

SCHEDULES

SCHEDULE 1

Sections 7 and 9.

CRIMINAL BANKRUPTCY ORDERS

Interpretation

- 1 In this Schedule—
- " the Act of 1914 " means the Bankruptcy Act 1914 ; and
 - " criminal bankruptcy petition " means a bankruptcy petition presented by virtue of paragraph 2 of this Schedule.

Act of bankruptcy

- 2 Subject to the provisions of this Schedule, where a criminal bankruptcy order is made against any person he shall be treated as a debtor who has committed an act of bankruptcy on the date on which the order is made.

Creditors and debts

- 3 (1) A person specified in a criminal bankruptcy order as having suffered loss or damage of any amount shall be treated, for the purposes of any ensuing criminal bankruptcy proceedings, as a creditor for a debt of that amount provable in the bankruptcy of the person against whom the order was made.
- (2) For the purpose of proving any such debt in the proceedings, a copy of the criminal bankruptcy order shall, subject to paragraph 6 of this Schedule, be treated as sufficient evidence of the debt unless it is shown by any party to the proceedings that the amount of the relevant loss or damage is greater or less than the amount specified in the order, or that the loss or damage did not in fact result from any offence specified in the order ; and if it is shown as aforesaid that the amount of the relevant loss or damage is greater than that specified in the order, sub-paragraph (1) of this paragraph shall have effect as if the greater amount had been specified in the order.
- (3) This paragraph is without prejudice to the proof in criminal bankruptcy proceedings of debts other than those made provable by this paragraph.
- (4) Nothing in sub-paragraph (2) of this paragraph shall be construed as entitling any person to contend that the offence or offences specified in a criminal bankruptcy order were not committed by the person against whom the order was made.

Bankruptcy petition

- 4 (1) A criminal bankruptcy petition shall be presented to the High Court, but without prejudice to any power of transferring bankruptcy proceedings to any other court.
- (2) No criminal bankruptcy petition shall be presented by the person who under paragraph 2 of this Schedule is the debtor; and, in relation to such a petition presented

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by a creditor, section 4 of the Act of 1914 shall have effect with the following modifications—

- (a) subsections (1)(a) and (b) and (2) (conditions as to nature of debt) shall not apply to any such debt as is mentioned in paragraph 3 of this Schedule ; and
- (b) subsection (1)(d) (domicile of debtor) shall be omitted.

Bankruptcy proceedings otherwise than by virtue of this Schedule

- 5 Where a criminal bankruptcy order has been made against any person and a bankruptcy petition has been presented in respect of him before the order was made, or is presented in respect of him thereafter otherwise than by virtue of paragraph 2 of this Schedule, the court having jurisdiction in relation to the bankruptcy may, on the application of the Official Petitioner, dismiss the petition, rescind any receiving order made in pursuance thereof or, if that person has been adjudicated bankrupt, annul the adjudication, on such terms, if any, as the court thinks fit

Receiving order

- 6 For the purposes of section 5(2) and (3) of the Act of 1914 (matters to be proved before receiving order is made) the act of bankruptcy which a person is treated by this Schedule as having committed and any such debt as is mentioned in paragraph 3 of this Schedule shall be treated as conclusively proved by the production of a copy of the criminal bankruptcy order in question, and subsections (5) and (6) of that section shall not apply in relation to any such debt.
- 7 Section 12 of the Act of 1914 (power to rescind receiving order to enable bankruptcy proceedings to proceed in Scotland or Northern Ireland) shall not apply to a receiving order made on a criminal bankruptcy petition.

Administration in bankruptcy of deceased offender's estate

- 8 Paragraph 4(1) of this Schedule shall apply to any petition under section 130 of the Act of 1914 (administration in bankruptcy of estate of deceased debtor) which is presented by virtue of any such debt as is mentioned in paragraph 3 of this Schedule as it applies to a criminal bankruptcy petition ; and so much of subsection (4) of that section as enables the creditors to appoint a trustee shall not apply where an order is made under that section on a petition presented as aforesaid.

Functions of Official Petitioner

- 9 (1) The Official Petitioner may present a criminal bankruptcy petition, and a receiving order may be made on that petition.
- (2) Section 4 of the Act of 1914, as modified by paragraph 4(2) of this Schedule, shall apply to a criminal bankruptcy petition presented by the Official Petitioner as it applies to a petition presented by a creditor, but the High Court may allow the petition to be presented later than required by subsection (1)(c) of that section.
- (3) A criminal bankruptcy petition presented by the Official Petitioner shall be served in the manner prescribed by rules made under the Act of 1914.
- (4) Subsections (2), (3) and (7) of section 5 of the Act of 1914 (making of receiving order on, and withdrawal of, creditor's petition) shall apply also in relation to a criminal bankruptcy petition presented by the Official Petitioner but as if any reference to the

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debt of the petitioning creditor were a reference to any such debt as is mentioned in paragraph 3 of this Schedule ; and paragraph 6 of this Schedule shall have effect in relation to the said subsections (2) and (3) where they apply by virtue of this paragraph.

- 10 (1) The Official Petitioner may present a petition under section 130 of the said Act of 1914 in any case in which a creditor could do so by virtue of this Schedule, and an order may be made under that section on that petition.
- (2) Subsection (2) of the said section 130 shall have effect in relation to a petition presented by the Official Petitioner as if the reference to the petitioner's debt were a reference to any such debt as is mentioned in paragraph 3 of this Schedule.
- 11 (1) In the case of criminal bankruptcy proceedings, the Official Petitioner shall be entitled—
- (a) to attend any meeting of creditors and, before the meeting, to receive any notice or other document required to be sent before such a meeting to any creditor ;
 - (b) to be a member of any committee of inspection appointed under section 20 of the said Act of 1914, but not so as to count towards the number of members mentioned in subsection (2) or (9), or to be subject to removal under subsection (7), of that section ;
 - (c) to be a party to any such proceedings before any court.
- (2) In the case of criminal bankruptcy proceedings the provisions of the Act of 1914 mentioned in sub-paragraph (3) of this paragraph shall have effect as if any reference to a creditor, or to a creditor who has proved or tendered a proof, included a reference to the Official Petitioner.
- (3) The said provisions are sections 10 (appointment of special manager), 14(2) and (4) (debtor's statement of affairs), 15(4) and (8) (public examination of debtor), 16(5), (6) and (8) (compositions and schemes of arrangement), 26(7) (discharge of bankrupt), 37 (relation back of trustee's title), 74(1)(e) (report to creditors of debtor's proposal), 80 (appeal to court against act or decision of trustee) and 130(8) (administration in bankruptcy of deceased debtor's estate).
- (4) Any functions of the Official Petitioner under or by virtue of this Act may be discharged on his behalf by any person acting with his authority.

Effect of appeal against conviction

- 12 (1) Subject to the provisions of this paragraph, the fact that an appeal is pending against any conviction by virtue of which a criminal bankruptcy order was made shall not preclude the taking of any proceedings by virtue of this Schedule in consequence of the making of the order.
- (2) Where a person is adjudged bankrupt in criminal bankruptcy proceedings, no property shall be distributed by his trustee in bankruptcy and no order shall be made by the High Court under section 10 of this Act so long as an appeal is pending against his conviction of any offence by virtue of which the criminal bankruptcy order was made.
- (3) For the purposes of this paragraph an appeal against a conviction is pending—
- (a) in any case until the expiration of the period of twenty-eight days beginning with the date of conviction;

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- (b) if notice of appeal to the Court of Appeal is given during that period and during that period the appellant notifies the official receiver thereof, until the determination of the appeal and thereafter for so long as an appeal to the House of Lords is pending within the meaning of section 8(5) of this Act
- (4) Where in consequence of an appeal a criminal bankruptcy order is rescinded—
- (a) any bankruptcy petition based on the order shall lapse and any receiving order or adjudication of bankruptcy made in consequence thereof shall cease to have effect, but without prejudice to anything previously done thereunder ;
 - (b) where any such adjudication ceases to have effect, the property of the person who was adjudicated bankrupt shall revert to him for all his estate or interest therein ; and
 - (c) the court which had jurisdiction in relation to the bankruptcy may, on his application or on the application of the official receiver, by order give such directions, if any, as appear to the court to be necessary or desirable in consequence of the foregoing provisions of this paragraph.
- (5) Where in consequence of an appeal a criminal bankruptcy order is amended by the deletion of any amount specified therein as the loss or damage suffered by any person, paragraph 3(1) of this Schedule shall not thereafter apply to that loss or damage but without prejudice to anything done before the amendment takes effect.

Rules

- 13 For the purposes of section 132 of the Act of 1914 (power to make general rules for carrying the objects of that Act into effect) this Schedule shall be deemed to be part of that Act.