Uganda

Insolvency Act

Chapter 108

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Uganda

Insolvency Act
Chapter 108

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An Act to provide for receivership, administration, liquidation, arrangements, bankruptcy, the regulation of insolvency practitioners and cross-border insolvency and for related matters.

[Act 14/2011; S.I. 25/2013; Act 20/2022]

Part I – Interpretation

1. Interpretation

In this Act, unless the context otherwise requires—

"**administrative receiver**" means—

(a) a receiver appointed over the whole or substantially the whole of the property and undertaking of a grantor; or

(b) a person who would be a receiver but for the appointment of some other person as the receiver of part of a grantor's property;

"**administrator**" means a person specified as administrator in an administration deed under section 151;

"**admissible**", with respect to a claim, means a claim that may be admitted in liquidation or bankruptcy;

"**appointing document**" means the writing by or under which an appointment is made and includes a court order;

"**arrangement**" means a composition in satisfaction of an individual's debts or a scheme of arrangement of an individual's affairs or other arrangement in respect of which an arrangement order is made under section 124;

"**arrangement order**" means an order made to give effect to an arrangement;

"**asset**" means an asset of a company in liquidation or in the estate of a bankrupt;

"**associated company**" means a company or other business organisation in which the insolvent company holds majority or controlling shares;

"**bankrupt**" means an individual in respect of whom a bankruptcy has been made under section 20;

"**bankruptcy debt**", means any of the following—

(a) a debt or liability to which the bankrupt is subject after the commencement of the bankruptcy;

(b) a debt or liability to which the bankrupt may become subject after the commencement of the bankruptcy by reason any obligation incurred before the commencement bankruptcy and includes after discharge from bankruptcy or

(c) any interest that may be claimed in the bankruptcy,

and in determining for the purposes of this Act, whether a liability in tort is a bankruptcy debt, the bankrupt is deemed to be subject to that liability by reason of an obligation incurred time when the cause of action arose;

"**bankruptcy's estate**" has the meaning under section 31;

"**bankruptcy order**" means an order adjudicating an individual bankrupt;

"**charge**" means an interest in—

(a) a chattel paper;

(b) a document of title;

(c) goods;

(d) an intangible;

(e) money;

(f) a negotiable instrument; or

(g) a security,

created or provided by a transaction that in substance se payment or performance of an obligation, without regard form of the transaction or the identity of the person who has title to the collateral and includes a mortgage or lien;

"**claim**" means a claim in a liquidation or bankruptcy;

"**committee of inspection**" means a committee of inspection appt under section 47, 71 or 116;

"**company**" has the meaning assigned to it in the Companies Act "court" means the High Court or a court presided over by a magistrate;

"**currency point**" has the value assigned to it in Schedule 1 to this Act;

"**debt**" means a debt or liability, present or future, certain or contingent and includes an ascertained debt or liability for damages;

"**director**" means—

(a) in relation to a company, any person occupying the position of director under any title;

(b) in respect of a foreign company, includes an agent, officer or employee responsible for the business of the foreign company in Uganda; or

(c) in respect of any other body corporate, means a person with functions similar to those of a director, but does not include a receiver, provisional administrator or administrator;

"**document**" includes an invoice, order, letter, record, summons, notice, other legal process, register, index, report, certificate or accounts, in any form, including any writing, material and information stored by means of any mechanical or electronic device and any material derived from the device;

"**foreign company**" means a foreign company registered under the Companies Act;

"**grantor**" means a person in respect of whose property a receiver is or may be appointed;

"**individual**" with respect to Parts II, III and V of this Act, means a debtor in respect of whom a bankruptcy order is subsequently made;

"**insolvency**" includes bankruptcy;

"**insolvency practitioner**" means a person who is not an Official Receiver who is qualified to act as an insolvency practitioner within the meaning of section 207;

"**instrument of incorporation**" means the documents used to incorporate a company under the Companies Act;

"**lifting the veil**" means the power which the court has where the shareholders or directors of the company in question or a person in a similar position have used their business to defraud creditors of the business or to do some other wrongful or illegal act, and the court ignores the protection from liability offered by the corporation or limited liability status of the business and makes the shareholders or directors or other person personally liable for debts, liabilities and obligations of the company;

"**liquidator**" means a liquidator of a company appointed under section 62 or 70; and includes a provisional liquidator;

"**Minister**" means the Minister responsible for justice;

"**Official Receiver**" means a person appointed under section 202;

"**preferential debts**" means the debts referred to in section 11(3) and (5);

"**prescribed amount**" means the amount specified in Schedule 2 to this Act;

"**property**" includes money, goods, things in action, proceeds, and includes every description of property wherever situ; obligations, interest, whether present, future, vested or contingent arising out of or incidental to property;

"**proceeds**" means identifiable or traceable personal property in form derived directly or indirectly from any dealing with the collateral or proceeds of the collateral, and includes—

(a) a right to an insurance payment or any other payment as indemnity or compensation for loss or damage to the collateral or proceeds; and

(b) a payment made in total or partial discharge or redemption of an intangible, a negotiable instrument, a security or chattel paper;

"**property in receivership**" means property in respect of which a receiver is appointed;

"**provisional administrator**" means a provisional administrator appointed under section 141;

"**provisional liquidator**" means a provisional liquidator appointed under section 94;

"**public notice**" means notice given in accordance with section 247;

"**receiver**" means a receiver or a manager and includes a receiver manager or administrative receiver in respect of any property any person appointed as receiver—

(a) by or under any document; or

(b) by the court in the exercise of a power to make sue appointment given by any Act or any rule of court or in the exercise of its inherent jurisdiction,

whether or not the person appointed is empowered to sell any the property in receivership;

"**registrar**" has the meaning assigned to it in the Companies Act;

"**secretary**" in relation to a company means a person appointed to perform the duties of secretary under the Companies Act;

"**secured creditor**" means a creditor who holds in respect of a debt or obligation a charge over property;

"**security interest**" means a right that is enforceable against per generally, arising out of an interest in a chattel paper, a document of title, goods, an intangible, money, or a negotiable instrument and includes—

(a) a fixed charge;

(b) a floating charge;

(c) an interest created or provided for by—

(i) a chattel mortgage;

(ii) a conditional sale agreement including an agreement to sell subject to retention of title;

(iii) a hire purchase agreement;

(iv) a pledge;

(v) a security trust deed;

(vi) a trust receipt;

(vii) an assignment;

(viii) a consignment;

(ix) a lease; or

(x) a transfer of chattel paper,

which secures payment or performance of an obligation; without regard to the form of the transaction and without regard to the identity of the person who has title to the collateral, including where title to the collateral is in the secured party;

"**shareholder**" has the meaning assigned to it in the Companies Act;

"**special resolution**" has the meaning as in the Companies Act;

"**statutory demand**" means a demand made in accordance with section 3;

"**transaction**" includes a gift, settlement, agreement or arrangement and references to entering into a transaction are construed accordingly;

"**transferee company**" means a company to which a transfer is being made;

"**transferor company**" means the company effecting a transfer;

"**trustee**", in relation to bankruptcy, means the trustee of the bankrupt's estate;

"**working day**" means any day other than a Saturday, Sunday or a public holiday.

Part II – Inability to pay debts, creditors' claims and voidable transactions

2. Inability to pay debts

(1) Subject to subsection (2) and unless the contrary is proved a debtor is presumed to be unable to pay the debtor's debts if—

(a) the debtor has failed to comply with a statutory demand;

(b) the execution issued against the debtor in respect of a judgement debt has been returned unsatisfied in whole or in part; or

(c) all or substantially all the property of the debtor is in the possession or control of a receiver or some other person enforcing a charge over that property.

(2) On a petition to the court for the liquidation of a company bankruptcy order, evidence of failure to comply with a statutory den by the creditor, shall not be admissible as evidence of inability to pay debts unless the application is made within thirty working days after the last for compliance with the demand.

(3) Subsection (1) does not prevent proof of inability to pay by other means.

(4) In determining whether a debtor is unable to pay the debtor's debts, contingent or prospective debts may be taken into account.

(5) A petition to the court for the liquidation of a company bankruptcy order on the ground of inability to pay debts, may be made contingent or prospective creditor only with the leave of the court; and court may give such leave, with or without conditions, only if it is satisfied that a *prima facie* case of inability to pay debts has been made out.

3. Statutory demand

(1) A demand by a creditor in respect of a debt made in accord with this section, shall be a demand notice and shall constitute a state demand.

(2) A statutory demand shall—

(a) be made in respect of a debt that is not less than the prescribed amount referred to in Schedule 2 to this Act and in the case of a debt owed by—

(i) an individual is a judgment debtor; or

(ii) a company is an ascertained debt, but need not be a judgment debt;

(b) be in the prescribed form;

(c) except where the debt is a judgment debt, be verified by a statutory declaration attached to the demand;

(d) be served on the debtor; and

(e) require the debtor, to pay the debt or compound with the creditor or give a charge over property to secure payment of the debt, to the reasonable satisfaction of the creditor, within twenty working days after the date of service or a longer period as the court may order.

4. Setting aside statutory demand

(1) The court may, on the application of the debtor, set aside a statutory demand.

(2) An application under subsection (1) shall—

(a) be made within ten working days after the date of service of the demand;

(b) be supported by an affidavit; and

(c) be served on the creditor with the affidavit, within ten working days after the date of service of the demand.

(3) The court may, for sufficient cause, extend the time for making or serving an application to set aside a statutory demand and at the hearing of the application, extend the time for compliance with the statutory demand.

(4) The court may grant an application to set aside a statutory demand if it is satisfied that—

(a) there is a substantial dispute whether the debt is owing or is due;

(b) the debtor appears to have a counterclaim, set-off or cross demand and the amount specified in the demand less the amount of the counterclaim, set-off or cross-demand is less than the prescribed amount;

(c) the creditor holds some property in respect of the debt claimed by the debtor and that the value of the security is equivalent or exceeds the full amount of the debt; or

(d) the demand ought to be set aside on such grounds as the considers fit.

(5) On the hearing of the application, where the court is satisfied that there is a debt due by the debtor to the creditor, that is not the subject of a substantial dispute or is not subject to a counterclaim, set-off or demand, the court may—

(a) order that the debtor pay the debt within a specified period that, in default of payment, the creditor may immediately petition for a liquidation or bankruptcy order; or

(b) dismiss the application and immediately make an order section 20 or 92, on the ground of inability to pay debts.

(6) Where the court makes an order under subsection (5)(a), failure by the debtor to pay the debt within the specified period shall, be presumed to be inability to pay debts.

(7) A statutory demand shall not be set aside by reason only of a defect or irregularity, unless the court considers that substantial injustice would be caused if it were not set aside.

(8) For the purposes of subsection (7), "defect" includes a material misstatement of the amount due to the creditor and a material misdescription of the debt referred to in the demand.

(9) An order under this section may be made subject to conditions set by court.

Creditor's claims

5. Ascertaining amount of claim and interest

(1) The amount of a claim shall be ascertained as at the date of commencement of the liquidation or bankruptcy.

(2) Where a claim bears interest, the interest payable in respect of any period after the commencement of the liquidation or bankruptcy shall be suspended.

(3) The amount of a claim based on a debt denominated in a currency other than Uganda Shillings, shall be converted into Uganda Shillings at the rate of exchange on the date of commencement of the liquidation or bankruptcy or if there is more than one rate of exchange on that date, at the average of those rates.

6. Fines and penalties

A fine or other monetary penalty imposed, whether before or after the commencement of the liquidation or bankruptcy, in respect of an offence committed before the commencement of the liquidation or bankruptcy and costs ordered to be paid with respect to proceedings for the offence, is admissible in liquidation or bankruptcy.

7. Claim of unascertained amount

(1) Where a claim is subject to a contingency, is for damages or for some other reason the amount of the claim is not certain, the liquidator or trustee shall—

(a) make an estimate of the amount of the claim; or

(b) refer the matter to the court for a decision on the amount of the claim.

(2) On the application of the liquidator, trustee or any claimant who is aggrieved by an estimate made by the liquidator or trustee, the court shall determine the amount of the claim as the court considers fit.

8. Mutual credit and set-off

(1) Subject to section 16, where there have been mutual credits, mutual debts or other mutual dealings between a company or an individual and a person who, but for the operation of this section, would seek to have a claim admitted—

(a) an account shall be taken of what is due from the one party to the other in respect of those credits, debts or dealings;

(b) an amount due from one party shall be set-off against any amount due from the other party; and

(c) only the balance of the account may be claimed in liquidation or bankruptcy or is payable to the company or the bankrupt's estate.

(2) A person shall not be entitled, under this section, to claim the benefit of any set-off against the property of a debtor in any case where the person is reasonably expected to have foreseen that the debtor would be likely to be unable to pay his or her debts at the time of giving credit to the debtor.

(3) Notwithstanding subsection (1)(b), a right of a creditor to set off any debt shall be subject to preferential debts referred to in section 11.

9. Claims by unsecured creditors

(1) Unless otherwise required by the liquidator or trustee, an unsecured creditor may make a dated claim informally in writing.

(2) Where the liquidator or trustee requires a claim to be made formally, the claimant shall submit a claim verified by a statutory declaration—

(a) setting out in full the particulars of the claim; and

(b) identifying documents, if any, that evidence or substantiate the claim.

(3) The liquidator or trustee may require the production of any document referred to in subsection (2)(b).

(4) The liquidator or trustee may admit or reject any claim in whole or in part and if the liquidator or trustee subsequently considers that a claim was wrongly admitted or rejected in whole or in part, he or she may revoke or amend the decision.

10. Claims by secured creditors

(1) A secured creditor shall, as soon as practicable after public notice has been given of the liquidation or bankruptcy, deliver to the liquidator or trustee written notice of any debt secured by a charge over any asset, including particulars of the asset subject to the charge and the amount secured.

(2) A secured creditor may—

(a) realise any asset subject to a charge, where he or she is entitled to do so;

(b) claim as a secured creditor; or

(c) surrender the charge for the general benefit of creditors and claim as an unsecured creditor for his or her whole debt.

(3) A secured creditor who realises an asset subject to a charge—

(a) may claim as an unsecured creditor for any balance due, after deducting the net amount realised; and

(b) shall account to the liquidator or trustee for any surplus remaining from the net amount realised after satisfaction of the whole debt, including any interest payable in respect of that debt up to the time of its satisfaction and after making proper payments to the holder of any other charge over the asset subject to the charge.

(4) Where a creditor claims as a secured creditor, the claim shall be verified by a statutory declaration and shall—

(a) set out in full the particulars of the claim;

(b) set out in full the particulars of the charge including the date on which it was given; and

(c) identify any documents that substantiate the claim and the charge and sections 5 and 7 shall apply to such a claim.

(5) The liquidator or trustee may require production of any document referred to in subsection 4(c).

(6) Where a claim is made by a creditor as a secured creditor, the liquidator or trustee shall—

(a) meet the claim in full and redeem the charge;

(b) realise the asset subject to the charge and pay the secured creditor the lesser of the amount of the claim and the net amount realised taking into account the liquidator or trustees reasonable remuneration; or

(c) reject the claim in whole or in part, and—

(i) where a claim is rejected in whole or in part, the creditor may make a revised claim as a secured creditor within ten working days of receiving notice of the rejection; and

(ii) the liquidator or trustee may, if he or she subsequently considers that a claim was wrongly rejected in whole or in part, revoke or amend any such decision.

(7) A creditor who claims as a secured creditor, may claim as an unsecured creditor for any balance due to him or her, after deducting any payment made under subsection (6).

(8) The liquidator or trustee may, at any time, require a secured creditor by notice in writing, to—

(a) take possession of any asset subject to a charge, if entitled to do so; or

(b) deliver a claim as a secured creditor in accordance with subsection (1),

within twenty working days after receipt of the notice, if he or she intends to rely on the security.

11. Preferential debts

(1) Subject to section 10, the liquidator or trustee shall apply the assets to the preferential debts listed in subsections (3), (4) and (5), which debts shall be paid in priority to other debts.

(2) Preferential debts are as listed in subsections (3), (4) and (5) and shall be paid in the order of priority in which they are listed.

(3) First to be paid shall be—

(a) remuneration and expenses properly incurred by the liquidator or trustee;

(b) any receiver's or provisional administrator's indemnity under section 161 or 191 and any remuneration and expenses properly incurred by any receiver, liquidator, provisional liquidator or administrator, proposed supervisor or supervisor; and

(c) the reasonable costs of any person who petitioned court for a liquidation or bankruptcy order, including the reasonable costs of any person appearing on the petition whose costs are allowed by the court.

(4) After making the payments listed in subsection (3), next to be paid shall be—

(a) all wages or basic salary, wholly earned or earned in part by way of commission for four months;

(b) all amounts due in respect of any compensation or liability for compensation under the Workers Compensation Act, accrued before the commencement of the liquidation or bankruptcy, not exceeding the prescribed amount;

(c) all amounts that are preferential debts under section 33 or 105.

(5) After paying the sums referred to in subsection (4), the liquidator shall then pay—

(a) the amount of any tax withheld and not paid over to the Uganda Revenue Authority for twelve months prior to the commencement of insolvency; and

(b) contributions payable under the National Social Security Fund Act.

(6) This section shall apply notwithstanding any other law.

12. Non-preferential debts

(1) After paying preferential debts in accordance with section 11, the liquidator or trustee shall apply the assets in satisfaction of all other claims.

(2) The claims referred to in subsection (1) shall rank equally among themselves and shall be paid in full unless the assets are insufficient to meet them, in which case they abate in equal proportions.

(3) Where before the commencement of a liquidation or bankruptcy, a creditor agrees to accept a lower priority in respect of a debt than that which the creditor would otherwise have under this section, nothing in this section shall prevent the agreement from having effect according to its terms.

13. Surplus assets

Where there is a surplus after making the payments referred to in section 12—

(a) in the case of a bankruptcy, the trustee in bankruptcy shall pay the surplus to the bankrupt; and

(b) in the case of a liquidation, the liquidator shall distribute the company's surplus assets in accordance with the memorandum and articles of association of the company and the Companies Act.

Voidable transactions

14. Preferences

(1) A transaction involving a transfer of property by a company or individual to another person shall be voidable on the application of the creditor, receiver, liquidator, member, contributory, administrator, supervisor or trustee where the transfer—

(a) is made—

(i) on account of an antecedent debt;

(ii) at a time when the company or individual was unable to pay the company's or individual's due debts; and

(iii) within the year preceding the commencement of the liquidation, receivership, arrangement, administration or bankruptcy; or

(b) enabled that person to receive more towards the satisfaction of the debt than the person would otherwise have received or be likely to receive in the liquidation, receivership, arrangement, administration or bankruptcy,

unless the debt was incurred in the ordinary course of the company's or individual's business and the transfer was made not later than forty-five working days after the debt was incurred.

(2) A transfer made within the six months preceding the commencement of the liquidation, receivership, arrangement, administration or bankruptcy is, unless the contrary is proved, presumed to have been made—

(a) at a time when the company or individual was unable to pay the company's or individual's due debts; and

(b) on account of a debt not incurred in the ordinary course of business.

15. Transactions at undervalue

A transaction entered into by a company or individual is voidable on the application of the creditor, receiver, member or contributory, liquidator, administrator, supervisor or trustee if—

(a) it was entered into within one year preceding the commencement of the liquidation, receivership, arrangement, administration or bankruptcy;

(b) the value of the consideration received by the company or individual is significantly less than the value of the consideration provided by the company or individual;

(c) when the transaction was entered into, the company or individual—

(i) was unable to pay the company's or individual's due debts;

(ii) was engaged or about to engage in transactions for which its, his or her financial resources were unreasonably small; or

(iii) incurred the obligation knowing that the company or individual would not be able to perform the obligation when required to do so;

(d) the company or individual became unable to pay its, his or her due debts as a result of the transaction; or

(e) the transaction was entered into to aid the insolvent to put the asset beyond the reach of the creditors.

16. Voidable charges

(1) A transaction providing for or creating a charge over any property of a company or individual in respect of any debt is voidable on the application of the creditor, receiver, member or contributory, liquidator, administrator, supervisor or trustee, if the charge was given within the year preceding the commencement of the liquidation, receivership, arrangement, administration or bankruptcy on account of the antecedent debt unless—

(a) the charge secures the actual price or value of property sold or supplied to the company or individual or any other valuable consideration given by the person making the charge prior to the execution of the security and immediately after the charge was made, the company or individual was able to pay its due debts; or

(b) the charge is in substitution for a charge given more than one year preceding the commencement of the liquidation, receivership, arrangement, administration or bankruptcy.

(2) Unless the contrary is proved, a company or individual giving a charge within the six months preceding the commencement of the liquidation, receivership, arrangement, administration

or bankruptcy is presumed to have been unable to pay the company or individual's due debts immediately after giving the charge.

17. Insider dealings

(1) Subject to subsection (3), a transaction, entered into by a company or individual relating to any asset of the insolvent is voidable on the application of the liquidator, administrator, supervisor, receiver, member or contributory, trustee or creditor if the transaction involves—

(a) spouses, siblings, children of the insolvent or any person with close social proximity to the insolvent;

(b) employees, officers, professional or other service providers of the insolvent; or

(c) business associates, partners, shareholders, directors or other similar person.

(2) Unless the contrary is proved, a transaction referred to in subsection (1), shall be taken to be a preference or a transaction aimed at aiding the insolvent to put the assets of the insolvent's estate beyond the reach of creditors.

(3) This section applies to a transaction entered into within twelve months preceding the insolvency.

18. Procedure for setting aside voidable transactions

(1) A liquidator, administrator, supervisor, receiver, member or contributory, trustee or creditor who wishes to have a voidable transaction under section 14, 15, 16 or 17 set aside shall—

(a) file in court a notice to that effect, specifying the transaction to be set aside and the property or value which the liquidator, creditor, administrator, supervisor, receiver, member, contributory or trustee wishes to recover and the effect of subsections (2), (3) and (4); and

(b) serve a copy of the notice on the person with whom the transaction was entered into and on every other person from whom the liquidator, creditor, administrator, supervisor, member, contributory, receiver or trustee wishes to recover.

(2) A person—

(a) who would be affected by the setting aside of the transaction specified in the notice; and

(b) who considers that the transaction is not voidable under section 14, 15, 16 or 17,

may apply to the court for an order that the transaction should not be set aside.

(3) Unless a person on whom the notice was served has applied to the court under subsection (2), the transaction shall be set aside from the twentieth working day after the date of service of the notice.

(4) Where one or more persons have applied to the court under subsection (2), the transaction shall be set aside from the day on which the last application is finally determined unless the court orders otherwise.

(5) Where a transaction is set aside under this section—

(a) any person affected may, after giving up the benefit of the transaction, claim for the value of the benefit as a creditor in the liquidation, receivership, arrangement, administration or bankruptcy;

(b) the court may make one or more of the following orders—

(i) requiring a person to pay to the liquidator, administrator, supervisor, receiver or trustee, in respect of benefits received by that person as a result of the transaction, the sums which fairly represent those benefits;

(ii) requiring property transferred as part of the transaction to be restored to the company or the bankrupt's estate;

(iii) requiring property to be vested in the company or the trustee if it represents in a person's hands the application, either of the proceeds of sale of property or of money, so transferred;

(iv) releasing, in a whole or in part, a charge given by the company or individual;

(v) requiring security to be given for the discharge of an order made under this section; or

(vi) specifying the extent to which a person affected by the setting aside of a transaction or by a declaration or order made under this section is entitled to claim as a creditor in the liquidation, receivership, arrangement, administration or bankruptcy.

(6) The setting aside of a transaction or a declaration or order made under this section shall not affect the title or interest of a person in property which that person has acquired—

(a) from a person other than the insolvent;

(b) for valuable consideration; and

(c) without knowledge of the circumstances of the transaction under which the person other than the insolvent acquired the property from the company or individual.

(7) Recovery by the liquidator, creditor, administrator, supervisor, member, contributory, receiver or trustee of any property or its value, under this section or any other section, or under any other enactment or in equity or otherwise, may be denied wholly or in part where—

(a) the person from whom recovery is sought, received the property in good faith and has altered his or her position in the reasonably held belief that the transfer or payment of the property to that person was validly made and would not be set aside; and

(b) in the opinion of the court it is inequitable to order recovery.

(8) In this section, "transaction" includes—

(a) an execution under any judicial proceedings; or

(b) a payment, including a payment made in pursuance of a judgment or order of a court, in respect of any transaction to which sections 14, 15, 16 and 17 apply.

19. Unlawful dealings with assets

(1) A person who conceals, disposes of or creates a change on the property or removes any part of it with the intention of depriving or delaying a creditor's claim within two years before the commencement of insolvency proceedings commits an offence and is liable, on conviction, to a fine not exceeding two hundred fifty currency points or to imprisonment for a term not exceeding five years, or both.

(2) A person who executes a transaction specified in sections 14, 15, 16 and 17 of this Act with the intention to deprive or delay a creditor's claim commits an offence and is liable, on conviction, to a fine not exceeding two hundred fifty currency points or to imprisonment for a term not exceeding five years, or both.

Part III – Individual insolvency

20. Petition for bankruptcy

(1) A debtor may petition court for bankruptcy alleging that the debtor is unable to pay his or her debts and the court may, subject to sections 21 and 22 make a bankruptcy order in respect of the debtor.

(2) Upon failure by the debtor to satisfy the statutory demand made under section 3, a petition for bankruptcy shall be presented by a creditor or a debtor and the court may subject to sections 21 and 22 make a bankruptcy order in respect of the debtor.

(3) The bankruptcy order made under subsection (1) or (2), shall declare the debtor bankrupt and shall appoint the Official Receiver as interim receiver of the estate, for the preservation of the estate of the bankrupt.

(4) The Official Receiver shall have the powers to sell or otherwise dispose of any perishable and any other goods, the value of which is likely to diminish if they are not disposed of unless court limits the powers or places conditions on the exercise.

(5) The bankruptcy shall commence on the date on which the bankruptcy order is made.

21. Statement of affairs

(1) The court shall require a debtor in respect of whom a petition has been presented under section 20, to file a statement of his or her affairs verified by an affidavit.

(2) The statement referred to in subsection (1) shall include—

(a) particulars of the debtor's creditors, debts and assets; and

(b) such other information as may be prescribed.

(3) A debtor who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or to imprisonment for a term not exceeding one year, or both.

22. Public examination of debtor

(1) Where a petition for a bankruptcy order is presented to the court under section 20, the court shall direct that a public examination be held on a day appointed by the court and the debtor shall attend on that day and be publicly examined on his or her affairs, dealings and property.

(2) The examination shall be held as soon as conveniently practicable after the expiration of the time given by the court for the submission of the debtor's statement of affairs under section 21.

(3) A creditor who has tendered proof, or his or her representative authorised in writing, may question the debtor concerning his or her affairs and the causes of his or her failure.

(4) The Official Receiver shall take part in the examination of the debtor, and for the purpose may employ an advocate if he or she so desires.

(5) If a trustee is appointed before the conclusion of the examination, he or she may take part in the examination.

(6) The court may put such questions to the debtor as the court may consider appropriate.

(7) The debtor shall, be examined upon oath, and it shall be his or her duty to answer all such questions as the court may put or allow to be put to him or her.

(8) Such notes of the examination as the court considers proper shall be taken down in writing, and shall be read over either to or by the debtor and signed by him or her, and may thereafter, except as in this Act provided, be used in evidence against him or her; they shall be open to the inspection of any creditor at all reasonable times.

(9) When the court is of the opinion that the affairs of the debtor have been sufficiently investigated, it shall by order declare that his or her examination is concluded, but that order shall not be made until after the day appointed for the first meeting of creditors.

(10) Where the debtor suffers from any such mental or physical affliction or disability as in the opinion of the court make him or her unfit to attend his or her public examination, the court may make an order dispensing with the examination or directing that the debtor be examined on such terms, in such manner and at such place as the court considers expedient.

23. Inquiry into debtor's dealings and property

(1) The court may require any person referred to in subsection (2), to submit an affidavit to the court containing an account of his or her dealings with the debtor or to produce any documents in his or her possession, or under his or her control relating to the debtor or the debtor's dealings, affairs or property.

(2) This section applies to—

(a) a person known or believed to have any property comprised in the debtor's estate in his or her possession or to be indebted to the debtor; or

(b) a person appearing before court to give information concerning the debtor or the debtor's dealings, affairs or property.

24. Official Receiver's notice of commencement of bankruptcy and creditor's first meeting

The Official Receiver shall, within fourteen days after the commencement of the bankruptcy—

(a) give public notice of the date of commencement of the bankruptcy; and

(b) call the creditors' first meeting.

25. Appointment of trustee

The creditors' first meeting shall, appoint a trustee and vest the bankrupt's estate in the trustee.

26. Trustee's notice of bankruptcy and particulars

The trustee shall, within five working days after his or her appointment, give public notice of—

(a) the trustee's full name;

(b) the trustee's physical office address, daytime telephone number and electronic address; and

(c) the date of commencement of the bankruptcy.

27. Effect of bankruptcy order

(1) On the making of a bankruptcy order—

(a) the bankrupt's estate shall, vest first in the Official Receiver and then in the trustee, without any conveyance, assignment or transfer; and

(b) except with the trustee's written consent or with the leave of the court and in accordance with such terms as the court may impose, no proceedings, execution or other legal process may be commenced or continued and no distress may be levied against the bankrupt or the bankrupt's estate.

(2) Subject to compliance with section 10, nothing in this Act shall prevent the exercise of the power of enforcement of a charge over property in the bankrupt's estate.

28. Special manager of bankrupt's estate

(1) The court may, on an application under this section, appoint any person to be a special manager of —

(a) a bankrupt's estate;

(b) the business of an undischarged bankrupt; or

(c) the property or business of an individual where an interim receiver has been appointed.

(2) An application under this section, may be made by the trustee or interim receiver where it appears to him or her that the nature of the estate, property or business or the interests of the creditors generally, require the appointment of another person to manage the estate, property or business.

(3) A special manager appointed under this section shall, have such powers and duties as may be given by court.

29. Duties of trustee

(1) The fundamental duty of a trustee is to collect, realise as advantageously as is reasonably possible and distribute, the bankrupt's estate in accordance with this Part and Part II of this Act.

(2) Without prejudice to subsection (1), a trustee shall—

(a) take custody and control of the bankrupt's estate;

(b) register in his or her names all land and other assets forming part of the bankrupt's estate at the making of the bankruptcy order notwithstanding any transactions that may have taken place and any other law;

(c) keep the bankrupt's estate's money separate from other money held by or under the control of the trustee;

(d) keep, in accordance with generally accepted accounting procedures and standards, full account and other records of all receipts, expenditures and other transactions relating to the bankruptcy and retain the accounts and records of the bankruptcy for not less than six years after the bankruptcy ends;

(e) permit those accounts and records to be inspected by—

(i) any committee of inspection unless the trustee believes on reasonable grounds that inspection would be prejudicial to the bankruptcy; or

(ii) if the court so orders, any creditor; and

(f) perform any other function or duty specified in this Act.

30. Trustee's notice to creditors

(1) Within four working days after issuing the notice under section 24 or a further period as the court may allow, a trustee shall send written notice to every known creditor explaining the right of any creditor to require the trustee to call a creditors' meeting under section 46.

(2) In determining whether to permit an extension of time under subsection (1), the court shall take into account any non-compliance of the debtor with section 21.

Bankrupt's estate

31. Bankrupt’s estate

(1) Subject to subsection (2), a bankrupt’s estate comprises—

(a) all property belonging to or vested in the bankrupt at the commencement of the bankruptcy;

(b) any property which by virtue of sections 14, 15, 16, 17 and 32 is treated as belonging to or vested in the bankrupt; and

(c) a portion of the debtor’s salary as shall be determined by court.

(2) Subsection (1) does not apply to—

(a) tools, books and other items of equipment which are necessary to the bankrupt for use personally by him or her in his or her employment, business or vocation, of a value to be prescribed;

(b) clothing, beddings and the provisions which are necessary for satisfying the basic domestic needs of the bankrupt and his or her family; or

(c) property held by the bankrupt in trust for any other person;

(d) the matrimonial home of the bankrupt; and

(e) any other property of a value to be prescribed that the court may exempt.

(3) For the purposes of subsection (2)—

“matrimonial home” means a building or part of a building in which a bankrupt and his or her spouse or, as the case may be, spouses, and their children, if any ordinarily reside together and includes—

(a) where a building and its curtilage are occupied primarily for residential purposes, that curtilage and outbuildings on it; and

(b) where a building is on or occupied in conjunction with agricultural land or pastoral land, any land allocated by one spouse to his or her spouse or in the case of a husband, to his spouses for his, her, or their exclusive use;

“ordinarily resides” means residing in a place with some degree of continuity apart from accidental or temporary absences; and a bankrupt is ordinarily resident in a place when he or she intends to make that place his or her home for an indefinite period.

32. Property acquired after commencement of bankruptcy

(1) Subject to subsections (2) and (3), a trustee may by notice in writing claim for the bankrupt’s estate any property which has been acquired by or has devolved upon, the bankrupt since the commencement of the bankruptcy.

(2) Where, before or after service of a notice under subsection (1)—

(a) a person acquires property or enters into a transaction in respect of property in good faith, for value and without notice of the bankruptcy, or

(b) a banker enters into a transaction in good faith and without notice of the bankruptcy,

the trustee is not in respect of that property or transaction, entitled under this section to any remedy against that person or any person whose title to any property derives from that person.

(3) Except with the leave of the court, a notice shall not be served under subsection (1), after thirty working days after the day on which it first came to the knowledge of the trustee that the property in question had been acquired by or had devolved upon, the bankrupt.

(4) On the application of the trustee, the court may make an order claiming for the bankrupt's estate the income of the bankrupt during the period for which the order is in force as may be specified.

(5) Where at any time after the commencement of the bankruptcy and before the final distribution under section 49, including after discharge, any property is acquired by or devolves upon, the bankrupt or where there is an increase of the bankrupt's income, the bankrupt shall immediately give the trustee notice of the property or of the increase in income.

(6) Any person who contravenes subsection (5) commits an offence.

General powers of trustee and conduct of bankruptcy

33. Trustee's power to obtain documents

(1) A trustee may, subject to subsection (2), require any person, including the bankrupt, having possession of books or documents which relate to the bankrupt's estate or affairs, including any which would be privileged from disclosure in any proceedings, to deliver them to the trustee.

(2) A person shall not withhold a document of the company from a trustee on the ground that possession of the document creates a charge over property of the bankrupt.

(3) Subject to subsection (4), production of a document to the trustee does not prejudice the existence or priority of the charge and the trustee shall make the document available to any person otherwise entitled to it for the purpose of dealing with or realising the charge or the secured property.

(4) A person shall not enforce a lien over any document of the bankrupt in respect of a debt for services rendered to the bankrupt before the commencement of the bankruptcy, but the debt shall be a preferential claim under section 11, to the extent of twenty-five currency points or to a greater amount as may be prescribed at the commencement of the bankruptcy.

34. Trustee's power to allow bankrupt to manage property

A trustee may appoint the bankrupt—

(a) to oversee the management of the bankrupt's estate or any part of the estate; or

(b) in any other respect, to assist in administering the estate in a manner and on terms as the trustee may direct.

35. Trustee's power to disclaim onerous property

(1) The trustee may disclaim any onerous property, even if the trustee has taken possession of the property, tried to sell it or otherwise exercised rights of ownership.

(2) A disclaimer under this section—

(a) brings to an end the rights, interest and liabilities of the bankrupt, his or her estate and trustee in respect of the property disclaimed; but

(b) does not, except so far as necessary, release the bankrupt, his or her estate and trustee from any liability or affect the rights or liabilities of any other person.

(3) For the purposes of this section "onerous property" means—

(a) any unprofitable contract; or

(b) any other property of the bankrupt which is not capable of being sold or not readily capable of being sold or which may give rise to a liability to pay money or perform any other onerous act.

(4) A person suffering loss or damage as a result of a disclaimer made under this section, may—

(a) apply to the court for an order that the disclaimed property be delivered to or vested in that person; or

(b) taking into account the effect of any order made by the court under paragraph (a), claim as a creditor in the estate for the amount of the loss or damage.

36. Official name of trustee

The official name of a trustee in bankruptcy shall be "the trustee of the property of a bankrupt", with an insertion of the name of the bankrupt and by that name the trustee may exercise any of the trustee's functions, powers and duties under this Act.

37. Vacation of office by trustee

(1) The office of the trustee shall become vacant if the person holding office is removed from office under section 52 or 213, resigns, dies or becomes unqualified under section 208.

(2) The court, on the application of any creditor or the bankrupt may review the appointment of a successor to a trustee made under this section, and if the court considers appropriate, may appoint instead any other insolvency practitioner or the Official Receiver.

(3) Where as the result of the vacation of office by a trustee, there is no person acting as trustee, the Official Receiver shall act as trustee until a successor is appointed under subsection (2).

(4) A person vacating the office of trustee shall give such information and assistance in the conduct of the bankrupt as the person's successor reasonably requires.

(5) Any person who unreasonably refuses to give the information and assistance under subsection (4) commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or to imprisonment for a term not exceeding one year, or both.

38. Duties of bankrupt

(1) The bankrupt shall—

(a) give to the trustee information relating to his or her affairs;

(b) appear before the trustee at such times; and

(c) do all such other things, as the trustee may reasonably require for the purposes of carrying out his or her functions under this Act.

(2) A bankrupt who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or to imprisonment for a term not exceeding one year, or both.

39. Compliance order

Where a person does not comply with a requirement of the trustee under section 33, the court may, on the application of the trustee, order the person to comply and may make ancillary orders as the court considers fit.

40. Search and seizure

(1) Where a bankruptcy order has been made or applied for and the court is satisfied, on the application of the trustee or interim receiver that there is, in or on any place or thing, any property, records or other documents in respect of which an offence under section 54 has been or is about to be committed, the court may issue a warrant, with reasonable conditions as the court considers appropriate, authorising the person named in the warrant to search for and seize property or documents in or on that place or thing and deliver them to the trustee.

(2) Subject to any conditions specified in the warrant, the person named in the warrant may—

(a) enter and search a place or thing at anytime which is reasonable in the circumstances, within fourteen days after the date of issue of the warrant;

(b) use such assistance as is reasonable in the circumstances; and

(c) use reasonable force in the circumstances, to enter or break open anything in or on the place or thing.

41. Termination of bankruptcy

(1) Bankruptcy terminates—

(a) when a bankrupt is discharged from bankruptcy under section 42;

(b) when the bankruptcy order is annulled under section 44; or

(c) upon withdrawal of a bankruptcy petition with leave of court.

(2) The court shall not grant any application for withdrawal under subsection (1)(c), if it is proved to the satisfaction of the court that rights and interests of other creditors are likely to be prejudiced.

42. Discharge

(1) Subject to subsection (2), a bankrupt shall be discharged from bankruptcy, when the court, on an application by the bankrupt makes an order discharging the bankrupt.

(2) The court shall, while considering a bankrupt's application for discharge, take into consideration the Official Receiver's report on the bankruptcy and the conduct of the bankrupt during the bankruptcy proceedings and any other matters court may consider pertinent.

(3) The court may, as a condition for his or her discharge, require a bankrupt to consent to a decree being entered against him or her in favour of the Official Receiver or trustee for—

(a) the balance or part of a balance of the debts provable under the bankruptcy which is not satisfied at the date of discharge; or

(b) the balance or part of any balance of the debts, to be paid out of the future earnings of the bankrupt or property acquired after the bankruptcy, in such manner and subject to such conditions as the court may direct.

(4) Execution shall not be issued on the decree without leave of court, which leave may be given on proof that the bankrupt has since his or her discharge, acquired property or income available towards the payment of his or her debts.

(5) The court may subject a discharge order to such terms and conditions as the court may consider proper.

43. Effect of discharge

(1) Subject to subsections (2) and (3), a discharge order releases a bankrupt from all bankruptcy debts.

(2) A discharge order does not affect—

(a) the functions of the trustee which remain to be carried out;

(b) the operation of this Act, for the purposes of carrying out the functions of a trustee;

(c) the right of any creditor of the bankrupt to claim in the bankruptcy for any debt from which the bankrupt is released; or

(d) the right of any secured creditor of the bankrupt to enforce his or her security for the payment of a debt from which the bankrupt is released.

(3) A discharge order does not release the bankrupt from—

(a) any bankruptcy debt which he or she incurred or forbearance which was secured by means of any fraud or fraudulent breach of trust to which he or she was a party;

(b) any liability in respect of a fine imposed for an offence; or

(c) any other bankruptcy debts as court may in its absolute discretion prescribe at the making of an order of discharge.

(4) A discharge order does not release any other person, whether as partner or co-trustee of the bankrupt or otherwise other than the bankrupt from any liability incurred, from which the bankrupt is released by discharge or from any liability as surety for the bankrupt.

44. Annulment, revocation or setting aside of bankruptcy order

(1) The court may annul, revoke or set aside a bankruptcy order, whether or not the bankrupt has been discharged from the bankruptcy, or if at any time, it appears to the court that, basing on any grounds existing at the time the order was made, the order ought not to have been made.

(2) Where the court annuls, revokes or sets aside a bankruptcy order—

(a) the property of the bankrupt shall vest in a person appointed by the court or, in default of any appointment, it shall revert to the bankrupt on terms as the court may direct; and

(b) any sale or other disposition of property, payment made or other thing duly done by the trustee or other person acting under the trustee's authority or by the court is valid.

(3) In order to remove any legal disqualification on account of bankruptcy which may be removed if the bankrupt obtains from the court a discharge and a certificate to the effect that the bankruptcy was caused by misfortune without any misconduct on his or her part, the court may, if the court considers appropriate, grant such a certificate and a refusal to grant the certificate shall be subject to appeal.

(4) Where the court refuses to grant a certificate under subsection (3), the bankrupt may appeal to a higher court.

45. Consequences of bankruptcy

(1) Where a debtor is adjudged bankrupt, he or she shall be disqualified from—

(a) being appointed or acting as a judge of any court in Uganda; or

(b) being elected to or holding or exercising the Office of the President, a member of Parliament, Minister, a member of a local government, council, board, authority or any other Government body.

(2) Where a person holding the office of justice of the peace or any other public office is adjudged bankrupt, the office shall immediately become vacant.

(3) The disqualifications to which a bankrupt is subject under this section, shall not apply where—

(a) the adjudication of bankruptcy against the individual is annulled;

(b) a period of two years elapses, from the date of discharge of the bankrupt; or

(c) the individual obtains from the court his or her discharge with a certificate to the effect that the bankruptcy was caused by misfortune without any misconduct on his or her part.

(4) The court may grant or withhold the certificate in subsection (3)(c) as the court considers appropriate, but any refusal to grant the certificate shall be subject to appeal.

Rights of creditors

46. Creditors' meetings during bankruptcy

(1) Subject to subsection (3), a trustee shall immediately call a creditors' meeting if so requested in writing by any two or more creditors to vote on a proposal that a committee of inspection be appointed to act with the trustee.

(2) The trustee shall give not less than five working days' notice of the meeting, which, subject to this section, shall be conducted in accordance with Schedule 3 to this Act.

(3) A trustee may decline any request to call a meeting on the ground that—

(a) the request is frivolous or vexatious;

(b) the request was not made in good faith; or

(c) the costs of calling a meeting would be out of proportion to the value of the bankrupt's estate,

and the decision of a trustee to decline a request to call a creditors' meeting may be reviewed by the court on the application of any one or more creditors.

47. Committee of inspection

(1) A committee of inspection shall consist of not less than three persons who are creditors or persons holding general powers of attorney from creditors or authorised directors of companies which are creditors of the bankrupt.

(2) The members of a committee of inspection chosen by any creditors' meeting shall take office immediately.

(3) A committee of inspection has the power to—

(a) call for reports on the progress of the bankruptcy from the trustee;

(b) call a creditors' meeting;

(c) apply to the court for any order under section 51 or 52; and

(d) assist the trustee as appropriate in the conduct of the bankruptcy.

(4) Unless the court orders otherwise, the trustee shall pay the reasonable advocate and own client costs incurred by a committee of inspection in exercising its powers under subsection (3)(c) and those costs shall be taken to be expenses properly incurred in the bankruptcy.

(5) The proceedings at meetings of a committee of inspection shall be conducted in accordance with section 72.

Declaration and distribution of bankrupt‘s estate

48. Declaration and distribution of dividends

(1) Whenever the trustee has sufficient funds in hand for the purpose, the trustee shall, in accordance with this section and section 49 and subject to retention of the sums which may be necessary for the payment of expenses of the bankruptcy, declare and distribute dividends among the creditors in respect of the bankruptcy debts which they have respectively claimed and the trustee has admitted.

(2) The trustee shall give not less than five working days’ notice published in the official language in a newspaper of wide circulation in Uganda of his or her intention to declare and distribute a dividend.

(3) A trustee shall declare a dividend by sending to all known creditors a statement of—

(a) the dividend;

(b) how it is proposed to distribute the dividend; and

(c) any other prescribed matter.

(4) In the calculation and distribution of a dividend the trustee shall make provision for—

(a) any bankruptcy debts which appear to be due to persons who, by reason of the distance of their place of residence, may not have had sufficient time to submit and establish their claims;

(b) any bankruptcy debts which are the subject of claims which have not yet been determined; and

(c) any disputed claims.

(5) A creditor whose debt has not been admitted before the declaration of any dividend is entitled to be paid out of any money in the hands of the trustee, any dividend he or she may not have received, before that money is applied to the payment of any future dividend, such a creditor is not entitled to disturb the distribution of any dividend declared before his or her debt was admitted where that creditor has not participated in the distribution.

49. Final distribution

(1) When the trustee has realised all the bankrupt’s estate or so much of it as can in the trustee’s opinion, be realised without needlessly protracting the trusteeship, he or she shall give written public notice and personal notice to all known creditors—

(a) of his or her intention to declare a final dividend; or

(b) that no dividend or further dividend shall be declared.

(2) The notice under subsection (1), shall—

(a) include a requirement that claims against the bankrupt’s estate are to be made by a date called “the final date”, specified in the notice, being not less than twenty working days after the giving of the notice; and

(b) in the case of personal notices, be accompanied by a report of the trustee’s administration of the bankrupt’s estate, including final bankruptcy accounts.

(3) The court may, on the application of any creditor postpone the final date.

(4) Immediately after the final date, the trustee shall—

(a) defray any outstanding expenses of the bankruptcy out of the bankrupt’s estate; and

(b) if the trustee intends to declare a final dividend, declare and distribute that dividend without regard to the claim of any person in respect of a debt not already admitted.

(5) The trustee shall, within twenty working days from the date of the declaration and distribution of a final dividend, make a report to the Official Receiver stating that the trustee has realised all the bankrupt's estate or so much of it as can, in the opinion of the trustee be realised without needlessly protracting the trusteeship.

(6) The report under subsection (5) shall include all the final bankruptcy accounts.

50. Second bankruptcy

Where—

(a) a second or subsequent bankruptcy order is made against a discharged bankrupt; or

(b) an order is made for the administration in bankruptcy of the estate of a deceased bankrupt,

any property which immediately before the subsequent order was in the bankrupt's estate, shall vest in the trustee in the subsequent bankruptcy or administration in bankruptcy.

Supervision and enforcement by court

51. Court supervision of trustee

(1) On the application of the trustee, any committee of inspection, the Official Receiver or with the leave of the court, any creditor or the bankrupt, the court may—

(a) give directions in relation to any matter arising in connection with the bankruptcy;

(b) confirm, reverse, vary or modify any act or decision of the trustee;

(c) order an audit of the accounts of the bankruptcy;

(d) order the trustee to produce the accounts and records of the bankruptcy for audit and to provide the auditor with information concerning the conduct of the bankruptcy as the auditor may request;

(e) in respect of any period, review or fix the remuneration of the trustee at a level which is reasonable in the circumstances and to the extent that an amount retained by the trustee is found by the court to be unreasonable in the circumstances, order the trustee to refund the amount; or

(f) declare whether or not the trustee was validly appointed or validly assumed custody or control of any property of the bankruptcy.

(2) The powers of the court in subsection (1), are in addition to any other powers the court may exercise in its jurisdiction relating to trustees under this Act, and may be exercised in relation to any matter occurring either before or after the commencement of the bankruptcy and whether or not the trustee has ceased to act as trustee when the application or the order is made.

(3) Subject to subsection (4), a trustee who has acted in accordance with a direction of the court in the exercise of his or her powers or functions, shall be entitled to rely on having so acted as a defence to any claim for anything done or not done in accordance with the direction.

(4) A court may order that, by reason of the circumstances in which a direction is obtained, the trustee shall not have the protection under subsection (3).

52. Enforcement of trustee's duties

(1) Where a trustee fails to comply with any of his or her duties, a court may, on such terms and conditions as it considers appropriate—

(a) relieve the trustee of the duty to comply, wholly or in part;

(b) without prejudice to any other remedy which may be available in respect of any breach of duty by the trustee, order the trustee to comply to the extent specified in the order; or

(c) remove the trustee from office.

(2) An application for an order under this section, may be made by—

(a) a committee of inspection;

(b) any creditor;

(c) a receiver appointed in respect of any property of the bankrupt; or

(d) the Official Receiver.

(3) Except as otherwise ordered by the court, a copy of any application made under this section, shall be served on the trustee not less than five working days before the hearing of the application and the trustee may appear and be heard at the hearing.

(4) Where an order is made under subsection (1)(c), the court may make such order as is appropriate for the preservation of the bankrupt's estate, including an order requiring the removed trustee to make available any accounts, documents or other information necessary for that purpose.

(5) All proceedings relating to any application for an order under this section, shall be served on the Official Receiver who shall keep a copy of the proceedings on a public file indexed by reference to the name of the trustee concerned.

(6) In this section "failure to comply" means failure of a trustee to comply with any relevant duty arising under—

(a) this or any other Act or rule of law or rules of court; or

(b) any order or direction of the court other than an order made under this section.

Bankruptcy offences

53. Absconding

(1) A bankrupt or debtor in respect of whom a bankruptcy order is made shall not—

(a) leave or attempt to leave Uganda without the permission of court;

(b) conceal or remove property with the intention of preventing or delaying the assumption of custody or control by the trustee;

(c) destroy, conceal or remove documents with the intent of defrauding or concealing the state of his or her affairs; or

(d) obstruct the trustee in his or her duties.

(2) Any person who acts in contravention of subsection (1), commits an offence and is liable, on conviction, to imprisonment for a term not exceeding six months or to community service.

54. Bankrupt not to obtain credit or engage in business without disclosing bankruptcy

(1) A bankrupt shall not—

(a) alone or jointly with any other person, obtain credit to the extent of the prescribed amount or more without informing the person from whom he or she obtains the credit that he or she is an undischarged bankrupt; or

(b) engage, directly or indirectly, in any business under a name other than that in which he or she was adjudged bankrupt without disclosing to all persons with whom he or she enters into any business transaction, the name in which he or she was so adjudged.

(2) Any person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or to imprisonment for a term not exceeding one year, or both.

55. Failure to keep proper accounts of business

(1) Where a bankrupt has been engaged in any business within two years before the petition, he or she commits an offence if he or she has not kept accounting records that give a true and fair view of the financial position of the business and explain its transactions.

(2) The bankrupt does not commit an offence under subsection (1), if he or she proves that in the circumstances in which he or she carried on business, the omission was honest and excusable.

Part IV – Corporate insolvency

Liquidation

56. Application of liquidation provisions to foreign companies

(1) This Part and Schedule 4 to this Act shall apply to the liquidation of foreign companies.

(2) For the purposes of this Part, “company” includes a foreign company.

57. Modes of liquidation

The liquidation of a company may be—

(a) by the court;

(b) voluntary; or

(c) subject to the supervision of the court.

Voluntary liquidation

58. Voluntary liquidation

(1) A company may be liquidated voluntarily if the company resolves by special resolution that it cannot, by reason of its liabilities, continue its business and that it is advisable to liquidate.

(2) Voluntary liquidation shall be taken to commence at the time of passing the resolution for voluntary liquidation.

(3) In this Part, “a resolution for voluntary liquidation” means a resolution passed under subsection (1).

59. Notice of resolution for voluntary liquidation

(1) Where a company passes a resolution for voluntary liquidation, the company shall, within fourteen days after passing the resolution, give notice of the resolution in the *Gazette* and in the official language in a newspaper of wide circulation in Uganda.

(2) The resolution for voluntary liquidation shall be registered with the Registrar and a copy sent to the Official Receiver within seven days from the date of passing the resolution.

(3) Where default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine and for the purposes of this subsection, the liquidator of the company shall be taken to be an officer of the company.

Consequences of voluntary liquidation

60. Effect of voluntary liquidation on business and status of company

(1) A company shall, from the commencement of voluntary liquidation, cease to carry on business, except so far as may be required for the beneficial liquidation of the company.

(2) Subject to subsection (1), the corporate status and powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

61. Transfers or alterations after commencement of voluntary liquidation are void

Any transfer of shares, not being a transfer made to or with the sanction of the liquidator and any alteration in the status of the members of the company, made after the commencement of a voluntary liquidation, is void.

Members voluntary liquidation

62. Power of company to appoint and fix remuneration of liquidators

(1) The company shareholders, by special resolution or the directors or any other person authorised by the memorandum and articles of association, may appoint one or more liquidators for the purposes of liquidating the affairs and distributing the assets of the company and may fix the remuneration to be paid to the liquidator.

(2) On the appointment of a liquidator, all the powers of the directors shall cease, except where the company in a general meeting or the liquidator sanctions the continuance of those powers.

63. Power to fill vacancy in office of liquidator

(1) Where a vacancy occurs by death, resignation or otherwise in the office of liquidator appointed by the company, the company may in a general meeting, subject to any arrangement with its creditors, fill the vacancy.

(2) For the purposes of subsection (1), a general meeting may be convened by any contributory or, if there are more liquidators than one, by any continuing liquidator.

(3) The meeting shall be held in accordance with the manner irovided in this Act, or by the articles of association of the company, or in a manner determined by the court on the application by any contributory or continuing liquidator.

64. Power of liquidator to accept shares or other interests as consideration for sale of property of company

(1) Where it is proposed or where the transferor company is in the course of voluntary liquidation and where it is proposed that the whole or part of the transferor company's business or property is to be transferred or sold to a transferee company, the liquidator of the transferor company, may—

(a) with the sanction of a special resolution of the company, conferring a general authority on the liquidator or a specific authority in respect of any particular arrangement, receive, in compensation or part compensation for the transfer or sale, shares, policies or other similar interests in the transferee company for distribution among the members of the transferor company; or

(b) enter into any other arrangement where the members of the transferor company may, *in lieu* of receiving cash, shares, policies or other similar interests or in addition to these, participate in the profits of or receive any other benefit from the transferee company.

(2) Any sale or arrangement in pursuance of this section, shall be binding on the members of the transferor company.

(3) A member of the transferor company who did not vote in favour of the special resolution may express his or her dissent to the sale or other arrangement, to the liquidator in writing, delivered to the registered office of the company within seven days after passing the resolution, requesting the liquidator—

(a) to abstain from carrying the resolution into effect; or

(b) to purchase his or her interest at a price to be determined by agreement or by arbitration in accordance with the law relating to arbitration in Uganda.

(4) If the liquidator elects to purchase the member's interest, the purchase money shall be paid before the company is dissolved as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for voluntary liquidation or for appointing liquidators, but, if an order is made within a year for the liquidation of the company by or subject to the supervision of the court, the special resolution shall not be valid unless sanctioned by the court.

65. Duty of liquidator to call creditors' meeting in case of insolvency

(1) Where winding up commenced under any other law and the liquidator is, at any time, of the opinion that the company will not be able to pay its debts in full within the period stated in any declaration made under that other law, the liquidator shall immediately notify the Registrar and the Official Receiver and call a meeting of the creditors and present a statement of the assets and liabilities of the company.

(2) A liquidator who does not comply with this section commits an offence and is liable, on conviction, to a fine not exceeding fifteen currency points.

66. Duty of liquidator to call general meeting at end of each year

(1) Subject to section 68, where the liquidation continues for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year of the commencement of the liquidation and of each succeeding year or at the first convenient date within three months from the end of the year or such longer period as the Registrar may allow, and shall lay before the meeting an account of his or her acts and dealings and of the conduct of the liquidation during the preceding year.

(2) If the liquidator fails to call a general meeting of the company as required by this section, he or she commits an offence and is liable, on conviction, to a fine not exceeding five currency points.

67. Final meeting and dissolution

(1) Subject to section 68, as soon as the company is fully liquidated, the liquidator shall—

(a) prepare an account of the liquidation, showing how the liquidation was conducted and how the property of the company was disposed of; and

(b) call a general meeting of the company to present the account and to give any required explanation.

(2) The meeting under subsection (1)(b) shall be called by a notice in the *Gazette* and in a newspaper of wide circulation in Uganda, specifying the time, place and the object of the meeting, published at least thirty days before the meeting.

(3) Within fourteen days after the meeting, the liquidator shall—

(a) send a copy of the account to the Official Receiver; and

(b) make a return of the meeting and of its date to the Official Receiver, and if the copy of the account is not sent or the return of the meeting is not made in accordance with this subsection, the liquidator shall be liable to a fine not exceeding five currency points for every day during which the default continues.

(4) Where there is no quorum at the meeting, this subsection shall be taken to have been complied with if the liquidator, *in lieu* of the return of the meeting, makes a return that the meeting was duly summoned but that no quorum was realised.

(5) Upon the expiration of three months from the date of registration of the return, the company shall be taken to be dissolved unless the court, on the application of the liquidator or any other person who appears to the court to have an interest in the company, makes an order deferring the date on which the dissolution of the company is to take effect, for such time as the court may consider appropriate.

(6) Where the court makes an order under subsection (5), a certified copy shall be delivered to the Official Receiver for registration within seven days after the making of the order.

(7) A person who contravenes subsection (6) shall be liable to a fine not exceeding five currency points for every day that the person is in contravention.

68. Alternative provisions as to annual and final meetings in case of insolvency

Where a liquidator calls a meeting in accordance with section 65, sections 66 and 67 shall not apply, and sections 76 and 77 shall apply to the liquidation of the company as if the liquidation were a creditors' voluntary liquidation and not a members' voluntary liquidation, but that the liquidator shall not be required to call a meeting of creditors under section 76 at the end of the first year of the commencement of the liquidation unless the meeting held under section 65 is held more than three months before the end of that year.

Creditors' voluntary liquidation

69. Meeting of creditors

(1) For the creditors' voluntary liquidation, the company shall—

(a) cause a meeting of the creditors of the company to be summoned on the same day as the meeting for the resolution for liquidation is to be proposed or on the following day; and

(b) send to the creditors notices for the meeting of the creditors of the company in accordance with Schedule 3 to this Act, together with the notices for the meeting for proposing the resolution for liquidation.

(2) The notice for the meeting of the creditors shall be advertised once in the *Gazette* and in the official language in a newspaper of wide circulation in Uganda.

(3) The directors of the company shall—

(a) appoint one of them to preside at the meeting; and

(b) present a full statement of the position of the company's affairs and a list of the creditors of the company and the estimated amount of their claims, to the meeting of the creditors.

(4) The director appointed to preside at the meeting of the creditors shall attend and preside over the meeting.

(5) Where the meeting of the company at which the resolution for voluntary liquidation is to be proposed is adjourned and the resolution is passed at an adjourned meeting, any resolution passed at the meeting of the creditors held under subsection (1), shall have effect as if it has been passed immediately after the passing of the resolution for liquidating the company.

(6) Where default is made—

(a) by the company contrary to subsections (1) and (2);

(b) by the directors contrary to subsection (3); or

(c) by any director of the company contrary to subsection (4),

the company, directors or director, shall be liable to a fine not exceeding fifty currency points and, in the case of default by the company, every officer of the company who is in default shall be liable to a similar penalty.

70. Appointment of liquidator

(1) The creditors and the company at their respective meetings under section 69, may nominate a person to be liquidator for the purpose of liquidating the affairs and distributing the assets of the company, and if the creditors and the company nominate different persons, the person nominated by the creditors shall be the liquidator, and if the creditors do not nominate any person, the person nominated by the company shall be the liquidator.

(2) Where different persons are nominated by the company and the directors, any director, member or creditor of the company may, within seven days after the nomination by the creditors, apply to court for an order—

(a) directing that the person nominated as liquidator by the company shall be liquidator instead of or jointly with the person nominated by the creditors; or

(b) appointing another person to be liquidator instead of the person appointed by the creditors.

71. Appointment of committee of inspection

(1) The creditors at the creditors meeting or at any subsequent meeting may appoint not more than five persons to be members of a committee of inspection.

(2) Where the creditors meeting appoints a committee of inspection, the company may, at the meeting at which the resolution for voluntary liquidation is passed or at a subsequent time in a general meeting, appoint a number of persons as the company considers appropriate, to act as members of the committee, but the majority of the members of the committee shall be persons appointed by the creditors.

(3) The creditors may by resolution declare that all or any of the persons appointed by the company ought not to be members of the committee of inspection, and, if the creditors so resolve, the persons mentioned in the resolution shall not unless the court otherwise directs, be qualified to act as members of the committee.

(4) On the application of the creditors, the court may appoint any other person to act as a member of the committee in place of a person mentioned in the resolution.

72. Proceedings of committee of inspection

Subject to section 71, the following shall apply to the proceedings of a committee of inspection—

(a) the committee shall meet at least once a month and the liquidator or any member of the committee may call a meeting of the committee as and when he or she considers necessary;

(b) the committee shall act by a majority of its members present at a meeting;

(c) a member of the committee may resign by notice in writing signed by him or her and delivered to the liquidator;

(d) where a member of the committee appointed by the creditors or contributories, becomes bankrupt, compounds, arranges with his or her creditors or is absent from five consecutive meetings of the committee without the leave of the other members who also represent the creditors or contributories as the case may be, his or her office shall immediately become vacant;

(e) a member of the committee may be removed by an ordinary resolution at a meeting of creditors or contributories, for which fifteen days' notice stating the object of the meeting is given;

(f) where there is a vacancy in the committee, the liquidator shall immediately call a meeting of creditors or of contributories, to fill the vacancy and the meeting may, by resolution, re-appoint the same person or appoint another creditor or contributory to fill the vacancy unless the liquidator, having regard to the position in liquidation, is of the opinion that it is not necessary to fill the vacancy, in which case he or she may apply to the court for an order that the vacancy shall not be filled or shall be filled under the circumstances specified in the order; and

(g) where there is a vacancy, the remaining members of the committee, if not less than two, may continue to act as the committee of inspection.

73. Fixing of liquidator's remuneration and cessation of directors' powers

(1) The committee of inspection or where there is no committee, the creditors, may fix the remuneration to be paid to the liquidator.

(2) On the appointment of a liquidator, all the powers of the directors shall cease, except so far as the committee of inspection or where there is no committee, the creditors, sanction the continuation.

74. Power to fill vacancy in office of liquidator

Where a vacancy occurs, by death, resignation or otherwise in the office of a liquidator other than a liquidator appointed by or by the direction of, the court, the creditors may fill the vacancy.

75. Power of liquidator to accept shares, etc. in creditors' voluntary liquidation

Section 64 shall apply to creditors' voluntary liquidation and to members' voluntary liquidation, except that the powers of the liquidator under that section shall not be exercised without the approval of the court, or of the committee of inspection in substitution for the approval by special resolution.

76. Duty of liquidator to call meetings of company and of creditors at end of each year

(1) Where the liquidation continues for more than one year, the liquidator shall call a general meeting of the company at the end of the first year after the commencement of the liquidation and of each succeeding year, or at the first convenient date within three months from the end of the year or a longer period as the Registrar may allow, and shall lay before the meeting an account of his or her acts and dealings and of the conduct of the liquidation during the preceding year.

(2) A liquidator who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding fifteen currency points.

77. Final meeting and dissolution

(1) As soon as the company is fully liquidated, the liquidator shall—

(a) prepare an account of the liquidation, showing how the liquidation was conducted and how the property of the company was disposed of; and

(b) call a general meeting of the company and a meeting of the creditors of the company, to present the account and to give any required explanation.

(2) If the liquidator fails to call a general meeting of the company or a meeting of the creditors as required by this section, he or she commits an offence and is liable, on conviction, to a fine not exceeding fifteen currency points.

(3) The meetings under subsection (1) shall be called by a notice in the *Gazette* and in a newspaper of wide circulation in Uganda, specifying the time, place and the objects of the meetings, and shall be published at least thirty days before the meetings.

(4) Within fourteen days after the meeting or if the meetings are not held on the same day, after the date of the later meeting, the liquidator shall—

(a) send a copy of the account to the Official Receiver; and

(b) make a return of holding the meetings and of the dates of the meetings to the Official Receiver,

and if the copy of the account is not sent or the returns of the meetings are not made in accordance with this subsection, the liquidator shall be liable to a fine not exceeding five currency points for every day for which the default continues.

(5) Where quorum is not realised at the meeting, this section shall be taken to have been complied with if the liquidator, *in lieu* of the return of the meeting, makes a return that the meeting was duly called but that no quorum was realised.

(6) On the expiration of three months from the registration of the returns, the company shall be taken to be dissolved, unless court on the application of the liquidator or of any other person who appears to the court to have an interest in the company, makes an order deferring the date on which the dissolution of the company is to take effect, to a time as the court may consider appropriate.

(7) Where the court makes an order under subsection (6), a certified copy of the order shall be delivered to the Official Receiver for registration within seven days after the making of the order.

(8) Any person who contravenes subsection (8) shall be liable to a fine not exceeding five currency points per day, for the duration of the default.

Members and creditors voluntary liquidation

78. Members and creditors voluntary liquidation

Sections 79, 80, 81, 82, 83, 84, 85 and 86 apply to both members' and creditors' voluntary liquidation.

79. Distribution of property of company

Subject to the provisions of this Act on preferential payments, the assets of a company shall, on its liquidation, be applied in satisfaction of its liabilities simultaneously and equally, and, subject to that application, shall unless the articles of association otherwise provide, be distributed among the members according to their rights and interests in the company.

80. Powers and duties of liquidator in voluntary liquidation

(1) The liquidator in a voluntary liquidation may—

(a) exercise any of the powers given to the liquidator in a liquidation by the court under this Act;

(b) exercise the power of the court under this Act, of settling a list of contributories and the list of contributories shall be *prima facie* evidence of the liability of the persons named in the list as contributories;

(c) exercise the power of the court of making calls on shares or any other matter;

(d) summon general meetings of the company for the purpose of obtaining the sanction of the company by special resolution or for any other purpose as he or she may consider appropriate.

(2) The liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.

(3) Where several liquidators are appointed, any power given by this Act may be exercised by one or more of the liquidators as may be determined at the time of their appointment, or, in default of such determination, by any number of liquidators of not less than two.

81. Power of court to appoint and remove liquidator in voluntary liquidation

(1) The court may appoint a liquidator in any case where there is no liquidator acting.

(2) The court may, where cause is shown, remove a liquidator and appoint another liquidator.

82. Notice by liquidator of his or her appointment

(1) The liquidator shall, within fourteen days after his or her appointment, publish in the *Gazette* and deliver to the Registrar for registration, a notice with a copy to the Official Receiver of his or her appointment in the prescribed form.

(2) Where the liquidator does not comply with the requirements of this section, he or she shall be liable to a fine not exceeding five currency points for every day for which the default continues.

83. Arrangement when binding on creditors

(1) An arrangement entered into between a company which is about to be or is in the course of being liquidated and its creditors, shall, subject to the right of appeal under this section, be binding on the company if sanctioned by a special resolution and on the creditors if acceded to by three-fourths of the total number and value of the creditors.

(2) A creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the court against the arrangement and the court may, as the court considers just, amend, vary or confirm the arrangement.

84. Power to apply to court to have questions determined or powers exercised

(1) The liquidator or any contributory or creditor may apply to the court to—

(a) determine any question arising in the liquidation of a company;

(b) exercise the enforcing of calls on shares or any other matter; or

(c) exercise any of the powers which the court may exercise if the company was liquidated by the court.

(2) The court may, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, agree wholly or partially to the application on terms and conditions as the court considers fit or may make any other order on the application as the court considers fit.

(3) Where the court stays the proceedings under this section, the company or other prescribed person shall immediately deliver to the Registrar for registration a copy of the order staying the proceedings in the liquidation and shall send a copy to the Official Receiver.

85. Costs of voluntary liquidation

All costs, charges and expenses properly incurred in the liquidation, including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims.

86. Saving of rights of creditors and contributories

The voluntary liquidation of a company shall not bar the right of any creditor or contributory to have the company liquidated by court, but in the case of an application by a contributory, the court shall be satisfied that the rights of the contributories will be prejudiced by a voluntary liquidation.

Liquidation subject to supervision by court

87. Power to order liquidation subject to supervision

Where a company passes a resolution for voluntary liquidation, the court may make an order that the voluntary liquidation shall continue, subject to the supervision of court and with the liberty for the creditors, contributories or other interested persons, to apply to court and generally on such terms and conditions as the court may consider just.

88. Effect of application for liquidation subject to supervision

An application for the continuance of a voluntary liquidation subject to the supervision of the court shall, for the purpose of giving jurisdiction to the court over actions, be taken to be a petition for liquidation by the court.

89. Power of court to appoint or remove liquidator

(1) Where an order is made for a liquidation subject to supervision, the court may by that order or any subsequent order appoint an additional liquidator.

(2) A liquidator appointed by the court under this section shall have the same powers, be subject to the same obligations and in all respects be in the same position as if he or she had been duly appointed under this Act with respect to the appointment of liquidators in a voluntary liquidation.

(3) The court may remove any liquidator appointed by the court or any liquidator continued under the supervision order and fill any vacancy occasioned by the removal or by death or resignation.

90. Effect of supervision order

(1) Where an order is made for liquidation subject to supervision, the liquidator may, subject to any restrictions imposed by the court, exercise all his or her powers without the sanction or intervention of the court, in the same manner as if the company were being liquidated voluntarily.

(2) Where the order for liquidation subject to supervision is made in relation to a creditors' voluntary liquidation in which a committee of inspection has been appointed, the order shall be taken to be an order for liquidation by the court for the purpose of section 71.

Liquidation by court

91. Jurisdiction

The jurisdiction in liquidation matters shall be exercised by the High Court.

92. Circumstances in which court may appoint liquidator

(1) Subject to subsection (2), the court may appoint a liquidator on the application of—

(a) the company;

(b) a director of the company;

(c) a shareholder of the company;

(d) a creditor of the company;

(e) a contributory; or

(f) the Official Receiver.

(2) The court may make an order under subsection (1), if it is satisfied that the company is unable to pay its debts within the meaning of section 2.

(3) On hearing a petition for liquidation the court may dismiss the petition, or adjourn the hearing conditionally or unconditionally, or make any interim order or any other order that the court considers appropriate, but the court shall not refuse to make a winding up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets or that the company has no assets.

93. Commencement of liquidation by court

(1) Where, before the presentation of a petition for the liquidation of a company by the court, a resolution is passed by the company for voluntary liquidation, the liquidation of the company shall be deemed to commence when the resolution is passed and unless the court, on proof of fraud or mistake, considers appropriate and directs, all proceedings of the voluntary liquidation shall be taken to be valid.

(2) In all other cases, liquidation of a company by the court shall be taken to commence at the time of presentation of the petition for liquidation.

94. Provisional liquidator

(1) The order made under section 92 shall appoint the Official Receiver or any insolvency practitioner the court considers appropriate as provisional liquidator of the company, for the preservation of the value of the assets owned or managed by the company.

(2) The provisional liquidator shall have the powers to sell or dispose of any perishable and any other goods, the value of which is likely to diminish if they are not disposed of, unless court limits the powers or places conditions on the exercise of the powers.

95. Notice of liquidation

The provisional liquidator shall, within fourteen days after the commencement of the liquidation—

(a) give public notice of the date of commencement of the liquidation; and

(b) call a shareholders' meeting.

96. Notice of appointment and of liquidation

(1) The liquidator shall, within five working days after his or her appointment—

(a) give notice in the *Gazette* and in a newspaper of wide circulation in Uganda of—

(i) the date of commencement of the liquidation;

(ii) the liquidator's full name;

(iii) the liquidator's physical office address and daytime telephone number; and

(b) deliver to the Official Receiver a copy of the notice.

(2) A liquidator shall give notice of the liquidation—

(a) on every invoice, order for goods or business letter issued by or on behalf of the company on which the company's name appears stating after the company's name the words "in liquidation"; and

(b) otherwise, when entering into any transaction or issuing any document by or on behalf of the company.

(3) Failure to comply with subsection (2) does not affect the validity of a document issued by or on behalf of the company.

(4) A liquidator who does not comply with subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points.

97. Effect of liquidation

(1) At the commencement of liquidation—

(a) the liquidator shall take custody and control of the company's property;

(b) the officers of the company shall remain in office but cease to have any powers, functions or duties other than those required or permitted to be exercised by this Act;

(c) proceedings, execution or other legal process shall not be commenced or continued and distress shall not be levied against the company or its property;

(d) shares of the company shall not be transferred or other alteration made in the rights or liabilities of any shareholder and a shareholder shall not exercise any power under the company's memorandum and articles of association or the Companies Act; and

(e) the memorandum and articles of association of the company shall not be altered, except that the liquidator may change the company's registered office or registered postal address.

(2) Nothing in this Act shall prevent the exercise of a power of enforcement of a charge over property, subject to compliance with section 10.

98. Special manager of company

(1) The liquidator may appoint a suitable person to be special manager of the company.

(2) The appointment under subsection (1) may be made by the liquidator in any case where it appears to him or her that the nature of the company's business or the interests of the creditors generally, require the appointment of another person to manage the company.

(3) A special manager appointed under this section shall have the powers and duties as may be given by the liquidator.

99. Fundamental duties of liquidator

(1) The fundamental duties of a liquidator are to take, in a reasonable and expeditious manner, all steps necessary to—

(a) collect;

(b) realise as advantageously as reasonably possible; and

(c) distribute,

the assets or the proceeds of the assets of the company in accordance with this Part and Part VIII of this Act.

(2) The duties in subsection (1) are without prejudice to the liquidator's power in section 141 to appoint a provisional administrator where the liquidator is of the view that the appointment is likely to result in a more advantageous realisation of the company's assets than would be effected in a liquidation.

100. General duties of liquidator

Without prejudice to section 99, a liquidator shall have all the other functions and duties specified in this Act and shall in particular—

(a) take custody and control of all the company's assets;

(b) register his or her interest in all land and other assets belonging to the company notwithstanding any other interest;

(c) keep company money separate from other money held by or under the control of the liquidator;

(d) keep, in accordance with generally accepted accounting procedures and standards, full accounts and other records of all receipts, expenditure and other transactions relating to the liquidation, and retain the accounts and records of the liquidation and of the company for not less than six years after the liquidation ends; and

(e) permit those accounts and records of the liquidation and the accounts and records of the company, to be inspected by—

(i) any committee of inspection unless the liquidator believes, on reasonable grounds, that inspection would be prejudicial to the liquidation; or

(ii) where the court so orders, any creditor or shareholder.

General provisions relating to liquidation

101. General powers of liquidator

A liquidator shall have all the powers necessary to carry out the functions and duties of a liquidator under this Act and may delegate the powers to his or her appointed agent.

102. Liquidator's preliminary report

(1) Before the expiry of forty working days after the commencement of the liquidation or during a longer period as the court may allow, a liquidator shall prepare a preliminary report showing—

(a) the state of the company's affairs, proposals for conducting the liquidation and the estimated date of its completion; and

(b) the right of any creditor or shareholder to require the liquidator to call a creditors' meeting under section 69, and shall make the report available at his or her address for inspection by every known creditor, shareholder or contributory.

(2) The liquidator shall publish the notice given under subsection (1) in the official language in a newspaper of wide circulation in Uganda and shall send a copy of the report to the Registrar.

103. Liquidator's interim reports

(1) A liquidator shall, within twenty working days after the end of every six months during the liquidation, make an interim report and give public notice of the conduct of the liquidation during the preceding six months period and the liquidator's further proposals for the completion of the liquidation.

(2) The liquidator shall make the report available at his or her address for inspection by every known creditor, shareholder or contributory.

(3) The liquidator shall publish the notice given under subsection (1) in the official language in a newspaper of wide circulation in Uganda and shall send a copy of the report to the Registrar and the Official Receiver.

104. Liquidator's final report

(1) Before completion of the liquidation, a liquidator shall, give public notice of—

(a) the final report, final accounts and statement referred to in section 114; and

(b) the grounds on which a creditor or shareholder may object to the removal of the company from the register under the Companies Act.

(2) The liquidator shall make the report available at his or her address for inspection on payment of a prescribed fee, by every known creditor, shareholder or contributory.

(3) The liquidator shall publish the notice given under subsection (1) in the official language in a newspaper of wide circulation in Uganda and shall send a copy of the report to the Registrar and the Official Receiver.

105. Liquidator's power to obtain documents

(1) A liquidator may, subject to subsection (3), require a director, secretary or shareholder of the company or any other person in possession of books or documents of the company, to deliver them to the liquidator.

(2) A person shall not withhold a document of the company from the liquidator on the ground that possession of the document creates a charge over property of the company.

(3) Subject to subsection (4), production of a document to the liquidator shall not prejudice the existence or priority of the charge, and the liquidator shall make the document available to any person entitled to the document for the purpose of dealing with or realising the charge or the secured property.

(4) A person shall not enforce a lien over any document of the company in respect of a debt for services rendered to the company before the commencement of the liquidation.

(5) The debt referred to in subsection (4) shall be a preferential claim against the company under section 11 to the extent of twenty-five currency points or a greater amount as may be prescribed by regulations.

106. Liquidator's power to examine and obtain information

(1) This section applies to—

(a) any director, secretary or shareholder of the company;

(b) any person who has been a director or secretary of the company;

(c) any person who is or has been an employee of the company; and

(d) receiver, administrator or provisional administrator, advocate, accountant, auditor, bank officer or any other person with knowledge of the financial affairs of the company.

(2) A liquidator may require a person referred to in subsection (1)—

(a) appear before the liquidator at a reasonable time;

(b) provide the liquidator with information concerning the business, accounts or other affairs of the company as the liquidator requests;

(c) take an affirmation or be examined on oath administered by the liquidator, on any of those matters; and

(d) assist in the liquidation of the company to the best of his or her ability.

(3) A person required to appear before or assist the liquidator under subsection (1)(c) or (d) is entitled to reasonable remuneration unless that person is, at the time of the appearance or assistance, an employee of the company.

(4) The remuneration referred to in subsection (3) shall be determined by the liquidator, but where a person considers that the remuneration is not reasonable, he or she may apply to court, under section 117.

(5) Notwithstanding section 117, leave of court shall not be required to make an application under subsection (4).

(6) A person shall not be entitled to refuse to attend or assist the liquidator by reason that the remuneration to be received by him or her under subsection (3), has not been determined or paid in advance.

(7) On application by the liquidator, court may order any person referred to in subsection (1) to appear before the court and to be examined on oath or affirmation by the court or the liquidator on any matter relating to the company.

(8) A person examined under subsection (2) or (7) shall not be excused from answering any question on the ground that the answer may incriminate or tend to incriminate him or her.

(9) The testimony of any person examined under subsection (2) or (7) is not admissible as evidence in any criminal proceedings against that person, except on a charge of perjury in respect of the testimony.

(10) A person examined under subsection (2) or (7) may apply to the court to be exculpated from any allegation made against him or her and on the hearing of that application, the liquidator shall appear and bring to the attention of the court any matter which may appear to be relevant.

(11) Any person who unreasonably refuses to cooperate with or assist the liquidator or interferes with the liquidator's powers commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or to imprisonment for a term not exceeding one year, or both.

107. Liquidator's power to disclaim onerous property

(1) The liquidator may disclaim any onerous property, even if the liquidator has taken possession of the property, tried to sell the property or otherwise exercised rights of ownership.

(2) A disclaimer under this section—

(a) brings to an end the rights, interest and liabilities of the company in respect of the property disclaimed; and

(b) shall not, except so far as necessary to release the company from any liability, affect the rights or liabilities of any other person.

(3) A person who suffers loss or damage as a result of a disclaimer under this section may—

(a) apply to court for an order that the disclaimed property be delivered to or vested in that person; or

(b) claim as a creditor of the company for the amount of the loss or damage taking into account the effect of any order made by the court under paragraph (a).

(4) For the purposes of this section "onerous property" means—

(a) any unprofitable contract; or

(b) any other property of the company which is not capable of being sold or not readily capable of being sold or which may give rise to a liability to pay money or perform any other onerous act.

108. Pooling of assets of associated companies

On application of the liquidator or any creditor or shareholder, the court may, if satisfied that it is just and equitable to do so, lift the veil of any associated company on terms and conditions as the court may consider fit to facilitate and ensure due completion of the liquidation process in a just and equitable manner and may order that—

(a) a company that is or has been an associated company of the company in liquidation pays to the liquidator the whole or part of any or all of the claims made in the liquidation; or

(b) where two or more associated companies are in liquidation, the liquidation of each of the companies extends as far as the court orders and is subject to the terms and conditions imposed by the court.

109. Vacation of office of liquidator

(1) The office of the liquidator shall become vacant if the person holding the office—

(a) is removed from office under section 118(1)(c) or 208;

(b) resigns;

(c) dies;

(d) becomes unqualified under section 210; or

(e) vacates office under an administration deed.

(2) Where there is a vacancy in the office of the liquidator, except in the case of a vacancy arising under subsection (1)(e) and no person is acting as liquidator, the Official Receiver shall act as liquidator until a successor is appointed.

(3) A liquidator vacating office, shall give the information and assistance in the conduct of the liquidation as that liquidator's successor may reasonably require.

(4) Any person who unreasonably refuses to give information and or assistance required under subsection (3) commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or to imprisonment for a term not exceeding one year, or both.

110. Duties of directors, secretary and employees

(1) On the commencement of the liquidation of a company, every present or former director, secretary or employee of the company shall—

(a) disclose fully and truthfully to the liquidator all the property of the company and details of the disposal of any property by the company including property disposed of in the ordinary course of business; and

(b) deliver to the liquidator or in accordance with the liquidator's directions, all property of the company in or under his or her custody or control.

(2) Any person who contravenes subsection (1) commits an offence.

111. Compliance order

Where a person does not comply with a requirement of a liquidator under section 105 or 110 the court may, on the application of the liquidator, order the person to comply and make ancillary orders as the court considers appropriate.

112. Search and seizure

(1) Where a company is in liquidation or where a petition for liquidation has been made to court and the court is satisfied, on the application of the liquidator, that there is, in or at any place or thing, any property, records or other documents of the company in respect of which an offence under section 110 or 113 has been or is about to be committed, the court may issue a warrant with such conditions as the court considers fit, authorising the person named in the warrant to search for and seize property, books, documents or records of the company in or at that place or thing and to deliver them to the liquidator.

(2) Subject to any conditions specified in the warrant under subsection (1), the person named in the warrant may—

(a) at all reasonable times, enter and search the place or thing, within fourteen days after the date of issue of the warrant;

(b) use assistance which is reasonable in the circumstances; and

(c) use reasonable force, both for making entry into the place and for breaking open anything in or at the place.

113. Absconding during or pending liquidation

(1) Where a company is in liquidation or where a petition for liquidation has been made to court, a person shall not—

(a) leave or attempt to leave Uganda with the intention of avoiding—

(i) to make payment of money due to the company;

(ii) examination of the affairs of the company; or

(iii) compliance with an order of the court or other obligation under this Act with respect to the affairs of the company;

(b) conceal or remove property of the company with the intention of preventing or delaying the assumption of custody or control of the property by the liquidator; or

(c) destroy, conceal or remove records or documents of the company.

(2) Any person who contravenes subsection (1) commits an offence and is liable, on conviction, to imprisonment for a term of not more than seven years.

114. Completion of liquidation

(1) The liquidation of a company shall be complete when the liquidator delivers to the Official Receiver a final report and final accounts of the liquidation and a statement indicating that—

(a) all known assets have been disclaimed, realised or distributed;

(b) all proceeds of realisation have been distributed; and

(c) in the opinion of the liquidator, the company should be removed from the register.

(2) On delivering to the Official Receiver the documents referred to in subsection (1), the liquidator shall cease to hold office, but this section does not limit the application of section 117 or 118.

(3) Where the Official Receiver receives the final report, the final accounts of liquidation and the statement referred to in subsection (1), the Official Receiver shall register the documents and serve a copy on the registrar.

(4) The Official Receiver shall, upon the expiry of the time specified in section 67(5) or (6) and 77(6) or (7), issue a certificate of dissolution of the company and serve a copy on the registrar.

(5) The registrar shall, upon receiving the certificate of dissolution referred to in subsection (3), remove the company from the register.

(6) The certificate of dissolution referred to in subsection (4), shall be in a form prescribed by regulations.

Rights of creditors and shareholders

115. Creditors' or shareholders' meetings during liquidation

(1) Subject to subsection (3), a liquidator shall call a creditors' or shareholders' meeting if requested in writing by any two or more creditors or shareholders, to vote on a proposal that a committee of inspection be appointed to act with the liquidator.

(2) The liquidator shall give not less than fourteen working days' notice of the meeting which shall be conducted in accordance with the Companies Act, in the case of a shareholders' meeting or Schedule 3 to this Act, in the case of a creditors' meeting.

(3) A liquidator may decline any request to call a meeting on the ground that—

(a) the request is frivolous or vexatious;

(b) the request was not made in good faith; or

(c) the costs of calling a meeting would be out of proportion to the value of the company's assets.

(4) The decision of the liquidator to decline a request to call a creditors' or shareholders' meeting may be reviewed by court on the application of one or more creditors or shareholders.

(5) The members of a committee of inspection appointed by a creditors' or shareholders' meeting shall take office immediately, but where there is a difference between the decisions of meetings of creditors and meetings of shareholders on—

(a) the question of appointing a committee of inspection; or

(b) the membership of a committee of inspection, the liquidator shall refer the matter to the court for a decision.

(6) A sole shareholder of a company may present to the liquidator a view on any matter which could have been decided at a meeting of shareholders under this section and the liquidator may for all purposes, treat that view as if it were a decision taken at a meeting of shareholders.

116. Committee of inspection during liquidation

(1) A committee of inspection shall consist of not less than five persons who shall be creditors or shareholders or persons holding powers of attorney from creditors or shareholders or authorised directors of companies which are creditors or shareholders of the company in liquidation.

(2) A committee of inspection shall have the power to—

(a) call for reports on the progress of the liquidation from the liquidator;

(b) call a creditors' or shareholders' meeting;

(c) apply to the court under sections 117 and 118; and

(d) assist the liquidator as appropriate in the conduct of the liquidation.

(3) Unless the court orders otherwise, the liquidator shall pay the advocate and own client costs reasonably incurred by the committee of inspection in exercising its powers under subsection (2)(c) and those costs shall be deemed to be expenses properly incurred in the liquidation.

(4) The proceedings at meetings of a committee of inspection shall be in accordance with section 72.

(5) Where, by reason of vacancies in a committee of inspection, the committee is unable to act, the liquidator shall indicate the vacancy in the next six-monthly report prepared and sent under section 103.

Supervision and enforcement by court

117. Court supervision of liquidation

(1) On the application of the liquidator, any committee of inspection, the Official Receiver, or, with the leave of the court, any creditor, shareholder or director of a company in liquidation, the court may—

(a) give directions on any matter arising during the course of the liquidation;

(b) confirm, reverse or modify any act or decision of the liquidator;

(c) order an audit of the accounts of the liquidation;

(d) order the liquidator to produce the accounts and records of the liquidation for audit and to provide the auditor with information concerning the conduct of the liquidation as the auditor may request;

(e) in respect of any period, review or fix the remuneration of the liquidator at a level which is reasonable in the circumstances and where an amount retained by the liquidator is found by the court to be unreasonable in the circumstances, order the liquidator to refund the amount;

(f) declare whether or not the liquidator was validly appointed or validly assumed custody or control of any property; or

(g) make an order concerning the retention or the disposal of the accounts and records of the liquidation or of the company.

(2) The powers under subsection (1) are in addition to any other powers a court may exercise in its jurisdiction relating to liquidators under this Act, and may be exercised in relation to any matter occurring before or after the commencement of the liquidation or the removal of the company from

the register, whether or not the liquidator has ceased to act as liquidator when the application or the order is made.

(3) Subject to subsection (4), a liquidator who has acted in accordance with a direction of the court in the exercise of his or her powers or functions, shall be entitled to rely on having so acted as a defence to any claim for anything done or not done in accordance with the direction.

(4) A court may order that, by reason of the circumstances in which a direction is obtained, the liquidator shall not have the protection given by subsection (3).

118. Enforcement of liquidator's duties

(1) Where the liquidator fails to comply with any of the duties of a liquidator, the court may, on such terms and conditions as the court considers fit—

(a) relieve the liquidator of the duty to comply, wholly or in part;

(b) without prejudice to any other remedy which may be available in respect of a breach of duty by the liquidator, order the liquidator to comply to the extent specified in the order; or

(c) remove the liquidator from office.

(2) An application for an order under this section may be made by—

(a) a liquidator;

(b) a committee of inspection;

(c) any creditor, shareholder or director of the company in liquidation; or

(d) a receiver appointed in respect of any property of the company in liquidation.

(3) Except as otherwise ordered by the court, a copy of any application made under this section shall be served on the liquidator not less than five working days before the hearing of the application and the liquidator may appear and be heard at the hearing.

(4) Where an order is made under subsection (1)(c), the court may make such order as is appropriate for the preservation of the company's property, including an order requiring the removed liquidator to make available any accounts, documents or other information necessary for that purpose.

(5) All proceedings relating to any application for an order under this section shall be served on the Official Receiver who shall keep a copy of the proceedings on a public file indexed by reference to the name of the liquidator concerned.

(6) In this section, "failure to comply" includes a failure of a liquidator to comply with any relevant duty arising under—

(a) the appointing document;

(b) this or any other Act or rule of law or rules of court; or

(c) any order or direction of the court other than an order made under this section.

Part V – Arrangement in respect of individuals

Interim order

119. Interim order

(1) A debtor who intends to make any arrangement with his or her creditors may apply to court for an interim protective order.

(2) During the period for which an interim order is in force, in relation to a debtor—

(a) an application for bankruptcy relating to the debtor shall not be made or proceed;

(b) a receiver of any property of the debtor shall not be appointed; and

(c) except with the leave of the court and in accordance with terms imposed by the court—

(i) no other steps shall be taken to enforce a charge over any of the individual's property;

(ii) no other proceedings, execution or other legal process shall be commenced or continued against the debtor or his or her property; and

(iii) no distress shall be levied against the debtor or his or her property.

(3) Where the debtor is an undischarged bankrupt, the interim order may contain directions on the conduct of the bankruptcy and the administration of the bankrupt's estate, during the period for which the order is in force, including directions on staying proceedings in the bankruptcy.

120. Application for interim order

(1) Subject to subsection (2), the court may make an interim order under section 118 on the application of—

(a) the debtor or the trustee of his or her estate where the debtor is an undischarged bankrupt; or

(b) the debtor in any other case.

(2) The court may make an interim order under section 118 if the court is satisfied that—

(a) the debtor intends to make an arrangement and where the debtor is an undischarged bankrupt, he or she has given notice of the intention to the trustee of his or her estate;

(b) a named insolvency practitioner is willing to act as supervisor of the proposed arrangement, as a trustee or otherwise for the purpose of supervising its implementation;

(c) the debtor is an undischarged bankrupt or is able to petition for his or her own bankruptcy;

(d) a previous application has not been made by the debtor for an interim order in the last twelve months; and

(e) making the order is appropriate for the purpose of facilitating the consideration and implementation of the debtor's proposed arrangement.

(3) Where an application for an interim order is pending, the court may stay any action, execution or other legal process against the property or person of the debtor.

121. Duration of interim order

Subject to section 123(2) and (3), an interim order ceases to have effect at the end of fourteen working days after the making of the order.

122. Duties of debtor

Upon the court making an interim order, the debtor shall submit to the proposed supervisor—

(a) a document setting out the terms of the arrangement which the debtor is proposing; and

(b) a statement of his or her affairs containing—

(i) particulars of the debtor's creditors, debts and assets; and

(ii) any other prescribed information.

123. Report to court

(1) The proposed supervisor shall, while the interim order has effect, give the court a report in writing stating whether, in his or her opinion, a creditors' meeting should consider the individual's proposed arrangement.

(2) The court may, on an application made by the individual in the case where the proposed supervisor has failed to submit the report required by subsection (1)—

(a) direct that the proposed supervisor be replaced by another named and consenting insolvency practitioner; or

(b) direct that the interim order continues or if it has ceased to have effect, be renewed, for a further period as the court may specify in the direction.

(3) The court may, on the application of the proposed supervisor, extend the period for which the interim order has effect to give him or her more time to prepare the report.

(4) After considering the report, the court may—

(a) order the proposed supervisor to call a creditors' meeting to consider the proposed arrangement and for that purpose, extend the period for which the interim order has effect; or

(b) discharge the interim order if satisfied that—

(i) the individual has failed to comply with his or her obligations under section 122; or

(ii) for any other reason it would be inappropriate to call a creditors' meeting to consider the debtor's proposed arrangement.

124. Creditors' meeting to consider proposed arrangement

(1) Where the court makes an order under section 120(2)(a), the proposed supervisor shall call a creditors' meeting not later than fourteen working days after making the order.

(2) The proposed supervisor shall give a general notice of not less than two working days, published in the *Gazette* and in the official language in a newspaper of wide circulation in Uganda and written notices of the meeting to each known creditor of the debtor, indicating—

(a) the date of the order under section 123(4)(a);

(b) the proposed supervisor's full name; and

(c) the proposed supervisor's physical office address, electronic mail address and daytime telephone number.

(3) The creditors of an undischarged bankrupt shall include—

(a) every creditor of the bankrupt in respect of a bankruptcy debt; and

(b) any person who would be a creditor if the bankruptcy had commenced on the day on which notice of the meeting is given.

(4) The proposed supervisor shall be the chairperson of the creditors' meeting which shall consider the proposed voluntary arrangement and, subject to this section, the meeting shall be conducted in accordance with Schedule 3 to this Act.

(5) Subject to subsection (6), the creditors may resolve to—

(a) approve the proposed arrangement; or

(b) approve the proposed arrangement with modifications, but may not do so unless the debtor consents to each modification.

(6) Where the proposed arrangement or the proposed arrangement as modified affects the right of a secured creditor to enforce his or her security, the creditors may only approve it with the consent of the secured creditor concerned.

(7) The creditors' meeting shall not approve any proposed arrangement or proposed arrangement as modified where—

(a) any preferential debt is not to be paid in priority to the debts that are not preferential debts; or

(b) a preferential debt is to be paid in a smaller proportion than is paid to another preferential debt of the same proportion, except with the written consent of the preferential creditor concerned.

Arrangement

125. Arrangement order

(1) Immediately after the creditor's meeting under section 124, the proposed supervisor shall report the result of the meeting to court.

(2) Where the meeting declines to approve a proposed arrangement, the court may discharge, vary or extend the interim order or make any other appropriate order as the court considers fit and the debtor shall be given only one more opportunity to present a second proposal for arrangement.

(3) Where the meeting approves a proposed arrangement, with or without modifications, the court may —

(a) make an arrangement order;

(b) make such ancillary directions as the court considers fit; or

(c) where the individual is an undischarged bankrupt, give such directions on the conduct of the bankruptcy and the administration of the bankrupt's estate as the court considers appropriate,

for facilitating the implementation of the arrangement.

126. Notice of arrangement

Immediately after the arrangement order is made, the supervisor shall—

(a) send to each known creditor a written notice showing that an arrangement has taken effect; and

(b) give public notice that an arrangement has taken effect.

127. Post arrangement financing

(1) A supervisor may, with the consent of the creditors and with the approval of Court, obtain or borrow finances and grant security over the property of the debtor for the purposes of implementing the arrangement.

(2) The post arrangement financing referred to in subsection (1) shall not exceed the value of the debtor's unencumbered assets at the time of the arrangement order.

128. Effect of arrangement

(1) Subject to subsection (3), an arrangement binds—

(a) the individual in respect of whom the arrangement order is made;

(b) the supervisor of the arrangement; and

(c) all the individual's creditors for claims arising on or before the day specified in the voluntary arrangement.

(2) Subject to subsection (3), a person bound by an arrangement shall not—

(a) make an application for a bankruptcy order or proceed with an application made before the arrangement became binding on the person;

(b) appoint a receiver of any property of the individual or commence or continue with an application to appoint a receiver; or

(c) except with the leave of the court and in accordance with the terms as the court may impose —

(i) take any other steps to enforce any charge over any of the individual's property; or

(ii) commence or continue other proceedings, execution or other legal process or levy distress against the individual or his or her property.

(3) Subsections (1) and (2) shall not prevent a secured creditor from realising or dealing with charged property except so far as the arrangement provides for a secured creditor who voted in favour of the resolution resulting in the arrangement.

129. Function of supervisor

The supervisor shall supervise the implementation of the arrangement and he or she shall on the day of his or her appointment notify the Official Receiver in writing of the appointment.

130. Creditors' meetings during arrangement

(1) The supervisor may call a creditors' meeting at any time.

(2) The supervisor shall call a creditors' meeting if requested in writing by creditors, the value of whose claims against the individual is not less than ten percent of the value of all claims against the individual.

(3) Subject to this section, the meeting shall be conducted in accordance with Schedule 3 to this Act.

(4) A creditors' meeting has the power to call for reports on the progress of the arrangement from the supervisor.

131. Remuneration of supervisor

A supervisor is entitled to—

(a) the remuneration specified in the arrangement; or

(b) the remuneration as the court may fix on application of the supervisor where no remuneration is specified.

132. Vacation of office of supervisor

(1) The office of supervisor shall become vacant if the person holding office is removed from office under section 138 or 208 or resigns, dies or becomes unqualified under section 213.

(2) A supervisor may resign from the office of supervisor by appointing, with the approval of the creditors and the insolvent, another insolvency practitioner as his or her successor and delivering notice of the appointment in writing, to the court.

(3) The court, on the application of any creditor may review any appointment of a successor to a supervisor made under subsection (2) and for the court considers appropriate, may appoint instead any other insolvency practitioner.

(4) Where as the result of the vacation of office by a supervisor, no person is acting as supervisor, the Official Receiver shall act temporarily as supervisor and he or she may with the approval of the insolvent and his or her creditors, appoint an insolvency practitioner as successor.

(5) A person vacating the office of supervisor shall give information and assistance on the conduct of the voluntary arrangement as his or her successor may reasonably require.

(6) Any person who contravenes subsection (5) commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or to imprisonment for a term not exceeding one year, or both.

133. Variation of arrangement

(1) On application of any person who is bound by an arrangement order, court may vary the order in whole or in part and subject to such conditions as the court considers fit.

(2) Where the supervisor discovers an asset after an arrangement order has been made, the asset shall be distributed using the arrangement agreed upon and the variation of the arrangement.

134. Termination of arrangement

An arrangement terminates if—

(a) the court makes an order terminating the arrangement under section 135; or

(b) circumstances specified in the arrangement deed for terminating the arrangement, occur.

135. Termination of arrangement by court

(1) An application for the termination of an arrangement may be made to court by any person who is bound by the arrangement and where the individual is an undischarged bankrupt, by the trustee of his or her estate.

(2) Subject to subsection (3), the court may make an order terminating the arrangement on terms and conditions as the court considers fit.

(3) The court may make the order under subsection (2), if the court is satisfied that—

(a) the supervisor or creditors were given information about the individual's property, affairs or financial circumstances that was false or misleading or that the information which can reasonably be expected to have been material to creditors in deciding whether to vote in favour of the arrangement was not given to them;

(b) the report made to court under section 123 contained information which was misleading or omitted information which can reasonably be expected to have been material to creditors in deciding whether to vote in favour of the arrangement;

(c) a person bound by the arrangement has failed to comply with his or her obligations under the arrangement;

(d) the individual has failed to do anything under the arrangement reasonably required of him or her by the supervisor;

(e) the arrangement cannot be completed without injustice or undue delay;

(f) the arrangement is—

(i) oppressive or unfairly prejudicial or unfairly discriminatory against, one or more creditors; or

(ii) contrary to the interests of creditors as a whole; or

(g) the arrangement should be terminated for any other reason.

(4) Except as otherwise ordered by the court, a copy of any application made under this section shall be served on the supervisor not less than five working days before the hearing of the application and the supervisor may appear and be heard at the hearing.

136. Notice on termination of arrangement

Where an arrangement is terminated, the supervisor shall—

(a) send notice of the termination to each creditor;

(b) give public notice of the termination; and

(c) notify the Official Receiver in writing.

Supervision and enforcement by court

137. Court supervision of supervisor

(1) On the application of a supervisor, the court may give directions on any matter concerning the performance of functions of the supervisor.

(2) During or after an arrangement, on the application of—

(a) the supervisor of the arrangement;

(b) a creditor of the individual; or

(c) any trustee of the individual's estate, the court may, review or fix the remuneration of the supervisor at a level which is reasonable in the circumstances.

(3) Where the amount retained by the supervisor is found by the court to be unreasonable in the circumstances, the court may order the supervisor to refund the amount.

(4) Subject to subsection (5), a supervisor who acts in accordance with a direction of the court with respect to a matter connected with the exercise of his or her powers or functions is entitled to rely on having so acted as a defence to any claim in respect of anything done or not done in accordance with the direction.

(5) The court may order that, by reason of the circumstances in which a direction is obtained, the supervisor shall not have the protection given by subsection (4).

138. Enforcement of supervisor's duties

(1) A supervisor, creditor of the individual or a trustee of the individual's estate may apply to court for an order—

(a) relieving the supervisor of the duty to comply, in whole or in part;

(b) directing the supervisor to comply to the extent specified in the order; or

(c) removing the supervisor from office and appoint another person as supervisor where the supervisor fails to comply with a duty under the arrangement, this Act or any other law or any order or direction of the court other than an order to comply made under this section.

(2) A copy of an application made under this section, if made by a person other than a supervisor, shall be served on the supervisor not less than five working days before the hearing of the application and he or she may appear and be heard at the hearing unless otherwise ordered by the court.

(3) Where an order is made under subsection (1)(c), the court may make such order as is appropriate for the preservation of the company's property, including an order requiring the removed supervisor to make available any accounts, records or other information necessary for that purpose.

(4) All proceedings relating to any application for an order under this section shall be served on the Official Receiver who shall keep a copy of the proceedings on a public file indexed by reference to the name of the supervisor concerned.

(5) In this section, "failure to comply" includes a failure of a supervisor to comply with a duty under—

(a) the arrangement;

(b) this Act or any other law; or

(c) any order or direction of the court other than an order to comply made under this section.

139. Right of creditor to apply for interim order

(1) A creditor may apply to court for an interim protective order in accordance with the provisions of this Part.

(2) This Part shall apply, with necessary modifications where a creditor applies for an interim protective order.

Part VI – Administration in respect of companies

140. Application of administration provisions to foreign companies

(1) This Part shall apply to foreign companies.

(2) In this Part, "company" includes a foreign company and "property" means property in Uganda.

Provisional administration

141. Appointment of provisional administrator

(1) A provisional administrator of a company shall be appointed by a special resolution and a notice in writing under this Part on the date of the interim protective order.

(2) The notice appointing a provisional administrator shall include a certificate signed by the appointer certifying that, at the time of the appointment, there is reason to believe that the company is or will be unable to pay its debts within the meaning of section 2.

(3) Before a company appoints a provisional administrator under this section the company must by special resolution agree that the company needs to make a settlement with the company's creditors.

(4) The company shall after agreeing to make a settlement with its creditors petition the court for an interim order.

(5) A provisional administrator may not be appointed under subsection (1) after the company has gone into liquidation.

(6) A provisional administrator appointed under subsection (1) may, with leave of court be appointed liquidator or provisional liquidator.

142. Fundamental duties of provisional administrator

(1) The fundamental duties of a provisional administrator are—

(a) to investigate the company's business, property, affairs and financial circumstances; and

(b) to exercise his or her powers in a manner which he or she believes on reasonable grounds to be likely to achieve one or more of the following outcomes—

(i) the survival of the company and the whole or any part of its undertaking as a going concern;

(ii) the approval of an administration deed under section 150; and

(iii) a more advantageous realisation of the company's assets than would be effected in a liquidation.

(2) A provisional administrator shall not—

(a) act as the company's agent in defending any proceedings relating to any breach of duty under this section; or

(b) receive any compensation or indemnity from the company's property in respect of any liability incurred by him or her through any breach of duty under this section.

143. General duties of provisional administrator

Without prejudice to section 142, a provisional administrator shall perform other functions and duties specified in this Act and shall—

(a) take custody and control of all the property to which the company is or appears to be entitled;

(b) keep company money separate from other money held by or under the control of the provisional administrator; and

(c) keep, in accordance with generally accepted accounting procedures and standards, full accounts and other records of all receipts, expenditure and other transactions relating to the company and retain the accounts and records for not less than six years after the administration ends.

144. Commencement of provisional administration

(1) Provisional administration shall commence and the appointment of a provisional administrator shall take effect when an interim protective order is made.

(2) On the appointment of a provisional administrator—

(a) a copy of the notice appointing the provisional administrator;

(b) a copy of the provisional administrator's consent to act as provisional administrator; and

(c) the written consent to the appointment of the provisional administrator by any secured creditor holding a charge over the whole or substantially the whole of the property and undertaking of the company,

shall be registered with the Official Receiver and registrar.

145. Effect of provisional administration

(1) Subject to subsection (2), during provisional administration—

(a) an application for the liquidation of the company by the court shall not be commenced;

(b) an order for the liquidation of the company may be made if the court is satisfied that it is not in the interests of the company's creditors for the company to continue in provisional administration;

(c) the functions and powers of any liquidator shall be suspended;

(d) a resolution for the liquidation of the company shall not be made, except in accordance with this section;

(e) a receiver of any property of the company shall not be appointed; and

(f) except with the provisional administrator's written consent or with leave of court and in accordance with such terms as the court may impose—

(i) steps shall not be taken to enforce any charge over any of the company's property;

(ii) proceedings, execution or other legal process shall not be commenced or continued and distress shall not be levied against the company or its property; and

(iii) no other transaction shall be carried out in respect of any registered or unregistered property of the company.

(2) Subject to subsection (3), nothing in this Act shall prevent the continued exercise of a power of enforcement of a charge over property where the power was exercised before the commencement of the provisional administration.

(3) An administrative receiver may remain in office during a provisional administration, but his or her functions, powers and duties shall be suspended.

146. Notice of provisional administration

(1) A provisional administrator shall give notice of the provisional administration—

(a) on every invoice, order for goods or business letter issued by or on behalf of the company on which the company's name appears, by stating after the company's name "in provisional administration"; and

(b) in every other case, in entering into any transaction or issuing any document by or on behalf of the company.

(2) Failure to comply with subsection (1) does not affect the validity of a document issued by or on behalf of the company.

(3) Where a company does not comply with subsection (1), the provisional administrator commits an offence.

(4) Where a provisional administrator is charged with an offence under this section, it shall be a defence to show that—

(a) he or she did not know of and could not reasonably be expected to know of the failure to comply; or

(b) he or she took all reasonable steps in the circumstances to ensure that the requirements are complied with.

147. Duration of provisional administration

(1) A provisional administration shall terminate when—

(a) the period specified in the interim order lapses and the period shall not be more than thirty days;

(b) an administration deed is executed under section 152; or

(c) the provisional administrator gives the notices required under section 153.

(2) Subject to subsection (3), a provisional administrator shall call a creditors' meeting under section 150(3)(b), not more than fifteen working days after the commencement of the provisional administration to end the provisional administration.

(3) On application made by the provisional administrator, court may in exceptional circumstances extend the period specified in subsections (1) and (2).

148. Creditors meeting to consider appointment of provisional administrator

(1) The provisional administrator shall call a creditors' meeting, not later than ten working days after the commencement of the provisional administration.

(2) The provisional administrator shall give public notice of not less than two working days' public notice and individual written notice of the meeting to each known creditor of the company, indicating—

(a) the date of the commencement of the provisional administration;

(b) the provisional administrator's full name; and

(c) the provisional administrator's physical office address and daytime telephone number.

(3) Subject to this section, the meeting shall be conducted in accordance with Schedule 3 to this Act.

(4) At the meeting the company's creditors may by a resolution made by the majority—

(a) remove the provisional administrator from office; and

(b) appoint another person as provisional administrator of the company who shall on the day of his or her appointment, give notice of his or her appointment to court, the Registrar of companies and the Official Receiver.

149. Provisional administrator's proposals

(1) Within the time specified in section 147(2), a provisional administrator shall call a creditors' meeting to consider his or her proposals.

(2) A provisional administrator shall give public notice of not less than five working days and a written notice of the meeting, to each known creditor.

(3) The notice given under subsection (2) shall be accompanied by a copy of—

(a) a report by the provisional administrator about the company's business, property, affairs and financial circumstances;

(b) a statement of the provisional administrator's opinion and the reasons for the opinion on—

(i) the interests of the company's creditors in the event of the company's execution of an administration deed;

(ii) the creditor's interests on the termination of the provisional administration; and

(iii) the creditor's interests in the event of the company's liquidation; and

(c) a statement showing the details of the proposed deed, where an administration deed is proposed.

150. Creditors meeting to consider proposals

(1) The provisional administrator shall be the chairperson of the creditors' meeting to consider his or her proposals and subject to this section, the meeting shall be conducted in accordance with Schedule 3 to this Act.

(2) A creditors' meeting under this section may be adjourned, but shall not be adjourned to a day that is more than seven days after the first day on which the meeting was held, even if a resolution under subsection (3) has not been passed.

(3) The creditors may resolve that—

(a) the company execute an administration deed as specified in the resolution;

(b) the provisional administration ends; or

(c) the company be liquidated.

151. Requirements of administration deed

An administration deed shall specify—

(a) the proposed administrator of the deed;

(b) the property of the company available to pay creditors' claims;

(c) the nature and duration of any moratorium period or which the deed provides;

(d) the extent to which the company is to be released from its debts;

(e) the conditions, if any required for the deed to come into operation and continue in operation;

(f) the circumstances under which the deed terminates;

(g) the order in which proceeds of realising the property referred to in paragraph (b) are to be distributed amongst the creditors bound by the deed; and

(h) the date which shall not be later than the day the administration begins, on or before which claims that are admissible under the deed, shall have arisen.

152. Execution of administration deed

(1) An administration deed shall be executed by the company and the proposed administrator.

(2) Before execution, the persons listed in section 166(1) shall be bound by the deed as if the deed had already been executed, for a period of twenty-one days after the meeting of creditors held under section 150 or a further period as the court may allow on application made within the twenty day execution period.

153. Notice of termination of provisional administration

Where—

(a) the deed is not executed within the period of execution specified in section 152(2);

(b) the creditors resolve that the provisional administration should end; or

(c) the creditors do not pass a resolution under section 150, the provisional administrator shall as soon as practicable give public notice and send notice to the Official Receiver, Registrar and court indicating that the provisional administration has ended without the execution of an administration deed.

154. Transition to liquidation

(1) The shareholders are deemed to have passed a special resolution for the liquidation of the company under section 92(2) where—

(a) the creditors resolve that the company be liquidated at a creditors' meeting under section 150; or

(b) an administration deed is not executed within the execution period in section 152.

(2) In the case of a resolution referred to in subsection (1), the shareholders are deemed to have appointed the provisional administrator or administrator as liquidator.

Conduct of provisional administration

155. Powers of provisional administrator

(1) A provisional administrator may, in the performance of his or her duties—

(a) carry on the company's business and manage the company's property and affairs;

(b) perform any function and exercise any power that the company or any of its directors or secretary would perform or exercise if the company was not in provisional administration;

(c) change the company's registered office or registered postal address;

(d) remove from office a director of the company;

(e) appoint a person as director, whether to fill a vacancy or not; and

(f) call any meeting of the shareholders or creditors of the company.

(2) In exercising his or her powers, the provisional administrator shall be deemed to act as the company's agent.

156. Provisional administrator's relationship with third parties

A person paying money or giving other consideration to a provisional administrator shall not be required to enquire whether the provisional administrator was validly appointed or authorised to act as provisional administrator.

157. Role of directors and secretary during provisional administration

(1) During a provisional administration, a company shall not exercise any of its functions or powers and a company's directors and secretary shall not exercise any powers, functions or duties as such, except with the administrator's approval which may be general or specific.

(2) Every director and secretary of a company in administration shall make available to the administrator, the company seal, all documents and information relating to the company and give all assistance reasonably required by the provisional administrator.

(3) Where required by the provisional administrator, the directors and secretary shall verify by statutory declaration that the material and information made available to the provisional administrator is complete and correct.

(4) A director or secretary who fails to comply with this section commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency point or to imprisonment for a term not exceeding two years, or both.

158. Compliance order

Where—

(a) a director or secretary does not comply with section 157;

(b) the provisional administrator makes a request under section 157; or

(c) the provisional administrator makes an application to the court, the court may order the director or secretary to comply and may make ancillary orders as the court considers fit.

159. Disposal of charged property during provisional administration

A provisional administrator shall not dispose of property subject to a charge unless—

(a) the disposal is in the ordinary course of the company's business;

(b) the provisional administrator has the written consent of the secured creditor; or

(c) under a court order, made if the court is satisfied that adequate arrangements to protect the interests of the secured creditor have been made.

160. Liabilities of provisional administrator

(1) Notwithstanding any agreement to the contrary, a provisional administrator is personally liable—

(a) for any contract entered into by him or her in the exercise of any of the provisional administrator's powers, but is not liable for the company's debts;

(b) for wages, salary and allowances including sickness and holiday pay but not payments *in lieu* of notice, incurred—

(i) during the provisional administration;

(ii) under a contract of employment adopted by the provisional administrator; and

(iii) in respect of services rendered after the adoption of the contract.

(2) For the purposes of subsection (1)(b)(ii), a provisional administrator shall not be deemed to have adopted a contract of employment by reason of anything done or omitted to be done within ten working days of his or her appointment.

(3) Where—

(a) a company continues to use, possess or occupy property under an agreement subsisting at the commencement of the provisional administration; and

(b) legal title to the property is not vested in the company, the provisional administrator shall be personally liable, to the extent specified in subsection (4), for rent and any other payments becoming due under the agreement.

(4) A provisional administrator's liability under subsection (3) is limited to that part of the rent or other payments which accrue in the period commencing seven days after the commencement of the provisional administration and ending on—

(a) the termination of the provisional administration; or

(b) the date on which the company ceases to use, possess or occupy the land,

whichever is the earlier, but the court may further limit or excuse the liability of the provisional administrator.

(5) Nothing in subsection (3) or (4) shall—

(a) be taken as an adoption by the provisional administrator of any agreement in subsection (3); or

(b) render the provisional administrator liable to perform any other obligation under the agreement.

161. Provisional administrator's right to indemnity

(1) A provisional administrator is entitled to indemnity out of the company's property in respect of—

(a) any personal liability incurred under section 160; and

(b) any remuneration and expenses reasonably incurred.

(2) Nothing in this section shall—

(a) limit any other right of indemnity to which a provisional administrator may be entitled;

(b) limit a provisional administrator's liability on any contract entered into without authority; or

(c) confer on a provisional administrator any right to an indemnity in respect of liability on any contract entered into without authority.

162. Relief from liability for provisional administrator

(1) Court may relieve a provisional administrator from all or any personal liability incurred in the course of the provisional administration if satisfied that—

(a) the liability was incurred solely by reason of a defect in the appointment of the provisional administrator; or

(b) the provisional liquidator acted honestly and reasonably and ought, in the circumstances, fairly to be excused.

(2) In exercising the powers under this section, the court may give directions and impose terms and conditions and apportion any liability as the court considers fit.

163. Provisional administrator's reports to Official Receiver

(1) A provisional administrator shall make a report to the Official Receiver if it appears to him or her that—

(a) a past or present director, secretary or shareholder may have committed an offence in relation to the company; or

(b) a person who took part in the formation, promotion, administration, management or liquidation of the company may have misapplied, retained, become liable or accountable for, money or property of the company or may have been negligent or committed a default, breach of duty or breach of trust in relation to the company and in such a case, the administrator shall give the Official Receiver the information and access to and facilities for inspecting and taking copies of documents as the Official Receiver may require.

(2) The Official Receiver shall, on receipt of the report, cause an investigation to be made and may then apply to court for a public examination of the director, secretary or any other person involved.

(3) If court is satisfied that the persons referred to in subsections (1) and (2) misapplied or retained the company's assets or caused loss to the company in any other way, it may order the person to restore the assets or pay their market value subject to an interest rate set by court.

(4) Notwithstanding the provisions of this section, the Official Receiver may commence criminal proceedings against the persons referred to in subsections (1), (2) and (3).

Administration

164. Commencement of administration

(1) Administration commences with the execution of an administration deed by the company in a general meeting.

(2) The appointment of the administrator shall take effect on the execution of the administration deed.

(3) The administrator shall within five working days from the date of execution of the administration deed under subsection (1), file the administration deed in court.

(4) Where the administration deed is filed in court under subsection (3), the court shall issue an administration order.

165. Notice of administration

The administrator shall, immediately after the commencement of the administration—

(a) send to each creditor of the company a written notice of the execution of the deed;

(b) give public notice of the execution; and

(c) deliver written notice of the execution to the Official Receiver and the Registrar.

166. Effect of administration

(1) An administration deed shall bind—

(a) the company;

(b) the company's directors and secretary;

(c) the company's shareholders;

(d) the administrator; and

(e) all the company's creditors in relation to claims arising on or before the day specified in the deed.

(2) Subject to subsection (3), a person bound by a deed shall not—

(a) make an application for the liquidation of the company or proceed with an application; and

(b) except with leave of court and in accordance with the terms as the court may impose—

(i) take steps to enforce any charge over any of the company's property; and

(ii) commence or continue execution proceedings or other legal process or levy distress against the company or its property.

(3) Subsection (2) shall not prevent a secured creditor from exercising a power of enforcement of a charge over company property, except where the deed provides for the charge in relation to the secured creditor who voted in favour of the resolution for the execution of the deed.

167. Post administration financing

(1) An administrator may, with the consent of the creditors, obtain or borrow finances and grant security over the property of the company for the purposes of implementing the administration deed.

(2) The post administration financing referred to in subsection (1) shall not exceed the value of the unencumbered assets of the company at the time of executing the administration deed.

168. Function of administrator

The administrator shall supervise the implementation of the administration deed.

169. Creditors' meetings during administration

(1) The administrator may call a creditors' meeting at any time during the administration.

(2) The administrator shall call a creditors' meeting if requested in writing by creditors, the value of whose claims against the company is not less than ten percent of the value of all claims against the company.

(3) An administrator shall give not less than five working days' notice of the meeting, which, subject to this section, shall be conducted in accordance with Schedule 3 to this Act.

(4) A creditors' meeting shall have the power to call for reports on the progress of the administration from the administrator.

170. Variation of administration deed by creditors

(1) An administration deed may be varied by a resolution passed at a creditors' meeting.

(2) Where an administration deed is varied under subsection (1), the court may, on the application of a creditor or the administrator, cancel or confirm the variation, in whole or in part and subject to conditions as the court considers fit and may make any other order as the court considers appropriate.

(3) Any variation, cancellation, confirmation or order made under this section shall be filed with the Registrar and the Official Receiver within seven days.

171. Termination of administration

An administration shall be terminated where—

(a) the court makes an order under section 172; or

(b) circumstances occur, which are specified in the deed for terminating it.

172. Termination of administration by court

(1) An application for the termination of an administration may be made to the court by—

(a) an administrator of the company;

(b) a creditor of the company; or

(c) any liquidator of the company.

(2) Subject to subsection (3), court may make an order with respect to an administration that, on such terms and conditions as the court considers fit, the administrator ceases to act from a specified date and may prohibit the appointment of another administrator or provisional administrator.

(3) The court may make the order under subsection (2) if the court is satisfied that—

(a) the provisional administrator or creditors were given information about the company's business, property, affairs or financial circumstances that was false or misleading or information which can reasonably be expected to have been material to creditors in deciding whether to vote in favour of the administration was not given to them; or

(b) the report or a statement made under section 149 contained false or misleading information or omissions;

(c) a person bound by the administration deed has failed to comply with the deed or with his or her obligations under the deed;

(d) the company has failed to act as may have been reasonably required by the administrator, for purposes of the administration;

(e) the administration cannot be completed without injustice or undue delay;

(f) the administration is—

(i) oppressive or unfairly prejudicial or unfairly discriminatory against, a creditor; or

(ii) contrary to the interests of the creditors of the company as a whole; or

(g) the administration should be terminated for any other sufficient reason.

(4) Except if ordered by court or unless the administrator is making the application, a copy of any application made under this section shall be served on the administrator, not less than five working days before the hearing of the application and the administrator may appear and be heard at the hearing.

173. Notice on termination of administration

Where an administration has been terminated the administrator shall—

(a) give public notice of the termination;

(b) send a written notice of the termination to each of the company's creditors;

(c) send a written notice of the termination to the shareholders and registrar; and

(d) deliver a notice of termination to the Official Receiver.

Provisional administrators and administrators

174. Remuneration of provisional administrator or administrator

(1) A provisional administrator or administrator is entitled to—

(a) the remuneration agreed upon; or

(b) remuneration fixed by the court on application for taxation and assessment of costs and fees of the administrator or provisional administrator, where no remuneration is agreed upon.

(2) During or after a provisional administration or administration, on the application of a provisional administrator or administrator, a creditor of the company or a liquidator or provisional liquidator of the company, court may—

(a) in respect of any period, review or fix the remuneration of the provisional administrator or administrator, at a level which is reasonable;

(b) where the amount retained by the provisional administrator or administrator is found by the court to be unreasonable in the circumstance, order the provisional administrator or administrator to refund the amount; or

(c) determine whether the provisional administrator or administrator, was validly appointed or validly assumed custody or control of any property.

175. Vacation of office of provisional administrator or administrator

(1) The office of provisional administrator or administrator shall become vacant where the person holding office is removed from office under section 177(1)(c) or 210 or where the provisional administrator or administrator resigns, dies or becomes unqualified to act as an insolvency practitioner under section 208(3).

(2) Where a vacancy arises other than by resignation, the Official Receiver shall temporarily act as provisional administrator or administrator, and shall then appoint an insolvency practitioner as provisional administrator or administrator, with the approval of the creditors, the company and court.

(3) Within five working days after the appointment, a provisional administrator or administrator shall call a creditors' meeting by giving not less than two days public notice and written notice to each creditor, to—

(a) confirm his or her appointment; or

(b) appoint another person as provisional administrator or administrator.

(4) Subject to this section, the creditors' meeting shall be conducted in accordance with Schedule 3 to this Act.

(5) A person vacating the office of provisional administrator or administrator shall give information and assistance necessary for the conduct of the provisional administration or administration, as that person's successor may reasonably require.

(6) Any person who contravenes subsection (5) commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or to imprisonment for a term not exceeding one year, or both.

176. Court supervision of provisional administrator or administrator

(1) On the application of a provisional administrator or administrator, court may give directions on any matter concerning the functions of the provisional administrator or administrator.

(2) Subject to subsection (3), a provisional administrator or administrator who acted in accordance with a direction of the court in the exercise of his or her powers or functions is entitled to rely on the direction of the court as a defence for any claim in respect of the exercise of his or her powers or functions.

(3) The court may order that, by reason of the circumstances in which a direction is obtained, the provisional administrator or administrator, shall not have the protection given by subsection (2).

177. Enforcement of provisional administrator's or administrator's duties

(1) A provisional administrator, administrator, creditor of the company or a liquidator or provisional liquidator of the company may apply to court for an order—

(a) relieving the provisional administrator or administrator of the duty to comply, in whole or in part;

(b) directing the provisional administrator or administrator to comply to the extent specified in the order; or

(c) removing the provisional administrator or administrator from office and appoint someone else as provisional administrator or administrator where the provisional administrator or administrator fails to comply with a duty under the arrangement, this Act or any other law or any order or direction of the court other than an order to comply made under this section.

(2) A copy of an application made under this section, if made by a person other than a provisional administrator or administrator, shall be served on the provisional administrator or administrator not less than five working days before the hearing of the application and he or she may appear and be heard at the hearing unless otherwise ordered by the court.

(3) Where an order is made under subsection (1)(c), the court may make such order as is appropriate for the preservation of the company's property, including an order requiring the removed provisional administrator or administrator to make available any accounts, records or other information necessary for that purpose.

(4) All proceedings relating to any application for an order under this section shall be served on the Official Receiver who shall keep a copy of the proceedings on a public file indexed by reference to the name of the provisional administrator or administrator concerned.

(5) In this section "failure to comply" includes a failure of a provisional administrator or administrator to comply with a duty under—

(a) the notice of appointment, in the case of a provisional administrator;

(b) the administration deed, in case of an administrator;

(c) this Act or any other law; and

(d) any order or direction of the court other than an order to comply made under this section.

178. Right of creditor to apply for provisional administrator

(1) A creditor may apply to court for the appointment of a provisional administrator in accordance with the provisions of this Part.

(2) This Part shall apply, with necessary modifications, where a creditor applies for the appointment of a provisional administrator.

Part VII – Corporate and individual receivership

179. Application of receivership provisions to foreign companies

(1) This Part shall apply to foreign companies.

(2) In this Part, "company" includes a foreign company and "property" includes property in Uganda.

180. Commencement of receivership

(1) Where the appointment of a receiver is made by court, the receivership shall commence and the appointment shall take effect as specified in the court order.

(2) In all other cases, the receivership commences and the appointment takes effect when the receiver accepts the appointment in writing.

181. Liability for invalid appointment of receiver

(1) Where the appointment of a person as receiver other than by a court order is found to be invalid, the court may on an application of an aggrieved person order the person by whom or on whose behalf the appointment was made to indemnify the person appointed against any liability which arises as a result of the invalidity of the appointment.

(2) Notwithstanding subsection (1), the *bona fide* transactions of the person appointed as receiver shall not be affected.

182. Notice of receivership

(1) A receiver shall, immediately after his or her appointment give written notice of the appointment to the grantor.

(2) A receiver shall, not later than fourteen working days after the commencement of the receivership, give public notice of—

(a) the date of the commencement of the receivership;

(b) the receiver's full name;

(c) the receiver's physical office address, electronic mail address and daytime telephone number; and

(d) a brief description of the property under receivership which has come into his or her possession.

(3) Where the grantor is a body corporate, the receiver shall, not later than fourteen working days after the commencement of the receivership, deliver to the Registrar and the Official Receiver a copy of the notice referred to in subsection (2).

(4) A receiver shall give notice of the receivership—

(a) where the receiver is an administrative receiver, on every invoice, order for goods or business letter issued by or on behalf of the grantor on which the company's name appears, by stating after the grantor's name "receiver appointed"; and

(b) in every other case, upon entering into any transaction or issuing any document in connection with the property in receivership.

(5) Failure to comply with subsection (4) shall not affect the validity of the document.

(6) A receiver who does not comply with subsection (4), commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or to imprisonment for a term not exceeding one year, or both.

(7) Where a receiver is charged with an offence under this section, it is a defence to show that—

(a) he or she did not know of and could not reasonably be expected to know of the failure to comply; or

(b) he or she took all reasonable steps in the circumstances to ensure that the requirements are complied with.

183. Fundamental duty of receiver

(1) The fundamental duty of a receiver is to exercise his or her powers in a manner which he or she believes, on reasonable grounds, to be in the best interests of all persons in whose interests the receiver is appointed.

(2) Subject to subsection (1), a receiver shall have power over the property in receivership with reasonable regard to the interests of—

(a) the grantor;

(b) any person claiming, through the grantor, an interest in the property in receivership;

(c) any unsecured creditor of the grantor; and

(d) any surety or guarantor who may be called upon to fulfil any obligation of the grantor to a person in whose interest the receiver was appointed, if that obligation is not satisfied by recourse to the property in receivership.

(3) A receiver shall not—

(a) defend any proceedings relating to any breach of duty under this section on the ground that the receiver was acting as the grantor's agent or under a power of attorney from the grantor; or

(b) receive compensation or indemnity from the property in receivership or the grantor in respect of any liability incurred by the receiver through any breach of a duty under this section.

184. General duties of receiver

(1) Without prejudice to section 183, a receiver shall perform other functions and duties specified in this Act.

(2) A receiver shall—

(a) take custody and control of all the property which is under receivership;

(b) register in his or her names all land and other assets under receivership;

(c) investigate the state of affairs of the property under receivership;

(d) give a general notice of his or her interest in all property that has not yet come under his or her control;

(e) keep all money relating to the property in receivership separate from other money received in the course of, but not relating to, the receivership and separate from other money held by or under the control of the receiver;

(f) keep, in accordance with generally accepted accounting procedures and standards, full accounts and other records of all receipts, expenditure and other transactions of the company; and

(g) retain the accounts and records of the company for not less than six years after the receivership ends.

(3) A receiver shall cause the Registrar of titles to have his or her name registered on any land forming part of an estate in receivership upon discovery or recovery of the land, notwithstanding any transfers or dealings which took place after the commencement of the insolvency or the provisions of any other law.

185. Powers of receiver

(1) A receiver shall have the powers expressly or impliedly conferred by the appointing document and unless specifically provided to the contrary may—

(a) demand or recover, by action or any other means, all income of the property in receivership;

(b) issue receipts for income recovered;

(c) manage any of the property under receivership;

(d) inspect at any reasonable time any documents of the grantor or other records relating to the property under receivership, in the custody of the grantor or of any other person; and

(e) execute in the name and on behalf of the grantor all documents necessary or incidental to the exercise of the receiver's powers.

(2) In addition, subject to the appointing document, a receiver who is an administrative receiver may—

(a) where the grantor is an individual, carry on any business of the grantor; or

(b) where the grantor is a company—

(i) carry on the company's business and manage the company's property and affairs;

(ii) perform any function and exercise any power that the company or any of its directors or secretary would perform or exercise if the company was not in receivership; and

(iii) change the company's registered office or registered postal address.

(3) In exercising his or her powers a receiver is taken to act as the grantor's agent.

186. Receiver's relationship with third parties

A person paying money or giving other consideration to a receiver shall not be required to inquire whether the receiver was validly appointed or is authorised to act as a receiver.

187. Role of grantor in receivership

(1) Where the grantor is a company in an administrative receivership, the company shall not exercise any of its functions or powers and a director or secretary shall not exercise his or her functions or powers, except with the administrative receiver's approval which may be general or specific.

(2) The grantor shall make available to the receiver all documents and information relating to the grantor and to all the property under receivership and give all assistance reasonably required by the receiver.

(3) If required by the receiver, the grantor shall verify by statutory declaration that the material and information made available to the receiver is complete and correct.

(4) Where the grantor is a body corporate—

(a) it shall make the seal available for use by the receiver on any document required to be executed under the seal; and

(b) each director and secretary shall comply with this section as if the director or secretary was the grantor.

(5) Any person who does not comply with this section commits an offence and is liable, on conviction, to a fine of one hundred sixty-eight currency points or to imprisonment for a term not exceeding seven years.

188. Rights and obligations of grantor in receivership

(1) The grantor may bring an action—

(a) against the receiver, secured creditor or appointees or any other person for wrongful appointment of the receiver, trespass and other unlawful acts which prejudice the rights and interests of the grantor;

(b) to preserve or protect the estate or interest in receivership where the receiver does not take action; and

(c) with the consent and approval of the receiver, in any other case.

(2) The grantor shall in an action brought under subsection (1), establish a *prima facie* case and furnish security for costs as the court shall consider fit on presentation of the action to court.

(3) Where the court grants an *ex parte* injunction or relief against the receiver or secured creditor in subsection (1), the injunction or relief shall lapse after fourteen days but court may, in appropriate cases, entertain informal applications for relief *inter partes*.

(4) Notwithstanding the Registration of Titles Act or any other law, a caveat, lien or other encumbrance placed on the assets forming part of the estate under insolvency shall not be sustained for more than thirty days unless the caveator, claimant or person who placed an encumbrance on an asset obtains a court order to this effect.

(5) Notwithstanding the provisions of the Registration of Titles Act or any other law, court may grant an extension of a caveat, lien or other encumbrance on the application of the caveator, claimant or person who placed an encumbrance on an asset, upon establishment of a *prima facie* case and furnishing security for costs commensurate to the estimated loss and damages of the value of the subject matter of the dispute.

(6) A person who, without sufficient cause publishes or causes to be published any notice, advert or publication which prevents or is likely to prevent the realisation, possession, recovery or control by the receiver, secured creditor or their agents or servants of any assets forming part of the estate under receivership shall be liable to pay compensation to the estate in receivership of any loss or injury suffered by the estate as a result of the notice, advert or publication.

(7) Any person who contravenes subsection (6) commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or to imprisonment for a term not exceeding one year, or both.

189. Compliance order

Where a person does not comply with section 187 or with a request of the receiver made under that section, on the application of the receiver, the court may order the grantor or any director or secretary, to comply and may make ancillary orders as the court considers appropriate.

190. Liabilities of receiver

(1) Notwithstanding any agreement to the contrary, a receiver shall be personally liable—

(a) for any contract entered into by the receiver in the exercise of any of the receiver's powers, but shall not be liable for the grantor's debts; and

(b) for wages, salary and allowances including sickness and holiday allowances but shall not be liable for payments *in lieu* of notice that are incurred—

(i) during the receivership;

(ii) under a contract of employment adopted by the receiver; and

(iii) in respect of services rendered after the adoption of the contract.

(2) F or the purposes of subsection (1)(b)(ii), a contract of employment shall automatically lapse on commencement of the receivership.

(3) Where—

(a) a grantor continues to use, possess or occupy property under an agreement subsisting at the commencement of the receivership; and

(b) legal title to the property is not vested in the grantor, a receiver shall be personally liable, to the extent specified in subsection (4) for rent and any other payments due under the agreement.

(4) A receiver's liability under subsection (3) is limited to that part of the rent or other payments which accrue within seven days after the commencement of the receivership and end on—

(a) the termination of the receivership; or

(b) the date on which the grantor ceases to use, possess or occupy the land, whichever is the earlier, but the court may further limit or excuse the liability of the receiver.

(5) Nothing in subsection (3) or (4) shall—

(a) be taken as an adoption by a receiver of any agreement referred to in subsection (3); or

(b) render a receiver liable to perform any other obligation under the agreement.

191. Receiver's right to indemnity

(1) A receiver is entitled to indemnity out of the property under receivership in respect of—

(a) personal liability incurred under section 190; and

(b) remuneration and expenses which are reasonably incurred.

(2) Nothing in this section shall—

(a) limit any other right of indemnity to which a receiver may be entitled;

(b) limit a receiver's liability on any contract entered into without authority;

(c) confer on a receiver any right to an indemnity in respect of liability on any contract entered into without authority; or

(d) confer on a receiver any right to indemnity in respect of breach of duty or negligence.

192. Relief from liability for receiver

(1) Court may relieve a receiver from all or any personal liability incurred in the course of the receivership if satisfied that—

(a) the liability was incurred solely by reason of a defect in the appointment of the receiver; or

(b) the receiver acted honestly and reasonably and ought, in the circumstances, fairly to be excused.

(2) In exercising the powers conferred under this section, the court may give directions and impose terms and conditions and apportion any liability as the court considers appropriate.

193. Receiver's preliminary report

(1) Subject to the appointing document, a receiver shall, within forty working days after his or her appointment prepare and send to the persons referred to in section 195(2), a preliminary report on the state of affairs of the property in receivership including—

(a) the particulars of the property under receivership;

(b) the particulars of the debts to be satisfied from the property under receivership;

(c) the names and addresses of all known creditors with an interest in the property under receivership;

(d) the names and addresses of all known creditors of any associated company or other business organisation or person;

(e) the particulars of any charge over the property under receivership held by any creditor, including the date on which it was created;

(f) particulars of any default by the grantor in making available any relevant information; and

(g) any other information as the receiver may consider necessary.

(2) The preliminary report under subsection (1) shall include a description of—

(a) the events within the receiver's knowledge leading up to the appointment of the receiver;

(b) the disposal or proposed disposal of the property under receivership;

(c) any associated company or business carried on or proposed to be carried on;

(d) any amounts owing, at the date of appointment, to any person in whose interests the receiver was appointed;

(e) any amounts owing, at the date of appointment, to the creditors of the grantor with preferential claims;

(f) any amounts likely to be available for payment to creditors other than those referred to in paragraphs (d) and (e); and

(g) where the grantor is a company, any circumstances which the receiver is aware of and which reveal that—

(i) the company, a past or present director, secretary or shareholder may have committed an offence; or

(ii) a person who has taken part in the formation, promotion, administration, management or liquidation of the company may have misapplied or retained or may have become liable or accountable for money or property of the company; or may have been negligent or committed a default, breach of duty or breach of trust in relation to the company.

194. Receiver's other reports

A receiver shall, within twenty working days after—

(a) the end of every six months during the receivership; and

(b) the termination of the receivership,

prepare and send to the persons referred to in section 195(2) a further report with particular reference where relevant, to the matters required in the preliminary report, summarising the status of the property under receivership at the specified dates and the conduct of the receivership, including all amounts received and paid during the period to which the report relates.

195. General provisions on reports

(1) A receiver may omit from any report required under section 194 or this section, any matter which, if included, would materially prejudice the exercise of the receiver's functions but the fact of the omission shall be stated in the report.

(2) A receiver shall send a copy of the report to—

(a) the grantor;

(b) all persons in whose interests the receiver is appointed;

(c) where the receiver was appointed by the court, to the court; and

(d) the Official Receiver,

within five working days after the preparation of the report.

(3) Within ten working days after receipt of a written request for a copy of any report prepared under this section, from—

(a) a creditor, director or surety of the grantor;

(b) any other person with an interest in any of the property under receivership; or

(c) the authorised agent of any of the persons referred to in paragraphs (a) and (b),

the receiver shall send the copy of the report to the person requesting for the report, on payment of a prescribed fee to the receiver.

(4) A receiver shall permit a person entitled to receive a copy of any report prepared under this section to inspect the report at the receiver's office during regular business hours.

196. Priorities for application of proceeds of receivership

(1) Where—

(a) the grantor is not a company in liquidation, an undischarged bankrupt; and

(b) the property under receivership includes property which is subject to a security interest; and became subject to that security interest by reason of its application to certain existing property of the grantor and those of its future assets which were property acquired after the receivership or proceeds,

the receiver shall apply the property subject to the security interest at the date of the appointment of the receiver first, in respect of the receiver's indemnity in full under section 191, to the extent that full payment cannot be made out of other property forming part of the property in receivership.

(2) A claim specified in section 11(3), (4) and (5), to the extent possible and in subsection (1) of this section, shall in the order of priority specified in this subsection be paid before payment of any claim of the secured creditor.

(3) For the purposes of this section, "proceeds" means identifiable or traceable personal property in any form derived directly or indirectly from any dealing with the collateral or proceeds of the collateral, and includes—

(a) a right to an insurance payment or any other payment as indemnity or compensation for loss or damage to the collateral or proceeds; and

(b) a payment made in total or partial discharge or redemption of an intangible, a negotiable instrument, a security or chattel paper.

(4) For the purposes of section 11 and subsection (1) of this section, all references to liquidation or bankruptcy shall include receivership.

(5) Payments made under this section may be recouped as an unsecured debt.

197. Vacation of office of receiver

(1) The office of receiver shall become vacant where the person holding office is removed from office under section 195 or 208, resigns, dies or becomes unqualified under section 211.

(2) A receiver may resign under subsection (1) by giving not less than five working days' notice in writing of his or her intention to do so—

(a) to the appointer; or

(b) where the receiver was appointed in the interests of any person other than the appointer, to that person.

(3) Where the office of receiver becomes vacant, another person shall be appointed as receiver in the same manner as the original receiver and the Official Receiver shall act as a provisional receiver until a receiver is appointed.

(4) A person vacating the office of receiver shall be required to give information and assistance in the conduct of the receivership as that person's successor reasonably requires.

(5) Any person who unreasonably refuses to give information and assistance required for the conduct of the receivership commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or to imprisonment for a term not exceeding one year, or both.

198. Powers of receiver on liquidation or bankruptcy

(1) Subject to subsection (2) and unless the court orders otherwise, a receiver may be appointed or continue to act as a receiver and exercise all the powers of a receiver in respect of any property of—

(a) a company which is in liquidation; or

(b) an individual in respect of whom a bankruptcy order has been made.

(2) A receiver holding office in respect of any property referred to in subsection (1) may act as the agent of the grantor only—

(a) with the approval of the court; or

(b) with the written consent of the liquidator or trustee.

(3) A debt or liability incurred by a grantor through the acts of a receiver acting as the agent of the grantor in accordance with subsection (2) shall not be taken to be a cost, charge or expense of the liquidation or the administration of the bankrupt's estate.

199. Court supervision of receiver

(1) On the application of a receiver, court may give directions on any matter concerning the functions of the receiver.

(2) On the application of—

(a) the receiver;

(b) a creditor of the grantor; or

(c) a liquidator, provisional liquidator, administrator or provisional administrator or trustee of the grantor,

during or after receivership the court may—

(i) in respect of any period, review or fix the remuneration of the receiver at a level which is reasonable in the circumstances and to the extent that the amount of remuneration retained by the receiver is found by the court to be unreasonable in the circumstance, order the receiver to refund the amount;

(ii) determine whether the receiver was validly appointed; or

(iii) determine whether the receiver validly assumed control of any property.

(3) Subject to subsection (4), a receiver who during the exercise of his or her powers, acted in accordance with a direction of the court, shall be entitled to rely on the direction as a defence for any claim in respect of the exercise of the powers.

(4) The court may order that, by reason of the circumstances in which a direction is obtained, the receiver shall not have the protection given by subsection (3).

200. Enforcement of receiver's duties

(1) An application for an order under this section may be made to court by—

(a) a receiver;

(b) a creditor of the grantor; or

(c) a liquidator, provisional liquidator, administrator or provisional administrator or trustee in bankruptcy of the grantor.

(2) Unless ordered by court, a copy of any application made under this section shall be served on the receiver not less than five working days before the hearing of the application and the receiver may appear and be heard at the hearing.

(3) Where a receiver fails to comply with the court order, the court may, on such terms and conditions as the court considers appropriate—

(a) relieve the receiver of the duty to comply, in whole or in part;

(b) without prejudice to any other remedy which may be available in respect of any breach of duty by the receiver, order the receive to comply to the extent specified in the order; or

(c) remove the receiver from office.

(4) Where a receiver is removed from office under subsection (3)(c), court may make an appropriate order for the preservation of the grantor property, including an order requiring the removed receiver to make available any documents and other information necessary for that purpose.

(5) All proceedings relating to any application for an order under this section shall be served on the Official Receiver who shall keep a cop of the proceedings on a public file indexed by reference to the name of the receiver concerned.

(6) In this section, "failure to comply" means a failure of a receive to comply with a duty arising under —

(a) the appointing document;

(b) this Act or any other law; or

(c) any order or direction of the court other than an order to comply made under this section.

201. Termination of receivership by court

(1) An application for the termination of a receivership may be made to the court by a liquidator, administrator or provisional administrate provisional liquidator or a trustee in bankruptcy of the grantor.

(2) Subject to subsection (3) the court may make an order, on term and conditions as the court considers fit that—

(a) the receiver ceases to act as receiver from a specified date, and

(b) no other receiver shall be appointed in respect of the property under receivership, and order that a copy of the order be delivered to the Official Receiver.

(3) The court may make an order under subsection (2) if the court is satisfied that the purpose of the receivership has been fulfilled or that the circumstances no longer justify the continuation of the receivership.

(4) Except as otherwise ordered by the court, a copy of any application made under this section shall be served on the receiver not less than five working days before the hearing of the application and the receiver may appear and be heard at the hearing.

Part VIII – Official receiver and regulation of insolvency practitioners

Official Receiver

202. Appointment of Official Receiver

An Official Receiver shall be appointed by the Minister to perform the functions of Official Receiver under this Act.

203. Powers and functions of Official Receiver

The Official Receiver shall—

(a) investigate the directors, shareholders, contributories and all present and past officers of an insolvent company or of a company which is being wound up or liquidated, for the purpose of establishing any fraud or impropriety;

(b) investigate the promotion, formation, failure and conduct of business of an insolvent company;

(c) prosecute any person for offences committed under this Act or discovered to have a case to answer as a result of investigations carried out;

(d) investigate the conduct of insolvency practitioners and to prosecute them for any offences committed;

(e) act and exercise the powers of an insolvency practitioner in respect of an asset discovered after the completion of an insolvency process;

(f) to receive and consider applications from an insolvency practitioner for disposal of assets that require to be disposed of expeditiously for purposes of maximising the value of the estate;

(g) act during a vacancy in the office of an insolvency practitioner; and

(h) take all necessary steps and actions considered fit by the Official Receiver to fulfil the provisions of this Act.

204. Official Receiver's seal

The Official Receiver shall have an official seal.

Companies liquidation account

205. Companies liquidation account

An account, to be called the companies liquidation account, shall be kept by the Official Receiver with a bank prescribed by the Minister by regulations and all money received by the Official Receiver in respect of proceedings under this Act shall be paid into that account.

206. Investment of surplus funds

(1) Where the cash balance standing to the credit of the companies liquidation account is in excess of the amount which in the opinion of the Official Receiver is required for the time being to answer claims against the account, the Official Receiver may place that balance or any part of the balance on fixed deposit with the bank prescribed under this Act.

(2) Where any money so placed on deposit is, in the opinion of the Official Receiver, required to answer any claims against the account, the Official Receiver shall thereupon withdraw that money from fixed deposit and repay it to the credit of the cash balance of the companies liquidation account.

(3) All interest accruing from any money placed, on deposit under this section shall be paid by the Official Receiver to the credit of a separate account entitled the Companies Contingency Fund at a bank prescribed by the Minister.

(4) Where it appears that it is in the public interest to do so and that other funds are not available or properly chargeable, the court may, on the application of the Official Receiver, authorise him or her to employ money in the Companies Contingency Fund to meet expenditure which it shall consider necessary or advisable to incur for the purpose of enabling the Official Receiver to carry out more efficiently the provisions of this Act and his or her duties under this Act.

(5) The court may at its discretion order that the fund be reimbursed in whole or in part of any money employed under subsection (4) as a result of expenditure referred to in that subsection authorised.

207. Meaning of "insolvency practitioner"

(1) Insolvency practitioner means a person who acts as—

(a) a receiver;

(b) a provisional administrator;

(c) an administrator;

(d) a provisional liquidator;

(e) a liquidator;

(f) a proposed supervisor of a voluntary arrangement;

(g) a supervisor of a voluntary arrangement; or

(h) a trustee in bankruptcy.

(2) Sections 208, 209, 210, 211, 212, 213 and 214 do not apply to the Official Receiver.

208. Qualifications to act as insolvency practitioner

(1) A person is not qualified to be appointed or act as an insolvency practitioner unless—

(a) he or she is a lawyer, an accountant or a chartered secretary who is a registered member of the relevant professional body or is a registered member of any other professional body as the Minister may prescribe; and

(b) there is in force at the relevant time, security or professional indemnity for the proper performance of his or her duties in accordance with the prescribed requirements.

(2) Subject to subsection (1), the Minister may, by regulations, prescribe additional qualifications for a person to be appointed or act as an insolvency practitioner.

(3) The following are not qualified to be appointed or to act as insolvency practitioner—

(a) a person less than twenty-five years old;

(b) a corporate body;

(c) an undischarged bankrupt;

(d) a person declared by a court of competent jurisdiction to be suffering from mental illness;

(e) a person who is the subject of a prohibition order under section 213;

(f) a person who is the subject of a disqualification under the Companies Act for fraudulent trading or who is disqualified from holding an office under the Companies Act;

(g) any person who has been convicted in the preceding five years of—

(i) an offence under this Act; or

(ii) a crime involving dishonesty or moral turpitude;

(h) a person disqualified from acting as liquidator, provisional liquidator, administrator or provisional administrator under section 210 or receiver under section 211 or trustee or supervisor under section 212; or

(i) a person subject to disciplinary proceedings or punishment under any law.

209. Acting as insolvency practitioner without qualification

(1) Any person who acts in contravention of section 208 commits an offence and is liable, on conviction, in addition to the penalty provided in section 250 to a civil penalty equivalent to two times the amount of the receipts by him or her while acting as an insolvency practitioner.

(2) Anything done by a person who is not qualified to act as an insolvency practitioner while acting as an insolvency practitioner shall be valid unless the court orders otherwise.

(3) Any civil penalty recovered by the Official Receiver shall be paid to the affected estate.

210. Persons disqualified from acting as liquidator, provisional liquidator, administrator or provisional administrator

The following persons shall not be appointed or act as liquidators, provisional liquidators, provisional administrators or administrators—

(a) a creditor of the company in liquidation or under administration or of an associated company; or

(b) a person who has, within the previous two years been a shareholder, director, auditor or receiver of the company in liquidation or under liquidation or of any associated company.

211. Persons disqualified from acting as receiver

The following persons shall not be appointed or act as receiver—

(a) a chargee of the property under receivership;

(b) a person who has, within the two years immediately preceding the commencement of the receivership, been a shareholder, director or auditor of any chargee of the property in receivership; or

(c) a person who is disqualified from acting as a receiver by the appointing document.

212. Persons disqualified from acting as trustee or supervisor

A creditor of an individual may not be appointed or act as a supervisor of an individual's arrangement or as trustee of his or her estate.

213. Prohibition order

(1) Where it is proved to the satisfaction of a court that a person is unfit to act as an insolvency practitioner by reason of—

(a) persistent failure to comply;

(b) the seriousness of a failure to comply; or

(c) any other sufficient cause, the court shall make a prohibition order with a duration of not more than five years or as the court considers appropriate.

(2) A person in respect of whom a prohibition order is made shall, with immediate effect, cease to act as an insolvency practitioner and shall be taken to have been removed from office for the duration of the prohibition order.

(3) Where there is evidence that on two or more occasions within the preceding five years, while a person was acting as insolvency practitioner—

(a) a court has made an order to comply, in respect of that person; or

(b) an application for an order to comply has been made in respect of that person, and that in each case the person has failed to comply after the application has been made and before the hearing, in absence of any special reasons to the contrary, the non-compliance shall be evidence of persistent failure to comply within the meaning of this section.

(4) All proceedings relating to any application for an order under this section shall be served on the Official Receiver and Registrar of the prescribed professional body who shall keep a copy of the proceedings on a public file indexed by reference to the name of the insolvency practitioner concerned.

(5) In this section, "failure to comply" means a failure of a receiver to comply with a duty arising under —

(a) the appointing document;

(b) this Act or any other law; or

(c) any order or direction of the court other than an order to comply made under this section.

Other provisions regarding insolvency practitioners

214. Appointment of two or more insolvency practitioners

Where two or more insolvency practitioners are appointed, they may act jointly and severally to the extent that they share the same powers unless expressly provided to the contrary in the appointing document.

215. Qualified privilege in respect of proceedings for defamation

An insolvency practitioner shall have qualified privilege in any proceedings for defamation in respect of any matter included in any report or other document prepared under this Act.

Part IX – Foreign proceedings

General

216. Interpretation of Part

(1) For the purposes of this Part—

"**establishment**" means any place of operations where the debtor carries out a permanent economic activity;

"**foreign court**" means a judicial or other authority competent to control or supervise foreign proceedings;

"**foreign main proceedings**" means foreign proceedings taking place in the State where the debtor has the centre of its main interests;

"**foreign non-main proceedings**" means foreign proceedings other than foreign main proceedings, taking place in a State where the debtor has an establishment;

"**foreign proceedings**" means collective judicial or administrative proceeding in a foreign State and includes an interim proceedings, under the law of insolvency, where the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of re-organisation or liquidation;

"**foreign representative**" means a person or body, including one appointed on an interim basis, authorised in foreign proceedings to administer the re-organisation or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceedings;

"**proceedings in this Part of the Act**" means liquidation or bankruptcy proceedings.

(2) In the interpretation of this Part, regard is to be had to its international origin and the need to promote uniformity in its application and the observance of good faith.

217. Application of Part

This Part shall apply where—

(a) assistance is sought in Uganda by a foreign court or a foreign representative in connection with a foreign proceeding;

(b) assistance is sought in a foreign State in connection with a proceeding under this Act;

(c) a foreign proceeding and a proceeding under this Act in respect of the same debtor are taking place concurrently; or

(d) creditors or other interested persons in a foreign State require the commencement of or to participate in, a proceeding under this Act.

218. Conflicting international obligations

Where any provision of this Part conflicts with an obligation of Uganda arising out of any treaty or other form of agreement to which Uganda is a party with one or more States, the treaty or agreement shall prevail.

219. Authorisation to act in foreign State

A liquidator or trustee is authorised to act in a foreign State in a proceeding under this Part of the Act as permitted by the applicable foreign law.

220. Additional assistance under other laws

Nothing in this Part limits the power of a court or a trustee or liquidator to provide additional assistance to a foreign representative under the other laws of Uganda.

Access of foreign representative and creditors to High Court

221. Rights of direct access

(1) A foreign representative is entitled to apply directly to the High Court for any order under this Part.

(2) A foreign representative shall be entitled to apply to commence a proceeding under this Act, where the conditions for commencing the proceeding are met.

(3) An application under this Part, made to the court by a foreign representative, shall not subject the foreign representative or the foreign assets and affairs of the debtor to the jurisdiction of the courts of Uganda for any other purpose other than the application.

222. Participation of foreign representative in proceedings under Act

Upon recognition of a foreign proceeding by the High Court, the foreign representative shall be entitled to participate in a proceeding regarding the debtor under this Act.

223. Access of foreign creditors to proceedings under Act

(1) Subject to subsection (2), foreign creditors shall have the same rights regarding the commencement of the participation in a proceeding under this Act, as creditors in Uganda.

(2) Subsection (1) shall not affect the ranking of claims in a proceeding under this Act, except that the claims of foreign creditors may not be ranked lower than non-preferential debts.

224. Notification to foreign creditors of proceedings under Act

(1) Notification given to creditors under this Act, shall also be given to the known creditors that do not have addresses in Uganda and the court may order that appropriate steps are taken to notify any creditor whose address is not yet known.

(2) The notification shall be made to the foreign creditors without the requirement of any formality and shall be made individually unless the court considers that under the circumstances, some other form of notification is more appropriate.

(3) When a notification of commencement of a proceeding is to be given to foreign creditors, the notification shall—

(a) indicate a reasonable time period and place for filing claims;

(b) indicate if secured creditors need to file their secured claims; and

(c) contain any other information required to be included in such a notification to creditors under this Act and the orders of the court.

Recognition of foreign proceedings and relief

225. Application for recognition of foreign proceedings

(1) A foreign representative may apply to the court for recognition of the foreign proceedings in which the foreign representative has been appointed.

(2) An application for recognition shall be accompanied by—

(a) a certified copy of the decision commencing the foreign proceedings and appointing the foreign representative;

(b) a certificate from the foreign court affirming the existence of the foreign proceedings and of the appointment of the foreign representative; or

(c) in the absence of the evidence referred to in paragraphs (a) and (b), any other evidence acceptable to the court, of the existence of the foreign proceedings and the appointment of the foreign representative.

(3) An application for recognition shall also be accompanied by a statement identifying all foreign proceedings against the debtor that are known to the foreign representative.

(4) The court may require a translation into English of documents supplied in support of the application for recognition.

226. Presumptions concerning recognition

(1) The decision or certificate referred to in section 225(2)(a) and (b), shall be taken by court to indicate the existence of a foreign representative and the appointment of a foreign representative.

(2) The court is entitled to presume that the documents submitted in support of the application for recognition are authentic, whether or not they have been authenticated.

(3) In the absence of evidence to the contrary, the debtor's registered office or habitual residence in the case of an individual is presumed to be the centre of the debtor's main interests.

227. Decision to recognise foreign proceedings

(1) Subject to section 226, foreign proceedings shall be recognised if the application—

(a) has been submitted to the court; and

(b) meets the requirements of section 225(2).

(2) Foreign proceedings shall be recognised—

(a) as foreign main proceedings if the proceedings are taking place in the State where the debtor has the centre of its main interests; or

(b) as foreign non-main proceedings if the debtor has an establishment in the foreign State.

(3) This section and sections 225 and 226 shall not prevent modification or termination of recognition if it is shown that the grounds for granting the recognition were fully or partially lacking or have ceased to exist.

228. Subsequent information

From the time of filing the application for recognition of the foreign proceeding, the foreign representative shall immediately inform the court of—

(a) any substantial change in the status of the recognised proceeding or the status of the foreign representative's appointment; and

(b) any other foreign proceeding regarding the same debtor that becomes known to the foreign representative.

229. Relief that may be granted on application for recognition of foreign proceedings

(1) On filing an application for recognition but before the application is decided, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant provisional interim relief including—

(a) staying execution against the debtor's assets;

(b) entrusting the administration or realisation of all or part of the debtor's assets located in Uganda to the foreign representative or another person designated by the court, in order to protect and preserve the value of the assets which are perishable, susceptible to devaluation or otherwise in jeopardy; or

(c) any relief in section 231(1)(c), (d) and (g).

(2) Unless extended under section 231(1)(f), relief granted under this section terminates when the application for recognition is decided.

(3) The court may refuse to grant relief under this section, if the relief would interfere with the administration of foreign main proceedings.

230. Effects of recognition of foreign main proceedings

(1) On recognition of foreign main proceedings—

(a) commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities is stayed;

(b) execution against the debtor's assets is stayed; and

(c) the right to transfer, encumber or dispose of any assets of the debtor is suspended.

(2) The scope and the modification or termination of the stay and suspension in subsection (1) are subject to this Act.

(3) Subsection (1) shall not affect the right to commence individual actions or proceedings to the extent necessary to preserve a claim against the debtor.

(4) Subsection (1) shall not affect the right to request the commencement of proceedings under this Act or the right to file claims in such proceedings.

231. Relief that may be granted on recognition of foreign proceedings

(1) On recognition of foreign proceedings, whether main or non main, where it is necessary to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

(a) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities, to the extent they have not been stayed under section 239(1)(a);

(b) staying execution against the debtor's assets to the extent that the execution has not been stayed under section 239(1)(b);

(c) suspending the right to transfer, encumber or dispose of any assets of the debtor to the extent that that right has not been suspended under section 239(1)(c);

(d) providing for the examination of witnesses, taking of evidence or delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

(e) entrusting the administration or realisation of all or part of the debtor's assets located in Uganda to the foreign representative or another person designated by the court;

(f) extending relief granted under section 229(1)(c); and

(g) granting any additional relief that may be available to a trustee or liquidator under the laws of Uganda.

(2) On recognition of foreign proceedings, whether main or non-main, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in Uganda to the foreign representative or any other person designated by the court, provided that the court is satisfied that the interests of the creditors in Uganda are adequately protected.

(3) In granting relief to a representative of foreign non-main proceedings, under this section, the court shall be satisfied that the relief relates to assets that under the laws of Uganda should be administered in the foreign non-main proceedings or concerns information required in that proceeding.

232. Protection of creditors and other interested persons

(1) In granting or denying relief under sections 229 and 231 or in modifying or terminating relief under subsection (3), the court shall be satisfied that the interests of the creditors and other interested persons, including the debtor are adequately protected.

(2) The court may subject the relief granted under section 229 or 231 to conditions the court considers appropriate.

(3) The court may, on the request of the foreign representative or a person affected by the relief granted under section 229 or 231 or at its own motion, modify or terminate the relief.

233. Actions to avoid acts detrimental to creditors

(1) On recognition of foreign proceedings, the foreign representative shall have the right to initiate any legal action to set aside a disposition that is available to a trustee or liquidator under this Act.

(2) Where the foreign proceeding is a foreign non-main proceeding, the court shall be satisfied that the action relates to assets which should be administered in the foreign non-main proceeding under this Act.

234. Intervention by foreign representative in proceedings in Uganda

On recognition of foreign proceedings the foreign representative may, with leave of court, where the requirements of the law of Uganda are met, intervene in any proceedings in which the debtor is a party.

Cooperation with foreign courts and foreign representatives

235. Cooperation and direct communication between courts of Uganda and foreign courts and foreign representatives

(1) A court shall cooperate, to the maximum extent possible, with foreign courts or foreign representatives, either directly or through a trustee or liquidator, in applications for recognition of foreign proceedings in section 225.

(2) The court is entitled to communicate directly with or to request information or assistance directly from foreign courts or foreign representatives.

236. Cooperation and direct communication between trustee or liquidator and foreign courts and foreign representatives

(1) A trustee or liquidator shall, in the exercise of his or her functions and subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives, in applications for recognition of foreign proceedings in section 225.

(2) The trustee or liquidator is entitled, in the exercise of his or her functions and subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

237. Forms of cooperation

Cooperation referred to in sections 235 and 236 may be achieved by any appropriate means, including—

(a) appointment of a person or body to act at the direction of the court;

(b) communication of information by any means considered appropriate by the court;

(c) coordination of the administration and supervision of the debtor's assets and affairs;

(d) approval or implementation by courts of agreements concerning the coordination of proceedings; and

(e) coordination of concurrent proceedings regarding the same debtor.

Concurrent proceedings

238. Commencement of proceedings under this Act after recognition of foreign main proceedings

(1) After recognition of foreign main proceedings, proceedings under this Act may be commenced only if the debtor has assets in Uganda and the effects of the proceedings shall be restricted to the assets of the debtor that are located in Uganda.

(2) The effects of the proceedings may be extended to other assets which can be administered under foreign main proceedings under the laws of Uganda, where necessary to achieve cooperation and coordination under sections 234, 235 and 236.

239. Coordination of proceedings under this Act and foreign proceedings

When foreign proceedings and proceedings under this Act regarding the same debtor are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 235, 236 and 237 as follows—

(a) where the proceedings in Uganda are taking place at the time the application for recognition of the foreign proceedings is filed—

(i) any relief granted under section 229 or 231 shall be consistent with the proceedings in Uganda; and

(ii) where the foreign proceedings are recognised in Uganda as foreign main proceedings, section 230 shall not apply;

(b) where the proceedings in Uganda commence after recognition or filing of the application for recognition of the foreign proceedings—

(i) any relief in effect under section 229 or 231 shall be reviewed by the court and shall be modified or terminated if inconsistent with the proceedings in Uganda; and

(ii) where the foreign proceedings are foreign main proceedings,

the stay and suspension referred to in section 230(1) shall be modified or terminated under section 230(2) if inconsistent with the proceedings in Uganda;

(c) in granting, extending or modifying relief granted to a representative of foreign non-main proceedings, the court shall be satisfied that the relief relates to assets that, under the law of Uganda, should be administered in the foreign non-main proceeding or concerns information required in that proceeding.

240. Coordination of more than one foreign proceeding

In an application for recognition of foreign proceedings under section 225, involving more than one foreign proceeding regarding the same debtor, court shall seek cooperation and coordination under sections 235, 236 and 237, under the following conditions—

(a) any relief granted under section 229 or 231 to a representative of foreign non-main proceedings after recognition of foreign main proceedings shall be consistent with foreign main proceedings; or

(b) where foreign main proceedings are recognised after the recognition or filing of an application for recognition of foreign non-main proceedings, any relief in effect under section 229 or 231 shall

be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceedings; and

(c) where, after recognition of foreign non-main proceedings, another foreign non-main proceedings is recognised, the courts shall grant, modify or terminate relief for the purpose of facilitating coordination of the proceedings.

241. Presumption of insolvency based on recognition of foreign main proceedings

In the absence of evidence to the contrary, recognition of foreign main proceedings is, for the purpose of commencing proceedings under this Act, proof that the debtor is unable to pay his or her debts.

242. Rule of payment in concurrent proceedings

A creditor who receives part-payment in respect of a claim in proceedings under a law relating to insolvency in a foreign State may not receive a payment for the same claim in proceedings under this Act regarding the same debtor, where the payment to the other creditors of the same class is proportionately less than the payment the creditor has already received, except for secured claims or rights *in rem*.

243. Power of Chief Justice to make rules for Part

The Chief Justice may, in consultation with the Minister, make rules for giving effect to this Part.

Part X – General

244. Application of fines

(1) The Registrar or court imposing any fine under this Act may direct that the whole or any part of the fine shall be applied in or towards payment of the costs of the proceedings or in or towards rewarding the person on whose information or at whose instance the fine is recovered and subject to any such direction all fines under this Act shall, notwithstanding anything in any other written law, be paid into the Consolidated Fund.

(2) Where a default fine is imposed on a person or company under this Act, the default fine shall be paid to the Registrar.

(3) The Registrar shall pay the money collected under this section into the Consolidated Fund.

245. Jurisdiction

(1) The High Court shall have jurisdiction over all matters concerning companies under this Act.

(2) In exercising its jurisdiction under Part IX of this Act, the High Court shall have the absolute discretion to make the necessary orders for cross-border insolvency proceedings.

(3) Court presided over by a chief magistrate shall have jurisdiction over all insolvency matters against individuals the subject matter of which does not exceed fifty million shillings.

246. Validity of action notwithstanding defect in appointment or qualification

The acts of—

(a) an insolvency practitioner;

(b) the Official Receiver;

(c) a creditors' committee; or

(d) a committee of inspection,

shall be valid notwithstanding any defect in the appointment to office, election or qualifications of the person or any member of the committee as the case may be.

247. Public notices

A person required to give public notice of any matter shall do so by inserting notice of the matter in at least one issue of a newspaper of wide circulation in Uganda in the official language.

248. Disposition of property after commencement of liquidation by court is void

In a liquidation by the court, any disposition of the property of the company, including things in action and any transfer of shares or alteration in the status of the members of the company, made after the commencement of the liquidation shall, unless the court otherwise orders, be void.

249. Listed company under insolvency proceedings to notify Capital Markets Authority

Where insolvency proceedings are commenced against a company which is listed on any stock exchange, the company shall within fourteen working days notify the Capital Markets Authority in writing of the fact of the commencement of the proceedings.

250. General penalty

Any person who commits an offence under this Act, for which no other penalty is specifically provided, is liable, on conviction, to a fine not exceeding twenty-four currency points or to imprisonment for a term not exceeding two years, and shall, in addition, pay a default fine.

251. Access to information

Subject to the Access to Information Act and the Data Protection and Privacy Act, any person may request and have access to information or data in the possession of a trustee, receiver, liquidator, administrator or supervisor.

252. Regulations

(1) The Minister may, by statutory instrument, make regulations for better carrying into effect the purposes of this Act.

(2) Without prejudice to the general effect of subsection (1), regulations made under this section may—

(a) prescribe the forms, amounts or other things required to be prescribed under this Act;

(b) prescribe the procedure to be followed by courts in respect of proceedings under this Act;

(c) fix fees to be paid for court proceedings under this Act; and

(d) provide for any matter prescribed in this Act.

(3) Regulations made under this section may prescribe as a penalty for contravention of any provision of the regulations, a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding one year, or both and may also provide in the case of a continuing offence, an additional fine not exceeding ten currency points in respect of each jay on which the offence continues.

253. Power to amend Schedules

The Minister may, by statutory instrument, with the approval of Cabinet, amend the Schedules to this Act.

254. Application of rules of equity and common law

The rules of equity and common law applicable to corporate insolvency and bankruptcy of individuals and receivership shall apply except as they are inconsistent with this Act.

Schedule 1 (Sections 1, 253)

Currency point

A currency point is equivalent to twenty thousand shillings.

Schedule 2 (Sections 1, 3(2)(a), 253)

Prescribed amount

The prescribed amount for the purposes of section 3 is fifty currency points in the case of an individual and one hundred currency points in the case of a company.

Schedule 3 (Sections 46(2), 69(1)(b), 115(2), 124(4), 130(3), 148(3), 150(1), 169(3), 175(4), 253)

Proceedings at meetings of creditors

1. A meeting of creditors may be held—

   (a) by assembling together the creditors entitled to take part and who choose to attend at the place, date and time appointed for the meeting;

   (b) by means of audio or audio and visual communication by which all creditors participating can simultaneously hear each other throughout the meeting; or

   (c) by conducting a postal ballot, in accordance with paragraph 5, of the creditors entitled to take part.

2. (1) Written notice of—

   (a) the time and place of every meeting to be held under paragraph (a);

   (b) the time and method of communication for every meeting to be held under paragraph 1(b); and

   (c) the time and address for the return of voting papers for every meeting to be held under paragraph 1(a) or (b) or (c), shall be given to every creditor entitled to attend the meeting and to any liquidator not less than ten working days before the meeting.

   (2) The notice shall—

   (a) state the nature of the business to be transacted at the meeting in sufficient detail to enable a creditor form a reasoned judgment of the business;

   (b) set out the text of any resolution to be submitted to the meeting; and

   (c) include a voting paper in respect of each resolution and voting and mailing instructions.

   (3) Any irregularity in a notice for a meeting shall not invalidate anything done by that meeting if not material or where all the creditors entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity or where all creditors agree to waive the irregularity.

(4) Where a meeting of creditors under paragraph 1(a) or (b) is adjourned for less than thirty days, it shall not be necessary to give notice of the time and place of the adjourned meeting other than by an announcement at the meeting which is adjourned.

3. (1) If a liquidator has been appointed and is present, he or she shall chair the meeting held in accordance with paragraph 1(a) or (b).

(2) In any case where there is no liquidator or the liquidator is not present, the creditors participating shall choose from among themselves a person to chair the meeting.

(3) The person convening a meeting under paragraph 1(c) shall do all the necessary things that would otherwise be done by the person chairing a meeting.

4. At any meeting—

(a) each creditor is entitled to cast a number of votes proportionate to the value which the amount of the debt owing to that creditor bears to the aggregate of the debts owing to all creditors or, if there is more than one class of creditors, to the aggregate of the debts owing to all creditors of the class to which that creditor belongs;

(b) a resolution is adopted if it is approved by a majority of the votes cast, unless in the particular case a greater majority is required by this Act; and

(c) a creditor chairing the meeting does not have a casting vote.

5. (1) Any creditor entitled to vote at a meeting of creditors held in accordance with paragraph 1(a), (b) or (c) may exercise the right to vote by casting a postal vote in respect of any matter to be decided at the meeting.

(2) The notice of a meeting shall state the name of the person authorised to receive and count postal votes at that meeting.

(3) Where no person has been authorised to receive and count postal votes at a meeting or where no person is named in the notice of the meeting as authorised, every director or if the company is in liquidation, the liquidator is taken to be so authorised.

(4) A creditor may cast a postal vote on all or any of the matters to be voted on at the meeting by sending a marked voting paper to a person authorised to receive and count postal votes in respect of that meeting not later than twenty-four hours before the start of the meeting or, if the meeting is held under paragraph 1(c), not later than the date named for the return of the voting paper.

(5) It is the duty of a person authorised to receive and count postal votes in respect of a meeting—

(a) to collect together all postal votes received by him or her or by any other authorised person; and

(b) in respect of each resolution to be voted on, to count—

(i) the number of creditors voting in favour of the resolution and the number of votes cast by each creditor in favour of the resolution; and

(ii) the number of creditors voting against the resolution and the number of votes cast by each creditor against the resolution;

(c) to sign a certificate—

(i) that he or she has carried out the duties set out in subparagraphs (a) and (b) of this paragraph; and

(ii) stating the results of the counts required by subparagraph (b) of this paragraph;

(d) to ensure that the certificate required by subparagraph (c) of this paragraph is presented to the person chairing or convening the meeting.

(6) Where a vote is taken at a meeting held under paragraph 1(a) or (b) on any resolution on which postal votes have cast, the person chairing the meeting shall count the votes cast by each creditor who has sent in a voting paper duly marked as for or against the resolution.

(7) A certificate given under subparagraph (5)(c) in relation to the postal votes cast in respect of any meeting of creditors shall be annexed to the minutes of the meeting.

6. (1) The person chairing a meeting of creditors or in the case of a meeting held under paragraph 1(c), the person convening the meeting, shall insure that full and accurate minutes are kept of all proceedings.

(2) Minutes which have been signed correct by the person chairing or convening the meeting are *prima facie* evidence of the proceedings.

7. A body corporate which is a creditor may appoint a representative to attend a meeting of creditors on its behalf.

8. Except as provided above, a meeting of creditors may regulate its own procedure.

Schedule 4 (Sections 56(1), 253)

Liquidation of assets of foreign companies

1. Part IV of the Act applies to the liquidation of the property in Uganda, of a foreign company, with the following modifications and exclusions—

(a) all references to property or assets are to be taken as references to property or assets in Uganda;

(b) all references to a company are to be taken as references to a foreign company;

(c) section 97(d) and (e) do not apply;

(d) section 97(1)(b) does not affect the tenure of directors of a foreign company in any way, but the foreign company and its directors shall cease to have any powers, functions or duties in respect of the company's property in Uganda other than those required or permitted to be exercised by Part IV of the Act; and

(e) section 114 applies to such a liquidation, but instead of applying subparagraph (c) of this paragraph, the liquidator shall state that the company has ceased to carry on business in Uganda and is ready to be removed from the register.

2. Nothing in this Act shall be taken to exclude the right of a creditor of a foreign company in respect of assets of which a liquidator has been appointed—

(a) to bring any proceedings outside Uganda against the foreign company in respect of any debt not claimed in the liquidation or any balance of a debt remaining unpaid after the completion of a liquidation; or

(b) to bring an action in Uganda in respect of any balance of debt remaining unpaid after the completion of a liquidation.