

**43B. Vesting in trustee of certain items of excess value**

- (1) Where—
  - (a) property is excluded by virtue of section 43(2) from the bankrupt's estate; and
  - (b) it appears to the trustee that the realisable value of the whole or any part of that property exceeds the cost of a reasonable replacement for that property or that part of it,the trustee may by notice in writing claim that property or, as the case may be, that part of it for the bankrupt's estate.
- (2) Upon the service on the bankrupt of a notice under this section, the property to which the notice relates vests in the trustee as part of the bankrupt's estate; and, except against a purchaser in good faith, for value and without notice of the bankruptcy, the trustee's title to that property has relation back to the commencement of the bankruptcy.
- (3) The trustee shall apply funds comprised in the estate to the purchase by or on behalf of the bankrupt of a reasonable replacement for any property vested in the trustee under this section; and the duty imposed by this subsection has priority over the obligation of the trustee to distribute the estate.
- (4) For the purposes of this section, property is a reasonable replacement for other property if it is reasonably adequate for meeting the needs met by the other property.

*(Added 76 of 1996 s. 31)*