



Execution Act 1844

CHAPTER 96

EXECUTION ACT 1844

- Petition for Protection from Process may be presented to any Court of Bankruptcy without any Notice given.
- II Form of Petition. Petition and Schedule to be verified by Affidavit in the Form specified.
 - III Forthwith after filing of Petition a Notice to be given to Creditors and advertised in the Gazette, &c., and a public Sitting of the Court appointed for first Examination of Petitioner and Choice of Creditors Assignee. Commissioner may reject or remove the Person so chosen.
 - IV Property of Petitioner to vest in Assignees for the Time by virtue of the Appointment.
 - V Upon Petition being filed, Commissioner to have the like Power for Seizure of the Property of the Petitioner, and the Examination of him and other Persons, as in Bankruptcy.
 - VI Any Prisoner in Execution upon Judgment in an Action for Debt, not being a Trader, or being a Trader whose Debts are less than 300l., may by Petition be protected from Process and from being detained in Prison for any Debt mentioned in his Schedule; and if so detained, Commissioner may order his Discharge.
 - VII If Petitioner be in custody, and is not entitled to be discharged, he may be brought up by Warrant.
 - VIII In case of Death of Petitioner.
 - IX Wearing Apparel, Bedding, working Tools, &c. of the Value of 20l. excepted from the Operation of the Act.
 - X Official Assignee may act until Creditors Assignee appointed; may sell the Property if Commissioner so order, and make Allowance to Petitioner for his Support. Property vested in Official Assignee to go to his Successor. If Petition dismissed, all Acts theretofore done according to the Act to be good and valid.

Status: This is the original version (as it was originally enacted).

- XI Assignees may execute Powers which the Petitioner might have executed for his own Benefit.
- XII Where Lease accepted by Assignees, the Petitioner not liable for the Rent. Assignees not determining whether to accept the Lease, the Lessor may apply to the Court.
- XIII Assignees may sue in their own Names ; may make Composition for Debts ; may submit Differences to Arbitration. Proviso for Consent of Creditors to Compositions and Arbitrations.
- XIV Creditors to vote according to Balance due to them on an Account fairly stated.
- XV Where the Petitioner is beneficially entitled to Stock, the Commissioner may order a Transfer.
- XVI Suits not to be abated by the Death or Removal of Assignees.
- XVII Goods in Possession, Order, or Disposition of Petitioner, whereof he was reputed Owner, to be deemed his Property.
- XVIII Distress not to be available for more than One Year's Rent.
- XIX Voluntary Preference fraudulent and void as against Assignees. Proviso.
- XX Provisions of 3 G.4 c.39 extended to the Assignees of Insolvent Petitioners.
- XXI Warrant of Attorney and Cognovit actionem not to be acted upon against Property of Insolvent Petitioner after filing his Petition.
- XXII Final Order to protect the Person of the Petitioner from Process in respect of the Debts or Sums herein particularly mentioned. Specification of Debts, &c. not necessary in Final Order.
- XXIII If Prisoner be detained for any Claim in respect of which he is protected Commissioner may order his Discharge.
- XXIV If it appear to Commissioner that any Debts of the Petitioner were contracted by Fraud or Breach of Trust, &c. no Day to be named for making the Final Order for Protection ; but if otherwise, a Notice of such Day to be given.
- XXV Sums payable by way of Annuity to be deemed Debts, and the Annuitants to be Creditors for the Value thereof.
- XXVI Final Order may extend to Process for Contempt in Nonpayment of Money, and to Costs incurred by Creditor, but subject to Taxation.
- XXVII Adjournment of Consideration of Final Order.
- XXVIII If Final Order refused, or adjourned *sine Die*, the Court, after the Lapse of such Time as it thinks just, having regard to the Insolvency and the Conduct of the Insolvent, may make an Order to protect him from further Imprisonment in respect of the Debts, &c. mentioned in his Schedule.
- XXIX Petitioner taken or detained after obtaining such Order may be discharged.
- XXX Where Error in Schedule without Fraud, Act to operate upon the actual Amount of Debt.
- XXXI How Dividend to be made. Notice of Sittings. Examination of Objections and Claims. Commissioner may require Proof of Debts.
- XXXII Outstanding Debts, &c. may be sold by Order of the Commissioner.
- XXXIII Proceedings not liable to Stamp Duty, nor Sales to Auction Duty.
- XXXIV Sum to be paid on Prosecution of Petition.
- XXXV Remuneration to Official Assignee.
- XXXVI Fees.
- XXXVII Proceedings, or a Copy thereof, duly signed, receivable in Evidence.
- XXXVIII Rules and Orders made under recited Act to be applicable to this Act.

- XXXIX Persons wilfully omitting any thing in Schedule guilty of a Misdemeanor, and liable to Three Years Imprisonment. Indictment need only set out the Substance of the Offence charged.
- XL Wilfully making a false Oath or Affirmation punishable as if guilty of Perjury.
- XLI The Lord Chancellor may issue a Fiat in Bankruptcy against a Trader having filed a Declaration of Insolvency, upon the Petition of the Trader himself.
- XLII Lord Chancellor may attach the Country Commissioners to Districts.
- XLIII Minute of Petitions filed to be transmitted to Secretary of Bankrupts.
- XLIV Lord Chancellor authorized to give necessary Directions where Courts shall sit.
- XLV Lord Chancellor empowered to appoint a Taxing Officer. Tenure of Office, Duties, and Removal. General Provision as to Business of Taxing Officer.
- XLVI Sum to be paid on the Taxation of Bills.
- XLVII Sums received by the Master to be paid into the Bank of England, after deducting such Sum as the Lord Chancellor thinks fit for Expences of Office.
- XLVIII In case of Sickness or other reasonable Cause, the Duty of the Master may be performed by Deputy.
- XLIX Registrars, &c. who now receive the Surplus of certain Fees to be paid in future solely by Salary.
 - L Fees to be accounted for.
 - LI Retiring Pension to Registrars.
 - LII Compensation to T. A. Warburton for having performed the Duties of Deputy Registrar.
 - LIII Court may send a Registrar to take Proof of Debts, &c. where expedient. Examinations to be taken down.
 - LIV Style of Deputy Registrars of the Court of Bankruptcy.
 - LV Repealing Provisions in 5 & 6 W.4. c. 29. as to Fees receivable by Accountant in Bankruptcy.
 - LVI Salary of Accountant.
 - LVII Arrest upon Final Process in an Action for Debt not exceeding 20l. and Costs abolished.
 - LVIII Persons in Execution at the Time of passing this Act where the Debt shall not exceed 20l. and Costs shall be discharged on Application to a Judge. Proviso for Discharge fraudulently obtained. Sheriffs, &c. not liable as for Escape. Judgment to remain in force notwithstanding the Discharge of the Debtor.
 - LIX Power of Imprisonment for Fraud.
 - LX Execution against the Goods.
 - LXI Execution not to issue till after Default in Payment of Instalment.
 - LXII Power to suspend Execution in certain Cases.
 - LXIII Execution to be suspended on Payment of Debt and Costs.
 - LXIV Bailiffs made answerable for Neglect to levy.
 - LXV Remedies against Bailiffs and other Officers.
 - LXVI Execution against the Goods to be within the Provisions of 7 & 8 G.4 c.17.
 - LXVII Landlord's Lien for Rent restrained.
 - LXVIII Claims as to Goods taken in Execution to be adjudicated in Court.
 - LXIX Distress not unlawful for Want of Form.
 - LXX Compensations to Persons whose Emoluments will be diminished.

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- LXXI Inquiry into Amount of Compensation.
- LXXII Appointment of Assessors of Inferior Courts.
- LXXIII Construction of the Act.
- LXXIV Recited Act not to be affected, except as herein provided.
- LXXV Act may be altered this Session.

SCHEDULE —

SCHEDULE (B.) —