

BANKRUPTCY.

No. 3 of 1927.

An Act to amend the *Bankruptcy Act 1924*.

[Assented to 8th April, 1927.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title and citation.

1.—(1.) This Act may be cited as the *Bankruptcy Act 1927*.

(2.) The *Bankruptcy Act 1924** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Bankruptcy Act 1924-1927*.

Commencement.

2. This Act shall commence on the same date as the Principal Act.

District Registrars and Official Receivers.

3. Section twelve of the Principal Act is amended by inserting, after sub-section (4.), the following sub-section :—

“(4A.) Every official receiver who is remunerated by fees and commission only shall, upon his appointment, give security to the satisfaction of the Attorney-General in such sum and in such form as the Attorney-General determines.”.

Extent of jurisdiction of Court.

4. Section twenty of the Principal Act is amended by adding at the end thereof the following sub-section :—

“(4.) Every order decision or award of the Court made under this Act in any cause or matter may be enforced by the Court against all persons bound thereby in the same manner as a judgment of the High Court may be enforced by the High Court.”.

Jurisdiction in chambers.

5. Section twenty-one of the Principal Act is amended by inserting before paragraph (a) the following paragraph :—

“(aa) Creditors' petitions under this Act ;”.

* Act No. 37, 1924.

6. After section fifty-three of the Principal Act the following section is inserted in Division I of Part IV. :—

“53A. Where, before the commencement of this Act, any act or thing is done or omitted to be done, whereby a creditor would but for this Act be entitled under any State Bankruptcy or Insolvency Act to present a petition against a debtor, and no proceedings have been taken, under any such State Act, against the debtor, the doing or omitting to do any such act or thing shall, for the purposes of this Act, be deemed to be an act of bankruptcy committed by the debtor.”

Acts of
bankruptcy
committed ;
before
commencement
of Act.

7. Section sixty-four of the Principal Act is amended by omitting from sub-section (3.) the words “is prescribed” and inserting in their stead the words “the official receiver fixes from time to time subject to the approval of the Court or the Registrar”.

Power to
appoint
special
manager.

8. Section eighty-four of the Principal Act is amended—

Priorities.

(a) by omitting from sub-section (1.) all words to the end of paragraph (c) and inserting in their stead the following words :—

“ (1.) Subject to the provisions of this Act, the trustee shall apply the estate of the bankrupt in the following order of priority :—

(a) Firstly, in payment of the costs of administration in the order prescribed by the rules including—

(i) the taxed costs of the petitioning creditor ; and

(ii) the remuneration of the trustee ;” ;

(b) by omitting from paragraph (d) of that sub-section the word “Fourthly” and inserting in its stead the word “Secondly” ;

(c) by omitting from paragraph (e) of that sub-section the word “Fifthly” and inserting in its stead the word “Thirdly” ;

(d) by omitting from paragraph (f) of that sub-section the word “Sixthly” and inserting in its stead the word “Fourthly” ;

(e) by omitting from paragraph (g) of that sub-section the word “Seventhly” and inserting in its stead the word “Fifthly” ;

(f) by omitting from paragraph (h) of that sub-section the word “Eighthly” and inserting in its stead the word “Sixthly” ;

(g) by omitting from paragraph (i) of that sub-section the word “Ninthly” and inserting in its stead the word “Seventhly” ;
and

(h) by omitting from sub-section (4.) the words “Subject to sub-section (1.) of this section”.

9. After section eighty-eight of the Principal Act the following section is inserted :—

“88A. Where a deed of assignment under Part XI. of this Act or a deed of arrangement under Part XII. of this Act is avoided by reason of the bankruptcy of the debtor, any expenses properly incurred by the

Payment of
expenses
incurred by
trustee under
a deed of
arrangement.
4 and 5 Geo. V.
c. 47 s. 21.
O. s. 100.

trustee under the deed in the performance of any of the duties imposed on him by this Act shall be allowed or paid him by the trustee in the bankruptcy as a first charge on the estate.”.

10. After section ninety-one of the Principal Act the following section is inserted in Division 3 of Part VI. :—

Protection of
electrical
apparatus.
9 Edw. 7 c. 34.
s. 16.

“ 91A. Where any electric lines, meters, accumulators, fittings, works, apparatus or appliances let on hire by or belonging to any local authority, company or person who by or under any Act or State Act or law of a Territory is authorized to supply electricity within any area (in this section referred to as ‘ the undertakers ’), are placed in or upon any premises, not being in the possession of the undertakers, they shall not be subject to any proceedings in bankruptcy against the person in whose possession the premises may be.”.

Restriction
of rights of
creditor under
execution or
attachment.

11. Section ninety-two of the Principal Act is amended by omitting from paragraph (b) of sub-section (2.) the words “ seizure and ”.

12. After section ninety-six of the Principal Act the following section is inserted :—

Validity of
certain
payments to
bankrupt and
transferee.
E.B.A. s. 46.

“ 96A. A payment of money or delivery of property to a person against whom a sequestration order is subsequently made or to a person claiming by assignment from him, shall, notwithstanding anything in this Act, be a good discharge to the person paying the money or delivering the property, if the payment or delivery is made before the actual date on which the sequestration order is made and without notice of the presentation of a bankruptcy petition, and is either pursuant to the ordinary course of business or otherwise *bona fide*.”.

Discharge of
bankrupt.

13. Section one hundred and nineteen of the Principal Act is amended—

(a) by omitting from paragraph (a) of sub-section (5.) the word “ trustee ” and inserting in its stead the words “ official receiver ” ;

(b) by omitting paragraph (b) of sub-section (6.) (including the proviso to that paragraph), and inserting in its stead the following paragraph :—

“ (b) suspend the discharge for a specified period ; or ” ;
and

(c) by inserting in sub-section (8.), before the words “ the trustee ”, the words “ the official receiver or ”.

Effect of order
of discharge.

14. Section one hundred and twenty-one of the Principal Act is amended by inserting in paragraph (c) of sub-section (1.) after the word “ seduction ” the words “ or for breach of promise of marriage ”.

15. Section one hundred and twenty-three of the Principal Act is repealed and the following section inserted in its stead :—

Notice of
order of
discharge.

“ 123. Notice of all orders of discharge granted under section one hundred and nineteen of this Act shall be published in the *Gazette*,

and in such other manner as is prescribed, and shall be lodged in the office of the Registrar of Titles or Registrar-General or other proper officer of each State and in such other places as are prescribed.”.

16. Section one hundred and twenty-four of the Principal Act is amended by adding at the end of paragraph (b) of sub-section (1.) the words “or that he has obtained a legal acquittance of his debts,”.

Power to annul sequestration order.

17. Section one hundred and eighty-four of the Principal Act is repealed and the following section inserted in its stead :—

“184.—(1.) The trustee of a deed may retain out of the estate, as a remuneration for his care and trouble in and about the execution of the trusts thereof, such a sum of money or such commission as is fixed by the creditors, the commission not to exceed Five pounds per centum on the amount realized by the trustee after the deduction of the expenses of realization, subject to the creditors, by resolution, fixing a higher commission on the collection of book debts.

Remuneration of trustee.

“(2.) Where the trustee pursuant to resolution of the creditors carries on the business of the debtor, he may retain out of the estate, in addition to any remuneration under the last preceding sub-section, such commission, not exceeding One pound ten shillings per centum on the turnover or sales made in the ordinary course of carrying on the business, as the creditors fix by resolution.”.

18. Section two hundred and three of the Principal Act is repealed and the following section inserted in its stead :—

“203.—(1.) The remuneration of a trustee of a deed of arrangement shall from time to time be fixed as determined by the creditors, and shall be such a sum of money as is fixed by the creditors or shall be in the nature of a commission, the commission not to exceed Five pounds per centum on the amount realized by the trustee after the deduction of the expenses of realization, subject to the creditors, by resolution, fixing a higher commission on the collection of book debts.

Trustee's remuneration.

“(2.) Where the trustee pursuant to resolution of the creditors carries on the business of the debtor, he may retain out of the estate, in addition to any remuneration under the last preceding sub-section, such commission, not exceeding One pound ten shillings per centum on the turnover or sales made in the ordinary course of carrying on the business, as the creditors fix by resolution.”.

19. Section two hundred and ten of the Principal Act is amended by omitting from sub-section (6.) the word “of” (second occurring) and inserting in its stead the word “or”.

Failure to make full discovery.

20. Section two hundred and eighteen is amended by inserting, after the word “arrangement” (first occurring), the words “or deed of assignment”.

Criminal liability after discharge, composition, &c.