

SPECIAL ISSUE

NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY

Kenya Gazette Supplement No. 46 (National Assembly Bills No. 15)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2015

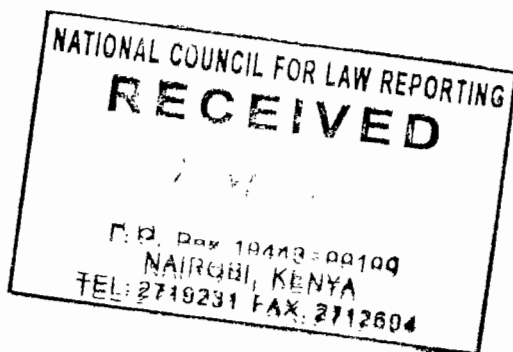
NAIROBI, 24th April, 2015

CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Insolvency Bill, 2015 275



THE INSOLVENCY BILL, 2015**ARRANGEMENT OF CLAUSES***Clause***PART I—PRELIMINARY PROVISIONS**

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Objects and application of this Act.

PART II—INSOLVENCY PRACTITIONERS

- 4—Circumstances in which person acts as insolvency practitioner.
- 5—Consequences of acting without authorisation.
- 6—Qualifications for person to act as insolvency practitioner.
- 7—Duty of Cabinet Secretary to declare certain bodies to be recognised as professional bodies for the purposes of this Act.
- 8—Application to act as insolvency practitioner.
- 9—Grant or refusal of authorisation.
- 10—Power of Official Receiver to revoke authorisation.
- 11—Right to appeal against decisions of Official Receiver.

PART III—BANKRUPTCY OF NATURAL PERSONS**Division 1—Bankruptcy: Introductory provisions**

- 12—Interpretation: Part III.
- 13—Nature of bankruptcy.
- 14—Alternatives to bankruptcy.
- 15—Who is entitled to make a bankruptcy application.
- 16—Proceedings on a bankruptcy application.

Division 2—Bankruptcy applications by creditors

- 17—Creditor may apply for bankruptcy order in respect of debtor.
- 18—When court can make bankruptcy order on application by secured creditor.

- 19—Expedited creditor's application.
- 20—Proceedings on creditor's application.
- 21—Creditor's execution process not to be issued or continued.
- 22—Power of relevant court to stay execution processes by other creditors or allow them on terms.
- 23—Execution process issued by other court.
- 24—No restriction on execution process if bankruptcy application withdrawn or dismissed.
- 25—When court may adjudge debtor bankrupt.
- 26—When court may stay application.
- 27—Orders if more than one application.
- 28—Orders if there is more than one order.
- 29—Power of court to make order staying bankruptcy application, etc.
- 30—Court may stay application while underlying debt is determined.
- 31—Court may allow one creditor to be substituted for another.

Division 3—Bankruptcy applications by debtors

- 32—When debtor may make application for bankruptcy order.
- 33—Appointment of insolvency practitioner by the Court.
- 34—Action on report of insolvency practitioner.
- 35—Joint application can be made by two or more debtors.

Division 4—Appointment of interim trustee in respect of debtor's property

- 36—Appointment of interim trustee of debtor's property on application of creditor.
- 37—Additional orders after appointment of interim trustee.
- 38—Notice of appointment of interim trustee to be published.
- 39—Execution process not to be issued after notice of appointment of trustee is published.
- 40—Effect of staying execution.

Division 5—Adjudication of bankruptcy applications

- 41—Bankruptcy commences on making of bankruptcy order.
- 42—Date and time of bankruptcy order to be recorded.
- 43—Registrar of the Court to notify trustee of bankruptcy order.
- 44—Official Receiver to nominate bankruptcy trustee.
- 45—Presumption that act was done, or transaction was entered into or made, after bankruptcy.
- 46—Bankruptcy order to be binding on all persons.
- 47—Official Receiver to maintain public register of undischarged and discharged bankrupts.

Division 6—What happens on and after bankruptcy commences

- 48—What happens or is to happen on and after bankruptcy commences.
- 49—Official Receiver to serve notice on bankrupt requiring the bankrupt to lodge statement of the bankrupt's financial position.
- 50—Bankrupt to lodge statement of financial position with bankruptcy trustee.
- 51—Creditors entitled to inspect and take copies of statement.
- 52—Official Receiver to convene first meeting of creditors.
- 53—Circumstances in which Official Receiver may decide not to convene first meeting of creditors.
- 54—Documents to be sent with notice of meeting.
- 55—Power of creditors to requisition meeting.
- 56—Execution process not to begin or continue after bankruptcy order advertised.
- 57—Effect of bankrupt's death after bankruptcy order.
- 58—Creditors' role at creditors' meetings.

Division 7—Appointment and functions of bankruptcy trustees

- 59—Power to appoint bankruptcy trustee.
- 60—Consequences of failure of creditors' meeting to appoint bankruptcy trustee.