

LAWS OF GUYANA

INSOLVENCY ACT

CHAPTER 12:21

**Act
19 of 1902
Amended by**

20	of	1901	24	of	1969	O.37/1966A
5	of	1902	4	of	1972	
28	of	1902	6	of	1986	
6	of	1905	19	of	1990	
16	of	1913				
16	of	1916				
36	of	1929				
15	of	1969				

Current Authorised Pages

Pages *Authorised*
(inclusive) *by L.R.O.*
1 – 392 ... 1/2012

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CHAPTER 12:21
INSOLVENCY ACT

19 of 1902

An Act to consolidate and amend the Laws relating to Insolvency.

[25th JULY, 1902]

Short title.

1. This Act may be cited as the Insolvency Act.

Interpretation.

2. In this Act—

“assignee” means the assignee in insolvency of a debtor’s estate;

“available act of insolvency” means any act of insolvency available for an insolvency petition at the date of the presentation of the petition on which the receiving order is made;

c. 3:02

“the Court” means the High Court in its civil jurisdiction;

“debt provable in insolvency” or “provable debt” includes any debt or liability by this Act made provable in insolvency;

“debtor” includes anyone, whether a Commonwealth citizen or not, who at the time when any act of insolvency was done or suffered by him, was personally present in Guyana, or ordinarily resided or had a place or residence therein, or was carrying on business therein personally, or by means of an agent, attorney, or manager, or was a member of a firm or partnership which carried on business therein;

“the Full Court” means the Full Court of the High Court;

“gazetted” means published in the *Gazette*;

“general rules” includes forms;

“goods” includes all movable property;

“insolvency” and “insolvent” include bankruptcy and bankrupt;

“judge” means any judge of the Court and includes the Chief Justice;

“marshal” includes any officer charged with the execution of a writ or other process;

“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 movable or immovable, and whether situate in Guyana 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;

“the Registrar” means the Registrar of the Supreme Court, and includes any sworn clerk and notary public, and any assistant sworn clerk in the registry;

“the registry” means the registry of the Supreme Court and includes any branch thereof in any county of Guyana;

“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, which by the law of Guyana is valid against creditors as a security for a debt due to him from the debtor;

“settlement” includes any ante-nuptial contract;

“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.

PART I
PROCEEDINGS FROM ACT OF INSOLVENCY TO
DISCHARGE

Acts of Insolvency

When debtor
commits act of
insolvency

3. (1) A debtor commits an act of insolvency in each of the following cases:

- (a) in Guyana or elsewhere, he makes any conveyance or assignment of his property for the benefit of his creditors generally; or
- (b) in Guyana or elsewhere, he makes any conveyance, gift, delivery, or transfer of his property, or any part thereof, which is fraudulent as against his creditors or any of them; or
- (c) in Guyana or elsewhere, he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would, under this or any other Act for the time being in force, be void as a fraudulent

preference if he were adjudged insolvent; or

- (d) with intent to defeat or delay his creditors, he does any of the following things, namely, departs out of Guyana, or, being out of Guyana, remains out of Guyana, or departs from his dwelling-house, or otherwise absents himself, or begins to keep house; or
- (e) execution issued against him has been levied by seizure of any of his property under process in execution, in an action in any court, or in any civil proceedings in court, and he allows that property to remain in execution for seven days without taking steps to have the execution set aside and the property released:

Provided that, where the proprietor or owner of a plantation on which there are forty acres under cultivation or the proprietor or owner of any other immovable property is proceeded against without naming him, the seizure and sale in execution of that plantation or immovable property shall not be deemed an act of insolvency by the proprietor or owner; or

- (f) anyone has obtained, or is for the time being entitled to enforce a final judgment against him for any amount, and, execution thereon not having been stayed, has served on

him, in Guyana or, by leave of the court, elsewhere, an insolvency notice under this Act, requiring him to pay the judgment debt in accordance with the terms of the judgment, or to secure or compound for it to the satisfaction of the creditor or the Court, and he does not, within seven days after service of the notice, if the service is effected in Guyana, and, if 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, and which he could not set up in the action in which the judgment was obtained; or

- (g) he files in the registry a declaration of his inability to pay his debts or presents an insolvency petition against himself; or
- (h) he gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts, or, intimates, in any one period of seven days, to three or more of his creditors that he is unable to pay his debts in full, or suspends payment of his debts.

(2) An insolvency notice under this Act shall be in the prescribed form, and shall state the consequences of non-compliance therewith and be served in the prescribed

manner.

Receiving Order

Jurisdiction to
make receiving
order.

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

Conditions on
which creditors
may petition
for receiving
order.
[4 of 1972]

5. (1) A creditor shall not be entitled to present an insolvency 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 two hundred and fifty dollars; and
- (b) the debt is a liquidated sum, payable either immediately or at some certain future time; and
- (c) the act of insolvency on which the petition is grounded has occurred within three months before the presentation of the petition; and
- (d) the debtor is domiciled in Guyana, 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 Guyana, or has carried on business in Guyana, 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 Guyana by means of a partner or partners, or an agent, attorney 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 insolvent, or give an estimate of the value of his security; and 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.

Petition against
trader- debtor
in act of
insolvency
committed by
his attorney or
manager.

6. A creditor shall be entitled to present a petition against any debtor, being a trader, if any act which would have been an act of insolvency if committed by the debtor in person is committed by any attorney or manager carrying on business in Guyana in the name of the debtor, provided that act comes within the ordinary scope of the business carried on in Guyana by the manager or attorney in the name of the debtor.

When husband
creditor.

7. Where a married woman has been adjudged insolvent, 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 his wife for the purposes of her trade or business until all claims of the other creditors of his wife for valuable consideration in money or money's worth have been satisfied.

Avoidance of
general
assignments of
book-debts
unless
registered.

8. 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 insolvent, the assignment shall be void against the assignee unless the assignment has been passed by way of

mortgage or executed in the Deeds Registry by way of transfer and assignment:

Provided that nothing in this section shall have effect so as to render void any assignment of book debts due from specified debtors, or of debts growing due under specified contracts.

Proceedings
and order on
creditor's
petition.

9. (1) A creditor's petition shall be verified by an affidavit of the creditor or of some person on his behalf having knowledge of the facts, and shall be served in the prescribed manner.

(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 insolvency, or, if more than one act of insolvency is alleged in the petition, of some one of the alleged acts of insolvency, 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 service of the petition, or of the act of insolvency, or is satisfied by the debtor that he is able to pay his debts or that for other sufficient cause no order ought to be made, the Court may dismiss the petition.

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

(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 the security (if any) being given which the Court requires for payment to the petitioner of any debt established against the debtor 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 the time 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 any terms it thinks just, the petition in which proceedings have been stayed as aforesaid.

(7) Where it appears to the Court that the petition has been presented without reasonable and probable cause, the Court may order the petitioner to pay to the person against whom the petition is presented a sum by way of damages that will compensate that person for the injury and inconvenience occasioned by the presentment of the petition.

(8) A creditor's petition shall not, after presentment, be withdrawn without the leave of the Court.

Proceedings
and order on
debtor's
petition.

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 insolvency 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.

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

Effect of
receiving order.

11. 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 insolvency 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, except with the leave of the Court and on the terms the Court imposes:

Provided that this enactment shall not affect the power of any creditor who is secured on any ship or vessel, or any share therein, to realise or deal with his security in the same way as he would have been entitled to realise or deal with his security if this provision had not been enacted.

Discretionary powers as to appointment of receiver and stay of proceedings against debtor.

12. (1) The Court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of an insolvency 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.

(2) The Court may, at any time after the presentation of an insolvency petition, stay any action, execution, or other legal process against the property or person of the debtor, and any court in which proceedings are pending against a debtor, may, on proof that an insolvency petition has been presented by or against the debtor, either stay the proceedings or allow them to continue on any terms it thinks just.

(3) On the presentation of an insolvency petition, or at any time thereafter until a receiving order is made, the petitioning creditor, or any creditor entitled to present an insolvency petition, may apply to the Court for an order that the Official Receiver be appointed to make an inventory of the property of the debtor, and, if the affidavit of the petitioning creditor under section 9 avers that that step is necessary for the protection of the estate, the Court shall forthwith make the order and may at any time vary or cancel it.

Service of order staying proceedings.

13. Where the Court makes an order staying any action or other proceeding aforesaid, or staying proceedings generally, the order may be served by sending a copy thereof, by prepaid post letter, to the address of the plaintiff or other party prosecuting that action or other proceeding.

Power to the
Official
Receiver to
appoint special
manager of
debtor's estate
or business

14. (1) The Official Receiver may, at any time after a receiving order is made, or after he is appointed interim receiver, on the application of any creditor or creditors, if he is 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 himself, appoint a manager thereof accordingly, to act until such time as he deems fit, or an assignee is appointed, and with such powers (including any of the powers of a receiver) as may be entrusted by him to the special manager.

(2) The special manager shall give security and account in the manner directed by the Official Receiver.

(3) The special manager shall receive the remuneration which the creditors by resolution at any ordinary meeting, determine, or, in default of that resolution, which is prescribed.

Notice of
receiving order.

15. 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 and published in one newspaper in the prescribed manner.

Proceedings consequent on Order

First and other
meetings of
creditors.

16. (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 entertained, or whether it is expedient that the debtor shall be adjudged insolvent, and generally as to the mode of dealing with a debtor's property.

(2) With respect to the summoning of, and proceedings at, the first and other meetings of creditors, the rules contained in the First Schedule shall be observed.

First
Schedule.

Debtor's statement of affairs.

17. (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, the names, and residences, of his creditors, the securities held by them respectively, and the dates when the securities were respectively given, and any further or other information prescribed, or required by the Official Receiver.

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

- (a) if the order is made on the petition of the debtor, within three days from the date of the order; and
- (b) if the order is made on the petition of a creditor, within seven days from the date of the order:

Provided that—

- (i) the Official Receiver may, in either case, for special reasons extend the time for any further period not exceeding ten days; and
- (ii) the Court may, for special reasons, further extend the time for any necessary period.

(3) If the debtor fails, without reasonable excuse, to comply with the requirements of this section, the Court may on the application of the Official Receiver, or of any creditor, adjudge him insolvent.

(4) Anyone stating himself in writing to be a creditor of the insolvent may, either personally or by his agent, inspect the statement at all reasonable times, and take any copy thereof or extract therefrom on paying the prescribed fee; and anyone untruthfully so stating himself to be a creditor shall be guilty of a contempt of court and be punishable accordingly on the application of the Official Receiver or assignee.

Public Examination of Debtor

Public examination of debtor.

18. (1) Where the Court makes a receiving order, it shall 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 authorised 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 authorised by the Court, may employ an attorney-at-law.

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

(7) The Court may put any questions to the debtor it thinks expedient.

(8) The debtor shall be examined upon oath, and it shall be his duty to answer all the questions the Court may put or allow to be put to him.

(9) Notes of the examination that the Court thinks proper shall be taken down in writing and read over by or to and signed by the debtor, and may thereafter be used in evidence against him; and the notes shall be open to the inspection of any creditor at all reasonable times, on payment of the prescribed fee.

(10) 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 that order shall not be made until after the day appointed for the first meeting of creditors.

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

Composition or Scheme of Arrangement

Compositions
and schemes of
arrangement.

19. (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 affairs, he shall, within seven days of submitting his statement of affairs, or within the time thereafter fixed by the Official Receiver, lodge with the Official Receiver a proposal in writing, signed by him, embodying the terms of the composition or scheme which he is desirous of submitting for the consideration of his creditors and setting out particulars of any sureties or securities proposed.

(2) In that 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, the proposal 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, in the prescribed form, addressed to the Official Receiver so as to be received by him not later than the day preceding the meeting, and the assent or dissent shall have effect as if the creditor had been present and had voted at the meeting.

(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; and any creditor who has proved may be heard by the Court in opposition to the application notwithstanding that he has, at a meeting of creditors, voted for the acceptance of the proposal.

(7) 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.

(8) 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 whenever the Court is required where the debtor is adjudged insolvent to refuse his discharge, the Court shall refuse to approve the proposal.

(9) 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 insolvent, the Court shall refuse to approve the proposal, unless it provides reasonable security for payment of not less than thirty-five cents in the dollar on all the unsecured debts provable against the debtor's estate.

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

(11) 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 court.

(12) 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 insolvency, but shall not release the debtor from any liability under any judgment against him in an action for seduction, or under an affiliation order, or under a judgment against him as a co-respondent in a matrimonial cause, except to the extent and under the conditions expressly ordered by the Court in respect of that liability.

(13) 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.

(14) 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.

(15) 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 assignee, or by any creditor, adjudge the debtor insolvent, 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, and where a debtor is adjudged insolvent under this subsection, any debt provable in other respects which has been contracted before the adjudication shall be provable in the insolvency.

(16) If under or in pursuance of a composition or scheme an assignee is appointed to administer the debtor's property or manage his business or to distribute the composition, section 28 and sections 71 to 87 (inclusive) shall apply as if the assignee were an assignee in insolvency and as if the terms "insolvency," "insolvent," and "order of adjudication," included respectively a composition or scheme of arrangement, a compounding or arranging debtor, and order approving the composition or scheme.

(17) Part III, so far as the nature of the case and the terms of the composition or scheme admit, shall apply thereto, the same interpretation being given to the words "assignee," "insolvency," "insolvent," and "order of adjudication," as in the last preceding subsection.

(18) 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 an insolvent.

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

Saving from
effects of
acceptance of
composition of
certain debts.

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

Adjudication of Insolvency

Power to
adjudge debtor
insolvent.

21. (1) At the time of making a receiving order, or at any time thereafter, the Court, on the application of the debtor, may adjudge him insolvent; the application may be made orally and without notice.

(2) Where a receiving order is made against a debtor, the following provisions shall have effect:

- (a) if no creditors attend at the time and place appointed for the first meeting of creditors or any adjournment thereof, or if sufficient creditors do not attend thereat to form a quorum; or
- (b) if the creditors, at the first meeting of creditors or any adjournment thereof, by ordinary resolution, resolve that the debtor be adjudged insolvent, or pass no resolution; or
- (c) if a composition or scheme is not accepted and approved in pursuance of this Act within twenty-one days

after the conclusion of the examination of the debtor or any further time allowed by the Court; or

- (d) if the Official Receiver satisfies the Court that the debtor does not intend to propose a composition or scheme, or that the debtor has absconded, or is wilfully keeping out of the jurisdiction of the Court in order to avoid examination in respect of his affairs, or otherwise to avoid, delay, or embarrass proceedings in insolvency against him,

the Court, on the application either of a creditor or of the Official Receiver, shall forthwith adjudge the debtor insolvent, and thereupon the property of the insolvent shall become divisible among his creditors and shall vest in an assignee.

(3) Notice of every order adjudging a debtor insolvent, stating the name, address, and description of the insolvent and the date of the adjudication, shall be gazetted and published in a newspaper in the prescribed manner.

(4) The date of the order shall, for the purposes of this Act, be the date of the adjudication.

Appointment
of assignee.

22. (1) Where the debtor is adjudged insolvent, or the creditors have resolved that he be adjudged insolvent, the creditors may by ordinary resolution appoint some fit person, whether a creditor or not, to fill the office of assignee of the property of the insolvent, or they may resolve to leave his appointment to the committee of inspection hereinafter mentioned, but it shall not be obligatory on the creditors to appoint an assignee, and, where none is appointed, the Official Receiver shall act as assignee.

(2) The person so appointed shall give security in manner prescribed to the satisfaction of the Official Receiver, and the Official Receiver, if satisfied with the security, shall certify that the appointment has been duly made, unless he objects to the appointment 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 has been previously removed from the office of assignee of an insolvent's property for misconduct or neglect of duty, or is not fit to act as assignee, or that that person's connection with, or relation to, the insolvent, or the insolvent's estate, or any particular creditor, makes it difficult for the person to act with impartiality in the interests of the creditors generally:

Provided that when the Official Receiver does not approve of the security or makes any objection aforesaid he shall, if so requested by a majority in value of the creditors, notify the non-approval or objection to the Court, and thereupon the Court may decide on its validity.

(3) The appointment of an assignee shall take effect as from the date of the certificate.

(4) The Official Receiver shall not, except as by this Act provided, be the assignee of the property of the insolvent.

(5) If an assignee is not appointed by the creditors within four weeks from the date of adjudication, or if negotiations for a composition or scheme are pending at the expiration of those four weeks, then within seven days from the close of those negotiations by the refusal of the creditors to accept or of the Court to approve the composition or scheme, the Official Receiver shall continue to be the assignee of the property of the insolvent:

Provided that the creditors or the committee of inspection (if so authorised by resolution of the creditors) may at any subsequent time if they think fit appoint an

assignee, and, on the appointment being made and certified, the person appointed shall become assignee in the place of the Official Receiver.

Appointment
and powers of
committee of
inspection.

23. (1) The creditors qualified to vote may by resolution appoint, if they so desire, at their first or any subsequent meeting, from among the creditors or the holders of general proxies or general powers of attorney from any creditors, a committee of inspection for the purpose of superintending the administration of the insolvent's property by the assignee:

Provided that a creditor or his attorney who is appointed a member of the committee of inspection shall not be qualified to act until that creditor has proved his debt and the proof has been admitted.

(2) The committee of inspection shall consist of not more than five nor less than three persons.

(3) The committee of inspection shall meet at the times appointed by them from time to time, and, failing the appointment, at least once a month; and the assignee, 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 assignee.

(6) If a member of the committee becomes insolvent, or compounds or arranges with his creditors, or is absent from five 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 seven 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 assignee 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 are not less than two of them, may act notwithstanding any vacancy in their body; and where the number of members of the committee is for the time being less than five, the creditors may increase that number so that it does not exceed five.

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

(11) If there is a committee of inspection, the assignee may, by notice in writing, require the committee of inspection to meet, at a time and place to be specified, and express the opinion of the committee on any matter mentioned in the notice which requires the direction or permission or consent of the committee; and if the members of the committee do not meet at the time and place appointed and express the opinion of the committee, the assignee may take any action in the matter appearing to him to be just, and shall be deemed to have obtained the direction or permission or consent of the committee of inspection to that action. The notice shall be posted to each member of the committee not less than four clear days before the day of meeting.

Power to accept composition or scheme after adjudication of insolvency.

24. (1) Where a debtor is adjudged insolvent the creditors, if they think fit at any time after the adjudication, by a resolution passed by a majority in number and three-fourths in value of all the creditors who have proved, may resolve to entertain a proposal of the debtor for a composition in satisfaction of the debts due to them under the insolvency, or for a scheme of arrangement of the insolvent'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.

(2) If the Court approves the composition or scheme it may make an order annulling the insolvency and vesting the property of the insolvent in him or in another person appointed by the Court, on the terms and subject to the conditions (if any) declared by the Court.

(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, if it thinks fit, on application by any person interested, may adjudge the debtor insolvent and annul the composition or scheme, but without prejudice to the validity of any sale, disposition, or payment duly made, or thing duly done, thereunder or in pursuance thereof; and where a debtor is adjudged insolvent under this subsection, all debts provable in other respects which have been contracted before the date of the adjudication shall be provable in the insolvency.

Control over Person and Property of Debtor

Duties of debtor as to discovery and realisation of property.

25. (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 the examination and give the information required by the meeting.

(2) He shall give an inventory of his property, a list of his creditors and debtors, and of the debts due to and from them respectively, submit to examination in respect of his property or his creditors, attend other meetings of his creditors, wait at times on the Official Receiver, special manager, or assignee, execute powers of attorney, conveyances, deeds, and instruments, and generally do all acts and things in relation to his property and the distribution of the proceeds amongst his creditors, which is or are reasonably required by the Official Receiver, special manager, or assignee, or prescribed by general rules, or 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, assignee, or any creditor or person interested.

(3) If adjudged insolvent, he shall aid to the utmost of his power in the realisation of his property and the distribution of the proceeds among his creditors.

(4) A debtor who wilfully fails to perform the duties imposed on him by this section, or to deliver up possession of any part of his property divisible amongst his creditors under this Act and for the time being in his possession or under his control to the Official Receiver, or to the assignee, or to anyone authorised by the Court to take possession of it, in addition to any other punishment to which he may be liable, shall be guilty of a contempt of court and be punishable accordingly.

Arrest of
debtor in
certain
circumstances.
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26. (1) The Court, by warrant addressed to the Registrar or any marshal, constable, or prescribed officer of the Court, may cause a debtor to be arrested and any books, papers, money, and goods in his possession to be seized, and him and them to be safely kept as prescribed until the time ordered by the Court in the following circumstances:

(a) if, after an insolvency notice has been issued under this Act, or after

presentation of an insolvency petition by or against him, it appears to the Court that there is probable reason 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 insolvency notice was issued, or of avoiding service of an insolvency petition, or of avoiding appearance thereto, or of avoiding examination in respect of his affairs, or of otherwise avoiding, delaying, or embarrassing proceedings in insolvency against him; or

- (b) if, after presentation of an insolvency petition by or against him, it appears to the Court that there is probable cause for believing that he is about to remove his goods with a view of preventing or delaying possession being taken of them by the Official Receiver or assignee, 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 insolvency; or
- (c) if, after service of an insolvency petition on him, or after a receiving order is made against him, he removes any goods in his possession above the value of twenty-five dollars, without the leave of the Official Receiver or assignee; or

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- (d) if, without good cause shown, he fails to attend any examination ordered by the Court:

Provided that no arrest upon an insolvency notice shall be valid and protected unless the debtor, before or at the time of his arrest, has been or is served with that notice.

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

Redirection of debtor's letters.

27. Where a receiving order is made against a debtor, the Court, on the application of the Official Receiver or assignee, may from time to time order that for a time (not exceeding three months) the Court thinks fit, post letters addressed to the debtor at any place or places mentioned in the order for redirection shall be redirected, sent, or delivered by the Postmaster General, or the officers acting under him, to the Official Receiver or assignee, or otherwise as the Court directs, and that shall be done accordingly.

Discovery of debtor's property.

28. (1) The Court, on the application of the Official Receiver or assignee, at any time after a receiving order has been made against a debtor, may summon before it the debtor or his wife, or anyone 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 anyone whom the Court deems capable of giving information respecting the debtor, his dealings or property, and the Court may require that person to produce any documents in his custody or power relating to the debtor, his dealings or property.

(2) If anyone so summoned, after having been tendered a reasonable sum for his travelling expenses and attendance, refuses to come before the Court at the time appointed, or refuses to produce any of the documents,

having no lawful impediment made known to the Court at the time of its sitting and allowed by it, the Court may by warrant cause him to be apprehended and brought up for examination.

(3) The Court may examine upon oath, either by word of mouth or by written interrogatories, anyone so brought before it concerning the debtor, his dealings, or his property.

(4) If anyone, on examination before the Court, admits that he is indebted to the debtor, the Court, on the application of the Official Receiver or assignee, may order him to pay to the Official Receiver or assignee, at any time and in any manner to the Court seeming 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 anyone, on examination before the Court, admits that he has in his possession any property belonging to the debtor, the Court, on the application of the Official Receiver or assignee, may order him to deliver it or any part of it to the Official Receiver or assignee at any time, and in any manner, and on any terms to the Court seeming just.

(6) The Court may if it thinks fit order that anyone who, if in Guyana, would be liable to be brought before it under this section, shall be examined in any place out of Guyana.

Discharge of Insolvent

Order of
discharge.

29. (1) An insolvent, at any time after being adjudged insolvent, may 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 insolvent is concluded, and it shall be heard in open court.

(2) On the hearing of the application the Court shall take into consideration a report of the Official Receiver as to the insolvent's conduct and affairs (including a report as to the insolvent's conduct during the proceedings under his insolvency), 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 insolvent, or with respect to his after-acquired property:

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Provided that the Court shall refuse the discharge in all cases where the insolvent has committed any misdemeanour under sections 213 to 216 (inclusive) of the Criminal Law (Offences) Act, or any other misdemeanour connected with his insolvency, or any felony connected with his insolvency, unless for special reasons the Court otherwise determines, and shall, on proof of any of the facts hereinafter mentioned, either—

- (a) refuse the discharge; or
- (b) suspend the discharge for a period of not less than two years; or
- (c) suspend the discharge until a dividend of not less than fifty cents in the dollar has been paid to the creditors; or
- (d) require the insolvent, as a condition of his discharge, to consent to judgment being entered against him by the Official Receiver or assignee, as the case may be, for any balance or part of any balance of the debts provable under the insolvency not satisfied at the date of the discharge, that balance

or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the insolvent in any manner and subject to any conditions directed by the Court; but execution shall not be issued on the judgment without leave of the Court, which may be given on proof that the insolvent has since his discharge acquired property or income available towards payment of his debts:

Provided that if, at any time after the expiration of two years from the date of any order made under this section, the insolvent satisfies the Court that there is no reasonable probability of his being in a position to comply with the terms of the order, the Court may modify the terms of the order, or of any substituted order, in the manner and on the conditions it thinks fit.

(3) The facts hereinbefore referred to are that the insolvent—

- (a) has not assets of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities, unless he satisfies the Court that the fact that they are not of that value has arisen from circumstances for which he cannot justly be held responsible;
- (b) has omitted to keep the books of account usual and proper in the business carried on by him and sufficiently disclosing his business transactions and financial position for the three years immediately preceding his insolvency;

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- (c) has continued to trade after knowing himself to be insolvent;
 - (d) has contracted any debt provable in the insolvency 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) has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;
 - (f) has brought on, or contributed to, his insolvency by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs;
 - (g) has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against him;
 - (h) within three months preceding the date of the receiving order has—
 - (i) incurred unjustifiable expense by bringing a frivolous or vexatious action; or
 - (ii) when unable to pay his debts as they become due, given an undue preference to any of his creditors; or

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(iii) incurred liabilities with a view of making his assets equal to fifty cents on the dollar on the amount of his unsecured liabilities;

(i) has on any previous occasion been adjudged insolvent, or made a composition or arrangement with his creditors;

(j) has been guilty of any fraud or fraudulent breach of trust.

(4) For the purposes of this section an insolvent's assets shall be deemed of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities when the Court is satisfied that the property of the insolvent has realised, or is likely to realise, or with due care in realisation might have realised, an amount equal to that value, and a report by the Official Receiver or the assignee shall be *prima facie* evidence of the amount of those liabilities.

(5) For the purposes of this section the report of the Official Receiver shall be *prima facie* evidence of the statements therein contained.

(6) Notice of the appointment by the Court of the day for hearing the application for discharge shall be published in the prescribed manner, and sent fourteen days at least before the day so appointed to each creditor who has proved, and the Court may hear the Official Receiver and the assignee (if any) and may also hear any creditor, and at the hearing may put any questions to the debtor and receive any evidence it thinks fit.

(7) The powers of suspending and of attaching conditions to an insolvent's discharge may be exercised concurrently.

(8) A discharged insolvent shall, notwithstanding his discharge, give any assistance the assignee requires in the realisation and distribution of his property which is vested in the assignee, 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 payments duly made or thing duly done subsequent to the discharge but before its revocation.

(9) Where the insolvent is discharged subject to the condition that judgment shall be entered against him under this section or subject to any other conditions as to his after-acquired property or income, it shall be his duty, until the judgment or condition is satisfied, from time to time to give any information required by the Official Receiver or assignee with respect to his after-acquired property or income, and not less than once a year to file with the Official Receiver or assignee a statement showing the particulars of any property or income which he has acquired subsequent to his discharge.

Fraudulent
settlement.

30. 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 insolvent, or compounds or arranges with his creditors, and it appears to the Court that the 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 when the debtor has been guilty of fraud.

Effect of order
of discharge.

31. (1) An order of discharge shall not release the insolvent from—

- (a) any debt on a recognisance, or from any debt with which the insolvent may be chargeable at the suit of the State, or any person, for any offence against a written law relating to any branch of the public revenue, or at the suit of a public officer on a bail bond entered into for the appearance of any person prosecuted for that offence; and he shall not be discharged from those excepted debts unless the Attorney-General certifies in writing his consent to his being discharged therefrom; or
- (b) any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party; or
- (c) any debt or liability whereof he has obtained forbearance by any fraud to which he was party; or

(d) any liability under a judgment against him in an action for seduction, or under an affiliation order, or under a judgment against him as a co-respondent in a matrimonial cause, except to that extent and under those conditions which the Court expressly orders in respect of that liability.

(2) An order of discharge—

- (a) shall release the insolvent from all other debts provable in insolvency;
- (b) shall be conclusive evidence of the insolvency and of the validity of the proceedings therein; and in any proceedings instituted against an insolvent who has obtained an order of discharge in respect of any debt from which he is released by the order, he may plead that the cause of action occurred before his discharge and give this Act and the special matter in evidence;
- (c) shall not release anyone who, at the date of the receiving order, was a partner or co-trustee with the insolvent, or was jointly bound or had made any joint contract with him, or anyone who was surety or in the nature of a surety for him.

Power to the
Court to annul
adjudication in
certain cases.

32. (1) Where, in the opinion of the Court, a debtor ought not to have been adjudged insolvent, or where it is proved to the satisfaction of the Court, that the debts of the insolvent 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, assignee, or other person acting under their authority, or by the Court, shall be valid, but the property of the debtor who was adjudged insolvent shall vest in the person whom the Court appoints, or, in default of that 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 declares by order.

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

Meaning of payment in full.

(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 the sum and with the sureties approved by the Court, 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 II

DISQUALIFICATIONS OF INSOLVENT

Disqualification of insolvent.

33. (1) Where a debtor is adjudged insolvent, he shall, subject to this Act, be disqualified for being—

- (a) appointed or acting as a justice of the peace; or
- (b) elected to, or holding, or exercising the office of mayor or town councillor, or member of a village council; or
- (c) elected to, or holding, or exercising the office of member of any sanitary

authority.

(2) The disqualifications to which an insolvent is subject under this section shall be removed and cease if and when—

- (a) the adjudication of insolvency against him is annulled; or
- (b) he obtains from the Court his discharge with a certificate to the effect that his insolvency was caused by misfortune without any misconduct on his part.

(3) The Court may grant or withhold that certificate as it thinks fit, but any refusal of the certificate shall be subject to appeal.

(4) No disqualification arising under this section shall exceed a period of five years from the date of any discharge which has been granted or may hereafter be granted under this Act.

Vacating office.

34. If a person is adjudged insolvent whilst holding the office of mayor, town councillor, or member of a village council, or sanitary authority, his office shall thereupon become vacant.

PART III

ADMINISTRATION OF PROPERTY

Proof of Debts

Debts provable
in insolvency.

35. (1) Demands in the nature of unliquidated damages arising from tort, or otherwise than by reason of a contract, promise, or breach of duty or breach of trust, shall not be provable in insolvency.

(2) A person having notice of any act of insolvency

available against the debtor shall not prove the order for any debt or liability contracted by the debtor subsequently to the date of his so having notice.

(3) Except 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 becomes 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 insolvency.

(4) An estimate shall be made by the assignee 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) Anyone aggrieved by any estimate made by the assignee 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 insolvency.

(7) Where the liability of the debtor depends on questions of fact or of law which are in dispute, the assignee may state those questions in writing to the Court, and the Court shall thereupon proceed to determine the questions in the prescribed manner.

(8) 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, 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 insolvency.

(9) “Liability”, for the purposes of this Act, includes—

- (a) any compensation for work or labour done;
- (b) any obligation or possibility of an obligation to pay money or money’s worth (other than an obligation arising from tort where the amount of damages is still unliquidated) 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;
- (c) generally, any express or implied engagement, agreement, or undertaking to pay, or any obligation 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; as respects time, present or future, certain or dependent on any one contingency or on two or more contingencies; and, as to mode of valuation, capable of being ascertained by fixed rules, or as matter of opinion.

Counterclaims.

36. 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 those 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 insolvency committed by the debtor and available against him.

Rules as to
proof of debts.
Second
Schedule.

37. With respect to the mode of proving debts the right of proof by secured and other creditors, the admission and rejection of proofs, and the other matters referred to in the Second Schedule, the rules in that Schedule shall be observed.

Secured
creditors.

38. (1) Any existing law or Act to the contrary notwithstanding, any secured creditor may, with the consent of the assignee, and the approval of the Official Receiver if he is not assignee, but without any order of the Court being obtained, realise any movable property upon which his security exists, if the property is unaffected by any other security, by selling it at public auction or by tender, after a notice of the intended sale or calling for tenders has been inserted in the *Gazette* and one newspaper for three successive Saturdays.

(2) The assignee, with the approval of the Official Receiver if he is not assignee, if more creditors than one hold securities affecting the same property, or if he deems it inexpedient to consent under the preceding subsection, or the Official Receiver withholds his approval, shall, without any order of the Court being necessary, realise that property by selling it at public auction or by tender, after notice of the intended sale or calling for tenders has been inserted in the *Gazette* and one newspaper for three successive Saturdays, and shall distribute the proceeds of sale in accordance with the next ensuing section after making the payments thereout in that section specified.

(3) The assignee, with the approval of the Official

Receiver if he is not assignee, may, with leave of the Court, convey or assign the property to any secured creditor having a claim thereon, and may set off wholly or in part, as the case may be, the claim of that creditor against the purchase money thereof.

(4) A secured creditor who is dissatisfied with any intended action of the assignee, or with any action of the Official Receiver, in dealing with the property in respect of which security is given, may apply to the Court to issue directions to the assignee in respect of the rights of the secured creditor and the manner of dealing with the property.

Priority of debts.
[15 of 1969
24 of 1969
4 of 1972
19 of 1990]

39. (1) In the distribution of the assets of an insolvent at any time being distributed, the assignee, after paying thereout the expenses properly incurred in realising them or in carrying on the plantation or business from which they are obtained, all fees and commissions relating thereto, and any costs, charges and expenses payment whereof is prescribed or allowed by the Court, shall pay thereout in the order hereinafter specified the following debts or those of them or that part of any of them not previously paid:

- (a) all taxes, imposts, dues, debts and sums of money, other than fines or penalties due to the State or public corporation established by written law for the purpose of administering a public utility undertaking at the date of the receiving order (other than sums payable by instalments and secured under any Act by preferential lien on the assets then being distributed or on the plantation or business from the sale or carrying on of which they have been obtained), that have become due and payable within twelve months next before the date of the receiving order;

- (b) all sums due and payable to the State at the date of the receiving order (including sums due in respect of immigration) forming part of a sum payable by instalments, and secured under any Act by a preferent lien on the assets then being distributed, or the plantation or business from the sale or carrying on of which they have been obtained, whether that lien affects the assets, plantation, or business, alone or also affects other property of the insolvent;
- (c) all rates, for which the assets, plantation or business may be liable and leviable, due at the date of the receiving order, and which have become due and payable within the rating year in which the receiving order has been made;
- (d) if the assets were obtained from the sale or carrying on of any plantation or business, salaries of the servants of the plantation, including the engineer if employed at a salary, or of the clerks employed in the business for the three months preceding the receiving order;
- (e) legal mortgages and special conventional mortgages, affecting the assets then being distributed, or the plantation or business from the sale or carrying on of which they have been obtained (whether those mortgages affect the assets, plantation, or business, alone or also affect other

property of the insolvent), the mortgages ranking between themselves in accordance with the priority given to each by the existing law, and in default of any different rule of law as to priority according to the order of their dates of origin and including, in the case of special conventional mortgages, all costs properly incurred in proceedings taken for foreclosing them;

- (f) all wages or salary of any manager employed on any mining claim, woodcutting, or balata bleeding business, and all wages of any labourer or workmen employed thereon in respect of services rendered to the insolvent during four months before the date of the receiving order, and all wages of salesmen in retail provision shops, and menial and other servants, in respect of services rendered the insolvent for the two months before that date;
- (g) general conventional mortgages according to the order of their dates;
- (h) contributions payable pursuant to the National Insurance and Social Security Act;
- (i) all other debts not hereinbefore mentioned, including, wherever part only of any debt or claim is entitled, under the provisions hereinbefore contained, to priority of payment out

of the assets then being distributed or any other undistributed assets, the remainder of that debt or claim, and all those debts shall be paid *pari passu*.

(2) Where any mortgage affects not only the assets at any time being distributed or the plantation or business from the sale or carrying on of which they have been obtained, but also other property of the insolvent, and those assets and the other property affected thereby are together more than sufficient to pay the mortgage in full, and the mortgage has priority over or ranks equally with any mortgage affecting only the assets, plantation, or business, the holder of the last mentioned mortgage shall be entitled to stand in the place of the holder of the first mentioned mortgage in respect of the other property to the extent to which the payment of the first mentioned mortgage debt has exhausted the assets.

(3) If the property of the insolvent is insufficient to pay in full the debts mentioned in the foregoing paragraph (f), those debts shall rank equally between themselves and abate in equal proportions between themselves

(4) In this section the term "legal mortgages" means the lien of –

- (a) the husband or wife of an insolvent who has executed an antenuptial contract, on all the insolvent's property in respect of the property secured by that contract in cases where the provisions relating to those contracts hereinafter contained have been complied with;
- (b) any person who has been under the guardianship or curatorship of an insolvent, and of the heir of that

person, on all the insolvent's property in respect of mal-administration or neglect of the estate of that person;

- (c) the children of an insolvent by a deceased wife to whom he was married in community of goods, on all his property in respect of so much of the property held in community during the marriage as devolved on them on their deceased parent's death;
- (d) a landlord, on any growing crop or movables which are at the date of the receiving order on property rented from him by the insolvent in respect of arrears of rent due from the insolvent for the six months next before the date of the receiving order;
- (e) a legatee as a security for his legacy, on property to which the insolvent has succeeded as heir under a will.

(5) No contract for the sale of any interest in immovable property, or for any charge or incumbrance on any immovable property, and no conventional mortgage shall be of any force or give any right of preference which has not been completed by transport or mortgage duly passed before the Court or a judge; except that the creditor may claim under his contract as a concurrent creditor against the debtor's estate.

(6) No married person shall, in the case of his or her spouse's insolvency, be entitled to claim as a creditor of his or her spouse's estate by reason of an ante-nuptial agreement entered into between the spouses, unless—

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- (a) the contract, if made after the commencement of this Act, has been made in writing and duly deposited in the Deeds Registry, or recorded therein, within three months after the execution thereof, or, if made before the commencement of this Act, has been reduced to writing (if not so made) and duly deposited in the Deeds Registry, or recorded therein, not later than three months after that commencement;
- (b) the money or other property affected by the contract, and belonging to the claimant at the date of the execution thereof, has been clearly specified in the contract, or an inventory annexed thereto, at that date, or, in case of any contract made before the commencement of this Act, and not having that specification therein or any inventory annexed thereto, in an inventory deposited or recorded not later than three months after that commencement; and
- (c) a statutory declaration by two or more independent witnesses, testifying to the facts that—
 - (i) the property specified in the contract, or inventory to the contract, is, or was, at the date of the contract, the property of the spouse to whose marriage the contract relates;
 - (ii) the property was at that date

actually transferred; and

- (iii) the value of the property is correctly specified in the contract or inventory, has been duly deposited in the Deeds Registry, or recorded therein, together with the inventory, or, in cases where a contract having that specification therein has, or a contract and inventory have, been recorded before the commencement of this Act, not later than three months after that commencement.

(7) No married person, in the case of his or her spouses's insolvency, shall be entitled by reason of an antenuptial agreement entered into between the spouses to any preferent claim on his or her estate for any money or other property acquired by him or her during the marriage, unless an inventory thereof and a statutory declaration by two or more independent witnesses, verifying the fact that that property still exists and how it has been acquired by him or her, are deposited or recorded in the Deeds Registry within two months after the acquisition thereof, and before any loan thereof to the husband or wife, but his or her claim in respect thereof shall rank concurrently with the claims of all other unsecured creditors on his or her estate.

(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 order at the rate of six per cent *per annum* on all debts proved in the insolvency.

(9) (a) 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.

- (b) If there is a surplus of the separate estates, it shall be dealt with as part of the joint estate.
- (c) 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.

c. 89:02

(10) Nothing in this section shall alter the effect of section 5 of the Partnership Act, or prejudice the provisions of any Act for the time being in force relating to friendly societies.

Preferential
claim in case of
apprentice-
ship.

40. (1) Where, at the time of the presentation of the insolvency petition, anyone is apprenticed or is an articled clerk to the insolvent, the adjudication of insolvency shall, if either the insolvent or the apprentice or clerk gives notice in writing to the assignee to that effect, be a complete discharge of the apprenticeship agreement or articles of agreement; and if any money has been paid by or on behalf of the apprentice or clerk to the insolvent as a fee, the assignee may, on the application of the apprentice or clerk, or of some person on his behalf, pay the sum which the assignee, subject to an appeal to the Court, thinks reasonable, out of the insolvent'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 insolvent under the apprenticeship agreement or articles before the commencement of the insolvency, and to the other circumstances of the case.

(2) Where it appears expedient to the assignee, he may on the application of any apprentice or articled clerk, or anyone acting on behalf of the apprentice or articled clerk, instead of acting under the preceding provisions of this section, transfer the apprenticeship agreement or articles of agreement to some other person.

Property available for Payment of Debts

Relation back
of assignee's
title.

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

Description of
property
divisible
amongst
creditors.

42. The property of the insolvent divisible amongst his creditors, and in this Act referred to as the property of the insolvent, shall not comprise—

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

but it shall comprise—

- (i) all property belonging to or vested in the insolvent at the commencement of the insolvency, or acquired by or devolving 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 insolvent for his own benefit at the commencement of his insolvency or before his discharge; and
- (iii) all goods being, at the commencement of the insolvency, in the possession, order, or disposition of the insolvent in his trade or business by the consent and permission of the true owner, in such circumstances that he is the reputed owner of them:

Provided that—

- (a) things in action, other than debts due or growing due to the insolvent in the course of his trade or business, shall not be deemed goods within the meaning of this section; and
- (b) nothing in this section shall affect the rights of infants or persons under disability.

Effect of Insolvency on Antecedent Transactions

Restriction of rights of creditor in execution.

43. (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 Official Receiver or the assignee unless he has completed the execution or attachment before the date of the receiving order, and before notice of the presentation of any insolvency petition by or against the debtor, or of the commission of any available act of insolvency by the debtor.

(2) For the purposes of this Act, an execution against property is completed by seizure and sale, and an attachment of a debt is completed by receipt of the debt.

(3) An execution levied by a seizure and sale of the property of a debtor is not invalid by reason only of its being an act of insolvency, and a person who purchases the property in good faith under a sale by the marshal or bailiff shall in all cases acquire a good title to the property against the assignee.

Duty of marshal in respect of property taken in execution by creditor.
[36 of 1929]

44. (1) Where any property of a debtor is taken in execution, and, before the sale thereof or the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the marshal that a receiving order has been made against the debtor, the marshal or bailiff shall abstain from a sale thereof and, on request, deliver the property levied on (so far as it is capable of delivery), and any money seized or received in part satisfaction of the execution to the Official Receiver or assignee, but the cost of the execution, shall be a first charge on the property or money so levied on or delivered, and the Official Receiver or assignee may sell the property, or an adequate part thereof, for the purpose of satisfying the charge.

(2) Where, under an execution in respect of a judgment of the Court for a sum exceeding one hundred dollars, the property of a debtor is sold, or money is paid in

order to avoid sale, the marshal shall deduct and pay the costs of the execution from the proceeds of sale or the money paid, and retain the balance for fourteen days, and, if within that time notice is served on him of an insolvency petition having been presented against or by the debtor, and a receiving order is made thereon or on any other petition of which the marshal has notice, the marshal shall pay the balance to the Official Receiver or (as the case may be) to the assignee, who shall be entitled to retain it as against the execution creditor.

Effect of
insolvency on
certain
settlements.
[19 of 1990]

45. (1) Any settlement of property, not being a settlement made—

- (a) before and in consideration of marriage, or
- (b) in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or
- (c) on or for the husband or wife or children of the settlor of property which has accrued to the settlor after marriage in right of the wife or husband,

shall, if the settlor becomes insolvent within two years after the date of the settlement, be void against the assignee, and shall, if the settlor becomes insolvent at any subsequent time within ten years after the date of the settlement, be void against the assignee, 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 or her debts without the aid of the property comprised in the settlement, and that the interest of the settlor in that property passed under the settlement on the execution thereof.

(2) Any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's

husband or wife or children of any money or 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 of or in right of the settlor's husband or wife, shall, on the settlor becoming insolvent before the property or money has been actually transferred or paid pursuant to the contract or covenant, be void against the assignee:

Provided that if the money or property has been actually transferred or paid in contemplation of insolvency, the husband, the wife or the children shall not be entitled to retain it against the assignee, unless they or the parties claiming under them can prove that the settlor was, at the time of making the covenant or contract, able to pay his or her debts in full, but they shall nevertheless be entitled to claim in respect of the covenant or contract concurrently with the other creditors, unless it appears to the Court that the covenant or contract was made in order to defeat and delay creditors or was unjustifiable, having regard to the state of the settlor's affairs at the time when the covenant or contract was entered into, and that the settlor's husband or wife had notice, from the circumstances or otherwise, that that was the case.

(3) Every settlement of any property made in contemplation of insolvency or with intent to delay, hinder, defeat, or defraud creditors, shall be void against any assignee and against every person who, or any of whose remedies for the recovery of his debt, are or may be in any wise disturbed, hindered, delayed, defeated or defrauded, any pretence, colour or feigned consideration to the contrary notwithstanding:

Provided that this subsection shall not affect the validity of any settlement made in good faith and for valuable consideration in favour of any person not having at the date thereof any manner of notice or knowledge of its having been made in contemplation of insolvency or with any such intent as aforesaid.

(4) Where a settlement, covenant, or contract is void under this section against the assignee, the assignee shall have and exercise all necessary rights and powers for acquiring title to and possession of the money or property affected or purporting to be affected by the settlement, covenant, or contract.

(5) "Settlement", for the purposes of this section, includes any conveyance or transfer of property or money.

Avoidance of preferences.

46. (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 anyone unable to pay his debts as they become due from his own money in favour of any creditor, or any person in trust for any creditor, with a view of giving that creditor a preference over the other creditors, shall, if he who makes, takes, pays, or suffers, the act is adjudged insolvent on an insolvency petition presented within three months after the date of that act, be deemed fraudulent and void as against the assignee.

(2) The fact that the debtor was pressed by his creditors shall not prevent the transaction being void, but in that case the Court, if it considers the insolvent's conduct was excusable, may direct that the transaction shall not affect his discharge.

(3) This section shall not affect the rights of anyone making title in good faith and for valuable consideration through or under a creditor of the insolvent.

Protection of transaction in good faith without notice.

47. Subject to the preceding provisions of this Act with respect to the effect of insolvency on an execution or attachment, and with respect to the avoidance of certain settlements and preferences, nothing in this Act shall invalidate, in case of an insolvency—

- (a) any payment by the insolvent to any of his creditors; or
- (b) any payment or delivery to the insolvent; or
- (c) any conveyance or assignment by the insolvent for valuable consideration; or
- (d) any contract, dealing, or transaction by or with the insolvent for valuable consideration;

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

- (i) the payment, delivery, conveyance, assignment, contract, dealing, or transaction, as the case may be, takes place before the date of the receiving order; and
- (ii) 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 insolvency committed by the insolvent before that time.

Realisation of Property

Possession of
property by the
assignee.

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

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

(3) (a) The Official Receiver, on taking possession of any property, shall, by himself or by any person authorised by him in writing, make a full and articulate inventory of the property.

(b) The inventory shall be made in the presence of one witness, and shall be signed by the person making it and by the witness.

(c) The debtor or person giving up or delivering the property shall be bound to sign the inventory, or state in writing thereon the particulars in which it is incorrect, in default whereof the Official Receiver shall apply to the Court for an order to compel him to do so.

(d) The inventory shall be deposited as of record in the Registrar's office.

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

(5) Where any part of the property of the insolvent consists of things in action, those things shall be deemed to

have been duly assigned to the assignee.

(6) Any treasurer or other officer, or any banker, attorney, or agent of an insolvent, shall pay and deliver to the assignee, all money and securities in his possession or power, as that officer, banker, attorney, or agent, which he is not by law entitled to retain as against the insolvent or the assignee; and if he does not, he shall be guilty of a contempt of court and may be punished accordingly on the application of the assignee.

Seizure of
property of
insolvent.

49. Anyone acting under warrant of the Court may seize any part of the property of an insolvent in the custody or possession of the insolvent, or of any other person, and with a view to that seizure, may break open any house, building, or room of the insolvent where he is supposed to be, or any building or receptacle of the insolvent where any of his property is supposed to be; and where the court is satisfied that there is reason to believe that property of the insolvent is concealed in a house or place not belonging to him, the Court may if it thinks fit grant a search warrant to the Registrar or any marshal or any constable, who may execute it according to its tenor.

Appropriation
of portion of
pay or salary of
insolvent to
creditors.

50. (1) Where an insolvent is an officer or clerk, or otherwise employed or engaged in the public service, the assignee shall receive for distribution amongst the creditors so much of the insolvent's pay or salary as the Court, on the application of the assignee, with the consent of the Minister responsible for the public service directs, but before making any order under this subsection, the Court shall communicate with the said Minister as to the amount, time, and manner of the payment to the assignee, and shall obtain the written statement of the said Minister that he consents to the terms of that payment.

(2) Where an insolvent is in the receipt of a salary or income other than as aforesaid, or is entitled to any pay or pension, or to any compensation, gratuity, or allowance,

granted by the State, the Court, on the application of the assignee, shall from time to time make any order it thinks just for the payment of that salary, income, pay, pension, compensation, gratuity or allowance, or of any part thereof, to the assignee to be applied by him in the manner directed by the Court.

(3) Nothing in this section shall take away or abridge any power vested in any person or authority to dismiss an insolvent, or to declare the pension allowance of any insolvent to be forfeited.

Vesting and transfer of property.

51. (1) Until an assignee is appointed, the Official Receiver shall be the assignee for the purpose of this Act, and immediately on a debtor being adjudged insolvent the property of the insolvent shall vest in the assignee.

(2) On the appointment of an assignee, the property shall forthwith pass to and vest in the assignee appointed.

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

Disclaimer of onerous property.

52. (1) Where any part of the property of the insolvent consists of lands of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other unsaleable property or property 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 assignee, 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 this section, may, by writing signed by him, at any time within six months after the date of the

receiving order, or at any time with leave of the Court, disclaim the property:

Provided that where the property has not come to the knowledge of the assignee within one month after that date, he may disclaim the property at any time within six months after he first became aware thereof.

(2) The disclaimer shall operate to determine, as from its date, the rights, interests, and liabilities of the insolvent and his property in or in respect of the property disclaimed, and shall also discharge the assignee 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 insolvent and his property and the assignee from liability, affect the rights or liabilities of any other person.

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

(4) The assignee 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 him by anyone interested in the property requiring him to decide whether he will disclaim or not, and he has, for a period of twenty-eight days after the receipt of the application, or any extended period allowed by the Court, declined or neglected to give notice whether he disclaims the property or not; and, in case of a contract, if he, after the application aforesaid, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

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

(6) The Court, on application by anyone either claiming an interest in disclaimed property, or under any liability not discharged by this Act in respect of disclaimed property, and on hearing the persons whom it thinks fit, may make an order for the vesting of the property in, or delivery thereof to, anyone entitled thereto, or to whom it seems just that it should be delivered by way of compensation for the liability aforesaid, or any person on his behalf and for his benefit and on the terms the Court thinks just; and, on the vesting order being made, the movable property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose, and the Registrar is hereby directed to pass the necessary conveyances of any immovable property:

Provided that where the property disclaimed is of a leasehold nature, the Court shall not make a vesting order in favour of anyone claiming under the insolvent as underlessee except upon the terms of making that person—

- (a) subject to the same liabilities and obligations as those whereto the insolvent was subject under the lease in respect of the property at the date when the insolvency 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 him at that date;

and in either event (if the case so requires) as if the lease had comprised only the property comprised in the vesting order; and any underlessee declining to accept a vesting order upon those terms shall be excluded from all interest in the property; and, if there is no one claiming under the insolvent willing to accept an order upon those terms, the Court may vest the insolvent's estate and interest in the property in anyone liable, either personally or in a representative character, and either alone or jointly with the insolvent, to perform the lessee's covenants in the lease, freed and discharged from all estates, encumbrances, and interests created therein by the insolvent.

(7) Anyone injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the insolvent to the extent of the injury, and may accordingly prove the injury as a debt under the insolvency.

Powers of the assignee to deal with property

53. Subject to this Act and to any general rules, the assignee may do all or any of the following things:

- (a) sell all or any part of the property of the insolvent (including the goodwill of the business (if any) and the book-debts due or growing due to the insolvent), by public sale or by tender, with power to transfer the whole thereof to any person or company, or to sell them in parcels;
- (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 insolvent; and
- (d) exercise any powers the capacity to exercise which is vested in the assignee under this

Act, and execute any powers of attorney, deeds, and other instruments for the purpose of carrying into effect the provisions of this Act.

Powers exercisable with permission of committee of inspection.

54. (1) The assignee, with the permission of the committee of inspection, may do all or any of the following things:

- (a) carry on the business of the insolvent, so far as may be necessary for beneficially winding it up;
- (b) bring, institute, or defend any action or other legal proceeding relating to the property of the insolvent;
- (c) employ an attorney-at-law or other agent to take any proceedings or do any business sanctioned by the committee of inspection;
- (d) accept, as the consideration for the sale of any property of the insolvent, a sum of money payable at a future time, subject to any stipulations as to security and otherwise the committee thinks fit;
- (e) mortgage or pledge any part of the property of the insolvent for the purpose of raising money for the payment of his debts;
- (f) refer any dispute to arbitration, compromise all debts, claims, and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or

supposed to subsist between the insolvent and anyone who has incurred any liability to the insolvent, on the receipt of the sums, payable at the times, and generally on the terms, which are agreed;

- (g) make any compromise or other arrangement thought expedient—
 - (i) with creditors, or persons claiming to be creditors, in respect of any debts provable under the insolvency; or
 - (ii) with respect to any claim arising out of or incidental to the property of the insolvent made or capable of being made on the assignee by anyone, or by the assignee on anyone; and
- (h) 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:

Provided that—

- (a) the assignee shall not carry on any business of the insolvent except with the permission of the committee of inspection expressly

given, or, in the absence of the committee, with the consent of the Court, and shall not carry on any plantation in cultivation except with the permission of the committee of inspection expressly given if one is appointed, and of the Court; and

- (b) every plantation in cultivation shall, while it remains under the administration of the assignee, be conducted in the prescribed manner and subject to the directions of the Court.

Distribution of Property

Declaration
and distribution
of dividends.

55. (1) Subject to the retention of any sums necessary for the costs of administration or otherwise, the assignee shall, with all convenient speed, declare and distribute dividends amongst the creditors who have proved their debts.

(2) The first dividend (if any) shall be declared and distributed within four months after the conclusion of the first meeting of creditors, unless the assignee satisfies the committee of inspection or 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 six months.

(4) No dividend, except a final dividend, shall be declared of less amount than one cent in the dollar; and where the amount finally to be divided will give less than one-quarter of one cent in the dollar, no dividend shall be declared and the administration shall be closed.

(5) Before declaring a dividend the assignee shall publish, in the prescribed manner, a notice of his intention to do so, and shall also send a reasonable notice thereof to

each creditor mentioned in the insolvent's statement who has not proved his debt.

(6) When the assignee has declared a dividend, he shall publish a notice stating the amount of the dividend and when and how it is payable, and shall prepare for the inspection of creditors a statement in the prescribed form as to the particulars of the estate.

Joint and separate dividends.

56. (1) Where one partner of a firm is adjudged insolvent, a creditor to whom the insolvent 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 insolvent 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, subject to any order to the contrary made by the Court on the application of anyone interested, shall be declared together; and the expenses of and incidental to those dividends shall be fairly apportioned by the assignee between the joint and separate properties, regard being had to the work done for and the benefit received by each property.

Provision for creditors residing at a distance.

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

(2) He shall also make provision for 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.

Right of creditor who does not prove debt before declaration of dividend.

58. 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 assignee, any dividend or dividends he has 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.

Final dividend.

59. (1) When the assignee has realised all the property of the insolvent, or so much thereof as, in the joint opinion of himself and the committee of inspection, can be realised without needlessly protracting the assigneeship, he shall declare a final dividend, but, before doing so, he shall give notice in the prescribed manner to those 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 aforesaid claimant grants him further time for establishing his claim, then on the expiration of that further time, the property of the insolvent shall be divided among the creditors who have proved their debts without regard to the claims of any other person.

No action for dividend.

60. No action for a dividend shall lie against the assignee, but if he refuses to pay any dividend the Court if it thinks fit may 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.

Procedure
where property
is withheld
under claim of
right.

61. (1) Where the assignee claims property belonging to the insolvent and possession thereof is refused or withheld by anyone under a *bona fide* claim of right which raises any question of law or of fact, the assignee may apply in the prescribed manner to the Court, and the Court may either order that the property be immediately delivered to the assignee or, when the question cannot be properly decided in a summary way, that a suit be instituted in the ordinary manner.

(2) When property is so withheld as aforesaid, and the circumstances appear to the Court to require immediate steps to be taken to preserve the property, the Court may make an interim order authorising the assignee to take possession thereof until further order.

Procedure
where property
is claimed by
third person.

62. When anyone lays claim to property in the custody or possession of the assignee he may apply to the Court in the prescribed manner to issue directions to the assignee.

Employment of
and allowance
to insolvent for
maintenance.

63. (1) The assignee with the permission of the committee of inspection, may appoint the insolvent himself to superintend the management of his property or of any part thereof, or to carry on his trade (if any) for the benefit of his creditors, and in any other respect to aid in administering the property in the manner and on the terms directed by the assignee.

(2) The assignee, with the permission of the committee of inspection, may from time to time make any allowance the assignee thinks just to the insolvent out of his property for his support, and that of his family, or in consideration of his services if the assignee is engaged in winding up his estate, and shall report the amount of the allowance to the Court, but the allowance may be reduced by the Court on the application of any creditor.

Right of
insolvent to
surplus.

64. The insolvent 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 insolvency petition.

PART IV
GENERAL DUTIES OF THE OFFICIAL RECEIVER IN
INSOLVENCY

Possession by
Official
Receiver.

65. Where a receiving order is made, or he is appointed interim receiver, the Official Receiver shall immediately take possession of the debtor's property.

Status of
Official
Receiver.

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

(2) The Official Receiver may, for the purpose of affidavit verifying proofs, petitions, or other proceedings under this Act, administer oaths; and he may also take declarations verifying proofs.

(3) All sections of this Act referring to an assignee, unless the context otherwise requires or the Act otherwise provides, shall include the Official Receiver when acting as assignee.

(4) An assignee shall supply the Official Receiver with the information and give him the access to, and facilities for, inspecting the insolvent's books and documents and, generally, give him the aid requisite for enabling him to perform his duties under this Act.

Duties as
regards
debtor's
conduct.

67. 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 misdemeanour under any Act for the time being in force providing for the punishment of fraudulent debtors, or under this Act, or which would justify the Court in refusing, suspending, or qualifying an order for his discharge;

- (b) to make any other reports concerning the conduct of the debtor directed by the Court.

Duty as regards administration of estate. **68.** (1) As regards the estate of a debtor it shall be the duty of the Official Receiver—

- (a) pending the appointment of an assignee, to act as interim receiver of the debtor's estate, and, where a special manager is not appointed, as manager thereof;
- (b) to authorise a special manager to raise money or make advances for the purposes of the estate in any case where, in the interests of the creditors, it appears necessary to do so;
- (c) to summon and preside at the first meeting of creditors;
- (d) to issue forms of proxy for use at the meetings of creditors;
- (e) to report to the creditors as to any proposal made by the debtor with respect to the mode of liquidating his affairs;
- (f) to advertise the receiving order, the date of the first meeting of creditors

and of the debtor's public examination, and any other matters necessary to be advertised;

- (g) to act as assignee during any vacancy in the office of assignee:

Provided that where the debtor cannot himself prepare a proper statement of affairs, the Official Receiver may, subject to any prescribed conditions and at the expense of the estate, employ some person or persons to assist the debtor in the preparation of that statement.

(2) For the purpose of his duties as interim receiver or manager the Official Receiver shall have all powers necessary to protect the estate as if it vested in him, 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, except as provided by the proviso to the preceding subsection, unless the Court otherwise orders, incur any expense beyond that requisite for the protection of the debtor's property or the disposing of perishable goods.

Right to apply
to the Court for
directions.

69. The Official Receiver may apply to the Court in the prescribed manner for directions in relation to any matter arising in insolvency.

PART V
OFFICERS AND ASSIGNEES IN INSOLVENCY

Officers

Appointment
of certain
officers.

70. (1) The Registrar, with the consent of the Chancellor, may appoint any officer in the registry to perform his duties under this Act or any general rules.

(2) The officer entitled the Official Receiver under the

c. 12:22

Official Receiver Act, shall be the Official Receiver under this Act.

Official name under Appointment

Official name
of assignee.

71. (1) The official name of an assignee in insolvency shall be “the assignee of the property of...an insolvent”, (inserting the name of the insolvent), and by that name 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.

(2) The creditors, if they think fit, may appoint more persons than one to the office of assignee, and when more persons than one are appointed they shall declare whether any act required or authorised to be done by the assignee is to be done by all or any one or more of those persons; but all those persons are in this Act included under the term “assignee”, and shall be joint holders of the property of the debtor.

(3) The creditors may also appoint persons to act as assignees in succession in the event of one or more of those first named declining to accept the office of assignee, or failing to give security, or their appointment being disapproved by the Official Receiver.

Remuneration and Costs

Remuneration
of assignee.

72. (1) Where the creditors appoint anyone to be assignee of a debtor's estate, his remuneration (if any) shall be fixed by an ordinary resolution of the creditors, or if the creditors so resolve by the committee of inspection, and shall be in the nature of a commission or percentage, of which one part shall be payable on the amount realised by him 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.

(2) If one-fourth in number or value of the creditors dissent from the resolution, or the debtor satisfies the Court that the remuneration is unnecessarily large, the Court shall fix the amount of the remuneration.

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

(4) The resolution shall express what expenses the remuneration is to cover, and no liability shall attach to the debtor's estate or to the creditors in respect of any expenses which the remuneration is expressed to cover.

(5) Where an assignee so appointed acts without any remuneration he shall be allowed out of the insolvent's estate any proper expenses incurred by him in or about the proceedings of the insolvency, which the creditors, with the sanction of the Official Receiver, approve.

(6) An assignee shall not, in any circumstances whatever, make any arrangement for or accept from the debtor, or any attorney-at-law, auctioneer, or any other person employed about an insolvency, any gift, remuneration, or pecuniary or other consideration or benefit whatever, beyond the remuneration fixed by the creditors and payable out of the estate, nor shall he make any arrangement for giving up, or give up, any part of his remuneration, either as receiver, manager, or assignee, to the debtor or insolvent, or to any attorney-at-law or other person employed about an insolvency.

Allowance and
taxation of
costs.

73. (1) Where an assignee or manager receives remuneration for his services in that character, no payment shall be allowed in his accounts in respect of the performance by any other person of the ordinary duties required by this

Act or general rules to be performed by himself.

(2) Where the assignee is an attorney-at-law, he may contract that the remuneration for his services as assignee shall include all professional services.

- (3) (a) All bills and charges of attorneys-at-law, managers, accountants, auctioneers, brokers, and other persons, not being assignees, shall be taxed by the Registrar or prescribed officer and no payments in respect thereof shall be allowed in the assignee's account without proof of the taxation having been made.
- (b) The Registrar or prescribed officer shall satisfy himself before passing the bills and charges, that the employment of the, attorneys-at-law, and other persons, in respect of the particular matters out of which the charges arise, has been duly sanctioned.
- (c) The sanction required under this section for the employment of attorneys-at-law, or other persons, must be obtained before the employment, except in cases of urgency, when it must be shown that no undue delay took place in obtaining the sanction.

(4) Everyone aforesaid shall, on request by the assignee (which the assignee shall make a sufficient time before declaring a dividend), deliver his bill of costs or charges to the proper officer for taxation, and if he fails to do so within seven days after receipt of the request, or any

further time the Court, on application, may grant, the assignee shall declare and distribute the dividend without regard to any claim by him, and thereupon his claim shall be forfeited, as well against the assignee personally as against the estate.

Vacation of
office of
assignee by
insolvency.

74. If a receiving order is made against an assignee he shall thereby vacate his office of assignee.

Removal of
assignee.

75. (1) The creditors may by ordinary resolution, at a meeting specially called for that purpose of which seven days' notice has been given, remove an assignee appointed by them; and at the same or any subsequent meeting may appoint another person to fill the vacancy as hereinafter provided in case of a vacancy in the office of assignee.

(2) If the Official Receiver is of opinion—

- (a) that an assignee appointed by the creditors is guilty of misconduct or fails to perform his duties under this Act; or
- (b) that he is, by reason of lunacy, or continued sickness or absence, incapable of performing his duties; or
- (c) that his connection with or relation to the insolvent 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 where that assignee in any other matter has been removed from office on the ground of misconduct, the Official Receiver may remove him from his office; but if the creditors by ordinary resolution

disapprove of his removal, he or they may appeal against it to the Court.

When vacancy
in office of
assignee.

76. (1) If a vacancy occurs in the office of an assignee, the creditors in a 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.

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

(3) If the creditors do not, within three weeks after the occurrence of a vacancy, appoint a person to fill the vacancy, the Official Receiver shall become assignee; but in that case the creditors or committee of inspection shall have the same power of appointing an assignee as in the case of a first appointment.

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

Powers and Duties of Assignee

Insolvency
estates account.

77. (1) An account called "the Insolvency Estates Account" shall be kept by the Official Receiver with the Accountant General, and all moneys received by the Official Receiver as assignee or from assignees shall be paid to that account.

(2) Every assignee shall, in the prescribed manner and at the prescribed times, pay the money received by him to the insolvency estates account at the Official Receiver's office, and the Official Receiver shall furnish him with a certificate of receipt of the money so paid, which shall be an effectual discharge to him in respect thereof.

(3) No commission shall be payable to the Official Receiver on moneys received by an assignee and paid into a

bank as hereinafter provided, but the Official Receiver shall at the prescribed times, and in any event not less than once in every six months, examine the banking account of the assignee and call the assignee to account for any misfeasance or neglect in connection therewith , and for each examination the prescribed fee shall be paid.

Mode of
keeping bank
account.

78. (1) Where a committee of inspection is appointed, if it appears to the committee that, for the purpose of carrying on the debtor's business or of obtaining advances, or because of the probable amount of the cash balance, or if the committee satisfies the Official Receiver that for any other reason it is for the advantage of the creditors that the assignee should have an account with a bank, the Official Receiver may, on the application of the committee, authorise the assignee to make his payments into and out of a bank selected by the committee.

(2) The account shall be opened and kept by the assignee in the name of the debtor's estate; and any interest receivable in respect of the account shall be part of the assets of the estate.

(3) The assignee shall make his payments into and out of the bank in the prescribed manner.

(4) Subject to any general rules relating to small insolvencies under Part VII, where the debtor, at the date of the receiving order, has an account at a bank, that account shall not be withdrawn until the expiration of seven days from the day appointed for the first meeting of creditors, unless the Official Receiver, for the safety of the account or other sufficient cause, withdraws it.

(5) If an assignee at any time retains for more than ten days a sum exceeding two hundred and forty dollars or any other amount which the Court in any particular case authorises 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 twenty per cent *per annum*, and shall have no claim for 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.

(6) All payments out of money standing to the credit of the insolvency estates account shall be made by the Official Receiver in the prescribed manner.

Prohibition of
assignee
paying into
private
account.

79. No assignee in insolvency or under any composition or scheme of arrangement shall pay any sums received by him as assignee into his private banking account.

Duty of
assignee to
account to the
Registrar.

80. (1) Every assignee shall, at the prescribed times, but not less than once in each period of six months during his tenure of office, send to the Registrar an account of his receipts and payments as assignee.

(2) The accounts shall be in the prescribed form, shall be made in duplicate, and shall be verified by a declaration in the prescribed form.

(3) (a) On receipt of the account with the books, documents, and vouchers, the Registrar shall forthwith cause due notice thereof to be published for four successive Wednesdays, calling upon all persons interested to examine the same and to state their objections, if any, in writing, within one month from the date when the notice was first published.

(b) The account and the books, documents, and vouchers shall be open during office hours to the inspection of all persons interested in the estate for that period, without the

payment of any fee.

- (c) Anyone interested in objecting to the account shall state his objection in writing, and may file it in the registry without the payment of any fee; and after the expiration of the period aforesaid the Registrar shall place before the accountant to the Court the account books, documents, and vouchers, in the order in which they have been deposited with him, and the objections thereto, if any; and, if any document or voucher is found deficient or wanting, the accountant shall give notice thereof in writing to the assignee, who shall be bound, within fourteen days after the receipt of that notice, to furnish the document or voucher required, or show sufficient cause to the contrary, on pain, in default thereof, of having the items which are unvouched or unsupported struck out of his account.
- (d) The accountant shall thereupon examine the account, together with the inventory and statement of affairs filed by the insolvent, and shall ascertain if the assets of the estate which ought to have been collected have been so collected, and shall either certify the account as correct, or shall report to the Court thereupon, specifying any objections he has thereto; and, thereafter, upon a day to be fixed for that purpose, of which notice shall be given in the *Gazette*, the

account shall be submitted for approval to a judge, in the presence of the assignee and of the accountant, and of any parties concerned desiring to attend.

(e) The judge, upon examining the account and after hearing parties and taking evidence, if he thinks fit to do so, shall have full power and authority to approve and pass the account, or to order it to be altered and amended in any manner he deems just, or to reserve any question that arises for the consideration of the Full Court.

(4) When the account has been passed, one copy thereof shall be kept and filed by the Court and shall be open to the inspection of any creditor, or of the debtor, or of any person interested, on payment of the prescribed fee.

Receipts, Payments, Accounts, Audit

Duty of
assignee to
furnish list of
creditors.

81. (1) The assignee shall, whenever required by any creditor to do so, and on payment by the creditor of the prescribed fee, furnish and transmit to him by post a list of the creditors, showing therein the amount of the debt due to each creditor.

(2) Any creditor, with the concurrence of one-sixth of the creditors (including himself) may at any time call upon the assignee or Official Receiver to furnish and transmit to the creditors a statement of the accounts up to the date of the notice, and the assignee or Official Receiver shall, upon receipt of the notice, furnish and transmit that statement:

Provided that the person at whose instance the accounts are furnished shall deposit with the assignee or Official

Receiver, as the case may be, a sum sufficient to pay the costs of furnishing and transmitting the accounts, that sum to be repaid to him out of the estate if the creditors or the Court so direct.

Duty of assignee to keep proper books.

82. The assignee shall keep, in the prescribed manner, proper books, in which he shall from time to time cause to be made entries or minutes of proceedings at meetings, and of any other prescribed matters, and any creditor of the insolvent, subject to the control of the Court, may personally or by his agent inspect any of those books.

Annual statement by assignee.

83. (1) Every assignee shall from time to time, when thereto required by the Official Receiver, and not less than once in every year during the time he continues to act, transmit to the Official Receiver a statement showing the proceedings in the insolvency up to the date of the statement, containing the prescribed particulars and made out in the prescribed form.

(2) The Official Receiver shall cause the statement so transmitted to be examined, and shall call the assignee to account for any misfeasance, neglect, or omission appearing on the statement, or in his accounts or otherwise, and may require the assignee to make good any loss sustained by the estate of the insolvent by reason of that misfeasance, neglect, or omission.

(3) Where the Official Receiver is himself the assignee, he shall submit a similar statement to the Court, and the Court shall, in the prescribed manner, cause the functions of the Official Receiver under the preceding subsection to be performed by any of its officers.

Control over Assignee

Control and discretionary powers of

84. (1) Subject to this Act, the assignee shall, in the administration of the property of the insolvent, and in the distribution thereof among his creditors, have regard to any

assignee.

directions given by resolution of the creditors at any general meeting, or by the committee of inspection (if any); 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.

(2) The assignee 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 any times when the creditors, by resolution, either at the meeting appointing the assignee or otherwise, direct, or whenever requested in writing to do so by one-fourth in value of the creditors.

(3) The assignee shall also summon a meeting of creditors within fourteen days after being requested to do so by any creditor with the concurrence of one-sixth in value of the creditors, including the one making the request:

Provided that the person at whose instance the meeting is summoned shall deposit with the assignee a sum sufficient to pay the costs of summoning the meeting, that sum to be repaid to him out of the estate if the creditors or the Court so direct.

(4) The assignee may apply to the Court, in the prescribed manner, for directions in relation to any particular matter arising under the insolvency.

(5) Subject to this Act, the assignee shall use his own discretion in the management of the estate and its distribution among the creditors.

Appeal to the
Court against
assignee.

85. The insolvent or any of the creditors, or any other person, aggrieved by any act or decision of the assignee, may apply to the Court, and the Court may confirm, reverse, or modify the act or decision of which complaint is made and make any order in the premises it thinks fit.

Control of
assignee by
Official
Receiver.

86. (1) The Official Receiver shall take cognizance of the conduct of assignees, and, in the event of any assignee 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 Official Receiver by any creditor in regard thereto, the Official Receiver shall inquire into the matter and take any action thereon he deems expedient.

(2) The Official Receiver may at any time require any assignee to answer any inquiry made in relation to any insolvency in which the assignee is engaged, and may, if he thinks fit, apply to the Court to examine upon oath the assignee or any other person concerning the insolvency.

(3) The Official Receiver may appoint any person to make an investigation of the books and vouchers of the assignee.

Vacation of Office by Assignee

Release of
assignee.

87. (1) When the assignee has realised all the property of the insolvent, or so much thereof as can, in his opinion, be realised without needlessly protracting the assigneeship, and has 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, the Court, on his application, shall cause a report by the accountant to the Court on his accounts to be prepared, and the Court shall take into consideration the report and any objection urged by any creditor or person interested against the release of the assignee, and shall grant or withhold the release accordingly.

(2) Where the release of an assignee is withheld, the Court may, on the application of any creditor or person interested, make any order it thinks just, charging the assignee with the consequences of any act or default that he

has done or made contrary to his duty.

(3) An order of the Court releasing the assignee 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 insolvent, or otherwise in relation to his conduct as assignee, but the 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, assignee, and when the Official Receiver has been released under those provisions he shall continue to act as assignee 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 assignee has not previously resigned or been removed, his release shall operate as a removal of him from his office, and thereupon the property of the insolvent shall vest in the Official Receiver.

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

PART VI
JURISDICTION, PROCEDURE AND POWERS OF
COURTS

Jurisdiction to
be exercised by
judge.

88. Subject to this Act and to general rules, the jurisdiction of the Court may be exercised by any judge of the Court and may be exercised in chambers.

Power of Court
to decide

89. (1) The Court shall have full power to decide all questions of priorities, and all other questions whatever,

questions.

whether of law or of fact, arising in any case of insolvency and coming within the cognizance of the Court, or which the Court deems it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in the insolvency.

(2) Where default is made by an assignee, debtor, or other person in obeying any order or direction given by the Official Receiver or any other officer appointed under any power conferred by this Act, the Court may, on the application of the Official Receiver or other duly authorised person, order the defaulting assignee, debtor, or person to comply with the order or direction so given; and the Court may also, if it thinks fit, on the application, make an immediate order for the committal of the defaulting assignee, debtor, or other person:

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

Order for sale
of disputed
property.

90. Where the right to any movable property of a perishable description, or any animal, in the possession or custody of the Official Receiver or assignee is in dispute, the Court may after reasonable notice to the party claiming it order the immediate sale of the property or animal, and the net proceeds of the sale shall represent the subject of the dispute to all intents and purposes, or may make any other order it thinks fit.

General powers
of the Court.

91. (1) Subject to 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.

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

(3) The Court may at any time amend any written process or proceeding under this Act, upon any terms it

thinks 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 any terms it thinks fit to impose.

(5) Subject to any general rules, the Court may in any matter take the whole of any part of the evidence either *viva voce*, or by interrogatories, or upon affidavit, or by commission abroad.

(6) 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 to do so, dispense with the public examination of one of the joint debtors unavoidably prevented from attending the examination by illness or absence abroad.

(7) Subject to general rules, the Full Court and the Court may dispose of all matters in insolvency during vacation or non-session of the Court.

(8) The Court may at any time review, rescind, or vary, any order made by it under its insolvency jurisdiction.

Consolidation
of two or more
petitions.

92. Where two or more insolvency petitions are presented against the same debtor or against joint debtors, the Court may consolidate the proceedings, or any of them, on any terms it thinks fit to impose.

Substitution of
petitioner.

93. Where the petitioner does not proceed with due diligence on his petition, the Court may substitute as petitioner any other creditor to whom the debtor is indebted in the amount required by this Act in the case of the petitioning creditor.

Proceedings to
continue when

94. If a debtor by or against whom an insolvency petition has been presented dies, the proceedings in the

debtor dies.

matter shall, unless the Court otherwise orders, be continued as if he were alive.

Staying proceedings.

95. The Court, for sufficient reason, may at any time make an order staying the proceedings under an insolvency petition, either altogether or for a limited time, on any terms and subject to any conditions the Court thinks just.

Petitions against partners.

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

Dismissal of petition as to one or more respondents.

97. 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 others.

When more than one petition, same assignee to be appointed.

98. Where a receiving order has been made on an insolvency petition against or by one member of a partnership, and any other insolvency petition against or by a member of the same partnership is filed in the Court, unless the Court otherwise directs, the same assignee or receiver shall be appointed as has been appointed in respect of the property of the first-mentioned member of the partnership; and the Court may give directions for consolidating the proceedings under the petitions as it thinks just.

Procedure in case of partner being insolvent.

99. Where a member of a partnership is adjudged insolvent or where a receiving order is made, the Court may authorise the assignee to commence and prosecute any action in the names of the assignee and of the insolvent's partner; and any release by that 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 his action, and, if he does not claim any benefit therefrom, he shall be

indemnified against costs in respect thereof as the Court directs.

Insolvent contractor.

100. Where an insolvent is a contractor, or where a receiving order is made against a debtor who is a contractor, in respect of any contract jointly with any person or persons, that person or those persons may sue or be sued in respect of the contract without the joinder of the insolvent.

Action by or against partners.

101. Any two or more persons who are partners, or anyone 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 that case the Court may, on application by anyone interested, order the names of the persons who are partners in the firm or the name of that person to be disclosed in the manner, and verified upon oath or otherwise, directed by the Court.

WARRANTS OF COURT

Execution of search warrant.

102. A search warrant issued by the Court for the discovery of any property of a debtor may be executed in the prescribed manner, or in the same manner and with the same privileges as a search warrant for property supposed to be stolen may be executed according to law.

Liability of person opposing the Official Receiver, etc.

103. Everyone who opposes or hinders the Official Receiver or an assignee or manager in the performance of his duty under this Act shall be guilty of a contempt of court.

Committal to prison.

104. Where the Court commits anyone to prison, the commitment may be to any convenient prison the Court thinks expedient.

PART VII
SUPPLEMENTAL PROVISIONS

Application of Act

Summary administration in small cases.

105. When a petition is presented by or against a debtor, if the Court is satisfied by affidavit or otherwise, or the Official Receiver reports to the Court, that the property of the debtor is not likely to exceed in value fifteen hundred dollars, the Court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications:

- (a) if the debtor is adjudged insolvent the Official Receiver shall be the assignee;
- (b) there shall be no committee of inspection, but the Official Receiver may do all things which may be done by the assignee with the permission of the committee of inspection;
- (c) other modifications may be made in the provisions of this Act as prescribed by general rules with the view of saving expense and simplifying procedure; but nothing in this section shall permit the modification of the provisions of this Act relating to the examination and discharge of the debtor:

Provided that the creditors may at any time by special resolution resolve that an assignee be appointed, and thereupon the matter shall proceed as if an order for summary administration had not been made.

Order for administration of debtor's

106. (1) Where a judgment has been obtained in any court and the debtor is unable to pay the amount forthwith, and alleges that his whole indebtedness amounts to a sum not

estate on
judgment.
[4 of 1972]

exceeding two thousand dollars, inclusive of the debt for which the judgment is obtained, the Court may make an order providing for the administration of his estate, and for the payment of his debts by instalments or otherwise, and either in full or to the extent to the Court, in the circumstances of the case, appearing to be practicable, and subject to any conditions as to his future earnings or income the Court thinks just.

(2) The order shall not be invalid by reason only that the total amount of the debts is found at any time to exceed five hundred dollars, but in that case the Court may, if it thinks fit, set aside the order.

(3) When the order is made, no creditor shall have any remedy against the person or property of the debtor in respect of any debt which the debtor has notified to the Court, except with the leave of the Court and on the terms which the Court imposes; and all proceedings pending against the debtor in respect of that debt shall be stayed, but the costs already incurred by the creditor may, on application to the Court, be added to the debt notified.

(4) If the debtor makes default in payment of any instalment payable in pursuance of an order under this section, he shall be deemed, unless the contrary is proved, to have had, since the date of the order, the means to pay the sum in respect of which he has made default and to have refused or neglected to pay it.

(5) The order shall be carried into effect in the prescribed manner.

(6) Money paid under the order and the proceeds of sale of any goods sold by the Official Receiver, after deducting all expenses of seizure and sale and fees, shall be appropriated, first, in satisfaction of the costs of the plaintiff in the action, next, in satisfaction of the costs of administration, and then in liquidation of debts in accordance

with the order.

(7) Notice of the application for the order shall be sent to the Official Receiver, and, when the order is made, the Official Receiver shall publish a notice in the *Gazette* and in one newspaper, calling on all persons who claim to be creditors in respect of debts contracted before the date of the order to prove their debts within twenty-one days from the date of the first publication of that notice.

(8) Any creditor of the debtor, on proof of the debt before the Official Receiver, shall be entitled to be scheduled as a creditor of the debtor for the amount of his proof.

(9) Any creditor may, in the prescribed manner, object to any debt scheduled or to the manner in which payment is directed to be made by instalments.

(10) Anyone who, after the date of the order, becomes a creditor of the debtor, shall on proof of his debt before the Official Receiver, be scheduled as a creditor of the debtor for the amount of his proof, but shall not be entitled to any dividend under the order until those creditors who are scheduled as having been creditors before the date of the order have been paid to the extent provided by the order.

(11) When the amount received under the order is sufficient to pay each creditor scheduled to the extent thereby provided and the costs of the plaintiff and of the administration, the order shall be superseded and the debtor shall be discharged from his debts to the scheduled creditors.

(12) Nothing in this section contained shall protect the debtor from proceedings for the recovery of any debt contracted by him after the date of the order; and where any judgment for the payment of money is obtained against the debtor during the subsistence of the order, the Court may, if it thinks fit, on the application of the Official Receiver or any creditor of the debtor, rescind the order, adjudge the debtor

insolvent, and make all consequential orders appearing just.

(13) During the subsistence of the order, no transport passed, or mortgage executed, by the debtor shall be of any force or validity unless the Official Receiver or the person having the conduct of the order consents in writing to the transport or mortgage being passed or executed; and no advertisement of any intended transport or mortgage by the debtor shall be made by the Registrar until that consent in writing has been deposited in his office.

Exclusion of
partnerships
and companies.
c. 89:01

107. A receiving order shall not be made against any corporation or against any partnership, or association, or company registered under the Companies Act.

Person dying
insolvent.

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

(2) Upon the prescribed notice being given to the representative of the deceased debtor, the Court may on 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 insolvency of the deceased debtor's estate, or may, upon cause shown, dismiss the petition, with or without costs.

(3) An executor or administrator may at any time apply for and obtain an order of administration under this section.

(4) Upon an order being made for the administration of a deceased debtor's estate, the property of the debtor shall vest in the Official Receiver as assignee and he shall forthwith proceed to realise and distribute it in

accordance with this Act.

(5) With the modifications hereinafter mentioned, all the provisions of Part III relating to the administration of the property of an insolvent shall, so far as they 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.

(6) In the administration of the property of the deceased debtor under an order of administration, the Official Receiver shall have regard to any claim by the 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 to any claim for payment for medical attendance on and medicine for the deceased debtor for the four months preceding his decease, and those claims shall be deemed a preferential debt under the order and 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 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 insolvency, the surplus shall be paid over to the heir of the deceased debtor or dealt with in any other prescribed manner.

(8) Notice to the heir or executor of a deceased debtor of the presentation by a creditor of a petition under this section shall, if an order for administration is made thereon, be deemed to be equivalent to notice of an act of insolvency, and after the notice no payment or transfer of property made by the heir or executor shall operate as a discharge to him as between himself and the Official Receiver, but, except as aforesaid, nothing in this section shall invalidate any payment made or any act or thing done in good faith by the heir or executor before the date of the order

for administration.

(9) In any case of administration in insolvency under this section the creditors of the deceased debtor shall have the same powers as to appointment of an assignee and committee of inspection as they have in other cases where the estate of a debtor is being administered or dealt with in insolvency, and the provisions of this Act relating to assignees and committees of inspection shall apply to assignees and committees of inspection appointed under the power conferred by this subsection.

(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 insolvency.

(11) "Creditor" in this section means one or more creditors qualified to present an insolvency petition as in this Act provided.

General Rules

Rules and
scale made and
prescribed in
1901.

109. (1) The Insolvency Rules, 1901, and the scale of fees and percentages in insolvency matters made and prescribed by the Court of Policy on the 5th September, 1901, shall be construed and have effect as if they respectively had been made and prescribed under and in accordance with this Act.

Making of
general rules.

[O. 37/1966A]
c. 6:04

(2) The authority empowered to make rules of court regulating the practice and procedure of the Court may from time to time make general rules for carrying into effect the objects of this Act, and also for carrying into effect the Debtors' Act.

(3) Any copy of the rules purporting to have been printed for the Government of Guyana, shall be *prima facie* evidence in all courts and for all purposes of their due making and tenor.

Fees, Expenditure and Returns

Fees.

110. The Minister, subject to negative resolution of the National Assembly, may from time to time prescribe a scale of fees and percentages to be charged for or in respect of proceedings under this Act, and may direct by whom and in what manner they are to be collected and accounted for, and to what account they shall be paid.

Evidence

Evidence of notice.

111. (1) A copy of the *Gazette* containing any notice inserted therein in pursuance of this Act shall be evidence of the facts stated in the notice.

(2) The production of a copy of the *Gazette* containing any notice of a receiving order, or of an order adjudging a debtor insolvent, or of an order of administration under section 108, shall be conclusive evidence in all legal proceedings of the order having been duly made, and of its date.

Evidence of proceedings at meetings of creditors.

112. (1) A minute of proceedings at a meeting of creditors or of a committee of inspection under this Act, signed, at the same or the next ensuing meeting, by a person describing himself as, or appearing to be, chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(2) Until the contrary is proved, every meeting of creditors or of a committee of inspection 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.

Evidence of proceedings in

113. (1) Any petition or copy of a petition in insolvency, any order or certificate or copy of an order or

insolvency. certificate made by the Court, any instrument or copy of an instrument, affidavit, or document made or used in the course of any insolvency proceedings, or other proceedings had under this Act, shall, if it appears to be sealed with the seal of the Court, or purports to be signed by any judge thereof, or is certified as a true copy by the Registrar be receivable in evidence in all legal proceedings whatever.

(2) Any copy of a document filed in the office of the Official Receiver shall, if it appears to be sealed with the seal of the Official Receiver, be receivable in evidence in all legal proceedings whatever.

Swearing of affidavits.

114. Subject to general rules, any affidavit to be used in the Court may be sworn before anyone authorised to administer oaths, or, in the case of a person who is out of Guyana, before a magistrate or justice of the peace or other person qualified to administer oaths in the country where he resides (he being certified, if residing out of Guyana, to be a magistrate or justice of the peace, or qualified as aforesaid, by a diplomatic agent or consular officer of Guyana, or by a notary public).

Deposition of deceased witness.

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

Seal of the Court.

116. For matters in insolvency the Court shall have a seal describing the Court with the word "insolvency" added, and judicial notice shall be taken of the seal, and of the signature of any judge or of the Registrar, in all legal proceedings.

Seal of the Official Receiver.

117. The Official Receiver for matters in insolvency shall have a seal, which must be approved by the Chancellor, and judicial notice shall be taken of the seal in all legal

proceedings.

Certificate of
appointment of
assignee.

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

Appeal from
the Official
Receiver.

119. Where by this Act an appeal to the Court is given against any decision of the Official Receiver, the appeal shall be brought within twenty-one days from the time when the decision appealed against is pronounced or made.

Proceedings of
the Official
Receiver.

120. All documents purporting to be orders, directions, permissions, or certificates made, given, or issued by the Official Receiver, and to be sealed with the seal of the Official Receiver, shall be received in evidence, and deemed to be those orders, directions, permissions, or certificates, without further proof, unless the contrary is shown.

Miscellaneous

Computation of
time.
[4 of 1972]

121. (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 proceedings, then, in the computation of that limited time, it 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, unless the last day is a public holiday or a day on which the office of the Registrar is closed, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, which shall not be one of the days in this section specified.

(2) Where by this Act any act or proceeding is directed to be done or taken on a certain day, then, if that day happens to be a public holiday or a day on which the office of the Registrar is closed, 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 shall not be one of the days in this section specified.

Service of notices.

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

Formal defect not to invalidate proceedings.

123. (1) No proceeding in insolvency shall be invalidated by any formal defect or by any irregularity, unless the Court before which an objection is made to the proceeding is of 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.

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

Acting of corporation, firm or persons under disability.

124. For all or any of the purposes of this Act, a corporation may act by any if its officers authorised in that behalf under the seal of the corporation, a firm may act by any of its members, a lunatic may act by his committee or curator bones, and an infant may act by his guardian, but no infant shall be adjudged insolvent.

Insolvency Estates Account

Account to be kept by Official Receiver.

125. (1) An account called the Insolvency Estates Account (and hereinafter called "the account") shall be kept by the Official Receiver with the Accountant General, to which the moneys mentioned in section 55(4), section 77 and the next ensuing section shall be paid.

(2) The Official Receiver may apply to the Minister responsible for finance for payment out of any moneys standing at the credit of the account of any amount required for the purpose of advances for the use of any estates, and the said Minister may direct that the sum required shall be paid

to the Official Receiver by the Accountant General from those moneys.

(3) Where the Official Receiver obtains those advances, he shall, as soon as they have been recovered by him under this Act or the rules made under it, repay them to the account, and if the advance has been unpaid for more than one month, interest thereon shall be payable out of the estate from the date of the advance to the repayment thereof, at the rate of six per cent *per annum* on every complete dollar for every completed month.

(4) The Official Receiver shall keep a separate book showing every amount drawn by him from the account, and every payment made by him to the account, and the account shall be audited by the Director of Audit once in every quarter.

(5) Nothing in this section or Act contained shall authorise the Official Receiver to incur, without the express directions of the Court, or the personal security of some creditor, any expense in relation to the estate of the debtor against whom a receiving order has been made, but who has no available assets.

Unclaimed Dividends

Unclaimed dividends and moneys.

126. (1) Where the assignee, under any insolvency, composition, or scheme pursuant to this Act, has under his control any unclaimed dividend which has remained unclaimed for more than six months, or where, after making a final dividend, the assignee has in his hands or under his control any unclaimed or undistributed moneys arising from the property of the debtor, he shall forthwith pay the same to the account in manner provided in section 77, and the Accountant General shall deliver to the Official Receiver a receipt for the money so paid, which shall be an effectual discharge to him in respect thereof.

(2) Anyone claiming to be entitled to any moneys paid into the account pursuant to this section may, within ten years from the date when they were so paid in, apply to the Minister responsible for finance for payment of them to him.

(3) The Minister responsible for finance, if satisfied of the correctness of the claim, may authorise the Accountant General to pay out the amount claimed, or any portion to which the right is established.

(4) The Minister responsible for finance, if not satisfied of the correctness of the claim, may authorise and require the claimant to establish his claim in due course of law, and the Accountant General shall make any defence he may be advised.

(5) If any of the moneys remain unclaimed for the period of ten years immediately following the date when they were so paid in as aforesaid, all right, title, and interest of every person in and to them shall be barred, and they shall be transferred from the account to the credit of the fee fund.

The State

Provisions
which bind the
State.

127. Except as herein provided, 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 State.

Attorneys-at-law

Attorney's
right of
audience.
c. 12:20

128. All attorneys-at-law shall have the right of audience in all proceedings under the Debtors Act, or this Act, or any Act amending either of them, which are heard and determined before a judge of the Court, but in no proceedings under the said Acts heard and determined by the Full Court.

Application of
Insolvency
Ordinance,
1884

129. Where there is no provision in this Act relating to similar proceedings, the provisions of the Insolvency Ordinance, 1884, shall, notwithstanding its repeal, apply as if this Act had not been passed.

s. 16

FIRST SCHEDULE

MEETINGS OF CREDITORS

Time of first
meeting.

1. The first meeting of creditors shall be summoned for a day not later than twenty-one days after the date of the receiving order, unless the Official Receiver for any special reason deems it expedient that the meeting be summoned for a later day.

Notification of
meeting.

2. The Official Receiver shall summon the meeting by giving not less than six days' notice of the time and place thereof in the *Gazette* and in one newspaper. The notice shall also require all persons claiming to be creditors to prove their debts before the meeting.

Giving notice
to creditors.

3. 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 that notice not having been sent or received before the meeting.

Place of
meeting.

4. The meeting shall be held at the place, in the opinion of the Official Receiver, most convenient for the majority of the creditors, and the statement of affairs (if any) shall be laid before the meeting.

Power to
summon other
meetings.

5. The Official Receiver or the assignee may at any time summon a meeting of creditors, and shall do so whenever so directed by the Court or so requested in writing by one-fourth in value of the creditors.

Mode of summoning other meetings.

6. 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 another address known to the person summoning the meeting.

Chairman of meetings.

7. The Official Receiver, or some person nominated by him, shall be the chairman at the first meeting. The chairman at subsequent meetings shall be the person whom the meeting by resolution appoints

Persons entitled to vote as creditors.

8. 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 payable in insolvency to be due to him from the debtor, and the proof has been duly lodged before the time appointed for the meeting.

No right to vote in respect of unliquidated debt.

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

Right of voting of secured creditor.

10. 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.

Right of voting in respect of debt secured by bill of exchange.

11. 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.

Power to
require secured
creditor voting
to give up
security.

12. It shall be competent to the Official Receiver or the assignee, within twenty-eight days after a proof estimating the value of a security as aforesaid 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 twenty per cent:

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

Voting in case
of insolvent
partner.

13. 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 the creditors, and shall be entitled to vote thereat.

Powers of
chairman with
regard to votes.

14. The chairman of a meeting shall have power to 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.

Mode of
voting.

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

Form of proxy.

16. (l) Every instrument of proxy shall be in the prescribed form, and shall be signed by the creditor in the presence of two witnesses, and may be obtained from the Official Receiver, or after the appointment of an assignee,

from the assignee. If any insertion therein is not 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 commissioner to administer oaths to affidavits, the name of the person making the insertion shall be stated.

(2) 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 sent.

General proxy.

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

Special proxy.

18. 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 assignee at a specified rate or remuneration or as member of the committee of inspection, or for or against the continuance in office of any specified person, as assignee 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.

Deposit of proxy before

19. A proxy shall not be used unless it is deposited with the Official Receiver or assignee three hours before the

use.

meeting at which it is to be used.

Case of
assignee
soliciting
proxies.

20. Where it appears, to the satisfaction of the Court, that any solicitation has been used by or on behalf of an assignee or receiver in obtaining proxies or in procuring the assigneeship or receivership, except by the direction of a meeting of creditors, the Court may, if it thinks fit, order that no remuneration shall be allowed to the person by whom or on whose behalf the solicitation has been exercised, notwithstanding any resolution of the committee of inspection, or of the creditors to the contrary.

Power to
appoint the
Official
Receiver as
proxy.

21. A creditor may appoint the Official Receiver to act in the prescribed manner as his general or special proxy.

Power to
adjourn
meeting.

22. The chairman of a meeting may, with the consent of the meeting, adjourn the meeting from time to time and from place to place.

Quorum at
meeting.

23. 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 three creditors, or all the creditors, if their number does not exceed three.

Adjournment
in default of
quorum.

24. 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 another day appointed by the chairman, not being less than seven or more than twenty-one days.

Minutes of
meetings.

25. The chairman of every meeting shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book to be kept for that purpose, and the minutes shall be signed by him or by the chairman of the next ensuing meeting.

Prohibition of proxy voting in favour of remuneration for himself.

26. No person acting either under a general or special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner, or his 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

SECOND SCHEDULE

PROOF OF DEBTS

Proof in ordinary Cases

Time of proving.

1. Every creditor shall prove his debt as soon as may be after the making of a receiving order.

Mode of proof.

2. A debt may be proved by delivering or sending through the post in a prepaid letter to the Official Receiver, or, if an assignee has been appointed, to the assignee, an affidavit verifying the debt.

Person to make affidavit

3. The affidavit may be made by the creditor himself or by some person authorised by or on behalf of the creditor. If made by a person so authorised, it shall state his authority and means of knowledge.

Particulars of affidavit.

4. 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 statement can be substantiated. The Official Receiver or the assignee may at any time call for the production of the vouchers.

Particulars as to security.

5. The affidavit shall state whether the creditor is or is not a secured creditor.

Cost of proof.

6. A creditor shall bear the cost of proving his debt, unless the Court otherwise specially orders.

Right to see other proofs.

7. 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.

Discounts on debt proved.

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

Proof by Secured Creditors

Proof for balance of debt.

9. If the security held by a secured creditor has been realised, he may prove for the balance due to him, after deducting the amount received by him on account of his debt out of the proceeds of the realisation.

Proof for whole debt.

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

Particulars of proof of secured debt.

11. If a secured creditor does not surrender his security and his security has not been realised, 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.

Powers of
dealing with
security.

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

(2) If the assignee is dissatisfied with the value at which a security is assessed, he may proceed to offer for sale the property comprised in any security so valued at the times and on the terms and conditions agreed on between the creditor and the assignee, or, in default of that agreement, which the Court directs. If the sale is by public auction or tender, the creditor, or assignee on behalf of the estate, may bid or tender and purchase:

Provided that the creditor may at any time, by notice in writing, require the assignee to consent to the security being realised, or to realise the security, and if the assignee does not within three months after receiving the notice, give his consent or take the necessary steps, the creditor may apply to the Court for directions to be issued to the assignee.

Amendment of
valuation of
security.

13. 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 assignee, or the Court, that the valuation and proof were made *bona fide* on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation; but the amendment shall be made at the cost of the creditor and upon such terms as the Court orders, unless the assignee allows the amendment without application to the Court.

Consequences
of amendment.

14. Where a valuation has been amended in accordance with the foregoing rule 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, 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.

Realisation of security.

15. If, after a creditor has valued his security, it is subsequently realised, the amount received by him in respect thereof 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.

Effect of non-compliance by secured creditor.

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

Maximum amount to be received by creditor.

17. A creditor shall in no case receive more than one hundred cents in the dollar, and interest as provided by this Act.

Case of debtor liable in several capacities.

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

Periodical Payments

Proof for proportionate sums.

19. 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 grew due from day

to day.

Interest

Proof for
interest.

20. On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the receiving order and provable in the insolvency, the creditor may prove for interest at a rate not exceeding four 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 the 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.

Interest on
debt.

21. Where a debt has been proved upon a debtor's estate under this Act and includes interest, or any pecuniary consideration in lieu of interest, that interest or consideration shall for the purposes of dividend, be calculated at a rate not exceeding six per cent *per annum*, 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 estate have been paid in full.

Debt payable at a future Time

Conditions of
proving for
debt not
payable.

22. A creditor may prove for a debt not payable when the debtor committed an act of insolvency 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 six 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.

Admission or Rejection of Proofs

Examination of
a decision on
proof.

23. The assignee 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.

Appeal against
decision.

24. If the creditor is dissatisfied with the decision of the assignee in respect of a proof, the Court may, on the application of the creditor, reverse or vary the decision.

Expunging
proof.

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

(2) The Court may also expunge or reduce a proof, on the application of a creditor, if the assignee declines to interfere in the matter, or, in the case of a composition or scheme, on the application of the debtor.

Powers of
Official
Receiver before
appointment of
assignee.

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

SUBSIDIARY LEGISLATION

INSOLVENCY RULES

ARRANGEMENT OF RULES

PRELIMINARY

RULE

1. Citation, commencement and application.
2. Interpretation.
3. Computation of time.

FORMS

4. Use of forms in Schedule.

PART I
COURT PROCEDURE

Court and Chambers

5. Matters to be heard in Court.
6. Adjournment from chambers to Court, and *vice versa*.

PROCEEDINGS

7. Proceedings, how intituled.
8. Written or printed proceedings.
9. Records of the Court.
10. Notices to be in writing.
11. Process to be sealed.
12. Meetings summoned by Court.
13. Office copies.
14. Filing, gazetting, etc.

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Insolvency

[Subsidiary]

Insolvency Rules

RULE

TRANSFER OF PROCEEDINGS

15. Notice to creditors.

MOTIONS AND PRACTICE

16. Applications to be by motion.
17. Notice of motion and ex parte applications.
18. Length of notice.
19. Evidence on motion.
20. Notice not served on all proper parties.
21. Adjournment.
22. Personal service.
23. Filing affidavits on showing cause.
24. Endorsement on affidavits.
25. Notice of motion to be filed.
26. Precedence of motion.

SECURITY IN COURT

27. Security by bond.
28. Amount of bond.
29. Deposit in lieu of bond.
30. Money lodged in Court.
31. Guarantee Society.
32. Notice of sureties.
33. Justification by sureties.
34. Execution of bond.
35. Notice of deposit.

AFFIDAVITS

36. Costs if irrelevant or prolix.
37. Form.
38. Deponent's description.

RULE

39. Several deponents.
40. Scandalous matter.
41. Erasures, etc.
42. Blind or illiterate persons.
43. Formal defects.
44. Office copies.
45. Swearing affidavit.
46. Time for filing.
47. Proof of affidavits.

WITNESSES AND DEPOSITIONS

48. (1) Citations.
(2) Service of citation.
49. Limit of witnesses' costs.
50. Costs of witness not examined.
51. Deposition, etc.
52. Shorthand notes, etc.
53. Form of commission.
54. Production of document.
55. Disobedience to order.
56. Conduct money.

DISCOVERY

57. Discovery

DISCOVERY OF DEBTOR'S PROPERTY

58. Applications for discovery.

APPROPRIATION OF PAY, SALARY,
PENSIONS, ETC.

59. Notice of application to insolvent.

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Insolvency

[Subsidiary]

Insolvency Rules

RULE

60. Notice to Minister.
61. Notice of order.
62. Review of order.

WARRANTS, ARRESTS AND COMMITMENTS

63. To whom warrants addressed.
64. Custody of debtor.
65. Applications to commit.
66. Notice and hearing of application.
67. Attachment against debtor or assignee.

SERVICE AND EXECUTION OF PROCESS

68. Address of solicitor for service.
69. Address for service in other cases.
70. Hours for service.
71. Duties of Registrar or marshal.
72. Service by post.
73. Enforcement of orders.

RULES RELATING TO THE BUSINESS OF THE COURT

74. Sittings.
75. Weekly.
76. Full Court.
77. Registrar's Office.
78. Execution on orders.

COSTS

79. Awarding costs.
80. Orders to be sealed, etc.
81. Taxation.
82. (1) Scale of costs and charges.

RULE

- (2) Lower scale of costs of estates under \$1,000.
- (3) Readjustment of costs
- 83. Attorney-at-law's costs in case of petition by debtor.
- 84. Costs paid otherwise than out of estate.
- 85. Bill of costs to be filed.
- 86. Certificate of employment.
- 87. Notice of appointment.
- 88. Application for costs.
- 89. Lodgment of bill.
- 90. Copy of bill.
- 91. Priority of costs and charges payable out of estate.
- 92. Disallowance of costs of unnecessary petition.
- 93. Apportionment of costs in case of partnership.
- 94. Costs out of joint or separate estates.

APPEALS

- 95. Restrictions on appeal.
- 96. Time for appeal.
- 97. Security for costs of appeal.
- 98. Notice of appeal.
- 99. Procedure on appeals.

**RESCISSON OF RECEIVING ORDER, AND AMENDMENT
OF ADJUDICATION**

- 100. Application to rescind receiving orders, etc.

PART II
**PROCEEDINGS FROM ACT OF INSOLVENCY TO
DISCHARGE**

Declaration of inability to pay Debts

- 101. Form of declaration.

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Insolvency

[Subsidiary]

Insolvency Rules

RULE

INSOLVENCY NOTICE

- 102. Form of notice.
- 103. Issue of notice.
- 104. Endorsement of address, etc.
- 105. Application to set aside.
- 106. Duration of notice.
- 107. Service of notice.
- 108. Setting aside notice.

INSOLVENCY PETITION

- 109. Form of petition.
- 110. Attestation.
- 111. Deposit by petitioner.

CREDITOR'S PETITION

- 112. Security for costs.
- 113. Verification and copies.
- 114. Who to verify.
- 115. Joint petitioners.
- 116. Petition to be investigated

SERVICE OF CREDITOR'S PETITION

- 117. Personal service.
- 118. Substituted service.
- 119. Proof of service.
- 120. Service out of jurisdiction.
- 121. Death of debtor before service of petition.

HEARING OF PETITION

- 122. Proceedings on petition.

RULE

123. Time of hearing.
124. Several respondents.
125. Debtor intending to show cause.
126. Non-appearance of debtor.
127. Appearance of debtor to show cause.
128. Non-appearance of creditor.
129. Personal attendance of creditor dispensed with.
130. Proceedings after trial of disputed question.
131. Application to dismiss.
132. Application for extension of time.
133. Order for extension of time.
134. Further adjournment.

INTERIM RECEIVER

135. Interim receiver.
136. Deposit.
137. Further deposit if necessary.
138. Repayment of deposit.
139. Damages if petition dismissed.

RECEIVING ORDER

140. Receiving order.
141. Receiving order on insolvency notice.
142. Stay of proceedings.
143. Advertisement.
144. Costs of petitioner.

PUBLIC EXAMINATION OF DEBTOR

145. Public examination of debtor.
146. Default by debtor in attending.
147. Adjournment *sine die*.
148. Proceedings after adjournment *sine die*.
149. Notice of proceeding after adjournment *sine die*.

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Insolvency

[Subsidiary]

Insolvency Rules

RULE

150. Public examination of a debtor as a lunatic, etc.

ADJUDICATION

151. Adjudication on application of debtor.
152. Adjudication on application of other parties.
153. Adjudication on failure of composition or scheme.
154. Adjudication on adjournment of examination *sine die*.
155. Form of notice.
156. Order annulling adjudication.

SERVICE OF PROCEEDINGS

157. Service where debtor abroad

COMPOSITION OR SCHEME

158. Form where proposal submitted by debtor.
159. Application by Official Receiver or debtor for approval of Court.
160. Notice to Official Receiver.
161. Notice to creditors.
162. Official Receiver's report to be filed.
163. Hearing and appeal.
164. Costs of application by debtor.
165. Evidence and order.
166. Provision in composition or scheme for costs and charges.
167. Fee on application.
168. Correction of formal slips, etc.
169. Proceedings if scheme approved.
170. Cases in which Official Receiver is to be assignee.
171. Security by assignee under composition or scheme.
172. Non-payment of composition.
173. Vesting of property on annulment of composition.
174. Annulment of composition.

RULE

175. Dividends under composition or scheme.
176. Proof of debts in composition or scheme.
177. Application of rules as to composition, etc

STATEMENT OF AFFAIRS

178. How made out.
179. Extension of time

PROOF OF DEBTS

180. Form of proof.
181. Workmen's wages.
182. Production of bills of exchange, etc.
183. Time for lodging proof.
184. Transmission from Official Receiver to assignee.
185. Filing of proof on appeal.
186. Time within which proofs to be dealt with by Official Receiver.
187. Or by assignee.
188. Effect of notice of dividend.
189. Appeal from rejection of proof.
190. Costs of appeals from decisions as to proofs.

DIVIDENDS

191. (1) Notice of intended dividend.
(3) Declaration of dividend.
192. Production of bills, notes, etc.
193. Dividend may be sent by post.

DISCHARGE

194. Application.
195. Appeal.
196. Report of Official Receiver.

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[Subsidiary]

Insolvency Rules

RULE

197. Evidence in answer to report. Opposition by creditor.
198. Costs of application.
199. Conditional orders.
200. Order. Delivery of order.
201. Gazetting order.
202. Execution on judgment in case of conditional discharge.
203. Accounts of after-acquired property.
204. Verification of statements of after-acquired property.
205. Application for modification of order.

PROXIES AND VOTING LETTERS

206. Form and filing of proxies.
207. Signature of proxy.
208. Filling in when creditor blind.
209. Minors not to be proxies.

MEETINGS OF CREDITORS

210. Notice to debtor.
211. Notice of first meeting.
212. Form and length of notice.
213. Notice to Official Receiver of creditors' meeting.
214. Cost of calling meeting.
215. Copy of resolution to be filed.
216. Adjournment.
217. Quorum.

PROCEEDINGS BY COMPANY OR CO-PARTNERSHIP

218. Public officer or agent of company.

PROCEEDINGS BY OR AGAINST A FIRM

219. Attestation of firm's signature.

[Subsidiary]

Insolvency Rules

RULE

- 220. Service on firm
- 221. Debtor's petition by firm.
- 222. Receiving order against firm.
- 223. Statement of affairs.
- 224. Adjudication against partners.

JOINT AND SEPARATE ESTATES

- 225. First meeting.
- 226. Acceptance of composition, etc., by joint and separate creditors.
- 227. Voting on composition.
- 228. Adjudication.
- 229. Separate firms.
- 230. Apportionment of assignee's remuneration.

LUNATICS

- 231. Lunatics.

ADMINISTRATION AND SALE OF PROPERTY

- 232. Sales.
- 233. Perishable goods.
- 234. Auction.
- 235. Immovable property.
- 236. Not to be sold at under-value.
- 237. Sale of small immovable property.
- 238. Large sales.
- 239. Opposition.
- 240. Plantations.
- 241. Interim directions
- 242. Notice to be given.
- 243. Parties to be heard.
- 244. Receivers.
- 245. Removal and vacancies.

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[Subsidiary]

Insolvency Rules

RULE

- 246. Directions.
- 247. Preference.
- 248. Time and mode of sale.
- 249. Sale of produce.
- 250. Notice.
- 251. Produce bound in consignment.
- 252. Remuneration to receiver.
- 253. Interpretation.

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Small Insolvencies

- 254. Application for order.
- 255. Summary administration.

ADMINISTRATION OF ESTATE OF PERSON DYING INSOLVENT RULE

- 256. Form of petition.
- 257. Gazetting.
- 258. Service.
- 259. Administration order.
- 260. Duties of executor, etc.
- 261. Executor *de son tort*.
- 262. Rules as to administration of estate of deceased insolvent.

PART IV OFFICERS, ASSIGNEES, AUDIT, ETC.

Registrar's Books

- 263. Books to be kept by Registrar.

RULES

ACCOUNTS AND AUDIT

264. Record Book.
265. Cash Book.
266. Books to be submitted to committee of inspection.
267. Audit of Cash Book.
268. Passing of accounts.
269. Copy accounts to be filed.
270. Affidavit of no receipts.
271. Proceedings on resignation.
272. Joint and separate estates accounts.
273. Debtor's books.
274. Expenses of sales.
275. Allowance to debtor.

ASSIGNEES

276. Form of certificate of appointment.
277. Notice of appointment.
278. Notification of objection to Court.
279. Removal of trustee.
280. Removal for failing to keep up security.
281. Removal by Official Receiver.
282. Notice of resignation.
283. (1) Rate of remuneration.
(3) Limit of remuneration.
284. Assignee carrying on business.
285. Notice of application for release.
286. *Gazette* of release.
287. Delivery of books on release of assignee.
288. Meeting to consider conduct of assignee.
289. Authority for account at local bank.
290. Application for directions.
291. Creditor may obtain copy of an assignee's account.
292. Statements of accounts to be furnished to creditors.
293. Dealings with estate.
294. Assignee not to purchase from his employer or

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Insolvency

[Subsidiary]

Insolvency Rules

RULE

partner without

COURT'S SANCTION

295. Committee of inspection.
296. Sanction of payments to members of committee of inspection.
297. Discharge of costs, etc., before estate handed over to trustee.
298. Meetings of creditors to consider conduct of assignee.

DISCLAIMER OF LEASE

299. Disclaimer of lease without leave.

OFFICIAL RECEIVER

300. Duties as to debtor's statement of affairs.
301. Subsistence allowance to debtor.
302. Special report as to person employed to assist debtor.
303. Use of proxies by deputy.
304. Removal of special manager.
305. Mode of application.
306. Evidence on application by Official Receiver.
307. Application for directions.
308. No assets.
309. Accounting by Official Receiver.
310. Trading account of debtor.
311. Liability for costs, expenses and damages.

PAYMENT INTO AND OUT OF BANK

312. Local bank.

SECURITY BY ASSIGNEE OR SPECIAL MANAGER

313. Standing security to Official Receiver.

RULE

SPECIAL MANAGER

- 314. Rate of payment.
- 315. Accounts.

UNCLAIMED FUNDS, ETC., UNDER SECTION 126

- 316. Application for payment out by party entitled.

GENERAL RULES AS TO ADMINISTRATION ORDERS

- 317. Request for order.
- 318. Stay of proceedings.
- 319. Contents of request.
- 320. Notice of request.
- 321. Objection to debt set out by debtor.
- 322. Proceedings on hearing of request.
- 323. Proceedings when order made.
- 324. Objections under section 106.
- 325. Objections after time.
- 326. Proof under section 106.
- 327. Proceedings if claim not disputed.
- 328. Proceedings if claim disputed.
- 329. Conduct of order.
- 330. Judgment summons to enforce order.
- 331. Rescission of order.
- 332. Effect of rescission.
- 333. Suspension of order.
- 334. Second request.
- 335. Suspension of order pending committal.
- 336. Calculation of arrears.
- 337. Payment of debts *pari passu*.

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Insolvency

[Subsidiary]

Insolvency Rules

RULES

PART V MISCELLANEOUS

Miscellaneous Matters

- 338. Falsification of documents.
- 339. Non lien on debtor's books.
- 340. Non-compliance with rules.
- 341. Abridgment or enlargement of time.
- 342. Saving for existing laws, etc.

PART VI APPLICATIONS UNDER THE DEBTORS ACT

- 343. Summons under Debtors Act.
- 344. Service of judgment summons.
- 345. Judgment summons where judgment against a firm.
- 346. Adjournment.
- 347. Witnesses may be summoned.
- 348. Insolvent not to be committed.
- 349. No commitment where adjudication takes place after order commitment.
- 350. Discharge of insolvent judgment debtor.
- 351. Order of commitment.
- 352. Payment on arrest.
- 353. Payment in prison.
- 354. Discharge of prisoner on request of judgment creditor.
- 355. Certificate of payment.
- 356. Costs on default of appearance of judgment creditor.
- 357. Costs of abortive execution not to be included in judgment summons.
- 358. Receipt of part of debt after warrant has issued.

SCHEDULE—FORMS.

APPENDIX-FEES

R.5/8/1901
19/7/1933
4 of 1972

INSOLVENCY RULES

made under section 109

PRELIMINARY

Citation,
commencement and
application.

1. These Rules may be cited as the Insolvency Rules and shall come into operation on the 1st October 1901, and shall, as far as practicable, apply to all matters arising, and to all proceedings taken, in any matters under the Act on and after the said day. In any insolvency proceedings pending at the commencement of these rules the assignee shall account for all his proceedings and transactions subsequent to such commencement in accordance with the Act and these rules.

Interpretation.

2. In these Rules—

“assignee” includes the assignee appointed under a composition or scheme of arrangement, under which an assignee is appointed to administer a debtor's property or manage his business; and also includes the Official Receiver when acting as or when being assignee;

“the Court” includes a judge when exercising the powers of the Court to the Act;

“creditor” includes a corporation and a firm of creditors in partnership;

“debtor” includes a firm of debtors in partnership and includes any debtor proceeded against under the Act whether adjudged insolvent or not;

“Form” means Form in the Schedule to these Rules;

“Full Court” means Full Court of the High Court;

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Insolvency

[Subsidiary]

Insolvency Rules

“name” of a person means both the forename, or the initial letter or contraction of the forename, and the surname of such person or that name by which such person is usually known;

“publish” means publish in the *Gazette* and one other newspaper published in Guyana;

“scheme” means a scheme of arrangement pursuant to the Act;

“sealed” means sealed with the seal of the Court or Official Receiver;

“solicitor” includes barrister-at-law.

Computation
of time
[4 of 1972]

3. (1) Section 121 of the Act shall apply to these Rules

(2) Whereby the Act or these Rules the time limited for doing any act or thing is less than seven days, any public holiday and any other day on which the office of the Registrar of the Court is closed, shall be excluded in computing such time.

Use of forms in
Schedule.

4. (1) The forms in the Schedule, 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 the use of any other or more prolix forms shall be borne by or disallowed to the party using the same, unless the Court shall otherwise direct:

Provided that the Minister may from time to time alter any forms which relate to matters of an administrative,

and not of a judicial, character, or substitute new forms in lieu thereof.

(2) Where the Minister alters any form or substitutes any new form in lieu of a form prescribed by these Rules, such altered or substituted form shall be published in the *Gazette*.

PART I
COURT 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) the public examination of debtors;
- (b) applications to approve a composition or scheme of arrangement;
- (c) applications for orders of discharge or certificates of removal of disqualifications;
- (d) appeals from Official Receiver or assignee to the Court;
- (e) applications under sections 35, 61 and 62 of the Act;
- (f) applications to set aside or avoid any settlement, conveyance, transfer, security or payment, or to declare for or against the title of the assignee to any property adversely claimed;
- (g) applications for the committal of any person to prison for contempt;

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Insolvency

[Subsidiary]

Insolvency Rules

- (h) appeals against the rejection of a proof, or applications to expunge or reduce a proof, where the amount in dispute exceeds \$100;
- (i) applications for the trial of issues of fact, and the trial of such issues;
- (j) applications by an assignee for directions;
- (k) applications to commit under the Debtor's Act.

c.6:04

Any other matter or application may be heard and determined in chambers.

Adjournment
from chambers
to Court, and
vice versa

6. Subject to the Act, 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 into court it shall be so adjourned.

PROCEEDINGS

Proceedings
how intituled.

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

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

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

(4) When the matter is transferred from one country to another it shall receive a new distinctive number.

Form 1

(5) Form 1 shall be used, with such variations or additions as circumstances may require.

Written or printed proceedings.

8. All proceedings in the Court shall be written in black or blue upon thick white foolscap paper of good quality with an inner margin of not less than two inches, and an outer margin of about half an inch, and a space of not less than half an inch shall be left between each line, but no objection shall be allowed to any proof, affidavit, or proxy on account of its being written on other paper.

Records of the Court.

9. All proceedings in insolvency in the Court shall remain of record in the Court, 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 a judge or the Registrar, but they may at all reasonable times be inspected by the assignee, the debtor, and any creditor who has proved, or any person on their behalf, on payment of the prescribed fee.

Notices to be in writing.

10. All notices required by the Act shall be in writing unless these Rules otherwise provide or the Court shall in any particular case be in writing otherwise order.

Process to be sealed.

11. All summonses, petitions, notices, orders, warrants, and other process issued by the Court in proceedings in insolvency shall be sealed.

Meetings summoned by Court.

12. Where the Court orders a general meeting of creditors to be summoned under rule 5 of the First Schedule to the Act, it shall be summoned as the Court directs, and in default of any direction the Registrar shall transmit a sealed copy of the order to the Official Receiver or assignee, as the case may be, who shall, not less than seven days before such meeting, publish a copy thereof.

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Office copies.

13. All office copies of petitions, proceedings, affidavits books, office papers, and writings remaining in the Registrar's Office required by the Official Receiver, any assignee, any debtor, or by any creditor or by the solicitor of any such person, shall be provided by the Registrar on payment of the prescribed fees and shall, except as to figures, be fairly written at length, and be sealed and delivered out without any unnecessary delay, and in the order in which they shall have been bespoken.

Filing
gazetting, etc.

14. (1) The Registrar shall, whenever the *Gazette* contains any, advertisement relating to any matter under the Act in Court, with the proceedings in the matter a memorandum referring to and giving the date of such advertisement.

(2) In the case of an advertisement in a local paper, the Registrar shall in like manner file a memorandum referring to and giving the date of such advertisement.

(3) The memorandum by the Registrar shall be *prima facie* evidence that the advertisement in question was duly inserted in the issue of the *Gazette* or paper to which the memorandum refers.

TRANSFER OF PROCEEDINGS

Notice to
creditors
Form 22

15. Where the judge certifies that in his opinion proceedings would be more advantageously conducted in some other county, the Registrar shall transmit a copy of such certified opinion to the Official Receiver and the assignee, if any, and the proceedings shall thereupon be transferred.

MOTIONS AND PRACTICE

Applications to
be by motion.

16. Every application to the Court (unless otherwise provided by these Rules, or the Court shall in any particular case otherwise direct) shall be made by motion supported by

affidavit.

Notice of motion and *ex parte* applications

17. Where any party other than the applicant is affected by the motion, no order shall be made unless upon the consent of such party duly shown to the Court, or upon proof that notice of the intended motion and a copy of the affidavit in support thereof, have been duly served upon such party:

Provided that the Court, if satisfied that the delay by proceeding in the ordinary way would or might entail serious mischief, may make any order *ex parte* upon such terms as to costs and otherwise, and subject to such undertaking, if any, as the Court may think just; and any party affected by such order may move to set it aside.

Length of notice.

18. Unless the Court gives leave to the contrary, notice of motion shall be served on any party to be affected thereby, if resident in Georgetown, not less than four days, and if resident elsewhere, not less than eight days, before the day named in the notice for hearing the motion. An application for leave to serve short notice of motion shall be made *ex parte*.

Evidence on motion.

19. Every motion shall be supported by an affidavit, but the mover may at the hearing adduce oral evidence in support thereof. Every person opposing a motion may use affidavits in opposition to the motion or may adduce oral evidence. Where the applicant intends to adduce oral evidence he shall state in his notice of motion his intention to do so, and the facts he intends so to establish. Where the party opposing the motion intends to adduce oral evidence he shall give notice to the applicant of his intention to do so, not later than the day before the day appointed for the hearing and shall in such notice state the facts he intends to prove. He shall also file a copy of such notice with the Registrar not later than the day before the day appointed for the day of hearing. The Court may on such terms as it thinks fit permit evidence

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to be given on any motion although the proper notice has not been given. Where the respondent intends to use affidavits in opposition to the motion he shall file such affidavits with the Registrar and deliver copies of such affidavits to the applicant not less than one day before the day appointed for the hearing, but the Court may on such terms as it thinks fit permit either of the parties to use affidavits which may not have been filed or of which copies have not been served.

Notice not
served on all
proper parties.

20. If on the hearing of any motion or application the Court shall be of opinion that any person to whom notice has not been given ought to have had such notice, the Court may either dismiss the motion or application, or adjourn the hearing thereof in order that such notice may be given upon such terms, if any, as the Court may think fit to impose.

Adjournment.

21. The hearing of any motion or application may from time to be adjourned upon such terms (if any), as the Court shall think fit.

Personal
service.

22. In cases in which personal service of any notice of motion or of any order of the Court is required, the same shall be effected in the case of a notice of motion, by delivering to the party or parties to be served, and each of them a copy of the notice of motion, and in the case of an order, by delivering to the party or parties to be served, and each of them, a sealed copy of the order.

Filing affidavits
on showing
cause.

23. Every affidavit to be used in supporting or opposing any piling opposed motion, shall be filed with the Registrar not later than the day before the day appointed for the hearing.

Endorsement
on affidavits.

24. The Registrar upon any affidavit being left with him to be filed, shall endorse the same with the day of the month and the year when the same was so left, and forthwith file the same with the proceedings to which the same relates, and any affidavit left with the Registrar to be filed, shall on no

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account be delivered out to any person, except by order of the Court.

Notice of motion to be filed.

25. A party intending to move shall one clear day previous to the sitting of the Court deliver to the Registrar a copy of his notice of motion. There shall be endorsed on such copy the name of the applicant's solicitor and counsel (if any), and also (if known) the name of the respondent's solicitor and counsel (if any).

Precedence of motion.

26. Except in cases of emergency, or for any other cause deemed sufficient by the Court, all motions shall be made and heard in the order in which they are set down at the sitting of the Court

SECURITY IN COURT

Security by bond.

27. 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 one or more surety or sureties to the person proposed to be secured.

Amount of bond.

28. 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 its being taken for a less sum

Deposit in lieu of bond.

29. 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 by an act of deposit to be approved of by the Registrar and to be signed by such person, his solicitor, or agent, setting forth the conditions on which the money is deposited.

Money lodged in Court.

30. The rules for the time being in force in the High Court relating to payment into and out of Court of money

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lodged in Court by way of security for costs shall apply to money lodged in Court under these Rules.

Guarantee Society.

31. 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.

Notice of sureties.

32. 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 at the Court, notice of the proposed sureties, which shall be in Form 20, and the Registrar shall forthwith give notice to both parties of the time and place at which he proposes that the bond shall be executed, and shall 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.

Justification by sureties.
Form 21.

33. Where any objections are filed as to their sufficiency the sureties shall make an affidavit of their sufficiency (which shall be Form 21) and such sureties shall attend the Court to be cross-examined if required.

Execution of bond.

34. The bond shall be executed and attested in the presence of the Registrar.

Notice of Deposit.

35. Where a person makes a deposit of money in lieu of giving a bond, he shall forthwith give notice to the person to whom the security is to be given of such deposit having been made.

AFFIDAVITS

Cost if irrelevant or prolix.

36. The costs of every affidavit which shall unnecessarily set forth matters of hearsay, or argumentative matter, or copies of or extracts from documents, shall be paid by the party filing the same.

Form.

37. Every affidavit shall be drawn up in the first

person, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this rule.

Deponent's
description.

38. Every affidavit shall state the description and true place of abode of the deponent.

Several
deponents.

39. In every affidavit made by two or more deponents the names of the several persons making the affidavit shall be inserted in the jurat, except that if the affidavit of all the deponents is taken at one time by the same officer it shall be sufficient to state that it was sworn by both (or all) of the "above-named" deponents.

Scandalous
matter.

40. The Court may order to be struck out from any affidavit any matter which is scandalous, and may order the costs of any application to strike out such matter to be paid as between solicitor and client.

Erasures, etc.

41. No affidavit having in the jurat or body thereof any interlineation, alteration, or erasure shall without leave of the Court be read or made use of in any matter depending in Court unless the interlineation or alteration (other than by erasure) is authenticated by the initials of the officer or person taking the affidavit nor in the case of an erasure unless the words or figures appearing at the time of taking the affidavit to be written on the erasure are rewritten and signed or initialled in the margin of the affidavit by the officer or person taking it.

Blind or
illiterate
person.

42. Where an affidavit is sworn by any person who appears to the person taking the affidavit to be illiterate or blind, the person taking the affidavit shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent made his signature in the presence of such

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person. No such affidavit shall be used in evidence in the absence of this certificate, unless the Court is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent.

Formal defects.

43. The Court may receive any affidavit sworn for the purpose of being used in any matter notwithstanding any defect by misdescription of parties or otherwise in the title or jurat, or any other irregularity in the form thereof, and may direct a memorandum to be made on the document that it has been so received.

Office copies.

44. An office copy of an affidavit may in all cases be used, the original affidavit having been previously filed and the copy duly authenticated with the seal of the Court

Swearing affidavits

45. No affidavit (other than a proof of debt) shall be sufficient if sworn before the solicitor acting for the party on whose behalf the affidavit is to be used, or before any agent, clerk or partner of such solicitor, or before the party himself.

Time for filing

46. (1) Where a special time is limited for filing affidavits, no affidavit filed after that time shall be used, unless by leave of the Court.

(2) Except by leave of the Court no order made *ex parte* in Court founded on any affidavit shall be of any force unless the affidavit on which the application was made was actually made before the order was applied for, and produced or filed at the time of making the motion.

Proof of affidavits.

47. The Court shall take judicial notice of the seal or signature of any person authorised by or under the Act to take affidavits or to certify to such authority.

WITNESSES AND DEPOSITIONS

Citations.

48. (1) A citation for the attendance of a witness shall

on the payment of the prescribed fees be issued by the Registrar at the instance of the Official Receiver, an assignee, a creditor, a debtor, or any applicant or respondent in any matter, with or without a clause requiring the production of books, deeds, papers, documents, and writings, in his possession or control

(2) A copy of the citation shall be served in the customary manner within a reasonable time before the return thereof.

Limit of
witnesses' costs

49. The Court may in any matter limit the number of witnesses to be allowed on taxation of costs, and their allowance for attendance shall in no case exceed the highest rate of the allowances mentioned in the scale of costs.

Costs of
witness not
examined.

50. The costs of witnesses, whether they have been examined or not, may, in the discretion of the Court, be allowed.

Deposition, etc.

51. The Court may, in any matter where it shall appear necessary for the purposes of justice, make an order for the examination upon oath before the Court or any officer of the Court, or any other person and at any place, of any witness or person, and may empower any party to any such matter to give such deposition in evidence therein on such terms (if any) as the Court may direct.

Shorthand
notes, etc.
Forms 31 and
32.

52. If the Court shall in any case, and at any stage in the proceedings, be of opinion that it would be desirable that a person (than the person before whom the examination is taken) should be appointed to take down the evidence of the debtor, or of any witness examined at any public sitting or private meeting under the Act, or examined in any proceeding under the Act, in shorthand or otherwise, it shall be competent for the Court to make such an appointment; and every person so appointed shall be paid a sum not exceeding ten dollars a day, and where the Court appoints a shorthand

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writer a sum not exceeding sixteen cents per folio of seventy-two words 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.

Form of
commission.

53. An order for a commission to examine witnesses and the writ of commission shall follow the forms for the time being in use in the High Court, with such variations as circumstances may require.

Production of
commission.

54. The Court may in any matter at any stage of the proceedings order the attendance of any person for the purpose of producing any writings or other documents named in the order which the Court may think fit to be produced.

Disobedience
to order.

55. Any person willfully disobeying any order or citation requiring his attendance for the purpose of being examined or producing any document which the Court may think fit to be produced shall be deemed guilty of contempt of Court, and may be dealt with accordingly.

Conduct
money

56. Any witness (other than the debtor) required to attend for the purpose of being examined, or of producing any document, shall be entitled to the like allowances as upon attendance at a trial in Court, under the Rules of the High Court.

DISCOVERY

Discovery.

57. 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 Rules of the High Court for the time being in force in relation to discovery and inspection. An application for leave under this rule may be made *ex parte*.

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DISCOVERY OF DEBTOR'S PROPERTY

Applications
for discovery.

Form 130

58. Every application to the Court under section 28 of the Act shall be in writing, and shall state shortly the grounds upon which the application is made; and where the application is not made on behalf of the Official Receiver or assignee, it shall be verified by affidavit. The application may be made as regards several persons at the same time. The summons shall be in Form 130 with such variations and additions as the circumstances may require.

APPROPRIATION OF PAY, SALARY, PENSIONS, ETC.

Notice of
application to
insolvent

Form 116

59. When the assignee intends to apply to the Court for an appropriation order under section 50 of the Act, he shall give notice of his intention to the insolvent, and also of the time and place fixed for hearing the application, and that the insolvent is at liberty to show cause against such order being made.

The notice shall be Form 116, with such variations as circumstances may require.

Notice to
Minister.

60. When the application is made under section 50(1) of the Act, a copy of the proposed order shall be sent by the Registrar to the Minister responsible for the public service, and the application shall stand adjourned until the written statement of the said Minister is obtained as required by the Act

Notice of order.

61. Where an order is made under section 50(2) of the Act, the Registrar shall give to the assignee a sealed copy of the order, who shall communicate the same to the chief of the department or other person under whom the pay, half-pay, salary, income, emolument, pension or compensation is enjoyed.

Review of
order

62. Where an order has been made for the payment by an insolvent, or by his employer for the time being, of a portion of

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his income or salary, the insolvent 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 assignee.

WARRANTS, ARRESTS AND COMMITMENTS

To whom
warrants
addressed Form
127, 128, 141
and 142.

63. A warrant of seizure or a search warrant or any other warrant issued under the Act, shall be addressed to the Registrar or such officer as the Court directs.

Custody of
debtor Forms
129, 143 and 144

64. Where a debtor is arrested under a warrant issued under section 26 of the Act, he shall be given into the custody of the keeper of the prison mentioned in the warrant, 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 shall otherwise order, 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 assignee as the case may be.

Applications to
commit. Form
131, 132, 136
and 137

65. An application to the Court to commit any person who shall disobey any process or order or direction of the Court, or commit any other contempt shall be supported by affidavit, to be filed in Court.

Notice and
hearing of
application.
Forms 134, 136
and 138.

66. Subject to the Act and these Rules, upon the filing of such application, the Registrar shall fix a time and place for the Court to hear the application, and shall issue a notice to be served by the marshal on the person sought to be attached personally three days at least before the day of hearing the application, unless the Court shall, by order upon good cause shown, shorten the length of notice to be given or direct service of the notice to be made by advertisement or in some other manner, in which case it shall be served in the manner so directed.

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Attachment
against debtor
or assignee.
Forms 135, 139
and 140.

67. Where an order of committal is made against a debtor or against an assignee for disobeying any order of the Court or of the Official Receiver to do some particular act or thing the Court may direct that the order of committal shall not be issued, provided the debtor or assignee, as the case may be, complies with the previous order in a specified time.

SERVICE AND EXECUTION OF PROCESS

Address of
solicitor for
service.

68. Every solicitor out or serving any petition, notice, summons, order, or other document, shall endorse thereon his name or firm and place of business, which shall be called his address for service. All notices, orders, documents, and other written communications which do not require personal service shall be deemed to be sufficiently served on such solicitor if left for him at his address for service.

Address for
service in
other cases.

69. Every person suing out or serving any process on his own behalf shall endorse thereon his name and address for service which shall be his address for service and shall be within one mile of a Registrar's Office. All notices, orders, documents, and other written communications which do not require personal service shall be deemed sufficiently served, if served at such address or left for him at his address for service or if no such address be endorsed if left for him at the Registrar's Office.

Hours for
service.

70. Service of notices, orders, or other proceedings shall be effected before the hour of six in the afternoon, except on Saturdays, when it shall be effected before the hour of two in the afternoon. Service effected after six in the afternoon on any weekday, except Saturday, shall for the purpose of computing any period of time subsequent to such service be deemed to have been effected on the following day. Service effected after two in the afternoon on Saturday shall for the like purpose be deemed to have been effected on the following Monday.

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Duties of
Registrar or
marshal.

71. It shall be the duty of the Registrar or marshal to serve such orders, summonses, petitions, and notices as the Court may require him to serve; to execute warrants and other process; to attend any sittings of the Court (except sittings in chambers); and to do and perform all such things as may be required of him by the Court.

Service by post.

72. Where notice of any order or other proceeding in Court may be served by post it shall be sent by registered letter.

Enforcement of
orders.

73. Every order of the Court may be enforced as if it were a judgment of the Court to the same effect.

RULES RELATING TO THE BUSINESS OF THE COURT

Sittings.

74. The Chief Justice shall regulate the sittings and vacations of the Court.

Weekly.

75. The Court shall sit for the disposal of business as often as occasion may require and in Georgetown at least one day in each week, if there is any business to dispose of.

Full Court.

76. The Full Court shall sit for the disposal of business at least once in each month of the year, if there is any business to dispose of.

Registrar's
Office.
[R.19/7/1933]

77. The Registrar's Office on Saturdays shall be closed for business at 11 o'clock forenoon.

Execution on
orders.

78. Writs of execution shall issue from the Registrar's Office, and all proceedings thereon and in relation thereto shall be regulated as nearly as may be by the Rules of the High Court for the time being in force in relation to execution.

COSTS

Awarding
costs.

79. (1) The Court in awarding costs may direct that the

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costs of any matter or application shall be taxed and paid as between party and party or as between solicitor and client, or that full costs, charges, and expenses shall be allowed, or the Court may fix a sum to be paid in lieu of taxed costs.

(2) In the absence of any express direction costs of an opposed motion shall follow the event, and shall be taxed as between party and party.

(3) Where an action is brought against the Official Receiver or an assignee as representing the estate of the debtor or where the Official Receiver or assignee is made a party to a cause or matter, on the application of any other party thereto, he shall not be personally liable for costs unless the Court otherwise directs.

Orders to be sealed, etc.

80. Every order for payment of money and costs, or either of them, shall be sealed, and be signed by the Registrar, and shall be forthwith filed with the proceedings.

Taxation.

81. The costs directed by any order to be paid shall be taxed by the Registrar on production of a certified copy of such order.

Scales of costs and charges.

82. (1) The scale of costs set forth in 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.

Lower scale of costs of estates under \$1,000.

(2) Where the estimated assets of the debtor do not exceed the sum of one thousand dollars, a lower scale of solicitor's costs shall be allowed, namely, three-fifths of the charges ordinarily allowed in all proceedings under the Act in which costs are payable out of the estate, disbursements being added, and if in error any charges have been allowed or paid on the higher scale, and the gross proceeds of the assets shall be ascertained not to exceed one thousand dollars the excess shall be disallowed, and, if paid, shall be repaid to the assignee.

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Readjustment
of costs.

(3) Where the assets of a debtor have been estimated as likely or not likely to exceed the sum of one thousand dollars and the gross proceeds of the assets are, after taxation and payment of the costs, ascertained to be less than the amount at which they have been certified, the bill of costs shall, on the application of the assignee, be re-taxed, and the amount disallowed on such re-taxation shall, if paid, be refunded to the assignee. No fee shall be chargeable on such re-taxation.

Attorney's-at-
law costs in
case of petition
by debtor.

83. The attorney-at-law in the matter of an insolvency 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, by way of deposit on account of the costs and expenses to be incurred in and about the filing and prosecution of such petition.

Costs paid
otherwise than
out of estate.

84. When a bill of costs is taxed under any special order of the Court, and it appears by such order that the costs are to be paid otherwise than out of the estate of the insolvent, the taxing officer shall specially note upon the order by whom, or the manner in which, such costs are to be paid.

Bill of cost to be
filed.

85. Upon the taxation of any bill of costs, charges, or expenses being completed, the Registrar shall forthwith file such bill with the proceedings in the matter, and shall thereupon issue to the person presenting such bill for taxation his certificate of taxation, which may be in Form 124.

Form 124.

Certificate of
employment.

86. Before taxing the bill or charges of any solicitor, manager, accountant, auctioneer, broker or other person employed by the Official Receiver or an assignee, the taxing officer shall require a certificate in writing signed by the Official Receiver or assignee, 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 proper authority sanctioning the employment.

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Notice of appointment.

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

Application for cost.

88. 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 –

- (a) such party or person shall serve notice of his intended application on the Official Receiver and, if an assignee has been appointed, on the assignee;
- (b) the Official Receiver and assignee may appear on such application and object thereto;
- (c) no cost of or incident to such application shall be allowed to the applicant, unless the Court is satisfied the application could not have been made at the time of the proceeding.

Lodgment of bill.

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

Copy of bill.
Form 123.

90. Every person whose bill or charges is or are to be taxed shall, on application either of the Official Receiver or the assignee, furnish a copy of his bill or charges so to be taxed, on payment at the rate of 8 cents per folio, which payment may be charged to the estate. The Official Receiver shall call the attention

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of the assignee to any items which, in his opinion, ought to be disallowed or reduced.

Priority of costs
and charges
payable out of
estates.

91. Subject to sections 43 and 44 of the Act, the assets in any instance remaining after payment of the cost of the expenses properly incurred in realizing the same or in carrying on the plantation or business from which the same are obtained and all fees and commissions payable to the Official Receiver, shall, subject to any order of the Court, be liable to the following payments, which shall be paid in the following order of priority:

First: the actual expenses incurred by the Official Receiver in protecting 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;

Next: any other costs, charges and expenses properly incurred or authorised by the Official Receiver, including the cost of a shorthand writer's notes where such writer is appointed in accordance with these Rules;

„ the deposit or deposits lodged by the petitioning credit-or pursuant to these Rules;

„ the deposit or deposits lodged on any application for the appointment of an interim receiver;

Next: the remuneration of the special manager (if any);

„ the taxed costs of the petitioner;

„ the taxed costs of any creditor appearing at the public examination if the Court considers that any information material to matters which required investigation has been elicited by

such creditor;

- “ the remuneration and charges of the person (if any) appointed to assist the debtor in the preparation of his statement of affairs;
- “ any allowance made to the debtor by the Official Receiver;
- “ taxed charges of any shorthand writer appointed by the Court;
- “ the assignee's necessary disbursements other than actual expenses of realization heretofore provided for;
- “ the costs of any person properly employed by the assignee with the sanction of the Committee of Inspection;
- “ any allowance made to the debtor by the assignee with the sanction of the Committee of Inspection;
- “ the remuneration of the assignee;
- “ the actual out of pocket expenses necessarily incurred by the Committee of Inspection subject to the approval of the Court.

Disallowance
of costs of
unnecessary
petition.

92. In any case in which, after an insolvency 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.

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Apportion-
ment of costs in
case of
partnership.

93. In the case of an insolvency 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.

Costs out of
joint or
separate
estates.

94. (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 assignee, the Court on the application of the Official Receiver or assignee may direct the payment of such costs or charges out of the separate estates of such co-debtors, or one or more of them, in such proportions as in its discretion the Court may think fit. The Court may also, on the like application as in its discretion it may think fit, direct the assignee to pay any costs or charges properly incurred, prior to the appointment of the assignee, 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 assignee 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 assignee, the assignee, 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 assignee, 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 an assignee 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.

APPEALS

Restrictions on appeal.

95. (1) Except by leave of the Court there shall be no appeal to the Full Court from any order made by consent, or as to costs only.

(2) No appeal to the Full Court shall be brought from any order relating to property when it is apparent from the proceedings that the money or money's worth involved does not exceed two hundred and fifty dollars, unless by leave of the Court.

(3) No appeal shall be brought in respect of the omission by the Court appealed from to exercise any discretionary power, unless the Court shall in its judgment, or on application made at the hearing, have expressly refused to exercise such power, in which case the refusal may be made a ground of appeal.

Time for appeal

96. Subject to the powers of the Full Court to extend the time under special circumstances, no appeal to the Full Court from any order of the Court shall be made after the expiration of twenty-one days. The said period shall be calculated from the time at which the order is signed, entered, or otherwise perfected, or in the case of the refusal of an application, from the date of such refusal.

Security for costs of appeal.

97. At or before the time of making an appeal from the Court, the party intending to appeal shall lodge in the Registrar's Office the sum of fifty dollars to satisfy, in so far as the same may extend, any costs that the appellant may be ordered to pay:

Provided that the Full Court may in any special case increase or diminish the amount of such security or dispense therewith.

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Notice of
appeal.

98. Upon receiving notice of an appeal, the Registrar shall mark thereon the date when received, and forthwith file the same with the proceedings.

Procedure on
appeals.

99. Subject to the foregoing rules, appeals to the Full Court shall be made in the manner and form as laid down in the Rules of the High Court for the time being in force in relation to appeals and shall be carried on in accordance with the procedure laid down in such rules, or in the absence of such rules shall be decided summarily and as a motion.

RESCISSIION OF RECEIVING ORDER, AND AMENDMENT OF ADJUDICATION

Application
to rescind
receiving
orders, etc,

100. An application to the Court to rescind a receiving order or to stay proceedings thereunder, or to annul an adjudication, 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. Unless the Court gives leave to the contrary, notice of any such application shall be served on the Official Receiver not less than seven days before the day named in the notice of 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.

PART II

PROCEEDINGS FROM ACT OF INSOLVENCY TO DISCHARGE

Declaration of Inability to pay Debts

Form of
declaration
From 2.

101. A declaration by a debtor of his inability to pay his debts shall be dated, signed, and witnessed, and shall be in Form 2, with such variations, as circumstances may require. The witness shall be a solicitor, or justice of the peace, or the Official Receiver, or the Registrar.

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INSOLVENCY NOTICE

Form of notice
Form 5.

102. An insolvency notice shall be in Form 5, with such variations as circumstances may require

Issue of notice
Form 4.

103. A creditor, desirous that an insolvency notice may be issued, shall produce to the Registrar a certified copy of the judgment on which the notice is founded, and file the notice, together with a request for issue, which shall be in Form 4, with such variations as circumstances may require. The creditor shall at the same time lodge with the Registrar two copies of the insolvency notice to be sealed and issued for service.

Endorsement
of address, etc.

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

Form 7

(2) There shall also be endorsed on every insolvency notice an intimation to the debtor that if he has a counter-claim, 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 was obtained he must within the time specified in the notice file an affidavit to that effect with the Registrar.

(3) In the case of a notice served in Guyana the time shall be three days. In the case of a notice served elsewhere the Registrar when issuing the notice shall fix the time.

Application to
set aside.

105. The filing of such affidavit shall operate as an application to set aside the insolvency notice, and thereupon the Registrar shall fix a day for hearing the application, and not less than three days before the day so fixed shall give notice thereof both to the debtor and the creditor, or 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 insolvency will be complete, the Registrar shall extend

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the time, and no act of insolvency shall be deemed to have been committed under the notice until the application has been heard and determined.

Duration of notice.

106. Subject to the power of the Court to extend the time, an insolvency to be served in Guyana shall be served within one month from the issue thereof.

Service of notice
Form 6.

107. An insolvency 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.

Setting aside Notice Form 8.

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

INSOLVENCY PETITION

Form of petition.
Form 3
Form 9.

109. Every petition shall be fairly written, and no alterations, interlineations, or erasures shall be made without the leave of the Registrar except so far as may be necessary to adapt a printed form to the circumstances of the particular case. A debtor's petition shall be in Form 3, and a creditor's petition shall be in Form 9, with such variations as circumstances may require.

Attestation.

110. Every insolvency petition shall be attested by a solicitor, or by a justice of the peace, or by the Official Receiver, or the Registrar. If it be attested out of Guyana the witness must be a judge, or magistrate, or a Guyanese consul or vice-consul, or a notary public.

Deposit by petitioner.

111. (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 forty-nine dollars, 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 which sum shall be deemed to include the fee payable for the insolvency petition. 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 the debtor's estate, as the case may be, and any sum so paid by a petitioning creditor shall be repaid to him (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 priority prescribed by these Rules

CREDITOR'S PETITION

Security for costs.

112. A petitioning creditor who is resident abroad, or whose estate is vested in a trustee or assignee under any law relating to bankruptcy or insolvency, 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.

Verification and copies. Forms 11 and 12.

113. Every creditor's petition shall be verified by affidavit, and when it is filed there shall be lodged with it two or more copies to be sealed and issued to the petitioner.

Who to verify.

114. 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.

Joint petitioners.

115. Where a petition is presented by two or more creditors jointly, it shall not be necessary that each creditor shall 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.

Petition to be investigated.

116. After the presentation of a creditor's petition, and before sealing the copies of the petition for service, the statements in the petition shall be investigated by the Registrar, and where

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the statement of the act of insolvency in the petition cannot be verified by affidavit of some person within whose knowledge it is true, the same may be verified by an affidavit affirming the same to be true to the best of the deponent's knowledge and belief.

SERVICE OF CREDITOR'S PETITION

Personal Service.

117. A creditor's petition shall be personally served by delivering debtor a sealed copy of the filed petition.

Substituted service. Forms 15 and 16.

118. A petition shall be served upon the debtor by a marshal or by the creditor or his solicitor, or by some person in their employ; provided that if personal service cannot be effected, the Court may extend the time for hearing the petition, or if the Court is satisfied by affidavit or other evidence on oath that the debtor is keeping out of the way to avoid such service, or service of any other legal process, or that for any other cause prompt personal service cannot be effected, it may order substituted service to be made by delivery of the petition to some adult inmate at his usual or last known residence or place of business, or by registered letter, or in such other manner as the Court may direct, and that such petition shall then be deemed to have been duly served on the debtor.

Proof of service Form 14.

119. Service of a petition shall be proved by the return of the marshal or by affidavit, with a sealed copy of the petition attached, which shall be filed in Court forthwith after the service.

Service out of jurisdiction Forms 15 and 16

120. Where a debtor petitioned against is not in Guyana, the Court may order service to be made within such time and in such manner and form as it shall think fit.

Death of debtor before service of petition.

121. If a debtor against whom an insolvency petition has been filed dies before service thereof, the Court may order service to be effected on the executor or other representative of the debtor, or on such other persons as the Court may think fit.

HEARING OF PETITION

Proceedings on petition.

122. (1) Where a petition is filed by a debtor, the Court shall forthwith make a receiving order thereon.

(2) A creditor's petition shall not be heard until the expiration of eight days from the service thereof:

Provided that where the act of insolvency alleged is that the debtor has filed a declaration of inability to pay his debts, or where it is proved to the satisfaction of the Court that the debtor has absconded, or in any other case for good cause shown, the Court may, on such terms, if any, as it may think fit to impose, hear the petition at such earlier date as it may deem expedient.

Time of hearing.

123. The Registrar shall appoint the time and place at which the petition will be heard, and notice thereof shall be written on the petition and sealed copies, and where the petition has not been served, the Registrar may from time to time alter the first day so appointed and appoint another day and hour.

Several respondents.

124. 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 respondents or such of the respondents as has or have been served, and separately or collectively as to the respondents not then served according as service upon them is effected.

Debtor intending to show cause Form 17.

125. Where a debtor intends to show cause against a petition he shall file a notice with the Registrar specifying the statements in the petition which he intends to deny or dispute, and deliver or transmit by post to the petitioning creditor or his solicitor, if known, a copy of the notice three days before the day on which the petition is to be heard. The filing or service of this notice shall only affect the question of costs, and the debtor may at the hearing of the petition dispute any fact although no such

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notice may have been filed or served.

Non-appearance of debtor.

126. If the debtor does not appear at the hearing, the Court may make a receiving order on such proof of the statements in the petition as it shall think sufficient.

Appearance of debtor to show cause.
Form 23.

127. On the appearance of the debtor to show cause against the petition, the petitioning creditor's debt, and act of insolvency, or such of those matters as the debtor shall have given notice that he intends to dispute, shall be proved, and if any new evidence of those matters, or any of them, shall be given, or any witness or witnesses to such matter shall not be present for cross-examination, and further time shall be required to show cause, the Court shall, if it thinks the application reasonable, grant such further time as it may think fit.

Non-appearance of creditor.

128. 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 be presented by the same creditor in respect of the same act of insolvency without the leave of the Court.

Personal attendance of creditor dispensed with.

129. The personal attendance of the petitioning creditor and of the witness or witnesses to prove the debt and act of insolvency, or other material statements, upon the hearing of the petition, may, if the Court shall think fit, be dispensed with.

Proceedings after trial of disputed question.

130. Where proceedings on a petition have been stayed for the trial of the question of the validity of the petitioning creditor's debt, and such question has been decided in favour of the validity of the debt, the petitioning creditor may apply to the Registrar to fix a day on which further proceedings on the petition may be had, and the Registrar on being satisfied that such decision has been obtained shall give notice to the petitioner by post of the time and place fixed for the hearing of the petition, and a like notice to the debtor at the address given in his notice to dispute, or to their respective solicitors if known.

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Application to dismiss.

131. Where proceedings on a petition have been stayed for the trial of the question of the validity of the petitioning creditor's debt, and such question has been decided against the validity of the debt, the debtor may apply to the Registrar to fix a day on which he may apply to the Court for the dismissal of the petition with costs, and the Registrar on being satisfied that such decision has been obtained shall give notice to both the petitioner and debtor (or to their respective solicitors, if known) by post of the time and place fixed for the hearing of the application.

Application for extension of time.

132. An application for extension of time for hearing a petition shall be in writing, but need not be supported by affidavit, unless in any case the Court shall otherwise require.

Order for extension of time. Form 23

133. On an application for an extension of time for the hearing of a petition, no order shall be made for an extension beyond fourteen days from the day fixed for the hearing of the petition unless the Court is satisfied that such extension of time will not be prejudicial to the general body of creditors. Any costs occasioned by such application shall not be allowed out of the estate unless so ordered by the Court.

Further adjournment Form 23.

134. After the expiration of one month from the day appointed for the first hearing of a petition (provided such petition shall have been duly served) no further adjournment of the hearing merely by consent of the parties shall be allowed, except for the reasons set forth in rule 127, or for such other sufficient reasons to be stated in the order for adjournment as the Court shall think fit, but in every such case, unless an order for adjournment is made, the Court shall either make a receiving order or dismiss the petition .

INTERIM RECEIVER

Interim receiver. Form 13

135. After the presentation of a petition, upon the application of a creditor, or of the debtor himself, and upon proof by affidavit of sufficient grounds for the appointment of the

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Official Receiver as interim receiver of the property of the debtor, or any part thereof, the Court may, if it think fit, upon such terms as may seem just, make such appointment, and may authorise such Receiver to sell any perishable property of the debtor, subject to such terms and conditions as may seem just.

Deposit.

136. Before any such order is issued the person who has made the application therefor shall deposit with the Official Receiver the sum of twenty-five dollars towards the prescribed fees and commissions for the Official Receiver and such further sum as the Court shall direct for the expenses which may be incurred by him.

Further deposit if necessary.

137. If the sum of twenty-five dollars and such further sum so to be deposited for the expenses which may be incurred by the Official Receiver, shall prove 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 twenty-four hours after the making of the order therefor. If such additional sum shall not be so deposited, the order appointing the interim receiver may be discharged by the Court

Repayment of deposit.

138. 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 these Rules

Damages if petition dismissed.

139. Where, after an order has been made appointing an interim receiver, the petition is dismissed, the Court shall, upon application to be made within twenty-one 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

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order as the Court thinks fit, and such decision or order shall be final and conclusive between the parties unless the order be appealed from.

RECEIVING ORDER

Receiving order.
Forms 27, 28 and 29.

140. (1) A receiving order shall be in one of Forms 27, 28 and 29, with such variations as circumstances may require.

(2) Where a receiving order is made on a creditor's petition there shall be stated in the receiving order the nature and date, or dates, of the act, or acts of insolvency upon which the order has been made. Every order shall contain at the foot thereof a notice requiring the debtor to attend on the Official Receiver forthwith on the service thereof at the place mentioned therein.

(3) When a receiving order is made, and the debtor is in Guyana, the Court shall at the same time fix a day for the public examination of the debtor. If the debtor is out of Guyana the Court may defer fixing a day for such examination and require a special application to fix a day to be made.

(4) The Registrar shall cause a copy of the receiving order sealed with the seal of the Court to be forthwith served on the debtor.

Receiving order on insolvency notice.
Forms 27 to 29.

141. A receiving order shall not be made against a debtor on a petition in which the act of insolvency alleged is non-compliance with an insolvency notice within the appointed time, where such debtor shall have 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.

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

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Advertisement.

143. (1) Where a receiving order or an order for the appointment of the Official Receiver as interim receiver of the debtor's property is made, the Registrar shall forthwith give notice thereof to the Official Receiver.

(2) The Official Receiver shall forthwith publish the notice.

Form 30.

(3) The notice may be in Form 30.

Costs of
petitioner.

144. (1) All proceedings under the Act down to and including the making of a receiving order shall be at the cost of the party prosecuting the same, but when a receiving order is made, the costs of the petitioning creditor (including the costs of the insolvency notice (if any) sued out by him) shall be taxed and payable out of the proceeds of the estate, in the order of priority prescribed by these Rules.

(2) Where the proceeds of the estate are not sufficient for the payment of any costs necessarily 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

PUBLIC EXAMINATION OF DEBTOR

Public
examination of
debtor
Form 148 (1).

145. Where any order is made appointing the time and place for holding the public examination of the debtor the Official Receiver shall serve a copy thereof on the debtor, and shall forthwith publish for the information of creditors notice of such order and of the time and place appointed thereby

Default by
debtor in
attending.

146. If the debtor fails to attend the public examination at the time and place appointed by any order for holding or proceeding with the same, and no good cause is shown by him for such failure, it shall be lawful for the Court, upon its being proved to the satisfaction of the Court, that the

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order requiring the debtor to attend the public examination was duly served, and without any further notice to the debtor, to issue a warrant for his arrest as provided by section 26(l)(d) of the Act, or to make such other order as the Court shall think just.

Adjournment
sine die.

147. 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 adjourn the public examination *sine die*, and may make such further or other order as the Court shall think fit.

Proceedings
after
adjournment
sine die.

148. 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 advertising notice of the day to be appointed for proceeding with such examination shall, unless the Official Receiver or assignee, 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 the Official Receiver such sum as the Official Receiver shall 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.

149. 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 inserted in the *Gazette* and in the local paper in which the notice of the first holding of the public examination was inserted, seven days before the day appointed.

Public
examination of

150. (1) An application for an order dispensing with the public examination of a debtor, or directing that the

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a debtor as a lunatic, etc.

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 disability 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 or judge 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 be received as *prima facie* 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 assignee (if any) and shall 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 rule 91. 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 shall certify to be necessary for the expenses of the examination.

(5) The order to be made on the application shall be in Form 34 or Form 35 as the case may be, with such variations as circumstances may require.

Form 34
Form 35

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ADJUDICATION

Adjudication
on application
of debtor.

151. At the time of making a receiving order, or at any time thereafter, the Court may, on the application of the debtor himself, adjudge him insolvent. Such application may be made orally and without notice

Adjudication
on application
of other parties.
Forms 43,44and
45.

152. When a receiving order has been made, and no creditors attend at the time and place appointed for the first meeting, or an adjournment thereof, or if sufficient creditors do not attend there to form a quorum or pass a special resolution, or where the Official Receiver satisfies the Court that the debtor has absconded, or that the debtor does not intend to propose a composition or scheme, or in any of the other cases mentioned in the Act, the Court may, either on the application of the creditor or of the Official Receiver, forthwith adjudge the debtor insolvent

Adjudication
on failure of
composition or
scheme.

153. Where a composition or scheme is not accepted by the creditors at the first meeting or at one adjournment thereof within the time specified by the Act, the Court may, on the application of the Official Receiver, or of any person interested, adjudge the debtor insolvent.

Adjudication
on adjourn-
ment of
examination
sine die.

154. Where the public examination of a debtor is adjourned *sine die* and the debtor has not previously been adjudged insolvent the Court may forthwith, and without any notice to the debtor, adjudge him insolvent.

Form of notice.
Forms 46 and
47.
Form 148 (2)

155. (1) An order of adjudication shall be in Form 46 or 47 with such variations as circumstances may require.

(2) When a debtor is adjudged insolvent, the Registrar shall forthwith give notice thereof to the Official Receiver, who shall forthwith publish a notice of the adjudication in the like manner as is provided in the case of a receiving order.

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(3) The notice may be in Form 48.

Order
annulling
adjudication.
Form 50. Form
148 (4).

156. (1) An order annulling an adjudication may be in Form 50 with such variations as circumstances may require.

(2) When an adjudication is annulled the Registrar shall forthwith give notice thereof to the Official Receiver who shall forthwith publish a notice of the annulment.

(3) The order of the Court annulling an adjudication shall not relieve an assignee from the liability imposed on assignees to account to the Court for all transactions of such assignee in connection with the estate.

SERVICE OF PROCEEDINGS

Service where
debtor abroad.

157. Where a debtor against whom a receiving order has been made is not in Guyana, the Court may order service on the debtor of the receiving order, order of adjudication, order to attend the public examination or any adjournment thereof, or of any other order made against, or summons issued for the attendance of, the debtor, to be made within such time and in such manner and form as it shall think fit.

COMPOSITION OR SCHEME

Form where
proposal
submitted by
debtor. Forms
72 and 75 to 79.

158. Where a debtor intends to submit a proposal for a composition or scheme, the Forms of proposal, notice and report 72, 75, 76, 77, 78 and 79, with such variations as circumstances may require, shall be used by the Official Receiver for the purpose of the meeting of creditors for consideration of the proposal.

Application
by Official
Receiver or
debtor for
approval of
Court.
Form 85

159. Where the creditors have accepted a composition or scheme, and the public examination of the debtor has been concluded, the Official Receiver or the debtor may forthwith make an application to the Court for the approval of such composition or scheme. The Official Receiver shall not by

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making such application be deemed necessarily to approve of the composition or scheme.

Notice to
Official
Receiver.
Form 89.

160. Any person other than the Official Receiver who applies to the Court to approve of a composition or scheme shall, not less than seven days before the day appointed for hearing of the application, send notice of the application to the Official Receiver.

Notice to
creditors
Form 86.

161. Whenever an application is made to the Court to approve of a composition or scheme, the Official Receiver shall, not less than three days before the day appointed for hearing the application, send notice of the application to every creditor who has proved his debt.

Official
Receiver's
report to be
filed.

162. In every case of an application to the Court to approve of a composition or scheme the report of the Official Receiver shall be filed not less than four days before the time fixed for hearing the application.

Hearing and
appeal.

163. On the hearing of any application to the Court to approve of a composition or scheme, the Court shall, in addition to considering the report of the Official Receiver, hear the Official Receiver and the assignee (if any) thereon, and an appeal shall lie at the instance of the Official Receiver or assignee (if any) from any order of the Court made upon such application.

Costs of
application by
debtor.

164. No costs incurred by a debtor, of or incidental to an application to approve of a composition or scheme, shall be allowed out of the estate if the Court refuses to approve the composition or scheme.

Evidence and
order.

Form 61.

165. (1) The Court before approving a composition or scheme shall, in addition to investigating the other matters as required by the Act, require proof that the provisions of section 19(1) and (2) have been complied with. An order approving a composition or scheme shall be in Form 61, with

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such variations as circumstances may require.

Form 148 (5)

(2) The Official Receiver shall forthwith gazette every order made on an application to approve of a composition or scheme.

Provision in
composition or
scheme for
costs and
charges.

166. Where a composition or scheme has been duly accepted by the creditors, such composition or scheme shall not be approved by the Court, unless the Court is satisfied, on the report of the Official Receiver, that provision is made for payment of all proper costs, charges and expenses of and incidental to the proceedings and all fees and percentages payable to the Official Receiver under the scale of fees and percentages in force for the time being.

Fee on
application.

167. The fee prescribed to be charged for and in respect of an application to the Court to approve of a composition or scheme may be allowed and paid out of the estate of the debtor in any case in which there are sufficient funds in the hands of the Official Receiver or assignee, as the case may be, available for the purpose.

Correction of
formal slips,
etc.

168. At the time a composition or scheme is approved of, the Court may correct or supply any accidental or formal slip, error or omission therein, but no alteration in the substance of the composition or scheme shall be made

Proceedings if
scheme
approved.

169. When a composition or scheme is approved of the Official Receiver shall, on payment of all proper costs, charges and expenses of and incidental to the proceedings and all fees and percentages payable to the Official Receiver, forthwith put the debtor (or, as the case may be, the assignee under the composition or scheme or the other person or persons to whom under the composition or scheme the property of the debtor is to be assigned) into possession of the debtor's property. The Court shall also discharge the receiving order

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Cases in which
Official
Receiver is to
be assignee.

170. In every case of a composition or scheme in which an assignee is not appointed, or, if appointed, declines to act, or becomes incapable of acting, or is removed, the Official Receiver shall, unless and until another assignee is appointed by the creditors, be the assignee for the purpose of receiving and distributing the composition or for the purpose of administering the debtor's property, and carrying out the terms of the composition or scheme, as the case may be.

Security by
assignee under
composition or
scheme.
Form 96.

171. Where under a composition or scheme an assignee is appointed, he shall, after the composition or scheme has been approved by the Court, give security to the satisfaction of the Official Receiver in like manner as if he were an assignee in insolvency. If an assignee fails to give security within the time required he may be removed by the Official Receiver.

Non-payment
of
composition.

172. Where a composition or scheme has been approved and default is made in any payment there under, either by the debtor or the assignee (if any), no action to enforce such payment shall lie, but the remedy of any person aggrieved shall be by application to the Court.

Vesting of
property on
annulment of
composition.

173. Where a composition or scheme is annulled, the property of the debtor shall, unless the Court otherwise directs, forthwith vest in the Official Receiver without any special order being made or necessary.

Annulment of
composition.

174. Where a composition or scheme is annulled the assignee under the composition or scheme shall account to the assignee in the insolvency for any money or property of the debtor which has come to his hands and pay or deliver over to the said assignee any money or property which has not been duly administered.

Dividends
under
composition or
scheme

175. Where under any composition or scheme provision is made for the payment of any moneys to creditors entitled thereto, and any claim, in respect of which a proof

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has been lodged, is disputed, the Court may, if it thinks fit, direct that the amount which would be payable upon such claim, if established, shall be secured in such manner as the Court shall direct, until the determination of the claim so disputed; and on the determination thereof, the sum so secured shall be paid as the Court may direct.

Proof of debts
in composition
or scheme.

176. Every person claiming to be a creditor under any composition or scheme, who has not proved his debt before the approval of such composition or scheme, shall lodge his proof with the assignee there under, if any, or, if there is no such assignee, with the Official Receiver, who shall admit or reject the same. And no creditor shall be entitled to enforce payment of any part of the sums payable under a composition or scheme unless and until he has proved his debt and his proof has been admitted.

Application of
rules as to
composition,
etc.

177. All rules relating to compositions or schemes shall apply to compositions or schemes under section 19 of the Act and so far as applicable also to compositions or schemes under section 24 of the Act.

STATEMENT OF AFFAIRS

How made out.
Form 39.

178. Every debtor shall be furnished by the Official Receiver with instructions for the preparation of his statement of affairs. The statement of affairs (which shall be made out in duplicate, and one copy of which shall be verified) shall be in Form 39, with such variations or additions as circumstances may require.

The Official Receiver shall file in Court the verified statement of affairs submitted to him by the debtor.

Extension of
time.

179. Where any debtor requires any extension of the time for the submitting 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 17

of the Act unnecessary.

PROOF OF DEBTS

Form of proof.
Form 66 and 67.

180. A creditor's proof shall be in Form 66 or 67, with such variations as circumstances may require.

Workmen's
wages.

181. In any case in which it shall appear from the debtor's statement of affairs that there are numerous claims for wages by workmen and others employed by the debtor, it shall be sufficient if one proof for all such claims is made either by the debtor or his foreman or some other person on behalf of all such creditors. Such proof shall be in Form 68 and shall have annexed thereto, as forming part thereof, a schedule setting forth the names of the workmen and 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 and others, but only one fee in respect thereof shall be paid as an ordinary proof.

Production of
bills of ex-
change, etc.

182. 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 to the contrary, be produced to the Official Receiver, chairman of a meeting or assignee, as the case may be, before the proof can be admitted either for voting or for dividend.

Time for
lodging proof.

183. (1) A proof intended to be used at the first meeting shall be lodged with the Official Receiver not later than four o'clock of the afternoon of the day before the day appointed for such meeting.

(2) A proof intended to be used at an adjournment of a first meeting (if not lodged in time for the first meeting) must be lodged not later than four o'clock of the afternoon of

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the day before the day fixed for holding the adjourned meeting.

Transmission
from Official
Receiver to
assignee.

184. When an assignee is appointed in any matter, all proofs of debts that have been received by the Official Receiver shall be handed over to the assignee, but the Official Receiver shall first make a list of such proofs, and take a receipt thereon from the assignee for such proofs.

Filing of proof
on appeal.

185. The Official Receiver, or, as the case may be, the assignee, shall within three days after receiving notice from a creditor of his intention to appeal against a decision rejecting a proof, file such proof with the Registrar, with a memorandum thereon of his disallowance thereof. After the appeal has been heard by the Court, the proof, unless wholly disallowed, shall be given back to the Official Receiver or assignee, as the case may be.

Time within
which proofs
to be dealt
with by
Official
Receiver.

Form 69.

186. Subject to the power of the Court to extend the time, the Official Receiver, as assignee, not later than fourteen 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, in writing, either admit or reject wholly or in part every proof lodged with him or require further evidence in support thereof.

Or by assignee
Form 69.

187. Subject to the power of the Court to extend the time, the assignee, other than the Official Receiver, within twenty-eight 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 assignee has given notice of his intention to declare a dividend he shall within seven 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.

Effect of notice
of dividend.

188. 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.

189. Subject to the power of the Court to extend the time, no application to reverse or vary the decision of the Official Receiver or assignee in rejecting a proof shall be entertained after the expiration of twenty-one days from the date of notice of the decision complained of.

Costs of
appeals from
decisions as to
proofs

190. 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.

DIVIDENDS

Notice of
intended
dividend.

191. (1) Not more than two months and not less than twenty-one days before declaring a dividend, the Official Receiver or assignee shall give notice of his intention to do so by publishing a notice thereof. Such notice shall specify the latest date up to which proofs must be lodged, which shall not be less than fourteen days from the date of such notice.

(2) Where any creditor after the date mentioned in the notice of intention to declare a dividend, as the latest date upon which proof may be lodged, appeals against the decision of the Official Receiver or assignee rejecting a proof, such appeal shall, subject to the power of the Court to extend the time in special cases, be commenced, and notice thereof given to the Official Receiver or assignee within seven days from the date of the notice of the decision against which the appeal is made, and the Official Receiver or assignee 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

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within the time specified in this rule, the assignee shall exclude all proofs which have been rejected from participation in the dividend.

Declaration of dividend.

(3) Immediately after the expiration of the time fixed by this rule for appealing against the decision of the assignee he shall proceed to declare a dividend, and shall publish a notice thereof.

Form 103, 104 and 107.

(4) The notices shall be in Forms 103, 104 and 107, with such variations as circumstances may require.

(5) If it becomes necessary in the opinion of the assignee and the committee of inspection to postpone the declaration of the dividend beyond the prescribed limit of two months, the assignee shall publish fresh notice of his intention to declare a dividend, and the same procedure shall follow the fresh notice as would have followed the original notice.

Production of bills, notes, etc.
c.90:13

192. Subject to section 71 of the Bills of Exchange Act, and subject to the power of the Court in any case on special grounds to order production to be dispensed with, every bill of exchange, promissory note, or other negotiable instrument or security, upon which proofs have been made, shall be exhibited to the assignee before payment of dividend thereon, and the amount of dividend paid shall be endorsed on the instrument.

Dividend may be sent by post.

193. The amount of the dividend may, at the request and risk of the creditor, be transmitted to him by post.

DISCHARGE

Application.
Form 51.

194. (1) An insolvent intending to apply for his discharge under section 29 of the Act shall file his application with the Registrar who shall, not less than twenty-eight days before the day appointed for the hearing of the application,

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give notice of the time and place of hearing *the* application to the Official Receiver and assignee, and publish a notice of the time and place appointed for the hearing twenty-one days before the day appointed. Such notice shall be in Form 52.

Form 52

Form 148 (3)

(2) Notice of the day for hearing the debtor's application shall be sent by post by the Official Receiver to each creditor who has proved or his attorney to the address given in his proof not less than fourteen days before the day so appointed. The prescribed fee for such notice shall be paid by the debtor.

(3) The prescribed fees in respect of an application for discharge shall be paid by the applicant.

Appeal.

195. An appeal to the Full Court shall lie at the instance of the assignee, if any, from any order of the Court made upon an application for discharge.

Report of
Official
Receiver.

196. In every case of an application by an insolvent for his discharge, the report of the Official Receiver shall be filed not less than seven days before the time fixed for hearing the application.

Evidence in
answer to
report.

197. Where an insolvent intends to dispute any statement with regard to his conduct and affairs contained in the Official Receiver's report, he shall, not less than two 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 opposition discharge of an insolvent 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 not less than two days before the hearing of the application.

Opposition by
creditor.Costs of
application.

198. An insolvent shall not be entitled to have any of the costs of or incidental to his application for his discharge allowed

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to him out of his estate

Conditional
Orders.

Form 58

199. (1) Where the Court grants an order of discharge conditionally upon the insolvent consenting to judgment being entered against him by the Official Receiver or assignee for the balance or any part of the balance of the debts provable under the insolvency which is not satisfied at the date of his discharge, the order of discharge shall not be signed, completed or delivered out until the insolvent has given the required consent in Form 58.

(2) On such consent being filed the Court shall give judgment in terms of such consent.

(3) If the insolvent does not give the required consent within one month from the making of the conditional order the Court may, on the application of the Official Receiver or assignee, revoke the order or make such other order as the Court may think fit.

Order.

Delivery of
order.

Forms 53 to 57.

200. The order of the Court made on an application for discharge shall be dated the day on which it is made, and shall take effect on and from the day of its date; 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 Full Court thereon. The order shall be in one of Forms 53, 54, 55, 56 and 57 as the case may require.

Gazetting
order.

201. When the time for appeal has expired, or as the case may be, when the appeal has been decided by the Full Court, the Registrar shall forthwith publish the order in the Gazette.

Form 146.

The notice may be in Form 146, with such variations as circumstances may require.

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Execution on judgment in case of conditional discharge.

202. An application by the Official Receiver or assignee for leave to issue execution on a judgment given 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.

The party applying shall give notice of the application to the debtor not less than eight days before the day appointed for the hearing, and shall at the same time furnish him with a copy of the application.

Accounts of after-acquired property.

203. Where an insolvent 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 in respect to his earnings and after-acquired property and income and not less than once a year to file in Court a statement showing the particulars of any property or income he may have acquired subsequent to his discharge.

Verification of statements of after-acquired property.

204. Any statement of after-acquired property or income filed by an insolvent whose discharge has been granted subject to conditions shall be verified by affidavit, and the Official Receiver or assignee, may require the insolvent 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 an insolvent 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 assignee, rescind the order of discharge. The affidavit shall be in Form 59, with such variations as circumstances may require.

Form 59.

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Application
for
modification
of order.

205. Where after the expiration of two years from the date of any order made upon an insolvent's application for a discharge, the insolvent 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 fourteen days' notice of the day fixed for the hearing of the application to the Official Receiver and to all his creditors.

PROXIES AND VOTING LETTERS

Form and filing
of proxies.
Form 70, 71 and
72.

206. (1) A general proxy shall be in Form 70, a special proxy shall be in Form 71, and a voting letter under section 19(4) of the Act shall be in Form 72, with such variations as circumstances may require.

(2) A proxy shall be lodged with the Official Receiver or assignee not later than four o'clock on the day before the meeting or adjourned meeting at which it is to be used.

(3) As soon as a proxy or voting letter has been used it shall be filed with the proceedings in the matter.

Signature of
proxy.

207. A proxy given by a creditor shall be signed by such creditor or his duly constituted attorney only.

Filling in when
creditor blind.

208. 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, and, provided that all insertions in the proxy are in the handwriting of the witness and such witness shall have 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.

Minors not to
be proxies.

209. No person shall be appointed a general or special proxy who is a minor.

MEETINGS OF CREDITORS

- Notice to debtor.
- Form 81.
- 210.** (1) The Official Receiver shall give three days notice to the debtor of the time and place appointed for the first meeting of creditors. The notice, which shall be in Form 81, may be either delivered to him personally or sent to him by prepaid post letter, 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.

(2) A notice to attend subsequent meetings may be in the like form, with such variations as circumstances may require.

- Notice of first meeting.
Forms 73 to 76.
- 211.** The Official Receiver shall fix the day for the first meeting, and shall forthwith publish notice thereof. The notice shall be in one of Forms 73, 74, 75 and 76, with such variations as circumstances may require.

- Form and length of notice
Form 88.
- 212.** The notices of subsequent meetings to be published by the Official Receiver or assignee may be in Form 88, with such variations as circumstances may require. Where no special time is prescribed the notices shall be published not less than three days before the day appointed for the meeting.

- Notice to Official Receiver of creditors' meeting.
- 213.** Where an assignee summons a meeting of creditors, he shall send to the Official Receiver a copy of the notice convening the meeting.

- Cost of calling meeting.
- 214.** The costs of summoning a meeting of creditors at their request shall be paid by the persons at whose instance it is summoned, to be repaid to them out of the estate if the creditors or the Court shall so direct.

- Copy of resolution to be filed.
- 215.** The assignee shall send to the Registrar, and when the Official Receiver is not assignee to the Official

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Receiver, a copy, certified by him, of every resolution of a meeting of creditors.

Adjournment.

216. 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.

Quorum.

Form 83.

217. In calculating a quorum of creditors present at a meeting, those persons only who are entitled to vote at the meeting shall be reckoned.

PROCEEDINGS BY COMPANY OR CO-PARTNERSHIP

Public officer or agent of company.

218. An insolvency petition against, or insolvency notice to, any debtor to any company or co-partnership duly authorised 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 authorised to present or sue out such petition or notice.

PROCEEDINGS BY OR AGAINST A FIRM

Attestation of firm's signature.

219. Where any notice, declaration, petition or other document requiring attestation is signed by a firm of creditors or debtors in the firm's name, the partner signing for the firm shall add also his own signature, e.g., "Brown & Co., by James Green, a partner in the said firm."

Service on firm.

220. Any notice or petition for which personal service is necessary shall be deemed to be duly served on all the members of a firm if it is served at the principal place of business of the firm in Guyana, on any one of the partners, or upon any person having at the time of service the control or

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management of the partnership business there.

Debtor's petition by firm.

221. Where a firm of debtors file a declaration of inability to pay their debts or insolvency petition, the same shall contain the names in full of the individual partners, and if such declaration or petition is signed in the firm's name, the declaration or petition shall be accompanied by an affidavit made by one at least of the partners, setting forth the names of the partners and showing that they all concur in the filing of the declaration or petition.

Receiving order against firm.

222. A receiving order made against a firm shall operate as if it were a receiving order made against each of the persons who at the date of the order is a partner in that firm.

Statement of affairs.

223. In cases of partnerships the debtors shall submit a statement of their partnership affairs, and each debtor shall submit a statement of his separate affairs.

Adjudication against partners.

224. No order of adjudication shall be made against a firm in the firm's name, but it shall be made against the partners individually.

JOINT AND SEPARATE ESTATES

First meeting.

225. Where a receiving order is made against a firm, the joint and separate creditors shall collectively be convened to the first meeting of creditors.

Acceptance of composition, etc., by joint and separate creditors.

226. The joint creditors, and each set of separate creditors, may severally accept compositions or schemes of arrangement. So far as circumstances will 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.

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Voting on composition.

227. 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 confirmed the composition or scheme.

Adjudication.

228. On the adjudication in insolvency of a partnership the assignee appointed by the joint creditors, or the Official Receiver being assignee as the case may be, under section 22(5) or section 76(3) of the Act shall be the assignee of the separate estates. Each set of separate creditors may appoint its own committee of inspection; but if any set of separate creditors do not appoint a separate committee, the committee (if any) appointed by the joint creditors shall be deemed to have been appointed also by such separate creditors.

Separate firms.

229. If any two 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 shall arise 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.

Apportionment of assignee's remuneration

230. Where joint and separate estates are being administered the remuneration of the assignee in respect of the administration of the joint estate may be fixed by the

creditors, or (if duly authorised) by the committee of inspection of such joint estate, and the remuneration of the assignee in respect of the administration of any separate estate may be fixed by the creditors, or (if duly authorised) by the committee of inspection of such separate estate.

LUNATICS

Lunatics.

231. (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 rules is a lunatic (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 rules 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 to do so, without 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 appointed by any Court having jurisdiction so to do, 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 shall think it desirable, the Court may require such notice of the application as it shall deem necessary to be given to the Official Receiver or assignee (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.

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(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 must be supported by a report of the Official Receiver, the contents of which shall be received *as, prima facie* evidence of the facts therein stated.

(5) When a person has been appointed under this rule, any notice under the Act and rules 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 AND SALE OF PROPERTY

Sales.

232. No property except where it is otherwise provided belonging to the estate of a debtor sold under the Act shall be sold except by public sale or public tender after notice published for three successive Saturdays.

Perishable goods.

233. Perishable goods including animals may be sold after notice published in a newspaper for four days and inserted in the *Gazette* at least one day before the day of sale.

Auction.

234. The Official Receiver in whatsoever capacity acting or any of his clerks authorised by him may sell any property of an estate under his administration by public auction. If an assignee other than the Official Receiver desires to sell by public auction he must do so through a licensed auctioneer.

Immovable property.

235. Immovable property shall be appraised by one or more competent person or persons before being sold. The appraisement shall be verified by affidavit. The value so ascertained is hereafter referred to as the appraised value.

Not to be sold at under-valued.

236. Except as otherwise provided no immovable property belonging to an estate administered under the Act shall be sold for less than three-fourths of the appraised value unless with leave of the Court. If three-fourths of the appraised value cannot be obtained on the day of sale, application shall be made to the Court for directions, and the

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Court shall thereupon give such directions as the circumstances may require.

Sale of small immovable property.

237. Immovable property of which the appraised value does not exceed \$500 may be sold for the highest price that can be obtained without applying to the Court for directions.

Large sales.

238. Where it is proposed to include in one sale property estimated to be worth \$5,000, or upwards, such property shall be appraised and the sale shall be subject to the same rules as the sale of immovable property.

Opposition.

239. No opposition shall be entered to the transport of immovable property by the Official Receiver or assignee acting under the Act.

Plantations.

240. Where a plantation in cultivation forms part of the estate of a debtor the Official Receiver shall forthwith report the fact to the Court and state the following particulars so far as they can at the time be ascertained:

- (a) what amount if any is due to the State or the Immigration Fund;
- (b) whether or not there are any mortgages on the plantation and if so the amounts secured by such mortgages, the names of the mortgagees, and whether they are resident or represented in Guyana;
- (c) the amount required to be expended weekly for salaries, wages and supplies to maintain the plantation;
- (d) whether or not there is likely to be a loss on working the plantation for the next three months and if so the probable amount;

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- (e) any other particulars that it may be desirable to bring to the notice of the Court in forming a judgment as to what immediate action should be taken.

Interim
directions.

241. The Court on receiving such report shall thereupon give such directions as the circumstances may require for the immediate maintenance of the plantation, and

- (a) may authorise the Official Receiver, or assignee if any, forthwith to raise such amount to be specified as may be sufficient to pay all overdue wages which are preferent and as may be sufficient to maintain and carry on the plantation until further order of the Court for a period not exceeding in any case the next two months; and
- (b) may order such reports to be furnished and such notices to be served as the circumstances may require.

Notice to be
given.

242. The Court on receiving such report shall appoint a day within a period not exceeding twenty days from the date of receiving such report for hearing all persons interested as to the maintenance or sale of the plantation. Notice of the day appointed shall be published for at least seven days, and the Official Receiver shall, seven days before the day appointed, send by post a copy of the notice addressed to the Minister responsible for finance and to each mortgagee if resident in Guyana or his representatives if he be represented in Guyana, and if the debtor be in Guyana shall in like manner send a notice to the debtor.

Parties to be
heard.

243. The Court on the day appointed shall hear all persons interested who desire to be heard, and after such hearing and after such adjournments as may be necessary and

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after receiving such further reports as the Court may order, shall give such directions as regards the maintenance and manner and time of sale of the plantation as the circumstances may require.

Receivers.

244. The Court, on and after the day so appointed shall appoint a receiver who shall, subject to these Rules, manage and administer the plantation until sold and may require him to give security or may dispense with security:

Provided always that where there is a first mortgage the first mortgagee or his agent shall be appointed a receiver. Where there are several mortgages and the first mortgagee or his agent is unwilling to act, the first of the subsequent mortgagees or their agents in the order of the priority of the mortgages who is willing to act shall be entitled to be appointed if he so desire.

Removal and vacancies.

245. The Court may at any time remove any receiver for improper conduct or negligence or other good cause and may appoint a receiver in the place of any receiver who may die, leave Guyana, be removed or be unable to act.

Directions.

246. The Court after the day appointed for hearing the parties interested may from time to time give such directions as regards the maintenance or working of the plantation as the circumstances may require, and may authorise the Official Receiver or the receiver to raise such specified sums as may be necessary.

Preference

247. All sums authorised by the Court to be raised on a plantation shall be a preferent claim on the proceeds realised by the sale thereof after the expenses of the sale, and debts due to the State, and the Immigration Fund have been paid in full.

Time and mode of sale.

248. When determining the time of sale of a plantation the Court shall have reference to the interests and rights of

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persons whether resident within or without Guyana who may be interested in the plantation, and the Court may direct that the notice of the sale of the plantation shall be advertised in such places and in such manner as the Court may deem expedient.

The Court shall also have reference to the probability of obtaining a fair price at the time fixed for the sale, and whether there be any probability of the plantation being worked so as to produce a profit.

Sale of
produce.

249. The produce of a plantation unless bound by mortgage in consignment shall be sold by the receiver and the Court shall from time to time direct whether such produce shall be sold in Guyana or shipped for sale elsewhere.

Notice.

250. The produce of a plantation sold in Guyana may be sold after notice published for five days.

Produce
bound in
consignment.

251. When the produce of a plantation is bound by mortgage in consignment the produce shall be consigned or go to the person to whom it is so bound, and the Court shall so far as may be practicable give effect to the covenants in the mortgage, provided the mortgagees make arrangements to the satisfaction of the Court for forthwith paying for the maintenance of the plantation, the net proceeds realised by the sales of such produce after deducting expenses and commissions so far as it shall be necessary to apply such net proceeds in maintaining the plantation and paying the creditors who are preferential to the mortgagee. In default of the mortgagee making arrangements for this purpose which are satisfactory to the Court, or in case the mortgagee having made any such arrangement refuses or neglects to carry it out the Court may make such order as to the sale of the produce as the circumstances may require.

Remuneration
to receiver.

252. The receiver shall receive such remuneration as may be awarded by the Court.

Interpretation.

253. The terms "plantation in cultivation" and "plantation" in these Rules mean a plantation on which there are 40 acres in cultivation or on which any immigrant is indentured.

PART III SPECIAL PROCEDURES

Small Insolvencies

Application for order.

254. An application by the Official Receiver that the estate of a debtor may be ordered to be administered in a summary manner shall be in Form 37, with such variations as circumstances may require.

Summary administration.

255. Where an estate is ordered to be administered in a summary manner, under section 105 of the Act, the provisions of the Act and of these Rules shall, subject to any special direction of the Court, be modified as follows:

Form 38.

- (a) There shall be no advertisement in any other paper than the *Gazette*.
- (b) The title of every document in the proceedings subsequent to the making of an order for summary administration shall have inserted thereon the words "Summary case".
- (c) If no proposal for a composition or scheme is lodged with the Official Receiver within the time specified for that purpose in section 19 of the Act, or within such time thereafter as the Official Receiver may fix, or if the Official Receiver satisfies the Court that the debtor has absconded, or that the debtor does not intend to propose a composition or scheme, or that the composition or scheme

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proposed is not reasonable or calculated to benefit the general body of creditors, the Court may forthwith adjudge the debtor insolvent. A report by the Official Receiver under this paragraph shall be *prima facie* evidence of the facts stated therein.

- (d) If during or at the conclusion of the public examination of the debtor it appears to the Court that a composition or scheme ought not to be sanctioned by reason of the conduct of the debtor, the Court may forthwith adjudge the debtor insolvent.
- (e) Except for the purpose of confirming a composition or scheme there shall be only one meeting of creditors. The meeting may, where it seems expedient, be held on the day appointed for the public examination of the debtor. If a quorum of creditors be not present it shall not be necessary to adjourn the meeting and no further meeting need be held.
- (f) The estate shall be realised with all reasonable despatch and, where practicable, distributed in a single dividend when realised. The time mentioned in section 55(2) of the Act shall be extended to six months.
- (g) In lieu of the copy of the accounts to be filed with the Court as prescribed by section 80(4) of the Act, a statement showing the position of the estate analogous, as nearly as may , to that prescribed by Form 106 shall be filed.
- (h) The costs or charges of any person employed by the Official Receiver other than of a

Form 106.

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solicitor may be paid and allowed without taxation, provided that the Court may require such costs or charges to be taxed by the taxing officer.

ADMINISTRATION OF ESTATE OF PERSON DYING INSOLVENT.

Form of
petition .
Form 10

256. (1) A creditor's petition under section 108 of the Act shall be in Form 10 with such variations as circumstances may require, and shall be verified by affidavit.

An Executor's petition may be, *mutatis mutandis*, in the same form.

(2) Every petitioner shall before filing his petition deposit with the Official Receiver the sum of ten dollars to cover any fees in respect thereof.

Gazetting.

257. Where an administration order under section 108 of the Act is made, such order shall be gazetted and advertised in the same manner in all respects as an order of adjudication is gazetted and advertised.

Service.

258. (1) The petition shall, unless the Court otherwise directs, be served on each executor who has acted under the will, or as the case may be on each person who has administered. The Court may also, if the Court thinks fit, order the petition to be served on any other person.

(2) Service shall be proved in the same way as is provided in the case of an ordinary creditor's petition and the petition shall be heard in the like manner.

Administration
order Form 36.

259. An administration order under section 108 of the Act shall be in Form 36, with such variations as circumstances may require.

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Duties of
executor, etc.

260. Where an administration order under section 108 of the Act has been made it shall be the duty of the heir, executor or other person who has been administering the estate of the deceased debtor to lodge with the Official Receiver forthwith (in duplicate) an account of the dealings with, and administration of (if any), the deceased's estate by such heir, executor or other person as aforesaid, and such heir, executor or other person as aforesaid 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 by affidavit.

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.

Executor *de son
tort.*

261. In any case in which an administration order under section 108 of the Act has been made, and it appears to the Court, on the report of the Official Receiver, that no heir or executor exists, the account, list, and statement mentioned in the last preceding rule shall be made, verified and lodged by such person as in the opinion of the Court, upon such report may have taken upon himself the administration of, or may otherwise have intermeddled with, the property of the deceased, or any part thereof.

Rules as to
administration
of estate of
deceased
insolvent.

262. 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 an assignee—

- (a) the provisions of the First Schedule to the Act relating to the mode of summoning a meeting of creditors and to the persons entitled to vote at a meeting;

- (b) the provisions of the rules, which refer to creditors, meetings of creditors, assignees, and committees of inspection; and
- (c) where the property is not likely to exceed in value the sum of one thousand dollars, the provisions of section 105 of the Act,

shall, so far as applicable, apply as if the proceedings were under a receiving order and order of adjudication.

PART IV
OFFICERS, ASSIGNEES, AUDIT, ETC.

Registrar's Books

Books to be
kept by
Registrar Form
146 and 147.

263. The Registrar shall keep books according to the forms in the Appendix, and the particulars given under the different heads in such books shall be entered forthwith after the proceedings shall be had.

ACCOUNTS AND AUDIT

Record Book.

264. The Official Receiver, until an assignee is appointed, and thereafter the assignee, shall keep a book to be called the "Record Book", in which he shall record 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 the 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.

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Cash Book.

265. (1) The Official Receiver, until an assignee is appointed, and thereafter the assignee, 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 from day to day the receipts and payments made by him.

(2) The Official Receiver may keep one general cash book for all Insolvency matters in which he is or is acting as assignee, and shall also keep an account current showing the account of each estate of which he is or is acting as assignee in which account the several receipts and payments shall be entered in separate columns under appropriate heads so as to show an abstract of the receipts and payments in connection with each head, or such account may be kept in such other form as the Minister responsible for finance may prescribe.

Books to be submitted to committee of inspection.

266. The assignee shall submit the Record Book 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 three months.

Audit of Cash Book.

267. The committee of inspection shall not less than once every three months audit the Cash Book and certify therein under their hands the day on which the said book was audited. The certificate shall be in Form 109, with such variations as circumstances may require. If the Official Receiver is not the assignee and no committee of inspection has been appointed, the Official Receiver shall discharge the functions of a committee of inspection under this and the last preceding rules.

Form 109.

Passing of accounts.

268. (1) Every assignee shall, at the expiration of six months from the date of the receiving order, and at the expiration of every succeeding six months thereafter until his release, transmit to the Registrar a duplicate copy of the Cash Book for such period together with the necessary vouchers and copies of the certificates of audit and his

accounts for the preceding period as required by section 80 of the Act. He shall also forward with the first accounts a summary of the debtor's statement of affairs showing thereon in red ink, the amounts realised, and explaining the cause of the non-realisation of such assets as may be unrealised.

(2) When the estate has been fully realised and distributed, or if the adjudication is annulled, the assignee shall forthwith send in his accounts to the Registrar although the six months may not have expired.

Form 110. (3) The accounts sent in by the assignee shall be certified and verified by him according to Form 110

Copy accounts to be filed.

269. When the assignee's account has been passed, the Registrar shall certify that the account has been duly passed, and shall file the duplicate copy of the same with the proceedings in the insolvency.

Affidavit of no receipts.

270. Where an assignee 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 Registrar, forward to the Registrar an affidavit of no receipts or payments.

Proceedings on resignation.

271. Upon an assignee 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 assignee, all books kept by him, and all other books, documents, papers, and accounts in his possession relating to the office of assignee.

Joint and separate estates accounts.

272. 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 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

Form 102.

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transfer has been gazetted and published in one newspaper.

Debtor's
books.

273. The Court may, on the application of the Official Receiver, direct in what manner the debtor's books of account, and other documents given up by him, or any of them, may be disposed of.

Expenses of
sales.

274. Where 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 same being allowed by the taxing officer. Every trustee, by whom such auctioneer or agent is employed, shall be accountable for the proceeds of every such sale.

Allowance to
debtor.

275. In any case in which, under section 63 of the Act, a trustee makes an allowance to an insolvent 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.

ASSIGNEES

Form of
certificate of
appointment.
Form 95.

276. A certificate by the Official Receiver, certifying the appointment of an assignee, shall be in Form 95, with such variations as circumstances may require.

Notice of
appointment.

277. When the appointment of an assignee is certified notice of his appointment shall forthwith be published by the Official Receiver. The assignee shall send a certificate to the Registrar to be filed. All expense of complying with this rule shall be borne by the assignee and may be charged by him to the estate.

Notification of
objection to

278. (1) Where the Official Receiver objects to the appointment of an assignee, or does not approve of the

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Court. security proposed to be given by him, and is required by a majority in value of the creditors to notify the non-approval or objection to the Court, the requisition shall be in Form 94, with such variations as circumstances may require. On receipt of such requisition the Official Receiver shall forthwith transmit a copy thereof to the Registrar, who shall fix a time for the hearing of the matter. At the hearing the person whose appointment or proposed security is objected to, and every creditor and the Official Receiver shall be entitled to be heard.

(2) The Official Receiver may also with the copy of the requisition communicate to the Court the grounds of his non-approval or objection. Any report so made by the Official

Receiver shall *be prima facie* evidence of the statements therein contained.

Removal of trustee. 279. It shall be a sufficient reason for refusing to certify the appointment of a person as assignee that in any other proceedings under the Act such person has either been removed under section 75(2) of the Act from the office of assignee or has failed or neglected, without good cause shown by him, to render his accounts for audit for two months after the date by which the same should have been rendered.

Removal for failing to keep up security. 280. Where an assignee or special manager has given security in the prescribed manner but fails to keep up such security the Official Receiver may, if he thinks fit, remove him from his office.

Removal by Official Receiver. 281. Where an assignee is removed by the Official Receiver, notice of the order removing him shall at once be transmitted by the Official Receiver to the Registrar who shall file the notice with the proceedings in the matter.

The Official Receiver shall also cause a notice of the order to be published.

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Notice of
resignation.
Form 93.

282. An assignee 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 seven days' notice of the meeting to the Official Receiver

Rate of
remuneration.

283. (1) The creditors, or as the case may be, the committee of inspection in voting the remuneration of the assignee, shall distinguish between the commission or percentage payable on the amount realised and the commission or percentage payable on the amount distributed in dividends.

(2) The rate of commission or percentage on the amount realised shall not exceed the rate on the amount distributed.

(3) Except as provided by the Act or rules no assignee 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 rules he is entitled as assignee.

Assignee
carrying on
business.
Forms 112 and
113.

284. (1) Where the assignee 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.

Form 114.

(2) The trading account shall from time to time and not less than once in every month be verified by affidavit, and the assignee 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.

Notice of
application for
release.
Form 121.

285. An assignee before making application to the Court for his release, shall give notice of the application in Form 121 to all the creditors of the debtor who have proved their debts and to the debtor and shall send with such notice a

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summary of his receipts and payments as assignee in Form Form 106.

Provided that when such application is made upon the assignee ceasing to act by reason of a composition having been approved under section 24 of the Act such notice and summary shall be sent to the debtor only.

Gazette of release.

286. Where the Court has granted to an assignee his release a notice of the order granting such release shall be gazetted. The assignee shall be required to pay the requisite fees which may be charged to the estate.

Delivery of books on release of assignee.

287. The release of an assignee shall not take effect unless and until he has delivered over to the Official Receiver all the books, papers, documents and accounts which by these Rules he is required to deliver over on his release.

Meeting to consider.

288. 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 assignee 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.

Authority for account at local bank. Form 119 and 120.

289. Application by a committee of inspection for authority to the assignee to make his payments into and out of a bank shall be in Form 119, and the authority shall be in Form 120 with such variations as circumstances may require.

Application for directions.
Form 97 and 98.

290. Where an assignee desires to apply to the Court for direction in any matter he may file an application in Form 97. The Court shall then hear the application or fix a day for hearing it and direct the assignee to apply by motion.

Creditor may obtain copy of an assignee's account.

291. Any creditor who has proved his debt may apply to the assignee for a copy of the accounts (or any part thereof) relating to the estate, as shown by the Cash Book up

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to date and on paying for the same at the rate of 25 cents per page he shall be entitled to have such copy accordingly.

Statements of account to be furnished to creditors.
Form 115.

292. Where in pursuance of section 81(2) of the Act the Official Receiver or assignee is required to transmit to creditors a statement of the accounts, such statement shall be in Form 115 with such creditors variations as circumstances may require; and the cost of furnishing and transmitting such statement shall be calculated at the rate of 25 cents for each page of such statement.

Dealings with estates.

293. Neither the assignee nor any member of the committee of inspection of an estate shall, while acting as assignee or members 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 this rule, may be set aside by the Court, on the application of the Official Receiver or any creditor.

Assignee not to purchase from his employer or partner without Court's sanction.

294. (1) Where the assignee 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 himself, his employer (if any), or from any person whose connection with the assignee is of such a nature as would result in the assignee obtaining any portion of profit (if any) arising out of the transaction.

(2) In any case in which the sanction of the Court is obtained under this rule or the next rule the cost of obtaining such sanction shall be borne by the person in whose interest such sanction is obtained, and shall not be payable out of the debtor's estate.

Committee of inspection.

295. 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 insolvency, or to receive out of the estate any payment for services rendered by him in connection with the administration of the estate, or for any goods supplied by him to the assignee for or on account of the estate. If it appears on the examination and passing of the assignee's account that any profit or payment has been made contrary to this rule such payment shall be disallowed and such profit surcharged against the assignee as a receipt on account of the estate.

Sanction of payment to members of committee of inspection.

296. Where the sanction of the Court under the last preceding rule to a payment to a member of a committee of inspection for services rendered by him in connection 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 service rendered by him in **the** discharge of the duties attaching to his office as a member of such committee.

Discharge of costs, etc., before estate handed over to trustee.

297. (1) Where a debtor is adjudged insolvent, and an assignee is appointed, the Official Receiver shall forthwith put the assignee into possession of all property of the insolvent of which the Official Receiver may be possessed; provided that such assignee shall have, 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 six dollars per cent *per annum*, and shall have discharged or undertaken to discharge all guarantees which have been properly given by the Official Receiver for the benefit of the estate; and the assignee shall pay all fees, costs, and charges of the Official Receiver which may not have been discharged by the assignee before being put into possession of the property of the insolvent, and whether incurred before or after he has

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been put into such possession.

(2) The Official Receiver shall be deemed to have a lien upon the estate until such balance shall have been paid, and such guarantees and other liabilities shall have been discharged.

(3) It shall be the duty of the Official Receiver, if so requested by the assignee, to communicate to the assignee all such information respecting the insolvent and his estate and affairs as may be necessary or conducive to the due discharge of the duties of the assignee.

Meeting of
creditors to
consider
conduct of
assignee.

298. Where the Official Receiver is of opinion that any act done by an assignee 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, he may summon a meeting of creditors accordingly to consider the same and the expenses of summoning such meeting shall be paid by the assignee out of any available assets under his control.

DISCLAIMER OF LEASE

Disclaimer of
lease without
leave.

299.(1) A lease may be disclaimed without the leave of the Court in any of the following cases:

- (a) where the insolvent has not sublet the demised premises or any part thereof or created any charge on the lease; and
 - (i) the rent reserved is less than one hundred dollars *per annum*; or
 - (ii) the estate is administered under section 105 of the Act; or
 - (iii) the assignee serves the lessor

with notice of his intention to disclaim, and the lessor does not within seven days after the receipt of such notice give notice to the assignee requiring the matter to be brought before the Court;

- (b) where the insolvent has sublet the demised premises or created a charge upon the lease and the assignee serves the lessor and the sub-lessee or mortgagee with notice of his intention to disclaim, and neither the lessor nor the sublessee or mortgagee or any of them within 14 days after the receipt of such notice require or requires the matter to be brought before the Court.

Form 101

Forms 99 and
100.

(2) The notices shall be in Forms 99 and 100 with such variations as circumstances may require.

(3) Except as provided by this rule the disclaimer of a lease without the leave of the Court shall be void.

(4) Where an assignee disclaims a lease he shall forthwith file the disclaimer with the proceedings in Court, and the disclaimer shall contain particulars of the lease disclaimed and a statement of the persons to whom notice of disclaimer has been given. Until the disclaimer is filed by the assignee, the disclaimer shall be inoperative.

(5) Where in pursuance of a notice by the assignee of his intention to disclaim a lease, the lessor, sub-lessee or mortgagee requires the assignee 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 insolvent except in cases in which the Court is satisfied that

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such application was necessary in order to do justice between the parties.

(6) 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.

(7) Where any person claims to be interested in any part of the property of the insolvent burdened with onerous covenants, he shall, at the request of the Official Receiver or assignee furnish a statement of the interest so claimed by him.

OFFICIAL RECEIVER

Duties as to
debtor's
statement of
affairs.

300. (1) As soon as the Official Receiver receives notice that he has been appointed to the receivership of an estate, he shall furnish the debtor with a copy of instructions for the preparation of his statement of affairs.

Form 39.

The instructions may be in Form 39, with variations or additions as circumstances may require:

(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 and determining whether the estate should be administered under section 105 of the Act.

(3) It shall be the duty of the debtor to attend at such time and place as the Official Receiver may appoint.

(4) The debtor shall fill up and deliver to the Official Receiver the answers to the questions set out in Form 40.

Form 40.

301. The Official Receiver while in the possession of the property of a debtor may make him such allowance out of

Subsistence
allowance to

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debtor.

his property for the support of himself and his family as may seem 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.

Special report
as to person
employed to
assist debtor.

302. Whenever, under the powers given by section 68 of the Act, the Official Receiver employs any person to assist the debtor in the preparation of his statement of affairs, he shall forthwith report the matter by letter to the Court, justifying his action therein and specifying the remuneration to be allowed to such person.

Use of proxies
by deputy.

303. Where the Official Receiver who holds any proxy or proxies cannot conveniently attend any meeting of creditors, at which such proxy or proxies might be used, he may depute some person under his control, to attend such meeting and use such proxies on his behalf and in such manner as he may direct.

Removal of
special
manager.

304. 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.

Mode of
application.

305. Applications by the Official Receiver may be made personally and without notice or other formality, but the Court may in any case order that an application 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.

Evidence on
application by
Official
Receiver.

306. Where for the purposes of any application to the Court by the Official Receiver for directions, or to adjudge a debtor insolvent, 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 an insolvent or to commit an insolvent, it is necessary that evidence be given

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by him in support of such application such 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 shall be received by the Court as *prima facie* evidence of the matters reported upon.

Application for directions.

307. In any case of doubt or difficulty or in any matter not provided for by the Act or these Rules relating to any proceeding in the Court the Official Receiver may apply to the Court for directions.

No assets.

308. Where a debtor, against whom a receiving order has been made, has no available assets the Official Receiver shall not be required to incur any expense in relation to his estate, unless the Court so direct or some creditor gives sufficient security for the payment of such expense.

Accounting by Official Receiver.

309. (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 assignee under the composition or scheme.

(2) Where a debtor is adjudged insolvent, and an assignee is appointed, the Official Receiver shall account to the assignee in the insolvency.

(3) If the debtor, or, as the case may be, the assignee is dissatisfied with the account or any part thereof, he may report the matter to the Court who shall make such order (if any) thereon as it may deem expedient.

Trading account of debtor.

310. The debtor shall, on the request of the Official Receiver, furnish him with trading and profit and loss accounts and a cash and goods account for such period not exceeding two years prior to the date of the receiving order as the Official Receiver shall specify:

Provided that the debtor shall, if ordered by the Court so

to do, furnish such accounts as the Court may order for any longer period. 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 shall think just.

Liability for costs, expenses and damages.

311. The following provisions shall apply to every case in which proceedings are taken either 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 the *bona fide* and reasonable belief that he is acting, in pursuance of the Act, or in execution of the powers given to him by the Act:

(a) 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.

(b) If such proceedings are commenced before the appointment of an assignee by the creditors, or before the approval of a composition or scheme, the Official Receiver may, before putting the assignee 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 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 an assignee by the creditors or after approval of a composition or scheme the Official Receiver shall forthwith give notice to the assignee 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.

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PAYMENTS INTO AND OUT OF BANK

Local bank.

312. Where the assignee is authorised to have an account at a bank, he shall forthwith pay all moneys received by him to the credit of the estate:

Provided always the proceeds of sale of any plantation sold by an assignee shall be paid into the Insolvency Estates Account. 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 assignee, and countersigned by such one or more person or persons as the creditors or the committee of inspection may appoint.

SECURITY BY ASSIGNEE OR SPECIAL MANAGER

Standing security to Official Receiver.

313. In the case of an assignee or special manager the following rules as to the security shall be observed:

- (a) The security shall be given to the Official Receiver or such person or persons and in such manner as he may from time to time direct.
- (b) It shall not be necessary that security shall 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 in which the person giving security may be appointed either as assignee or special manager.
- (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.

SPECIAL MANAGER

Rate of payment.

314. Where a special manager is appointed and his remuneration is not fixed by the creditors, he shall be paid according to such scale as may from time to time be fixed by the Official Receiver.

Accounts.

315. 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.

Form 90.

UNCLAIMED FUNDS, ETC., UNDER SECTION 126

Application for payment out by party entitled.

316. An application under section 126 of the Act, for payment out of the Insolvent Estates Account of any sum to which any person claims to be entitled shall be made by petition and shall be supported by the affidavit of the claimant, and such further evidence as the Chancellor may require.

GENERAL RULES AS TO ADMINISTRATION ORDERS

Request for order.

Form 149.

317. A debtor desiring to obtain an administration order under section 106 of the Act shall file with the Registrar a request in writing according to Form 149.

When the debtor is illiterate and unable to fill up such request the Administrator General shall fill up the same from the information given by such debtor.

Stay of proceedings.

318. On the filing of such request no creditor to whom the applicant is indebted in respect of any debt, and to whom notice of the filing of such request is given, shall proceed with any action or execution against the property or person of such

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applicant except with the leave of the Court and on such terms as the Court may impose:

Provided, however, that if the order is not made the creditor shall have the right to proceed.

Contents of request.

319. (1) The debtor shall state in his request whether he proposes to pay his creditors in full, or whether he proposes to pay a composition. In the latter case he shall further state the amount in the dollar he proposes to pay, and in either case the amount of the monthly or other installments by which he proposes to pay.

(2) The debtor shall set out in a list attached to his request the names, addresses and descriptions of all his creditors, including all secured creditors, and all creditors having power to distrain for rent, rates and taxes.

(3) The debtor shall attach to his request and statement an affidavit deposing that, to the best of his knowledge, information and belief, the names of all his creditors, and the true amounts of the debts due from him to them, are set out in the list attached to the request, and that the statements made by him in his request and statement are true.

Notice of request.

320. Upon a request being filed the Registrar shall as soon as may be send a copy to the Official Receiver who shall thereupon send by post a notice according to Form 151 to all the creditors mentioned in the list of the day and hour when the debtor's application will be heard; such notice shall be sent by post five clear days before the day appointed for hearing the application.

Form 150.

The Official Receiver shall also in like manner send notice to the debtor according to Form 150.

Objection to
debt set.

321. Any creditor to whom the notice of the request has been sent, and who desires to object to any debt stated by the debtor shall send written notice thereof by post or otherwise to the Registrar as well as to the Official Receiver and to the debtor and creditor whose claim is objected to three clear days before the date fixed for the hearing of the request, and therein he shall state the grounds of his objection. Such notice may be sent by post. The Court may, if it sees fit, proceed to hear the objection although such notice has not been given.

Proceedings on
hearing of
request.

322. Upon the request coming on for hearing the course of proceedings shall be as follows:

- (a) The debtor shall attend in person unless the Court otherwise directs.
- (b) Any creditor, whether he has received a notice of the request or not, may attend the hearing thereof and prove his claim, and object to any debt.
- (c) All claims set out in the list attached to the request shall be taken to be proved unless objected to by a creditor, or disallowed by the Court.
- (d) All creditors whose debts are objected to either by the debtor or any other creditor shall prove their debts in like manner as upon the hearing of an ordinary issue, provided that the Court may in its discretion direct the proof of any debt to be adjourned upon any terms that it may think fit, and may thereupon either adjourn the further consideration of the application or proceed to determine the same, in which latter case such debt, if and when proved, shall be

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added to the schedule of proved debts.

- (e) The debtor shall answer all questions put and allowed by the Court.
- (f) Any creditor who has proved, and by leave of the Court any creditor the proof of whose debt has been adjourned, and with the like leave any other person on their behalf, shall be entitled to be heard and to adduce evidence.
- (g) Where the debtor proposes to pay a composition no administration order other than for payment in full shall be made where the composition is dissented from by a majority in number and value of the creditors who have no power to distrain and who do not hold security.
- (h) The dissent of the creditors may be given orally at the hearing or by written notice to the Registrar in Form No. 151.

Form 151

- (i) Where it appears that the conduct of the debtor has been such that, if the debtor were applying for the sanction of a composition or scheme under section 19 of the Act the Court might refuse its sanction, the Court may refuse to make an administration order.
- (j) No administration order shall be made under which payments shall be extended over a period of more than four years from the date of the order.

Proceedings
when order

323. The administration order shall be in Form 152. Notice of the order shall be in Form 153 and shall be

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made. Form
152 and 153.

published by the Registrar.

Objections
under section
106(10).

324. Any creditor entitled to object under section 106(10) of the Act to any debt scheduled must give notice in writing to the Registrar of his objection and of the grounds thereof, and the Registrar of his objection and of the grounds thereof, and the Registrar shall thereupon name a day when such objection may be heard. An application to allow such objection shall be heard by the Court *ex parte* in the first instance, and the Court may dismiss such application, or it may direct the same to be renewed upon notice being given to such persons and upon such terms as to security for costs and otherwise as the Court may think fit.

Objections after
time.

325. After an administration order has been made no creditor to whom notice of hearing of the request has been duly sent under rule 320 shall be entitled to object to any debt scheduled, or to the manner in which payment is directed to be made by the order, unless he prove to the satisfaction of the Court that such notice did not reach him and that he has not received reasonable notice of the proceedings in any other manner.

No creditor shall be entitled to make any such objection after the expiration of two calendar months from the date of the order.

Proof under
section 106(11)

Form 157.

326. Any creditor desirous to prove a debt under section 106(11) of the Act shall send in his claim in writing to the Registrar, who shall thereupon send notice to the debtor of the same, according to Form 157.

Proceedings if
claim not
disputed.
Form 158.

327. If the debtor does not appear and dispute the claim within the period allowed by the notice, the claim shall be deemed to be proved, and shall be added to the schedule to the order accordingly, and notice of the addition shall be sent to both the creditor and to the person, if any, having the conduct of the order.

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Proceedings if
claims disputed
Form 157.

328. If the debtor objects to the claim and gives notice of his objection in Form 157, the Registrar shall appoint a day for the hearing of the objection, and give notice of the time for hearing to both parties.

Conduct of
order.

329. If the Court thinks fit, or is so requested by the majority of the creditors present at the hearing of the request who may have proved, the Court may appoint any person to have the conduct of the order, and may at any time afterwards remove him.

It shall be the duty of any person so appointed to take all proper proceedings for enforcing the terms of the order, but in case of his neglect to proceed or of urgency any creditor may take such proceedings. The person having the conduct of the order shall pay the Official Receiver the prescribed fee in respect of the order out of the first moneys coming into his hands.

Judgment
summons to
enforce order.
Form 115 and
156. C.6:04

330. A judgment summons to enforce an order shall be issued on payment of the prescribed fee and be served personally five clear days before the return day thereof, and all proceedings thereon shall be taken in like manner as if it were a judgment summons issued to enforce the Debtors Act, except that the debtor must prove that he has not had the means to pay the sum in respect of which he has made default; and if thereupon the Court is satisfied that he has not had the means to pay the sum in respect of which he has made default, the Court may direct that the order of administration shall be deemed to have been suspended during the period covered by such default.

Rescission of
order.

331. Where an administration order has at any time heretofore been or shall hereafter be made, such order may at any time be set aside or rescinded by the Court in any of the following cases:

(a) where two or more of the instalments

ordered to be paid are in arrear;

- (b) where the debtor has wilfully inserted in the list attached to his request the wrong name or address of any of his creditors or has wilfully omitted therefrom the name of any creditor;
- (c) where the debtor subsequent to the date of the order has obtained credit to the extent of \$10 or upwards without informing the creditor he has an administration order;
- (d) where the order has been obtained by fraud or misrepresentation;
- (e) where a receiving order has since the date of the administration order been made against the debtor.

Effect of
rescission.

332. (1) Where an order is set aside or rescinded under the last preceding rule, it shall be without prejudice to anything already done or suffered under the order.

(2) Any money paid into Court under the order may be dealt with as if the order had not been set aside or rescinded.

(3) Notice shall be published by the Registrar that the order has been set aside or rescinded.

Suspension of
order.

333. Where it appears that the debtor is unable to pay any installment, by reason of illness or other unavoidable misfortune, the Court may from time to time suspend the operation of the order for a term not exceeding three months, or make a new order for payment by installments.

Second
request.

334. Where the debtor has filed a request for an

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administration order, and the Court has refused to make the order, or when an order has been rescinded, the debtor shall not be allowed to file another request without first obtaining the leave of the Court.

Suspension of
order pending
committal.

335. When an order of committal is made upon the hearing of any judgment summons, and the execution of such order is suspended for a specified time to enable the debtor to pay the amount in respect of the non-payment of which such order was made, the order of the administration for payment shall be also suspended during such time.

Calculation of
arrears.

336. In calculating the amount in arrear under an order of administration any instalments accruing due during the period for which such order has been suspended shall not be reckoned in such amount.

Payments of
debts
pari passu.

337. All persons scheduled as creditors under section 106(11) of the Act before the order of administration is superseded under subsection (12) of the said section shall rank *pari passu inter se*, subject to the priority given by subsection (11) to those creditors who are scheduled as having been creditors before the date of the order of administration, but no payment made to any such creditor by way of dividend or otherwise shall be disturbed by reason of any subsequent proof by any other creditor under subsection (11).

PART V MISCELLANEOUS

Miscellaneous Matters

Falsification of
documents.

338. Any person who knowingly falsifies or fraudulently alters any document in or incidental to any proceeding under the Act or these Rules shall be deemed to be guilty of contempt of Court, and shall be liable to be punished accordingly.

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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.

No lien on debtor's books.

339. No person shall, as against the Official Receiver or assignee be entitled to withhold possession of the books of accounts belonging to the debtor or to set up any lien thereon.

Non-compliance with rules.

340. Non-compliance with any of these rules, or with any rule or practice for the time being in force, shall not render any proceeding void, unless the Court shall so direct, 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.

Abridgement or enlargement of time.

341. 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 proceedings.

Saving for existing laws, etc.

342. When no other provision is made by the Act or these Rules saving for the present law, procedure, and practice shall, in so far as applicable, existing laws, remain in force. And save as provided by these Rules or any rules amending them the Rules of the High Court shall not apply to any proceedings in insolvency.

PART VI

APPLICATIONS UNDER THE DEBTORS ACT

Summons under Debtors Act. c 6:04

Form 160.

343. All applications to commit to prison shall be made by summons (in these Rules referred to as a judgment summons) before the Court which shall specify the date of the judgment or order, for non-payment of which the application is made together with the amount due. The summons shall require the judgment debtor to appear and be examined on oath and shall be according to Form 160. The person issuing

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the summons shall prepare two or more copies of the summons one or more of which shall be sealed and issued for service.

Service of judgment summons.

344. (1) A judgment summons shall be served in the like manner as is by these Rules prescribed for the service of a creditor's petition. The service shall be made at least four days before the day of hearing.

(2) The disobedience to any such judgment summons shall be deemed a contempt of Court and shall be punishable accordingly.

Judgment summons where judgment against a firm.

345. Where a judgment or order is against a firm or against a person who is carrying on business in any name other than his own, in such other name and the person entitled to enforce the judgment or order desires to do so by judgment summons against any person whom he alleges to be a partner in or the sole member of such firm or against the person whom he alleges to be carrying on business in such other name as aforesaid, he shall file an affidavit together with a copy thereof in Form 162 and thereupon a judgment summons shall issue in Form 161 directed to such person alleged to be such partner or sole member or to be carrying on business in such other name as aforesaid, and there shall be annexed to such judgment summons and served therewith a copy of the said affidavit sealed with the seal of the Court. And if such person alleged to be such partner or sole member or to be carrying on business in any other name as aforesaid shall not appear on the return day of such business in such judgment summons he shall be deemed to admit that he is a partner in or the sole member of such firm or that he does carry on business in such other name as aforesaid and to admit his liability to pay the amount due and payable under such judgment or order. But if such person shall appear and deny that he is a partner in or sole member of such firm or that he carries on business in such other name as aforesaid the judge may decide the fact on the evidence then before him or

Form 162.
Form 161.

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may direct an issue to be tried to determine the same.

Adjournment.

346. The hearing of a judgment summons may be adjourned from time to time.

Witnesses may be summoned.

347. Witnesses may be summoned to prove the means of the judgment debtor in the same manner as is provided in the Rules of the High Court.

Insolvent not to be committed.

348. Where a judgment debtor shall upon the return day of a judgment satisfy the judge that a receiving order has been made against him or that he has been adjudged insolvent and that the debt was provable in the insolvency or that an order has been made for the administration of his estate under section 106 of the Act no order of commitment shall be made except in accordance with the last mentioned section.

No commitment where adjudication takes place after order of commitment.

349. Where, after the making of an order of commitment against a judgment debtor, a receiving order has been made against him or he has been adjudged an insolvent and the debt is provable in the insolvency or an order for the administration of his estate has been made under section 106 of the Act the Registrar shall forthwith give notice thereof to the judgment creditor, and such order of commitment shall not issue but if issued and not executed it shall be recalled.

Discharge of insolvent judgment debtor. Form 164

350. Where a judgment debtor has been arrested, in any such case as mentioned in the last preceding rule, the Registrar shall give a certificate for his discharge in Form 164, and upon receipt thereof by the person having the debtor in charge and thereupon the judgment debtor shall be discharged out of custody and the Registrar shall forthwith give notice to the judgment creditor of such discharge.

Order of commitment c.6:04. Form 163

351. An order of commitment made under the Debtors Act shall be according to Form 163 and shall bear date on the day on which the order for commitment was made but such

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order shall not be enforced after the expiration of one year from the date thereof unless at any time before or after the expiration of such year the judge shall otherwise order. The fact of the making of such latter order shall be endorsed on the order of commitment, according to the form.

Payment on arrest.

352. When an order of commitment for non-payment of money is issued the defendant may, at any time before his body is delivered into the custody of the gaoler, pay to the marshal the amount endorsed on the order as that on the payment of which he may be discharged, and on receiving such amount the marshal shall discharge the defendant and shall within twenty-four hours after receiving such amount pay over the same to the Registrar.

Payment in prison

353. The sum endorsed on the order of commitment as that upon payment of which the prisoner may be discharged, may be paid into Court, or to the gaoler in whose custody the prisoner is. Where the payment is made to the Registrar, he shall sign and seal a certificate thereof, and upon receiving such certificate the gaoler in whose custody the prisoner shall then be, shall forthwith discharge such prisoner. And where the payment is made to the gaoler, he shall, upon payment to him of such amount together with costs sufficient to pay for transmitting such amount forthwith by post office order or otherwise to the Court, sign a certificate of such payment, and discharge the prisoner and such costs of transmission shall be part of the prescribed costs.

Discharge of prisoner on request of judgment creditor.

Form166 and 167.

354. Upon the judgment creditor lodging with the Registrar a request in writing, according to Form 166, that the judgment debtor, if in prison, may be discharged from custody, the Registrar shall issue a notice according to Form 167, and transmit the same to the gaoler in whose custody the judgment debtor is, and the gaoler shall, on receipt of such notice, forthwith discharge the prisoner.

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Insolvency Rules

Certificate of payment. Form 165.

355. A certificate of payment by a prisoner shall be according to Form 165.

Costs on default of appearance of judgment creditor.

356. If a judgment debtor appears on the return day, but the judgment creditor fails to appear, the judge may award costs to the judgment debtor.

Costs on abortive execution not to be included in judgement summons.

357. Costs incurred in endeavouring to enforce a judgment or order by way of execution against the goods, and not recovered under such execution, shall not be included in the amount due under such judgment or order for the purposes of a judgment summons, nor shall money paid into Court otherwise than under execution against goods be attributed to payment of such costs.

Receipt of part of debt after warrant has issued.

358. If the judgment creditor or any person on his behalf receive any part of the debt instalment or costs in respect of which the order of committal has been made after the warrant of committal has issued such warrant shall not be executed by the marshal except by leave of the Court, which leave may be obtained by an *ex parte* application to the Court.

SCHEDULE FORMS

NOTE—The notes appended to these Forms are not part of the Forms themselves, but are for the guidance of parties using the forms. In all forms requiring verification, the deponent may, at his option, substitute a statutory declaration for an oath.

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r.7

FORM 1

GENERAL TITLE

Guyana.

In the High Court.

In Insolvency.

No.....of

20....

Re (James Brown).

(*Ex parte* here insert "the Debtor," or "J.S., a creditor," or the "Official Receiver," or the "Assignee.")

r.101

FORM 2

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.

I believe my estate will realise more (or less as the case may
be) than the sum of \$1,500.

Dated this.....day of.....20....

..... (*Signature*) A.B.

Signed by the debtor in my presence.

Signature of Witness.....

Address

Description

Filed the.....day of20.....

Note.—Where the debtor resides at a place other than his place of business both addresses should be inserted.

FORM 3

DEBTOR'S PETITION

(Title)

r. 109

I, (name, address, and description of debtor) residing at (or carrying on business at).....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 be adjudged Insolvent).

I believe my estate will realise more (or less as the case may be) than the sum of \$1,500.

Dated this.....day of.....20....

.....

Signed by the debtor in my presence.

Signature of Witness.....

Address

Description

Filed the.....day of20....

Note.—Where the debtor resides at a place other than his place of business both addresses should be inserted.

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r. 103

FORM 4

REQUEST FOR ISSUE OF INSOLVENCY NOTICE

In the High Court.

In Insolvency.

1. I, CD., of.,hereby request that an Insolvency Notice be issued by this Court against (here insert name, address, and description of judgment debtor).

2. The said A.B. resides at (or carries on business at) in Guyana, or has immovable property in Guyana (or as the case may be).

3. I produce an office copy (hereto annexed) of a final judgment against the said A.B. obtained by (me) in the.....Court on this.....day of.....20.....

4. Execution on said judgment has not been stayed.
Dated this.....day of.....20.....

*(Signed) CD., judgment creditor,
or E.F., solicitor for
the judgment creditor*

Note.—Where the debtor resides at a place other than his place of business both addresses should be inserted.

r. 102

FORM 5

INSOLVENCY NOTICE (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 service, you must pay to C D., ofthe sum of

\$.....claimed by him as being the amount due on a final judgment obtained by him against you in theCourt, dated the day of.....20....;

whereon execution has not been stayed or you must secure or compound for the said sum to (his) satisfaction or the satisfaction of the Court, or you must satisfy the Court that you have a counter-claim, set-off, or cross-demand against CD., which equals or exceeds the sum claimed by him, and which you could not set up in the action in which the judgment was obtained.

By the Court,

(Signed).....

Registrar .

Dated this.....day

of.....20.....

ENDORSEMENT 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 insolvency, on which insolvency proceedings may be taken against you.

If, however, you have a counter-claim, set-off, or cross-demand which equals or exceeds the amount claimed by CD. in respect of the judgment, and which you could not set up in the action in which the judgment 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.

Name and address of the solicitor suing out the notice
or

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This notice is sued out by (C.D.) in person.

r. 107

FORM 6

AFFIDAVIT OF SERVICE OF INSOLVENCY NOTICE (Title)

In the matter of an insolvency notice,
issued.....

I, L.M., of , make oath and say—

1. That I did, on the.....day of.....20...,
serve the above-mentioned A.B. 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. at (place)
before the hour of..... in the
noon.

2. A sealed copy of the said notice marked A is
hereunto annexed.

Sworn at, etc.

.....
(Signed) L.M.

Note.—If the service is effected on one partner on behalf of
his firm, the affidavit must after the word "at" contain the
words "being the principal place of business of the
said....."

r. 104(2)

FORM 7

**AFFIDAVIT ON APPLICATION TO SET ASIDE
INSOLVENCY NOTICE**
(Title)

I. A.B. of make oath and
say—

1. That I was, on the.....day of.....20...., served with the insolvency notice hereunto annexed (or, describe the notice).

That I have satisfied the judgment debt claimed by CD. by (state nature of satisfaction).

or,

2. That I have a counter-claim (or set-off or cross-demand) for \$.....being equal to (or exceeding) the claim of the said CD. in respect of (here state grounds of counter-claim).

3. That I could not have set up the said counter-claim (or as the case may be) in the action in which the said judgment was obtained against me.

Sworn, etc.

r. 108

FORM 8

ORDER SETTING ASIDE INSOLVENCY NOTICE
(Title)

In the matter of an Insolvency Notice issued—

Upon the application of A.B. to set aside this notice, and upon reading the affidavit of A.B. and upon hearing CD. (if present), it is ordered that this notice be set aside, and that

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CD. (or as the case may be) pay to A.B. the sum of \$ for costs (or, the costs of this matter).

By the Court,

(*Signed*).....

Registrar

Dated this day of 20....

Or,

(Title)

In the matter of an Insolvency 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 such two sufficient sureties as the Court (or CD) 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.

By the Court,

(*Signed*).....

Registrar

Dated this day of 20....

r. 109

FORM 9

CREDITOR'S PETITION

(Title)

I, CD., of.....(or we, CD., of....., and E.F., of.....) hereby petition the Court that a receiving order be made in respect of the

estate of (here insert name, address and description of debtor) and say—

1. That the said *A.B.* resides is domiciled in Guyana, or has immovable property in Guyana, or within a year before the presentation of this petition has ordinarily resided (or had a dwelling house or place of business in Guyana).
2. That the said *A.B.* is truly and justly 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 insolvent (or and I estimate the value of such security at the sum of \$.....)).

Or,

That I, *CD.*, 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 three months before the date of the presentation of this petition has committed the following act or (acts) of insolvency, namely (here set out separately the acts of Insolvency).

5. That the estate of the said *A.B.* will probably realise a sum more (or less as the case may be) than \$1,500.

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[Subsidiary]

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Dated this.....day of.....20...

.....
(Signed) CD.
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 also add 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.

ENDORSEMENT

This petition having been presented to the Court on the..... day of.....20....., it is ordered that this petition shall be heard at.....on the..... day of20....., at.....o'clock in the.....noon.

And you, the said A.B., are to take notice that if you intend to dispute the truth of any of the statements contained in the petition you must file with the Registrar of the Court a notice showing the grounds upon which you intend to dispute the same, and send by post a copy of the notice to the petitioner (one) day before the date fixed for the hearing.

r. 256

FORM 10

**CREDITOR'S PETITION FOR ADMINISTRATION OF
ESTATE OF DECEASED DEBTOR UNDER SECTION 108
(Title)**

I, *CD.*, of.....(or we, *CD.*, of....., and *E.F.*.....), hereby petition the Court that an order be made for the administration in insolvency of the estate of the late (here insert name and description of deceased debtor), who died on theday of.....20...., and say –

1. That the said *A.B.* at the time of his decease resided (or carried on business) at.....

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. 9, Creditor's Petition).

Or,

That the will of the said *A.B.* (or, as the case may be) was on theday of.....20...., deposited by *J.S.*, of, and *G.H.*, of....., who consent to this petition.

Or,

That the estate of the said *A.B.* is (according to my information and belief) insufficient to pay his debts.

.....

(Signed) *CD.*

E.F.

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[Subsidiary]

Insolvency Rules

Dated this.....day of.....20...

Signed by the petitioner in my presence—

Signature of witness.....

Address.....

Description

ENDORSEMENT

This petition having been presented to the Court on the..... day of.....20....., it is ordered that this petition shall be heard aton the day of 20....., at o'clock in the.....noon.

If you, the said J.S. or G.H., intend to dispute the matter of any of the statements contained in the petition, you must file with the Registrar a notice showing the grounds upon which you intend to dispute the same.

r. 113

FORM 11

AFFIDAVIT OF TRUTH OF STATEMENTS IN PETITION (Title)

I, the petitioner named in the petition hereunto annexed, make oath (if the petitioner declare or affirm, alter the form accordingly) and say—

1. That the several statements in the said petition are within my own knowledge true. Sworn at, etc.

.....
(Signed) CD.

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. If no such affidavit as to the act of insolvency can be obtained, the statement may be verified by an affidavit proving it to the best of the deponent's knowledge and belief.

r. 113

FORM 12

AFFIDAVIT OF TRUTH OF STATEMENTS IN JOINT PETITION
(Title)

We, *CD., E.F., G.H., etc.*, the petitioners named in the petition hereunto annexed, severally make oath and say—
And first I, the said *CD.*, for myself say—

1. That *A.B.* is justly and truly indebted to me in the sum ofdollars as stated in the said before-mentioned petition.

2. That the said *A.B.* committed the act (or acts) of Insolvency stated to have been committed by him in the said before-mentioned petition.

3. That *A.B.* resides (or carries 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 dollars, as stated in the said before-mentioned petition.

And I, the said *G.H.*, for myself say—

5. That *A.B.* is, etc.

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.....
(Signed) CD.

E.F.

G.H.

Sworn by the deponents *CD.*, *E.F.*, and *G.H.*, etc.

(See note to last Form.)

r. 135

FORM 13

APPLICATION FOR INTERIM RECEIVER

(Title)

I, *CD.*, 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 20....

.....
*(Signed)
CD.*

ORDER THEREON

Upon reading this application and the affidavit therein referred to, and hearing.....it is ordered that upon a deposit of \$..... being lodged by the applicant with the Official Receiver, he be thereupon constituted interim receiver of the property of the said *A.B.*, and (here insert directions, if any).

By the Court,

.....
(Signed).....

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Insolvency

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[Subsidiary]

Insolvency Rules

Registrar

Dated this..... day of 20....

FORM 14

r. 119

AFFIDAVIT OF SERVICE OF PETITION
(Title)

In the matter of a petition dated the
..... day of 20....
I, L.M., of, make oath and
say—

1. That I did, on the..... day of 20
....., serve the above-mentioned A.B. 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. at
(place) before the
hour of in the
noon.

2. A sealed copy of the said petition is hereunto
annexed.

Sworn at, etc.

*(Signed) L.M., creditor, solicitor, or
his clerk*

Note.—If the service is effected on one partner on
behalf of his firm, the affidavit must, after the word "at,"
contain the words "being the principal place of business of the
said"

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Insolvency Rules

r. 118 and 120

FORM 15

**SUBSTITUTED SERVICE OF PETITION
NOTICE IN GAZETTE**

In the High Court.
In Insolvency.

In the matter of an insolvency petition filed the
..... day of.....20...
To A.B, of.....

Take notice that an insolvency petition has been presented against you to this Court by CD. of , and the Court has ordered that the publication of this notice in the *Gazette* and in the newspaper, shall be deemed to be service of the petition upon you; and further take notice that the said petition will be heard at this Court on the day of.....20...,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 can be inspected by you on application at the office of the Registrar.

Dated this..... day of.....20...

(Signed).....
Registrar .

[Subsidiary]

Insolvency Rules

r. 118 and 120

FORM 16

ORDER FOR A SUBSTITUTED SERVICE OF A PETITION
(Title)

In the matter of an insolvency petition filed the..... day of.....20...upon the application of....., and upon reading the affidavit of....., of

It is ordered that the sending of a sealed copy of the above-mentioned petition together with a sealed copy of this order, by registered post addressed to and/or by publication in the *Gazette* and thenewspaper of the presentation of such petition, and the time and place fixed for the hearing of the petition, shall be deemed to be good and sufficient service of the said petition, on the saidon theday of completing such posting and/or publication as aforesaid.

Given under the seal of the Court this.....
day of.....20...

By the Court,

(Signed).....

Registrar.

r. 125

FORM 17

**NOTICE BY DEBTOR OF INTENTION TO OPPOSE
PETITION**
(Title)

In the matter of an insolvency petition presented against me on the..... day of.....20..., by C.D. of(or

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[Subsidiary]

Insolvency Rules

and *E.F.* of *G.H.*, of, etc.).

I, the above *A.B.*, do hereby give you notice that I intend to oppose the making of a receiving order as prayed, and that I intend to dispute the petitioning creditor's debt (or the act of insolvency, or as the case may be).

Dated this..... day of.....20....

To CD., of....., and to.....

A.B., and to the Registrar.

s. 9(5)

FORM 18

ORDER TO STAY PROCEEDINGS ON PETITION (Title)

In the matter of an insolvency 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 that he is indebted to the petitioner in a sum of a less amount than two hundred and forty dollars), or that he is indebted to *CD.*, 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 two sufficient sureties as the Court shall approve of 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 *CD.* the petitioner (or one of the petitioners)

in any proceedings taken or continued by him against the said *A.B.*, together with such costs as shall be given by the Court in which the proceedings are had.

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 in which the proceedings shall be taken shall have come to a decision thereon.

By the Court,

(Signed).....

Registrar.

Dated this..... day of.....20...

s. 9(5)

FORM 19

BOND ON STAY OF PROCEEDINGS, ETC.

(Title)

Know all men by these presents, that we, *A.B.* of, etc., and *CD.* of, etc., and *E.F.* of, etc., are jointly and severally held and firmly bound to *L.M.* of, etc., in.....dollars 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.

Signed and dated this.....day of.....20.....

Whereas an insolvency petition against the said *A.B.* having been presented to the High 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

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that he was indebted to the petitioner in the sum of.....dollars only).

(or Whereas the said A.B. having been duly served with an insolvency notice by L.M. of.....in accordance with the provisions of the Insolvency Act issued out of the High Court, applied to the said Court to dismiss such notice on the ground that he was not indebted to the said L.M. (or that he was not indebted to him to such an amount as would support a petition in insolvency).

Now, therefore, the condition of this obligation is such that if the above-bounden A.B., or the said CD., 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 twenty-one 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, this obligation shall be void, otherwise shall remain in full force.

.....
(Signed) A.B.

CD.

E.F.

Signed 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.

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[Subsidiary]

Insolvency Rules

r. 32

FORM 20

NOTICE OF SURETIES (Title)

In the matter of an insolvency petition (or) In the matter of an insolvency notice by *CD.* 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 therein mentioning the places, streets, and numbers of lots, if any).

Dated this..... day of..... 20...

.....
(Signed) *A.B.*

To the Registrar of the Court, and to *L.M.* of.....

r. 33

FORM 21

AFFIDAVIT OF JUSTIFICATION (Title)

In the matter of an insolvency petition against *A.B.* of

(or In the matter of an insolvency notice by *L.M.* against *A.B.* of.....)

I, *E.F.*, of....., one of the sureties for make oath and say—

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1. That I am a householder (or, as the case may be), residing (describing particularly the county or city, 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).
3. That I am not bail or security in any other matter, action or proceeding, or for any other person (or if security in any other action or actions add) except for *CD.* at the suit of *E.F.* in the Court in the sum of \$.....; for *G.H.* at the suit of *I.K.* in the Court in the sum of \$..... (specifying the several actions with the Courts in which they are brought 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), consists of (here specify the nature and value of the property in respect of which the deponent 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 a freehold (or leasehold) farm of the value of \$....., situate atoccupied by or of a dwelling house of the value of \$..... situate at, occupied by, or of other property, particularising each description of property, with the value thereof).
5. That I have for the last six months resided at

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..... (describing the place of such residence, or if he has had more than one residence during that period state it in the same manner as above directed).

Sworn at, etc.

.....

(*Signed*) E.F.

r. 15

FORM 22

CERTIFICATE OF JUDGE FOR TRANSFER OF

PROCEEDINGS

(Title)

I hereby certify for the following reasons that proceedings in this matter would in my opinion be more advantageously conducted in the Court in the County of

.....
(Here set out reasons.)

Dated this..... day of..... 20...

.....
(*Signed*) F.H.,

Judge

r. 127, 133 and
134

FORM 23

ADJOURNMENT OF PETITION

(Title)

Upon the hearing of the petition this day, it is ordered that the further hearing of this petition be adjourned until the day of 20....,ato'clock in the noon.

By the Court,

(*Signed*).....

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[Subsidiary]

Insolvency Rules

Registrar

Dated this..... day of.....20...

s. 9(3)

FORM 24

DISMISSAL OF PETITION

(Title)

In the matter of an insolvency petition filed the (date).

Upon the hearing of this petition this day, and upon reading and hearingit is ordered that this petition be dismissed (and that the petitioner do pay to the said A.B. the taxed costs thereof). By the Court,

(Signed).....

Registrar

Dated this..... day of.....20...

Note.—If compensation be awarded it should be included in this order.

s. 9(6)

FORM 25

DISMISSAL OF PETITION UPON WHICH PROCEEDINGS ARE STAYED WHERE A RECEIVING ORDER HAS BEEN MADE ON A SUBSEQUENT PETITION

(Title)

Whereas a receiving order has been made against A.B. upon a petition presented to this Court by O.P. of....., it is ordered that the insolvency petition against the said A.B., presented to this Court by CD., of, the proceedings on which were stayed by order of Court of theday of

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..... 20....., be dismissed (add terms if any).

By the Court,

(*Signed*).....

Registrar

Dated this..... day of.....20...

s. 12

FORM 26

ORDER RESTRAINING ACTION, ETC., BEFORE RECEIVING ORDER (Title)

Upon the application ofand upon readingit 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 Court in which proceedings are) or it is ordered that the proceedings in the action (or suit) brought by him against the said A.B. in (here state the Court in which proceedings are) may be proceeded with on (here insert the terms fixed by the Court).

By the Court,

(*Signed*).....

Registrar

Dated this..... day of.....20...

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FORM 27

RECEIVING ORDER ON DEBTOR'S PETITION (Title)

On the petition of the debtor himself, filed the (here state date) a receiving order is hereby made against A.B.

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(insert name, address and description of debtor as set out in petition) and the Official Receiver is hereby constituted receiver of the estate of the said debtor.

By the Court,

(*Signed*).....

Registrar

Dated this..... day of.....20...

Note.—The above named debtor is required immediately on service of this order to attend the Official Receiver at his office at the

r. 141

FORM 28

RECEIVING ORDER ON CREDITOR'S PETITION (Title)

On the petition of J.S., of, a creditor, filed the (insert date) and on reading and hearingand it appearing to the Court that the following act or acts of insolvency has or have been committed, viz.: (set out the nature and date or dates of the act or acts of insolvency on which the order is made).

A receiving order is hereby made against A.B. (insert name, addresses and descriptions of the debtor as set out in petition) and the Official Receiver is hereby constituted receiver of the estate of the said debtor.

By the Court,

(*Signed*).....

Registrar

Dated this..... day of.....20...

Note.—The above-named debtor is required

immediately on service of this order to attend the Official Receiver at his office at

r. 141

FORM 29

RECEIVING ORDER UNDER DEBTORS ACT
(Section 4(8))

In the matter of....., a debtor.

Whereas an order was made against the above-named debtor on theday.....of 20, for the payment of his debts in full (or by instalments of.....).
(Set out any further order of the Court).

And whereas the debtor has made default in payment of payable in pursuance of the said order:

Now upon reading the consent of the judgment-creditor that a receiving order should be made against the debtor in lieu of an order for commitment to prison and the prescribed fees having been paid: It is ordered that a receiving order be made against the debtor in lieu of an order of commitment to prison, and a receiving order is hereby made against the debtor, and the Official Receiver is hereby constituted receiver of the estate of the said debtor.

Dated this..... day of.....20...
By the Court,

(Signed).....

Registrar

Note.—The above-named debtor is required immediately on service of this order to attend the Official Receiver at his office at

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Insolvency

[Subsidiary]

Insolvency Rules

r. 143

FORM 30

NOTICE OF RECEIVING ORDER, ETC.

(For publication).

(Title)

Receiving order made

Date of order in summary administration (if any)

Date of adjudication (if any).....

Date and place of first meeting

Date of public examination

(*Signed*).....

Official Receiver

Dated this.....day of.....20

Note.—All debts due to the estate should be paid to
me.

r. 52

FORM 31

APPOINTMENT OF SHORTHAND WRITER TO TAKE EXAMINATION OF DEBTOR

(Title)

Upon the application of the Official Receiver
..... the Court hereby appoints of
..... in the county of to
take the examination of the said at his public examination this
day pursuant to Rule 52 of the Rules.

By the Court,

(*Signed*).....

Registrar

Dated this..... day of.....20...

[Subsidiary]

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r. 52

FORM 32

DECLARATION BY SHORTHAND WRITER
(Title)

I,.....of, the shorthand writer appointed by this 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 and given by the said in the matter, and will deliver true and faithful transcripts thereof as the Court may direct.

(Declared before me at the time and place above-mentioned.)

(*Signed*).....

Registrar

s. 18(3)

FORM 33

MEMORANDUM OF ADJOURNMENT OF PUBLIC
EXAMINATION

(Title)

Order

Memorandum.—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 Mr. the Official Receiver in the above matter, and upon hearing and it appearing, it is ordered that the said public examination be adjourned to the day of 20..., ato'clock in the.....noon at.....

And it is further ordered that the said..... do attend at the said Court on the said day of 20... for the purpose of being further examined as to his conduct, dealings, and property. And it is further

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ordered that the said.....

Dated this..... day of.....20...
By the Court,

(*Signed*).....
Registrar

r. 150

FORM 34

ORDER DISPENSING WITH PUBLIC EXAMINATION OF DEBTOR (Title)

(a) Insert name and address of applicant and the capacity in which he makes the application.

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.

By the Court,
(b) State what the disability is.

(*Signed*).....
Registrar

Dated this..... day of.....20...

r. 150

FORM 35

ORDER AS TO EXAMINATION OF DEBTOR WHO IS SUFFERING FROM MENTAL OR PHYSICAL AFFLICITION OR DISABILITY (Title)

(a) Insert name and address of

Upon the application of the Official Receiver (or, of (a) of) in the above matter, and upon reading and upon

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applicant, and capacity in which he make application.

(b) This part of order to be adapted to circumstances of case.

(c) Insert place of examination.

(d) Insert name of any other person authorised by Court to attend.

hearingand 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 Registraron.....the.....day of20...., 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 assignee and (d) be at liberty to attend such examination and take part therein.

Dated this..... day of.....20...

By the Court,

(Signed).....

Registrar

r. 259

FORM 36

**ORDER FOR ADMINISTRATION IN INSOLVENCY OF
ESTATE OF DECEASED DEBTOR
(Title)**

Upon the petition of C.D., dated....., and upon reading..... and hearing....., it is ordered that the estate of A.B., of..... who died insolvent, be administered in insolvency, and that the Official Receiver do administer the same, and that the costs of this application be

Dated this..... day of.....20...
By the Court,

(Signed).....

Registrar

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r. 254

FORM 37

APPLICATION FOR SUMMARY ADMINISTRATION UNDER SECTION 105.

(Title)

I, G.H., the Official Receiver, hereby report to the Court that the property of the debtor is not likely to exceed in value \$1,500, and I apply that the Court may order the estate to be administered in a summary manner pursuant to section 105 of the Act.

.....
(Signed) G.H.,
Official Receiver

Dated this..... day of.....20...

r. 255

FORM 38

ORDER FOR SUMMARY ADMINISTRATION (Title)

Upon the application of and reading..... it is ordered that the estate of the above-named debtor be administered in a summary manner pursuant to section 105 of the Act.

Dated this..... day of.....20...
By the Court,

(Signed).....
Registrar

r. 178 and 300

FORM 39

STATEMENT OF AFFAIRS (Title)

To the Debtor.—You are required to fill up carefully

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and accurately, this sheet and the several sheets, A, B, C, D, E, F, G, H, I, J, and K, showing the state of your affairs on the day on which the receiving order was made against you, viz.: the.....day of.....20.....

Such sheets when filled up will constitute your statement of affairs and must be verified by oath or declaration.

Liabilities.			Assets and Deficiency.		
	\$	cts.		\$	cts.
Preferential creditors as per List A			Property as per List H ..		
Creditors partly secured as per List B			Debts due to the estate as per List 1		
Creditors fully secured as per List C			Bills of Exchange, promissory notes, etc., available as assets, as per List J		
Unsecured creditors as per List D			Deficiency as per List K ..		
Liability of debtor on Bills other than his own acceptances for value as per List E			Total ..		
Other liabilities as per List F					
Total ..					
Claims made upon debtor not admitted to be due as per List G					

I,of, make oath and say that the above statement and the several lists annexed marked A, B, C, D, E, F, G, H, I, J, and K 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, etc.

LIST "A."- PREFERENTIAL CREDITORS

No.	Name of Creditor	Address and Occupation	Nature of Claim	Period during which Claim	Date when due	Amount of claim	Amount payable in full	Difference ranking for Dividend

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				accrued due				

LIST "B."—CREDITORS PARTLY SECURED

No.	Name of Creditor	Address and Occupation	Amount of Debt	Date when contracted	Consideration	Particulars of Security	Date when given	Estimated value of Security	Balance of Debt unsecured

LIST "C"- CREDITORS FULLY SECURED

No.	Name of Creditor	Address and Occupation	Amount of Debt	Date when contracted	Consideration	Particulars of Security	Date when given	Estimated value of Security	Estimated Surplus from Security

LIST "D."—UNSECURED CREDITORS

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The names to be arranged in alphabetical order and numbered consecutively.

No.	Name	Address and Occupation	Amount of Debt	Date when contracted	Consideration

LIST "E."—LIABILITIES OF DEBTOR ON BILLS OTHER THAN HIS OWN ACCEPTANCE FOR VALUE

No.	Acceptor's Name and Address	Date when due	Amount	Holder's Name and Address (if known)	Amount expected to rank against Estate for Dividend

LIST "F."—OTHER LIABILITIES

Full particulars of Liabilities not otherwise scheduled to be given here

No.	Name of Creditor or Claimant	Address and Occupation	Amount of Liability or Claim	Date when liability incurred	Nature of Liability

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LIST "G" – CLAIMS MADE UPON DEBTOR NOT ADMITTED TO BE DUE

No.	Name of Claimant	Address and Occupation	Amount Claimed	Nature of Claim	Reasons for non-admission

LIST "H."—PROPERTY

Full particulars of every description of property in possession and in reversion as defined by section 2 of the Insolvency Act not included in any other list, are to be set forth in this list.

Full Statement and Nature of Property	Estimated to Produce
(a) Cash at Bankers	
(b) Cash in hand	
(c) Cash deposited with Solicitor for petition	
(d) Stock in Trade at (cost \$)	
(e) Furniture, fixtures, fittings and utensils on trade premises	
(f) Household furniture and effects	
(g) Growing crops and tenant right at.....	
(h) Life Policies.....	
(i) OTHER PROPERTY (state particulars)	

LIST "I."—DEBTS DUE TO THE ESTATE

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No.	Name of Debtor	Residence and Occupation	Amount of Debt.			When Contracted	Estimated to produce	Particulars of any Securities held for
			Good	Doubtful	Bad			

LIST "J."—BILLS OF EXCHANGE, PROMISSORY NOTES, ETC., AVAILABLE AS ASSETS

No.	Name of Acceptor of Bill or Maker of 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 Not

LIST "K."—DEFICIENCY ACCOUNT

This account must contain explanations in detail of the losses, expenses, or other causes of the difference between the amount of indebtedness and of the assets.

Total	\$	c

N.B.—The total should correspond with the amount of the deficiency shown on the face of the statement of affairs.

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[Subsidiary]

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r. 300

FORM 40

FORM OF QUESTIONS
IN THE HIGH COURT.—IN INSOLVENCY
Re NOTICE

The following questions must so far as applicable be answered by the debtor, and he is required to attend forthwith at the office of the Official Receiver for that purpose.

(All answers must be numbered to correspond with the numbers of the questions, and when the space is insufficient to answer any question fully, the answer may be endorsed on the back.)

Questions	Answers
1. What is your full name?	
2. At what place or places have you carried on business during the last six years?	
3. Where have you resided during the same period?	
4. What has been your occupation?	
5. When did you commence business?	
6. What capital had at the time (or on 1st of January, 20...)?
7. Have you ever been in partnership with anyone? If so state with whom,	

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and if partnership dissolved When did the dissolution take place? What liabilities (if any) are you now under in respect thereof? 8. What books of account have you kept, and where are they 9. To what date are they posted?
---	--

10.What money had you in hand or at your bankers at the date of the petition?
11. Have you any bills of exchange, promissory notes, or other negotiable securities, belonging to your estate ?
12. Have you produced to or delivered up to the Official Receiver, or to his officer, all moneys, negotiable securities, bonds, deeds, and other property belonging to your estate and under your control, and which are capable of delivery?

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13. State shortly the nature of the assets of your estate which will be available towards the payment of your debts and the amount which you believe will be realised from such assets?
14. Have you any property in reversion, remainder or expectancy ?
15. Is your life insured? If so—In what office or offices ?
State dates, amounts, and annual premiums of policies
Are the policies in your possession? If not— Where are they deposited and under what circumstances?
16. Have you any lease of your premises? If so— When was it granted ?
For what term?
At what rent?
What is the actual rack rent value of the premises?
Where is the lease?

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17. Are your premises insured against fire?
If so—	
In what office?
For what amount?
Where is the policy?
18. Have you underlet any premises or portion of premises of which you are tenant or lessee?
If so—	
State particulars
19. What is the nature of your stock-in-trade?
Is it insured against fire?
If so—	
In what office?
And for what amount?
Where is the Policy?
20. Have you any other assets beyond those you have already mentioned ?

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21. Is any rent, rate or tax due in respect to the premises occupied by you? If so – State amount and the date at which the same became payable
22. What do you believe to be the total amount of your indebtedness?
23. Is there any judgment against you in respect of any matter? If so state particulars and whether execution has issued, or the judgment creditor is in a position to issue execution Are there any proceedings against you pending in any Court, with the exception of those under the present receiving order?
24. Have you hypothecated any bills of lading, dock warrants, or other securities of any kind? If so, state particulars
25. Have you mortgaged, assigned, or created any charge on any property?

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If so, state particulars
26. Have you executed any bill of sale upon your stock-in-trade, furniture or other personal effects?
If so, state particulars, date of bills of sale and whether registered or not
27. Have you within the last three months given any charge on your property or made any special or preferential payments to any creditors?
If so – State names and amounts paid.
28. Have you within the last twelve months pledged any property ?
If so- State particulars of such property, the date when pledged, the amount obtained, and how disposed of
Where are the pledge tickets?
What did the pledged property cost, and what do you believe to be its present value?
Has the pledged property been paid for, if so, when?

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If not, state the name of the creditor from whom it was obtained
29. When did you suspend payment of your debts?
30. Have you paid for, or deposited with your solicitor or agent, any sum of money or security for payment of the costs incurred, or to be incurred in respect to your failure?
If so- State particulars and amount
31. Has any meeting of your creditors been held since you suspended payment? If so, was any statement of your affairs presented to such meeting, and where is it?
32. State the cause or causes of your insolvency
33. When did you first become aware that you were insolvent?
34. Have you contracted any debt since you became aware of your insolvency? If so, what expectation had you of being able to pay such debts?

35. Have you within the last three years prepared any statement of your affairs ? If so, at what date and what results did the statement show?
36. Where are the statements?
37. When did you last take stock?
Where is the stock account?
38. Are you aware of having committed any act of insolvency prior to that on which the receiving order against you was made?
If so, state act and date
39. Have you within the last twelve months incurred any losses other than losses in trade?
If so, state particulars and dates
40. Have you drawn, or accepted, or endorsed any accommodation bills?
If any such bills are now running, state particulars
41. Have you any accounts showing your income and your household and personal expenditure during the last three years?
42. What has been about the amount

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of your income during that period?	
43. What has been about the annual amount of your household and personal expenditure during that period?
44. Have you made any marriage or post-nuptial settlement or any other settlement of property within the last ten years? If so, state date, particulars, names of trustees, and of the persons taking any benefit thereunder
45. In the case of such a settlement (if any) have you evidence that, at the time of making it, you were able to pay all your debts without the aid of the property thereby settled?
46. Was any statement of your affairs prepared at the date of such settlement, and if so, where is it?
47. Who holds the deed or deeds of settlement, and can you produce a copy or copies?
48. Have you now disclosed the whole of your estate and effects?
49. Have you previously been insolvent or made any assignment for

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The foregoing answers are, to the best of my knowledge, information and belief, correct.

Dated this day of 20.....

(Signed)

*The above-named
debtor*

Witness.....

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s. 18(8)

FORM 41

MEMORANDUM OF PUBLIC EXAMINATION OF DEBTOR (Title)

MEMORANDUM.—That I, the above-named debtor, being duly sworn and examined make oath and say that the notes of my public examination marked A and appended hereto were read over 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 assignee 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 fuller disclosure of all my assets and of all my debts and liabilities of whatever kind that I have not removed, concealed, embezzled or destroyed any part of my estate, real or personal, nor any books of accounts, papers or writings relating thereto, with an intent to defraud my creditors.

(Here insert any special matter.)

.....
(Signed) A.B.

s. 18(10)

FORM 42

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.

By the Court,

(*Signed*).....

Registrar

Dated this.....day of..... 20...

s. 17(3)

FORM 43

APPLICATION FOR ADJUDICATION UNDER SECTION 17
(Title)

The Official Receiver in the above matter reports to the Court—

That a receiving order was made against the above debtor on the.....day of..... 20....

That a copy of the form hereunto annexed was to the said debtor onday of..... 20....

That the debtor has not submitted a statement of and in relation to his affairs as required by section 17 of the Insolvency Act nor has he furnished the Official Receiver with any reasonable excuse for his failure to do so.

The Official Receiver accordingly in pursuance of section 17 of the Insolvency Act makes application to the Court to adjudge the said debtor insolvent.

Dated this.....day of..... 20.....

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(Signed).....

Official
Receiver

r. 152 and s. 21

FORM 44

APPLICATION FOR ADJUDICATION (AFTER RESOLUTION FOR INSOLVENCY) OR UNDER SECTION 21, OR RULE 152

(Title)

The Official Receiver of the estate of the above-named debtor hereby reports to the Court—

(a) "That the debtor has, in writing, consented to be adjudged insolvent; or notice of this application was given him on day of by"

(a) (That at the first meeting of the creditors of the said debtorheld at.....on theday of20....., the following resolution was passed—

"Thatthe above-named debtor, shall be adjudged insolvent, and that the Official Receiver do apply to the Court to make the adjudication) or state such other ofthe grounds mentioned in section 21 or rule 152 as may be applicable.

(a)

And the Official Receiver accordingly, in pursuance of section 21 of the Insolvency Act makes application to the Court to adjudge the said debtor.....insolvent."

Dated thisday
of.....20..... was
given him

(Signed).....

Official Receiver

r.152 and s. 21

FORM 45

**APPLICATION FOR ADJUDICATION; NO QUORUM;
SUMMARY ADMINISTRATION**

(Title)
SUMMARY CASE

The Official Receiver reports to the Court—

That a receiving order was made against the above-named debtor on the.....day of..... 20.....

That an order for the summary administration of the estate of the debtor was made on the.....day of 20.....

That the first meeting of creditors was duly summoned to be held at..... on theday of 20.....

That creditors qualified to vote not being present or represented thereat to form a quorum no resolution was passed.

(a)" The debtor has, in writing, consented to the Court adjudging him insolvent"

That (a)

The Official Receiver accordingly, in pursuance of section 21 of the Insolvency Act makes application to the Court to adjudge the said debtor.....insolvent.

Dated thisday of.....20

(Signed)
Official Receiver

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r. 155

FORM 46

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 (here insert "the Official Receiver" or "the debtor himself" or "A.B. of a creditor"), and on reading and hearing it is ordered that the debtor be and the said debtor is hereby adjudged insolvent.

Dated thisday of.....20.....
By the Court,

(*Signed*).....
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) it was duly resolved that the debtor be adjudged an insolvent. It is ordered that the debtor be and the said debtor is hereby adjudged insolvent.

Dated thisday of.....20.....
By the Court,

(*Signed*).....
Registrar

r. 155

FORM 47

**ORDER OF ADJUDICATION AFTER RECEIVING ORDER UNDER
SECTION 5 OF THE DEBTOR'S ACT**

(Title)

Whereas a receiving order was made against the above-named debtor on the day of..... 20...., upon the hearing of an application for his commitment to prison for default in payment of moneys pursuant to an order of the Court, and in lieu of his commitment to prison for such default.

And whereas it appears to this Court that (grounds of application for adjudication).

It is ordered that the debtor be and the said debtor is hereby adjudged insolvent.

Dated thisday of.....20.....
By the Court,

(*Signed*).....
Registrar

r. 155

FORM 48

NOTICE OF ADJUDICATION

In insolvency. Notice is hereby given that (here insert name, address and description of insolvent) was on theday of20.....,adjudged insolvent by the High Court.

.....
(*Signed*) *G.H.*,

*Official
Receiver*

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s. 32

FORM 49

APPLICATION TO ANNUL ADJUDICATION UNDER SECTION 32
(Title)

I, R.S., of.....being interested in this matter do hereby make application to the Court that the order of adjudication against A.B. be annulled (here state grounds of application). Dated this day of..... 20....

.....
(Signed) R.S.

r. 156

FORM 50

ORDER ANNULLING ADJUDICATION UNDER SECTION 32
(Title)

On the application of *R.S., of..... and on reading and hearing.....it is ordered that the order of adjudication dated.....against A.B., of....., be and the same is hereby annulled.*

Dated this day of..... 20.....
By the Court,

(Signed).....
Registrar

[Subsidiary]

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r. 194

FORM 51

APPLICATION FOR ORDER OF DISCHARGE
(Title)

I, A.B., of....., having been adjudged insolvent on the day of 20...., and being desirous of obtaining my discharge, hereby give you notice that I intend to apply to the Court for my discharge.

.....
(Signed) A.B.

To the Registrar

r. 194

FORM 52

NOTICE OF APPLICATION FOR DISCHARGE
(Title)

Notice is hereby given that the insolvent A.B., of....., has applied to the Court for his discharge, and that the Court has fixed the day of..... 20...., at o'clock for hearing the application.

(Signed)

Registrar

To the Official Receiver and Mr.
assignee of the estate of the insolvent.

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r. 200

FORM 53

ORDER GRANTING DISCHARGE UNCONDITIONALLY (Title)

On the application of *A.B.*, of etc., adjudged insolvent on theday of 20..... and upon taking into consideration the report of the Official Receiver, as to the insolvent's conduct and affairs, including the insolvent's conduct during the proceedings under his insolvency, 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 insolvent has committed any misdemeanour under the Insolvency Act or the Debtors Act or any misdemeanour or felony connected with his insolvency (or as the case may be) and proof has not been made of any of the facts mentioned in section 29(3) or in section 30 of the Insolvency Act or that the insolvent has been guilty of any misconduct in relation to his property and affairs, it is ordered that he be and he hereby is discharged.

r.200

FORM 54

ORDER REFUSING DISCHARGE (Title)

On the application of *A.B.*, of etc., adjudged insolvent on the dayof 20....., and upon taking into consideration the report of the Official Receiver, as to the insolvent's conduct and affairs, including the insolvent's conduct during the proceedings under his insolvency, and upon hearing the Official Receiver, and (state the other parties who appeared).

And whereas it has been proved that the insolvent has committed the following misdemeanours (or felonies), namely—

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(Here state particulars.)

Or,

And whereas it has not been proved that the insolvent has committed any of the misdemeanours or felonies mentioned in section 29 of the Insolvency Act but proof has been made of the following facts under section (29(3) and/or) section 30 of the Insolvency Act, namely—

(Here state particulars.)

and/or that he has been guilty of misconduct in relation to his property and affairs, namely—

(Here state particulars.)

It is ordered that the insolvent's discharge be and it is hereby refused.

Dated this day of
20.....

By the Court,

(Signed).....

Registrar

FORM 55

r. 200

ORDER SUSPENDING DISCHARGE

On the application of (commencement as in Form 53).

And whereas it has not been proved that the insolvent has committed any of the misdemeanors or felonies mentioned in section 29 of the Insolvency Act (or it has been proved that the insolvent has committed the following misdemeanours) (and/or felonies), namely (set them out), but the Court has for the following special reasons (state them)

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determined that his discharge shall not on that ground be absolutely refused; but proof has been made of the following facts under section 29(3) and/or section 30 of the Insolvency Act.

(Here state particulars.)

and/or that he has been guilty of misconduct in relation to his property and affairs namely—

(Here state particulars.)

It is ordered that the insolvent's discharge be suspended until a dividend of not less than fifty cents in the dollar has been paid to the creditors, with liberty to the insolvent at any time after the expiration of two years from the date of this order to apply for a modification thereof, pursuant to section 29 of the Act.

Or,

It is ordered that the insolvent's discharge be suspended for.....
.....years, and that he be discharged as from the
day of 20.....

Dated this day of..... 20.....

By the Court,

(Signed)

Registrar

FORM 56

r. 200

ORDER OF DISCHARGE SUBJECT TO CONDITIONS AS TO EARNINGS,
AFTER ACQUIRED PROPERTY AND INCOME
(Title)

On the application of....., adjudged
insolvent on the day of 20..., and

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(a) Further recitals to be inserted.

(b) This recital to follow the other forms with necessary variations.

upon taking into consideration the report of the Official Receiver as to the insolvent's conduct and affairs, and (a)

And whereas it has not been proved (b)
It is ordered that the insolvent be discharged subject to the following conditions as to his future earnings, after acquired property, and income—After setting aside out of the insolvent's earnings, after acquired property, and income, the yearly sum of \$ for the support of himself and his family the insolvent 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 assignee) for distribution among the creditors in the insolvency. An account shall on the first day of January in every year, or within fourteen days thereafter, be filed in these proceedings by the insolvent, 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 insolvent to the Official Receiver (or assignee) within fourteen days of the filing of the said account.

Dated this day of
20.....

By the Court,

(Signed).....

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FORM 57

ORDER OF DISCHARGE SUBJECT TO A CONDITION
REQUIRING
THE INSOLVENT TO CONSENT TO JUDGMENT BEING
ENTERED UP AGAINST HIM
(Title)

(a) Formal parts and recitals as in form

On the application (a).

It is ordered that the insolvent be discharged subject to the following condition to be fulfilled before his discharge takes effect, namely, he shall, before the signing of this order, consent to judgment being given against him in favour of the Official Receiver (or assignee) for the sum of \$ being the balance (or part of the balance) of the debts provable in the insolvency which is not satisfied at the date of this order and costs, or \$..... for costs.

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 and after acquired property of the insolvent in manner following, that is to say, after setting aside out of the insolvent's future earnings and after-acquired property a yearly sum of \$.....for the support of himself and his family, the insolvent shall pay the surplus, if any (or such portion of such surplus as the Court may determine), to the Official Receiver (or assignee) for distribution among the creditors in the insolvency. An account shall, on the 1st day of January in each year or within fourteen days thereafter, be filed in these proceedings by the insolvent, 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 insolvent to the Official Receiver (or assignee) within fourteen days of the filing of the said account. And it is further ordered that, upon the required consent being given,

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judgment may be given against the insolvent for the said sum of \$ together with costs of judgment.

Dated this ... day of..... 20.....

By the Court,

(*Signed*).....

Registrar

FORM 58

r. 199

**CONSENT OF INSOLVENT TO JUDGMENT BEING ENTERED FOR
BALANCE OR PART OF BALANCE OF PROVABLE DEBTS**

Re,

I, A.B., of , the above-named insolvent do hereby consent to judgment being given in favour of the Official Receiver (or trustee) for the sum of \$ being the balance, or part of the balance, of the debts provable under my insolvency which is not satisfied at the date of my discharge; but this consent is subject to the provision contained in the Insolvency Act with regard to the issue of execution on such judgment.

Dated this day of 20....

(*Signed*) A.B.

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FORM 59

AFFIDAVIT BY INSOLVENT 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 as 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..... 20...)

Sworn at, etc.

(Signed)

Debtor

s.33(2)

FORM 60

CERTIFICATE FOR REMOVAL OF DISQUALIFICATION
(Title)

Whereas an order of discharge was on the
.....
day of..... 20 granted to A.B., of the
above-named insolvency, it is hereby certified that the
insolvency of the said A.B. was caused by misfortune without
any misconduct on his part.

Dated this day of..... 20.....
By the Court,

(*Signed*)
Registrar

FORM 61

r. 165

ORDER APPROVING COMPOSITION OR SCHEME
(Title)

On the application of, and on reading the report of the Official Receiver and hearing the Official Receiver and being satisfied that the creditors in the above matter have duly accepted and approved a composition (or scheme) in the following terms, namely (here insert terms if short; if not short "in the terms contained in exhibit A, annexed hereto"),* and being satisfied 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 insolvent, 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 fifty cents in the dollar on all the unsecured debts provable against the debtor's

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estate.

The said composition (or scheme) is hereby approved.
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/or being satisfied

(a) that the case is one in which the Court would be required, if the debtor were adjudged insolvent, to refuse his discharge;

(b) that facts have been proved which would under the Act justify the Court in refusing, qualifying or suspending the debtor's discharge, the Court doth refuse to approve the said composition (or scheme).

Dated this day of
20.....

N.B.—If the terms of the composition or scheme be contained in an exhibit annexed to the order, each page of the exhibit must be initialed by the Registrar.

[Subsidiary]

Insolvency Rules

s.19(14) and 24

FORM 62

**APPLICATION FOR ENFORCEMENT OF PROVISION IN A
COMPOSITION
(Title)**

In the matter of a composition made by *A.B.*,
of.....

*I, F.M., of....., do apply to this Court
for an order for the enforcement of the provisions of the said
composition against....., on the ground set
forth in the annexed affidavit.*

Dated this..... day of 20....

.....
(Signed) F.M.

s. 19(14) and 24

FORM 63

**AFFIDAVIT IN SUPPORT OF APPLICATION FOR ENFORCEMENT OF
PROVISIONS OF A COMPOSITION
(Title)**

In the matter of a composition made by *A.B.*, of.....

I, F.M., of....., make oath and say—

1. That I am interested in the said composition,
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
is (or are) that (here set it or them out).

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3. That has failed to comply with the said provisions (or as the case may be).

Sworn at, etc.

.....
(Signed) F.M.

s. 19(14) and 24

FORM 64

ORDER FOR ENFORCEMENT OF PROVISIONS IN A COMPOSITION (Title)

In the matter of a composition made by A.B., of.....

Upon hearing the application of M.F., of....and reading (here insert evidence) the Court being of opinion that the provisions of the said composition mentioned in the said affidavit should be enforced, it is ordered that (here insert order).

Dated this day of 20....
By the Court,

(Signed).....
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.

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Insolvency Rules

s. 19

FORM 65

CERTIFICATE OF APPROVAL OF SCHEME OR COMPOSITION
(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 Courton the..... day of 20.....

Dated this.....day of 20.....

(Signed).....

M.N.

Registrar

r. 180

FORM 66

AFFIDAVIT OF PROOF OF DEBT WITH OR WITHOUT SECURITY
(Title)

I, of
make oath and say —

1. That the said A.B. was at the date of the receiving order and still is justly and truly indebted to (me) in the sum of..... for (state consideration and insert or annex a summary of account and describe generally any vouchers necessary to substantiate the debt) for which said sum or any part thereof I say that (I) have not nor hath any person by my order or to my knowledge or belief for (my) use had or received any manner of satisfaction or security whatsoever, save and except the following —

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(Here set out 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.)

Date	Drawn	Acceptor	Amount	Date when due

Sworn, etc.

(When affidavit is made by a clerk alter the form accordingly, and add the following.)

That I am in the employ of C.D., and that I am duly authorised by him to make this affidavit, and that it is within my own knowledge that the aforesaid debt was incurred, and for the consideration above stated, and that such debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

r. 180

FORM 67

AFFIDAVIT OF PROOF OF DEBT BY AGENT OF A COMPANY
(Title)

I, of.....secretary
(or manager or other officer) of(here state
name of corporation) make oath and say that I am duly
authorised by (here set out the name and
style of the corporation), to make the proof of debt on its
behalf (then follow last affidavit, altering form accordingly).

NOTE.—This form may also be incorporated in the
proof in the same manner as is provided in the case of a clerk
proving for his employer.

r.181

FORM 68

PROOF OF DEBT OF WORKMEN
(Title)

- (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 employed by the above-named debtor.
- (c) "I" or "the said."
- (d) My "employ" or "the employ of the above-named debtor."
- (e) "Me" or "the

I, (a), of.....(b) make
oath and say—

That (c).....at the date of the receiving order, viz.,
the..... day of.....20....., and still
justly and truly indebted to the several persons whose
names, addresses, and descriptions appear in the schedule
endorsed 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

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above-named debtor." any part thereof, I say that they have not, nor hath any of them, had or received any manner of satisfaction or security whatsoever.

(Signed).....

Deponent

Sworn at.....in the county of.....
thisday of..... 20.....
Before me,

SCHEDULE

1. No.	2. Full Name of Work- men	3. Address	4. Descrip- tion	5. Period over which Wages Due	6. Amount Due	
					\$	C .

(Signed)

Deponent

(Signed)

Commissioner, or Officer administering Oath

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Insolvency Rules

rr. 186 and 187

FORM 69

NOTICE OF REJECTION OF PROOF OF DEBT (Title)

Take notice, that as Official Receiver of the above estate, I have this day rejected your claim against such estate

(a) *to the extent of \$* on the following grounds—

(a) If proof wholly rejected strike out words in italics.
(b) 21 days or 7 days as the case may be.
See Rules 189 and 191 (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 date.

Dated this day of 20

(Signed)

Official Receiver

Address

To

r. 206

FORM 70

GENERAL PROXY

(Title)

I, C.D., of....., a creditor, hereby appoint the Official Receiver (or Mr. A.B., of....., a clerk in my regular employ) to

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be my general proxy in the above matter (excepting as to the receipt of dividends).

.....
(Signed) C.D.

Dated this day of 20.....

(Signed)
Witness

Address

NOTE.—When the creditor desires that his general proxy should receive dividends he should strike out the words "excepting as to the receipt of dividends" putting his initials thereto. The creditor must fill up blanks in his own handwriting, or the name of the person filling them up must be stated. It is not intended that the Official Receiver shall in any case receive dividends on behalf of a creditor. The authorised agent of a corporation may fill up blanks, and sign for the corporation, e.g. for the company.

J.S. (duly authorised by the
company).

A proxy given by a creditor may be filled up and signed by any person 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)).

The proxy must be lodged with the Official Receiver or assignee not later than four o'clock of the afternoon of the day before the meeting at which it is to be used.

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[Subsidiary]

Insolvency Rules

r. 206

FORM 71

SPECIAL PROXY
(Title)

I, C.D., of....., a creditor, hereby appoint the Official Receiver (or Mr. A.B., of) as my proxy at the meeting of creditors to be held on the day of..... 20..., to vote for (or against) (here specify the particular resolution or name of proposed assignee).

.....

(Signed) C.D.

Dated this.....day of 20.....

(Signed)

Witness

Address

NOTE.—The creditor must fill up blanks in his own handwriting, or the name of the person filling them up must be stated. The authorised agent of a corporation may fill up blanks and sign for the corporation, e.g. for thecompany.

J.S. (duly authorised by the company)

r. 158 and 206

FORM 72

VOTING LETTER UNDER SECTION 19(4)

Re.....Date

Address

Sir,

I REQUEST you to record my vote for (or against) the

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above proposed composition (or scheme of arrangement) in the said matter.

(Signed) J.S.

(Signed).....

Witness

Address.....
To the Official Receiver of the estate of

N.B.—The letter must be sent in so as to reach the Official Receiver not later than four o'clock on the day before the meeting.

r. 211

FORM 73 NOTICE TO CREDITORS OF FIRST MEETING (Title)

Notice is hereby given that the first meeting of creditors in the above matter will be held on the.....day of..... 20.... at (insert place) at (insert hour).

To entitle any creditor to vote thereat his proof must be lodged with me not later than 4 o'clock on the day of..... 20.....

Forms of proxies can be obtained from me on payment of.....

The Public Examination of the debtor is fixed for theday of..... 20.....
at.....

Dated this.....day of..... 20.....

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(Signed).....

Official Receiver

NOTE.

At the first meeting the creditors may (amongst other things)—

1. By special resolution resolve to entertain a proposal for a composition or scheme under s. 19 of the Act, either with or without the intervention of an assignee.
 2. By ordinary resolution resolve that the debtor be adjudged insolvent, and if the estate exceeds \$1,500 appoint an assignee.
 3. By ordinary resolution fix the remuneration of the assignee, or resolve that the same be left to the committee of inspection, but if one-fourth in number or value of creditors dissent from the resolution fixing the assignee's remuneration the Official Receiver is to fix his remuneration.
 4. By ordinary resolution to appoint a committee of inspection from among the creditors qualified to vote or the holders of general proxies or general powers of attorney for such creditors.
 5. By ordinary resolution determine the remuneration to be paid to the special manager if one be appointed.
-

r. 211

FORM 74

NOTICE TO CREDITORS OF FIRST MEETING IN SUMMARY CASE
WHERE DEBTOR HAS NOT SUBMITTED AN OFFER OF
COMPOSITION
(Title)
SUMMARY CASE

(Under Receiving Order dated theday
of.....20.....)

Notice is hereby given that the first meeting of the creditors in the above matter will be held aton theday of..... 20....., at o'clock in thenoon, for the purpose of receiving a report by

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the Official Receiver upon the position of the estate.

The debtor has been adjudged insolvent, and an order for summary administration has been made by the Court.

Under section 105 of the Insolvency Act the Official Receiver is the assignee in the insolvency, but the creditors can, by special resolution, appoint an assignee in his place.

To entitle you to vote thereat your proof must be lodged with me not later than o'clock
on the.....day of.....20.....

Proxies to be used at the meeting must be lodged with me not later than.....o'clock..... on the
.....day of 20....

The public examination of the debtor is fixed for the.....day of.....20.....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.....20.....

(Signed).....
Official Receiver

r. 158 and 211

FORM 75

**NOTICE OF FIRST OR OTHER MEETING WHERE DEBTOR SUBMITS
AN OFFER OF COMPOSITION OR SCHEME (WHERE NO ORDER FOR
SUMMARY ADMINISTRATION HAS BEEN MADE)**
(Title)

(Under Receiving Order dated the..... day
of.....20.....)

Notice is hereby given that a general meeting of the
creditors of the above-named debtor will be held
at.....on the day of.....20.....
ato'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 debts intended to be used at the meeting
must be lodged with the Official Receiver not later than
..... o'clock, on the day of
.....20....

Proxies and voting letters to be used at the meeting
must be lodged not later than.....o'clock,,
on the..... day of20.....

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.

A sitting of the Court for the public examination of
the debtor will be held at....., on the.....
day of 20..., at.....o'clock in the
.....noon.

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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..... 20.....

(Signed).....
Official Receiver

NOTE 1.—Creditors who have proved may vote for or against the acceptance of the debtor's proposal by means of a voting letter.

NOTE 2.—If the proposal be not accepted the meeting may, if the debtor has not already been adjudged insolvent, resolve on his adjudication, ditto and in that case, they may also by ordinary resolutions appoint an assignee and a committee of inspection, and fix the remuneration of the assignee or resolve that it be left to the committee of inspection.

rr. 158 and 211

FORM 76

NOTICE OF MEETING IN A SUMMARY CASE WHERE DEBTOR
SUBMITS AN OFFER OF COMPOSITION OR SCHEME
(Title)

(Under Receiving Order dated the.....day of.....
20...)

Notice is hereby given that a General Meeting of the Creditors of the above-named Debtor will be held aton the....day of.....20...,

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 debts intended to be used at the meeting must be lodged with the Official Receiver not later than..... o'clock, on theday of.....20....

Proxies and voting letters to be used at the meeting must be lodged not later than..... o'clock, on theday of.....20....

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.

A sitting of the Court for the public examination of the debtor will be held at....., on theday of 20..., at.....o'clock in thenoon.

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..... 20.....
Address.....

(Signed).....
Official Receiver

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Insolvency Rules

NOTE 1.—Creditors who have proved may vote for or against the acceptance of the debtor's proposal by means of a voting letter.

NOTE 2.—If the proposal be not accepted the meeting may, if the debtor has not already been adjudged insolvent, resolve on his adjudication, when the Official Receiver will become the assignee unless the creditors by special resolution appoint an assignee

r. 158

FORM 77

PROPOSAL FOR A COMPOSITION

(Title)

I,, the above-named debtor, hereby submit the following proposal for a composition in satisfaction of my debts—

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 an insolvent shall be provided for as follows—

(Set out terms of proposal so far as they 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 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 20....

.....

(*Signed*) (a)

FORM 78

r. 158

PROPOSAL FOR A 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.

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 an insolvent is provided for as follows—

(Set out or indicate by reference to the scheme, how it is proposed to satisfy preferential claims.)

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(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.

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 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..... 20.....

.....
(Signed) (a)

FORM 79

r. 158

REPORT OF OFFICIAL RECEIVER TO CREDITORS ON PROPOSAL FOR COMPOSITION OR SCHEME AND VOTING LETTER (Title)

The Official Receiver of the above estate 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

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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
20

(Signed)
Official Receiver

VOTING LETTER
(Title)

(a) Insert here the word "for" or the word "against" as the case may require.

(b) Creditors may if they think fit, authorise the Official Receiver to vote "against" the proposal now submitted but "for" such amendment thereof as may be satisfactory to the Official Receiver.

I, of a creditor in the above matter for the sum of \$..... hereby request the Official Receiver of the said estate to record my vote (a)..... the acceptance of the proposal as set forth in the report of the Official Receiver hereto annexed and/or (b)..... any amendment thereof which shall in the opinion of the Official Receiver be calculated to benefit the general body of the creditors.

Dated this.....day of20

(Signed)
Creditor

(Signed)
Witness

Address.....

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Insolvency Rules

r. 216

FORM 80

NOTICE TO CREDITORS OF ADJOURNED MEETING

Take notice that the meeting of creditors in the above matter held on the day of 20..., at was adjourned to the day of 20...., and will accordingly be held at on the said day at o'clock in the noon.

AGENDA

(Insert here nature of business to be transacted.)

Dated this day of 20...

(Signed).....

*Official
Receiver*

Address

FORM 81

r. 210

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 20... at o'clock at (here insert place where meeting will be held), 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 20.....

(Signed).....

Official Receiver

FORM 82

Act 1st Sch.

No. 25

MINUTES OF PROCEEDINGS AT FIRST MEETING
(Title)

Minutes of resolutions come to and proceedings had at the first meeting of creditors held at....., this.....day of.....20, Chairman, the Official Receiver (or being absent, F.K., of....., Chairman).

Resolved as follows—

That *A.B.* shall be adjudged insolvent and that the Official Receiver do apply to the Court to make the adjudication.

That *G.H.*, of....., shall be assignee of the property of the insolvent at (here state remuneration) (or that the appointment of an assignee in this insolvency be made by the committee of inspection).

That *I.K.*, *L.M.*, *N.O.*, *P.Q.*, and *R.S.*, be appointed the committee of inspection in this insolvency, for the purpose of superintending the administration of the property of the insolvent by the assignee.

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Or,

That (the debtor's) proposal for a composition (or scheme) as set forth in the annexed paper writing marked A be accepted.

(Here add any other resolutions that may be come to as to the manner of the administration of the property by the assignee.)

.....
(Signed) F.K.,
Chairman

Number	Assenting Creditors' Signatures	Amount of Proof		Number	Assenting Creditors' Signatures	Amount of Proof

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 signature must be attached at the meeting. Resolutions should be put separately.

FORM 83

LIST OF CREDITORS ASSEMBLED TO BE USED AT EVERY MEETING
(Title)

Meeting held atthis.....day
of.....20.....

Number	Names of Creditors present or assembled	Amount of Proof
1		
2		
3		
4		
5		
6		
7	Total number of creditors present or assembled	.

FORM 84

APPLICATION TO EXTEND TIME FOR ACCEPTING OR
APPROVING A COMPOSITION OR SCHEME AND ORDER THEREON
(Title)

(a) Composition, or scheme of arrangement.

(b) The prescribed notices cannot be given; or the notices or securities required for the said(a) have not been lodged; or as the case may be.

Ex parte the Official Receiver.

The Official Receiver in the above matter reports to the Court—

That (a)was on the.....day of20....., duly lodged by the debtor.

That the public examination of the debtor was concluded on the.....day of.....20.....

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That (b).....in time to allow of the acceptance and approval of the said (a) within twenty-one days after the conclusion of the examination of the debtor as required by section 21 of the Insolvency Act. Under these circumstances application is made for an extension of time to the day of....., 20..... for obtaining acceptance and approval.

Dated this.....day of20.....

(Signed).....

Official Receiver

Order

Before

Upon reading the above report of the Official Receiver and hearingit is ordered that the time for obtaining the acceptance or approval of the said (a) in the above matter be extended to the..... day of.....20....

Dated this.....day of.....20.....

By the Court,

(Signed).....

Registrar

[Subsidiary]

Insolvency Rules

r. 159 s. 19

FORM 85

**APPLICATION TO COURT TO APPOINT DAY FOR
APPROVING
COMPOSITION OR SCHEME
(TITLE)**

Whereas at a meeting of creditors of the above-named debtor, held at on the..... day of 20.... , a resolution to accept (a) was duly passed by a majority in number representing three-fourths in value of all the creditors who have proved their debts.

And whereas the public examination of the debtor was concluded on the..... day of..... 20....

(b) debtor or
Official
Receiver.

Now the (b) applies to the Court to fix a day for the consideration of the above-mentioned (a).

Dated this day of 20....

(Signed)
Debtor, or Official Receiver

ORDER

Before

Upon reading the above application and hearing..... it is ordered that the application for the consideration by the Court of the above-mentioned (a)..... shall be heard at.....on the.....day of 20.....at o'clock in the.....noon.

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Dated thisday of20.....
By the Court,

(Signed).....
Registrar

r. 161

FORM 86

**NOTICE TO CREDITORS OF APPLICATION TO COURT TO APPROVE
COMPOSITION OR SCHEME**

(Title)

Take notice that application will be made to the Court sitting aton the.....day of.....20...., ato'clock in the.....noon, to approve the composition (or scheme of arrangement) as proposed by the debtor and duly accepted by the statutory majority of the Creditors at a meeting held on the.....day of.....2...

Dated thisday of.....20.....

(Signed).....
Official Receiver

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Act 1st. Sch

FORM 87

No. 5

ORDER OF COURT FOR GENERAL MEETING OF CREDITORS
(Title)

Upon the application of C.D., of.....
it.....ordered that the
assignee of the property of the said A.B. (or the Official
Receiver) do summon a meeting of the creditors of the said
A.B. to be held aton the.....day
of.....20...., ato'clock in the noon.

(here state the purpose for which meeting called).

Dated this.....day of.....20.....
By the Court,

(Signed).....

Registrar

r. 212

FORM 88

NOTICE OF MEETING (GENERAL FORM)
(Title)

Take notice that a meeting of creditors in the above
matter will be held on theday of.....20....,
at.....at.....o'clock.

AGENDA

(Here insert purpose for which meeting called.)

Dated this.....day of.....20.....

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.....
*(Signed) Y.Z., Assignee, or
Official Receiver*

N.B.—Forms of proxies can be obtained on application to the Official Receiver, and of payment of twenty-four cents.

r. 160

FORM 89

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 theday of.....20....., at.....o'clock in the.....noon to sanction the composition (or scheme) approved on the.....day of.....20....., by the statutory majority of creditors.

Dated this.....day of.....20.....

.....
(Signed) G.H.

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[Subsidiary]

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r. 315

FORM 90

AFFIDAVIT BY SPECIAL MANAGER

I,of..... make
oath and say as follows—

1. The account hereunto annexed marked A and signed by me 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.

FORM 91

s. 75 r. 288

NOTICE TO CREDITORS OF MEETING TO REMOVE ASSIGNEE AND TO APPOINT A PERSON TO FILL THE VACANCY

(Title)

At the request of one-fourth in value of the creditors of the insolvent a general meeting of the creditors is hereby summoned to be held at.....on the.....day of.....20..... at..... o'clock in the noon for the purpose of considering the

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propriety of removing Y.Z., the assignee of the property of the insolvent from his office as such assignee, and in the event of his removal to appoint a person to fill the vacancy.

Dated this.....day of.....20.....

.....
*(Signed) L.M.,
A member of the Committee of
Inspection, or Official Receiver*

s. 75 and 76

FORM 92

NOTICE OF MEETING TO BE HELD TO APPOINT NEW ASSIGNEE (Title)

I, G.H., the Official Receiver, hereby give notice that a meeting of creditors will be held aton theday of..... 20....., ato'clock in thenoon for the purpose of appointing an assignee in the place of the late assignee, who has resigned the office (or who has died or has become insolvent).

Dated this.....day of.....20.....

.....
*(Signed) G.H.,
Official Receiver*

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Act 1st Sch.
No. 25

FORM 93

r. 282

MINUTES OF MEETING FOR RECEIVING RESIGNATION OF ASSIGNEE (Title)

Minutes of proceedings had at a meeting of creditors of the said..... held at on the day of 20.....

Chairman of the meeting, *E.F.*, of
Resolved (here should follow resolutions).

.....
(Signed) *E.F.*,
Chairman of this meeting

r. 278

FORM 94

REQUEST BY CREDITORS TO THE OFFICIAL RECEIVER TO NOTIFY HIS OBJECTION TO ASSIGNEE TO COURT

(Title)

We, the undersigned, being a majority in value of the creditors of the above-named *A.B.*, do hereby request the Official Receiver to notify his objection to the appointment of *C.D.*, as assignee of the property of the insolvent to the Court.

Dated this day of 20.....
Amount of Debt

.....
Signature of Creditors
E.F.
K.L.
etc.

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FORM 95

r. 276

CERTIFICATE OF APPOINTMENT OF ASSIGNEE

(Title)

This is to certify that Y.Z., of..... has been duly appointed and approved as assignee of the estate of, (against) who(m) on theday of 20...., a receiving order was made (or as the case may be) was adjudged insolvent.

.....
(Signed) G.H.,
Official Receiver

FORM 96

r. 171

BOND OF ASSIGNEE

(Title)

Know all men by these presents that we, Y.Z. of, etc., and C.D. of, etc., and E.F. of, etc., are jointly and severally held and firmly bound to the Official Receiver in \$..... to be paid to the said, or his successors. For which payment to be made we bind ourselves and each and every one of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents as principal debtors.

Whereas on the.....day of..... 20....., a receiving order was made against the said A.B.; and whereas at.....of creditors, the said Y.Z. was appointed assignee of the property of the; and whereas the said assignee has been directed to give security by bond to the Official Receiver in

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the sum of \$.....with two sufficient
sureties thereto.

Now, therefore, the condition of this bond or
obligation is such that if the said Y.Z. shall and do from time
to time well and sufficiently perform and execute all and
singular the duties required of him as assignee by the
Insolvency Act or any general rule made or hereafter to be
made under such Act, this obligation shall be void or
otherwise shall remain in full force, and virtue.

Signed and delivered by the above-bounden
in the presence of Y.Z.
C.D.
E.F.

NOTE.—If a deposit of money be made, the
memorandum thereof should follow the terms of the
condition of the bond.

FORM 97

r. 290

APPLICATION FOR DIRECTIONS BY OFFICIAL RECEIVER OR

ASSIGNEE
(Title)

I desire to make application to the Court for its
directions (here state the particular matter in relation to which
they are sought).

(This application may be signed by the parties
themselves or by counsel and solicitor.)

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.....
*(Signed) G.H.,
Official Receiver, or
Assignee*

Let this application be heard on the.....day of.....
20....., at.....o'clock in the noon, and let the Official
Receiver or assignee give notice to (here insert the persons to
whom it is to be given).

Dated thisday of20.....

(Signed)
Registrar

r. 290

FORM 98

ORDER ON APPLICATION OF OFFICIAL RECEIVER OR ASSIGNEE FOR DIRECTIONS (Title)

Whereas at a Court held this day the Official Receiver
or the assignee of the property of the insolvent) applied to
this 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
Official Receiver or the assignee do pay out of the property
of the insolvent the sum of \$..... (or that the
assignee to pay out of his own moneys the sum of \$
.....), the cost 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, and also the
sum of \$..... to E.F. for his costs).

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[Subsidiary]

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Dated thisday of20.....

By the Court,

(*Signed*)

Registrar

r. 299

FORM 99

**NOTICE TO LANDLORD OF INTENTION TO DISCLAIM
LEASE NOT SUBLET OR CHARGED**

(Title)

Take notice that I intend to disclaim the lease dated.....whereby (here specify property let) was let to the above-named debtor at a rent of \$.....

If you do not within seven days after service of this notice upon you require me by notice in writing to bring the matter before the Court, I hereby disclaim the said lease as from the expiration of the said seven days.

Dated thisday of20.....

To Mr. X.Y.

.....
(*Signed*) G.H.,
Official Receiver, or Assignee

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Insolvency Rules

r. 299

FORM 100

NOTICE TO LANDLORD OF INTENTION TO DISCLAIM LEASEHOLD PROPERTY SUB-LET OR CHARGED (Title)

(a) Here insert particulars' of the 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 insolvent or 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 fourteen days of the receipt by you of this notice.

Dated this day of 20

(Signed)

Assignee

To Mr..... the landlord of the above-mentioned premises, and

To Mr. sub-tenant or person in whose favour charge has been made.

r. 299

FORM 101

FORM OF NOTICE BY LANDLORD OR OTHER PERSON REQUIRING ASSIGNEE TO BRING MATTER OF INTENDED DISCLAIMER OF PROPERTY BURDENED WITH ONEROUS COVENANTS BEFORE THE COURT (Title)

To..... assignee of the property of the above-named insolvent. Sir,

I hereby give you notice that the said insolvent was at the date of receiving order, interested as lessee (or, as the case may be) in the property (description) and that as such lessee (or as the case may be) the insolvent was liable in respect of (set out nature of the insolvent's liability) which liability has devolved on you as assignee in insolvency of his property, and I hereby require you to bring the matter of your intended disclaimer of the insolvent's interest in the said property before the Court.

I am, etc.,

.....
(Signed) A.B.

(State how interested in the property.)

FORM 102

r .272

**NOTICE OF TRANSFER OF SEPARATE ESTATE TO JOINT ESTATE FOR
GAZETTE IN INSOLVENCY**

(Title)

Notice is hereby given that there being in the hands of the assignee in the above insolvency a surplus estimated at arising from the separate estate of (name of separate partner) one of the insolvents, and there being no separate creditors of such insolvent, it is the intention of such assignee, at the expiration ofdays from the appearance of this notice in the *Gazette* to transfer such surplus to the credit of the joint estate in the said insolvency.

Dated this.....day of.....20.....

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(Signed).....

Assignee

FORM 103

r.191

NOTCIE OF INTENTION TO DECLEAR DIVIDEND

(Title)

A (a)..... dividend is intended to be declared in the above matter.

Creditors who have not proved their debts by the.....day of.....20..... will be excluded from this dividend.

Dated this.....day of.....20.....

.....
(Signed) G.H.,

Official Receiver, or Assignee (Address)

r.191

FORM 104

NOTICE TO PERSONS CLAIMING TO BE CREDITORS OF INTENTION TO DECLARE FINAL DIVIDEND

(Title)

A final dividend is intended to be declared in the above matter.

If you do not establish your claim to the satisfaction of the Court on or before the.....dayof 20..... 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.....20.....

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Insolvency Rules

To all persons claiming to be creditors
of..... whose claims have been notified to me but
not established to my satisfaction.

.....
(Signed) G.H.,

Official Receiver, or Assignee

.....
(Address)

FORM 105

s. 19

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
above debtor's statement of affairs, but you have not yet
proved your debt.

The last day for receiving proofs is the.....day
of.....20.....

Dated this.....day of.....20.....

(Signed).....

Official Receiver

To.....

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Insolvency Rules

r. 285

FORM 106

STATEMENT TO BE PREPARED WHEN GIVING NOTICE OF DIVIDEND AND APPLICATION FOR RELEASE AND TO BE OPEN TO THE INSPECTION OF ALL CREDITOR WITHOUT FEE

(Title)

STATEMENT showing the position of the estate at date of declaring (1st) dividend or at the date of application for release.

Dr.	Cr.
1885. 4th Jan. to 30th April. To total receipts from (date of receiving order) (or declaration of first dividend) to date. State particulars under the several headings in the debtor's statement of affairs.) Receipts per trading account. Less. Payments per trading account.	1884. 4th Jan. to 30th April. By Official Receiver and Court Fees. Law costs of petition. Other law costs. Assignee's re-muneration as fixed by..... (a)viz.— per cent, on \$.....— on assets realised. per cent, on \$ on assets distributed in dividend. Special Manager's charges. Person appointed to assist debtor under section 68 of the Act. Auctioneer's charges as taxed. Other taxed costs. Other charges. Total costs of realisation Allowance to debtor. Creditors, viz.— preferential, unsecured dividend. Now declared of.... in the \$_____ Dividend previously declared. Balance. _____

By section 72 of the Insolvency Act it is provided

that "if one- fourth in number or value of the creditors dissent from the resolution or the debtor satisfies the Court that the remuneration is unnecessarily large the Court shall fix the amount of the remuneration".

Assets not yet realised estimated to produce
\$.....
Creditors can obtain any further information by inquiry at the office of the assignee.

FORM 107

r. 191

NOTICE OF DIVIDEND
(Title)

NOTICE IS HEREBY GIVEN that a.....Dividend ofin the dollar has been declared in this matter, and that the same may be received at Office, as above, on.....the.....day of....., or on any subsequent day between the hours of Upon applying for payment, a creditor must produce any bills of exchange, or other securities held by him if not already filed; and if a creditor does not attend personally, he must fill up and sign a receipt and authority in accordance with the subjoined forms, when a cheque payable to his order will be delivered to the bearer.

.....
(Signed) G.H.,
Official Receiver, or Assignee

To

RECEIPT

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..... 20

RECEIVED of.....the sum of.....
dollars.....cents being the amount payable
to.....in respect of the.....dividend
of.....in the dollar on.....claim
against their estate.

(Signed).....

Creditor

AUTHORITY

Sir,

Please deliver to (insert the name of the person who
is to receive the cheque, or the words "me by post," if you
wish the cheque sent to you in that way) the cheque for the
dividend payable to..... in this matter.

(Signed).....

Creditor

.....20 ...

FORM 108

s. 61

APPLICATION BY CREDITOR FOR ORDER FOR ASSIGNEE 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 assignee to pay the
dividend in this insolvency due to me, with interest thereon
for the time it has been withheld from me, that is to say,
from the.....day of

..... 20....., on which day I applied to the.....

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[Subsidiary]

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Dated this.....day
of.....20....

.....
(Signed) F.K.

ORDER

Upon the reading of this application, and upon hearing.....it is ordered that the Official Receiver or assignee do forthwith pay to the said F.K. the sum of.....dollars, the amount of such dividend.

(Add in the case of an assignee.)

And it is further ordered that the assignee do pay to the said creditor at the same time the sum of.....for interest on such dividend, being at the rate of six 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.....20.....

By the Court,

(Signed)

Registrar

If the Court does not order payment, then, after the words "it is ordered" insert the order as made.

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Insolvency

[Subsidiary]

Insolvency Rules

r. 267

FORM 109
CERTIFICATE BY COMMITTEE OF INSPECTION AS TO
AUDIT OF ASSIGNEE'S ACCOUNT

We, the undersigned, members of the committee of inspection in the matter of 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 assignee's receipts and payments on account of the estate.

Dated this day of 20....

A.B.
C.D.
E.F. } *Committee of*
Inspection

r. 268

FORM 110
AFFIDAVIT VERIFYING ASSIGNEE'S ACCOUNT
(Title)

I, Y.Z., of..... the assignee of the property of the above-named make oath and say—

That *[the account hereunto annexed marked B is a true copy of the estate cash book and contains a full and true account of my receipts and payments on account of the insolvent's estate] from the.....day of..... 20...., to the.....day of..... 20..... , 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 by the said account.

Sworn at, etc.

*If no receipts or payments, strike out the words in bracket.

s. 83

ANNUAL RETURN TO BE MADE BY ASSIGNEES IN INSOLVENCY

Form 111

Name of Debtor.		Court.		Number of Matter.		Date of receiving order.		Debtor.		Creditor.		In hand.		Due to.		Amount of Liabilities.		Amount of Assets as estimated by		Amount of Receipts from 31st December, 19... to 31st December, 19....		Payments from 31st December, 19... to 31st December, 19...		To Creditors.		Prefeferential.		Unsecured.		In hand.		Due to, assignee.		Balance 31st Dec., 19....	
Total																																			

FORM 111

Note.—Similar (separate) returns to be made in compositions and in schemes when an assignee is appointed to administer the debtor's property or manage his business.

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Insolvency

[Subsidiary]

Insolvency Rules

r 284

ASSIGNEE'S TRADING ACCOUNT
(Title)

Y.Z., the assignee of the property of the insolvent in account with the estate.

Dr. Receipts					Payments. Cr.		
Date				Date			

.....
(Signed) Y.Z.,
Assignee

We have examined this account with the vouchers and find the same correct, and we are of opinion the expenditure has been proper.

.....
(Signed)
Committee of Inspection,
or member of the Committee of Inspection

FORM 113

[Subsidiary]

Insolvency Rules

R.284

PROFIT AND LOSS ACCOUNT (TRADING ACCOUNT)
(Title)

DR.	PROFIT AND LOSS ACCOUNT			CR.
Stock on hand on ... day of 20...			Sales	
Purchases.....			Other receipts, if any	
Trade expenses,viz,-			Stock on hand on	
Rent And Taxes ...			day of.20...,	
Wages.....				
Miscellaneous...				
Balance being profit				

.....
(Signed) Y.Z.,
Assignee

NOTE.—this account to be submitted when the committee of inspection require, and in any case at the end of the trading or business carried on by the assignee.

FORM 114

R 284

AFFIDAVIT VERIFYING ASSIGNEE'S TRADING ACCOUNT
(Title)

I, Y.Z., ofthe assignee of the property of the above-named....., 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
..... 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, etc.

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.....
(Signed) Y.Z.,
Assignee

r. 292

FORM 115

STATEMENT OF ACCOUNTS UNDER SECTION 81(2) OF THE INSOLVENCY ACT (Title)

RECEIPTS.				PAYMENTS.			
Date	Of whom received	Nature of receipts	Amount	Date	To whom paid	Nature of payment	Amount

(Signed)

Dated this day of 20

FORM 116

r. 59

NOTICE TO INSOLVENT UNDER SECTION 50 (Title)

TO A.B.

Take notice that I intend to apply to this Court on the.....day of.....20.....at.....o'clock in the noon, for an order under section 50 of the Insolvency

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[Subsidiary]

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Act for the payment of a part of your salary (or income) to me
for the benefit of the creditors under your insolvency.

Dated this.....day of.....20.....

.....
(Signed) G.H.,
Assignee

FORM 117

s. 50(1)

ORDER SETTING ASIDE PAY, SALARY, ETC., UNDER SECTION 50(1)
(Title)

Whereas it appears to the Court that the said insolvent is (or, here state what the insolvent is), and as such is in the enjoyment of the annual pay (or, salary) of..... dollars; and whereas upon the application of G. H., of..... the assignee of the property of the insolvent, it appears to the Court just and reasonable that the annual sum of..... dollars, portion of the said pay (or salary) ought to be paid to the said during the insolvency, in order that the same may be applied in payment of the debts of the said insolvent, and that such payment ought to be made out of the first moneys which shall be due after the.....day..... of 20..., and be continued until this Court shall make order to the contrary; and the written statement of the Minister responsible for the public service that he consents to the terms of such payment having been filed, it is ordered, that such portion of the (here insert pay or salary) shall be paid to the assignee accordingly.

Dated this.....day of.....20.....
By the Court,

(Signed).....
Registrar

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[Subsidiary]

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FORM 118

s. 50(2)

ORDER SETTING ASIDE SALARY OR INCOME, ETC., UNDER SECTION 50(2) (TITLE)

Whereas it having been made to appear to this Court that the insolvent is in the receipt of (or entitled to) a salary (or income, half-pay, pension, or compensation as the case may be) of about.....dollars, as (here set forth the circumstances under which the salary or income is received): And whereas upon the application of the assignee of the property of the insolvent, and upon hearing the insolvent it appears to the Court just and reasonable that the annual sum of..... dollars, portion of the said salary (or income, etc.) ought to be paid by the insolvent by monthly (or quarterly) payments (according as the insolvent receives his salary or income, etc.), to the assignee during the insolvency, in order that the same may be applied in payment of the debts of the said insolvent, and that the first of such payments ought to be made on the.....day of.....20....., and be continued monthly (or quarterly) 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 insolvent's said salary (or income, etc.).

Dated this.....day of.....20.....
By the Court,

(Signed).....

Registrar

FORM 119

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[Subsidiary]

Insolvency Rules

r. 289

APPLICATION TO OFFICIAL RECEIVER TO AUTHORISE ACCOUNT AT BANK (Title)

We, the committee of inspection, being of opinion that Mr. Y.Z., of..... the assignee in the above matter, should have an account at a bank for the purpose of (here insert grounds for application) hereby apply to you to authorise him to make his payments into and out of theBank. All cheques to be countersigned by..... a member of the Committee of Inspection and by.....

L.M.
J.P.
E.F. } *Committee of
Inspection*

Dated this.....day of.....20.....

FORM 120

r. 289

ORDER OF OFFICIAL RECEIVER FOR BANKING ACCOUNT (Title)

You are hereby authorised to make your payments in the above matter into and out of the.....Bank. All cheques to be countersigned by.....a member of the Committee of Inspection and by.....

(Signed) G.H.,
Official Receiver

To Mr. Y.Z., assignee.

Dated this.....day of.....20.....

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r. 285

FORM 121

NOTICE TO CREDITORS OF INTENTION TO APPLY FOR RELEASE (Title)

Take notice that I the undersigned assignee (or late assignee) of the property of the insolvent 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 twenty-one days of the date thereof.

A summary of my receipts and payments as assignee is sent herewith.

Dated this.....day of.....20.....

.....
(Signed) Y.Z.,
Assignee

FORM 122

s. 87

APPLICATION BY ASSIGNEE TO COURT FOR RELEASE (Title)

I, Y.Z., the assignee of the property of the, do hereby report to the Court as follows—

1. that the whole of the property of the insolvent has been realized for the benefit of his creditors (and a dividend to the amount of.....in the dollar has been paid as shown by the statement hereunto annexed);

(or That so much of the property of the insolvent as can, according to the opinion of myself (and the committee of inspection, hereunto annexed in writing under our hands), be

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realised, without needlessly protracting the insolvency has been realised, as shown by the statement hereunto annexed, and a dividend to the amount ofhas been paid);

(or That a composition (or scheme), under section 24 of the Act has been duly approved.)

2. I therefore request you to cause a report on my accounts to be prepared, and to grant me a certificate of release.

Dated this.....day of.....20.....

.....
(Signed) Y.Z.,
Assignee

r. 90

FORM 123

REQUEST TO DELIVER BILL FOR TAXATION
(Title)

I hereby request that you will within fourteen days of this date deliver to the Registrar for taxation your bill of costs (or charges) as (here state capacity in which person is engaged), failing which I shall, in pursuance of the Act, proceed to declare and distribute a dividend without regard to any claim you may have against me or against the estate of the debtor.

Dated this.....day of.....20.....

.....
(Signed) G.H.,
Official Receiver, or Assignee

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r. 85

FORM 124

CERTIFICATE FOR COSTS

(Title)

I hereby certify that I have taxed the bill of costs (or charges) (or expenses) of Mr. C.D. (here state capacity in which employed or engaged) (where necessary add "pursuant to an order of the Court dated the.....day of.....20....."), and have allowed the same (in case of solicitor's costs state whether on higher or lower scale) at the sum of..... dollars (where necessary add "which sum is to be paid to the said C.D. by.....as directed by the said order").

Dated this.....day of.....20.....
\$ cts.....

(Signed).....

Registrar

s.28

FORM 125

ADMISSION OF DEBT BY DEBTOR

(Title)

In the matter of A.B., of.....,a

I, the undersigned J.K., of..... do hereby admit that I am indebted to the said in the sum

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ofdollars, upon the balance of accounts
between myself and the said.....

.....
(Signed) J.K
. Witness, C.D.,
Registrar, or
G.H., Official Receiver

s.28

FORM 126

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.....dollars, on the balance of accounts
between him and the debtor; it is ordered that the J.K. do pay
to the in full discharge of the sum so
admitted, the sum of dollars forthwith (or if
otherwise, state the time and manner of payment), and do
further pay to the said the sum of
..... dollars for costs.

Dated thisday of..... 20....
By the Court,

(Signed).....
Registrar

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Insolvency Rules

r. 63

FORM 127

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.....in the county 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 Insolvency Act.

Dated thisday of..... 20....

(Signed).....

Registrar

To the Registrar or any Marshal.

r. 63

FORM 128

WARRANT OF SEIZURE

(Title)

Whereas on the.....day of.....20....., 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 accounts, and all other things whatsoever, belonging to the said debtor, except his necessary wearing apparel, bedding and tools, as excepted by the Insolvency Act.

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 assignee (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 thisday of.....20....

(Signed).....

Registrar

To the Registrar or any Marshal.

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[Subsidiary]

Insolvency Rules

s.26 r. 64

FORM 129

WARRANT AGAINST DEBTOR ABOUT TO QUIT GUYANA, ETC.

(Title)

To the Registrar, Marshals, and all peace officers within the jurisdiction of the said Court, and to the Keeper of the (*here insert the prison*).

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 is about to go abroad (or quit his place of residence) with a view of avoiding service of petition (or of avoiding appearing to petition), (or of avoiding examination in respect of his affairs, or otherwise, delaying or embarrassing the proceedings in) (or of avoiding payment of a judgment debt in respect of which 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 of preventing or delaying such goods or chattels being taken possession of by the assignee of the property of the insolvent (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 insolvency of the said A.B.).

(Or whereas by evidence taken upon oath 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 twenty-five dollars, without the leave of the assignee, that is to say (here describe the goods or chattels).

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(Or that the said A.B. did without good cause fail to attend at this Court on the.....day of..... 20..., for the purpose of being examined according to the requirements of an order of this Court made on the.....day of..... 20..., directing him to attend.)

These are therefore to require you the said.....and others, to take the said A.B. and to deliver him to the Director or Keeper of the above-named prison, and you the said Keeper to receive the said A.B., and him safely to keep in the said prison until such time as this Court may order.

Dated thisday of..... 20....
By the Court,

(Signed).....
Registrar

FORM 130

s. 28

SUMMONS UNDER SECTION 28

(Title)

To X. Y., of.....

You are hereby required to attend at the Court House at.....on the.....day of..... 20....., at..... o'clock in the.....noon, to be examined and give evidence in the above matter, and then and there to have and produce (state any particular documents required): hereof if you fail having no lawful impediment to be then made

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known to the Court and allowed by it, the Court may by warrant cause you to be apprehended and brought up for examination.

By the Court,

.....
(Signed) C.D.,
Registrar

r. 65

FORM 131

APPLICATION FOR COMMittal OF INSOLVENT, OR OTHER PERSON (Title)

I, do apply to this Court for an order of committal for Contempt of this Court, against the said....(or L.M.), on the ground set forth in the annexed affidavit.

Dated thisday of..... 20....

.....
(Signed) G.H.

s. 25

FORM 132

AFFIDAVIT IN SUPPORT OF APPLICATION FOR COMMittal OF DEBTOR FOR CONTEMPT UNDER SECTION 25 (Title)

I, G.H., the Official Receiver (or the assignee of the

property of the said insolvent) make oath, and say –

(1. That the said debtor did attend at the first meeting of his creditors, held on the.....day of.....,20.... 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 Insolvency Act.

(1. That the said (debtor) did wilfully fail to attend a meeting of his creditors held on the....day of 20..., at.....(or to wait on me at my office on the.....day of 20..., the attending such meeting (or waiting on me) being a duty imposed upon him by the Insolvency Act.

(or 1. That the said (debtor) insolvent 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 the twenty-fifth section of the said Act.)

2. That the said (debtor) was on the.....day of 20..., 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 1. That the said (debtor).....has wilfully failed to perform the duty imposed upon him by section 25 of the Act (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).....was duly served with a copy of such order by leaving the same at his usual place of residence on the.....day of 20....,

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(or 1. That the said (debtor).....has failed to deliver up possession of (here state the property he has failed to deliver up), which property is divisible amongst his creditors under the said Act, 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 duly served upon him on the.....day of 20..., at))

Sworn at, etc.

.....
(Signed) G.H

s.48(6)

FORM 133

AFFIDAVIT OF ASSIGNEE UNDER SECTION 48(6)
(Title)

I, G.H., the assignee of the property of the insolvent, A.B., 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 insolvent), certain moneys (and securities) belonging to the insolvent, that is to say, (here set out and describe the particular moneys and securities).

2. That on the.....day of 20..., 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, nor has he since paid or delivered to me the same (or That I.....day of 20..., posted a letter to the said *L.M.*, addressed to him at....., calling upon him to, etc., andday of 20...,

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..... I posted another letter, by which I again called upon him to, etc., and that he has failed to pay and deliver the same.)

2. That I firmly believe that the said L.M. is not entitled by law to retain such moneys (and securities) as against the..... or against me as representing the estate of the property of the.....

Sworn at, etc.

.....
(Signed) G.H.

r. 66

FORM 134

**NOTICE OF APPLICATION FOR COMMITTAL UNDER SECTIONS 19
OR 24
(Title)**

Take notice that C.D., of....., will on day of 20..., at o'clock in the noon, apply to this Court for an order for your committal to prison for contempt of this Court, you having disobeyed the order of this Court on theday of 20..., (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 of your committal should not be made.

Dated this.....day of 20....

(Signed).....
Registrar

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r. 67

FORM 135

ORDER OF COMMITTAL UNDER SECTION 19 OR 26

(Title)

Whereas by an order of this Court made on the.....day of 20...., (here recite the order). Now upon the application of C.D., of..... 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 20....
By the Court,

(Signed).....

Registrar

r. 66

FORM 136

NOTICE OF APPLICATION FOR COMMITTAL UNDER SECTION 25

(Title)

To the said A.B. Take notice that the Official Receiver or assignee of the property of the said insolvent will on the.....day of 20...., at o'clock in the...noon, apply to this 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 25 of

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the said Act (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 20....

(Signed).....

Registrar

FORM 137

r. 65

AFFIDAVIT OF PERSON INTERESTED IN A COMPOSITION FOR

COMMITTAL
(Title)

In the matter of a composition made by *A.B.*,
of.....

I, *F.M.*, of..... make oath and say—

1. That, of.....,
was by an order of this Court made on the.....day of
..... 20..., ordered to (here set out 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.

.....
(Signed) *F.M.*

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r. 66

FORM 138

NOTICE OF APPLICATION FOR COMMITTAL UNDER SECTION 48(6) (Title)

To (here insert name, address and description of the person to whom the notice is to be sent).

Take notice that the Official Receiver (or assignee of the property of the said).....will on the.....day of 20..., at.....o'clock in thenoon, apply to this 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 insolvent 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 20....

(*Signed*).....

Registrar

FORM 139

r. 67

ORDER OF COMMITTAL UNDER SECTION 25 (Title)

Upon the application of the Official Receiver (or assignee) of the property of the insolvent (or debtor), and upon hearing the(or if he does not appear), and reading the affidavit of (here insert name and description of

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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..... has been guilty of a contempt of this Court by having failed to (here follow the notice), it is ordered that the said.....do stand committed to (here insert prison) for his said contempt.

Dated this.....day of 20....
By the Court,

(*Signed*).....

Registrar

FORM 140

r. 67

ORDER OF COMMITTAL UNDER SECTION 48(6)

(Title)

Upon the application of the assignee of the property of the insolvent, 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 contempt of this Court by having failed to pay and deliver to the said assignee certain moneys (and securities) (here follow the notice), and that the said L.M. do stand committed to (here insert prison) for the said contempt.

Dated this.day of 20....
By the Court,

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(Signed).....

Registrar

r. 63

FORM 141

WARRANT OF COMMITTAL FOR CONTEMPT

(Title)

To the Registrar, all Marshals and to the Keeper of the
(here insert the prison).

WHEREAS by an order of this Court, bearing date the.....day of, 20..., 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 and others, to take the said A.B. (or L.M.) and to deliver him to the Keeper of the above-named prison, and you the said Keeper to receive the said A.B., and him safely to keep in the said prison and in your custody until such time as this Court shall order; and you the said Keeper 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 20....

By the Court,

(Signed).....

Registrar

r. 63

FORM 142

**WARRANT TO APPREHEND A PERSON SUMMONED UNDER
SECTION 28
(Title)**

To the Registrar and all Marshals.

WHEREAS by summons or *subpoena* dated the.....day of 20...., and directed to the said A.B., of.....(or to F.M., of.....), he was required personally to be and appear on the day of..... instant, at.....o'clock in the.....noon at this Court, to be examined; and which said summons or *subpoena* was afterwards on the.....day of 20..., 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 or allowed by this Court, hath not appeared before me as by the said summons or *subpoena* he was required, but therein has wholly made default. These are therefore to will, require and authorise you and every of you to whom this warrant is directed, immediately upon receipt hereof, to take the said..... and bring him before this Court on theday of.....20.....in order to his being examined as aforesaid and for your so doing this shall be your sufficient warrant.

Dated this.....day of 20....

By the Court.

(Signed).....

Registrar

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r. 64

FORM 143

ORDER FOR DISCHARGE FROM CUSTODY ON CONTEMPT (Title)

Upon application made this.....day of 20..., for A.B., who was committed to prison for contempt by order of this Court, dated the.....day of 20..., 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 Official Receiver or assignee (or C.D., of.....), it is ordered that the keeper of (here insert name of prison), do discharge the said A.B. out of his custody, as to the said contempt.

Dated this.....day of 20....

By the Court,

(Signed).....

Registrar

FORM 144

r. 64

ORDER FOR PRODUCTION OF PERSON IN PRISON FOR EXAMINATION BEFORE THE COURT (Title)

Upon application made this.....day of 20..., by (applicant) for an order for the production of A.B., who was committed to prison for contempt by order of this Court dated theday of 20..., for examination before this Court; it is ordered that the keeper of (insert name of prison) do cause the said A.B. to be brought in custody before the Court at..... on the.....day of 20..., for examination before the Court, and afterwards to be taken back to the said prison to be there safely kept pursuant to the said order.

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Dated this.....day of 20....
By the Court,

(Signed).....
Registrar

FORM 145

s. 27

ORDER TO POSTMASTER GENERAL UNDER SECTION 27
(Title)

Upon the application of G.H., of the
Official Receiver or assignee of the property of the above
debtor, it is ordered that for a period of three months from
(here insert the date) all post letters directed or addressed to
the said debtor at (here insert the full address or addresses)
shall be re-directed, sent, or delivered by the Postmaster
General or officers acting under him to the
said.....at.....(or
otherwise as the Court may direct), and that a sealed
duplicate of this order be forthwith transmitted by the
Registrar to the Postmaster General.

Dated this.....day of..... 20....
By the Court,

(Signed).....
Registrar

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rr. 201,263

FORM 146

REGISTER OF INSOLVENCY NOTICES TO BE KEPT BY THE REGISTRAR

No.	Debtor	Creditor	When filed	Solicitor	Result of Notice

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FORM 147

REGISTER TO BE KEPT BY REGISTRAR

Distinctive number	Registrar	Name of Debtor	Residence	Description	Date of petition	Petitioning creditor	Attorney-at-law	Act ofalleged	Date of receiving order	Date of public examination	Date of approval of composition or scheme	Date of adjudication	Assignee	Date of assignee's release	Date of annulling adjudication	Proceedings consolidated or transferred.	Date of order for summary administration (s. 105)	Date of order for administration of deceased's estate (s. 106)

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r. 145

FORM 148

(1) NOTICE OF DAY FOR EXAMINATION OF DEBTOR

(Title)

Notice is hereby given that an Insolvency Petition in the above matter having been presented by..... on the day of 20..., a receiving order was on theday of 20.... made by the Court, and the said..... will appear before the Court on day, the.....day of 20..., for the purpose of being examined touching his affairs.

By order.

(*Signed*).....

*Official
Receiver*

r. 155(2)

(2) ADJUDICATIONS

(Title)

Notice is hereby given that the above-named debtor, the said, of....., was on the.....day of 20..., adjudged an insolvent by the Court.

(*Signed*).....

Registrar

r. 194(2)

(3) APPLICATION FOR DISCHARGE

(Title)

Notice is hereby given that the above-named.....having signified his

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intention to apply to the Court for his dischargeo'clock in the.....noon of.....day of 20...., has been filed on the hearing of such application.

.....
*(Signed) G.H.,
Official Receiver*

Dated this..... day of 20....

r. 156(2)

(4) ADJUDICATION ANNULLED
(Title)

The adjudication of insolvency against the said debtor was on the.....day of 20...., annulled.

.....
*(Signed).....
Registrar*

r. 165(2)

(5) NOTICE THAT A COMPOSITION OR SCHEME HAS BEEN APPROVED
(Title)

Notice is hereby given that a composition (or scheme) in the above matter has been approved. The terms of the arrangement can be ascertained at my office.

.....
*(Signed) G.H.,
Official Receiver
Registrar*

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[Subsidiary]

Insolvency Rules

(6) MEMORANDUM OF ADVERTISEMENT OR GAZETTING
(Title)

Advertisement inserted..... in *Gazette* and
.....the.....Newspaper intimating
(order or notice, etc.).

r. 317

FORM 149

REQUEST FOR AN ORDER OF ADMINISTRATION

Insolvency Act

GUYANA

I, A.B., of, etc., state that a judgment was obtained against me in the..... Court of Civil Justice, holden at in the County of.....,on the..... day of 20...., at the instance of C.D., of, etc., for the sum of \$....., and that I am unable to pay the amount forthwith.

I am indebted to the several persons including the said C.D., mentioned in the schedule hereto, in the sums set opposite their names..... not exceeding in the whole \$2,000, and I am indebted to the best of my knowledge, information and belief to no other person whatsoever.

I hereby request that an order may be made for the administration of my estate, and the payment of my debts under section 106 of the Insolvency Act in full (or to the extent of..... cents in the dollar) by instalments.
offor everydays.

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Dated this..... day the 20....

SCHEDULE

Name of creditor	Address	Description	Amount of debt

NOTE.—The debt for which judgment has been obtained must be inserted as well as all other debts.

If any of the above creditors in addition to the creditor who has obtained judgment have sued you in any Court, you must produce the citation in each case.

STATEMENT

- (a) Here state what you are.
(b) Here state name, address, etc., of employer.
(c) State amount received weekly or otherwise.
(d) Insert the work done by your wife and the wages, etc., she earns.
(e) Set out names of children.
(f) State particulars.
- Estate.....
that I am (a).....
that I am employed at (b).....
that my wages are (c).....
that I have (or have not) a wife
that my wife earns by (d).....
that I have the following children living with me (e)
1.
2.
3.
etc.
that numbers.....and.....earn money as follows (f)
.....that the reason why I am unable to pay my debts is
(g) that I have goods (household or otherwise)

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(g) Here state at to the value of.....
reason

I, A.B., aforesaid, make oath and say that to the best of my knowledge, information and belief, the names of all my creditors and the debts due from me to them are truly set forth in the above list of my creditors and that the particulars contained in my request and the above statement are true. Sworn, etc., at, etc.

(Signed).....

r. 320

FORM 150

NOTICE TO DEBTOR

Insolvency Act

GUYANA.

In the matter of an application for an Administration Order against..... of..... debtor.

TAKE NOTICE that your application for an Administration Order under section 106 of the Insolvency Act will be heard at the Court House....., on the..... day of 20..., at the hour of..... o'clock in the.....noon.

You must bring with you to the Court all your books of account, invoices, papers, citations or other documents relating to any debts owing by you.

Dated this..... day of..... 20....

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(Signed).....

rr. 320 and 322

FORM 151

NOTICE TO CREDITORS

Insolvency Act

GUYANA.

In the matter of an application for an administration order against....., of....., debtor.

WHEREAS the above-named debtor has filed a request for an administration order under section 106 of the Insolvency Act for the payment of his debts in full (or to the extent of.....cents in the dollar) to be paid by instalments of..... every.....days:

This is to give you notice that the Court will proceed to hear and determine the said application at the Court to be held at the Law Courts, Georgetown, on the.....day of 20....at the hour of o'clock in the..... noon.

The debtor states that he owes you the sum of.....

A list of creditors with the amounts stated to be respectively owing to them can be inspected on application at the Registrar's Office.

If you claim more than the sum stated to be owing to you, you must attend the Court on the day above-mentioned with your witnesses, books, etc., necessary to prove your claim.

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If you wish to object to the debt of any creditor named in the list, you must give notice in writing to the Registrar and to the debtor and such creditor five clear days before the day fixed for the hearing of the application.

If you dissent from the proposal of the debtor to pay his debts otherwise than in full you should sign the notice at the foot hereof and return it by post to the Registrar.

Dated this..... day of 20.....

.....
(Signed) G.H.,
Official Receiver

NOTICE OF DISSENT

I, C.D., of....., dissent from the composition proposed by the debtor for the payment of his debts.

.....
(Signed) C.D.

r.233

FORM 152

ADMINISTRATION ORDER

GUYANA.

In the High Court.

In the matter of an administration order against *A.B.*,
of.....debtor.

Theday of 20....

It is this day adjudged that the above-named debtor
do pay the several debts in the schedule hereto, and all others
now due and which may hereafter be duly proved under this
order in respect of debts now incurred, in full (or to the extent
of.....in the \$).

And it is ordered that the said debtor do pay to the
Official Receiver for every days until such
debts shall be paid in full (or to the extent of.....in
the.....) together with the costs of this administration,
and the costs of *C.D.* (the plaintiff in the action upon which
the order of administration was made) and it is directed that
E.F., of.....have the conduct of this order.

By the Court, etc.

(Here follows the schedule of debts.)

N.B.—On the copy sent to the debtor the following
must be added: Take notice that if you change your address
you must at once give notice to the Registrar of your new
address.

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r. 323

FORM 153

NOTICE OF ADMINISTRATION ORDER

GUYANA.
In the High Court.

Notice is hereby given that the Court has this day made *an* administration order providing for the payment of the debts of the above- named debtor in full (or to the extent of.....in the.....) by instalments of.....every.....days, and has directed that *E.F.*, of.....shall have the conduct of the order.

Dated this..... day of 20.....

.....
(Signed) Registrar

Bring this notice with you when you apply for a dividend or attend at the office of the Official Receiver for any purpose whatsoever.

FORM 154

WARRANT OF EXECUTION UNDER ORDER OF ADMINISTRATION

In the High Court.

In the matter of, etc.,..... debtor.

Whereas an administration order was made against the above-named debtor on the..... day of 20.... and whereas it has been made to appear to the Court that the property of the debtor exceeds in

value fifty dollars.

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the debtor wheresoever they may be found within Guyana (except the household goods, wearing apparel, and bedding of the debtor or his family, and the tools and implements of his trade to the value in the aggregate of \$100), the sum stated at the foot of this warrant, and also to seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the debtor which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and to pay what you shall have so levied to the Official Receiver, and make return of what you have done under this warrant immediately upon the execution thereof.

To the Registrar and all Marshals.
By the Court,
Amount to be levied.

The amount to be levied will be, (1) the costs of the plaintiff; (2) the costs of the administration; and (3) the total amount of the debts scheduled, or so much thereof as the Court may have ordered to be paid.

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r. 330

FORM 155

JUDGMENT SUMMONS UNDER ADMINISTRATION ORDER

In the High Court.
In the matter of, etc., debtor.
(*Seal.*)

Whereas an administration order was made against you, the above-named debtor, in this Court, on the..... day of 20..., for the payment of your debts in full (or to the extent of.....in the dollar) by instalments ofcents for every..... days.

And whereas you have made default in payment of the sum payable in pursuance of the said order, you are therefore hereby summoned to appear personally in this Court, at on the..... day of..... 20..., at the hour of.o'clock in thenoon, to be examined on oath by the Court touching the means you have or have had since the date of the order to satisfy the sum payable in pursuance of the said order, and also to show cause why you should not be committed to prison for such default; and you are hereby warned that unless you can prove to the contrary you will under the Act be deemed to have had means, and to have refused or neglected to pay the sum in respect of which you have made default.

Dated this.....day of 20....

Amount of instalments due and upon payment of which no further proceedings will be had until default in payment of next instalments \$.....

r. 330

FORM 156

ORDER OF COMMITMENT

In (The High Court and the
Seal).
.....)

No. of order of administration.

.....

In the matter of, etc., debtor.

To the Registrar and all Marshals and all peace officers within the jurisdiction of this Court, to the Keeper of the Goal at.....

Whereas an administration order was made against the above-named debtor on the.....day of 20...., for the payment of his debts in full (or to the extent of..... in the dollar), by instalments of. dollars for every days:

And whereas the debtor has made default in payment of.....payable in pursuance of the said order:

And whereas a summons was duly issued out of this Court, by which the debtor was required to appear personally at this Court on the.....day of 20....to be examined on oath touching the means he had then or has had since the date of the order to satisfy the sum then due and payable in pursuance of the order to show cause why he should not be committed to prison for such default, which summons has been proved to this Court to have been duly served on the debtor:

And whereas at the hearing of the said summons it has not been proved to the satisfaction of the Court that the

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Insolvency

[Subsidiary]

Insolvency Rules

debtor has not (or has not had) since the date of the order the means to pay the sum then due and payable in pursuance of the order.

And whereas the debtor has refused (or neglected) to pay the same, and has shown no cause why he should not be committed to prison:

Now, therefore, it is ordered that, for such default as aforesaid, the debtor shall be committed to prison fordays, unless he shall sooner pay the sum stated below as that upon the payment of which he is to be discharged.

These are, therefore, to require you the said Registrar, and others, to take the debtor, and to deliver him to the keeper of the..... prison, and you the said keeper to receive the debtor, and him safely keep in the said prison for days from the arrest under this order, or until he shall be sooner discharged by due course of law.

This (insert date of order) day of.....20....
By the Court.

(Signed).....
Registrar

Total amount of instalments due at the time of issuing of the judgment summons and upon payment of which the prisoner will be discharged \$ c

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Insolvency

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379

[Subsidiary]

Insolvency Rules

rr 326 and 328

FORM 157

NOTICE TO DEBTOR OF CREDITOR'S CLAIM

In the High Court.....No. of.....Administration
order.

In the matter, etc., debtor.

TAKE NOTICE that A.B., of, etc., states that you owe him the sum of \$.....for (.....) and claims to be scheduled as a creditor for that sum, and further take notice that if you wish to dispute such claim you must within seven days from this date sign, tear off and return the notice at the foot hereof to the office of the Registrar.

If you do not return the notice as above-mentioned the said claim will be taken to be admitted by you, and will be added to the schedule accordingly.

.....
(Signed) G.H.,
Registrar

To E.F., etc.

Dated this.....day of 20.....

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Insolvency

[Subsidiary]

Insolvency Rules

NOTICE

Notice of administration order.

I object to the claim of A.B.,
of.....against me.

(Signed).....
Debtor

r. 327

FORM 158

NOTICE TO CREDITOR THAT HIS CLAIM IS NOT OBJECTED TO

In the High Court..... No. of administration order.
In the matter of, etc., debtor.

TAKE NOTICE that the debtor has not given notice of his intention to dispute your claim, and that the same has been added to the schedule of proofs.

To A.B., etc.

.....
(Signed) G.H.,
Registrar

You must retain this notice and produce it when you come to the Official Receiver's Office to receive dividends or for any other purpose.

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Insolvency

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[Subsidiary]

Insolvency Rules

s. 106(12)

FORM 159

SUPERSEDING ORDER OF ADMINISTRATION

In the High Court.....20.....
In the matter, etc., debtor.

Whereas the above-named debtor under this order has paid into Court a sum sufficient to pay each creditor scheduled to the extent thereby provided, and the costs of the plaintiff and of the administration, it is ordered that such order is superseded and the debtor is discharged from his debts to the creditors scheduled under such order.

By the Court,

(Signed).....

Registrar

r. 343

FORM 160

JUDGMENT SUMMONS UNDER THE DEBTORS ACT (Title)

The plaintiff has obtained judgment against you the said A.B. upon which there is now alleged to be due the sum of \$.....

You the said A.B. are therefore summoned to appear personally before the Court at the Court House aton.....day of day of 20...., at the hour of.....o'clock in the.....noon to be examined on oath touching the means you have or have had since the date of the judgment (or order) to pay the said sum in payment of

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Insolvency

[Subsidiary]

Insolvency Rules

which you have made default and also to show cause why you should not be committed to prison for such default.

Dated this.....day the 20.....

(Signed).....

Registrar

r. 345

FORM 161

JUDGMENT-SUMMONS OR A JUDGMENT OR ORDER AGAINST FIRMS AND PERSONS CARRYING ON BUSINESS IN NAMES OTHER THAN THEIR OWN

The Debtors Act

In the

..... No. of Action.

..... No. of Judgment-Summons.

Between A.B., plaintiff (address, description)
and
C.D. and Co., defendants.

To G.H., of (state the name, address, and description of one of the persons alleged to be partners in the firm against whom the judgment or order was obtained or of the person alleged to be the sole member thereof, or of the person alleged to be carrying on business in a name other than his own).

Whereas the plaintiff obtained judgment (or an order) against the defendant by and in the name of the firm of C.D. & Co. (or as the case may be) above-described on the.....day of 20..., for the sum of..... (and costs), and there is now due and payable under the said judgment (or order) from the said C.D. & Co.

to the said..... the sum of..... And whereas the said A.B. has filed an affidavit in this Court, a copy whereof is hereunto annexed, wherein it is deposed that you, the said G.H., are one of the partners in the said firm of defendants, C.D. & Co. (or that you the said G.H., are the sole member of the said firm of C.D. & Co., or that you carry on business on your own behalf in the name of J.K.):

You are therefore hereby summoned to appear personally in this Court at (place where Court holden)..... on theday of 20.... at the hour of..... o'clock in the..... noon, to be examined on oath by the Court touching the means you have or have had since the date of the judgment (or order) to satisfy the sum payable in pursuance of the said judgment (or order), and also to show cause why you should not be committed to prison for default in payment of the said sum.

And take notice that if you deny that you are one of the partners in the said firm of defendants, C.D. & Co. (or that you are the sole member of the said firm of C.D. & Co., or that you carry on business on your own behalf in the said name of J.K.), you must appear at this Court on the day and at the hour above-mentioned, and that in default of your so appearing, you will be deemed to admit that you are one of the partners in such firm (or that you are the sole member of the said firm of C.D. & Co., or that you carry on business on your own behalf in the name of J.K.), and your own liability to pay the amount due and payable under such judgment (or order).

Dated this.....day of 20.....

(Signed).....
Registrar of the Court

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Insolvency

[Subsidiary]

Insolvency Rules

Amount of judgment (or order)
Remaining due
Costs of this summons
Total sum due.....

N.B.—This summons is available against one person only, and where an order for payment by instalments has been made, part only of which are due, must be modified in accordance with the facts.

r. 345

FORM 162

AFFIDAVIT FOR LEAVE TO ISSUE A JUDGMENT SUMMONS ON A JUDGMENT OR ORDER AGAINST A FIRM

I, A.B., of the above-named plaintiff (or E.F. (state name, residence, and occupation)) make oath and say as follows—

1. On the.....day of 20.... I (or the plaintiff) obtained judgment (or "an order) in this action in this Court, against the defendants, C.D. & Co. (or as the case may be) for the sum of.....(and costs), and there is now due and payable under the said judgment (or order) the sum of.....

2. I am informed and believe (state the sources of information and grounds of belief) that G.H., of (state name, residence, and occupation), was at the date of the judgment (or order) a partner in the said firm of C.D. & Co. (or the sole member of the said firm of C.D. & Co), or carrying on business on his own behalf in the name of J.K. (state name in which he was sued).

3. I verily believe that the said *G.H.* is well able to pay the sum aforesaid now due and payable under the said judgment (or order), (add, where the plaintiff does not himself make the affidavit) and I am duly authorised by the plaintiff to make this affidavit on his behalf.

r. 351

FORM 163

ORDER OF COMMITMENT UNDER THE DEBTORS ACT

(Title)

To the Registrar, all Marshals, and the Keeper of the Gaol at

Whereas the said obtained a judgment (or order) against *C.D.* in the..... Court on the..... day of 20...., for the sum of.....and there is now due and payable upon the said judgment the sum of.....

And whereas a summons was at the instance of the plaintiff duly issued out of this Court, by which the said *C.D.*, was required to appear personally at this Court on the..... day of 20...., to be examined on oath touching the means he had then or has had since the date of the judgment (or order) to pay the said sum which summons was proved to this Court to have been personally and duly served on the said *C.D.*:

And whereas, at the hearing of the said summons, it has now been proved to the satisfaction of the Court that the

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said C.D. now has (or has had) since the date of the judgment (or order) the means to pay the sum in respect of which he made default as aforesaid (or an instalment or instalments of the said sum as ordered by the said judgment (or order)), and has refused (or neglected) (or then refused or neglected) to pay the same:

Now, therefore, it is ordered, that the said C.D. shall be committed to prison for days, unless he shall sooner pay the sums, in payment of which he has so made default, together with the prescribed costs hereinafter mentioned or a certificate for his discharge is given.

These are, therefore, to require you.....and others to take the said C.D. and to deliver him to the Keeper of theprison and you the said Keeper to receive the said C.D., and him safely keep in the said prison for.....days from the arrest under this order, or until he shall be sooner discharged by due course of law.

(Signed).....

r. 350

FORM 164

CERTIFICATE BY REGISTRAR FOR DISCHARGE OF JUDGMENT DEBTOR

The Debtors Act

In the

Between A.B., plaintiff,
and
C.D., defendant.

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[Subsidiary]

Insolvency Rules

I hereby certify that the defendant who was committed to your custody by virtue of an order of commitment under the seal of this Court, bearing date the.....day of 20.... has been adjudicated an insolvent (or a receiving order or administration order has been made against his estate) under the Insolvency Act and that the defendant may, in respect of such order, be forthwith discharged out of your custody.

Given under the seal of the Court this.....day of 20....

(Signed).....

Registrar of the Court

To the Keeper ofPrison.

r. 355

FORM 165

CERTIFICATE OF PAYMENT BY A PRISONER

The Debtors Act

I hereby certify that the defendant, who was committed to my (or your) custody by virtue of an order of commitment under the seal of this Court bearing date the..... day of 20..., has paid and satisfied the sum of money for the non-payment whereof he was so committed, together with all costs due and payable by him in respect thereof; (and where the certificate is sent by the Registrar: and that the defendant may in respect of such order, be forthwith discharged out of your custody)

Dated (or given under the seal of the Court)
this..... day of 20....

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Insolvency Rules

(Signed).....

Keeper of Prison.....

(or Registrar)

To the Keeper of.....Prison (or the Registrar).

r. 354

FORM 166

REQUEST BY CREDITOR FOR DISCHARGE OF PRISONER

The Debtors Act

I, the undersigned A.B., the plaintiff in this action, request that the defendant C.D., if still in custody, may be discharged.

.....
(Signed) A.B.

To the Registrar.

r. 354

FORM 167

WARRANT FOR DISCHARGE OF PRISONER AT REQUEST OF

CREDITOR

The Debtors Act

I hereby certify that C.D., who was committed to your custody by virtue of an order of commitment under the seal of this Court bearing date the..... day of..... 20...., may in respect of such order be forthwith discharged out of your custody.

(Signed).....

Registrar

To the Keeper of Prison.

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**APPENDIX
FEES
SCALE OF COUNSEL AND SOLICITORS' FEES**

The Fees receivable in the High Court under the Rules of the High Court, as far as the same are applicable, with the following additions:

	\$ c. cc.
Instructions for Petition	8 00
Examining witnesses as to Act of Insolvency	5 00
Attesting signature of each petitioner except in case of partnership.....	2 00
Two copies of Petition for sealing \$2 each.....	4 00
Drawing order for hearing of Petition	2 00
The actual expenses incurred in serving any notice or other document	
Attending consultation or conference with Counsel.....	5 00
Instructions for drawing and attesting declaration of inability to pay	3 00
Instructions for and drawing Insolvency Notice.....	3 00
Drawing Petition	3 00
Attending Official Receiver on receiving order being made and giving him all necessary information	3 00
Instructions for appointment of interim	

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receiver or special manager	3	00
Drawing application and copy	2	00
Drawing exceptions to sureties	2	00
Any instructions not before provided for.....	3	00
Drawing any notice and service thereof	2	00
Attendances at Court.....	5	00

Where it is necessary to instruct Counsel the usual charges for Counsel's fees shall be allowed.

In special cases when Counsel are not instructed to appear in Court and the attorney-at-law acts as Advocate such special fee, as the taxing officer may think fit having regard to the nature and importance of the case and the questions involved, may be allowed.

Any person who may be dissatisfied with the taxation by the taxing officer may have the same reviewed. The proceedings for obtaining a review of taxation shall be those laid down in the Rules of the High Court.

The allowance to witnesses in insolvency proceedings shall be in accordance with those for the time being ordinarily made in the High Court.

FEES FOR OFFICIAL RECEIVER

	\$ c.
For inspecting books kept by him, provided such inspection does not exceed half an hour.....	1 00
“ every additional half an hour or part thereof	0 50
“ copies of Documents and Accounts per folio, each folio to contain not less than 18 lines and each line not less than 30 letters	0 50
“ receiving and filing each claim with the Documents and Vouchers in support thereof.....	1 00
“ administering oath to affidavit of claimant, if not previously sworn to before a Commissioner of Affidavits	1 00
“ searching the records of the office	1 00

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[Subsidiary]	<i>Insolvency Rules</i>	\$	c.
	“ giving off certificate from such records	1	00
	“ every Insolvency Petition	50	00
	“ every Petition under section 108 of the Act	50	00
	“ every special proxy or voting paper	0	50
	“ every general proxy and voting paper.....	1	00
	“ every application for an Administration Order under section 106 of the Act	10	00
	“ every Administration Order granted under section 106 of the Act	10	00
	“ every application to approve a scheme or composition where the gross amount of assets exceeds \$5,000 ...	100	00
	Where it does not exceed \$5,000	50	00
For every application to appoint a special manager		10	00
	“ every order of the Official Receiver for a local banking account	10	00
	“ every hundred dollars received by the Official Receiver whether acting as such or as assignee where the gross assets of the debtor's estate do not exceed \$20,000	16	00
	“ every hundred dollars received by the Official Receiver whether acting as such or as assignee where the gross assets exceed \$20,000	12	00
	“ every hundred dollars received by the Official Receiver from an assignee not having a banking account ...	3	00
	For examining the banking account of an assignee ...	20	00
	“ every certificate of appointment of assignee	2	00
	“ report and notices with reference to the application for discharge	30	00

FEES PAYABLE TO THE REGISTRAR

Same as in the case of actions under Rules of the High Court, with the following additions:

	\$	c.
1. On filing declaration of inability to pay debts	5	00
2. On filing petition for Receiving Order.....	10	00
3. On filing application for Order of Discharge.....	15	00
4. On filing of any other application to the Court.....	5	00

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On a verbal application of an Official Receiver.....	2	00
5. On filing any other document.....	1	00
6. On issuing an insolvency notice	2	00
7. On issuing a judgment or other summons	2	00
8. On attending the public examination of the debtor ...	10	00
9. On attending the hearing of any application to the Court verbal or otherwise	5	00
10. On giving any notice in addition to the actual cost of printing if same is to be advertised.....	2	00
11. On searching records	0	50

In respect of services of a Marshal

Same as in the case of actions under Rules of the High Court. Those fees (prescribed on the 5th September, 1901, as the scale of fees to come into force 1st October, 1901) are to be construed and have effect as if they had been prescribed in accordance with the provisions of the Act (section 109).
