

plaintiff, when he shall again be in a situation to sue out execution on such judgment, to proceed again by notice in manner aforesaid;

Provided also that if the defendant appeals against such judgment no such notice shall be given, or if given no further proceeding shall be had thereon pending such appeal.

Person disobeying order of court for payment of money after service of peremptory order an act of insolvency.

**13.** If any decree or order shall be pronounced in any cause depending in any court or any order shall be made in any matter of insolvency against any person residing in Sri Lanka, ordering such person to pay any sum of money, and such person shall disobey such decree or order, the same having been personally served upon him, and no appeal against the same shall be pending, the person entitled to receive such sum under such decree or order, or interested in enforcing the payment thereof pursuant thereto, may make an *ex parte* application to the court by which the same shall have been pronounced to fix a peremptory day for the payment of such money, which shall accordingly be fixed by an order for that purpose; and if such debtor, being personally served with such last-mentioned order thirty days before the day therein appointed for payment of such money, shall neglect to pay the same, every such debtor shall be deemed to have committed an act of insolvency on the thirty-first day after the service of such order.

Notice of acts of insolvency to agents of corporate bodies, &c.

**14.** If any accredited agent of any body corporate or public company shall have had notice of any act of insolvency, such body corporate or company shall be deemed to have had such notice.

No person liable upon an act of insolvency committed more than twelve months before petition.

**15.** No person shall be liable to be adjudged insolvent by reason of any act of insolvency committed more than twelve months prior to the filing of any petition for sequestration of his estate; and no adjudication of insolvency shall be deemed invalid by reason of any act of insolvency prior to the debt of the petitioning creditor, provided there be a sufficient act of insolvency subsequent to such debt.

PROCEEDINGS BEFORE THE ESTATE OF ANY PERSON IS ADJUDGED INSOLVENT

**16.** Proceedings to obtain the sequestration of the estate of any person as insolvent shall be by petition to the District Court of the district in which the debtor shall have resided or carried on business for six months next immediately preceding the time of filing such petition, except where otherwise in this Ordinance specially provided (such petition, if presented by a creditor, being in the form B in the Schedule, and the truth thereof verified by the affidavit of the petitioner in the form C in the Schedule; and if presented by a person against himself under section 20, being in the form D in the Schedule, and the truth thereof and of the matters required to be stated in the list annexed to such petition verified by the affidavit of such person in the form C in the Schedule); and every such petition shall be filed of record and prosecuted as directed by this Ordinance; and from and after the filing of such petition the said court shall have full power and authority to take such order and direction with the body of the insolvent as mentioned in this Ordinance, as also with all his property, real and personal, which he shall have in his own right before he became insolvent, as also with all such interest in any such property as such insolvent may lawfully part with, and with all his money, fees, annuities, goods, wares, merchandise, and debts, wheresoever they may be found or known, and to make or order sale thereof in manner herein mentioned, or otherwise order the same for satisfaction and payment of the creditors of such insolvent.

Proceedings to originate by petition

**17.** Provided that the Court of Appeal shall have power, whenever such court may deem it expedient, to order any petition against or by any person for the sequestration of his estate, to be prosecuted in any District Court with or without reference to the district in which such person resided or carried on business, and whether or not such person has resided or carried on his business for six months preceding the filing of such petition, and whether or not such person has carried on his business for that time in any particular district; or to consolidate the proceedings or any part thereof under two or more

Court of Appeal may direct petition to be prosecuted in any District Court., &c.

petitions for the sequestration of such estate, or to transfer any petition for such sequestration and the proceedings thereunder, and the prosecution or the further prosecution thereof, from any one District Court to any other District Court, and the court to which any such transfer shall be made shall have and exercise full jurisdiction therein; and any such order by the Court of Appeal may be in such of the forms E, F, or G in the Schedule as may be adapted to the case, or to the like effect.

Petitioning creditor's debt:

**18.** The amount of the debt of any creditor petitioning for sequestration of the estate of any person as insolvent shall be as follows: that is to say, the single debt of such creditor, or of two or more persons being partners, so petitioning shall amount to five hundred rupees or upwards; and the debt of two creditors so petitioning shall amount to seven hundred rupees or upwards; and the debt of three or more creditors so petitioning shall amount to one thousand rupees or upwards; and every person who has given credit to any person upon valuable consideration for any sum payable at a certain time, which time shall not have arrived when such person committed an act of insolvency, may so petition or join in petitioning, whether he shall have had any security in writing for such sum or not.

though payable at a future time, and security given.

Petition by public officer of certain co-partnership.

**19.** A petition for sequestration as insolvent of the estate of any person indebted in the amount aforesaid to any co-partnership, duly authorized to sue and be sued in the name of a public officer of such co-partnership, may be filed by such public officer as the nominal petitioner for and on behalf of such co-partnership.

Person may petition against himself.

**20.** Any person may petition for the sequestration as insolvent of his own estate; and there shall be annexed to such petition a list containing a full and true account of the petitioner's debts, and the claims against him, with the names of his creditors and claimants and the dates of contracting the debts and claims severally, as near as such dates can be stated, the nature of the debts and claims and securities (if any) given for the same, and whether the same are disputed; and also a true account of the nature and amount of the petitioner's

property, and an inventory of the same, and of the debts owing to him, with their dates, as nearly as such dates can be stated, and the names of his debtors, and the nature of the securities (if any) which he has for such debts:

Provided that unless such person shall forthwith after the filing of his petition, and before adjudication of insolvency thereunder, make it appear to the satisfaction of the court that his available estate is sufficient to pay his creditors at least two rupees and fifty cents for every ten rupees, clear of all charges (to be estimated by the court) of prosecuting the petition, such petition shall be dismissed, and no further petition shall be filed by such person in the same district without the leave of the court first obtained for that purpose; and the adjudication on any further petition shall be subject to the like condition as aforesaid as to the available estate of the petitioner;

Provided, however, that it shall be lawful for any person, whatever the amount of his available estate, who shall be in actual custody within the walls of any prison in Sri Lanka, upon any writ of execution against his person, or other like process, for or by reason of any debt, damages, or costs, at any time after twenty-one days from the commencement of the actual custody of such prisoner, to file a declaration of insolvency, and to petition for the sequestration as an insolvent of his own estate.

So also may an insolvent prisoner.

**21.** If the petitioning creditor in any petition for sequestration of his debtor's estate as insolvent shall not proceed and obtain adjudication within three days after his petition shall have been filed, or within such extended time as shall be allowed by the court, the court may at any time within fourteen days then next following, upon the application of any other creditor to the amount required to constitute a petitioning creditor, proceed to adjudicate on such petition, upon the proof of the debt of such second-mentioned creditor and of the other requisites to support such petition (except the debt of the petitioning creditor); but if neither the petitioner nor any other creditor shall, within such fourteen days or within such extended time as may be granted by

If adjudication be not obtained within three days after petition, any other creditor may proceed on it.

the court for that purpose, apply to the court to adjudicate upon such petition, no further proceeding shall be taken thereon.

Petitions may be presented against one or more partners in a firm ; and petitions against two or more may be dismissed as to one without affecting the others.

**22.** Any creditor whose debt is sufficient to entitle him to petition for the sequestration as insolvent of the estate of all the partners of any firm may petition for such sequestration against one or more partners of such firm, and every such petition shall be valid, although it does not include all the partners of the firm; and in every petition for sequestration against two or more persons the court may dismiss the same as to one or more of such persons, and the validity of such petition shall not be thereby affected as to any person as to whom such petition is not ordered to be dismissed, nor shall any such person's certificate be thereby affected.

If one member of a firm be insolvent, a petition against the others shall be filed in the same court.

**23.** After a petition for sequestration filed against or by one or more member or members of a firm, any petition for sequestration against or by any other member of such firm shall be filed and prosecuted in the court in which the first petition was prosecuted; and immediately after the adjudication under such other petition all the estate, real and personal, of any such insolvent shall vest in the assignee, if any, under the first petition; and thereafter all separate proceedings under such other petition shall be stayed and such petition shall without affecting the validity of the first petition, be annexed to and form part of the same :

Provided that the Court of Appeal may direct that such other petition shall be filed and prosecuted in any other District Court, or be proceeded in, either separately or in conjunction with the first petition.

After petition filed, if the insolvent be about to quit Sri Lanka or to remove or conceal his goods, he may be arrested and his goods seized.

**24.** Whenever -any petition for sequestration as insolvent of the estate of any person shall have been filed against any person, and it shall be proved to the satisfaction of the court in which such petition has been filed that there is probable cause for believing that such person is about to quit Sri Lanka, or to remove or conceal any of his goods with intent to defraud his creditors, unless he be forthwith apprehended, it shall be lawful for the court to issue a warrant, directed to the Fiscal, or

to such person as the court shall think fit, whereby such Fiscal or other person shall have authority to arrest the person against whom such petition shall have been filed, and also to seize his books, papers, moneys, securities for moneys, goods, and effects, wheresoever he or they may be found, and him and them safely keep until the expiration of the time allowed for adjudication on such petition, or until such person shall be adjudged insolvent under such petition, and be thereon dealt with according to this Ordinance:

Provided that any person arrested upon any such warrant or any person whose books, papers, moneys, securities for moneys, goods, or effects have been seized under any such warrant, may apply at any time after such arrest or seizure to the court for an order or rule on the petitioning creditor to show cause why the person arrested should not be discharged out of custody, or why his books, papers, moneys, securities for moneys, goods, and effects should not be delivered up to him; and it shall be lawful for such court to make absolute or discharge such order or rule.

Person so arrested may apply to the court for his discharge.

**25.** The court, before adjudication, may summon before it any person whom such court shall believe capable of giving any information . concerning any act of insolvency committed by the person against whom any petition for the sequestration of his estate as insolvent has been filed, and may require any person so summoned to produce any books, papers, deeds, writings, and other documents in his custody, possession, or power which may appear to the court to be necessary to establish such act of insolvency ; and it shall be lawful for the court to examine any such person upon oath by word of mouth, or interrogatories in writing, concerning such act of insolvency ; and such court, before or at the time of adjudication, may examine the person by or against whom any such petition has been presented, or any other person, as to the probable value of the property of such first-mentioned person available for the payment of his debts.

Court, before adjudication, may summon witnesses to prove act of insolvency

ADJUDICATION OF THE ESTATE OF ANY  
PERSON AS INSOLVENT, AND THE  
PROCEEDINGS FOR SECURING THE  
PROPERTY AND SURRENDER OF THE  
INSOLVENT

Adjudication,  
and upon what  
proof.

**26.** The District Court, under a petition filed by a creditor shall, upon proof of the petitioning creditor's debt and of the act of insolvency of the person against whom such petition is filed, adjudge such person insolvent; or if in case of the failure of the petitioning creditor to proceed and obtain adjudication within three days after his petition shall have been filed, or within such extended time as may be allowed by the court, another creditor shall apply for adjudication upon such petition, then upon such application, and proof of such creditor's debt, and of the act of insolvency of the person against whom such petition is filed, the court shall adjudge such person insolvent; and under a petition filed by any person against himself the court, upon the application of such person, and upon proof of the filing a declaration of insolvency, and of the sufficiency of his available estate to the extent required by this Ordinance, or upon proof of the filing of such declaration of insolvency, and that such person has been in actual custody within the walls of a prison for debt for more than twenty-one days, shall adjudge such person insolvent.

Attachment  
upon the estate  
and how to be  
made.

**27.** Forthwith, after any person shall be adjudged insolvent, the District Court shall issue to the Fiscal an order (in the form H in the Schedule) placing the estate of the insolvent under sequestration in his hands, and such Fiscal shall enter and lay an attachment on the estate, under inventory thereof; and when the same shall be sequestered upon the petition of any creditor the said Fiscal shall be accompanied by the petitioning creditor, or someone authorized by him, on behalf of himself and the other creditors of the said estate; and when the said estate shall be sequestered upon the petition of any insolvent against himself, it shall be lawful for any of the creditors, or for the agent of any of the creditors, of the insolvent to accompany the Fiscal and to be present with him while making out the inventory aforesaid.

**28.** When any personal property belonging to any insolvent is attached as aforesaid in virtue of any order for the sequestration thereof, the Fiscal making such attachment shall leave with the person in whose possession any such property is attached a copy of the said inventory, having subjoined thereto a notice in the Sinhala language, and also, if he does not understand Sinhala, in the language spoken by such person, that the property therein specified has been attached by the said Fiscal, by virtue of an order of the court for the sequestration thereof; and any person who knowing the same to have been so attached, shall dispose of, remove, conceal, or receive the same, or any part thereof, with intent to defeat the said attachment, shall be liable on conviction of such offence to be transported for any period not exceeding seven years, or to be imprisoned, with or without hard labour, for any period not exceeding five years ;

Attachment of  
personal  
property how  
to be made  
and as to  
penalty for  
defeating the  
same.

Provided that it shall be lawful for such Fiscal to secure on the premises, by sealing up in any room or repository, any articles which in the discharge of his duty it shall seem to him expedient so to secure, causing no unnecessary hindrance or inconvenience to any party by so doing, or to leave some person on the premises in charge thereof; and the said Fiscal shall forthwith report his execution of the said attachment to the said court, and the court may give such directions for the safe custody of the said property as shall seem fit.

**29.** If, after adjudication of insolvency, the debt of the petitioning creditor be found by the court to be insufficient to support such adjudication, it shall be lawful for the court, upon the application of any other creditor having proved any debt sufficient to support an adjudication, to order the petition for sequestration to be proceeded in, and it shall by such order be deemed valid, which order may be in the form I in the Schedule, or to the like effect.

if petitioning  
creditor's debt  
insufficient  
court may  
proceed upon  
the application  
of any other  
creditor.

**30.** Before notice of any adjudication of insolvency shall be given in the Gazette, and at or before the time of putting in execution any order of sequestration which shall have been granted upon such adjudication, a duplicate of such adjudication shall be served on the person adjudged insolvent, personally or by leaving the same at the usual or last known place of abode or place

Insolvent to  
have notice of  
adjudication  
and to be  
allowed a  
certain time to  
show cause  
against it  
before  
advertisement