CHAPTER 40.

An Act to provide for the adjustment and settlement of debts and liabilities arising in certain areas and to amend the Liabilities (War-Time Adjustment) Act, 1941.

[26th October 1944.]

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 :—

Adjustment and Settlement of Moratorium Debts.

Services of liabilities adjustment officers in settling moratorium debts and liabilities.

1.—(1) Any person who—

(*a*) owes any debt to which paragraph (1) of Regulation four of the Defence (Evacuated Areas) Regulations, 1940 (which grants a moratorium in respect of rents, rates and certain other liabilities of evacuated persons) applies or has applied ;

(*b*) is under any liability under which sums will fall due to which the said paragraph will apply so long as the evacuation period continues ; or

(*c*) is liable, or will become liable at the end of the evacuation period, under any contract of guarantee, indemnity or insurance entered into before the date of the said Regulations, in respect of any debt or liability referred to in the foregoing paragraphs ;

may apply to a liabilities adjustment officer for advice and assistance in enabling him to arrive at an equitable and reasonable settlement of his debt or liability, and the liabilities adjustment officer shall give his services accordingly.

(2) Any settlement of any such debt or liability as aforesaid, whether arrived at before or after the passing of this Act and whether with the assistance of a liabilities adjustment officer or otherwise, shall be enforceable at law and shall not be void for want of consideration and, on the making of the settlement, the evacuation period shall, if it has not already ended, be deemed to have ended, so far as that debt or liability is concerned.

Powers of the court to settle moratorium debts and liabilities.

2.—(1) Any person who owes any such debt or is under any such liability as is referred to in subsection (1) of the foregoing section, or the person to whom he is so indebted or liable, may apply to the court for the adjustment and settlement of the debt or liability and, where such an application is made by any person in respect of some but not all of his aforesaid debts and liabilities, the court may amend the application so as to relate to all those debts and liabilities.

(2) On any such application the court—

(*a*) shall determine as respects any such debt or any sum which is due or will fall due under any such liability, whether it is to be paid in full or whether it is reasonable and equitable in all the circumstances of the case (including the relative degrees of hardship suffered by the parties) that it should be remitted or reduced and, if it is to be reduced, the extent of the reduction ;

(*b*) shall give directions as to the time and manner of payment of any such debt or sum, and, without prejudice to the generality of this provision, may postpone the payment thereof to such extent as the court thinks fit or may direct payment by instalments ;

(*c*) may give relief on such terms as the court thinks fit in respect of the forfeiture of any lease for the non-payment of any such debt ;

and, on the determination of the application, the evacuation period shall, if it has not already ended, be deemed to have ended, so far as that debt or sum is concerned.

(3) The court, in exercising its powers under the last foregoing subsection—

(*a*) shall not remit or reduce any principal sum charged on any premises and shall have regard, in considering whether any interest payable in respect of such a principal sum or any rent ought to be remitted or reduced, to the net annual value, or, as the case may be, lettable value of the premises during the relevant period ;

(*b*) shall not reopen any settlement unless it was arrived at before the passing of this Act and the court considers that it would be an exceptional hardship not to reopen it, and shall not in any case require any sum already paid to be refunded.

In this subsection the expression "principal sum" means the sum actually lent and does not include any unpaid interest required by the terms of the charge to be added to that sum and charged on the premises.

(4) Where an application is made in respect of any liability under any contract of guarantee, indemnity or insurance—

(*a*) the court shall, if no application has been made in respect of the principal debt, treat the application as an application in respect of the principal debt as well as in respect of the liability aforesaid, and shall require the principal debtor to be made a party to the proceedings;

(*b*) the court shall not grant any greater relief in respect of the said liability than the relief granted in respect of the principal debt;

(*c*) if the court requires the person liable in respect of the said liability to pay any part of the principal debt which the principal debtor is not required to pay, the amount so required to be paid shall not be recoverable from the principal debtor.

(5) Section eleven of the principal Act (which enables questions arising in liabilities adjustment proceedings to be referred to a liabilities adjustment officer for investigation and report) shall apply to applications under this section in like manner as it applies to liabilities adjustment proceedings.

(6) Where the affairs of any person who owes any such debt or is under any such liability as is referred to in subsection (1) of section one of this Act are the subject of liabilities adjustment proceedings, the powers conferred by this section may be exercised by the court in those proceedings.

(7) Where judgment has been given by any court for the payment of a debt to which this section and the last foregoing section would apply if the debt had not become merged in the judgment debt, and the judgment has not been satisfied, the said sections shall be deemed to apply to the judgment debt.

(8) Where this section and the last foregoing section would apply to any debt or sum but for the fact that an order has been made under paragraph (4) of Regulation four of the Defence (Evacuated Areas) Regulations, 1940, removing or modifying, in relation to that debt or sum, the restrictions imposed by the foregoing provisions of that Regulation, the said sections shall be deemed to apply to that debt or sum.

(9) Notwithstanding section fifteen of the principal Act (which in its application to companies provides for the application of that Act to private companies only) an application under this section or the last foregoing section may be made by any body corporate, and the proviso to section twenty of the

principal Act (which provides for the exercise of jurisdiction, in a case where the debtor is a company, by the court or courts having jurisdiction to wind up the company) shall not apply to any application made under this section otherwise than in the course of liabilities adjustment proceedings.

Power to extend foregoing sections to additional areas.

3. Where it appears to the Lord Chancellor, as respects any area which has not been declared an evacuation area for the purposes of the Defence (Evacuated Areas) Regulations, 1940, that extensive and prolonged evacuation has taken place in the area as a result of war circumstances or that access to the area has been or was restricted for a prolonged period as a result of war circumstances, and that it is expedient that the foregoing sections of this Act should apply in relation to that area, he may by order provide for the application of the said sections to debts and liabilities to which they would apply if the area had been declared an evacuation area, and for the purposes of such an order the area shall be deemed to have been declared an evacuation area on a date specified in the order and the evacuation period for that area shall be deemed to have ended or to end on a date specified in that order or in a subsequent order made by the Lord Chancellor.

Amendments of Principal Act.

Amendment of section 3 of principal Act.

4.—(1) The amendments specified in the following provisions of this section shall be made in subsections (1) and (6) of section three of the principal Act (which relates to an application for the adjustment of a debtor's affairs), and accordingly the said subsections shall have effect as set out in the First Schedule to this Act.

(2) For sub-paragraph (*b*) of subsection (1) of the said section three there shall be substituted the following paragraph:—

> "(*b*) is in such a position that, if he were required to pay his accrued debts and to meet, as they fall due, any such future liabilities as aforesaid, he would not have sufficient resources to enable him to preserve or recover his business or former means of livelihood or otherwise to make reasonable provision for the future maintenance of himself and his family;"

and paragraph (ii) of the said subsection (which allows creditors whose debts are affected by the Defence (Evacuated Areas) Regulations, 1940, to commence liabilities adjustment proceedings) shall be omitted; and for the words "the Courts (Emergency Powers) Act, 1939," there shall be substituted the words "the Courts (Emergency Powers) Act, 1943".

2 & 3 Geo. 6. c. 67.
6 & 7 Geo. 6. c. 19.

(3) In subsection (6) of the said section three for the words "and shall also make an order, to be known as a 'liabilities

adjustment order', providing for the adjustment and settlement of the debtor's affairs under this Part of this Act" there shall be substituted the words "and shall also—

(*a*) if it considers that the circumstances permit the making of an order forthwith providing for the comprehensive adjustment and settlement of the debtor's affairs under this Part of this Act, make such an order; or

(*b*) if it considers that such an order cannot be made forthwith, make an interim order or orders providing for such of the matters referred to in the following provisions of this Part of this Act as it thinks fit with a view to arriving at a comprehensive adjustment and settlement in due course;"

and at the end of the said subsection there shall be added the words—

"Any such order as is mentioned in paragraph (*a*) or paragraph (*b*) of this subsection is hereafter in this Part of this Act referred to as a 'liabilities adjustment order.'"

Amendment of section 4 of principal Act.

5.—(1) The amendments specified in the following provisions of this section shall be made in subsections (1) and (3) of section four of the principal Act (which relates to the main provisions of a liabilities adjustment order), and accordingly the said subsections shall have effect as set out in the First Schedule to this Act.

(2) In subsection (1) of the said section four for the words from the beginning to "the court considers practicable" there shall be substituted the words "Subject to the provisions of this section, the court shall, if it considers it practicable for any payment to be made in respect of the debts proved in any liabilities adjustment proceedings, provide in the liabilities adjustment order for the payment of the said debts, either in full or to such extent as the court considers fair and reasonable."

(3) Subsection (3) of the said section four shall be amended as follows—

(i) at the end of sub-paragraph (i) of paragraph (*c*) there shall be added the words "and for excepting from the property to be distributed such sums as in the opinion of the court are required as working capital for the business";

(ii) sub-paragraph (iii) of the said paragraph (*c*) (which contains a limited power to postpone debts) and the word "and" immediately before that sub-paragraph, and the words from "so, however," to the end of the paragraph shall be omitted;

(iii) at the end of the subsection the following paragraphs shall be added—

"(*e*) for enabling the debtor to pay any necessary outgoings in respect of property retained by him and any sums falling due under contracts which are not disclaimed;

(*f*) for requiring any payment of cost of works or temporary works payment made to the debtor under Part I of the War Damage Act, 1943, to be applied in satisfaction of any debt due in respect of the works for which the payment is made;

6 & 7 Geo. 6. c. 21.

(*g*) for postponing the payment of the debts or any of them for such period as the court thinks fit."

Amendment of principal Act in relation to leases.

6.—(1) For subsection (1) of section six of the principal Act (which enables the court to reduce the rent of premises during the period for which a liabilities adjustment order is in force) the following subsection shall be substituted:—

"(1) Where at the date of the protection order the debtor is the tenant of any premises, the court may in the liabilities adjustment order provide that, in respect of any period whether before or after the making of the order, the debtor shall be wholly or partly relieved from the payment of rent:

Provided that—

(*a*) in the case of a period before the making of the order, the court shall not grant relief under this subsection unless in its opinion the lettable value of the premises was depreciated during that period as a result of war circumstances, and shall not wholly relieve the tenant from the payment of rent unless in its opinion the premises had no lettable value during that period, or reduce the rent below such amount as in the opinion of the court represents the average lettable value during that period;

(*b*) in the case of a period after the making of the order, the court shall not grant relief under this subsection unless in its opinion the lettable value of the premises at the date when the period begins is or will be depreciated as a result of war circumstances, and shall not wholly relieve the tenant from the payment of rent unless in its opinion the premises have or will have no lettable value at that date or reduce the rent below such amount as in the opinion of the court represents the lettable value at that date.

Where the court grants relief under this section in respect of a period after the making of the order, it may define the period either by specifying it or by directing that the relief shall continue until a further application is made."

(2) For the definition of "lettable value" in subsection (1) of section twenty-eight of the principal Act there shall be substituted the following definition:—

"'lettable value' in relation to any premises of which the debtor is tenant, means the rent at which in the opinion of the court the premises might reasonably be expected to let, or, as the case may be, might reasonably have been expected to let, under a tenancy for one year granted upon the same terms and conditions (so far as applicable) as those upon which the debtor is holding the premises".

(3) The court in the liabilities adjustment order may provide for the postponement of payment by the debtor of any sum which has or will become payable by the debtor in respect of rent, whether or not the court has reduced the rent.

(4) Where any lease of the debtor has been forfeited, whether before or after the date of the protection order, for any default in the payment of rent which is due to war circumstances, the court may grant relief from forfeiture on such terms as the court thinks fit.

Amendment of principal Act in relation to mortgages.

7.—(1) For paragraph (*a*) of the proviso to subsection (3) of section seven of the principal Act (which enables the court to reduce the rate of mortgage interest in respect of the period for which a liabilities adjustment order is in force or any less period) there shall be substituted the following paragraph:—

"(*a*) interest in respect of any period whether before or after the making of the order shall either not be payable or be reduced to such rate or amount as may be specified in the order."

(2) For subsection (4) of the said section the following subsection shall be substituted:—

"(4) The powers of the court under the last foregoing subsection to grant relief in respect of the payment of interest shall have effect subject to the following provisions:—

(*a*) in the case of a period before the making of an order, the court shall not grant relief unless in its opinion the net annual value of the property was depreciated during that period as a result of war circumstances, and shall not wholly relieve the debtor from the payment of interest unless in its opinion the property had no net annual value during that period, or reduce the interest below such amount as in the opinion of the court represents the average net annual value during that period;

(*b*) in the case of a period after the making of the order, the court shall not grant relief unless in its opinion

the net annual value of the property at the date when the period begins is or will be depreciated as a result of war circumstances, and shall not wholly relieve the debtor from the payment of interest unless in its opinion the property has or will have no net annual value at that date or reduce the interest below such amount as in the opinion of the court represents the net annual value at that date.

Where the court grants relief under the last foregoing subsection in respect of a period after the making of an order, it may define the period either by specifying it or by directing that the relief shall continue until a further application is made."

(3) For the definition of " net annual value " in subsection (1) of section twenty-eight of the principal Act there shall be substituted the following definition :—

" ' net annual value ', in relation to any property of which the debtor is mortgagor, means the annual profits which in the opinion of the court the debtor received or enjoyed from the property (if the period in question is a past one) or (in the case of a future period) might reasonably be expected to receive or enjoy from the property, after deducting all outgoings payable in respect of the property, so far as they are ultimately borne by the debtor, including (if the property is land) the cost of repairs and insurance, rates, income tax under Schedule A, war damage contribution, any sum payable on account of a redemption annuity within the meaning of the Tithe Act, 1936, or in lieu of tithe, interest on any prior mortgage, and (if the mortgaged property is leasehold) rent, but not including the interest payable under the mortgage in question."

26 Geo. 5. & 1 Edw. 8. c. 43.

(4) The court in the liabilities adjustment order may provide for the postponement of payment by the debtor of any interest which has or will become payable by the debtor under the mortgage, whether or not the court has reduced the interest.

(5) Where any person has mortgaged any property as security for the performance of any obligation by the debtor, the court may by order direct, subject to such conditions as it thinks fit to impose, that the protection order shall extend to proceedings and remedies against that property, and may by order provide for the remission or reduction of the interest charged or chargeable on the property in respect of any period before or after the making of the order, in like manner and subject to like conditions as in the case of mortgage interest payable by the debtor, and make such consequential amendments and adjustments of the instrument creating the mortgage as the court considers necessary;

and, on the making of an order of discharge, the court may direct that any order made under this subsection shall continue in force for such further period as the court thinks fit.

Relief from rates.

8.—(1) When the court is of opinion that, for the purpose of arriving at an adjustment and settlement of the debtor's affairs that will afford to him a reasonable prospect of preserving or recovering his business or other means of livelihood, it is necessary to relieve him wholly or partly from liability in respect of rates, the court may provide in the liabilities adjustment order for remitting or reducing any sum which he is or will become liable to pay in respect of rates.

(2) The court may provide in the liabilities adjustment order for the postponement of payment of any sum which the debtor is or will become liable to pay in respect of rates, whether or not the court has reduced the rates.

(3) For the purposes of this section, where the rates in respect of any premises are payable in the first instance by any person other than the debtor, but are recoverable by him from the debtor, the debtor shall be deemed to be liable for the payment of those rates.

(4) Rules made under section sixteen of the principal Act shall provide for a reasonable opportunity to be given to the rating authority—

(*a*) to make representations to any liabilities adjustment officer who proposes to make a report to the court which may affect the exercise of the court's powers under this section; and

(*b*) to be represented at the hearing of any proceedings in which those powers are exercised.

(5) In this section the expression "rates" means any general or special rate, and includes, in the case of premises in the City of London, the poor rate.

Effect of protection order on certain proceedings in respect of rates.

9. For the purposes of any protection order—

(*a*) the recovery of rates from the occupier of premises under section twelve of the Poor Rate Assessment and Collection Act, 1869, so as to entitle him to deduct the rates or any part thereof from rent payable to the debtor;

32 & 33 Vict. c. 41.

(*b*) the service under section fifteen of the Rating and Valuation Act, 1925, on a person paying rent to the debtor of a notice requiring him to pay that rent to the rating authority until arrears of rates due from the debtor have been paid; and

15 & 16 Geo. 5. c. 90

(*c*) the recovery of rates under section four of the Water Companies (Regulation of Powers) Act, 1887, by a water

50 & 51 Vict c. 21.

company to which that Act applies from the occupier of any premises so as to entitle him to deduct any sum so recovered from the amount payable by him to the debtor;

shall be deemed to be and always to have been the exercise of a remedy against the property of the debtor in respect of his liability for the said rates.

Repeal of part of section 8 of the principal Act.

10. Subsections (1), (2) and (3) of section eight of the principal Act (which require the court to secure the payment of sums in respect of property or under contracts retained or adopted by the debtor) shall cease to have effect.

Abolition of preference for certain debts. 4 & 5 Geo. 5. c. 59.

11.—(1) For subsection (1) of section nine of the principal Act (which provides for the payment of proved debts in the same priority as under the Bankruptcy Act, 1914) there shall be substituted the following subsection:—

"(1) For the purpose of the distribution of any sums from time to time available for the satisfaction of the proved debts of the debtor, all those debts shall rank equally between themselves."

(2) Subsection (2) of the said section nine shall cease to have effect.

Power to compromise claims.

12. The court may approve any compromise or arrangement, whether made by the debtor or by the liabilities adjustment officer or other person responsible for administering the liabilities adjustment order, with respect to any claim capable of resulting in a provable debt or any claim affecting any property of the debtor, but no such compromise or arrangement made while the liabilities adjustment order is in force as respects that debt or property shall be valid without the approval of the court.

Power to allow liabilities adjustment proceedings to be brought by personal representatives.

13.—(1) Where the court is satisfied, in the case of a deceased person, that his affairs could, but for his death, have been made the subject of liabilities adjustment proceedings, the court may allow such proceedings to be brought in relation to the estate of the deceased person by his personal representative:

Provided that, if the court is satisfied that any benefit thereby accruing to persons interested in the estate will accrue wholly or mainly to persons other than members of the deceased person's family as defined in section thirteen of the principal Act, it shall not allow such proceedings to be brought.

(2) Where the court allows proceedings to be brought under this section, subsections (2) and (3) of section thirteen of the principal Act (which relate to cases where liabilities adjustment proceedings are continued after the death of the debtor) shall apply, with the necessary modifications, to proceedings brought under this section as they apply to proceedings continued under that section.

Application of Part I of principal Act to property and businesses held on trust.

14.—(1) Where a business is carried on or any property is held on trust for the benefit of any person (hereafter in this section referred to as "the beneficiary"), and the beneficiary is wholly or mainly dependent on the income derived from the business or property, and the court is satisfied that, if the business or property belonged to the beneficiary and he was liable for the debts arising in respect thereof, liabilities adjustment proceedings could be brought by him, the court may, subject to such conditions as it thinks fit to impose, allow such proceedings to be brought, on the joint application of the beneficiary and the trustees, for the adjustment and settlement of the affairs of the beneficiary and of the trust.

(2) Where liabilities adjustment proceedings are brought by virtue of this section—

(*a*) the protection order shall extend to proceedings and remedies against the trust property or against the trustees in respect of liabilities incurred in their capacity as such, as well as to proceedings and remedies against the beneficiary or his property;

(*b*) the powers of the court shall be exercisable in relation to any property held, business carried on, or liabilities incurred, by the trustees in their capacities as such, as well as in relation to any property, business or liabilities of the beneficiary;

(*c*) references in the principal Act and this Act to the debtor shall be construed as references to the beneficiary or to the trustees, according as the court may direct.

Protection of liabilities adjustment officers.

15. Where a liabilities adjustment officer or other person has been empowered by an order of the court under Part I of the principal Act to dispose of property of the debtor (including any firm or company), and the liabilities adjustment officer or other person has disposed, before or after the passing of this Act, of any property in the possession or on the premises of the debtor at the date of the order, without notice of any claim by any other person in respect thereof, and it afterwards appears that the said property was not the property of the debtor at that date, the liabilities adjustment officer or other person shall not be personally liable for any loss or damage suffered by any person in consequence of the disposal of the property nor for the costs of any proceedings taken to establish a claim to the property, unless he has been guilty of negligence.

Registration of protection orders and liabilities adjustment orders.

16.—(1) A protection order or liabilities adjustment order which provides for the appointment of a receiver of any land of the debtor or charges any such land or vests any such land in a trustee may be registered in the register of writs and orders affecting land kept at His Majesty's Land Registry under section one of the Land Charges Act, 1925, and accordingly that Act shall have effect as if such orders were included among

15 & 16 Geo. 5. c. 22.

the writs and orders mentioned in subsection (1) of section six of the said Act, and section twenty-three of the said Act (which excludes writs and orders affecting registered land) shall not apply to any such orders.

(2) As soon as practicable after any such protection order or adjustment order as aforesaid has been registered under the Land Charges Act, 1925, the registrar shall enter an inhibition against the title of the debtor to any registered land appearing to be affected, and thereafter (without prejudice to dealings with or in right of any estate or interest having priority over the estate or interest of the debtor) no dealing affecting the said registered land shall, unless the court so directs, be entered on the register until the inhibition is vacated as to the land affected.

Any such inhibition shall be vacated when the protection order or the liabilities adjustment order, so far as it provides for the appointment of a receiver of the land or charges or vests the land, ceases to have effect.

(3) No fee shall be charged for the registration of any order or inhibition under this section.

Court to have powers under Moneylenders Act. 63 & 64 Vict. c. 51. 17 & 18 Geo. 5. c. 21.

17. Where any person whose affairs are the subject of liabilities adjustment proceedings has borrowed money from a moneylender, the court may exercise in those proceedings all the powers under section one of the Moneylenders Act, 1900, as extended by section ten and subsection (2) of section thirteen of the Moneylenders Act, 1927, which are exercisable in proceedings for the recovery of money lent by a moneylender, and the powers may be exercised at the instance either of the debtor or the liabilities adjustment officer, notwithstanding any agreement to the contrary and notwithstanding that the time for repayment of the money or any part thereof has not arrived.

Proving of reduced debts.

18. It is hereby declared for the avoidance of doubt that where any provable debt is reduced by the court in liabilities adjustment proceedings, the creditor shall not be entitled to recover that debt (as so reduced) from the debtor otherwise than by proving therefor in the proceedings or, in the case of a secured debt, by enforcing the security.

Powers of court in pending proceedings.

19. The powers conferred on the court by this Act shall be exercisable in any liabilities adjustment proceedings, whether commenced before or after the passing of this Act, and in the case of an order made in the exercise of those powers in proceedings commenced before the passing of this Act the court may direct that the order shall have retrospective effect in substitution for any order made before the passing of this Act.

Minor and consequential amendments of principal Act.

20. The amendments specified in the second column of the Second Schedule to this Act, being amendments of a minor or consequential character, shall be made in the sections of the principal Act specified in the first column of that Schedule.

Interpretation

21. In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"evacuation period" has the same meaning as in the Defence (Evacuated Areas) Regulations, 1940;

"the principal Act" means the Liabilities (War-Time Adjustment) Act, 1941; 4 & 5 Geo. 6 c. 24.

"the principal debt", in relation to any contract of guarantee, indemnity or insurance, means the debt or obligation as respects which the contract either guarantees payment or performance or indemnifies or insures against loss arising from default, and the expression "principal debtor" shall be construed accordingly;

"tenant" includes a person retaining possession of any premises after the termination of a lease or tenancy;

"war damage contribution" means a contribution payable under Part I of the War Damage Act, 1943.

Short title and citation.

22. This Act may be cited as the Liabilities (War-Time Adjustment) Act, 1944, and the principal Act and this Act shall be construed as one and may be cited together as the Liabilities (War-Time Adjustment) Acts, 1941 and 1944.

SCHEDULES.

Sections 4 and 5.

FIRST SCHEDULE.

Section 3 (1) *and* (6) *of the principal Act as amended by this Act.*

3.—(1) An application may be made to the court for the adjustment and settlement under this Part of this Act of the affairs of any person, on the ground that, owing to war circumstances,—

(*a*) he is unable to pay his accrued debts or will be unable, after payment of his accrued debts (if any), to meet, as they fall due, any future liabilities in respect of obligations already incurred; or

(*b*) is in such a position that, if he were required to pay his accrued debts and to meet, as they fall due, any such future liabilities as aforesaid, he would not have sufficient resources to enable him to preserve or recover his business or former means of livelihood or otherwise to make reasonable provision for the future maintenance of himself and his family;

and any such application may be made—

(i) by the debtor;

(iii) in a case where the debtor has been granted and is still enjoying relief under section one of the Courts (Emergency Powers) Act, 1943, by any creditor who has a debt which would be a provable debt.

. . . . . .

(6) Where, in the case of any debtor, the court is satisfied as to the matters specified in paragraph (*a*) or paragraph (*b*) of subsection (1) of this section, and that the case is one with which it is practicable and proper to deal under this Part of this Act, the court shall, if it has not already done so, make a protection order and shall also—

(*a*) if it considers that the circumstances permit the making of an order forthwith providing for the comprehensive adjustment and settlement of the debtor's affairs under this Part of this Act, make such an order; or

(*b*) if it considers that such an order cannot be made forthwith, make an interim order or orders providing for such of the matters referred to in the following provisions of this Part of this Act as it thinks fit with a view to arriving at a comprehensive adjustment and settlement in due course;

and in any other case the court shall dismiss the application and, if a protection order has been made, shall revoke the order and give such directions with respect to anything done thereunder as it thinks necessary. 1ST SCH. —*cont.*

Any such order as is mentioned in paragraph (*a*) or paragraph (*b*) of this subsection is hereafter in this Part of this Act referred to as a "liabilities adjustment order".

Section 4 (1) *and* (3) *of the principal Act as amended by this Act.*

4.—(1) Subject to the provisions of this section, the court shall, if it considers it practicable for any payment to be made in respect of the debts proved in any liabilities adjustment proceedings, provide in the liabilities adjustment order for the payment of the said debts, either in full or to such extent as the court considers fair and reasonable, and in such manner and at such times as may be specified, and for that purpose may provide for the realisation of the debtor's property existing at the date of the order or becoming available at any time before the order of discharge, other than property held by him on trust for any other person, and for the distribution of the proceeds thereof and of any other sums available for distribution, including such sums as the debtor may be required to pay out of his future income.

. . . . . .

(3) Without prejudice to the generality of subsection (1) of this section, the court in settling the terms of a liabilities adjustment order, may provide or allow, to such extent and subject to such conditions as it thinks fit, for all or any of the following matters, that is to say :—

(*a*) for securing the maintenance of the debtor and his family;

(*b*) for excepting from the property to be realised any premises which are used, or would but for war circumstances be used, as the home of the debtor, any furniture, bedding and clothing of the debtor and his family, and the tools (if any) of the debtor's trade;

(*c*) in a case where the debtor carries on a business or intends, when circumstances permit, to resume the carrying on of a business suspended owing to war circumstances—

(i) for excepting from the property to be realised the business, any premises used for the business, and such other property as in the opinion of the court is required for the purposes of the business, and for excepting from the property to be distributed such sums as in the opinion of the court are required as working capital for the business;

(ii) for securing the repayment of, or the payment of interest on, any sums borrowed by the debtor with the consent of the court for the purposes of the business;

(*d*) in the case of any property which in the opinion of the court it would be unreasonable to realise immediately owing to its temporary depreciation in value or for any other sufficient cause, for postponing realisation for such period as the court thinks fit;

1ST SCH. —*cont.*

(*e*) for enabling the debtor to pay any necessary outgoings in respect of property retained by him and any sums falling due under contracts which are not disclaimed;

(*f*) for requiring any payment of costs of works or temporary works payment made to the debtor under Part I of the War Damage Act, 1943, to be applied in satisfaction of any debt due in respect of the works for which the payment is made;

(*g*) for postponing the payment of the debts or any of them for such period as the court thinks fit.

Section 20.

SECOND SCHEDULE.

MINOR AND CONSEQUENTIAL AMENDMENTS OF THE PRINCIPAL ACT.

Amendments of the Principal Act.

Section.	*Amendment.*
Section one	In subsection (1) the word " serious " shall be omitted.
	Paragraph (*a*) of the proviso to subsection (2) shall be omitted.
	For subsection (5) the following subsection (5) shall be substituted :—
	" (5) Where it appears to the liabilities adjustment officer that any scheme of arrangement approved under this section does not bind any creditor who has a provable debt by reason of the fact that the creditor was not given the prescribed notice—
	(*a*) he may extend the scheme, with such variations as may be necessary, to the creditor not bound thereby, and that creditor or any other creditor may appeal to the court from the liabilities adjustment officer's decision,
	(*b*) if the liabilities adjustment officer considers that the proper course is to revoke the scheme, he may apply to the court to revoke it,
	and the court, on any such appeal or application, may itself extend the scheme or, in the case of an appeal, confirm the extension of the scheme (with or without further variation), or may revoke the scheme."

2ND SCH. —*cont.*

Section.	*Amendment.*
Section two	In subsection (1) after the words "are needed" there shall be inserted the words "and at least one liabilities adjustment officer to be attached to the High Court".
	At the end of the section the following subsections shall be added:—
	"(4) A liabilities adjustment officer and any subordinate officer authorised in that behalf by a liabilities adjustment officer may, for the purpose of any proceedings under this Act or any scheme of arrangement or proposed scheme of arrangement under this Act, whether he is concerned in the proceedings or scheme or not, administer oaths and take affidavits.
	(5) Any liabilities adjustment officer or subordinate officer appointed for a county court district shall be an officer of the county court for that district, and any liabilities adjustment officer or subordinate officer attached to the High Court shall be an officer of the High Court."
Section three	In subsection (2) for the words "the Courts (Emergency Powers) Act, 1939," there shall be substituted the words "the Courts (Emergency Powers) Act, 1943".
	In paragraph (*b*) of subsection (3) for the word "creditors" there shall be substituted the words "liabilities adjustment officer for the benefit of the creditors".
	In subsection (4) the words "and the proceedings under the petition have not been stayed under subsection (5) of section one of the Courts (Emergency Powers) Act, 1939, or under this Part of this Act" shall be omitted.
Section six	In subsection (2) for the words "section nine of the War Damage Act, 1941" there shall be substituted the words "section twelve of the War Damage Act, 1943," and for the words "any reduction of rent made" there shall be substituted the words "any relief granted".
	At the end of subsection (3) there shall be added the words "or at the date of the hire-purchase agreement (whichever is the less)".

2ND SCH. —*cont.*

Section.	*Amendment.*
Section nine	For subsection (4) there shall be substituted the following subsection :— " (4) The payment of debts in accordance with this section shall be subject to any provision or allowance made by the court in the liabilities adjustment order for any of the matters referred to in subsection (3) of section four of this Act or for the payment of the costs of the liabilities adjustment proceedings, including the costs of administering the liabilities adjustment order, so far as those costs are payable by the debtor and shall be subject to any compromise or arrangement approved by the court."
Section ten	Subsection (1) shall cease to have effect. In subsection (2) after the words " any creditor whose debt has been proved " there shall be inserted the words " or of any other person whose rights are affected by a liabilities adjustment order ". In subsection (3) after the words " Any creditor whose debt has been proved " there shall be inserted the words " or any other person whose rights are affected by a liabilities adjustment order ". In subsection (4) for the words " the Courts (Emergency Powers) Act, 1939 " there shall be substituted the words " the Courts (Emergency Powers) Act, 1943 ".
Section twelve ...	In subsection (1) for the words " Where the debtor has paid, either in full or to such extent as the liabilities adjustment order may specify, the proved debts " there shall be substituted the words " Where a liabilities adjustment order providing for the comprehensive adjustment and settlement of the debtor's affairs has been made and the debtor has complied with the provisions (if any) of the order as to the payment of the proved debts " ; after the words " on his application " there shall be inserted the words " or on the application of the liabilities adjustment officer " and for the word " he " there shall be substituted the words " the debtor ".

2ND SCH. —*cont.*

Section.	*Amendment.*
Section fourteen ...	In paragraph (*a*) of subsection (5) for the words from " they would have no reasonable prospect " to the end of the paragraph there shall be substituted the words " they would not have sufficient resources to enable them to preserve or recover the business of the firm or, in the case of the partners, to make reasonable provision for the future maintenance of themselves and their families ".
Section fifteen ...	Paragraph (*b*) of subsection (6) shall be omitted.
Section sixteen ...	In paragraph (*e*) of subsection (2) after the words " proof of debts " there shall be inserted the words " interest on debts, assignment of book debts ", and at the end of the said paragraph there shall be added the words " and subsections (1) and (2) of section nine of the Moneylenders Act, 1927 "; and at the end of the said subsection the following paragraphs shall be added— " (*f*) may provide for the hearing of proceedings in private; (*g*) may provide for the investment of any money paid into court in the course of liabilities adjustment proceedings ".
Section seventeen ...	At the end of paragraph (*a*) of subsection (2) there shall be added the words " or, if there is a reference to the liabilities adjustment officer and he requires the creditors to prove their debts before the protection order is made, such date as may be notified by the liabilities adjustment officer in the prescribed manner ".
Section twenty ...	In subsection (2) for the words " or necessary to decide for the purpose of making or varying the liabilities adjustment order " there shall be substituted the words " to decide for the purpose of those proceedings ". In paragraph (*b*) of subsection (3) after the words " or to make " there shall be inserted the words " or prosecute ".
Section twenty-four ...	In subsection (4) for the words " the Courts (Emergency Powers) Act, 1939," there shall be substituted the words " the Courts (Emergency Powers) Act, 1943 ".

2ND SCH —*cont.*

Section.	*Amendment.*
Section twenty-eight	In subsection (1), in the paragraph defining the expressions "mortgagee" and "mortgage" the words "as a security for a provable debt due to him from the debtor" shall be omitted, and at the end of that paragraph there shall be added the words "except that in subsections (1) and (2) of section seven of this Act the said expressions shall be limited to cases where the mortgage is a security for a provable debt due from the debtor", and for the definition of "proceedings" there shall be substituted the following definition:— "'proceedings' includes the execution or enforcement of any judgment, order or warrant against the property or person of a debtor in default of payment of any sum of money (including rates)."
Section twenty-nine	In subsection (2) for the words "Courts (Emergency Powers) Act, 1939" there shall be substituted the words "Courts (Emergency Powers) Act, 1943".

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