

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Insolvency Act 1986, SCHEDULE 5 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5

Section 314.

#### POWERS OF TRUSTEE IN BANKRUPTCY

##### PART I

##### POWERS EXERCISABLE WITH SANCTION

- 1 Power to carry on any business of the bankrupt so far as may be necessary for winding it up beneficially and so far as the trustee is able to do so without contravening any requirement imposed by or under any enactment.
- 2 Power to bring, institute or defend any action or legal proceedings relating to the property comprised in the bankrupt's estate.
- [<sup>F1</sup>2A Power to bring legal proceedings under section 339, 340 or 423.]

##### Textual Amendments

- F1** Sch. 5 Pt. 1 para. 2A inserted (15.9.2003) by 2002 c. 40, ss. 262, 279 (with s. 249(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

- 3 Power to accept as the consideration for the sale of any property comprised in the bankrupt's estate a sum of money payable at a future time subject to such stipulations as to security or otherwise as the creditors' committee or the court thinks fit.
- 4 Power to mortgage or pledge any part of the property comprised in the bankrupt's estate for the purpose of raising money for the payment of his debts.
- 5 Power, where any right, option or other power forms part of the bankrupt's estate, to make payments or incur liabilities with a view to obtaining, for the benefit of the creditors, any property which is the subject of the right, option or power.
- 6 [<sup>F2</sup>Power to refer to arbitration, or compromise on such terms as may be agreed on, any debts, claims or liabilities subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt.]

##### Textual Amendments

- F2** Sch. 5 para. 6 omitted (E.W.) (6.4.2010) by virtue of The Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010 (S.I. 2010/18), art. 11(1)(a) (with art. 12(5))

- 7 Power to make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of bankruptcy debts.

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- 8 Power to make such compromise or other arrangement as ay be thought expedient with respect to any claim arising out of or incidental to the bankrupt’s estate made or capable of being made on the trustee by any person [<sup>F3</sup>or by the trustee on any person].

**Textual Amendments**

- F3** Words in Sch. 5 para. 8 omitted (E.W.) (6.4.2010) by virtue of [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\)](#), **art. 11(1)(b)** (with art. 12(5))

## PART II

### GENERAL POWERS

- 9 Power to sell any part of the property for the time being comprised in the bankrupt’s estate, including the goodwill and book debts of any business.
- [<sup>F4</sup>9A Power to refer to arbitration, or compromise on such terms as may be agreed, any debts, claims or liabilities subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt.

**Textual Amendments**

- F4** Sch. 5 paras. 9A 9B inserted (E.W.) (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\)](#), **art. 11(2)** (with art. 12(5))

- 9B Power to make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the bankrupt's estate made or capable of being made by the trustee on any person.]

**Textual Amendments**

- F4** Sch. 5 paras. 9A 9B inserted (E.W.) (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\)](#), **art. 11(2)** (with art. 12(5))

- 10 Power to give receipts for any money received by him, being receipts which effectually discharge the person paying the money from all responsibility in respect of its application.
- 11 Power to prove, rank, claim and draw a dividend in respect of such debts due to the bankrupt as are comprised in his estate.
- 12 Power to exercise in relation to any property comprised in the bankrupt’s estate any powers the capacity to exercise which is vested in him under Parts VIII to XI of this Act.
- 13 Power to deal with any property comprised in the estate to which the bankrupt is beneficially entitled as tenant in tail in the same manner as the bankrupt might have dealt with it.

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### PART III

#### ANCILLARY POWERS

- 14 For the purposes of, or in connection with, the exercise of any of his powers under Parts VIII to XI of this Act, the trustee may, by his official name—
- (a) hold property of every description,
  - (b) make contracts,
  - (c) sue and be sued,
  - (d) enter into engagements binding on himself and, in respect of the bankrupt's estate, on his successors in office,
  - (e) employ an agent,
  - (f) execute any power of attorney, deed or other instrument;
- and he may do any other act which is necessary or expedient for the purposes of or in connection with the exercise of those powers.

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