

GENERAL ORDERS.

Regulating the Practice and Procedure of the Supreme Court exercising Jurisdiction in Bankruptcy.

In pursuance of the powers vested in me by "The Bankruptcy Ordinance, 1864," I, HENRY JOHN BALL, Esquire, Acting Chief Justice of the Supreme Court of Hongkong, have framed the following General Orders, and do certify the same to His Excellency the Governor and to the Legislative Council accordingly.

HENRY JOHN BALL.

27th of July, 1864.

Repeal of Previous Orders.

I.

Any Orders of the Supreme Court relating to matters of Insolvency shall be rescinded and the following shall be the General Orders in force, in the Supreme Court exercising Jurisdiction in Bankruptcy.

Sittings of the Court.

II.

The place of Sitting of the Supreme Court exercising Jurisdiction in Bankruptcy shall be the place at which the Supreme Court now holds, or may hereafter hold, its Sittings for the General business of the said Court.

III.

The times of the Sitting of the Supreme Court exercising Jurisdiction in Bankruptcy shall be those appointed for the transaction of the General Civil business of the Court unless the Chief Justice shall otherwise order, and shall appoint a special day for the sitting of the said Court, exercising Jurisdiction in Bankruptcy.

Officers of Court.

IV.

The Officers of the Court shall perform the same duties and exercise the same powers as were heretofore performed and exercised by them respectively as Officers of the Supreme Court exercising Jurisdiction in Insolvency, unless the performance or exercise of such duties or powers may be inconsistent with the provisions of "The Bankruptcy Ordinance, 1864," or with these Orders, or unless the Court should, in any case, otherwise direct or allow.

Proceedings.

V.

The several forms, specified in the Schedule to these Orders annexed, for the several purposes therein stated, shall be observed and used with such alterations as may be necessary to meet the circumstances of any particular case.

VI.

All proceedings shall be sealed with the seal of the Court and remain of record in the Court, so as to form a complete record of each Bankruptcy, and they shall not be removed for any purpose except for the use of the Officers of the Court or by special direction of the Chief Justice or Registrar.

VII.

All Office copies of Petitions, proceedings, books, papers and writings, or any parts thereof, provided for any bankrupt, or for any debtor or creditor of a bankrupt, or Attorney of any such bankrupt, debtor or creditor shall be charged and paid for at the rate of fifteen cents per folio of seventy-two words, and such copies shall be made forthwith after application for the same.

VIII.

In lieu of attaching a copy of the *Hongkong Government Gazette* to the proceedings in each Bankruptcy or other matter, the Registrar shall make a memorandum of the advertisement in the *Hongkong Government Gazette* and of the date thereof with proper reference to the file to facilitate search; and one copy of every *Hongkong Government Gazette* and of each newspaper in which any notice in any matter of Bankruptcy is inserted, shall be delivered to the Registrar who shall file the same.

IX.

No affidavit shall be filed unless it is properly intituled in the Court and matter in which the same is to be used; and after an affidavit is left with the Registrar to be filed, it is not to be delivered to any person whatever, except by order of the Court.

As to Petitions, &c.

X.

A Petition for adjudication of Bankruptcy may either be written or printed.

XI.

Upon every Petition the Registrar or Deputy Registrar or, in the absence of both of these Officers, the Clerk of the Court shall note the precise time of the filing of such Petition.

XII.

Before adjudication of Bankruptcy upon any Petition the Petitioner shall state on oath, by affidavit, that the several allegations in the Petition are true.

XIII.

No adjudication shall be made on the Petition of a Debtor for adjudication of Bankruptcy against himself in the absence of the Petitioner, unless the Petitioner is in custody or his attendance be dispensed with by special Order of the Court.

XIV.

The memorandum required to be indorsed on a Petition for adjudication of Bankruptcy, before any adjudication shall be made under Section X. of "The Bankruptcy Ordinance, 1864," shall be in the form specified in the Schedule 3 to these Orders annexed.

XV.

After Adjudication, the Court shall without any application by the Bankrupt appoint a Sitting for the Bankrupt to surrender and conform. Such Sitting to be also a public Meeting of Creditors for such proceedings as may be taken under Section LXVII. of "The Bankruptcy Ordinance, 1864," and such Adjudication and Meeting shall be advertised in the *Hongkong Government Gazette* and one local Newspaper within ten days after the date of Adjudication. The Adjudication must be dated of the day on which it is made.

XVI.

The party presenting the Petition shall provide and fill up two forms of adjudication, one to be delivered to the Bankrupt, the other to be filed in Court.

XVII.

In the Adjudication to be made upon a Petition the Court shall grant the Bankrupt protection from arrest; and shall indorse thereon a Notice to the Bankrupt of the time and place of holding the Sitting at which he is to surrender and conform as aforesaid; and the Registrar shall deliver to the Bankrupt a duplicate of the adjudication, and shall make on the adjudication to be filed a note that he has so delivered the duplicate of the adjudication to the Bankrupt. Where the Petitioner is not present the duplicate of the adjudication must be personally served on the Bankrupt, unless the Court shall in any particular case dispense with such service.

As to Judgment Debtor Summons.

XVIII.

Every Creditor applying for a Judgment Debtor Summons shall file an Affidavit of Debt, and such Affidavit shall be in the form specified in the Schedule 8 to these Orders annexed.

XIX.

Every Judgment Debtor Summons shall be in the form specified in the Schedule 9 to these Orders annexed.

XX.

Every such Summons shall be indorsed with a Notice in the form specified in the Schedule 10 to these Orders annexed.

XXI.

Every such Summons is to be served personally unless the Court shall, in any case, direct that service in some other manner shall be deemed good service.

XXII.

Every such Summons shall be served four days at least before the time for appearance therein mentioned and within two months from the date thereof, including the day of such date and not afterwards.

Letter of Attorney.

XXIII.

Every Creditor may, by Letter of Attorney which may be in the form set forth in Schedule 11 to these Orders annexed, authorize the Official Assignee or any other person to represent him at any Meeting of the Creditors and to vote for him on any question submitted to the Creditors at such Meeting or any adjournment thereof and also in the choice of the Creditors Assignee.

As to Trust Deeds for benefit of Creditors.

XXIV.

In order to facilitate the making of entries under Section CLXIV., the party producing such Deed or his Attorney shall deliver to the Registrar a Memorandum in the form specified in the Schedule 12 to these Orders annexed, or as near thereto as may be, and such Memorandum shall be signed by the party producing such Deed or by his Attorney.

XXV.

The Affidavit required by Section CLXIII., paragraph 6, may be in the form specified in Schedule 13 to these Orders annexed.

XXVI.

The Certificate required by Section CLXIII., paragraph 6, may be in the form specified in Schedule 14 to these Orders annexed.

XXVII.

The Memorandum of Registration required by Section CLXVI. to be written on the face of every deed or instrument, on being registered, shall be in the form specified in Schedule 15 to these Orders annexed.

XXVIII.

The Certificate of the Registration of the Deed under Section CLXVIII. as a protection in Bankruptcy shall be in the form specified in Schedule 16 to these Orders annexed.

As to Order of Discharge.

XXIX.

The Order of Discharge as provided for by Section CL. shall be in the form specified in the Schedule 7 to these Orders annexed or as near thereto as may be.

As to Fees.

XXX.

The Fees payable, and the Charges and Costs to be allowed, shall be those heretofore allowed in matters of Insolvency, so far as the same can be made applicable to the business required to be transacted under "The Bankruptcy Ordinance, 1864;" if however it be necessary for the Registrar in any case to allow Fees of a different description, he shall use as his guide in the amount the Fees heretofore allowed in matters of Insolvency.

As to payment of Dividend.

XXXI.

The Dividend to which any Creditor is entitled shall be paid to him in a manner similar to that which has hitherto been in use in matters of Insolvency.

As to disposal of Monies by Creditors Assignee.

XXXII.

All Monies not necessarily retained shall be deposited by the Creditors Assignee in one of the Banks of Hongkong, such Bank, prior to such deposit, being in each case mentioned to, and approved of by, the Chief Justice.

Definition of Terms.

XXXIII.

All Words and Expressions used in these Orders shall be construed in conformity with the Interpretation Clause (Section IX.) of "The Bankruptcy Ordinance 1864."

Short Title.

XXXIV.

These Orders may be cited for all Purposes as "The Bankruptcy Orders 1864."

Passed the Legislative Council of Hongkong, this 15th Day of August, 1864.

L. D'ALMADA E CASTRO,
Clerk of Councils.