SCHEDULE.

Section 31

ENACTMENTS REPEALED.

Session and Chapter	Short Title	Extent of Repeal.
41 & 42 Vict. c. 74.	Contagious Diseases (Animals) Act, 1878.	The whole Act as applying to Scotland.
49 & 50 Vict. c. 32.	Contagious Diseases (Animals) Act, 1886.	The whole Act as applying to Scotland.
60 & 61 Vict. c. 38	Public Health (Scotland) Act, 1897	Sections 60, 61.
3 Edw. 7. c. 33.	Burgh Police (Scotland) Act, 1903 -	Sections 83, 84, 85, 86, 87, 88, 89, 90, 91, 92.

CHAPTER 47.

An Act to consolidate the Law relating to Deeds of Arrangement. [10th August 1914.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART I.

APPLICATION OF ACT.

Deeds of arrangement to which Act applies.

1.—(1) A deed of arrangement to which this Act applies shall include any instrument of the classes hereinafter mentioned whether under seal or not—

(*a*) made by, for or in respect of the affairs of a debtor for the benefit of his creditors generally;

(*b*) made by, for or in respect of the affairs of a debtor who was insolvent at the date of the execution of the instrument for the benefit of any three or more of his creditors:

otherwise than in pursuance of the law for the time being in force relating to bankruptcy.

(2) The classes of instrument hereinbefore referred to are—

(*a*) an assignment of property;

(*b*) a deed of or agreement for a composition;

and in cases where creditors of the debtor obtain any control over his property or business—

(*c*) a deed of inspectorship entered into for the purpose of carrying on or winding up a business;

(*d*) a letter of licence authorising the debtor or any other person to manage, carry on, realise or dispose of a business with a view to the payment of debts; and

(*e*) any agreement or instrument entered into for the purpose of carrying on or winding up the debtor's business, or authorising the debtor or any other person to manage, carry on, realise or dispose of the debtor's business with a view to the payment of his debts.

PART II.

AVOIDANCE OF DEEDS OF ARRANGEMENT WHERE STATUTORY CONDITIONS NOT COMPLIED WITH.

Avoidance of unregistered deeds of arrangement.

2. A deed of arrangement shall be void unless it is registered with the Registrar of Bills of Sale under this Act within seven clear days after the first execution thereof by the debtor or any creditor, or if it is executed in any place out of England, then within seven clear days after the time at which it would, in the ordinary course of post, arrive in England, if posted within one week after the execution thereof, and unless it bears such ordinary and ad valorem stamp as is provided by this Act.

Avoidance of deeds of arrangement unless assented to by a majority of the creditors.

3.—(1) A deed of arrangement, which either is expressed to be or is in fact for the benefit of a debtor's creditors generally, shall be void unless, before or within twenty-one days after the registration thereof, or within such extended time as the High Court or the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed may allow, it has received the assent of a majority in number and value of the creditors of the debtor.

(2) The list of creditors annexed to the affidavit of the debtor filed on the registration of the deed of arrangement shall be primâ facie evidence of the names of the creditors and the amounts of their claims.

(3) The assent of a creditor for the purposes of subsection (1) of this section shall be established by his executing the deed of arrangement or sending to the trustee his assent in writing attested by a witness, but not otherwise.

(4) The trustee shall file with the Registrar of Bills of Sale at the time of the registration of a deed of arrangement, or, in the case of a deed of arrangement assented to after registration, within twenty-eight days after registration or within such extended time as the High Court or the court having jurisdiction in bankruptcy in the district in which the debtor resided or

carried on business at the date of the execution of the deed may allow, a statutory declaration by the trustee that the requisite majority of the creditors of the debtor have assented to the deed of arrangement, which declaration shall, in favour of a purchaser for value, be conclusive evidence, and, in other cases, be primâ facie evidence, of the fact declared.

(5) In calculating a majority of creditors for the purposes of this section, a creditor holding security upon the property of the debtor shall be reckoned as a creditor only in respect of the balance (if any) due to him after deducting the value of such security, and creditors whose debts amount to sums not exceeding ten pounds shall be reckoned in the majority in value but not in the majority in number.

PART III.

REGISTRATION OF DEEDS OF ARRANGEMENT.

Registrar and office for registration.

4.—(1) The Registrar of Bills of Sale shall be the registrar for the purposes of this Act.

(2) The Bills of Sale Department of the Central Office of the Supreme Court shall be the office for the registration of deeds of arrangement.

Mode of registration.

5.—(1) The registration of a deed of arrangement under this Act shall be effected in the following manner :—

A true copy of the deed, and of every schedule or inventory thereto annexed, or therein referred to, shall be presented to and filed with the registrar within seven clear days after the execution of the deed (in like manner as a bill of sale given by way of security for the payment of money is required to be filed), together with an affidavit verifying the time of execution, and containing a description of the residence and occupation of the debtor, and of the place or places where his business is carried on, and an affidavit by the debtor stating the total estimated amount of property and liabilities included under the deed, the total amount of the composition (if any) payable thereunder, and the names and addresses of his creditors.

(2) No deed shall be registered under this Act unless the original of the deed, duly stamped with the proper inland revenue duty, and in addition to such duty a stamp denoting a duty computed at the rate of one shilling for every hundred pounds or fraction of a hundred pounds of the sworn value of the property passing, or (where no property passes under the deed) the amount of composition payable under the deed, is produced to the registrar at the time of such registration.

Form of register.

6. The registrar shall keep a register wherein shall be entered, as soon as conveniently may be after the presentation of a deed for registration, an abstract of the contents of every

deed of arrangement registered under this Act, containing the following and any other prescribed particulars:—

(*a*) The date of the deed;

(*b*) The name, address, and description of the debtor, and the place or places where his business was carried on at the date of the execution of the deed, and the title of the firm or firms under which the debtor carried on business, and the name and address of the trustee (if any) under the deed;

(*c*) A short statement of the nature and effect of the deed, and of the composition in the pound payable thereunder;

(*d*) The date of registration;

(*e*) The amount of property and liabilities included under the deed, as estimated by the debtor.

Rectification of register.

7. The High Court or a judge thereof, upon being satisfied that the omission to register a deed of arrangement within the time required by this Act or that the omission or mis-statement of the name, residence, or description of any person was accidental or due to inadvertence, or to some cause beyond the control of the debtor and not imputable to any negligence on his part, may, on the application of any party interested, and on such terms and conditions as are just and expedient, extend the time for registration, or order the omission or mis-statement to be supplied or rectified by the insertion in the register of the true name, residence, or description.

Time for registration.

8. Where the time for registering a deed of arrangement expires on a Sunday, or other day on which the registration office is closed, the registration shall be valid if made on the next following day on which the office is open.

Inspection of register and registered deeds.

9. Any person shall be entitled, at all reasonable times, to search the register on payment of one shilling, or such other fee as may be prescribed, and subject to such regulations as may be prescribed, and shall be entitled, at all reasonable times, to inspect, examine, and make extracts from any registered deed of arrangement, without being required to make a written application or to specify any particulars in reference thereto, upon payment of one shilling, or such other fee as may be prescribed, for each deed of arrangement inspected:

Provided that the extracts shall be limited to the dates of execution and of registration, the names, addresses, and descriptions of the debtor and of the parties to the deed, a short statement of the nature and effect of the deed, and any other prescribed particulars.

Local registration of copy of deeds.

10.—(1) Where the place of business or residence of the debtor who is one of the parties to a deed of arrangement, or who is referred to therein, is situate in some place outside the London Bankruptcy District, the registrar shall, within three

clear days after registration, and in accordance with the prescribed directions, transmit a copy of the deed to the registrar of the county court in the district of which such place of business or residence is situate.

(2) Every copy so transmitted shall be filed, kept and indexed by the registrar of the county court in the prescribed manner, and any person may search, inspect, make extracts from, and obtain copies of, the registered copy, in the like manner and upon the like terms, as to payment or otherwise, as near as may be, as in the case of deeds registered under this Act.

PART IV.

PROVISIONS AS TO TRUSTEES.

Security by trustee

11.—(1) The trustee under a deed of arrangement shall, within seven days from the date on which the statutory declaration certifying the assent of the creditors is filed, give security in the prescribed manner to the registrar of the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed, or, if he then resided or carried on business in the London bankruptcy district, to the senior bankruptcy registrar of the High Court, in a sum equal to the estimated assets available for distribution amongst the unsecured creditors as shown by the affidavit filed on registration, to administer the deed properly and account fully for the assets which come to his hands, unless a majority in number and value of the debtor's creditors, either by resolution passed at a meeting convened by notice to all the creditors, or by writing addressed to the trustee, dispense with his giving such security:

Provided that, when such a dispensation has been so given, the trustee shall forthwith make and file with the Registrar of Bills of Sale a statutory declaration to that effect, which declaration shall, in favour of a purchaser for value, be conclusive evidence, and, in other cases, be primâ facie evidence, of the facts declared.

(2) If a trustee under a deed of arrangement fails to comply with the requirements of this section, the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed, on the application of any creditor and after hearing such persons as it may think fit, may declare the deed of arrangement to be void or may make an order appointing another trustee in the place of the trustee appointed by the deed of arrangement.

(3) A certificate that the security required by this section has been given by a trustee, signed by the registrar to whom it was given and filed with the Registrar of Bills of Sale, shall be conclusive evidence of the fact.

(4) All moneys received by a trustee under a deed of arrangement shall be banked by him to an account to be opened in the name of the debtor's estate.

(5) In calculating a majority of creditors for the purposes of this section, a creditor holding security upon the property of the debtor shall be reckoned as a creditor only in respect of the balance (if any) due to him after deducting the value of such security, and creditors whose debts amount to sums not exceeding ten pounds shall be reckoned in the majority in value but not in the majority in number.

Penalty on trustee acting when deed of arrangement void.

12. If a trustee acts under a deed of arrangement—

(*a*) after it has to his knowledge become void by reason of non-compliance with any of the requirements of this Act or any enactment repealed by this Act; or

(*b*) after he has failed to give security within the time and in the manner provided for by this Act or any enactment repealed by this Act,

he shall be liable on summary conviction to a fine not exceeding five pounds for every day between the date on which the deed became void or the expiration of the time within which security should have been given, as the case may be, and the last day on which he is proved to have acted as trustee, unless he satisfies the court before which he is accused that his contravention of the law was due to inadvertence, or that his action has been confined to taking such steps as were necessary for the protection of the estate.

Transmission of accounts to Board of Trade.

13.—(1) Every trustee under a deed of arrangement shall, at such times as may be prescribed, transmit to the Board of Trade, or as they direct, an account of his receipts and payments as trustee, in the prescribed form and verified in the prescribed manner.

(2) If any trustee fails to transmit such account, he shall be liable on summary conviction to a fine not exceeding five pounds for each day during which the default continues, and the judge of the High Court to whom bankruptcy business has been assigned may, for the purpose of enforcing the provisions of the last preceding subsection, exercise, on the application of the Board of Trade, all the powers conferred on the court by subsection (5) of section one hundred and five of the Bankruptcy Act, 1914, in cases of bankruptcy.

4 & 5 Geo. 5. c. 59.

(3) The accounts transmitted to the Board of Trade in pursuance of this section shall be open to inspection by the debtor or any creditor or other person interested on payment of the prescribed fee, and copies of or extracts from the accounts shall, on payment of the prescribed fee, be furnished to the debtor, the creditors, or any other persons interested.

(4) In this section the expression "trustee" shall include any person appointed to distribute a composition or to act in any fiduciary capacity under any deed of arrangement, and the expression "prescribed" means prescribed by rules under the Bankruptcy Act, 1914.

Transmission of accounts to creditors.

14. Every trustee under a deed of arrangement shall, at the expiration of six months from the date of the registration of the deed, and thereafter at the expiration of every subsequent period of six months until the estate has been finally wound up, send to each creditor who has assented to the deed a statement in the prescribed form of the trustee's accounts and of the proceedings under the deed down to the date of the statement, and shall. in his affidavit verifying his accounts transmitted to the Board of Trade, state whether or not he has duly sent such statements, and the dates on which the statements were sent; and, if a trustee fails to comply with any of the provisions of this section, the High Court may, for the purpose of enforcing those provisions, exercise on the application of the Board of Trade all the powers conferred on the court by subsection (5) of section one hundred and five of the Bankruptcy Act, 1914, in cases of bankruptcy.

Audit of accounts.

15.—(1) Where, in the course of the administration of the estate of a debtor who has executed a deed of arrangement, or within twelve months from the date when the final accounts of the estate were rendered to the Board of Trade, an application in writing is made to the Board by a majority in number and value of the creditors who have assented to the deed for an official audit of the trustee's accounts, the Board may cause the trustee's accounts to be audited, and in such case all the provisions of the Bankruptcy Act, 1914, relating to the institution and enforcement of an audit of the accounts of a trustee in bankruptcy (including the provisions as to fees) shall, with necessary modifications, apply to the audit of the trustee's accounts, and the Board shall have power on the audit to require production of a certificate for the taxed costs of any solicitor whose costs have been paid or charged by the trustee, and to disallow the whole or any part of any costs in respect of which no certificate is produced.

(2) The Board of Trade may determine how and by what parties the costs, charges and expenses of and incidental to the audit (including any prescribed fees chargeable in respect thereof) are to be borne, whether by the applicants or by the trustee or out of the estate, and may, before granting an application for an audit, require the applicants to give security for the costs of the audit.

Payment of undistributed moneys into court.

16. At any time after the expiration of two years from the date of the registration of a deed of arrangement, the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed may, on the application of the trustee or a creditor, or on the application of the debtor, order that all moneys representing unclaimed dividends and undistributed funds then in the hands of the trustee or under his control be paid into court.

Preferential payment to

17. If a trustee under a deed of arrangement pays to any creditor out of the debtor's property a sum larger in proportion

creditor an offence.

to the creditor's claim than that paid to other creditors entitled to the benefit of the deed, then, unless the deed authorises him to do so, or unless such payments are either made to a creditor entitled to enforce his claim by distress or are such as would be lawful in a bankruptcy, he shall be guilty of a misdemeanour.

Power to bankruptcy courts to appoint new trustee 56 & 57 Vict. c. 53.

18. The power to appoint a new trustee or new trustees under section twenty-five of the Trustee Act, 1893, may, in the case of a deed of arrangement, be exercised either by the High Court or by the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed, and the provisions of that section shall apply accordingly.

Provisions for the protection of trustees under void deeds.

19.—(1) Where a deed of arrangement is void by reason that the requisite majority of creditors have not assented thereto, or, in the case of a deed for the benefit of three or more creditors, by reason that the debtor was insolvent at the time of the execution of the deed and that the deed was not registered as required by this Act, but is not void for any other reason, and a receiving order is made against the debtor upon a petition presented after the lapse of three months from the execution of the deed, the trustee under the deed shall not be liable to account to the trustee in the bankruptcy for any dealings with or payments made out of the debtor's property which would have been proper if the deed had been valid, if he proves that at the time of such dealings or payments he did not know, and had no reason to suspect, that the deed was void.

(2) Where a receiving order is made against a debtor under subsection (5) of section one hundred and seven of the Bankruptcy Act, 1914, this section shall apply if the receiving order was made after the lapse of three months from the execution of the deed.

Notice to creditors of avoidance of deed.

20. When a deed of arrangement is void by virtue of this Act for any reason other than that, being for the benefit of creditors generally, it has not been registered within the time allowed for the purpose by this Act, the trustee shall, as soon as practicable after he has become aware that the deed is void, give notice in writing thereof to each creditor whose name and address he knows, and file a copy of the notice with the Registrar of Bills of Sale, and, if he fails to do so, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

Payment of expenses incurred by trustees

21. Where a deed of arrangement is avoided by reason of the bankruptcy of the debtor, any expenses properly incurred by the trustee under the deed in the performance of any of the duties imposed on him by this Act shall be allowed or paid him by the trustee in the bankruptcy as a first charge on the estate.

Application of Part IV

22. The provisions of this Part of this Act, except such of those provisions—

(*a*) as relate to the transmission of accounts to the Board of Trade;

(*b*) as provide for the protection of trustees under void deeds;

(*c*) as require a notice to be given to creditors of avoidance of deeds;

(*d*) as provide for the payment of expenses incurred by trustees;

shall not apply to a deed of arrangement made for the benefit of any three or more of the debtor's creditors unless it is in fact for the benefit of the debtor's creditors generally.

PART V.

GENERAL.

Courts in which applications for enforcement of trusts to be made.

23. Any application by the trustee under a deed of arrangement, which either is expressed to be or is in fact for the benefit of the debtor's creditors generally, or by the debtor or by any creditor entitled to the benefit of such a deed of arrangement, for the enforcement of the trusts or the determination of questions under it, shall be made to the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed:

Provided that any question as to whether any person claiming to be a creditor entitled to the benefit of a deed of arrangement is so entitled may, subject to rules made under this Act, be decided either by the court having such jurisdiction as aforesaid or by the High Court.

Relation to bankruptcy law.

24.—(1) If the trustee under a deed of arrangement, which either is expressed to be or is in fact for the benefit of the debtor's creditors generally, serves in the prescribed manner on any creditor of the debtor notice in writing of the execution of the deed and of the filing of the statutory declaration certifying the creditors' assents with an intimation that the creditor will not after the expiration of one month from the service of the notice be entitled to present a bankruptcy petition against the debtor founded on the execution of the deed or on any other act committed by him in the course or for the purpose of the proceedings preliminary to the execution of the deed as an act of bankruptcy, that creditor shall not, after the expiration of that period, unless the deed becomes void, be entitled to present a bankruptcy petition against the debtor founded on the execution of the deed or any act so committed by him as an act of bankruptcy.

(2) Where such a deed of arrangement as aforesaid has become void by virtue of this Act or any enactment repealed by

this Act, the fact that a creditor has assented to the deed shall not disentitle him to present a bankruptcy petition founded on the execution of the deed of arrangement as an act of bankruptcy.

(3) Save as otherwise expressly provided by this Act, nothing in this Act shall be construed as repealing or shall affect any provision of the law for the time being in force in relation to bankruptcy or shall give validity to any deed or instrument which by law is an act of bankruptcy or void or voidable.

Office copies.

25. Subject to the provisions of this Act, and to any rules made thereunder, any person shall be entitled to have an office copy of, or extract from, any deed registered under this Act, upon paying for it at the like rate as for office copies of judgments of the High Court, and any copy or extract purporting to be an office copy or extract shall, in all courts and before all arbitrators or other persons, be admitted as primâ facie evidence thereof, and of the fact and date of registration as shown thereon.

Fees.

26.—(1) There shall be taken, in respect of the registration of deeds of arrangement, and in respect of any office copies or extracts, or official searches made by the registrar, such fees as may be from time to time prescribed; and nothing in this Act contained shall make it obligatory on the registrar to do, or permit to be done, any act in respect of which any fee is specified or prescribed, except on payment of such fee.

38 & 39 Vict. c. 77. s. 27.

(2) Section twenty-six of the Supreme Court of Judicature Act, 1875, as amended by any subsequent enactment, shall apply to fees under this Act, and orders under that section may, if need be, be made in relation to such fees accordingly.

Returns to Board of Trade.

27. The general annual report which, by section one hundred and thirty-six of the Bankruptcy Act, 1914, the Board of Trade is required to cause to be prepared and laid before Parliament, shall include a report of proceedings under this Act, and, for the purposes of such report, the Registrar of Bills of Sale shall make to the Board of Trade such returns of the registration of deeds of arrangement, at such times, and in such manner and form, as may be prescribed.

Rules.

28. Rules for carrying this Act into effect may be made in like manner as rules may be made under and for the purposes of the Judicature Acts, 1873 to 1910.

Affidavits.

29. An affidavit required by or for the purposes of this Act may be sworn before a Master of the Supreme Court or before any person empowered to take affidavits in the Supreme Court or before any other person before whom such an affidavit may, by any law for the time being in force, be sworn, but this section shall not apply to an affidavit required for the purposes of this Act by virtue of rules made under the Bankruptcy Act, 1914.

Interpretation of terms.

30.—(1) In this Act, unless the context otherwise requires,—

"Creditors generally" includes all creditors who may assent to, or take the benefit of, a deed of arrangement;

"Prescribed" means prescribed by rules made under this Act;

"Property" has the same meaning as in the Bankruptcy Act, 1914;

"Rules" includes forms.

(2) For the purpose of determining the number of creditors for whose benefit a deed is made, any two or more joint creditors shall be treated as a single creditor.

Repeals and savings.

31.—(1) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

(2) This Act shall apply to proceedings commenced under any enactment repealed by this Act and pending at the commencement of this Act, as if commenced under this Act.

(3) Until revoked or altered under the powers of this Act, rules made under any enactment repealed by this Act, and in force at the commencement of this Act, shall continue in force, and shall have effect as if made under this Act.

(4) The provisions of this Act shall apply to and in respect of a deed of arrangement executed before the commencement of this Act only if and so far as the corresponding provisions of the enactments repealed by this Act would have applied to or in respect of such deed if this Act had not been passed.

Short title, extent and commencement.

32.—(1) This Act may be cited as the Deeds of Arrangement Act, 1914.

(2) This Act shall not extend to Scotland or Ireland.

(3) This Act shall come into operation on the first day of January nineteen hundred and fifteen.

SCHEDULE.

Section 31.

ENACTMENTS REPEALED.

Session and Chapter	Short Title.	Extent of Repeal.
50 & 51 Vict. c. 57.	The Deeds of Arrangement Act, 1887.	The whole Act, except so far as it relates to Ireland.
53 & 54 Vict. c. 71	The Bankruptcy Act, 1890	Section twenty-five.
3 & 4 Geo. 5 c. 34.	The Bankruptcy and Deeds of Arrangement Act, 1913	Sections twenty-seven to forty-one; in section forty-two from "and" to "Part II. of this Act" to "extend to Ireland"; and Schedule II. so far as unrepealed.