

60. Powers of provisional trustee and trustee to deal with property of the bankrupt

- (1) Subject to the provisions of this Ordinance and to any order of the court, a trustee or the Official Receiver when acting as provisional trustee may do all or any of the following things— (*Amended 18 of 2005 s. 17*)
 - (aa) take into his custody or under his control all the property to which the bankrupt is or appears to be entitled; (*Added 18 of 2005 s. 17*)
 - (a) sell all or any part of the property of the bankrupt (including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt), by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels, and any transfer of a business of a bankrupt by the trustee or the Official Receiver when acting as provisional trustee shall be deemed to be exempted from the provisions of the Transfer of Businesses (Protection of Creditors) Ordinance (Cap. 49); (*Amended 18 of 2005 s. 17*)
 - (b) give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof;
 - (c) prove, rank, claim and draw a dividend in respect of any debt due to the bankrupt;
 - (d) exercise any powers the capacity to exercise which is vested in the trustee under this Ordinance and execute any powers of attorney, deeds and other instruments for the purpose of carrying into effect the provisions of this Ordinance;
 - (e) subject to section 61, do all such other things as may be necessary for administering the estate and distributing its assets. (*Added 76 of 1996 s. 40*)

(*Amended 33 of 1939; G.N. 840 of 1940 Supp. Schedule; 20 of 1948 s. 4*)
- (2) Notwithstanding any other provisions of this Ordinance but subject to subsections (3) and (4), a provisional trustee other than the Official Receiver may do all or any of the following things—
 - (a) take into his custody or under his control all the property to which the bankrupt is or appears to be entitled;
 - (b) sell or dispose of perishable goods, or any property (other than derivatives, warrants, options, shares or choses in action) the estimated value of which is less than \$100,000 and is likely to significantly diminish if such property is not immediately sold or disposed of;
 - (c) subject to section 61, do all such other things as may be necessary for protecting or preserving the bankrupt's property;
 - (d) exercise any power the capacity to exercise which is vested in the provisional trustee under this Ordinance and execute any powers of attorney, deeds and other instruments for the purpose of carrying into effect the provisions of this Ordinance;
 - (e) subject to section 61, do all such other things as may be necessary for administering the estate pending the appointment of a trustee. (*Added 18 of 2005 s. 17*)
- (3) A provisional trustee other than the Official Receiver may also exercise a power under subsection (1) if the power is exercised under an order of the court or with the prior approval of the Official Receiver. (*Added 18 of 2005 s. 17*)
- (4) A provisional trustee other than the Official Receiver shall not sell or dispose of anything under subsection (2)(b) to a person who is an associate of the bankrupt, unless the sale or disposal is under an order of the court or with the prior approval of the Official Receiver. (*Added 18 of 2005 s. 17*)

- (5) For the purposes of subsection (4), any question whether a person is an associate of another person shall be determined in accordance with section 51B as if—
 - (a) that section were applicable also for the purposes of such determination; and
 - (b) references to the “debtor” in that section were references to the “bankrupt” in subsection (4). *(Added 18 of 2005 s. 17)*
- (6) The Official Receiver shall not be personally liable for any costs and charges incurred by any person as a result of any refusal to grant approval under subsection (3) or (4). *(Added 18 of 2005 s. 17)*

[cf. 1914 c. 59 s. 55 U.K.]