BANKRUPTCY.

**No. 43 of 1946.**

An Act to amend the *Bankruptcy Act* 1924-1945.

[Assented to 15th August, 1946.]

BE it enacted by the King’s Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

**Short title and citation.**

**1.**—(1.) This Act may be cited as the *Bankruptcy Act* 1946.

(2.) The *Bankruptcy Act* 1924-1945 is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Bankruptcy Act* 1924-1946.

**Commencement.**

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

**3.** After section one hundred and seventeen of the Principal Act the following section is inserted:—

**Distribution of dividends where bankrupt has failed to file statement of affairs.**

“117a. Where a bankrupt has refused or failed to file a statement of his affairs in accordance with section sixty-six of this Act, the Court may, on the application of the official receiver, upon such terms as it thinks fit, order that distribution of dividends amongst the creditors who have proved their debts shall proceed in accordance with this Division as if the bankrupt had filed a statement of his affairs and those creditors had been mentioned therein.”.

**4.** After section one hundred and eighty-three of the Principal Act the following section is inserted:—

**Filling of vacancy in office of trustee.**

“184.—(1.) If a vacancy occurs in the office of trustee under a composition or scheme of arrangement, or in the office of trustee of a deed made under this Part, the Court may, on the report of the Registrar, or on the application of the debtor, a creditor or the official receiver—

(*a*) appoint the official receiver to act as trustee;

(*b*) order that the official receiver shall summon a meeting of creditors for the purpose of appointing a new trustee; or

(*c*) appoint the official receiver to act as trustee pending the appointment of a new trustee by the meeting mentioned in the last preceding paragraph of this sub-section,

either solely or jointly with any continuing trustee, as the case requires.

“(2.) A meeting of creditors summoned in accordance with the last preceding sub-section may appoint a person registered under Part VIII. of this Act as qualified to act as a trustee to fill the vacancy.

“(3.) An appointment of the official receiver to act as trustee shall be deemed to have taken effect as from the date upon which the vacancy in the office of trustee occurred.

“(4.) An appointment of a new trustee by a meeting of creditors shall be deemed to have taken effect as from the date upon which the vacancy in the office of trustee occurred, unless the official receiver has been appointed to act as specified in paragraph (*c*) of sub-section (1.) of this section, in which case the appointment of the new trustee shall take effect as from the date upon which it is made.

“(5.) Where the official receiver is appointed to act as trustee or a new trustee is appointed by a meeting of creditors in accordance with this section—

(*a*)all property the subject of the composition, the scheme of arrangement or the deed, as the case may be, shall, from and including the date from which the appointment takes effect or is deemed to have taken effect, vest in the official receiver or the new trustee solely or jointly with any continuing trustee, as the case requires, and the official receiver or the new trustee shall have the same rights and powers and perform the same duties and be subject to the same liabilities as if the official receiver or the new trustee had been an original trustee; and

(*b*) no personal liability shall attach to the official receiver or the new trustee, as the case may be, in respect of any act done, default made or liability incurred by any prior trustee.

“(6.) If the official receiver is appointed to act as trustee in pursuance of this section, he shall not be required to give any security in respect of that appointment.”.

**5.** After section two hundred and three of the Principal Act the following section is inserted:—

**Filling of vacancy in office of trustee.**

“203a.—(1.) If a vacancy occurs in the office of trustee of a deed of arrangement registered under this Part, the Court may, on the report of the Registrar, or on the application of the debtor, a creditor or the official receiver—

(*a*) appoint the official receiver to act as trustee;

(*b*) order that the official receiver shall summon a meeting of creditors for the purpose of appointing a new trustee; or

(*c*) appoint the official receiver to act as trustee pending the appointment of a new trustee by the meeting mentioned in the last preceding paragraph of this sub-section.

either solely or jointly with any continuing trustee, as the case requires.

“(2.) A meeting of creditors summoned in accordance with the last preceding sub-section may appoint a person registered under Part VIII. of this Act as qualified to act as a trustee to fill the vacancy.

“(3.) An appointment of the official receiver to act as trustee shall be deemed to have taken effect as from the date upon which the vacancy in the office of trustee occurred.

“(4.) An appointment of a new trustee by a meeting of creditors shall be deemed to have taken effect as from the date upon which the vacancy in the office of trustee occurred, unless the official receiver has been appointed to act as specified in paragraph (*c*) of sub-section (1.) of this section, in which case the appointment of the new trustee shall take effect as from the date upon which it is made.

“(5.) Where the official receiver is appointed to act as trustee or a new trustee is appointed in accordance with this section—

(*a*) all property the subject of the deed of arrangement shall, from and including the date from which the appointment takes effect or is deemed to have taken effect, vest in the official receiver or the new trustee solely or jointly with any continuing trustee, as the case requires, and the official receiver or the new trustee shall have the same rights and powers and perform the same duties and be subject to the same liabilities as if the official receiver or the new trustee had been an original trustee; and

(*b*) no personal liability shall attach to the official receiver or the new trustee, as the case may be, in respect of any act done, default made or liability incurred by any prior trustee.

“(6.) If the official receiver is appointed to act as trustee in pursuance of this section, he shall not be required to give any security in respect of that appointment.”.

**Validation of certain transactions.**

**6.** All sales and transfers of any property the subject of a composition, scheme of arrangement or deed of assignment under Part XI., or a deed of arrangement under Part XII., of the *Bankruptcy Act* 1924, or of that Act as amended, made and effected, prior to the commencement of this section, by an official receiver purporting to act as trustee under that composition, scheme or deed, as the case may be, shall be as valid and effectual to all intents and purposes as if the official receiver had been the trustee under that composition scheme or deed.