

# BANKRUPTCY.

## No. 83 of 1954.

### An Act to amend the *Bankruptcy Act 1924-1950*.

[Assented to 18th November, 1954.]

**B**E it enacted by the Queen'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 1954*.
- (2.) The *Bankruptcy Act 1924-1950*\* 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 1924-1954*.

**Commencement.**

2. This Act shall come into operation on the day on which it receives the Royal Assent.

**Definitions.**

3. Section four of the Principal Act is amended by omitting from the definition of "The Court" all the words after the word "thereof".

**Districts, Registrars and official receivers.**

4. Section twelve of the Principal Act is amended by omitting sub-sections (5.) and (6.).

**Duties, powers and functions of Registrars.**

5. After section twelve of the Principal Act the following section is inserted :—

"12A.—(1.) The Registrars and Deputy Registrars shall be controlled by the Court and shall have such duties as the Attorney-General directs or as are prescribed.

"(2.) The Attorney-General may direct that a specified Deputy Registrar shall have and may exercise all or any of the powers and functions of a Registrar.

"(3.) A Registrar or Deputy Registrar may exercise such of the powers, duties and functions of an administrative nature exercisable by the Court as the Court directs or authorizes him to exercise.

"(4.) A Registrar or Deputy Registrar may—

(a) adjourn any proceedings before him ; and

(b) take the whole or any part of the evidence in proceedings before him either orally or otherwise.

\* Act No. 37, 1924, as amended by No. 3, 1927 ; No. 39, 1928 ; No. 28, 1929 ; No. 17, 1930 ; No. 31, 1932 ; No. 66, 1933 ; No. 42, 1945 ; No. 43, 1946 ; No. 52, 1947 ; No. 65, 1948 ; and Nos. 51 and 80, 1950.

“(5.) A Registrar or Deputy Registrar may administer such oaths as are necessary in proceedings before him under this Act.

“(6.) An order or direction made or given, or an act done, by a Registrar or Deputy Registrar under this Act is subject to review on summary application to the Court.”.

6. Sections twenty-three and twenty-four of the Principal Act are repealed.

Repeal of sections twenty-three and twenty-four.  
Powers in case of default.

7. Section twenty-five of the Principal Act is amended by inserting in sub-section (3.), after the words “conferred by”, the words “or under”.

8. Section sixty-eight of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “the Court makes a sequestration order, it may, within such time thereafter as it” and inserting in their stead the words “a debtor becomes a bankrupt, the Court may, within such time thereafter as the Court”; and

Public examination of bankrupt.

(b) by adding at the end thereof the following sub-section:—

“(12.) In this section, ‘the Court’ includes the Registrar.”.

9. Section sixty-nine of the Principal Act is amended by omitting sub-section (11.) and inserting in its stead the following sub-sections:—

Further public examination of bankrupt.

“(11.) When the Court is of opinion that the affairs of the bankrupt have been sufficiently investigated, the Court may order the bankrupt to apply forthwith, or within a specified time, for an order of discharge.

“(12.) Upon the hearing of the application, the Court—

(a) may determine when and subject to what conditions the discharge shall be granted, and may, for that purpose, exercise the same powers and jurisdiction as in the case of an application to which section one hundred and nineteen of this Act applies; and

(b) may make an order fixing a date after which the trustee’s right to any property acquired by the bankrupt in the course of trade or as earnings shall cease.

“(13.) In this section, except the last preceding sub-section, ‘the Court’ includes the Registrar.”.

10. Section seventy of the Principal Act is amended by inserting after the word “Court” the words “or the Registrar”.

Bankrupt to answer questions.

11. Section eighty of the Principal Act is amended—

(a) by inserting in sub-section (1.), after the word “Court” (first, second and third occurring), the words “or the Registrar”;

Discovery of bankrupt’s property.

- (b) by inserting in sub-section (2.), after the word " Court " (wherever occurring), the word " , Registrar " ;
- (c) by inserting in sub-section (3.), after the word " Court," the word " Registrar," ; and
- (d) by inserting in sub-section (7.), after the word " Court " the word " , Registrar " .

**Discharge of bankrupt.**

12. Section one hundred and nineteen of the Principal Act is amended by inserting in sub-section (1.), after the word " Court " (first occurring), the words " or the Registrar " .

**Validation.**

13.—(1.) This section applies in any case in which, at any time after the commencement of the *Bankruptcy Act* 1924 and before the commencement of this Act, a debtor presented a bankruptcy petition against himself, unless—

- (a) the petition was withdrawn ;
- (b) a court having jurisdiction in bankruptcy made a sequestration order on the petition ; or
- (c) such a court or a Registrar or Deputy Registrar refused to make a sequestration order on the petition.

(2.) In any such case—

- (a) the debtor is, by force of this section, declared to have become, by virtue of the presentation of the petition, a bankrupt on the date on which a Registrar or Deputy Registrar purported to make a sequestration order on the petition ;
- (b) the *Bankruptcy Act* 1924, or that Act as in force as amended at any relevant time, is, by force of this section, declared to have been applicable, and to be applicable, for all purposes, by virtue of the presentation of the petition, as if a valid sequestration order had been made, on that date, by a court having jurisdiction in bankruptcy in the terms in which the Registrar or Deputy Registrar purported to make a sequestration order ; and
- (c) all proceedings, matters, orders, acts and things taken or done, or purporting to have been taken or done, under the *Bankruptcy Act* 1924, under that Act as in force as amended at any relevant time, or under any other Act, in relation to the debtor or his estate or affairs, are, by force of this section, declared to have been for all purposes, by virtue of the presentation of the petition, as lawfully taken or done as if a valid sequestration order had been made, on that date, by a court having jurisdiction in bankruptcy in the terms in which the Registrar or Deputy Registrar purported to make a sequestration order.