

BANKRUPTCY.

No. 42 of 1945.

An Act to amend the *Bankruptcy Act 1924-1933*.

[Assented to 11th October, 1945.]

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 1945*.

(2.) The *Bankruptcy Act 1924-1933** 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 1924-1945*.

Commencement.

2. Subject to the next succeeding section, this Act shall come into operation on the day on which it receives the Royal Assent.

3.—(1.) After section eighteen B of the Principal Act the following sections are inserted :—

Oath of
allegiance and
office by Judge.

“ 18BA. A Judge of the Federal Court of Bankruptcy shall, before proceeding to discharge the duties of the office of Judge, take before a Justice of the High Court an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution and also an oath or affirmation in accordance with the following form :—

‘ I, A.B., do swear that I will well and truly serve our Sovereign Lord the King in the office of Judge of the Federal Court of Bankruptcy, and I will do right to all manner of people, according to law, without fear or favour, affection or ill-will, So help me, God ! ’ ; or

‘ I, A.B., do solemnly and sincerely promise and declare that I will well and truly serve our Sovereign Lord the King in the office of Judge of the Federal Court of Bankruptcy, and I will do right to all manner of people, according to law, without fear or favour, affection or ill-will.’

Salaries and
pensions of
Judges.

“ 18BB.—(1.) A Judge of the Federal Court of Bankruptcy shall receive a salary at the rate of Two thousand five hundred pounds a year.

“(2.) Where a Judge of the Federal Court of Bankruptcy has served in that office for not less than fifteen years, he shall, on retiring, be entitled to an annual pension at the rate of one-half of his salary.

Act No. 87, 1924, as amended by No. 3, 1927 ; No. 39, 1928 ; No. 28, 1929 ; No. 17, 1930 ; No. 31, 1932 ; and No. 66, 1933.

“(3.) If a Judge of the Federal Court of Bankruptcy retires on permanent disability or infirmity, he shall, if he has served in that office for not less than five years, be entitled, on retiring, to an annual pension at the rate of twenty one-hundredths of his salary and at the additional rate of three one-hundredths of his salary for each complete year of his service in excess of five years, but so that the rate of his pension shall not exceed one-half of his salary.

“(4.) Where a Judge of the Federal Court of Bankruptcy was, immediately prior to his appointment, serving in any judicial office under a State, so much of the term of that service as does not exceed five years shall, for the purposes of sub-sections (2.) and (3.) of this section, be added to the term of his service as a Judge of the Federal Court of Bankruptcy.

“(5.) Pensions under this section shall grow due from day to day, but shall be payable monthly.

“(6.) Salaries and pensions under this section shall be charged on and paid out of the Consolidated Revenue Fund, which is to the necessary extent hereby appropriated accordingly.

“(7.) The provisions of this section shall not apply in relation to any Judge of the Federal Court of Bankruptcy to whom the next succeeding section applies.”.

(2.) This section shall be deemed to have come into operation on the seventh day of November, One thousand nine hundred and forty-two.

4. Section one hundred and fifty-five of the Principal Act is amended—

Administration
in bankruptcy
of estates of
persons dying
insolvent.

- (a) by omitting from paragraph (a) of sub-section (2.) the word “and” and inserting in its stead the word “or”;
- (b) by omitting paragraph (b) of that sub-section; and
- (c) by inserting in sub-section (4A.), after the word “The” (first occurring), the words “provisions of section eighty of this Act and the”.

5. After section two hundred and two of the Principal Act the following section is inserted:—

“203. The Court may, on the application of a creditor or debtor or trustee, remove any trustee of a deed of arrangement registered under this Part, and may appoint a new trustee or trustees either solely or jointly with the continuing trustee or trustees, and upon such appointment all property subject to the deed shall vest in the new trustee or trustees solely or jointly with the continuing trustee or trustees, as the case may be, and the new trustee or trustees shall have the same rights or powers and perform the same duties and be subject to the same liabilities as if he or they had been the original trustee or trustees of the deed.”.

Power of
appointment
and removal
of trustee.