

PART III

ADMINISTRATION OF PROPERTY

*Proof of Debts***21 Description of debts provable in bankruptcy**

- (1) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise, or breach of trust, shall not be provable in bankruptcy.
- (2) A person having notice of any act of bankruptcy available against the debtor shall not prove under the order for any debt or liability contracted by the debtor subsequently to the date of his so having notice.
- (3) Save as aforesaid, all debts and liabilities, present or future, certain or contingent, to which the debtor is subject at the date of the order of adjudication, or to which he may become subject before his discharge, by reason of any obligation incurred before the date of such order, shall be deemed to be debts provable in bankruptcy.
- (4) An estimate shall be made by the trustee, or as the Court may direct, 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) 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 bankruptcy.
- (6) 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 itself, without the intervention of a jury, 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 bankruptcy.
- (7) “**Liability**” shall, for the purposes of this Act, include any compensation for work or labour done, any obligation, or possibility of an obligation, to pay money or money’s worth 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, and generally it shall include any express or implied engagement, agreement, or undertaking, 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; as to mode of valuation capable of being ascertained by fixed rules, or as matter of opinion.

22 Mutual credit and set-off

Where there have been mutual credits, mutual debts, or other mutual dealings between a debtor against whom an order of adjudication shall be made under this Act, and any other person proving or claiming to prove a debt under such order, an account shall be taken of what is due from the one party to the other in respect of such 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 bankruptcy committed by the debtor, and available against him.

23 Partners and supplementary provisions

- (1) [Repealed]¹⁶
- (2) 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. If there is a surplus of the separate estates it shall be dealt with as part of the joint estate. 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.
- (3) Where a debt includes interest, or any pecuniary consideration in lieu of interest, such interest or consideration, shall, for the purposes of dividend, be calculated at a rate not exceeding five per centum 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.
- (4) If there is any surplus after payment of the debts, it shall be applied in payment of interest from the date of the receiving order at the rate of four pounds per centum per annum on all debts proved in the bankruptcy.

24 Preferential claim in case of apprenticeship

- (1) Where, at the time of the presentation of the bankruptcy petition, any person is apprenticed or is an articled clerk to the bankrupt, the adjudication of bankruptcy shall, if either the bankrupt or apprentice or clerk gives notice in writing to the trustee to that effect, be a complete discharge of the indenture of apprenticeship or articles of agreement; and if any money has been paid by or on behalf of the apprentice or clerk to the bankrupt as a fee, the trustee may, on the application of the apprentice or clerk, or of some other person on his behalf, pay such sum as the trustee, subject to an appeal to the Court, thinks reasonable, out of