

# Index

## **ABSCONDING DEBTOR**

Act of bankruptcy, **3:50**  
Arrest of section 168(1)(a), **7:63**

## **ACCELERATED RENT**

See LANDLORD and TENANT  
Generally, **6:334 to 6:341**

## **ACCOUNTING BY TRUSTEE**

See TRUSTEE

## **ACCOUNTS**

Books of, to be turned over to trustee  
generally, **2:47**  
bankrupt failing to keep, **7:154 to 7:157, 9:18**  
bankrupt keeping, **7:154 to 7:157, 9:18**  
Estate account, cheque drawn on, **2:66**  
Passing of  
by former trustee where substituted trustee appointed  
generally, **2:124**  
by registrar, **8:75**  
by trustee, **2:170 to 2:182, 16:54**  
Priority of, in case of substitution, **2:124**  
Taxation of, **2:170 to 2:182, 8:64, 16:62**  
Trustee, examination of by superintendent section 5(3)(e), **2:2**

## **ACT**

See BANKRUPTCY and INSOLVENCY ACT

## **ACTIONS AGAINST TRUSTEE**

Generally, **2:128 to 2:136, 10:6 to 10:12**  
Act or decision by trustee, **2:128 to 2:136**  
Any person aggrieved, **2:132**  
Appeals from orders dismissing application for leave, **10:17**  
Appeals from orders granting leave, **10:16**  
Approval of inspectors, no defence, **2:131**  
Bankrupt action by, **2:132**  
Caution in permitting, **2:128**  
Chair of meeting of creditors, **2:130**  
Claim for damages, **2:129, 2:135, 10:7**  
Claim for inaction by trustee, **10:12**  
Costs, **2:136**

## **ACTIONS AGAINST TRUSTEE**

### **—Cont'd**

Discretion of court, **2:128**  
Final determination of claim by motions court judge, **10:15**  
Improvident sale of assets, **2:130**  
Jurisdiction of registrar to hear section 215 application, **10:10**  
Leave given, de bene esse, **10:14**  
Leave given, nunc pro tunc, **10:14**  
Material required, **10:9**  
Necessity for leave, **10:6**  
Notice to creditors, **2:132**  
Omission, acts of, **10:12**  
Recourse to ordinary courts, **2:129**  
Refusal to take action by trustee, **2:130**  
Relationship between section 37 and section 215, **2:129, 2:134, 10:7**  
Remedies on  
generally, **2:135**  
section 37 cannot be used to challenge a section 38 order, **2:150**  
section 37 cannot be used to do something contrary to the, Act, **2:128**  
section 37 does not override the, Act, **2:128**  
Terms and conditions, **2:155**  
Time for applying, **2:133**  
Tort actions, **10:11**  
When leave should be granted, **10:15**  
Where should application be brought, **10:10**  
Who may apply for leave, **10:8**  
Who may bring, **2:132, 10:16**

## **ACTIONS BY CREDITORS WHERE A TRUSTEE REFUSES TO TAKE PROCEEDINGS**

Generally, **2:138 to 2:167**  
Appeal from order granting leave, **2:166**  
Assignment of trustee's title  
generally, **2:158**  
defect in, **2:158**

**ACTIONS BY CREDITORS WHERE A TRUSTEE REFUSES TO TAKE PROCEEDINGS—Cont'd**

Assignment of trustee's title—Cont'd  
proceedings taken without obtaining, **2:158**

Bankrupt cannot oppose, **2:141**

Commencement of action prior to bankruptcy  
generally, **2:160**  
necessity to lift stay, **2:160**

Consent of trustee, **2:150**

Costs, **2:162**

Creditor only can bring application, **2:141**

Creditors, notice of application to, **2:152**

Debtor cannot bring, **2:141**

Defendant deciding to participate, **2:156**

Disallowance of claim by section 38 creditor, **6:264**

Discharge of trustee and bankrupt, effect of, **2:145**

Dismissal for want of prosecution, **2:168**

Dismissal of, when appropriate, **2:141**

Distribution of proceeds, **2:163**

Exempt property, **2:160**

Flexible interpretation of section 38, **2:140**

Formalities  
generally, **2:140 to 2:153**  
applicant must be a creditor, **2:141**  
consent of trustee to the making of the order, **2:150**  
creditor taking proceedings without obtaining an order under section 38, **2:146**  
effect of discharge of trustee or bankrupt, **2:145**  
identification of the action to be taken by the creditor, **2:151**  
material in support of the application and service of the material, **2:147**  
method of taking proceedings after obtaining order under section 38, **2:152**  
need to consult inspectors, **2:144**  
need to establish a, prima facie case, **2:142**  
right of proposed defendant to oppose the making of the order, **2:148**

Form of order, **2:138**

Identification of issues, **2:151**

**ACTIONS BY CREDITORS WHERE A TRUSTEE REFUSES TO TAKE PROCEEDINGS—Cont'd**

Indian, land s of, **2:160**

Interest, **2:161**

Jurisdiction of the registrar to make a section 38 order, **2:154**

Liability for costs cannot be avoided, **2:141**

Method of taking proceedings after obtaining order under section 38, **2:153**

Must be for benefit of bankrupt estate, **2:147**

Necessity to file proofs of claim, **2:141**

Not a derivative action, **2:138** securities

Notice to bankrupt, **2:147**

Notice to defendants, **2:147**

Notice to trustee, **2:147**

Nunc pro tunc order to remedy defects, **2:158**

Parties, **2:156**

Person bringing has same rights as trustee, **2:160**

Prima facie case, **2:140 to 2:153**

Proceedings prior to application, **2:139**

Proceedings to claim property of bankrupt, **2:138**

Proper forum, **2:138**

Proposal after section 38 order, **2:159**

Proposals, attacking fraudulent transactions, **5:590**

Provable claim, need for, **2:142**

Right of defendant to challenge, **2:148, 2:165**

Right of defendant to counterclaim and add trustee as party, **2:149**

Sale of property, registrar cannot order, **2:154**

Scope of proceedings, **2:160**

Section 38 does not create a cause of action, **2:158**

Security for costs, **2:157**

Shareholder cannot bring, **2:141**

Shares obtained in section 38 proceedings, **2:163**

Summary application, **2:152**

Surplus, **2:161, 2:167**

Terms and conditions in the order, **2:155**

Trustee deciding to take proceedings  
generally, **2:167**

**ACTIONS BY CREDITORS WHERE A TRUSTEE REFUSES TO TAKE PROCEEDINGS—Cont'd**

- Trustee deciding to take proceedings—Cont'd
  - court will not decide entitlement to possible surplus, **2:125**
- Trustee refusing or neglecting to take proceedings, **2:143**
- Trustee settling claim, **2:167**
- Two or more creditors applying for leave, **2:141**
- Who entitled to benefits of, **2:163, 2:164**

**ACT OF BANKRUPTCY**

- See ACTS OF BANKRUPTCY

**ACTS OF BANKRUPTCY**

- Generally, **3:48, 3:50**
- Absenting oneself, **3:50**
- Assigning, removing, secreting or disposing of property, **3:50**
- Assignment for benefit of creditors, **3:50**
- Ceasing to meet liabilities
  - see CEASING TO MEET LIABILITIES
- generally, **3:51, 3:52**
- demand for payment, **3:49**
- proof of, by filing credit report, **3:50**
- proof supplied by interim receiver, **3:50**
- single creditor, **3:53**
- Charge on property, **3:50**
- Conveyance of property, **3:50**
- Debtor's admission of inability to pay, **3:50**
- Defeating or delaying creditors, **3:50**
- Demand for payment, necessity for, **3:49**
- Departing from dwelling house, **3:50**
- Departing out of Canada, **3:50**
- Duty of court, **3:48**
- Execution unsatisfied, **3:50**
- Exhibiting statement to creditors of insolvency, **3:50**
- Fraudulent conveyance, **3:50**
- Fraudulent preference, **3:50**
- Gift, **3:50**
- Nulla bonareturn, **3:50**
- Proof of, by motion, **3:69**
- Proposal, default in, **3:50**
- Remaining out of Canada, **3:50**

**ACTS OF BANKRUPTCY—Cont'd**

- Statement of debtor's assets and liabilities showing that he or she is insolvent, **3:50**
- Suspension of payment of debts, **3:50**
- Transfer of property, **3:50**
- Within six months, **3:49**

**ADDRESS**

- Bankrupt, advising trustee of, **7:2**
- Fact under section 173(1), **7:172 to 7:175**

**ADMINISTRATION CHARGE**

- Costs of administration of estate, **8:111 to 8:146**
- DIP financing in, CCA proceedings, **22:40**
- Priority of professional fees in, CCA proceedings, **22:40**

**ADMINISTRATION OF ESTATE**

- Admission of claims, **6:261**
- Application by bankrupt for directions, **2:119**
- Application for directions, **2:109 to 2:116**
- Assistance of bankrupt, **2:99**
- Attacking fraudulent conveyances, **5:460 to 5:468**
- Attacking fraudulent preferences, **5:487 to 5:540**
- Attacking settlements, **5:451**
- Borrowing money, **2:93**
- Carrying on the business, **2:89**
- Carrying on the business prior to first meeting of creditors, **2:53**
- Compromise and settle claims, **2:95**
- Compromise and settle debts, **2:94**
- Conservatory measures, **2:52**
- Costs of, **8:111 to 8:146**
- Deposit of estate moneys, **2:66**
- Directions of court— see DIRECTIONS OF COURT
- Disallowance of claims
  - see also DISALLOWANCE OF CLAIMS
  - generally, **6:261**
- Disclaimer of property, **2:58**
- Dividing property among creditors, **2:96**
- Duty to file returns, **2:61**
- Employ a solicitor, **2:92**
- Employment insurance overpayments, **2:69**

## **ADMINISTRATION OF ESTATE**

### **—Cont'd**

Giving security, **2:93**  
 Incurring obligations, **2:93, 2:104**  
 Initiating criminal proceedings, **2:60, 9:30**  
 Insuring assets, **2:65**  
 Leasing property of the bankrupt, **2:88, 6:373**  
 Legal proceedings, **2:90**  
 Obtaining possession of property, **2:41 to 2:45, 2:51**  
 Payment of dividends, **5:587**  
 Payment of source deductions, **2:63**  
 Perishable property, **2:52**  
 Re-direction of mail, **2:122**  
 Reports by trustee, **2:70**  
 Retaining and surrendering leases, **2:98, 6:345 to 6:354**  
 Sale of assets, **2:75**  
 Sale of assets to inspectors, **2:100**  
 Sale of assets to reimburse trustee, **2:107**  
 Sale of assets to trustee, **2:101**  
 Summary administration, **6:458, 6:459**  
 Termination of, **2:194**  
 Three years elapsing without estate being administered, **2:121**  
 Timely administration, **2:120**  
 Trustee protecting itself from personal liability, **2:106**

## **ADMINISTRATIVE OFFICIALS**

Generally, **2:2, 2:3**

## **ADMINISTRATORS**

See CONSUMER PROPOSALS  
 Administering consumer proposals, **4:152**  
 Annulment of consumer proposal by, **4:164**  
 Assignment by, for deceased debtor, **3:171**  
 Calling meeting of creditors, **4:155**  
 Delegation of duties and powers, **2:38**  
 Fees and expenses of— consumer proposals, **4:170, 16:114**  
 Filing consumer proposals with, **4:155**

## **ADMISSION OF CLAIMS**

See also DISALLOWANCE OF CLAIMS  
 Generally, **6:261 to 6:283**  
 Appeal from disallowance, **6:273 to 6:282**

## **ADMISSION OF CLAIMS—Cont'd**

Disallowance of claim by a creditor, **6:271**  
 Disallowance of claim by trustee, **6:266 to 6:270**  
 Disallowance of secured claims, **6:272**  
 Duty of trustee to examine proof of claim, **6:261**  
 Method of admitting claims, **6:261**  
 Method of proving claim, **6:144 to 6:157**  
 Power of court to expunge or reduce proof of claim, **6:283**  
 Proof by secured creditors, **6:159 to 6:258**  
 Provable claims, what are, **6:99 to 6:142**  
 Registrar, jurisdiction to hear appeals, **8:80**  
 Right of trustee to examine proof of claim and proof of security, **6:261**

## **ADVANTAGE, GIVING IN EVENT OF BANKRUPTCY**

Generally, **5:262**  
 Equal distribution essential, **5:262**  
 Void against trustee, **5:262**

## **ADVERTISEMENT**

Local newspaper, **6:3**

## **AFFAIRS OF DEBTOR**

Examination of persons having knowledge of, **7:30 to 7:43, 7:60**

## **AFFIDAVIT**

Assignment, execution of, **3:148**  
 Cross examination generally, **16:31**  
 Definition generally, **1:15**  
     application for bankruptcy order, in support of, **3:42 to 3:45**  
 Proof of claim re property in possession of bankrupt, **5:410 to 5:422**  
 Service of application, **16:67**  
 Statement of affairs, **7:28**  
 Statutory declaration, **1:15**  
 Verifying application, **3:42 to 3:45**

## **AFFILIATION ORDER**

Discharge not releasing bankrupt from debt or liability under, **6:110, 7:188**

## **AFTER-ACQUIRED PROPERTY**

Generally, **5:561 to 5:573**

## **AFTER-ACQUIRED PROPERTY**

### **—Cont'd**

- Actions for damages
  - generally, **5:569**
  - future loss of wages, **5:569**
- Banks, protection of, **5:407, 5:573**
- Bequest received after bankruptcy, **5:566**
- Definition of, **5:561**
- Discharge of trustee and seizure of, **5:571**
- Not vesting in trustee, **5:569**
- Personal earnings after bankruptcy, **5:266, 5:570**
- Property that does not vest in trustee
  - generally, **5:569**
  - damage actions, **5:569**
  - judgment failing to divide claim, **5:569**
  - punitive damages, **5:569**
  - wages, **5:569**
  - wrongful dismissal claims, **5:569**
- Punitive damages, **5:569**
- Transactions in good faith and for value
  - generally, **5:562 to 5:568**
  - after-required property, **5:564**
  - completed before intervention by trustee, **5:567**
  - estoppel, **5:568**
  - for value, **5:566**
  - good faith, **5:565**
  - undischarged bankrupt and third party, **5:563**
- Trustee discharged, **5:561**
- Trustee not discharged, **5:572**
- Vesting in trustee, **5:561**
- Wrongful dismissal actions, **5:569**

## **AGENT**

- Bankrupt acting as, **5:82**
- Employing by trustee, **2:92**
- Examination of, **7:31**
- Trustee of agent must account to principal, **5:82**

## **ALIMONY**

- And, **7:188**
- Debt or liability for, discharge not releasing bankrupt from, **7:188**
- Not stayed, **5:278, 7:185, 7:187**

## **AMENDMENTS**

- Applications, **3:41**
- Power of court to make, **8:48**
- Proof of claim, **6:146**

## **ANNUITIES**

- Exempt from seizure, **5:60**
- Taking possession of by trustee, **5:228**

## **ANNULING ASSIGNMENTS IN BANKRUPTCY**

- See ASSIGNMENTS IN BANKRUPTCY

## **ANNULING BANKRUPTCY ORDERS**

- See BANKRUPTCY ORDERS

## **ANNULING DISCHARGES**

- See DISCHARGE OF BANKRUPT

## **APPEALS**

- Generally, **8:30, 8:86 to 8:109**
- Affecting other cases of a similar nature, **8:88**
- By bankrupt from judgment given prior to bankruptcy, **8:106**
- Chair at meeting of creditors, from, **6:53 to 6:62**
- Conservation of assets during pending appeal, **8:97**
- Costs of
  - generally, **8:119**
  - fixing by court, **8:119**
  - personal liability of trustee, **8:114**
- Court of Appeal, **8:86 to 8:107, 16:44**
- Directions, **8:94**
- Disallowance of claims by trustee, from, **6:273 to 6:282**
- Discharge of bankrupt, **8:90**
- Dismissal for want of prosecution, **8:100**
- Effect of appeal, **8:96**
- Evidentiary rulings, **8:86**
- Extension of time, **8:53, 16:44**
- Fraudulent preferences, **5:540**
- From bankruptcy order, **3:133**
- From interim receiving order, **3:103 to 3:111**
- From order granting discharge, **8:90**
- From order granting leave under section 38, **2:166**
- From registrar, **8:82, 16:42**
- Future rights
  - generally, **8:87**
  - dismissal of section 187(5) application to set aside bankruptcy order, **8:87**
- Intervention in, **8:102**
- Jurisdiction of Court of Appeal, **8:30, 8:86**

## APPEALS—Cont'd

Jurisdiction of Supreme Court of Canada, **8:30**  
 Leave to appeal  
     generally, **8:91**  
     cases when leave granted, **8:91**  
     errors by trial judge, **8:91**  
     refusal of, **8:91**  
     review of order of single judge of court or appeal, **8:91**  
     stay of proceedings, **8:96**  
     to Supreme Court of Canada, **8:108**  
 More than \$ 10,000 involved, **8:89**  
 No appeal from refusal of leave to appeal, **8:91**  
 Perfecting  
     generally, **8:100**  
     addition of material not forming part of record, **8:95**  
     delay in, **8:100**  
     matters improperly included, **8:95**  
     matters to be included in appeal books, **8:100**  
 Perishable property, **8:97**  
 Provincial execution in Quebec, **8:96**  
 Quashing  
     generally, **8:101**  
     bankruptcy orders, **3:133**  
 Refusal to approve proposal, **4:93, 8:96**  
 Refusal to transfer proceedings, **8:46**  
 Registrar, from, **8:82**  
 Reinstating, **8:104**  
 Removal of trustee, **2:22**  
 Reviewing, varying or reviewing order, **8:105**  
 Right of appeal allowed on motion for directions  
     generally, **8:94**  
     appeal denied, **8:93**  
 Scope of appeal, **8:86**  
 Security for costs, **8:98**  
 Settlement of, **8:103**  
 Stay of proceedings  
     generally, **8:96, 8:109**  
     no stay in issue unrelated to appeal, **8:96**  
     power of judge to determine if appeal is valid, **8:96**  
 Supreme Court of Canada, **8:30, 8:108**  
 Taxation of costs, **8:119**

## APPEALS—Cont'd

Time for, **8:53, 16:42, 16:44**  
 Transmission of notice of, **16:44**

## APPLICATION FOR BANKRUPTCY ORDER

Generally, **3:2 to 3:138, 16:68**  
 Able to pay debts, **3:70**  
 Acts of bankruptcy, see ACTS OF BANKRUPTCY  
 Adding or substituting creditor, **3:37**  
 Adjournment of, **3:68**  
 Advancing funds to debtor to defend application, **3:62**  
 Affidavit verifying  
     generally, **3:42 to 3:45**  
     cannot be made by employee, director or officer of bankrupt, **3:42 to 3:45**  
     cross-examination on, **3:45, 3:65**  
     no necessity for personal knowledge, **3:42**  
     no opinions or conclusions, **3:42**  
     should not be misleading, **3:42 to 3:45**  
 Agreement not to file a application, **3:79**  
 Alimony, debt for, **3:3**  
 Alterations in, **3:41**  
 Amending, **3:41**  
 Application filed for an improper purpose, **3:58, 3:59**  
 Assignee of debt, application by, **3:4**  
 Assignment conflict with, **3:56**  
 Bank, application against, **3:30**  
 Bank, by, **1:25, 1:43, 3:2 to 3:17**  
 Burden of proof, **3:47**  
 Champertous filing, **3:16**  
 Church corporations, **1:25, 3:23**  
 Commencement of bankruptcy, **5:356**  
 Commencement of proceedings in ordinary civil courts, **3:77**  
 Companies' Creditors Arrangement Act, **3:143**  
 Conflict between applications, **3:57**  
 Conflict of interest of solicitor, **3:41**  
 Consolidating, by, **3:38**  
 Co-operative syndicate, application against, **3:29**  
 Corporation, by, **3:41**  
 Creditors, one or more many file, **3:2**  
 Cross examination of applicant, **3:64**



**APPLICATION FOR BANKRUPTCY  
ORDER—Cont'd**

Damages for improper filing  
generally, **3:138**  
action must be taken in ordinary courts,  
**3:138**

Dating back to, **1:60**

Death of debtor  
generally, **3:20, 16:67**  
payment of testamentary expenses,  
**3:20**

Debt for alimony and maintenance, **3:3**

Debt not provable in bankruptcy, **3:2 to 3:17**

Debt of d\$ 1,000, **3:46**  
must be owing both at date of applica-  
tion and date of hearing, **3:46**  
must be recoverable by legal process,  
**3:46**  
statute barred debt, **3:46**

Debtor, meaning of, **3:19**

Debtor carrying on business in some other  
name, **3:25**

Debtor out of jurisdiction, **3:41**

Deceased debtor, **3:20**

Delay in proceeding with application,  
**3:80**

Dismissal of  
generally, **3:55**  
solicitor and client costs, **3:81**

Disputed, **3:59**  
generally, **3:59**  
advancing fund, to debtor to defend,  
**3:62**  
costs of  
generally, **3:81**  
payment by non-parties, **3:81**  
cross-claim, **3:72**  
directors who have resigned, **3:59**  
hearing of, **3:62**  
improper conduct, **3:87**  
intervention by creditor, **3:59**  
nothing to be gained by bankruptcy,  
**3:85**  
notice of, **3:59, 16:67**  
no valid dispute, **3:59**  
orderly distribution of property, **3:58**  
payment to solicitor to defend, **3:64**  
preservation of property, **3:101**  
procedure, **3:59**  
registrar hearing, **3:67**

**APPLICATION FOR BANKRUPTCY  
ORDER—Cont'd**

Disputed, **3:59—Cont'd**  
subpoena books and records of debtor,  
**3:69**  
verification by affidavit, **3:59, 3:64**

Endorser of bill of exchange, application  
by, **3:2 to 3:17**

Error in, **3:41**

Evidence in support, **3:59**

Examination for discovery of debtor, not  
allowed, **3:64**

Examination of witness by debtor prior to  
hearing of application, **3:66**

Farmers  
see also, FARM DEBT MEDIATION  
ACT  
generally, **3:22**

Filing  
generally, **3:18, 16:67**  
place of, **3:18**

Filing application to prevent debtor from  
defending itself, **3:58**

Fishers, **3:22**

Foreign corporations can be subject of  
application, **3:24**

Foreign creditors, application by, **3:8**

Foreign debt, **3:46**

Foreigner, application against, **3:34, 3:41**

Foreign judgment, **3:8**

Formalities, **3:41**

Former director filing application, **3:16**

Future debts, **3:46**

Heading for, **16:19**

Improper conduct of applicant, **3:87**

Improper purpose, **3:58**

Income trusts, **3:31**

Incorrect name in, **3:41**

Individual filing, **3:44**

Infants, application against, **3:9, 3:32**

Infants, application by, **3:9**

Insurance company, application against,  
**3:30**

Interim receiver, see INTERIM RECEIV-  
ERS

Irregularities in, **3:41**

Issuing by court, **16:67**

Joint, **3:2**

Judgment creditor, application by, **3:16**

Jurisdiction of registrar, **8:66**

Land lords and priorities, **3:58**

## APPLICATION FOR BANKRUPTCY

### ORDER—Cont'd

Limited partnership, **3:26**  
 Locality of debtor  
     see also LOCALITY OF A DEBTOR  
     generally, **1:42, 3:18**  
 Maintenance, claim for, **3:3**  
 Married women, against, **3:21, 5:355**  
 Mental incompetent, application against, **3:33**  
 Money paid to defect, **3:63**  
 No need to exhaust all remedies, **3:47**  
 Non-profit corporation, **3:19**  
 Notice of dispute  
     generally, **3:59, 16:50, 16:67**  
 Partnership, against, **3:26**  
 Partnership, by, **3:17**  
 Partnership, service on, **3:41**  
 Persons entitled to file, **3:2 to 3:17**  
 Piercing corporate veil to file application, **3:35**  
 Place for filing, **3:18**  
     proper jurisdiction, **3:18**  
 Preservation of property pending hearing, **3:101**  
     by interim receiver, **3:103**  
 Proceedings, penal in nature, **3:41**  
 Proof of facts in, **3:46, 3:47, 3:59**  
 Receiver, application by, **3:16**  
 Receiver by way of equitable execution, **3:76**  
     bankruptcy orders, see BANKRUPTCY ORDERS  
 Registrar hearing, **8:66**  
 Removal of solicitor for applicant for conflict of interest, **3:41**  
 Sealing of, **3:41, 16:67**  
 Second application, filing of, **3:39**  
 Secured creditors, priority of  
     generally, **3:58**  
     right to file, **3:17**  
 Security for costs of  
     generally, **3:100**  
 Service of  
     generally, **3:41, 16:67**  
     death of debtor before, **16:67**  
     out of Canada, **3:41**  
     proof of, **3:41**  
     substitutional  
         generally, **3:41, 16:67**

## APPLICATION FOR BANKRUPTCY

### ORDER—Cont'd

Service of—Cont'd  
     substitutional—Cont'd  
         waiver of objections to, **3:41**  
 Shareholders, no right to application, **3:16**  
 Signing of  
     generally, **3:41**  
     corporation, by, **3:41**  
 Single creditor, **3:52**  
 Sole proprietorship, application against, **3:28**  
 Stay of proceedings  
     generally, **3:88**  
     by filing of proposal, **3:98**  
     criminal proceedings, **3:97**  
     disputed applications, **3:89**  
     imposition of terms, **3:90**  
     no, bona fide dispute, **3:89**  
     other sufficient cause, **3:94**  
     prepaid of, **3:94**  
     recommencement of proceedings after a stay, **3:93**  
     refusal of stay, **3:91, 3:96**  
     withdrawal or dismissal of application after a stay, **3:91**  
 Stranger filing, **3:16**  
 Substituting applicant, **3:37**  
 Suggested form of order staying application a nullity, **3:37**  
 Sunday, returnable on, **3:41**  
 Ten-day notice period, **3:41**  
 Title of proceedings Rule 9(2) tort claim of applicant, **3:46**  
 Trust company, application against, **3:30**  
 Trust company, application by, **1:25, 3:6**  
 Trustee filing, **3:18, 3:41**  
 Two applications, filing of, **3:39**  
 Uncertain or unproven claims, **3:46**  
 Voluntary liquidation, **3:75**  
 Wage earner against, **3:21**  
 Who may application, **3:2 to 3:17**  
 Who may be subject of application, **3:19 to 3:35**  
 Withdrawing  
     generally, **3:55**

## APPLICATION FOR DIRECTIONS

See DIRECTIONS OF COURT



## INDEX

### **APPREHENSION**

See ARREST and WARRANTS

### **APPROVAL**

See also PROPERTY

Goods, delivered on, **5:83**

Property passing, **5:83**

### **AQUACULTURE**

First charge of, **5:435**

Right to repossess, **5:435**

### **AQUATIC PLANTS AND ANIMALS**

Right to repossess, **5:435**

### **ARBITRATION**

Claim ineffective in event of bankruptcy,  
**8:11**

### **ARM'S LENGTH TRANSACTIONS**

See also RELATED PERSONS

Corporations

generally, **1:66**

common director, **1:66**

de jure control, **1:66**

Definition of, **1:66**

Meeting of creditors, voting at, **6:39**

Postponement of claim to dividend, **6:396**

Question of fact, **1:66**

Related, **1:66**

Reviewable transaction, **1:66, 5:576**

### **ARRANGEMENTS WITH CREDITORS**

See PROPOSALS

### **ARREARS OF RENT**

See LANDLORD and TENANT

### **ARREST OF BANKRUPTS**

Generally, **7:63, 16:35**

Absconding to avoid payment, or examination, **7:63**

Arrest of person, **7:63**

Breaking door, **7:63**

Execution of warrant by sheriff or executing officer, **16:35**

Procedure for, **16:35**

Seizure of books, **7:63**

Warrant for arrest, **7:63**

### **ASSETS**

See also PROPERTY

After-acquired, see AFTER-ACQUIRED  
PROPERTY

Disclosing to trustee, **7:5 to 7:23**

### **ASSETS—Cont'd**

Obtaining possession by trustee, **2:41 to 2:45**

Sale of, see SALE OF ASSETS

Unrealized or undistributed, **2:193**

### **ASSIGNMENT OF BOOK DEBTS**

Generally, **5:472 to 5:232**

Assignments not requiring registration,  
**5:481**

Avoidance of, unless registered, **5:472**

Bank assignments, **5:473**

Book debts, meaning of, **5:472, 5:473**

Collection of, by interim receiver, **3:107**

Crown claim, no assignment of, **5:473**

Demand s by tax authorities, **5:473**

Disposal of property giving rise to book  
debts, **5:473**

Equitable assignments

generally, **5:481**

and legal assignments, **5:482**

no necessity to add trustee as party to  
action, **5:481**

Financial Administration Act, **5:473**

Floating charge debenture, **5:105**

Invalidity after bankruptcy, **5:275**

Performance of bankrupt's obligations by  
trustee, **5:473**

Procedure for attacking

generally, **5:232**

receivables from sale of goods, **5:473**

refund of tax, **5:473**

Property of debtor, **5:259**

Registered retirement savings plan, **5:472**

Scope and extent of assignment, **5:473**

Set-off, **5:473**

Subrogation, **5:473**

Trust fund provisions of, Mechanics' Lien  
Act and priority of assignment, **5:47**

Void unless registered, **5:472**

### **ASSIGNMENT OF WAGES AND PROFESSIONAL FEES**

Generally, **5:483**

### **ASSIGNMENTS AND PREFERENCES ACT**

Conflict with, Bankruptcy Act and  
Insolvency Act, **1:10**

Use of to attack fraudulent conveyances,  
**5:469**

## ASSIGNMENTS AND PREFERENCES

### ACT—Cont'd

Use of to attack fraudulent preferences,  
**5:529 to 5:533**

## ASSIGNMENTS IN BANKRUPTCY

Generally, **3:146 to 3:187, 6:458, 6:459**

Act of bankruptcy, as, **3:50**

Agreement by debtor not to file an assignment,  
**3:167 to 3:182**

Annulling

generally, **3:161 to 3:163, 7:239**

defect in documents, **3:166**

discretionary, **3:161**

effect of order of annulment, **3:164**

making of second assignment after  
annulment, **3:166**

no necessity for discharge of bankrupt,  
**3:137**

payment of debts in full, **3:161**

service on trustee, **3:165**

Appointment of trustee, certificate of,  
**3:148**

Appointment of trustee by official  
receiver, **3:154**

Assessment of debtor by trustee, **3:148**

Before approval of proposal, **4:139**

Bond of trustee, **3:148**

Cancellation by official receiver, **3:160**

Capacity to make, **3:167 to 3:182**

Conflict with application, **3:54, 3:158**

Consumer proposal, after, **4:166**

Copy to be filed in court

generally, **3:148, 16:76**

to be handed to trustee by official  
receiver, **16:76**

Corporations, by, **3:148, 3:171**

Costs, of, **3:185, 8:123**

Creditor, nomination of trustee, **3:148**

Deceased debtor, by, **3:171**

Deemed assignment, **4:57, 4:130 to 4:138**

Definition of, **1:18**

Demands by taxing authorities, **5:473**

Director, undischarged bankrupt, **3:148**

Effective date, **1:60, 3:157**

Effect of filing, **3:184**

Effect of on title to real property, **5:357 to  
5:366**

Execution by receiver and manager, **3:171**

## ASSIGNMENTS IN BANKRUPTCY

### —Cont'd

Farmers, by

see also, FARM DEBT MEDIATION  
ACT

generally, **3:171**

Formalities of filing, **3:148**

Inebriated person, **2:18**

Infants, by, **3:171**

Joint filing, Superintendent of Bankruptcy  
Directive No. 2R, **3:148, 6:459**

conversion to ordinary administration,  
**3:148**

Limited partnership, by, **3:171**

Liquidator, by, **3:171**

Locality of debtor

generally, **3:155**

cannot challenge on discharge of bank-  
rupt, **3:155**

Married women, by, **3:171**

Mental incompetents, by, **3:171**

Mistakes in, **3:159**

Monitor order, CCAA filing, **3:171**

No assets, **3:167**

Non-resident, **3:167**

Official receiver

cancelling assignment, **3:160**

certification of, **3:148**

fee of, not unconstitutional, **3:148**

filing with, **3:148, 3:155**

naming trustee, **3:148**

Partnership by, **3:148, 3:171**

Personal representatives by, **3:171**

Place for filing, **3:155**

Preliminary statement of affairs, **3:148**

Priority over attachments etc., **5:335**

Receivers, by, **3:171**

Reside or carry on business in Canada,  
**3:167**

Restraining order against spouse dealing  
with family assets, **5:9**

Second assignment, **3:171, 3:186, 5:574**

Statement of affairs, **3:149**

Summary administration, **3:148, 3:187,  
6:458**

Sunday, execution on, **3:148**

Transfer of proceedings to another bank-  
ruptcy district or division, **3:156**

Trustee, nomination of, **3:148**

Validity of other assignments, **3:54, 3:147**

## **ASSIGNMENTS IN BANKRUPTCY**

### **—Cont'd**

- Wage earners by, **3:171**
- Who may assign, **3:167 to 3:182**

## **ASSIGNMENTS OF WAGES**

- See EARNINGS
- Generally, **5:275**

## **ATTACHING EARNINGS**

- See EARNINGS
- Generally, **5:265 to 5:274**
- Failure to comply, **5:274**
- History of section 68, **5:265**
- Mediation of amount to be paid, **5:268**
- On whom should order be served, **5:270**
- Procedure, **5:268, 5:273**
- Related persons, **5:272**
- Section 68 cannot be used for unpaid fees of trustee, **5:265**
- Superintendent's standards, **5:268**
- Wages owing prior to bankruptcy, **5:276**
- What amount should be ordered by court, **5:269**
- What constitutes total income, **5:267**

## **ATTACHMENTS**

- Dividend, not attachable, **6:431**
- Priority of bankruptcy orders and assignments over, **5:335**

## **AUCTIONS**

- Sale by trustee, **2:75**

## **AUTHORITY OF THE COURTS**

- See also COURTS
- Generally, **8:33 to 8:62**
- Admission of documents, **8:61**
- Courts acting in aid of each other, **8:55**
- Directing trial of an issue, **8:47**
- Dispensing with duties imposed on trustee, **8:54**
- Enforcing orders of court, **8:45**
- Evidence of deceased bankrupt or wife, **8:62**
- Excusing errors, **8:48**
- Extension of time, **8:53**
  - see EXTENSION OF TIME
- Periodical sittings, **8:36**
- Power of court to review, rescind or vary an order, **8:34**
  - to relieve against formal defects and irregularities, **8:48**

## **AUTHORITY OF THE COURTS**

### **—Cont'd**

- Proceedings taken in wrong court, **8:52**
- Registrar of, see REGISTRAR
- Relieving against irregularities, **8:48**
  - see RELIEVING AGAINST FORMAL DEFECTS and IRREGULARITIES
- Restraining courts in exercise of powers, **8:34**
- Reviewing, rescinding or varying an order, **8:37 to 8:44**
  - see REVIEWING RESCINDING OR VARYING ORDERS
- Seal of court, **8:33**
- Search warrants, **8:60**
- Sittings in chambers, **8:35**
- Transfer of proceedings to another District or Division, **8:46**
  - see TRANSFER OF PROCEEDINGS
- Warrant directing seizure or search, **8:60**

## **AUTOMATIC DISCHARGE**

- Generally, **7:65, 7:66**
- Appeal from, **8:90**
- Calculation of 9-month period, **7:65**
- Creditor opposing, **7:65**
- Discharge prior to expiry of 9-month period, **7:63, 7:67**
- Failure to give notice, **7:65**
  - power of court to excuse, **7:65**
- Grounds for setting aside, **7:65**
- Notice of objection to, **7:65**
  - withdrawal of notice, **7:65**
- Prior proposal, offered of, **7:65**
- Rule 501 has no application, **7:65**
- Second time bankrupt, **7:72**
- Setting aside, **7:65**
- Superintendent, notice of opposition by, **7:66**
- Time for, **7:65**

## **AUTOMOBILE INSURANCE**

- Generally, **6:423**
- Leave to proceed, **6:423**
- Right to proceeds of, **6:423**

## **AVAILABLE ACT OF BANKRUPTCY**

- See ACTS OF BANKRUPTCY

## **AVAILABLE ASSETS**

- See ASSETS, PROPERTY

**BAIL**

- Generally, **9:38**
- Bond, discharge not releasing bankrupt from section 178(1)(a), **7:186**
- Deposit by third party, **9:38**
- Property of bankrupt, **5:187, 9:38**

**BAILIFFS**

- See SHERIFFS and BAILIFFS

**BANK**

- See BANKS and BANK ACT

**BANK ACCOUNT— TRUSTEE**

- Generally, **2:66**
- Bankrupt's bank account, **2:43**
  - payments after notice, **2:43, 5:407**
- Cheques, signing by trustee, **2:66**
- Consolidated account, **2:66**
- Deposit of funds in, **2:66**
- Duty of bank, **2:43, 5:407**
- Monitoring by Superintendent, **2:66**
- Separate trust accounts, **2:66**
- Summary administration estates, **2:66**
- Third party funds, **2:66**
- Withdrawal from, **2:66**

**BANK ACT, SECTIONS 426 AND 427**

- Generally, **6:220 to 6:245**
- Accounts receivable, **6:229**
- After-acquired property, **6:230**
- Cancellation and release of section 427 security, **6:226**
- Claims of a grower or producer of agricultural products, **6:232**
- Companies' Creditors Arrangement Act and section 427 security, **6:245**
- Dealing by the borrower with property covered by section 427 security, **6:225**
- Fraud on creditors by the use of section 427 security, **6:244**
- Invalid section 427 security cannot be claimed in some other form, **6:242**
- Judgment where a bank sells under invalid security, **6:243**
- Loans to farmers, **6:231**
- Loans to fishers, **6:233**
- Necessity for the borrower to be the owner of the property, **6:227**
- Ownership rights of a bank holding section 427 security, **6:237**

**BANK ACT, SECTIONS 426 AND 427**

**—Cont'd**

- Present advance or written promise to give security, **6:224**
- Priority of section 427 security, **6:238**
- Priority of section 427 security with respect to cattle, **6:240**
- Priority with respect to growing crops, **6:239**
- Procedure for obtaining section 427 security, **6:223**
- Property covered by security under section 427(1)(a) and (b), **6:228**
- Provincial exemption no application, **6:228**
- Realization of section 427 security, **6:235**
- Set-off and section 427 security, **6:236**
- Taking possession of section 427 security for default, **6:234**
- Unpaid seller of goods with rights of repossession, **6:241**

**BANKRUPT**

- Acting as agent, **5:79, 5:82**
- Actions against, frivolous or vexatious defence, **7:165**
- Advising trustee of address, **7:23, 7:178**
- Affairs of, persons having knowledge of, examination of, **7:30 to 7:43, 7:60**
- After-acquired property, information to trustee, **7:181**
- Agent of, examination of, **7:30**
- Aiding in administering estate, **7:5 to 7:23**
- Aiding in inventory, **7:5 to 7:23**
- Allowance to, for services after bankruptcy, **2:99**
- Annulling bankruptcy, **3:137, 3:161 to 3:163, 7:239**
- Arrest, **7:63**
- Assets, see ASSETS, PROPERTY
- Assigning claim for unpaid wages to, **5:250**
- Attendance at first meeting of creditors, **6:15**
- Bank account, see BANK ACCOUNT— TRUSTEE
- Books of account, duty to keep, **7:155**
- Breach of trust, fraudulent, **7:173, 7:197**
- Business affairs, culpable neglect of, **7:164**
- Chartered accountant, **1:9**

## INDEX

### **BANKRUPT—Cont'd**

Clerk of, examination of, **7:30 to 7:43**  
Continuing to trade, **7:158**  
Credit cards, delivery to trustee, Superintendent of Bankruptcy Directive No. 3 published subsequent to November 30, 1992 under Policy Statements, **7:5 to 7:23**  
Debtor includes, **1:33**  
Deceased, assignment by, **3:171**  
Deceased, evidence of, **8:62**  
Deceased wife, evidence of, **8:62**  
Decision of trustee, aggrieved by, **2:128 to 2:136**  
Delivery of books and records to trustee, **7:8**  
Delivery of credit cards to trustee, Superintendent of Bankruptcy Directive No. 3, **7:7**  
Delivery of property to trustee, **7:6**  
Directions, applying for, **2:119**  
Director, cannot act as, **1:9**  
Director, examination of, **7:30**  
Discharge, see DISCHARGE OF BANKRUPT  
Disqualifications, certificate of removal of, **7:183**  
Documents, concealing section 168 generally, **7:63**  
destroying section 168, **7:63**  
falsifying section 168, **7:63**  
mutilating section 168, **7:63**  
Duties  
see also DISCHARGE OF BANKRUPT  
generally, **7:5 to 7:23**  
failure to perform, **7:25, 7:178, 9:3**  
Earnings  
generally, **5:265 to 5:274, 5:570**  
information to trustee of, **7:181**  
money owing for services prior to bankruptcy, **5:276**  
Employee, examination of, **7:30**  
Employment of, **2:99**  
Engaging in business, **9:14 to 9:16**  
Examination of, **7:30 to 7:43, 7:60**  
Executor of estate, **1:9**  
Extravagance in living, **7:160**  
Failure to perform duties, **7:5 to 7:23, 7:25, 7:178, 9:3**

### **BANKRUPT—Cont'd**

False and misleading representation, **7:203**  
Fraud of, **7:174, 7:191 to 7:196**  
Fraudulent breach of trust, by, **7:149, 7:197**  
Fraudulently concealing property, **9:9**  
Fraudulently disposing of property, **9:9**  
Gambling, **7:160**  
Investigation of conduct by trustee, **2:59**  
Liability for debt incurred after bankruptcy, **7:211**  
Liability for provable debt, **7:211**  
Living expenses, allowance for, **2:99**  
Meeting of creditors, attending, **6:3, 6:63, 7:14**  
Obtaining advantage, **9:21**  
Obtaining credit, **9:8, 9:14 to 9:16**  
Obtaining property by false representations, **9:8**  
Offences, see BANKRUPTCY OFFENCES  
Officer or servant, examination of, **7:30**  
Official receiver's examination, attendance at, **7:24, 7:28**  
Pawning, pledging or disposing of property obtained or credit, **9:10**  
Property, see PROPERTY  
Proposal by, see PROPOSALS  
Public accountant, **1:9**  
Questionnaire, completion of, **7:28**  
Rash and hazardous speculations by, **7:161**  
Real property of, **5:389 to 5:397**  
Redirection of mail, **2:122**  
Removal as trustee of trust property, **5:10 to 5:20**  
Remuneration of, **2:99**  
Return of property to, **2:58, 6:422**  
Right to inspect books and records of trustee, **2:67**  
Securities dealer, **1:9**  
Solicitor, cannot have a trust account, **1:9**  
Statement of affairs, **7:10**  
Status, **1:9, 7:183**  
Surplus, right to, **6:422**  
Trade or business engaging in, **9:14 to 9:16**  
Trading after knowing insolvent, **7:158**  
Transfer of property prior to bankruptcy, disclosure to trustee, **7:5 to 7:23**

**BANKRUPT—Cont'd**

- Trustee, appointment and substitution, **2:16**
- Trustee verifying statement of affairs, **2:56**
- Undischarged, disclosure to creditors, **9:14 to 9:16**
- Unrealized assets, right to, **2:193**
- Warrant to apprehend, see **WARRANTS**

**BANKRUPTCY**

- Act, see **BANKRUPTCY and INSOLVENCY ACT**
- Act of, see **ACTS OF BANKRUPTCY**
- Annulment of, **3:137, 3:161 to 3:163, 7:239**
- Commencement of, **5:356**
- Date of, **1:60**
- Date of initial bankruptcy event, **1:29 to 1:32**
- Effect of, **1:5**
- Investigations by official receiver, **7:29**
- Misfortune caused by, **7:183**
- Notice of
  - generally, **6:4 to 6:10**
  - publication of, **6:4 to 6:10**
- Relating back of, **1:29 to 1:32, 5:356**
- Stay of proceedings, **5:278, 5:326, 5:331**
- Time of commencement, **1:60**

**BANKRUPTCY AND INSOLVENCY ACT**

- Generally, **1:3, 1:12**
- Act in good faith, **1:68**
- Attacks on constitutional validity, **1:12**
- Bank Act, interference with, **10:4**
- Constitutionality of, **1:11, 1:12**
- Crown, binding on, **1:67**
- Effect on an individual, **1:9**
- General approach, **1:7**
- History of, **1:5**
- Interpretation of, **1:8**
- Provincial legislation interference with, **1:10**
- Purpose of, **1:4**
- Scope
  - banks, **1:19**
  - building society, **1:25**
  - cemetery company, **1:25**
  - church corporation, **1:25**
  - co-operative syndicate, **1:25**

**BANKRUPTCY AND INSOLVENCY**

**ACT—Cont'd**

- Scope—Cont'd
  - municipal corporations, **1:25**

**BANKRUPTCY COURT**

- See **COURTS**

**BANKRUPTCY OFFENCES**

- Generally, **9:2, 9:38**
- Acting as trustee when licence suspended or restricted, **9:26**
- Agent of corporation, liability of, **9:27**
- Aiding and abetting commission of, **9:2, 9:27**
- Alteration of books and records, section 198(e), **9:8**
- Bail, **9:38**
- Calling solicitor for bankrupt as witness, **9:36**
- Community service, **9:28**
- Compensation order, **9:29**
- Concealing property, **9:9**
- Director of corporation, liability of, **9:27**
- Disposition of property obtained on credit section 198(g), **9:10**
- Documentary evidence obtained from bankrupt, **9:37**
- Duty of trustee to inform bankrupt of offences, **9:2**
- Effect of offences on discharge, **7:169 to 7:171, 9:12**
- Effect of offences on discharge of bankrupt, **7:177**
- Effect of offences on proposals, **4:87**
- Engaging in business, by undischarged bankrupt, **9:14 to 9:16**
- Examination when criminal proceedings pending, **7:42, 9:35**
- Extradition for, **9:31**
- Failure to comply with, Actor Rules, **9:23**
- Failure to disclose being undischarged, **9:14 to 9:16**
- Failure to keep proper books, **9:18**
- Failure to perform duties by bankrupt, **9:11**
- Failure to perform duties by trustee, **9:22**
- False answers, **9:5**
- False claims by a creditor, **9:19**
- Fraudulent disposition of property, **9:4**
- Indictment, form of, **9:32**
- Information, form of, **9:32**



## INDEX

### **BANKRUPTCY OFFENCES—Cont'd**

- Initiating criminal proceedings, **2:60, 9:30**
- Inspectors obtaining improper fees, **9:20**
- Making false entry, **9:6**
- Material omission in statement of affairs, **9:6**
- Neglecting to answer proper questions, **7:54, 9:5**
- Obtaining an advantage by bankrupt, **9:21**
- Obtaining credit, **9:8, 9:14 to 9:16**
- Offences under section 198, **9:3**
- Officer of corporation, liability of, **9:27**
- Particulars, effect of, **9:3**
- Pawning or pledging property, **9:10**
- Place for laying charge, **9:3**
- Procedure for bankruptcy prosecutions, **9:30**
- Proposal, effect on, **4:87**
- Refusal to answer on examination section 198(1)(b), **7:54, 9:5**
- Removal of property out of possession of trustee, **9:25**
- Reporting offences, **9:30**
- Reverse onus, **9:3**
- Solicitor for bankrupt, calling as witness, **9:36**
- Status of trustee, **2:34**
- Stay because of pending criminal proceedings, **9:39**
- Time for commencing prosecution, **9:33**
- Trustee acting when license suspended or restricted, **9:26**
- Trustee failing to perform duties, **9:22**
- Trustee soliciting proxies, **9:22**
- Trustee's role in prosecutions, **9:30**
- Who may lay a charge, **9:3**
- Withdrawal of criminal proceedings, **9:34**

### **BANKRUPTCY ORDERS**

- See also APPLICATIONS
- Generally, **3:121, 16:74, 16:75**
- Absconding debtor, precedent for, **3:132**
- Allegations in application, court relying on, **3:126**
- Annulling
  - generally, **3:137, 16:73**
  - no necessity for a discharge of bankrupt, **3:137**
  - order should not have been made, **3:137**
  - payment in full of debts, **3:137**

### **BANKRUPTCY ORDERS—Cont'd**

- Appeals from
  - generally, **3:133**
  - costs of, **3:133**
  - effect of, **3:133**
  - quashing, **3:133**
  - when should appellate court interfere, **3:133**
- Appointment of trustee, **3:128**
- Attacks on, **3:121**
- Collateral attack on, **3:121**
- Commencement of bankruptcy
  - generally, **5:356**
  - consent by court-appointed receiver, **3:127**
  - consent by one director only, **3:127**
  - consent to, **3:127**
  - solicitor advising, care to be exercised, **3:126**
- Costs of, **3:129**
- Damages for improper presentation, **3:138**
- Discretion of court, **3:82 to 3:87**
- Effect of, **3:124**
- Filing with official receiver, **3:122**
- Form of, **3:122**
- Immediate, **3:132**
- Improper conduct of applicant, **3:87**
- Jurisdiction of registrar, if unopposed, **3:126, 8:66**
- Limited partnership, **5:444**
- Necessity for full and complete disclosure, **3:121**
- No assets, **3:86**
- No notice of dispute, **3:126, 8:66**
- No right to relitigate application on motion to set aside, **3:133**
- Notice of opposition, no one appearing, **3:126**
- Partnership, effect of
  - generally, **3:125**
  - application for, see Applications
- Precedence over attachments etc., **5:335**
  - see PRECEDENCE OVER ATTACHMENTS, GARNISHMENTS, EXECUTIONS ETC.
- Proof in support, **3:126**
- Registrar, granting
  - generally, **3:126, 3:137**
  - mailing to trustee, **3:122, 5:575**
- Registration of real estate, **5:389 to 5:397**

**BANKRUPTCY ORDERS—Cont'd**

Rescinding, **3:136, 8:37 to 8:44, 16:73**  
 Setting aside and rescinding, **3:137, 7:239, 8:37 to 8:44, 16:73**  
 Staying of, **3:137**  
 Stay of proceedings as a result of, **5:278**  
 Time when effective, **3:123**  
 Trustee, appointment of  
     generally, **3:128**  
     debtor's wishes irrelevant, **3:128**  
     fees and expenses, **3:130**  
     serving copy on bankrupt, **16:73**  
 Undischarged bankrupt, **3:121**  
 Unopposed applications, **3:126**  
 Varying, **3:136, 8:37 to 8:44**

**BANKRUPTCY RULES**

See RULES

**BANKS**

After-acquired property, **5:407, 5:573**  
 Assignment of book debts to, **5:473**  
 Cheque must be deposited in estate account, **2:66**  
 Definition of, **1:19**  
 Deposit by trustee in, Superintendent of Bankruptcy Directive No. 5R5, **2:66**  
 Duty re property, **5:407**  
 Effect of bankruptcy on, **10:4**  
 Filing application by, **1:25, 3:5**  
 Fire insurance, assignment of, **2:65**  
 Foreign banks, **1:19**  
 Interference with, **10:4**  
 Person includes  
     generally, **1:45**  
     application against, **3:30**  
     application by, **1:25, 3:5**  
 Possession of property of bankrupt, **2:43**  
 Proof of claim by, **1:25**  
 Right to file a application, **1:25, 3:5**  
 Section 427, see BANK ACT, Sections 426 and 427  
 Transfer of funds, right of set-off, **5:548**  
 Trustee's bank account, **2:66**  
 Withdrawal of funds by trustee, **2:66**

**BILL OF COSTS**

See COSTS

**BILLS OF SALE**

See CHATTEL MORTGAGES

**BODILY HARM**

Damages for, not released by discharge, **7:187**

**BOND**

Generally, **2:14, 2:36, 2:40**  
 Approval by inspectors, **2:40, 6:85**  
 Cancellation of trustee's license, **2:40**  
 Date in force, **2:6**  
 Enforcement of, **2:40**  
 Excessive amount, **2:40**  
 General bond, **2:14**  
 Inspectors authorizing reduction, **2:40**  
 Inspector's dispensing with  
     generally, **2:40**  
 Jurisdiction of official receiver  
     generally, **2:40**  
     deposit with, **2:40**  
 Jurisdiction of registrar, **2:40**  
 Proposals, in, **2:40**  
 Refusing to file, **2:22, 2:40**  
 Specific  
     generally, **2:40**  
     enforcement of, **2:40**  
     trustee suing on fidelity bond of bankrupt, **2:40, 8:30**  
 Summary administration, no bond, **2:40**  
 Superintendent, enforcement of, **2:14**  
 Time for filing, **2:40**  
 Trustee acting before filing, **2:40, 8:30**

**BOOK DEBTS**

See ASSIGNMENT OF BOOK DEBTS

**BOOKS AND RECORDS**

Auditor's documents, **7:57**  
 Banking, Superintendent of Bankruptcy Directive No. 5R4, **2:66**  
 Bankrupt, inspection of trustee's records, **2:67**  
 Bankrupt must deliver to trustee, **2:42, 7:8**  
 Books and records, taking possession by trustee, **2:42**  
 Concealing section 168(1)(c), **9:6**  
 Correspondence file of trustee, **2:67**  
 Creditor, inspection of trustee's records, **2:67**  
 Delivery to bankrupt after discharge of trustee, **16:66**  
 Delivery to purchaser of assets, **16:66**  
 Delivery to trustee, **2:42**

## INDEX

### BOOKS AND RECORDS—Cont'd

- Discovery and production of bankrupt's books and records by trustee, **2:64**
- Disposal of, by trustee, **16:66**
- Duty of trustee to keep, **2:67**
- Electronic form documents, **2:47, 2:48**
- Entering premises, **2:42, 7:57**
- Examination of, by trustee, **7:57**
- Falsifying section 168(1)(c), **9:6**
- Inspection of, who may do so, **2:67**
- Inspectors, access to, **6:66**
- Keeping of, by trustee
  - generally, **2:67**
  - inspection of, **2:67**
  - transfer to new trustee, **2:124**
- No solicitor and client privilege, **7:57**
- Obtaining possession of, by trustee, **7:57**
- Personal correspondence of bankrupt, **2:42**
- Privileged documents, **2:68**
- Procedure for obtaining, **7:57**
- Production pursuant to section 231.2 of, Income Tax Act, **2:68**
- Requiring accountant to produce, **7:57**
- Solicitor-and-client privilege, **2:42, 7:57**
- Solicitor's lien, on, **2:48, 16:66**
- Solicitor's obligation to deliver to trustee, **2:42, 2:48, 7:57**
- Substituted trustee, delivery to, **2:124**
- Taking possession of books of account, **2:47**
- Third party's books, **2:44**
- Trust ledgers of a solicitor, **2:42, 7:57**
- Warrant to enter premises, **2:41, 7:57**

### BORROWING MONEY

- Interim receiver, by, **2:104**
- Security under section 427 of, Bank Act, **2:105**
- Trustee, after appointment of inspectors
  - generally, **2:93**
  - prior to appointment of inspectors, **2:104**

### BUILDERS' LIEN

- See LIEN; MECHANICS' LIEN

### BUILDING SOCIETIES

- Without share capital, **1:25**

### BULK SALES

- Generally, **5:117**

### BUSINESS

- See CARRYING ON BUSINESS

### CALL

- See CONTRIBUTORIES

### CANADA GAZETTE

- Registration in, **10:3**

### CANADA PENSION PLAN

- Deemed trust for, **5:27 to 5:29**

### CANADIAN PAYMENTS ASSOCIATIONS ACT

- Letters of credit, **6:292**
- Priority of claim, **6:292**

### CARRYING ON THE BUSINESS OF THE BANKRUPT

- Generally, **2:53, 2:89, 2:106**
- After first meeting of creditors, **2:89**
- Carrying on, by trustee, **2:89**
- Credit received in, **2:89, 2:104, 2:106**
- Debt incurred in, **2:89, 2:104, 2:106**
- Environmental damage, caused by, **2:28**
- Interim receiver giving security under, Bank Act, **2:104**
- Keeping records, **2:89**
- Only for beneficial administration of estate, **2:89**
- Permission of inspectors, **2:89**
- Personal liability of trustee, **2:106**
- Prior to first meeting of creditors
  - generally, **2:53**
  - no need for order, **2:53**
- Trustee giving security under, Bank Act, **2:93, 2:104, 2:105**
- Trustee's remuneration for, **2:178**
- Trustee under no obligation, **2:106**

### CEASING TO MEET LIABILITIES

- See also ACTS OF BANKRUPTCY
- Able to pay, **3:50**
- Act of bankruptcy, **3:50**
- Date of occurrence, **3:50**
- Exhaustive investigation unnecessary, **3:50**
- Failing to pay one creditor, **3:50**
- Meaning of "Generally," **3:50**
- Paying some creditors, **3:50**
- Question of fact, **3:50**
- Unwilling to pay, **3:50**
- What constitutes, **3:50**

**CEASING TO MEET LIABILITIES**

**—Cont'd**

What does not constitute, **3:50**

**CERTIFICATE BANKRUPTCY  
CAUSED BY MISFORTUNE**

Generally, **7:183**

Absence of misfortune, **7:183**

No misconduct, **7:183**

Removal of statutory disqualifications,  
**7:183**

**CERTIFICATE OF JUDGMENT**

Completely executed by payment, **5:335**

Costs of first judgment creditor, **5:347 to  
5:354**

Not a secured creditor

generally, **5:335, 6:164**

bankruptcy order and assignment tak-  
ing precedence over, **5:335**

**CERTIFICATE OF PENDING  
LITIGATION**

See LIS PENDENS

**CHAIRPERSON**

See MEETING OF CREDITORS

**CHARGE**

Holder of, a secured creditor, **1:50, 6:164**

**CHARGES**

Incidental to administration of estate, pay-  
ment of, **2:66, 2:173**

**CHARGING ORDERS**

Priority of, **5:345**

Solicitor, effect of, **2:49**

**CHattel MORTGAGES**

Generally, **5:118**

Accelerated rent and, **6:334 to 6:341**

Fraudulent preference and, **5:515, 5:516**

Grounds for attacking, **5:118**

Land lord, priority, **6:385**

Secured creditor includes, **1:50, 6:164**

Seizure and sale before bankruptcy, **5:118**

Status of trustee to attack, **5:2, 5:118**

**CHERRY V. BOULTBEE, RULE IN**

Generally, **5:553**

Effect of, **5:553**

Meaning of, **5:553**

No application to action for damages,  
**5:553**

**CHERRY V. BOULTBEE, RULE IN**

**—Cont'd**

No application to income tax claim, **5:553**

No mutual debts, **5:553**

Unascertained debt, **5:553**

**CHILD**

Liability for support not released by dis-  
charge of bankrupt, **7:188**

Priority of, **6:320**

Provable claim for support, **6:136**

**CHILD TAX BENEFIT**

Generally, **5:256**

Cannot be assigned, **5:256**

Possible effect on discharge of bankrupt,  
**5:256**

Restriction on voting section 113(3), **6:38**

**CHOSES IN ACTION**

See also ASSIGNMENT OF BOOK  
DEBTS

Action by bankrupt will be dismissed,  
**5:250**

Bankrupt cannot collect, **5:250**

Champteros agreement, **5:250**

Compromising and settling debts, **2:94**

Damages for breach of contract & torts,  
**5:250**

Discharge of trustee does not vest in  
bankrupt, **2:193, 2:200**

Name to be used by trustee in collecting,  
**2:32**

Nothing owing at date of bankruptcy,  
**5:250**

Order to continue, **5:250**

Personal injuries, **5:250, 5:562 to 5:568**

Personal torts, **5:250, 5:562 to 5:568**

Property includes, **1:46, 5:250**

Provincial health care payments, **5:250**

Rights of action for damages, **5:250,  
5:562 to 5:568**

Sale of, by trustee, **5:250**

Vesting in trustee, **5:250, 5:562 to 5:568**

Wages owing to bankrupt, **5:250**

**CHURCH CORPORATIONS**

Act not applicable to, **1:25**

Cannot have an application made against,  
**3:23**

Not included in definition of corporation,  
**1:25**

## INDEX

### CLAIMS

See also **ADMISSION OF CLAIMS, DISALLOWANCE OF CLAIMS, and PROOF OF CLAIM**

Acquired after bankruptcy, voting on, **6:30**

Admiralty claims, **8:27**

Admission of, see **ADMISSION OF CLAIMS**

Allowance by trustee, appeal from, **8:80**

Aquaculturist, **5:423 to 5:435**

Assignment of, **6:431**

Automobile insurance, proceeds of, **6:423**

Child support, **6:136, 6:320**

Compromising, **2:95**

Contingent  
    see also **CONTINGENT CLAIMS**  
    generally, **6:124 to 6:132**

Costs, claims for, **6:119**

Costs of administration, **6:294**

Crown, **5:446 to 5:449**

Disallowance  
    see also **DISALLOWANCE OF CLAIMS**  
    generally, **6:266 to 6:270**  
    appeal from, **6:273 to 6:282, 8:80**  
    duty of trustee to examine proof, **6:261**

Discharge of bankrupt, effect of, **7:212 to 7:224, 7:226 to 7:231**

Effective date for application  
    generally, **3:123**  
    for proposal section 62(1.1), **4:31, 4:57, 4:72**

Events occurring after bankruptcy, **6:105**

Execution creditor, **5:335, 5:347 to 5:354, 6:388**

False statement in proof of claim, **6:154**

Farmer  
    see also, **FARM DEBT MEDIATION ACT**  
    generally, **5:423 to 5:435**

Filing  
    generally, **6:446 to 6:450**  
    failure to file, **6:446 to 6:449**  
    time for, **6:446 to 6:449**

Fisher, **5:423 to 5:435**

Foreign currency claims, **6:134, 14:25**

Foreign discharge, effect of, **7:225**

Funeral and testamentary expenses, **6:293**

Income tax, **6:89, 6:389**

### CLAIMS—Cont'd

Injuries to employees, **6:390**

Interest, **6:140, 6:254, 6:255, 6:421**

Land lord, **6:327 to 6:386**

Levy, **4:129, 6:295, 6:425 to 6:429**

Municipal taxes, **6:321 to 6:325**

Netting of claims, **6:109**

Not released by discharge  
    see **DEBTS NOT RELEASED BY ORDER OF DISCHARGE**  
    generally, **7:185 to 7:207**

Partnership, see **PARTNERSHIP**

Payable rateably, **6:403**

Postponement of, **6:395 to 6:399, 6:401**

Preferred payment of, **6:285 to 6:429**

Priority of, **6:285 to 6:291**

Proof of, see **PROOF OF CLAIMS**

Provable, see **PROVABLE CLAIMS**

Public utilities, **6:392**

Scheme of distribution, **6:285 to 6:291**

Splitting of, **6:30**

Spousal and child support, **6:136, 6:320**

Subordination of, **6:138**

Subrogation of, **6:116**

Unemployment insurance, **6:389**

Unliquidated  
    see **CONTINGENT CLAIMS**  
    generally, **6:124 to 6:132**

Valuation of, on proposal, **4:106 to 4:110**

Wages earners, **6:297 to 6:316**

### CLAIMS PROVABLE

See **PROVABLE CLAIMS**

### CLAIMS TO PROPERTY IN

#### POSSESSION OF BANKRUPT

See also **UNPAID SELLER**

Generally, **5:410 to 5:422**

Appeals, **5:416**

Deemed trusts, claims for, **5:27 to 5:29, 5:413**

Exclusive jurisdiction, **5:420**

Extension of time, **5:410 to 5:422**

Notice of disallowance improper, **5:410**

Notice to prove, form of, **5:419**

Onus on claimant, **5:415**

Owner making claim, **5:411**

Possession by bankrupt, essential, **5:412**

Procedure, **5:410 to 5:422**

Property not owned by bankrupt, **5:409**

Proposals, **5:422**

**CLAIMS TO PROPERTY IN  
POSSESSION OF BANKRUPT  
—Cont'd**

Proprietary claim, essential  
generally, **5:413**  
Real property, application to, **5:410**  
Registrar, jurisdiction of, **5:410 to 5:422**  
Restriction, **5:410 to 5:422**  
Revendication, **5:422**  
Right of unpaid seller to repossess, **5:423 to 5:435**  
Secured creditors, **5:410 to 5:422**  
Specifically identifiable property, **5:412**  
Trustee electing to admit or dispute claim,  
**5:414**

**CLOSELY CONNECTED PERSONS**

See ARM'S LENGTH TRANSACTIONS, RELATED PERSONS, and REVIEWABLE TRANSACTIONS  
Generally, **1:66**

**COLLECTIVE BARGAINING  
AGREEMENT**

See LABOUR RELATIONS  
interim receiver not necessarily a successor employer, **5:253**  
Termination by bankruptcy, **5:253**

**COMMERCIAL LEASES**

Compensation for, when disclaimed,  
**4:120**  
Disclaimer of, in proposals, **4:120**

**COMMISSIONS**

Directors and officers, **6:311**  
Payable when goods are shipped, **6:303**  
Wages include, **6:303**

**COMMITTAL**

See WARRANTS  
Application for failure to attend for examination, **7:53**

**COMMITTEE OF MENTAL  
INCOMPETENT**

See MENTAL INCOMPETENT

**COMMON-LAW PARTNER**

Death of, **8:62**  
Definition of, **1:45**  
Restricted claim for wages, **6:398**  
Support order for, **7:188**

**COMPANIES**

See CORPORATIONS

**COMPANIES' CREDITORS  
ARRANGEMENT ACT**

Generally, **19:3**  
Act in good faith, **1:68**  
Affiliated companies  
generally, **20:30**  
company controlled by a person or two or more companies, **20:31**  
Alteration of plan by creditors, **21:31**  
Alterations of plan  
generally, **21:15, 21:31**  
no need to distribute to creditors or obtain court approval, **21:31**

**Appeals**

generally, **22:99**  
application for leave usually taken to judge of Court of Appeal, **22:99**  
criteria for granting leave, **22:100**  
discretion to permit, **22:99**  
ex parte errors, **22:99**  
extending time, **22:99**  
hearing of, **22:102**  
leave to appeal, **22:99**  
stay pending appeal, **22:101**  
Supreme Court of Canada, **22:104**  
unsuccessful bidder cannot appeal,  
**22:100**

Approval of plan by the court, **21:16**

Arbitration proceedings, stay of, **22:13**

Arrangements, **21:2**

Assessment for income tax, staying of,  
**22:13**

Assignment of claim of creditor  
generally, **21:12**

court's decision to make order, **22:51**

criteria to apply in considering  
proposed assignment, **22:46**

exceptions to court's ability to assign  
generally, **22:47**

collective bargaining agreements,  
**22:50**

eligible financial contracts, **22:49**

post-commencement agreements,  
**22:48**

Bankruptcy and Insolvency Act and relation to, **19:3, 22:12, 22:73, 23:25, 23:76**

Bargaining agent, meaning of, **20:4**



## INDEX

### COMPANIES' CREDITORS

#### ARRANGEMENT ACT—Cont'd

- Bond, meaning of, **20:5**
- Cash flow statement, meaning of, **20:6**
- Charge for goods and services supplied after filing, **22:34**
- Claims bar order
  - generally, **23:3**
  - appeal from, **23:3**
  - extension of time, **23:3**
- Claims for damages, **23:2**
- Claims for fraud, conspiracy and breach of fiduciary duty, **21:20**
- Claims of creditors
  - generally, **23:2**
  - amount of claims, **23:6**
  - barring procedure, **23:3**
  - claims not compromised by plan, **21:7, 23:4**
  - contested claims, **23:7**
  - definition, **23:2**
  - negotiation and mediation of, **23:3.50**
  - process, **23:2**
  - proof of, **23:3.30**
- Claims that cannot be compromised, **21:7, 23:4**
- Classifying creditors, **21:12**
- Collective agreement
  - generally, **20:7, 23:58 to 23:64**
  - court authority to order, **23:63**
  - court criteria, **23:60**
  - meaning of, **20:7**
  - notice to bargain, **23:59**
  - parties to agreement, **23:64**
  - remains in force, **23:58**
  - revise, **23:62**
  - vote of creditors, **23:61**
- Commencement of proceedings, **22:5**
- Company, meaning of, **20:9**
- Compromises, **21:2**
- Condition precedent to filing, **20:29**
- Conflict between, Act and instrument, **21:33**
- Consolidation of proceedings, **21:13**
- Constitutional validity of, **19:3**
- Contingent claim, **23:2**
- Contractual obligations arising after filing, **22:13**
- Conversion of claims to Canadian currency, **23:97**

### COMPANIES' CREDITORS

#### ARRANGEMENT ACT—Cont'd

- Court, meaning of, **20:10**
- Court approved sale process, **21:29**
- Court authorizing assignment of agreement, **23:78**
- Court declaration, where directors have resigned or have been removed, **21:9**
- Court declaration where compromise would not be fair and reasonable, **21:8**
- Court order prohibiting release of information where prejudice to debtor company, **22:2, 22:7**
- Court order that constating instrument be amended, **21:25**
- Courts, acting in aid of each other, **22:108**
- Creditors
  - generally, **23:12**
  - criteria, **23:13**
  - equity claims, **23:15**
  - related claims, **23:14**
- Critical suppliers, **22:55**
- Cross border insolvency proceedings
  - generally, **24:2 to 24:23**
  - application for recognition of foreign proceeding, **24:8**
  - attornment to the jurisdiction, **24:15**
  - call in aid foreign courts, **24:13**
  - cooperation, **24:17**
  - discretionary orders made after recognition order, **24:16**
  - dividends and property received in a foreign proceeding, **24:18**
  - effect of recognition order, **24:11**
  - examinations of debtor or other persons, **24:14**
  - foreign court, definition of, **24:4**
  - foreign main proceeding, definition of, **24:5**
  - foreign non-main proceeding, definition of, **24:6**
  - foreign representative, definition of, **24:7**
  - guidelines applicable to court to court communications, **24:22**
  - miscellaneous cross-border provisions, **24:21**
  - multiple proceedings, **24:20**
  - obligation to inform court of any substantial change, **24:19**

## COMPANIES' CREDITORS

### ARRANGEMENT ACT—Cont'd

- Cross border insolvency proceedings
  - Cont'd
  - proof of foreign proceeding, **24:9**
  - protocol, **24:18**
  - purpose of provisions, **24:3**
  - recognition of foreign proceeding, **24:11**
  - stay of proceedings, **24:12**
- Crown claims, **22:53, 22:112, 23:10, 23:90 to 23:93**
  - Act binding on the Crown, **23:93**
  - deemed trust provisions, **23:90**
  - deemed trust under provincial legislature, **23:91**
  - payment of, **21:22**
  - workers' compensation claims, **23:92**
- Debt meaning of, **23:2**
- Debtor company, meaning of, **20:11**
- Debtor in possession financing
  - generally, **22:40**
  - considerations before granting, **22:40**
  - court may order priority charge, **22:41**
  - criteria to be applied by court, **22:43**
  - priority over builder's lien, **22:40**
- Debts payable in foreign currency, **23:97**
- Deemed trusts, **22:112**
- Directors, compromise of claims
  - generally, **21:6**
  - charge for, **21:6**
- Disclaimer or resiliation of contracts
  - generally, **23:49**
  - court approval, **23:51**
  - factors to consider, **23:52**
  - notice, **23:50**
  - provable claim of loss, **23:54**
  - provided reasons, **23:55**
  - right to intellectual property, **23:53**
  - specified contracts, **23:56**
- Disclosure of economic interest, **22:86**
- Duties under section 158, **23:76**
- Effect of order in other provinces, **22:106**
- Effect of sanctioning plan, **21:18**
- Eligible financial contract, meaning of, **20:13**
- Equity claim, meaning of, **20:14**
- Equity interest, meaning of, **20:15**
- Federal Court, effect of stay order on, **22:9**

## COMPANIES' CREDITORS

### ARRANGEMENT ACT—Cont'd

- Financial collateral, meaning of, **20:16**
- Foreign judgment, conversion to Canadian funds, **23:2**
- Foreign proceeding, **22:112**
- General rules, **25:3**
- Income trust, meaning of, **20:17**
- Indemnification
  - generally, **22:64**
  - gross negligence, willful misconduct, gross or intentional fault, **22:66**
  - ranking directors' charge, **22:65**
- Initial application, meaning of, **20:18**
- Interim receiver appointment of
  - generally, **22:84**
  - reason for appointment, **22:84**
- International insolvencies
  - generally, **22:112**
  - purpose of provisions of, Act, **22:112**
  - recognition of foreign plan, **22:112**
  - refusal to review order at request of foreign court, **22:84, 22:112**
  - stay of Canadian proceedings, **22:112**
- Interpretation of plan after sanction of court
  - generally, **21:21**
  - judge interpreting own order, **21:21, 22:102**
- Jurisdiction of courts
  - generally, **22:2**
  - inherent jurisdiction, **22:2**
  - proper place to file application, **22:2**
- Leases, termination of
  - generally, **20:15**
  - advance further credit, **23:70**
  - aircraft objects, **23:71**
  - application, **23:67**
  - cash or valuable consideration, **23:69**
  - prohibition on termination, **23:66**
  - provisions, contrary to, **23:72**
  - provisions, exceptions to, **23:73**
  - public utilities, **23:68**
- Lessors of equipment, treatment of, **22:34**
- Materials to accompany application, **22:6**
- Meeting of creditors, **21:14**
- Modification of plan, **21:31**
- Monitors
  - access to company's records and data, **23:30**

**COMPANIES' CREDITORS**

**ARRANGEMENT ACT—Cont'd**

Monitors—Cont'd  
 advise court, **23:25**  
 advise creditor, **23:21**  
 advise on fairness of plan, **23:26**  
 appointment of, **22:75**  
 assistance, **22:78**  
 attend court proceedings, **23:24**  
 auditor can act, **22:38**  
 code of ethics, **23:31**  
 cost of administration, **22:83**  
 creditor access to information, **23:27**  
 definition of, **22:75**  
 duties of, **21:2, 22:76**  
 employee claims, **22:80**  
 environmental conditions or damage, **22:81**  
 fees of, **22:68**  
 file prescribed documents, **23:22**  
 functions the court direct, **23:28**  
 hiring employees of bankrupt, **22:75**  
 interim receiver, **22:84**  
 investigate company's business and affairs, **23:19**  
 levy to Superintendent of Bankruptcy, **23:23**  
 liability, **22:79**  
 meaning of, **20:19**  
 preparation of report, **23:29**  
 priority of fees, **21:2**  
 publish orders, **23:17**  
 replacement of, **22:82**  
 report to court, **23:20**  
 restructuring officer or committee, **22:85**  
 review company's cash-flow statement, **23:18**  
 who can act as, **22:77**  
 Motions, cost of, **23:2**  
 Necessity for claims exceeding \$ 5 million, **20:29**  
 Net termination value, meaning of, **20:20**  
 Non-inclusion of parent company, **21:16**  
 Obligations to assist monitor, **23:75**  
 Offer made to particular group of creditors, **21:2**  
 Ontario, Business Corporations Act, use of, **20:5**  
 Order binding in other provinces, **19:3**

**COMPANIES' CREDITORS**

**ARRANGEMENT ACT—Cont'd**

Order effective for whole of the day on which it is made, **21:2**  
 Order meeting of creditors, **21:3**  
 Order meeting of shareholders, **21:4**  
 Parallel restructuring negotiations, **22:97**  
 Part of business in foreign jurisdiction, **22:106**  
 Persons related or dealing at arm's length, **20:27**  
 Plan more generous to certain creditors, **21:12**  
 Plan where company subject to bankruptcy or winding-up legislation, **21:24**  
 Professional fees, advance for generally, **22:40**  
 effective participation in proceedings, **22:70**  
 financial and legal experts, **22:69**  
 monitor's fees, **22:68**  
 priority of security or charge, **22:71**  
 Professional fees, setting a cap, **22:75**  
 Proof of claim, **23:3:30**  
 Proposals after filing, **4:149**  
 Protection of claims of employees and former employees, **21:26**  
 Protection of pension claims, **21:27**  
 Provincial legislation, **23:15**  
 Purposes of Act, **19:3**  
 Regulations, **24:23**  
 Remittances due after application for initial order, **21:23**  
 Requirements to act in good faith, **1:68**  
 Restraining right of set-off, **22:45**  
 Restructuring officer or committee, **22:85**  
 Review of the, Act, **25:2**  
 Rules, **22:110**  
 Sale of assets by debtor generally, **21:20**  
 after approval by court, **23:84**  
 court approval, **23:77**  
 court to authorize only where company can make specified payments, **23:83**  
 criteria to apply, **23:80**  
 notice of application to court, **23:79**  
 prohibitions on sale, **23:78**  
 sale or disposition free and clear of security, **23:82**

**COMPANIES' CREDITORS**

**ARRANGEMENT ACT—Cont'd**

- Sale of assets by debtor—Cont'd
  - sale to related party, **23:81**
- Sale of substantial assets prior to consideration of plan by creditors, **23:78**
- Sanction of plan
  - generally, **21:16**
  - adjournment of application, **21:16**
  - interim receiver applying for, **21:20**
- Secured creditor, meaning of
  - generally, **20:21**
  - plan offered only to secured creditors, **21:20**
  - success payment to, **20:15**
- Set-off
  - generally, **22:112, 23:9**
  - binds the Crown, **23:10**
  - equitable set-off, **22:112**
- Setting aside, **22:30**
- Shareholders, cannot vote, **21:4, 23:15**
- Shareholders, compromise with, **23:15**
- Shareholders, meaning of, **20:22**
- Stay of proceedings
  - generally, **20:15, 22:9**
  - after approval of plan, **22:27**
  - appeal from, **22:31**
  - arbitration proceedings, **22:13**
  - assessment for income tax, **22:13**
  - Bankruptcy and Insolvency Act proceedings, **22:12**
  - Canada deposit insurance corporation, duties of in relation to, **22:21**
  - Canadian Payments Act, in relation to, **22:19**
  - cancellation of stock exchange listing, **22:13**
  - claims under section 224(1.2) of, Income Tax Act, **20:15**
  - class action, **22:30**
  - crown claims, **22:23**
  - deemed trusts, **22:112**
  - derivative contracts, **22:49**
  - DIP financing, **22:40**
  - directors
    - generally, **21:6, 22:58**
    - exceptions to stay with guarantee, **22:59**
    - filing vacancy, **22:63**
    - no reasonable cause of action, **21:6**

**COMPANIES' CREDITORS**

**ARRANGEMENT ACT—Cont'd**

- Stay of proceedings—Cont'd
  - directors—Cont'd
    - removing directors, **22:61**
    - resigned directors, **22:60**
  - disobedience of, **22:29**
  - eligible financial contracts, **20:13, 22:32**
  - equity solicitation, **22:37**
  - Excise Tax Act claims, **22:54**
  - extension of time, **22:10**
  - labour relations, **22:26**
  - lease, repudiation of, **21:2, 21:33**
  - letters of credit, **22:33**
  - lien claims, **22:36**
  - lifting the stay, **22:30**
  - minister of finance, performance of duties in relation to, **22:21**
  - monitor to send copy to know creditors, **22:18**
  - non-disclosure, **22:30**
  - oppression remedy, **23:2**
  - preferences and transfers at undervalue
    - generally, **23:87**
    - dates and terms to be applied, **23:88**
  - proceedings, meaning of, **22:13**
  - proceedings to obtain, **22:10**
  - proceedings under, Bankruptcy and Insolvency Act, **22:12**
  - proceedings under, Winding-up and Restructuring Act, **22:12**
  - prohibiting commencement of proceedings, **22:14**
  - provision for payment of claims in full or in part, **21:12**
  - regulatory body, **22:13, 22:24**
  - restraining further proceedings in an action, **22:13**
  - restraining right of set-off, **22:45**
  - sale of assets after approval of plan, **23:84**
  - sale of substantial assets prior to court's consideration of the plan
    - generally, **23:78**
    - court authorizing assignment of agreement, **23:78**
    - scope of order under initial application, **22:11**
    - scope of order under subsequent applications, **22:15**

## COMPANIES' CREDITORS

### ARRANGEMENT ACT—Cont'd

- Stay of proceedings—Cont'd
  - sale of substantial assets prior to court's consideration of the plan—Cont'd
  - security on aircraft objects, in relation to, **20:6**
  - setting aside, **22:30**
  - special payment to secured creditors if plan successful, arrangement for, **22:35**
  - stay not affect action against other persons, **22:17**
  - stay on actions against directors, **22:16**
  - Superintendent of Financial Institutions, duties of in relation to, **22:21**
  - suppliers after filing of plan, **22:34**
  - surplus after paying creditors, **20:17**
  - terminating contracts, **22:45**
  - third parties
    - generally, **22:38**
    - restraining sale of shares, **22:38**
  - thirty-day goods, **22:28**
  - true leases, payments under, **22:34**
  - varying, **22:30**
  - Winding-up and Restructuring Act proceedings, **22:12, 22:22**
- Subsidiary, **20:32**
- Superintendent of Bankruptcy
  - see also Superintendent of Bankruptcy under the, BIA provisions
  - generally, **23:33 to 23:47**
  - access to records, **23:38**
  - action against monitor
    - generally, **23:40**
    - monitor to receive notice, **23:41**
  - decision of a federal board or tribunal, **23:46**
  - delegate authority, **23:47**
  - engage professionals, **23:39**
  - hearing convened, **23:43**
  - intervene in proceedings, **23:35**
  - investigation, **23:37**
  - issue summons, **23:42**
  - meaning of, **20:23**
  - record of proceedings, **23:44**
  - records, **23:33**
  - records of complaints, **23:36**
  - review monitor, **23:34**

## COMPANIES' CREDITORS

### ARRANGEMENT ACT—Cont'd

- Superintendent of Bankruptcy—Cont'd
  - written decision, **23:45**
- Superintendent of Financial Institutions, meaning of, **20:24**
- Termination of contracts, **21:33, 22:45**
- Title transfer credit support agreement, meaning of, **20:25**
- Transferring proceedings under the, Bankruptcy and Insolvency Act, **22:73**
- Treatment of equity claims, **21:28**
- Unsecured creditor, meaning of
  - generally, **20:26**
  - payment to, prior to filing, **22:56**
- Vacancy, **22:63**
- Voting on plan
  - generally, **21:14**
  - benefit given to obtain vote, **21:14**
  - court decides who may vote, **21:14**
  - proxies, **21:14**
  - shareholders, right to vote, **21:2, 23:15**
  - show of hands, **21:14**
  - valuation for voting, **21:14**
- Who may make the application
  - generally, **21:2**
  - secured creditors only, **21:2**
- Winding-up and Restructuring Act reference to, **22:14, 23:2**
- Withdrawal of capital revenue by debtor, **21:33**
- Workers' Compensation claims, **22:112, 23:92**

## COMPENSATION

- Money paid by way of, **5:187**
- Order for, **9:29**

## COMPLAINT FOR BANKRUPTCY OFFENCE

- See also BANKRUPTCY OFFENCES
- Form of, **9:1, 9:32**
- Time for, **9:1, 9:33**

## COMPOSITION

- See PROPOSAL

## COMPROMISING AND SETTLING CLAIMS

- See also CHANCES IN ACTION
- Generally, **2:95**
- Absolute power of trustee, **2:94**

**COMPROMISING AND SETTling CLAIMS—Cont'd**

Court approval, no necessity for, **2:95**  
 Court approval, when required  
     generally, **2:95**  
     how confirmed, **2:94**  
 Court making order that objections not  
 valid, **2:95**  
 Necessity for inspectors' approval, **2:73,**  
**2:95**  
 Objection by unsecured creditor, **2:95**  
 Setting aside, **2:95**

**COMPROMISING AND SETTling DEBTS**

Generally, **2:94**  
 Absolute power of trustee, **2:94**  
 Court directions, no need for, **2:94**

**CONCEALMENT**

See BOOKS and RECORDS

**CONDITIONAL DISCHARGE OF BANKRUPTCY**

See DISCHARGE OF BANKRUPT

**CONDITIONAL SALES**

Generally, **5:85**  
 Lease with option for purchase, **5:85**  
 Secured creditor, includes, **1:50**  
 Trustee not entitled to, **5:85**  
 Words necessary to create, **5:85**

**CONDUCT MONEY**

Payment to person being examined, **7:52**

**CONSERVATORY MEASURES BY TRUSTEE**

See also PERISHABLE GOODS  
 Generally, **2:52**  
 Marginal grain accounts, **2:52**  
 No necessity for order to dispose of  
 perishable goods, **2:52**  
 Sale of shares, **2:52**  
 Seasonable goods not perishable, **2:52**

**CONSIGNMENT GOODS**

Generally, **5:86 to 5:91**  
 Agency relationship is essential, **5:86**  
 Burden of proof, **5:87**  
 Commercial consignment, **5:151**  
 Distinguished from sale or return, **5:89**  
 Essential elements of, **5:88**

**CONSIGNMENT GOODS—Cont'd**

Funds removed from trust account  
 without authority, **5:90**  
 Intention of parties, **5:88**  
 Mixing with other goods, **5:88**  
 No need to make inquiries as to right to  
 sell, **5:86 to 5:91**  
 "On consignment" insufficient, **5:88**  
 PPSA, **5:86 to 5:91, 5:151**  
 Procedure for claiming, **5:91**  
 Remedies of consignor, **5:90**  
 True consignment, **5:151**

**CONSOLIDATION OF BANKRUPT ESTATES**

Jurisdiction to order, **8:7**

**CONSOLIDATION ORDER**

Effect on guarantors, **12:9**  
 Orderly Payment of Debts Act, **11:2**

**CONSTITUTIONAL LAW**

Appointment of interim receiver, **3:104**  
 Attacks on constitutional validity, **1:12**  
 Conflict between provincial statute and,  
 Bankruptcy and Insolvency Act, **1:10**  
 Federal bankruptcy legislation, **1:11**  
 Method of determining validity, **1:10**  
 Provincial legislation, **1:10**

**CONSTRUCTION LIEN**

See LIEN, MECHANICS' LIEN

**CONSTRUCTIVE TRUST**

See TRUST PROPERTY

**CONSUMER PROPOSALS**

Generally, **4:152, 4:171**  
 Acceleration of payments, **4:161**  
 Administrator refusing to file, **4:153**  
 Administrator's fees and expenses,  
**16:114**  
 Agreement terminated by, **4:160**  
 Alimony and maintenance, claim for,  
**4:159, 6:320**  
 Amendment of, **4:163**  
 Annulment of  
     generally, **4:164**  
     effect of, **4:164**  
     notice to creditors, **4:164**  
     payments made after, **4:164**  
 Approved by court  
     generally, **4:158**



## INDEX

### CONSUMER PROPOSALS—Cont'd

- Approved by court—Cont'd
  - must be fair and reasonable, **4:158**
- Assignment in bankruptcy, **4:166**
- Bankruptcy prior to September 30, 1997, **4:153**
- Calculation of \$ 75,000, **4:153**
- Completion of, **4:169**
- Creditors bound by, **4:159**
- Crown bound by, **4:159**
- Debtor, protection of, **4:167**
- Default, relieving against, **4:164**
- Discharge of administrator, **16:81**
- Eligibility to make, **4:153**
- Eligible financial contracts, **4:168**
- Failure to make payments for 3 months, effect of, **4:164**
- Fees, in connection with, **4:170**
- Income tax claim, released by, **4:159**
- No extension of time, in case of default, **4:164**
- Persons eligible, **4:153**
- Postponing deemed acceptance, **4:155**
- Procedure, **4:155**
- Proposal by ineligible person, **4:158**
- Protection of debtors, **4:167**
- Public utilities, **4:162**
- Purpose of, **4:152**
- Rent owing prior to filing, **4:167**
- Revival of a consumer proposal, **4:165**
- Second consumer proposal, **4:153, 4:164**
- Secured creditors, **4:156**
- Stay of proceedings, **5:357 to 5:366**
- Taxation of accounts, **4:171**
- Termination because of insolvency, **4:160**
- Termination of eligible financial contracts in a consumer proposal, **4:168**
- Terms of, **4:154**
- Voting, **4:157**
- Who may make, **4:153**

### CONTINGENT CLAIMS

- Generally, **6:124 to 6:132**
- Appeal from disallowance, **6:273 to 6:282**
- Breach of employment contract, **6:128**
- Crystallized in judgment, **6:132**
- Damages, **6:127**
- Definition of, **6:125**
- Determination by trustee final and conclusive, **6:124**

### CONTINGENT CLAIMS—Cont'd

- Disallowance of, **6:124, 6:262, 6:266 to 6:270**
- Equipment rental claims, **6:131**
- Foreign currency, **6:124 to 6:132**
- Guarantor, **6:126, 6:133**
- Incapable of valuation, **6:125**
- Procedure for valuing, **6:124**
- Proposals and, **6:124 to 6:132, 6:139**
- Rental of a chattel, **6:131**
- Too uncertain, **6:129**
- Unliquidated claims, **6:127**
- Valuation by trustee, **6:124**
- Voting by, **6:41**

### CONTRACTS

- Damages for breach
  - generally, **5:252**
  - duty to mitigate, **5:252**
- Disclaimer by trustee of, **5:252**
- Effect of bankruptcy on, **5:252, 5:357 to 5:366**
- Employment contracts, effect on, **5:252, 6:297 to 6:316**
- Personal services, **5:252**
- Property of bankrupt, **5:252**
- Rescission, **5:92**

### CONTRIBUTORIES

- Generally, **5:399 to 5:405, 16:84**
- Amount unpaid, **5:402**
- Applicable law, **5:399**
- Asset of estate, **5:399**
- Calls, **5:399 to 5:405**
- Cancellation of subscription, **5:404**
- Co-operative, unpaid amount on shares, **5:399 to 5:405**
- Corporation purchasing own shares, **5:406**
- Demand for payment
  - generally, **16:83**
  - service of, **16:83**
- Disputing liability, **5:405, 16:84**
  - form of, **16:83**
  - time for, **16:83**
- Installment payments, **5:399 to 5:405**
- Necessity for allotment or acceptance, **5:401**
- Onus on trustee to prove allotment, **5:399 to 5:405**
- Proceedings to recover, **5:405, 16:83**

**CONTRIBUTORIES—Cont'd**

- Rights of trustee, **5:400**
- Transfer of unpaid shares, **5:403**
- Waiver of notice of allotment, **5:399 to 5:405**

**CONVEYANCES**

- See FRAUDULENT CONVEYANCES, FRAUDULENT PREFERENCES, PROPERTY and REAL PROPERTY

**CO-OPERATIVE SOCIETY**

- Application against, **3:29**
- Assignment by, **1:25**
- Balance owing on shares, **5:399 to 5:405**
- Whether corporation includes, **1:25**
- Whether person includes, **1:45**

**CO-OPERATIVE SYNDICATE**

- Not included in definition of corporation, **1:25**

**COPYRIGHT**

- Generally, **5:235, 5:441**
- Acquired by bankrupt, **5:235**
- Assignment of, **5:441**
- Fixed fee not a royalty, **5:441**
- Property must have been assigned to bankrupt, **5:235**
- Property of bankrupt subject to, **5:235, 5:441**
- Sale of, **5:235, 5:441**

**CORPORATION**

- Assignment by, **3:171**
- Bankruptcy offence committed by, **9:27**
- Banks, see BANKS
- Benefit conferred on director, **5:181**
- Claim of officers and directors for salary, **6:311**
- Corporate entity, continues, **1:25**
- Definition of, **1:25**
- Directors and officers, duties of, **7:5 to 7:24**
- Directors and officers, effect on, **1:25**
- Examination of officers and directors by official receiver
  - generally, **7:24, 7:28**
  - by creditors, **7:44 to 7:49**
  - by trustee, **7:30 to 7:43**
- Impairing capital, **5:406**
- Inside directors, liability of, **1:25**

**CORPORATION—Cont'd**

- Insurance companies, not included in definition, **1:25**
- Liability of officers and directors for GST and income tax, **1:25**
- Liability of officers and directors for offences, **9:27**
- Liability of officers and directors for wages, **6:317**
- Loan companies, not included in definition, **1:25**
- Payment of compensation, incentives or other benefits within 12 months of bankruptcy, **5:588**
- Payment of dividend within 12 months of bankruptcy, **5:587**
- Performance of duties of bankrupt, **7:24**
- "Person" includes, **1:45**
- Postponement of claims of directors section 140, **6:395 to 6:399**
- Proof of claim by, **6:24 to 6:28**
- Proxies by creditors, **6:42 to 6:51**
- Purchasing own shares, **5:406**
- Railway companies not included in definition, **1:25**
- Redemption of shares, **5:576**
- Registration of transfer of shares, **1:25**
- Reviewable transactions, **5:576, 6:395 to 6:399**
- Successors of, "Person" includes, **1:45**
- Trust companies not included in definition, **1:25**
- Voting by, restrictions on, **6:38**

**COSTS**

- Generally, **8:111 to 8:146**
- Action by creditor where trustee refuses to take proceedings, **2:162**
- Advances to solicitor for debtor to defend application, **3:62, 8:123**
- After bankruptcy incurred by bankrupt, **8:125**
- Against trustee, **8:126**
- Appeal from disallowance, **6:280**
- Appeal from taxation, **8:146, 16:37**
- Appeals, costs of, **8:119**
- Application for directions, costs of, **2:114**
- Approval of inspectors
  - generally, **8:121, 8:128**
  - giving of general authority, **8:128**
- Assignment on, **8:123**
  - costs prior to, **8:123**

## INDEX

### **COSTS—Cont'd**

- Authorized services only, are payable section 197(4), **8:116, 8:128**
- Awarded against a non-party, **8:127**
- Bankrupt, attendance on taxation, **8:142**
- Bankrupt's costs after assignment or bankruptcy order, **8:125**
- Bill of costs, form of, **8:113**
- Certificate of taxation on
  - generally, **16:37**
  - of trustee on bill of costs, **8:113, 16:37**
- Change in hourly rate during administration of bankrupt estate, **8:117**
- Contingency fee, **8:113**
- Crown, liability for, **8:144**
- Disallowance of, **8:135, 8:141**
- Discharge of bankrupt, **8:134**
- Discretion as to, **8:111**
- Disputed application, **3:81, 8:123**
- Exceeding 10% of gross receipts
  - generally, **8:121**
  - review of inspectors' refusal, **8:121**
- Failure to submit bill for taxation, **8:139**
- First execution creditor, **5:347 to 5:354**
  - see **FIRST EXECUTION CREDITOR'S COSTS**
- Form of bill of costs, **8:113**
- Fraudulent conveyance, **5:467**
- Fraudulent preferences, **5:539**
- Gross receipts under \$1,000 or \$ 2,000
  - generally, **8:121**
  - meaning of, **8:121**
- Incidental to proceedings in court, **8:111**
- Incurred in another province, **8:140**
- Inspector of, when solicitor to bankrupt estate, **8:135**
- Inspectors, approval of, **8:128**
- Intervention of trustee in litigation commenced before bankruptcy, **8:114**
- Lien for, **2:49, 8:137**
- Lump sum, **8:111, 8:112**
- Method of payment, **8:129**
- Method of taxation, **8:112, 8:117, 8:122**
- Must be a party, **8:111**
- Necessity for taxation, **8:138**
- No increased costs, **8:111**
- Non-parties liability for costs, **8:127**
- Not allowed, **8:130**
- Not exceeding \$ 1,000, **8:138, 16:37**
- Order for submission of bill, **8:139, 16:37**

### **COSTS—Cont'd**

- Party and party, **8:112, 8:117, 8:123**
- Personal liability of solicitor, **8:115**
- Personal liability of trustee, **8:114**
- Personal liability of trustee for costs of discharge, **8:134**
  - application on, **8:123**
- Preceding assignment or application, **8:123**
- Priority of payment
  - generally, **6:294, 8:120**
  - priority changed by reason of equitable fraud, **6:294, 8:120**
- Prior to appointment of inspectors, **8:124**
- Proposals, **8:121, 8:133**
- Reasonable description of service
  - generally, **8:113, 16:37**
  - no need for separate value for each item, **8:114**
- Receiver, taxation of costs, **8:143**
- Registrar section 192(1)(i), **8:75, 8:141**
- Restriction on amount, **8:121**
- Second counsel, **8:117**
- Secured claims, on, **6:256**
- Security for
  - see also **SECURITY FOR COSTS**
  - generally, **8:130**
  - application, on, **3:100**
- Set-off, **8:145**
- Signing of bill by registrar, **16:37**
- Solicitor and client, **8:117, 8:122**
- Solicitor and own client not allowed, **8:111**
- Solicitor's lien for, **2:49, 8:137**
- Supreme Court of Canada, **8:119**
- Tariff
  - generally, **8:117**
  - application of provincial tariffs, **8:117**
  - quantum of where tariff not applicable, **8:118**
- Taxation of, **8:112, 8:117 to 8:123, 8:139, 16:37**
- Trustee, costs against, **8:126**
- Trustee adopting liability for, **8:136**
- Trustee guilty of misconduct, **8:114**
- Trustee to be represented on taxation, **8:141, 16:37**
- Withholding payment, **16:37**

## **COUNSELLING SERVICES**

- By trustee in bankruptcy, Superintendent of Bankruptcy Directive No. 1R2, **7:2**
- By trustee in consumer proposal, Superintendent of Bankruptcy, **4:155**
- Fees for, **7:3**
- Neglecting to provide
  - generally, **7:2**
  - bankruptcy order, **7:2**
- Trustee giving wrong advice, **7:2**

## **COURT OF APPEAL**

- See APPEALS

## **COURTS**

- Acting in aid of each other, **2:51, 8:55**
- Annulling bankruptcy order, **3:137, 7:239**
- Annulling proposal, **4:130 to 4:138**
- Appeals, **8:86 to 8:99**
- Application for directions, see DIRECTIONS OF COURT
- Application to, by creditor for leave to sue bankrupt
  - generally, **5:278**
  - by trustee for discharge, **2:189 to 2:194**
  - for alteration of proposal, **4:16**
  - for approval of proposal, **4:71 to 4:78**
- Appointment of inspectors, revocation of
  - generally, **6:68 to 6:83**
  - of trustee, **2:18 to 2:24**
- Approval of, fees of inspectors
  - generally, **6:93, 6:94**
  - final statement of receipts and disbursements, **6:453**
  - for alteration of proposal, **4:16**
  - inspector purchasing assets, **6:66**
  - substituted trustee, fees and disbursements, **2:18 to 2:24**
- Authorization of incurring obligations by trustee or interim receiver
  - generally, **2:104**
  - creditor taking proceedings in own name, **2:138**
- Certificate that bankruptcy caused by misfortune, **7:183**
- Chambers, sitting in, **8:35**
- Commercial list in Ontario, **8:36**
- Committal, see COMMITAL
- Conflict with civil courts, **8:8 to 8:19**
- Consolidation of application by, **3:36**
- Consolidation of estates, **8:7**

## **COURTS—Cont'd**

- Correction of errors in proposal, **4:16, 16:78**
- Costs, see COSTS
- Courts of Appeal
  - see also APPEALS
  - generally, **8:86 to 8:107, 16:44**
- Criminal proceedings, see BANKRUPTCY OFFENCES
- Declaratory judgment, **8:6**
- Defects in proceedings, **8:48, 8:52**
- Definition, **1:26, 8:2**
- Directing trial of issue, **8:47**
- Directions, see DIRECTIONS OF COURT
- Disallowance of claim
  - see also DISALLOWANCE OF CLAIMS
  - generally, **6:266 to 6:270**
- Discharge of bankrupt, see DISCHARGE OF BANKRUPT
- Dispensing with duties of trustee, **8:54**
- Dispensing with material or mailing, **8:54**
- Dividends, requiring trustee to pay section 148(3), **6:431**
- Documents, filing in
  - generally, **16:27**
  - admission of, **8:61**
  - service of, **16:15**
  - service of application, **3:41**
- Enforcement of orders, **8:45**
- Equitable jurisdiction, **8:5**
- Evidence
  - generally, **16:34**
  - in case of death, **8:62**
- Extension of time, **8:53**
- Filing, time of notice of motion, **16:26**
- Filing by fax, **16:22**
- Gap-filling, **8:4**
- Inspectors, review of decision and actions, **6:87**
- Irregularity in proceedings, **8:48, 8:52**
- Issue, directing trial of
  - see ISSUE
  - generally, **8:47**
- Judge, appointment of
  - generally, **8:3**
  - definition of, **8:2, 8:3**
- Jurisdiction
  - see also JURISDICTION OF COURT

**COURTS—Cont'd**

Jurisdiction—Cont'd  
 generally, **8:2 to 8:31**  
 ancillary, **8:4**  
 claim for monetary sum, **8:2**  
 conflict with civil courts, **8:8 to 8:19**  
 declaratory judgments, **8:6**  
 equitable, **8:4, 8:5**  
 foreign bankruptcies, **8:25**  
 gap-filling, **8:4**  
 inherent, **8:4**  
 judge sitting in bankruptcy, **8:3**  
 registrar of, **8:31, 8:64 to 8:84**  
 statutory interpretation, **8:4**  
 Lis pendens, issue of, **16:90**  
 Money in, **5:346**  
 Motions, **16:24, 16:26**  
 Necessity for uniformity of decision  
 throughout Canada, **1:4**  
 Orders enforceable throughout Canada,  
**8:56**  
 Periodical sittings, **8:36**  
 Practice in civil matters  
 see also PRACTICE and PROCEDURE  
 generally, **16:7**  
 Proceedings against trustee, **2:128 to**  
**2:136, 10:6 to 10:12**  
 Process, service of  
 see also SERVICE  
 generally, **16:15**  
 Reference to Judge by registrar  
 generally, **8:84**  
 to Judge or other officer of issue, **8:47**  
 Regulation of proceedings in, **8:2**  
 Relieving against formal defects and  
 irregularities, **8:48**  
 Report to, by trustee under section 34(2)  
 generally, **2:121**  
 made by registrar, **2:121**  
 Restraining courts in execution of process,  
**8:34**  
 Review of decisions and actions of  
 inspectors  
 generally, **6:87**  
 own order, **8:37 to 8:44**  
 Rules, power to make, **10:2**  
 Sale of assets, see SALE OF ASSETS  
 Seal, **8:33**

**COURTS—Cont'd**

Secured creditors, interference with,  
**5:326**  
 Service of documents  
 generally, **16:15**  
 of application, **3:41**  
 Settlement of orders, **8:78**  
 Sittings of section 187(4)  
 generally, **8:36**  
 rules regulating, **16:39**  
 Statutory interpretation, **8:4**  
 Supreme Court of Canada, appeals to  
 generally, **8:30, 8:108, 8:109**  
 stay of proceedings, **8:109**  
 Transfer of proceedings, **8:46**  
 Trial of issue, **8:47**  
 Trustee, taxing accounts of  
 generally, **2:170 to 2:182, 6:459, 8:141**  
 appointing, **2:18 to 2:24**  
 confirming, reviewing or modifying  
 decision of, **2:128 to 2:136**  
 officer of, **2:128**  
 Uniformity of decisions, necessity for, **1:4**  
 Varying own orders, **8:37 to 8:44**  
 Warrants directing search or seizure, **8:60**  
 Witnesses, **16:28 to 16:32, 16:34**  
 Wrong court, proceedings taken in, **8:52**

**COVID-19 AMENDMENTS**

Generally, **1:6**

**CREDIT**

Bankrupt obtaining, **9:14 to 9:16**  
 False representations, obtaining by, **9:2**  
 Property obtained on, pawning, pledging  
 or disposing of, **9:2**  
 Received in carrying on business by  
 trustee, **2:104 to 2:107**

**CREDITORS**

Actions by where trustee refuses to take  
 generally, **2:138 to 2:168**  
 against trustee, **2:128 to 2:136, 10:6 to**  
**10:12**  
 against undischarged bankrupt, **5:278**  
 Appeal, from decision of chairperson at  
 first meeting, **6:53 to 6:62**  
 Application for reappointment of trustee,  
**2:201**  
 Application of leave to sue debtor, **5:278**  
 Appointment of inspectors in bankruptcy,  
**6:68 to 6:83**

## CREDITORS—Cont'd

Appointment of inspectors in proposal, **4:42**  
 Appointment of new trustee by, **2:21**  
 Arm's length voting by, **6:38**  
 Authorizing trustee to institute criminal proceedings, **2:60, 9:30**  
 Books and records, inspection of, **2:62**  
 Calling meeting, **6:3**  
 Claims  
   see also CLAIMS  
 Claims, see CLAIMS  
   admission of, **6:261**  
   disallowance  
     see DISALLOWANCE OF CLAIMS  
     generally, **6:266 to 6:270**  
   filing, **6:446 to 6:449**  
   on proposal section 62(1), **4:106 to 4:110**  
   provable  
     see PROVABLE CLAIMS  
     generally, **6:99 to 6:142**  
   time for determination on application, **3:46**  
 Class of, **4:60**  
 Contingent claims, **6:41, 6:124 to 6:132**  
   see CONTINGENT CLAIMS  
 Criminal proceedings, authorizing of, **2:60, 9:30**  
 Debt not payable at debt of bankruptcy, **6:137**  
 Decision of trustee, application to court, remedies, **2:128 to 2:136, 10:6 to 10:12**  
 Definition of, **1:27**  
 Directions to trustee, see DIRECTIONS OF COURT  
 Discharge of bankrupt, opposing, **7:85 to 7:101**  
 Dividends  
   see also DIVIDEND  
   generally, **6:431 to 6:456**  
 Examination by, **7:44 to 7:49**  
   see EXAMINATIONS  
 Execution, lien for costs, **5:347 to 5:354, 6:388**  
 Failure of bankrupt to disclose name of, **6:4 to 6:10, 7:5 to 7:23, 7:178, 7:205**  
 False claim or proof, **9:19**  
 False declaration, **9:19**

## CREDITORS—Cont'd

False statement of account, **9:19**  
 First meeting of, see MEETINGS OF CREDITORS  
 Fraudulent preference to  
   see also FRAUDULENT PREFERENCES  
   generally, **5:487 to 5:528**  
 Inspectors, filling vacancy  
   see INSPECTORS  
   generally, **6:68 to 6:83**  
   overriding, **6:87**  
   revoking appointment, **6:68 to 6:83**  
 Limiting amount of obligations that trustee may incur  
   generally, **6:144 to 6:150**  
   time for carrying on business, **6:144 to 6:150**  
   trustee's borrowing, **6:144**  
 Meetings at  
   see MEETINGS OF CREDITORS  
   generally, **6:2 to 6:63**  
 Name of, omitted from list of creditors, **6:4 to 6:10, 7:5 to 7:23, 7:178, 7:205**  
 Notices to, of first meeting of creditors  
   generally, **6:3**  
   of proposal, **4:31**  
 Overriding decision of inspectors, **6:87**  
 Partnership, **6:401, 6:404 to 6:420**  
 Postponed, **6:395 to 6:399, 6:401**  
 Preferred, **6:285 to :394**  
 Preferred shareholders, not creditors, **6:99 to 6:123**  
 Priorities of, **6:285 to 6:423**  
 Proceedings in own name, **2:138 to 2:168**  
 Proof of claim, see PROOF OF CLAIM  
 Proposal to, see PROPOSALS  
 Quorum of, **6:13 to 6:23**  
 Realizing security  
   see also SECURED CREDITORS  
   generally, **5:326, 6:159**  
 Removal of trustee by, **2:18 to 2:24**  
 Requiring filing of claim, **6:446 to 6:449**  
 Right to inspect books and records, **2:62**  
 Secured, see SECURED CREDITORS  
 Substituted trustee, appointment of  
   see also SUBSTITUTED TRUSTEE  
   generally, **2:18 to 2:24**



**CREDITORS—Cont'd**

- Taking proceedings in own name, **2:138 to 2:167**
- Trustee dividing up property among, **2:96**
- Voting by, see MEETINGS OF CREDITORS, PROPOSALS and CONSUMER PROPOSALS

**CRIMINAL PROCEEDINGS**

- See BANKRUPTCY OFFENCES

**CROSS-BORDER INSOLVENCY PROCEEDINGS**

- Generally, **14:2 to 14:25, 24:2 to 24:23**
- Application for recognition of foreign proceeding, **14:8, 24:8**
- Applications, **14:15**
- Attornment to the jurisdiction, **14:18, 24:15**
- Call in aid foreign courts, **14:14, 24:13**
- Conversion of claims to Canadian currency, **14:25**
- Cooperation, **14:20, 24:17**
- Discretionary orders made after recognition order, **14:19, 24:16**
- Dividends and property received in a foreign proceeding, **14:21, 24:18**
- Effect of recognition order, **14:11, 24:11**
- Examinations of debtor or other persons, **14:17, 24:14**
- Foreign court, definition of, **14:4, 24:4**
- Foreign main proceeding, definition of, **14:5, 24:5**
- Foreign non-main proceeding, definition of, **14:6, 24:6**
- Foreign representative, definition of, **14:7, 24:7**
- Guidelines applicable to court to court communications, **24:22**
- Interim receivers, **14:15**
- International insolvencies, Generally, **14:2**
- Miscellaneous cross-border provisions, **14:24, 24:21**
- Multiple proceedings, **14:23, 24:20**
- Obligation to inform court of any substantial change, **14:22, 24:19**
- Proof of foreign proceeding, **14:9, 24:9**
- Proposals, **14:16**
- Protocol, **24:18**
- Purpose of provisions, **14:3, 24:3**

**CROSS-BORDER INSOLVENCY**

**PROCEEDINGS—Cont'd**

- Recognition of foreign proceeding, **14:10, 24:11**
- Right of Canadian trustee to claim foreign assets, **14:12**
- Stay of proceedings, **14:13, 24:12**

**CROWN**

- Generally, **5:446**
- Bankruptcy and Insolvency Act, binding on, **1:67**
- Companies' Creditors Arrangement Act, **23:90 to 23:93**
- Costs, **1:67**
- Deemed trusts for, **5:27 to 5:29**
- Duty to deliver property to trustee, **2:41 to 2:45**
- Government bodies, **5:448**
- Mortgage on land, **5:451**
- Proposals, **5:446 to 5:449**
- Provincial legislation similar to section 224(1.2) of, Income Tax Act, **5:447**
- Secured claim, **5:446**
- Secured claim falling within section 136, **5:446**
- Trustee as agent of Crown, **5:449**

**DAMAGE**

- Environmental, **2:28**

**DAMAGES**

- Accelerated rent, as, **6:334 to 6:341**
- Interim receiver, caused by appointment of
  - generally, **3:108, 16:72**
  - undertaking as to damages, **3:118**
- Trustee causing, **2:106, 2:129, 2:135**

**DATE OF BANKRUPTCY**

- Generally, **1:60**
- Definition of, **1:60**
- No dating back, **1:60**
- Time of commencement, **1:60**

**DATE OF INITIAL BANKRUPTCY EVENT**

- Generally, **1:29 to 1:32**
- Assignments, **1:30**
- Proposals
  - generally, **1:31**
  - bankruptcy orders, **1:32**

## **DATION EN PAIEMENT**

- Generally, **6:206**
- Application by hypothecary creditor to be declared
  - putting in good standing, **6:206**
- Collection of rents, **6:206**
- Use of section 81 procedure, **5:410 to 5:422**

## **DAYS**

- Calculation of, **16:13**

## **DEATH**

- See ASSIGNMENT, BANKRUPT, DEBTOR, DECEASED DEBTOR, EVIDENCE, PENSION BENEFITS, APPLICATION, TRUSTEE

## **DEBENTURE**

- See FLOATING CHARGE DEBENTURE

## **DEBTOR**

- Absconding section 168(1)(a), (b), **7:63**
- Absenting self, **3:50, 7:63**
- Act of bankruptcy by, **3:50**
- After-acquired property, see AFTER-ACQUIRED PROPERTY
- Assigning, removing, secreting or disposing of property, **3:50**
- Carrying on business, see CARRYING ON THE BUSINESS OF THE BANKRUPT
- Ceasing to meet liabilities, **3:50**
- Counselling, **7:2**
- Death of, assignment in case of
  - generally, **3:167 to 3:182**
  - effect on application, **3:20**
- Defeating or delaying creditors, **3:50**
- Definition of, **1:33**
- Departing from dwelling house, **3:50**
  - from Canada, **3:50**
- Discharge of, see DISCHARGE OF BANKRUPT
- Examination of, see EXAMINATIONS
- Exhibition of statement of assets and liabilities showing insolvency, **3:50**
- Fees for, **7:3**
- Locality of, **1:42**
  - application against, **3:19**
- Property, see PROPERTY
- Proposal by, see PROPOSALS
- Return of property to, **2:193**

## **DEBTS**

- Alimony, **7:188**
- Avoiding payment of section 168(1)(a) and (b), **7:63**
- Bodily harm, **7:187**
- Bona fide dispute as to, application founded on, **3:70**
- Debtor, released from, **7:212 to 7:224**
  - not released from, **7:185 to 7:207**
- Suspension of payment of, act of bankruptcy, **3:50**
- Undue preference when unable to pay, **7:167**

## **DEBTS NOT RELEASED BY ORDER OF DISCHARGE**

- Generally, **7:185**
- Alimony, **7:188**
- Bodily harm, **7:187**
- Compliance order for income tax deductions, **7:186**
- Damages for bodily harm, sexual assault or wrongful death, **7:187**
- Defalcation, **7:196**
- Disallowance of, **6:270**
- Embezzlement, **7:194**
- Endorser of promissory note, **7:228**
- Failure to disclose name of creditor, **7:206**
- False pretences, **7:204**
- Fiduciary capacity, **7:191 to 7:196**
- Fine, **7:186**
- Fraud, **7:193**
- Fraudulent misrepresentation
  - generally, **7:203**
  - by half truth, **7:203**
  - must be made to applicant, **7:203**
- Incurred after date of bankruptcy, **7:211**
- Judgment claim, **7:185**
- Judgment for matrimonial property, **7:188**
- Jurisdiction of ordinary courts to determine, **7:185**
- Maintenance, **7:188**
- Misappropriation
  - generally, **7:195**
  - proof of, **7:191**
  - trust money, **7:191 to 7:196**
- Not a provable claim, **7:185**
- Penalty, **7:186**
- Persons jointly bound, **7:231**
- Proper procedure to recover, **7:185**
- Proposal effect of, **7:185**

**DEBTS NOT RELEASED BY ORDER OF DISCHARGE—Cont'd**

Restitution order, **7:186**  
 Sexual assault, damages for, **7:187**  
 Student loans  
     generally, **7:207**  
     enactment of a province, **7:207**  
 Student loans, not released by discharge of bankrupt, **7:207**  
 Support, **7:188**

**DEBTS OWING TO BANKRUPT**

Admission of indebtedness, **7:58**  
 Compromise of, **2:94**

**DECEASED DEBTOR**

Assignment by legal personal representation, **3:171**  
 Discharge of bankrupt, **7:75**  
 Evidence of, **8:62**  
 Examination of executor  
     generally, **7:31**  
     application against estate of, **3:20**  
 Proposal by, **4:31**

**DECLARATION**

Affidavit includes, **1:14**

**DECLARATORY JUDGMENTS**

See also **COURTS**  
 Discretion to make, **8:6**  
 Power to make, **8:6**

**DEEMED TRUSTS**

Generally, **5:27 to 5:29, 6:459**  
 Allocation by Minister to preserve, **5:11**  
 Claim of bank, **5:27**  
 Court ordering payment of claim, **5:27**  
 Enhanced garnishment, **5:29**  
 Excise Tax Act, under, **5:28**  
 Liability of directors for, **5:30**  
 Liability of receiver for, **12:43**  
 Mingling with other money, **5:27 to 5:29**  
 No need for deemed trust of money held in trust, **5:27**  
 Not a trust under section 67(1)(a), **5:10 to 5:20**  
 Not held in trust for Crown, **5:31**  
 Priority of, **5:27**  
 Property covered, **5:27**  
 Provincial, validity of, **5:31**  
 Quebec Pension Plan, **5:27**  
 Revenue Canada, claims of, **5:27**

**DEEMED TRUSTS—Cont'd**

Security interest, meaning of, **5:27**  
 Validity of, **5:27**

**DEFALCATION**

Discharge, not releasing bankrupt from debt or liability arising out of, **7:191 to 7:196**

**DEFINITIONS**

Generally, **1:14**  
 “Affidavit,” **1:15**  
 “Arm’s length,” **1:66**  
 “Assignment,” **1:26**  
 “Bank,” **1:19**  
 “Claim provable in bankruptcy,” **1:22**  
 “Common law partner,” **1:24**  
 “Common law partnerships,” **1:24**  
 “Corporation,” **1:25**  
 “Court,” **1:26**  
 “Creditor,” **1:27**  
 “Date of bankruptcy,” **1:60**  
 “Date of initial bankruptcy event,” **1:29 to 1:32**  
 “Debtor,” **1:33**  
 “Insolvent person,” **1:41**  
 “Licensed trustee,” **1:59, 2:12**  
 “Locality of debtor,” **1:42**  
 “Minister,” **1:43**  
 “Ordinary resolution,” **1:49, 6:52**  
 “Person,” **1:45**  
 “Property,” **1:46, 5:2, 5:3**  
 “Proposal,” **1:47, 4:2**  
 “Provable claim,” **1:42**  
 “Public utility,” **1:48**  
 “Resolution,” **1:27**  
 “Secured creditor” section 2(1), **1:50**  
 “Settlement,” **1:51**  
 “Sheriff,” **1:53**  
 “Special resolution,” **1:54**  
 “Superintendent,” **1:55**  
 “Trustee,” **1:59, 2:12**

**DELAY**

Administration of estate, in, **2:120, 2:121**  
 Disallowance of claims, appeal from, **6:273 to 6:282**  
 Extending time, see **EXTENSION OF TIME**  
 Income tax, delay in claiming, **6:446 to 6:449**

**DELAY—Cont'd**

Proof of claim, delay in filing, **6:446 to 6:449**

**DEMUTUALIZATION OF LIFE INSURANCE COMPANIES**

Asset of estate, **5:220**

Date of approval by policyholders and government irrelevant, **5:220**

Entitlement date, **5:220**

Shares received after discharge, **5:220**

**DENTAL RECORDS**

See MEDICAL and DENTAL RECORDS

**DIRECTIONS OF COURT**

See also COURTS

Generally, **2:109 to 2:116, 2:119**

Acts already taken by trustee, **2:109**

Advice of court, **2:109**

Appeal, **2:116**

see APPEALS

Application for, by trustee, **2:109**

by bankrupt, **2:119**

Binding effect of, **2:115**

Complex matters, **2:109**

Conflict between trustee and inspectors, **2:109, 6:89**

Consent of inspectors not needed, **2:109**

Costs of, **2:114**

Disallowance of claim, **2:109**

Effect of order on, **2:115**

Facts should not be in dispute, **2:109**

Interim receiver, **2:117, 3:111**

Must relate to administration of estate, **2:109**

Not inconsistent with, Act, **2:109**

Official receiver applying for, **16:46**

Priority of secured creditors, **2:109**

Proper questions, **2:111**

Proposal, **4:146**

ownership of property, **2:109, 4:146**

Prospective actions of trustee, **2:109**

Questions on which directions have been sought, **2:111**

Res judicata, **2:115**

Sale of assets, **2:76, 2:111**

Scope of, **2:109**

Secured creditors, validity of security, **2:112**

Secured creditors, validity of security in a proposal, **4:56**

**DIRECTIONS OF COURT—Cont'd**

Third parties affected, **2:109**

court will not order action by, **2:109**

disputes with, **2:109 to 2:116**

Trust fund, **2:113, 5:10 to 5:20**

as to disposition of, **5:10 to 5:35**

Who may hear the application, **2:110**

**DIRECTIVE**

See SUPERINTENDENT

**DIRECTORS**

Claim for GST, compromise of, **21:6**

Companies' Creditors Arrangement Act, stay of proceedings, **22:58**

Effect of bankruptcy on, **1:25**

Liability for breach of fiduciary duty, **5:470**

Liability for breach of trust, **5:26**

Liability for deemed trusts, **5:30**

Liability for income tax deductions of employees, **1:25**

Liability for offences, **9:27**

Liability for statutory liabilities, **1:25**

Proposals, release of claims against, **4:18, 4:25**

Release of claims in, CCAA proceedings, **21:6**

amendment of plan to release claims, **21:6**

guarantee, release of, **21:6**

Stay in proposals, **4:152**

Voting by, **6:38**

Wages, postponement of claim for, **6:311**

**DISABILITY INSURANCE**

Generally, **5:232**

**DISABILITY TAX CREDIT**

Property of the bankrupt, **5:257**

**DISALLOWANCE OF CLAIMS**

See also ADMISSION OF CLAIMS and CLAIMS

Generally, **6:261 to 6:283**

Admission of claims, **6:264**

Appeal from

generally, **6:273 to 6:282**

amending notice of disallowance, **6:274, 6:278**

asserting set-off or counterclaim, **6:277**

costs, **6:280**

Crown claims, **6:279**

## DISALLOWANCE OF CLAIMS

### —Cont'd

Appeal from—Cont'd  
 effect of, **6:282**  
 extension of time for, **6:276**  
 firm must be followed, **6:266**  
 new ground, **6:278**  
 onus on appellant, **6:266**  
 pleadings in, **6:274**  
 procedure, **6:275**  
 security for costs, **6:281**  
 trial, de novo, **6:273**  
 Application for directions, **2:109, 6:266**  
 Collateral attack on allowance of claim  
 not permitted, **6:283**  
 Contingent or unliquidated claim, **6:265, 6:266**  
 Costs of, **6:280, 16:81**  
 creditor applying to expunge or reduce  
 claim, **6:283**  
 Counterclaim power to deal with, **6:277**  
 Creditor, by, **6:271**  
 Delay in giving notice, **6:266 to 6:270**  
 Disallowing without serving notice, **6:268**  
 Duty of trustee to examine claims, **6:261**  
 Effect of, **6:270**  
 Evidence in support of claim, **6:262**  
 Examination in support of, **6:266 to 6:270**  
 Expunging or reducing a claim, **6:283**  
 Final and conclusive, **6:273 to 6:282**  
 Form of, **6:266**  
 Giving of disallowance is mandatory,  
**6:266 to 6:270**  
 Income tax claim, **6:279**  
 Investigation of claim, **6:261, 6:266**  
 Judgment not binding, **6:262**  
 acceptance by court, **6:262**  
 Method of proving claim, **6:144 to 6:157**  
 Necessity for formal proof, **6:261, 6:266 to 6:270**  
 Necessity for trustee to act equitably,  
**6:269**  
 Power of court to expunge or reduce  
 proof of claim, **6:283**  
 Preference, cannot be used, **6:266 to 6:270**  
 Proposals, **4:106 to 4:110, 6:263, 6:266 to 6:270**  
 Provable claims, what are, **6:99 to 6:142**  
 Reasons for, frivolous or vexatious, **6:266**

## DISALLOWANCE OF CLAIMS

### —Cont'd

Registrar, jurisdiction to hear appeals,  
**8:80**  
 Right of trustee to contest, **6:266 to 6:270**  
 Second claim, **6:266 to 6:270**  
 Section 178(1) claims, **6:270**  
 Secured claims, **6:272**  
 onus on secured creditor, **6:273**  
 Secured claims in proposals, **4:106 to 4:110**  
 Security for costs where creditor out of  
 jurisdiction, **8:130**  
 Sending notice to address on proof of  
 claim, **6:266**  
 Service of, **6:266, 6:267, 6:273 to 6:282, 16:97**  
 court can relieve if creditor receives  
 disallowance, **6:266**  
 improper service, **6:266, 6:267**  
 Time for  
 generally, **6:267, 6:274**  
 before payment of first dividend, **6:266 to 6:270**  
 vacation, **6:273 to 6:282, 16:15**  
 waiver of, **6:273 to 6:282**  
 Trustee consenting to extension of time,  
**6:275**  
 Trustee refusing to disallow, **6:271, 6:283**

## DISBURSEMENTS OF TRUSTEE

See TRUSTEE

## DISCHARGE OF BANKRUPT

See also AUTOMATIC DISCHARGE  
 Generally, **7:69, 7:104**  
 Absolute order  
 generally, **7:112, 7:113**  
 cases where order made, **7:113**  
 effect of, **7:65**  
 facts proved under section 173(1),  
**7:112**  
 Action under section 38, effect on, **2:140 to 2:153**  
 Adjournment of application, **7:75, 7:105, 7:117**  
 Affidavit of earnings and expenses Form  
 56T, **7:181**  
 After-acquired property, effect on, **5:569**  
 Agreement not to appose, **7:100**  
 Alimony, effect on, **7:188**

**DISCHARGE OF BANKRUPT—Cont'd**

Annulling  
     generally, **7:232 to 7:238**  
     effect of order, **7:236**  
     failure of bankrupt to perform duties,  
         **7:234**  
     fraud, **7:235**  
     practice, **7:237**  
     rescinding, **7:233, 7:234, 8:43**  
     reviewing, **7:233**  
     varying, **7:233**  
 Appeal from, **7:182, 8:90**  
 Appeal from, extension of time, **8:53**  
     no transcript of proceedings, **7:182**  
 Application for  
     generally, **7:75**  
     notice to bankrupt of, **7:75**  
     notice to creditors of, **7:75**  
     notice to trustee, **7:75**  
     prior to nine-month period, **7:63**  
     time for, **7:75**  
     trustee's duties, **7:75**  
 Assets not of a value of 50, **7:149**  
 Attendance on, by bankrupt  
     generally, **7:75**  
     by creditor section 170(4), **7:98**  
     by trustee section 170(4), **7:102**  
 Automatic  
     see AUTOMATIC DISCHARGE  
     generally, **7:65, 7:66**  
     appeal from, **8:90**  
     cannot be waived, **7:65**  
     creditor opposing, **7:65**  
     failure to send notice of, **7:65**  
     notice of opposition by Superintendent,  
         **7:66**  
     service of notice of opposition, **7:65**  
     setting aside, **7:65**  
     withdrawal of objection, effect of, **7:65**  
 Certificate that bankruptcy caused by  
     misfortune  
         generally, **7:183**  
         not granted because of misconduct,  
             **7:183**  
 Co-contractor not released by, **7:226 to**  
     **7:231**  
 Commission of an offence, **7:177**  
 Concurrent orders, suspension &  
     conditional, **7:107**

**DISCHARGE OF BANKRUPT—Cont'd**

Conditional  
     generally, **7:107, 7:116, 7:148**  
     age, **7:117**  
     assets exempt from seizure, **7:129**  
     avoiding a judge, not, **7:134**  
     choosing bankruptcy rather than a pro-  
         posal, **7:179**  
     commission of an offence, **7:177**  
     complying with terms, **7:124**  
     conduct of bankrupt, **7:117**  
     consent to judgment, **7:121, 16:103**  
         when not granted, **7:121**  
     continuing to trade, **7:158**  
     copy of order to be sent to Superinten-  
         dent, **7:75**  
     corporation, **7:75**  
         payment in full, **7:75**  
     costs of, **8:134**  
     credit card bankruptcy, **7:130**  
     cross-examination at hearing, **7:99**  
     cross-examination on affidavits, **7:97**  
     Crown, effect on, **7:232 to 7:238**  
     culpable neglect of business affairs,  
         **7:164**  
     date of order, **7:75**  
     death of bankrupt, **7:75**  
     debts released by, **7:212 to 7:224**  
         not released by, **7:185 to 7:207**  
             see DEBTS NOT RELEASED BY  
                 ORDER OF DISCHARGE  
     deposit for trustee's costs, **7:75**  
     discharge granted, **7:112, 7:113**  
     discharge prior to expiry of 9-month  
         period, **7:181**  
     discretion of court, **7:69**  
     dismissal of application, **7:105, 7:106**  
     disputing, **7:85 to 7:101**  
     distribution of proceeds, **7:123**  
     duties, not affected by, **7:5**  
     early discharge, **7:63**  
     earnings, failure to remit, **7:131**  
     effective date of order, **7:75**  
     effect of foreign discharge, **7:225**  
     effect of order of discharge  
         generally, **7:212 to 7:224**  
         assets acquired after discharge,  
             **7:222**  
         effective date, **7:75, 7:213**  
         judgment after bankruptcy, **7:220**



**DISCHARGE OF BANKRUPT—Cont'd**

Conditional—Cont'd

- effect of order of discharge—Cont'd
  - liability for debt released by discharge, **7:216**
  - liability of transferee of property from bankrupt for income tax, **7:224**
  - property of bankrupt, effect on, **7:221**
  - provable claims, **7:214**
  - secured creditors, effect on, **7:217**
  - status of bankrupt, **7:223**
  - trustee's rights, effect on, **7:218**
  - undisclosed claims, **7:215**
- evidence by telephone, **7:75**
- examination by court, **7:75**
- examination on, **7:75, 16:105**
- exempt assets, **7:129**
- expenses, **7:117**
- factors to be considered, **7:68**
- facts under section 173
  - generally, **7:148**
  - appropriated date for determining, **7:151**
  - assets not of a value equal to 50 cents, **7:149**
  - circumstances for which bankrupt not responsible, **7:152**
  - onus of proof, **7:150**
- failure to account for deficiency of assets, **7:159**
- failure to comply with order, **7:124, 8:43**
- failure to comply with request to pay under section 68, **7:178**
- failure to perform duties, **7:180**
- fraud, **7:168**
- fraudulent breach of trust, **7:173**
- frivolous or vexatious action, **7:166**
- frivolous or vexatious defence, **7:165**
- gambling, **7:163**
- how should order be paid, **7:120**
- income, **7:117**
- income tax arrears, **7:132**
- income tax liability, **7:117**
- inheritance, possibility of, **7:142**
- judgment unpaid, **7:134**
- length of time for payments, **7:122**
- mediation, **7:74**

**DISCHARGE OF BANKRUPT—Cont'd**

Conditional—Cont'd

- modifying
  - generally, **7:143 to 7:147**
  - circumstances beyond control of bankrupt, **7:144**
  - one-year not elapsing, **7:146**
  - unwillingness not inability, **7:143**
- motor-vehicle judgment, **7:135**
  - voluntary payments for, **7:123**
- necessity for adequate material, **7:117**
- no benefit to creditors from, **7:128**
- omitting to keep proper books
  - generally, **7:154 to 7:157**
  - no need to keep, **7:157**
  - time for keeping, **7:156**
  - what are, **7:155**
- partners, **7:136**
- past income, **7:117**
- payment of fifty cents on dollar, **7:123**
- performing acts, **7:124**
- Prairie Grain Advance Payment Act, **7:141**
- prior bankruptcy or proposal, **7:167**
- professional persons, **7:137**
- property, transfer of, **7:126**
- rash and hazardous speculations, **7:161**
- recommendation by trustee for payment, **7:74, 7:117**
- rescinding for failure to pay, **8:43**
- retroactive order, **7:117**
- spouse's income, **7:138**
- student loans, **7:139**
- Superintendent's standards, **7:118**
- support of adult children, **7:117**
- to whom should payments be made, **7:119**
- undue preferences, **7:167**
- unjustifiable extravagance in living, **7:160**
- Veteran's Land Act property, **7:140**
- when is order complete, **7:127**
- when should order be made, **7:113**
- Failure to account for loss or deficiency of assets, **7:159**
- Failure to perform duties, **7:178**
  - after discharge, **7:181**
- Fines not released by discharge, **7:186**
- First time bankruptcy, **7:65, 7:66, 7:70**
- Foreign creditors, **7:90**

**DISCHARGE OF BANKRUPT—Cont'd**

Foreign discharge, effect of, **7:225**  
 Fraud, claim for not released, **7:191 to 7:196**  
 Fraud, fact under section 173, **7:172 to 7:175, 7:191 to 7:196**  
 Fraudulent breach of trust, claim for not released, **7:191 to 7:196**  
     fact under section 173, **7:173**  
     must be deliberate and dishonest, **7:173**  
 Frivolous or vexatious action, **7:166**  
 Frivolous or vexatious defence to action, **7:165**  
 Guarantor not released by, **7:226 to 7:231**  
 Hearing of, **7:75**  
 Income of spouse, **7:138**  
 Incurring liabilities to make assets equal to 50, **7:168**  
 Inheritance, possibility of, **7:142**  
 Inspectors, approval of trustee's report, **7:77**  
 Issuing order, **7:243**  
 Jointly bound persons, not released by, **7:231**  
 Joint submission as to order, **7:182**  
 Judgment on, **16:89**  
     consent to, **7:121, 16:89**  
 Maintenance order, effect of discharge on, **7:188**  
 Marriage settlement to defeat creditors, **7:239**  
 Modifying conditional orders, **7:143 to 7:147**  
 Nine-month period, prior to, **7:67**  
 No facts under section 173(1), **7:105**  
 No order, **7:105, 7:106**  
 Notice of application, **7:75**  
 Notice of opposition, **7:75, 7:93**  
 Notice to creditors of application, **7:75**  
 Objections to  
     generally, **7:75, 7:85 to 7:101**  
     creditor may object even if it recommended the bankruptcy, **7:86**  
     creditor must have proved a claim, **7:87**  
     foreign creditor, **7:90**  
     secured creditor, **7:91**  
     trustee, **7:102**  
     unsecured creditors, **7:87, 7:88**  
     withdrawal of counsel, **7:75**  
 Obtaining property by false pretences, not released, **7:197**

**DISCHARGE OF BANKRUPT—Cont'd**

Offences, **7:177**  
 Omitting to keep proper books, **7:154 to 7:157**  
 Order of court, on, **7:75**  
 Partner not released by, **7:226 to 7:231**  
 Policy considerations, **7:68**  
 Power of court to grant where creditor not notified of bankruptcy, **7:75**  
 Prior bankruptcy or proposal, **7:169**  
 Procedure on, **7:75**  
 Professional person, **7:137**  
 Rash and hazardous speculations, **7:161**  
 Recommendation by trustee for payments, **7:74**  
 Refusal of, **7:109 to 7:111**  
     generally, **7:109**  
     applications for discharge after refusal, **7:111**  
     cases where discharge refused, **7:110**  
 Registrar, jurisdiction of, **7:209, 8:68**  
 Rehabilitation of bankrupt, **7:68**  
 Release of persons other than bankrupt by discharge  
     generally, **7:226 to 7:231**  
     co-defendant in action, **7:229**  
     co-maker of note, **7:228**  
     endorser of note, **7:228**  
     guarantors, **7:227**  
     jointly bound persons, **7:231**  
     partners, **7:230**  
     person's jointly bound with bankrupt, **7:231**  
     report by Superintendent on, **7:83**  
     sureties, **7:227**  
 Report of trustee  
     generally, **7:75, 7:76, 7:80**  
     bankrupt disputing, **7:75, 7:80**  
     contents of, **7:76**  
     creditors contesting, **7:81, 7:95, 7:96**  
     effect of, **7:79**  
     examination of trustee by bankrupt on report, **7:75**  
     prima facie evidence, **7:79**  
     recommendation in, **7:79**  
     resolution of inspectors, **7:75, 7:77**  
     should be precise, **7:76**  
     Superintendent, **7:84**  
     time for filing, **7:78**

**DISCHARGE OF BANKRUPT—Cont'd**

- Representation by creditors at hearing, **7:98**
- Rescinding, **7:74**
- Reviewing, **7:232 to 7:238, 8:43**
- Second bankruptcy, **7:65, 7:66, 7:71, 7:170**
  - where no discharge obtained in first bankruptcy, **7:73**
- Secured creditors, effect on, **7:217**
- Setting aside and rescinding, **7:232 to 7:238, 8:43**
- Student loans
  - generally, **7:139**
  - application for relief, **7:139**
  - commencement of 10-year period, **7:139**
  - foreign student loan, **7:139**
- Superintendent, report to, by trustee, **7:84**
- Superintendent, sending copy of order, **7:75**
- Superintendent's report to the court, **7:83**
- Superintendent's standards, **7:118**
- Suspension of discharge
  - generally, **7:114, 7:115**
  - cases in which discharge suspended, **7:115**
  - enactments of a province, **7:139**
  - should not be for too long a period, **7:115**
  - table of orders, **7:114**
- Three or more bankruptcies, **7:65, 7:66, 7:71, 7:171**
- Time for application, **7:75**
- Undue preference, **7:167**
- Viva voce evidence, **7:75**
- Waiver, **7:75**
- Writs of execution and writs of seizure and sale, removal of
  - generally, **7:240 to 7:242**
  - claim coming within section 178, **7:240**
  - form of order, **7:242**
  - procedure, **7:241**

**DISCHARGE OF TRUSTEE**

- Generally, **2:189 to 2:201, 16:62, 16:64**
- Action under section 38, not affected by, **2:140 to 2:153**
- After-acquired property, **2:194, 2:201**
  - see AFTER-ACQUIRED PROPERTY
- Application for, **2:189, 16:61**

**DISCHARGE OF TRUSTEE—Cont'd**

- Authority of trustee after, **2:200**
- Debtor commencing action after discharge of, **2:193**
- Discharge of former trustee where substitute appointed, **2:191**
  - procedure for, **2:192**
- Disclaimer of property, **2:58**
- Disposal of unrealized property, **2:193**
- Duties after, **2:194**
- Effect of, **2:194**
- Irregularity in, **2:197**
- Keeping books and records after, **2:189, 16:66**
  - see BOOKS and RECORDS
- Objections to
  - generally, **2:197**
  - by a creditor, **2:197**
  - by inspector, **2:197**
  - by Superintendent, **2:198**
- Order of, **16:61**
- Priority between first and second bankruptcy, **2:201**
- Procedure for, **2:189**
- Proceedings against bankrupt after, **2:195, 5:278**
- Proceedings in respect of after-acquired property where trustee discharged, **2:195**
- Re-appointment of trustee, **2:201**
- Registrar, jurisdiction of, **2:189, 8:63**
- Return of property to debtor, **2:58, 2:193**
- Revoking, **2:199**
- Secured creditor, right to object to, **2:197**
- Substituted trustee, procedure to be followed, **2:192**
- Summary administration, **6:459**
- Unrealized asset, **2:193**
- Withholding of, **2:194**

**DISCLAIMER OF LEASE**

- See LANDLORD and TENANT

**DISCLAIMER OF PROPERTY**

- Generally, **2:58**

**DISCOVERY**

- Cross-examination by debtor on affidavit on application, **3:65, 16:31**
- Documents, **16:28 to 16:32**
- Examination for, **16:30**
  - leave of court, **16:30**

**DISCOVERY—Cont'd**

- Examination of debtor in aid of application, **3:64**
- In aid of application, **3:64**
- Provincial laws of evidence, **16:34**
- Registrar, jurisdiction to conduct, **8:67, 16:101**
- Special examiner, **16:101**
- Third parties, prior to hearing of application, **16:29**

**DISMISSAL OF APPLICATION**

- See APPLICATION

**DISTRESS**

- See also LANDLORD and TENANT
- After bankruptcy, **6:358**
- Before bankruptcy, **5:375 to 5:388, 6:357**
- Before making of bankruptcy order, **6:358**
- Distraining land lord not a secured creditor, **6:357**
- On goods of third party, **6:359**
- Release of, **5:375 to 5:388**

**DISTRIBUTION OF PROPERTY**

- See SCHEME OF DISTRIBUTION

**DISTRICTS**

- See BANKRUPTCY DISTRICTS

**DIVESTING OF TITLE IN EVENT OF BANKRUPTCY**

- See FORFEITURE IN EVENT OF BANKRUPTCY

**DIVIDEND**

- Generally, **6:431 to 6:456**
- Acceptance of, effect of, **6:445**
- Action for, against trustee, **6:431**
- Application for directions respecting, see DIRECTIONS OF COURT
- Approval of inspectors, **6:432**
- Assignment of claim, **6:434**
  - of dividend, **6:434**
- Attachment by equitable execution, **6:433**
- Attachment of, **6:433**
- Claims by two estates, **6:443**
- Contesting dividend sheet, **6:454**
- Costs owing to trustee, deduction of, **6:436**
- Creditor failing to prove claim, **6:446**
  - extension of time, **6:447**
  - subsequently proving, **6:450**

**DIVIDEND—Cont'd**

- Declaration of, by trustee, **6:432**
- Disallowance of claim, **6:439**
- Dispute about priority, **6:440**
- Dispute as to whom entitled to, **6:438**
- Final dividend sheet, **6:452**
  - objections to, **6:454**
- Foreign bankruptcy, **5:264, 6:442**
- Garnishee of, **6:433**
- Guarantor, right to, **6:441**
- Income tax claim, **6:449**
- Inspectors, approval of, **6:452**
- Interim dividends, **6:451**
- Interim receiver, **6:437**
- Joint and separate properties, **6:455**
- Notifying creditor to prove, **6:446**
- Overpayment of, **6:444**
- Partnerships, **6:404 to 6:420, 6:455**
- Payment by limited company within one year of bankruptcy, **5:587**
- Payment of compensation, incentives or other benefits within 12 months of bankruptcy, **5:588**
- Postponement of claims, **6:401, 6:402**
- Proving claim after preparation of dividend sheet, **6:450**
- Silent partners, **6:401**
- Summary administration in, **6:459**
- Superintendent, forwarding copy to, **6:452**
  - levy, **6:425 to 6:429**
- Trustee notifying creditor to file claim
  - generally, **6:446 to 6:449**
  - extending time for filing, **6:447**
  - income tax claims, **6:449**
  - tax claims, **6:448**
- Unclaimed, **6:456**
- Unproved claims, **6:446**
- Withholding of by trustee, **6:436**

**DIVIDEND, PAYMENT BY BANKRUPT WITHIN TWELVE MONTHS OF BANKRUPTCY**

- Generally, **5:587**
- Arms length not required, **5:587**
- Forgiveness of a debt, **5:587**
- Must be payment of a dividend, **5:587**
- Onus on shareholder, **5:587**
- Payment as compensation, **5:587**

**DIVIDEND, PAYMENT BY BANKRUPT WITHIN TWELVE MONTHS OF BANKRUPTCY—Cont'd**

Payment of compensation, incentives or other benefits within 12 months of bankruptcy, **5:588**  
 Setting aside, **5:587**

**DIVISIONS**

See **BANKRUPTCY DIVISIONS**

**DOCUMENTS**

See **BOOKS and RECORDS**

**DOUBLE PROOFS**

See **PROOF OF CLAIM**  
 Generally, **6:155**  
 Rule against, **6:155**  
 Surety for part of debt, **6:155**  
 Time for determining, **6:155**

**DOWER**

See also **HOMESTEAD RIGHTS**  
 Generally, **5:215**  
 Bankrupt sole owner, **5:216**  
 Inchoate right, **5:217**  
 Joint ownership, **5:218**

**DUTIES OF BANKRUPT**

See also **BANKRUPT and DEBTOR**  
 Generally, **7:5 to 7:23**  
 Advising trustee of address, **7:23**  
 Attendance at first meeting of creditors, **7:14**  
     improper questioning, **7:14**  
 Attendance for examination by Official Receiver, **7:9, 7:28**  
 Complying with court orders, **7:22**  
 Conditional discharge, duties after, **7:116 to 7:141, 7:181**  
 Corporation, performance of duties, **7:24**  
 Credit cards, **7:7**  
 Delivery of property to trustee, **7:75**  
 Discharge, effect of, **7:5 to 7:23**  
 Disclosure of property, **7:13**  
 Executing transfer of shares, **7:18**  
 Failure to disclose assets, **7:12**  
 Failure to pay trustee fees, **7:22**  
 Failure to perform, **7:25, 9:2**  
 Material change of circumstances, **7:21**  
 Statement of affairs, duty to prepare, **7:10**  
 Transferring shares to trustee, **7:18**

**DUTIES OF TRUSTEES**

See **TRUSTEES**

**EARNINGS**

Generally, **5:265 to 5:274**  
 After-acquired property, **5:570**  
 Assigning claim for wages to bankrupt, **5:266**  
 Assignment of, terminated by bankruptcy, **5:275**  
 Attaching, **5:268**  
     see also **ATTACHING EARNINGS**  
 Child support payments, **5:268**  
 Conflict between section 67(1)(c) and section 68, **5:265**  
 Control providing for damages, **6:297**  
 Directors, right of subrogation, **6:317**  
 Directors and officers, personal liability for, **6:297, 6:317**  
 Discharge of bankrupt, effect of, **5:266**  
 Employment insurance on, **6:297**  
 History of section 68, **5:265**  
 Income from will or trust, **5:219**  
 Independent contractors, **6:298**  
 Mediation, **5:268, 16:85**  
 Nanny, payments to, **5:268**  
 Net family income, **5:268**  
 No vesting in trustee, **5:265**  
 Order of court, **5:269**  
 Pre-bankruptcy earnings, **5:266**  
 Preferred claim, **6:303**  
 Prior to date of bankruptcy, **5:276**  
 Provincial statute giving higher priority, **1:10**  
 Related person, as employer, **5:272**  
 Right of bankrupt to, until trustee intervenes, **5:266**  
 Section 38 proceedings, **5:273**  
 Senate Committee poverty lines, **5:268, 7:118**  
 Services rendered prior to bankruptcy, **5:276**  
 Severance pay, **6:297, 6:303, 6:317**  
 Spouse, earnings of, **5:268**  
 Surplus income, **5:268, 5:269**  
 Termination pay, **6:297**  
 Total income, what constitutes, **5:267**  
 Wage assignments, **5:275, 5:570**  
 Who is to be served, **5:265**  
 Wrongful dismissal  
     generally, **6:319**

**EARNINGS—Cont'd**

Wrongful dismissal—Cont'd  
damages for, **5:266, 6:319**  
not caused by bankrupt, **6:319**

**E-COMMERCE, INSOLVENCIES**

Generally, **5:102**

**ELIGIBLE FINANCIAL CONTRACT**

Generally, **1:35, 4:168**  
Companies' Creditors Arrangement Act,  
**20:13, 22:49**  
Definitions of, **1:35**  
Effect of proposal on, **4:114**

**EMBEZZLEMENT**

Discharge not releasing bankrupt from  
debt or liability arising out of, **7:194**

**EMERGENCY**

See TRUSTEE

**EMPLOYEES**

See also EARNINGS and WAGES  
Claims arising from injuries to, priorities,  
**6:390**

**EMPLOYER**

Proposal by, **4:1, 4:12**

**EMPLOYING A SOLICITOR**

See also SOLICITORS  
Generally, **2:92, 8:133**

**EMPLOYMENT INSURANCE**

Duties of trustee, **2:69**  
Overpayment, **2:69**

**ENVIRONMENTAL DAMAGE**

Liability of interim receiver for, **2:28**  
Liability of receiver for, **2:28**  
Liability of trustee for, **2:28**  
Priority of claim for, **2:28**  
Proposals, claim for, **4:106 to 4:110**  
Provable claim for, **4:106 to 4:110**

**EQUITABLE ASSIGNMENTS**

See ASSIGNMENT OF BOOK DEBTS

**EQUITABLE FRAUD**

Definition of, **5:192**  
Use if statute to commit a fraud, **5:192**

**EQUITABLE MORTGAGE**

Deposit of title deeds, **5:206**  
Essentials of, **5:206**

**EQUITABLE SET-OFF**

See SET-OFF

**EQUITABLE SUBORDINATION**

Generally, **6:402**  
Application to remedy fraud, **6:182, 6:402**  
Personal Property Security Actpriority,  
**5:125**  
Postponement of claims, **6:402**  
Secured claims— effect of, **6:182**

**ERRORS**

Power of court to correct, **8:48**

**ESTATE BONDING**

See BOND

**ESTATE FUNDS AND BANKING**

See BANK ACCOUNT— TRUSTEE

**ESTATE RECORDS**

Inspection of, **2:62, 2:67**  
Trustee keeping, **2:67**

**EVIDENCE**

Admission of bankruptcy documents,  
**8:61**  
Certification of, **16:49**  
Cross-examination on affidavit, **16:31**  
necessity for leave, **16:31**  
Death of common-law partner of bank-  
rupt, **8:62**  
Deceased bankrupt, **8:62**  
Deceased spouse of bankrupt, **8:62**  
Examination under section 163, admis-  
sibility of, **7:55**  
Income tax information, of, **5:2, 5:460, 7:75**  
Minutes of meeting of creditors section  
114, **6:2, 6:13 to 6:23**  
Provincial laws, **16:34**  
Report of trustee, prima facieevidence on  
bankrupt's discharge, **7:79**  
Rules of, **8:24**  
Statement of affairs, proof of insolvency,  
**5:539**  
Witness, death of, **8:62**

**EXAMINATIONS**

Generally, **7:28, 7:30, 7:60, 16:82**  
Accountant, privilege of, **7:35, 7:107**  
Admission of indebtedness on, **7:27, 7:58**  
Admission of possession of property, **7:59**



## INDEX

### EXAMINATIONS—Cont'd

- Advance rulings not given by court, **7:39**
- Agent of bankrupt section 163(1), **7:30 to 7:43**
- Answers tending to criminate, **7:60**
- Appointment for, form of, **7:52**
- Banking records, **7:31**
- Bankrupt
  - generally, **7:28, 7:31**
  - discharge of, **7:31**
  - right to be present, **7:51**
  - right to conduct, **7:45**
- Books, documents, correspondence or papers, regarding, **7:40, 7:49**
- Clerk of corporation section 163(1), **7:31**
- Conduct money, **7:52**
- Corporation, officer or director of section 159, section 163(1), **7:28, 7:31**
- Counsel representing the person examined, **7:51**
- Court cannot order section 163(1) examination, **7:52**
- Court proceedings
  - generally, **16:28 to 16:32**
  - cross-examination on affidavits, **16:31**
  - discovery, **16:30**
  - on pending motion, **16:32**
- Creditors, ordinary resolution for, **7:52**
- Creditors by
  - generally, **7:44 to 7:49**
  - conflict between creditor and bankrupt, **7:45**
  - former director and officer, **7:46**
  - leave of court, **7:44**
  - necessity for sufficient cause, **7:44**
  - on application to approve proposal, **7:44**
  - other interested persons, **7:44**
  - production of documents, **7:49**
  - resolution of inspectors, **7:44**
  - scope of, **7:48**
  - secured creditor, right to apply, **7:45**
  - time for conducting examination, **7:44**
  - trustee may apply, **7:44**
  - who may apply, **7:45**
  - who may be examined, **7:46**
  - who must be served, **7:44**
- Cross-examination in affidavits, **16:31**
- Discharge of bankrupt, effect of, **7:31**
- Discovery, see DISCOVERY

### EXAMINATIONS—Cont'd

- Executors of, **7:34**
- Failure to attend for, **7:53**
- Financial institution or officer, **7:36**
  - no privilege from disclosure, **7:31**
- Inspectors, resolution by section 163(1), **6:95, 7:30 to 7:43, 7:52**
  - delegating to trustee, **7:31**
- Interested person, by, **7:44**
- Internal memos, **7:39**
- No necessity for trustee to produce documents, **7:40**
- No temporal limit on, **7:39, 7:48**
- Obtaining possession of property & documents, **7:57**
- Official receiver, **7:28**
  - incriminating, **7:28**
  - out of province, **7:28**
- Order of court, unnecessary under section 163(1), **7:30**
- Pending litigation, **7:41**
- Pending motion, **16:32**
- Person reasonably thought to have knowledge, **7:30**
- Person to be examined out of Canada, **7:30**
- Place for, **7:52**
- Privilege, claim for, **7:107**
- Privilege against, **7:52**
- Procedural requirements, **7:52**
- Production of documents, **7:40, 7:57**
  - civil proceedings, **7:57**
  - failure to produce, **7:57**
- Proposal, **7:30**
- Re-attendance of witness, **7:43**
- Refusal to answer questions, **7:54**
- Scope of, **7:39**
- Second examination under section 121(1), **7:43**
- Servant of the bankrupt, **7:30**
- Solicitor, **7:32**
- Solicitor acting in joint transaction, **7:32**
- Spouse, **7:33**
- Summary administration, **6:458, 7:52**
- Superintendent, by, **2:6**
- Transcripts and exhibits from section 163 examination forming a proper record, **7:55**
- Trustee by, no court order necessary section 163(1), **7:30**
- Trustee of section 163(2), **7:47**

## **EXAMINATIONS—Cont'd**

- Use of, **7:55**
  - section 165 orders, **7:35**
- Who may be examined
  - generally, **7:31**
  - accountants and auditors, **7:35**
  - confidential Crown information, **7:37**
  - discharged bankrupt, **7:38**
  - executors, **7:34**
  - financial institutions, **7:36**
  - solicitor and client, **7:32**
  - spouse of bankrupt, **7:33**

## **EXCUSING ERRORS**

- Generally, **8:48**

## **EXECUTIONS**

- Charging order, **5:345, 6:164**
- Costs of first execution creditor, **5:347 to 5:354, 6:388**
  - see FIRST EXECUTION CREDITOR'S COSTS
- Equitable execution, **6:164**
- Foreclosure action, proving a claim, **6:164**
- Property exempt from, **5:57**
  - bankruptcy order and assignment taking precedence over, **5:342**
- Registered judgment, **5:342, 6:164**
- Removal of after discharge of bankrupt, **7:240**
- Seizure and sale by, **5:369 to 5:374**
- Unsatisfied, act of bankruptcy, **3:50**
- Writ filed prior to bankruptcy, removal of, **7:240 to 7:242**

## **EXECUTORS**

- See DECEASED DEBTORS
- Assignment by, **3:171**
- "Person" includes, **1:45**
  - application against deceased debtor, **3:20**

## **EXEMPT PROPERTY**

- Generally, **5:57**
- Automobile, **5:75**
- Burden on bankrupt to establish entitlement, **5:57**
- Claiming the exception, **5:68**
- Claim raised subsequent to bankruptcy, **5:68**
- Conditional discharge, **7:117**
- Death of bankrupt, **5:69**

## **EXEMPT PROPERTY—Cont'd**

- Farmer, **5:73, 5:75**
- Federal Crown not subject to provincial exemptions, **5:57**
- Federal law, **5:58**
- Fraudulent transactions, **5:61**
- Fraudulent transfer, **5:66**
- Goods and chattels, **5:74**
- Homestead, **5:73**
  - necessity for actual residence, **5:73**
  - principal residence, **5:73**
- House, **5:73**
- Increase in value after bankruptcy, **5:59**
- Jointly owned property, **5:71**
- Jurisdiction which determines exemption, **5:57**
- Miscellaneous property, **5:77**
- Motor vehicles, **5:74, 5:75**
- Native Indian, **5:58**
- No need for trustee to take possession of, **5:57**
- Partnership property, **5:70**
- Pension plan, **5:188**
- Personal Property Security Act, **5:120**
- Provincial law governs, **5:57**
- Purchase money security interest, goods purchased, under, **5:120**
- Real estate, **5:73**
- Reason for, **5:57**
- Relevant date, **5:57**
- Retainer of solicitor, **5:57**
- Rules are exhaustive, **5:57**
- Sale of, **5:59, 5:65**
- Secured creditor claiming, **5:70**
- Secured creditors, no application, **5:57**
- Seizability role in Quebec, **5:57**
- Settlements, **5:60, 5:66**
- Time for claiming, **5:68**
- Tools and chattels used in business, profession or calling, **5:75**
- Transfer to a third party prior to bankruptcy, **5:64**
- Use of exempt property to purchase exempt property, **5:62**
- Use of exempt property to purchase non-exempt property, **5:63**
- Use of to augment exempt property, **5:62**
- Use of to augment non-exempt property, **5:63**
- Use of to non-exempt to purchase exempt property, **5:64**

## INDEX

### **EXEMPT PROPERTY—Cont'd**

- Value in excess of provincial law, **5:59**
- Vesting in trustee, **5:57**
- Wages, see EARNINGS
- Waiver, **5:78**
- Within 3 months of bankruptcy, **5:67**
- Workers' compensation payments, **5:188**

### **EX PARTE JAMES, RULE IN**

- Generally, **5:189 to 5:191**
- Cannot be used by trustee, **5:191**
- Cannot be used to challenge disposal of assets by trustee, **5:191**
- Cases where rule has been used, **5:190**
- Cases where rule has not been used, **5:191**
- Duty of trustee to act fairly, **5:189 to 5:191**
- Foreign creditors, **5:32**
- Mistake of law, **5:189**
- Necessity for enrichment, **5:189**
- Personal property security legislation, **5:123**

### **EXPENSES OF SUPERINTENDENT**

- See SUPERINTENDENT

### **EXPENSES OF TRUSTEE**

- See TRUSTEE

### **EXTENSION OF TIME**

- See also AUTHORITY OF COURTS, COURTS and TIME
- See DISALLOWANCE OF CLAIMS
- Generally, **8:53**
- Abridging time, **8:53**
- Appeals, **8:53, 16:44**
- Appeals to Supreme Court of Canada, **8:53**
- Claim under section 81.1, **8:53**
- Disallowance of claims, appeal from, **6:273 to 6:282**
- Discharge, appeal from, **8:53**
- Discretion as to, **8:53**
- Imposing terms, **8:53**
- Notice to person affected, **8:53**
- Only one extension, **8:53**
- Registrar, from, **16:42**
- Rules, extension of time, **8:53**
- Second extension, **8:53**
- Under section 69, **5:451**

### **FALSE CLAIM**

- By creditor, **6:154, 9:19**

### **FALSE PRETENCES**

- Obtaining property by, discharge not releasing bankrupt from, **7:197**

### **FALSE REPRESENTATIONS**

- Bankrupt obtaining credit and property by, **9:8**

### **FAMILY LAW ACTS**

- Generally, **5:5**
- Assignment in bankruptcy not a disposition, **5:9**
- Assignment where spouse subject to a restraining order, **5:9**
- Division of property under, **5:6**
- Equalization payment is property, **5:6**
- Equity of exoneration, **5:8**
- Necessity for charge or judgment in Saskatchewan, **5:6**
- Necessity for triggering event, **5:6**
- Partition and sale, **5:7**
- court may postpone, **5:7**
- Restraining order against spouse dealing with assets, **5:9**

### **FAMILY ORDERS AND AGREEMENTS ENFORCEMENT ASSISTANCE ACT**

- Generally, **5:258**
- Garnishment of, **5:258**

### **FARM DEBT MEDIATION ACT**

- Generally, **4:150, 27:3 to 27:15**
- Applications, **27:5**
- Financial review, **27:8**
- Introduction to, **27:3**
- Mediation, **27:10**
- Qualification for benefit, **27:6**
- Regulations, **27:15**
- Relationship to other legislation, **27:14**
- Secured creditors, **27:13**
- Stay of proceedings, **27:12, 27:14.50**

### **FARMERS**

- See also FARM DEBT MEDIATION ACT
- Generally, **3:22**
- Assignment by, **3:171**
- Cannot be subject of application, **3:22**
- Corporations, not covered, **3:22**
- Engaging in business and incurring debts, **3:22**
- Farm Debt Mediation Act, **4:150, 27:3**

**FARMERS—Cont'd**

- First charge on inventory, **5:435**
- Partnership, **3:22**
- Right to take possession of goods, **5:435**

**FATHER OF BANKRUPT**

- Postponement of claim for wages, **6:310**

**FEES**

- Of bailiff, tariffs, **8:117**
- Of official receiver, see OFFICIAL RECEIVER
- Of registrar, tariffs, and, see REGISTRAR
- Priorities, **6:294**
- Solicitors, see COSTS

**FILING DOCUMENTS**

- See PRACTICE and PROCEDURE

**FILING RETURNS**

- Generally, **2:61**
- Income tax returns, **2:61**

**FINAL DIVIDEND**

- See DIVIDENDS

**FINAL STATEMENT OF RECEIPTS  
AND DISBURSEMENT**

- Generally, **6:450, 6:451**
- Approval by inspectors, **6:85, 6:453**
- Comment by Superintendent, **6:453**
- Contents of, **6:453**
- Contesting, **6:454**
- Dividend sheet, see DIVIDEND
- Mailing copy to creditors, **6:430, 6:453**
- Mailing to Superintendent, **6:430, 6:453**
- Objecting to, **6:454**
- Onus on trustee to justify items in statement, **6:453**
- Registrar, taxing of, **6:430, 6:453, 8:63**
- Superintendent, comments on, **6:430, 6:453**
- Third party deposit, **6:453**
- Uncollectible, return to debtor section 40(1), **2:193**
- Use of, to prove insolvency, **5:539**

**FINES**

- Discharge not releasing bankrupt from, **7:186**

**FIRE INSURANCE**

- See also INSURANCE
- Loss occurring after bankruptcy, **2:65**

**FIRE INSURANCE—Cont'd**

- Payment of premiums, liability of secured creditors, **2:65**
- Proceeds payable to bank, **2:65**
  - to secured creditors, **2:65**
- Trustee takes subject to valid defences against bankrupt, **2:65**

**FIRM**

- See PARTNERSHIP

**FIRST EXECUTION CREDITOR'S  
COSTS**

- Generally, **5:347, 6:388**
- Date for determining, **5:350**
- Effect of sheriff's sale, **5:354**
- Necessity for seizure, **5:351**
- Priority of secured creditor, **5:352**
- Protecting priority, **5:353**
- What are costs, **5:349**
- Who is entitled, **5:348**

**FIRST MEETING OF CREDITORS**

- See MEETING OF CREDITORS

**FISHERS**

- Bankruptcy orders, provisions not applicable, **3:22**
- First charge of, **5:435**

**FIXTURES**

- Generally, **5:94 to 5:96**
- Bankruptcy of owner, **5:95**
- Bankruptcy of tenant, **5:96**
- Removal of tenant's fixtures, **5:96**
- Rights of mortgagee, **5:95**
- Rules for determining, **5:95**

**FLOATING CHARGE DEBENTURE**

- Generally, **5:105**
- After-acquired property, **5:105**
- Appointment of same person as trustee and receiver, **5:105**
- Assignment of book debts, **5:105**
- Crystallization, **5:105, 12:5**
- Effective date, **5:105**
- Effect of appointment of trustee in bankruptcy, **5:105**
- Failure to register, **5:105, 5:162**
- Nature of, **5:105**
- No necessity to register in Registry or Land Titles Office, **5:105**
- Personal Property Security Act, **5:162**

**FLOATING CHARGE DEBENTURE**

—Cont'd

- Priority, **5:105**
- Reasonable time to pay, **5:105**
- Receiver, appointment of, **5:105**
- Scope of, **5:105**

**FOREIGN BANKRUPTCIES**

- See CROSS BORDER INSOLVENCIES
- Generally, **5:264, 14:2 to 14:25**
- Canadian trustee claiming, **5:264**
- Foreign currency claims, **4:109, 6:134**
- Foreign trustee claiming Canadian assets, **5:264**
- Jurisdictional competence of foreign court, **5:264**
- Recognition of foreign bankruptcy and insolvency orders, **5:264**

**FORFEITURE IN EVENT OF BANKRUPTCY**

- Generally, **5:262**
- Bonus, enforceable, **5:262**
- Defeasance in event of bankruptcy, **5:262**
- Solvent partner purchasing interest of insolvent partner, **5:262**
- Spendthrift trust, **5:262**
- Void against trustee, **5:262**

**FORMAL DEFECTS**

- Power of court to excuse, **8:48**

**FORMS**

- Generally, **16:7**
- Deviation from, **16:7**
- For a detailed list of authorized Forms, see section headed Forms in vol 3. see also PRECEDENTS
- Must be followed, **16:7**

**FRANCHISING AGREEMENT**

- Effect of bankruptcy on, **5:101**
- Fundamental breach of franchise agreement, **5:101**

**FRAUD**

- Acting in fiduciary capacity, **7:192**
- Discharge not releasing bankrupt from debt or liability arising out of, **7:191 to 7:197**
- Fact under section 173, **7:177**
- Issue estopped, if heard on discharge, **7:200**
- Property obtained by, **5:2**

**FRAUD—Cont'd**

- Set off not permitted, **5:547**
- Should not be heard on the day of application, **7:172 to 7:175, 7:191 to 7:196**

**FRAUDULENT CONVEYANCES**

- Generally, **5:460 to 5:468**
- Act of bankruptcy, **3:50**
- Attacking under provincial, Assignments and Preferences Act, **5:469**
- Badges of fraud, **5:461**
- Bona fide, **5:461**
- Burden of proof, **5:462**
- Compensation for use, **5:466**
- Constitutionality of, **1:10**
- Conveyance, meaning of, **5:460**
- Conveyances without consideration, **5:463**
- Costs, **5:468**
- Costs against solicitor personally, **5:468**
- Designation of beneficiary in insurance, **5:460**
- Directing mind of a company, **5:461**
- Effect of finding a transaction to be a fraudulent conveyance, **5:466**
- Exempt property, **5:61, 5:465**
- Forebearance to sue, good consideration, **5:464**
- Future creditors, defrauding, **5:461**
- Good consideration, **5:464**
- Insolvency, not required, **5:460**
- Intent, **5:461**
  - inferring from circumstances, **5:461**
- Interlocutory injunction to maintain, status quo, **5:467**
- Liberal interpretation, **5:460**
- Limitation period for attacking, **5:467**
- Limit of recovery, **5:466**
- Necessity for a transfer of property, **5:460**
- Past consideration, **5:464**
- Practice, **5:467**
- Preference, not sufficient, **5:460**
- Prior to conveyance, transferee holding valid security, **5:466**
- Procedure for attacking, **5:467**
- Property exempt from seizure, **5:465**
- Rebutting the presumption, **5:508**
- Sale by transferee to bona fide purchaser, **5:464**
- Saving provisions, **5:464**
- Status quo, impossible to restore, **5:460**

## **FRAUDULENT CONVEYANCES**

### **—Cont'd**

- Time for determining, **5:460**
- Transfer of shares, **5:460**
- Valuable consideration, concurrent intent, **5:464**
- Voluntary, intent of donor only relevant, **5:463**

## **FRAUDULENT MISREPRESENTATION**

- Property obtained by, discharge not releasing bankrupt from debt or liability for, **7:197**

## **FRAUDULENT PREFERENCES**

See also TRANSFERS AT UNDER-VALUE

- Generally, **5:487 to 5:540**
- Act of bankruptcy, **3:50, 5:528**
- Paulian Action, **5:534**
- Adversarial position by trustee, **5:487**
- Agent of insolvent person, **5:504**
- Appeals in, **5:540**
- Binding agreement in three-month period, **5:518**
- Binding agreement prior to three-month period, **5:517**
- Bona fide belief that debtor under an obligation, **5:514**
- Calculation of time, **5:496**
- Change of position—no defence, **5:537**
- Charge on property, **5:491**
- Conveyance or transfer of property, **5:490**
- Corroborative evidence, **5:524**
- Costs, **5:538**
- Creditor, in invitum, **5:506**
- Debtor-creditor relationship, **5:495**
- Diligent creditors, **5:511**
- Effect of, **5:487**
- Effect of finding, **5:537**
- Failure to cross-examine debtor on affidavit, **5:506**
- Guarantor, **5:527**
- Insolvency of debtor
  - generally, **5:497**
  - assets insufficient to meet obligations, **5:500**
  - ceasing to pay current obligations, **5:499**
  - partnership, **5:503**
  - proof of, **5:502**

## **FRAUDULENT PREFERENCES**

### **—Cont'd**

- Insolvency of debtor—Cont'd
  - relevant date, **5:501**
  - unable to meet obligations, **5:498**
  - use of statement of affairs to prove, **5:539**
- Interest on judgment, **5:536**
- Judgment for, **5:537**
  - creditor has the right of set-off, **5:547**
- Judicial proceeding taken, **5:494**
- Jury notice, cannot be served, **5:539**
- Knowledge of insolvency by creditor, **5:519**
- Knowledge of insolvency by debtor, **5:520**
- Limitation period, **5:535**
- Margin deposit, **5:507**
- Necessity for a transfer of property, **5:490**
- Obligation incurred, **5:493**
- Ordinary course of business, **5:510**
- Payment made, **5:492**
- Payment of GST, **5:488**
- Preference in fact, **5:505**
- Preferential transactions immune from attack, **5:488**
- Pressure, **5:526**
- Presumption, **5:507**
- Procedure for attacking, **5:539**
  - payment into court, **5:539**
- Proposals, **4:145**
- Provincial legislation
  - generally, **5:529 to 5:533**
  - debtor-creditor relationship, **5:531**
  - insolvency, **5:530**
  - proof of intent, **5:532**
  - saving clauses, **5:533**
- Rebutting the presumption
  - generally, **5:508, 5:509**
  - binding agreement in three-month period, **5:518**
  - binding agreement prior to three-month period, **5:517**
  - bona fide belief that debtor under an obligation, **5:514**
  - continuing in business, **5:510**
  - diligent creditors, **5:511**
  - failure to call corroborative evidence, **5:524**
  - knowledge by creditor of insolvency, **5:519**



## **FRAUDULENT PREFERENCES**

### **—Cont’d**

- Rebutting the presumption—Cont’d
  - knowledge by debtor of insolvency, **5:520**
  - no reason to prefer the creditor, **5:525**
  - objective intent of debtor, **5:509**
  - ordinary course of business, **5:510**
  - payment, etc., to remedy a wrongful act, **5:513**
  - refusal to perform an act, **5:521**
  - related persons, **5:523**
  - relevance of subjective intent of debtor, **5:509**
  - security for past debt, **5:516**
  - security for present advance, **5:515**
  - setting-off accounts, **5:543 to 5:553**
  - transactions permitting debtor to remain in business, **5:512**
  - transfer of all property, **5:522**
- Refusal to perform an act, **5:521**
- Related persons, **5:496, 5:523**
- Remaining in business, **5:510**
- Retainer paid to solicitor, **5:180**
- Security for past due debt, **5:516**
- Security for present advance, **5:515**
- Six-year limitation period, **5:467**
- Surety, **5:527**
- Three-month period, **5:496**
- Transactions immune from attach, **5:488**
- Transactions subject to section 95, **5:489**
- Transfer of all property, **5:522**
- Trustee payment to, **5:492**
- Twelve-month period, **5:496**
- With a view, **5:506**

## **FRAUDULENT PREFERENCES ACT**

- Generally, **5:469**

## **FRAUDULENT TRANSACTIONS**

- Exempt property, **5:61**

## **FUNERAL EXPENSES**

- Priority of, **6:293**

## **GARNISHMENT**

- After bankruptcy, **5:278**
- Before bankruptcy, **5:343**
- Dividends of, **6:431**
- Precedence of assignments and bankruptcy orders over, **5:335**

## **GENERAL RULES**

- See **RULES**

## **GIFT**

- Act of bankruptcy, **3:50**
- Not a settlement, **5:497**

## **GOODS**

- Consignment, see **CONSIGNMENT**
- GOODS**
- Delivered on approval, **5:83**
- Delivered on sale or return, **5:84**
- “Property” includes section 2(1), **1:46**
- Property passing, **5:103**
- Repossession of by unpaid seller, **5:92, 5:423 to 5:435**
- Sale to non-existent purchaser, **5:185**
- Stoppage, in transitu, **5:204**

## **GOODS AND SERVICES TAX CREDIT PAYMENTS**

- Effect on dividends, **5:79**
- Not property of bankrupt, **5:79**
- Use of to pay trustee’s remuneration, **5:79**
- When is bankrupt entitled to the credit, **5:79**

## **GOODS AND SERVICES TAX REFUNDS**

- Generally, **5:255**
- Filing of returns by trustee, **5:255**
- Not payable on inspector’s fees, **6:93**
- Redemption of security by trustee, **6:197**
- Refunds, **5:255**
- Supplies have no interest in GST, **5:255**

## **GOODS ON CONSIGNMENT**

- See **CONSIGNMENT GOODS**

## **GOODWILL**

- Generally, **5:234**
- Covenant by bankrupt not to compete, **5:234**
- Property of bankrupt, **5:234**
- Restraining order against bankrupt, **5:234**
- Telephone numbers, **5:234**
- Trade name, **5:234**

## **GOVERNMENT**

- Claims of priority, **5:448, 6:389, 6:391**

## **GUARANTEE**

- Bankruptcy of surety, **6:155**

**GUARANTEE—Cont'd**

- Fraudulent preference of surety or guarantor, **5:527**
- Not a secured creditor, **6:164**
- Proof of claim where payment guaranteed, **6:133**

**HEATING EXPENSES TAX CREDIT**

- Generally, **5:81**

**HEIRS**

- Assignment by, **3:171**
- “Person” includes section 2(1), **1:45**
- application against, **3:20**

**HOMESTEAD**

- Generally, **5:73, 5:215 to 5:218**
- Bankrupt sole owner, **5:216**
- Exemption of, **5:73**
- Inchoate right, **5:217**
- Joint ownership, **5:218**

**HYPOTHEC**

- See also FRAUDULENT PREFERENCES, PROPERTY, SETTLEMENTS
- Movable property in Quebec, **6:207**
- Personal judgment, leave necessary, **5:330**
- Settlement, constituting, **5:451**
- Taking in payment clause, **6:206**

**IMMOVABLES**

- Generally, **5:446 to 5:449**

**IMPRISONMENT**

- See also ARREST OF BANKRUPTS, BANKRUPTCY, OFFENCES and COMMITTAL
- Arrest of bankrupt, **7:63**
- Bankruptcy offences, **9:2, 9:39**

**INCOME AVERAGING ANNUITY**

- Generally, **5:229**
- Assignment not required to be registered, **5:229**

**INCOME TAX**

- Appeal of assessment, **2:61**
- Claims in bankruptcy, **2:61**
- Claims under section 224(1.2) under proposal, **4:121**
- Declaratory judgment concerning, **8:6**
- Deemed trust for, **5:27 to 5:29**
- Directors and officers, liability for, **1:25**
- Disallowance of claims, **6:279**

**INCOME TAX—Cont'd**

- Duty of trustee to file returns section 22, **2:61**
- Examination of official of department, **7:31**
- Filing of claim by, **6:446 to 6:449**
- Filing returns, **2:61, 6:122, 6:144**
- Mailing assessment to trustee, **6:279**
- Post-bankruptcy refunds, **5:265 to 5:274**
- constitutes wages to bankrupt, **5:265 to 5:274**
- Precedence of bankruptcy over demand for, **5:343**
- Priority of, **5:446 to 5:449**
- Production of books and records pursuant to section 231.2, **2:68**
- Proof of claim for, **6:119, 6:446 to 6:449**
- Refunds of, **5:254**
- Right of bankrupt to appeal assessment, **2:61**
- Rule in, *Cherry v. Boulton*, no application, **5:553**
- Taxation year, **2:61**
- Trustee notifying to file, **6:446 to 6:449**
- extension of time, **6:446 to 6:449**

**INCOME TAX REFUNDS**

- Generally, **5:254**
- After bankruptcy, **5:254**
- Prior to date of bankruptcy, **5:254**

**INCOME UNDER A WILL OR TRUST**

- Generally, **5:219**

**INCURRING OF OBLIGATIONS BY TRUSTEE**

- After bankruptcy section 30(1)(g), **2:93, 2:104**
- payment for, **2:104**
- Before bankruptcy, **2:104**
- Books and records, assets to, **6:66**
- Carrying on business, liability for, **2:106**
- Disposal of assets to pay for obligations section 33(1), **2:104, 2:107**
- Priority for advances, **2:104**
- Sales tax, liability for, **2:104**

**INDICTMENT**

- See also BANKRUPTCY OFFENCES
- Form of section 207, **9:32**
- Time limit section 208, **9:33**

## INDEX

### INFORMATION

See also **BANKRUPTCY OFFENCES**  
Form of section 207, **9:32**  
Time limit section 208, **9:33**

### INHERENT JURISDICTION OF COURT

Generally, **8:4**  
Companies' Creditors Arrangement Act, **22:2**  
Extent of, **8:4**  
Giving effect to the Act, **8:4**  
Impossible to comply with Act, **8:4**  
Practicality requires, **8:4**  
Registrar has none, **8:72**

### INJUNCTIONS

Jurisdiction to grant, **8:22**  
Preservation order, **5:27 to 5:29**  
Registrar, power to grant section 192(1)(e), **8:22, 8:71**  
Test to be applied in granting, **8:22**  
Undertaking as to damages, **2:32, 8:22**

### INJURIES TO EMPLOYEES

Generally, **6:390**  
Claims for, **6:390**  
Workers' compensation, **6:390**

### INSOLVENCY

Assignment, necessity for, **3:167**  
Definition of, **1:41**  
Not necessary for application, **3:48**  
effect of, **3:48**  
Proof of for fraudulent preference, **5:489**

### INSOLVENT PERSON

Accelerating payments in case of proposal, **4:112**  
Assignment by, **3:167**  
Commercial lease by, in proposal, **4:120**  
Definition of, **1:41**  
Fraudulent preference proof for, **5:489**  
Notice of intention to make proposal, **4:4**  
Proposal by, **4:31**  
Repudiation of commercial lease by, **4:120**  
Terminating agreement with, **4:111**

### INSPECTION OF PROPERTY HELD AS SECURITY

Generally, **5:408**  
Costs of, **5:408**

### INSPECTION OF PROPERTY HELD

#### AS SECURITY—Cont'd

Pledge or pawn, **5:408**  
Secured creditors, **5:408**

### INSPECTORS

Generally, **6:66 to 6:97**  
Accounting to, by replaced trustee section 41(3), **2:192**  
Action by creditor where trustee refuses to take proceedings, **2:140 to 2:153**  
Actions against, **6:91**  
After-acquired property, **5:571, 6:90**  
Appeal from, **6:87**  
Appeal from ruling on appointment, **6:83**  
Appointment of  
generally, **6:2, 6:68 to 6:83**  
contested, **6:68**  
defect or irregularity in, **6:80**  
meeting of creditors, **6:77**  
no necessity for after re-appointment of trustee, **2:155**  
ordinary resolution, **6:68**  
special meeting of creditors, **6:77**  
Approving proposal by a bankrupt, **4:31, 4:40, 4:41**  
Approving report on discharge of bankrupt, **7:75, 7:77**  
Authorizing criminal proceedings, **2:60, 9:30**  
Bankrupt, ineligible, **6:70**  
Bond of trustee, approving, **2:40, 6:85**  
dispensing with, **2:40**  
reviewing, **6:85**  
Books and records, access to, **6:66**  
Carrying on business, **2:89**  
Casting vote, **6:84**  
Compromise and settle debts, **2:94**  
Compromising claims against estate, **2:95**  
Conflict of interest section 120(1), **6:66, 6:85**  
Conflict with creditors, **6:88**  
with trustee, **6:89**  
Contested proceeding, party to, **6:70**  
Costs of solicitor, **6:97, 8:135**  
Court overruling, **6:87**  
inspectors acting reasonably, **6:87**  
Creditor, need not be, **6:71**  
Delegating power to appoint, **6:75**

### **INSPECTORS—Cont'd**

- Directions trustee applying for, no need for approval of inspectors, **2:109 to 2:116, 6:82**
- Distributing property among creditors, **2:96**
- Dividend, approval of, **6:432**
- Duties of, **6:85**
- Eligibility, **6:69**
  - limited company, **6:73**
  - secured creditors, **6:72**
- Emergency, power of trustee to act section 19(2), **2:55**
- Employ a solicitor, **2:92, 6:88**
- Employing bankrupt, **2:99**
- Equal division of opinion, **6:84**
- Examination of, **6:95, 7:44 to 7:49**
- Examinations under section 163, **6:95, 7:44, 7:46**
- Fees of, **6:93, 6:94, 16:118**
  - no GST payable, **6:93**
- Fiduciary relationship, **6:66**
- Incurring obligations, **2:93**
- Ineligible persons, **6:70**
- Instituting criminal proceedings, **9:1, 9:30**
- Interim appointment of, **6:74**
- Interim draws for trustee, **2:94**
- Leasing property, authorizing, **2:90**
- Legal proceedings authorizing, **2:90**
- Limited companies, **6:73**
- Majority rules, **6:84**
- Meetings of, **6:84**
  - trustee must attend, **6:84**
- No inspectors, procedure to be followed, **6:77**
- Obtaining advantage or benefit, **6:92**
- Partnership, **6:81**
- Persons not eligible to act as, **6:70**
- Power of court before appointment of, **2:104, 6:67**
- Powers of, **6:66, 6:85**
- Proposals, **6:96**
- Purchase of assets, **2:100, 6:66**
- Ratification of acts of trustee, **2:74**
- Remuneration, **6:93, 6:94**
  - generally, **6:93**
  - special services, **6:94**
- Remuneration of trustee, approving, **2:170, 2:172**
- Replacement, **6:76**

### **INSPECTORS—Cont'd**

- Resignation of, **6:79**
- Retaining leases, **2:98**
- Revoking appointment of, **6:78**
- Sale of assets, authorizing, **2:75**
- Sale to inspectors
  - generally, **2:100, 6:66, 6:86**
  - nunc pro tunc order, **2:100**
  - sale to partner of, **2:100**
- Secured creditor, acting as, **6:72**
- Solicitor of, **6:84**
- Special services by, **6:93, 6:94**
- Summary administration section 155(e), **6:458**
- Surrendering leases, **2:98**
- Travel expenses, **6:93, 6:94**
- Trustee acting before appointment of, **2:104, 6:67**
- Trustee's final statement, approval of, **6:85, 6:453**
- Vacancy, **6:76**

### **INSURANCE**

- See also FIRE INSURANCE
- Generally, **2:65, 5:221 to 5:227**
- Annuities, **5:228**
- Application for directions re, **2:111**
- Assignment by debtor prior to date of bankruptcy, **5:227**
- Assignment within one year of bankruptcy, **5:225**
- Attacking change of beneficiary, **5:225**
- Automobile, **6:423**
- Bankrupt beneficiary of policy, **5:224, 5:226**
- Bankruptcy, effect on, **5:221**
- Bankrupt insured under policy, **5:221, 5:222**
- Beneficiary, change of, **5:223**
- Beneficiary same person as insured, **5:224**
- Demutualization of life insurance companies, **5:220**
- Disability, **5:232**
- Estate policies, **5:222**
- Exemption from seizure, **5:224**
- Fire insurance on property of debtor, **5:231**
- Fire occurring after bankruptcy, **2:65**
- Income averaging annuity, **5:229**
- Insuring assets by trustee, **2:65**

## INDEX

### INSURANCE—Cont'd

- Irrevocable designation of beneficiary, **5:223**
- Liability, **5:232**
- Life, **5:221 to 5:227**
- Payment of proceeds to bankrupt, **5:226**
- Policy payable to estate, **5:222**
- Policy payable to spouse, **5:224**
- PPSA, interaction with, **5:221**
- Proceeds of automobile insurance, **6:423**
- Proceeds of fire policy assigned to the bank, **2:65**
  - to secured creditors, **2:65**
- Proceeds of insurance other than automobile insurance, **6:424**
- Registered retirement saving plans, **5:236**
- Settlement, assignment constituting, **5:225**
- Trustee changing designation of beneficiary, **5:223**

### INTELLECTUAL PROPERTY

- Generally, **5:235, 5:441**
- Copyright, see COPYRIGHT
- Formulas, **5:3**
- Property of bankrupt, **5:235, 5:441**

### INTEREST

- Generally, **6:140, 6:421**
- After bankruptcy, **6:140, 6:421**
- Conditional discharge, on, **6:140**
- Debt, on, **6:140**
- Debts payable at a future time, **6:137**
- Prior to bankruptcy, **6:140**
- Proof of claim for, **6:140**
- Property includes, **1:46**
- Rate after bankruptcy, **6:140**
- Secured creditors, **6:254, 6:255**
- Surplus after payment of claims, **6:140, 6:421**
- Trust moneys, after bankruptcy, **5:19**

### INTERIM RECEIVERS

- Generally, **3:103 to 3:111, 3:120, 16:70 to 16:72**
- Actions against, **10:6 to 10:12**
- Advances by, **3:110**
- Affidavit in support, contents of, **3:112**
- After notice of intention, **3:120**
- After notice under section 244(1), **3:119**
  - not a successor employer, **3:119**

### INTERIM RECEIVERS—Cont'd

- After proposal, **3:120**
  - to defend application, **3:110**
- Appeals from appointment, by registrar, **3:114**
- Appeals from appointment of, by judge, **3:115**
- Appearing in person before the registrar, **16:17**
- Application for directions, **2:118**
- Appointment of, when notice given under section 244(1)
  - generally, **3:119**
  - matters to be included in order, **3:119**
  - pre-condition to appointment, **3:119**
  - proceedings under, Labour Relations Act, **3:119**
  - production of documents by, **3:119**
  - under, CCAA, **3:119**
  - when will appointment be made, **3:119**
- Appointment of after application
  - generally, **3:103 to 3:111, 16:52**
  - constitutionality of, **3:104**
  - discretion as to, **3:105**
  - full disclosure required, **3:105**
  - pending hearing of appeal, **3:106**
  - situations where appointed, **3:106**
- Appointment of after filing notice of intention, **3:120**
- Appointment of after filing of proposal, **3:120, 16:50**
- Borrowing money, **2:104, 3:107**
- Carrying on business section 31(1), (2), (4), **3:108**
- Claims of applicants uncertain and unproved, **3:105**
- Collecting book debts by, **3:107**
- Concealing property from, **3:112**
- Conservatory measures, **3:107**
- Constitutionality of, **3:103 to 3:111**
- Controlling receipts and disbursements, **3:107**
- Damages resulting from appointment, **3:118, 16:54**
- Danger that assets will disappear, **3:105**
- Definition of, **3:103**
- Directions to, **2:117, 3:111, 3:120**
- Discharge of, **3:117, 16:69**
- Discretion to appoint, **3:105**
- Disputed application, continuing appointment, **3:106**

## **INTERIM RECEIVERS—Cont'd**

Dividends by, **3:107**  
 Excluding debtor from property, **3:107**  
 Ex parte application for, **3:112, 16:50**  
     time for moving to set aside, **3:114**  
 Failure of debtor to comply, **3:112**  
 Fees and disbursements of, **3:116**  
     payment prior to bankruptcy order, **8:4**  
 Immediate order for costs where appointment set aside, **3:116**  
 Income tax deductions, liability for, **3:108**  
 Incurring obligations by section 31(1), **2:104, 3:108**  
 Interim order for payment of fees, **3:116**  
 Intra vires, **3:104**  
 Lease termination of interim receiver, **3:107, 6:371**  
 Leave payments on personal property, no liability for, **3:119**  
 Liability of, **3:108**  
 Obligations, incurring of, **2:104, 3:107, 3:108**  
 Occupation rent, liability for, **6:331**  
 Officer of the court, **3:103**  
 Onus on applicant creditor, **3:105**  
 Payment by, **3:108**  
     constituting a preference, **3:107**  
 Perishable property, **3:107**  
 Powers and duties, **3:107**  
 Practice, **3:112**  
 Preservation order, **3:103**  
 Proposal and appointment of, **3:120**  
 Proposal by, **3:120**  
     borrowing by, **3:120**  
     who can make application, **3:120**  
 Providing information to applicant, **3:51**  
 Recommendation for sale, **3:119**  
 Remedy for failure of debtor to comply with interim receiving order, **3:112**  
 Remuneration of, **2:187, 3:116**  
     payment in priority, **2:187, 3:116**  
 Rent, liability for, **3:108, 6:328 to 6:333**  
 Right of debtor to use assets, **3:109**  
 Sale of property, **3:107**  
 Section 47 interim receiver, **3:119**  
 Security on property of debtor giving, **2:103, 3:103 to 3:111**  
 Security under, Bank Act, **2:104, 2:105, 3:107**  
 Setting aside, **3:114**

## **INTERIM RECEIVERS—Cont'd**

Situations in which an appointment has been made, **3:106**  
 Stay of proceedings, **3:107**  
 Strong, prima facie case, **3:105**  
 Taxation of accounts, **3:116, 16:69, 16:71**  
 Undertaking as to damages  
     generally, **3:118, 16:72**  
     in a proposal, **3:120**  
     interim receiver not required to give, **3:118**  
     third parties may claim, **3:118**  
     under section 244(1), **3:119**  
 Use of assets by debtor, **3:109**  
 Vesting of property in, **3:103**

## **INTERNATIONAL INSOLVENCIES**

Generally, **14:2**  
 Attornment to jurisdiction, **14:18**  
 Calling in aid foreign courts, **14:14**  
 Conversion to foreign currency, **14:25**  
 Debtor having no property in Canada, **14:2**  
 Dividends, **14:21**  
 Examinations of debtor or other persons, **14:17**  
 Foreign proceeding, meaning of, **14:2**  
 Interim receivers, **14:15**  
     applications, **14:15**  
 Plurality approach, **14:12**  
 Proof of appointment of foreign representative, **14:11**  
 Proof of foreign proceeding, **14:11**  
 Property received, **14:21**  
 Proposals, **14:16**  
 Right of Canadian trustee to claim foreign assets, **14:12**  
 Stay of proceedings, **14:13**  
 Vesting foreign property in Canadian trustee, **14:12**

## **INTERPRETATION OF BANKRUPTCY LEGISLATION**

Generally, **1:8, 8:2 to 8:4**  
 Amending, Act, **1:8**  
     substantive rights determined at date of bankruptcy, **1:12**  
 Conflict of two statutes, **1:8**  
 Consistency of sections, **1:8**  
 Decisions in other provinces, **1:8**  
 English and French versions, authority of, **1:8**



## INDEX

### INTERPRETATION OF BANKRUPTCY

#### LEGISLATION—Cont'd

- Exception created by other legislation, **1:8**
- Inaccuracies or errors, **1:8**
- No literal or slavish application, **1:8**
- Not inconsistent, **1:8**
- Reasonable, **1:8**
- Repeal of a section, **1:8**
- Sections should be harmonious, **1:8**
- Starting point, **1:8**
- Two possible interpretations, **1:8, 8:2 to 8:4**

### INTERROGATORIES

- See DISCOVERY

### INVENTORY

- Making of, by trustee, **2:41 to 2:45**
- Procedure to be followed, Superintendent of Bankruptcy Directive No. 7 published subsequent to November 30, 1992 under Policy Statements, **2:45**

### IRREGULARITIES

- See also COURTS
- Generally, **8:48**
- Application, errors in, **3:41, 8:50, 8:51**
- Assignment, **8:50, 8:51**
- Defects excused by court, **8:50**
- Defects not excused, **8:51**
- Errors of substance, **8:49**
- Formal defects, **8:48**
- Late filing of documents, **8:50**
- Nullity, no power to cure, **8:49**

### ISSUE

- See also COURTS
- Generally, **8:47**
- Amendment of, **8:47**
- Appeal from, **8:47**
  - time for, **8:47**
- Appellate court directing, **8:47**
- Form of, **8:47**
- Fraudulent preferences, **5:539**
- Pleadings, necessity for, **8:47**
- Power of court to direct, **8:47**
- Refusal to order, **8:52**
- Registrar, no power to direct, **8:47**
- When should issue be directed, **8:47**

### JOINT ASSIGNMENT

- Right to file in ordinary administration, Superintendent of Bankruptcy Directive No. 2R, **3:148**
- Summary administration, **3:148**

### JOINT CONTRACT

- Generally, **7:229**
- Discharge of bankrupt, effect on, **7:229**

### JOINT LIABILITY

- Discharge of bankrupt, effect in, **7:226 to 7:231**
- Partners of, see PARTNERSHIP

### JOINT TENANCY

- Generally, **5:209 to 5:214**
- Accounting between, **5:213**
- Death of joint tenant, **5:210**
- Exemption from seizure, **5:214**
- Personal property, **5:209, 5:211**
- Real property, **5:210**
- Tenancy in common, **5:212**

### JUDGE

- See APPEALS, AUTHORITY OF COURTS, COURTS, JURISDICTION OF COURT
- generally, **8:2**
- jurisdiction of, **8:3**

### JUDGMENTS

- See also EXECUTIONS and CREDITORS
- Certificate of, priority of bankruptcy order and assignment, **5:335**
- Charging order under, **5:345, 6:164**
- Costs of first execution creditor, **5:347 to 5:354, 6:388**
- Equitable execution, **6:164**
- Foreclosure, proving a claim, **6:164**
- Judgment creditor, **5:342**
- Jurisdiction of, **8:3**
- Order may be enforced as, **8:45**
  - bankruptcy order and assignment taking precedence over, **5:342**
- Release of by bankrupt prior to bankruptcy, **5:260**
- Secured creditor, including, **6:164**
  - not including, **6:164**
- Seizure under execution, **5:342**
- Third party having interest in, **5:260**
- Vesting in trustee, **5:260**

## JURISDICTION OF COURT

See also **COURTS, REGISTRAR**  
 Generally, **8:2 to 8:31**  
 Admiralty proceedings, **8:27**  
 Appeals, **8:30, 8:84 to 8:107**  
 Appointment of judge sitting in bankruptcy, **8:3**  
     definition of, **8:2, 8:3**  
     jurisdiction of, **8:3**  
 Arbitration clause ineffective, **8:11**  
 Assets not claimed by trustee, **8:21**  
 Bankruptcy court, not a separate court, **8:2**  
 Bankruptcy judge, **8:3**  
 Conflict with ordinary civil courts  
     generally, **8:8 to 8:19**  
     bankruptcy issues in ordinary courts, **8:14**  
     concurrent jurisdiction, **8:16**  
     determination of whether a person is a creditor, **8:9**  
     exclusive jurisdiction of court sitting in bankruptcy, **8:17**  
     obtaining remedy granted by federal or provincial legislation, **8:9**  
     proceedings against trustee, **8:15**  
     proceedings in ordinary courts, **8:14**  
     strangers to bankruptcy, **8:12, 8:13**  
     title to property, **8:11**  
     transferring proceedings to court sitting in bankruptcy, **8:18**  
     transferring proceedings to ordinary courts, **8:18**  
 Consolidation of estates, **8:7**  
 Court of Appeal, **8:30, 8:86**  
 Courts acting in aid of each other, **8:55**  
 Declaratory judgments, power to make, **8:6**  
 Determining obligations of creditor, **8:9**  
 Determining rights between creditors, **8:28**  
 Directing trial of an issue, **8:47**  
 Equitable, **8:5**  
     equity follows the law, **8:5**  
 Evidence rules of, **8:24**  
 Exclusive, **8:17**  
 Foreign bankruptcies, **8:25**  
 Forum, non conveniens, **8:29**  
 Inherent, **8:4**  
 Injunctions, **8:22**

## JURISDICTION OF COURT—Cont'd

Interim preservation of property, **8:2**  
 Jurisdiction of Bankruptcy Judge, **8:3**  
 Letters of intent, **8:26**  
 Lis pendens, **16:90**  
 Money demand, **8:2**  
 Procedure for exercising, **8:20**  
 Proceedings against trustee, **2:128 to 2:136, 8:15, 10:6 to 10:12**  
 Registrar, **8:31, 8:64 to 8:84**  
 Remedy granted by federal or provincial legislation, **8:10**  
 Res judicata, **8:2**  
 Specific performance, **8:23**  
 Stranger to bankruptcy, **8:8 to 8:19**  
 Supreme Court of Canada, **8:30, 8:108, 8:109**  
 Third parties, affecting rights of, **8:12, 8:13**  
 Title to property, **8:11**  
 Transferring proceedings, **8:18**  
 Trustee claiming no interest in property, **8:21, 8:28**

## LABOUR RELATIONS

Collective bargaining, **5:253**  
 Constitutionality of provincial legislation, **1:10**  
 Effect of appointment of interim receiver under section 47, **3:119**  
 Interim receiver not necessarily a successor employer, **5:253**  
 Purchaser of assets, a successor employer, **5:253**  
 Realizing assets, use of bankrupt's employees, **5:253**  
 Successor employer, no stay of proceedings, **5:318**  
 Termination and severance pay, **6:297**

## LAND

See **SALE OF Land**

## LANDLORD AND TENANT

Generally, **6:327 to 6:386**  
 Accelerated rent  
     generally, **6:334 to 6:341**  
     calculation of, **6:340**  
     cannot be claimed in proposal, **4:120, 6:337**  
     entitled thereto under lease, **6:338**

## INDEX

### LANDLORD AND TENANT—Cont'd

Accelerated rent—Cont'd  
less than three months remaining on lease, **6:337**  
limited to value of property on premises, **6:335**  
offer to lease, **6:338**  
proposals, **6:339**  
taxes and other charges as, **6:342**  
Arrears of rent, **6:334, 6:335**  
Assignment of lease  
generally, **2:98, 6:345 to 6:354**  
accelerated rent and, **6:334 to 6:341**  
lease not permitting assignment, **6:345 to 6:349**  
lease permitting assignment, **6:354**  
shopping mall, **6:345 to 6:349**  
Cancelling a lease given by bankrupt, **2:98, 6:327, 6:387**  
Chattel mortgagee, priority of, **6:385**  
Commercial leases, repudiation of, **4:120**  
Constitutional attacks on, **1:12, 6:327**  
Covenants in lease, observance by trustee, **6:360**  
Damages for unexpired portion of lease  
generally, **6:372**  
Alberta, **6:372**  
Manitoba, **6:372**  
Ontario, **6:372**  
Quebec, **6:372**  
Damages to leased premises, **6:384**  
Debentures, priority of, **6:385**  
Disclaimer of lease  
generally, **2:98, 6:363 to 6:371**  
approval of inspectors, **6:369**  
effect of, **6:370**  
effect of trustee entering into possession, **6:368**  
meaning of, **6:364**  
precedent, **6:206**  
time for delivery, **6:367**  
what constitutes, **6:365**  
who does not constitute, **6:366**  
Distress after bankruptcy  
generally, **6:358**  
before bankruptcy, **6:357**  
costs of, **5:375 to 5:388**  
on goods of third party, **6:359**

### LANDLORD AND TENANT—Cont'd

Electing to retain lease, **2:98, 6:343, 6:345 to 6:349**  
precedent, **6:191 to 6:193**  
Forfeiture of term before bankruptcy, **6:343**  
Fraudulent preference by payment of rent, **5:488, 5:494, 6:361**  
Guarantor, liability of, **6:375**  
Land lord, bankruptcy of, **6:387**  
Land lord cannot terminate lease after bankruptcy, **6:343**  
Leasing property of the bankrupt, **2:88, 6:373**  
permission of courts unnecessary, **2:88, 6:373**  
Liability of guarantor and enforcement of security under leave where tenant becomes bankrupt, **6:375**  
agreement to enter into a new lease, **6:377**  
guarantees, **6:376**  
indemnifiers, **6:378**  
lease of chattels, **6:382**  
letters of credit, **6:379**  
promissory notes, **6:381**  
security agreements, **6:380**  
Liability of trustee of tenant for taxes, **6:326**  
Liability original tenant where assignee becomes bankrupt, **6:383**  
Monthly, tenancy, **6:362**  
Municipal taxes  
generally, **6:321 to 6:326**  
liability of trustee of tenant for, **6:326**  
payment of taxes and other charges as preferred claim, **6:342**  
Occupation of premises by purchaser of assets, **6:356**  
Occupation rent  
generally, **6:328 to 6:333**  
actual occupation, **6:329**  
calculation of, **6:332**  
interim receiver, liability of, **6:331**  
personal liability of trustee for, **6:330**  
procedure for obtaining payment of, **6:333**  
Payment of taxes and other charges as preferred claim, **6:342**  
Prepaid rent, **6:344**  
Priority of land lord's claim, **6:327**

**LANDLORD AND TENANT—Cont'd**

Proposals, **4:120**  
 Provincial law, application of, **6:327**  
 Release of property under seizure by land lord, **5:375 to 5:388, 6:357**  
 Right of trustee to let purchaser of assets occupy the leased premises, **6:356**  
 Sale of lease which does not permit assignment without leave generally, **6:345**  
     assigning leases, **6:349**  
     land lord wrongfully depriving trustee of opportunity to assign lease, **6:346**  
     secured creditor holding security on a lease, **6:347**  
     trustee's liability for rent after assigning a lease, **6:348**  
 Sale of lease which permits assignment without leave, **6:354**  
 Second bankruptcy and occupation rent, **6:374**  
 Secured creditor, land lord not a, **5:375 to 5:388, 6:327, 6:357**  
 Security for performance by bankrupt, **6:375**  
 Seizure by land lord, **5:375 to 5:388**  
 Sublessees  
     election to retain, **6:355**  
 Surrendering lease, **2:98, 6:363 to 6:371**  
 Taxes, liability of trustee of tenant, **6:326**  
 Taxes, payment as preferred claim, **6:342**  
 Termination of lease, **5:460 to 5:468**  
     by interim receiver, **3:107, 6:371**  
 Trustee entering into lease, **6:373**

**LAY-AWAYS**

Failure to maintain trust account, **5:104**  
 Failure to segregate goods, **5:104**

**LEASE**

See LANDLORD and TENANT

**LEASING PROPERTY OF THE BANKRUPTCY**

See LANDLORD and TENANT

**LEAVE TO TAKE PROCEEDINGS**

See STAY OF PROCEEDINGS

**LEGAL PROCEEDINGS**

See also COSTS  
 Generally, **2:90**

**LEGAL PROCEEDINGS—Cont'd**

Approval of inspectors, **2:90, 2:92**  
 Conflict among inspectors concerning, **2:90**  
 Continuance of, after bankruptcy, **2:90**  
 Emergency, **2:55, 2:90**  
 Employing a solicitor, **2:92**  
 Institution of, **2:90**  
     prior to first meeting of creditors, **2:54**  
 Leave of court unnecessary, **2:90**  
 Legal advice prior to first meeting, **2:54**  
 Liability of trustee for costs, **2:90**  
 Name to be used, **2:32**  
 Order to continue, **2:90**  
 Security for costs of, **8:130**  
 Trustee not required to take if no funds, **2:16**  
 Two methods for claiming property of bankrupt, **2:90**

**LEGAL REPRESENTATIVE**

See DECEASED DEBTOR  
 "person" includes, **1:45**

**LEGAL SERVICES**

Generally  
 Employing a solicitor, **2:92**  
 Obtaining in emergency, **2:55**  
 Obtaining prior to first meeting, **2:54**  
 Proposal, right to obtain, **8:133**

**LETTERS OF CREDIT**

Generally, **5:263**  
 Bank cannot prove as a creditor, **5:263**  
 Creating a security interest, **5:263**  
 Effect of bankruptcy on, **5:263**  
 Effect of subsequent agreement, **5:263**  
 Not a guarantee, **5:263**  
 Payment under not trust fund, **5:39**

**LEVY**

See also SUPERINTENDENT  
 Generally, **4:129, 6:295, 6:425 to 6:429, 16:108**  
 Claims not released by discharge, **6:425**  
 Failure to deduct, **6:429**  
 Mechanics' lien holder, payment to, **6:425 to 6:429**  
 No distribution to creditors, **6:426**  
 Payment by trustee, **6:426**  
     reason for, **6:295**  
 Preferred claims, **6:426**

## INDEX

### LEVY—Cont'd

- Priority of, **6:327, 6:425 to 6:429**
- Proposals and, **4:129**
  - distribution in specie, **4:129**
  - moneys furnished by third party, **4:129**
- Rate of, **6:425 to 6:429, 16:108**
- Realization by secured creditor, **6:427**
- Secured creditor, partial payment, **6:427**
- Surplus, levy not deducted, **6:450**
- Trust funds, **6:428**
- Unsecured claims, **6:426**

### LIABILITIES, CEASING TO MEET

- See also ACTS OF BANKRUPTCY
- Generally, **3:50**
- Able but unwilling to pay, **3:50**
- Dates, unnecessary, **3:50**
- Failure to pay single creditor, **3:50**
- Meaning of “Generally,” **3:50**
- Proof of, by filing of credit report, **3:50**
- Proof of, by interim receiver, **3:50**

### LIABILITY AND DISABILITY INSURANCE

- Generally, **5:232**
- Effect of proposal, **5:232**
- Who may claim, **5:232**

### LICENSED TRUSTEE

- See TRUSTEE

### LICENSE OF TRUSTEE

- See SUPERINTENDENT and TRUSTEES

### LICENSES

- Generally, **5:97**
- Distinguished from a leave, **5:97**
- Fishing licence, **5:97**
- Fishing quota, **5:97**
- Passing to trustee, **5:97**
- Taxi license, **5:219**

### LIEN

- See also MECHANICS' LIEN
- Livery stable keeper, **6:164**
- Payment into court to remove, **6:164**
- Provincial statutes, **6:164**
- Solicitors, **2:48, 5:180, 16:46**
- Trustee's, for remuneration, **2:175**
- Vendor's lien on chattels, **5:248**
- Vendor's lien on land, **5:249**

### LIFE INSURANCE

- See INSURANCE

### LIMITATIONS

- See STATUTE OF LIMITATIONS

### LIMITED PARTNERSHIPS

- Generally, **5:444, 6:406**
- Bankruptcy of, does not result in bankruptcy of limited partners, **3:27**
- Distribution of assets, **5:444**
- Provincial law governs, **5:444**
- limitation on liability, **5:444**

### LIQUIDATOR

- See also WINDING-UP and RESTRUCTURING ACT

### LIS PENDENS

- Generally, **16:90**
- Certificate of, **16:90**
- Debtor having no interest in property, **16:90**
- Necessity for full disclosure, **16:90**
- Necessity for proceeding promptly, **16:90**

### LOCALITY OF A DEBTOR

- Application, filing in, **1:42, 3:18**
- Assignment, filing with official receiver at, **1:42, 3:155**
- Definition of, **1:42**
- Proposal, filing with official receiver, **1:42, 4:31**

### MAIL

- Dispensing with section 187(12), **8:54**
- Re-direction of, see REDIRECTION OF MAIL
- Service by, **16:15**

### MAINTENANCE

- Agreement for, **7:188**
- Claim for, not provable, **7:185, 7:187**
- Claim for, not released by discharge of bankrupt, **7:185, 7:187**
- Preferred claim, **6:320**
- Provable claim, **6:136**
- Stay of proceedings, **5:278, 5:302**

### MARRIAGE

- Covenant or contract to defeat or delay creditors, effect on discharge, **7:184**

### MARRIAGE SETTLEMENTS

- See SETTLEMENTS

## **MARRIED SPOUSES**

- Applicability of Act, **5:355**
- Application against, **3:19**
- Assignment by, **3:171**
- Examination of, **7:31**
- Giving evidence against spouse, **5:355, 7:31**

## **MARSHALLING**

- Generally, **6:209 to 6:214**
- Conditions for, **6:209 to 6:214**
- Secured creditor by, **6:209 to 6:214**

## **MATTER**

- Definition of, **2:2**

## **MECHANICS' LIEN**

- Interest on monies paid into court to discharge lien, **5:35**
- Position of, **6:164**
- Secured creditor against property of bankrupt, **6:164**
  - not on property of third party, **6:164**
- Stay of proceedings, **5:307**
- Trust funds
  - generally, **5:35, 5:38**
  - assignment by bankrupt of, **5:47**
  - beneficiaries, **5:40**
  - constitutionality, **5:36**
  - demand under, Income Tax Act, effect of, **5:48**
  - distribution of, **5:44**
  - extra-territorial effect, **5:38**
  - fraudulent preference, **5:52**
  - holdback, **6:164**
  - interest on, **5:45**
  - jurisdiction of court sitting in bankruptcy, **5:37**
  - legal costs, **5:56**
  - letter of credit payment, not trust funds, **5:39**
  - levy of Superintendent, **5:46, 6:428**
  - liability of officers and directors, **5:54**
  - money paid into court, **6:159**
  - moneys which are not trust funds, **5:39**
  - onus on claimant to show that payment from a particular project, **5:38**
  - overhead expenses, payment out of trust funds, **5:51**
  - payment by owner, **5:50**
  - payment in ordinary course of business, **5:51**

## **MECHANICS' LIEN—Cont'd**

- Trust funds—Cont'd
  - payment to person with knowledge, **5:49**
  - purpose of, **5:38**
  - rental of equipment, **5:41**
  - right of reimbursement, **5:53**
  - set-off against, **5:42**
  - solicitor's lien, **5:43**
  - trustee's fees, **5:55**

## **MEDIATION**

- Amount to be paid from income, **5:268**
- Amount to be paid on conditional discharge, **7:74**

## **MEDICAL & DENTAL RECORDS**

- Property of bankrupt, **5:98**
- Sale of, by trustee, **5:98**

## **MEETINGS OF CREDITORS**

- See also PROOFS OF CLAIM
- Generally, **6:2 to 6:64**
- Adjournment of meeting, **6:1, 6:8**
- Admission of claims at section 108(1), **6:23, 6:264**
- Advertising the meeting, **6:6**
- Alteration of proposals by, **4:65**
- Appointment of inspectors at, **6:3, 6:68 to 6:83**
- Appointment of trustee at, **2:21, 6:3, 6:17**
  - negative votes, **6:17**
- Assigning claims, **6:30**
- Bankrupt to attend section 158(h)
  - generally, **6:15, 7:14**
  - expenses of attending first, **6:15**
  - expenses of attending other than first, **6:63, 16:91**
  - improper questioning, **6:23**
  - interpreter for, **16:91**
- Calculation of votes at, **6:52**
  - on proposal, **4:60, 6:52**
- Calling other than the first, **6:63**
  - rights to reject claims, **6:63**
  - trustee is chair, **6:63**
- Casting vote, **6:20**
- Chair of
  - generally, **6:2, 6:20**
  - appeals from, **6:53 to 6:62**
  - costs of, **6:62**
  - appeals from judge, **6:61**



## INDEX

### MEETINGS OF CREDITORS—Cont'd

#### Chair of—Cont'd

- approach of courts to
  - generally, **6:53, 6:59**
  - jurisdiction of registrar to hear, **6:60**
  - notice to creditors whose claims are contested, **6:58**
  - noting objections, **6:54**
  - particulars of, **6:57**
  - section 37 proceedings, **6:53**
  - time for filing, **6:55**
  - who may appeal, **6:56**
- proposal, **4:31, 4:60**

#### Check-list of steps to be followed prior to and at, **6:2**

#### Creditors refusing to attend, **6:21**

#### Dispensing with advertising of, **6:6**

#### Extension of time for, **6:2**

#### Inspectors, appointment of, **6:3, 6:68 to 6:83**

##### filling vacancy section 118, **6:68 to 6:83**

##### overriding, **6:88**

##### revocation of appointment by, **6:68 to 6:83**

#### Interlocutory orders, **6:64**

#### Irregularities, **6:4 to 6:10, 6:13 to 6:23, 8:48**

#### Majority of votes decisive, **6:52**

#### Meetings other than first meeting, **6:63** - trustee is chair, **6:63**

#### Minutes, **6:3, 6:22**

#### Notice of

- generally, **6:3, 6:5**
- bankrupt, **6:63**
- meeting subsequent to first meeting, **6:11**
- publication of, **6:2**
- shareholders, **6:5**

#### Objections to voting, **6:23**

#### Official receiver, chair of, **6:3, 6:20**

#### Order of holding meetings, **6:12**

#### Orders, interlocutory or permanent, **6:64**

#### Ordinary resolution, definition of, **1:49**

#### Partners, convening of, **6:14, 16:91**

#### Place for, **6:1, 6:9**

#### Procedure at first meeting

- generally, **6:13 to 6:23**
- attendance of bankrupt, **6:15**
- chair, **6:20**

### MEETINGS OF CREDITORS—Cont'd

#### Procedure at first meeting—Cont'd

- considering affairs of bankrupt, **6:16**
- inspectors, appointment of, **6:18**
- minutes of, **6:22**
- objection to claim of creditor, **6:23**
- partnership, **6:14**
- quorum, **6:21**
- trustee, affirming appointment, **6:17**
- voting of, **6:23**

#### Procedure prior to first meeting

- generally, **6:4 to 6:10**
- adjournment of, **6:8**
- advertising the meeting, **6:6**
- notice to creditors, **6:5**
- place for holding, **6:9**
- reconvening, **6:10**
- time for holding, **6:7**

#### Proof of claim

##### see also PROOF OF CLAIM

- generally, **6:24 to 6:28**
- address, **6:27**
- agent making, **6:28**
- formalities, **6:25**
- statement of account, **6:28**
- who may make, **6:26**

#### Proposals on, **4:58 to 4:63**

#### Proxies

- generally, **6:42 to 6:51**
- blank, **6:50**
- corporations, **6:43**
- defects in, **6:51**
- forms for, **6:42**
- individuals, **6:45**
- limited, **6:48**
- partnerships, **6:44**
- power of substitution, **6:46**
- time for lodging, **6:49**
- trustee completing, **6:50**
- who can be named, **6:47**

#### Purpose of, **6:13**

#### Quorum at, **6:2, 6:21**

##### trustee holding proxy of one creditor, **6:21**

##### voting letter in proposal, **6:21**

#### Rejection of claims at, **6:23**

#### Removal of trustee at, **2:21, 6:17**

#### Restricted creditors, **6:38**

- appointment of trustee or inspectors, **6:38**

## **MEETINGS OF CREDITORS—Cont'd**

- Restricted creditors, **6:38**—Cont'd
  - non-arm's length, **6:39**
- Secured creditors
  - generally, **6:32 to 6:36**
  - failure to value, **6:36**
  - surrendering security, **6:33**
  - valuation of, **6:34**
  - voting for excess, **6:35**
- Shareholders, not entitled to notice, **6:5**
- Special resolution, **1:54**
- Special resolution, definition of, **1:54**
- Splitting claims, **6:30**
- Telecommunications, **6:24 to 6:28**
- Time for filing proofs, **6:29**
- Time for holding, **6:2**
- Trustee, **6:37**
- Trustee disallowing claim of creditor prior to meeting, **6:23, 6:266 to 6:270**
- Trustee must attend, **6:3, 6:63**
- Unliquidated and contingent claims, **6:41**
- Voting at
  - generally, **6:2, 6:23**
  - claim on bill of exchange or note on which bankrupt secondarily liable, **6:31**
  - contingent and unliquidated claims, **6:41**
  - on proposals, **4:3, 4:16, 4:58 to 4:63, 4:71 to 4:78**
  - proxies, **6:42 to 6:51**

## **MEETINGS OF INSPECTORS**

See **INSPECTORS**

## **MENTAL INCOMPETENT**

Assignment by, **3:171**

## **MINISTER**

Definition of, **1:43**

## **MISAPPROPRIATION**

- Discharge not releasing bankrupt from debt or liability arising out of, **7:191 to 7:196**
- Of bankrupt's property, **5:183**

## **MISTAKE**

Power to excuse, **8:48**

## **MONEY**

By way of compensation in criminal proceedings, **5:187**

## **MONEY—Cont'd**

- Paid into court, see **PAYMENT INTO COURT**
- "Property" includes, **1:13, 1:46**
- Trustee to deposit, **2:66**

## **MONITOR**

- Appointment of a monitor, **22:75**
- Officer of the court, **22:75**

## **MORTGAGE**

See **FRAUDULENT CONVEYANCES, FRAUDULENT PREFERENCES, PROPERTY, SETTLEMENTS**

## **MOTIONS**

- See also **EX PARTE ORDERS**
- Generally, **16:24, 16:26**
- Affidavit to be used on, **16:26**
- Application to court to be made by, **16:24**
- Filing, **16:23**
  - material to be filed, **16:23**
- Intervention by Superintendent on, **16:23**
- Notice of, **16:24**
- Service of, **16:15**
- Time for filing, **16:23**
- Use of ordinary procedure of court, **16:9 to 16:12**

## **MUNICIPAL TAXES**

- Generally, **6:321 to 6:325**
- Business taxes, **6:324**
- Declaration of value by trustee, **6:325**
- Distress for, **5:382, 6:321, 6:326**
- Leased premises, **6:324**
- Lien on land, **6:322**
  - not a, priority of, **6:324**
- Limit on, **6:323**
- Public utility, **6:303**
- Trustee of tenant, liability for, **6:326**
- Within two years, **6:323**

## **NECESSARIES OF LIFE**

- See also **DISCHARGE OF BANKRUPT**
- Generally, **7:205**
- Released by discharge of bankrupt, **7:205**

## **NEW DEVELOPMENTS**

See section headed **NEW DEVELOPMENTS**

## **NEWSPAPER, ADVERTISING IN**

See **MEETINGS OF CREDITORS**

## INDEX

### NON-EXISTENT PURCHASER

Sale of goods to, effect of, **5:185**

### NOTICE OF DISALLOWANCE

See DISALLOWANCE OF CLAIMS

### NULLA BONARETURN

See ACTS OF BANKRUPTCY

### OBLIGATIONS

See INCURRING OF OBLIGATIONS  
BY TRUSTEE

meaning of, **5:3**

### OBTAINING POSSESSION OF PROPERTY

See POSSESSION OF PROPERTY

### OCCUPATION RENT

See also LANDLORD and TENANT  
Generally, **6:328 to 6:333**

### OFFENCES

See BANKRUPTCY OFFENCES

### OFFICERS OF CORPORATION

See DIRECTORS

liability for breach of trust, **5:26**

Liability of officers for offences, **9:27**

Voting by, **6:38**

Wages, postponement of claim for, **6:311**

### OFFICIAL NAME

See also LEGAL PROCEEDINGS

Generally, **2:32**

Change from wording of former, Act,  
**2:32**

Meaning of, **2:32**

Reason for, **2:32**

Revival order, **2:32**

Trustee suing in own name, **2:32**

### OFFICIAL RECEIVER

Generally, **2:9, 16:46**

Absence of section 12(4), **2:9**

Action against, **10:6 to 10:12**

Appeal from, **2:9**

Application to registrar for directions,  
**2:9, 16:46**

to judge for directions, **16:46**

Appointment of trustee in assignment,  
**3:154**

Assignment

cancellation of, **3:160**

duties in respect of, **3:148, 16:76**

### OFFICIAL RECEIVER—Cont'd

Assignment—Cont'd

filing with, **2:9, 3:148**

Bankruptcy offence, reporting, **2:9, 9:30**

Bankruptcy order, endorsement of, **2:9,**  
**3:122**

Bond of trustee

generally, **2:40, 3:148**

decreasing, **2:40**

in proposals, **2:40, 4:31**

not to be excessive, **2:40**

time for filing, **2:40**

Certifying assignment in case of real  
property section 74(1), **5:389 to**  
**5:397**

Chairperson of first meeting of creditors,  
**6:13 to 6:23**

of consumer proposal, **4:155**

of proposal, **4:31, 4:60**

Decreasing security, **2:40**

informing Superintendent section  
12(3), **2:40**

Deemed assignment, **4:57, 4:72, 4:137**

Directions, application for, **2:9, 16:46**

Duties and responsibilities, **2:9**

Examination of bankrupt

generally, **7:9, 7:28**

failure to attend for, **7:9**

giving false answers on, **7:9**

Handing assignment to trustee, **16:76**

Immunity from suit, **2:98, 10:6**

Investigation by, **7:29**

List of, **2:9**

Offences, duties in respect of section 205,  
**9:30**

Proposal to be filed with, **4:31, 16:78**

creditor refusing to accept, **4:57**

Registrar performing duties, **2:8, 2:9**

Statement of affairs, delivery by trustee,  
**16:76**

Trustee, appointing of in assignment,  
**3:154**

### OPPRESSION REMEDY

Generally, **5:184, 23:2**

Use of by creditor to recover property  
removed by fraud, **5:184**

Use to recover property of bankrupt,  
**5:184**

### ORDERLY PAYMENT OF DEBTS

Generally, **11:2**

## **ORDERLY PAYMENT OF DEBTS**

### **—Cont'd**

Assignment of wages, **11:2**  
 Attaching order after, **11:2**  
 Claim in excess of \$ 1,000, **11:2**  
 Crown debt due to, **11:2**  
 Effect of consent to order, **12:9**  
 Provincial legislation required, **11:2**  
 Release of surety, **11:2**

## **ORDER OF COURT**

See **COURTS**  
 Order enforced as a judgment section  
 187(6), **8:45**

## **ORDINARY PROCEDURE OF THE COURT**

See **PRACTICE and PROCEDURE**

## **ORDINARY RESOLUTION**

All questions decided by, **1:49**  
 Calculations of votes, **6:52**  
 Contrasted with special resolution, **1:49**  
 Definition of, **1:49**  
 Proposals, **4:58 to 4:63**

## **PARTNERSHIP**

Generally, **5:444, 6:404 to 6:420**  
 Actions against partners not in bankruptcy, **6:413, 7:230**  
 Administration of estates, **6:420**  
 After-acquired property of undischarged bankrupt partner, **5:574**  
 All partners not bankrupt, **6:413, 7:229**  
 Application against, **3:26**  
 Application by, **3:17**  
 Assignment by, **3:171**  
     court sitting in bankruptcy cannot declare, **5:34**  
 Bankruptcy of, effect of, **6:407**  
 Bankruptcy of partner, effect of, **6:408**  
 Bankruptcy order, **3:26, 3:125**  
     transfer of application against other partner, **3:26**  
 Claim against, **6:404**  
 Claim by a partner, **6:418**  
 Claim of joint estate against separate estate and by separate estate against joint estate, **6:419**  
 Commencing and prosecuting action where one member bankrupt, **5:444**  
     notice to other partner, **5:444**  
 Costs, payment of, **6:420, 6:455**

## **PARTNERSHIP—Cont'd**

Deemed to be a partner, **6:410**  
 Discharge of, effect of, **7:230**  
 Dissolution prior to bankruptcy, **6:405**  
 Dissolution which prejudices creditors, **6:411**  
 Distribution of property, **6:420**  
 Dividends in, **6:455**  
 Inspectors for separate estate, **6:68 to 6:83**  
 Joint and separate property inextricably intertwined, **6:415**  
 Joint debt, **6:416**  
 Joint property, **6:414**  
 Limited, **5:444, 6:406**  
     see **LIMITED PARTNERSHIPS**  
 Meeting of creditors, **6:14, 16:91**  
 No joint estate, **6:405**  
 Partners, not in bankruptcy, **6:413, 7:230**  
 “Person” includes section 2, **1:45**  
 Proof against joint and separate estates, **6:417**  
 Proxy by, **6:44**  
 Secured claims in, **6:253**  
 Separate debt, **6:416**  
 Separate property of, **6:412, 6:414**  
 Service of application on, **3:26, 3:42 to 3:45**  
 Silent, postponement of claims, **6:401**  
 Silent partner having right to purchase interest of insolvent partner, **5:262**

## **PATENTS**

Assignment of prior to bankruptcy, **5:235**  
 Property of debtor, **5:235, 5:441**  
 Sale of patented article, **5:441**

## **PAULIAN ACTION**

Generally, **5:534**

## **PAWNED GOODS**

Right of trustee to inspect section 79, **5:408**

## **PAYMENT INTO COURT**

No power to set aside security and direct, **6:204**  
 Right to money paid in, prior to bankruptcy, **5:346**  
 Secured claims, payment in to remove, **6:164**  
 Trust money paid to abide outcome of litigation, **5:10 to 5:20**

**PENSION BENEFITS**

See also REGISTERED RETIREMENT  
and DISABILITY SAVINGS PLAN  
Generally, **5:188**  
Not vesting in trustee, **5:188**  
Personal liability of trustee for, **6:312**  
Seizure if not exempt, **5:188**  
Support payments in Ontario, **5:188**

**PERISHABLE GOODS**

See also CONSERVATORY MEASURES  
Generally, **2:52**  
Conservatory measures, **2:52**  
No necessity for order to dispose of, **2:52**  
Seasonable goods, **2:52**

**PERSON**

See also RELATED PERSONS  
Definition of, **1:45**

**PERSON AGGRIEVED BY ACTIONS  
OF TRUSTEE**

See ACTIONS AGAINST TRUSTEE

**PERSONAL PROPERTY SECURITY  
ACT**

Generally, **5:120**  
Actual notice, **5:128**  
Application of doctrine of equitable  
charge or mortgage, **5:124**  
Application of rule in, ex parte James,  
**5:123**  
Assignment of  
book debts, **5:159**  
mortgage on real estate, **5:157**  
security interest where security interest  
not perfected, **5:169**  
wages, **5:156**  
Attachment of a security interest, **5:163**  
Building materials affixed to realty, **5:149**  
Buyer in ordinary course of business,  
**5:146**  
Choice of law agreements, **5:141**  
Conflict of laws, **5:140**  
knowledge of transfer, **5:140**  
Consignment agreements, **5:151**  
true consignments, **5:151**  
Constitutional validity of provincial  
legislation, **5:121**  
Constructive trust, **5:129**  
Co-ownership of a chattel, **5:136**  
Crown, security interests of, **5:143**

**PERSONAL PROPERTY SECURITY**

**ACT—Cont'd**

Description of collateral, **5:162, 5:175, 5:176**  
Discharge, effect of, **5:167**  
Effective date of vesting of trustee's title,  
**5:137**  
Equitable charge or mortgage, application  
of, **5:124**  
Equitable estoppel, **5:126**  
Equitable subordination, **5:125**  
Errors  
in description of chattels in financing  
statements, **5:176**  
in description of chattels in security  
agreements, **5:175**  
in financing change statements, **5:177**  
in name of debtor in financing state-  
ment, **5:174**  
Extension of time for compliance with,  
PPSA, **5:175**  
Fixtures, **5:150**  
Floating charges, **5:162**  
French name, **5:174**  
General financing statement, **5:168**  
Innkeeper's lien, **5:144**  
Insurance, transfer of an interest or claim  
under, **5:147**  
Interest in real estate, **5:158**  
Leases, **5:152**  
Legal process, control by, **5:165**  
Licenses, **5:160**  
Lien given by statute or rule of law, **5:144**  
Life insurance not governed by, **5:147**  
Marine mortgage, **5:154**  
Necessity for  
interest by one unsecured creditor,  
**5:173**  
lack of knowledge of unperfected secu-  
rity, **5:128**  
security agreement, **5:138**  
trustee to show that assets owned by  
bankrupt, **5:135**  
Perfection after date of bankruptcy, **5:137**  
Perfection by possession, **5:164**  
Perfection by registration, **5:166**  
Pledge of shares, **5:161**  
Post insolvency registration, **5:179**  
Power of court to relieve against  
irregularities, **5:173**  
Priority by legal process, **5:165**

## **PERSONAL PROPERTY SECURITY**

### **ACT—Cont'd**

- Procedure for attacking security interest, **5:131**
- Proceeds of sale of collateral, **5:171**
- Purchase money security interest
  - generally, **5:170**
  - priority between two holders, **5:170**
  - refinancing does not create, **5:170**
  - sale of collateral, **5:170**
- Real estate, creation of interest in, **5:158**
- Registration of a general financing statement on inventory, **5:168**
- Registration of a single financing statement, **5:166**
- Renewal of registration, **5:172**
- Revendication, right of, **5:141**
- Rights and remedies upon default, **5:178**
- Right to obtain information concerning security interest, **5:134**
- Rule in, ex parte James, application of, **5:123**
- Sale of Goods Act, rights of buyers and sellers, **5:145**
- Searches not revealing security, **5:173**
- Section 427 of, Bank Act, security under, **5:155**
- Security agreement, need for
  - generally, **5:138**
  - financing arrangements not complete, **5:139**
  - must charge collateral, **5:138**
  - not signed by purchaser, **5:175**
  - registered after bankruptcy, **5:138**
- Security interest, need for, **5:139**
- Shares, pledge of, **5:161**
- Shares, redemption of, **5:161**
- Subordination of security interests, **5:127**
  - equitable subordination, **5:125**
  - evidence of, **5:161**
- Subrogation, **5:130**
- Tenant's fixtures, **5:150**
- Transfer of an interest or claim under a policy of insurance, **5:147**
- Trustee has greater rights than bankrupt, **5:132**
- Trustee's right to attack for defects
  - generally, **5:122**
  - effective date of vesting of title, **5:137**
  - necessity to show that assets owned by bankrupt, **5:135**

## **PERSONAL PROPERTY SECURITY**

### **ACT—Cont'd**

- Trustee's right to attack for defects
  - Cont'd
  - procedure for attacking, **5:131**
  - rights not limited to those possessed by bankrupt, **5:132**
  - right to obtain information about security interests, **5:134**
- Unjust enrichment, not applicable, **5:129**
- Wages, interest in, **5:148**

## **PERSONAL REPRESENTATIVE**

- Application against, **3:20**
- Assignment by, **3:171**

## **PETITION FOR BANKRUPTCY**

- See APPLICATION FOR BANKRUPTCY ORDER

## **POLICY STATEMENTS OF SUPERINTENDENT**

- See section of book headed POLICY STATEMENTS & DIRECTIVES in vol 4

## **POSSESSION OF PROPERTY**

- Generally, **2:41 to 2:45**
- Accounts receivable, **2:47**
- Books of account, **2:47**
- Changing locks, **2:41**
- Discretion of trustee, **2:41**
- Endorsing name of bankrupt, **2:41**
- Execution of documents, **2:41**
- Guardian, fees of, **2:41**
- Inventory, making, **2:45**
- Liabilities prior to bankruptcy, **2:50**
- Procedure for obtaining possession, **2:41, 5:410 to 5:422**
- Receiver, trustee as, **2:46**
- Search warrant for, **2:41**
- Sheriff, delivery to trustee, **2:49**
- Solicitor's lien on documents, **2:48**
- Solicitor's lien on property, **2:49**
- Taking possession of, **2:41**
- Telephone number, **2:50**
- Third party, claim to, **2:41**
- Unsworn testimony, not to be used, **2:41 to 2:45**

## **POSTPONEMENT OF CLAIMS**

- See RESTRICTED CREDITORS



**POWERS OF APPOINTMENT  
EXERCISABLE BY BANKRUPT**

Generally, **5:233**  
Not for benefit of third parties, **5:233**  
Trustee may exercise a general power, **5:233**

**PRACTICE AND PROCEDURE**

See also particular subjects, such as  
Assignments, Applications  
Generally, **16:7, 16:16, 16:24, 16:34**  
Civil matters practice in, **16:9 to 16:12**  
Depositions, **16:9 to 16:12, 16:28 to 16:32**  
see DISCOVERY  
Filing of documents, **16:19, 16:22**  
Interim receiver, appearing before registrar, **16:17**  
Motions, **16:24**  
see MOTIONS  
Ordinary procedure of the Court  
generally, **16:9 to 16:12**  
delay in perfecting appeal, **16:9 to 16:12**  
implied undertaking only to use documents in bankruptcy proceedings, **16:11**  
when applied, **16:10**  
when both parties in bankruptcy and ordinary procedure applied, **16:11**  
when not applied, **16:12**  
Service, see SERVICE  
form of, **16:13, 16:15**  
time for, **16:13**  
Superintendent, service by registered mail, **16:19**  
Time for doing an act, **16:13**  
Time less than six days, **16:14**  
Title of proceedings, **16:19, 16:21**  
Transfer of proceedings, **16:19**  
Trustee, appearing before registrar, **16:17**  
Witnesses, examination of, **16:28 to 16:32**

**PRECEDENCE OVER  
ATTACHMENTS,  
GARNISHMENTS, EXECUTIONS  
ETC.**

Generally, **5:335**  
Change in priority, **5:340**  
Charging orders, **5:345**  
Constitutionality of, **5:336**

**PRECEDENCE OVER  
ATTACHMENTS,  
GARNISHMENTS, EXECUTIONS  
ETC.—Cont'd**

Conveyance by trustee, **5:337**  
Costs of first execution creditor, see  
FIRST EXECUTION CREDITOR'S  
COSTS  
Date of, **5:342**  
Demands under, Income Tax Act, **5:343**  
Excise Tax Act, demands under, **5:344**  
Garnishees, **5:343**  
Income tax, **5:343**  
Judgment creditors, **5:342**  
Mortgages, **5:341**  
Payment into court, **5:346**  
Proposals, **5:338**  
Receivership order, **5:289**  
Secured creditors, **5:339**

**PRECEDENTS**

For detailed list of precedents, see section  
headed PRECEDENTS in vol  
4.see also FORMS.

**PREFERENCES**

See FRAUDULENT PREFERENCES

**PREFERRED CREDITORS**

See PRIORITIES

**PRELIMINARY STATEMENT OF  
AFFAIRS**

See ASSIGNMENTS

**PRESCRIPTION**

See STATUTE OF LIMITATIONS

**PRESUMPTION**

See EVIDENCE, FRAUDULENT PREFERENCES, SETTLEMENTS

**PRINCIPAL AND AGENT**

Effect of filing claim against an agent, **6:148**

**PRIORITIES**

Generally, **6:285 to 6:429**  
Automobile insurance, **6:423**  
Canadian, Payments Association Act, claims under, **6:292**  
Child support, **6:320**  
Costs of administration, **6:294**  
costs incurred in bringing assets to jurisdiction, **6:294**

**PRIORITIES—Cont'd**

Costs of first seizing creditor, **6:388**  
 see also FIRST EXECUTION CREDITOR'S COSTS  
 Crown, claims of, **5:446 to 5:449**  
 Deemed trusts, **6:288**  
 Disputed claims, **6:290**  
 Equitable subordination, **6:402**  
 First execution creditor, **5:347 to 5:354, 6:388**  
 Foreign creditors, **6:285 to 6:291**  
 Funeral and testamentary expenses, **6:293**  
 Injuries to employees, **6:390**  
 Insurance other than automobile insurance, **6:424**  
 Interest, **6:421**  
 Land lord for rent, **6:327 to 6:386**  
 see Land LORD and TENANT  
 Leases and sub-leases, **6:345 to 6:349, 6:375**  
 Legal costs, **6:294, 8:120**  
 Municipal taxes, **6:321 to 6:326**  
 see also MUNICIPAL TAXES  
 Pari passupayment, **6:403**  
 Partnership, **6:404 to 6:420**  
 see PARTNERSHIP  
 Payable as soon as funds available, **6:393**  
 delaying payment, **6:393**  
 Payment rateably, **6:403**  
 Pension related claims, **6:296**  
 Postponement of claims  
 generally, **6:395 to 6:399**  
 deferred claims of spouse or former spouse, **6:397**  
 reviewable transactions, **6:396**  
 silent partners, **6:401**  
 wages of officers and directors, **6:399**  
 wages of relatives, **6:398**  
 Postponement of silent partners, **6:401**  
 Priority of payment, **6:289**  
 Proceeds from property of bankrupt, **6:286**  
 Property sold and distributed before bankruptcy, **6:286**  
 Public utilities, **6:392**  
 Restricted by section 136, **6:394**  
 Scheme of distribution, **6:285**  
 Secured creditors, **6:287**  
 Spousal support, **6:320**

**PRIORITIES—Cont'd**

Superintendent's levy, **6:295, 6:425 to 6:429**  
 see LEVY  
 Surplus, **6:422**  
 Time for payment of preferred claims, **6:291, 6:393**  
 Trustee's fees, **6:294**  
 Wage-related claims under the, BIA  
 generally, **6:297 to 6:316**  
 appropriating payment for, **6:314**  
 assignment and subrogation, **6:309**  
 claim for balance owing, **6:303**  
 directors and officers, **6:311**  
 disallowance of, **6:316**  
 disbursements of travelling salesperson, **6:303**  
 filing proof of claim for, **6:298**  
 for what is preference given, **6:303**  
 pension plan benefits, **6:296, 6:312**  
 relatives, **6:310**  
 section 427 of, Bank Act, **6:315**  
 subrogation, **6:309**  
 who is entitled to, **6:298**  
 Workers' compensation, **6:389**  
 see WORKERS' COMPENSATION  
 Wrongful dismissal, **6:319**

**PRIORITY BETWEEN FIRST AND SECOND BANKRUPTCY RE AFTER-ACQUIRED PROPERTY**

See also AFTER-ACQUIRED PROPERTY  
 Generally, **5:574**  
 Belongs to trustee in first bankruptcy, **5:574**  
 partnership, **5:574**  
 priority, **5:574**  
 Re-appointment of trustee to administer, **2:201, 5:574**

**PRIVY**

See FRAUDULENT PREFERENCES  
 Definition, **5:520**  
 Knowledge of insolvency by debtor, **5:520**

**PROCEDURES IN CIVIL MATTERS**

See PRACTICE and PROCEDURE

**PROCEEDINGS**

Delay, see DELAY

## INDEX

### PROCEEDINGS—Cont'd

- Formal defect in, **8:48**
- Meaning of, **2:160**
- Stay of
  - secured creditors, **5:326**
  - unsecured creditors, **5:278**
- Stay of, deemed
  - under, Employment Insurance Act that refer to section 224(1.2) of, Income Tax Act, **5:325**
  - under Canada Pension Plan that refer to section 224(1.2) of, Income Tax Act, **5:325**
  - under section 224(1.2) of, Income Tax Act, **5:325**
- Taken in wrong court, **8:52**
- Transfer of, **8:46, 8:52, 16:19**
  - transfer only possible of proceedings in wrong court, **8:52**

### PROCESS

- See PRACTICE and PROCEDURE, SERVICE

### PRODUCTION OF BOOKS

- See BOOKS and RECORDS

### PRODUCTION OF DOCUMENTS

- See EXAMINATIONS

### PROFESSIONAL LIABILITY INSURANCE

- Generally, **5:232**
- Proceeds of entitlement to, **5:232**

### PROFIT

- "Property" includes, **1:46**

### PROOF OF CLAIM

- See CLAIMS
- Generally, **1:25, 6:29, 6:99 to 6:142, 6:144 to 6:157**
- Admission, notice of, **6:144 to 6:150, 6:264, 16:96**
- Admission or disallowance for voting, **6:13 to 6:23**
- After declaration of dividend, **6:450**
- Agent by, **6:26, 6:152**
- Amendment of, **6:146**
- Aquaculturist by, **5:423 to 5:435**
- Assigning of claims, **6:30**
- Bank, **1:25**
- Changes and erasures in, **6:25**

### PROOF OF CLAIM—Cont'd

- Claims provable, see PROVABLE CLAIMS and CLAIMS
- Contents of, **6:24 to 6:28**
- Contingent claims, see CONTINGENT CLAIMS
- Court, power of to expunge or reduce, **6:283**
- Crown, by, **6:144**
- Debt, meaning of, **6:100**
- Debts payable at a future time, **6:137**
- Delivery to trustee, **6:144**
- Different classes of claims, **6:150**
- Disallowance of, **6:261 to 6:283**
  - see DISALLOWANCE OF CLAIMS
- Distinct contracts, **6:141**
- Dividend, necessity for filing, **6:144, 6:431**
- Double proof, **6:155**
- Effect of filing a claim against an agent, **6:148**
- Employee, **6:157**
- Equity claim, **6:111**
- Erroneous, **6:146**
- Events occurring after bankruptcy, **6:104**
- Evidence in support of, **6:262**
- Examination of, by trustee, **6:261**
- Expunging, **6:283**
- False, **6:154**
  - penalties for, **9:19**
- Farmer, **5:423 to 5:435**
- Filing with trustee, **6:144, 6:446 to 6:449**
  - extension of time for, **6:446 to 6:449**
  - failure to file, **6:144, 6:446 to 6:449**
- Fisher, **5:423 to 5:435**
- Formalities, **6:25**
- Form of, **6:151**
- Guarantor, by, **6:155**
- Income tax, claim for, **6:119, 6:446 to 6:449**
  - no necessity to attach assessment to claim, **6:28**
- Interest on debt, **6:140**
- Misrepresentation in, **6:154**
- Municipality, by, **6:150**
- Name of claimant, **6:26**
- Necessity for filing
  - generally, **6:144 to 6:150**
  - agent, effect of filing, **6:148**
  - amendment of, **6:146**

**PROOF OF CLAIM—Cont'd**

- Necessity for filing—Cont'd
  - different classes, **6:150**
  - second proof, **6:149**
  - third parties, effect on, **6:147**
  - withdrawal of, **6:145**
- Notice to file, **6:446 to 6:450**
  - failure to file, **6:144, 6:446 to 6:449**
- Officer or employee making, **6:26**
- Property claim for, **5:410 to 5:422**
- Proposal, **6:139**
- Reducing, **6:283**
- Registrar, jurisdiction of section 192(8), **8:74**
- Requirements for, **6:24 to 6:28, 6:153**
- Residents out of Ontario, **6:24**
- Right of creditors to examine, **6:156**
- Rule against double proofs, **6:155**
- Second, **6:149**
- Secured creditors, **6:159**
- Shareholders, **6:111**
- Splitting claims, **6:30, 6:155**
- Statement of account, necessity for, **6:24 to 6:28**
  - details in, **6:28, 6:153**
  - no necessity to attach assessment to claim by Ministry of National Revenue, **6:28**
- Statute of Limitations, **6:142**
- Subrogated claims, **6:116**
- Surety, by, **6:155**
- Technicalities to be avoided, **6:144**
- Third parties, effect of filing, **6:147**
- Time for lodging, for voting, **6:29**
- Time for lodging for dividend, **6:446 to 6:450**
- Type of claim, must be stated, **6:153**
- Voting, necessity for, **6:29**
- Wages, **6:157**
  - suggested form for
    - see also claims under the, Wage Earner Protection Program Act
- Who may make, **6:26**
- Withdrawal of, **6:145**

**PROPERTY**

- See also **ASSETS**
- Acting as agent, **5:82**
- After-acquired, **5:561 to 5:574**
  - see **AFTER-ACQUIRED PROPERTY**
- Annuities, **5:228**

**PROPERTY—Cont'd**

- Approval goods delivered on, **5:83**
- Assignment of book debts, **5:259**
  - see **ASSIGNMENT OF BOOK DEBTS**
- Automobile insurance, **6:423**
- Bail, furnished by bankrupt, **5:187**
- Bail, furnished by third party, **5:3**
- Bankrupt, acting as agent, **5:82**
- Bankrupt, delivery of, to trustee, **7:5 to 7:23**
- Bankrupt, obtaining by false representation, **9:2**
- Banks, duty of, **5:407**
  - possession of property of bankrupt, **2:43**
- Benefit conferred on director of corporation, **5:181**
- Bills of sale, invalid, **5:118**
- Bona fide purchaser from bankrupt of, **5:389 to 5:397**
- Book accounts, **5:472**
- Breach of fiduciary duty, **5:182**
- Bulk sales, invalid, **5:117**
- Caution, registration against real property, **5:389 to 5:397**
- Caveat, **5:389 to 5:397**
- Chattel mortgages invalid, **5:118**
- Chattels exempt from seizure, **5:133**
- Child tax benefit, **5:256**
- Choses in action, **5:250**
  - see **CHOSSES IN ACTION**
  - assignment of, **5:259**
  - vesting in trustee, **5:250**
- Claims to, in possession of bankrupt at date of bankruptcy, **5:410 to 5:422**
- Collective bargaining agreement, rights under, **5:253**
- Compensation order, **9:29**
- Conditional sales, **5:85**
  - see **CONDITIONAL SALES**
- Conservatory measures, **2:52**
- Consignment, **5:86 to 5:91**
  - see **CONSIGNMENT GOODS**
- Contingency fee of solicitor, **5:252, 5:357 to 5:366**
- Contingent interest in, **5:3**
- Contracts, **5:357 to 5:366**
- Contractual rights, **5:252**
- Contributors, **5:399 to 5:405**
  - see **CONTRIBUTORIES**

## INDEX

### PROPERTY—Cont'd

Conveyance of, as act of bankruptcy, **3:50**  
Copyright, covered by, **5:235, 5:441**  
    see COPYRIGHT  
Court, money in, **5:186**  
Credit obtained by, person pledging or  
    disposing of, **9:10**  
Criminal proceedings, money paid by way  
    of compensation, **5:187**  
Dealing with, examination regarding,  
    **7:30 to 7:43, 7:60**  
Debenture, floating charge, **5:105**  
Deemed trusts, **5:27 to 5:29**  
    see DEEMED TRUSTS  
Defeasance on bankruptcy, **5:262**  
Deferred profit sharing plan, **5:230**  
Definition of, **1:46, 5:3**  
Delivery of  
    act of bankruptcy, **3:50**  
    to substituted trustee, **2:124**  
    to trustee, **7:5 to 7:23**  
Demutualization of life insurance  
    companies, **5:220**  
Depriving trustee of possession, **2:41 to**  
    **2:45**  
Destroying section 168(1)(c), **7:63**  
Director, benefit conferred on, **5:181**  
Disability benefits, **5:188**  
Disability tax credit, **5:257**  
Disclaimer of, **2:58**  
Disposal of, not owned by bankrupt,  
    **5:409**  
Distribution, **6:285 to 6:429**  
    see PRIORITIES  
Distribution, sale by, **5:82**  
Divesting of, by trustee, **2:58, 2:193**  
Divesting of title in event of bankruptcy,  
    **5:262**  
Dividends, **6:431 to 6:456**  
    see DIVIDEND  
Documents are property, **5:412**  
Dower interests, **5:215 to 5:218**  
Earnings, **5:265 to 5:274**  
    see EARNINGS  
E-commerce insolvencies, **5:102**  
Examination regarding, **7:30 to 7:43,**  
    **7:60**  
Exempt, **5:57**  
    see EXEMPT PROPERTY

### PROPERTY—Cont'd

False pretences, obtaining by, discharge  
    not releasing from liability for, **7:197**  
Family Law legislation, **5:5**  
    see FAMILY LAW ACTS  
Fiduciary duty, breach of, **5:182**  
Fire insurance policy, proceeds of, **2:65**  
    see FIRE INSURANCE  
Fixtures, **5:94 to 5:96**  
    tenant's fixtures, **5:96**  
Floating charge debenture, **5:105, 5:162**  
Forfeiture in event of bankruptcy, **5:262**  
Franchising agreement, **5:101**  
Fraudulent conveyance, **5:460 to 5:468**  
Fraudulent disposition of, **9:4**  
Fraudulent misrepresentation, obtaining  
    by, discharge not releasing from  
    liability for, **7:197**  
General considerations, re, **5:2**  
Giving security on, by trustee, **2:93,**  
    **2:104, 2:105**  
Goods and services tax (GST) collection  
    and remittance, **5:80**  
Goods and services tax (GST) credit pay-  
    ment, **5:79**  
Goods and services tax (GST) refunds,  
    **5:255**  
Goodwill, **5:234**  
    non-competition clause, **5:234**  
Homestead, **5:25**  
Income averaging annuity, **5:229**  
Income tax rebates, **5:254, 5:265 to 5:274**  
Income under a will or trust, **5:219**  
Indians, property of, **5:2**  
In existence at bankruptcy, **5:3**  
Inspection by trustee, **5:408**  
Inspector, purchasing, **2:100, 6:66**  
    see INSPECTORS  
Insurance, **5:221 to 5:227, 5:231**  
    see INSURANCE  
Intellectual property, **5:235**  
Interest on, **6:140, 6:421**  
    see INTEREST  
Inventory of, **2:45**  
Joint and separate dividends, **6:455**  
Joint tenancy, **5:209 to 5:214**  
Judgments, **5:260**  
Lay-aways, **5:104**  
Lease, **5:152, 5:153, 5:208**  
    see also LANDLORD and TENANT

**PROPERTY—Cont'd**

Legacy income from, **5:219**  
 Letters of credit, **5:263**  
 Liability insurance, **5:232**  
 Licences, **5:97**  
 Life insurance policy, **5:221 to 5:227**  
     see INSURANCE  
 Mareva injunction, **5:4**  
 Married woman, **5:355**  
 Meaning of, **1:46, 5:3**  
 Medical and dental records, **5:98**  
 Misappropriation of, **5:183**  
 Money in court, **5:186**  
 Money owing to bankrupt for services  
     prior to bankruptcy, **5:276**  
 Money seized by the police, **5:183**  
 No equity in red property, **2:58**  
 Non-competition clause by bankrupt,  
     **5:234**  
 Non-existent purchaser, goods sold to,  
     **5:185**  
 Not owned by bankrupt, **5:409**  
 No value is irrelevant, **5:2**  
 Obtained by fraud, **5:2**  
 Obtaining possession of, **2:41 to 2:45,**  
     **5:410 to 5:422**  
 Offences in connection with, **9:3**  
 On approval, delivery on, **5:83**  
 Oppression remedy, use of to recover  
     property, **5:184**  
 Partnership, **5:444, 6:404 to 6:420**  
     see PARTNERSHIP  
 Patents of invention, **5:441**  
 Payment by an owner pursuant to a certifi-  
     cate, **5:50**  
 Pension plan, superannuation benefits,  
     **5:72**  
 Pension refund, **5:188**  
 Perishable goods, **2:52**  
 Personal damages, not property of trustee,  
     **5:562 to 5:568**  
 Personal Property Security Act, **5:45**  
     see PERSONAL PROPERTY SECUR-  
     ITY ACT  
 Planning Act, failure to comply, **5:2**  
 Pledge, right to inspect, **5:408**  
 Possession by bankrupt not proving  
     ownership, **5:2**  
 Possession of, by trustee, **2:41 to 2:45**  
     see POSSESSION OF PROPERTY  
 Powers, **5:233**

**PROPERTY—Cont'd**

Preferences, **5:487 to 5:540**  
     see FRAUDULENT PREFERENCES  
 Preservation of property, **5:4**  
 Professional liability insurance, **5:232**  
 Protection and conservation, **2:52**  
 Provincial statutes relating to, **1:10**  
 Provision for forfeiture or divesting,  
     **5:262**  
 Quebec  
     resolution, right of, **5:195**  
     resolution of contract of sale for default  
         by buyer, **5:193 to 5:203**  
     revendication, right of, **5:142, 5:194**  
 Real property, **5:205 to 5:207**  
     see REAL PROPERTY  
 Receipt of, immaterial, **5:3**  
 Recovery of, by trustee, from transferee,  
     **5:555 to 5:559**  
 Registered disability savings plans, **5:236**  
 Registered education savings plan, **5:247**  
 Registered retirement savings plans, **5:72,**  
     **5:236**  
 Registration of bankruptcy order or  
     assignment, **5:389 to 5:397**  
 Removal section 168(1)(, c), section  
     168(1)(, d), **7:63, 9:7**  
     out of province, **5:398**  
 Rents, **5:99**  
 Repairer's lien, **5:115**  
 Resiliation, **5:193 to 5:203**  
 Restitution for criminal acts, **7:186, 9:29**  
 Return of, to debtor, **2:58, 2:193**  
 Return to bankrupt, **2:58, 2:193**  
 Revendication, **5:193 to 5:203**  
 Revendication, unpaid seller's right of,  
     **5:142**  
 Right of trustee to act anywhere for  
     recovery of, **2:51**  
 Right of vendor to retake possession of,  
     **5:92**  
 Rights of actions, **5:250**  
     see CHOSSES IN ACTION  
 Rule in, Ex parte James, **5:189 to 5:191**  
 Sale of, **2:75**  
     see SALE OF ASSETS  
     not belonging to bankrupt, **5:409**  
 Sale of goods, property passing, **5:103**  
     sale of goods, property not passing,  
         **5:103**  
     to non-existent purchaser, **5:185**



## INDEX

### PROPERTY—Cont'd

Set-off, **5:313, 5:315**

Settlement of, **5:451**

see SETTLEMENTS

Shares in corporation, **5:251**

Sheriff, delivery up of, by, **5:369 to 5:374**

Shipper's lien, **5:116**

Ship's mortgage, validity of, **5:119**

Solicitor, property in hand s of, **5:180**

Solicitor disclosing to trustee, **7:57**

Statute of Frauds, trustee relying on, **5:93**

Statute of Limitations, **5:261, 6:142**

Stocks and bonds, **13:2 to 13:10**

Stoppage in transitu, **5:204**

Street certificates, **5:34**

Summary applications to determine title, **3:187**

Superannuation benefits, **5:188**

Support, arrears of, **5:304, 6:110**

Taking possession of, **2:41 to 2:45**

Third parties, property of, **5:409**

Thirty-day goods, **5:193 to 5:203, 5:423 to 5:435**

Time-share contracts, **5:100**

Trademarks, **5:235**

Transactions in good faith, **5:542, 5:558**

Transfer for valuable consideration, **5:558**

Trustee, no higher rights than bankrupt, **5:2**

not agent of creditors, **5:2**

Trust property, **5:10 to 5:35**

see TRUST PROPERTY

common law tracing, **5:33**

mechanics' lien, **5:35**

stockbroker, **13:2 to 13:10**

tracing, **5:32**

Undisposed of, **2:58, 2:193**

Unpaid seller, right to repossess, **5:193 to 5:203, 5:423 to 5:435**

Vendor, right to retake possession, **5:92**

Vendor's lien on chattels, **5:248**

Vendor's lien on land, **5:249**

Vesting in trustee, **5:2, 5:357 to 5:366**

Vesting of title in purchaser, **5:442**

Wages, **5:265 to 5:274**

see EARNINGS

Warehouser's lien, **5:114**

Waste management licence, **5:97**

### PROPERTY AND CIVIL RIGHTS

Provincial legislation dealing with insolvency, **1:10**

### PROPOSALS

Generally, **4:2 to 4:149**

Acceleration of payment because of, **4:112**

stay of, **4:112**

Acceptance by creditors, **4:58 to 4:63**

Act of bankruptcy, **3:50**

Adjournment of meeting on, **4:31**

Administrator's accounts, taxation of, **4:171**

Alteration of, **4:16**

Amendment of, **4:16**

by the court, **4:68**

Annulling proposal

generally, **4:130 to 4:138**

default, remedying, **4:132**

default, what constitutes, **4:130**

default, when does it occur?, **4:131**

discretion to annul, **4:130**

effect of order, **4:138**

failure to disclose name of creditor, **4:130**

form of order, **4:136**

meaning of "annul," **4:130**

no benefit to creditors, **4:130**

procedure after making order, **4:137**

procedure on application, **4:134**

proper judicial officer to make order, **4:135**

remedying a default, **4:132**

section 187(5) should not be used, **4:130**

trustee and legal fees, payment of, **4:136**

who can bring application to annul, **4:133**

who can make order, **4:135**

Annulment of bankruptcy, **4:92**

Appeal from approval or refusal, **4:93**

Application of, Bankruptcy and Insolvency Act

generally, **4:142 to 4:144**

provisions that are applicable, **4:143**

provisions that are not applicable, **4:144**

Appointing new trustee where proposal rejected, **4:57**

**PROPOSALS—Cont'd**

Appraisal and investigation of property  
section 50(5), **4:31**

Approval by creditors, setting aside, **4:59**

Approval by the court  
generally, **4:71 to 4:78, 16:62**  
after bankruptcy, effect of, **4:92**  
amending, in application for, **4:68**  
appeal of disallowance of claim, **4:88**  
appeals, **4:93**  
calculated to benefit creditors, **4:81**  
cases where approval refused, **4:85**  
commission of offence under sections  
198 to 200, **4:87**  
costs, **8:133**  
creditors, objections by, **4:76**  
disallowance of claim, effect of, **4:88**  
effect of approval by court for insolvent  
person, **4:90**  
effect of approval by creditors, **4:84**  
effect of facts under section 173, **4:86**  
examinations under section 163(2),  
**4:77**  
good faith, **4:79**  
judicial officer who may hear, **4:75**  
mandatory conditions for, **4:79 to 4:83**  
motivation for opposing irrelevant,  
**4:76**  
objections by creditors, **4:76**  
offences, effect of, **4:87**  
onus of proof, **4:78**  
procedure for, **4:72**  
reasonable terms, **4:80**  
report of trustee, **4:74**  
small dividend, **4:74**  
speedy application, **4:71**  
undisclosed assets, allegation of, **4:76**  
who may apply, **4:73**

Assets, vested in debtor, **4:27**

Assignment, deemed, **4:57**

Assignment of receivables under, **4:27**

Assignment where proposal in force,  
**4:139**

Bankrupt by  
generally, **4:5, 4:92**  
approval of inspectors, **4:40 to 4:42**  
approved by court, **4:92**  
discharge of trustee, **4:31**

Bankruptcy, date of, **1:60**

**PROPOSALS—Cont'd**

Bankruptcy order when proposal in force,  
**4:55, 4:139**

Bond on, **2:40, 4:31**

Calculated to benefit the general body of  
creditors, **4:81**

Calculation of votes, **1:54, 4:58 to 4:63**

Cash-flow statement, preparation of  
generally, **4:32**  
extension of time, **4:31**  
irregularities in, **4:31**  
report by debtor, **4:31**  
signing of, **4:31**

Claims, provable, **4:106 to 4:110, 6:139**

Claims, see ADMISSION OF CLAIMS,  
DISALLOWANCE OF CLAIMS,  
PROOF OF CLAIMS and PROV-  
ABLE CLAIMS  
time for determining, **4:106 to 4:110**

Claims arising after filing  
generally, **4:53**  
priority over security given to trustee,  
**4:53**  
severance pay, **4:53**  
subsequent creditors, **4:53**

Claims coming within section 178, **4:98**

Claims of creditors where debtor bankrupt  
after making a proposal, **4:140**

Claims subsequent to, **4:53**

Classes of creditors, court cannot divide,  
**4:63**

Classes of creditors, voting by, **4:60**

Clerical errors, correction of, **4:16, 16:80**

Co-debtors, release of, **4:104**

Collective bargaining, effect of proposal  
on, **4:116**

Companies' Creditors Arrangement Act,  
taking up a proposal under, **4:149**

Composition, included in, **1:47, 4:2**

Consumer, **4:152**  
see CONSUMER PROPOSALS

Contingent creditors, voting by, **4:63**

Contract for supply of goods and services,  
**4:112**

Contract with creditors, **4:2**

Contribution by creditors, **4:23**

Costs, **4:148, 8:133**

Creditors bound by  
generally, **4:95 to 4:101**  
claims under section 178, **4:97**

## INDEX

### PROPOSALS—Cont'd

Creditors bound by—Cont'd  
Crown claims, **4:100, 4:106, 4:121, 5:446 to 5:449**  
income tax claim, **4:106**  
preferred creditors, **4:99**  
refusal to accept, **4:57**  
secured creditor with unsecured claim, **4:97**  
seizure by prior to filing of proposal, **4:55**  
unsecured creditor not filing a claim, **4:96**  
Creditors refusing to approve, **4:57**  
Crown claims, **4:99, 4:121**  
Dating back of deemed assignment, **1:60**  
Deceased debtor, **4:31**  
Default in, **4:130, 4:131**  
remedying, **4:132**  
Deferring claims, **4:24, 4:54**  
Definition of, **1:47, 4:2**  
Derivative contracts, **4:114**  
Directions, **2:109 to 2:116, 4:146**  
Directors, indemnification charge, **4:34**  
Directors, release of claim against, **4:18, 4:25**  
Directors, removal of during proposal proceedings, **4:33**  
Disallowance of claims, **4:110**  
Disallowance of secured claims, **4:119**  
Disputed claims, **4:118**  
fees of interim receiver or trustee, **4:118**  
holding money in trust for, **4:118**  
Distribution of moneys payable under, **4:12, 4:94**  
debtor cannot make, **4:94**  
Duties of trustee, **4:31**  
Effect of, **1:47, 4:2, 4:90, 4:92**  
Eligible financial contracts, **4:114**  
Environmental damage, **4:106**  
Errors or omissions, correction of, **4:16**  
Examination of debtor on, **4:31, 4:70**  
Examination of other persons, **4:70**  
Executory contracts, effect of proposal on, **4:115**  
Extending time for filing proposal, **4:5**  
imposition of terms, **4:31**  
material prejudice, **4:31**  
Extension of time, meaning of, **4:2**  
Facts in section 173, **4:86**

### PROPOSALS—Cont'd

Farm Debt Mediation Act, **4:150**  
Fees and expenses of trustee on, **2:180**  
advance to pay, **2:180**  
Filing documents in court, **16:78**  
Financial hardship of creditor supplying goods and services, **4:112**  
Fines and costs imposed by a professional body, **4:101**  
Foreign business, **4:36**  
Foreign currency claims, **4:29, 4:109**  
Fraudulent transactions, **4:145**  
Good faith, **4:82**  
Goods and services supplied after filing of proposal, **4:111**  
Goods and services tax, **4:123**  
Guarantee of  
generally, **4:43 to 4:50**  
annulment of proposal, **4:49**  
claims covered by, **4:45**  
effect of alteration, **4:47**  
failure to carry out arrangement, **4:48**  
jurisdiction of court sitting in bankruptcy to, enforce, **4:50**  
meaning of, **4:44**  
proceedings to enforce, **4:50**  
secret agreement, **4:46**  
Guarantor, voting by, **4:61**  
Heading for court papers, **16:19**  
Income tax considerations, **4:122**  
Income tax installments, allocation of, **4:105**  
Informal, **4:8**  
as act of bankruptcy, **3:50**  
Insolvency, necessity for, **4:31**  
Insolvent person, proposal by, **4:9**  
Inspectors  
generally, **4:40 to 4:42**  
appointment of, **4:42**  
approval of, **4:40**  
illegal agreement to approve, **4:41**  
Interim receiver, **3:120**  
Interim receiver, proposal by, **3:120, 4:39**  
Joint, **4:31**  
Joint proposal by several affiliated companies, **4:38**  
Leases, effect on  
generally, **4:120**  
actual losses, meaning of, **4:120**  
disclaimer of, **4:120**

**PROPOSALS—Cont'd**

Leases, effect on—Cont'd  
     onus on debtor to show that disclaimer  
         necessary for a viable proposal, **4:120**  
     payment on true leases, **4:112**  
     repudiation of, **4:120**  
     termination of, by assignee, **4:120**  
 Levy, **4:129**  
 Liability insurance, effect of, **5:232**  
 Liquidator making, **4:39**  
 Locality of debtor, **1:42, 4:31**  
 Meeting of creditors  
     generally, **4:31, 4:60**  
     adjournment of, **4:31**  
     chairperson of, **4:60**  
     failure to give notice of, **4:31**  
     objection to claim of creditor, **4:60**  
     setting aside approval by, **4:60**  
     trustee disallowing creditor's claim,  
         **4:60**  
 Mutatis mutand isapplication, **4:142 to**  
     **4:144**  
 Non-approval of proposal, **4:71 to 4:78**  
 Notice of intention  
     generally, **4:4**  
     effect of filing notice of intention, **4:7**  
     filing report required by section  
         50.4(8)(a), **4:4**  
     procedure for filing, **4:31**  
     terminating period for filing proposal,  
         **4:4**  
     termination of notice of intention, **4:6**  
     trustee cannot resign, **4:4**  
 Obligation of trustee to observe terms, **4:2**  
 Offences, effect on, **4:87**  
 Opposed application  
     generally, **4:71 to 4:78**  
     appeal from, **4:93**  
     costs of, **4:71 to 4:78, 8:133**  
 Partnership, proposal by, **4:37**  
 Payments falling due after, **4:111**  
 Penalty imposed after filing, **4:53**  
 Pension claims, priority of, **4:15**  
 Performance in full of proposal, **4:141**  
     application, **4:55**  
 Place for filing, **4:31**  
 Postponement of claims, **4:24**  
 Post-proposal creditors, claims of, **4:53**  
 Practice, **4:31**

**PROPOSALS—Cont'd**

Preferred claims, to be paid in priority,  
     **4:12**  
 Priority charge relating to participation in  
     proposal proceedings, **4:35**  
 Procedure for filing, **4:31**  
 Promissory notes, issuance of, **4:21**  
 Property, effect on, **4:2**  
 Provable claims, **4:106 to 4:110, 6:139**  
 Provisions of, Actapplicable, **4:142 to**  
     **4:144**  
 Public utilities, **4:113**  
     falling due after filing, **4:113**  
 Purpose of, **4:2**  
 Receiver making, **4:39**  
 Refusal of court to approve, **4:85**  
 Refusal of creditors to accept, **4:57**  
 Registrar approval by, **4:31, 4:75**  
 Related creditor, right to vote, **4:61**  
     assignment of claim, **4:61**  
 Release of claims against third parties,  
     **4:25**  
 Release of debtor from liabilities, illegal  
     terms, **4:30**  
 Release of third persons, **4:102 to 4:104**  
 Remedy of creditor because of filing,  
     **4:111**  
 Remuneration of trustee on, **2:180**  
     priority with secured claims, **4:3**  
     reduction of, **2:180**  
 Report of trustee, **4:74**  
     contents of, **4:74**  
 Revendication, right to, **4:55, 5:202**  
 Scheme of arrangement meaning of, **1:47,**  
     **4:2**  
 Second, **4:16, 4:71 to 4:78, 4:124, 4:130**  
     **to 4:138**  
 Secret agreements with creditors  
     generally, **4:125**  
     after approval of proposal, **4:125**  
     agreement known to creditors, **4:125**  
     by third party, **4:125**  
     purchase of claim of creditor, **4:125**  
     recovery of payment, **4:125**  
 Section 178 claims, protection of, **4:16**  
 Secured creditors  
     generally, **4:3, 4:56, 6:252**  
     directions re, **4:56**  
     disallowance of claims of, **6:271**  
     priority over fees of trustee, **2:180**

## INDEX

### PROPOSALS—Cont'd

- Secured creditors—Cont'd
  - proposals binding, **4:95 to 4:101**
  - proposals to, **4:3**
  - voting by, **4:3, 4:62, 4:95**
- Security for payment, **4:43, 4:86**
- Security or guarantee for, **4:43 to 4:50**
- Selling assets during proposal proceeding, **4:117**
- Set-off, **4:53, 4:105, 5:549**
  - debt owing to creditor arising after filing of proposal, **4:105**
- Setting aside, **4:130 to 4:138**
- Settlement of rights by, **4:2**
- Shareholder, opposition by, **4:75**
- Shares, issuance of, **4:22**
  - purchase of, **4:23**
- Signing of, **4:31**
- Solicitor, employment of, **8:133**
- Special resolution, **1:47, 4:60**
- Statements of affairs, **4:31**
  - joint and separate creditors, **4:37**
- Stay of proceedings, **4:55, 4:112, 5:278, 5:325**
  - effect of appeal, **4:55**
- Subordination of equity claims, **4:13**
- Superintendent's levy
  - generally, **4:129**
  - assets delivered to debtor, **4:129**
  - payment from assets, **4:129**
  - payment in kind, **4:129**
  - payments by third parties, **4:129**
  - payments to suppliers etc., **4:129**
- Supervision of debtor's affairs
  - generally, **4:17**
  - securities, release of, **4:104**
  - seizure by sheriff, **5:370**
- Swap contracts, **4:114**
- Termination of agreement because of filing, **4:111**
- Termination of proposal by the court before meeting of creditors, **4:5, 4:52**
- Terms of
  - generally, **4:11, 4:12**
  - creditors receiving nothing more than in bankruptcy, **4:11**
  - foreign currency, payment in, **4:29**
  - legal, **4:30**
  - must be definite, **4:20**

### PROPOSALS—Cont'd

- Terms of—Cont'd
  - postponement of claims, **4:24**
  - promissory notes, **4:21**
  - shares, issuance of, **4:22**
  - terms are reasonable, **4:80**
  - terms that may be included, **4:19**
  - terms that must be included, **4:12, 4:83**
  - third parties, release of claims, **4:25**
  - vesting assets in trustee, **4:27**
  - waiving claims, **4:26**
- Time for determining claims
  - generally, **4:106 to 4:110**
  - continuing contract claims, **4:107**
  - disallowance of claims, **4:110**
  - foreign currency claims, **4:109**
  - foreign judgments, **6:135**
  - interest, **4:94**
- Time for filing claims of creditors, **4:106 to 4:110**
- Title for proceedings, **16:19**
- Trustee, voting by, **4:61**
- Trustee making, **4:39**
- Trustee not merely agent of debtor, **4:2**
- Trustee remuneration in proposals, **4:147**
- Unliquidated claims in, **4:63**
- Unpaid seller, **5:193 to 5:203, 5:423 to 5:435**
- Use of property by debtor after court approval, **4:90**
- Utilities, see antePUBLIC UTILITY
- Vesting of assets, **4:27**
- Voting letter
  - generally, **4:58 to 4:63**
  - amendment of proposal, **4:66**
  - contingent creditors, **4:63, 6:41**
  - method of delivery, **4:59**
- Voting on
  - generally, **4:31, 4:58 to 4:63**
  - by assignees, **4:61**
  - contingent and unliquidated claims, **4:63**
  - meeting of creditors, **4:60**
  - secured creditors, **4:62**
  - voting letters, **4:59**
  - who may vote, **4:62**
- Wages of employees, payment of, **4:14**
- Withdrawal of claims, **4:24**
- Withdrawal of guarantee, **4:51**
- Withdrawal of proposal, **4:51**

**PROPOSALS—Cont'd**

Withdrawal of security, **4:51**

**PROSECUTION**

See **BANKRUPTCY OFFENCES**

**PROTECTION OF BONA FIDE  
TRANSACTIONS WITH  
BANKRUPT**

Date of bankruptcy, meaning of in section  
97, **5:542**

Late registration of a debenture, protec-  
tion of, **5:542**

Relation back of trustee's title, **5:542**

**PROVABLE CLAIMS**

See also **PROOF OF CLAIM**

Generally, **6:99 to 6:142**

Bank Act security, **6:221, 6:222 to 6:245**

Capital, contribution of, **6:113**

Child support claims, **6:136**

Claims, not provable, **6:110, 7:185 to  
7:187**

Claims not disclosed by bankrupt, **6:122**

Contingent claims, **6:124 to 6:132, 16:74**  
generally, **6:124**

breach of employment contract, **6:128**

crystallized in judgment, **6:132**

definition of, **6:125**

equipment rental contracts, **6:131**

guarantors and sureties, **6:133**

incapable of valuation, **6:129**

uncertain, **6:129**

unliquidated claims, **6:127**

valuation of, **6:130**

Costs, claim for, **6:119**

Day of bankruptcy, **6:104**

Debt, meaning of, **6:100**

Debt incurred after bankruptcy, **7:210**

Debt must be recoverable by legal pro-  
cess, **6:103**

Debt or liability must be due by bankrupt,  
**6:102**

Debt payable after date of bankruptcy,  
**6:102**

Debt payable in foreign currency, **6:134**

Definition of, **1:22, 6:100, 6:101**

Discounts, **6:123**

Distinct contracts, **6:141**

Equity capital, **6:114**

Events after bankruptcy affecting claim,  
**6:105**

**PROVABLE CLAIMS—Cont'd**

Filing as ordinary, preferred and secured,  
**6:117**

Foreign currency, **6:134**

Foreign judgments, **6:135**

Guarantors, **6:112, 6:133, 6:165**

Income tax claims, **6:122**

Inspect property, right of trustee to, **6:186**

Interest, **6:140**

see **INTEREST**

Liability, meaning of, **6:101**

Liability to a public officer or authority,  
**6:118**

Marshalling, **6:209 to 6:214**

Netting of claims, **6:109**

Obligation arising during bankruptcy,  
**6:107**

Obligation incurred after bankruptcy,  
**6:107**

Obligation incurred before bankruptcy,  
**6:106**

Payable at a future time, **6:137**

Postponed claims, see **RESTRICTED  
CREDITORS**

Proposal under, **6:139**

Real property, claims against, **6:115**

Recoverable by legal process, **6:103**

Rule against double proofs, **6:155**

Secured creditors, see **SECURED CRED-  
ITORS**

Shareholders, **6:111**

Splitting claims, **6:30**

Spousal claims, **6:136, 6:320**

Statute of Limitations, **6:142**

Subordination, **6:138**

Subrogated claims, **6:116**

distinguished from assignment, **6:116**

no debt or duty, **6:116**

voluntarily discharging debt or obliga-  
tion, **6:116**

Undisclosed claims, **6:108**

Unliquidated, see **CONTINGENT  
CLAIMS**

**PROVINCIAL INSOLVENCY  
LEGISLATION**

Generally, **1:10, 5:535**

Abitibi Power & Paper Co. Ltd.

Moratorium Act, **1:10**

Paulian Action, **5:534**

Application of, **1:10, 5:367**



## INDEX

### PROVINCIAL INSOLVENCY

#### LEGISLATION—Cont'd

- Assignment, effect on, **5:368**
- Assignments and Preferences Act of Ontario, **1:10, 5:529 to 5:533**
- Civil Code of Quebec, **1:10, 5:534**
- Companies Act of Alberta, **1:10**
- Deemed trusts, **5:27 to 5:29**
- Documents made under Act, effect on, **5:368**
- Employment Standards Act of Ontario, **1:10**
- Fraudulent Conveyances Act, **1:10, 5:460 to 5:468**
- Fraudulent Preferences Acts, **1:10**
- Fraudulent preferences and, **5:529 to 5:533**
- Land lords, see LANDLORD and TENANT
- Method of determining validity, **7:51**
- Orderly Payment of Debts Acts, **11:2**
  - bankruptcy order, effect on, **5:368**
- Set-off, see SET-OFF
- Use of, in bankruptcy, **1:10, 5:334, 5:367**

### PROXIES

- See also MEETING OF CREDITORS
- Generally, **6:42**
- Agent, giving, **6:45**
- Bankrupt, cannot be, **6:42**
- Blank, **6:50**
- Company seal, unnecessary, **6:43**
- Excusing defects in, **6:51**
- Form of, **6:42**
- Giving of, **6:42 to 6:51**
- Individual, not necessary, **6:45**
- Letter, by, **6:42**
- Limited, suggested form, **6:48**
- Partnerships, **6:44**
- Proof of claim must be filed, **6:42**
- Revocation, **6:42**
- Substitution, power of, **6:46**
- Telecommunication, by, **6:42**
- Time for filing, **6:49**
- Time of operation, **6:42**
- Trust company, **6:42**
- Trustee, appointment of, **6:42**
- Voting by, **6:42 to 6:51**
- Witness to, **6:42**

### PUBLIC RECORDS

- Keeping of, by Superintendent, **2:7**

### PUBLIC UTILITY

- Definition of, **1:48**
- Effect of consumer proposal on, **4:162**
- Effect of proposal on, **4:113**

### PURPOSE OF BANKRUPTCY

#### LEGISLATION

- Generally, **1:4**
- Delivery of assets to trustee, **1:4**
- Investigation of affairs of bankrupt, **1:7**
- Obtaining discharge, **1:4**
- Orderly distribution of assets, **1:4**
- Perform obligations as a citizen, **1:4**
- Proper and economical realization of assets, **1:4**
- Protect creditors, **1:4**
- Rehabilitation of bankrupt, **1:4**
- Uniformity of insolvency laws, **1:7**

### PROPERTY

- Hypothec, **5:326, 6:207**
- Pension plan, **5:188**
- Taking in payment, **6:206**

### QUEBEC PROPERTY

- Generally, **5:446 to 5:449**

### QUESTIONNAIRE

- Completion of, **7:28**

### QUORUM

- See also MEETINGS OF CREDITORS
- Generally, **6:24 to 6:28**
- Adjournment for lack of, **6:13 to 6:23**
- Impossible to obtain, **6:13 to 6:23**
- One creditor, **6:13 to 6:23**

### RAILWAY COMPANIES

- “Corporation” does not include, **1:25**

### RATES

- See TAXES

### REAFFIRMATION AGREEMENTS

- Generally, **7:210**
- Enforceability of, **7:210**
- Necessity for new consideration, **7:210**
- Not regulated by the Act, **7:210**

### REAL PROPERTY

- Generally, **5:205 to 5:207**
- Defective mortgage, **5:207**

**REAL PROPERTY—Cont'd**

Duty of bankrupt to execute deeds, **5:205**  
 Effect on assignment on, **3:156**  
 Equitable mortgage  
     generally, **5:206**  
     agreement to give mortgage, **5:206**  
     delivery of title deeds, **5:206**  
     requirements for, **5:206**  
     secured creditor, **5:206**  
 Included in definition of property, **5:205**  
 Onus on person claiming to be owner of  
     property in bankrupt's name, **5:205**  
     to **5:207**  
 Registration of bankruptcy order or  
     assignment, **5:389 to 5:397**  
 Royalty interest in oil and gas leases,  
     **5:205**  
 Trustee required to convey good title,  
     **5:205**  
 Trustee successor in interest, **5:205 to**  
     **5:207**  
 Vesting in trustee, **5:205**

**RECEIVER**

Generally, **12:2**  
 Action against debtor, **12:27**  
 Action against receiver, **12:26**  
 Actions by, **12:28**  
 Act of bankruptcy after, **3:48**  
 Advance of funds to defend proceedings,  
     **12:19**  
 Agent of debtor, **5:105**  
 Appeal from appointment, **12:8**  
 Appeal from interlocutory order, **12:49**  
 Appeal with respect to actions of, **12:49**  
 Appointment of  
     generally, **12:3**  
     collateral attack on, **12:3**  
     effect of bankruptcy on, **12:4**  
     scope of, **12:3**  
     trustee in bankruptcy, **12:4**  
     trustee under trust indenture, **12:3**  
 Aquaculturist, claim against, **5:423 to**  
     **5:435**  
 Borrowing by, **12:30**  
 Business taxes, liability for, **12:32**  
 Business taxes, prior to appointment,  
     liability for, **12:37**  
 Conflict with security agreement, **12:56**  
 Consent to bankruptcy order, **3:127**  
 Contempt proceedings against, **12:26**

**RECEIVER—Cont'd**

Contracts, not binding, **12:30**  
 Contractual terms binding on, **12:20,**  
     **12:30**  
 Counsel should not have divided loyalties,  
     **12:37**  
 Court, no power to appoint, **2:16**  
 Court, powers of to enforce duties, **12:7**  
 Creditor, right to receive information,  
     **12:18**  
 Crystallization of charge by appointment,  
     **5:105**  
 Deemed trusts, liability for, **12:43**  
 Definition of, **12:2**  
 Delivery of books and records to trustee,  
     **2:41 to 2:45**  
 Directions to, **12:55**  
 Disobedience of order appointing, **12:40**  
 Distress against, **12:45**  
 Distribution by receiver, **12:54**  
 Documents, right to possession of, **12:11**  
 Duties of, **12:18**  
     power of court to enforce, **12:7**  
 Effect of appointment, **12:5**  
 Effect of appointment on employment,  
     **12:47**  
 Effect of bankruptcy on, **12:4**  
 Environmental damage, liability for, **2:28,**  
     **12:32**  
 Failure to perform duties, **12:7**  
 Farmer, claim against, **5:423 to 5:435**  
 Fees, payment of, **12:53**  
 Fees, suggested clause for, **12:50**  
 Fees of receiver, liability for, **12:52**  
 Final report of, **12:17**  
 Fisher, claim against, **5:423 to 5:435**  
 Foreign receivership, **12:58**  
 Furnishing names of creditors to receiver,  
     **12:10**  
 Garnishee, money paid into court, **12:24**  
 Goods and services tax, liability for,  
     **12:41**  
 Guarantors, **12:12**  
 Improper appointment, **12:7**  
 Income tax, duty to mitigate, **12:18**  
 Interim in bankruptcy, **3:103 to 3:111**  
 Interim in proposal, **3:120**  
 Interim reports by, **12:16**  
 Land taxes, liability for, **12:44**  
 Leave to sue, **12:26**

**RECEIVER—Cont'd**

- Legal counsel, report of, **12:16**
- Liability for claims arising prior to receivership, **12:33**
- Liability for expenses, **12:29**
- Liability for payment of receiver's fees, **12:52**
- Liability on contracts and borrowing, **12:30**
- Money paid into court, **12:23**
- Money paid into court under garnishee, **12:24**
- Money paid under mistake of law, **12:45**
- Notice of intention to enforce security, **12:9, 16:90**
  - crystallization by, **12:9**
- Notification of appointment to creditor, trustee and Superintendent, **12:10**
  - fees on, **16:118**
- Occupation rent, liability for, **12:45**
- Officer of the court, **12:18**
- Payment into court, **12:23**
- Payment of receiver's fees, **12:53**
- Personal liability for claim arising prior to appointment, **2:30**
- Possession of assets, right to, **12:11**
- Powers of, **12:18**
- Priority between security holders, **12:35**
- Priority of fees, **12:51**
  - claim for realty taxes, **12:51**
- Privately appointed, court appointing, **12:3**
  - difference in duties from court-appointed receiver, **12:18**
  - right to apply for directions, **12:18**
  - surplus, privately appointed receiver is a fiduciary, **12:18**
- Proposal by, **4:39**
- Public utilities, liability for, **12:31**
- Realty taxes, priority of, **12:51**
- Receivership in other provinces, **12:58**
- Removal of, **12:15**
- Remuneration of, **12:50**
  - calculation of, **12:50**
  - non-profit or charitable organization, **12:50**
- Rent, right to, **12:48**
- Reports by, **12:16**
  - method of obtaining information on, **12:16**
- Right to be indemnified for fees, **12:52**

**RECEIVER—Cont'd**

- Right to possession of assets, **12:11**
- Right to re-possess property after appointment of, **5:423 to 5:435**
- Sale for land taxes, **12:26**
- Sale of assets
  - generally, **12:20**
  - amendment of terms, **12:20**
  - call for tenders, **12:20**
  - higher tender after close of tenders, **12:20**
  - highest bidder not closing purchase, procedure to be followed, **12:20**
  - highest bid should be accepted, **12:20**
  - sale must be in commercially reasonable manner, **12:20**
- Saving sections, **12:57**
- Set-off against, **12:13**
  - equitable set-off, **12:13**
  - law the same regardless of how receiver is appointed, **12:13**
- Settlement by, **12:18**
- Solicitor and client privilege, **12:39**
- Solicitor for, **12:38**
- Source deductions, liability for, **12:37**
- Statement of, at commencement, **12:14**
- Successor employer, **12:47**
- Taxation of accounts
  - generally, **12:50**
  - affidavit by receiver and solicitor, **12:50**
  - cross-examination of receiver and solicitor, **12:50**
  - lack of vouchers, **12:50**
  - material to be included, **12:50**
  - remuneration must be fair and reasonable, **12:50**
  - right of principals to appear on, **12:50**
- Taxes, liability for, **12:42, 12:44**
- Termination of agreements by, **12:18**
- Trustee as, **2:46**
- Vesting order for real estate, **12:21**
- Wages, liability for, **12:47**
- Workers' Compensation, **12:36**

**RECEIVER GENERAL**

- Payment of unclaimed dividends to, **6:456**

**RECEIVING ORDERS**

- See BANKRUPTCY ORDERS

**RECOGNIZANCE**

Discharge not releasing bankrupt from, **7:186**

**RECOVERY OF PROPERTY FROM TRANSFEREE OF BANKRUPT**

Generally, **5:555**  
Bona fide purchaser for value, **5:557**  
Consideration unsatisfied, **5:559**  
Proceeds of, **5:556**  
Subrogation of trustee, **5:555**  
Transfer to person not acting in good faith for adequate valuable consideration, **5:557**

**REDEMPTION OF SECURITY**

See also SECURED CREDITORS  
Generally, **6:197**  
Assessment of value, **6:159, 6:197**  
Procedure, **6:159, 6:197**  
Third party, creditor holding, **6:197**

**REDEMPTION OF SHARES WITHIN TWELVE MONTHS OF BANKRUPTCY**

Generally, **5:587**

**REDIRECTION OF MAIL**

Generally, **2:122**  
Mail addressed to bankrupt's house, **2:122**  
No need for order, **2:122**  
Only in force for three months, **2:122**  
Partnership, **2:122**  
Personal residence of bankrupt, **2:122**  
Receiver in possession, **2:122**  
Terms and conditions in order, **2:122**  
Wage-earner, **2:122**

**REGISTERED EDUCATION SAVINGS PLAN**

Generally, **5:247**  
Collapse of plan by trustee, **5:247**  
Contribution after date of bankruptcy, **5:247**

**REGISTERED RETIREMENT AND DISABILITY SAVINGS PLANS**

Generally, **5:236**  
Assignment of, **5:236**  
Bank or trust company holding for a customer, **5:236**  
Converting to exempt form, **5:236**

**REGISTERED RETIREMENT AND DISABILITY SAVINGS PLANS**

**—Cont'd**

Death of owner prior to bankruptcy, **5:236**  
Deregistration, **5:236**  
Effect on discharge of bankrupt, **5:236**  
Exempt from seizure, **5:236**  
Income tax consequences, **5:236**  
Invalid RRSP creating a valid trust, **5:236**  
Life insurance, designation in favour of spouse, **5:236**  
Property of bankrupt, **5:236**  
Realization by trustee, **5:236**  
    manner of showing in trustee's final statement of receipts and disbursements, **5:236**  
Settlement, **5:236, 5:451**  
Use of exempt property to purchase, **5:236**  
Use of non-exempt property to purchase, **5:236**

**REGISTRAR**

Generally, **8:31, 8:64 to 8:84**  
Action under section 38, making order, **2:154**  
Administrative duties, **8:79**  
Appeal from decisions of, **8:82, 16:42**  
Appeal from disallowance of claims, **8:80**  
Appeals from rulings of chair, **6:61**  
Application under section 215, **10:10**  
Appointment of, **8:31, 8:64**  
    attacking, **8:31**  
Authorizing sale of immovable property, **8:83**  
Cannot act as counsel in Bankruptcy Court, **8:64**  
Certifying true copy of bankruptcy order for registration, **5:389 to 5:397**  
Claims to property in possession of bankrupt, **5:410 to 5:422**  
Consent orders, **8:76**  
Constitutional aspects, **8:31**  
Costs, taxation of, **8:75**  
Court, included in definition of, **1:26**  
Definition of, **8:31, 16:4**  
Deputy, **8:65**  
Directing trial of issue, **8:81**  
Discharges of bankrupt, **7:209, 8:68**  
Documents to be filed with, **16:19**

**REGISTRAR—Cont'd**

- Examination of bankrupt by, **8:67, 8:73, 16:101**
  - other persons by, **8:67, 16:101**
- Ex parte orders, **8:72**
- Extending time for appeal, **8:81**
- Fees of, see **TARIFFS, FEES**
- Filing documents with, **16:22**
- Immoveable property, giving title to, **8:55**
- Interim orders section 192(1)(e), **8:71**
- Interim receiver, **3:112, 8:72, 8:81**
- Issue, no power to direct, **8:47, 8:81**
- Judge hearing matters assigned to registrar, **8:84**
- Judicial notice of signature, **8:33**
- Jurisdiction of, **8:31, 8:64 to 8:84**
- Matter assigned to judge, **8:31**
- Matters that registrar cannot hear, **8:81**
- No inherent jurisdiction, **8:72**
- Order by, order of court, **8:64**
- Orders of discharge, **7:209, 8:68**
- Performance of duties by judge, **8:84**
- Performing duties of official receiver section 12(4)
  - application, sealing of, **16:67**
- Power, not co-extensive with judge, **8:31, 8:64**
- Practice and procedure, **8:77**
- Proofs of claim, disputes, **8:74**
- Proposals, approving, **4:71 to 4:78, 8:69**
  - setting aside, **8:70**
    - bankruptcy orders, **8:66**
- Referring matters to judge, **8:84**
- Removal of trustee by, **8:81**
- Reviewing, rescinding or varying order, **8:39**
- Settling and signing orders, **8:78**
- Suing in own name, **12:28**
- Summoning and examining bankrupt and others, **8:73**
- Taxation of costs by, **8:75, 8:141**
- Trustee, increasing remuneration, **2:170, 8:75**
- Unopposed, **8:72**
- Unopposed applications, **8:66**
- Vacating and construction lien, **8:81**

**REGISTRATION OF BANKRUPTCY ORDER OR ASSIGNMENT**

- See also **SALE OF Land**
- Generally, **5:389 to 5:397**

**REGISTRATION OF BANKRUPTCY ORDER OR ASSIGNMENT—Cont'd**

- Effect of non-registration, **5:396**
- Expunging registration, **5:395**
- Necessity for, **5:397**
- Procedure for, **5:390**
- Reason for registration, **5:391**
- Removal of encumbrances, **5:392**
- Trustee transferring title, **5:394**

**RELATED PERSONS**

- See **ARM'S LENGTH TRANSACTIONS**
- Arm's length, **1:66**
  - definition of, **1:66**
- Corporations, **1:66**
  - de jure control, **1:66**
- Fraudulent preference, **5:488**
- Groups, **1:66**
- Preference for wages, **6:395 to 6:399**
- Reviewable transactions, **5:576, 6:396**
- Voting at meeting of creditors, **6:38**
- Voting on proposal, **4:61**

**RELATION BACK OF TRUSTEE'S TITLE**

- Generally, **1:29 to 1:32**
- Assignments, **1:30**
- Proposals, **1:31**
- Protection of bona fide transactions, **5:542**
  - bankruptcy orders, **1:32**

**RELIEVING AGAINST FORMAL DEFECTS AND IRREGULARITIES**

- Generally, **8:48, 8:49**
- Defects which have been excused, **8:50**
- Defects which have not been excused, **8:51**
- Formal defects, **8:49**
- Must be proceeding in bankruptcy, **8:49**

**REMOVAL OF BANKRUPT'S PROPERTY OUT OF PROVINCE**

- Generally, **5:398**
- Method of removal, **5:398**

**REMUNERATION OF INTERIM RECEIVER**

- See also **INTERIM RECEIVERS**
- Generally, **2:187**
- No fixed rate, **2:187**
- Ordinary principles of taxation, **2:187**
- Payable in priority to trustee, **2:187**

**REMUNERATION OF INTERIM  
RECEIVER—Cont'd**

Time expended before appointment,  
**2:187**

**REMUNERATION OF TRUSTEE**

Generally, **2:170 to 2:187, 16:38**

Accounting fees, **2:173**

Appeal for assessment of, **2:182**

Approval of inspectors, **2:170, 2:172**

Assessing value of work done by trustee,  
**2:172**

Attacking, **2:182**

Bankrupt attacking, **2:182**

Calculation of, **2:171**

Cannot accept gift or benefit, **2:170, 9:17**

Cannot receive remuneration beyond that  
payable out of the estate, **9:17**

Carrying on business, **2:178**

Charge on assets for, **2:176**

Charging as professional accounting firm,  
**2:180**

Clerical and stenographic staff, **2:173**

Consultation fees, **2:174**

Disbursements, **2:173, 16:53**

Errors committed in administering the  
estate, **2:171**

Estimate of, by trustee, **2:170**

Estimate of dividend by trustee, failure to  
realize, **2:180**

Exceeding 7 1/2%, **2:172**

notice of application for increase, **2:172**

Following instructions of inspectors,  
**2:172**

Former trustee and substituted trustee,  
**2:181**

Fraudulent conduct, effect, **2:170**

Goods and services tax credit payments,  
use of to pay trustee's remuneration,  
**5:79**

Hourly rate, **2:170**

detailing services, **2:171**

increase in, **2:171**

use of, where proper, **2:171**

Interim draws, **2:177**

Interim draws in a proposal, **2:177**

Interim final passing of trustee's accounts,  
**6:453**

Meeting of creditors fixing, **2:170, 2:172**

creditors must be present, **2:170**

power of court to alter, **2:170**

**REMUNERATION OF TRUSTEE  
—Cont'd**

Misconduct of trustee, effect of, **2:182**

No time records, **2:171**

Objections to remuneration, **2:182**

Onus on trustee to justify, **2:170**

Operational receipts, **2:171**

Opposition of inspectors, **2:170**

Order of court, necessity for, **2:170**

Partner of trustee, **2:173**

Payment of, **2:175**

Proposals, **2:180**

Proposal setting fee of trustee, **2:177**

Reduction of because of conduct of  
trustee, **2:171, 2:180**

Registrar, jurisdiction, **2:172**

Restriction to 7.5%, **2:171**

Review of trustee's files by registrar,  
**2:171**

Sale of assets to include trustee's fees,  
**2:170**

Secured creditors, priority of, **2:172,**  
**2:180, 2:185, 6:259**

Successive trustees, **2:181**

Summary administration, **2:186, 6:424**

Summary administration tariff used as a  
guide, **2:172**

Superintendent comments, **2:183**

objections to, **2:171**

review by, **2:184**

Third party, payment by, **2:170**

Third party deposits, **2:179**

Third party guarantees, **2:179**

Time records must be presented to court,  
**2:171**

Time spent by trustee prior to bankruptcy,  
**2:171**

Travel expenses, **2:173**

Trust funds, **2:170**

Unsuccessful proceedings, **2:172**

**RENT**

See LANDLORD and TENANT

**REPAIRER'S LIEN**

Generally, **5:115**

Dispute concerning, **5:115**

Priorities, **5:115**

Registration under, PPSA, **5:115**

Release of goods, **5:115**



## INDEX

### **REPAIRER'S LIEN—Cont'd**

Seizure by sheriff or executing officer,  
**5:115**

Third party leases, **5:115**

### **RESCINDING ORDERS**

See REVIEWING, RESCINDING OR  
VARYING ORDERS

### **RESILIATION**

See THIRTY-DAY GOODS

### **RESOLUTION**

See ORDINARY RESOLUTION and  
SPECIAL RESOLUTION

Definition of, **1:49**

### **RESTITUTION**

After-acquired property, **5:187, 5:561**

Order for, **5:187**

Payment to creditors, **5:187**

Preferential payment, **5:506**

### **RESTRICTED CREDITORS**

Generally, **6:395**

Claims of relatives, **6:310, 6:398**

Claims of spouse or former spouse, **6:397**

Officers and directors, **6:399**

Reviewable transactions, **6:396**

Silent partners, **6:401**

Voting by, **6:38**

### **RETURNS**

Generally, **2:61**

Duty to make, **2:35, 2:61**

Income tax, **2:61**

### **REVENDEICATION**

See THIRTY-DAY GOODS

### **REVIEWABLE TRANSACTIONS**

See TRANSFERS AT UNDERVALUE

Generally, **1:66, 5:576, 6:395 to 6:399**

### **REVIEWING ACTIONS OF TRUSTEE**

See ACTIONS AGAINST TRUSTEE

### **REVIEWING RESCINDING OR VARYING ORDERS**

Generally, **8:37 to 8:44**

Annuling a proposal, **8:44**

Appeals, **8:41**

Conditional orders of discharge, **8:43**

Discharge orders, **8:43**

Discretionary, **8:37**

### **REVIEWING RESCINDING OR VARYING ORDERS—Cont'd**

Final orders, **8:40**

Fundamental change in law, **8:37**

Interlocutory, **8:40**

Judge not, functus, **8:37**

Material to be used, **8:38**

Miscellaneous orders, **8:44**

Not made, proprio motu, **8:37**

bankruptcy orders, **8:42**

Rescinding in order annulling the dis-  
charge of a bankrupt, **7:238**

Time for bringing, **8:37**

Who can bring, **8:39**

Who can hear, **8:39**

Who can make, **8:37**

### **RIGHT OF UNPAID SELLER TO REPOSSESS GOODS**

See UNPAID SELLER

### **RULE AGAINST DOUBLE PROOFS**

Generally, **6:155**

### **RULE INEX PARTE JAMES**

Generally, **5:189 to 5:191**

Meaning of, **5:189**

Mistake of law, **5:190**

Necessity for enrichment of estate, **5:189**

Where rule has been applied, **5:190**  
cases where rule has not been applied,  
**5:197**

### **RULES**

Generally, **10:2, 16:2**

Administrator's fees in consumer propos-  
als, **16:114**

Admission of claims, **16:96**

Appeals of Court of Appeal, **16:44**  
registrar from, **16:42**

Arrest, **16:35**

Assignments, **16:77**

Bankrupt

discharge of, **16:104, 16:105**

Books, records and documents, **16:66**

Business of the court, **16:39**

Consumer proposals, **16:81**

Contributories, **16:84**

Costs and taxation, **16:38**

Court, business of, **16:39**

Creditors, meetings of, **16:92**

Definitions, **16:2**

**RULES—Cont'd**

Disallowance of claims, **16:98**  
 Discharge of bankrupt, **16:104, 16:105**  
 Evidence, **16:34**  
 Examination of bankrupt and others, **16:102**  
 Examination of bankrupt on discharge, **16:104**  
 Fees of court officers, **16:39**  
 Filing of documents, **16:22**  
 Forms, **16:7**  
     see FORMS  
 Interim receiver, **16:70, 16:72**  
 Judge sitting in bankruptcy, definition of, **16:1**  
 Lis pendens, **16:90**  
 Making, **10:2**  
 Mediation, **16:85**  
 Meetings of creditors, **16:92**  
 Miscellaneous fees, **16:119**  
 Motions, **16:24, 16:26**  
     filing of, **16:26**  
 Must be allowed, **10:2**  
 Notice of disallowance service of, **16:98**  
 Notice of valuation service of, **16:98**  
 Official receiver, **16:46**  
 Order for payment under section 68, **16:88**  
 Ordinary procedure of court, **16:9 to 16:12**  
 Partnerships, statement of affairs, **16:100**  
     applications, **16:68**  
 Practice in civil matters, **16:9 to 16:12**  
 Prescribed date, **16:120**  
 Proceedings, meaning of, **16:20**  
 Proceedings transferring, **16:19**  
 Proposals, **16:79, 16:82**  
 Public records, **16:106**  
     bankruptcy orders, **16:74, 16:75**  
 Registrar, definition of, **16:1, 16:4**  
 Retention of books, records and documents, **16:66**  
 Secured creditors and receivers, **16:111**  
 Service of process, **16:15**  
 Settlements and preferences, **16:90**  
 Summary administration, **16:63, 16:64**  
 Summary administration, trustee's fees and disbursements, **16:113**  
 Superintendent of Bankruptcy's levy, **16:109**

**RULES—Cont'd**

Taxing officer, definition of, **16:1, 16:4**  
 Title of proceedings, **16:21**  
 Trustee  
     appearance before registrar, **16:17**  
     appointment and substitution, **16:49**  
     Code of Ethics, **16:47**  
     discharge of, **16:62**  
     duties of, **16:52**  
     remuneration of, **16:54**  
     taxation of accounts, **16:62**  
     warrants for search and seizure, **16:35**  
     witness, **16:28 to 16:32, 16:34**  
         examinations in connection with applications for bankruptcy order, **16:33**  
         examinations of in court proceedings, **16:28 to 16:32**

**SALARY**

See EARNINGS

**SALE OF ASSETS**

Generally, **2:75, 2:76**  
 Action against trustee for improper sale, **2:86, 2:128 to 2:136**  
 Advertising, **2:82**  
 Appeals from, **2:87**  
 Approval of inspectors, **2:77**  
 Assets includes a cause of action, **2:76**  
 Attacking  
     generally, **2:86, 2:128 to 2:136**  
     onus of proof, **2:86**  
     reluctance of court to interfere, **2:86**  
 Auction, **2:83**  
 Bankrupt purchasing, **2:85**  
 CCA proceedings, **23:77, 23:84**  
 Conservatory measures, **2:52**  
 Consideration other than a fixed price, **2:79**  
 Contrary to instructions of inspectors, **2:77**  
 Court, interference by, **2:86, 2:128 to 2:136**  
 Defending integrity of bankruptcy process, **2:76**  
 Deference to decisions of trustee and inspectors, **2:86**  
 Directions, **2:76, 2:109 to 2:116**  
 Effect of, **5:442**  
 Future payment for, **2:81**  
 Goodwill, **5:234**

## INDEX

### **SALE OF ASSETS—Cont'd**

- Higher bid received after close of tenders, **2:82**
- Improvident, attacking, **2:86, 2:128 to 2:136**
- Inspectors, to, **2:100**
  - necessity for prior approval of court, **2:100**
- Inspectors refusing to approve, **2:77**
- Manner of, **2:75**
- Non-competition clause by bankrupt, **5:234**
- No need for court order, **2:76**
- Other than for fixed price, **2:79**
- Patented goods, **5:441**
- Perishable goods, **2:52**
- Prior to bankruptcy, **2:41**
- Prior to first meeting of creditors, **2:57, 2:77**
- Private contract, **2:78**
- Right of action, sale of, **2:84**
- Sale for consideration other than cash, **2:80**
- Sale to solicitor or trustee, **2:101**
- Subject matter, description of, **2:84**
- Tender, sale by
  - generally, **2:82**
  - highest not accepted, **2:82**
  - shopping against, **2:82**
- To whom can trustee sell, **2:85**
- Trustee, refusal to follow instruction of inspectors, **2:77**
- Trustee purchasing, **2:101**
- Trustee's duty to maximize yield, **2:76**
- Where no inspectors, **2:107**

### **SALE OF GOODS**

- Property not passing, **5:103**
- Property passing, **5:103**

### **SALE OF LAND**

- See also **SALE OF ASSETS** and **REGISTRATION OF BANKRUPTCY ORDER OR ASSIGNMENT**
- Generally, **5:389 to 5:397**
- Bona fide purchaser, **5:389 to 5:397**
- Effect of, **5:442**
- Expunging registration, **5:395**
- Lis pendens, **16:89**
- Registration of bankruptcy order or assignment, **5:389 to 5:397**

### **SALE OF LAND—Cont'd**

- Removal of encumbrances, **5:392**
- Substitute trustee, **5:393**
- Transfer of title by trustee, **5:394**
- Withdrawal of caution, **5:389 to 5:397**

### **SALE OR RETURN**

- Generally, **5:84**
- Distinction from consignment, **5:89**
- Keeping for unreasonable time, **5:84**
- Right of seller to re-possess, **5:84**

### **SCHEME OF ARRANGEMENT**

- See **PROPOSALS, COMPANIES' CREDITORS ARRANGEMENT ACT**
  - included in proposal, **1:47**
- Meaning of, **1:47, 4:2**

### **SCHEME OF DISTRIBUTION**

- See **PRIORITIES**
- Generally, **6:285 to 6:429**

### **SEAL**

- Judicial notice of, **8:33**
- Meaning of, **8:33**

### **SEARCH**

- See **WARRANTS**

### **SECOND BANKRUPTCY**

- Generally, **5:574**
- Act of bankruptcy, **7:167**
- Automatic discharge, **7:72**
- Priority between first and second bankruptcy, **5:574**
- Re-appointment of trustee where bankrupt undischarged, **2:201**

### **SECTION 178, BANK ACT**

- See **BANK ACT, SECTIONS 426 and 427**

### **SECTION 427, BANK ACT**

- See **BANK ACT, SECTIONS 426 and 427**

### **SECTION 68 APPLICATIONS**

- See **EARNINGS**

### **SECTION 165 ORDERS**

- See **EXAMINATIONS**, use of

### **SECTION 37 PROCEEDINGS**

- See **ACTIONS AGAINST TRUSTEE**

## SECTION 38 PROCEEDINGS

See ACTIONS BY CREDITORS  
WHERE TRUSTEE REFUSES TO  
TAKE PROCEEDINGS

## SECURED CREDITORS

Generally, **6:159 to 6:251**  
Amending valuation  
    generally, **6:198 to 6:203**  
    allowed, **6:200**  
    imposition of terms, **6:202**  
    refused, **6:201**  
    time for, **6:199**  
    withdrawal of claim, **6:203**  
Application for directions, **2:109 to 2:116**  
Appropriation of payments by, **6:216**  
Attacking security, **6:204**  
Cattle breeder's lien, **6:170**  
Charges of, **6:254, 6:255**  
Conditional sales, **5:85**  
Conserving assets, trustee's fees for, **6:259**  
Consignment goods, **5:86 to 5:91**  
Consolidation of mortgage, **6:215**  
Costs on secured claims, **6:256**  
    power of court to disallow, **6:256**  
Creation of, **1:50, 6:159**  
Definition of, **1:50, 6:164**  
Demand by trustee to value, **6:187 to 6:190**  
    failure to, **6:194**  
Determining amount owing, **6:205**  
Directions re validity of security, **2:111**  
Dissatisfaction with valuation, **6:195**  
Dividend to, **6:159, 6:246**  
    exclusion from, **6:196, 6:246**  
Election by trustee, **6:191 to 6:193**  
Equalization payment, **6:164**  
Equitable mortgage, **5:205 to 5:207**  
Equitable subordination, **6:182**  
Equity of redemption, **6:249**  
Exclusion from dividend, **6:196, 6:246**  
Execution creditors, as, **6:164**  
Exit fee on termination, **6:254**  
Extending time to redeem, **6:191 to 6:193**  
Failure to file proof of security, **6:194**  
    sale in 30-day period, **6:194**  
Failure to value, **6:194**  
    approved by court of sale, **6:194**  
Filing proof of claim, preferred and secured, **6:159**

## SECURED CREDITORS—Cont'd

Filing proof of security, **6:159**  
Floating charge, **5:105**  
General position of, **6:159**  
Guarantor, as, **6:164**  
Holder of negotiable instrument, **6:175**  
Immovable, sale of, **5:446 to 5:449**  
Improving priority by bankruptcy, **6:162**  
Inspection of property by trustee, **5:408**  
Interest on, **6:254, 6:255**  
Interim receiver, no right to postpone-  
    ment, **5:326**  
Joint debt, **6:166**  
Land lord, as, **6:357**  
Leave to proceed, **5:326, 6:208**  
Leave to proceed in mortgage actions,  
    **5:326, 6:208**  
Letter of credit, **6:167**  
Levy, **6:250, 6:425 to 6:429**  
Lien for unpaid municipal taxes, **6:174**  
Liens created by provincial statutes, **6:173**  
Livery stable keeper's lien, **6:171**  
Maintenance, **6:169**  
Maritime lien, **6:172**  
Marshalling  
    generally, **6:209 to 6:214**  
    conditions precedent, **6:214**  
    personal property, **6:214**  
Meaning of, **1:50**  
Mechanics' lien holder, **6:173**  
Meeting of creditors, see MEETINGS OF  
    CREDITORS  
Merger with judgment, **6:217**  
Mixing of funds, **6:218**  
Money in court, **5:186**  
Movable property in Quebec, **6:207**  
Negotiable instrument, holder of, **6:31**  
No interference with, **6:159**  
Notice of intention to enforce, **12:9**  
Partnership, **6:253**  
Payment into court to remove, **6:164**  
Personal judgment by, **5:326**  
Personal Property Security Act, **5:120**  
    application by, **3:2 to 3:17**  
Postponing rights of realization, **5:326,**  
    **6:181**  
Priority of, inter se, **6:163**  
Privilege, **6:176**  
Promissory note, person antecedently  
    liable, **6:31**

**SECURED CREDITORS—Cont'd**

Proof of claim, no need to file, **6:159**  
 Proof of security, filing of, **6:159**  
 Property not belonging to the bankrupt, **6:164**  
 Proposals and, **4:3**  
 Real estate agent, **6:177**  
 Realization by trustee, effect of, **6:159**  
 Realizing, **5:326, 6:159, 6:180**  
     distribution of proceeds of realization, **6:180**  
     no necessity for trustee to register notice under section 20, **6:180**  
 Receiver, appointment of, **5:326**  
 Redeeming, **6:197**  
 Reimbursing trustee for insurance costs, **2:65**  
 Release of security, **6:194**  
 Relying on security, **6:248**  
 Repairer's lien, **5:115**  
 Requiring secured creditor to file, **6:196**  
 Requiring trustee to elect to redeem, **6:191 to 6:193**  
     generally, **6:191**  
     extending time, **6:192**  
     failure to elect, **6:193**  
 Resiliation, **5:193 to 5:203**  
 Revendication, **5:193 to 5:203**  
 Sale by secured creditor, **6:205**  
     must be in commercially reasonable manner, **6:180**  
 Sale for failure to value, **6:194**  
 Section 427 of, Bank Act, see BANK ACTSECTIONS 426 and 427  
 Settlement of claims, **6:155, 6:247**  
 Ship owner's lien, **6:178**  
 Ship's mortgage, **5:119, 6:178**  
 Solicitor's lien, **2:48**  
 Statute of Limitations, **6:142**  
 Statutory trust liens, **6:183**  
 Stay of proceedings, **5:326**  
 Storer's lien, **5:114**  
 Summary of position, **6:159**  
 Superintendent of Bankruptcy levy, **6:425 to 6:429**  
 Surrendering to trustee, **6:184, 6:185**  
     express, **6:184**  
     implied, **6:185**  
 Taking in payment, **6:181, 6:206**  
 Thirty-day goods, **5:193 to 5:203**

**SECURED CREDITORS—Cont'd**

Trustee, conserving assets, **6:259**  
 Trustee acting for, **2:15**  
 Trustee requiring filing of proof of claim, **6:196**  
 Trustee's remuneration, priority of, **2:183**  
 Trustee's remuneration not calculated on payments to secured creditors, **2:171**  
 Trustee surrendering security to, **6:258**  
 Unsecured creditors given claim by statute, **6:219**  
 Unsecured creditors with encumbrance against a secured asset, **6:219**  
 Valuation of  
     generally, **6:187 to 6:190**  
     amending of, **6:198 to 6:203**  
     cannot claim a dividend unless security is valued, **6:187**  
     extending time for valuation, **6:188**  
     failure by trustee to elect, **6:194**  
     guarantees, **6:190**  
     method of making, **6:189**  
     nil dollars, **6:187 to 6:190**  
     time for filing, **6:188**  
 Vendor's lien, **5:249**  
 Vesting equity in creditor, **6:191 to 6:193**  
 Vesting of property in trustee, **5:361**  
 Voting at meetings, **6:32 to 6:36**  
 Voting in proposals, **4:3, 4:62, 4:95**  
 Warehouseman's lien, **5:114**  
 Who is, **6:164**  
 Wife as, **6:216**  
 Worker's Compensation Board, **6:179**

**SECURITIES FIRMS INSOLVENCIES**

Generally, **13:2**  
     application against, who may file, **13:10**  
     Compensation fund, **13:10**  
     Customer name securities, **13:10**  
     Customer pool funds, **13:2**  
     Relationship between customer and broker, **13:9**

**SECURITY**

See SECURED CREDITORS

**SECURITY AGREEMENT**

Errors in, **5:175**  
 Information concerning, **5:134**  
 Necessity for, **5:138**

**SECURITY AGREEMENT—Cont'd**

Notice of intention, effect on, section 69(1)(b), **5:327**

Proposal, effect on, section 69(1)(b), **5:328**

**SECURITY FOR COSTS**

See also **COSTS**

Generally, **8:130**

Action by trustee in another province, **8:130**

Appeal from disallowance, **8:130**

Delay in applying, effect of, **8:98**

Discharge of bankrupt, by opposing creditor, **8:130**

Increasing, **8:130**

Matters to be considered in an appeal, **8:98**

No assets, **8:130**

On appeal, **8:98**

application, on, **3:100**

Trustee as nominal plaintiff, **8:130**

**SECURITY UNDER SECTION 427 OF BANK ACT**

Generally, **6:220 to 6:245**

Registration of, **6:222 to 6:245**

Secured claim for, **6:222 to 6:245**

Trustee giving, **2:105**

**SEIZURE AND SALE BY EXECUTING OFFICER**

Generally, **5:369 to 5:374**

Delivery of property to trustee, **5:374**

Distribution by, **5:373**

Proposals, **5:370**

Sale by, **5:372**

Seizure by, **5:371**

**SEIZURE FOR RENT OR TAXES**

Generally, **5:375 to 5:388**

Costs of distress, **5:382**

Delivery of property to trustee, **5:381**

Effective date, **5:378**

Illegal distress, **5:387**

Irregular distress, **5:386**

Land lord not a secured creditor, **5:377**

Mortgage, seizure under, **5:385**

Proposals, no application, **5:376**

Sale of property prior to production of assignment or bankruptcy order, **5:383**

**SEIZURE FOR RENT OR TAXES**

**—Cont'd**

Taxes seizure for, **5:388**

Third parties, seizure by, **5:384**

True copy, production of, **5:379**  
to whom produced, **5:380**

**SERVICE**

Generally, **16:9 to 16:12**

By courier, **16:15**

By facsimile, **16:15**

By mail, **16:15**

Notice of disallowances, **16:98**

Notice of intention to enforce security, **16:110, 16:111**

Notice to file proof of security, **6:196**

Personal service

generally, **16:15**

application of, **3:41**

death of debtor before, **16:67**

substituted, **3:41, 16:67**

Repudiation of a lease in a proposal, **16:78**

Substituted service of application, **16:67**

**SET-OFF**

Generally, **5:543 to 5:553**

Abatement distinguished from equitable set-off, **5:551**

Application in bankruptcy, **5:550**

Assignees of book debts, **5:545**

Banks, transfer from one account, **5:548**

Contracting out of, **5:552**

Costs, **8:145**

Damage claims, **5:544, 5:551**

Debts must be ascertainable, **5:544**

Directions, application for, **2:109 to 2:116**

Equitable

generally, **5:551**

damage claims can be asserted, **5:551**

must be inseparable connection, **5:551**

property claim cannot form basis of a claim for set-off, **5:551**

Fraud, **5:547**

Fraudulent preferences, **5:547**

Guarantor of a debt of the bankrupt, **5:543 to 5:553**

Legal, **5:544**

debts do not have to be of same nature, **5:544**

Mutual debts, meaning of, **5:544**



## INDEX

### SET-OFF—Cont'd

- Proof of claim, **5:544**
- Proposals, **4:105, 5:549**
- Receiver, against, **5:546**
- Rule in, *Cherry v. Boulton*, **5:553**
- Solicitor by, **5:544**
- Subrogation and, **6:116**
- Unascertained liability, **5:553**

### SETTLEMENTS

- See TRANSFERS AT UNDERVALUE
- Generally, **5:451**

### SETTLING CLAIMS

- See COMPROMISING and SETTLING CLAIMS

### SETTLING ORDERS

- See also COURTS
- Generally, **16:28 to 16:32**

### SEXUAL ASSAULT

- Damages for, not released by discharge, **7:187**

### SHAREHOLDERS

- Contributories, **5:399 to 5:405, 16:84**
  - see CONTRIBUTORIES
- Not entitled to notice of meeting of creditors, **6:4 to 6:10**
- Not permitted to bring action under section 38, **2:140 to 2:153**
- Payment of compensation, incentives or other benefits within 12 months of bankruptcy, **5:588**
- Payment of dividend to, within 12 months of bankruptcy, **5:587**
- Redemption of shares within 12 months of bankruptcy, **5:587**

### SHARES

- Right to on bankruptcy of stockbroker, **5:34**

### SHERIFFS AND BAILIFFS

- See also EXECUTIONS
- Definition of, **1:53**
- Delivery up of property to trustee, **5:369 to 5:374**
- Seizure of property by, **5:369 to 5:374**

### SHIPPER'S LIEN

- Generally, **5:116**

### SHIP'S MORTGAGE

- Generally, **5:119**
- Failure to register, effect of, **5:119**
- Section 178 security, **5:119**

### SITTINGS OF COURT

- See COURTS

### SMALL ESTATES

- Summary administration of, **3:187, 6:458, 6:459**
  - see SUMMARY ADMINISTRATION

### SOLICITORS

- See also LEGAL PROCEEDINGS
- Approval of inspectors to employing, **2:92**
- Breach of fiduciary duty, liability for, **5:470**
- Charging lien, **2:49**
  - must be recovery or presentation of property for lien, **2:49**
- Charging order in ordinary court, **2:49**
- Conflict of interest, **2:92**
- Costs, of, see COSTS
- Delivery of books and records to trustee, **2:42, 7:57**
- Employment of, **2:92**
  - on proposal, **8:133**
- Fruits of litigation, **2:49**
- Fruits of negotiation, **2:49**
- Funds in possession of, **2:41 to 2:45**
- Liability of partner, **5:180**
- Lien for costs
  - generally, **2:41 to 2:45, 5:180**
  - in Quebec, **2:49**
  - on papers, **2:48, 16:66**
  - on property, **2:49**
  - on trust funds, **2:49, 5:180**
- Moneys in trust account at date of bankruptcy, **5:180**
- Must be neutral and fair, **2:92**
- Payment after bankruptcy, **5:180**
- Personal liability for costs, **8:115**
- Property in hand s of, **5:180**
- Purchase of assets by, **2:101**
- Removal of for conflict of interest, **2:92**
- Retainer, use of, **5:180**
- Solicitor for general creditors, **2:92**
- Solicitor to estate, **2:92**
- Termination of retainer, **5:180**

**SOLICITORS—Cont'd**

Trust account, money of bankrupt in, **5:180**  
Unpaid fees, applying money to, **5:180**

**SPECIAL RESOLUTION**

Appointing new trustee, **2:16**  
after rejection of proposal, **4:57**  
Calculation of votes, **1:54, 2:16**  
Contrasted with ordinary resolution, **1:54**  
Definition of, **1:54**  
Proposal, approval of, **4:58 to 4:63**  
Substitution of trustee, **2:16**

**SPECIFIC PERFORMANCE**

Not ordered against trustee, **8:23**  
Power to grant, **8:23**  
Trustee suing for, **5:205 to 5:207**

**SPOUSAL AND CHILD SUPPORT CLAIMS**

Costs must be apportioned by Family Court, **6:320**  
Preferred claim, **6:320**  
Provable claim, **6:136**

**SPOUSE OF BANKRUPT**

Postponement of wage claim, **6:310, 6:391**  
Settlements, **5:451**  
Voting by, **6:38**

**STATEMENT OF AFFAIRS**

Bankrupt to prepare and execute, **7:10**  
Copy sent to superintendent, **7:10**  
Failure to prepare, **7:25, 9:6**  
Omission to name creditors in, **7:25**  
Preliminary, **3:148**  
Preparation by bankrupt, **2:56, 7:10**  
Use of to prove insolvency, **5:539**  
Verifying, **2:56**

**STATEMENT OF RECEIPTS AND DISBURSEMENTS**

See FINAL STATEMENT OF RECEIPTS and DISBURSEMENTS

**STATUTE OF ELIZABETH**

See FRAUDULENT CONVEYANCES

**STATUTE OF FRAUDS**

Effect on claim by surety, **5:93**  
Oral guarantees, **5:93**  
Trustee relying on, **5:93**

**STATUTE OF LIMITATIONS**

Generally, **5:261, 6:142**  
Acknowledgement of debt by trustee, **6:142**  
Claim by bankrupt, **6:142**  
Claims, with respect to, **6:142**  
Effect of bankruptcy on, **5:261, 6:142**  
Fraud, **5:261**  
Fraudulent conveyance, attacking, **5:467**  
Judgment in another province, **6:142**  
Proof of claim, **6:142**  
Secured claims, **6:142, 6:257**  
Statute barred after filing of application, **6:142**  
Suspension of period by the Act, **6:142**  
Trustee permitting time to run, **5:261**

**STAYING APPLICATIONS**

Generally, **3:88**  
Disputed applications, **3:89**  
generally, **3:89**  
dismissal of application, **3:89**  
imposition of terms, **3:89**  
re-commencement of bankruptcy proceedings, **3:89**  
refusal of stay, **3:89**  
withdrawal of application, **3:89**  
Other sufficient cause, **3:94**  
generally, **3:94**  
limited time, **3:94**  
refusal of stay, **3:94**  
Pending criminal proceedings, **3:97**  
Proposal, filing of, **3:98**  
bankruptcy orders, stay of, **3:99, 3:137**

**STAY OF PROCEEDINGS**

Generally, **5:278, 5:326**  
Actions, in rem, **5:311**  
Adding defendant where not bankrupt, **5:292**  
Aircraft objects, **5:333, 20:3**  
Amending order granting leave, **5:283**  
Appeals from, **5:322**  
Bankruptcy filed to avoid judgment, **5:295**  
Breach of trust by directors, **5:332**  
Canada Pension Plan, **5:325**  
Child support claims, **5:304**  
Complex actions, **5:297**  
Consent by trustee to giving of leave, **5:290**

## INDEX

### STAY OF PROCEEDINGS—Cont'd

Contempt proceedings, **5:299**  
Contingent and unliquidated claims, **5:298**  
Costs, taxing after bankruptcy, **5:281**  
    increased costs, claimed after date of bankruptcy, **5:281**  
Counterclaims, **5:314**  
Court sitting in bankruptcy has sole jurisdiction, **5:278**  
    jurisdiction of ordinary courts, **5:278**  
Criminal proceedings, **5:300**  
Cross-examination on affidavit, **5:279**  
Damage actions, **5:301**  
Death of bankrupt, **5:287**  
    possibility of insurance, **5:287**  
Debts not released by bankruptcy, **5:302**  
Debts released by bankruptcy, **5:303**  
Delivering judgment after bankruptcy, **5:281**  
Directors, stay in proposals, **5:331**  
Disallowance of claims, **5:296**  
Discharge of bankrupt, **5:285**  
    effect of appeal, **5:323**  
    of trustee, **5:284, 5:285**  
Effective date of stay, **5:280**  
Effect of granting leave, **5:288**  
Employment Insurance Act, **5:325**  
Enforcing a judgment, **5:309**  
Examination of debtor, **5:309**  
Family law actions, **5:305**  
Foreign court and deference to a stay, **5:324**  
Formal notice of motion required to lift stay, **5:279**  
Goods supplied to trustee, **5:278**  
Granting leave, nunc pro tunc, **5:282**  
Granting leave after bankrupt died, **5:287**  
Granting leave after bankrupt only has been discharged, **5:286**  
Grounds for lifting, **5:278**  
Income tax act demands, **5:325**  
Indebtedness incurred after bankruptcy, **5:306**  
Indebtedness incurred after filing of a proposal, **5:306**  
Indemnity agreements, **5:293**  
Insurance contracts, **5:293**  
Labour relations, **5:318**  
    claims for wages against directors, **5:318**

### STAY OF PROCEEDINGS—Cont'd

Labour relations, **5:318**—Cont'd  
    single employer application, **5:318**  
    unpaid contributions, **5:318**  
Lifting of, **5:278, 5:332**  
Limitation defence not relevant on application to lift a stay, **5:278**  
Maintenance, claim for, **5:302**  
Mechanics' liens, **5:307**  
Money claim and possessory claims by same creditor, **5:312**  
Motor vehicle accidents, **5:308**  
No necessity for knowledge of bankruptcy proceedings, **5:278**  
No stay between filing of application and making up a bankruptcy order, **5:280**  
Nothing to be gained by granting leave, **5:278**  
Notice of intention, **5:327**  
    termination of, **5:327**  
Notice or knowledge of stay be creditor unnecessary, **5:278**  
Other cases not requiring leave, **5:321**  
Other defendants not bankrupt, **5:291**  
Other legislation, **5:325**  
Possibility of inconsistent findings, **5:310**  
Practice, **5:279**  
Pre-hearing conference, permitting to continue, **5:291**  
Prejudice to creditors caused by stay, **5:332**  
Proceedings, missing of, **5:326**  
Proceedings taken without leave, **5:289**  
Property loaned to bankrupt, **5:294**  
Proposal, **5:278**  
Repossession claims, **5:320**  
Revendication, **5:320**  
Section 81.1 claims, **5:320**  
Secured creditors, **5:326**  
    bankruptcy, **5:330**  
    consumer proposals, **5:329**  
    filing of a proposal, **5:328**  
    notice of intention to make a proposal, **5:327**  
Set-off, **5:313, 5:315**  
Spousal support claims, **5:304**  
Stock exchange listing, **5:278**  
Successor employer applications, **5:318**  
Taking proceedings after discharge of trustee, **5:284**  
Taxing costs after bankruptcy, **5:281**

**STAY OF PROCEEDINGS—Cont'd**

- Third party claims, **5:316**
- Trust claims under mechanic liens, **5:307**
- Trustee consenting, **5:290**
- Trustee not objecting, **5:290**
- Varying judgment after bankruptcy, **5:281**
- Workers' compensation claims, **5:317**

**STOCKBROKERS**

- See SECURITIES FIRMS INSOLVENCIES

**STOPPAGE IN TRANSITU**

- Generally, **5:204**
- Exercising the right, **5:204**
- Similarity to 30 day goods in Quebec, **5:204**
- Termination of transit, **5:204**

**STORER'S LIEN**

- See WAREHOUSER'S LIEN
- Generally, **5:114**

**STUDENT LOANS**

- See DEBTS NOT RELEASED BY ORDER OF DISCHARGE

**SUBORDINATION OF CLAIMS**

- General subordination, **6:138**
- Secured creditor to unsecured creditor, **6:138**
- Under, PPSA, **5:127**

**SUBROGATION**

- See PROVABLE CLAIMS

**SUBSTITUTED SERVICE**

- See APPLICATIONS and SERVICE

**SUBSTITUTED TRUSTEE**

- Generally, **2:16, 2:18, 2:25, 2:124, 2:125, 2:192**
- Actions against, **10:6 to 10:12**
- Appointment of, by creditors, **2:21**
- Bankruptcy, change of trustee, **2:22**
- Books and records, delivery to, **2:124**
- Delivery of property to, **2:124**
- Discharge of former trustee, **2:25, 2:125**
- Duties of substituted trustee, **2:124**
- Former trustee to pass accounts, **2:124**
- No cause, **2:21**
- Obligation of substituted trustee to take over assets, **2:124**

**SUBSTITUTED TRUSTEE—Cont'd**

- Payment of fees and disbursements of former trustee, **2:124**
- Priority of, **2:124**
- Procedure to be followed upon appointment, **2:124, 2:192**
- Proposal change of trustee, **2:21**
- Removal by court, **2:22**
- Remuneration of, **2:181**
- Retention of funds by, **2:124**
- Special resolution needed, **2:16**
- Superintendent of Bankruptcy, notifying, **2:124**

**SUMMARY ADMINISTRATION**

- Generally, **3:187, 6:458, 6:459**
- Assets not exceeding \$ 10,000, **3:187, 6:458**
- Bond, **2:40, 6:458**
- Changing to ordinary administration, **6:458**
- Discharge of trustee, **2:190**
- Duty of trustee to take possession of assets, **6:458**
- Examination of bankrupt, **6:458**
- Fees and disbursements of trustee, **6:459, 16:112**
- Informing bankrupt of other alternatives, **6:459**
- Inspector in, **6:457, 6:458**
- Interim draws by the trustee, **6:459**
- Joint assignment, Superintendent of Bankruptcy Directive No. 2R, **6:458, 6:459**
- Notice of, **6:458**
- Payment of deficiency of fees after discharge, **6:459**
- Remuneration of trustee, **6:459**
- Security may be required, **2:40, 6:458**
- Single trust account, **2:66, 6:458**
- Taxation of trustee's remuneration, **6:460**
- Trustee exercising powers under s. 30, **6:458**
- Trustee's remuneration, calculation of, **6:460**
- Trust funds, **6:334 to 6:341**

**SUMMARY CONVICTION**

- See BANKRUPTCY OFFENCES

**SUNDAY**

- Time expiring on, **16:15**

## **SUPERINTENDENT**

Generally, **2:2 to 2:6**  
 Accelerated rent and levy, **6:328 to 6:333**  
 Action against, **10:6 to 10:12**  
 Address of offices, **2:41 to 2:45**  
 Appeal by, **2:2**  
 Approval of trustee's accounts, **2:2**  
 Automatic discharge, notice of, **7:63**  
 Bond to section 5(3)(c)  
     enforcement of section 5(3)(c), **2:2**  
 Cancellation of trustee licence, **2:26**  
 Commenting in trustee's final statement, **6:453**  
 Conduct of trustees, investigation of, **2:16**  
     right to impartial hearing, **2:23**  
 Conservatory measures, **2:23**  
     only Federal Court has jurisdiction, **2:23**  
 Court sitting in bankruptcy, jurisdiction over, **2:23**  
 Definition of, **1:55**  
 Delegate, power to decide constitutional questions, **2:23**  
 Delegation of powers, **2:19**  
 Directives of, **2:2**  
     see Policy Statements  
     court not bound by, **2:2**  
     definition of, **16:1**  
     trustee bound by, **2:2**  
 Discharge of bankrupt  
     notice of, **7:75**  
 Discharge of trustee objections to, **2:198**  
     does not bar investigation, **2:23, 2:197**  
 Division Office— definition of, **16:1**  
 Duties and powers of, **2:2 to 2:12**  
 Federal Court, jurisdiction over, **2:23**  
 Final statement of receipt and disbursements section 152(5), **6:453**  
 Former trustee, appeal against fees, **2:2**  
 General supervisory function, **2:2**  
 Inspection of books and records of estate section 26(3), **2:67, 2:68**  
 Intervention by section 5(4), **16:23**  
 Intervention in court proceedings, **2:3**  
 Investigation by, **2:6, 2:23**  
 Judicial review of, **2:2**  
 Keeping of records, **2:7, 16:106**  
 Levy, **6:425 to 6:429**  
     see LEVY

## **SUPERINTENDENT—Cont'd**

Licensing of trustees, **2:12**  
     cancellation of, **2:15**  
 Monitoring program, **2:2**  
 Notice by trustee completing estate, **16:36**  
 Occupation rent and levy, **6:328 to 6:333**  
 Policy statements of, **2:2**  
     see heading in vol  
     4, effect of  
 Proposals and levy, **4:129**  
 Records, keeping of, **2:7, 16:106**  
 Remuneration of trustee, **2:183, 2:184**  
 Report to Minister re trustees, **2:12**  
 Request to trustee for information, not mandatory directive, **2:2**  
 Search of records, **2:7**  
 Search powers, **2:6**  
 Seizing funds etc., **2:3**  
 Seizure of records, **2:23**  
 Service on, **16:19**  
 Standards, **5:268, 7:118**  
     purpose of, **7:118**  
 Statement of officers, copy sent to, **7:10**  
 Trustee forwarding documents to, **2:71**  
 Trustee violating Code of Ethics, **2:15**  
 Unclaimed dividends, **6:456**  
 Undistributed funds, **6:456**

## **SUPPLIER OF GOODS**

Right to repossess, **5:92, 5:193 to 5:203, 5:423 to 5:435**

## **SUPPORT**

Arrears at, **5:304, 6:110**  
 Claim not released, **7:188**  
 Costs apportioned by Family Court, **6:320, 7:188**  
 Not provable claim, **7:188**  
 Preferred claims, **6:320**  
 Stay of proceedings, **5:304**

## **SUPREME COURT OF CANADA**

See also APPEALS  
 Appeals to, **8:108**  
 Decision, final and conclusive, **8:108**  
 Leave necessary, **8:108**  
 Stay of proceedings, **8:109**

## **SURETY**

See BONDS and PREFERENCES, GUARANTEE

**SURPLUS FUNDS**

- After distribution by trustee, **6:422**
- Assignment of, **6:422**
- Interest to be paid first, **6:421**
- Return of property to debtor, **2:70**
- Superintendent's levy not deducted, **6:89**

**SURRENDER OF LEASE**

- See LANDLORD and TENANT

**TAKING IN PAYMENT, IN QUEBEC**

- Generally, **6:206**

**TARIFFS**

- See section headed TARIFFS, and see also COSTS

**TAXATION OF COSTS**

- See COSTS

**TAXES**

- See also INCOME TAX
- Accelerated rent as, **6:334 to 6:341**
- Liability of trustee of tenant for, **6:326**
- Lien for, secured claim, **6:164**
- Municipal, **6:321 to 6:325**
- seizure for, **5:388**

**TAX RETURNS**

- Duty of trustee to file, **2:61**
- Period covered, **2:61**

**TENDER**

- See SALE OF ASSETS

**TESTAMENTARY EXPENSES**

- Payment of when debtor is deceased, **3:20**
- Priority for, **6:293**

**THINGS IN ACTION**

- See CHOSSES IN ACTION

**THIRD PARTY AGREEMENTS AND GUARANTEES**

- Procedure to be followed, Superintendent of Bankruptcy Directive No. 5R4, **2:179**

**THIRTY-DAY GOODS**

- See also UNPAID SELLER
- Generally, **5:193 to 5:203**
- Exercised in thirty days, **5:199**
- Extension of time for demand, **8:53**
- Personal Property Security Act, **5:141**
- Procedure for claiming, **5:200, 5:422**
- Proper law of content, **5:201**

**THIRTY-DAY GOODS—Cont'd**

- Proposals and, **5:202**
- Resolution of contract of sale for default, **5:203**
- Sales on credit, **5:196**
- Sales subject to a term, **5:196**
- Same condition, **5:197**
- Third party, goods passing into hands of, **5:198**
- Unpaid seller, right of, **5:193 to 5:203, 5:423 to 5:435**

**THREE YEARS ELAPSING WITHOUT ESTATE BEING ADMINISTERED**

- Generally, **2:121**
- Registrar, report to, **2:121**
- Superintendent monitoring, **2:120, 2:121**

**TIME**

- Abridgement of, **8:53**
- Computation of, **16:15**
- Extension of, **8:53**
- Falling on Sunday or non-judicial, **16:9 to 16:12**
- Less than 6 days, **16:13, 16:14**

**TIMELY ADMINISTRATION**

- Monitoring by Superintendent, **2:120**

**TIME SHARE CONTRACTS**

- Not leases, **5:100**
- Subordination of claim of shareholder, **5:100**

**TRACING TRUST PROPERTY**

- Generally, **5:32**
- Commingling of trust funds, **5:32**
- Mingling with bankrupt's money, **4:43 to 4:50**
- Misappropriated funds, **5:32**
- No application to debtor-creditor, **5:32**
- Proper court, **5:32**
- Rule in Clayton's case, **5:32**

**TRADEMARKS**

- Property of bankrupt, **5:235**

**TRANSACTIONS IN GOOD FAITH WITH BANKRUPT**

- Generally, **5:542**
- Invalid transactions, **5:542**
- Meaning of contract, dealing or transaction, **5:542**
- Protection of, **5:542**



**TRANSACTIONS IN GOOD FAITH  
WITH BANKRUPT—Cont'd**

Relation back of trustee's title, **5:542**

**TRANSFER OF PROCEEDINGS**

Generally, **8:46, 16:19**

Appeal from refusal, **8:46**

Convenience of administration, **8:46**

Only ground of jurisdiction section  
187(2), **8:46**

Principal place of business, **8:46**

Procedure, **16:19**

Proceedings continued under another statute

    BIAproposal proceedings to,  
    CCAProceedings, **22:73**

    CCAProceedings to, BIAproceedings,  
    **4:149**

Provincial rules no application, **8:46**

Record, transfer of, **8:46**

Residence, **8:46**

**TRANSFERS AT UNDERVALUE**

Generally, **5:485, 5:486**

**TRAVELLING SALESPERSON**

Preference of, **6:297 to 6:316**

**TRIAL OF ISSUE**

See ISSUE

**TRUST ACCOUNT**

Generally, **2:66**

Chartered bank, deposit in, **2:66**

Separate, **2:66**

Trust company, not acceptable, **2:66**

**TRUST COMPANIES**

Cannot act as proxy, **6:42 to 6:51**

Cannot be subject of application, **3:30**

"Corporation" does not include, **1:25**

**TRUSTEES**

Accepting appointment, **2:16**

Accountant, eligibility to act as, **2:15**

Accounts of, see ACCOUNTS

Acting anywhere, **2:51**

Acting as, when license suspended or  
restricted, **9:26**

Acting in emergency, **2:55**

Action against trustee, **2:128 to 2:136,**  
**10:6 to 10:12**

Action by trustee, **2:90, 2:92**

    refusal to take, **2:138 to 2:168**

**TRUSTEES—Cont'd**

Admission of claims, **6:261 to 6:283**  
    see ADMISSION OF CLAIMS

Advertising by, Superintendent of Bank-  
ruptcy Directive No. 30R under  
Policy Statements, **2:36, 16:1**

After-acquired property, see AFTER-  
ACQUIRED PROPERTY

Agent of creditor, not, **2:36**

Appearing in person before registrar,  
**16:17**

Application for directions, **2:109 to 2:116**

Application for licence, **2:12**

Appointment

    generally, **2:16, 16:48**

    acceptance of, **2:16**

    acting for creditors' Committee, **3:128**

    attacking, **2:16**

    by court, **2:16**

    by meeting of creditors, **2:16, 6:13 to**  
    **6:23**

    by official receiver, **3:154**

    certificate of, **2:16, 16:49**

    new trustee, see SUBSTITUTED  
    TRUSTEE

    non-resident, **2:41 to 2:45**

    proof of, **2:16**

    special resolution, see SPECIAL RES-  
    OLUTION

Assets, sale of, **2:75**

    see SALE OF ASSETS

Assisting in illegal or dishonest conduct,  
**16:47**

Attacking appointment of, **2:16**

    cannot be done collaterally, **2:16**

Auditor, conflict of interest, **2:15**

Bank account, Superintendent of Bank-  
ruptcy Directive No. 5R4, **2:66**

Bankruptcy offences, trustee's duties, **9:2,**  
**9:30**

Bond of, see BOND

    refusal to file, **2:16**

Books and records, see BOOKS and  
RECORDS

Books of account, **2:67**

Borrowing money, see BORROWING  
MONEY

Bound by the Act, **2:36**

Calling in aid courts of other provinces,  
**2:51, 8:55**

Cancellation of license, **2:26**

**TRUSTEES—Cont'd**

Carrying on business, see **CARRYING ON THE BUSINESS OF THE BANKRUPT**

Caveat or caution, lodging, **5:389 to 5:397**

Chairperson of meeting of creditors section 105(2)  
on proposal, **4:31**

Change of, see **SUBSTITUTED TRUSTEE**

Cheque by, **2:35, 2:66**

Code of ethics, **2:15, 16:47**

Complaints, sending Division Office, **16:47**

Compromising and settling debts, **2:94**  
see **COMPROMISING and SETTLING DEBTS**

Conduct of, **2:15**  
investigation of, by Superintendent, **2:16**  
right to impartial hearing, **2:23**

Conduct of bankrupt, duty to investigate, **2:59**

Confidential information disclosure of, **16:47**

Conflict of interest, **2:15, 2:36**

Conflict of opinion with inspectors, **2:22, 6:65, 6:88**

Conservatory measures, **2:52**

Contempt of court, **2:39**

Corporate, **2:29**

Counselling by, see **COUNSELLING SERVICES**

Court orders, duty to obey, **2:39**

Court proceedings, see **LEGAL PROCEEDINGS**

Creditors, first meeting of, notice of Rule 108(1), **16:91**

Criminal proceedings, **9:30**  
see **BANKRUPTCY OFFENCES**

Crown must deliver up property to, **2:41**

Definition of, **1:59**

Delay in administration, **2:121**

Delegation of duties and powers, **2:38**

Delegation of powers of Superintendent regarding trustees, **2:19**

Deposit of estate funds, **2:66**

Directions to, see **DIRECTIONS OF COURT**

**TRUSTEES—Cont'd**

Disallowance of claims by, see **DISALLOWANCE OF CLAIMS**

Disbursements of, **2:173**

Discharge of, **2:189 to 2:201**  
see **DISCHARGE OF TRUSTEE**

Discharge of former trustee, **2:25, 2:125**

Disclaimer of property, **2:58**  
of lease, **6:363 to 6:371**

Disposal of perishable property, **2:52**

Disposing of goods of third party, **5:409**

Disputing claims, see **DISALLOWANCE OF CLAIMS**

Distribution of property, **6:285 to 6:429**

Divesting of real and immovable property, **2:58**

Dividend, see **DIVIDEND**

Dividing property among creditors, **2:97**

Documents retention of, **16:46**

Duties and powers of, **2:36 to 2:107**  
knowledge of, by trustee, **2:36**

Employing a solicitor, **2:92**  
see **SOLICITORS**

Employment insurance, **2:69**

Engaging in business, **16:47**

Environmental damage, liability for, **2:28**

Estate books and records, **2:67**

Ethics, code of, **2:15, 16:47**

Examination of, **7:27, 7:30 to 7:49**

Expenses, **2:173**  
see **REMUNERATION OF TRUSTEE**

False and misleading documents, **16:47**

Family law litigation, **2:91**

Fiduciary duty, **2:22**

Filing report under section 29, **2:72**

Filing returns, **2:61**

Final dividend sheet, see **DIVIDEND**

Final statement, see **FINAL STATEMENT OF RECEIPTS and DISBURSEMENT**

Forwarding documents to Superintendent, **2:71**

Honest and impartial conduct, **16:47**

Impartiality, necessity for, **2:36**

Improper sale of assets, **2:75, 2:128 to 2:136**

Income Tax Act, production of books and records pursuant to, **2:68**

Income tax returns, duty to file, **2:61**

**TRUSTEES—Cont'd**

Incurring obligations after  
bankruptcy, and, **2:104**  
see INCURRING OF OBLIGATIONS  
BY TRUSTEE  
prior to bankruptcy, **2:104**  
Injunction and liability for damages, **8:22**  
Inspecting property held as security,  
**5:408**  
Inspection of books and records, **2:67**  
Inspectors, see INSPECTORS  
authority from, **2:74**  
conflict of opinion with, **6:89**  
permission must be specific, **2:102**  
Insurance, **2:65**  
see FIRE INSURANCE and LIFE  
INSURANCE  
Inventory, taking, see INVENTORY  
Joint trustees, **2:20**  
Judicial officer must deliver up posses-  
sion, **2:41, 5:369 to 5:374**  
Juror, ineligible to serve as, **2:36**  
Keeping proper records, **2:67**  
Knowledge of Act and Rules, **2:36**  
Leased premises, right to occupy, **6:356**  
Leasing property, see LANDLORD and  
TENANT  
Legal advice, **2:54, 2:92**  
Legal proceedings, see LEGAL  
PROCEEDINGS  
Legal representative of bankrupt, **2:66**  
Locks, replacing, **2:41**  
Making returns, **2:61**  
Meeting of creditors, attendance at, **6:2,**  
**6:63**  
Meeting of creditors calling, **6:4 to 6:10**  
Meeting of inspectors, attendance at, **6:84**  
Mortgage assets, **2:93**  
Must be impartial and even-hand ed, **2:36**  
Obligations incurred, **2:104 to 2:107**  
Officer of the court, **2:36, 2:128 to 2:136**  
Official name, **2:32**  
Payment by, **2:66**  
Payment of benefit to obtain business,  
**16:47**  
Perishable goods, **2:52**  
Permitting inspection of books and  
records, **2:67**  
Person aggrieved by action, see  
ACTIONS AGAINST TRUSTEE

**TRUSTEES—Cont'd**

Personal liability for carrying on business,  
**2:104 to 2:107**  
Personal liability for claims arising prior  
to bankruptcy or proposal, **2:30**  
no protection from ongoing exposure,  
**2:30**  
Pledging assets, **2:93**  
Priority for advances, **2:107**  
Professional engagement, meaning of,  
**16:47**  
Proof of appointment, **2:16**  
Property, taking possession of, **2:41 to**  
**2:45**  
disclaiming, **2:58**  
may act anywhere, **2:51**  
perishable, **2:52**  
Proposals, see PROPOSALS  
Public utilities, right to, **2:41 to 2:45**  
Purchase of assets, **2:75, 16:47**  
Re-appointment of, **2:201**  
Receiver, powers as, **2:35, 2:36, 2:41 to**  
**2:45**  
Records, duty to keep, **2:67**  
Re-direction of mail by, **2:122**  
Refusal to take proceedings, **2:138 to**  
**2:168**  
see ACTIONS BY CREDITORS  
WHERE A TRUSTEE REFUSES  
TO TAKE PROCEEDINGS  
Reimbursement of trustee, **2:170 to 2:187**  
Relation back of title, **5:356, 5:542**  
Removal for cause, **2:17, 2:22**  
interested person, who is, **2:22**  
no jurisdiction in Court of Appeal, **2:22**  
Remuneration of, see REMUNERATION  
OF TRUSTEE  
Reporting to creditors and inspectors,  
**2:70**  
Reporting to Superintendent, **7:84**  
Report on discharge, **7:83**  
Representative of unsecured creditors,  
**2:36**  
Requiring creditor to file claim, **6:446**  
Resignation of, **2:18**  
Responsibility for liabilities incurred prior  
to bankruptcy, **2:50**  
Restriction of license, **2:26**  
Retention of documents, **16:66**  
Sale of assets, see SALE OF ASSETS  
Soliciting business, **16:47**

## TRUSTEES—Cont'd

- Solicitor must deliver up documents to, **2:48**
- Source deductions, liability for, **2:63**
- Statement of affairs, preparation of, see STATEMENT OF AFFAIRS
- Status of, **2:34**
- Substituted trustee, see SUBSTITUTED TRUSTEE
- Substitution of, **2:16, 16:49**
- Superintendent, cooperation with, **16:47**
- Superintendent, investigation by, **2:23**
- Telephone, right to, **2:50**
- Three years elapsing without estate being administered, **2:121**
- Superintendent requiring, **2:121**
- Timely administration, **2:120**
- Timely performance of duties, **16:47**
- Trustee's bank account, **2:66**
- Trust property, see TRUST PROPERTY
- Undistributed funds, see UNDISTRIBUTED FUNDS
- Use of bankrupt's name, **2:41**
- Verifying statement of affairs, **2:56**
- Vesting of assets in, **5:357 to 5:366**
- Withdrawing funds, **2:66, 2:174**

## TRUST PROPERTY

- Generally, **5:10 to 5:35**
- Appointment of representative counsel, **5:25**
- Bankrupt as trustee of, **5:10 to 5:20**
- Constructive
  - generally, **5:17**
  - entitlement of spouse on basis of constructive trust, **5:5**
  - no application to breach of contract, **5:17**
- Personal Property Security Act, **5:129**
- purchaser of goods unable to arrange financing, **5:17**
- Costs of proceedings with respect to, **5:23**
- Creditor using trust to try to obtain receivables from sale of goods, **5:473**
- Deemed, **5:27 to 5:29, 6:288**
  - see DEEMED TRUSTS
- Definition of, **5:10 to 5:20**
- Enhanced garnishment, **5:29**
- Express, **5:14**
- Fees of counsel, **5:23**

## TRUST PROPERTY—Cont'd

- Implied, **5:15**
- Intent, certainty of, **5:11**
  - determined at time of settling property, **5:11**
- Intentions to hold exclusively for beneficiary, **5:11**
- Interest on, **5:19**
- Mechanics' lien, **5:35**
  - see MECHANICS' LIEN
- Mingling with bankrupt's money, **5:32**
- Misappropriation of, **7:195**
- Not subject to distribution by trustee, **5:10 to 5:20**
- Object, certainty of, **5:13**
  - class description of, **5:13**
- Personal liability of officer or director for breach of trust, **5:26**
- Practice, **5:25**
- Presumption of advancement, **5:16**
- Purchase money resulting trust, **5:16**
- Quebec, treatment of trust property, **5:21**
- Quistclose trust, **5:10 to 5:20**
- Remuneration of trustee for realizing and distributing, **5:22**
- Resulting, **5:16**
- Sale of goods, trust in, **5:20**
- Set-off, **5:18, 5:42**
- Solicitor, funds in possession of, **5:10 to 5:20**
- Spendthrift trust, **5:262**
- Statutory, **6:285 to 6:291**
- Stockbroker, **13:2 to 13:10**
- Subject matter, certainty of, **5:12**
- Tracing, **5:32**
  - see TRACING TRUST PROPERTY
- Trustee not required to take possession of it, **5:10 to 5:20**
- Waiver of, **5:24**

## UNDISCHARGED BANKRUPT

- Liability for debts incurred after bankruptcy, **7:211**
- Liability for provable debt, **7:210**

## UNDISTRIBUTED FUNDS

- Disposal of, **6:456**

## UNEMPLOYMENT INSURANCE

- Generally, **6:389**
- Deemed trust for, **5:27 to 5:29**
- Priority of, **6:389, 6:391**

## INDEX

### UNINCORPORATED ASSOCIATION

“Person” includes, **1:45**

### UNLIQUIDATED CLAIMS

See CONTINGENT CLAIMS

### UNPAID SELLER

See also THIRTY-DAY GOODS

Generally, **5:193 to 5:203, 5:423 to 5:435**

Acquaculturists, **5:435**

Aggrieved supplier, **5:434**

Agreement to sell prior to bankruptcy,  
**5:430**

Assignment of agreement, **5:439**

Calculation of time, **5:424**

Delivery to purchaser, **5:425**

Directions, **5:433**

Exception to equality rule, **5:423 to 5:435**

Extension of time, **5:424**

Farmers, **5:435**

Fishers, **5:435**

Goods must be identifiable, **5:428**

Goods must be in same state, **5:429**

Necessity for a sale, **5:425**

Not fully paid for, **5:431**

Physical possession, necessity for, **5:427**

Possession by warehouser, **5:427**

Priorities, **5:432**

Procedure, **5:424**

Proposal, effect on, **5:423 to 5:435**

Protection and restriction of certain rights,  
**5:440**

Purchaser must be bankrupt or a receiver  
appointed, **5:426**

Quebec, right of unpaid seller, **5:436**

Resale at arm's length, **5:430**

Right to take possession, **5:193 to 5:203,**  
**5:423 to 5:435**

Sale of goods, **5:430**

Sale on credit, **5:423**

Thirty-day goods, see THIRTY-DAY  
GOODS

### UNREALIZED ASSETS

See BANKRUPT

### UNSATISFIED EXECUTION

Act of bankruptcy, **3:50**

### VARYING ORDERS

See REVIEWING, RESCINDING OR  
VARYING ORDERS

### VENDOR OF GOODS

Retaking possession, **5:92, 5:423 to 5:435**

### VENDOR'S LIEN ON CHATTELS

Generally, **5:248**

### VENDOR'S LIEN ON LAND

Generally, **5:249**

### VESTING OF PROPERTY IN TRUSTEE

Generally, **5:357**

Assignment by debtor, **5:358**

Bankrupt, effect on, **5:364**

Bankrupt, no status to commence action,  
**5:364**

Environmental liability, **5:363**

Retroactive order for, **5:365**

Secured creditors, **5:361**

Subject to Act, **5:360**

Time of vesting, **5:359**

Trust claims, **5:362**

Trustee takes subject to equities, **5:357**

### VETERAN'S LAND ACT

Conditional discharge, **7:140**

Not property of bankrupt, **7:140**

Sale of, after bankruptcy, **7:140**

### VOTING

See INSPECTORS, MEETINGS OF  
CREDITORS, ORDINARY RESO-  
LUTION, SPECIAL RESOLUTION

### WAGE EARNER PROTECTION PROGRAM ACT

Administration, **28:8**

Amounts covered, **28:6**

Duties of trustees and receivers, **28:9**

Introduction, **28:3**

Meaning of “Wages,” **28:4**

Offences, **28:15**

Powers of the minister, **28:10**

Recovery of over-payments, **28:12**

Regulation power and review of the stat-  
ute, **28:16**

### WAGES

See also EARNINGS and PRIORITIES

Generally, **6:297 to 6:316**

### WAREHOUSER'S LIEN

Generally, **5:114**

Arrest under, **7:63**

**WAREHOUSER'S LIEN—Cont'd**

Distinguished from lessor, **5:114**  
Failure to attend examination, **7:53**  
No common law lien for warehouse or  
storage services, **5:114**  
Not a general lien, **5:114**  
Storer's lien, **5:114**

**WARRANTS**

Generally, **8:60, 16:35**  
Cannot seize property or books and  
records of a third party, **8:60**  
Entry on premises to obtain records, **8:60**  
Execution by sheriff, **16:35**  
Search, **8:60**  
Seizure, **8:60**  
form of, **8:60**  
property must be clearly identified,  
**8:60**

**WIFE OF BANKRUPT**

See **BANKRUPT, EVIDENCE,**  
**EXAMINATIONS**

**WIFE OF BANKRUPT—Cont'd**

**APPLICATION and SPOUSE**

**WINDING-UP AND RESTRUCTURING  
ACT**

Generally, **10:5**  
Combined with other statutes, **23:96**  
When act does not apply, **23:95**

**WITHDRAWAL OF APPLICATION**

See **APPLICATION FOR BANK-  
RUPTCY OR CREDITOR**

**WITNESSES**

See also **EXAMINATIONS, EVIDENCE**  
Generally, **16:27, 16:28 to 16:32, 16:34**

**WORKER**

Application against, **3:21**  
Preference for wages, see **EARNINGS**

**WORKERS' COMPENSATION**

Claims after November 30, 1992, **6:179**  
Secured claim, **6:297 to 6:316**  
Unsecured claim, **6:297 to 6:316**