

NEW ZEALAND.



QUADRAGESIMO SECUNDO

VICTORIÆ REGINÆ.

No. 26.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Certain powers of said Act may be exercised between filing of petition and adjudication.</p> <p>3. Proof of appointment of trustees.</p> <p>4. Section 51 of said Act repealed. Court may remove trustee of debtor's estate. Definition of "trustee."</p> | <p>5. Debtor or other person not excused from answering questions.</p> <p>6. Secured creditor to state proof of security.</p> <p>7. Subsection 4 of clause 29 of Act amended.</p> <p>8. Any matter may be heard by Judge in Chambers, on summons.</p> <p>9. Section 24 of said Act amended.</p> <p>10. Debtor not protected by sections 25 and 26 of said Act unless statement in section 27 filed.</p> |
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AN ACT to amend "The Debtors and Creditors Act, 1876." Title.
[29th October, 1878.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

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| <p>1. The Short Title of this Act shall be "The Debtors and Creditors Act Amendment Act, 1878."</p> <p>"The said Act" means "The Debtors and Creditors Act, 1876."</p> <p>2. The powers given to the Court by the one hundred and sixtieth section of the said Act may be exercised by the Court between the date of the filing of a petition for adjudication and the date of any adjudication thereunder, at the instance of the petitioning creditor or creditors, and, in cases of deeds of arrangement made under the one hundred and twenty-eighth section of the said Act, at the instance of any trustee or inspector under such deed of arrangement, after such deed has been filed in the Court.</p> <p>3. The <i>Gazette</i> notice of the appointment of a trustee or trustees of a debtor's estate under "The Debtors and Creditors Act, 1875," or "The Debtors and Creditors Act, 1876," shall be conclusive proof that the person or persons named in such notice have been duly appointed trustee or trustees, and that the liquidation or bankruptcy has commenced.</p> <p>4. Section fifty-one of the said Act is repealed, and in lieu thereof the following provisions shall be in force:—</p> <p>The Court may, if good cause be shown, make an order removing the trustee of any debtor's estate, and may appoint another trustee in his place, upon such terms in all respects as the Court may</p> | <p>Short Title.</p> <p>Certain powers of said Act may be exercised between filing of petition and adjudication.</p> <p>Proof of appointment of trustees.</p> <p>Section 51 of said Act repealed.</p> <p>Court may remove trustee of debtor's estate.</p> |
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Debtors and Creditors Act Amendment.

think proper, and the proceedings to obtain such order shall be the same as in the case of any summons to show cause issued by the Court.

Definition of
"trustee."

The term "trustee" includes any trustee or inspector of a deed of arrangement filed pursuant to section one hundred and twenty-eight of the said Act, and the powers hereby given may be exercised notwithstanding such deed contains or has implied therein provisions for removing and appointing trustees; and the Court shall not be bound by such provisions, so far as relates to the removal or appointment of trustees.

Debtor or other
person not excused
from answering
questions.

5. No debtor or other person who is summoned or examined by the Court, or by the trustee, under any of the powers given by the said Act, shall be excused from answering any question on the ground that the answer may criminate, or tend to criminate, such debtor or person.

No statement made by any debtor or person in answer to any question put by or before such Court or trustee shall, in criminal proceedings, be admissible in evidence against any person.

Secured creditor to
state proof of
security.

6. A secured creditor, unless he has realized his security, shall, previously to being allowed to prove or vote, state in his proof the particulars of his security, and the value at which he assesses the same, and he shall be deemed to be a creditor only in respect of the balance due to him after deducting such assessed value of the security.

The secured creditor so proving shall be bound to pay over to the trustee the amount which his security shall produce beyond the amount of the assessed value, and the trustee shall be entitled, at any time before realization of such security by the creditor, to redeem the same upon payment of such assessed value. The proof of any such creditor shall not be increased in the event of the security realizing a less sum than the value at which he has so assessed the same.

Subsection 4 of
clause 29 of Act
amended.

7. In the fourth subsection of clause twenty-nine of the said Act the following words shall be omitted—that is to say, "Provided that the debtor has been called upon to satisfy such judgment, decree, or order, by the officer or other person charged with the execution thereof, and has failed to do so." And in the same subsection the word "further" shall be omitted.

Any matter may be
heard by Judge in
Chambers, on
summons.

8. Any matter (except the public examination of a debtor and the granting of an order of discharge) may be heard and disposed of by a Judge in Chambers on summons; but if the Judge shall be of opinion that any matter ought to be heard and disposed of in open Court, or if all the contending parties shall require any matter to be so heard and disposed of, such matter shall be so heard and disposed of, and if partly heard shall be adjourned and heard, in open Court.

Section 24 of said
Act amended.

9. Section twenty-four of the said Act is amended as follows:—
The debtor shall, within twenty-four hours after the Registrar has appointed the time and place for holding the first meeting of creditors, send notice to each of his creditors of the time and place so appointed. The notice shall either be delivered personally to the creditor or his agent, or sent by post, addressed to such creditor or agent at his or their residence, so far as the same is known to the debtor. The debtor shall, before such first meeting is held, file in the Court an affidavit that he has complied with this provision.

Debtor not protected
by sections 25 and
26 of said Act unless
statement in section
27 filed.

10. No debtor shall be deemed to be protected by the provisions of the twenty-fifth and twenty-sixth sections of the said Act unless he shall file the statement described in the twenty-seventh section of the said Act within the time and in the manner therein expressed, and shall otherwise comply with the requirements of the said Act: Provided always that the Court or a Judge may at any time extend the time for the filing of such statement.