

# **BANKRUPTCY (AMENDMENT) BILL 2015**

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**Bill No. / 2015.**

*Read the first time on .*

A BILL

*i n t i t u l e d*

An Act to amend the Bankruptcy Act (Chapter 20 of the 2009 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

### Short title and commencement

1. This Act may be cited as the Bankruptcy (Amendment) Act 2015 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### 5 Amendment of section 2

2. Section 2(1) of the Bankruptcy Act is amended —

(a) by inserting, immediately before the definition of “bankrupt”, the following definition:

“ “administration date” means the later of —

- 10 (a) the date of submission by the bankrupt of the statement of his affairs; or
- (b) where the bankrupt is directed by the Official Assignee under section 81(4)(c) to submit supplementary information, the date of submission of the supplementary information;”;
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(b) by inserting, immediately after the definition of “goods”, the following definition:

“ “income” includes —

- 20 (a) income within the meaning of section 10 of the Income Tax Act (Cap. 134); and
- (b) any other income that is received outside Singapore and is not derived from Singapore;”;

25 (c) by inserting, immediately after the definition of “limited liability partnership”, the following definition:

“ “monthly contribution” means —

- (a) the amount, determined in accordance with section 86A, that a bankrupt is required, under section 108A, to pay and make over
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to the Official Assignee on a monthly basis out of his income; or

5 (b) if the amount referred to in paragraph (a) has been varied by the court under section 86B(5)(a) or 86C(1) or reduced by the Official Assignee under section 86D(1), that amount as varied or reduced, as the case may be;”;

10 (d) by deleting the words “or lien” in the definition of “secured creditor” and substituting the words “, lien or other sufficient security”;

(e) by inserting, immediately after the definition of “statutory demand”, the following definitions:

15 ““supplementary information” means the information that a bankrupt is directed to submit under section 81(4)(c);

“target contribution” means —

(a) an amount equal to —

20 (i) in the case of a first bankruptcy, 52 payments of monthly contributions as calculated in accordance with section 86A; or

25 (ii) in the case of a bankruptcy other than a first bankruptcy, 76 payments of monthly contributions as calculated in accordance with section 86A; or

30 (b) if the amount referred to in paragraph (a) has been varied by the court under section 86B(5)(a) or 86C(1) or reduced by the Official Assignee under section 86D(1), that amount as varied or reduced, as the case may be;” and

(f) by inserting, immediately after subsection (2), the following subsections:

5 “(3) For the purposes of sections 86F(4)(a), 125(2)(a) and 126(8)(a), a bankruptcy is a “first bankruptcy” if, before the making of the bankruptcy order in respect of which the bankrupt was adjudged bankrupt, the bankrupt has not been previously adjudged bankrupt under this Act or any previous written law relating to bankruptcy.

10 (4) For the purpose of subsection (3), the bankrupt shall not be treated as having been previously adjudged bankrupt by reason only of a previous bankruptcy order —

- (a) that was annulled before the making of the bankruptcy order referred to in subsection (3); or
  - (b) in relation to which the bankruptcy referred to in subsection (3) is a second or subsequent bankruptcy within the meaning of section 97.”.
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### **Amendment of section 31**

3. Section 31 of the Bankruptcy Act is amended —

(a) by inserting, immediately after subsection (1), the following subsection:

20 “(1A) The Official Assignee may apply to the court —

- (a) for directions in relation to any particular matter arising under the bankruptcy; or
- (b) to reverse or modify any previous act or decision of the Official Assignee.”; and

25 (b) by inserting, immediately after “(1)” in subsection (2), the words “or (1A)”; and

(c) by deleting subsection (3) and substituting the following subsection:

30 “(3) This section shall apply notwithstanding the discharge of the bankrupt or the annulment of the bankruptcy order.”.

**Amendment of section 32****4. Section 32 of the Bankruptcy Act is amended —**

(a) by inserting, immediately after subsection (2), the following subsections:

5           “(3) No liability shall be personally incurred by the Official Assignee or any of the Official Assignee’s officers acting under his direction for anything done or omitted to be done with reasonable care and in good faith in the course of or in connection with —

10           (a) the exercise or purported exercise of any power; or

(b) the performance or purported performance of any function or duty,

15           under section 19, 24, 82A, 95A, 108, 113, 116, 123A, 125, 132A, 163 or 165(3) of the Act.

(4) Any liability which apart from subsection (3) would have been incurred by the Official Assignee or any of the Official Assignee’s officers, shall lie instead against the Government.”; and

20           (b) by deleting the section heading and substituting the following section heading:

**“Liability of Official Assignee, etc.”.**

**Amendment of section 33****5. Section 33 of the Bankruptcy Act is amended —**

25           (a) by deleting subsection (1) and substituting the following subsections:

30           “(1) The court may, in the following circumstances and upon the application of any person referred therein, appoint a person other than the Official Assignee to be the trustee of the bankrupt’s estate:

(a) on making a bankruptcy order, and upon the application of the creditor who applied for the bankruptcy order; or

5 (b) at any time after the making of a bankruptcy order, where the order has not been discharged or annulled, upon the application of any creditor or the Official Assignee or trustee.

10 (1A) A creditor shall, when applying for a bankruptcy order, apply to the court for the appointment of a person other than the Official Assignee to be the trustee of the bankrupt's estate, if —

(a) the creditor is an institutional creditor; or

(b) the debt when incurred was payable to an institutional creditor.”; and

15 (b) by inserting, immediately after subsection (2), the following subsection:

“(3) For the purposes of this section —

“annual sales turnover”, in relation to an undertaking —

20 (a) where the business year preceding the date of the bankruptcy application equals 12 months, means the sales turnover of that undertaking in the business year;

25 (b) where the business year preceding the date of the bankruptcy application does not equal 12 months, means the amount which bears the same proportion to the sales turnover of that undertaking during that business year as 12 months does to that period; or

30 (c) where there is no period preceding the date of the bankruptcy application that amounts to a business year, means the sales turnover of that undertaking during the period

preceding the date of the bankruptcy application;

“business year” means a period of more than 6 months in respect of which an undertaking prepares or is required to prepare accounts;

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“institutional creditor” means a creditor which is —

(a) a bank licensed under the Banking Act (Cap. 19);

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(b) a finance company licensed under the Finance Companies Act (Cap. 108); or

(c) an undertaking having an annual sales turnover of more than \$100 million and having more than 200 employees;

“sales turnover”, in relation to an undertaking, means the amounts derived from the business operations of that undertaking, and —

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(a) includes amounts derived by that undertaking from the sale of products and the provision of services falling within the ordinary activities of that undertaking; and

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(b) does not include gains from the sale of fixed assets, donations, grants, subsidies, subscriptions, interest, dividends, goods purchased for resale and investment income,

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after deducting sales rebates, goods and services tax and other taxes directly related to sales turnover;

“undertaking” means any person, being an individual, a body corporate, an unincorporated body of persons or any other entity, capable of carrying on commercial or economic activities relating to goods or services.”.

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**Amendment of section 36**

6. Section 36(3) of the Bankruptcy Act is amended by deleting “95A, 108, 113, 116, 123A, 125” and substituting “32(3), 82A, 95A, 108, 113, 116, 123A, 125, 132A”.

5 **Amendment of section 39**

7. Section 39 of the Bankruptcy Act is amended by inserting, immediately after subsection (5), the following subsection:

10 “(6) The Official Assignee may by a notice in writing, require a trustee to show cause why the security furnished by the trustee should not be forfeited, if —

- (a) the trustee fails to comply with section 86A(1); or
- (b) the trustee fails to submit the report of the administration of the bankruptcy in accordance with section 86F.

15 (7) The Official Assignee shall, after giving an opportunity for the trustee to be heard, forfeit the security furnished by the trustee if the Official Assignee is satisfied that the trustee had no reasonable excuse for the non-compliance referred to in subsection (6).”.

20 **Amendment of section 40**

8. Section 40(1) of the Bankruptcy Act is amended by deleting the words “a bankrupt or any of his creditors” and substituting the words “the Official Assignee, a bankrupt, any of the bankrupt’s creditors”.

25 **Amendment of section 41**

9. Section 41 of the Bankruptcy Act is amended —

- (a) by deleting subsection (3) and substituting the following subsections:

30 “(3) A trustee may, subject to subsection (3A), resign his office —

- (a) by giving two months' notice of his resignation to the court and the Official Assignee; and
- (b) by filing an application to the court for the appointment of the Official Assignee or another person to act as trustee in his place.

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(3A) A trustee shall not resign his office unless he has —

- (a) submitted to the Official Assignee a report on the work done in relation to the bankruptcy estate, which shall contain such particulars as may be prescribed;
- (b) nominated to act in his place —
  - (i) another person who consents to act as trustee; or
  - (ii) the Official Assignee if the Official Assignee consents in writing to the appointment; and
- (c) given the bankrupt's creditors notice of his intention to resign and the name of another person nominated to act as trustee in his place.”;

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(b) by inserting, immediately after subsection (4), the following subsections:

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“(5) A trustee shall, not later than 2 months after vacating his office under subsection (2) or such further period as may be extended by the Official Assignee, submit to the Official Assignee a report on the work done in relation to the bankruptcy estate, which shall contain such particulars as may be prescribed.

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(6) A trustee who fails without reasonable excuse to comply with subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.”.

### Amendment of section 56I

#### 10. Section 56I of the Bankruptcy Act is amended —

(a) by deleting paragraph (a) of subsection (1) and substituting the following paragraphs:

5                   “(a) firstly, the costs and expenses incurred by the Official Assignee in the administration of the scheme;

                  (aa) secondly, the costs (whether taxed or agreed) of the applicant creditor in respect of the relevant  
10                   bankruptcy application made against the debtor;”;

(b) by deleting the word “secondly” in subsection (1)(b) and substituting the word “thirdly”;

(c) by deleting the word “thirdly” in subsection (1)(c) and  
15                   substituting the word “fourthly”;

(d) by deleting the word “fourthly” in subsection (1)(d) and substituting the word “fifthly”;

(e) by deleting paragraph (e) of subsection (1) and substituting the following paragraph:

20                   “(e) sixthly, all amounts due in respect of contributions payable during a period of 12 consecutive months, commencing not earlier than 12 months before and ending not later than  
25                   12 months after the effective date of the scheme, by the debtor as the employer of any person under any written law relating to employees’ superannuation or provident funds or under any scheme of superannuation which is an approved scheme under the Income Tax Act (Cap. 134).”;

30                   (f) by deleting the word “sixthly” in subsection (1)(f) and substituting the word “seventhly”;

(g) by deleting the word “seventhly” in subsection (1)(g) and substituting the word “eighthly”;

(h) by deleting subsections (2) and (3) and substituting the following subsection:

5 “(2) The amount payable under subsection (1)(b) and (c) shall not exceed such amount as may be prescribed by the Minister by order published in the *Gazette.*”; and

(i) by deleting the words “subsection (1)(a)” in subsection (7) and substituting the words “subsection (1)(a) and (aa)”.

#### **Amendment of section 61**

10 **11.** Section 61(1) of the Bankruptcy Act is amended —

(a) by deleting the word “No” and substituting the words “Subject to section 63A, no”; and

(b) by deleting “\$10,000” in paragraph (a) and substituting “\$15,000”.

#### **15 New section 63A**

**12.** The Bankruptcy Act is amended by inserting, immediately after section 63, the following section:

##### **“Expedited bankruptcy application**

20 **63A.** In the case of a creditor’s bankruptcy application made wholly or partly in respect of a debt which is the subject of a statutory demand under section 62(a), the application may be made before the end of the 21-day period referred to in that section if there is a serious possibility that the debtor’s property or the value of any of his property will be significantly  
25 diminished during that period and the application contains a statement to that effect.”.

#### **Amendment of section 65**

**13.** Section 65 of the Bankruptcy Act is amended by inserting, immediately after subsection (1), the following subsection:

30 “(1A) In a case in which the creditor’s bankruptcy application contains such a statement as is required by section 63A, the

court shall not make a bankruptcy order until at least 21 days have elapsed since the service of any statutory demand under section 62(a).”.

**Amendment of section 71**

5     **14.** Section 71 of the Bankruptcy Act is repealed and the following section substituted therefor:

**“Continuance of proceedings on death of debtor**

10     **71.** If a debtor by or against whom a bankruptcy application has been made dies, the proceedings in the matter shall, unless the court otherwise directs, be continued as if he were alive, and the court may —

- (a) order service of the application upon him to be effected on his personal representative or such other person as the court thinks fit; or
- 15     (b) dispense with service of the application upon him.”.

**Amendment of section 73**

**15.** Section 73(2)(b) of the Bankruptcy Act is amended by inserting, immediately after the words “the debtor”, the words “in respect of that debt”.

20     **Amendment of section 76**

**16.** Section 76 of the Bankruptcy Act is amended by deleting subsection (4) and substituting the following subsection:

25     “(4) Notwithstanding subsection (3) and section 94, a secured creditor shall not be entitled to any interest in respect of his debt after the making of a bankruptcy order if he does not realise his security within 12 months from the date of the bankruptcy order or such further period as the Official Assignee may determine.”.

**Amendment of section 78**

17. Section 78(2) of the Bankruptcy Act is amended —

(a) by deleting paragraph (b) and substituting the following paragraph:

5                   “(b) such tools, books, vehicles and other items of equipment as are necessary to the bankrupt for use personally by him in his employment, business or vocation;”;

(b) by deleting the word “and” at the end of paragraph (c); and

10                   (c) by deleting the full-stop at the end of paragraph (d) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

                          “(e) the remainder of the bankrupt’s monthly income after deducting his monthly contribution; and

15                   (f) the bankrupt’s income that is paid as an annual bonus or annual wage supplement.”.

**Amendment of section 80**

18. Section 80(4) of the Bankruptcy Act is amended by deleting the words “for more than 2 months from Singapore” and  
20                   substituting the words “from or not represented at 3 consecutive meetings of the committee”.

**Amendment of section 81**

19. Section 81 of the Bankruptcy Act is amended —

25                   (a) by deleting the word “affairs” in subsection (1) and substituting the words “affairs, in such form and manner as may be prescribed;”;

(b) by inserting, immediately before the words “to the Official Assignee” in subsection (2), the words “in such form and manner as may be prescribed;”;

30                   (c) by inserting, immediately after the word “subsection” in subsection (3), the words “(1) or”;

(d) by deleting paragraph (a) of subsection (3) and substituting the following paragraph:

“(a) such particulars of the following items of information as may be prescribed:

- 5 (i) the bankrupt’s assets;
- (ii) the bankrupt’s creditors, debts and other liabilities;
- (iii) the bankrupt’s current income from any source;
- 10 (iv) the bankrupt’s current employment status and employment history;
- (v) the educational and vocational qualifications, age and work experience of the bankrupt;
- 15 (vi) the members of the bankrupt’s family;
- (vii) the necessary monthly expenses of maintenance for the bankrupt and for his family.”;

(e) by deleting the word “or” at the end of subsection (4)(a);

20 (f) by deleting the full-stop at the end of paragraph (b) of subsection (4) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

25 “(c) direct the bankrupt in writing to submit, within 21 days from the date of the direction, such information as specified in the direction and as may be necessary to make the statement of his affairs complete (hereinafter referred to as “supplementary information”).”;

30 (g) by deleting the words “this section” in subsection (6)(a) and substituting the words “subsection (1) or (2), or to submit any supplementary information as directed under subsection (4)(c)”;

- (h) by inserting, immediately after the word “requirements” in subsection (6)(b), the words “or supplementary information which does not comply with the written direction”;
- 5 (i) by inserting, immediately after the word “affairs” in subsection (6)(c), the words “or supplementary information”;
- (j) by inserting, immediately after the word “affairs” in subsection (6)(d), the words “or supplementary information”; and
- 10 (k) by inserting, immediately after subsection (8), the following subsection:
- “(9) Where a trustee in bankruptcy is appointed under section 33 to administer a bankruptcy, the trustee shall, not later than 1 month after receiving the statement of affairs or, where any supplementary information has been directed to be submitted under subsection (4)(c), not later than 1 month after receiving such supplementary information —
- (a) notify the Official Assignee of the administration date for the bankruptcy; and
- (b) submit a copy of the statement of affairs and supplementary information (if any) to the Official Assignee.”.

### **Amendment of section 82**

- 25 **20.** Section 82 of the Bankruptcy Act is amended —
- (a) by deleting subsection (1) and substituting the following subsection:
- “(1) A bankrupt who has not obtained his discharge shall, when directed by the Official Assignee, submit to the Official Assignee an account of —
- (a) all moneys and property which have come to his hands for his own use during such period as the Official Assignee may specify; and
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(b) the moneys and property which have been expended in the necessary expenses of maintenance of himself and his family during the same period.”; and

5 (b) by deleting the words “subsection (1)(a) or (b)” in subsection (2) and substituting the words “subsection (1)”.

### **New section 82A**

**21.** The Bankruptcy Act is amended by inserting, immediately after section 82, the following section:

10 **“Powers of Official Assignee to examine persons, etc.**

**82A.—**(1) The Official Assignee or any officer authorised by the Official Assignee may at any time, before or after a bankrupt’s discharge —

15 (a) summon by a notice in writing, any of the persons listed in subsection (2) to appear before him, on such date and at such time as may be specified in the notice, to be examined on oath in relation to the bankrupt’s affairs, dealings and property; and

20 (b) require that person in writing to produce and surrender any book, document or copy thereof in that person’s possession or control that relates to the bankrupt’s affairs, dealings and property, and without payment, inspect, keep, copy, photograph or take extracts from such book or document.

25 (2) The persons referred to in subsection (1) are —

(a) the bankrupt;

(b) the bankrupt’s spouse;

(c) a person known or suspected to possess any of the bankrupt’s property or any document relating to the bankrupt’s affairs, dealings and property;

30 (d) a person believed to owe the bankrupt money;

- (e) a person believed by the Official Assignee to be able to give information regarding —
- (i) the bankrupt; or
  - (ii) the bankrupt’s affairs, dealings and property; and
- 5 (f) a trustee of a trust of which the bankrupt is a settlor or of which the bankrupt is or has been a trustee.
- (3) The Official Assignee may apply to the court for a warrant to be issued for the arrest of a person summoned under subsection (1)(a) —
- 10 (a) where such person without reasonable excuse fails to appear at the appointed time; or
- (b) where there are reasonable grounds for believing that such person has absconded, or is about to abscond, with a view to avoiding compliance with this section.
- 15 (4) A person who receives a notice referred to in subsection (1)(a) or a written request referred to in subsection (1)(b) shall be under a legal duty to comply with the notice or written request, as the case may be.”.

### **Amendment of section 83**

- 20 **22.** Section 83 of the Bankruptcy Act is amended —
- (a) by deleting the words “or by a creditor who has tendered a proof,” in subsection (1) and substituting the words “at any time (including after the discharge of the bankrupt) or an application made by a creditor, who has tendered a proof.”;
- 25 (b) by deleting paragraph (b) of subsection (1) and substituting the following paragraph:
- 30 “(b) summon any other person to appear before it on the same or another appointed day and examine such person, if it appears to the court that such person would be able to give information concerning the bankrupt or the bankrupt’s affairs, dealings or property.”; and

- (c) by inserting, immediately after the words “do so” in subsection (12), the words “, including after the bankrupt has been discharged from bankruptcy”.

**New sections 86A, 86B, 86C, 86D, 86E and 86F**

- 5     **23.** The Bankruptcy Act is amended by inserting, immediately after section 86, the following sections:

*“Monthly contribution and target contribution*

**Determination of monthly contribution and target contribution**

- 10     **86A.**—(1) The Official Assignee shall, not later than 2 months after the administration date of a bankruptcy —

(a) determine the bankrupt’s monthly contribution and target contribution in respect of the bankruptcy; and

(b) serve a notice of the determination on —

- 15             (i) the bankrupt;
- (ii) every creditor who has filed a proof of debt; and
- (iii) in a case where the determination is made before the expiry of the period referred to in section 88A(1), every creditor, mentioned in the statement of the bankrupt’s affairs, who has not
- 20             filed a proof of debt.

(2) For the purposes of determining the monthly contribution referred to in subsection (1)(a), the Official Assignee shall take into account —

- 25             (a) the current monthly income of the bankrupt;
- (b) the extent to which the current monthly income of the bankrupt’s spouse may contribute to the maintenance of the bankrupt’s family;
- (c) the monthly income that the bankrupt may reasonably
- 30             be expected to earn over the duration of the bankruptcy, taking into account —

- (i) the previous and current monthly income of the bankrupt;
- (ii) the educational and vocational qualifications, age and work experience of the bankrupt;
- 5 (iii) the range of monthly income earned by persons who are employed in occupations, positions or roles similar to that in which the bankrupt is employed or in which the bankrupt can be expected to be employed; and
- 10 (iv) the effect which the bankruptcy may have on the bankrupt's earning capacity or other income;
- (v) the prevailing economic conditions; and
- (vi) the period of time during which the bankrupt is likely to be capable of earning a meaningful income;
- 15 (d) the reasonable expenses of maintenance of the bankrupt and the bankrupt's family.

(3) Where the determination under subsection (1) is made by a trustee in bankruptcy who was appointed under section 33 to administer the bankruptcy, the trustee shall also serve the notice of the determination on the Official Assignee together with an explanation of the basis for making the determination.

**Review by court of determination of monthly contribution and target contribution**

25 **86B.**—(1) If a bankrupt or any creditor of the bankrupt is dissatisfied with the monthly contribution and target contribution determined under section 86A, the bankrupt or the creditor (as the case may be) may, within 21 days after the service of the notice of the determination, apply to the court to review the determination.

30 (2) The court may, in any particular case, extend the period for the making of the application under subsection (1) if it is satisfied that it is just to do so.

(3) An application under subsection (1) shall be served, within 3 days after the date of filing, on —

(a) the Official Assignee whose determination under section 86A is the subject of the application; and

5 (b) the bankrupt, except where the application was made by the bankrupt.

(4) Upon being served with the application under subsection (3)(a), the Official Assignee shall forthwith give notice of the application to every person on whom the notice of the determination was served under section 86A(1)(b)(ii) and 10 (iii) and (3) (except, where the application was made by a creditor, that creditor).

(5) On hearing an application under subsection (1), the court may —

15 (a) confirm or vary the monthly contribution and target contribution in respect of which the application is brought; or

(b) give such directions to the Official Assignee or make such order as the court may think fit.

20 (6) Unless the court orders otherwise, a variation under subsection (5)(a) of the monthly contribution and target contribution shall take effect on the date of the order.

(7) No variation of the monthly contribution and target contribution made under subsection (5)(a) shall affect any 25 payments made by the bankrupt in respect of the monthly contribution or target contribution prior to the date of the variation.

(8) The Official Assignee shall, within 14 days after the variation of the monthly contribution and target contribution made under subsection (5)(a), serve a notice of the variation 30 order on —

(a) the bankrupt;

(b) every creditor who has filed a proof of debt; and

- (c) in a case where the variation is made before the expiry of the period referred to in section 88A(1), every creditor, mentioned in the statement of the bankrupt's affairs, who has not filed a proof of debt.

5 **Power of court to vary monthly contribution and target contribution**

86C.—(1) Where the court is satisfied, on the application of the Official Assignee, a bankrupt or any creditor of the bankrupt, that any of the conditions described in subsection (2) apply, the court may make such order as it thinks fit to vary the bankrupt's monthly contribution and target contribution.

(2) The conditions referred to in subsection (1) are as follows:

- (a) that before the determination of the monthly contribution and target contribution under section 86A was made, the bankrupt concealed from or failed to disclose to the Official Assignee, information which the bankrupt knows or ought reasonably to know would have a material impact on the determination;
- (b) that information which would have a material impact on the determination of the bankrupt's monthly contribution and target contribution —
- (i) was not available to the bankrupt before the determination of the monthly contribution and target contribution under section 86A; and
- (ii) is now available;
- (c) that it is otherwise just and equitable to vary the monthly contribution and target contribution determined under section 86A.

(3) An application under subsection (1) shall be served, within 3 days after the date of filing, on —

- (a) the Official Assignee whose determination under section 86A is the subject of the application, except

where the application was made by the Official Assignee; and

(b) the bankrupt, except where the application was made by the bankrupt.

5 (4) Upon —

(a) the filing of an application under subsection (1) by the Official Assignee; or

(b) being served with an application under subsection (3)(a), where the application is not filed by  
10 the Official Assignee,

the Official Assignee shall forthwith give notice of the application to every person on whom the notice of the determination was served under section 86A(1)(b)(ii) and (iii) and (3) (except, where the application was made by a creditor,  
15 that creditor).

(5) Unless the court orders otherwise, a variation made under subsection (1) of the monthly contribution and target contribution shall take effect on the date of the order.

(6) No variation of the monthly contribution and target contribution made under subsection (1) shall affect any  
20 payments made by the bankrupt in respect of the monthly contribution or target contribution prior to the date of the variation.

(7) The Official Assignee shall, within 14 days after the variation of the monthly contribution and target contribution made under subsection (1), serve a notice of the variation order  
25 on —

(a) the bankrupt;

(b) every creditor who has filed a proof of debt; and

(c) in a case where the variation is made before the expiry  
30 of the period referred to in section 88A(1), every creditor, mentioned in the statement of the bankrupt's affairs, who has not filed a proof of debt.

**Power of Official Assignee to reduce monthly contribution**

5 **86D.**—(1) The Official Assignee may, on the application of a bankrupt, issue a certificate reducing the bankrupt's monthly contribution and target contribution to such extent as the Official Assignee thinks fit, if the Official Assignee is satisfied that one or more of the conditions described in subsection (2) has arisen after the determination of the monthly contribution and target contribution was made.

(2) The conditions referred to in subsection (1) are as follows:

- 10 (a) the reasonable expenses of maintenance of the bankrupt's family has increased as a result of an increase in the number of the members of the bankrupt's family;
- 15 (b) the contribution by the bankrupt's spouse to the maintenance of the bankrupt's family has been substantially reduced as a result of a substantial reduction in the monthly income earned by the bankrupt's spouse, which reduction in income is not likely to be transient in nature;
- 20 (c) the bankrupt is unable to pay the monthly contribution in full due to such personal circumstances of the bankrupt, including but not limited to debilitating illness, as resulted in a substantial reduction in the bankrupt's income, which reduction is not likely to be
- 25 transient in nature.

(3) A certificate issued under subsection (1) shall take effect on the date it is issued.

30 (4) No certificate issued under subsection (1) shall affect any payments made by the bankrupt in respect of the monthly contribution or target contribution prior to the date of issue of the certificate.

(5) The Official Assignee shall, within 14 days after the issuance of a certificate under subsection (1), serve a notice of the issuance of the certificate on —

- (a) the bankrupt;
- (b) every creditor who has filed a proof of debt; and
- (c) in a case where the reduction is made before the expiry of the period referred to in section 88A(1), every creditor, mentioned in the statement of the bankrupt's affairs, who has not filed a proof of debt.

(6) Where the bankruptcy is being administered by a trustee in bankruptcy, and the certificate under subsection (1) was issued by the trustee, the trustee shall also serve the notice of the issuance of the certificate on the Official Assignee.

**Review by court of decision of Official Assignee under section 86D**

**86E.**—(1) Where a bankrupt or any creditor of the bankrupt is dissatisfied with the decision of the Official Assignee under section 86D(1), the bankrupt or the creditor (as the case may be) may, within 21 days after the service of the notice referred to in section 86D(5), apply to the court to review the decision.

(2) The court may, in any particular case, extend the period for the making of an application under subsection (1) if it is satisfied that it is just to do so.

(3) An application under subsection (1) shall be served, within 3 days after the date of filing, on the Official Assignee, who shall forthwith —

- (a) unless the application was made by the bankrupt, serve a copy of the application on the bankrupt; and
- (b) give notice of the application to every creditor who was, under section 86D(5)(b) or (c), entitled to service of the notice referred to in that section (except, where the application was made by a creditor, that creditor).

(4) On hearing an application under subsection (1), the court may —

- (a) confirm, vary or cancel the certificate in respect of which the application is brought; or

(b) give such directions to the Official Assignee or make such order as the court may think fit.

(5) Unless the court orders otherwise, a variation made under subsection (4)(a) of the certificate of the Official Assignee, shall take effect from the date of the issuance of the certificate.

(6) No variation of the certificate of the Official Assignee shall affect any payment made by the bankrupt, prior to the date of the variation, in respect of any reduced monthly contribution pursuant to the certificate.

(7) The Official Assignee shall, within 14 days after a variation made under subsection (4)(a) of the certificate of the Official Assignee, serve a notice of the variation on every person who was, under section 86D(5) or (6), entitled to service of the notice of issuance of the certificate.

**Review by Official Assignee of administration by trustee in bankruptcy**

**86F.**—(1) A trustee in bankruptcy shall, not later than 1 month after each relevant anniversary of the administration date for the bankruptcy, submit to the Official Assignee a report of the trustee's administration of the bankruptcy, which shall be in such form as may be prescribed.

(2) The report of the trustee's administration of the bankruptcy referred to in subsection (1) shall contain particulars of —

- (a) the total amount of debts owed to creditors who have filed a proof of debt;
- (b) the property of the bankrupt comprised in the bankruptcy estate and the status of the realisation of such property;
- (c) the monthly contribution and target contribution for the bankruptcy;
- (d) the payments that have been made by the bankrupt to the bankruptcy estate; and

(e) any other payments that have been made to the bankruptcy estate.

(3) If the Official Assignee is of the opinion that the monthly contribution and target contribution determined by the trustee are excessive, the Official Assignee may issue a certificate reducing the monthly contribution and target contribution.

(4) In this section, “relevant anniversary” of the administration date for a bankruptcy means —

(a) in a case where the bankruptcy is the first bankruptcy of the bankrupt, the fifth anniversary and every subsequent anniversary of the administration date; and

(b) in any other case, the seventh anniversary and every subsequent anniversary of the administration date.”.

#### **Amendment of section 87**

**24.** Section 87 of the Bankruptcy Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) Subject to this section and section 90, the following shall be provable in bankruptcy:

(a) any debt or liability to which a bankrupt —

(i) is subject at the date of the bankruptcy order; or

(ii) may become subject before his discharge by reason of any obligation incurred before the date of the bankruptcy order;

(b) any interest on such debt or liability referred to in paragraph (a) which is payable by the bankrupt in respect of any period before the commencement of his bankruptcy.”; and

(b) by deleting subsection (3) and substituting the following subsections:

“(3) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise, breach of trust, tort, bailment, or an obligation to make restitution, shall not be provable in bankruptcy.

5 (3A) For the purposes of subsection (3), in determining whether any liability in tort is a debt provable in bankruptcy, the bankrupt is deemed to be subject to that liability by reason of an obligation incurred at the time when the cause of action accrued.”.

10 **New section 88A**

**25.** The Bankruptcy Act is amended by inserting, immediately after section 88, the following section:

**“Creditors to file proof of debts within time limited**

15 **88A.**—(1) The Official Assignee shall, not later than 1 month after the administration date for a bankruptcy, give notice, in such manner as may be prescribed, of the bankruptcy order and the time within which creditors are required under subsection (2) to file their proof of debt, to —

20 (a) every creditor mentioned in the statement of affairs or supplementary information (if any); and

(b) every other person who, to the Official Assignee’s knowledge, claims to be a creditor.

25 (2) Subject to subsection (3), no creditor may prove a debt in a bankruptcy unless he files a proof in respect of the debt not later than 4 months after the administration date of the bankruptcy.

(3) The court may, on the application of a creditor made at any time, extend the period during which the creditor may prove his debt, if the court considers it just to do so.”.

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**Amendment of section 90**

**26.** Section 90 of the Bankruptcy Act is amended —

(a) by deleting paragraph (a) of subsection (1) and substituting the following paragraphs:

5                   “(a) firstly, the costs and expenses of administration or otherwise incurred by the Official Assignee;

                  (aa) secondly, the costs of the applicant for the bankruptcy order (whether taxed or agreed) and the costs and expenses properly incurred by a nominee in respect of the administration of any voluntary arrangement under Part V;”;

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(b) by deleting the word “secondly” in subsection (1)(b) and substituting the word “thirdly”;

(c) by deleting the word “thirdly” in subsection (1)(c) and substituting the word “fourthly”;

15

(d) by deleting the word “fourthly” in subsection (1)(d) and substituting the word “fifthly”;

(e) by deleting paragraph (e) of subsection (1) and substituting the following paragraph:

20                   “(e) sixthly, all amounts due in respect of contributions payable during a period of 12 consecutive months, commencing not earlier than 12 months before and ending not later than 12 months after the date of the bankruptcy order, by the bankrupt as the employer of any person under any written law relating to employees’ superannuation or provident funds or under any scheme of superannuation which is an approved scheme under the Income Tax Act (Cap. 134).”;

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(f) by deleting the word “sixthly” in subsection (1)(f) and substituting the word “seventhly”;

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(g) by deleting the word “seventhly” in subsection (1)(g) and substituting the word “eighthly”; and

(h) by deleting subsections (2) and (3) and substituting the following subsection:

5           “(2) The amount payable under subsection (1)(b) and (c) shall not exceed such amount as may be prescribed by the Minister by order published in the *Gazette*.”.

#### **Repeal and re-enactment of section 94**

27. Section 94 of the Bankruptcy Act is repealed and the following section substituted therefor:

#### 10           **“Interest on debts**

**94.**—(1) Where interest on a debt was not previously reserved or agreed, interest shall be allowed on such debt at a rate not exceeding the rate of interest as may be prescribed, in the following circumstances:

15           (a) if the debt is due by virtue of a written instrument and payable at a certain time, interest shall be allowed for the period between that time and the date of the bankruptcy order;

20           (b) if the debt is due otherwise than as referred to in paragraph (a), interest shall be allowed if, before the making of the bankruptcy application, a demand for payment was made in writing by or on behalf of the creditor, and notice given that interest would be payable from the date of the demand to the date of the payment, in which case interest shall be allowed for the period between the date of the demand and the date of the bankruptcy order.

          (2) For the purposes of distribution of dividend —

30           (a) where a debt which has been proved in a bankruptcy includes interest, and the rate of such interest has been previously agreed or reserved, the interest shall be calculated —

(i) from the date the interest was payable to the date of the bankruptcy order; and

(ii) at the rate which has been previously agreed or reserved, or the rate of interest as may be prescribed, whichever is lower,

without prejudice to the right of a creditor to receive out of the surplus of the estate, after all the debts proved in the bankruptcy have been paid in full, any higher interest in the manner provided for in section 123B; and

(b) where a debt which has been proved in a bankruptcy includes interest, and the rate of such interest has not been previously agreed or reserved, the interest shall be calculated —

(i) from the date the interest was payable to the date of the bankruptcy order; and

(ii) at the rate of interest as may be prescribed.

(3) Interest on preferential debts shall rank equally with interest on debts other than preferential debts.

(4) For the purpose of this section, “interest” includes any pecuniary consideration in lieu of interest and any penalty or late payment charge by whatever name called.”.

#### **Amendment of section 95**

**28.** Section 95(7) of the Bankruptcy Act is amended by inserting, immediately after the words “relates is”, the words “discharged or”.

#### **Amendment of section 95A**

**29.** Section 95A of the Bankruptcy Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) Where a composition or scheme is accepted by the creditors by a special resolution under section 95, the Official Assignee may —

- 5           (a) where the composition or scheme is accepted by all the creditors, annul the bankruptcy order by issuing a certificate of annulment; or
- (b) in any case, discharge the bankrupt by issuing a certificate of discharge.”;
- 10       (b) by inserting, immediately after the word “every” in subsection (2), the words “discharge or”;
- (c) by inserting, immediately after the words “copy of” in subsection (3), the words “the certificate of discharge or”;
- (d) by inserting, immediately after the word “A” in subsection (4), the words “certificate of discharge or”;
- 15       (e) by deleting subsection (6) and substituting the following subsection:

““(6) If —

- (a) default is made in payment of any instalment due under the composition or scheme; or
- 20       (b) the court is satisfied that —
  - (i) the composition or scheme cannot, in consequence of legal difficulties or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the bankrupt; or
  - 25       (ii) the acceptance of the proposal by the creditors was obtained by fraud,

30       the court may, if it thinks fit, on an application by the Official Assignee or any creditor, annul the composition or scheme by revoking the certificate of discharge or certificate of annulment, as the case may be, but without prejudice to the validity of any sale, disposition or

payment duly made or thing duly done under or in pursuance of the composition or scheme.”; and

- (f) by deleting the word “Annulment” in the section heading and substituting the words “Discharge or annulment”.

5 **Amendment of section 97**

**30.** Section 97 of the Bankruptcy Act is amended —

- (a) by inserting, immediately after the words “in the subsequent bankruptcy” in subsection (1), the words “or administration in bankruptcy, as the case may be”;
- 10 (b) by inserting, immediately after subsection (1), the following subsection:

“(1A) For the purposes of subsection (1), in respect of any unsatisfied balance of the debts provable in the last preceding bankruptcy for which the Official Assignee is deemed to be a creditor against the property of the bankrupt in the subsequent bankruptcy, the debts in the last preceding bankruptcy which were to be paid in priority to all other debts in that bankruptcy under section 90(1) shall continue to enjoy the same priority and the same rank in the order specified in section 90(1), and debts of a class specified in section 90(1) in the last preceding bankruptcy shall rank equally with debts of the same class in the second or subsequent bankruptcy.”; and

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- (c) by inserting, immediately after subsection (4), the following subsection:
- 25

“(5) Where a second or subsequent bankruptcy order is made against a bankrupt —

- (a) section 108A(1) shall, with effect from the date of such order, cease to apply in respect of the last preceding bankruptcy; and
- 30 (b) section 125(2) shall, for the duration of the subsequent bankruptcy, not apply in respect of the last preceding bankruptcy.”.

### **Amendment of section 101**

**31.** Section 101(1) of the Bankruptcy Act is amended by deleting the words “and 100” and substituting the words “, 100 and 102”.

### **Amendment of section 102**

5     **32.** Section 102 of the Bankruptcy Act is amended —

(a) by deleting the words “in good faith, for value and without notice of the relevant circumstances” in paragraphs (a) and (b) of subsection (3), and substituting in each case the words “in good faith and for value”;

10    (b) by inserting, immediately after subsection (3), the following subsection:

“**(3A)** Where a person (hereinafter referred to as the relevant person) has acquired an interest in property from a person other than the individual in question, or has received a benefit from the transaction or unfair preference, and at the time of that acquisition or receipt —

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(a) the relevant person had notice of the relevant surrounding circumstances and of the relevant proceedings; or

20

(b) the relevant person was an associate of, or was connected with, either the individual in question or the person with whom that individual entered into the transaction or to whom that individual gave the unfair preference, as the case may be,

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then, unless the contrary is shown, it shall be presumed, for the purposes of subsection (3)(a) or (b), as the case may be, that the interest was acquired or the benefit was received otherwise than in good faith.”; and

30    (c) by deleting subsection (5) and substituting the following subsections:

“(5) For the purposes of subsection (3A)(a), the relevant surrounding circumstances are (as the case may require) —

- 5           (a) the fact that the individual in question entered into the transaction at an undervalue; or
- (b) the circumstances which amounted to the giving of the unfair preference by the individual in question.

10           (6) For the purposes of subsection (3A)(a), a person has notice of the relevant proceedings if that person has notice —

- (a) of the fact that the bankruptcy application on which the individual in question is adjudged bankrupt has been made; or
- 15           (b) of the fact that the individual in question has been adjudged bankrupt.

(7) For the purposes of subsection (3A)(b), the relevant person is connected with a company if —

- 20           (a) the relevant person is a director of the company or an associate of such a director; or
- (b) the relevant person is an associate of the company.

(8) In subsection (7), “director” has the same meaning as in section 4(1) of the Companies Act (Cap. 50).”.

25   **New section 108A**

**33.** The Bankruptcy Act is amended by inserting, immediately after section 108, the following section:

**“Payment of monthly contribution**

30    **108A.**—(1) A bankrupt who has not obtained his discharge shall, subject to subsection (2), pay and make over to the Official Assignee, on or before such day of each month as may

be specified by the Official Assignee in writing, an amount not less than the bankrupt's monthly contribution.

5 (2) Where the target contribution for a bankruptcy has been paid in full, whether through payments by the bankrupt or otherwise, subsection (1) shall cease to apply to the bankrupt.

(3) For the avoidance of doubt, nothing in sub-section (1) prevents any person other than the bankrupt from paying, to the Official Assignee, any amount towards the bankrupt's target contribution.”.

10 **Amendment of section 109**

**34.** Section 109 of the Bankruptcy Act is amended —

- 15 (a) by deleting the word “In” in subsection (4) and substituting the words “Subject to subsection (6), in”;
- (b) by deleting the word “The” in subsection (5) and substituting the words “Subject to subsection (6), the”; and
- (c) by inserting, immediately after subsection (5), the following subsection:

“(6) In fixing the amount to be received by the Official Assignee under this section, the court shall not order —

- 20 (a) the payment, on a monthly basis out of a bankrupt's monthly income, of any amount which exceeds the bankrupt's monthly contribution;
- 25 (a) the payment of any amount which exceeds the difference between the bankrupt's target contribution and what has been paid towards the bankrupt's target contribution; or
- 30 (c) the payment of any amount if that amount is necessary for the expenses of maintenance of the bankrupt and the bankrupt's family.”.

### **Amendment of section 117**

**35.** Section 117(5) of the Bankruptcy Act is amended by deleting paragraph (a).

### **New section 121A**

5 **36.** The Bankruptcy Act is amended by inserting, immediately after section 121, the following section:

#### **“Payment of interest in the event of surplus**

10 **121A.**—(1) Where the debts and the expenses of the bankruptcy have all been paid, and there is any surplus in the estate, the interest referred to in subsection (2) shall be paid before the bankrupt is entitled to any surplus under section 122.

(2) Any surplus referred to in subsection (1) shall be paid towards interest in the following priority:

15 (a) firstly, any higher rate of interest on a debt which any creditor may be entitled over and above such prescribed rate of interest referred to in section 94(1), from the date the interest was payable to the date of the bankruptcy order;

20 (b) secondly, interest on each debt proved in bankruptcy, from the date of the bankruptcy order to the date such debt was paid, calculated at such rate of interest the creditor may be entitled or at such rate as may be prescribed if the rate of interest was not previously agreed.

25 (3) Where any surplus in an estate is to be paid in accordance with subsection (2), interest on preferential debts shall rank equally with interest on debts other than preferential debts.

30 (4) The interest in each class specified in subsection (2) shall rank in the order therein specified but interest of the same class shall rank equally between themselves, and shall be paid in full from the surplus in the estate, unless the surplus is insufficient to meet them, in which case they shall abate in equal proportions between themselves.”

**Amendment of section 123**

**37.** Section 123 of the Bankruptcy Act is amended by inserting, immediately after subsection (1), the following subsection:

- 5 “(1A) No application under subsection (1)(a) may be made to the court for the annulment of a bankruptcy order unless —
- (a) the application is made not later than 12 months after the making of the bankruptcy order; or
  - (b) leave is given by the court for the application to be made later than 12 months after the making of the bankruptcy order.”.
- 10

**Amendment to section 125**

**38.** Section 125 of the Bankruptcy Act is amended —

- (a) by deleting subsection (2) and substituting the following subsection:
- 15 “(2) The Official Assignee shall not issue a certificate discharging a bankrupt from bankruptcy under subsection (1) unless —
- (a) in a case where the bankruptcy is the first bankruptcy of the bankrupt —
    - 20 (i) the target contribution has been paid in full, or the Official Assignee is satisfied that the bankrupt is unable to pay the target contribution in full due to extenuating circumstances, and —
    - 25 (A) a period of 3 years has lapsed after the administration date of the bankruptcy, and no objection to the discharge is entered by any creditor; or
    - 30 (B) a period of 5 years has lapsed after the administration date of the bankruptcy; or

(ii) a period of 7 years has lapsed after the administration date of the bankruptcy; or

(b) in any other case —

(i) the target contribution has been paid in full, or the Official Assignee is satisfied that the bankrupt is unable to pay the target contribution in full due to extenuating circumstances, and —

(A) a period of 5 years has lapsed after the administration date of the bankruptcy, and no objection to the discharge is entered by any creditor; or

(B) a period of 7 years has lapsed after the administration date of the bankruptcy; or

(ii) a period of 9 years has lapsed after the administration date of the bankruptcy.”; and

(b) by inserting, immediately after subsection (4), the following subsections:

“(5) For the purposes of calculating the periods of time referred to in subsection (2), there shall be disregarded any period —

(a) during which the bankrupt is outside Singapore; and

(b) in respect of which the bankrupt has not obtained permission of the Official Assignee to leave, remain or reside outside Singapore.

(6) In this section, “extenuating circumstances” means any of the following circumstances:

(a) the death of the bankrupt;

- 5 (b) such personal circumstances of the bankrupt, including but not limited to debilitating illness, as prevent the bankrupt from earning a meaningful salary for the remaining period of his bankruptcy before the expiry of the period referred to in subsection (2)(a)(ii) or (b)(ii).”.

### Amendment of section 126

39. Section 126 of the Bankruptcy Act is amended —

- 10 (a) by inserting, immediately after the words “section 125” in subsection (1), the words “ in respect of any bankruptcy administered by the Official Assignee”;
- (b) by inserting, immediately after subsection (5), the following subsections:

15 “(5A) Before requesting the Official Assignee to issue a certificate of discharge under section 125, a trustee in bankruptcy administering a bankrupt’s estate shall serve on each creditor who has filed a proof of debt, a notice of the trustee’s intention to request the Official Assignee to discharge the bankrupt, together with a statement of the trustee’s reasons for his view that the bankrupt ought to be discharged.

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(5B) A creditor who has been served with a notice under subsection (5A) and who wishes to enter an objection to the Official Assignee issuing a certificate discharging the bankrupt may, within 21 days from the date of the trustee’s notice, furnish to the trustee a statement of the grounds of the creditor’s objection.

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(5C) A creditor who does not furnish to the trustee a statement of the grounds of his objection in accordance with subsection (5B) shall be deemed to have no objection to the discharge.

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(5D) A creditor who has furnished the trustee with a statement of the grounds of his objection in accordance with subsection (5B) may, within 21 days of being

informed by the trustee that his objection has been rejected, make an application to the court for an order prohibiting the Official Assignee from issuing a certificate of discharge.

5           (5E) Every application under subsection (5D) shall be served on the Official Assignee, the trustee and the bankrupt, and the court shall hear the Official Assignee, the trustee and the bankrupt before making an order on the application.”;

10          (c) by inserting, immediately after “(4)” in subsection (6), the words “or (5D)”;

(d) by inserting, immediately before the word “make” in subsection (6)(b), the words “subject to subsection (8),”; and

15          (e) by inserting, immediately after subsection (6), the following subsections:

20           “(7) The court shall, in making an order referred to in subsection (6)(b) on an application made under subsection (4), appoint a trustee in bankruptcy to administer the bankrupt’s estate in place of the Official Assignee.

(8) An order of the court made under subsection (6)(b) shall not extend beyond —

25           (a) in a case where the bankruptcy is the first bankruptcy of the bankrupt, the lapsing of a period of 9 years after the administration date of the bankruptcy; or

30           (b) in any other case, the lapsing of a period of 11 years after the administration date of the bankruptcy.

(9) For the purposes of calculating the periods of time referred to in subsection (8), there shall be disregarded any period —

- (a) during which the bankrupt is outside Singapore;  
and
- (b) in respect of which the bankrupt has not obtained permission of the Official Assignee to leave, remain or reside outside Singapore.”.

5

#### **Amendment of section 129**

**40.** Section 129(1) of the Bankruptcy Act is amended —

- (a) by deleting paragraph (i) and substituting the following paragraph:

10           “(i) aid the Official Assignee in the realisation of the bankrupt’s property and the distribution of the proceeds among the bankrupt’s creditors;”;

- (b) by inserting, immediately after paragraph (l), the following paragraph:

15           “(la) make disclosure to the Official Assignee of any matter in respect of which the bankrupt is or may become a defendant or respondent in proceedings (including criminal proceedings), to such extent as may be required by the Official Assignee;”.

#### **Amendment of section 131**

**41.** Section 131 of the Bankruptcy Act is amended —

- (a) by deleting paragraph (a) of subsection (1) and substituting the following paragraph:

25           “(a) he shall, without the previous sanction of the Official Assignee, be incompetent to commence, continue or defend any action or counterclaim, or any appeal arising therefrom, other than —

- (i) an action for damages in respect of injury to his person; or
- 30           (ii) matrimonial proceedings and its related ancillary matters relating to maintenance and custody.”;

(b) by inserting, immediately after subsection (1), the following subsection:

5 “(1A) The bankrupt shall notify the Official Assignee of any action or proceeding, or appeal arising therefrom, referred to in subsection (1)(a)(i) or (ii) not later than 3 days before commencing, continuing or defending the action, proceeding or appeal, as the case may be.”; and

(c) by inserting, immediately after subsection (2), the following subsection:

10 “(3) For the purposes of this section, “action” shall include arbitration.”.

### **New section 132A**

**42.** The Bankruptcy Act is amended by inserting, immediately after section 132, the following section:

15 **“Powers of investigation**

**132A.**—(1) For the purpose of investigating any offence under this Act, the Official Assignee or any officer authorised by the Official Assignee (hereinafter referred to as an authorised officer) may do all or any of the following:

20 (a) require, by notice in writing to any person who appears to be acquainted with the facts and circumstances relating to the offence, the attendance of the person before the Official Assignee or the authorised officer (as the case may be) on such date and at such time as may be specified in the notice;

25 (b) examine any person who appears to be acquainted with the facts and circumstances relating to the offence, and require the person to answer such questions relating to the offence as may be posed by the Official Assignee or the authorised officer (as the case may be);

30 (c) require any person to furnish any information or produce any book, document or copy of such book or

document, which may relate to the offence, that is in the possession of that person and, without payment, inspect, keep, copy, photograph or take extracts from such book or document.

5 (2) A statement made by any person examined under this section shall —

- (a) be reduced to writing;
- (b) be read over to him;
- 10 (c) if he does not understand English, be interpreted for him in a language that he understands; and
- (d) after correction, if necessary, be signed by him.

(3) Any person who, without reasonable excuse —

- (a) fails to attend as required by a notice under subsection (1)(a);
- 15 (b) fails to answer any question posed to him under subsection (1)(b); or
- (c) fails to furnish any information or produce any book, document or copy of such book or document in his possession which is required under subsection (1)(c),

20 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.”.

### **Amendment of section 133**

25 **43.** Section 133 of the Bankruptcy Act is amended by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

30 “(2) A bankrupt shall not be guilty of any offence under section 135(a), (b) or (d), 136(a), (b), (c), (d) or (e), 139(a) or 141(1)(a), (b) or (c) if he proves that, at the time of the conduct constituting the offence, he did not know or have any reason to believe that he had been made a bankrupt.”.

### **Amendment of section 135**

**44.** Section 135 of the Bankruptcy Act is amended by deleting “\$500” in paragraphs *(b)* and *(d)* and substituting in each case the words “\$1,000 (or such higher amount as may be prescribed)”.

### 5 **Amendment of section 138**

**45.** Section 138(1) of the Bankruptcy Act is amended by inserting, immediately after the words “his property” in paragraph *(a)*, the words “, with the intent of defrauding his creditors or depriving his creditors of the property in the event that a bankruptcy order is  
10 made against him”.

### **Amendment of section 139**

**46.** Section 139 of the Bankruptcy Act is amended by deleting the words “\$500 or more” in paragraph *(a)* and substituting the words “not less than \$1,000 (or such higher amount as may be  
15 prescribed)”.

### **Amendment of section 141**

**47.** Section 141 of the Bankruptcy Act is amended —

*(a)* by deleting paragraph *(a)* of subsection (1) and substituting the following paragraph:

20 “*(a)* either alone or jointly with any other person, he obtains credit to the extent of not less than \$1,000 (or such higher amount as may be prescribed) from any person without informing that person, at the time the credit is obtained, that  
25 he is an undischarged bankrupt;”;

*(a)* by inserting, immediately after the words “any business transaction” in subsection (1)*(b)*, the words “, at the time such business transaction is entered into;”;

30 *(c)* by deleting the full-stop at the end of paragraph *(b)* of subsection (1) and substituting “; or” and by inserting immediately thereafter the following paragraph:

5 “(c) he provides a guarantee, indemnity or security to the extent of not less than \$1,000 (or such higher amount as may be prescribed) in respect of any amounts borrowed or charged or any credit obtained by another person, without informing the lender or creditor, at the time such guarantee, indemnity or security is provided, that he is an undischarged bankrupt.”; and

10 (d) by deleting the section heading and substituting the following section heading:

**“Obtaining credit, engaging in business, standing as guarantor”.**

**Amendment of section 143**

15 **48.** Section 143(1) of the Bankruptcy Act is amended by deleting the words “2 years” in paragraph (a) and substituting the words “12 months”.

**Amendment of section 148**

20 **49.** Section 148(8) of the Bankruptcy Act is amended by inserting, immediately after the words “administration order under this section”, the words “, and every reference to a bankrupt shall, unless the context otherwise requires, be read as a reference to the legal representative of the deceased debtor”.

**Amendment of section 149**

25 **50.** Section 149 of the Bankruptcy Act is amended —  
(a) by deleting subsection (2) and substituting the following subsection:

30 “(2) Unless agreed to by the Official Assignee, all bills and charges of solicitors, managers, accountants, auctioneers, brokers and other persons shall be taxed by the court.”; and

- (b) by deleting the words “to the prescribed officer for taxation” in subsection (3) and substituting the words “for taxation by the court”.

**Amendment of section 157**

- 5 **51.** Section 157 of the Bankruptcy Act is amended by deleting the words “Where, by any provision of this Act, any summons, notice or document is required or authorised to be served on any person, it may be served” in subsection (1) and substituting the words “Every  
10 any person under any provision of this Act, and every summons issued by a court against any person in connection with any offence under this Act, may be served on the person”.

**Amendment of section 160**

- 15 **52.** Section 160 of the Bankruptcy Act is amended by deleting paragraph (c) and substituting the following paragraph:

“(c) a person who lacks capacity may act by —

- (i) a donee of a lasting power of attorney granted by him; or  
20 (ii) a deputy appointed or deemed to be appointed for him by the High Court under the Mental Capacity Act (Cap. 177A) with powers in relation to him for the purposes of this Act.”.

**Repeal of section 161**

- 53.** Section 161 of the Bankruptcy Act is repealed.

25 **Amendment of section 163**

- 54.** Section 163 of the Bankruptcy Act is amended —

- (a) by deleting subsection (1) and substituting the following subsections:

30 “(1) The Official Assignee shall maintain, in such form or manner as he thinks fit —

- (a) a list of undischarged bankrupts;

- (b) a list of discharged bankrupts;
- (c) a record of every bankruptcy order;
- (d) a record of every order rescinding a bankruptcy order;
- 5 (e) a record of every order and every certificate of the Official Assignee discharging a bankruptcy order; and
- (f) a record of every order and every certificate of the Official Assignee annulling a bankruptcy order.

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(1A) Subject to subsections (1B) and (1C), the Official Assignee may allow any person, on payment of the prescribed fee, to inspect or otherwise have access to any part of such list or record referred to in subsection (1) as the Official Assignee may determine.

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(1B) Where a bankruptcy order has been annulled, no person (except the person against whom the bankruptcy order was made) may inspect or have access to any part of any record maintained by the Official Assignee which relates to the bankruptcy order or the annulment of the bankruptcy order.

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(1C) Where the target contribution was paid in full before a person's discharge from bankruptcy, and 5 years have lapsed after the date of discharge, no person (except the person who was discharged) may inspect or otherwise have access to —

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- (a) such part of the list referred to in subsection (1)(b) relating to that bankruptcy which the person was discharged from; and
- 30 (b) such part of any record referred to in subsection (1)(c) or (e) relating to that bankruptcy which the person was discharged from.”; and

(b) by deleting the section heading and substituting the following section heading:

**“List of undischarged bankrupts etc. to be kept”.**

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