

84. Control of court over trustee

- (1) The court shall take cognizance of the conduct of trustees, who shall act in a fiduciary capacity and deal with property under their control honestly, in good faith, with proper skill and competence and in a reasonable manner, and in the event of any trustee not faithfully performing his duties and duly observing all the requirements imposed on him by Ordinance, rules or otherwise with respect to the performance of his duties, or in the event of any complaint being made to the court by any creditor, the Official Receiver, the bankrupt or any other person in regard thereto by notice duly served on the trustee at least 8 clear days before the date of hearing, the court shall inquire into the matter and take such action thereon as may be deemed expedient. (*Amended 76 of 1996 s. 46*)
- (1A) Without limiting the generality of the duties imposed on a trustee by subsection (1), in realizing the assets of a bankrupt's estate it shall be the duty of a trustee to take all reasonable care to realize the best price reasonably obtainable in the circumstances. (*Added 76 of 1996 s. 46*)
- (2) The court may either of its own motion or on the application of the Official Receiver at any time require any trustee to answer any inquiry made by it or him in relation to any bankruptcy in which the trustee is engaged and may examine on oath the trustee or any other person concerning the bankruptcy.
- (3) The court may also direct an investigation to be made of the books and vouchers of the trustee.
- (4) Where on an application under this section the court is satisfied—
 - (a) that the trustee has misapplied or retained, or become accountable for, any money or other property comprised in the bankrupt's estate; or
 - (b) that a bankrupt's estate has suffered any loss in consequence of any misfeasance or breach of fiduciary or other duty by a trustee in the carrying out of his functions,the court may order the trustee, for the benefit of the estate, to repay, restore or account for money or other property (together with interest at such rate as the court thinks just) or, as the case may require, to pay such sum by way of compensation in respect of the misfeasance or breach of fiduciary or other duty as the court thinks just, and liability under this section is without prejudice to any liability arising apart from this section. (*Added 76 of 1996 s. 46*)

[*cf. 1914 c. 59 s. 81 U.K.*]