

ACTS SUPPLEMENT

to The Uganda Gazette No. 57 Volume CIV dated 23rd September, 2011.

Printed by UPPC, Entebbe, by Order of the Government.

Act 14

Insolvency Act

2011

THE INSOLVENCY ACT, 2011.

ARRANGEMENT OF SECTIONS.

Section.

PART I—PRELIMINARY.

1. Commencement.
2. Interpretation.

PART II—INABILITY TO PAY DEBTS: CREDITORS' CLAIMS:
VOIDABLE TRANSACTIONS.

3. Inability to pay debts.
4. Statutory demand.
5. Setting aside a statutory demand.
Creditor's claims.
6. Ascertaining amount of claim and interest.
7. Fines and penalties.
8. Claim of an unascertained amount.
9. Mutual credit and set-off.
10. Claims by unsecured creditors.
11. Claims by secured creditors.
12. Preferential debts.
13. Non-preferential debts.
14. Surplus assets.

Voidable transactions.

15. Preferences.
16. Transactions at undervalue.
17. Voidable charges.
18. Insider dealings.
19. Procedure for setting aside voidable transactions.

PART III—INDIVIDUAL INSOLVENCY.

20. Petition for bankruptcy.
21. Statement of affairs.
22. Public examination of debtor.
23. Inquiry into debtor's dealings and property.

Section.

24. Official receiver's notice of commencement of bankruptcy and creditor's first meeting.
25. Appointment of trustee.
26. Trustee's notice of bankruptcy and particulars.
27. Effect of bankruptcy order.
28. Special manager of bankrupt's estate.
29. Duties of a trustee.
30. Trustee's notice to creditors.

Bankrupt's estate.

31. Bankrupt's estate.
32. Property acquired after commencement of bankruptcy.

General powers of trustees and conduct of bankruptcy.

33. Trustee's power to obtain documents.
34. Trustee's power to allow bankrupt to manage property.
35. Trustee's power to disclaim onerous property.
36. Official name of trustee.
37. Vacation of office by trustee.
38. Duties of a bankrupt.
39. Compliance order.
40. Search and seizure.
41. Termination of bankruptcy.
42. Discharge.
43. Effect of discharge.
44. Annulment, revocation or setting aside of bankruptcy order.
45. Consequences of bankruptcy.

Rights of creditors.

46. Creditor's meetings during bankruptcy.
47. Committee of inspection.

Declaration and distribution of bankrupt's estate.

48. Declaration and distribution of dividends.
49. Final distribution.
50. Second bankruptcy.

Supervision and enforcement by the court.

51. Court supervision of trustee.
52. Enforcement of trustee's duties.

Bankruptcy offences.

53. Absconding.
54. Bankrupt not to obtain credit and engage in business without disclosing bankruptcy.
55. Failure to keep proper accounts of business.

PART IV—CORPORATE INSOLVENCY

Liquidation.

56. Application of liquidation provisions to foreign companies.
57. Modes of liquidation.

Voluntary liquidation.

58. Voluntary liquidation.
59. Notice of resolution for voluntary liquidation.

Consequences of voluntary liquidation.

60. Effect of voluntary liquidation on the business and status of company.
61. Transfers or alterations after commencement of voluntary liquidation are void.

Members' voluntary liquidation.

62. Power of a company to appoint and fix remuneration of liquidators.
63. Power to fill vacancy in office of liquidator.
64. Power of liquidator to accept shares or other interests as consideration for sale of property of company.
65. Duty of liquidator to call creditors' meeting in case of insolvency.

Section.

66. Duty of liquidator to call general meeting at end of each year.
67. Final meeting and dissolution.
68. Alternative provisions as to annual and final meetings in case of insolvency.

Creditors' voluntary liquidation.

69. Meeting of creditors.
70. Appointment of liquidator.
71. Appointment of committee of inspection.
72. Proceedings of committee of inspection.
73. Fixing of liquidator's remuneration and cessation of directors' powers.
74. Power to fill vacancy in office of liquidator.
75. Power of liquidator to accept shares etc in a creditors' voluntary liquidation.
76. Duty of liquidator to call meetings of company and of creditors at end of each year.
77. Final meeting and dissolution.

Members' and creditors' voluntary liquidation.

78. Members' and creditors' voluntary liquidation.
79. Distribution of the property of a company.
80. Powers and duties of liquidator in voluntary liquidation.
81. Power of court to appoint and remove liquidator in voluntary liquidation.
82. Notice by liquidator of his or her appointment.
83. Arrangement when binding on creditors.
84. Power to apply to court to have questions determined or powers exercised.
85. Costs of voluntary liquidation.
86. Saving for rights of creditors and contributories.

Liquidation subject to supervision by court.

87. Power to order liquidation subject to supervision.
88. Effect of petition for liquidation subject to supervision.
89. Power of court to appoint or remove liquidators.
90. Effect of supervision order.

Liquidation by court.

91. Jurisdiction.
92. Circumstances in which court may appoint liquidator.
93. Commencement of liquidation by court.
94. Provisional liquidator.
95. Notice of liquidation.
96. Notice of appointment and of liquidation.
97. Effect of liquidation.
98. Special manager of company.
99. Fundamental duties of a liquidator.
100. General duties of liquidator.

General provisions relating to liquidation.

101. General powers of liquidator.
102. Liquidator's preliminary report.
103. Liquidator's interim reports.
104. Liquidator's final report.
105. Liquidator's powers to obtain documents.
106. Liquidator's power to examine and obtain information.
107. Liquidator's power to disclaim onerous property.
108. Pooling of assets of associated companies.
109. Vacation of the office of liquidator.
110. Duties of directors, secretary and employees.
111. Compliance order.
112. Search and seizure.
113. Absconding, during or pending liquidation.
114. Completion of liquidation.

Rights of creditors and shareholders.

115. Creditors' or shareholders' meetings during liquidation.
116. Committee of inspection during liquidation.

Supervision and enforcement by the court.

117. Court supervision of liquidation.
118. Enforcement of liquidator's duties.

PART V—ARRANGEMENT IN RESPECT OF INDIVIDUALS.

Interim order

119. Interim order.
120. Application for interim order.
121. Duration of interim order.
122. Duties of debtor.
123. Report to court.
124. Creditors' meeting to consider proposed arrangement.

Arrangement

125. Arrangement order.
126. Notice of arrangement.
127. Effect of arrangement.
128. Function of supervisor.
129. Creditors' meetings during arrangement.
130. Remuneration of supervisor.
131. Vacation of the office of supervisor.
132. Variation of arrangement.
133. Termination of arrangement.
134. Termination of arrangement by court.
135. Notice on termination of arrangement.

Supervision and enforcement by the court.

136. Court supervision of supervisor.
137. Enforcement of supervisor's duties.

PART VI—ADMINISTRATION IN RESPECT OF COMPANIES.

138. Application of administration provisions to foreign companies.

Provisional administration.

139. Appointment of provisional administrator.
140. Fundamental duties of provisional administrator.
141. General duties of provisional administrator.
142. Commencement of provisional administration.
143. Effect of provisional administration.
144. Notice of provisional administration.

145. Duration of provisional administration.
146. Creditors' meeting to consider appointment of provisional administrator.
147. Provisional administrator's proposals.
148. Creditors' meeting to consider proposals.
149. Requirements of administration deed.
150. Execution of administration deed.
151. Notice of termination of provisional administration.
152. Transition to liquidation.

Conduct of provisional administration.

153. Powers of provisional administrator.
154. Provisional administrator's relationship with third parties.
155. Role of director's and secretary during provisional administration.
156. Compliance order.
157. Disposal of charged property during provisional administration.
158. Liabilities of provisional administrator.
159. Provisional administrator's right to indemnity.
160. Relief from liability for provisional administrator.
161. Provisional administrator's reports to the official receiver.

Administration.

162. Commencement of administration.
163. Notice of administration.
164. Effect of administration.
165. Function of administrator.
166. Creditors' meetings during administration.
167. Variation of administration deed by creditors.
168. Termination of administration.
169. Termination of administration by court.
170. Notice on termination of administration.

Provisional administrators and administrators.

171. Remuneration of provisional administrator or administrator.
172. Vacation of the office of provisional administrator or administrator.

Section.

- 173. Court supervision of provisional administrator or administrator.
- 174. Enforcement of provisional administrator's or administrator's duties.

PART VII—CORPORATE AND INDIVIDUAL RECEIVERSHIP.

- 175. Application of receivership provisions to foreign companies.
- 176. Commencement of receivership.
- 177. Liability for invalid appointment of receiver.
- 178. Notice of receivership.
- 179. Fundamental duty of receiver.
- 180. General duties of receiver.
- 181. Powers of receiver.
- 182. Receiver's relationship with third parties.
- 183. Role of grantor in receivership.
- 184. Rights and obligations of a grantor in receivership.
- 185. Compliance order.
- 186. Liabilities of receiver.
- 187. Receiver's right to indemnity.
- 188. Relief from liability for receiver.
- 189. Receiver's preliminary report.
- 190. Receiver's other reports.
- 191. General provisions on reports.
- 192. Priorities for application of proceeds of receivership.
- 193. Vacation in office of receiver.
- 194. Powers of receiver on liquidation or bankruptcy.
- 195. Court supervision of receiver.
- 196. Enforcement of receiver's duties.
- 197. Termination of receivership by court.

PART VIII—OFFICIAL RECEIVER AND REGULATION OF
INSOLVENCY PRACTITIONERS.*Official receiver.*

- 198. Appointment of official receiver.
- 199. Powers of the official receiver.
- 200. Official receiver's seal.

Companies liquidation account.

201. Companies liquidation account.
202. Investment of surplus funds.
203. Meaning of “insolvency practitioner”.
204. Qualifications to act as insolvency practitioners.
205. Acting as insolvent practitioner without qualification.
206. Persons disqualified from acting as liquidator, provisional liquidator, administrator or provisional administrator.
207. Persons disqualified from acting as receiver.
208. Persons disqualified from acting as trustee or supervisor.
209. Prohibition order.

Other provisions regarding insolvency practitioners.

210. Appointment of two or more insolvency practitioners.
211. Qualified privilege in respect of proceedings for defamation.

PART IX—CROSS-BORDER INSOLVENCY.

Reciprocity with other states or territories.

212. Declaration of reciprocating states or territories and courts.
213. Effect of order of reciprocating against property owner in Uganda.
214. Vesting of bankrupt’s property in Uganda, in trustee appointed in reciprocating territory.
215. Local powers of official receiver, appointed in a reciprocating state.
216. Official receiver in Uganda to act as agent of reciprocating state in insolvency matters.
217. Mode of requesting official receiver to act as agent for debts in Uganda.
218. Duties of the official receiver acting as agent to remit proceeds.
219. Transmission of proofs of debts in Uganda.
220. Power of courts in Uganda to make orders.
221. Enforcement of warrant or order of reciprocating court in Uganda.
222. Limitation on the powers of the courts.
223. Concurrent bankruptcy proceedings.

Section.

- 224. Power of official receiver of Uganda to require receiver in reciprocating state or territory.
- 225. Power of Chief Justice to make rules for this Part.

General provisions

- 226. Interpretation of sections 227 to 252.
- 227. Application of sections 228 to 252.
- 228. Conflicting international obligations.
- 229. Authorisation to act in a foreign state.
- 230. Additional assistance under other laws.

Access of foreign representative and creditors to High Court.

- 231. Right of direct access.
- 232. Participation of a foreign representative in proceedings under this Act.
- 233. Access of foreign creditors to a proceeding under this Act.
- 234. Notification to foreign creditors of a proceeding under this Act.

Recognition of a foreign proceeding and relief.

- 235. Application for recognition of foreign proceedings.
- 236. Presumptions concerning recognition.
- 237. Decision to recognise foreign proceedings.
- 238. Subsequent information.
- 239. Relief that may be granted upon application for recognition of a foreign proceeding.
- 240. Effects of recognition of a foreign main proceeding.
- 241. Relief that may be granted upon recognition of a foreign proceeding.
- 242. Protection of creditors and other interested persons.
- 243. Actions to avoid acts detrimental to creditors.
- 244. Intervention by a foreign representative in proceedings in Uganda.

Cooperation with foreign courts and foreign representatives.

- 245. Cooperation and direct communication between courts of Uganda and foreign courts and foreign representatives.
- 246. Cooperation and direct communication between the trustee or liquidator and foreign courts and foreign representatives.
- 247. Forms of cooperation.

Concurrent proceedings.

- 248. Commencement of a proceeding under this Act after recognition of a foreign main proceeding.
- 249. Coordination of a proceeding under this Act and a foreign proceeding.
- 250. Coordination of more than one foreign proceeding.
- 251. Presumption of insolvency based on recognition of a foreign main proceeding.
- 252. Rule of payment in concurrent proceedings

PART X—GENERAL

- 253. Application of fines.
- 254. Jurisdiction.
- 255. Validity of action notwithstanding defect in appointment or qualification.
- 256. Public notices.
- 257. Disposition of property after commencement of liquidation by court is void.
- 258. Listed company under insolvency proceedings to notify Capital Markets Authority.
- 259. General penalty.
- 260. Regulations.
- 261. Minister's power to amend Schedules.
- 262. Repeal.
- 263. Transitional provisions.
- 264. Saving of rules of equity and common law.

SCHEDULES.

First Schedule—Currency point.

Second Schedule—Prescribed amount.

Third Schedule—Proceedings at meetings of creditors.

Fourth Schedule—Liquidation of assets of foreign company.

THE INSOLVENCY ACT, 2011

An Act to provide for receivership, administration, liquidation, arrangements, bankruptcy, the regulation of insolvency practitioners and cross border insolvency; to amend and consolidate the law relating to receiverships, administration, liquidation, arrangements and bankruptcy; and to provide for other related matters.

DATE OF ASSENT: 8th August, 2011.

Date of Commencement: See section 1.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.**1. Commencement.**

This Act shall come into force on a date appointed by the Minister by statutory instrument and different dates may be appointed for different provisions.

2. 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 162;

“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 125;

“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 order 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 of any obligation incurred before the commencement of the 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 become subject to that liability by reason of an obligation incurred at the 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 secures payment or performance of an obligation, without regard to the 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 appointed under sections 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 chief magistrate;