankrupt, and that the sums paid by me as set out in such account have, as I believe, been necessarily expended in carrying on such trade or business.

Sworn at, etc.

G.H., Trustee

FORM 150

[s. 88; rule 176]

Statement of accounts under section 88

(Title)

Receipts					Payments				
Date	Of whom received	Nature of receipt	Amount		Date	To whom paid	Nature of payment	Amount	
			\$	c.				\$	c.

(Signature)

Dated this day of , 19

FORM 151

[rule 182]

Affidavit by special manager

(Title)

I, of , make oath and say as follows —

1. The account hereunto annexed marked with the letter “A”, produced and shown to me at the time of swearing this my affidavit, and purporting to be my account as special manager of the estate or business of the above-named debtor, contains a true account of all and every sums and sum of money received by me or by any other person or persons by my order or to my knowledge or belief for my use on account or in respect of the said estate or business.

2. The several sums of money mentioned in the said account hereby verified to have been paid or allowed have been actually and truly so paid and allowed for the several purposes in the said account mentioned.

3. The said account is just and true in all and every the items and particulars therein contained according to the best of my knowledge and belief.

Sworn, etc.

(Signature)

LAWS OF BRUNEI

288

CAP. 67

Bankruptcy

[Subsidiary]

FORM 152

[s. 94; rule 168]

Notice to creditors of intention to apply for release

(Title)

Take notice that I, the undersigned trustee [*or late trustee*] of the property of the bankrupt, intend to apply to the court for my release, and further take notice that any objection you may have to the granting of my release must be notified to the court within 21 days of the date hereof.

A summary of my receipts and payments as trustee is here annexed.

Dated this day of , 19

Trustee

Creditor

To

K.L.,

NOTE.—Subsection (3) of section 94 of the Bankruptcy Act, Cap. 67, enacts that “An order of the court releasing the trustee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.”

FORM 153

[s. 94; rule 168]

Application by trustee to court for release

(Title)

I, *G.H.*, the trustee of the property of the bankrupt, do hereby report to the court as follows —

1. That the whole of the property of the bankrupt has been realised for the benefit of his creditors [and a dividend to the amount of *per cent* has been paid as shown by the statement hereunto annexed];

[*or* That so much of the property of the bankrupt as can, according to the joint opinion of myself and the committee of inspection, hereunto annexed in writing under our hands, be realised without needless protracting the bankruptcy, has been realised as shown by the statement

hereunto annexed, and a dividend to the amount of *per cent*
has been paid];

[*or* That a composition (*or* scheme) under section 25 of the Bankruptcy Act, Cap. 67, has been duly approved by the court.]

2. I therefore request the court to grant me a certificate of release.

Dated this day of , 19

G.H.,
Trustee

FORM 154

[s. 38 (6)]

Notice of transfer of separate estate to joint estate for Gazette

(Title)

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

Dated this day of , 19

Trustee

PART II

[rule 31]

REGULATIONS AS TO COSTS

1. The scale of costs and the amount and the mode of taxation thereof shall be that applicable from time to time in the original jurisdiction of the Supreme Court.

2. In respect of business connected with sales, purchases, leases, mortgages and other matters of conveyancing, and in respect of other business not being business transacted in court or in chambers, and not being otherwise contentious business, the solicitor's remuneration shall (in the absence of any agreement to the contrary) be regulated by the conveyancing scale charges for the time being in force:

Provided that, in cases of sales of mortgaged properties, the trustee's solicitor shall be entitled to percentage only upon so much of the

[Subsidiary]

proceeds of sale as shall not be chargeable by the mortgagee's solicitor with the percentage, and such percentage shall be payable only out of the proceeds of sale.

3. All court fees and other proper disbursements shall be allowed in addition to the remuneration in the authorised scale.

4. Extra allowance for length of sittings, or other increased allowances not inconsistent with the scale, may be allowed:

Provided that any such allowances shall have been ordered and certified by the court at the time, or all such charges shall be disallowed.

5. Vouchers shall be produced on taxation for all payments, or such payments shall be disallowed.

6. As to all fees or allowances which are discretionary, the same are, unless otherwise provided, to be allowed at the discretion of the Registrar, who in the exercise of such discretion is to take into consideration other fees and allowances to the solicitor and counsel, if any, in respect of the work to which any such allowance applies, the nature and importance of the matter, the amount involved, the interest of the parties, the estate or person to bear the costs, the general conduct and costs of the proceedings, and all other circumstances.

7. The allowances to witnesses in bankruptcy proceedings in the court shall be in accordance with those from time to time ordinarily made in proceedings in the original jurisdiction of the Supreme Court.

PART III

SCALE OF FEES AND PERCENTAGES

[s. 114]

IN BANKRUPTCY

Table A

	\$ c.
1. Declaration by a debtor of inability to pay his debts, filing of	2.00
2. Bankruptcy notice	5.00
3. Bankruptcy petition	50.00
4. Bond with sureties, including filing	6.00
5. Affidavit other than proof of debts, including filing	2.00

[Subsidiary]

6. Subpoena, or summons under section 2950
7. Marking exhibit, including filing50
8. Proof of debt above \$20, including filing	1.00
9. Petition under section 112	50.00
10. (a) Application for an order of discharge including expenses of gazetting	25.00
(b) and for each creditor to be notified50
11. Application for search other than by petitioner, trustee, bankrupt or any officer of the court	1.00
12. Application to the court, except by the Official Receiver when acting either as Official Receiver or trustee, and except where otherwise specifically provided for	4.00
13. Order of the court, including filing	5.00
14. Office copy, each folio of 72 words50
15. Allocatur by the Registrar for any costs, charges or disbursements —	
Where the amount allowed does not exceed \$100	4.00
Where the amount exceeds \$100 —	
for the first \$100	4.00
for every additional \$100 or fraction thereof	1.00
16. Application to the Registrar for payment of money out of the Bankruptcy Estates Account	2.00
17. On every application to the court to approve a composition—a fee computed at the following rates on the gross amount of the composition, i.e. \$15 on every \$1,000 or fraction of \$1,000 up to \$50,000, and \$7.50 on every \$1,000 or fraction of \$1,000 beyond \$50,000.	
18. On every application to the court to approve a scheme of arrangement—a fee computed at the following rates on the gross amount of the estimated assets (but not exceeding the gross amount of the unsecured liabilities), i.e. \$15 on every \$1,000 or fraction of \$1,000 up to \$50,000, and \$7.50 on every \$1,000 or fraction of \$1,000 beyond \$50,000.	
Provided that where a fee has been taken on a previous application to the court to approve a composition or scheme, or where a fee has been paid under this table on the account submitted for audit, seven-eighths of the amount thereof shall be deducted from the fee payable on an application to approve a composition or scheme.	
19. On every application for release by a trustee—a fee of \$2.50 on every \$1,000 or fraction of \$1,000 of assets realised and brought to credit.	
20. Registration of assignment of book debts under rule 127 —	

LAWS OF BRUNEI

292

CAP. 67

Bankruptcy

[Subsidiary]

	\$ c.
(a) On producing original assignment, filing attested copy thereof and certified translation (when necessary) including registering and marking original.....	1.00
(b) Every search or official certificate of the result of a search in one name in any register or index in the custody of the Registrar.....	1.00
(c) For every additional name if included in the same certificate50
(d) For a duplicate copy of certificate if not more than 3 folios.....	.50
(e) For every additional folio.....	.50
(f) On filing certificate or other evidence of satisfaction to the approval of the Registrar	1.00

Table B

1. On the net assets realised or brought to credit by the Official Receiver, whether acting as interim receiver, receiver or trustee, or by a trustee other than the Official Receiver, after deducting any sums paid to secured creditors in respect of their securities, and not being assets realised by a special manager or moneys received and spent in carrying on the business of the debtor, and on the net assets realised by an Official Receiver when acting as trustee, or by a trustee other than the Official Receiver to administer a debtor's property under a composition or scheme, after deducting any sums paid to secured creditors in respect of their securities, and not being moneys received and spent in carrying on business of a debtor, a percentage according to the following scale —

On the first \$10,000 or fraction thereof	7½ per cent
On the next 15,000 or fraction thereof	6 per cent
On the next 25,000 or fraction thereof	4½ per cent
On the next 50,000 or fraction thereof	3 per cent
On all further sums	2 per cent

Provided that where the assets realised or any part thereof consist of the profit on exchange contracts the following percentages shall be payable in respect of the net amount realised by such contracts —

(a) Realised.....	2½ per cent
(b) Set off	1 per cent

2. On the amount distributed to creditors by the Official Receiver or any other trustee, when acting as trustee under a composition —

On the first \$ 5,000 or fraction thereof	3 per cent
---	------------

[Subsidiary]

On the next 5,000 or fraction thereof	2¼ per cent
On the next 10,000 or fraction thereof	1½ per cent
On all further sums	¾ per cent

3. On the amount distributed in divided by the Official Receiver, or any other trustee, when acting otherwise than as trustee under a composition —

On the first \$10,000 or fraction thereof	3¾ per cent
On the next 15,000 or fraction thereof	3 per cent
On the next 25,000 or fraction thereof	2¼ per cent
On the next 50,000 or fraction thereof	1½ per cent
On all further sums	1 per cent

4. For the Official Receiver acting as interim receiver of the property of a debtor, in addition to the percentage chargeable on realisations, on every order

.....	\$45.00
and in addition, where the order is in force for a longer period than 14 days, for every 7 days after the first 14, and for every fraction of 7 days.....	15.00

5. For each notice by the Official Receiver to a creditor of a first or any other meeting, or sitting of the court —

Where the estimated value of the assets exceeds \$1,000—each notice.....	50 cents
Where the estimated value of the assets does not exceed \$1,000 —	
On the first 20 notices—each notice	50 cents
For each notice above 20.....	25 cents
Each notice by the Official Receiver to a creditor of an adjourned meeting or an adjourned sitting of the court	25 cents

6. For the Official Receiver supervising a special manager or the carrying on of a debtor's business, where the estimated assets exceed \$1,000—a fee according to the following scale —

	<i>Per week \$ c.</i>
If the gross assets are estimated by the Official Receiver not to exceed \$5,000	15.00
If to exceed \$ 5,000 but not to exceed \$ 50,000	30.00
If to exceed 50,000 but not to exceed 100,000	45.00
If to exceed 100,000 but not to exceed 200,000	60.00
If to exceed 200,000.....	75.00

LAWS OF BRUNEI

294

CAP. 67

Bankruptcy

[Subsidiary]

7. Travelling, keeping possession and other reasonable expenses of Official Receiver or trustee—the amount disbursed.

8. For official stationery, printing, books, forms and postages—each estate —

	\$ c.
for every 10 applications to debtors to an estate, or fraction of 10	1.50
Where the estimated assets exceed \$1,000 —	
for every 10 creditors or fraction of 10	7.50
Where the estimated assets do not exceed \$1,000 —	
for every 10 creditors or fraction of 10 up to 20.....	7.50
for every 10 creditors or fraction of 10 above 20....	3.75

9. A fee according to the following scale on the gross amount of the assets realised and brought to credit shall be paid —

(a) in respect of estates in which the Official Receiver acts as trustee, when he accounts to the court under subsection (3) of section 78 of the Act;

(b) in respect of estates in which the Official Receiver is not acting as trustee, when the trustee sends his accounts to the Official Receiver under subsection (1) of section 93 of the Act.

Scale

\$15 on every \$1,000 or fraction of \$1,000 up to \$50,000

\$7.50 on every \$1,000 or fraction of \$1,000 beyond \$50,000:

Provided that where a fee has been taken on an application to approve a composition or scheme of arrangement, seven-eighths of the amount thereof shall be deducted from the fee.

10. On every payment of money out of the Bankruptcy Estate Account—20 cents of each \$10 or fraction of \$10 to be charged as follows —

When the money consists of unclaimed dividends—on each dividend paid out

When the money consists of undistributed funds or balances—on the amount paid out.

Table C

[rule 180]

Scale of allowances to auctioneers, accountants and special managers

All the following charges shall be subject to reduction by agreement with the Official Receiver or the trustee.

1.—Auctioneers

Pure personal property.

	\$	c.
For inventory only and one copy (not exceeding 5 folios)	15.00	
For every additional folio beyond 5 up to 20 and one copy		1.00
For each folio above 20 and one copy75
For inventory and valuation —		
On the first \$1,000	$2\frac{1}{2}$	per cent
On the next 4,000	$1\frac{3}{4}$	per cent
Above \$5,000 up to \$100,000	1	per cent
Above 100,000	$\frac{1}{2}$	per cent

For sales by private contract based on the valuation—half the above charges for inventory and valuation.

For sales by auction, in addition to such out-of-pocket expenses as may be authorised at the time by the Official Receiver or trustee —

On the first \$1,000	6	per cent
On the next 4,000	5	per cent
On the next 5,000	4	per cent
Above \$10,000	$2\frac{1}{2}$	per cent

Leaseholds

For sales by auction of leasehold property including prior valuations, for determining amount of reserve bids; and for sale, by private contract, to include prior valuation —

On the first \$ 3,000	5	per cent
On the next 17,000	$2\frac{1}{2}$	per cent
Above \$20,000 up to \$50,000	$1\frac{1}{2}$	per cent
Above 50,000	1	per cent

2.—Architects

For valuation of leasehold property and reporting thereon a fee to be fixed by agreement but not to exceed —

On the first \$10,000	1	per cent
On the next 90,000	$\frac{1}{2}$	per cent
Above \$100,000	$\frac{1}{4}$	per cent

Cost of surveys, dilapidations and specifications—in discretion of taxing officer, \$25 to \$100.

[Subsidiary]

The foregoing charges to be in addition to such out-of-pocket expenses as may be authorised at the time by the Official Receiver or trustee.

General

An architect or auctioneer who uses his own motor car or motor cycle, instead of travelling by railway or hired vehicles, shall be entitled if the taxing officer is satisfied that such user was reasonable to an allowance not exceeding 25 cents per mile.

Fees for services not provided for in the scale may be fixed by agreement with the trustee and the consent of the committee of inspection.

3.—*Special manager's and accountant's charges*

Where the employment of a special manager or accountant has been duly sanctioned, and in the absence of any special arrangement with the Official Receiver or the trustee for a smaller amount, the following charges may be allowed —

	\$	\$
For carrying on a business and supervising same and all accounting, collecting and realising assets in respect thereof or preparing balance sheet, investigating accounts, etc.—principal's time, exclusively so employed, per day of 6 hours, including necessary affidavit verifying accounts	100	to 175
Chartered or Incorporated Accountants other than principals	75	to 100
Chief clerk's time	20	to 45
Other clerk's time, per day of 7 hours	5	to 20

These charges shall include stationery, except the forms used.

N.B.—Only the minimum charges will be allowed as a rule, unless there is good reason for increasing them, such as the difficulty and unusual nature of the business to be carried on, the complexity of negotiations or other similar consideration.